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**BRIGHTON**

**PLANNING**

**BOARD**

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January 19, 2022  
At approximately 7 p.m.  
Brighton Town Hall Zoom Meeting  
2300 Elmwood Avenue  
Rochester, New York 14618

**PRESENT:**

RAMSEY A. BOEHNER, TOWN PLANNER

WILLIAM PRICE, CHAIRPERSON

JOHN OSOWSKI	)	
JASON BABCOCK-STINER	)	
JULIE FORD	)	BOARD MEMBERS
PAM DELANEY	)	
DAVID FADER	)	
KAREN ALTMAN	)	

KENNETH GORDON, ESQ.  
Town Attorney

JEFF FRISCH

BRENDAN RYAN

REPORTED BY: HOLLY E. CASTLEMAN, Court Reporter,  
FORBES COURT REPORTING SERVICES, LLC  
21 Woodcrest Drive  
Batavia, NY 14020

1 CHAIRMAN PRICE: Good evening everyone and  
2 welcome to the January 19th, 2022, meeting of the Town  
3 of Brighton Planning Board. Due to the public  
4 gathering restrictions because of COVID-19 and the  
5 adoption of Chapter 417 of the Laws of 2021, this  
6 Planning Board meeting is being conducted remotely  
7 beginning now.

8 Members of the public will be able to view  
9 the meeting via Zoom, if you're doing now. Just so  
10 you know that written comments on the public hearings  
11 that are presented tonight will -- may be submitted to  
12 Ramsey Boehner, who's the Executive Secretary of the  
13 Planning Board at the Brighton Town Hall, 2300 Elmwood  
14 Avenue by email or standard mail.

15 Tonight's meeting agenda does include two  
16 public hearings. And I would like to begin by asking  
17 the secretary to please call the roll.

18 (Whereupon the roll was called.)

19 MR. BOEHNER: All present.

20 CHAIRMAN PRICE: Thank you. At this time  
21 the Board and Town staff are going to have an agenda  
22 review about the meeting tonight. This will be  
23 followed by our approval of meeting minutes and the  
24 public hearings. So Ramsey, what have we -- let's  
25 discuss what we do and don't have on the agenda

1       tonight.

2                   MR. BOEHNER:   Okay.   The first thing I did  
3       want to say is that we did receive additional  
4       communications.   Jeff, those communications are?

5                   MR. FRISCH:   I got a letter from Jess Sudol  
6       from Passero requesting postponement of Application  
7       12P-02-21 for the February meeting.

8                   We got a letter from Evan Gefell from  
9       Costich Engineering requesting adjournment of  
10      application 10P-NB2-21 for the February 16th, 2020,  
11      meeting.

12                  We got a letter from the Fire Marshal, Chris  
13      Roth, about the -- regarding the Starbucks that's  
14      going in at 1925 South Clinton.

15                  MR. BOEHNER:   Did we get any adjournment  
16      letters?

17                  MR. FRISCH:   Nope.

18                  MR. BOEHNER:   The other thing on the agenda  
19      I would like to also point out is that Application  
20      10P-NB2-21, the application of James Tabbi for  
21      preliminary site plan approval has also been adjourned  
22      and will not be heard this evening.

23                  The application 12P-02-21, FSI Construction  
24      is also adjourned, leaving us with the two public  
25      hearings and the one concept review.

1           The first application is for a conditional  
2 use permit. That is Application 1P-01-22, Ahead  
3 Energy. And that's a conditional use to allow a  
4 research and development facility for new component  
5 polymer films for use with hydrogen fuel cells and  
6 water electrolysis at property located 285 Metro Park.  
7 Probably the biggest concerns we have here is  
8 obviously the safety, what hazards are going to be on  
9 the property and are they meeting all the necessary  
10 requirements that they will need to meet to have that  
11 type of facility.

12           The next application is the University of  
13 Rochester. They have resubmitted more information to  
14 us that we requested. We are in the process of  
15 getting LEED agency status doing a coordinated review.  
16 They did resubmit some additional information. There  
17 is a conservation easement shown alongside the  
18 southern portion of the property south of the LLE  
19 building.

20           I don't know if you guys have any questions  
21 about either of those applications.

22           CHAIRMAN PRICE: I just need to learn a  
23 little bit more about the conditional use permit and  
24 the processes. I don't have a lot of questions about  
25 the U of R at this point. Anybody else have --

1 MR. BOEHNER: Any questions of staff?

2 MS. DELANEY: I don't have any questions  
3 about those two either.

4 MR. FADER: I might have one question on the  
5 U of R. I'm looking -- trying to bring up their map.  
6 I guess the question is, is the vernal pool and the  
7 proposed wetlands that are right below them -- or just  
8 south of them I guess is the correct word.

9 MR. BOEHNER: Yup.

10 MR. FADER: Is that -- will that be under  
11 any protection now? Or is that just -- we're not  
12 going to worry about because we got the conservation  
13 easement?

14 MR. BOEHNER: That is something we're going  
15 to have to discuss during the meeting. And it's a  
16 question that needs to be asked. And I would suggest  
17 that it would be asked by you David or someone.

18 MR. FADER: Okay.

19 MR. BOEHNER: Right now, I'm not seeing that  
20 it is protected. Only the southern portion. They did  
21 offer some mitigation to it.

22 MR. FADER: Well, that's -- I'm just curious  
23 because, I mean, to propose wetlands, it would be kind  
24 of a waste of money to put them in if they're just  
25 going to go into that area.

1           MR. BOEHNER: Those are things that can be  
2 discussed during the hearing.

3           CHAIRMAN PRICE: All right.

4           MR. BOEHNER: Any more questions about the  
5 applications or the agenda?

6           MR. OSOWSKI: This is John. I have a  
7 question about the agenda. So the Quicklee's dropped  
8 off, is that --

9           MR. BOEHNER: It's adjourned. They are  
10 working on preparing an Incentive Zoning application  
11 for the Town Board. They did go to Public Works  
12 Committee. And now we're working on their  
13 application.

14          MR. OSOWSKI: Very good. Thank you very  
15 much.

16          CHAIRMAN PRICE: Jason or Julie, anybody  
17 have any other questions?

18          MS. FORD: No.

19          CHAIRMAN PRICE: You're all set?

20          MR. BABCOCK-STINER: I'm all good.

21          MS. FORD: I'm set.

22          MS. DELANEY: I had a question about the  
23 additional correspondence on the conceptual site plan  
24 review. Did we get that from the Fire Marshal?

25          MR. BOEHNER: Yes. It would have been

1 emailed to you this morning -- this afternoon, I  
2 believe.

3 MS. DELANEY: Okay.

4 MR. BOEHNER: An email from Rick DiStefano,  
5 Pam.

6 MS. ALTMAN: I don't think I saw it either.

7 MS. FORD: I don't think so either.

8 MS. ALTMAN: I'm not sure.

9 MR. FRISCH: I can -- do you want to do it  
10 now or --

11 CHAIRMAN PRICE: That's part of the concept  
12 review. Why don't we --

13 MR. BOEHNER: Yeah. If you could email it  
14 off to everyone, Jeff.

15 MS. DELANEY: Thanks.

16 CHAIRMAN PRICE: All right. No further  
17 questions regarding the agenda for staff? All right.  
18 Next on the agenda before we can hear our hearings is  
19 an approval of the October 20th, 2021, meeting  
20 minutes. Is there a motion to approve?

21 MR. OSOWSKI: This is John. I'll move that  
22 we approve the October meeting minutes.

23 CHAIRMAN PRICE: Thank you, John.

24 MS. DELANEY: I'll second. Pam.

25 MR. BOEHNER: Delaney.

1 CHAIRMAN PRICE: All right. Do we do them  
2 all at once or --

3 MR. BOEHNER: Do them one by one if you  
4 could.

5 CHAIRMAN PRICE: All right. Okay. So moved  
6 and seconded for the October 20th meeting minutes.  
7 Ramsey, please call the roll.

8 MR. BOEHNER: Member Altman?

9 MS. ALTMAN: I was absent at that meeting.

10 MR. BOEHNER: Abstaining?

11 MS. ALTMAN: Yes.

12 MR. BOEHNER: Member price?

13 CHAIRMAN PRICE: Aye.

14 MR. BOEHNER: Fader?

15 CHAIRMAN PRICE: David Fader? He's --

16 MR. BOEHNER: I don't --

17 MR. FRISCH: He's not muted on our end.

18 CHAIRMAN PRICE: He said aye.

19 MR. BOEHNER: Aye for David.

20 Babcock-Stiner?

21 CHAIRMAN PRICE: He said aye too.

22 MR. BABCOCK-STINER: Yup. Aye.

23 MR. BOEHNER: Osowski?

24 MR. OSOWSKI: Aye.

25 MR. BOEHNER: Ford?

1 MS. FORD: Ford.

2 MR. BOEHNER: Approved.

3 MS. DELANEY: I wasn't called.

4 MR. BOEHNER: Delaney?

5 MS. DELANEY: Aye.

6 MR. BOEHNER: I guess I wasn't hearing my  
7 ayes. Okay. Minutes approved.

8 CHAIRMAN PRICE: Thank you. All right. Do  
9 we have motion to approve the minutes from our  
10 November 17th, 2021, meeting?

11 MR. FADER: Can you guys hear me now?

12 MR. BOEHNER: Yes.

13 CHAIRMAN PRICE: Yes.

14 MS. DELANEY: I'll move we approve the  
15 November meeting minutes.

16 MS. FORD: I'll second. Julie Ford.

17 CHAIRMAN PRICE: Moved and second. Any  
18 discussion? Okay. Mr. Secretary, please call the  
19 roll.

20 (Mr. Babcock-Stiner, aye; Mr. Osowski, aye;  
21 Mr. Fader, aye; Mr. Price, aye; Ms. Altman,  
22 aye; Ms. Delaney, aye; Ms. Ford.)

23 (Upon roll motion to approve minutes  
24 passes.)

25 CHAIRMAN PRICE: All right. And our

1 December 15th meeting minutes will be reviewed at our  
2 next -- at our February meeting. Before we start the  
3 hearings I need to ask Ramsey if the public hearings  
4 for tonight were properly advertised?

5 MR. BOEHNER: Yes. They were properly  
6 advertised in the Daily Record of January 13th, 2022.

7 CHAIRMAN PRICE: Thank you. So as a  
8 reminder to everybody out there, the Application  
9 12P-02-21, FSI Construction for 3300 Brighton  
10 Henrietta Town Line Road has been postponed to  
11 February 16th.

12 That makes our first application up tonight  
13 1P-01-22.

14 **Application 1P-01-22**

15 Application of Ahead Energy, owner, and  
16 Ionomr Innovations, Inc., lessee, for Conditional Use  
17 Permit Approval to allow for a research and  
18 development facility for new component polymer films  
19 for use with hydrogen fuel cells and water  
20 electrolysis on property located at 285 Metro Park.  
21 All as described on application and plans on file.

22 CHAIRMAN PRICE: Do we have some folks from  
23 Ahead Energy here?

24 MR. GRIEVE: Yes. James Grieve here. I'm  
25 the chairman of Ahead Energy. And I should just take

1 one or two minutes to describe who we are and what the  
2 building is. And then I'll pass it over on to Rutger  
3 Puts who is the site manager from Ionomr.

4 CHAIRMAN PRICE: Thank you.

5 MR. GRIEVE: So as you understand Ahead  
6 Energy is the owner of the building. It's a long  
7 established not-for-profit originally formed at the  
8 University of Rochester.

9 This building is a Startup New York site  
10 affiliated with Alfred University, which is a unique  
11 Western New York university in terms of fuel cell  
12 research.

13 Formally this building was used by General  
14 Motors and then more recently by Delphi automotive.  
15 So it has some unique infrastructure for safety. So  
16 I'll pass over to Rutger now.

17 MR. PUTS: Thank you, James. So my name is  
18 Rutger Puts. As James said I'm going to be  
19 responsible for the new facility. With me is Rob  
20 Hudson for IBC Engineering. And maybe later on one of  
21 our other colleagues from Vancouver is joining us. So  
22 I'll just start really quickly with a brief  
23 introduction.

24 So Ionomr Innovations is a startup in  
25 Vancouver. And we're looking to establish a first

1 base in the U.S. We are a clean energy company. What  
2 we're trying to do is we're making an absolutely  
3 critical component our costumers can use to make fuel  
4 cells and electrolyzers. And it's all about making  
5 the hydrogen economy commercially and environmentally  
6 attractive. And our customers would be -- actually  
7 two local examples would be Plug Power and Hyzon. So  
8 we're a component manufacture hopefully and we supply  
9 through these bigger companies to make their products  
10 more efficient, lower cost, et cetera.

11 It's a young company. We just started.  
12 What we need in the U.S. is a lab that we're going to  
13 test our products. It's manufactured elsewhere.  
14 We're going to test it in this lab and generate data  
15 to help our customers. And as James said this 285  
16 Metro Park really is a unique facility. It's  
17 hydrogen, built to General Motors' standards and they  
18 over engineered. Not surprisingly maybe, but -- and  
19 it's definitely over engineered for what we're going  
20 to do.

21 So what we're looking at here is a project  
22 to recommission the facility. We're not going to  
23 change the footprint either internally through the  
24 building or externally. We're well within the use of  
25 what the building was designed for and what previously

1 was allowed to operate -- what it was allowed to  
2 operate for.

3           So I think for sure what we're going to do  
4 is we're going to meet all the performance  
5 requirements. We've worked with Ramsey and with Rick  
6 DiStefano to clarify that. We have, of course,  
7 some -- some issues are really not -- no big concern.  
8 But the key concerns for us, of course, are safety  
9 because hydrogen is a flammable and explosive gas and  
10 air emissions. So maybe the air emissions is the  
11 simplest one. We're going to apply or we need to  
12 apply for a New York State Air Facilities Permit. So  
13 the LEED agency for that will be the New York State  
14 Department of Environmental Conservation. And via Rob  
15 at IBC Engineering we will engage a consultant to help  
16 us apply for that and make sure that we meet all the  
17 criteria.

18           Hydrogen safety is, of course, extremely  
19 important. It's important for employees, our  
20 coworkers in the building and everyone around it. I  
21 think we have it -- we have it under control. We have  
22 a lot of experience. We bring in a lot of experience  
23 with IBC Engineering who is familiar with not just  
24 laboratory facilities on a pretty big scale, but also  
25 hydrogen safety. And then, again, using the

1 infrastructure that we have in place I think we can  
2 address any of the safety concerns.

3 So we're really excited actually to join  
4 this -- to join this building, to work in this town,  
5 to join Ahead Energy because their mission of  
6 research -- sustainable energy research and our  
7 mission fit great. We've also got a lot of nice  
8 support from the State of New York. Actually the  
9 Rochester area actually has some labor resources that  
10 have experience that fit very well with what we need  
11 to do.

12 So I think what we -- you know, it's kind of  
13 the best of both worlds. We can work on our clean  
14 energy mission and create jobs at the same time. It's  
15 an exciting time to work in this area. So with that  
16 let me open it for questions.

17 CHAIRMAN PRICE: Thank you, Rutger. Could I  
18 ask you or maybe Rob to explain a little further to us  
19 if we -- if you are talking about safety concerns and  
20 air quality, tell us just a little bit about the  
21 materials and where those are stored, where is --  
22 where is the hydrogen stored and what are the  
23 potential risks.

24 MR. PUTS: Okay.

25 CHAIRMAN PRICE: And please go back to

1 the -- just briefly because I didn't get all of the  
2 environmental review or application process you have  
3 with DEC as to what that particular application was  
4 and necessarily why -- what is it that is being  
5 emitted or, you know, released that requires that  
6 permit.

7 MR. PUTS: Okay. So let me start with the  
8 hydrogen storage. So the hydrogen storage is managed  
9 by Air Products. The facility is still there. So  
10 it's their facility also, their equipment. It looks  
11 like some of the gas tube trailers that you see  
12 sometime on the road. It can store about a hundred  
13 thousand square feet of gas. That sounds like a lot,  
14 but it's relatively small compared to a lot of  
15 facilities. And, again, I've been in contact with Air  
16 Products. They're going to inspect this facility and  
17 make sure it's still meeting all the criteria, safety  
18 criteria. So that's where the bulk of the hydrogen  
19 is.

20 So what are the hazards with hydrogen? So  
21 hydrogen is a flammable gas. It's a little more  
22 explosive and a little more flammable than natural  
23 gas. The -- what makes it unique is that if there is  
24 a hydrogen fire, the flame is colorless and you can't  
25 see it. So you -- so you need some special detection

1 method and also -- sorry -- you cannot smell hydrogen.  
2 It's odorless.

3 And so for that what we do in this building  
4 is -- first of all, it starts with making sure that  
5 everything is leak tight, make sure you can test it  
6 ahead of time so that it doesn't escape. But if it  
7 does escape we have things like hydrogen sensors to  
8 sense this before it hits explosive limits.

9 Let me think. I'm not sure that I addressed  
10 all of the fire safety. I'll come to the  
11 environmental maybe separately. Rob, anything else on  
12 fire safety?

13 MR. HUDSON: Well, fire and chemical safety,  
14 I can just expand upon what you already started. As  
15 you said there's sensors in each facility or each lab  
16 where the tripping of the sensor will open up a fan  
17 and a damper. We will not be releasing a plume of  
18 hydrogen. It will be mixed and diluted substantially  
19 below any environmental risks. This is all in  
20 conformance with the various NFPA documents. I can  
21 rattle them off, but I don't want to bore everybody.

