

TOWN OF JEROME
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* * * * *

SPECIAL MEETING OF THE JEROME TOWN COUNCIL

Tuesday, April 23, 2013
7:00 o'clock p.m.

HELD AT:

Jerome Civic Center
600 Clark Street
Council Chambers
Jerome, Arizona

REPORTED BY:

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201 East Birch Avenue, Suite 9
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1 APPEARANCES

2 For the Town of Jerome:

3 Nikki Check, Mayor
4 Randall Hunt, Council Member
5 Lew Currier, Vice Mayor
6 William Phinney, Council Member
7 Anne Bassett, Council Member

8 William J. Sims, III, Esq.
9 SIMS MURRAY LTD
10 2020 North Central Avenue, Suite 670
11 Phoenix, Arizona 85004-4581
12 Appearing on Behalf of the Town of Jerome

13 Candace Gallagher, Town Manager, Town Clerk
14 Rosemarie A. Shemaitis, Deputy Town Clerk
15 Carmen Ogden, Zoning Administrator

16 For the Applicant:

17 Gretchen Groseta, Property Representative
18 Jeff Hancock, Project Superintendent

19 For the Appellants:

20 Suzy Mound, Appellant
21 Carol Yacht, Appellant

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2 P R O C E E D I N G S

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4 MAYOR CHECK: All right. I'd like to call
5 the special meeting of the Jerome Town Council at
6 Jerome Civic Center, 600 Clark Street, Council
7 Chambers, Tuesday, April 23rd, 2013, at 7:12 p.m.

8 Candace, would you like to call roll.

9 MS. GALLAGHER: Mayor Check.

10 MAYOR CHECK: Here.

11 MS. GALLAGHER: Vice Mayor Currier.

12 VICE MAYOR CURRIER: Here.

13 MS. GALLAGHER: Mr. Hunt.

14 MEMBER HUNT: Here.

15 MS. GALLAGHER: Mr. Phinney.

16 MEMBER PHINNEY: Here.

17 MS. GALLAGHER: Ms. Bassett.

18 MS. BASSETT: Here.

19 MAYOR CHECK: Okay. So Item Number 2 is a
20 formal hearing, the appeal of the Planning and Zoning
21 Commission decision. So I just want to lay a few
22 ground rules. We have kind of a -- a strict, if you
23 will, procedure as how this hearing will -- will
24 proceed, and it is definitely different than most of
25 our Town meetings.

1 So I just want everybody to be aware
2 that this formal hearing does not include public
3 comment. The Item Number 3 on the agenda, which is
4 the review of the Design Review Board decision, is in
5 the general meeting format. So there will be an
6 opportunity for limited or new public comment
7 regarding that. So I just wanted to get that out of
8 the way.

9 Essentially, we have the Appellants,
10 which is a large group. We have two people speaking
11 on behalf of the Appellants, and then we have, I
12 believe, one Applicant.

13 And did we want to formally introduce
14 them? So you guys are going to have to be patient
15 with me, because we're not used to acting in this
16 official capacity. So we're all a little bit of a
17 fish out of water right now.

18 So, essentially, the Appellants will
19 have 30 minutes to speak. The Applicant will have 30
20 minutes to speak. The Appellants can reserve some of
21 their 30 minutes for the end, essentially, of the
22 rebuttal, and then we will essentially open up
23 questions from the Council, and deliberate after that,
24 probably just right here.

25 Okay. So with that, I am not sure who

1 is speaking exactly on behalf of the Appellants, but I
2 believe it would be Suzy Mound and --

3 MS. YACHT: Carol Yacht.

4 MAYOR CHECK: Okay.

5 MEMBER HUNT: May I ask if we're going to be
6 viewing this, could we make it so the audience could
7 see it, or something. Can everybody see that?

8 MR. PHINNEY: Does it go back any further?

9 MS. YACHT: It does go back. There is only
10 a couple inches, but you will see a tiny little box
11 goes off. You know what I'm saying? So we'll have to
12 move that, too, Randall. So maybe --

13 MS. MOUND: We handed out some of the same
14 information.

15 MS. YACHT: The problem is I guess you
16 really need to move your chairs. I don't know if that
17 works if I move it, the projector, and -- I'm sorry.
18 Do you want to try to --

19 MEMBER HUNT: No. That's okay.

20 MAYOR CHECK: Okay. Sorry.

21 MS. YACHT: You may want to sit more on the
22 right side.

23 MAYOR CHECK: Before we get going -- I
24 should be a little more formal and introduce the
25 Applicant, as well, before we get started, which is

1 Gretchen Groseta. So she will have the second half of
2 the floor.

3 MS. GROSETA: I just had a question. Is
4 this included in the packet as part of your
5 presentation?

6 MS. SHEMAITIS: No.

7 MS. YACHT: We handed them out.

8 MAYOR CHECK: Are there extras? Do you have
9 that?

10 MS. MOUND: Yeah, all of the people that are
11 part of the town have it.

12 MAYOR CHECK: Okay. Great.

13 MR. PHINNEY: Mayor, who's going to keep
14 time?

15 MS. GALLAGHER: I have a timer here.

16 MS. YACHT: Can you tell us when it is 20
17 minutes. Does that work, Suzy, to say when it is 20
18 minutes?

19 MS. GALLAGHER: I'll say when it is 20
20 minutes, and not 30.

21 MS. YACHT: We want to save a little time
22 for the --

23 MS. MOUND: This is about 22.

24 MS. SHEMAITIS: Time to start.

25 MS. MOUND: Good evening. My name is Suzy

1 Mound, and I am here tonight representing the shared
2 opinions and concerns of 13 nearby residents. The
3 neighbors closest to this parking area object to this
4 plan.

5 We requested a P and Z appeal because
6 Planning and Zoning exceeded the limits and scope of
7 their authority by approving the plans with incomplete
8 detail and failure to adhere to the zoning ordinance.
9 We appreciate the DRB review because the Board also
10 exceeded their authority by approving plans with
11 incomplete details. Commissions and boards are
12 required to uphold our Town ordinances.

13 These are the appeal topics:
14 Footprint. Excavation and grading. Drainage. Center
15 Street. Retaining walls. Parking infrastructure.
16 And the reasons for appeal. We use the Jerome zoning
17 ordinance and the Secretary of Interior standards as
18 our references.

19 What is the actual size of the parking
20 area, stairways, landings, gabion walls, and
21 walkways? This is what we're asking. The Zoning
22 Administrator questioned the magnitude of the parking
23 pad and whether it was necessary at the January 2nd P
24 and Z meeting.

25 Cad drawings show the proposed parking

1 lot. Center Street and Fifth Street look repaired.
2 Railing around the parking lot is almost as high as
3 the eave of the house. The plans submitted do not
4 show the height and width of the rock-filled wire
5 baskets. It had been determined they are 14 to 15
6 feet high.

7 In the Center Street neighborhood, dry
8 stack and concrete retention is used. Material
9 samples, colors, rocks, type of wire used, are
10 unknown. The design has excessive rails and
11 complicated stairways with landings. Typical Jerome
12 stairways are straight.

13 Plans submitted and approved do not
14 contain all required measurements, including height
15 and spot elevations. The plans do not show the actual
16 slope of Center Street. Instead, they show Center
17 Street as a straight line.

18 Here is a list of the ordinances that
19 were not followed. I have also included introduction
20 to the Secretary of Interior standards.

21 Drawn-to-scale plans are required for
22 both preliminary and final site plan review. Scale
23 plans were not available for the preliminary site
24 plan. The plans available for P and Z's final site
25 plan review failed to include elevations, height and

1 depth of gabion wire basket walls, colors and examples
2 of materials, and cubic yards of fill.

3 The effect of the proposal on scenic
4 views will be considered for potential impact; zoning
5 ordinance, page 31. Why are the gabion basket
6 retaining walls an issue? Nowhere within anyone's
7 view are gabions used in this area.

8 Wire baskets will change the look of
9 Fifth and Center Streets. There is a questionable
10 life span. Center Street and the numbered streets
11 include dry stack and concrete retention. Parking
12 areas are much smaller than 38-by-40.

13 This parking pad would be the largest in
14 the area. It has the potential to set precedent for
15 future development. The magnitude of this project is
16 out of character for the area.

17 Excavation and grading. There are
18 retaining wall cracks along the ivy fence on
19 Applicant's property. The heavy trucks and large
20 amounts of fill affect the retaining wall? If
21 retaining wall collapses, who is responsible for the
22 repair; Town, or property owner?

23 Jerome is on a seismic fault line. What
24 is the potential hazard when adding so much additional
25 weight? Should the catastrophic happen, huge monsoon

1 rain storm, heavy snow followed by rain, where does
2 the added soil and rock go? The potential for
3 landslide creates health and safety risk.

4 The amount of fill is not shown on the
5 plan. The Applicant emailed 75 cubic yards of fill.
6 Calculations were performed on the first five feet of
7 fill which requires approximately 140 yards. Because
8 the gabion wall is 14 to 15 feet high, it could mean
9 possibly up to 400 cubic yards of fill.

10 All proposed excavation and grading
11 shall conform to Section 303.3 of this ordinance.
12 Where the combined and proposed cut and fill exceeds
13 50 cubic yards, the Applicant must obtain a separate
14 grading permit from the building inspector. An
15 assessment by the civil, structural, or soil engineer
16 may be required to show site stability and lack of
17 negative impact.

18 Drainage. Applicant's revised plans
19 include a drainage grate in front of the entrance to
20 the parking lot onto the street, rather than on the
21 Applicant's property. The 20-foot drainage grate will
22 direct water flow to the smaller existing grate
23 located at my house instead of allowing water seepage
24 onto their property.

25 Existing drainage, number 7 of the

1 ordinance, "Show how proposed drainage will be
2 directed indicating both the adequate disposal and
3 protection of neighboring properties," page 28.

4 This picture is of the drainage grate at
5 my house. A clogged drainage pipe is near this
6 grate. Drainage grates clog quickly during monsoon
7 season. Drains remain clogged for months. Drains on
8 Fourth Street and other downstream properties will
9 also be at risk. This drain often gets clogged during
10 rain storms, and I am out shoveling it in the middle
11 of the night so my house does not get flooded.

12 Center Street. Who is responsible for
13 the cost of needed repairs to town? Is it the Town,
14 or property owner? Center Street is in need of
15 repair. The weight of large dump trucks and the
16 numerous trips required will cause additional stress
17 and deterioration to town infrastructure. Who is
18 responsible for cost of needed repairs; the Town, or
19 property owner?

20 In front of Applicant's garage and ivy
21 fence, there is erosion including deep ruts and
22 channels. The asphalt does not extend to the curb.
23 How will heavy trucks delivering dirt and rocks affect
24 Center Street which is already in dire need of
25 repair?

1 Here is a picture of the erosion caused
2 by the water flow. I believe there is one more
3 picture. That is an example of the water flow
4 erosion.

5 Both sides of Center Street have deep
6 ruts. Next one. Both sides of Center Street have
7 deep ruts and drop-offs. This is a picture of the
8 west side of Center Street in front of Julie Perkins'
9 house. Residents park their cars next to the houses.

10 Retaining walls. To use traditional
11 concrete dry stack, or new gabion rock-filled wire
12 baskets? That is the question. Unknown durability
13 and anticipated life spans of gabions. When the wire
14 fails, the structure fails. Gabions must be carefully
15 constructed to properly function for many years.

16 There are many instances of gabion
17 failures. Wire mesh is subject to corrosion and
18 physical damage. Gabions are not very attractive. In
19 structural situations for walls over four feet high,
20 the design requires a professional engineer who will
21 consider field conditions, quality of materials,
22 surcharged loads such as vehicle traffic, adequate
23 drainage, and foundations, et cetera.

24 A gabion wall should not be specified
25 just because the project designer is not willing to

1 perform structural calculations for a concrete
2 retaining wall.

3 Gabions need to be inspected regularly
4 for settlement, scour, damage, wire mesh and wire
5 corrosion. It is important to design a gabion
6 retaining wall to remain structurally sound without
7 relying on wire mesh.

8 The two gabion walls are shown on the
9 plan. The height, size, and depth of the rock-filled
10 wire baskets are not shown. Where are the
11 elevations? How much rock and fill is required? The
12 footprint of the parking area is 38 feet by 40 feet.

13 In the Center Street neighborhood, there
14 are no off-street parking areas this large. Why the
15 need for 14 to 15-foot high gabions and excessive
16 stairs and rails? It is inconsistent and not
17 visually-compatible with our neighborhood.

18 I'm going to now read a few passages from
19 a letter that was in a separate packet that you guys
20 all received. This letter is written to us by John
21 Simpson, who was awarded the patent for the wire
22 basket system design he worked on for six years. He
23 got the patent in 1974, and he wrote this letter. And
24 the excerpts are, "The concepts of binding stones to
25 provide a surface which remains relatively dry when

1 exposed to water is well-suited for pool decks,
2 patios, walking paths, bicycle paths, tree rings in
3 cities.

4 "We" -- excuse me. "In all instances
5 where the bound stones will be placed under load, such
6 as foot, bicycle, and vehicle traffic, an adequate
7 compacted base must be provided. Depending upon the
8 load to be applied and the subsurface, a compacted
9 base material such as that used in highway
10 construction must be installed to a depth of two to
11 fourteen inches. The highly compacted base will
12 reduce the porosity of the indigenous base soil.
13 Drainage must be provided for water to flow from under
14 the bound stones if the compacted road base material
15 has low porosity.

16 "If drainage is not provided, the road
17 base will eventually fully saturate with water and
18 will lose strength and no longer support roads and the
19 surface will break apart, just like it does on
20 roadways.

21 "In all instances where foot, bicycle, or
22 motor traffic vehicle is to be applied, drainage from
23 under the bound stone surface must be considered and
24 be provided to ensure a successful installation.

25 "In the particular circumstances which

1 were presented to me where the bound stone system is
2 to be used as a home driveway surface, the bound stone
3 system will significantly increase the water flow
4 drainage away from the installation. To what degree
5 under various levels of rainfall, would need to be
6 determined by an engineering study."

7 Retaining walls. Concrete and dry
8 stack. These retaining walls are across the street
9 from the Applicant's property.

10 MS. YACHT: The pictures of the gabions?

11 MS. MOUND: Yeah. Go ahead and continue
12 showing them.

13 MS. YACHT: Just show them?

14 MS. MOUND: Yes.

15 MS. YACHT: I'll just interject very
16 quickly. These pictures show gabion baskets. Gabions
17 are used in large areas, not in densely populated
18 neighborhoods. The gabions in Applicant's plan show
19 four baskets. Each one is about four feet high. The
20 gabion would be 14 to 15-feet tall. These pictures
21 show approximately how high that could be at Fifth and
22 Center Street.

23 The pictures show the height of three to
24 four gabion baskets and how they are used. Most
25 instances, the gabions are in large areas, not next to

1 houses that are close together.

2 MS. MOUND: Thank you. Parking.

3 Suggestions were made by the Zoning Administrator to
4 Applicant to expand the Fifth Street driveway next to
5 Tusby's (phonetic) house. In life, there are always
6 alternatives. The easiest suggestion is to enlarge
7 existing driveways so that parking is next to their
8 house.

9 Another alternative is parallel parking
10 shown above for two cars. Parallel parking shown
11 above for two vehicles uses approximately 320 square
12 feet. The proposed plan of overall structure,
13 including the gabions, is 1500 square feet, which
14 includes an estimated 750 square feet of
15 vehicle-accommodating surface. This is more than
16 twice as much area as needed for two vehicles.

17 In the picture, a concrete wall and
18 railing that is common on Center Street. The total
19 area square feet is equivalent to the size of my
20 house. Another alternative: Park next to the
21 existing garage.

22 Side-by-side parking for two vehicles is
23 approximately 400 square feet. Again, the overall
24 structure, including gabions, is 1500 square feet, and
25 the parking area is 750 square feet. This is more

1 than twice as much needed for two vehicles. Fifteen
2 hundred square feet is the same size as neighbors Rudy
3 and Mandy's lot, which includes their house.

4 Infrastructure. Grading operations.

5 "The Applicant shall be responsible for the prevention
6 of damage to any street or drainage facilities."

7 Fragile infrastructure. We need
8 passable roads for emergency vehicles, police, and
9 residents. Is the Town of Jerome prepared to repair
10 the damage caused by heavy truck loads of fill and
11 rocks? What is the cost to repair infrastructure? Is
12 there a negative impact on neighboring properties
13 while construction is going on or in the future?

14 Public document. On the same day that
15 we filed our appeal, the Building Inspector
16 Mr. Stiever contacted the Applicant. His letter shows
17 that P and Z and DRB exceeded the scope of their
18 authority as set forth in the zoning ordinance and
19 further validates our need to appeal.

