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TOWN OF FLOWER MOUND
OIL AND GAS BOARD OF APPEALS
JUNE 18, 2008

20 Meeting of the Town of Flower Mound Oil and Gas
21 Board of Appeals, taken on the 18th day of June, 2008,
22 from 6:30 p.m. to 11:05 p.m., before Sherry Patterson,
23 CSR in and for the State of Texas, reported by machine
24 shorthand at the Town Hall, 2121 Cross Timbers Road,
25 Flower Mound, Texas, as follows:

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1 CHAIR MURPHY: Welcome to the Town of Flower
2 Mound Oil and Gas Board of Appeals, June the 18th, 2008.
3 Before we start the meeting, there's a couple of
4 housekeeping duties I do want to go over. Number one,
5 turn your cell phones off; not mute, but off. Because
6 it will interfere with the PA system, and you'll hear
7 the William Tell Overture taking place; and it is
8 distracting.

9 The other thing I want you to realize, and the
10 Fire Chief Michael Smith has reminded us, if you're
11 going to be in this room, you need to have a seat.
12 There's ample room in the back. We've turned up all the
13 microphones and everything so everyone can hear all the
14 proceedings that are going on.

15 Okay. With that, let's stand for the Pledge of
16 Allegiance.

17 (The Pledge was recited.)

18 CHAIR MURPHY: It sounds good to have a
19 crowd saying the Pledge of Allegiance. At this point in
20 the meeting, this is the citizens' participation. I
21 want to set some guidelines on this because we do have a
22 lot to cover tonight. This is the time for anyone to
23 talk about whatever they would like to talk about
24 involving the Town that has nothing to do with the case
25 tonight.

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1 And I say that, because if you have something you
2 want to say about the oil and gas exploration and
3 drilling, the best time to do that is during the case

4 when it's given that opportunity for the opposition or
5 for the support; otherwise we cannot consider those
6 comments in our -- in our decision. So please keep that
7 in mind.

8 And we are also going to be limiting all the
9 speakers to three minutes, and we have a clock; and it
10 will be started when you start to speak. And if you
11 don't pay attention to it, we'll help you, okay. When
12 you come to the lectern, it's very important that you
13 state your name and your address. We are transcribing
14 everything that's spoken tonight, and we want to make
15 sure that our transcriber doesn't have to remind us to
16 speak up or slow down. Also in the minutes that she
17 beautifully puts out for us, we want to make sure
18 everything is recorded.

19 So with that, do we have someone who would like
20 to come to the lectern? State your name and your
21 address, and you have three minutes. Remember that it
22 has nothing to do with the case tonight, because
23 anything you say about citizen participation cannot be
24 considered during our deliberation. Okay.

25 MS. KOHANKE: Carol Kohanke, 4312 Lauren

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1 Way. I'm a 28-year resident of Flower Mound. Is it all
2 right to talk about the Riverwalk itself?

3 CHAIR MURPHY: Sure.

4 MS. KOHANKE: Okay, all right. I've put
5 together -- and I have a copy for each of the committee

6 people when I finish. I've put together a historic
7 perspective on Flower Mound, which -- specifically on
8 the 158 acres cited for the Riverwalk at Central Park.
9 1961, the town was annexed or chartered to become a town
10 to keep the land from being annexed by the City of
11 Irving. 1968, Dallas-Fort Worth Regional Airport Board
12 was created, thus thrusting Flower Mound into becoming a
13 very desirable location in which to live.

14 1972, Flower Mound New Town, Limited, became the
15 fourth HUD proj -- Title VII community nationally to
16 become an urban laboratory to demonstrate alternatives
17 to urban sprawl. Other communities were The Woodlands
18 outside of Houston, Reston, Virginia, Columbia,
19 Maryland. This was a partnership between HUD, Edward
20 Marcus who owned all the land, and the Nasher Company
21 headed by Raymond Nasher.

22 1972, the population -- the town's population was
23 1,200 people. 1974, the first commercial flight landed
24 at DF -- newly opened DFW Airport. The impact of the
25 opening of that airport had tremendous ramifications,

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1 couple that with the New Town. In 1976, at his request,
2 Nasher was bought out by the Town's project for \$5
3 million. That, coupled with the Nixon Administration
4 pulling its funding, HUD foreclosed on the project.

5 1978 Flower Mound New Town, the building on
6 Timber Creek Road which was planned to be the Flower
7 Mound Town Hall was purchased by LISD to become its
8 administrative headquarters because the Town of Flower

9 Mound was too poor to buy it. 1980, a massive fire
10 totally destroyed all vegetation, what is now known as
11 that entire parcel. The fire started at 1171 and burned
12 all the way to Timber Creek on all land between Morris
13 Road and 2499. Some of the old trees survived.

14 1980, Bella [phonetic] Community Development
15 purchased 3,000 acres with all utilities in the ground
16 for 5 -- that was \$5,000 per acre. Including in the
17 sale was the 158 acres that is now the Riverwalk
18 projected. Population in '81 was 4,000. Let me -- I'm
19 running out of time. So anyway, zoning on the Forums
20 property with HUD was extremely high with high-rise 10,
21 12 --

22 CHAIR MURPHY: Thank you, Carol.

23 MS. KOHANKE: Okay, thanks.

24 CHAIR MURPHY: Next? Anyone else?

25 MR. BELCHER: My name is Larry Belcher. I

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1 I live at 2900 Aberdeen. Tonight I'm speaking on behalf
2 of the Flower Mound Citizens Against Urban Drilling. We
3 are not against all gas drilling, just that which is
4 proposed for the highly residential areas of Flower
5 Mound. First I want to thank Ms. Murphy on her decision
6 to conduct the Oil and Gas Board of Appeals meeting on a
7 night apart from the Board of Adjustments. This is
8 greatly appreciated. Thank you.

9 Every day nonstop propaganda put forth by the big
10 money developers like Chesapeake and Williams and

11 Cherokee Horn bombards us with the "gas is good" mantra.
12 They've even got one of my favorite -- well, formerly
13 favorite actors, Tommy Lee Jones talking about getting
14 behind the Barnett Shale. I have one question I'd like
15 to pose to Mr. Jones.

16 Mr. Jones, are they going to drill a gas well 500
17 foot from your bedroom window? Because if not, I don't
18 think you're really qualified to speak on the subject;
19 and furthermore, I think you're nothing more than an
20 actor playing a role for a lot of money. I'm not an
21 actor, and there isn't enough money in this to even pay
22 for a cup of coffee each day.

23 I'm a resident, a person who's worked hard all
24 his life for a nice home in a nice location; and I don't
25 want it ruined by having a gas well drilled 500 feet

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1 from me. I'm tired of hearing that I'm uninformed,
2 unpatriotic and downright unintelligent because I fail
3 to see the benefits of inviting rich developers --
4 developers who do not live within miles and miles of any
5 of the proposed gas wells to frankly come and take a
6 dump in my front yard.

7 I'm here tonight as a citizen of Flower Mound
8 that is opposed to the ridiculous propaganda piece which
9 declares we're all citizens of the Shale. I'm here to
10 thank the Flower Mound Oil and Gas Board of Appeals for
11 maintaining the integrity of the Flower Mound Oil and
12 Gas Ordinance and refusing requests for variances to the
13 mandated setbacks in the highly residential areas.

14 I ask you to continue protecting us by upholding
15 those setbacks. Those setbacks were put in the
16 Ordinance for a reason. They're for the public safety
17 and to protect our quality of life. Please let's
18 maintain them; not just one or two of them, but all of
19 them: residences, parks, churches, schools, roads,
20 property lines, water wells, environmentally sensitive
21 areas, floodplains, all of them. Thank you.

22 CHAIR MURPHY: Thank you, Mr. Belcher. Do
23 we have someone else?

24 MS. LONG: Hello, I'm Laurie Long, Flower
25 Mound resident at 2708 Lake Flower Drive. Recently

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1 former Council Member Stone stated that elected
2 officials need to be held to a higher standard with
3 regard to ethical practices. I believe this is a very
4 true statement, not only for elected officials but for
5 our appointed representatives as well on our Boards and
6 Commissions.

7 I state this because at our last Oil and Gas
8 Board meeting, after an eight-minute break one of the
9 members, Vice Chair Rich, did not return to the public
10 hearing in a timely fashion. After an additional ten
11 minutes of her noted absence, I went to the back room to
12 use the rest room and found Ms. Rich in conversation
13 about the item that was actively being discussed on the
14 agenda.

15 The parties in the room included Mr. Stone, Mayor

16 Smith and another resident of Flower Mound. I believe
17 this type of behavior is not appropriate for a
18 quasi-judicial board, which is what I believe the Oil
19 and Gas Board of Appeals is. And it should be free of
20 outside influences, and all discussion should be kept at
21 the public format.

22 It should also be noted that once Ms. Rich
23 returned, during her deliberations she presented a plan
24 of action for the Applicant to return with minor
25 adjustments for consideration, which is exactly what the

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1 Applicant is doing today.

2 I'll leave it up to Ms. Rich to decide if she
3 should recuse herself or not. Thank you.

4 CHAIR MURPHY: Thank you, Ms. Long.

5 Are there any others? With that said, we would
6 ask if there's any Board announcements.

7 The first item on the agenda is to consider
8 approval of minutes from the regular meeting of the Oil
9 and Gas Board of Appeals held on April the 9th, 2008.
10 Do we have any changes, modifications? If not, we will
11 consider the minutes approved as submitted.

12 The next item on the agenda is the public hearing
13 to consider a request from Red Oak Gas Operating, LP,
14 for a variance from Section 34-420 K and N under Oil and
15 Gas Well Permit Required, Section 34-422 D under Oil and
16 Gas Well Permit, and Section 34-427 A 35 under Technical
17 Requirements. The request is to decrease floodplain,
18 environmentally sensitive area, public park, public

19 building, property line, right of way, tank battery and
20 storage tank setback requirements for the natural gas
21 well permit known as McDowell Number 1H and Number 2H.

22 The property involved is generally located east
23 of Flower -- of FM 2499 Long Prairie Road, north of
24 Euclid Avenue, West of Morris and south of Timber Creek.
25 Is the Applicant present, please? Just remember to give

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1 your name and address.

2 MR. GARZA: Thank you. My name is Martin
3 Garza. I'm an attorney and partner in the Dallas office
4 of K & L Gates located at 1717 Main, Suite 2800, Dallas,
5 Texas. I'm here on behalf of the Applicant Red Oak Gas
6 Operating Company, LP. What I'd like to do first is
7 submit some materials for the record, including copies
8 of the Applicant's justifications for variance requests
9 for the two wells and facilities.

10 These were previously delivered to the Town on
11 June 12th as part of the application resubmittal, and
12 I'll present that to the Town secretary or Matt. And
13 then also I've got copies of letters from TPHP, from
14 Flower Mound CBD, from First Baptist Church, from the
15 United States Postal Service and also from Applewood
16 Learning Center.

17 CHAIR MURPHY: I believe we did get copies
18 of those, Mr. Garza.

19 MR. GARZA: Okay. I'll present these for
20 the record as well.

21 CHAIR MURPHY: Thank you.

22 MR. GARZA: Tonight we have a number of
23 people assisting in the Applicant's presentation who are
24 available to answer any questions that the Board may
25 have, including Von Beougher, president of G & A

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1 Consultants, Ron Stewart and Randi Rivera from G & A
2 Consultants, Josh Holland from Jacob, Carter, Burgess,
3 and Melissa Lindelow from the Fort Worth office of K & L
4 Gates.

5 As you know, the Applicant came before the Town's
6 Oil and Gas Board for variances for a well site on the
7 134 acre Riverwalk tract on April 9, 2008. A number of
8 variances were denied for that site. The Applicant has
9 since investigated alternative locations within the
10 Riverwalk tract, taking into consideration the concerns
11 and the comments that the Board made during the April
12 meeting.

13 During the first part of our presentation this
14 evening, Von Beougher will take you through the process
15 of identifying and evaluating particular challenges for
16 the Riverwalk tract, including setbacks affecting the
17 tract and the Town's thoroughfare plans. Von will then
18 explain how the proposed pad site compares favorably to
19 the denied pad site from April and addresses concerns
20 that were raised during the April meeting.

21 Finally Von will highlight how alternative pad
22 site locations on the Riverwalk tract would require
23 residential variances as well as other variances. This

24 is an important distinction for our proposed pad site
25 where the need for residential variances are not

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1 required. During the second part of the presentation,
2 Melissa Lindelow will present to the Board further
3 explanation and justifications for the requested
4 variances. Under the Town's Gas Well Ordinance there
5 are certain matters for the Board to consider when
6 considering a variance.

7 Melissa will provide evidence that the proposed
8 pad site is the appropriate location within the tract
9 for a pad site considering the following: constraints
10 involved in drilling on the Riverwalk tract, the
11 inability to drill at any location within the Riverwalk
12 property without obtaining multiple variances and
13 jeopardizing the Riverwalk development, the fact that
14 the pad site is located further than 1,000 feet from any
15 residences, the fact that the pad site is not located
16 adjacent to privately owned property other than the
17 surface owners' property, the fact that the pad site
18 does not interfere with the surface development or the
19 Town's implementation of the Master Plan.

20 Benefits that allowing drilling at the pad site
21 will -- by granting the variances requested tonight will
22 allow the Town and the land owner to proceed with
23 orderly development of the Riverwalk tract; and by
24 granting the variances tonight, it will also minimize
25 interference with future use and development of the

1 Riverwalk tract.

2 I think it's important to remember and recognize
3 that all the variances requested will need to be granted
4 in order for the Applicant to proceed with these wells
5 and that enforcement of the Town's setback restrictions
6 without granting all the variances will result in the
7 Applicant's loss of value in the mineral interest.

8 In sum, we believe the Board has and will be
9 presented tonight with sufficient and ample facts and
10 evidence to reasonably determine that all the requested
11 variances should be granted; and we look forward to
12 making -- helping the Board make such a determination.