22 CHAIRMAN PRICE: Just for education, just  
23 remind us what is NFPA?

24 MR. HUDSON: NFPA is National Fire  
25 Protection Agency. And we'll be filing -- there's

1 several standards dedicated to hydrogen, the storage  
2 of hydrogen, gas cylinders that are under pressure and  
3 all of the piping and equipment serving that system.

4 As Rutger said, we have -- IBC has quite a  
5 bit of experience in this. We also were the original  
6 designers when GM moved in the -- '96, 1996. Not me  
7 specifically. I was much too young for that. But  
8 other folks that are still employed at IBC were a part  
9 of that and have been instrumental in bringing the  
10 system back online.

11 CHAIRMAN PRICE: Okay.

12 MR. PUTS: So --

13 CHAIRMAN PRICE: Ramsey, you're muted.

14 MR. BOEHNER: I was just saying you made me  
15 feel old. I was here in '96.

16 CHAIRMAN PRICE: The air quality please.

17 MR. PUTS: So the -- any emissions that we  
18 have -- so it's hydrogen. It's -- at full capacity if  
19 we have lots of test stations it could be one 1.4  
20 cubic feet a minute. Again, it's odorless, it's  
21 nontoxic. It will be greatly, greatly diluted. So it  
22 will never hit any explosive limits. And, you know, I  
23 don't have the number, but the dilution factor will be  
24 very, very high.

25 MR. BRITTON: It goes straight up. I mean,

1 the critical velocity is 70 meters per second. So  
2 that's incredibly fast. It goes straight.

3 MR. BOEHNER: Wait a minute. Who's that?  
4 I'm sorry. Who was speaking?

5 MR. PUTS: Yeah. That's Benjamin Britton.  
6 He is our founder and Chief Strategy Officer. So he  
7 joined from Vancouver.

8 MR. BOEHNER: Holly, let us know if you're  
9 having problems with the names please. Okay.  
10 Continue.

11 MR. PUTS: So we looked at the criteria for  
12 air permits. There's several levels of criteria and  
13 even though we're a small lab, we just hit that limit  
14 for an air facility's permit, which is the lowest  
15 level air permit that one can get. And so that's why  
16 we're applying for that because we must. Anything  
17 else on that Rob?

18 MR. HUDSON: No. I think you summarized it  
19 very well.

20 MR. GORDON: This is Town Attorney, Ken  
21 Gordon. I have a question about the air discharge or  
22 the hydrogen discharge. What, if any, adverse impact  
23 would there be on adjoining properties?

24 MR. PUTS: So none.

25 MR. HUDSON: There is none. Hydrogen's

1 already in our air. So we're --

2 MR. BOEHNER: Well --

3 MR. HUDSON: Sorry. Hydrogen is already in  
4 our air. We breathe it in all the time. And we're  
5 diluting it so that there isn't any flammable  
6 qualities readily available to have any negative  
7 effects in terms of explosions or fires. So there  
8 will be little to zero impact on any adjoining  
9 properties.

10 MR. PUTS: Zero.

11 CHAIRMAN PRICE: Ken, do you have a follow  
12 up question?

13 MR. GORDON: Nope. Just wanted to make sure  
14 we had that information on the record. I think it's  
15 part of the necessary determination that we make that  
16 it does not have an adverse impact on adjoining  
17 properties. Otherwise it may fall into what would be  
18 a prohibited use in the district.

19 MR. PUTS: Right.

20 CHAIRMAN PRICE: And the owners of the  
21 property -- this equipment that is owned by Air  
22 Products is that -- how long has that equipment been  
23 on this property?

24 MR. GRIEVE: As was mentioned since the time  
25 that General Motors and then Delphi have occupied the

1 site.

2 MR. BOEHNER: And your name is? I'm sorry.

3 MR. GRIEVE: James Grieve. I'm the chairman  
4 of Ahead Energy.

5 MR. BOEHNER: James Grieve.

6 CHAIRMAN PRICE: And James, how -- please  
7 remind us how long ago Delphi and GM --

8 MR. GRIEVE: 1996 was when GM was in the  
9 building. And Delphi was there from 2003 to 2016. So  
10 relatively recently it was by Delphi.

11 CHAIRMAN PRICE: This equipment has been  
12 here -- we've had no incidents with any of the  
13 previous occupants of the building?

14 MR. BOEHNER: To the best of my knowledge.

15 CHAIRMAN PRICE: Very good.

16 MR. BOEHNER: Are there any hazardous  
17 materials that are going to be stored on the property?

18 MR. PUTS: So we're going to have some small  
19 amounts of solvents for cleaning, some organic  
20 solvents. Let's see. The quantity is about --

21 MR. BOEHNER: And you said it's not that  
22 much?

23 MR PUTS: No. So it's -- we're talking  
24 about several gallons. You know, maybe like ten  
25 gallons maximum. We have a special -- the facility

1 actually has a special chemical storage shed out back.  
2 So that's where we would store it so it's safe.  
3 And -- yes. So it's for cleaning. And then the other  
4 thing we're doing is as part of our research we have  
5 to print on our product. And that's a solvent-based  
6 printing system.

7 MR. BOEHNER: Jeff, do you have any  
8 questions?

9 MR. FRISCH: Yeah. The floor plan showed  
10 something called Micro Air? What are they and what do  
11 they do?

12 MR. GRIEVE: So Ahead Energy as I mentioned  
13 is a startup New York facility. And Micro Air is  
14 really gearing up to do a project there with a NYSDERDA  
15 grant. So it's a small startup company that is  
16 operating under the Startup New York with Ahead and  
17 Alfred University.

18 MR. FRISCH: What do they do? What kind  
19 of --

20 MR. GRIEVE: They're also a clean tech  
21 company doing thermal energy storage.

22 MR. FRISCH: Will there be any manufacturing  
23 on-site for either --

24 MR. GRIEVE: No.

25 MR. FRISCH: Okay.

1 MR. GRIEVE: Just R and D.

2 MR. FRISCH: And will anything be stored  
3 outside?

4 MR. PUTS: No.

5 MR. GRIEVE: As Rutger said there are  
6 storage sheds, which are ventilated and monitored. So  
7 they're outside of the building envelope, but they're  
8 not not fully outside.

9 MR. FRISCH: Okay.

10 CHAIRMAN PRICE: The building does have  
11 multiple tenants. You're just looking for the  
12 conditional use for Rutger's firm?

13 MR. GRIEVE: Yup.

14 MR. PUTS: Correct.

15 CHAIRMAN PRICE: All right. Other questions  
16 from other Board members?

17 MR. OSOWSKI: Yeah. This is John. I have a  
18 question. In part of the information that we received  
19 there was mention of a blowout panel on one of the  
20 walls of the building. And I'm just curious to know  
21 if that blowout panel is restrained somehow either on  
22 hinges or chains or cables, straps, so that if it does  
23 blow out, it doesn't go flying through the air  
24 somewhere and potentially cause some damage or injury.

25 MR. PUTS: I don't have that detail here.

1 Rob?

2 MR. HUDSON: Yeah. I don't recall seeing  
3 any chains. We can -- we'll have to look at that. I  
4 don't think it's a requirement on the NFPA, but if  
5 that's a Town Board requirement, we can definitely  
6 look into that and make sure it's implemented.

7 MR. OSOWSKI: All right. Thank you.

8 CHAIRMAN PRICE: Other Board members? Can't  
9 see everybody all at once.

10 MS. FORD: No.

11 MS. DELANEY: I'm good. Thank you.

12 CHAIRMAN PRICE: All right. And David, I  
13 think I heard from Julie --

14 MR. FADER: I'm all set.

15 CHAIRMAN PRICE: All set. All right. Karen  
16 Altman, you all set?

17 MS. ALTMAN: Yes. I'm all set. Thank you.

18 CHAIRMAN PRICE: Okay. All right. Ken or  
19 Ramsey, any other questions from you?

20 MR. BOEHNER: I do not have any. Thank you.

21 CHAIRMAN PRICE: All right. Folks this is a  
22 public hearing. And I would like to open the floor to  
23 anyone that cares to address this application. Is  
24 there -- if you have -- if you're joining us via Zoom  
25 there is a raise hand function format. I'm not

1 entirely sure the way to do it. Just in case, just  
2 start waving your arms around and we'll get to you.

3 Brendan, do you see anybody?

4 MR. RYAN: Nope.

5 MR. BOEHNER: I'm not seeing anyone either.  
6 Jeff?

7 MR. FRISCH: Nope. I don't say anybody.

8 CHAIRMAN PRICE: All right. Okay.

9 Everybody from Ahead and Ionomr, thank you. We're  
10 going to proceed to our next application. Let me see  
11 if I can find the right agenda.

12 So application 10P-NB1-21, this is 1950  
13 Monroe Avenue, has been adjourned to -- by the  
14 applicant. And same with application 10P-NB2-21,  
15 James Tabbi on Highland Avenue. That's been adjourned  
16 to our February meeting.

17 Our next application tonight is 12P-NB1-21.

18 **Application 12P-NB1-21**

19 Application of University of Rochester,  
20 owner, for Preliminary Site Plan Approval, Preliminary  
21 EPOD (woodlot) Permit Approval and Preliminary  
22 Conditional Use Permit Approval to construct a 61,000  
23 square foot, three-story building addition to the  
24 Laboratory for Laser Energetics and construct an  
25 additional 100 parking spaces on property located at

1 250 East River Road. All as described on application  
2 and plans on file. **TABLED AT THE DECEMBER 15, 2021**

3 **MEETING - PUBLIC HEARING REMAINS OPEN.**

4 CHAIRMAN PRICE: U of R folks, good evening.

5 MR. COX: Good evening. This is David Cox  
6 with Passero Associates. Clayton with U of R would  
7 like to give some opening remarks.

8 MR. JONES: Yeah. I'm all set. Thank you,  
9 David. Good evening members of the Board. I'll be  
10 brief, but it's certainly great to see you again.  
11 Happy belated New York, if you can still say that 19  
12 days in. But, again, my name is Clayton Jones,  
13 Director of Local Government and Community Relations  
14 here at the University.

15 I just want to take a moment before we begin  
16 the presentation to, you know, thank you for your  
17 time, effort and continued partnership. As this is  
18 the first time we've before you in this new year,  
19 we're reminded, you know, that this project continues  
20 to represent a true partnership between the University  
21 and the Town. And we want to, again, reiterate that  
22 your feedback and your efforts really make this  
23 project better not only for the community, but also  
24 for the University.

25 So as I continue to say the University is

1 proud and considers itself fortunate that the Laser  
2 Lab is located here in Brighton and a part of this  
3 specific community. With us again tonight are our  
4 partners from Passero, Cannon Design as well as Nixon  
5 Peabody and leadership from the University facility.

6 As always we look forward to the continued  
7 engagement and we're really appreciative of the time  
8 on tonight's agenda. So with that, thank you again  
9 and I'll turn it back over to David who will present  
10 our plan. Thank you very much.

11 CHAIRMAN PRICE: Thank you.

12 MR. COX: Thanks, Clayton. So just to give  
13 everyone a -- just kind of a rundown of the materials  
14 that we did submit. We submitted 15 letters of  
15 intent. We submitted 15 revised site plans, 15  
16 response letters to Town comments, 15 sustainability  
17 letters, 15 letters from RTS 15, 15 waste management  
18 plans, 15 generator details, 15 IPD 2021 master plan,  
19 15 LLE Development Plans, three engineer reports,  
20 three SWPPPs and three geotech reports. So lot of  
21 information there.

22 What I wanted to go through first, Jeff,  
23 was -- if you could just go up to that sustainability  
24 letter. I just want to briefly hit on some of the  
25 things of that. Should be number 3.

1 MR. FRISCH: It's in a big packet.

2 MR. COX: Perfect. So just wanted to -- you  
3 know, this is from the -- from the IPD. It has  
4 different sustainability goals and initiatives and  
5 sections. So I just wanted to briefly kind of go  
6 through that.

7 So the first section is nature. So we are  
8 condensing, you know, our proposed overall development  
9 area from what was previously done. So we're  
10 compacting the development and opening up 3.57 acres  
11 of green space. We are doing wildflower, no-mow  
12 areas. We're providing conservation easements.  
13 There's a lot of daylight around the building so  
14 that -- you know, most people's workspaces have  
15 natural daylight out into the -- into nature. We're  
16 using native plantings and we're, you know, doing  
17 wetland enhancements. So a lot of good stuff to  
18 really benefit and help nature.

19 The next is energy. So the building does  
20 have some vertical shading fins, which limits solar  
21 gains. And the building has also been designed to  
22 have a 11 percent energy reduction from ASHRAE's 90.1  
23 baseline. So that's all good there.

24 The next one is people. We're providing  
25 bike racks, all different types of alternative means

1 of transportation so -- that really people can have  
2 multiple different ways to really help them in their  
3 decisions and benefit the environment.

4 The next is on water. We obviously have  
5 designed the site to meet all stormwater regulations.  
6 We have multiple bioretention areas to treat roof  
7 runoff and pavement areas. And there's also no  
8 permanent irrigation system. So that is also a big  
9 savings on water there.

10 And then on materials, we're -- we've gone  
11 through a whole building life cycle assessment. We're  
12 using FSC certified wood, regionally sourced materials  
13 where we can, all those things and materials that are  
14 good for the environment there.

15 So just wanted to highlight that letter.  
16 And there's additional information in there. I just  
17 kind of hit the highlight with that.

18 Jeff, the next thing I just wanted to bring  
19 up was the RTS letter. Should be number 5. So this  
20 is just the letter we received back from RTS when we  
21 reached out to them about the -- reinstating the bus  
22 service. And they had -- they had some data from  
23 pre-COVID, during COVID and kind of up 'til recently.  
24 The ridership for that bus stop was very, very low,  
25 approximately an average two people a day -- one or

1 two people a day, which is just not enough ridership  
2 to be able to sustain that. And just for kind of  
3 perspective, the medical campus, you know, gets over  
4 400 people a day. So a large difference there. So  
5 just wanted make to sure that everyone got to see  
6 that.

7 The next, Jeff, is number 7, the IPD master  
8 plan. And we did submit responses to all Town staff  
9 comments. I don't need to go through those unless  
10 someone has specific questions or wants me to. I can  
11 certainly go through them, but just wanted to let  
12 everyone know that we did address all Town staff  
13 tonight to that date and submitted all the documents  
14 for that.

15 So this was the IPD update. So it took the  
16 original plan that was from 2014-2015. And we just  
17 kind of modified it to show that the remaining area is  
18 just what it was before. The only real difference is  
19 right around the Laser Lab. So that's the only part  
20 of that global master plan that really had any  
21 changes.

22 And then if we -- you can go to the number  
23 8, the LLE development plan, where we can kind of zoom  
24 and talk about it a little more closely. So this  
25 gives kind of a blowup, side by side. So on the right

1 shows the original IPD approval plan and then our plan  
2 is on the left. So kind of the darker orange is the  
3 current building addition, which we're seeking  
4 approval for. The lighter orange is the -- what we  
5 estimate or our potential development that we're  
6 anticipating in the future just a little bit to the  
7 south.

8           There's a -- one of the things that I did  
9 add to this plan is there's kind of a purple hatch  
10 there that's just kind of into that orange building  
11 and to the south. That is the area of a previous fill  
12 from when they constructed the Laser Lab. So that  
13 area there's -- no there's no woods in that area.  
14 It's -- it's been -- it's been filled. So that area  
15 has a less natural habitat than, I guess, that area to  
16 the south along the -- along the neighboring  
17 properties where it's much more mature trees and  
18 things like that.

19           So I just want to say that the conservation  
20 easement that we have proposed there to the south is  
21 where the mature trees are, where there's a lot more  
22 beneficial habitat worth protecting in that area.

23           The -- one of the things that I talked about  
24 last meeting but we didn't have it on the plans yet  
25 was just south of vernal pool we have added the

1 proposed additional wetland mitigation area. That is  
2 0.17 acres of additional wetlands that will be just  
3 south of that vernal pool to really enhance that area.  
4 And we will be enhancing that -- the remaining  
5 wetlands as well to get rid of the phragmites and make  
6 that area better.

7 We provided a comparison table in the bottom  
8 right that does -- compares previous approved plans to  
9 our current plan. And we have -- our revised plan has  
10 about 45,000 square feet less parking, 23,700 square  
11 feet less building coverage, 22.34 acres less woodlot  
12 disturbance, 3.57 acres more green space, and 3.16  
13 acres of conservation easement that there was not on  
14 the original plan. So all those things are -- we're  
15 reducing impervious areas, increasing green space,  
16 increasing woodlots, condensing and really directing  
17 our development to one core area instead of spreading  
18 that all out, maintaining habitat corridors better.  
19 So this plan is really just a -- I would say a very  
20 good movement in the right direction from what was  
21 previously approved as far as it is in relation to the  
22 environment and things like that.

23 And just to reiterate some of the -- you  
24 know, where we've been. We started out with having,  
25 you know, a parking lot where we're now proposing

1 wetland mitigation. You know, we had a hundred-car  
2 parking lot in that woodlot that, you know, we had --  
3 after meeting with this Board and the Conservation  
4 Board that we relocated those areas to existing  
5 parking areas and see, you know, where we can just  
6 fill in some parking that would have way less woodlot  
7 and green space disturbance.

8 So each step of the way, you know, we've  
9 been making tweaks, we've heard you, modifications to  
10 really enhance this plan to make it a much better  
11 design. So I definitely appreciate all that.

12 And to answer David Fader's comment about  
13 protection. So the vernal pool area is protected as  
14 part of the IPD approval. And any wetlands in the  
15 Town of Brighton are protected that we -- you know, no  
16 one can come in and disturb wetlands in the Town of  
17 Brighton without this Board's approval. So it's  
18 protected by Code and this Board frankly so that  
19 nothing can happen in those areas without this Board  
20 approving it.