20 The April 2nd letter to the Applicant
21 demonstrates that the plans were approved without the
22 information needed for the final site plan review.
23 The letter asks for the plans to be resubmitted with
24 written responses. Some of those are, "Denote all
25 property lines and corners. Street grades shall be

1 actual, not estimated. Provide data on parking area
2 surface such as perkability. Provide a section
3 through parking area and sidewalk, including the
4 gabions. This shall show the actual grade of the
5 parking pad. Provide calculations for the drainage
6 amount and disposal area on the northeast corner of
7 the property. The slope of the area where the parking
8 pad is to be built shall be stated on the plans.
9 Retaining wall is required to be engineered. Provide
10 complete and adequate details on the stairway
11 construction. This includes having the structural
12 engineer provide calculations for the alternate wood
13 beams in lieu of steel. Provide calculations for
14 water flow to show the drainage system is capable of
15 handling projected runoff from streets above. Please
16 recalculate and state in cubic yards the amount of
17 fill to be deposited onsite." This shows the clear
18 lack of information required on P and Z's final
19 approval. Reasons for appeal. Neighbors
20 have come to P and Z and DRB meetings and stated their
21 objections to the wire-cage gabion baskets and the
22 enormity of the parking area. Allowing a large
23 parking lot supported by a gabion retaining wall
24 structure 14 to 15 feet tall in the Center Street
25 neighborhood is inconsistent with existing parking

1 areas in terms of size and shape.

2 Each of the reasons for our appeal are
3 equally important, and they include the need for a
4 parking plan that is compatible with the historic
5 neighborhood.

6 Potential impact on scenic views.
7 Negative impact on drainage. Potential damage caused
8 by heavy truck loads carrying large amounts of fill.
9 Protection of our streets and neighboring properties
10 into the future. The life span of gabion wire
11 baskets. What provisions are taken to protect
12 residents' health and safety? Environmental impact of
13 dust and dirt. Where does the dirt fill come from?
14 Concerns about safety of materials. A full and
15 complete listing of all materials and their location
16 of origin is needed.

17 We are asking Council to overturn the
18 Planning and Zoning Commission and the Design Review
19 Board -- say that again -- and the Design Review Board
20 decision. Direction to the Zoning Administrator, P
21 and Z, and DRB, in the following areas may be
22 necessary.

23 Plans that show elevations and footprint
24 of a smaller parking area. Material samples including
25 MSDS, Materials Safety Data Sheet. Civil engineering

1 report regarding drainage. Amount of fill and weight
2 of trucks. Insurance or bond for cost of possible
3 repair to streets, retaining walls, or neighboring
4 properties. Retention system similar to others in the
5 area, meaning find an alternative to rock-filled wire
6 baskets. Due to dirt and dust, health and safety
7 measures taken. Overall parking structures smaller
8 than this unprecedented 38-feet-by-40-foot mass.

9 With all due respect to the State
10 Historic Preservation Office, we submit that
11 Mr. Frankeberger's understanding of Jerome is limited
12 at best. Mr. Frankeberger seems to believe that as a
13 historic town we should pick and choose to keep only
14 static elements, a wall here and a building there,
15 that are of value, and simply in-fill the rest with
16 up-to-date modern structures that are compatible in
17 some way.

18 The fact that Mr. Frankeberger has
19 recently given an unsolicited opinion of the Jerome
20 Fire Station and has scoffed at Bisbee's attempts to
21 keep it historic -- it's historic quality alive, seem
22 to indicate a chip on his shoulder about the nature of
23 what we consider a critical quality, the evocative
24 effect that results from all the historic elements
25 combined in our town which make Jerome more than just

1 the sum of its static parts.

2 Whether it is a building, a wall, a
3 cobblestone road, neighborhood walkway, or any other
4 construction from Jerome's designated historic period
5 predating 1953, the combination of all its elements
6 creates an atmosphere and unique history flavor that
7 evokes Jerome's past on a much deeper level than
8 merely rational.

9 This is what we believe gives Jerome as
10 a whole living entity its historic landmark status.
11 It is certainly the draw for tourists who come and
12 marvel at what we've been able to hang on to in this
13 evocative sense of the past, and so other many towns
14 are the poorer for having lost it.

15 A few years back, SHPO was asked to
16 reevaluate the importance of a historic board-formed
17 concrete retaining wall made with square rebar in the
18 middle of Jerome.

19 MS. GALLAGHER: Twenty minutes.

20 MS. MOUND: It was a wall that curved,
21 forming a connective element between the Main Street
22 shops and the older houses on School Street. At the
23 time Mr. Frankeberger said that the wall was not of
24 significance historically as it had no specific
25 marking characteristic of a WPA stamp.

1 We believe that the wall predated WPA
2 and maintain to this day that the loss of that wall in
3 favor of an unimpressive new construction was a loss
4 to the town, as it was obviously part of the whole
5 historic fabric of Jerome with high visibility in the
6 C1 zone.

7 If we were to follow his logic and
8 advice with regard to historic structures and their
9 relative importance, slowly we would erode more and
10 more of our seemingly unimportant elements. A wall
11 here. A partial remaining building there. Until
12 Jerome would be a static series of renovated buildings
13 connected by new modern construction.

14 The fragile unique living appeal of its
15 history would be gone. That sense of something
16 greater than the sum of its parts, would be gone. So
17 now with understanding of the living fabric of history
18 that we are trying to maintain in Jerome, we would ask
19 the Council to help us protect it.

20 An old neighborhood deserves respect,
21 more respect than we believe SHPO is willing to accord
22 it. Do we really wish to see sprouting in our old
23 residential district an oversized parking lot? What a
24 precedent to set.

25 We might see several on every block in

1 the future if we start allowing them here and now, and
2 a gabion wall that is 14 feet high on one side, which
3 the house inhabitants and surrounding residents will
4 have as their view.

5 The Secretary of Interior standards for
6 rehabilitation recommend that historic materials be
7 used, and the goal of historic preservation is visual
8 compatibility with surrounding areas. Gabion
9 rock-filled wire cage systems were not in use in the
10 historic period, and, therefore, are not permissible
11 in the new construction.

12 Our goal is to keep our neighborhood
13 old, historic, and to keep Jerome on the National
14 Register of Historic Places. Thank you.

15 MS. GALLAGHER: You have seven and a half
16 minutes left.

17 MAYOR CHECK: Okay. Thank you, Suzy.

18 Carol, did you want to take seven and a
19 half minutes, or did you want to respond?

20 MS. GALLAGHER: They've used all but seven
21 and a half minutes of their thirty minutes, so that
22 was twenty-two and a half minutes.

23 MAYOR CHECK: Right. So would you choose to
24 use that seven and a half minutes now, or after the
25 Applicant?

1 MS. YACHT: Do I have -- could I have an
2 opportunity if Council asks us questions now, and then
3 the seven and a half minutes is for rebuttal?

4 MR. SIMS: Council, I have negotiated quite
5 extensively with both the Applicant and the Appellants
6 to make sure this is an orderly procedure that would
7 allow each side the opportunity to speak. At their
8 request, we each agreed 30 minutes, two individuals
9 each.

10 The Appellants have chosen to reserve
11 some time to rebut comments from the Applicants, so
12 now would be time for Council to ask questions of the
13 Appellants.

14 MAYOR CHECK: Just didn't want to interrupt
15 Carol if she wanted to use that time now.

16 Questions? Randall?

17 MEMBER HUNT: Yeah. The pictures that you
18 showed of the gabion walls, are those in Jerome, or
19 are those pictures of someplace else?

20 MS. MOUND: Those are pictures showing that
21 typically they're used --

22 MEMBER HUNT: How they're used? They're not
23 in Jerome?

24 MS. MOUND: They're used usually in bigger
25 states and not necessarily in densely populated

1 areas.

2 MEMBER HUNT: Are they in Jerome, or not?

3 MS. MOUND: No. There aren't -- yeah, I
4 don't think -- I can't remember if there were any that
5 were in Jerome.

6 MS. YACHT: No.

7 MS. MOUND: The ones that are in Jerome are
8 not necessarily that tall. This one is -- as
9 proposed, is four levels high --

10 MEMBER HUNT: I understand.

11 MS. MOUND: -- tiered --

12 MS. YACHT: That's why we've shown the four
13 baskets there in sort of stepped, because that's in
14 the proposal, and in Jerome I believe there is one --
15 I think there is one -- what we've been told, is
16 Richard Martin put one in the gulch in an area that
17 isn't dense. There is a lot of space, and it is much
18 smaller.

19 I believe Mary Wills has one below her
20 house, but these are small. They're not 14 foot.
21 That's my understanding.

22 MS. MOUND: They're not visible, too.

23 MS. YACHT: This would be very densely
24 populated.

25 MAYOR CHECK: Are there any other questions

1 of the Council?

2 VICE MAYOR CURRIER: Just to follow-up on
3 that same subject, you've mentioned several that
4 appear to be in the AR zone. Do you know of any that
5 are in the R1 zone?

6 MS. YACHT: I don't.

7 MS. GALLAGHER: There is one in the A --

8 VICE MAYOR CURRIER: Are you an Applicant?

9 MS. GALLAGHER: No.

10 MAYOR CHECK: So, Bill, help me out here.
11 We have time after both presentations to have a
12 broader discussion?

13 MR. SIMS: To ask the staff questions.

14 MAYOR CHECK: Okay. Great.

15 Bill?

16 MEMBER PHINNEY: Is it your understanding,
17 then, that the creation of this parking lot -- not
18 parking lot, but parking pad, would actually create
19 problems on Center Street when it comes to drainage?

20 MS. MOUND: Yes, because from what I was
21 told by Jeff, that by putting the --

22 MEMBER PHINNEY: Who is Jeff?

23 MS. MOUND: Jeff is the contractor.

24 MEMBER PHINNEY: Hi Jeff.

25 MS. MOUND: That by putting the drainage

1 grate at the entrance of the parking area, it would be
2 located on Center Street versus on their property, and
3 that that grate would collect rain water that would
4 have normally seeped onto their own property.

5 Instead, it will collect that water from
6 going onto their property, and then push it further
7 down to the very small -- the drainage grate by my
8 house is literally only this big. So, yeah, that is a
9 major concern, that when we get our big monsoons
10 earlier than unexpected -- lately in this last winter,
11 all around the country, people had massive snows, and
12 then rain like on the same day, and created flooding,
13 and so that is something that we want to assure that
14 won't happen.

15 MAYOR CHECK: I also have a question. Is
16 the grate that is located near your house on your
17 property?

18 MS. MOUND: I don't believe so. I believe
19 that that is -- it is kind of next to my -- I hope it
20 is not, because I don't really want to be responsible
21 for it. I mean, I literally have been out there ready
22 to go out at times and have to stop what I'm doing and
23 grab a shovel and clear it off.

24 Usually a Town crew will come of after a
25 huge rain storm and remove the debris because it does

1 -- it collects rocks and dirt, and so it does get
2 clogged. I have just taken the responsibility upon
3 myself to clear it most of the time because it is my
4 house that is going to flood if it is not clear.

5 MS. YACHT: I think if I could interject to
6 follow-up on the drainage. It is part of the
7 excavation and draining ordinance. Drainage is an
8 issue within that section, and there is so much
9 erosion on our street, so much potholes, just total
10 drop-offs, and that is caused by rain and snow.

11 MS. MOUND: We literally get a river flowing
12 down Center Street at times.

13 MAYOR CHECK: Bill?

14 MEMBER PHINNEY: The question I was asking
15 was that -- because it sounds to me like you're saying
16 that what the Town is responsible for, for drainage on
17 Center Street, you're trying to make it the
18 responsibility of the Applicant.

19 MS. YACHT: I don't think so. We're asking
20 the question, how does it work. Do you see it that
21 way?

22 MS. MOUND: No.

23 MS. YACHT: I think we're asking like a
24 rhetorical, who is responsible. The grate is -- will
25 be on Center, but it seems that some of the specifics

1 of the ordinance about drainage and how important that
2 is to take into account, I believe it is in
3 Mr. Stiever's --

4 MEMBER PHINNEY: Drainage is important, and
5 it is mentioned in the code, as well. Do you have on
6 Center Street -- do you have the garbage truck? Does
7 it go up Center Street to pick up garbage?

8 MS. MOUND: It backs up to the end and then
9 it drives forward.

10 MS. YACHT: It backs up. It comes so far
11 and then it backs up.

12 MEMBER PHINNEY: Has it created significant
13 damage to the road?

14 MS. MOUND: The water and the erosion tend
15 to be at the -- closer to the actual property and the
16 curve, the retaining wall.

17 MEMBER PHINNEY: Okay. Thank you.

18 MAYOR CHECK: Any other questions?

19 MS. YACHT: One last thing about drainage.
20 One of the concerns of the cracks on the retaining
21 wall, that retaining wall --

22 MAYOR CHECK: Carol, I'll call it to order,
23 because the Council, I think -- Bill, has your
24 question been answered?

25 MEMBER PHINNEY: Reasonably, yes.

1 MAYOR CHECK: Thank you. Anything else?

2 (No affirmative response)

3 MAYOR CHECK: Thank you. And we're at
4 7:46. I invite the Applicant Gretchen Groseta to
5 approach the Council.

6 MS. GROSETA: I'm not sure of the
7 procedure. May I hand you the packet that I
8 prepared?

9 MEMBER PHINNEY: Sure.

10 MAYOR CHECK. And we have all got copies of
11 that.

12 MS. GROSETA: Well, there is also a memo
13 from Blevin Construction. Did you get copies of that,
14 as well?

15 MEMBER PHINNEY: No. Go ahead and give us
16 what you have. We may have it. It is just part of
17 your presentation?

18 MS. GROSETA: Yes, and I do have a copy of
19 my presentation just typed out. There is one
20 correction there, and I'll note it once I get to it,
21 if you won't mind. I apologize for that.

22 MS. SHEMAITIS: Gretchen, do you have extra
23 copies?

24 MS. GROSETA: Yes.

25 MAYOR CHECK: Okay. Thank you, Bill.

1 MEMBER PHINNEY: Sure.

2 MS. GROSETA: Good evening. I would like
3 to -- my name is Gretchen Groseta, and I'm the
4 representative of the property owner. That is my
5 father Richard Plough, 208 Fifth Street. I would
6 first like to start by thanking the Planning and
7 Zoning Commissioner, the Design Review Board
8 Commissioners, Zoning Administrator Carmen Ogden, Town
9 Manager Candace Gallagher, and all the Town of Jerome
10 employees and volunteers, as well as the Town Attorney
11 Bill Sims, who have worked tirelessly to ensure that
12 all that are affected by this parking proposal
13 application have been treated fairly, and also further
14 that the proposal meets the requirements of the zoning
15 ordinance of the Town of Jerome, as well as the
16 historic guidelines as determined by the Secretary of
17 Interior and our own State Historic Preservation
18 Officer.

19 In response, I would like to begin
20 responding to the items listed in the Letter of Appeal
21 that the Appellants officially filed on April 1st, and
22 then I will move on to my response to their rebuttal,
23 if you will, to their presentation.

24 So in response to their Letter of
25 Appeal, number one, I think it's very important that

1 everyone and the Town Council Members understand that
2 the plans submitted at every step of the approval
3 process have always been to scale, as required by the
4 Jerome zoning ordinance, and I point to a memo from
5 Zoning Administrator Carmen Ogden, which is included
6 in your packets, I believe, provided by the Town of
7 Jerome, verifying the same, and clarifying the
8 11-by-17 copy size format issue.

9 Further, the other issues raised by the
10 Appellants as stated in their Letter of Appeal dated
11 April 1st, 2013, have been fully answered and
12 clarified at the previous six public meetings where
13 this parking proposal application was on the agenda
14 for discussion and or possible action. It should be
15 further --

16 MEMBER PHINNEY: Please, would you slow down
17 a little bit.

18 MS. GROSETA: Oh, sorry. I'm really
19 nervous.

20 MEMBER PHINNEY: You're really going fast.
21 It's hard to keep up.

22 MS. GROSETA: Sorry. So at any rate, the
23 other issues that they brought up have been answered
24 and clarified at the previous six public meetings, and
25 then it should be further noted that the parking

1 proposal has been approved by a vote of 4 to 1 twice
2 at P and Z and twice at DRB meetings.