13 One thing I'd like to ask is whether the Chair
14 will allow us to reserve some time to be able to answer
15 any questions, rebut things presented later in the --
16 during the presentation so we can --

17 CHAIR MURPHY: There will be a question and
18 answer time before we go into deliberations.

19 MR. GARZA: Okay, thank you. With that I'll
20 pass this onto Von Beougher who will proceed with the
21 presentation. Thank you.

22 MR. BEOUGHER: Thank you, Martin. I'm Von
23 Beougher with G & A Consultants, 111 Hillside Drive in
24 Lewisville. Randi is my technical assistant. She's
25 going to help me navigate through the Power Point, and

1 if I stumble, she'll come and get me back on track. You
2 may remember that Bobby made the presentation on behalf
3 of G & A last time. He is fortunately on a cruise with
4 his wife that was long-planned and well-deserved, so if
5 you'll bear with me, I'll try to make the presentation
6 here for you tonight.

7 And we're here tonight to present to you what we
8 think is a very well-conceived and well-thought out gas
9 pad location. And while we acknowledge that variances
10 are being requested, we feel that our presentation will
11 show why the proposed location is the best location to
12 minimize the impacts on the immediate residents, on the
13 local neighbors and really on the Town as whole. And it
14 will still allow for the orderly development of the
15 Riverwalk tract.

16 Since this item and the next item are kind of
17 closely -- closely related, we're hoping that we can get
18 through them both tonight; and we'll see how that goes.
19 And as Martin mentioned, after our presentation and then
20 the public hearing comment, the pros, the cons, we would
21 like the opportunity if the Chair would allow it to
22 respond and rebut if that would be appropriate.

23 We recognize that the Town's ordinances in many
24 cases have significantly larger setbacks and more
25 stringent requirements than many other local and --

1 local regulations do, and certainly much more in excess

2 than what the State regulations require. We have
3 followed the development of these regulations. In fact,
4 you know, we were involved and at nearly every one of
5 the stakeholders' meetings when the regulations were
6 being talked about several years ago.

7 So we know that the regulations are there so that
8 we can have an opportunity when we can't meet the
9 regulations, that the Town can have an opportunity to
10 look at the individual circumstances more carefully; and
11 that's what we're here tonight to do. We're going to
12 present to you the individual circumstances that we feel
13 are unique to this property and that will justify this
14 location.

15 First of all, the entire property -- virtually
16 the entire property has been dubbed environmentally
17 sensitive, whether it's a forest, whether it's upland
18 habitat, whether it's floodplain. We have three little
19 pockets that you can see here that aren't necessarily
20 identified by the Town's environmentally sensitive area.
21 And as we scroll through these, Randi's going to help
22 me; and you'll end up seeing nearly the entire site is
23 covered with some type of area that we would need relief
24 from.

25 The 500 foot setback from any property line, we

1 have the floodplain. We have the 500 foot setback from
2 the floodplain. We have -- across the street on Morris
3 to the east we have some public buildings, the church
4 and the daycare. And then in the red here at the end we

5 have 1,000 foot setback from existing residence.

6 And what you'll see is -- and especially in
7 response to the last meeting, we heard -- what we
8 thought we heard was that that was one of the key things
9 is the 1,000 foot threshold from any residence was
10 something that was on the forefront of everybody's
11 consideration. So with that, we kind of identified an
12 area that we could maybe meet that 1,000 foot setback;
13 and -- and so that's what we're going to present to you
14 tonight is why this location we think is -- is the best.

15 We can't just look at the setbacks. We also have
16 other setbacks and other constraints. The Town's
17 thoroughfare plan -- the Town's thoroughfare plan
18 indicates that there are thoroughfares planned for the
19 Riverwalk tract. I'm sure you're aware that we have
20 2499 on one side and Morris Road on the other side. In
21 addition, we have collector streets Forums Drive and
22 Eaton that are planned to come through the tract. And
23 the graphics will catch up with me here in a minute.

24 And from each one of those thoroughfares there
25 are setbacks per the Town's ordinances. In addition,

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1 there's a planned signal light on 2499 at Windsor. Now,
2 this is important because even though Windsor Drive
3 isn't shown on the thoroughfare plan, it's logical and
4 we feel that it's necessary that Windsor gets extended
5 into the Forums property. And in fact, this will be the
6 primary public access to the hospital site when -- if

7 and when we get the hospital.

8 One of the things that the Town has the ability
9 to do is grant a -- instead of a 500 foot setback
10 variance, we can go down to a 300 foot setback variance
11 from proposed infrastructure. And that's going to be
12 important later on, so I wanted to put that on the
13 graphic right now so we can keep that in mind and you'll
14 -- you'll remember what I'm talking about when we get to
15 it. It's towards end of the presentation.

16 The proposed gas site location -- gas pad
17 location, we've thought out the transportation routes.
18 All the traffic would come in on State Highway roads, FM
19 407, FM 2499 is our primary route. They'll go out to
20 35W, Interstate highway. Our secondary route is 1171 to
21 2499. Again, State roads. We feel that that's
22 important not only for us but for the residents that
23 we're not going to be tearing up the Town's
24 infrastructure.

25 These are State roads. And so we wanted to

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1 present that, that we've worked with Town Staff and come
2 up with an on-site circulation pattern that I think
3 meets the -- the fire marshal's approval. And if we
4 need to, we can get him to address that a little bit
5 later. But we have primary and secondary access to the
6 site.

7 Okay. The proposed pad site, why at this
8 location? Again, we feel this is the least disruptive,
9 not only to the existing residents and the surrounding

10 areas but also to the Town as a whole. In addition,
11 this location is the least vegetated of the possible
12 sites. And we've got -- later in the presentation I'll
13 present -- I'll show you three other locations that we
14 did consider; but each one of those had other
15 complications, in particular residential setback
16 problems. And again, that's why we really focussed on
17 this one, because it had the least impact on the
18 residents and on the existing site.

19 The way we're planning the site out is to have
20 wells 1H and 2H roughly in the center of the pad. The
21 tank batteries would be on the west side as shown here,
22 and then we've got some slides that'll scroll through
23 here. We've got the setbacks highlighted from the tanks
24 and the -- and the wells. And we have the -- those are
25 300 foot setbacks that we're showing, the 500 foot

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1 setbacks. And then again, last thing we have is the
2 1,000 foot setbacks from the wells.

3 So you can see looking through on the aerial
4 there's no residential impact from -- for our 1,000 foot
5 setback. We do have --

6 CHAIR MURPHY: Mr. Beougher, if I could
7 interrupt just a minute.

8 MR. BEOUGHER: Please.

9 CHAIR MURPHY: Randi, I love that you're
10 helping him; but we can't see.

11 MR. BEOUGHER: You need to come over on this

12 si de.

13 CHAIR MURPHY: I'm sorry. Thank you.

14 MS. RIVERA: You're fine.

15 MR. BEOUGHNER: As you can see here, we have
16 just for reference -- I don't know if y'all know some of
17 these buildings. This is the Applewood Day Care, and
18 this is an office building; and down here is the First
19 Baptist Church area. And we have letters of
20 nonopposition from all of them. And as you can see,
21 there are no residents with 1,000 foot of the -- of the
22 well or the tanks, so I think that's the biggest reason
23 why we're -- we're choosing this location.

24 All right. Moving forward, we wanted to make a
25 comparison between the last presentation two months ago

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1 which -- which was denied -- I'm sure it's still fresh
2 in all of our minds -- and this site; because this site
3 really is -- compares favorably with all but about one I
4 think of the direct comparisons. So we'll go through;
5 and if you just follow on the slides, the first
6 comparison that we have is compared to the existing
7 residents.

8 We don't have a problem on this one. Do we
9 have a graph -- here it is. The previous gas pad
10 location was 778 feet from this existing residence to
11 the west, and then just almost 1,000 feet, 994 feet to
12 the residence to the north. And our proposed pad site
13 is over 1,000 feet from all. We're 1,023 feet from the
14 residence up here and -- to 1H, and then 1,028 feet to

15 well 2H.

16 The next slide represents our setbacks to
17 property lines. The requirement's 500 feet. Obviously
18 we can't meet that at this location, but we do compare
19 favorably to the request that we were in for last time.
20 With a variance we can go down to zero. And on the
21 graphic here you'll see the previous request, 400
22 feet -- 450 feet to the west, about 161 feet over to the
23 east, and then 300 foot from the tank batteries and 53
24 feet from the tank batteries on the old one -- the
25 previous request, rather.

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1 And then on the request tonight, we're 309 feet,
2 312 feet from the -- the two wells to the closest
3 property lines and then 220 feet from the tank
4 batteries. So again, you can see we -- we -- we compare
5 favorably to that. In other words, the request allows
6 for -- the variance request is for less of a variance.
7 It's still a variance, but we've done what we can to --
8 to make the variance less impactful.

9 Okay. Another comparison that we had was on our
10 right-of-ways. This is the one where we -- we couldn't
11 compare favorably to, but we'll show the graphic here.
12 The previous location obviously being right in the
13 middle of the property, about 1,000 feet each way; and
14 we could meet that. But then the tank batteries, we're
15 almost 1,000 feet, 900 feet to Morris Road. The
16 proposed location is 300 feet and 344 feet to the

17 right-of-way of Morris Road. It -- and then the tank
18 batteries are 443 feet. So again, we compare favorably
19 in the other ones; but this one, just by the nature of
20 it, we couldn't.

21 Now, I've got some slides later -- go back, if
22 you could, Randi. I've got some slides later that we'll
23 look at that show this -- this beautiful stand of trees
24 here that provides a great insulation buffer that --
25 that you won't even be able to see into here. Probably

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1 see the top of the derrick if you were clear over at the
2 day care, just while it was set up. But once it's gone,
3 you won't be able to see it from the -- through the
4 trees.

5 All right. And then continuing on -- okay. On
6 the floodplain we do have Josh with Jacobs, Carter,
7 Burgess here who's done some extensive analysis on the
8 floodplain over here. We -- we do compare favorably
9 with moving it to this location, but I want to invite
10 Josh up to kind of explain the difference between the
11 three floodplains that we're -- that we're talking
12 about.

13 We've got an existing FEMA line. We have a --
14 and I'll just let Josh talk. There's three -- three
15 different models that we're talking about here, and one
16 of them ultimately will -- will be I think adopted by
17 the Town. But currently we're -- we're kind of dealing
18 with what's on map -- on the maps with FEMA. So let me
19 turn it over to Josh.

20 MR. HOLLAND: I'm Josh Holland. I'm a
21 senior water resources engineer with Jacobs, Carter,
22 Burgess, 777 Main Street out of Fort Worth, Texas. As
23 Von mentioned, there is -- there are multiple sources of
24 floodplain information for this tract in this area. The
25 regulatory floodplain is currently shown on FEMA's flood

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1 insurance rate map dated May of 1997. And we list the
2 -- the distance from the proposed pad site to that
3 regulatory floodplain and then also the distance from
4 the tanks to that regulatory floodplain.

5 FEMA also has prepared a map monitoring and
6 is preparing digital flood insurance rate maps for all
7 of Denton County. Those are still proposed. They
8 haven't been adopted by Denton County, by the Town of
9 Flower Mound or FEMA. The expected effective date of
10 those is probably sometime next year. But that study is
11 complete. It does provide more accurate and more
12 up-to-date information for Timber Creek. And we've
13 listed those dates just as additional information.

14 The -- the new studies do show that the -- the
15 pad site and the tanks are a little bit further away
16 than the FEMA's proposed floodplain, not yet regulatory.
17 Beyond that we've prepared a detailed hydrologic and
18 hydro -- hydraulic analysis as part of the Riverwalk
19 development and have mapped the existing conditions
20 floodplain for Timber Creek Tributary 15.

21 Currently FEMA's maps, both the regulatory

22 effective paper maps and the proposed digital FIRM maps
23 do not provide a detailed study for Timber Creek 15.
24 We've done that, and I'll show a graphic of those
25 different floodplains. But as you can see, as more

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1 detail is -- is provided for the floodplain mapping, the
2 distances from the pad site and the tank batteries
3 increase.

4 There are Waters of the State obviously flowing
5 through the site. The Timber Creek 15 is a natural
6 waterway. The proposed pad site is 273 feet due west of
7 Waters of the State, and then there's another little
8 meander that comes into the northeast, 414. Upland
9 areas as defined by the Town, the -- as Von showed, the
10 entire area's an environmentally sensitive area. The
11 environmentally sensitive area of the pad site is
12 upland. Riparian area, again, as defined by the Town
13 correlates to FEMA's regulatory floodplain; and in this
14 case it's based on FEMA's approximate flood zone. And
15 to the current regulatory riparian area, the pad site is
16 30 feet away.

17 Going through the different sources of floodplain
18 information, you can see the pad site here in yellow.
19 FEMA's regulatory floodplain as shown on the 1997 maps
20 is shown here. Timber Creek was based on a detailed
21 study. That study was done back in 1983. It calculated
22 100-year water surface elevations. Those water surface
23 elevations were delineated based on available data, and
24 that's what's shown for the Timber Creek floodplain.

25 For the tributary that flows through the

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1 Riverwalk tract, that was based on approximate study.
2 There are not calculated water surface elevations.
3 There's not a hydraulic model that was -- that
4 established that. It's FEMA's best guess to show Towns
5 and citizens what the special flood hazard area is to
6 regulate flood insurance.

7 As I mentioned, FEMA has -- is doing a map
8 monitoring project for Denton County. The mapping's
9 been complete, the modelling's been complete. It has
10 not been adopted by the Town, by FEMA or Denton County
11 yet; but it does provide a higher level of accuracy for
12 the floodplain in this area. The modelling was
13 completed last year. The delineations were completed
14 last year. Timber Creek actually included a new
15 hydraulic model. New cross sections were cut. A model
16 was created to show the existing conditions of Timber
17 Creek.