21 I think -- I think that -- that sums up --  
22 much, much shorter today, but I think that sums up my  
23 presentation. Thank you very much.

24 CHAIRMAN PRICE: Thank you, David. David,  
25 just for clarity, I took a trip out here. And I

1 was -- I had focused previously on the eastside near  
2 the vernal pool area and not as much on the backside.  
3 And a little surprised that I didn't realize how much  
4 fill was back there. So you have highlighted the area  
5 that is fill. And the height of that compared to the  
6 parking lot that currently exists, quite a difference  
7 in elevation.

8 So has this plan anticipated the grading  
9 you're going to have to do when you get to future  
10 phases with regard to how much land you're able to  
11 leave behind? Or leave undeveloped?

12 MR. COX: Yeah. So that's why there is a,  
13 you know, quite a gap in between where we have our  
14 proposed parking and where that conservation easement  
15 is that there -- a lot of that is required for  
16 grading. That parking lot's going to be 10 feet,  
17 maybe 15 feet below that conservation easement. So  
18 that parking lot will be completely, you know, low.  
19 Any of those neighbors to the south will not be able  
20 to see -- even if there wasn't trees, they wouldn't be  
21 able to the parking lot because it will be down  
22 below -- 10 feet below the earth there.

23 So that's why we do need that area in  
24 between that parking and the conservation easement to  
25 do that grading to make up that slope difference in

1 elevation.

2 CHAIRMAN PRICE: And we had access to these  
3 plans ahead of the meeting, but could you just confirm  
4 the anticipated distance of the conservation easements  
5 from the -- either from the property line north toward  
6 the building or from the -- maybe say from the parking  
7 lot south to the property line.

8 MR. COX: So from the -- from the southern  
9 property line we're doing a 150 foot conservation  
10 easement that's a complete no-fly zone, you know, no  
11 disturbance, nothing whatsoever.

12 And then we also proposed on top of that 150  
13 feet an additional 25 feet that would be -- remain  
14 green space. But we -- it would allow us to do some  
15 grading for that slope to do any grading work if we  
16 had to put in any utilities or things like that. But  
17 it would remain green that we could not put any  
18 asphalt or buildings or anything like that in that  
19 area. So that provides a -- you know, an additional  
20 buffer to the main conservation easement.

21 So in total it's 175 feet of conservation  
22 area from that southern property line.

23 CHAIRMAN PRICE: That's part of how you came  
24 up with the acreage difference between the master plan  
25 proposed area and your proposed area?

1 MR. COX: Correct.

2 MR. BOEHNER: David, what utilities would be  
3 in the conservation easement?

4 MR. COX: So the -- we don't -- the only  
5 thing that could possibly be in that would possibly be  
6 some stormwater that there might be from the parking  
7 lot south. There might be bioretention areas or  
8 things like that that would have stormwater -- you  
9 know, stormwater pipes and catch basins that could be  
10 associated with that.

11 Obviously this is still concept. It's not  
12 fully designed, but, you know, just kind of thinking  
13 ahead of what could be there, but not -- nothing would  
14 be in that core 150 feet.

15 MR. BOEHNER: Because we have a hundred foot  
16 restriction on it now; right? So you're saying you're  
17 going to give another 50 foot of protection in  
18 addition to the 100 feet we already have?

19 MR. COX: Yup.

20 MR. BOEHNER: And then could you -- so  
21 that's going to be a conservation easement. And  
22 what's this additional 25 feet?

23 MR. COX: So the 25 feet would be, you know,  
24 like an additional green space area that would not  
25 be -- you know, no impervious service would be allowed

1 in there. So no parking lots, no buildings, things  
2 like that. So maintained green space.

3 MR. GORDON: This is Ken Gordon, Town  
4 Attorney. So the extra 25 foot strip would also be  
5 under the conservation easement just subject to  
6 different criteria under that conservation easement?

7 MR. COX: Yes. That's the plan.

8 MR. GORDON: And I read the description as  
9 saying that there will be grading, underground  
10 utilities, and something that I was not familiar with  
11 what you meant, green infrastructure. I don't know --  
12 what are you defining as green infrastructure? Solar  
13 panels?

14 MR. COX: No. Sorry. So green  
15 infrastructure is a stormwater term. The green  
16 infrastructure is stormwater infrastructure that is  
17 more beneficial. So like rain gardens, bioretention  
18 areas, infiltration areas. Green structures, not  
19 ponds. So green structure is more nature-friendly  
20 types of stormwater design.

21 MR. GORDON: It would be a benefit for me  
22 and I think for the Planning Board, and staff for that  
23 matter, to see the language of the proposed  
24 conservation easement so we could understand it as  
25 best as possible.

1           MR. COX: Absolutely. We can provide that.

2           MR. FADER: I have a question for you. Just  
3 out of curiosity, I'm looking to the east side of the  
4 development and working sort of north to south. I'm  
5 starting at the vernal pool.

6           MR. COX: Yup.

7           MR. FADER: And there's your proposed  
8 wetlands. And then it looks like there's an area you  
9 have there for stormwater management.

10          MR. COX: Correct.

11          MR. FADER: Which I imagine will be a pond  
12 or maybe some sheet flow into some green area or  
13 something like that.

14                But my question is why not extend the  
15 non-pervious easement north through that area? And  
16 then everybody's concerned about that pond and wetland  
17 would be sort of alleviated.

18           MR. COX: So there's a -- there's  
19 additional, you know, utilities that might have to go  
20 through there. There could be, you know, a lot  
21 more as far as utility development that would happen  
22 in there. And when you -- if you went with this  
23 north-south easement, you're also kind of creating a  
24 forever barrier or forever wall there if -- for  
25 whatever reason in the future, you know, that if

1 the -- you know, you wanted some tie from the  
2 imagining building or something like that, that would  
3 be completely blocked. You know, for whatever reason  
4 it's just -- it's creating this forever wall that, you  
5 know, there could be something that we -- you know 50  
6 years from now, 100 years from now that we're not  
7 thinking of that might go in there or might need to  
8 traverse there.

9 MR. FADER: Okay. So then -- that's what  
10 I'm trying to clarify. So this area here that you say  
11 is stormwater management, that really is -- could be  
12 future development?

13 MR. LUSK: Not without your approval. I  
14 mean, it could. This is Jared. Absolutely, it's  
15 possible.

16 MR. BOEHNER: Jared Lusk, Holly.

17 MR. LUSK: Yeah. I'm sorry. Sorry. Yup.  
18 That -- there's nothing -- there's nothing other than  
19 the Planning Board's consent and the regulations of  
20 the IPD that require this Board to approve. I mean,  
21 it's no less protection than you have now. So to come  
22 and change that plan, you'd have to get -- I doubt  
23 very much knowing Brighton that I am and, of course,  
24 50 or a 100 years ago -- or -- years in the future as  
25 David indicated, you know, I can't imagine there'd be

1 less emphasis on preservations of wetlands, et cetera.

2 But, again, it's close to the building. And  
3 putting property that close to the building in a  
4 conservation easement is -- it -- again, it puts us in  
5 a difficult position not knowing what's going to  
6 happen in the future and what needs there will be in  
7 the future for that.

8 MR. BOEHNER: But this -- Jared, this area  
9 was always proposed not to be developed in the future.  
10 And one of the concerns that we had in that -- the  
11 area that is being shown now is larger and has  
12 expanded since the area that we were shown the last  
13 time. And part of our concern is how is this going to  
14 be built without disturbing that area? I mean, this  
15 is jammed up right next to this area. What is the  
16 buffer from it? How's it not going to be impacted by  
17 future development? That is not clear.

18 I'm also worried about the future building  
19 that could go there and the need for aerial support.  
20 Was that looked at? Because that would increase the  
21 potential disturbance of that area, which is how this  
22 whole thing started. This whole thing started about  
23 this not being disturbed and about it being protected.  
24 And I think we're still talking about that, that this  
25 is an ongoing issue.

1           We are looking for this area to be  
2     protected. I did talk to you, David, and asked you  
3     and offered a suggestion of putting it under a  
4     conservation easement. If that is not acceptable to  
5     you, then, David, what are you proposing? Because  
6     right now, you're proposing anything.

7           MR. LUSK: Ramsey, we're proposing that the  
8     Planning Board approve the site plan with this area  
9     unprotected -- or -- excuse me. With this area  
10    protected and undisturbed. And obviously if we want  
11    to disturb it in the future, I said we're going to  
12    have a pretty good reason hypothetically to do that.

13          MR. BOEHNER: I have to tell you though,  
14    Jared, the problem with this project was that it was  
15    never identified by this project team 'til very, very  
16    late. The reason we wanted to identify it is so that  
17    we don't have plans go so far down the road that  
18    there's no point in returning. And that it's well --  
19    if everyone looks at any of the records, the easement  
20    pops up and they're fully aware of the restrictions on  
21    this property so we don't have to go through something  
22    like this again.

23          MR. LUSK: I mean, obviously the conditions  
24    of the approval would be in the record. I'm not sure  
25    I'm following you, Ramsey, what you're saying. I'm

1 not trying to be difficult. I -- when you say it  
2 wasn't -- it wasn't known to the -- I don't know what  
3 you're referencing when you say the Board --

4 MR. BOEHNER: We found out about this much  
5 later. When I asked had everyone looked at the IPD  
6 regulations and went through all the SEQRA, I was told  
7 yes. It wasn't until much later in the process when  
8 we started to compare the maps that we realized that  
9 this wetland area was being proposed to be disturbed  
10 by this project. We were never told any of this.

11 I don't think the project team either knew  
12 it, did know it or didn't want to tell us. I don't  
13 want to go back to that conversation again, but  
14 originally, Jared, it was your firm that handled this  
15 case if I remember right. And one of the issues was  
16 that I wanted this area under a conservation easement.  
17 You said that -- my understanding at the time there  
18 was an agreement, no, we wouldn't develop this area.  
19 This area's not going to be -- we put it in the EIS.  
20 We also put it in the find statement. But yet again,  
21 here we are disturbing this area.

22 That's why I was just recommending the  
23 conservation easement. Because eventually we're going  
24 to have to determine if this is a supplemental EIS or  
25 not. And it's going to be based on what you submit to

1 us because we can't do a conditional like that.

2 MR. LUSK: Ramsey, you're saying a lot -- a  
3 lot of compound statements. So I don't know how to  
4 respond specifically to that. I wasn't part of the  
5 original conversation. So I can't speak to that, but  
6 when you say, you know --

7 MR. BOEHNER: But your firm was; right?

8 MR. LUSK: I understand that. I haven't  
9 talked to Ashley. She's out on maternity leave. So I  
10 can't speak to that specific conservation. Maybe  
11 David can add a little cover here.

12 MR. COX: As I mentioned before, the vernal  
13 pool is protected as part of the IPD approval. That's  
14 the regulations for this development area. Wetlands  
15 in the Town of Brighton are protected, that no  
16 disturbance --

17 MR. BOEHNER: How are they protected?

18 MR. COX: What was that?

19 MR. BOEHNER: How are they protected?

20 MR. COX: Not disturbance can happen to any  
21 wetlands without the Town of Brighton approving it.

22 CHAIRMAN PRICE: We have wetland EPODs don't  
23 we, Ramsey?

24 MR. BOEHNER: No, we do not.

25 CHAIRMAN PRICE: What were we reviewing --

1           MR. BOEHNER: It's under the environmental  
2 review that these areas, they come out to say that  
3 they need extra protection. And we did it through the  
4 environmental review for this project. We do not have  
5 wetland EPODs.

6           CHAIRMAN PRICE: What did we review Jewish  
7 Senior Life permit fill under?

8           MR. BOEHNER: Federal.

9           CHAIRMAN PRICE: Why would we review  
10 federal?

11          MR. BOEHNER: Because they were excavating  
12 and clearing land and it came under our site plan  
13 regulations.

14          CHAIRMAN PRICE: And how is that --

15          MR. BOEHNER: Which is --

16          CHAIRMAN PRICE: How does that differ from  
17 this once it's established as a wetland?

18          MR. BOEHNER: Because we established it  
19 under the SEQRA regulations and the Finding Statement  
20 for this project. And if you read the Finding  
21 Statement and the documents, it was the intention of  
22 putting increased restrictions on some of these areas  
23 to further protect them beyond what the federal or  
24 state governments could do.

25          MR. GORDON: So I think it might -- if I

1     could just bring this back to where we are in this  
2     public hearing. I think the question posed by Ramsey  
3     was what is being offered to the Town to assure the  
4     protection of this area? And what I'm hearing, and  
5     I'm just looking for confirmation from you Jared or  
6     from you David, is just like the IPD and the findings  
7     that said that this area -- the original area I should  
8     say -- was going to be a no-build area and would be  
9     subject, of course, to further development only with  
10    the approval of the Planning Board or Town Board.

11               Now you're saying well, we're going to  
12    change that area. We are going to build in those  
13    no-build areas. We're moving them now and we're  
14    giving you the same hollow promise we gave you last  
15    time and that should be good enough. I think that's  
16    what you're saying; right?

17               MR. BOEHNER: Yup.

18               MR. LUSK: So --

19               MR. COX: We're -- we're filing 0.5 acres as  
20    part of this project, getting Town approval and  
21    providing mitigation for that. We're doing wetland  
22    enhancement work, providing 0.17 acres of new  
23    wetlands. We're providing 3.1 acres of conservation  
24    easement. This is all part of the mitigation for that  
25    disturbance.

1           MR. FADER: Let me see if I can explain this  
2 a different way. And two meetings back you had a  
3 woman on your team who was here. And I -- she was  
4 talking and she seemed to understand this concept.  
5 The thing is about this area from -- if you look at it  
6 from an environmental viewpoint, if it's totally  
7 isolated, it doesn't provide any value. And if this  
8 gets -- so if you turn into that stormwater  
9 management, you don't know maybe one day that will be  
10 a building, then we're back to having a pool and some  
11 wetlands completely surrounded by development, which  
12 sort of defeats its purpose. Which is why we said  
13 that we thought that area would not be developed.

14           So I think the question is here -- and I  
15 said this another time too. We seem to kind of go in  
16 circles here. I said we should either acknowledge  
17 that no, we're not going to try to maintain that  
18 vernal pool as an environmental feature. It's just  
19 not possible because we plan on building around it.  
20 And then, you know, decide where to go from there.

21           Or if you do want to maintain it as an  
22 environmental feature, then it needs to have some sort  
23 of, as we said -- what was it -- wildlife corridor,  
24 that was the term -- something like that. Which isn't  
25 on this one, but would be it the green non-impervious

1       easement.

2                   And I don't know how these things go legally  
3       or what you put in documents and stuff, but I don't  
4       think anybody cares if you put utilities back and  
5       forth through there just so eventually -- sort of, you  
6       know, it's vegetated and it's not impervious is kind  
7       of the important thing. I think --

8                   MR. BOEHNER: So -- yeah. Go ahead, David.  
9       I'm sorry.

10                  MR. FADER: So I think -- from my  
11       perspective that's kind of the concern. And I had  
12       thought, you know, like just put a pond somewhere  
13       else. The only problem is I look at this and I think  
14       the land of the conservation easement is so high that  
15       you'd never get a pond in there that held water.

16                  So the question is, you know, do you really  
17       need the pond or not or whatever. But I think we're  
18       back to we're going to keep it, but it's going to be  
19       inside the development.

20                  MR. LUSK: We're going to keep the pond you  
21       mean? I'm sorry.

22                  MR. FADER: You're going to keep the vernal  
23       pool. You're going to keep the proposed wetlands.  
24       But they're going to be inside your development  
25       instead of adjacent to any of the areas that we had

1 hoped to have them adjacent to.

2 MR. LUSK: Well, we got the whole corridor  
3 that comes down and looks like the shape of a reverse,  
4 L I guess. Obviously I can't scroll down on this  
5 photo or on this plan, but -- yeah. It's in the  
6 conservation area. We're intentional of providing  
7 this whole corridor instead of having to -- we got to  
8 go back to what's approved and --

9 MR. FADER: What full corridor? I don't see  
10 the L part.

11 MR. LUSK: You got the -- I'm sorry. I'm  
12 moving the mouse on my own screen. That doesn't help.

13 MR. FADER: I did that too.

14 MR. LUSK: You've got the conservation  
15 easement and then connected to the area around the  
16 vernal pool and proposed wetlands. I mean, that's a  
17 whole corridor that was -- had buildings and a parking  
18 garage in that area before. I mean --

19 MR. FADER: Exactly. So you're saying the  
20 same thing as me that that area going from south to  
21 north is an L. It's like a backwards L. The L is  
22 not -- it's reversed from how you put it on paper; is  
23 that correct?

24 MR. LUSK: That's correct. So we have --

25 MR. FADER: Yeah. So I'm saying the same

1     thing.  If that's there and your intention is that  
2     that's what you're giving us, then why isn't it  
3     under -- why don't you just throw it underneath a  
4     conservation easement?

5             MR. LUSK:  Because, A, it's not -- you know,  
6     it's not necessary in terms of the preservation of it  
7     because if you look at the IPD, it says any change to  
8     the current plan requires approval.  And that was what  
9     we discussed and we can't disturb it.

10            So, again, asking us to provide a  
11     conservation easement over the area that's already  
12     protected is to us -- it isn't necessary and it  
13     prohibits any potential future use without going  
14     through the whole rigamarole -- we have no plans.  
15     Again, it's connected.  It's right next to the  
16     building.  We have no idea what could happen in this  
17     area in the future.