3 At each of these public meetings, fair
4 and adequate time was given to petitions from the
5 public. The input from residents, including many of
6 the Signed Appellants, has been in turn incorporated
7 into the parking proposal revisions which we initiated
8 following the Planning and Zoning meeting that took
9 place on January 2nd, 2013, and that -- I could
10 directly respond to one of the items listed in their
11 presentation, in that they had stated -- they quoted
12 Carmen Ogden stating that the plan needed to be made
13 smaller, and that's exactly what we did after that
14 January meeting of the Planning and Zoning
15 Commission.

16 So in the memo from my contractor, which
17 is also included in the packet that I prepared for all
18 of you Council Members, he clearly addresses the
19 Appellants' issues as stated in their letter of
20 appeal. I refer you to his memo and will summarize
21 his determinations briefly.

22 The calculations listed by the
23 Appellants regarding fill are grossly inaccurate, and
24 our figures have been vetted by the Building Inspector
25 David Stiever and he agrees with our calculations.

1 The height of the gabions, slope of Center Street, and
2 other required measurements and information have
3 always been included on our plan and further are
4 accurate.

5 The drainage grade is not changing the
6 flow of water, nor is it redirecting water away from
7 our property as we have never taken on water from that
8 drainage area because there is a concrete wall that
9 extends above the street line, preventing water from
10 coming onto our property at that specific location.

11 We are -- have engaged a civil engineer,
12 Shephard-Wesnitzer, to do a drainage study and draft
13 our drainage plan, which will all bear the necessary
14 seals and approvals far above and beyond what the Town
15 of Jerome requires.

16 Further, our P and Z final site plan
17 review was passed with a condition that we provide
18 such drainage plans and information, sealed and
19 certified by the same, you know, civil engineer.

20 Finally -- and, also, further, at P and
21 Z, they stated that we would not receive a building
22 permit if we did not provide that information and
23 engage the services and the seal and approval of a
24 civil engineer, and we knew that. We've had a
25 structural engineer that designs the parking area

1 itself and all load calculations for weight and -- I
2 mean, it is beyond my ability to describe to you, but
3 he -- it is stamped and sealed by a structural
4 engineer, as well.

5 Finally, the effect of neighborhood
6 views has been a consideration every step of the way.
7 The materious gabion basket retaining wall going up to
8 the parking area is absolutely not 14 to 15-feet
9 high. It is under 12 feet; 11 feet 6 inches to be
10 exact. It does not extend above Center Street.

11 This information is clearly indicated on
12 the plans, and at the DRB meeting that ended with
13 Planning and Zoning Commissioner Lance Schall leaving
14 due to open meeting law conflict, DRB Commissioner
15 Deni Phinney noted that she found the accurate
16 dimensions without a problem.

17 The majority of this structure is
18 visible from my kitchen window only and will not be
19 seen by 75 percent of the people who are appealing
20 this proposal. Our parking area is level within our
21 street and adjacent to our 112-year-old historic
22 garage structure, which is not a usable, safe
23 structure for parking a car.

24 Regarding the Appellants' assertions
25 about ADOT building their retention walls out of

1 poured concrete due to some historical significance or
2 superior design, I direct you to the email from Andy
3 Roth, Senior Engineer for ADOT, included in the packet
4 that I have prepared for you.

5 Mr. Roth clearly outlines the choice for
6 poured concrete had nothing to do with the historical
7 designation of the town, nor that a poured concrete
8 wall was better than any other materials available.
9 It was simply a factor that the given topography of
10 the location they had to build said retaining wall,
11 did not allow for a gabion basket retention structure.

12 He further states that the vertical of
13 the land and the proximity of structures did not offer
14 enough room to do anything but a concrete retaining
15 wall. Mr. Roth then included a positive endorsement
16 of gabion baskets for use in building retention
17 structures in just about any application.

18 Regarding the deteriorating streets and
19 our proposal requiring dump trucks, three of the
20 Appellants have constructed brand-new site-built homes
21 within the last decade, and one of them was built in
22 2011. Our parking proposal will require two days,
23 with a maximum of four between the fill dirt delivery,
24 and then later the rock delivery as dump truck
25 delivery. Please see Brock Blevin's memo.

1 I can safely assume that building a new
2 home from the ground up would have required
3 significantly more heavy equipment for more days,
4 coming and going on Center Street, in and around
5 Jerome, than our proposal.

6 Further, there is no law or ordinance on
7 the books in Jerome that prohibits such traffic.
8 Unless and until the public roads in and around Jerome
9 are closed to any traffic, this consideration should
10 not place undue burden on one property owner,
11 especially given the fact that the Appellants
12 themselves have done more than I will do with regard
13 to heavy equipment driving in the neighborhood.

14 The overall footprint of the proposal is
15 included in the Appellants' Letter of Appeal and has
16 also been referenced at the public meetings regarding
17 our application. The Appellants at one or more of the
18 six public meetings regarding our parking proposal,
19 have pointed to the following properties as examples
20 of off-street and on-property parking that are of a
21 size and proportion much smaller than our design and
22 they further stated would be more acceptable.

23 And this is where I have a correction.
24 The first residence is at 647 Verde Street, and the
25 second I have the address listed incorrectly. It is

1 actually 121 Third Street, and I would gladly make
2 that correction and email you a corrected document
3 tomorrow.

4 Our parking proposal footprint
5 encompassing all gabion baskets, sidewalks, and
6 parking area, excluding the elevated walkway leading
7 to the historic garage and residence, is 684 square
8 feet.

9 The property at 647 Verde Street was
10 measured by my on-site Superintendent Mr. Jeff
11 Hancock, and not including the retention walls, is 872
12 square feet of just parking surface space. Similarly,
13 the parking area at 121 Third Street, also measured by
14 Mr. Hancock, and not including retention walls, is 600
15 square feet.

16 I respectfully submit that our parking
17 plans are in keeping with the size and proportion that
18 currently exists in the neighborhood.

19 I now point you to Mr. Robert
20 Frankeberger, and I apologize if I mispronounce his
21 name, Architect, AIA, and Arizona State Historic
22 Preservation Officer's email and subsequent letter
23 included in the Town of Jerome Zoning Administrator
24 Carmen Ogden's memo found in your packet prepared by
25 the Town of Jerome.

1 In the email correspondence,
2 Mr. Frankeberger was asked for his opinion regarding
3 visual compatibility, historic compatibility, and the
4 use of gabion baskets. The letter written by
5 Mr. Frankeberger was in response to a letter from Lee
6 Christensen, also included in the Ms. Ogden's memo.

7 In both communications, Mr. Frankeberger
8 states that our parking proposal -- and I added this
9 comment myself -- as submitted and approved 4 to 1
10 four times by two different Boards -- is not
11 prohibited by the standards, and I added the addition
12 of -- and I just named the title of what he's
13 referring to -- for Preservation and Guidelines for
14 Preserving Historic Buildings -- nor is it
15 historically inappropriate, incompatible, or
16 divergent.

17 Further, he goes on to give a positive
18 endorsement of our proposal in terms of design, and
19 states, I quote, "The standard for new construction is
20 that it should be differentiated from the old, yet
21 compatible, so that the uniqueness of the truly
22 historic is not diminished by similar new construction
23 affecting an historic appearance.

24 The labor-intensive CCC masonry of the
25 depression era retaining walls gain more meaning and

1 historical importance by the deference to their
2 authenticity inferred in the rock-filled gabions, than
3 would rock-veneered concrete, which parodies and
4 thereby trivializes the workmanship expressive of this
5 historic period.

6 The final point I want to enter in the
7 record focuses on the fact that the approval process
8 for our parking proposal must focus on the proposal
9 itself according to design, construction, building
10 codes, and permits, as outlined in the Town of Jerome
11 Zoning Ordinance.

12 We have followed the Jerome Zoning
13 Ordinance and instructions of the Town of Jerome
14 Building Administrator, Building Inspector, and
15 employees to the letter with regard to this parking
16 proposal and the subsequent approval process.

17 Throughout this approval process, our
18 application for off-street/on-property parking has
19 been a beating post for the raging vacation rental
20 debate. Our parking proposal and the VR debate are
21 separate issues entirely. Building safe
22 off-street/on-property parking and access to our
23 residence and property is our goal and desire,
24 regardless of any possible land use.

25 To judge this parking proposal based on

1 an external debate that has nothing to do with this
2 goal and desire of ours to improve our property and
3 make the quiet enjoyment and use of our property more
4 comfortable, safe and accessible, is not just wrong;
5 it is illegal.

6 The subject of VR should never have
7 entered into the discussion regarding the merits of
8 this building proposal and application. The property
9 use for 208 Fifth, since my father took title, has
10 always been a single-family residence.

11 In summation, there are two other
12 extremely -- areas extremely important in considering
13 the merits of this parking proposal, and they are
14 private property rights and the parking problem that
15 exists everywhere in Jerome.

16 I now direct you to a Power Point
17 presentation given by Carol Yacht, our direct neighbor
18 and a signed Appellant in this appeal at a July 11th,
19 2012, Planning and Zoning meeting. I found one of the
20 statements included in her presentation interesting.
21 "Parking, parking, and parking."

22 Our residential streets are full to the
23 capacity now with parked cars. Some of the cars are
24 resident-owned. Some are spill-over from the
25 commercial district. Where will additional parking

1 come from to accommodate hotel-like use in R1-5 zone?

2 Clearly she is discussing the vacation
3 rental debate, but it underscores more importantly the
4 fact that parking is a problem, and all we are trying
5 to do with this application and this proposal is to
6 address that issue and not impact our neighborhood in
7 a negative manner, and we have all along tried to
8 incorporate the issues and concerns of our neighbors.

9 Our parking proposal and application has
10 met all the requirements under the Jerome Building
11 Ordinance. It has been upheld to be historically and
12 visually compatible and in keeping with the historical
13 designation of the Town of Jerome.

14 For the reasons I have presented, and
15 because this appeal is without merit, I respectfully
16 request that you deny the appeal. The only other
17 thing I would like to add is in regards -- just the
18 information that I clarified, the incorrect
19 information that they had, but also they included a
20 letter from the Building Inspector David Stiever, and
21 I just wanted to reiterate the point that that's a
22 very common packet when you're dealing with
23 construction proposals. That is why we submit to --
24 I'm sure you all know, but that's why we submit two
25 24-by-36 copies of the plan to the Building Inspector,

1 because he and the Zoning Administrator, and then if
2 there is a Town Engineer, they look at them and say,
3 "This is what we need from you."

4 So it is a process, and we have complied
5 with those requests all along, and I think in many
6 instances we've gone above and beyond, and I
7 respectfully request that you deny the appeal.

8 One more thing. Gabions have been in
9 existence for over 500 years. So they're very, very
10 old, and they've been used to hold up bridges and
11 houses -- foundation of houses, and they're actually
12 very sturdy and, as I said already, the structural
13 engineer and the civil engineer aspect of our proposal
14 I think bears merit, as well. Thank you.

15 MAYOR CHECK: Would you mind staying for any
16 questions.

17 MS. GROSETA: Certainly. Any questions,
18 please.

19 MEMBER PHINNEY: I do, like always. How
20 much time does she have?

21 MS. GALLAGHER: She has four and a half
22 minutes left of her twenty minutes. So she will have
23 fourteen and a half minutes when she's done.

24 MEMBER PHINNEY: You said that the height of
25 the wall would be 11 feet 6 inches, and it would be

1 about the same height as the floor of the garage. Is
2 that correct?

3 MS. GROSETA: I defer to Jeff.

4 MR. HANCOCK: Gabion baskets are --

5 MEMBER PHINNEY: You need to introduce
6 yourself for the record.

7 MR. HANCOCK: My name is Jeff Hancock.
8 Gabion baskets are three feet wide and three feet
9 tall, and you can get them in six, nine, or twelve
10 feet in length. So we have a stack of four, which is
11 12 times, and it is partially bearing, our first
12 basket. So it will not be anything more than 11-6
13 from our lowest part of natural grade.

14 MEMBER PHINNEY: The real question I'm
15 asking, would the top of the parking pad, would be
16 about the same height as the floor of the garage?

17 MR. HANCOCK: It will be probably
18 fractionally higher.

19 MEMBER PHINNEY: Fractionally higher?

20 MR. HANCOCK: Yes, because that Center
21 Street is coming down hill --

22 MEMBER PHINNEY: Yes, that is true.

23 MR. HANCOCK: The parking pad is at 96-6 to
24 the actual parking pad itself, and as we continue down
25 street -- I'd have to refer to the plans, but those

1 gabions are probably going to be six to twelve inches
2 higher than the floor of the garage.

3 MEMBER PHINNEY: Okay. That's right,
4 because actually they're further up the hill.

5 MR. HANCOCK: Correct.

6 MEMBER PHINNEY: Okay. Also, it seems to me
7 I remember that you had revised the application that
8 you had, and it was not the height that the Appellants
9 were -- it seemed like I read in here somewhere that
10 it was about --

11 MS. GROSETA: This high.

12 MEMBER PHINNEY: -- 16 by 40?

13 MR. HANCOCK: So the actual parking area is
14 going to be 16 by 20. We have two of them, which
15 gives us our 320 square feet for parking two vehicles,
16 and then we have additional access around it, and then
17 if you include the gabions, because they stack back,
18 our footprint from the farthest delineating edge to
19 Center Street and Fifth Street, which is our corner,
20 we're more of a pregnant triangle than a rectangle.

21 You can't really take our two longest
22 points, square it up, and call that our square
23 footage, because we're not square, we're not a
24 rectangle. We're a pregnant triangle, because there
25 is an arc, just as there is an arc on Fourth Street

1 with the concrete poured-in-place retaining wall, just
2 as there is an arc on Third Street with a concrete
3 poured-in-place retaining wall.

4 We're doing it with gabions, which are
5 more cost effective, but they will actually last
6 longer than the reinforced concrete that you see out
7 here in this parking area that retains this old school
8 yard and is becoming more and sketchy every year.

9 Gabions may be the future for some areas
10 of Jerome --

11 MEMBER PHINNEY: Okay. May I continue?

12 MAYOR CHECK: Sure.

13 MEMBER PHINNEY: Well, I didn't quite get
14 what the total -- 16 by 20 in some areas, to walk
15 around it, I suppose.

16 MS. GROSETA: An apron --

17 MR. HANCOCK: Right. So if you go up to the
18 corner of Fifth Street and Center, we would cascade 33
19 feet down Fifth Street, and we would run 24 feet
20 before we hit a bridge, but then that bridge, which is
21 elevated -- it is a walkway bridge that then runs to
22 another walkway. It stands alone on steel post
23 stubs. It isn't supported by the garage at all, and
24 then it wraps down to our grade.

25 MEMBER PHINNEY: Okay.

1 MR. HANCOCK: We've got --

2 MEMBER PHINNEY: I've got it. Okay.

3 Another question that has already come up with -- that
4 I brought up with the others, is the drainage. Is the
5 drainage from the street going to go in your property,
6 or continue down the street?

7 MR. HANCOCK: No. We don't want to accept
8 any drainage from Center. We historically don't,
9 other than what would actually perk through that wall
10 or through that asphalt that has been diminished.

11 MEMBER PHINNEY: Are you going to be able to
12 repair that damaged little wall that is right there?

13 MR. HANCOCK: So we are adding a gabion to
14 buttress that wall, but we're not repairing the wall.

15 MS. GROSETA: That is not on our property
16 line. That is actually --

17 MR. HANCOCK: But we're throwing our
18 shoulder into it because it needs help.

19 MS. GROSETA: Shoring it up.

20 MEMBER PHINNEY: I have one more question.
21 What was it? Maybe someone else has one. I'll think
22 of it.

23 VICE MAYOR CURRIER: This is the first I've
24 heard of the Shephard-Wesnitzer that is required. May
25 I ask when you brought them on?

1 MS. GROSETA: After the last meeting when
2 they said for the grading and excavation we were
3 required to have a civil engineering stamp. At
4 Planning and Zoning, that was one of the
5 stipulations. We had already been in talks with them
6 because we foresaw that that was going to be a
7 requirement, and then that was a stipulation and
8 condition at the Planning and Zoning approval of our
9 final site plan, that in order to move forward, we
10 would require a civil engineer's drainage plan and
11 drainage study.

12 VICE MAYOR CURRIER: Have they reported
13 back, yet?

14 MS. GROSETA: At this point, we really can't
15 incur any more costs until we know where this is
16 going.

17 VICE MAYOR CURRIER: So you don't have
18 their --

19 MS. GROSETA: No. They have not --

20 VICE MAYOR CURRIER: -- report.

21 MS. GROSETA: Not until I find out if we're
22 moving forward.

23 MR. HANCOCK: So we have red-line prints
24 that we're doing our corrections on and will be
25 resubmitting those for permit. We will have our

1 drainage plans stamped by Shephard-Wesnitzer. It
2 depends on what comes of this meeting. There will be
3 no point in chasing that.