18 FEMA's new models actually show a reduction in
19 the 100-year floodplain in this area by approximately
20 two feet. And that -- that calculated water surface
21 elevation is shown delineated based on the topo that was
22 taken during the study. You can see a little bit of a
23 difference. You can see a little bit of a difference
24 due to the reduction in the 100-year water surface
25 elevation. Some of that floodplain is being removed by

1 FEMA.

2 FEMA's map monitoring project did not include
3 a detailed study for the tributary, so FEMA's
4 (inaudible) proposed floodplain for the tributary is
5 still based on an approximate study. It is new -- a new
6 approximate study based on the best available topo at
7 the time; but again, FEMA's maps will not show
8 calculated water surface elevation or a detailed study
9 for the tributary.

10 As part of the Riverwalk development, we've
11 prepared a detailed hydrologic and hydraulic analysis
12 for this watershed calculating peak discharges for the
13 10, 50, 100 and 500-year floods mapping this existing
14 condition trib -- existing conditions through this
15 tributary to delineate the existing conditions
16 floodplain. This is the best estimation we can come up
17 with of if we had a 100-year storm event on this
18 tributary's watershed, this is the area that would
19 actually be delineated.

20 This information's been prepared. It's being
21 submitted to FEMA through a CLOMR [phonetic] process, a
22 conditional letter of map revision. It's going along
23 with the Riverwalk development, but it is the best
24 available data for this tributary to calculate water
25 surface elevations. And again, as we move through with

1 more accuracy, the pad site -- the floodpl ain moves
2 further and further away from the pad site. With the
3 best available data, the tank -- tank battery is 210
4 feet from the floodpl ain; and the -- the pad site in
5 general is 146 feet from the floodpl ain. And then to
6 the north with Timber Creek, we're over 300 feet to that
7 detailed study.

8 To give you a little bit of Waters of -- Waters
9 of the State, obviously there's a stream flowing through
10 the middle of that. I'll show that to you. To give you
11 a little bit of graphic of the vertical separation
12 between the pad and the floodpl ain --

13 CHAIR MURPHY: Josh, may I interrupt? Would
14 you go back one, please. And you said the red was the
15 Waters of the State?

16 MR. HOLLAND: Waters of the State.

17 CHAIR MURPHY: Okay.

18 MR. HOLLAND: To show the vertical
19 separation between the pad and the 100-year floodpl ain,
20 we've cut a couple of cross sections through Timber
21 Creek floodpl ain and through the pad and then also
22 through Timber Creek Tributary 15. Cross Section A,
23 obviously you can see the large floodpl ain, big wide
24 channel. Timber Creek's a big -- big -- big channel,
25 big floodpl ain. We have our upland separation and then

1 the pad site. And there's approximately six feet of
2 vertical difference between the pad site and the

3 100-year floodpl ain of Timber Creek.

4 On Cross Section BB, which is through the
5 tributary, obviously it's a much smaller tributary, much
6 smaller channel. Floodpl ain, a small section of upland
7 separation and then the pad site. The pad site on the
8 tributary is approximately two feet above the 100-year
9 floodpl ain on the tributary. And then just a little bit
10 larger view showing the vertical and horizontal
11 separation from the pad site.

12 So the proposed pad site is not within FEMA's
13 regulatory floodpl ain. It's not within FEMA's proposed
14 floodpl ain, and it's not within the most detailed study
15 of Timber -- Timber Creek 15 floodpl ain. Just as a
16 note, being outside of the floodpl ain with upland
17 separation, there are other municipalities that do not
18 do nearly as good a job as Flower Mound taking care of
19 their floodpl ains. But it is fairly common practice for
20 many municipalities in this area to allow wells to be
21 drilled in the floodpl ain itself.

22 So I'll turn it back to Von with that.

23 MR. BEOUGHER: Thanks, Josh.

24 BOARD MEMBER POSTON: Madame, Chair?

25 CHAIR MURPHY: Yes?

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1 BOARD MEMBER POSTON: I'd like to ask a
2 question if I could of our esteemed counsel.
3 Mr. Holland's presentation was excellent; however, if
4 FEMA's revisions upon which his case or presentation is
5 largely based has not been approved by the Town, the

6 County or even FEMA, should we even consider these
7 probable changes in our deliberations?

8 MR. LATHROM: Commissioner Poston, as the
9 Ordinance is crafted it requires comparison with the
10 Town's floodplain; and that would take into
11 consideration the FEMA maps. Right now the CLOMR has
12 not been approved, so you would not be looking at the
13 proposed FEMA floodplain in making your determination
14 this evening. Rather you would rely upon the existing
15 FEMA floodplain right now.

16 BOARD MEMBER POSTON: Thank you.

17 MR. BEOUGHNER: And I would just reiterate
18 that the variances we're requesting and that we have
19 charted here are from the current regulatory effective
20 floodplain. Josh presented the more detailed studies to
21 show that we're not backing ourselves into a corner that
22 we can't get out of, but rather we're actually making it
23 better should the Riverwalk project go forward. So good
24 point. And -- and these numbers reflect the regulatory
25 floodplain that's on the maps today.

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1 Okay. Continuing with the list of variances that
2 -- that we're requesting. The previous denied pad site
3 had a -- let's see, where are we at here. Okay. We
4 were -- we were -- we were 1,000 feet -- this is another
5 one that we're not quite favorable, but I think we can
6 show that -- that we are still significantly far away
7 from the public buildings. Go ahead to the next slide.

8 The public buildings that we're referring to I
9 mentioned earlier is the Applewood Learning Center and
10 -- and the First Baptist Church on the east side of
11 Morris. And again, we've received letters of
12 nonopposition from both of those entities. You can see
13 here the distances, you know, roughly 800 feet down
14 towards the church and 695 and 735 respectively from the
15 two wells on the pad site.

16 The next one has the distance to the public park.
17 Previous well site -- well pad was 161 feet to the
18 corner of the park; and the new location is about
19 300-some feet between the two wells, 312 and 331 feet
20 from the two wells. So we do compare favorably to this
21 distance from the public park. And then -- yeah, 220
22 from the tank batteries.

23 Okay. We have a few slides that we took pictures
24 of from various locations and vantage points, generally
25 along Morris Road which is where the public could

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1 possibly see the property. The first one is literally
2 from the Applewood Learning Center across the street.
3 You can see the fence for the play area in back here
4 right here next to the Applewood Learning Center. And
5 that's looking directly across Morris Road. So you can
6 see -- and I mentioned that earlier that we have a
7 significant stand of trees that's going to buffer and
8 shield any -- any visual and most sound from there.

9 The next slide, Number B is from the corner of
10 Eaton and Morris Road. You know, you can see looking

11 past the area of trees here and into the open area you
12 just -- you can just barely see a glimpse of that open
13 area that doesn't have any trees. That area was cleared
14 and filled years and years ago, I'm sure long before I
15 was here. And maybe some of you remember when that
16 happened, but I don't. It's been that way ever since
17 I've been here since, you know, '85 or so.

18 Then the next one, vantage point C was from the
19 -- is from the south side of the bridge over Timber
20 Creek. Again, this one is looking -- from here looking
21 back across that open area that -- that we just talked
22 about. And again, here's a nice stand of trees. Really
23 going to do a good job. Actually the pad here starts
24 roughly in this location and then goes back into the
25 trees, so you might see the corner of the pad; but you

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1 really wouldn't after we get done landscaping it.

2 The eight foot wall that we're putting around it
3 and the landscaping is going to shield it completely
4 from all but a glimpse driving down Morris Road. And
5 then the last picture that we took was on the other side
6 of the -- the bridge over Timber Creek. You can see the
7 rails here. And of course with all the foliage and the
8 growth coming up in the Timber Creek area, it's really
9 -- you're not even going to have a sense that there's
10 anything in this area.

11 Okay. I wanted to show you some of the other
12 alternate pad sites that we evaluated and -- and show

13 you some of the reasons why they just didn't work. And
14 we didn't even want to bring them and present them to
15 you, mainly because of residential setback problems. We
16 felt and heard at the last meeting that that was not the
17 number one criteria but a very important criteria. We
18 have several criteria. I've gone through several that
19 -- that show how we've improved favorably on -- on most
20 of the requests.

21 But let's go through a couple of them. Let's
22 call alternate Pad Site A. You know, we looked at --
23 down here a little further south we have the Timber
24 Creek Apartments over here. We'd be within 1,000 feet
25 of that; so you know, that -- that didn't -- you know,

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1 it wouldn't prohibit us from asking, but we -- we didn't
2 think that would go very well. So you know, we kind of
3 said well, that's not going to bode favorably. It also
4 brought us closer to the other publically occupied
5 buildings, the church and -- and their campus over here.

6 You can see from up here we're at a much greater
7 diagonal distance than being straight across at that
8 location. And in addition, you know, we totalled, you
9 know, up to 15 variances from the wells and tanks and
10 the pad site to residential, public buildings. We still
11 have the floodplain variance. We still have the
12 right-of-way variance, you know. And then -- and then,
13 you know, what about the thoroughfares. I mean, there's
14 -- there's a whole host of them. But we felt like the
15 residential one effectively ruled this one off of our

16 plate.

17 We also then looked over here on the other side
18 of the floodplain area. You know, why wouldn't that
19 work. We're kind of out here in the middle. Well, if
20 we get over here and we start being close to the
21 residents of -- of the Forums residential, you know,
22 same thing. We're -- we're -- we're too close to the
23 residents over here in Forums residential. That's not
24 something we even wanted to have y'all consider. We
25 didn't think that would go anywhere.

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1 So it also has the same setback variances from
2 the floodplain, from 2499 and -- and the property line;
3 so that one I think we had up to nine variances
4 identified. And I've got a little matrix at the end of
5 this if we want to go into them in more detail. But I
6 think you're getting the idea that, you know, the
7 residential compatibility or setback was really a prime
8 concern for us.

9 Alternate C up here, once again, we have an
10 existing residence up here. This was the residence that
11 was pointed out to us last time that, you know -- you
12 know, when we had the well over here in the middle, that
13 was the residence that we couldn't get 1,000 feet away
14 from. We'd be in the same location over here.

15 Once again, if you have Windsor connecting on
16 through, you're going to have possibly a setback problem
17 there. We've still got the floodplain setback. We've

18 still got the right-of-way setback. So -- and I don't
19 know if -- did we list how many variances on that one?

20 MS. RIVERA: About eight.

21 MR. BEOUGHER: About eight or so variances
22 with this one. So a little matrix that we put together,
23 and we can talk about these more in detail. But again,
24 our perspective was that the residential setback was --
25 was really one of the prime considerations. And I think

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1 we've shown why the location that we've picked and
2 presented to you tonight is the best location on the
3 property. Even the last one we thought was a good one
4 two months ago, but it did have the residential setback
5 variance to the residence -- that existing residence to
6 the west there. We don't have that with this proposed
7 location.

8 And I think with that, unless you have any
9 questions of me, which I'd be glad to answer, I'm going
10 to turn it over to Melissa and let her kind of expand on
11 -- on some of the justifications that I've talked about
12 and then -- and then also add her input.

13 BOARD MEMBER RICH: I do have one question.

14 MR. BEOUGHER: Please.

15 BOARD MEMBER RICH: Do you have the exact
16 footage from the easternmost part of the pad to Morris
17 Road specific?

18 MR. BEOUGHER: Yes.

19 BOARD MEMBER RICH: What -- what is that?

20 MR. BEOUGHER: To our proposed pad?

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21 BOARD MEMBER RICH: Yes, the proposed pad.

22 MR. BEOUGHER: Yes. That was in one of the
23 slides. Let me flip back to it. Let her flip back to
24 it.

25 BOARD MEMBER RICH: Not to the Applewood but

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1 to Morris Road specifically.

2 MS. RIVERA: Yes, we do.

3 BOARD MEMBER RICH: Okay, thank you.

4 MR. BEOUGHER: Oh, from the pad. I see what
5 you're saying. Oh, I'm sorry. We have the well and
6 the -- and the --

7 (Inaudible speaker.)

8 MR. BEOUGHER: This one shows the well and
9 tank batteries and -- see if Ron has some input.

10 BOARD MEMBER RICH: There it is.

11 MR. BEOUGHER: Okay. It's just not boxed
12 up. Yeah. It's 163 feet. If you can see the big
13 graphic that I can see here -- I was going to say, it's
14 probably a little over 150 just taking the 300 by 300
15 pad site off of the 309. So that -- that is
16 dimensioned, it's just not boxed up. 300 -- or 163
17 feet.

18 BOARD MEMBER RICH: Thank you.

19 BOARD MEMBER POSTON: I have a question.

20 Maybe it's more of a comment, but it's something that
21 I'm going to need help with. I'm just going to kind of
22 give you a heads-up. You mentioned, and I'm glad you

23 did, that there's a State Road 1171 and 2499 and that
24 the State covers those. Those roads are --

25 CHAIR MURPHY: Wait a minute. Board Member

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1 Poston?

2 BOARD MEMBER POSTON: Yes?

3 CHAIR MURPHY: They can't hear you from your
4 microphone, so we're going to ask you to share Board
5 Member Walker's microphone. Don't take it personally.
6 All right, there you go. Now continue.

7 BOARD MEMBER POSTON: Are you sure this
8 wasn't prior arranged to cut me off?

9 CHAIR MURPHY: Well --

10 BOARD MEMBER POSTON: All right. What I'd
11 like to know or at least talk about or for you to hear
12 is I'm glad you mentioned that 1171 and 2499 are State
13 roads. But those are roads that service critical parts
14 of our city, of our town. They're absolutely vital.
15 One of the things that I'm concerned with is damage to
16 these roads. And I think we're all aware that the State
17 could take forever to fix something.

18 With some roads, that's not a big problem; but
19 with these roads, it is one. So a concern that I have
20 is damage to those roads that may not be our
21 responsibility, the Town's responsibility; but they
22 certainly would be very, very important to each person
23 who drives on them.

24 MR. BEOUGHER: I could make a comment now or
25 later if you like.

1 BOARD MEMBER POSTON: Sure, now would be
2 fine.

3 MR. BEOUGHNER: You know, our experience has
4 been -- and I'm sensitive to what you're saying because
5 I drive all the roads as well. And all the roads are
6 under construction, as we all know; and that's just a
7 fact that we all get to deal with. However, it's been
8 our experience -- and I don't see any of the Town
9 engineering staff. But when -- when a State road has a
10 major failure, they are not slow in -- in repairing the
11 State roads.