18            So we made a conscious decision that we're  
19     happy to have it -- I think David called it the no-fly  
20     zone to the south -- that I guess no impervious  
21     surface conservation easement for the additional 50  
22     feet recognizing -- and, again, you have under the  
23     203144 of the IPD that says any changes need to be  
24     approved by the Town Board and the Planning Board in  
25     the future.  I mean, I just don't understand why --

1           MR. FADER: I can -- let me -- I can  
2 explain. And I'm going to paraphrase Ken here. So  
3 what you're saying is that that area is fully  
4 protected, we have nothing to worry about, but you're  
5 not going to officially protect it because you don't  
6 want to lose the ability to go in and do stuff to it  
7 in the future. So really you're saying we're  
8 protecting it until we decide we don't want it  
9 protected anymore.

10           MR. LUSK: No. That's not what we decide.  
11 That's when the Town Board and the Planning Board and  
12 us decide that something in the future warrants any  
13 change to that area. Now --

14           MR. BOEHNER: Jared, can I ask you a  
15 question? Then we can say no to this right now. I  
16 guess, Board, we can say no to this right now. We  
17 don't have to allow them to do this. Is that what  
18 you're saying? We have a choice to allow you or not  
19 to allow you? Is that right, Jared?

20           MR. LUSK: I'm not sure I understand your  
21 question.

22           MR. BOEHNER: Well, right now your building  
23 that you're proposing is impacting this area. You  
24 just said this Board has the right to tell you not to  
25 impact that area and that you have to stay out of it;

1 is that right?

2 MR. LUSK: Don't you have site plan review  
3 authority? Isn't that what you have to do? And  
4 you -- of course, you can deny this. You have the --

5 MR. BOEHNER: No. Under the agreement,  
6 under our incentive zoning and site plan agreement, is  
7 that true? You just said we could. Is that what  
8 you're asking the Board to do? Because maybe that's  
9 what we should do. I don't know.

10 MR. LUSK: I'm not sure that I fully can  
11 answer that question based on what you're -- what  
12 you're saying --

13 MR. BOEHNER: You're saying that this area  
14 is protected by the Town; right? And we can do that.  
15 So what I'm saying to the Board the other option is,  
16 don't let them do this. Don't let them disturb that  
17 area.

18 MR. LUSK: Well --

19 MR. GORDON: I can answer --

20 MR. BOEHNER: I think that's probably --  
21 maybe that's the other alternative. We can just deny  
22 the application. Do a supplemental. I don't know.

23 MR. GORDON: Of course, we can -- the  
24 Planning Board is not required to approve a site plan  
25 that is coming in to modify something that was

1 previously approved by the Town Board as part of this  
2 IPD and to allow the University to build in what was  
3 going to be -- what was suppose to always be a  
4 no-build area. There's no obligation of the Planning  
5 Board to give approval to this.

6 But -- but having said that, I mean, I think  
7 we've all recognized that this is a valuable project  
8 that -- I believe that I know the University and I  
9 believe the Town would like to see go forward. And we  
10 got to figure out how we do that. And what I'm  
11 hearing is that at least one Planning Board member,  
12 David Fader, is uncomfortable with what the University  
13 has proposed here because it allows for some future  
14 University officials -- none of these here. I take  
15 you all at your word that you want to see this area  
16 preserved, but some future University officials to  
17 potentially come back to some future Planning Board  
18 and build in this area.

19 But if we all agree now and today that this  
20 area ought not to be built and we ought to preserve  
21 this vernal pool and this wetland area, then I would  
22 join with David's request that the University give  
23 some serious consideration to providing a conservation  
24 easement much in the way of the 25 feet that is to the  
25 north of what you're proposing now to make it a green

1 conservation area. You can do utilities. You can do  
2 grading. You can do green infrastructure, but  
3 otherwise no impervious surface. And have that come  
4 up along the eastern border of the property up to the  
5 vernal pool to protect and connect those areas with  
6 the conservation easement. That's what David  
7 certainly is requesting and that's what I think that  
8 would be --

9 MR. FADER: Ken, I wasn't -- I was not  
10 insisting on that. The thing that bothers me about  
11 this is the ambiguity of this. It's like -- that's  
12 the part -- you know? If they said, you know -- I  
13 would almost say like, okay, we're going to give you  
14 the no-impervious area and it will include the wetland  
15 and the pond. But then go down where this like --  
16 this alleged stormwater facility is and say, no,  
17 that's future expansion and pull the future expansion  
18 over and put it in there. Just make it clear, no --  
19 you know.

20 That's what I want. Not this like, it's  
21 green, but it's not. That's -- that's the thing --  
22 because like Ramsey, I don't want to do this again in  
23 10 years.

24 MR. GORDON: Or have some future Board do  
25 it.

1           MR. FADER: And the other point is I would  
2 say, just to kind of flip this around if you want,  
3 let's say you did say it's an non-impervious area and  
4 you put it in there. They could come back to the  
5 Board and say, you know what? We have a compelling  
6 reason why we think we should allow a road from our  
7 parking lot over to the imaging center. Would you be  
8 willing to put that in? And Ramsey, am I correct? I  
9 mean, we could make a modification, couldn't we, in a  
10 future time if we thought it was necessary?

11           MR. BOEHNER: Depends on what's on the land  
12 at the time, David.

13           MR. FADER: If you have a conservation  
14 easement on there, can't we like undo part of it?

15           MR. BOEHNER: It would be a process. Yes,  
16 you could, but it's a process. It's not the easiest  
17 thing to do.

18           MR. GORDON: And it's probably not the  
19 Planning Board that could do that.

20           MR. BOEHNER: It would be the Town Board.

21           MR. LUSK: Again --

22           CHAIRMAN PRICE: Folks, I'd like to hear  
23 from some other Planning Board members. This is --  
24 this has taken on a tone that I'd like to hear from  
25 some others. And please give us your honest

1 assessment of this of your -- your interpretation of  
2 the impacts and the benefit of this particular design  
3 over the original proposed master plan. I'm fully in  
4 understanding of the positions presented by Ramsey. I  
5 am not in full agreement with it. But I'd like to  
6 hear from others. Other Planning Board members  
7 please. Jason, what is your opinion on this?

8 MR. BABCOCK-STINER: Just a couple things.  
9 I generally agree that, you know, if you're going to  
10 have a vernal pool --

11 CHAIRMAN PRICE: Turn up your volume please  
12 or get closer.

13 MR. BABCOCK-STINER: Is this any better?

14 CHAIRMAN PRICE: No.

15 MR. BABCOCK-STINER: No? Get to somebody  
16 else. Let me call in on my iPad.

17 MR. BOEHNER: It's not that bad.

18 CHAIRMAN PRICE: It's not that bad.

19 MR. BABCOCK-STINER: I'll talk loud.

20 MR. BOEHNER: Do that.

21 MR. BABCOCK-STINER: You know, this is a  
22 vernal pool. It's not just some emergent wetland;  
23 right? The whole point of a vernal pool is the  
24 habitat that it provides that -- the wetland to upland  
25 connection is important. I agree completely with

1 David.

2 I also am concerned because the whole reason  
3 we're here now is because they said they were going to  
4 protect something and they're not and they're  
5 impacting in. And this is setting a precedent for  
6 what could happen in the future. If we don't want to  
7 go through this again in the future, we need to  
8 consider protecting the areas we want protected.  
9 Because we are here now because they're not doing  
10 that. "They" just being the generic U of R.

11 So I do have some concerns about that only  
12 because, again, we're -- the fact that we're now  
13 having this discussion about something that was put in  
14 place years ago is -- you know, that's not setting a  
15 good precedent for what's going to happen in the  
16 future in my opinion. So that is my -- I -- again,  
17 the vernal pool, I do think we need to consider  
18 protecting that connection because otherwise you're  
19 losing the habitat point of it.

20 CHAIRMAN PRICE: All right. As far as the  
21 overall design in the areas impacted, the conservation  
22 easements being proposed, you're not making comments  
23 on that. Your comments are like David. It's the  
24 connection being a wildlife or green corridor,  
25 whatever kind of connection you want to call it, from

1 the conservation area to the vernal pool and  
2 protecting that is your concern?

3 MR. BABCOCK-STINER: Yes. Correct.

4 CHAIRMAN PRICE: Thank you. Julie, do you  
5 have some thoughts on this?

6 MS. FORD: Coming in obviously very late  
7 into this process and processing all the comments, I  
8 think what the last person who I didn't get his name  
9 pretty much resonates with my position. This vernal  
10 pool and what it's supposed to have been doing and  
11 maintaining the integrity of the intent is important.

12 CHAIRMAN PRICE: And the rest of the project  
13 that is proposed?

14 MS. FORD: Again, I'm hesitant to make large  
15 sweeping comments. I've only been on this for a very  
16 short period of time. I've done as much research as I  
17 can, but I'm not as versed in the history of this  
18 project, period.

19 CHAIRMAN PRICE: Okay. All right. Thank  
20 you. Karen?

21 MS. ALTMAN: I think overall through the  
22 months of discussion on the plan several of the  
23 components have evolved in a way that improves the  
24 overall site plan and response to a lot of the Board's  
25 comments. So it seems that if we could just get

1 similar clarity of what the University is willing to  
2 propose on this aspect of the conservation easement  
3 and whether it is only in the back or whether there  
4 could be some other more clearly defined easements  
5 going from north and south, I think that would be  
6 really appreciated at this point to be able to have  
7 that clearly defined and presented to the Town.

8 So I think we're still missing that  
9 component of exactly what is being proposed or could  
10 be proposed in light of the comments made this  
11 evening.

12 MR. FADER: I have one last comment. You're  
13 all going to think I'm schizophrenic, but I'm going to  
14 say it anyways. Having heard from Ken of the  
15 difficulty of undoing an actual conservation easement  
16 up the top of that L, I guess I'm a little less  
17 enthusiastic to require that because I didn't realize  
18 it'd be that hard to modify. So I might actually  
19 entertain some other way of indicating that -- that  
20 the intention here is to leave that green, which I  
21 think is maybe what Bill was kind of leaning towards.

22 CHAIRMAN PRICE: Well -- yeah. Pam, do you  
23 have some thoughts please?

24 MS. DELANEY: I came in tonight feeling  
25 fairly good about the plan and the revisions that

1 we've seen, feeling pretty happy with it. I  
2 appreciate the other Board member's comments and  
3 concerns for the wetlands, but I don't think that I  
4 feel fairly happy with the plan that's provided at  
5 this point.

6 CHAIRMAN PRICE: All right. Thank you.  
7 John?

8 MR. OSOWSKI: Yeah. Thanks. I just had to  
9 unmute my tablet here. Yeah. Going back to the old  
10 IPD that showed a whole bunch of separate little  
11 buildings sprinkled around, that didn't make a lot of  
12 sense. So this master plan makes a lot more sense to  
13 have multiple building additions to the original  
14 Laboratory for Laser Energetics.

15 Now, moving over to the whole vernal pond  
16 proposed wetland mitigation area, I agree that it  
17 would be great if we could get that to be a more  
18 protected zone. And whether it be part of the  
19 conservation area or some other way, but -- yeah. I  
20 agree, you know, to create that reverse L of protected  
21 area would be great. Thank you.

22 CHAIRMAN PRICE: All right. Who have I  
23 missed? Anybody? Any of our Board -- I got  
24 everybody? Yeah.

25 We do have to look at this in totality.

1 Wetland mitigation is part of it. It was never the  
2 only factor in denying or approving a project. But  
3 they were -- you know, every other agency that  
4 regulates wetlands allows for avoidance, minimization  
5 and mitigation. And I don't -- if this came under the  
6 rule of, you know, the US Army Corp of Engineers, Corp  
7 of Engineers would not be asking for any more than  
8 what is being provided.

9           However, I do understand, you know, the  
10 point that, you know, years back this -- you said this  
11 was going to be left alone. Now, I don't see a  
12 property line out here. I assume the U of R owns  
13 everything from the Laser Lab over to the imagine.  
14 And if the connection from the conservation area out  
15 to the wetlands and vernal pool needs to be somewhere  
16 in some shape so that you can make sure that the  
17 environmental benefit that will help to maintain the  
18 viability of the wetland and the vernal pool, I think  
19 we should try to -- we should try to secure that.

20           If it's a matter of some day a sanitary line  
21 or subsurface connection of a stormline or even a  
22 water main cutting across over to something further to  
23 the west, that doesn't bother me at all. You know,  
24 coming back some day in the future and saying you want  
25 to put a big building in that area that's currently

1 either the wetland or even in the area where it's the  
2 stormwater management, that's a little -- that's a  
3 little bit, you know, outside my comfort zone. But  
4 like Jared said, that would require site plan  
5 approval.

6 So I guess I'm in the camp of trying to find  
7 a way to make sure that you have green corridor  
8 connecting the southern conservation area, you know,  
9 not only on this particular piece, but extending, you  
10 know, further to the east to help support that  
11 wetland. Does it have to be a conservation easement?  
12 I'm -- I know the term certainly, but if there's  
13 another way I'd like to find a way so that we're not  
14 coming back and facing this or successors to this  
15 Board are not going through this again.

16 But I do like the site plan. I do like the  
17 conservation area. I do like mitigating the amount of  
18 fill that's out there. And I like the consolidation  
19 of the buildings into a single structure. So in  
20 totality, I like this site plan. I would ask the  
21 attorneys and administration at the University to find  
22 a mechanism so we can advance this project and move on  
23 and not require a supplemental impact statement. I do  
24 not see the need at all for that.

25 MR. BOEHNER: The other option is deny the

1 request. You don't allow them to modify that area is  
2 the other alternative. Another way of possibly doing  
3 it is go back to the Town Board and write it in as  
4 regulation of the IPD, which I think would be -- I've  
5 always thought that was a way. I thought conservation  
6 easement would be more easier, quicker way of doing  
7 it. But that's the other way is we go back to the  
8 Town Board and say hey, we want to map this area,  
9 protect this area. Because right now, we don't even  
10 have a map of this area. We don't even know where  
11 this area begins or ends and what's to be protected or  
12 not.

13 CHAIRMAN PRICE: I don't know what you mean  
14 by that, Ramsey. What do you mean we don't have a  
15 map?

16 MR. BOEHNER: The map -- you have an area --  
17 what they were saying last time was that we had an  
18 actual survey map of the area showing these are the  
19 boundaries of the area that are not to be disturbed.  
20 We do not have that here. What we have is showing  
21 that there's going to be disturbance, but it does not  
22 show where that disturbance is going to begin or end.

23 And right now, we have buildings going right  
24 up to that area. So during their construction there  
25 will be some disturbance from what I can tell and

1 that's where the mapping is certainly important. And  
2 that being tied into some type of restriction would be  
3 very helpful for any Board in the future.

4 CHAIRMAN PRICE: Okay.

5 MR. BOEHNER: I would think.

6 CHAIRMAN PRICE: Now I understand.

7 MR. GORDON: And I was going to add that  
8 exact comment that Ramsey made about going back to the  
9 Town Board to amend the IPD regs. That would be  
10 another mechanism that would allow for this area to be  
11 protected. And it would still require obviously in  
12 the future, if it was going to be penetrated or built  
13 upon, for Town Board action to be taken to further  
14 amend the IPD down the road to allow for that.

15 So either with the conservation easement or  
16 with an amendment to the IPD, you'd be looking at Town  
17 Board action to modify that.

18 MR. LUSK: I'm concerned about the  
19 conservation easement, Ken, for the public trust  
20 issues that we're all familiar with. So, again, I  
21 think from a practical perspective, who the hell knows  
22 what's going to happen in the future; right? It's so  
23 close to the building, et cetera, that that's what's  
24 concerning and I think we can -- with an open mind, I  
25 don't think anybody here is trying to be slight of

1 hand or try to do something quick. I just think we're  
2 concerned about the permanency of a conservation  
3 easement that close to a building not knowing what  
4 could happen in the future. Right? And at that point  
5 people will have the choice again through -- again,  
6 even in your current regs, any changes in the site  
7 plant have to be approved by the Planning Board. And  
8 so this Planning --

9 MR. BOEHNER: And --

10 MR. GORDON: Yeah. And I would like to  
11 hear, maybe offline, Jared, your thoughts about what  
12 other proposals you might have or ideas you might have  
13 to provide that level of protection other than, here  
14 it is, we're going just leave it as it because I do  
15 here -- I think I've heard most of the Planning Board  
16 members say they'd like to see something more than  
17 what is in front of them now -- maybe not a  
18 conservation easement, although that is one  
19 mechanism -- to protect this area and give some  
20 assurance that we're not going to be faced in the near  
21 or distant future with a proposal to encroach upon  
22 this area and build on it by the University.

23 So that's -- I mean, I'm happy to hear what  
24 ideas you have offline. I don't think we're going to  
25 take this discussion much further tonight though.

1           MR. COX: I would just like to just jump in  
2           and just say one thing. Jeff, if you could zoom out  
3           to show the full plan on this. Just wanted to kind of  
4           step back for a second and do a real high-level  
5           overview of where we're at.

6           We are disturbing .05 acres, which is just a  
7           little tiny finger of the wetland, of very low quality  
8           wetland, that is the -- because it's over taken by  
9           phragmites. Because we are disturbing that very small  
10          portion, we are enhancing the entire vernal pool, the  
11          entire wetland area, we're adding 0.17 acres of more  
12          wetland, we're adding 3 acres -- over 3 acres of  
13          conservation easement. If we did not disturb that  
14          0.05, you have a low quality vernal pool and wetland.  
15          It would not be enhanced. There would not be any  
16          additional mitigation. There would not be any  
17          conservation easement because there wouldn't be any  
18          mitigation need. And we can have a plan more like on  
19          the right.