4 VICE MAYOR CURRIER: So you're waiting for
5 us to make a decision before you supply this study.
6 Is that correct?

7 MR. HANCOCK: No --

8 MS. GROSETA: Well, I mean, it's -- yes --

9 MR. HANCOCK: Before we cut them loose and
10 spend money --

11 MS. GROSETA: Before I engage, you know, to
12 the tune of --

13 MR. HANCOCK: As soon as we know how --
14 we'll be talking with John Wesnitzer tomorrow,
15 depending on the outcome of this either way.

16 VICE MAYOR CURRIER: This is to the Chair.
17 I don't see anywhere in here where we can direct a
18 question to staff. Is there a position in this -- at
19 what point do we do this?

20 MR. SIMS: Mayor, you all run this meeting
21 now. If you wish to accelerate that, the next
22 comments will be staff presentation, followed by
23 questions.

24 VICE MAYOR CURRIER: There is a staff
25 presentation? Because I'm curious about the Building

1 Inspector's position.

2 MR. SIMS: That will come next.

3 VICE MAYOR CURRIER: This letter about April
4 1, is new to me. I didn't read that until just
5 today --

6 MS. GROSETA: The Appellants --

7 VICE MAYOR CURRIER: -- where there is a
8 list of questions that were not, yet, answered, and it
9 seems to me awkward to proceed until those questions
10 are answered. I don't know.

11 MS. GROSETA: I would -- may I answer, or --

12 VICE MAYOR CURRIER: I'll direct it to you
13 at this point. Have you answered the Building
14 Inspector's questions in total?

15 MS. GROSETA: That is the procedure when
16 you're applying for a construction approval, is that
17 you then receive red-line copies back, and they ask
18 you either for more information, clarify this, provide
19 us with this additional information. That's what he's
20 done. We're in the process of answering all that.

21 No building permit would ever be issued
22 until you had fully answered according to the Building
23 Inspector's and building department's Building
24 Administrator's satisfaction all of their questions,
25 that also are tied to the Jerome Zoning Ordinance, and

1 in all municipalities, it is a standard operating
2 procedure.

3 VICE MAYOR CURRIER: I'm just concerned that
4 we're -- if we say, "Yes, this is a great idea, go
5 ahead," then you will proceed with -- just start
6 digging --

7 MS. GROSETA: We can't without a building
8 permit.

9 VICE MAYOR CURRIER: A building permit is
10 still down the road somewhere.

11 MS. GROSETA: That's not a legal -- you
12 can't --

13 MR. HANCOCK: This is standard procedure.

14 VICE MAYOR CURRIER: Okay.

15 MR. HANCOCK: Turn in prints, get red-line
16 drawings, corrections back, to make those corrections,
17 answer those questions, and then it's whether we've
18 answered them to his satisfaction, or not.

19 MS. GROSETA: And I would put forth -- and
20 not to put words in anyone's mouth, but I put forth
21 that his satisfaction is directly linked to the Jerome
22 Zoning Ordinance and the Town enforcing the laws that
23 you have determined.

24 VICE MAYOR CURRIER: But it is also directly
25 linked to the engineering reports which we haven't

1 seen, yet.

2 MS. GROSETA: No, you have seen the
3 structural engineer's report --

4 VICE MAYOR CURRIER: I'm talking about
5 drainage.

6 MS. GROSETA: But in your ordinance, the way
7 it is stated, it is not always a definite that you
8 have to do those reports --

9 VICE MAYOR CURRIER: It is a maybe.

10 MS. GROSETA: -- it is a maybe, and that's
11 where we are at with that, knowing full well that was
12 probably going to happen, and that's why we've already
13 been in contact and conversations with
14 Shephard-Wesnitzer.

15 VICE MAYOR CURRIER: Let me ask another
16 question unrelated to drainage. The Appellants have
17 stressed the question of how much fill. Do you have a
18 number? Do you know how much fill? How much fill are
19 we talking about?

20 MR. HANCOCK: Seventy-five to ninety yards
21 at the extreme.

22 MS. GROSETA: At the extreme.

23 MR. HANCOCK: That's the most
24 conservative -- 75 is what we're hanging our hat on,
25 maybe 78. If it ends up being 90, that means we have

1 two more trucks of fill, as opposed to the eight we
2 have anticipated.

3 MS. GROSETA: And we have gone over those
4 numbers with David that he can refer to in his
5 findings.

6 MR. HANCOCK: It's a mathematical
7 calculation. It's not --

8 MS. GROSETA: In fact, Brock Blevin includes
9 that in his memo.

10 MR. HANCOCK: In the package you have, the
11 calculations --

12 MS. GROSETA: He indicated how he calculated
13 the slope on our street, how he found all of those
14 items so that he could bid the job, because he is
15 attaching dollars to all of these issues, and if he's
16 wrong, it is going to cost him a lot of money, or me.

17 VICE MAYOR CURRIER: The other question I
18 wanted to throw out, and I'm not sure you can answer
19 this. One of the questions -- one of the problems
20 that has been brought forward is that all the heavy
21 traffic will destroy the roads, and that sort of
22 things.

23 What if -- if, for example, School
24 Street should fail while one of your trucks is coming
25 through, would you expect that to be our liability, or

1 yours?

2 MS. GROSETA: Well, I'll ask you this in
3 response. If FedEx was coming through, or a Home
4 Depot truck delivery, or any number of the large
5 vehicles -- what are they called -- 10-axle --

6 VICE MAYOR CURRIER: Ten-wheelers?

7 MS. GROSETA: -- that come through Jerome,
8 is it their responsibility, or is it yours? If it has
9 no attachment to a property owner, is it the Town of
10 Jerome's responsibility as they're driving through
11 public roadways, or is it --

12 VICE MAYOR CURRIER: I don't have an
13 answer. Thank you.

14 MR. HANCOCK: Just for a number, we're
15 looking at 20 trucks.

16 VICE MAYOR CURRIER: Twenty 10-wheelers?

17 MS. GROSETA: I believe that's what he put
18 in there.

19 MR. HANCOCK: Twelve of rock, and eight of
20 fill.

21 VICE MAYOR CURRIER: You caught that thing
22 about the garbage truck backing in and out --

23 MS. GROSETA: Yeah.

24 VICE MAYOR CURRIER: -- because that's what
25 these trucks will need to do, too.

1 MS. GROSETA: No, we understand.

2 MAYOR CHECK: Visual compatibility has been
3 a major point. Is there anything in the future you
4 would do to augment the visual structure?

5 MS. GROSETA: It has always been a part of
6 our plan -- the great, in my opinion -- and that is a
7 very subjective opinion, that the beauty of the gabion
8 basket retention wall, and being terraced as it is, is
9 that it allows for you to plant landscape materials,
10 cascading vines, what have you, and just to make it
11 very attractive and appealing, and I understand and I
12 read comments that some people don't find that very
13 attractive. I personally do, and I would just suggest
14 that I don't necessarily find the grade or concrete
15 walls very attractive, either, but I'm not going to
16 stop my neighbor from building one simply because I
17 don't like the way it looks.

18 And as I said before, gabions -- the
19 history, 500 years in the making, and they're used to
20 hold up and have been around for hundreds of years
21 holding up structures without fail. They're
22 actually -- there is a lot of documentation exactly in
23 opposition of what the Appellants' presentation
24 stated, in that they are a much better alternative to
25 the concrete retention walls, especially -- I mean,

1 around Jerome, we're seeing a lot of failing concrete
2 and dry-stack walls, and I think that the gabions are
3 an excellent alternative and stronger and more
4 appealing, and all of that.

5 MR. HANCOCK: Concrete retaining walls have
6 a life. Reinforced concrete retaining get nothing but
7 harder for like a hundred years, and then they have a
8 sharp decline, and then once water is getting to that
9 reinforcement, the life shortened the most. So
10 eventually they're coming down.

11 MAYOR CHECK: Bill, did you have another
12 question?

13 MEMBER PHINNEY: I did. Are the gabion
14 baskets the only modernized type of things you have
15 planned? Do you have a plan for things like solar
16 electric, or perhaps a carport like your neighbor has,
17 or anything like that, or is that the only modernized
18 kind of touch you put on the place?

19 MS. GROSETA: No. We don't have a carport
20 or -- we have no plans beyond this --

21 MEMBER PHINNEY: You're not planning on
22 solar, or anything, so everything else is going to
23 look pretty much like it did 50 years ago?

24 MS. GROSETA: When we're done with this,
25 we're done.

1 MEMBER PHINNEY: So except for the baskets
2 and the parking pad --

3 MS. GROSETA: No, that's it.

4 MEMBER PHINNEY: So you are going to cover
5 the baskets with some sort of --

6 MS. GROSETA: Plant material, yeah.
7 Landscaping, much like the English ivy -- the ivy that
8 we have around our property. It transfers well and it
9 looks nice in the winter, too.

10 MR. HANCOCK: If I might add, that 11 foot 6
11 of gabion retaining wall faces directly to her house.
12 It is her view, in the sense that she's the one
13 looking at it. To cover it, it is added beauty
14 through the kitchen window. You would have to be on
15 that property looking back at it to see it.

16 VICE MAYOR CURRIER: If you go back to the
17 gabion walls, you mentioned a concrete wall has a
18 hundred-year life span --

19 MR. HANCOCK: It's better than that.

20 VICE MAYOR CURRIER: Do you know the life
21 expectancy of gabions?

22 MR. HANCOCK: Historically, hundreds of
23 years.

24 VICE MAYOR CURRIER: The data I saw said 50
25 years.

1 MS. GROSETA: And I can provide you with
2 data that completely refutes that, so that's where I'm
3 not --

4 MR. HANCOCK: The steel of gabion --

5 VICE MAYOR CURRIER: I assume that these
6 hinges of wear --

7 MR. HANCOCK: There is a lot of variables.

8 MS. GROSETA: It depends on the types of
9 baskets you use. There are architectural grade
10 gabions baskets that are much more expensive, and I
11 think when you're talking about just that general 40
12 to 50-year life expectancy, you're talking about
13 regular -- like out on our ranch, we do a lot of
14 gabion retention in washes and places that have
15 erosion. My husband and I string fences, and it is
16 not an architectural application in that sense. It is
17 a cowboy application.

18 VICE MAYOR CURRIER: And the research --
19 well, I have nothing further.

20 MEMBER HUNT: I'm a little confused. I'm
21 concerned about the structural use of the gabion
22 walls. You say they are a retaining wall, but you
23 also said they're going to be buttressing the existing
24 wall. Is the parking -- these are for the parking
25 pad? Is this a structural --

1 MR. HANCOCK: The gabion retaining portion
2 is retaining all of our parking, and then under what
3 is the bridge that jumps over towards the garage, that
4 existing retaining wall that retains Center Street, is
5 listing towards their property, and so they're going
6 in there.

7 MEMBER HUNT: Who is "they"?

8 MR. HANCOCK: The Groseta property. So it
9 is not listing towards Center Street. It is listing
10 towards their home. In an effort to sort of self
11 preservation, they're going to buttress it with a
12 gabion basket, as well, just to throw a shoulder into
13 it, to help retain that existing precast
14 poured-in-place concrete wall.

15 MEMBER HUNT: What kind of guarantee do you
16 have that -- if the gabion -- if the -- I'm just
17 wondering about failure here. If you have these
18 gabion walls in place and the struc -- and the Town of
19 Jerome structural wall failed, wouldn't we have to
20 pull them out to redo the wall or --

21 MR. HANCOCK: You know, I'm -- so we --
22 we're talking about a span of 10 feet between what is
23 now the garage and where we need our parking area.
24 And we've got -- you know, there is a lot of focus
25 there, but we probably have four and a half feet to

1 five and a half feet of retaining wall -- Center
2 Street retaining wall that is listing, and it is --
3 you know, obviously there is steel running through it
4 like there is in all the other walls in this area.

5 All we're doing is throwing a shoulder,
6 buttressing it. If it failed, it would depend on how
7 it failed, and all that, but I guess at the end of the
8 day, you're better off with it than you are without
9 it, and right now you're without it.

10 MS. GROSETA: As in the Town of Jerome --
11 and I really point you to the ADOT -- the senior
12 engineer from ADOT's email where he specifically
13 states, "So long as the wall is properly engineered,
14 designed, and constructed, there are any number of
15 commercially-available products, including gabions,
16 that will function perfectly well as retaining
17 walls."

18 And I received glowing endorsements from
19 many qualified architects, engineers, and people
20 across the building spectrum, and I would like to
21 raise the point that we've already had the parking
22 proposal designed by a structural engineer, and
23 stamped, sealed, and approved, and we will have the
24 drainage plan.

25 And, further, you know, in reading

1 through some of the past documents with the Town of
2 Jerome, in my -- I requested the record regarding all
3 boards and commissions. I have found instance after
4 instance of meetings from Planning and Zoning and DRB
5 where plans are approved and information is going to
6 be obtained later, and it went all the way back to a
7 Zoning Administrator I can't remember, at least. I
8 had never heard of that person.

9 But at any rate, this is really a
10 typical procedure to work through the process, and
11 we'll -- we are meeting all the requirements and we
12 will meet all requirements, or it won't be built.

13 MAYOR CHECK: Any other questions?

14 (No affirmative response)

15 MAYOR CHECK: Okay. Thank you.

16 MS. GROSETA: Thank you.

17 MAYOR CHECK: So now we go back to the
18 Appellant.

19 MR. SIMS: Appellant, right.

20 MAYOR CHECK: You keep me in line.

21 MR. SIMS: You're right.

22 MAYOR CHECK: So we have seven and a half
23 minutes left, if the Appellants wish to respond.

24 MS. MOUND: We're already having drainage
25 problems. Okay. I would like to restate that the

1 entire neighborhood is against the enormity of this
2 parking lot. Neighbors to the south do look directly
3 at the gabion walls, and the gabion walls will extend
4 higher than the sidewalk going down Fifth Street, so
5 it will actually be higher than the actual descending
6 stairways.

7 The actual sizes were never indicated on
8 the plans, and that is part of why we are appealing
9 this. We would have known the exact height had the
10 exact height been indicated. It was never indicated.

11 So 11 foot 6 is news to all of us, but
12 11 foot 6 is probably a little bit taller or roughly
13 about the same size of the ceiling in this room.
14 That's pretty tall, and, again, the neighbors do look
15 directly at it. It is not hidden. Yes, their own
16 property will look at it the most, and why -- with all
17 of our beautiful surroundings, why they would choose
18 to build something like that and choose to look at it,
19 is really beyond all of us.

20 If we were told the spot elevations, if
21 we were told how tall the gabion walls were, if we had
22 been provided information as to how large the actual
23 parking area was, that would have been really good
24 information, and our ordinances require that, that
25 that kind of information be on the plans that are

1 approved, and at all of the meetings that we were at
2 and that the Boards erroneously approved the plan, it
3 was never stated by any Board members when they took a
4 motion that the plans were approved, waiting for
5 specific information later. That was never ever
6 given.

7 So back to the size, only 320 to 400
8 feet are required to park two cars. Gretchen
9 indicated that it is like 600 and something square
10 feet. Either between -- she quoted two different
11 numbers. One was 684, and the other was 872.

12 Only 320 feet are required, but you
13 could go up to 400. So it is still almost double.
14 Two-thirds to double the size.

15 The plans never have indicated what type
16 of rocks. So now tonight we heard a figure between 75
17 and 90 cubic feet -- cubic yards -- excuse me -- of
18 fill, but that doesn't include the rocks. So there's
19 going to be almost equally double the amount of that
20 in rocks.

21 We've never heard what type of wire.
22 Here -- and I'll be happy to share this with all of
23 you guys -- is a report, a technical note dated
24 4-1-2012 is the date of publication, and it says,
25 "Gabion-structured durability is almost impossible to

1 predict." That is the first line of this report.

2 It also shows that -- they show a graph,
3 and it says that, "The life expectancy of the
4 zinc-coated wire is considered to be 10 to 40 years
5 duration, depending on whether the structure is
6 located in a severe environment, or not."

7 This Maccaferri who published this is a
8 major gabion producer worldwide, and I'm happy to
9 share that with anybody that would like to see it.

10 We still do not know the weight and how
11 many rocks are being used. We still don't know what
12 type of wire. We do not know the color of the rocks
13 being used. We do not know the color of the rail.

14 And, plus, on the plans as submitted,
15 the rails were going to be metal. Now, according to
16 the Building Inspector's letter, it sounds like
17 they're wood. This hasn't been approved. This is
18 something that Design Review has always required
19 everybody in this room and in this town who has ever
20 tried to building anything on the exterior of their
21 home that has had to jump through as one resident put,
22 "Flaming hoops," in order to -- and provide all the
23 colors, all the dimensions, all the samples. Not just
24 the colors, but an actual sample.