12 I can think of places on 407 where if it's a
13 hazard to the traveling public, they make it a priority
14 and get the road fixed quickly. So I share your
15 concern, but I have maybe a little more faith in TxDOT
16 and repairing the roads to an acceptable level of
17 service.

18 BOARD MEMBER POSTON: I think also, just
19 again, that it may not be that a truck runs into
20 something and causes some catastrophic damage. I'm
21 talking about the type of damage that may occur,
22 excessive wear and tear that may take a long time for
23 the State to get to because that wouldn't be a high
24 priority. But that would make a big deal of difference
25 to our Town and how it looks. So that is a concern that

1 I have.

2 MR. BEOUGHNER: Well, by -- you know, being a
3 State road, I think the State -- if it was a concern, I
4 think the State would certainly keep the roads in a safe
5 condition. You know, I've seen them do it on 407 and
6 1171 when they have settlement failures from traffic,
7 and -- and not necessarily gas traffic, just normal
8 daily traffic. You know, out west on 1171 in some of
9 those curves they've done some repair there.

10 And on 407 even on the concrete section near
11 McGee store they had some significant settlements, and
12 they -- they were pretty quick to repair those as well.
13 So you know, we could -- we could talk on about that;
14 but I think the State will take care of their roads.
15 They always have.

16 MS. LINDELOW: I'm Melissa Lindelow, an
17 attorney with K & L Gates out of their Fort Worth
18 office. That address is 301 Commerce Street, Suite
19 3000, Fort Worth 76102. And I'm an attorney
20 representing the Applicant on this matter. Before I get
21 into the justifications for the variance, I want to kind
22 of expand on what Von was saying about the issue with
23 the State roads.

24 I'd like to point out that the Town's ordinance
25 requires us to direct our traffic onto the State roads,

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1 so we don't have a choice by the Ordinance. That's also
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2 not something that we can get a variance to. With
3 regard to maintenance, we're going to fully comply with
4 Town ordinances related to road maintenance. And I'm
5 not sure that it bears directly on the request for the
6 variances since those are related to setbacks and not
7 State road issues, but we'll fully comply with the
8 Town's regulations for the road route.

9 What my purpose is here tonight is to direct us
10 to the criteria for the Board granting a variance. And
11 your ordinance is very specific and lays out 12 criteria
12 that the Board must consider in granting the variances,
13 so I want to make sure we do a really thorough job in
14 explaining to you how we've met the burden of
15 establishing that the variance is appropriate in this
16 instance.

17 So you will hear a little bit of redundancy to
18 what Von said, but I'm hoping to put it in a different
19 light and cast it in the light of the condition --
20 conditions in your ordinance. Okay. As I go through
21 the slides you'll see the criteria 1, 2, 3, 4 listed at
22 the top of each slide; and those correspond to the
23 packets that you received as well as I think the order
24 in the Town's ordinance, if you're familiar with that.

25 The first criteria relates to special

1 circumstances on the property. Why is this a unique
2 piece of property that warrants the Town's granting of a
3 variance. That's an important question. And I think as

4 you'll see, and as you might have already seen from
5 Von's presentation, this is a very unique piece of
6 property. This property, as you know, is planned for
7 the Riverwalk development which will break ground in
8 2008.

9 The reason that's relevant is because there are
10 imminent plans to develop the surface, and so any effort
11 to locate a gas well on this site automatically
12 implicates concerns and -- concerns regarding the
13 Riverwalk development and the regional hospital that's
14 planned for this site. So you will hear me talk about
15 those and how those tie into the variance criteria,
16 because I think there's a very direct nexus; and these
17 things all have to fit together at the end of the day.

18 As I've explained just now, there is a contract
19 that the surface owner has with the regional hospital
20 entity; and the contract is for the sale of land on the
21 western portion of the site. I'm not sure what the
22 exact acreage is, but it's several acres on the western
23 portion of the site for the construction of a hospital.
24 And the surface owner and developer and the hospital
25 have spent substantial amounts of time and money

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1 planning this use of the surface.

2 And so as a result, all three entities, including
3 the gas well operator, are trying to work together to
4 find a compatible use of the surface and also work
5 around all of the Town's Smart Growth and drilling
6 ordinance requirements. So it's a very complicated

7 process.

8 CHAIR MURPHY: Is it okay if we stop and ask
9 questi ons --

10 MS. LINDELOW: Sure.

11 CHAIR MURPHY: -- while you go through it?

12 MS. LINDELOW: Absol utel y.

13 CHAIR MURPHY: Thank you.

14 BOARD MEMBER RICH: May I inquire at this
15 time, is the hosp ital also a mi neral right owner?

16 MS. LINDELOW: I don't believe so. I
17 believe the minerals are all owned by one entity. Okay.
18 And then of course the mineral lessee does have the
19 right to drill under the Town ordinances, and that right
20 is limited to the Riverwalk tract. They do not own the
21 minerals off site, and they do not have the right to use
22 the surface surrounding the Riverwalk tract.

23 I'm showing you the Riverwalk tract in red, and
24 that's of course the 134 acre tract that's planned for
25 the Riverwalk development. The pad site is only about

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1 two acres, and that is actually the property on which
2 the application is made where we're going to be
3 considering these things. But because we heard your
4 requests in prior hearings on prior cases to show us
5 alternative sites, show us how everything fits together,
6 you'll hear me talk about both the Riverwalk tract which
7 134 acres and the pad site which is actually the subject
8 of application. And that's in yellow, and that's a two

9 acre site.

10 And I'm going to continue. You'll see quite a
11 few points on this criteria Number 1. It's probably the
12 most significant one in your ordinance. As I stated
13 before, the Town allows drilling by right. So when we
14 talk about is there something special on this land that
15 doesn't apply to other property in the area, well, first
16 I wanted to point out that all the property in the area
17 is subject to the Town's drilling ordinance, which is
18 uniform throughout the city limits and allows drilling
19 by right.

20 I want to be very clear about that point, because
21 I've spoken to the town attorney in the past; and your
22 ordinances were designed with that in mind, with respect
23 to the mineral rights owners under state and federal law
24 -- with respect to the mineral owners' right. And so it
25 was by design that drilling is allowed by right. The

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1 difficulty for us comes in when you apply the various
2 Town setbacks, and that's why we're here asking for a
3 variance. But I want to be very clear that we do have
4 the right to drill on the Riverwalk tract.

5 Because of the challenges that Von has already
6 walked you through, it's -- it's impossible to drill on
7 the Riverwalk tract without a variance. In fact,
8 multiple variances are required. So I also want to
9 emphasize that point. It is without a doubt impossible
10 to drill on this tract without multiple variances, and
11 I'll go through that in more detail in just a moment.

12 Each time we looked to avoid one setback and adjust the
13 site, we found that it inevitably led to multiple other
14 variance requests. There was no way around it.

15 We've tried every inch of this site to try to
16 minimize variances and minimize impacts; and inevitably
17 every time we changed one thing, we created other
18 problems. So as Von explained, we've prioritized it;
19 and we've made sure that we've stayed away from
20 residences. And we've made sure that if we're within
21 the required setback from any buildings that we have
22 those landowners' consents and the building tenant
23 consents, and we did obtain that.

24 I know you've seen this previously. I just want
25 to emphasize this and show it to you in a little bit

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1 more detail. Right there you see the -- almost the
2 majority of the site is an environmentally sensitive
3 area; so anything in dark green, you can't drill there
4 and meet setbacks. We have the right to drill in the
5 dark green area, but we can't meet the setbacks.

6 When you add property lines, I believe it wipes
7 out 103 acres out of this 134 acre tract. We lose 103
8 acres just by having property lines around our property,
9 which by the way, all properties are subject to that
10 same constraint. So you can see that it wipes out the
11 majority of the site, leaves kind of a donut hole in the
12 middle. And what's in the middle, a bunch of floodplain
13 and floodplain setbacks.

14 Add to that the existing building setbacks from
15 the church and Applewood to the east, and you've wiped
16 out that purple area. Add to the fact that you've got
17 existing and proposed thoroughfare extensions and the
18 orderly growth of this tract and extensions of lights on
19 the east and the west, and you wipe out those areas.
20 And then in red, that shows you everything that's wiped
21 out by residential. There is nowhere on this site that
22 doesn't require multiple variances. There's the pad
23 site, and you can see that we've located it with minimal
24 impact.
25 I just want to take you quickly through

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1 floodplain. And I respect what your town attorney told
2 you, but I would respectfully request that you consider
3 the evidence. It's our burden to show you evidence
4 demonstrating that we are not having a negative impact
5 on the surrounding area. Although the Town's ordinances
6 measure floodplain setbacks from the 1996 FEMA
7 floodplain, that doesn't preclude us from presenting
8 evidence that we've mitigated that.

9 The detailed flood study that's been done does
10 show that we're 146 feet from areas that are flood
11 prone. It may not be FEMA recognized floodplain yet,
12 but that's where it's going to flood when it rains; and
13 we're 146 feet away from those areas, as Josh has
14 explained. By the way, the previous variance request
15 that was denied, we were zero feet from the floodplain.
16 So even measured off FEMA, we have increased that by 30

17 feet.

18 The next issue is public park. I'm sure you're
19 all familiar with Timber Trails Park. It's located to
20 the north of our tract, and it's primarily in the
21 floodplain and inaccessible; so a lot of people may not
22 know that it's there. But it is recognized in your
23 Master Plan, and I believe that is a city park. We are
24 farther away from that park than we were in our original
25 variance request.

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1 But nevertheless, in order to mitigate other
2 things like distances from residential, we had to move
3 and stay to the north. That was really our only choice
4 there, but we are further away from it than we were
5 originally. I also think that we endeavored to stay
6 away from other private property lines; so by locating
7 near the park and Morris Road, those are public property
8 lines.

9 The park is, nevertheless, generating the need
10 for multiple variance requests. Because every time you
11 have a variance, it's from the tank and the well; so
12 that's two. And when you have a park property line, you
13 automatically have a property line; so all of a sudden
14 you now have four variances because of one decision to
15 move near a park. So although it sounds like we have a
16 lot of variances, they're all for the same thing when
17 you really stop and look at it.

18 Right-of-way is a similar situation. We had to

19 move near Morris Road to get away from residential
20 areas. In doing so, we inevitably moved closer to a
21 property line. There you have four variances all of a
22 sudden by moving closer to Morris Road. I do want to
23 point out, that's a 120 foot right-of-way.

24 And so we'll talk about that a little later with
25 regard to our efforts to mitigate impacts. It is a 120

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1 foot right-of-way; but nevertheless, it's a unique
2 property condition because anywhere we go, we're near
3 property lines, roads, public parks, residences. And
4 that's the point I'm trying to get across with Criteria
5 Number 1.

6 Okay. Von walked you through the thoroughfare
7 plan. These are your existing roads, 2499 and Morris.
8 You've got automatic 500 foot setbacks from that. But
9 since people don't do things in a vacuum, we looked at
10 your thoroughfare plan. We noticed Eaton walks --
11 wanders through the site there on the north and impacts
12 the location of our proposed pad site.

13 We noticed Forums Drive is on the thoroughfare
14 plan, and we noticed that Windsor is at the light there
15 on the west where the hospital is planned and will be a
16 natural and logical extension through the site. In
17 fact, that's part of the plan for the surface
18 development. So when you take all these things into
19 consideration, you don't want to locate a pad site that
20 then precludes imminent surface development.

21 We know where the hospital is going to go. We

22 know where the Riverwalk is planned. And so we tried to
23 also locate the pad site so -- pad site so that we don't
24 jeopardize the surface development that's under way.
25 One thing you'll see -- Item Two on the agenda, and I

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1 don't want to get into that; but it is -- all of this is
2 tied together.

3 Eaton to the north, we've located our pad side --
4 pad site from the proposed right-of-way of Eaton Road
5 300 feet. Your ordinance will require -- if we come in
6 first, it will require Eaton to come in later with 500
7 feet. Since we know that's going to be a problem now,
8 we're also asking for a variance to get that down to 300
9 feet so that Eaton can go in its planned location.

10 Another consideration is just the heavily treed
11 nature of the site. We located the pad site in an area
12 where we could take advantage of the trees to the east
13 of the site, and I'll show you with these photos. That
14 provides a logical natural barrier, natural screening
15 device.

16 This is a lot better than trying to build a wall
17 around a well site and then say it's screened. This
18 does the trick. All those trees will be preserved and
19 form a natural screening and sound barrier; and not only
20 that, you get to preserve trees. So I think it's a
21 win-win situation.

22 Public buildings, as I explained before, to get
23 away from the residential areas and to stay out of the

24 floodpl ain, we moved to the northeast. In doing so we
25 drew closer to some public buildings. There are two

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1 public buildings, First Baptist Church and Appl ewood.
2 And both of those tenants and landowners have consented
3 to the requested variances. There's not an objection.

4 Okay. Let's move onto Criteria Number 2. And
5 this one is related to are we going to have the same
6 rights to use the property that are enjoyed in the
7 vicinity and the zone but are denied to us for certain
8 reasons. Once again, I want to reiterate that we have
9 the right under federal and state law as well as Town
10 ordinances to drill on this site, as do other mineral
11 owners throughout the city limits. So everyone enjoys
12 that right.

13 Due to the special considerations on this site,
14 there's no location on this site where we can exercise
15 those rights due to Town setbacks; so a variance is
16 required to grant us the relief to exercise our mineral
17 rights. This chart we prepared to just show you the
18 impact of the setbacks. Because it's one thing to say
19 there's a 300 foot setback. Does anybody realize, well,
20 that's a -- that's a football field. And yet many of
21 our setbacks are more than three times the length of a
22 football field.