20          So but we are disturbing a very small amount  
21          and we are giving quite a bit of benefit to the Town,  
22          to the environment, for that very small disturbance.  
23          You know, that's kind of -- put it into a big picture  
24          thinking.

25          MR. BOEHNER: David, I will say it really

1       only -- a hundred feet of that conservation easement  
2       is already protected. So I beg to differ on that.

3               MR. COX: But still, there's additional  
4       conservation easement.

5               MR. BOEHNER: Yeah. There's additional  
6       conservation easement.

7               MR. LUSK: You're saying that the language  
8       of the -- of our plan that protects that 100 feet  
9       is -- it protects it sufficiently to be -- to be able  
10      to say it's protected, even though there's not not a  
11      conservation easement.

12              MR. BOEHNER: That's right.

13              MR. LUSK: That's the same argument that  
14      there's no need for a conservation easement that  
15      we're --

16              MR. BOEHNER: No. It's not same thing  
17      because --

18              MR. LUSK: Please allow me to --

19              MR. BOEHNER: I'm sorry. What was that?

20              MR. LUSK: Please allow me to speak without  
21      interrupting me.

22              MR. BOEHNER: Okay.

23              MR. LUSK: If we draft up the -- I thought  
24      about the different ways we can do it. If we put  
25      together a condition -- a very strong condition of the

1 site plan approval indicating the Planning Board's  
2 concern for that area and that there should be no --  
3 there shall be no additional disturbance in this area  
4 in the future without, you know, a need, again, that  
5 you and I and this Board can't predict in the future.  
6 It gives us the same protection which you're  
7 indicating we already have on the hundred feet below  
8 towards the residences along Southland Drive.

9 MR. BOEHNER: Are you done, Jared?

10 MR. LUSK: Yes.

11 MR. BOEHNER: I want to clarify that the  
12 hundred foot is part of the IPD regulations. It's a  
13 Town regulation, different than what is in the Finding  
14 Statement saying that this area can't be disturbed.  
15 So there are two different things there. That's what  
16 I was saying before when I interrupted you, which I  
17 apologize for.

18 MR. LUSK: Section 203144 says any changes  
19 of the plan have to be approved. And so, again, in  
20 the regulation it controls that in the future too for  
21 similar regulations.

22 But, again, I'm not trying to quibble. I  
23 think a conservation easement is overkill given the  
24 tools that we have. I thought about the different  
25 ways. Ken, you know, as academic, studious lawyers as

1 we are, I'm happy to discuss -- I'm unaware of ways to  
2 do it other than deed restrictions. Deed restrictions  
3 are, again, common in a neighborhood. Deed  
4 restriction wouldn't work here given that it's only  
5 one parcel.

6 So, again, I think we're trying to work with  
7 you. I think we've made great progress in this  
8 process. I recall what I thought were helpful and  
9 positive comments at the end of last meeting by Chair  
10 Price about saying he's heard what the comments were  
11 and to go back and talk about conservation easements  
12 to the south. I thought we were very responsive to  
13 that. I just -- I just, you know, want to end on a  
14 positive note given I think that this plan's come a  
15 long way in response to comments from this Board.

16 I do know Zina at one point had her hand up.  
17 I'm not sure if she still would like to talk.

18 MS. LAGONEGRO: Thank you, Jared. This is  
19 Zina Lagonergro, for the record, at Passero  
20 Associates. And I just wanted to expand a little bit  
21 on what Bill Price was mentioning about, you know,  
22 sometimes there may be impact, but you provide a plan,  
23 et cetera.

24 I wanted to point out that in the Finding  
25 Statement there are two separate statements under the

1 wetlands section. And the first one talks about the  
2 no-build zone and talks about the wetland on the  
3 campus. And it says where there's no other option to  
4 impact a wetland, the wetland will be enhanced via a  
5 proposed mitigation plan, which will be submitted to  
6 the DEC and the Town for review, approval and  
7 permitting. The approval plan will be part of the  
8 final design plan for the project. At the time the  
9 site plan application for each new building, final  
10 design of grading, stormwater management, landscaping,  
11 et cetera, will incorporate any proposed enhancements  
12 to the wetland area at that time. All plans will be  
13 subject to the review and approval of the Planning  
14 Board and Town staff.

15 And then the second one, the statement right  
16 after that goes into more detail about the vernal  
17 pool. And then the final statement regarding the  
18 vernal pool is that disturbance of this wetland area  
19 will be avoided by future development.

20 So if you think of the vernal pool as being  
21 the nucleus of this particular wetland area, that  
22 particular part of it is already protected under the  
23 Finding Statement. The upland area, which is the  
24 expanded area around the vernal area, is what is  
25 covered under the section that I just read. The first

1 one, which authorizes the Planning Board and the Town  
2 staff to make decisions about appropriate mitigation  
3 plans for those wetlands.

4 So there's also another statement in the  
5 wetland section that wetlands change and that's why  
6 it's requested that a new jurisdictional determination  
7 is made every five years. Which we did. You know,  
8 this particular little wetland area has been a  
9 wetland, hasn't been a wetland; has been  
10 jurisdictional, hasn't been jurisdictional. I think  
11 we're doing the best that we can to protect it. David  
12 also stated that we're doing the best we can to bring  
13 it back into a functional wetland, something that  
14 provides a great habitat opportunity for future  
15 habitat and that eliminates some of the invasive  
16 species that are currently in there.

17 If we did nothing today, there's a  
18 possibility that the invasive species that are in now  
19 would completely overtake the wetland and it would no  
20 longer be a wetland. Thank you.

21 MR. BOEHNER: I have some questions about  
22 the water line, if we could talk about something  
23 different. Maybe if we're done with that.

24 MR. FADER: I have one last thing to say and  
25 it's -- if you look at the original plan, the original

1 plan did not provide any wildlife corridors either.  
2 So it's not -- they didn't actually take anything away  
3 in regards to that. It's just we didn't gain a  
4 corridor.

5 MR. GORDON: And just to make the record  
6 complete since Zina decided to read from the findings,  
7 I'll just add in for the record the part that she  
8 decided to skip, which included the reference to the  
9 vernal pond specifically. Regarding the chorus frogs  
10 and vernal pond, the vernal pond located behind the  
11 Laser Lab was constructed as mitigation to the Laser  
12 Lab expansion project, referred to the wetland  
13 delineation maps included in the SDGEIS, Appendix C,  
14 Drawing W1 and L Wetland. This wetland is a 0.55 +/-  
15 acre marsh specifically provided to provide and  
16 enhance chorus frog habitat documented in this area.  
17 Construction of this wetland was required to mitigate  
18 the habitat disturbance resulting from the lab  
19 project. Disturbance of this wetland area will be  
20 avoided by future development. Period.

21 I'm sorry that you decided to skip that  
22 language, Zina, when you read the rest of it to the  
23 record.

24 CHAIRMAN PRICE: Ramsey or David, did you  
25 have any further points?

1           MR. BOEHNER: I have some questions about  
2 the water line --

3           CHAIRMAN PRICE: Okay.

4           MR. BOEHNER: -- distribution, which was  
5 part of the Finding Statement. David --

6           CHAIRMAN PRICE: Water -- domestic water  
7 service line.

8           MR. BOEHNER: Yeah. The distribution  
9 system.

10           David, we need that map on the site plan.  
11 Right now it looks like it's impacting the EPOD. So  
12 we need to get that mapped. We need to know where  
13 that hotbox is going, how big that hotbox is going to  
14 be and if it's taking down any trees in the EPOD.  
15 What we found in the engineer's report, it's taking  
16 down trees from what we can tell.

17           MR. COX: There is a few trees -- it goes  
18 through the area that's already been cleared. So  
19 not -- they're not mature trees. But there has been  
20 some recent planting there. It will go through that  
21 area. It probably will impact a few trees in that  
22 area.

23           MR. BOEHNER: Yeah. You need to map that,  
24 show what trees are coming down and what the  
25 mitigation is going to be for those trees.

1           Also when you run that line, keep in mind  
2       where future buildings may go.

3           MR. COX:   Correct.   Yup.

4           MR. BOEHNER:   And how you're running that  
5       line.   I don't know how much you've got into it,  
6       because I have to evaluate the placement of that line  
7       as part of the SEQRA review.

8           MR. COX:   Okay.

9           MR. BOEHNER:   The other thing is you added  
10      the sidewalks along the north side of the -- of the  
11      facility; is that right?

12          MR. COX:   That's correct.

13          MR. BOEHNER:   And what about the south side?

14          MR. COX:   So we did not add sidewalks on the  
15      south side.   The south side is the back of house where  
16      the loading dock area is.   The -- we do not want to  
17      encourage any pedestrian traffic to that -- to that  
18      rear house or back of house area.   We want to keep all  
19      pedestrian traffic to the front where the main  
20      entrance is and in that area.

21          MR. BOEHNER:   I do think that that will need  
22      to be visited with future development because that  
23      bike path comes right out there.   If you look at how  
24      things are connected, that is something that would  
25      need to be looked at with the future development of

1 the site because that was something that was supposed  
2 to be put in, the pedestrian access through the back.  
3 That is a part of this that does have to be addressed.  
4 Maybe not now. But that was one of the items that had  
5 to be done for this project.

6 The last thing I'm going to ask you to do,  
7 David, when you look at this, please look at this area  
8 that is to be protected and the ability to make sure  
9 that it is not going to be threatened in the future  
10 either by the filer or the development of the project.  
11 Because right now, it seems to be right next to it and  
12 staff was wondering how is anything built there  
13 without disturbing that area. So if you could take a  
14 good look at that to verify that it can be done would  
15 be important.

16 CHAIRMAN PRICE: Please tell us what area  
17 you're talking about. You're saying the construction  
18 of the fire access up by the addition?

19 MR. BOEHNER: Yeah. Because we don't know  
20 how tall that addition's going to be. But we got to  
21 make sure if it's going to be tall, there's going to  
22 be an aerial response that may have come. You know, I  
23 just want to make sure that they're looking forward  
24 especially since we're going to have something that  
25 says, hey, don't you disturb this area. Let's make

1       sure we take a hard look at it to avoid --

2               CHAIRMAN PRICE: To make sure it's graded  
3       out so you know --

4               MR. BOEHNER: Yeah. You got it, Bill. A  
5       good hard look at that is needed would be my advice  
6       after all this. That's the last I have of my  
7       questions and comments.

8               CHAIRMAN PRICE: All right. Ramsey, at this  
9       point could you just walk through what you see the --  
10      the SEQRA issues being and the process?

11              MR. BOEHNER: So right now, Bill, I am  
12      processing the LEED agency and coordinator review for  
13      the project. I will be discussing this with the Town  
14      Board because this is not consistent with their  
15      Finding Statement either. I do need LEED agency  
16      status from them. If we do get LEED agency status  
17      from them, then the next step is to take the  
18      application and do a determination of significance.  
19      The determination of significance could be a positive  
20      dec or a negative declaration based on what we have.  
21      And that would probably be done at the next Planning  
22      Board meeting. So what we got is what we're going to  
23      have to review and make our decision on at that point.

24              At that point if we do a neg dec, then we  
25      have to make sure the preliminary plan is in

1 compliance with the neg dec and we start moving  
2 forward. If we determine that things aren't  
3 adequately mitigated by the applicant, we would do a  
4 supplemental and go through that process. Or the  
5 other thing is that you just could just deny the  
6 application and say, stay out of the area is kind of  
7 the alternatives that we have here.

8 That's down the road. You have to see how  
9 they respond and what they give us and hopefully we  
10 can just continue moving this project forward.

11 CHAIRMAN PRICE: What do you see SEQRA being  
12 done on? Are we doing SEQRA on the full build-out or  
13 are we doing SEQRA on the darker orange?

14 MR. BOEHNER: We're doing it on the  
15 application, what they've submitted. We don't have a  
16 great deal to look at as far as the master plan,  
17 except that they did a tree survey. We know that the  
18 area is fill. From what I can tell where they are  
19 wanting to do the construction seems like a good area.  
20 Seems like if we want to have development, that's  
21 where we would want to have it.

22 CHAIRMAN PRICE: Right.

23 MR. BOEHNER: We're going to be looking at  
24 the summary of -- the completion of the traffic study.  
25 So we'll be looking at the water line. There'd be a

1 number of things that we'd be looking at in the SEQRA  
2 process besides just this item of the vernal ponds.

3 CHAIRMAN PRICE: Okay. Is everybody on our  
4 Board clear with where we'll be going with SEQRA?  
5 There's no dumb questions. So if you're not clear on  
6 the understanding of environmental review, please feel  
7 free to ask.

8 MR. BOEHNER: We do have to open it up to  
9 the public for comment.

10 CHAIRMAN PRICE: Yup. So assuming there's  
11 no more questions, David and Jared, Zina, thank you.  
12 And everybody on the Board, thank you. Appreciate you  
13 all giving some input on this and hopefully giving us  
14 some direction. This is a public hearing. Is there  
15 anyone that cares to address this application?

16 MR. FRISCH: I don't see anybody.

17 CHAIRMAN PRICE: All right.

18 MR. COX: I did have one request that would  
19 help us if the Board would entertain -- obviously once  
20 things are worked out -- a preliminary/final approval  
21 so that we could submit for that. That would help us  
22 to not lose a month. Just so that, you know, it can  
23 be a combined approval instead of having to do a  
24 preliminary approval, submit for final, and then come  
25 back later.

1           MR. BOEHNER: Given where we are right now,  
2 I wouldn't feel very comfortable, but, Bill, if the  
3 Planning Board wants to do that, I have the authority  
4 under the Code. But at this point I'm not really  
5 comfortable with that.

6           CHAIRMAN PRICE: Well, I mean, I think it is  
7 something we have done in the past. And I just -- I  
8 would just have to say that, you know, the review by  
9 staff and making sure that we would be able to have  
10 plans that have been reviewed, you know, they  
11 typically are -- you know, it's a rigorous review.  
12 And you've been through this before, David. We have  
13 done it, but I would caution that it is -- it is based  
14 on the presentation of the materials and the  
15 completeness of the application that says, okay, all  
16 concerns, you know, environmental, engineering,  
17 design-wise have been -- have been addressed. So  
18 that's -- that's a qualified we'll think it over.

19           MR. BOEHNER: Yeah. David, it all depends  
20 on how it's going.

21           CHAIRMAN PRICE: Sorry. To be vague about  
22 it.

23           MR. COX: Okay. Thank you.

24           CHAIRMAN PRICE: Okay. Once again, is there  
25 anybody in the audience that cares to address this

1 application? All right. Thank you.

2 I believe that is the last of our public  
3 hearings. And we have a concept review. And let me  
4 get the number. It's going to be application  
5 1P-NB1-22.

6 **Application 1P-NB1-22**

7 Application of 1925 South Clinton, LLC,  
8 owner, for Concept Review (Phase 2) to construct a  
9 9,200 +1- sf retail building with a drive-thru  
10 facility and associated site improvements on property  
11 located at 1905-1925 South Clinton Avenue (Tax ID  
12 #136.15-1-8.1, Lot 3). All as described on  
13 application and plans on file.

14 CHAIRMAN PRICE: Is there somebody here? I  
15 thought I saw Paul's name out there.

16 MR. COLUCCI: I'm here. Good evening,  
17 Mr. Chairman. Happy New Year. Nice to see everyone.

18 So I wanted to just give an overview of the  
19 proposal for conceptual review as outlined in the  
20 letter of intent dated December 21st. As I think many  
21 of the members will recall we were before this Board  
22 in October of '21 with phase 2 of site plan approval  
23 request for 1925 South Clinton. At that time we were  
24 requesting two buildings. We modified that. And the  
25 plans that we have submitted, I wanted to walk through

1 kind of step-by-step just to give members of the Board  
2 who may not be familiar with the overall project. And  
3 then also go back to where we were in October and what  
4 we've done since.

5 So the plan that Jeff has up now is the  
6 previously approved preliminary overall site plan for  
7 the project that we call 1925 South Clinton. Phase 1  
8 was a Doodlebugs on the northeast portion of the  
9 property, which is the construct. That was completed  
10 in 2020. The remainder of the site included two  
11 two-story proposed medical office buildings to the  
12 west of the property boundary, and then two free  
13 standing retail buildings. One, which was a 9,200  
14 square foot mixed-use building and then a free  
15 standing restaurant. So, again, this plan that Jeff  
16 is showing right now was the preliminary overall  
17 approved site plan.

18 The second plan, Jeff, if you go to the next  
19 one, should be the plan that we presented for phase 2  
20 back in October. And understanding that there was --  
21 there was several concerns. This plan was denied by  
22 this Board in that October meeting. And the concerns  
23 that were raised were, one, the amount of  
24 disconnection between these buildings and the  
25 pedestrian right-of-way along South Clinton, the

1 unknown or the lack of certainty of what users would  
2 be in these buildings and the need for two drive-thrus  
3 was of concern to this Board. Concerns were the focus  
4 on cars and a lack of focus on connectivity to the  
5 right-of-way, which was part of the master plan for  
6 this corridor on South Clinton Avenue.

7           You know, I would say that very few positive  
8 comments came out of this particular plan. And  
9 understanding that what we did was worked with Town  
10 staff, with Ramsey and Chairman Price to set up a few  
11 workshops where we did some sketch plan review over a  
12 couple of different meetings with staff to try to  
13 present some alternatives that would be better for  
14 this next phase, would be more in kind with what was  
15 envisioned for -- from the Planning Board and Town  
16 Board for the development. And the next plans would  
17 be Alternative 1. Jeff, if you could flip to that.