25 This has not been done. Nobody -- we've

1 been at every meeting. We have not seen one sample.
2 So what color are the rails now that they're wood?
3 What is the color of the crushed granite? Why in
4 Jerome when most stairways are just a straight line,
5 this one, if you recall in the plan, it kind of goes
6 over, down, over, down, down, over, down. It is not a
7 straight line. It is kind of more like cursive.

8 It is incompatible. That alone, the
9 stairway and landing are incompatible, and I think it
10 was Frankeberger even quoted in one of his letters
11 that he didn't understand why they were incorporating
12 this historic garage into this myriad of stairways and
13 railings. He didn't understand. So we still ask why
14 so many stairways.

15 We want Gretchen to have a beautiful
16 place. We want her to have off-street parking. Does
17 it have to be an eyesore, or does her property become
18 the eyesore, or does the rest of Center Street -- and
19 it is kind of a little dilapidated as I think Jeff
20 even -- we discussed. Center Street kind of looks
21 like an upper crust of a third world country.

22 But we love it. We deal with it every
23 day. Water goes over their curb. They could have a
24 curb, and they think that because that curb is there,
25 they've never been here to see the gushers coming down

1 during monsoon. I have. I have witnessed them the
2 first month I lived in Jerome, and it was pretty
3 amazing.

4 So we would request that the appeal be
5 accepted and honored, because we don't know so much
6 information. We -- in all of the pictures that we've
7 researched about gabion baskets -- and there's been a
8 lot of them -- never seen any vegetation really
9 growing on it, and then we're talking terraced. And I
10 guess there is going to be somehow a rock garden on
11 each one. Whether or not rock gardens are green, I
12 really don't think so.

13 As for the trucks coming in and saying
14 does FedEx assume liability for our roads, it is the
15 company's responsibility that they carry liability
16 insurance, and is -- are the companies bringing in all
17 the fill, are they going to be bringing in or have
18 that insurance?

19 MAYOR CHECK: Okay. Thank you. That's all
20 the time.

21 Bill, can we get advice. Is the
22 Appellant the only one that brings in rebuttal?

23 MR. SIMS: Yes.

24 MAYOR CHECK: So we now can open it up for
25 staff. Okay.

1 MS. OGDEN: Good evening, Mayor. Good
2 evening, Council. I prepared a memo for you basically
3 with a time line of the meetings and the procedures
4 that Planning and Zoning, the Building official, and
5 the Zoning Commission had with Ms. Groseta, as well as
6 sending you supporting information.

7 Has everyone had a chance to look at
8 that? I don't know that I really have very much to
9 add, but I would certainly like to answer questions if
10 you have any questions of me.

11 MAYOR CHECK: I'm sure we do.

12 Go ahead, Bill.

13 MEMBER PHINNEY: Carmen, on the -- okay.
14 When it comes to the final site plan review, which is
15 Section 303.2, it says in there that, "The final plan
16 shall be checked for completeness by the Zoning
17 Administrator," which is you. "A completed final plan
18 shall be presented to the Planning and Zoning
19 Commission and the Design Review Board if necessary at
20 the earliest possible meeting."

21 Do you feel like the final site plan was
22 complete? You are the ones that presented it to the
23 -- to the council.

24 MS. OGDEN: I accepted it from Ms. Groseta.
25 I checked its thoroughness, and I feel that the site

1 plan was complete. I feel that the process was
2 complete in terms of a preliminary site plan, a joint
3 visitation, a design review, the design review
4 process, and then a final site plan. All those things
5 were components of Ms. Groseta's final site plan
6 approval. So, yes, I do feel that that was done
7 thoroughly.

8 MEMBER PHINNEY: Okay, and one of the things
9 was that a copy would be signed by you and dated. Did
10 you do so?

11 MS. OGDEN: Not at this time, yet, no.

12 MEMBER PHINNEY: Not yet?

13 MS. OGDEN: Not yet.

14 MEMBER PHINNEY: How come? Because of the
15 appeal?

16 MS. OGDEN: Well, this is the first one I'm
17 doing, so that will be something that I will do, but
18 that's a good reason.

19 MEMBER PHINNEY: Okay. So your statement is
20 that you feel it was completed. The final site plan
21 was complete. It went to the two Council -- I've got
22 it wrong there. The Commission and the Board, but you
23 haven't signed it, yet, because of the appeal.

24 MS. OGDEN: I have not.

25 MEMBER PHINNEY: Okay. Thank you.

1 MAYOR CHECK: Lew?

2 VICE MAYOR CURRIER: The Appellants
3 mentioned the -- the Appellants brought up the point
4 of textures and colors and materials in front of
5 Design Review. Had those been presented?

6 MS. OGDEN: There have been some aspects of
7 that that have been presented. Ms. Groseta's plans
8 did include the type of rocks. They included --

9 VICE MAYOR CURRIER: Were samples provided?

10 MS. OGDEN: Samples were not provided, no.

11 VICE MAYOR CURRIER: And you approved it?

12 MS. OGDEN: I didn't approve it, no. My
13 Board did.

14 VICE MAYOR CURRIER: But you just said that
15 you thought that the application was correct --

16 MS. OGDEN: I do.

17 VICE MAYOR CURRIER: -- even though they
18 didn't provide the materials and the samples?

19 MS. OGDEN: Yes. I felt the representation
20 that was given was sufficient. I accepted it as
21 thorough, yes, without materials.

22 VICE MAYOR CURRIER: I see. Okay. This --
23 I go to that letter of April 1. I don't know whether
24 you're prepared to address that or --

25 MS. OGDEN: That would be Mr. Stiever's

1 letter?

2 VICE MAYOR CURRIER: Right.

3 MS. OGDEN: Do you want him here?

4 VICE MAYOR CURRIER: If he chooses to come
5 up, or he can answer from where he is.

6 When you sent that letter,
7 Mr. Stiever --

8 MR. STIEVER: You have to speak loud. I'm
9 old and deaf.

10 VICE MAYOR CURRIER: Okay. When you sent
11 that letter of April 1st, the letter requesting the
12 added detail and information, and so forth, did you
13 feel at that time that the Applicant was -- had given
14 you all that they were supposed to?

15 MR. STIEVER: You're talking about the
16 correction letter I wrote from the plans?

17 VICE MAYOR CURRIER: Apparently. The letter
18 of April 1.

19 MS. OGDEN: April 2nd.

20 VICE MAYOR CURRIER: April 2nd. I'm sorry.
21 I thought it was April --

22 MR. STIEVER: Yes. The plans were
23 submitted, and they were adequate to submit to the
24 Building Department. Of course, we have to do a plan
25 check.

1 satisfied with what they submitted, but there is
2 always corrections.

3 VICE MAYOR CURRIER: Let's focus on the
4 drainage, and you're happy with the drainage
5 provided?

6 MR. STIEVER: I believe I asked for a little
7 more on the drainage. I asked for the sealed drainage
8 plan, because I don't approve nothing in Jerome
9 without having drainage plans.

10 VICE MAYOR CURRIER: Yes.

11 MR. STIEVER: It is in the Town Code. I was
12 questioning the catchment, exactly what its purpose
13 was, and a drainage report will tell us, you know, if
14 that's good.

15 From what I could see, I asked for a
16 cross-section of the parking pad, and then the drive,
17 and the access to Center Street. I could -- there's
18 no water that is going to come off Center Street onto
19 that property. The drainage is going to remain the
20 same, going down towards Suzy's house.

21 VICE MAYOR CURRIER: That letter was dated
22 the 2nd, I'm told, so that is 20 days ago. Have you
23 gotten any response?

24 MR. STIEVER: Not yet. The Building Code
25 says they have six months to respond to a correction

1 letter, and at that point I would send everything back
2 and say resubmit.

3 VICE MAYOR CURRIER: Thank you.

4 MAYOR CHECK: Any further questions? Bill?

5 MEMBER PHINNEY: No.

6 MAYOR CHECK: All right. Thank you.

7 MR. SIMS: Mayor, if I could beg your
8 indulgence. There has been a misunderstanding
9 concerning the tabulation of time. If I could go ask
10 for maybe a two-minute recess so I can speak with
11 Ms. Mound and Ms. Gretchen (sic) in the hall
12 concerning the misunderstanding.

13 MAYOR CHECK: Okay. We're in recess.

14 MR. SIMS: You can do whatever you want, but
15 I have two questions I'm going to ask them.

16 (Whereupon, a short recess was taken.)

17 MR. SIMS: Mayor, there was some confusion.
18 When Ms. Groseta stood up, there was the timer at 20,
19 and there was some confusion about she thought she had
20 an opportunity to rebut. The procedures that we laid
21 out with both sides said 30-30 with the opportunity to
22 reserve time solely with the Appellant, and I regret
23 that there was confusion. I proposed a solution, and
24 it was declined, so we'll stay with where we are.

25 MAYOR CHECK: Okay. Thanks for clearing

1 that up. So the word "deliberations" is new to me.

2 MR. SIMS: Yes, ma'am.

3 MAYOR CHECK: Essentially that is we are
4 allowed to have a discussion between Council?

5 MR. SIMS: (Nods head)

6 MAYOR CHECK: And decide if we can come up
7 with a decision, or not?

8 MEMBER PHINNEY: This is a public
9 deliberation we're making, isn't it?

10 MR. SIMS: Mayor, Council, there is no
11 public participation now. This is deliberation solely
12 among you.

13 MEMBER PHINNEY: Do we need to make it loud
14 enough so others can hear?

15 MR. SIMS: Yes.

16 MAYOR CHECK: Bill?

17 MEMBER PHINNEY: We're debating on the
18 Planning and Zoning and whether or not they met all
19 the qualifications. Here on Page 6 of the Zoning
20 Code, I'd like to share with the fellow Council
21 Members the duty of the commission. I'll wait until
22 you get there. Page 6.

23 VICE MAYOR CURRIER: Of what?
24 Administration?

25 MEMBER PHINNEY: Of the Zoning Code. Powers

1 and Duties, (B), and part of Administration, yes,
2 that's correct.

3 VICE MAYOR CURRIER: Of the Zoning
4 Ordinance, itself?

5 MEMBER PHINNEY: Yes, and it says, "It shall
6 be the duty of the commission to formulate and
7 administer any lawful plan, duly-adopted by the
8 council for the present and future growth and
9 development of the Town of Jerome, pertaining to the
10 use of land and buildings for any purpose, to make or
11 cause to be made a continuous study of the best
12 present and future use to which land and buildings
13 shall be put within the Town of Jerome, and in
14 cooperation with adjacent areas," and so on, and so
15 forth, and other things which don't apply to this
16 particular situation.

17 So I think a brief conversation might be
18 worthwhile with the Council to decide what it is we're
19 trying to decide here. In other words, what it seems
20 to say here is that the Town has decided upon what the
21 rules are for a number of different things, and the
22 Planning and Zoning Commission is supposed to
23 administer that very same thing, and it seems to me
24 that all we have to decide on is did they administer
25 it. Otherwise, we have no right to tell them to

1 refute it, to say that they didn't do their job.

2 Does that make sense to the rest of the
3 Council?

4 MAYOR CHECK: I agree with that.

5 VICE MAYOR CURRIER: You mean we have no
6 option as to say whether they did a good job, or not?

7 MEMBER PHINNEY: No, I think that's what our
8 option is, to say whether they did a good job and that
9 they did what they were supposed to do. I don't think
10 we have the right to tell them, "You should have -- we
11 want you to change this particular thing. We decided
12 that we want you tell them is we have to have three
13 plans," or something like that. I mean, that's not
14 part of what they do talk about. That's what it seems
15 like when it comes to their duties, their powers and
16 duties.

17 MAYOR CHECK: Bill, did you want to weigh in
18 on that?

19 MR. SIMS: You, as Council, are sitting
20 tonight as an Appellate Body of the decision by
21 Planning and Zoning. Planning and Zoning Commission
22 can take one of two actions. Generally, they just
23 recommend something to you, in which case you then
24 make the final decision in a zoning matter.

25 In this case, your Code is fairly

1 clear. It says they're making a decision, and that
2 decision is appealed to you. That means you have, I
3 think, three alternatives. One, to affirm it. Two,
4 to reject it. Or, three, to affirm it with
5 qualifications, provided the qualifications don't
6 insinuate sufficient change that would trigger a
7 hearing requirement on all the property owners.

8 Mr. Phinney is right. The Planning and
9 Zoning Commission made its decision. They didn't make
10 a recommendation. You're now looking at the record,
11 the extensive documents that were presented to you
12 this evening, and you then are charged with making a
13 decision, one of those three alternatives.

14 MAYOR CHECK: Lew?

15 VICE MAYOR CURRIER: I'm still concerned
16 about drainage and problems around the structure
17 basically. I -- what it sounds like we're being asked
18 to do is say this is okay without all the plans having
19 been presented, and if this is standard procedure,
20 because we have to wait for the Building Inspector --
21 if the ball is apparently now in the Building
22 Inspector's court, but I don't want it to be
23 misunderstood that I am comfortable, because saying go
24 ahead without knowing what those plans are going to do
25 or going to say -- the engineer -- the

1 Shephard-Wesnitzer study is going to tell us.

2 Drainage is absolutely critical to the
3 whole situation, and if that's not appropriate -- if
4 that hasn't been addressed in this thing, then I can't
5 -- I don't see how the rest of the structure will
6 stand. So I'm -- I'm really reluctant to say this is
7 fine before we hear what comes of that study.

8 MAYOR CHECK: Okay. Randall?

9 MEMBER HUNT: Wouldn't that be addressed as
10 studies and plans become available to the Building
11 Inspector?

12 MEMBER PHINNEY: Yeah.

13 VICE MAYOR CURRIER: It may be. I agree.

14 MAYOR CHECK: I would interpret it as
15 exactly that -- you know, as an initial approval, and
16 everything else pends on the Building Inspector and
17 the approval and the engineer's stamp and all of the
18 things that continue to keep -- you know, keep track
19 of that.

20 Anne?

21 MEMBER BASSETT: I am aware that in the past
22 we have always had samples of paint, rock color,
23 sample materials. Is -- I guess this is a question
24 for Ms. Ogden about whether that is -- why change that
25 to --

1 MS. OGDEN: For Ms. Groseta's plan, it is
2 spelled out -- certain aspects of the design elements
3 are spelled out. She did -- when I asked her about
4 the specific colors, and that kind of came after the
5 fact, she voiced the opinion that she was going to go
6 around to her neighbors and try to get a consensus on
7 the color of the concrete --

8 MS. GROSETA: The rocks.

9 MS. OGDEN: -- the rocks. I think you have
10 spelled out that in your plan, and you were asked
11 that, I think, at the DRB meeting, as well.

12 Hadn't you?

13 MS. GROSETA: And I had offered to give them
14 the top three choices and find a consensus --

15 MS. OGDEN: Right, and everyone was
16 satisfied with --

17 MEMBER BASSETT: So that will come up before
18 the Board again?

19 MS. OGDEN: No. The Board was satisfied
20 with Ms. Groseta's answers, and Ms. Groseta was asked
21 design questions or about design elements of the
22 panel.

23 MEMBER PHINNEY: Now, point of information.
24 We're beginning to discuss design here, and the Design
25 Review Board will discuss that later on tonight.

1 We're concerned about the construction, what Planning
2 and Zoning will do here.

3 MEMBER BASSETT: Sorry. My question was
4 off.

5 MEMBER PHINNEY: That's okay. Did they meet
6 the zoning requirements, and are the plans
7 appropriate. Are they going to be effective.

8 To contradict you on that, Lew, I really
9 think that -- I've been up there and looked at it
10 physically, and I don't see any way that the water is
11 going to go on their property, whether they have a
12 grate, or not. The grate is there, I think, just to
13 span the leaves out of the drainage. I don't think it
14 is actually a source of water.

15 Does that make sense?

16 VICE MAYOR CURRIER: I consider the drainage
17 problem much more than just that grate. I think the
18 whole property has to be looked at as a whole to see
19 what happens to the water and how it flows and what
20 effect putting a major structure like that wall and
21 pad on top of it will have on the flow of water over
22 the property.

23 I'm not prepared to say that what the
24 plans are, are wrong. They may be perfectly
25 justified, but until I -- until somebody with an

1 engineer's -- some engineer with that particular
2 expertise looks at it, I don't see how we can tell.