23 The residential setback wipes out 116 of 134
24 acres. Public building wipes out 18 acres. And you can
25 see as we go down the list, just the property lines

1 wipes out 103 of our 134 acres. And you know, we've got
2 the Waters of the State and the floodplain going
3 throughout -- up north and south. We've got
4 thoroughfares going east and west. You layer it all
5 together, and it's impossible to meet setbacks on the
6 site.

7 The third criteria is whether we'll have any
8 adverse impact on the comprehensive plan. And this is
9 kind of an interesting one since your comprehensive plan
10 doesn't mention drilling. So the first thing I guess
11 I'd point out is that the Town recognizes drilling as
12 permitted by right. It does not treat it as a land use
13 that should be confined to certain areas. Your drilling
14 ordinance is the exclusive regulatory authority for
15 that.

16 Nevertheless, let's talk about how the Master
17 Plan is impacted. If we go with the pad site as
18 proposed, it preserves the Riverwalk development. And
19 that's when your Master Plan becomes very relevant,
20 because your Master Plan seeks to have economic
21 development within the city, generation of sales tax,
22 park and floodplain improvements. And all of those
23 things -- thoroughfare plan improvements, all of those
24 things are coming with the Riverwalk.

25 So if you allow the Riverwalk to remain viable by

1 not causing us to go in some other location on the site,
2 then the Riverwalk remains viable and we don't have any
3 impact on residential uses that are existing. So I
4 think that's a great testament to what we've done here
5 with this pad site location. Not only that, you've got
6 the regional hospital that's planned. The current pad
7 site location preserves the hospital, allows them to
8 move forward through the city with their remaining --
9 remaining entitlements.

10 There I've shown the Riverwalk. You can see
11 where they're going to do extensive floodplain
12 channeling and improvements and tie all that into Timber
13 Trails Park to the north. All of those things are
14 definitely consistent with your Master Plan. None of
15 those things may happen if our pad site has to be
16 located somewhere else on this site. In any event, that
17 would require multiple variances. So we'd still be back
18 here talking to you about that, and there'd be no
19 Riverwalk.

20 I think I just touched on this same point. The
21 Riverwalk will bring substantial floodplain and park
22 improvements to that area, including public park
23 improvements. Same with thoroughfare plans, that's a
24 component of your Master Plan. The pad site location
25 we're proposing preserves the alignment of Eaton Road,

1 Forums Road and the logical extension of Windsor. We've
2 planned around all of these roads to allow not just the

3 thoroughfare planned roads to be built, but also to just
4 allow the orderly growth of the site to proceed with
5 natural extensions of roadways east and west.

6 The next standard is whether our variance, if
7 granted, will have a material detriment to the public
8 welfare or injury to the use, enjoyment or value of
9 property in the vicinity. Well, first thing I want to
10 point out is that the property in the vicinity is mostly
11 the surface owner's property; and that surface owner has
12 consented to this pad site location.

13 And then the next closest property owners are
14 really the Town as the owner of the public park and as
15 the owner of a 120 foot right-of-way from Morris Road.
16 The next impacted property owners would be the property
17 owners to the east of Morris Road, all of whom have
18 consented to the variance.

19 Another standard which is relevant is whether the
20 operations are consistent with the health, safety and
21 welfare of the public and if conducted in accordance
22 with permit conditions. We are meeting all of your
23 standard ordinance components, including the roadway
24 management ones that we talked about earlier. We're
25 just looking at setback conditions, and that's the only

1 subject of this variance.

2 Are we -- is the proposed variance consistent
3 with protecting ecological integrity and environmental
4 quality, water resources, etcetera. We do preserve the

5 use and enjoyment of the Riverwalk tract, that's the
6 first thing I want to point out. When we're talking
7 about use and enjoyment in the vicinity, we're talking
8 about the surface owner in this 134 acres in allowing
9 them to proceed.

10 If that proceeds, then that public park opens up,
11 it gets significant flood and other improvements. It
12 all of a sudden becomes a park that the Town can use --
13 use and enjoy. We're talking about all of the Town's
14 citizens being able to use a park that's now
15 inaccessible.

16 I want to point out some mitigating facts and
17 circumstances that come with this proposed variance.
18 We've got the closed loop system; and I think just from
19 a floodplain perspective, that helps mitigate any
20 concerns that we're within a required setback from the
21 floodplain. We're going to be providing a mulch berm
22 and erosion control practices. We have voluntarily
23 provided a storm water pollution prevention plan. In
24 fact, this operator does that on all of its sites in
25 Flower Mound.

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1 We're preserving existing trees along Morris.
2 That really presents just a great site condition,
3 because that's going to be a sound buffer, a visual
4 buffer. Plus the trees are preserved, and I know
5 everybody likes to see that happen. Morris Road itself
6 just provides a natural barrier of 120 feet rather than
7 having a private property owner directly abutting the

8 pad site or even the surface owner tract.

9 So you've got our pad site. Then you've got some
10 surface owner land. Then you have a 120 foot wide
11 right-of-way. Then you have property owners to the
12 east. And like I said, they've also consented to the
13 requested variances. The pad site is difficult, if not
14 impossible, to view from the east, northeast and
15 southeast.

16 I think Von showed you photos that illustrate you
17 will really have to try to see this pad site. And even
18 then, you have a very limited window of opportunity to
19 view it if you're driving at a slow distance along
20 Morris Road. You would have to try to see it. You
21 might catch a glimpse of the corner of it. The majority
22 of it is invisible to anybody driving down Morris Road.

23 Are we within close proximity to private
24 property, no, not other than the Riverwalk tract. We're
25 several hundred feet away from the owners to the east.

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1 Like I said, they've consented. We're not within close
2 proximity at all to any other private property. Are we
3 within 1,000 feet of a residence, no. That was our
4 primary concern was coming back to you and saying --
5 we're not asking for a residential variance. We heard
6 you loud and clear the first time.

7 We're more than twice the recommended distance
8 from public buildings recommended by the National Fire
9 Code and National Firefighter's Association, more than

10 two football fields away from the nearest public
11 building. In fact, you can't see the pad site from that
12 public building.

13 The existing conditions, floodplain, like I said
14 earlier, where it's actually going to flood, which is
15 what we should all be concerned about, that's 146 feet
16 away from the pad site. Not just the wells, but just
17 from the edge of the pad site it's 146 feet. The pad
18 site is elevated above the floodplain, as Josh explained
19 earlier. And he can also answer any detailed questions
20 you have on that.

21 But you know, from a setback perspective, that
22 doesn't necessarily do the trick if you're the same
23 elevation. So not only are we 146 feet away from areas
24 that actually flood, we're elevated above those areas.
25 We're providing an emergency response plan. We're

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1 preparing to provide an eight foot masonry wall and
2 extensive landscaping around the pad site. Mind you, it
3 still can't be viewed from the road; but we're doing
4 this for safety reasons, for sound reasons, for
5 aesthetic reasons.

6 We're providing primary access as required, and
7 we've got our secondary emergency access that's been
8 approved by the fire marshal. We're going to provide
9 double-stacked trailers as a sound barrier during
10 drilling. You won't be able to see those from Morris
11 Road because of the trees, but that'll be a very
12 effective sound barrier. That's pretty much the best

13 standard in the industry right now.

14 Red Oak itself has provided emergency and safety
15 training and equipment to the Town's firefighting staff.
16 So they've voluntarily gone out and helped train and
17 provide equipment to the Town that the Town didn't have.
18 And that equipment, by the way, provides a benefit for
19 the Town as a whole, not just with respect to gas well
20 sites. We're meeting insurance and security
21 requirements. We're meeting all TCEQ requirements,
22 including casing requirements to take care of ground
23 water concerns.

24 We're providing an automatic shutdown system. If
25 the tanks are near capacity -- I'm not sure that's a

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1 requirement. I think that's something we voluntarily
2 provided. We're providing a pressure sensor system for
3 shutdowns and a gas detection monitoring system which
4 automatically shuts it down and sounds alarms. So I
5 believe when you consider all of those things together,
6 we've more than mitigated any impact that might be
7 perceived from a reduced setback.

8 The next standard is whether the operations are
9 reasonable under the circumstances and conditions
10 prevailing in the vicinity and considering the
11 particular location and character of the improvements.
12 I think for all the reasons I've already gone through,
13 we've met the burden of demonstrating that this location
14 is a reasonable location given the property constraints

15 and unique situation of the property and given the way
16 we've mitigated any impacts that we may have, we've
17 mitigated those. And we've stayed away from other
18 property owners that would have concerns regarding gas
19 well operations.

20 The next standard is whether the drilling would
21 conflict with orderly growth and development of the
22 Town. I think we've already touched on that as well.
23 And not only does our drilling not conflict with orderly
24 growth, it promotes the orderly growth by preserving the
25 Riverwalk tract as a viable development site for the

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1 Riverwalk development and a regional hospital. I do
2 want to point out that the Riverwalk tract and hospital
3 site are pretty much on hold in limbo until this gas
4 well site is decided.

5 And the hospital is here to speak if you have
6 questions, but I think they're more than prepared to
7 tell you that this is holding up the hospital; and it
8 really needs to be decided so they can move forward.
9 They've got time lines they have to meet, and they're
10 getting to be very tight; and that may jeopardize the
11 hospital. The thoroughfare plan, allowing the pad site
12 to be located whereas has no adverse impact on the
13 thoroughfare plan, allows all the extensions of the
14 roads.

15 I'm sorry if I'm being a little redundant, but
16 some of the criteria seem to overlap. The extension of
17 Windsor and east -- Eaton to the east and west,

18 Windsor's not on the thoroughfare plan; but that's a
19 logical extension. We're allowing extensive floodplain,
20 park and trail improvements to be made as part of the
21 Riverwalk, which might not happen if the pad site has to
22 be relocated somewhere else in the Riverwalk tract.

23 Are there alternative well site locations, I know
24 that Von went through this and touched on alternatives
25 A, B and C with you. The previous pad site was denied,

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1 and that was in much the same location as C. And A and
2 B are very close to residential, so I don't think those
3 are viable locations from the standpoint of granting
4 variances. There is no location on the Riverwalk tract
5 that allows the mineral lessee to access its minerals,
6 no location.

7 I'll just show you those sites again. We've gone
8 through those. I think those result in variances that
9 are more controversial and would nevertheless require us
10 to come back to the Board at least once, if not many
11 times. I believe we've provided the best pad site
12 location on the Riverwalk tract.

13 The next standard is whether there is reasonable
14 access for Town fire personnel and firefighting
15 equipment. The answer is absolutely. We're providing
16 it on 2499 as required by Town ordinances. We've also
17 got secondary access from Morris Road that's been
18 approved by the fire marshall, and this shows the route
19 there.

20 The next standard is whether the impact upon
21 adjacent property and the general public by operations
22 conducted in compliance with the oil, gas or combined
23 well permit conditions are reasonable and justified
24 balancing the following factors: the reasonable use of
25 the mineral estate by the mineral estate owners to

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1 explore and develop and produce the minerals and the
2 availability of alternative drill sites.

3 As I've explained for the reasons we've gone
4 through, I believe this is a reasonable and justified
5 pad site location due to the constraints on the
6 property. We have very limited choices. We've picked
7 the location with the least negative impacts. In fact,
8 I don't believe it has a negative impact at this point.
9 I think we've mitigated all of those concerns.

10 And the inability to drill at other locations on
11 the Riverwalk without, you know, not only having an
12 impact on that surface development but jeopardizing it;
13 so we've located in a site that allows the surface use
14 to continue. And I want to reiterate that only the
15 Riverwalk tract is really the surface around us.

16 You've got a public park that will benefit
17 greatly from the Riverwalk development. You've got
18 Morris Road right-of-way; and you've got property owners
19 and property way further east, all of whom have
20 consented to the requested variances. I think our
21 mitigation measures mitigate any concerns, but
22 particularly concerns about floodplain and safety.

23 And once again, I just want to point out we are
24 not near any residences or privately owned property
25 other than the surface owner who's of course consented

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1 to this site. We've also preserved the Town's ability
2 to implement its Master Plan from an economic
3 development perspective, a land use perspective, a
4 thoroughfare and transport -- transportation planning
5 perspective and a parks and trails perspective.

6 Another thing I want to point out that hasn't
7 been mentioned tonight is we chose to do a single pad
8 site and address this with these variances rather than
9 coming back to you with different wells throughout the
10 property causing different problems. We said let's
11 accumulate those in one area, and let's ask for those
12 variances at one time. And lastly, the site that we've
13 chosen results in the fewest actual impacts on protected
14 areas under the Town's drilling ordinance.

15 I'm available to answer questions if you have
16 any.

17 CHAIR MURPHY: I do have a question for you.

18 MS. LINDELOW: Okay.

19 CHAIR MURPHY: You just said that you had
20 chosen to choose those two web -- the two well sites.
21 Will there be more than two well bores on a pad?

22 MS. LINDELOW: Let me let Red Oak answer
23 what their plans are. Do you want -- we have a
24 representative from the Applicant who can speak on that.

CHAIR MURPHY: Make sure you state your name

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1 and address.

2 MS. LINDELOW: Do you have anymore questions
3 for me after that?

4 CHAIR MURPHY: Oh, no, I don't -- I -- does
5 anyone else have a question?

6 BOARD MEMBER POSTON: I will.

7 CHAIR MURPHY: Yes, they do. So hang on
8 just a moment, please.

9 MR. DINAS: Tyler Dinas, 685 Chaparral
10 Court, Highland Village. Right now we're requesting two
11 wells. And generally what you do is you drill a couple
12 of wells and see what you've got. And then if it's
13 better, then you would try to grow that position.
14 Additionally we're hoping to expand our lease position.
15 We, you know, are talking to other offset people.
16 There's quite a few people. I think there was some
17 e-mails that you probably were provided from some
18 property owners to the northwest.

19 The Barnett Shale tends to be drilled in a
20 northwest-southeast direction. And so it's -- you can
21 -- you can come out about 1,000 feet and also go back;
22 so you kind of have -- so there's potential for 10 to 12
23 wells there.

24 CHAIR MURPHY: On that one pad site?

25 MR. DINAS: Yes. So you could essentially

1 -- from a two-acre site you can develop about maybe
2 1,000 to 1,200 acres of minerals.