18           So pardon my lack of artistry, but I did  
19 these sketches and shared these with the Town staff in  
20 the workshop setting and I'll try to explain what each  
21 one was trying to convey. So in this one we call  
22 Alternative 1, we limited the second 9,200 square foot  
23 building. We reverted back to the previously approved  
24 preliminary overall site plan for the free standing  
25 restaurant to the south of the proposed building. We

1 also went back to the connection to the property to  
2 the south of us and maintained its previously approved  
3 connection, just trying minimize changes from  
4 preliminary overall approval.

5 The building was also -- width was reduced  
6 approximately 30 feet. We took about 2,100 square  
7 feet out of that building in Alternative 1 and tried  
8 to show a way to minimize the amount of the drive-thru  
9 traffic between the building and the right-of-way.

10 And in doing so we were able to eliminate  
11 approximately 30 feet of the drive-thru queue as it --  
12 as it worked it's way around the building. So this is  
13 what we called Alternate 1.

14 And next one would be Alternate 2. So  
15 Alternate 2 used that -- that also reduced building  
16 size. So we took about 30 feet out of it. So it's  
17 about a 7,000 square foot building. Again the  
18 background is the previously approved preliminary  
19 overall site plan with the 4,000 free standing  
20 restaurant. We reverted back to the connection to the  
21 south similar to what was previously approved.

22 The drive-thru queue here as you can see is  
23 along the north side of the building, which I don't  
24 think anyone was ever really satisfied with. This  
25 however maintained more similarities to the

1 preliminary overall by trying to avoid having the  
2 drive-thru between the right-of-way and the building.

3 Concerns with this one are the queue that  
4 would likely overlap into the front drive lane.  
5 Conflicts between the ingress and egress movement  
6 during peak hours for the drive-thru. With the type  
7 of use that we're proposing, as I think everyone  
8 knows, we do have a lease with Starbucks. They would  
9 be occupying that endcap on the building. We're just  
10 very uncomfortable that this was a very satisfactory  
11 solution to addressing the drive-thru standards under  
12 the Town Code. We think it would comply with the  
13 amount of queue required for a drive-thru, but not  
14 particularly Starbucks during peak hours.

15 We then went to a third alternative that we  
16 wanted to consider. Again, using the preliminary  
17 overall background as the basis, we looked at shifting  
18 the building to the west approximately 15 feet to give  
19 us a little bit more room between the building and the  
20 right-of-way so that we could have an ample sidewalk  
21 for rear egress from the tenants, to be able to fit  
22 the drive-thru messaging board, menu board between the  
23 drive-thru lane and the building. We switched this to  
24 more of a, you know, an urban streetscape with  
25 parallel parking along the curb line and enhanced the

1 pedestrian sidewalk between the parallel parking  
2 fronting the building. We added about 5 feet for that  
3 to provide an enhanced hardscape. And then also took  
4 the drive-thru through the parking lot to the south,  
5 thereby eliminating a somewhat redundant drive-thru  
6 entry that would add impervious area.

7 Using this parking lot between the 4,000  
8 square foot building and the proposed 9,200 square  
9 foot building, we're able to access the drive-thru  
10 queue and still provide what we feel is in excess of  
11 Town Code requirement for queue or length required for  
12 drive-thru and would meet Starbucks' requirements.

13 We, in the workshop, had some comments back  
14 and forth between the members that participated. And  
15 it was determined that this would be the preferred  
16 alternative. Off of the -- off of this as a basis we  
17 developed a site plan that I believe is dated  
18 October -- December 20th that was submitted as site  
19 plan for conceptual review consideration. So I think,  
20 Jeff, the next one would be the hardline or CAD  
21 drawing of that alternative sketch.

22 So in this one if you zoom in a little bit,  
23 on that 9,200 square foot building, you can see some  
24 of the items that I described. We shifted the  
25 building away from the South Clinton Ave right-of-way.

1 We were able to maintain the separation from the  
2 right-of-way to the drive-thru lane. We modified the  
3 fence that is parallel to the drive-thru queue lane  
4 between the right-of-way and the drive-thru queue. As  
5 it was suggested that, you know, maybe a continuous  
6 fence is not required, landscaping and breaking the  
7 fence up because we don't necessarily want to prevent  
8 that activity from the sidewalk to the building.  
9 Albeit, we do want to try to minimize headlight glare  
10 and try to provide somewhat of a buffer between the  
11 drive-thru and the right-of-way.

12 As you can see we have the parallel parking  
13 spaces fronting along the -- what would be the tenant  
14 entry side or west side of the building. We also  
15 shifted the dumpster enclosure out of the parking area  
16 and shifted that to the south side of the building  
17 more in kind with where it was during the preliminary  
18 overall approval. And that also came from some  
19 conversations as I was going through site plan review  
20 with Starbucks. They would like to have part of their  
21 rear egress, the ability for their partners or their  
22 staff to be able to access that dumpster enclosure  
23 without having to cross the drive-thru -- or the drive  
24 lane in front of the building.

25 We did get a layout from Starbucks. I do

1 know that how their cafe will lay out. I don't think  
2 I sent that to this Board, but I certainly I will  
3 share that with Town staff. There is going to be  
4 access on the east side of the building. It would be  
5 a storefront door. It is required for secondary  
6 egress. We are proposing that to be clear storefront  
7 with a side light. We're going to try to provide as  
8 much storefront on that east side to see that activity  
9 into the cafe. Albeit, it would be certainly  
10 secondary to the activity that would be on the west  
11 side of the building as that's where their cafe entry  
12 will be. They will have walkup window on that west  
13 side that would also complement their drive-thru type  
14 access that they're proposing for this cafe.

15 We -- during the review there was some  
16 questions relative to the maneuverability out of this  
17 drive-thru queue to be able to make left turns or  
18 right turns out. I did submit a turning template that  
19 shows not only the pedestrian -- or a standard -- a  
20 standard car being able to make that access, but we  
21 also modeled a pickup truck with a landscape trailer  
22 is pretty much what we looked at as considering what  
23 type of vehicle could frequent this drive-thru and how  
24 could that maneuver out of this -- this drive-thru  
25 lane and without causing conflict. I think that's a

1 separate exhibit, Jeff, that might be next in your  
2 deck.

3 MR. FRISCH: I don't think I received that.

4 MR. COLUCCI: My apologies. I thought that  
5 I sent that. I will send that. I know Ramsey in  
6 particular brought that concern up and we modeled  
7 that. And I will send that along. But I apologize.  
8 I thought I included that in the submission.

9 You know, I guess, overall we tried to, you  
10 know, drop back and take under consideration the  
11 comments that we got during the October review and  
12 certainly the feedback and input we got during the  
13 workshop sessions. We have a revised site plan that  
14 we're looking for some input on. We would like to try  
15 to roll that into a application to meet the February  
16 deadline for being back before this Board in March.  
17 And I really welcome any comments from the Board to  
18 get further input as we look to develop this.

19 CHAIRMAN PRICE: All right. So I've been a  
20 part of some of the conversations. I'd like to see if  
21 any other Board members have any questions or comments  
22 on this. In fact, I'd like every Board member to have  
23 a say in, you know, the modifications that have been  
24 made to this application. And so that Paul and his  
25 team have some -- any feedback from us.

1 I will -- I'll kind of summarize and go  
2 last. I'll randomly pick on David Fader to see if  
3 David has any comments or questions first.

4 MR. FADER: I always struggle a little bit  
5 with these ones that are a little bit less suburban or  
6 urban or whatever. I guess the question is my  
7 understanding's been that sort of the goal all along  
8 is when we build these things in central Brighton is  
9 that we kind of don't like parking or cars all out by  
10 the street in front of the building. And if that's  
11 the case and that's still a goal we have, then I guess  
12 I would like the one that had the U in it versus the  
13 ones that go around the front because no matter what  
14 you do, you're still going to have a line of cars  
15 wrapped around the front of the building. So I think  
16 that's the question, is that something that's  
17 acceptable because there's other benefits or do we  
18 want to go back more like the original plan and have  
19 the U? And I can go either way, but I kind of prefer  
20 the U I think.

21 CHAIRMAN PRICE: The -- when we talked about  
22 the U, the thing it creates is the number of  
23 conflicts. Should we have thought about that back in  
24 the time when this was preliminarily approved and we  
25 didn't know who the tenant was going to be? But I

1 think that the U having three access drives, you know,  
2 technically, and the need for cars to cross in front  
3 of each other, just the sheer number of conflict  
4 points was -- we were going to create something that  
5 people would say, what the heck were they thinking  
6 with that?

7 And then you know the idea of minimizing the  
8 amount of drive lanes that does go between the street  
9 and the buildings was another intent. So I don't want  
10 to say any more than that. If --

11 MR. FADER: No. That's good. And that's  
12 why I said I don't have real strong feelings because I  
13 defer to people like you that have better experience  
14 with traffic and stuff. So, you know, I -- it's like  
15 I said. I could either way. Just ask my thought, and  
16 that's what I thought off the top of my head without  
17 the analysis that you've done.

18 CHAIRMAN PRICE: Yeah. No. Thank you.

19 MS. DELANEY: Can I go next?

20 CHAIRMAN PRICE: Yeah, please.

21 MS. DELANEY: I feel very strongly about the  
22 U drive-thru. I feel like maybe we should have  
23 learned from the Starbucks on Monroe that maybe like  
24 there's definitely traffic turning radiuses to really  
25 look at and queue lanes and whatnot. But I'm really

1 struggling with this parking along the road. And I'm  
2 really struggling -- well, I guess not parking, but  
3 queuing. I'm really struggling with putting up a  
4 fence to block this development when I feel like we  
5 should be proud of this development and it should be  
6 something that's an exciting opportunity for Brighton.  
7 And we shouldn't have to put up a fence to try to  
8 block it out.

9 I definitely understand the concerns about  
10 turning radiuses, but I also think that if they can  
11 make this work on Mount Hope in that tiny little  
12 Starbucks drive-thru there, then why can't we make it  
13 work here where there's more land available?

14 So I agree with David. I'm not an expert at  
15 all of this queuing and turning. I just feel like if  
16 they can make it work there, why can't we make it work  
17 here? And every time I drive by that one on Monroe, I  
18 wished that I pushed harder to not have those cars  
19 sitting along Monroe Avenue.

20 I appreciate -- appreciate the changes that  
21 have been made from last time. I just still really  
22 prefer not having the queuing of cars along South  
23 Clinton Avenue.

24 MS. FORD: May I jump in? Which is pretty  
25 consistent with what has been said. I truly recognize

1 the issues with the U configuration and sympathize  
2 with it, but my initial -- my first reaction is that  
3 this same thing, those cars at the southern end and  
4 the exposure and just -- I guess it's the ugliness of  
5 the whole thing. And it seems like it would be --  
6 yeah.

7 Now, you said there's no such thing as  
8 stupid question. So this is it though. What -- on  
9 the north part of that -- of the building, what  
10 prohibits the drive-thru going through there or  
11 somehow moving away from the Clinton Avenue area?  
12 Again, I am a sociologist. I am not an urban planner.  
13 So I don't know any of these. But I really do feel  
14 that the prior comments about what it looks like, it  
15 matters. And it matters to the community. I'm --  
16 it's just -- I'm really just uncomfortable with  
17 drive-thru going on the south border.

18 CHAIRMAN PRICE: The reason -- the drive up  
19 lane has to align with the driver's side of the car.  
20 And so there's a few examples around town. Wendy's  
21 over along Monroe Avenue. I personally don't like  
22 the -- this is me personally -- do not like and do not  
23 think that Mount Hope works. I do understand that it  
24 doesn't put cars in front of the building, but my  
25 personal experience is my mother managing to get in an

1 accident back there. But that's not the designer's  
2 fault. So, Julie, we do have regulations as to  
3 queuing lanes with drive-thrus.

4 MS. FORD: I assumed that was the case. I  
5 just threw that out there just, you know --

6 CHAIRMAN PRICE: You know, we -- the  
7 definite -- the no-no that we try to avoid is things  
8 like, you know, the Dunkin Donuts on East Avenue where  
9 you know the queuing lane onsite is not deep enough  
10 and cars end up sticking out into the drive lanes on  
11 East Avenue. That is, you know, something that our  
12 regulation, whether it's a bank, it's a burger joint,  
13 or it's, you know, it's a coffee shop, you know,  
14 Ramsey and staff have gone to great lengths to make  
15 sure we have sufficient stacking distance to mitigate  
16 potential -- or avoid altogether potential traffic  
17 conflicts. So I hope that answers your question.  
18 Please always ask. Jason, do you have thoughts?

19 MR. BABCOCK-STINER: Yeah. Well, one, I  
20 appreciate the -- doing those workshops. And I know  
21 they're a little extra work, but I think that they're  
22 very helpful. And that, you know, I also appreciate  
23 the fact that we've gone down from two drive-thru  
24 areas to one. I think it's a nice change from what we  
25 saw most recently.

1 I'm kind of with David on this one. It's  
2 not great. It's better. My one question about the  
3 layout, was any consideration given to taking this  
4 building and drive-thru and rotating it 90 degrees to  
5 the right so that you're still going to have the  
6 queue-in lanes, but you're putting a much smaller  
7 queue-in footprint at the front of the street. And I  
8 know that messes with the back layout a little bit  
9 with the driving lanes as things like that, but that  
10 may be one way to at least shift some of that queue  
11 traffic off of the -- out of that site line from  
12 Clinton. But that would -- I mean, again, I'd like  
13 the fact it's only one and it's not two. So that's  
14 all I've got.

15 CHAIRMAN PRICE: Paul, do you have a  
16 response to that?

17 MR. COLUCCI: Yeah. I just wanted to  
18 clarify. So, Jason, are you -- are you saying rotate  
19 the entire building 90 degrees?

20 MR. BABCOCK-STINER: Yeah. Just take that  
21 entire landscape looking polygon and shift it so that  
22 the short queue lane, the shorter arm is on Clinton.  
23 And then the longer arm is going -- what is it?  
24 East-west.

25 MS. ALTMAN: Yeah.

1           MR. BABCOCK-STINER: I don't know if that's  
2 possible or not with everything, but that would be --  
3 might be one way to reduce the visual impact of that  
4 queuing system for passersby.

5           MR. COLUCCI: Yeah. We looked at that. You  
6 know, part of the concern there is one, Starbucks  
7 wants to be on the right-of-way. They would not want  
8 to be on the west side of the building center to the  
9 project. I think that would be a non-starter for them  
10 relative to where they would be positioned.

11           The other aspect is the way the site  
12 infrastructure lays out and the grading on the site  
13 and then you can imagine the future medical office  
14 buildings to the west, the parking winds up getting  
15 interrupted significantly for those. And we were  
16 unable to kind of balance the needs of those buildings  
17 to the west versus the retail buildings which want to  
18 be closer to the south Clinton Avenue right-of-way.

19           MR. BABCOCK-STINER: Thanks, Paul.

20           CHAIRMAN PRICE: Karen?

21           MS. ALTMAN: I have the same concern that's  
22 already been expressed about the queuing along the  
23 South Clinton Avenue frontage and how that looks.

24           My other question is -- and I'm partly  
25 reacting to the entirety of the site when I say this

1 and I was not at the original presentation. So you  
2 may have covered this already. But there -- are there  
3 amenities that are part of this plan that promote  
4 pedestrians or bicyclists or other people other than  
5 car traffic? Is it possible on a site that has this  
6 much activity so close to the road, but are there  
7 things like bike racks or EV charging stations or  
8 internal to the layout, things that would promote  
9 walkability of this site at all?

10 MR. COLUCCI: Yeah. That's a great  
11 question. As this was subject to the Incentive Zoning  
12 approval, there are amenities that we're offering off  
13 site, which include amenities partially constructed  
14 sidewalk. Approximately 1,100 of linear feet of  
15 sidewalk was constructed along Elmwood Avenue. And  
16 then we -- in the 2022 construction season are going  
17 to construct approximately equivalent length of  
18 sidewalk, another 1,000 linear feet along South  
19 Clinton Ave.

20 Additionally as you can see in this  
21 preliminary overall approval, the extensive network of  
22 pedestrian connectivity between the buildings  
23 themselves as well as bike racks would be installed at  
24 the different locations. Each of the buildings would  
25 have bike racks, outdoor patio areas for outdoor

1 seating. There is no outdoor dining proposed with the  
2 Starbucks. It is not envisioned that there would be  
3 any service other than convenience for enjoying  
4 beverages and product that Starbucks sells outside.  
5 We are also showing a patio area of the south side for  
6 a anticipated future endcap on the south side of that  
7 building.

8 CHAIRMAN PRICE: John?

9 MR. OSOWSKI: Thanks, Bill. And thanks for  
10 all the effort, coming up with these three alternates.  
11 Yeah. I agree that alternate 3 is probably the best  
12 you're going to get in consideration of the lengthy  
13 queuing that you need for a Starbucks so you don't get  
14 in trouble with it.

15 What I'd like to see -- I agree with Pam.  
16 Lose that fence along Clinton Avenue and just some  
17 nice landscaping there, intermittent landscaping to  
18 try to soften, minimize the long line of cars that  
19 will be there. That's probably about the best we  
20 could get out of this.

21 So anyway, it's -- you know, it's a fact of  
22 life that you got to have long queuing line to  
23 accommodate those cars. I've seen all the cars  
24 wrapping around the Starbucks at Whole Foods plaza.  
25 And it amazes me to see a dozen cars there at

1 1 o'clock in the afternoon. I guess people like their  
2 coffee. That's all I have to say. Thanks.