3 I'm upset with Ms Odgen's lack of
4 enforcement of Design Review's color problems and
5 materials, because if this is allowed to just say,
6 "Well, the Applicant told me what it would look like,"
7 then the next applicant to Design Review is going to
8 say the same thing, and we just lost all control of
9 colors and materials --

10 MS. OGDEN: I'm sorry, Mr. Currier, but
11 Ms. Groseta presented her presentation. Yes, you're
12 right, we did not have specific materials there, but
13 the Design Review Board did feel they had sufficient
14 information.

15 VICE MAYOR CURRIER: My understanding is
16 that you are to direct Design Review as to what they
17 need in that case, and I think you have --

18 MEMBER BASSETT: I'm sorry I brought this up
19 in the wrong part of the meeting.

20 MAYOR CHECK: I was going to maybe redirect
21 that this -- it seems to me to be a conversation to
22 happen in the next item of the agenda. I think it is
23 perfectly relevant to discuss as it relates to the
24 Planning and Zoning decision.

25 VICE MAYOR CURRIER: I think it also relates

1 to the Planning and Zoning, because if she's that
2 loose with Design Review, I think she's been equally
3 loose with Planning and Zoning. The fact that
4 information was provided tonight that had not been
5 available earlier on --

6 MS. OGDEN: I'm going to refute that because
7 I have all the plans here that Ms. Groseta gave me,
8 and there are inconsistencies with what the
9 Applicant -- or, the Appellants have stated in
10 their -- in their appeal.

11 VICE MAYOR CURRIER: On what matter?

12 MS. OGDEN: And so there were questions
13 that -- that I have not addressed specifically
14 regarding things that are lacking. They are clearly
15 in here, so I don't agree with you, Mr. Currier.

16 VICE MAYOR CURRIER: Can you specify which
17 items you're talking about?

18 MS. OGDEN: Yes. In the -- in the letter,
19 the -- all the numbers, even though they're not called
20 out here specifically, they have been provided on the
21 plans. All the measurements have been correct, as
22 Ms. Groseta has stated. We had an on-site review,
23 physically there measuring it out, seeing the exact
24 plan, the ramifications of the size, where it is
25 sighted, who sees what, which gives a much more

1 comprehensive view than seeing something on paper.
2 Everything that is on paper has been represented
3 properly and thoroughly.

4 So to say that there is something
5 lacking, I disagree with you, sir.

6 VICE MAYOR CURRIER: Thank you. I gave you
7 your chance to respond.

8 MS. OGDEN: Okay. I did.

9 VICE MAYOR CURRIER: Okay.

10 MEMBER PHINNEY: I have more, if you want.

11 MAYOR CHECK: Please.

12 MEMBER PHINNEY: Okay. The submission by
13 Ms. Groseta to the Planning and Zoning included a very
14 extensive amount of documents and planning, and stuff,
15 and then signed off by a Registered Professional
16 Engineer for structural.

17 In addition to that, not only was there
18 a tremendous amount of information which I can't even
19 understand what a lot of it means, because concrete
20 pad footing, check development link -- I'm sorry -- it
21 is very extensive, anyway. Mr. Frost did a good job.

22 I'm satisfied that with a structural
23 engineer having designed this, that it will stand for
24 a long time. In addition on that, the Planning and
25 Zoning Chair is an engineer, and one of the members of

1 Planning and Zoning is a former zoning administrator,
2 as well as three other fine citizens of this town.

3 And, frankly, I don't think there's any
4 problem with what they did. I do understand that the
5 Appellants have some complications, some things that
6 they don't really care about, about the way this is
7 going to come together, but I can't find anything that
8 Planning and Zoning has done that they shouldn't have
9 done, and I can't find anything that they didn't do
10 what they should have done.

11 It seems to me it was complete. It was
12 done the way it was supposed to be done, and I don't
13 see any problems here.

14 And so as a result of that, I move that
15 we do not review this. I would like to make a
16 decision tonight, Mr. Currier and others. I would
17 like to say that whatever way we need to, whether it
18 is a motion or not, that we accept the plan of
19 Planning and Zoning the way they did it.

20 MAYOR CHECK: Okay.

21 MEMBER PHINNEY: Is that the right way to do
22 it?

23 MEMBER BASSETT: Uphold Planning and
24 Zoning's decision?

25 MR. SIMS: Affirm.

1 MEMBER PHINNEY: I make a Motion to affirm
2 Planning and Zoning's decision on this particular
3 matter.

4 MAYOR CHECK: I'll second that. Is there
5 further discussion?

6 MEMBER HUNT: I would feel -- I feel a need
7 to review this newly-presented material that I just
8 received today. I'm inclined to agree with you, but I
9 would like a little bit of time to review.

10 MS. OGDEN: Mayor Check, I have one more
11 thing that might help everyone. Mr. Stiever, did you
12 want to --

13 MR. STIEVER: Is it okay?

14 MAYOR CHECK: Sure.

15 MR. STIEVER: I see where Lew is coming
16 from. I've dealt with Lew for years now, and he's
17 very conscientious. We've talked about walls out
18 back. Lew and Council Members, nothing will go out of
19 my department without being right, and I'm talking
20 about drainage, I'm talking about structural, the
21 works.

22 I've been doing this since 1968 in the
23 City of Glendale. I have a little experience and I
24 know where to find answers, but believe me, nothing
25 will -- Ms. Groseta will not get a permit until

1 everything is 100-percent approved.

2 VICE MAYOR CURRIER: I would be much happier
3 if you had not resigned.

4 MAYOR CHECK: So take that.

5 MR. STIEVER: I have already told the Town
6 Manager I am available to work with the new --
7 whoever, and I can -- I'm available --

8 MAYOR CHECK: Thank you, David.

9 MR. STIEVER: -- in between fish.

10 MAYOR CHECK: Further discussion. Anne?

11 MEMBER BASSETT: I think I would be remiss
12 if I didn't ask our Counsel if he's similarly
13 satisfied with Planning and Zoning jumping through all
14 the burning hoops that they were required to do.

15 MR. SIMS: Mayor, Members of Council, I've
16 been involved in some extremely tense situations which
17 even elected officials were shot in public meetings.
18 Thankfully we haven't evolved to that here --

19 MEMBER BASSETT: Don't bring that up.

20 MR. SIMS: I guess my point is, you are
21 about to make a decision that is one of the most
22 difficult to make as an elected official, and that is
23 to make a decision regarding property rights of your
24 in neighbors, but that's why you were elected.

25 There is a strong set of procedures that

1 the various bodies are required to implement. They
2 have attempted to do that. Your staff has attempted
3 to do that. I'm confident that the procedures were
4 followed.

5 Whether or not the substantive -- the
6 policy decisions are correct, are for you to make. It
7 has been my goal, it has been your Manager's goal,
8 your Zoning Administrator's goal, to make sure that
9 this decision was based on object -- object --
10 objective facts that you could look to to support your
11 decision.

12 If you feel you don't have those facts,
13 you have every right to abstain. If you feel you have
14 the facts and you wish to reject the Planning
15 Commission's decision, you have that right tonight.
16 It has been your staff and your attorney's role, is to
17 make sure you have information. I think you have
18 adequate information. Although, I can't say
19 "objective". It is late.

20 MEMBER PHINNEY: You may mean it, but you
21 can't say it.

22 MR. SIMS: Yes.

23 MAYOR CHECK: Is there further discussion?

24 (No affirmative response)

25 MAYOR CHECK: I'll call the question. All

1 those in favor, please say "aye".

2 Aye.

3 MEMBER PHINNEY: Aye.

4 MEMBER BASSETT: Aye.

5 MAYOR CHECK: Opposed?

6 MEMBER HUNT: Abstain.

7 MAYOR CHECK: Were there any opposed?

8 VICE MAYOR CURRIER: Opposed.

9 MAYOR CHECK: So one abstention, and one
10 opposed. So the motion carries.

11 MEMBER HUNT: With two "ayes"?

12 MAYOR CHECK: Three. So we now move on to
13 Item Number 3, which is the review of the Design
14 Review Board decision. And, similarly, I would give
15 the floor first to the Council, so we can discuss what
16 we just have in regards to this prior decision, and
17 there will be an opportunity for new information
18 regarding the Design Review Board decision.

19 If people have new information, we will
20 allow public comment at this meeting. Okay. Let's
21 take a brief recess.

22 (Whereupon, a recess was taken.)

23 MAYOR CHECK: We'll call us back into
24 session. It is 9:16, and we are on Item Number 3,
25 review of Design Review Board decision, sponsored by

1 Vice Mayor Currier.

2 VICE MAYOR CURRIER: Just to introduce, this
3 was a -- I put this on as a favor to Ms. Mound, and
4 I'm prepared to let her carry the water here. She
5 felt there were flaws in the Design Review process,
6 and I said that I would put it on the agenda for her.

7 So, Suzy, if you want to proceed, go
8 ahead.

9 MS. MOUND: I was actually told that you
10 were presenting the DRB.

11 MS. YACHT: Could you give us one moment?
12 We did sort of do a draft, Lew, and I'm going to find
13 the paperwork.

14 MS. MOUND: Good evening. We requested the
15 DRB review because the Board, in our opinion, exceeded
16 their authority by approving plans without the
17 specified requirements. Therefore, it was without the
18 inaccurate detail.

19 The purpose of design review is to
20 ensure that the new development is compatible with the
21 surrounding environment, and to preserve and protect
22 the historical character of the Town of Jerome.
23 Design review is intended to enrich the lives of all
24 the citizens of Jerome by promoting harmonious,
25 attractive, and compatible development, and is

1 therefore considered to be in furtherance of the
2 general welfare, and that means the welfare of the
3 residents.

4 When DRB ratified P and Z's decision,
5 plans drawn to scale were not available. Preliminary
6 review scale drawings are required, and, again, they
7 weren't there.

8 MAYOR CHECK: Suzy, could I ask you, if you
9 wouldn't mind, we did just hear --

10 MS. MOUND: I'm just reading our notes.

11 MAYOR CHECK: Okay. If you -- if there is
12 any way to summarize and bring forward new material
13 directly related to the Design Review Board, I think
14 we would all appreciate it.

15 MS. YACHT: May I? There were two
16 Appellants. May I, Nikki? Are you saying yes? I
17 can't tell.

18 MAYOR CHECK: No. I would prefer to let
19 Suzy.

20 MS. MOUND: The application for final
21 approval and permit does say drawings to scale, eight
22 copies of the site plan, drawn to scale, including all
23 improvements affecting the appearances, such as walls,
24 walks, terraces, landscaping, lights, and other
25 elements which would include the excessive stairways,

1 the types of railing used, the colors, the colors of
2 the granite, colors of the rocks.

3 The scope of the meeting, when DRB was
4 asked to ratify, the reason that they had to have that
5 special meeting was because the plans that they were
6 looking at did not require all the information they
7 were supposed to be.

8 So the scope of the meeting was limited
9 to whether or not the small plans had any information
10 that was different from the larger plans, easier to
11 read, and so it was determined that, "Well, no, theirs
12 has got the same information."

13 The point that was missed was that
14 whether it was the small or the larger, it was still
15 missing information, and so the scope of the meeting
16 was limited to whether or not the actual plans --
17 drawn-to-scale plans provided any different
18 information than compared to the earlier plans.

19 DRB determined that both sets of plans
20 were the same. They were not allowed to mention --
21 they were not allowed to mention that both sets of
22 plans omitted required measurements, actual height and
23 elevations, colors, materials, samples of wire, the
24 crushed granite, color samples, railing height, or
25 material samples. The reference to that is on Page

1 36, the Review Procedures and Criteria.

2 I'm asking you guys to deny it, because
3 we still do not know what it is going to look like,
4 and there is nobody in this town that has ever had a
5 project approved without providing samples. To be
6 told that, you know, the Applicant is going to go to
7 each of us personally and let us choose the colors,
8 that is not procedure.

9 I never heard of a motion being passed
10 with that as the stipulation. We need to know all of
11 the details that go into the exterior look of that.
12 We have a Building Inspector who's quitting as of May
13 16th. He has just affirmed that he will oversee the
14 entire project, he will make sure it all gets done.

15 He's resigned. That doesn't give us all
16 very much confidence in the decisions being made at
17 any of the meetings or tonight.

18 MEMBER BASSETT: His purview is the Planning
19 and Zoning stuff. We're on Design Review now.

20 MS. MOUND: Okay. The raw steel of the
21 gabion baskets, what color are these rocks? What type
22 of steel is being used? I wrote down, "What are the
23 colors of the steel rails," but until I read the
24 letter from the Building Inspector, who verbatim
25 copied most of the things in our appeal and then asked

1 the Applicant for them -- I noted on his letter to
2 her, he is asking, "Well, now that you've changed the
3 plans to wood rails instead of steel, please specify
4 more about that."

5 Who in this town ever gets a project
6 passed without this kind of information? Who gets to
7 just change the type of construction? Who gets to go
8 from steel to wood? We still don't ever know what
9 color the steel was, and now we don't know what color
10 the wood rails are.

11 The structure is not visually
12 compatible. It is not visually compatible to our
13 neighborhood. We are all property owners. We don't
14 rent. We all plan on living in our homes for the
15 duration of our lives. It is not a second home to
16 us. It is not going to be a potential vacation rental
17 to us. This is where we live.

18 We have an entire neighborhood, and
19 elements -- every single person that I have shown
20 these plans to, do not agree with it, and I have
21 talked to a lot of people in town.

22 It seems that the only people that find
23 that these plans are sufficient, are Town staff and
24 Board Members. The attorney I spoke to said, "It
25 sounds like this is a real political thing going on,"

1 because she could see that the ordinances were not
2 followed, that the information was not there. But,
3 yet, the Boards have passed it.

4 I feel like we are being railroaded, and
5 we are residents. This is our home. I'm actually
6 being told by all of you and Ms. Groseta that I get to
7 live next to this. Lucky me.

8 It does not look like anything in our
9 neighborhood. It is over-sized, but, okay, that --
10 well, size, that is considered DRB. It is way too
11 big. We are asking you to honor the residents who own
12 property.

13 It is our property values. Somebody --
14 if I decide I don't want to live next to this -- I
15 really don't. So, okay. Am I going to sell my house,
16 and then who the hell is going to want to buy my house
17 next to this big parking lot? It does not look like
18 our neighborhood.

19 Clearly, the rules were not followed.
20 Yes, we have a new Zoning Administrator, but still
21 she's required to do her job. Her job clearly was not
22 done, because she did not require these colors. But,
23 yet, she tells us that she's satisfied, she knows what
24 the colors are, she knows.

25 Well, then how come all of us -- we

1 attended every single meeting. We have worked
2 overtime on this. How come we don't know what colors
3 they are?

4 So obviously somebody has dropped the
5 ball, and it certainly wasn't the neighbors, because
6 we've been on our toes and we've done our job. We've
7 tried to protect our property, and it just seems that
8 the powers that be are not listening to the
9 residents. The mandate is to look back to the
10 residents.

11 You guys already know that every
12 neighbor is against this. The only person in the
13 whole vicinity that is for it, who likes the design,
14 who likes what it looks like, is the Applicant, and
15 she doesn't live there. We live there. We have to
16 look at it.

17 Your decisions are going to devalue all
18 of the neighbors surrounding, because it is going to
19 look like that song, "One of these things is not like
20 the other, one of these things just doesn't belong,"
21 and that -- the one thing that doesn't look like, is
22 either going to be the Applicant's property, because
23 it's not going to look like anything around it, or the
24 entire neighborhood is going to look out of place, and
25 her place is going to look like new vogue Scottsdale.

1 I am speaking with you because this is
2 where I live. I plan to live there for the rest of my
3 life. I'm not here for a year or two. I've been here
4 for 16 years, going on 17. I love Jerome. I love the
5 historic character, the nature --

6 MAYOR CHECK: I think we can get on to
7 discussing amongst the Council.

8 MS. MOUND: Thank you.

9 MAYOR CHECK: Thank you, Suzy.

10 So similar to -- you know, similar to
11 what we just did in ways, because we have to look at
12 the process of Design Review and contentions and
13 whether or not that process was followed --

14 MR. SIMS: Mayor, other Members of the
15 public want to respond --

16 MS. GROSETA: May I respond as a member of
17 the public, if possible?

18 MAYOR CHECK: That was essentially Vice
19 Mayor Lew in place of -- I was going to have a --

20 MR. SIMS: He -- okay.

21 MAYOR CHECK: I was going to have a
22 discussion, and then open it. That was a little bit
23 confusing, and I didn't anticipate that I had items.
24 So you will definitely have a opportunity to speak and
25 respond, and hopefully our staff will, as well. So

1 clearly, again, we are a bit of a fish out of water
2 here since Design Review is not our normal purview,
3 but we've been asked to review this decision, and so,
4 again, we have to look at the purpose of Design Review
5 and the process, and, you know, the potentially --
6 some amendments.