3 CHAIR MURPHY: Thank you, Tyler.

4 MS. LINDELOW: If I can expand on that.
5 That eliminates the need for other pad sites. You can
6 see this is a tight area to drill. I'm sure that the
7 circumstances on our property are probably going to be
8 present in the vicinity. Also we'll obviously comply
9 with Town ordinances; so if that requires us to come
10 back for other variances, then that's what we'll have to
11 do.

12 CHAIR MURPHY: Anyone else have a question?

13 BOARD MEMBER POSTON: Yes. I'd like to --
14 to go back to you -- your very -- your very beginning
15 where you mentioned that with all due respect that we
16 should not consider perhaps our Town attorney's, you
17 know, guidance, if you will. I'm of the belief that we
18 have without a doubt the finest town attorney in north
19 Texas. And I mean, this guy knows statutes backwards
20 and forwards.

21 So my question to him was pertaining to should we
22 ask -- or should we abide by something that may be
23 approved or something that is already on the books.

24 CHAIR MURPHY: Board Member Poston, you
25 know, again, I want everyone to hear. I think you need

1 to back away from the mic, okay. Its's too loud out
2 there. They can't hear. So now then let's try it.
3 Continue.

4 BOARD MEMBER POSTON: But the other -- the
5 other things were you had mentioned that -- in starting
6 that my question about FM 1171 and 2499 weren't really
7 germane to the discussion, but I wasn't the one that
8 brought that up. And since then thoroughfares have been
9 mentioned four times, so that gives me, you know, cause
10 to wonder where, if you know, are the plans for
11 completions of those thoroughfares at this point. Have
12 they been reviewed by any officials, say, of TxDOT or
13 any type of official?

14 MS. LINDELOW: Okay. Let me address these
15 one point at a time. With respect to the setbacks from
16 the floodplain, Alan Lathrom is absolutely correct that
17 your ordinance recognizes the 1996 setback. And I think
18 that is correct, and I don't dispute that. The
19 distinction I'm making is that as the Applicant seeking
20 a variance from this Board of Appeals, it's our burden
21 to demonstrate that we've met the criteria.

22 Obviously we're asking for a setback so that we
23 can locate 30 feet from the 1996 FEMA floodplain, and
24 that's without a doubt. But what comes along with that
25 is how are we mitigating that; how are we showing that

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1 there's no adverse impact, how are we showing that we've
2 maintained ecological integrity. And so part of our
3 evidence is that there's been a very detailed study for

4 the first time of that area by an outside engineer with
5 Jacobs, Carter & Burgess that specializes in this kind
6 of study. And they've prepared that study, and it's
7 shown that we're 146 feet away from areas that are
8 actually going to flood. So from that perspective I
9 think that evidence is very relevant.

10 With respect to the transportation planning
11 component, road maintenance, pot holes, road repairs,
12 those are issues that are handled by TxDOT under its
13 authority. And issues that are handled under the
14 drilling ordinance of the Town -- I'm not sure how the
15 Town handles that, but I'm sure there's a component of
16 the drilling ordinance that addresses roadway
17 maintenance.

18 I know most Towns require roadway maintenance
19 agreements, and Staff can speak to that. I'm coming at
20 it from a completely different perspective, which is the
21 components of the Master Plan. The Town's Master Plan
22 does show Forums Road. It shows Eaton. It also -- it
23 doesn't show it, but they're existing. 2499 and Morris
24 Road are existing, so those are existing transportation
25 improvements that impact our ability to drill on the

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1 site under the Town's setback requirements. So they're
2 very relevant from that standpoint.

3 Windsor is not shown on the thoroughfare plan,
4 but it's an east-west extension that's part of the
5 orderly growth of this tract, which you'll find is a

6 standard in your drilling ordinance and in the Town's
7 Smart Growth and Master Plan. And Windsor is the light
8 -- there's an existing light there, and that's where
9 that road would logically be extended east; and that's
10 the road that's going to be considered by the hospital
11 as part of how it's sited its location directly to the
12 north of Windsor.

13 BOARD MEMBER POSTON: Thank you, I
14 appreciate that. I -- you know, once again, it was
15 brought up; and I thought that you might have more
16 amplification or information on it. Thank you.

17 BOARD MEMBER WALKER: I have a question.
18 What is the elevation -- I think it was six feet, but
19 that was from the existing conditions study; is that
20 correct? What is it from the '96 FEMA map?

21 MR. HOLLAND: On Timber Creek the elevation
22 -- 100-year water surface elevation is approximately
23 573. The -- that is the regulatory 100-year water
24 surface elevation. That's the six-foot difference. The
25 -- last year's DFIRM modelling actually lowers the water

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1 elevation in that area by approximately two feet. So
2 from the proposed DFIRM, the one that had not been
3 approved yet, the vertical separation is more like eight
4 feet.

5 BOARD MEMBER WALKER: Okay. But six feet is
6 the guidance that we have to rely on tonight?

7 MR. HOLLAND: Yes.

8 BOARD MEMBER WALKER: I just wanted to

9 verify that. Thank you.

10 BOARD MEMBER RICH: I have a question. You
11 had made a comment several times that not -- that not
12 receiving the variances will jeopardize the Riverwalk
13 development. Could you elaborate on that, please?

14 MS. LINDELOW: Sure I can. And we also have
15 the Riverwalk developer's representatives here to speak
16 to that as well as the hospital if you're interested.
17 It might help if I go back to a slide. Randi's going to
18 help me. I've been getting by without her so far.

19 You can see the Riverwalk development basically
20 takes up the majority of that site. Now, they are in
21 the zoning entitlement process; but this is the surface
22 owner's plans. And given these plans, the surface owner
23 and the mineral lessee have agreed to locate in the
24 northeast side. Now, I won't say that isn't without an
25 impact, because it did affect their Master Plan, as they

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1 pointed out to me.

2 But it didn't impact the integrity of the plan or
3 (inaudible). As you see up there, the former well site
4 was in the northwest portion of the property. And so by
5 locating the proposed well site tonight to the
6 northeast, they were able to take back that land and put
7 that area back intact when they moved the well site.
8 But I know that they plan to speak as part of the public
9 hearing. I don't know if you want them to come up here
10 and address it.

11 But any time you move, as we've shown you, you
12 generate these huge setbacks; and when that happens, you
13 can't go less than 300 feet. So even if we got
14 variances to go within zero from everything as a gas
15 well operator, we've automatically triggered a 500 foot
16 setback from everything that that Riverwalk developer
17 ever does, including a sidewalk, a fire hydrant. They
18 can't put a fire hydrant within 500 feet of us.

19 So if you move that south, you can't have a 500
20 foot radius spring out in the middle of a master planned
21 project like that without basically bifurcating it or
22 jeopardizing the entire project. And so we have tried
23 to help keep that project intact. That's just one of
24 the many reasons, the overall site constraints first and
25 foremost.

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1 BOARD MEMBER RICH: You're not -- you're not
2 stating that the -- that the Riverwalk development will
3 not go through if there is not a gas well? Or is --

4 MS. LINDELOW: No, that's not what I'm
5 stating.

6 BOARD MEMBER RICH: Okay. I want to make
7 that clear.

8 MS. LINDELOW: I'm stating that --
9 (Inaudible speaker from audience.)

10 BOARD MEMBER RICH: Excuse me, excuse me.
11 Order please.

12 MS. LINDELOW: Thank you. The Riverwalk
13 will be impacted by any attempt to move the gas well

14 site. I think they intend to develop the surface, just
15 as we intend to develop the minerals. But the two have
16 to coexist; and to do that with the least amount of
17 disruption, we've chosen this as the pad site. I think
18 if we were to move south or east, it's going to cause
19 enormous changes to this site.

20 And I think you'll hear from the hospital that it
21 will very well jeopardize that. It will negatively
22 affect the Riverwalk, and it will trigger a ripple
23 effect of changes that will make that a different
24 project. The hospital -- you may not get a hospital if
25 we have to move to the east. I think it's best that you

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1 hear from those --

2 CHAIR MURPHY: I also feel very strongly
3 that we are not considering the Riverwalk. That's not
4 what we're here about. We're here strictly about this
5 gas lease. And the impact of the Riverwalk is -- has no
6 bearing on our decision.

7 BOARD MEMBER WALKER: I just want to
8 reiterate and for the record so that -- and all these
9 comments about a hospital maybe will be here and maybe
10 not is not part of our discussion for this particular
11 case.

12 MS. LINDELOW: Okay. Can I respond how it's
13 relevant from the mineral owner's perspective since
14 we're the Applicant with a burden to meet? I think it's
15 relevant because for one thing, some of the standards in

16 your ordinance draw in the Master Plan; and they draw in
17 the use and the reasonable use and enjoyment of the
18 surface of the property surrounding the gas well. So
19 your own ordinance makes it very relevant. And in
20 addition --

21 BOARD MEMBER WALKER: Yes, but this is a
22 proposal --

23 MS. LINDELOW: In addition --

24 BOARD MEMBER WALKER: Let me just interrupt.
25 This is a proposal. This is not an approved

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1 development. If it was an approved development, that
2 would be a different situation. It's a proposal at this
3 point. And we -- we're precluded from considering
4 proposed development in the granting of variances for
5 gas wells.

6 MS. LINDELOW: Right.

7 BOARD MEMBER WALKER: We -- we are outside
8 of the jurisdiction of the charge of this Board. We're
9 not Planning and Zoning. We're not PALS. Our job is to
10 look at the merits of your variance request and really
11 to discount any maybe future development that may or may
12 not be affected. It really is off our -- the scope of
13 our consideration for this particular case.

14 Now, if these variances are granted, the third
15 item on our agenda is to consider setbacks for a
16 proposed development. That is per our ordinance. But
17 this is out of sequence to be talking about, you know,
18 may or may not have a hospital, etcetera. It really is

19 not part of our -- I don't believe.

20 CHAIR MURPHY: I don't --

21 BOARD MEMBER WALKER: I mean, I'm certainly
22 -- offer opinion from the Town attorney. But from the
23 instructions we received, it is not to be considered
24 when we go through this particular agenda item, Number
25 Two.

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1 CHAIR MURPHY: I think it really clouds what
2 we're trying to achieve here, because we seem to get
3 focussed or derailed on another attention. And the
4 details of the Riverwalk are not what we're concerned
5 about. We're concerned about the big picture, but not
6 the details. And I just want to make that clear.

7 MS. LINDELOW: If I can respond. I think I
8 understand your concerns with that. I think part of the
9 criteria is, though, to consider the surface owner's use
10 and enjoyment. Regardless of how that Riverwalk
11 develops, there is an existing surface owner that does
12 have the right to develop; and we do all have to work
13 together. So I think it is related.

14 And we've tried to do something that not only has
15 the least amount of impacts under the drilling
16 ordinance, but for the planned surface development.
17 We've tried to do something that doesn't interfere with
18 the contractual rights between the surface owner and the
19 hospital that exists today. And so we have worked
20 around all those things.

21 CHAIR MURPHY: I will say the presentation
22 was outstanding, Ms. Lindelow. And I'm very pleased
23 with it. Before we go further, it is 8:08. I would
24 like for us to take a break for ten minutes and
25 reconvene at 8:18.

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1 (A recess was taken.)

2 CHAIR MURPHY: It's 8:20, and we are
3 reconvening the meeting. If everyone would please take
4 their seats. We don't want to miss a word. At this
5 time the Board of Adjust -- the Board -- the Oil and Gas
6 Board of Appeals is going to go into executive session
7 for the discussion of matters with its attorney as
8 permitted by Section 551.071B of the Texas Government
9 Code. The time is now 8:21.

10 (The Board meets in executive session.)

11 CHAIR MURPHY: Okay. Now it's 8:27, and we
12 were with the Applicant presenting his case and Mrs. --
13 Ms. Melissa Lindelow was leaving. The Applicant --
14 anymore information from the Applicant? Is the
15 Applicant still here?

16 (Inaudible speaker from audience.)

17 CHAIR MURPHY: Is there anymore information
18 from the Applicant? Did they leave?

19 (Inaudible speaker from audience.)

20 CHAIR MURPHY: Okay. Any questions from the
21 Board before the Town does the presentation?

22 MR. LATHROM: Madame Chair, just a point of
23 order. Did you take us back out of executive session

24 and back into regular session?

25 CHAIR MURPHY: Oh, thank you. Thank you.

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1 The Board is now out of executive session. We're
2 reconvening the meeting for the Oil and Gas Board of
3 Appeals for June the 18th, 2008 at 8:28 p.m. for the
4 Town of Flower Mound.

5 Okay. At this point if the Applicant has
6 concluded, we will move onto Staff presentation. Please
7 state your name and address, please.

8 MR. WOODS: Thank you, Madame Chair. My
9 name is Matthew Woods. I'm director of environmental
10 services for the Town of Flower Mound. My presentation
11 will basically consist of a review of all the variance
12 requests with some aerial maps. This is the extent of
13 the variance requests listed here. There's a request
14 for floodplain variance setback of 500 foot is applied
15 on the property.

16 They are requesting a variance to that setback
17 requirement from the edge of disturbance, and the edge
18 of disturbance is basically the edge of construction of
19 the pad site. They're requesting a variance to the
20 environmentally sensitive areas on the site that were
21 referred to earlier. These consist of the Waters of the
22 State, riparian habitat, upland habitat; and there's
23 also a 500 foot setback measured from the edge of
24 construction or disturbance for ESAs or environmentally
25 sensitive areas.

1 Setback for a public park which is 1,000 feet.
2 There's a setback request, variance request for the
3 public building and a school which is also 1,000 foot
4 setback. There's a variance request for property lines,
5 which is a 500 foot setback from both the tank batteries
6 and the well. There's a variance request for tank
7 batteries and a public park.

8 This is different from the well, as the tank
9 batteries also -- a variance applies to the tank battery
10 location and its distance from public parks as well as
11 the public buildings and schools; and that is also a
12 1,000 foot setback. Storage tanks and property line and
13 storage tanks and the floodplain are also 500 foot
14 setbacks.