3 CHAIRMAN PRICE: Thanks, John. Who have I  
4 missed? Anybody? Everybody had their say?

5 I guess, you know -- in totality I guess I  
6 have to -- you know, I have to think that this is --  
7 this becomes the best alternative. Although I agree  
8 with keeping -- trying to keep cars between the street  
9 and the building from happening, as you -- for  
10 whatever reason, I tend to drive down South Clinton  
11 Avenue from Elmwood to Westfall more than I do the  
12 other direction. So I'm -- my bias is that direction.  
13 And I don't see an awful lot of difference if I'm  
14 driving down the road and I see potentially three  
15 lanes of traffic or three lanes of asphalt, you know,  
16 on the north side of the building, the entrance  
17 drive -- you know entrance and exit main drive and  
18 then the one-way in and the one-way out. And I don't  
19 find that any -- it's not -- it's not better or worse.  
20 It's different.

21 So the U-shape is, again, you know -- this  
22 and the U-shape are just different. Neither one to me  
23 in my mind offers a substantive benefit from a "how  
24 does it -- how do we feed cars to the drive-thru."  
25 From another standpoint some minor things, some things

1     that I guess you would notice this, but you might not,  
2     the dumpsters have been moved to a different location.  
3     The building is a smaller building. He's trying to  
4     get glazing and, you know, more interest on the  
5     elevation along South Clinton. The front being  
6     parallel parking offers more sidewalk space, which  
7     gave me heartburn last time was, you know, the minimal  
8     depth of sidewalks. This offers two areas for outdoor  
9     seating.

10            So I think overall, you know, what -- and I  
11     don't disagree with anybody on the fencing. In fact,  
12     Paul will probably tell you, I kind of acquiesced on  
13     partial fencing, but would be fine with no fencing.  
14     So to -- with the goal of trying to activate the east  
15     side of this building towards South Clinton with glass  
16     so that we can see people in the building, we can see  
17     activity, I think in the Starbucks space and the  
18     retail spaces next to it, it certainly helps that  
19     elevation.

20            I would love it if our society was not  
21     driving cars as much. That's -- that's kind of  
22     wishful thinking. We're not -- we're not going to  
23     walking and bikes as fast as I would like us to be.  
24     So drive-thrus are with us for a while anyway. But  
25     the other thing is, is that this has a shared drive

1 lane with parking on that south side of the building  
2 and that open space they've got rather than having its  
3 own parking separated from a dedicated drive line,  
4 doing a little more to reduce some of the asphalt. So  
5 I like this. Are there other things that I would like  
6 better? Probably. But grading and proximity to  
7 intersections and queuing distances and conflict  
8 points, everything that you have to ultimately take  
9 into consideration, I think this is a good  
10 alternative.

11 MR. COLUCCI: And probably worth note is  
12 some of the items you brought up, Bill, we are trying  
13 to activate that eastern elevation. We did resubmit  
14 modified plans to the Architecture Review, to Jeff for  
15 review next week with ARB. Some minor items that --  
16 worth noting here, in lieu of hollow metal doors on  
17 the east elevation, we're proposing those would all be  
18 storefront doors. We are trying as best we can to get  
19 Starbucks to lay out their cafe. We actually gave  
20 them about an additional 200 square feet to increase  
21 their width so that we could have that rear egress  
22 with side light and two storefront door on the east  
23 elevation.

24 The adjacent tenant to them will be a  
25 sandwich shop. I'm fairly certain that they will not

1 have the same need for rear egress as Starbucks does.  
2 And it would likely be their back of house. But,  
3 again, in lieu of a hollow metal door, we're proposing  
4 storefront doors on that east elevation. We've added  
5 some awnings. We've added some additional detailing  
6 on that elevation that we plan to review with ARB next  
7 week.

8 CHAIRMAN PRICE: Thank you. I should let  
9 Ramsey and Ken -- do you guys have any questions or  
10 comments?

11 MR. GORDON: Yeah. I've got a couple sort  
12 of macro site issues actually, Paul. And I think  
13 we've talked about them before, but it's just a  
14 heads-up at this point in time. I can see two things  
15 potentially stopping this project cold.

16 One, you mentioned the sidewalks that still  
17 need to be completed. I think the deadline for those  
18 it was extended to June 30th. And that has to happen.  
19 That's part of the Incentive Zoning approval. In  
20 order for anything to continue to be developed on this  
21 site, you need to meet those marks. And I think you  
22 know that. And I'm just putting it out there as a  
23 reminder.

24 And the other one that we've talked about  
25 for a while now, back in -- I think it's November of

1 2019, you were before this Board and talked about the  
2 piles of topsoil that are placed on the property. At  
3 the time there was a map filed, plans filed, that  
4 indicated that pile, which is roughly I think at the  
5 southwest corner of this project, was going to be  
6 there for six months. I've reviewed those meeting  
7 minutes from November of 2019. And, you know, Ramsey  
8 asked some questions about why is it going to take  
9 that long to get rid of it. And there was some back  
10 and forth about what needed to happen to get rid of  
11 that pile, et cetera.

12 That hasn't happened. That pile is still  
13 there. It's been over two years. I'm going -- I'm  
14 going to be hard-pressed to recommend that this Board  
15 approve any further site plans until and unless that  
16 promise that was made over two years ago is fulfilled  
17 by the developer and that pile is spread or taken away  
18 or do whatever you need to do to fulfill that promise  
19 that made back in November of 2019.

20 So I'm just putting that out there. I think  
21 now is a good time to talk about it so that you know  
22 that's on my agenda at least and I'm going to continue  
23 to make sure that it's not forgotten by the developer  
24 nor by the Planning Board.

25 MR. COLUCCI: Sure. Noted, Ken. And we

1 absolutely want to remove that topsoil. As I think I  
2 stated in some of the workshops and previous  
3 conservation I had with you, we don't need all that  
4 topsoil. I am pressing the site contractor to get rid  
5 of it. I'm having continual conversations with them.  
6 We did have them mobilize out there in December and at  
7 least knock down the gravel piles that were produced.  
8 And I've been pressing them to do some housekeeping on  
9 the site.

10 So your comment's noted. I am working with  
11 them to find a home for that material. And we don't  
12 need it. We don't want it there. And certainly don't  
13 want it as we advance the next phase of site plan  
14 approval.

15 MR. GORDON: Thanks, Paul.

16 MR. BOEHNER: Paul, just wanted to let you  
17 know there was a memo that we got -- the Planning  
18 Board got from the Fire Marshal. And I'll email it to  
19 you tomorrow. We just got it late. That talks about  
20 the issue of how Starbucks has insufficient storage  
21 and what happens when they have special events. They  
22 get so much product that they start storing it in the  
23 mechanical rooms, blocking the fire exits or blocking  
24 the mechanical equipment, the sprinkler equipment.  
25 And it's been an ongoing problem at Starbucks with

1 violations being issued. So I'll send that over to  
2 you just as you design the building and look at what  
3 the storage capacity would be.

4 MR. COLUCCI: Yeah. That's -- that's --

5 MR. BOEHNER: I'll send that over to you.

6 MR. COLUCCI: Yes. Please send that along.  
7 Obviously we'll have a -- there'll be a central  
8 mechanical room for the building, which they won't  
9 have access to, other than, you know, for any type of  
10 emergencies that they would have to contact us. Their  
11 back of house I don't really have control over, but if  
12 you send me what Chris Roth has generated, I will  
13 share that with Starbucks relative to the concerns  
14 that are identified.

15 MR. BOEHNER: Yeah. If you could. Thank  
16 you.

17 MR. FRISCH: I was wondering, previously  
18 when you said you were going to the next phase you  
19 showed two buildings on the site. Is that the  
20 intention for the next phase to have those two  
21 buildings or just the one you're showing now?

22 MR. COLUCCI: Just the single one. So the  
23 modified application would be for phase 2 to include  
24 just the 9,200 square foot building. And then I would  
25 probably follow up with Ramsey relative to any, you

1 know, formal comments that you guys issue tonight for  
2 what do we tolerate for that next application. Am I  
3 doing a revised preliminary overall or are we doing a  
4 phase 2 preliminary final? So a little guidance I'd  
5 like on that.

6 MR. BOEHNER: Paul, maybe we could talk  
7 tomorrow?

8 MR. COLUCCI: Sure. Thanks.

9 MR. BOEHNER: Bill, I think your muted.  
10 Bill Price.

11 CHAIRMAN PRICE: Sorry. I do want to go  
12 quickly back around. I guess if I mentally add up, we  
13 haven't -- we don't have consensus, but I want to see  
14 if we can get a majority understanding of the  
15 direction that the Board would like to see this  
16 advanced. So I heard enough of the alternative U  
17 configuration that I want to go back around and see if  
18 I can clear up --

19 MS. FORD: Can we see that map please of the  
20 U configuration?

21 CHAIRMAN PRICE: Yeah. Good idea.

22 MS. FORD: Thank you.

23 CHAIRMAN PRICE: So -- yeah. Let's -- does  
24 anybody need kind of more of an understanding? Paul  
25 do you have -- you know, can you just give us a quick

1 overview of how you -- we discussed conflict points  
2 here.

3 MR. COLUCCI: Yeah. So essentially the  
4 concern with this one is two things. By shifting the  
5 building to the south, you can see where our primary  
6 tenant Starbucks has minimal amount of parking that  
7 would wind up being approximate to their front door.  
8 I've basically orphaned a significant amount of the  
9 parking field that is opposite of this drive lane.

10 So the concern here is opposite Starbucks'  
11 front entrance I don't have, you know, an ample amount  
12 of parking for them. And then the major concern here  
13 is given Starbucks' peak operational hours, we  
14 certainly foresee that there's going to be conflicts  
15 where the egress move out of the drive-thru lane could  
16 be blocked by queue waiting to get into the  
17 drive-thru. I know a lot of people may envision that  
18 the movement -- predominant movement would be from the  
19 north to the south into the un-signalized entrance,  
20 but actually the signalized entrance is opposite the  
21 existing driveway entrance to the plaza across the  
22 street. So actually the access to the plaza -- to  
23 this development on the south side is going to be  
24 signalized entrance where we envision there will be a  
25 significant amount of vehicles trying to navigate to

1 that particular intersection.

2 When we were in the workshop sessions, I  
3 think what we were getting feedback -- or at least  
4 what I was getting feedback on was the Mount Hope  
5 example was not one to try to model. And this is  
6 really what that is kind of modeled after is the Mount  
7 Hope location. So as we were preparing the plan to  
8 present back here as a preferred alternative, we kind  
9 of moved off this one.

10 CHAIRMAN PRICE: All right.

11 MS. DELANEY: Can I say something else?

12 CHAIRMAN PRICE: Yeah. We want you to --

13 MS. DELANEY: I definitely appreciate that  
14 the Mount Hope isn't perfect. I just am really having  
15 a hard time with this like "let's let cars win and  
16 let's let Starbucks pick what they want." I really  
17 feel like we're in charge here. We need to do what's  
18 best for our Town. And I don't know. Maybe at the  
19 end of the day this isn't a huge deal. But like John  
20 says when he drives Monroe Ave he sees ten cars there  
21 at 5 in the afternoon, we only see those ten cars  
22 because we allowed those ten cars to be along the  
23 street.

24 So at the end of the day, isn't our choice  
25 what we make this look like?

1 CHAIRMAN PRICE: Sure. It is. And if -- I  
2 think if you feel strongly that this is a better  
3 alternative because your -- you believe the primary  
4 concern is seeing cars from your car --

5 MS. DELANEY: I don't know. I don't know.  
6 That's what I'm --

7 CHAIRMAN PRICE: Yeah. I'm just -- I don't  
8 -- no. Whatever -- if your opinion is that --

9 MS. DELANEY: I mean, I don't think any of  
10 them are perfect. I'm just saying I don't like that  
11 attitude of it's a car driven society, so we should  
12 just let the cars win. Like to me we make our town  
13 what we want our town to be by making those decisions.  
14 I don't know. But maybe -- I don't know.

15 CHAIRMAN PRICE: Well--

16 MS. DELANEY: I don't know. I guess --

17 CHAIRMAN PRICE: If you're happier seeing  
18 this option pursued versus the other one --

19 MS. DELANEY: I mean, I'm happier seeing no  
20 drive-thru. But I don't think that's a choice.

21 CHAIRMAN PRICE: Well, that's -- you know, I  
22 wish now we were all out on bikes and going in, you  
23 know, electric buses everywhere. But my wish isn't  
24 coming true any day soon unfortunately. So I guess  
25 are we going -- how can we face this situation?

1 MR. COLUCCI: And I guess, Bill, if I could  
2 just kind of higher level what we're seeing relative  
3 to the developers and this corridor, you know, there's  
4 a reason the project has been somewhat stalled.  
5 There's a lot of uncertainty in the market right now.  
6 Retail is not as --

7 CHAIRMAN PRICE: Robust.

8 MR. COLUCCI: -- robust as we would hope.  
9 There's some other situations that some of the  
10 developments that are -- are flanking us along the  
11 East Henrietta corridor. And what's happened there  
12 with surplus inventory of shop space as well as the  
13 medical office compound to the south of us along South  
14 Clinton with a lot of second generation space  
15 available where we're having a hard time attracting  
16 the tenants that we want so that this can be vibrant  
17 and successful. Not that we're giving in or we're  
18 giving up on anything, but having Starbucks is a  
19 pretty significant opportunity to jump start this  
20 development.

21 Across the street we don't control the  
22 restaurant that went vacant. We do not own that. But  
23 we do own the rest of the plaza. CVS is closing  
24 locations. We're going to be losing them as a tenant.  
25 We have plans to backfill that tenant. But, you know,

1 all this kind of in the global development world we  
2 live in right is -- you know, we're competing for the  
3 South Clinton corridor to be something and to be  
4 vibrant. And to have a tenant like Starbucks that  
5 helps kind of set the standard what the tenants will  
6 be, I think we have to understand that there's a  
7 balance between what Starbucks brings for co-tenancy  
8 with other future tenants, but also the fact that they  
9 are a generator of traffic and that people in their  
10 routines drive predominantly and use the drive-thru.  
11 So that's what we're trying to balance here.

12 MS. FORD: Can I jump in? Backing up on  
13 something you mentioned about with this U-shape and  
14 there's fewer parking spaces. This would actually  
15 increase the pressure to drive-thru having fewer  
16 spaces.

17 MR. COLUCCI: It's not that there are fewer  
18 parking spaces. There's fewer parking spaces  
19 proximate to Starbucks' front door.

20 MR. FORD: Well, that's in essence  
21 Starbucks' purpose is the same thing. You know, I'm  
22 going to go to Starbucks to get a cup of coffee. I  
23 don't want to park across the street. I want to park  
24 there. So if I can't park there, I'm going to  
25 drive-thru. So this is an argument for having the

1 second one with the non-U shape. Yeah. Given what  
2 you were saying about Starbucks being an attraction.  
3 Yeah. I'm done.

4 CHAIRMAN PRICE: Karen?

5 MS. ALTMAN: Sorry. You're essentially  
6 asking do we have thoughts on Alternative 3 versus  
7 Alternative 3; right?

8 CHAIRMAN PRICE: Yeah.

9 MS. ALTMAN: Right. And I guess my  
10 preferred is 3 -- is 3 to 2 based on -- even though I  
11 made the statement I did about the cars queuing  
12 parallel to the road -- overall I just like that  
13 alternative better and I think it probably makes more  
14 sense safety-wise. So I prefer 3 to 2.

15 CHAIRMAN PRICE: Okay. David Fader, did I  
16 bypass you?

17 MR. FADER: You did, but I have nothing to  
18 add. You both make convincing arguments and I  
19 still -- I can't pick either one.

20 CHAIRMAN PRICE: Okay. All right. And  
21 Jason, has your -- have you --

22 MR. BABCOCK-STINER: I was fine with  
23 Alternative 3. I mean, again, I think they're valid  
24 points each. I'm fine with 3.

25 CHAIRMAN PRICE: Thank you. And John?

1 MR. OSOWSKI: Yeah. Yeah. I told you  
2 before I prefer Alternative Three. And the length of  
3 queuing the cars along the Clinton Avenue. I think  
4 we'll just have to have some nice landscaping there to  
5 try to, you know, kind of hide the cars as best we can  
6 and still make it, you know, acceptable for  
7 pedestrians walking up and down Clinton Avenue.

8 One thing I don't like about the Alternate U  
9 is that big U is a big waste of space, a very  
10 inefficient use of space in my opinion. And I can  
11 appreciate the fact that it puts those parking aisles  
12 directly across from that U to the west of that U  
13 relatively remote from that front door Starbucks. So  
14 people won't be so prone to want to park and walk up.  
15 It's less convenient for that. So I do prefer  
16 Alternative 3. Thank you.

17 CHAIRMAN PRICE: Thank you. All right.  
18 Paul, I don't think we do anything else other than  
19 that.

20 MR. COLUCCI: No. It's helpful. And I  
21 appreciate the thought that everyone's giving to this  
22 and I appreciate the time that staff dedicated over  
23 the last couple of months to host the workshops. I  
24 think -- I think I understand, you know, what concerns  
25 remain. We absolutely will look to develop this with

1 a landscaped streetscape along the backside of this  
2 building. I think that was represented in the  
3 preliminary overall plan. We'll modify that so that  
4 it is fitting with the placement of the building.  
5 And, you know, understand that the concerns that are  
6 raised, but I think just given the way you were able  
7 to summarize it we feel comfortable that we'd like to  
8 advance with Alternate 3 as the preferred alternative  
9 and would look forward to being back before this Board  
10 in March.