7 I did want to ask Bill, you know, can we
8 make amendments to this decision if it's similar to
9 what we just did?

10 MR. SIMS: Mayor and Members of the Council,
11 this is a review. This wasn't an appeal by the
12 Applicant. It was a review initiated by Council, and
13 that review is unbound. Technically Planning and
14 Zoning factored in recommendations from DRB, and then
15 made their recommendation to you which was subject to
16 a ratification as described by Ms. Mound.

17 I believe you have a right as Council
18 now, not to redo what you've already done as to the
19 site plan, as Councilman Phinney pointed out, but I
20 think if you look at the parameters of DRB, is
21 generally aesthetic, color, proportion, and I believe
22 you could make stipulations tonight, that if the
23 Applicant were to agree to them, would then be in the
24 record.

25 Alternatively, if you desire, you could

1 ask Design Review or ask staff if, indeed, there was
2 information omitted, and then make decisions after
3 their response, but right now it is -- a review is
4 unbounded. Although you've already permitted the site
5 plan, the question now is are there any aesthetic or
6 design issues that you have questions or concerns
7 about, not the least of which might be some of the
8 procedures that were referred to earlier, and the
9 staff can fill you in.

10 If the procedures were fully
11 satisfied -- DRB has acted a couple times already.
12 I'm looking at the minutes. I think they approved it
13 twice --

14 MS. OGDEN: They approved it, and then they
15 rendered a final decision.

16 MR. SIMS: Twice. So you could affirm that
17 without any modifications. Alternatively, I think you
18 could offer stipulations if you believe they were
19 appropriate, but I think you would have to talk to the
20 Applicant before about whether or not the stipulations
21 would be helpful.

22 MAYOR CHECK: I wouldn't mind letting Carmen
23 respond to the procedural aspects of colors and
24 materials, and if there are things that could be
25 further done in regards to that.

1 MS. OGDEN: Okay. One thing I do want to
2 mention is that Ms. Mound is incorrect in her
3 statement that the railings are going to be wood.
4 That's incorrect. There's nothing changing on the
5 railings. There is a structural beam that is going
6 from steel to wood.

7 Is that correct, Gretchen? It is a
8 structural thing only. It is not -- and it is
9 something -- Greg, is that --

10 MR. HANCOCK: It is the structure that were
11 steel, and then our beams, as opposed to being steel,
12 will be Glulam beams, and then our battle screens
13 would be wood, just as if you're looking up the hill
14 and looking at everybody's decks and they're battle
15 screens.

16 MS. GROSETA: That was included in the DRB
17 final. That was ratified on March 18. That
18 information was all included. The paint scheme was
19 included to match exactly the paint scheme that was
20 already approved for the exterior of the house on
21 November 18.

22 I'm probably quoting the wrong date, but
23 is was mid-November, 2012 --

24 MR. HANCOCK: The 19th.

25 MS. GROSETA: The 19th. Thank you, Jeff.

1 So those design aspects were included and voted on,
2 and the idea with the gabions is that they -- it is
3 meant to be an earth-colored rock. It is not -- there
4 are gabions, of course, where they do ornate designs
5 with different colored rocks, and things, but we've
6 always said it would be an earth color tone that would
7 essentially just recede and become part of the natural
8 landscape as it currently exists.

9 And I did offer at the final DRB to take
10 our top three samples to the neighbors. It was a
11 public meeting. It is part of the record. And I said
12 very clearly, and I have said subsequently to Carmen,
13 that I absolutely would take the top three samples
14 around and show it to all the neighbors who would like
15 to see and render a decision, and then take the
16 consensus of what everyone felt was their top choice,
17 and incorporate that into the baskets.

18 The mesh -- the wire portion is also
19 dictated by the structural engineer in the terms of
20 the load-bearing calculations and all those other
21 structural issues that are out of my knowledge base,
22 that come from an expert. So those issues are not
23 things that you would bring and say, "Here is three
24 pieces of wire, tell me which color you like." It is
25 more about the structural aspect of the design, so.

1 MAYOR CHECK: Carmen, can I just ask. It
2 was mentioned that offering a variety of color -- of
3 colors of rocks to the neighbors isn't standard
4 procedure --

5 MS. OGDEN: That was -- Ms. Groseta had put
6 the application in and she had said she was going to
7 use native rock. So that was just something that she
8 suggested because she's trying to work with her
9 neighbors in terms of aesthetics.

10 It wasn't something that, again, the
11 design -- the rock design or the rock color was native
12 rock, and I believe that Mr. Schall, Mr. Wood, that is
13 what was approved at DRB.

14 MR. WOOD: We never saw any samples.

15 MS. OGDEN: We -- I did not have samples of
16 rock.

17 Anne, is that something that would
18 customarily come into DRB when you were on the Board?

19 MEMBER BASSETT: Yeah. Our custom --

20 MS. OGDEN: Samples of rock?

21 MEMBER BASSETT: I don't know if it is
22 spelled out in the ordinance --

23 MS. OGDEN: It isn't.

24 MEMBER BASSETT: -- but our custom has
25 always had presentation of samples of the paint,

1 samples of the --

2 MS. OGDEN: Well, samples --

3 MEMBER BASSETT: -- construction materials,
4 samples of rock. You know, everything --

5 MS. OGDEN: I --

6 MEMBER BASSETT: -- and I would like to see
7 that continue.

8 MS. OGDEN: I have required people to bring
9 in samples of paint, samples of wood, and other
10 samples, but when, like Ms. Groseta said, we're
11 talking about a native rock and a piece of steel, is
12 that something that --

13 MEMBER BASSETT: I've seen people bring in a
14 rock, but --

15 MS. OGDEN: I would -- you know, I guess I
16 could have asked her to bring in a rock.

17 MS. MOUND: Uh-huh.

18 MR. SIMS: You can add that to your
19 stipulations.

20 MS. OGDEN: If that is necessary, to --

21 VICE MAYOR CURRIER: It would have saved a
22 lot of problems.

23 MS. OGDEN: Point noted.

24 MAYOR CHECK: Would you like to comment on
25 the color of rock issue?

1 MR. SCHALL: DRB customarily asks for sample
2 materials, but not always. If someone is making a
3 driveway, we don't ask for a piece of asphalt. You
4 make a wall, we don't ask for a piece of concrete.
5 You make a garage, we don't ask for a piece of cement
6 block. In this case, four out of five members were
7 satisfied with it would be native rock, which in my
8 mind is either a copper pyrite or -- which you're
9 familiar with, or the limestone that would be
10 typical. And, like I say, four of the five members
11 were satisfied with the choices and happy with what
12 was submitted.

13 MR. WOOD: I was the dissenting vote. I
14 didn't think it would pass.

15 MAYOR CHECK: What would you have preferred
16 to see as far as --

17 MR. WOOD: I think a complete presentation
18 would be preferable.

19 MAYOR CHECK: Okay. Are there -- would you
20 say there are discrepancies as far as certain type of
21 rock being approved and another type not being
22 approved?

23 MR. WOOD: There is no way to compare
24 something you haven't seen. Is there? I mean, how do
25 we do that?

1 MEMBER HUNT: When it comes to native rock,
2 is it sedimentary, rounded stones, a broken basalt,
3 this sharp kind of rock that is up here on the
4 mountain? We don't know what kind of rock it is with
5 the native rock.

6 The bottom line is that over the last
7 few months, I -- I mean, it is really obvious that
8 this has generated a tremendous amount of antagonism
9 within the community, so much so that we have to have
10 an officer here because of this very issue when this
11 is discussed.

12 I get the sense that things -- things
13 really haven't been done the way they should have been
14 done, but not having been to the meetings, I can't be
15 specific.

16 MAYOR CHECK: Go ahead, Bill.

17 MEMBER PHINNEY: Suzy, you're a great
18 speaker. You're much better when you're not using the
19 paper and everything like that. When you speak from
20 your heart, you're very, very persuasive and very good
21 at it. So kudos for you.

22 I did want to point out one thing,
23 though. It is in the paperwork we have here. That
24 one meeting where they had -- where they wouldn't
25 allow anybody to discuss anything except comparison

1 between that, that's a problem we have all the time
2 because the agenda had it that way and you can't vary
3 from the agenda.

4 MS. MOUND: We were very disappointed in the
5 verbiage of that agenda.

6 MEMBER PHINNEY: Yeah, I could see why you
7 would be.

8 MS. MOUND: Very disappointed, because it
9 basically narrowed the scope so -- so narrow that the
10 issues that the neighborhood had, couldn't even be
11 addressed, and it had to get passed.

12 MEMBER PHINNEY: I'm sure you intended to be
13 able to address those issues, and I'm disappointed
14 that you were unable to at that time, but you
15 certainly have addressed them now.

16 MS. MOUND: I hope it has been heard,
17 because the proportion, the relationship of the width
18 of building, or structure to its height, shall be
19 visually compatible to buildings, structures, and
20 places to which it is visually related.

21 MEMBER PHINNEY: I also notice that you were
22 very accurate in your recital of the purpose of design
23 review, which is intended to promote and preserve
24 Jerome's economic and environmental well-being, which
25 bears exclusively upon a distinctive character,

1 natural attractiveness, and overall architectural
2 quality which contributes substantially to the
3 visibility as a recreational and tourist area, blah,
4 blah, blah. Very well done.

5 MS. MOUND: Now let's uphold it.

6 MEMBER PHINNEY: Well, you know, this is a
7 hard one. This is hard because we don't actually have
8 any -- unlike the other one where we had an engineer's
9 drawings and everything about it, and I had confidence
10 that what was going to be done would be accurate
11 because it was well -- we don't have any information
12 as to what the Board actually was trying to decide,
13 and the -- what am I trying to say.

14 There were things presented to them that
15 we don't know, and so we have to sort of -- wait a
16 minute, it is up to the Mayor to decide that. We
17 don't know, and it is up to us to decide whether or
18 not -- whether or not we have faith in our Board.

19 MAYOR CHECK: Suzy?

20 MS. MOUND: Something that I failed to
21 mention earlier, is that part of the submission of the
22 plans require that pictures be included of the
23 adjoining properties, and on the Applicant's
24 submission, she only showed like an aerial view of the
25 neighboring properties, so that I never saw anything

1 that showed their property in relation to, you know,
2 Carol's property, or her property in relation to my
3 property.

4 It only showed the corner, but, I mean,
5 I'm talking about a picture where --

6 MS. GROSETA: The pictures are there. I
7 don't mean to argue with you. It has been submitted
8 since day one.

9 MEMBER BASSETT: They're here.

10 MS. MOUND: I'm talking about a picture that
11 shows more than one house at a time, a picture that
12 shows an area. It is supposed to show -- for
13 submission, it is supposed to show the area. That way
14 when the people on the Boards looked at them, they
15 would see, well, how does this look in relation to
16 what is surrounding it. That is where --

17 MS. GROSETA: Point of information. It does
18 not say that you have to provide an aerial photo, and
19 we had a site plan session -- and with all due
20 respect, you've been able to speak --

21 MS. MOUND: I raised my hand --

22 MS. GROSETA: -- continually.

23 MS. MOUND: -- and I was called on.

24 MAYOR CHECK: Gretchen, please proceed.

25 MS. GROSETA: We had a site work session

1 with both Commission -- both the P and Z Commission
2 and the DRB Board, as well any concerns from them and
3 neighbors, and at all public meetings, which ended up
4 being six, I believe, adequate -- more than adequate
5 time was given to this proposal for public input, and
6 I have used a lot of that input to redesign this
7 proposal, and I have taken everything that you have
8 said into account.

9 The things that you are saying are
10 absolutely not accurate. It is visually compatible,
11 because the Arizona State Preservation Historic
12 Officer alone upholds --

13 MS. MOUND: He didn't see the surrounding
14 area.

15 MS. GROSETA: He knows the Town of Jerome.

16 MS. MOUND: He does not. They say that he
17 hasn't even stepped foot in this town in like 12
18 years, or so.

19 MS. GROSETA: My submission -- he was given
20 my submission, my scope of work document, and all my
21 architectural plans, which shows the visual
22 compatibility with the surrounding area. It shows
23 your property. It has a picture of yours. It shows
24 Mary's property. It shows both Ms. Yacht and
25 Mr. Witt's property, Betty Gayle's property across the

1 street. He has --

2 MAYOR CHECK: There is a question in the
3 back. State your name.

4 MS. LAHTI: Actually, name is Nicole Lahti.
5 I have lived here since 2006. I literally jump
6 through flaming hoops for a living. Also, I am a very
7 enthusiastic sustainable building. I'm not an expert,
8 but I have friends that like to see and help erosion,
9 and I know that that street does have severe problems
10 with that, and the Slow Water Team is a local team
11 that helps people with jurisdictions, but architects,
12 builders, communities, and I would just like to share
13 information.

14 I have a couple little brochures, if the
15 Town Council or anybody wants it take them, because my
16 main concern is being historical, visual, but also
17 making sure the water does go and is not affecting
18 neighbors, or -- I'm not even quite sure, but I just
19 know that this is causing a lot of arguments. I would
20 just like to see things that are going to
21 be sustainable for many years to come.

22 So if anybody would like one, I have
23 this -- it is literally called the Slow Water Team, so
24 it slows water, but it helps them going in directions
25 where it needs to be going, and that's all I really

1 wanted to say.

2 MAYOR CHECK: I think that relates a little
3 more to our previous item.

4 Lew?

5 VICE MAYOR CURRIER: In Mr. Frankeberger's
6 letter, the second paragraph begins, "But for the
7 matter of the gabions diverging from the traditional
8 rock walls and pipe fences, the project appears to be
9 well thought out." In other words, he doesn't like
10 the gabions, either.

11 MS. GROSETA: No, that's not how I read it.

12 VICE MAYOR CURRIER: I know that's not how
13 you read it, that's how I read it.

14 MS. GROSETA: That's not what he's saying at
15 all. In fact, in a subsequent letter -- that's the
16 email. In a subsequent letter, he actually states
17 that it is a fine design. So I disagree with you.
18 His comments are very clear about his opinion of the
19 fire house, so if he were to have such opinions about
20 our project, I think he would have clearly stated
21 them, just as he did about the fire house, and I think
22 his comments about our project are very clear, that he
23 supports it as a good, visually-compatible,
24 historically-compatible feature of our property, in
25 addition to the neighborhood. So I disagree with you,

1 respectfully, sir.

2 MAYOR CHECK: I didn't read it that way, as
3 well.

4 Anne?

5 MEMBER BASSETT: I disagree with
6 Mr. Frankeberger. I think the gabion -- the
7 preexisting gabion walls in Jerome are not in such
8 dense areas, are not visually as big an impact as this
9 will have. I don't know if that gives me the right to
10 second-guess the Design Review decision because I
11 disagree with their conclusion that the gabions are
12 okay in this neighborhood.

13 I guess that's -- would be a question
14 for our Counsel.

15 MR. SIMS: What's that?

16 MEMBER BASSETT: About whether just the fact
17 that I disagree with their decision about gabions
18 being acceptable in this historic neighborhood, if
19 that is adequate reason for asking them to review the
20 decision.

21 MR. SIMS: You've already approved the site
22 plan that includes them. Now the question is, I
23 think, to what degree does Design Review --
24 principally aesthetics. Do you have a differing view
25 that would require you to overturn -- actually, all

1 you're doing is reviewing tonight, and if, indeed, a
2 majority of you feel that design review was improper,
3 you could either direct -- direct Design Review to
4 look at it again, or I've heard -- I've heard both --
5 I've heard comments from Suzy that there was
6 statements made regarding the neighbors' selection of
7 rock that were nothing formal, but that could be a
8 stipulation that this Council could impose on an
9 affirmation of the Design Review action. That is one
10 option.

11 One option is affirm. One option is to
12 review and ask the DRB to look at it again. I'm not
13 sure you can reject because -- I guess you could, but
14 by not affirming or affirming with some sort of
15 stipulation, but we are -- this isn't an appeal. It
16 is simply a review and you're reviewing, and let's
17 just see what the agenda item says.

18 So review is affirm or deny. You've
19 already approved the site plan, so I do think you have
20 to ask Design Review, if you don't believe they did it
21 appropriately, to come back with a recommendation that
22 is consistent with the site plan you've already
23 approved. So I don't think the gabions -- the fact of
24 the gabions have been approved. The color of the rock
25 hasn't been approved.

1 VICE MAYOR CURRIER: There is no way to --
2 what you're saying is that there is no way we can ask
3 that the gabions be replaced with some other thing,
4 that the plan that we've approved earlier can be
5 altered some way so that the gabions can be replaced
6 by some other sort of construction? Is that what
7 you're saying?