15 This is the lease map that was referred to
16 earlier. This is a 500 foot buffer in red and a 1,000
17 foot buffer in green applied to it. This is generally
18 the 134 acre tract for the McDowell lease. The first
19 setback we'll go into is the floodplain. As I stated,
20 the edge of disturbance is that edge of construction or
21 the edge of the pad site.

22 The request is to reduce the setback to 30 feet
23 from the northwest corner of that pad location. The
24 storage tanks are then located 40 feet from the flood --
25 floodplain, so that is an additional variance request.

1 The Applicant has provided a storm water pollution --
2 storm water pollution prevention plan, erosion control
3 plan which consists of compost berms, seeding the area
4 and some other culverts and systems to adequately drain
5 the site.

6 This is an aerial view with the layers applied
7 for the floodplain setbacks. You can see that's the
8 edge of the pad site, edge of disturbance. That's a 30
9 foot distance right there. This is the storage tank or
10 tank battery. That is a 40 foot setback applied to the
11 floodplain there. And this is the FEMA floodplain, the
12 current map for the FEMA floodplain. Additionally on
13 this site -- we'll go into the other ESAs on the site.

14 This will be a Waters of the State that I'll
15 refer to later and the other habitat variance requests
16 that are being requested. Waters of the State, I won't
17 read the entire definition; but it's generally streams
18 -- applied to this property it's essentially a stream
19 and an ephemeral stream that does contain water at
20 certain portions of the year.

21 It's ground water, which can be percolating or
22 otherwise; and it's also ponds, wetlands, things of that
23 nature. There is a 500 foot setback for any ESA, which
24 includes Waters of the State. And that is, again,
25 measured from the edge of disturbance. For this

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1 situation I'll go into -- I'll have a map with all the

2 ESAs on it.

3 For a riparian habitat -- riparian habitat is
4 another ESA that the Applicant is requesting a variance
5 to. The riparian habitat is essentially vegetation and
6 trees associated with the floodplain. Now, this can
7 vary for the site, as it's always not associated
8 directly at the edge of the floodplain. It could be in
9 a more densely vegetated area closer to a water -- a
10 water source or a stream.

11 They're requesting a 500 -- a setback to the 500
12 foot distance from the edge of disturbance here. And
13 this request is approximately at 140 feet from -- from
14 the edge of construction to the riparian habitat to the
15 west, so it'll be on the floodplain. That's where the
16 vegetation showed to be predominantly riparian in
17 nature. And again, for the ESAs they're proposing a
18 storm water plan, compost berming, seeding and the
19 culverts.

20 The final ESA is the upland habitat, and this is
21 definition for upland habitat. It's generally -- must
22 be minimum of ten acres in size, which this site does
23 exceed that size, and 50 trees per acre of a
24 predominantly protected matrix. And that -- that is the
25 case in this instance. They're again requesting that

1 setback -- a variance request from that setback measured
2 from the edge of disturbance, the pad site.

3 And they're -- the site is actually located
4 within approximately 2 acres, 2.19 acres of the upland

5 habi tat. That includes the access road and pad site.
6 The Applicant is proposing to place orange fencing
7 around the other -- basically the remaining trees like
8 they demonstrated the treed -- the treed habi tat in the
9 area to the east of the site and the other trees that
10 are required to be protected outside the pad location if
11 approved.

12 This map applies all the ESAs, the Waters of the
13 State, riparian habi tat and upland habi tat. That corner
14 of the pad site is approximately 273 feet away from that
15 ephemeral stream. This side is 414 feet away from that
16 stream. This ephemeral stream flows from south to north
17 into Timber Creek in this general area. The riparian
18 habi tat is approximately 140 feet away from this point
19 of the pad site. And as I stated, the upland habi tat
20 and this zero setback is basically because the -- the
21 pad site does sit -- is sited within the upland habi tat
22 approximately 2.19 acres.

23 The Applicant is also requesting variances to the
24 public park setbacks. Now, this setback is measured
25 from the well bore. The Number 2 well is located

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1 approximately 312 feet from the Timber Trail Park, and
2 that's the park locate -- located to the northwest.
3 I'll provide a map in a minute. The Number 1 well is
4 located approximately 453 feet from Morris Road Park,
5 which is to the northeast of the site and 900 feet from
6 Tiger Field, which is east actually of Timber Creek Road

7 and east of the site.

8 The tank battery's located 220 feet from the
9 Timber Trail Park to the northwest and 560 feet from
10 that Morris Road Park across Morris Road to the
11 northeast. This map shows those locations. The Number
12 1 well is this well right here, the furthest east well.
13 This is the Number 2 well. So the variance requested
14 here is 312 feet from this park for the Number 1 well.
15 It's 453 feet from that park, that's the Morris Road
16 Park, and 900 feet from Tiger Trail, which is across
17 Morris Road and across Timber Creek. The storage tank
18 setback is 560 feet from this Morris Road Park.

19 The next request for a variance was for the
20 public building and a school. Churches fall under the
21 definition of public buildings, as do auditoriums,
22 things of that nature and restaurants. The school is
23 seen separately as a -- it's a separate variance
24 request. There's a 1,000 foot setback applied to public
25 buildings and schools.

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1 And as the church is a public building, the well
2 1H is located 779 feet from the First Baptist Church of
3 Flower Mound, which the Applicant already referred to,
4 and 695 feet from the school or the Applewood Learning
5 Center. The tank battery also has a setback requirement
6 applied to it. It's also 1,000 feet from a public
7 building or a school. The tank battery is located 885
8 feet from the First Baptist Church and 827 feet from the
9 school or Applewood Learning Center.

10 This map shows those distances applied. The
11 school is up here, Applewood Learning Center. This is
12 the church. These are the setbacks applied from both
13 the wells, the 1H and the 2H; and these are the storage
14 tank setbacks. The Applicant's also requesting a
15 property line variance request, and that is for -- the
16 property line setback from the gas well and also the
17 associated tank battery which consists of those storage
18 tanks on the western portion.

19 The wells are proposed to be located 309, 409,
20 445 and 312 feet from the property lines listed here
21 under the Denton Central Appraisal District parcel
22 numbers. And I'll demonstrate these on the map. And
23 the storage tanks are proposed to be located 220 feet
24 from the property line to the northwest. That is the
25 town -- that's the park property, the Timber Trail Park,

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1 and 443 feet from the property line to the east. And
2 that's the subject property on which the well is
3 located.

4 This map shows all the setbacks applied. This is
5 the park, the property line for the park. Setback from
6 the well 2H, 312 feet. The storage tank to that same
7 park is 220 feet. The well 1H is 309 feet to the edge
8 of the property line for the subject property, 409 feet
9 to the property across the street, and 445 feet to the
10 Morris Road Park to the northeast.

11 Public right-of-way setback is 500 feet from the

12 gas wells and the storage tanks. The gas well 1H is
13 proposed to be located 309 feet from the Morris Road
14 right-of-way. And the storage tanks are proposed to be
15 located 443 feet away from the Morris Road right-of-way.
16 The straight line is 443. This is just done for -- for
17 visual purposes just so you can see the line separation,
18 443 feet from that storage tank or tank battery and 309
19 feet from that well 1H.

20 And I'll -- I'll just read -- reiterate the
21 variance requests here. And in your packet and your
22 backup you do have the draft motions. There's a
23 variance request to the floodplain setback requirements
24 stated in the Oil and Gas Ordinance. There's a request
25 for variance for the environmentally sensitive areas

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1 within the Oil and Gas Ordinance. If you'd like for me
2 to go back through any of these, just stop me and let me
3 know.

4 Request to the public park setback requirements
5 stated in the Oil and Gas Ordinance, request for a
6 variance to the public building and school setback
7 requirements in the Oil and Gas Well Ordinance.
8 Variance for the property line setbacks in the Oil and
9 Gas Ordinance and a variance for the park and public
10 building and school setbacks to the tank batteries and
11 storage tanks within the Oil and Gas Ordinance.

12 The final two are a request for variance for the
13 public right-of-way setback requirements in the
14 Ordinance and a variance for the public right-of-way and

15 property line setback to storage tanks within the
16 Ordinance. Got one more, excuse me, and the request for
17 floodplains -- the floodplain setback requirements to
18 the storage tanks. I'd be happy to answer any
19 questions.

20 CHAIR MURPHY: The property owner
21 notifications that were sent out for this meeting, how
22 is that determined?

23 MR. WOODS: There's a 200 foot boundary
24 around the property, that lease map -- let me go back to
25 that. The 200 foot perimeter around this lease map,

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1 around the boundary of the property where the well's
2 being sited, all property owners within that boundary
3 receive a notice.

4 CHAIR MURPHY: 1,000 -- the green 1,000 foot
5 circle or the yellow boundary?

6 MR. WOODS: The yellow property boundary --

7 CHAIR MURPHY: Thank you.

8 MR. WOODS: -- for the 134 acre tract,
9 there's a 200 foot perimeter; and those property owners
10 receive notice of the hearing, as well as any property
11 owner that is impacted by a variance request. If
12 residents were affected, they would have been notified.
13 In this case the public building, the church and the
14 school, the Applewood Learning Center were notified.

15 CHAIR MURPHY: Okay. Thank you, Matt. Any
16 other questions?

17 BOARD MEMBER WALKER: I have --

18 BOARD MEMBER POSTON: Matt, was that sent by
19 regular mail or certified mail, notifications?

20 MR. WOODS: I believe it's just regular --
21 Rachel may know this, she mailed them out. Regular mail
22 I believe. That's correct, regular mail.

23 BOARD MEMBER WALKER: I just wanted to go
24 through the flood -- some of these items just by -- one
25 by one so I'm clear what the Staff's position is here.

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1 For floodplain and Waters of the State are you lumping
2 them together under the comment about minimal to no
3 impact because of the SWPPP, the erosion control plan
4 and mulch berm? I don't want to read into it, but I'm
5 assuming that's what you're saying.

6 MR. WOODS: That's generally correct, yes.
7 The bodies of water that could be impacted by the
8 location or environmentally sensitive areas, yes,
9 minimal impact is anticipated because of the storm water
10 plan, erosion control plan, the berming, things of that
11 nature.

12 BOARD MEMBER WALKER: And although there was
13 the comments about the proposed or appealed -- in the
14 Jacobs, Carter, Burgess study, etcetera, we're still
15 going by what's approved and on the books today; and the
16 distance is what it is, as you defined it. But I think
17 it's 30 feet and so forth, that's what the boundary is,
18 is the existing boundary? And your comment about impact
19 is directly related to those distances, nothing being

20 proposed or modified?

21 MR. WOODS: That's correct.

22 BOARD MEMBER WALKER: Okay. And one other
23 item on the riparian -- riparian habitat, no -- excuse
24 me. Again, minimal to no impact based on the
25 mitigation?

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1 MR. WOODS: Yes. And the riparian habitat's
2 approximately 140 feet away from the edge of
3 disturbance, that treed -- that vegetative area
4 associated with the waterway, so --

5 BOARD MEMBER WALKER: Okay. And the upland
6 habitat in the Staff memo it talks about a -- funds
7 being paid to the Town. Is that still valid?

8 MR. WOODS: That's -- that's part of the
9 development -- that's part of the development process.

10 BOARD MEMBER WALKER: Okay.

11 MR. WOODS: Not directly associated with the
12 gas well permit, but yes.

13 BOARD MEMBER WALKER: Okay. But it is -- it
14 is being reflected in here that there is the 2.19 acres,
15 that there'd be some kind of cash -- a cash payment that
16 would be associated with the loss of that acreage.

17 MR. WOODS: Yes.

18 BOARD MEMBER WALKER: Although, right, I
19 agree it's not something to consider this evening.

20 MR. WOODS: Options for loss of upland
21 habitat include cash paid -- payment of funds into the

22 tree preservation fund for planting in lieu of that.

23 BOARD MEMBER WALKER: And both public parks
24 that are mentioned are currently undeveloped?

25 MR. WOODS: Correct, Timber Trails and

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1 Morris Road.

2 BOARD MEMBER WALKER: Right. Is there
3 any -- has the PALS Board -- I think one of these items
4 came up as an agenda item, was it two months ago or six
5 weeks ago? Was there any resolution? Did they provide
6 any motions, any decisions?

7 MR. WOODS: I'm not aware of any comment
8 from the PALS Board relative to the gas well.

9 BOARD MEMBER WALKER: Okay. That does it
10 for me. That's it, thanks.

11 CHAIR MURPHY: Would you go back to your
12 slide of the riparian where you were showing the
13 distance?

14 MR. WOODS: The map?

15 CHAIR MURPHY: Yes. And the zero -- you
16 said it's a zero setback line because it was right in
17 the middle of it?

18 MR. WOODS: That's upland habitat. So
19 there's no setback distance because they are in upland
20 habitat, the pad is sited within the 2.19 acres.

21 CHAIR MURPHY: Yes, that's it. Okay, thank
22 you.

23 BOARD MEMBER RICH: I have a couple of
24 questions, and they're more -- unfortunately they're

25 going to be very global. Put you to work here. Compare

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1 what we're looking at tonight with the variances
2 compared with our Master Plan recommended development
3 setbacks if this was to be -- which it is not tonight,
4 but if this was to be a typical ZBA meeting.

5 I'm trying to get you to show if there is a
6 difference between oil and gas setbacks -- and yes, of
7 course we know the tank batteries exist therefore -- in
8 a development case of a non gas well incident we would
9 not have a tank battery situation, nor would we have a
10 gas well site situation. But we would still have a
11 riparian habitat, we would still have upland habitat, we
12 would still have Waters of the State.

13 Are there variance -- are the variances the
14 same -- I'll try to ask it in a more comprehensive --
15 the fact that this is a gas well request variance, how
16 does it differ from a typical development non gas well
17 variance in its setbacks?