11 CHAIRMAN PRICE: Okay. Have we all said  
12 enough on this? All good?

13 MR. BOEHNER: I think so.

14 CHAIRMAN PRICE: You think so.

15 MR. COLUCCI: I know you've had a long  
16 night. Thank you everyone. I appreciate your time.

17 MR. BOEHNER: Yeah. I think everyone's  
18 quiet. So I think that's --

19 MR. COLUCCI: I think people might be  
20 sleeping.

21 MR. BOEHNER: No, no, no. We just don't  
22 have anything else to say. You're good.

23 MR. COLUCCI: Ramsey, I'll touch base with  
24 you tomorrow.

25 MR. BOEHNER: Appreciate it. Thanks.

1 MR. COLUCCI: Thank you everyone. Good  
2 night.

3 MR. BOEHNER: Night.

4 CHAIRMAN PRICE: All right. We got to keep  
5 going. We'll -- let's go back to the --

6 MR. BOEHNER: Can we just check in with  
7 Holly?

8 (Off the record discussion was held.)

9 CHAIRMAN PRICE: We'll go back to the  
10 beginning, our application 1P-01-22.

11 **Application 1P-01-22**

12 Application of Ahead Energy, owner, and  
13 Ionomr Innovations, Inc., lessee, for Conditional Use  
14 Permit Approval to allow for a research and  
15 development facility for new component polymer films  
16 for use with hydrogen fuel cells and water  
17 electrolysis on property located at 285 Metro Park.  
18 All as described on application and plans on file.

19 CHAIRMAN PRICE: Do we have motion to close  
20 the public hearing?

21 MS. ALTMAN: Yes. I move to close the  
22 public hearing.

23 CHAIRMAN PRICE: Thank you.

24 MS. DELANEY: I'll second.

25 MR. BOEHNER: Delaney seconds.

1 CHAIRMAN PRICE: Delaney seconds. Moved and  
2 seconded. Is there any questions or conversation?  
3 Comments? This has been here. This sounds like this  
4 facility, the activities that would be considered --  
5 you know, under consideration for the conditional use  
6 have been here for quite a while. And Ramsey, to your  
7 knowledge, there hasn't been any incidents of concern?

8 MR. BOEHNER: No. They're pretty safety  
9 conscious is my understanding, always have been.

10 CHAIRMAN PRICE: Yeah.

11 MR. BOEHNER: We haven't had any problems  
12 with them. They've always been very forthcoming.

13 CHAIRMAN PRICE: It sounds like --

14 MR. BOEHNER: This isn't as intense as the  
15 last one.

16 CHAIRMAN PRICE: As the last users.

17 MR. BOEHNER: Yeah. That stuff was getting  
18 pretty intense there for a while.

19 CHAIRMAN PRICE: Okay. Well the fact -- I  
20 don't know. I hadn't heard of the firm, but I do know  
21 Plug Power from the capital district or the capital  
22 region. I am familiar with them. And some exciting  
23 stuff going on. Very --

24 MR. BOEHNER: Yeah. Really what they're  
25 trying to do is build cells for like industrial

1 equipment like buses, trucks, big stuff is really what  
2 their focus is. We need a motion and second.

3 CHAIRMAN PRICE: We did. We got them so no  
4 further discussion, please call the roll.

5 MR. BOEHNER: That is to close it.

6 (Mr. Fader, aye; Ms. Altman, aye;  
7 Mr. Price, aye; Ms. Delaney, aye;  
8 Mr. Babcock-Stiner, aye; Mr. Osowski, aye;  
9 Ms. Ford, aye.)

10 (Upon roll motion to close public hearing  
11 passes.)

12 CHAIRMAN PRICE: All right. Thank you. All  
13 right. So this is -- the application for a  
14 conditional use permit. Do we have a motion to  
15 approve this?

16 MR. FADER: I move that the Board adopts the  
17 negative declaration as prepared by Town staff and  
18 Board approve the application 1P-01-22 based on the  
19 testimony given, plans submitted and the 19  
20 conditions.

21 **Conditions:**

- 22 1. An Operational Permit shall be obtained from the  
23 Town of Brighton Fire Marshal (Chris Roth,  
24 585-784-5220).  
25 2. The entire building shall comply with the most

- 1 current Building & Fire Codes of New York State.
- 2 3. The entire building shall meet or exceed
- 3 performance standards for the intended use especially
- 4 with regards to hydrogen safety.
- 5 4. Prior to issuance of any building permits, plans
- 6 for discharge into the sanitary sewers must be
- 7 reviewed and have been given approval by appropriate
- 8 authorities. Prior to any occupancy, work proposed on
- 9 the approved plans shall have been completed to a
- 10 degree satisfactory to the appropriate authorities.
- 11 Only domestic waste shall be discharged into the
- 12 sanitary sewer system. Plans for waste discharge
- 13 shall be reviewed and approved by Monroe County Pure
- 14 Waters.
- 15 5. If utilized, the dumpster shall be enclosed with
- 16 building materials that are compatible with the
- 17 existing building and located in the rear yard. The
- 18 enclosure shall equal the height of the dumpster and
- 19 shall not be higher than (6) feet.
- 20 6. Meet all requirements of the Town of Brighton's
- 21 Department of Public Works.
- 22 7. All Town codes shall be met that relate directly
- 23 or indirectly to the applicant's request.
- 24 8. Outside storage shall be prohibited.
- 25 9. The proposed building shall be sprinklered in

1 accordance with Town requirements.

2 10. There shall be no bulk storage of hazardous or  
3 flammable materials.

4 11. When determined necessary by the Town of  
5 Brighton, an additional 10 parking spaces shall be  
6 installed on site at the expense of the property  
7 owner. Site Plan approval shall be obtained prior  
8 to construction of the parking spaces.

9 12. The proposed use shall meet all Performance  
10 Standards of the Comprehensive Development  
11 Regulations.

12 13. This Conditional Use Permit is granted only for a  
13 research and development facility for new component  
14 polymer films for use with hydrogen fuel cells and  
15 water electrolysis. On-site production and  
16 manufacturing shall require further Town review and  
17 approval.

18 14. All hazardous or flammable waste shall be stored  
19 in fire proof containers and shall be collected by  
20 authorized waste haulers and sent to approved  
21 landfills or other waste collectors capable of  
22 receiving and properly processing such waste.

23 15. No hazardous, unusual, or flammable liquid or  
24 solid waste shall be sent to the sanitary sewer system  
25 as a result of this use.

1 16. All outstanding comments and concerns of the Fire  
2 Marshal shall be addressed.

3 17. All quantities of chemicals to be used at this  
4 site shall be small and shall be stored inside the  
5 building in accordance with all federal, state and  
6 local requirements. All quantities of chemicals  
7 shall be stored as required by the fire marshal, and  
8 in particular there shall be no outside storage of  
9 fuels.

10 18. Only business identification signage as allowed  
11 per the Comprehensive Development Regulations is  
12 permitted. This signage must be reviewed and receive  
13 all necessary town approvals prior to installation.

14 19. A letter or memo in response to all Planning  
15 Board comments and conditions shall be submitted.

16 CHAIRMAN PRICE: Price will second. Any  
17 further conservation? Please call the roll.

18 (Ms. Ford, aye; Mr. Osowski, aye;  
19 Mr. Babcock-Stiner, aye; Ms. Delaney, aye;  
20 Mr. Fader, aye; Mr. Price, aye; Ms. Altman,  
21 aye.)

22 (Upon roll motion passes with conditions.)

23 **Application 12P-NB1-21**

24 Application of University of Rochester,  
25 owner, for Preliminary Site Plan Approval, Preliminary

1 EPOD (woodlot) Permit Approval and Preliminary  
2 Conditional Use Permit Approval to construct a 61,000  
3 square foot, three-story building addition to the  
4 Laboratory for Laser Energetics and construct an  
5 additional 100 parking spaces on property located at  
6 250 East River Road. All as described on application  
7 and plans on file.

8 CHAIRMAN PRICE: It does sound like this,  
9 Ramsey, needs to be tabled for LEED agency designation  
10 and a little more information and discussion on really  
11 the best mechanism for protecting this in the future.

12 MR. BOEHNER: Yeah. Really we need  
13 additional information to make the determination of  
14 significance. Hopefully they will give that to us.  
15 But we'll be next month because we should have LEED  
16 agency status figured out by then, Bill.

17 CHAIRMAN PRICE: All right.

18 MR. FADER: I move the Board tables  
19 application 12P-NB1-21 based on testimony and plans  
20 submitted, the 30 items of additional information  
21 outlined in the Planning Board report are requested to  
22 make a determination of significance and to have a  
23 complete application.

24 MS. FORD: Ford. Second.

25 CHAIRMAN PRICE: Ford second. Thank you.

1 Any further discussion. Okay. Ramsey, please call  
2 the roll.

3 (Ms. Altman, aye; Mr. Price, aye;  
4 Ms. Delaney, aye; Mr. Babcock-Stiner, aye;  
5 Mr. Osowski, aye; Ms. Ford, aye; Mr. Fader,  
6 aye.)

7 (Upon roll motion to table application  
8 carries.)

9 CHAIRMAN PRICE: Thank you. We do have two  
10 signs, one of which is --

11 MR. GORDON: Before we get the signs, don't  
12 we have legislation to review.

13 MR. BOEHNER: Yeah, that's right. Sorry.  
14 We have -- thank you, Ken. Thank you, thank you. We  
15 have an advisory report regarding the Town's cannabis  
16 law. We need to adopt a Local Law regulating it in  
17 communities and where it can and cannot be. So this  
18 is our draft law that we're proposing. I have  
19 attached an advisory report. We'd like to forward it  
20 to the Town Board if you have no further concerns with  
21 it or comments with it.

22 MR. GORDON: Basically what we're doing is  
23 taking -- the proposed Local law takes cannabis use  
24 and puts it in as an adult use along with vaping and  
25 other tobacco products so that cannabis is going to be

1       zoned in the same way that we zone the sale of tobacco  
2       products and vape and cigarettes and whatnot.

3               And also the other part of the Local Law  
4       that doesn't really affect zoning and planning is  
5       prohibiting the use of cannabis on public -- on Town  
6       property. Just like we prohibit the smoking of any  
7       cigarettes on Town property.

8               CHAIRMAN PRICE: Okay. Ken, just a quick  
9       question for you. Back when we were -- we heard a  
10      concept application for Quicklee's. I believe you  
11      asked the question about the sale of cigarettes. What  
12      was -- what was their response to that? Do you  
13      recall?

14              MR. GORDON: I believe the answer is they  
15      typically sell cigarettes, but theirs -- they don't  
16      sell vapes. And I think that they're going to be in  
17      terms of cannabis sales subject to this law, if we  
18      pass it locally. But there's also even in the State  
19      cannabis law distance regulation relative to sale  
20      within certain feet of schools. So the Monroe Avenue  
21      potential Quicklee's location is going to have that  
22      regulation the. The East Avenue one probably wouldn't  
23      be subject to that. Although I don't -- yeah. I  
24      don't think Allens Creek School is that close.

25              CHAIRMAN PRICE: Yeah. It might be. Okay.

1 I just was curious how that might --

2 MR. GORDON: Yeah. Basically this would put  
3 cannabis sales in the same zones, you know, that --

4 CHAIRMAN PRICE: So it's a permitted use  
5 within the zones that currently allow these other  
6 uses?

7 MR. GORDON: Correct. We're allowing -- and  
8 this is -- just so I'm clear, cannabis establishment  
9 are both on-sale consumption and retail sale.

10 CHAIRMAN PRICE: Okay. All right. Well  
11 I've managed to read that while sitting here. And I  
12 would make a motion to authorize the secretary to  
13 submit the advisory report to the Town Board on behalf  
14 of the Planning Board.

15 MR. BABCOCK-STINER: I'll second that.

16 MR. BOEHNER: Babcock-Stiner seconds.

17 CHAIRMAN PRICE: Any other discussion from  
18 the Board? All right. Please call the roll, Ramsey.

19 (Ms. Ford, aye; Mr. Osowski, aye;

20 Ms. Delaney, aye; Mr. Fader, aye;

21 Ms. Altman, aye; Mr. Babcock-Stiner, aye;

22 Mr. Price, aye.)

23 (Upon roll motion carries.)

24 CHAIRMAN PRICE: Okay. Now I assume we can  
25 move on?

1 MR. BOEHNER: We can do signs. Good grab  
2 there, Ken. Jeffery, you're on.

3 **Signs:**

4 1634 Salon Social, 2949 Monroe Avenue, for a  
5 Building Face sign

6 1635 Whole Food Market, 2740 Monroe Avenue, for a  
7 Free Standing Sign

8 MR. FRISCH: So the first sign 1634, 2949  
9 Monroe Avenue. It's for Salon Social. This is the  
10 sign.

11 CHAIRMAN PRICE: Is the color actually  
12 gradated like that.

13 MR. FRISCH: It is, yeah. I ask them about  
14 that in particular because I think it might be hard to  
15 see, but it's what they want to go with.

16 CHAIRMAN PRICE: It's hard to see.

17 MR. FRISCH: Yes.

18 CHAIRMAN PRICE: And this was approved as  
19 submitted?

20 MR. FRISCH: It was approved as submitted.

21 MS. FORD: It looks like it's saying  
22 "colon."

23 CHAIRMAN PRICE: I can't read it.

24 MR. FADER: You have to come to West  
25 Brighton and get some pot. Then you could read it.

1 CHAIRMAN PRICE: That's where it's going to  
2 go. Okay.

3 MR. FADER: That's where everything bad  
4 goes.

5 MS. FORD: It looks like it says "colon."

6 CHAIRMAN PRICE: I can see --

7 MR. BOEHNER: I can kind of see that.

8 MR. BABCOCK-STINER: I don't why -- that  
9 should be all white.

10 CHAIRMAN PRICE: Yeah. They're going --

11 MR. BABCOCK-STINER: From a pure  
12 readability -- I get it's their brand. I understand  
13 that, but --

14 MS. FORD: No.

15 MR. BABCOCK-STINER: It's hard to read.

16 CHAIRMAN PRICE: Is this a hair salon?

17 MR. FRISCH: It's like a salon place, but  
18 they kind of rent out different areas to tenants. I  
19 think this one's --

20 MR. GORDON: It's for colons to socialize  
21 with each other.

22 MS. FORD: I don't know if I can go with  
23 that.

24 MR. BABCOCK-STINER: ARB approved. You  
25 know, I'm not -- I'm hesitant to trump another Board.

1 You know, they approved it. It's their expertise.

2 MS. DELANEY: I feel like we've seen a lot  
3 worse.

4 MS. FORD: I'm new so I haven't.

5 MR. BOEHNER: Oh, yeah. We sure have.

6 MS. DELANEY: Those ones in West Brighton.

7 MR. BABCOCK-STINER: Wait 'til you start  
8 seeing the pot signs, Pam.

9 MR. BOEHNER: Let's take a motion on this  
10 thing. Do we have a motion maybe?

11 CHAIRMAN PRICE: I move to approve as  
12 recommended.

13 MR. BOEHNER: Member Price moves.

14 MR. BABCOCK-STINER: I'll second.

15 MR. BOEHNER: I'm sorry, Jeff. You're doing  
16 this. I'm sorry.

17 MR. FRISCH: Babcock-Stiner seconds.

18 MR. BABCOCK-STINER: Yup.

19 CHAIRMAN PRICE: Okay. Go ahead, Jeff.

20 (Ms. Altman, aye; Mr. Price, aye; Ms. Ford,  
21 aye; Ms. Delaney; aye, Mr. Babcock-Stiner,  
22 aye; Mr. Osowski, aye; Mr. Fader, aye.)

23 (Upon roll motion is to approve as  
24 recommended.)

25 CHAIRMAN PRICE: Okay. What's you got?

1 MR. FRISCH: This one is 1635, the monument  
2 sign that's going next to the Whole Foods Plaza. It  
3 was tabled by the ARB because they need a lot of  
4 information they didn't provide on the sign and  
5 lighting materials.

6 CHAIRMAN PRICE: Yeah. Looks like they have  
7 seven or eight items there.

8 MR. FRISCH: Yeah.

9 CHAIRMAN PRICE: We need a motion to table  
10 as well.

11 MR. FADER: I'll move to table.

12 CHAIRMAN PRICE: Second.

13 MR. FRISCH: Price seconds.

14 (Ms. Altman, aye; Mr. Price, aye; Ms. Ford,  
15 aye; Ms. Delaney; aye, Mr. Babcock-Stiner,  
16 aye; Mr. Osowski, aye; Mr. Fader, aye.)

17 (Upon roll motion to table carries.)

18 MR. BOEHNER: Who gave the motion and who  
19 seconded? I'm sorry.

20 MR. FADER: I did the motion.

21 MR. FRISCH: And Bill Price seconded.

22 CHAIRMAN PRICE: Okay thank you have been.  
23 Night everybody. Appreciate it.

24 MR. BOEHNER: Good evening everyone.

25 (Proceeding concluded at 10:05 p.m.)

REPORTER CERTIFICATE

I, Holly E. Castleman, do hereby certify  
that I did report the foregoing proceeding, which was  
taken down by me in a verbatim manner by means of  
machine shorthand.

Further, that the foregoing transcript is a  
true and accurate transcription of my said  
stenographic notes taken at the time and place  
hereinbefore set forth.

Dated this 19th day of January, 2022  
at Rochester, New York.

*Holly E. Castleman*

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HOLLY E. CASTLEMAN,  
Notary Public.