8 MR. SIMS: Mayor, I think you approved the
9 site plan as gabions, and I think Councilman Phinney
10 pointed out that he has some concern about design
11 aesthetics, and I think that's what you are talking
12 about now. Three of you approved gabions, and the
13 question is what color is the rock.

14 MEMBER BASSETT: I guess I change my vote.

15 VICE MAYOR CURRIER: What was that, Anne?
16 Say it again, please.

17 MEMBER BASSETT: It is too late. I can't do
18 that.

19 VICE MAYOR CURRIER: I move that we ask the
20 Design Review to review the project and get rid of the
21 gabions.

22 MEMBER HUNT: I think Design Review should
23 review the -- this whole thing, it seems.

24 MAYOR CHECK: There is a Motion on the
25 floor.

1 VICE MAYOR CURRIER: Waiting for a second.

2 MAYOR CHECK: I don't hear a second.

3 MEMBER BASSETT: Second.

4 MAYOR CHECK: Okay. A Motion and a Second.

5 VICE MAYOR CURRIER: To debate?

6 MAYOR CHECK: Is there further discussion?

7 MEMBER HUNT: Yeah, I think -- I just --

8 from everything that is going on, I think this merits

9 a review.

10 MAYOR CHECK: Sure. Okay.

11 MEMBER PHINNEY: I'm probably okay with

12 that, too, but I'm not okay with the part of the

13 motion that says, "And get rid of the gabion baskets,"

14 because we've already approved them for planning and

15 -- well, Planning and Zoning.

16 MEMBER HUNT: I think we would be -- the

17 issue goes well beyond the gabion baskets. It

18 appears --

19 MEMBER PHINNEY: I agree --

20 MEMBER HUNT: It appears that there are

21 aesthetic issues that have not been taken into -- I

22 don't know if they --

23 MEMBER PHINNEY: Due consideration, yes.

24 MEMBER HUNT: Due consideration.

25 MEMBER PHINNEY: I'm saying that the

1 Motion -- I think the Motion is flawed, and if Lew
2 would want to replace it and --

3 VICE MAYOR CURRIER: I think the essence of
4 the problem is the gabions. The gabions may be
5 structurally sound. They may be perfectly appropriate
6 some other place, but they are not appropriate
7 visually in that neighborhood. They are designed for
8 much less dense neighborhoods.

9 If they are architecturally valid, they
10 are not architecturally appropriate to that
11 neighborhood. The visual aesthetics of them are the
12 problem.

13 MAYOR CHECK: Let's let Anne speak, and then
14 Gretchen at this point.

15 MEMBER BASSETT: In deciding that Planning
16 and Zoning had done right by what input they had
17 received, I don't see anything incompatible with then
18 going on to question the approval of the gabion
19 baskets, because still Planning and Zoning received
20 information from Design Review that the gabion baskets
21 were okay, and so they did act in good faith, but that
22 doesn't mean that we have to live with the gabion
23 baskets if that was a mistake on the part of Design
24 Review.

25 MAYOR CHECK: Gretchen?

1 MS. GROSETA: With all due respect, the
2 Design Review Board passed this proposal as submitted,
3 as it is before you today, four to one twice, and then
4 one vote had to be objected because of the way the
5 meeting was run, and I think that in any community,
6 whether you have an historic designation or not,
7 whether it is the Town Council or the various Boards
8 and Commissions, or the residents themselves, these
9 types of ordinances and laws and guidelines that you
10 use to make decisions, you have to -- I think to
11 always bear on the side of being objective, and what
12 it sounds like to me that I am hearing in some of the
13 comments, especially the criticisms and issues from my
14 neighbors and from the comments from the Council
15 Members, is that you are taking this in a very
16 subjective direction that infringes on my property
17 rights as an individual property owner in the Town of
18 Jerome.

19 I am speaking, of course, as a
20 representative of my father who is the property owner,
21 and as I stated earlier in my presentation, just
22 because Betty Gayle across the street has a
23 poured-concrete wall, does not mean that I have to
24 turn around and build a poured-concrete wall.

25 You have opinions from a senior engineer

1 from ADOT from your State Historic Presentation
2 Officer, from various other experts in the field of
3 architectural design and construction, who are telling
4 you that this project is absolutely
5 visually-compatible, historically-compatible, and in
6 keeping with the nature.

7 You have gabion -- terrace gabion
8 retention walls already in the community. It is not
9 in the agricultural zone. It is in the residential
10 zone, and it is a very high terrace gabion retention
11 wall that has been built within the last -- and I
12 don't know for certain, but I'm guessing three years,
13 and it is used to park vehicles on.

14 So I would submit to you that what you
15 are doing now in forcing me to go through, yet,
16 another public hearing regarding this project that has
17 been thoroughly vetted, it is thoroughly prepared and
18 thoroughly planned out, has all the necessary stamps
19 and approvals that we were required to obtain as of
20 the final site plan review by DRB and P and Z, will
21 have all of the necessary final stamps, seals, and
22 approvals as required by the Building Department, the
23 Zoning Administrator, and your Code, before a single
24 pebble is moved.

25 I would just plead that you follow

1 reason and logic, and vote in a manner that is more
2 objective and in keeping with, you know, protecting
3 property rights, not just deciding on the whims and
4 personal likes or dislikes of several people.

5 And I would also put forth that there
6 are some people in the neighborhood that do like the
7 property. They may not show up at these meetings, but
8 I have been given support by others. So it a fallacy
9 to say that the entire neighborhood is against it.
10 That is all I have to say. Thank you.

11 MAYOR CHECK: I don't remember the order of
12 the hands, but I don't think we've heard from Mandy,
13 so.

14 MS. WORTH: My name is Mandy Worth. I live
15 at 115 Fourth Street, which is essentially a block
16 away from Center and Fourth, and I think just having
17 heard what the Council has been discussing, that maybe
18 the two biggest concerns here are the materials. It
19 seems to be a concern as far as not having seen
20 samples, and the fact that, is Design Review allowed
21 to say, "Yes, you can use this as part of your
22 structural thing, even though Planning and Zoning has
23 approved the structural"?

24 And if you look at the Zoning Ordinance
25 in Section 304(B)(1), it is really obvious that Design

1 Review has that right, to say, "Yes, you can or can't
2 do this; yes, we need to see material samples," that
3 type of thing. It is on Page 34.

4 I personally don't have any problem with
5 somebody wanting to provide parking on their private
6 property. I just want it to be visually-compatible
7 with the rest of the neighborhood. I live in that
8 neighborhood. I am going to live in that
9 neighborhood, and I'm not going anywhere, and I think
10 that the residents versus the business owners in the
11 neighborhood maybe need to be given a little extra
12 consideration because we are the residents. We're not
13 a business owner --

14 MAYOR CHECK: That's not pertinent to this
15 decision.

16 Suzy?

17 MS. MOUND: Just because you've approved a
18 structure, doesn't mean approval of actual design and
19 proportion, and what we are questioning is visual
20 compatibility and the proportion. And as far as
21 property rights, we all have a right to protect our
22 property, especially that it already exists and we're
23 not adding something to, but we already exist.

24 MAYOR CHECK: I'm sorry. I don't remember
25 your name.

1 MS. CLOUD HALL: I am Susan Cloud Hall. I
2 have lived in Jerome for 37 years. I live up on
3 Company Hill. I resent someone coming in and talking
4 about personal property. We built a triplex, a
5 commercial triplex -- a stone's throw away from the
6 fire station.

7 We have the same brown stone block that
8 matches the fire station, and behind it, it matches
9 the wall and the color of the Catholic church. It is
10 all congruent, and I think that that's something that
11 we need to look at, is, you know, this continuing
12 continuum of aesthetic value.

13 We brought our rock in for P and Z and
14 Design Review to have a look. We also brought in all
15 our plans, and nobody ever thought of having a special
16 ordinance to accommodate us. We just played by the
17 rules and we jumped through the flaming hoops. Thank
18 you.

19 MAYOR CHECK: Well, honestly, at the end of
20 this conversation, I may be in a similar position to
21 Bill, in that I don't -- I felt more comfortable
22 interpreting what we were looking at with the P and Z
23 issue, and far less comfortable -- at the end of
24 Gretchen's packet, there's two photos of gabion
25 baskets in neighborhoods, and I am just not versed in

1 the rules of design review to understand, you know,
2 how far apart neighborhoods have to be before they're
3 not considered the same or -- you know, I feel
4 uncomfortable making this decision, and I would hate
5 to send it also back to Design Review, which they've
6 already heard it twice.

7 Anne?

8 MEMBER BASSETT: I've sat on Design Review
9 for many years, and another additional twist on this
10 is that if a design review board approves something,
11 and that something is built that is in conflict with
12 our ordinance, then that particular project does not
13 set precedence for visual compatibility, which makes
14 it even just a tish more complicated, but --

15 MAYOR CHECK: But it is correct that there
16 have been instances where visual compatibility has
17 come up with equity or equal protection.

18 MEMBER BASSETT: We could probably all name
19 the same three projects that don't fit, but so we
20 don't have to use those as -- as the -- as creating
21 the standard of that to which something is visually
22 related, so.

23 MAYOR CHECK: And there have been some
24 instances that the Town has been taken to Court over
25 and lost.

1 MEMBER BASSETT: And one --

2 VICE MAYOR CURRIER: Madam Mayor, if you are
3 uncomfortable, as you just demonstrated -- if the
4 Mayor is uncomfortable voting in this issue, you just
5 demonstrated in the last vote how she could deal with
6 that. She could abstain.

7 MAYOR CHECK: Bill?

8 MEMBER PHINNEY: Ms. Groseta, I don't have
9 much bearing about the idea of personal property
10 rights as being something of an issue. It doesn't
11 hold much weight with me, but you did say something
12 else that did. That was that every time it was voted
13 on by Design Review, it was voted four to one in
14 favor, and it made me think about the concept that
15 Design Review is a jury. It is a group of five people
16 who get together and decide whether or not they
17 believe that the information, the facts that have been
18 presented, are within the realm of what they wish to
19 approve of, or not disapprove of, and twice they voted
20 in favor.

21 We are now the appeal court, and I am
22 uncomfortable with going against what I see both the
23 Commission and the Board do. I think they do a good
24 job, and I don't have enough information to say that
25 they were wrong, because we don't have that kind of

1 documentation.

2 But they said four to one twice, and I
3 -- as an appellant judge, I'm not going to go against
4 that. I'll tell you right up front. I'm not.

5 MAYOR CHECK: Lew?

6 VICE MAYOR CURRIER: A bit of information,
7 your wife sits on that board. Does she not, sir?

8 MEMBER PHINNEY: She does.

9 VICE MAYOR CURRIER: Is that relevant,
10 Mr. Attorney?

11 MR. SIMS: I was asked that by citizens, and
12 there is case law on that very issue. As long as
13 there is no pecuniary financial interest, it is
14 permitted, and, in fact, you don't even get to the
15 conflict analysis, but even if there were, there is an
16 exception for persons serving for unpaid and in
17 another governmental body, but the predicate is there
18 can't be any pecuniary financial interest, and there
19 is none here.

20 MEMBER PHINNEY: And just for your own
21 information, Lew, I vote against my wife a lot. So if
22 I don't believe in it -- I'm not voting on this in
23 favor of her. It is the entire Board, that I believe
24 they were -- and I don't want to go against their -- I
25 think their information was well done, and I do not

1 see any reason to vote against it.

2 VICE MAYOR CURRIER: I think I only brought
3 that up because Ms. Groseta questioned Mr. Wood's
4 roll.

5 MEMBER PHINNEY: Yes.

6 MEMBER HUNT: I disagree with the Mayor in
7 her statement to Mandy, saying that it is -- was not
8 relevant in this when Mandy was speaking, if I am
9 correct, to the overall aesthetics of the thing --

10 MAYOR CHECK: I might clarify quickly what I
11 was referring to --

12 MEMBER HUNT: Please.

13 MAYOR CHECK: It was the use of the property
14 as a business owner, you know, which is not currently
15 happening. If that is something that maybe could
16 happen in the future, that is not a part of this
17 discussion.

18 MEMBER HUNT: I'm okay. I would move to
19 amend Mr. Currier's Motion, to strike the last part of
20 his Motion, insofar as has to do with the gabion
21 portion, and find a -- I move to send this back for
22 review on the basis of general aesthetics within the
23 surrounding neighborhood.

24 MEMBER PHINNEY: Would you say it one more
25 time.

1 MEMBER HUNT: Yes. I move to amend Lew's
2 Motion to the point that I -- we refer this back to
3 Design Review to consider the aesthetics of the -- of
4 the project in relation to the surrounding community.

5 MEMBER PHINNEY: I'll Second that. I will
6 Second that.

7 UNIDENTIFIED MAN: Wait. You have to vote
8 on the Motion you have on the floor --

9 MR. SIMS: No, you don't. You do take the
10 Motion, first.

11 MEMBER BASSETT: Call the question on the
12 amendment.

13 MAYOR CHECK: Is this okay?

14 MR. SIMS: You're good with this.

15 UNIDENTIFIED MAN: No, you're not.

16 MR. SIMS: You're voting on the amendment to
17 the Motion.

18 MAYOR CHECK: We should not have any
19 discussion?

20 MR. SIMS: You can have discussion if you
21 wish, except she called the question.

22 MEMBER BASSETT: I called the question now.

23 MAYOR CHECK: I didn't realize anybody did
24 it. Okay. All those in favor, please say "aye".

25 MEMBER HUNT: Aye.

1 MEMBER PHINNEY: Aye.

2 MEMBER BASSETT: Aye.

3 MAYOR CHECK: Aye.

4 MEMBER CURRIER: Nay.

5 MAYOR CHECK: The Motion carries.

6 MR. SIMS: Now you vote on the Amended
7 Motion, as amended.

8 VICE MAYOR CURRIER: Which could we have the
9 Clerk repeat, please.

10 MS. SHEMAITIS: The Motion was for Design
11 Review Board should review the plan and replace the
12 gabions with something different. However, you just
13 did the Amended Motion to remove that portion that
14 says, "Replace the gabions."

15 VICE MAYOR CURRIER: So the Motion as it
16 stands is to return this project to Design Review for
17 a consideration of aesthetics. Call the question,
18 please.

19 MAYOR CHECK: All those in favor, please say
20 "aye".

21 MEMBER HUNT: Aye.

22 VICE MAYOR CURRIER: Aye.

23 MEMBER BASSETT: Aye.

24 MAYOR CHECK: Opposed?

25 MEMBER PHINNEY: Nay.

1 MAYOR CHECK: And I'll abstain. So the
2 Motion carries.

3 VICE MAYOR CURRIER: So it goes back to
4 Design Review.

5 MS. SHEMAITIS: So as far as -- are you
6 going to be specific as far as what it is going to go
7 back for, so you're wanting them to review the stones,
8 you know, if the samples of what the gabion cages are
9 going to look like? I mean --

10 MEMBER PHINNEY: That's exactly what Item 3
11 says, I believe.

12 MS. SHEMAITIS: That's exactly --

13 MEMBER PHINNEY: Yes. That's what we voted
14 on, what Item 3 says, which was to review Design
15 Review Board's decision rendered on February 11th and
16 affirmed on March 18th, to approve the site plan for a
17 parking pad at 208 5th Street. That's what they need
18 to review.

19 MAYOR CHECK: Okay.

20 MR. SIMS: The aesthetics.

21 MEMBER PHINNEY: Yes. There's something
22 about aesthetics. So the aesthetics of the project.
23 So specifically.

24 MEMBER BASSETT: So we've pissed off both
25 sides. Right?

1 MAYOR CHECK: I have a Motion to Adjourn,
2 and a Second. I'll call the question. All those in
3 favor, please say "Aye".

4 MEMBER HUNT: Aye.

5 VICE MAYOR CURRIER: Aye.

6 MAYOR CHECK: Aye.

7 MEMBER PHINNEY: Aye.

8 MEMBER BASSETT: Aye.

9 MAYOR CHECK: Opposed?

10 (No affirmative response)

11 MAYOR CHECK: We're adjourned. It is
12 10:10 p.m.

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C E R T I F I C A T I O N

I, LERRY N HORTON ROBERDS, RPR, Arizona
Certified Court Reporter, Certificate No. 50400,
having been first duly appointed as Official Court
Reporter herein, do hereby certify that the foregoing
pages numbered 2 to 129, inclusive, constitute a full,
true, and accurate transcript of the proceedings had
in the above-entitled matter, all done to the best of
my skill and ability.

DATED this _____ day of _____, 2013.

Lerryn Horton Roberds, RPR
Arizona Certified Court Reporter
Certificate No. 50400