18 MR. WOODS: Sure. A typical development
19 would -- I'll start with upland habitat. There's not a
20 setback requirement for upland habitat. Basically if a
21 development is proposed, they do an environmentally
22 sensitive -- environmental protection plan in response
23 to an environmentally sensitive area survey done by
24 Staff. They provide us a plan for a development
25 project. It's reviewed; approved or denied based on

1 mitigation efforts, if they're going to mitigate an
2 area.

3 Which -- and that process obviously goes before P
4 & Z and Town Council. But for upland habitat there are
5 mit -- there's mitigation required per Smart Growth.
6 Floodplain, Waters of the State, riparian habitat,
7 things like that essentially part of the floodplain,
8 there's no construction allowed within the floodplain.
9 Not a setback applied to it, but no construction related
10 activity within the floodplain without Town Council
11 approval.

12 BOARD MEMBER RICH: So once again, it would
13 be similar to what we're looking at now in that we've
14 got Waters of the State. We have an ESA,
15 environmentally sensitive area through this whole area.
16 We've got riparian again. We have upland. We've got
17 very similar -- the differences lie -- well, the
18 differences wouldn't even lie in -- if somebody wanted
19 to put a building, we'd still have similar setbacks to
20 some -- some development.

21 And do we have quarter-acre through this
22 development? Do we have -- what are the lot sizes
23 recommended on the Master Plan?

24 MR. WOODS: For the residential portion?

25 BOARD MEMBER RICH: Correct.

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1 MR. WOODS: Oh, I'm not sure if it's SF15.
2 I could probably look it up when I get back to my
3 computer. But I'm not sure if -- for the spa on the
4 portion -- this property sits on -- basically it's
5 divided by a spa, Spa Four.

6 BOARD MEMBER RICH: Right.

7 MR. WOODS: And another section is probably
8 I think dedicated towards office retail, things of that
9 use. But as far as residential density, I'm not certain
10 what's applied on this property.

11 BOARD MEMBER RICH: I would like to know the
12 residential density that -- that is allowed by the
13 Master Plan. Not that it's relevant to this particular
14 variance, but I think it's good information for us to
15 have. I have the -- I actually have part of the Master
16 Plan, but I would -- I would be looking this up instead
17 of paying attention to the meeting; so I would prefer if
18 you would do it.

19 MR. WOODS: Sure.

20 BOARD MEMBER RICH: Thank you.

21 CHAIR MURPHY: Any other questions for
22 Mr. Woods? Thank you, Mr. Woods.

23 A point of order, and I don't mean to be -- to
24 slight the Applicant; but when we did readjourn were
25 y'all complete with your presentation?

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1 (Inaudible speaker from audience.)

2 CHAIR MURPHY: Okay. So now we can even go

3 onto the next step. Okay, thank you. You need -- be
4 sure and state your name again so Sherry can get it on
5 there.

6 MS. LINDELOW: Melissa Lindelow representing
7 the Applicant. We have a copy of the detailed flood
8 study prepared by Carter and Burgess. If you'd like it,
9 we are prepared to give it to you to enter into the
10 record. It's up to you. If so, should I give it to
11 Matt Woods?

12 CHAIR MURPHY: Yeah, absolutely. And
13 Matt you can (inaudible).

14 Okay. Questions and answers. Does the Board
15 have any questions that they would like to address to
16 any -- either the Staff or the Applicant? Sort of just
17 jump right in, go ahead. Have you got some?

18 Okay. At this point of the meeting we would like
19 to have anyone who would like to speak in opposition of
20 the variance for the Applicant to step to the lectern,
21 state your name, address. And if we could ask Ms.
22 Rachel to set the clock, three minutes. At three
23 minutes you'll be reminded. Thank you.

24 MR. BLANKENSHIP: Good evening. My name's
25 Darryl [phonetic] Blankenship. I live at 2201 Timber

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1 Creek Trail in Flower Mound. I'm north directly on the
2 other side of the creek of the entire development. My
3 job description, I'm the founder and managing director
4 of Mica Energy. We're an oil and gas company. I've
5 drilled directly, indirectly with Mideast Oil,

6 Mountainview Oil, Sinclair, Haliburton, about 500
7 natural gas wells up through Pennsylvania. Sold 43 to
8 Linn Energy when they did their public deal for 8.3
9 million.

10 I know a little bit about the business. I'm in
11 it. I love the business. It's how I make my money. I
12 have a guy in Kentucky where I'm drilling right now that
13 had bought his retirement home. He's now moving. And
14 we do everything right. He can't stand the smell of the
15 gas. It affects his home. These are oil wells, but
16 there's fumes. It's a well, there's fumes.

17 He's got cattle. I said your cattle -- that
18 methane gas is worse more than this, but now I'm talking
19 to him -- now I'm talking about my house. I drilled a
20 well in Clearfield County. We were -- it's called the
21 Bowser [phonetic]. At about 1,800 feet it blew up. It
22 blew up nasty. We were lucky there weren't any
23 casualties. It was in a nonresidential area, but we did
24 have to evacuate for three months.

25 We were selling gas -- I'm -- sell probably --

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1 we're not the biggest player in town, couple of million
2 cubic feet a day to Dominion People's Gas [phonetic].
3 They're the largest purchaser of gas in the country.
4 And when they had the blackout up on the east coast a
5 couple of years ago, that ran all the way back to the
6 area in Pennsylvania to some moisture that got into the
7 lines. These are all things that can happen.

8 Where I live across from the creek, if a mouse
9 runs over there my house floods. In 1991 there was
10 three feet of water in the house. When you, the people
11 that make these decisions about a variance think about a
12 variance, please think there's a reason for not giving
13 them. Look at the people in Iowa and what they're going
14 through. Have you ever had water (inaudible).

15 It's horrible and horrific, and every hand you
16 heard is now having sleepless nights because of it. I'm
17 in the business. If the law says you can drill
18 somewhere, most of these people, including me, would do
19 it to the very best of our ability. I have contracts
20 with Haliburton, topnotch people. Sinclair Oil, we do
21 it all; we do it right.

22 But I'm going to tell you, if Murphy's Law is
23 true anywhere, it'll happen. And do you really want to
24 put a bomb underneath a hospital? You need to think
25 about that. What the variance is is what the variance

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1 is. But do you want to put a bomb there? I thank you
2 very much for my time, and I can be reached.

3 CHAIR MURPHY: Thank you, Mr. Blankenship.

4 MS. NICHOLS: My name is Melani e Ni chols,
5 and I live at 2211 Timber Creek Trail. Actually I'm
6 Mr. Blankenship's neighbor. Hi. These things bring you
7 together. My mom has owned this property for 36 years.
8 Now, like I said in the last meeting, this is just not
9 acceptable. I respect you people. This is your job.
10 This is Mr. Blankenship's job.

11 But this is our home; and yes, this land has
12 flooded. Our property backs up to this creek just for
13 normal, God-given nature happenings. Now, if we're
14 going to have a construction site that -- I'm not an
15 expert, but if you start drilling underneath, won't the
16 land shift? Well, the creek shifts already. It's
17 already up high. And it goes north, and it goes into
18 our homes onto our property.

19 Those are our lives. Please give us the respect
20 that we've lived there for 36 years. We have seen all
21 of this flooding just from nature. Now if you're going
22 to add to it -- like he said, Murphy's Law. What is
23 going to happen? Now, as far as also the noise, I don't
24 know about you; but if it's going to be noisy and stinky
25 and I don't get my sleep, I'm going to be cranky. And I

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1 might be moving in with somebody else that's got a
2 little quieter home.

3 But you know what, that's not why we purchased
4 this land. It's because we are proud to be Flower Mound
5 owners; and I would like to continue that for many, many
6 years more. Thank you.

7 MS. GAVITT [phonetic]: My name is Marsha
8 Gavitt. I live at 6501 Meadow Crest Lane, and I'm
9 director of Voters United to Preserve Flower Mound.
10 This has not been approved as a central business
11 district. There's no approved development concept plan,
12 so this should not have been presented to the Board at

13 this time. However, the proposed variances should have
14 been posted online like the other Riverwalk information
15 for public review.

16 Without an approved concept plan or approved
17 flood plans, this Board does not have all the data it
18 needs. This fact is no less important because the
19 driller and developer need to meet a deadline. I wish
20 the hospital would have been moved forward from the
21 beginning. We might have had that well on its way
22 today. Thank you.

23 CHAIR MURPHY: Thank you, Marsha.

24 MS. KIMBERLIN: I'm Peggy Kimberlin. I live
25 at 3400 Mesa Drive in far west Flower Mound. First I

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1 want to note that I've come to know a few of the people
2 in the gallery out there, and there are apparently 11
3 residents on Timber Creek Trail; and three of the four
4 families that I have met out there never did receive the
5 property owner notification. So that might be an
6 indication of where we've got a failure to communicate
7 with the residents.

8 As best I can tell, the -- these fine
9 professional people have done the best they could
10 presenting this drilling location. Granted, it is hard
11 to accept the current conditions of a project of this
12 magnitude. But it is more than a little insulting to
13 think that they expect Flower Mound residents to accept
14 studies and maps that were -- were founded and organized
15 1983 and 1997.

16 I suspect with the growth of this town at the
17 rate since I've been here for 20 years that some of
18 these studies possibly have changed. Myself and the
19 majority of about 59,000 -- I'm allowing 1,000 to be for
20 this drilling location -- moved here for the quality of
21 life, not the destruction of it. We understand -- I
22 hope I get your name right -- Ms. Lindelow, she made a
23 gallant effort to point out that the well has been
24 moved.

25 The pad site's been moved, all these different

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1 things they've done to make it better; but yet they're
2 still having a very difficult time making it fit without
3 all the variances that they are requesting. You don't
4 have to be a Rhodes scholar to figure out that if it
5 doesn't fit there, it needs to be outside of Flower
6 Mound and possibly out of Denton County. Thank you.

7 MS. THOMPSON: Good evening, my name is Jan
8 Thompson. I live at 914 Hillside Lane. I'm also master
9 (inaudible) so I find this very interesting some of the
10 environmental issues that exist with this and the
11 probability of it. But my statement will be very brief.
12 I find the ordinances and variances for -- are tougher
13 for housing construction than they are for gas wells.

14 I find this frightening. It's not amusing. It's
15 frightening, so please consider this. Thank you.

16 MS. BELCHER: Good evening. My name is
17 Becky Belcher, and I live at 2900 Aberdeen. I frankly

18 challenge the assertion made by the Red Oak attorneys
19 that the land owner has the right to access the
20 property's mineral rights. This property is located
21 within the town limits and always has been. Because of
22 that, it's subject to the Town Ordinances.

23 And you know, if you don't like that, maybe you
24 should go buy that 134 acres out in the middle of
25 nowhere, not 695 feet across from Applewood Daycare

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1 Center. The -- to the Oil and Gas Board of Appeals, I
2 ask that you reject these variance requests. You know,
3 Flower Mound is an incredibly desirable place to live;
4 and I just ask that you keep it that way.

5 Do you really want to be responsible for allowing
6 these gas wells which I believe have been determined to
7 be ultra hazardous activities 695 feet from a day care
8 center? Thank you.

9 MS. LONG: Laurie Long, 2708 Flower Mound --
10 -- 2708 Lake Flower in Flower Mound. I'm only given a
11 few minutes to address some of the criteria for
12 consideration of variances, so I'll begin with the
13 comment that the representative for the Applicant made
14 stating that the Town allows drilling by right. That
15 may be true; but that is only true for the granting of
16 drilling permits that do not require a variance,
17 otherwise you wouldn't be here.

18 The granting of approval of variances are not
19 permitted by right. On the contrary, the Town or Board
20 of Appeals has the right to deny a variance; and the

21 reason is to protect our environment and public safety.
22 If drilling by right could occur anywhere in Flower
23 Mound, then anyone who owned eight acres or enough
24 acreage to allow for a gas drilling pad would be granted
25 -- would be able to be granted the right to drill.

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1 According to that logic, there's no other
2 available location on that site so you need to grant the
3 variance because I can't drill anymore on my property
4 anywhere else with that limited acreage; and I know
5 that's not the case. Next regarding the site being a
6 unique place or piece of property, the owner was aware
7 of the drilling site challenges prior to the purchase of
8 this property.

9 The land owner and the mineral right owner are
10 one in the same, and I believe that he's using the
11 promise of the Riverwalk to justify the granting of
12 these variances when in actuality the Riverwalk could
13 occur without the granting of the variances. He can --
14 he could provide that land use without the mineral right
15 use.

16 The hospital could also begin today if it went
17 through the normal process. It doesn't have to go
18 through a planned development process. It can go
19 through a site plan right now and go through P & Z and
20 Council for approval. There's not an urgency with
21 regards to the hospital. With regards to calling this
22 central business district, that is something that the

23 Applicant is calling it. That is not a designation
24 under our Master Plan.

25 There is no central business district in our

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1 Master Plan. This is what he is stating. And by the
2 way, half of that central business district is
3 residential. It's not an economically viable component
4 for an economic development incentive which is why he's
5 deeming it as central business district so he can grant
6 -- or get granted the waivers for Smart Growth to allow
7 for that.

8 Because the Riverwalk in order for it to go
9 through has multiple variances or waivers for Smart
10 Growth in order for it to be approved, which is another
11 reason that may -- you may not really take that into
12 consideration for your argument because there may be
13 many, many changes with the concept plan because it's
14 just a concept plan, it's not a site plan. And it
15 hasn't gone through public approval yet, and there are
16 so many variances with that or waivers required for that
17 that it's likely to change as well.

18 And so I thank you for consideration of those
19 comments.

20 MS. FINESY: Good evening. My name is
21 Patty Finessy. I live at 1804 Castle Court. I do not
22 live near this. My family has been asking me why are
23 you still doing this, why are you still spending all
24 this time. My reason is very simple. I taught at
25 Timber Creek Elementary. My children went to Timber

1 Creek Elementary.

2 And if this passes and something happens, how do
3 I live with myself with that school being so close.
4 You're talking about feet to a baseball field. You're
5 talking about feet to a school. We're talking about
6 children. And when do we ever use Morris Road -- with
7 cars traveling at 40 miles per hour, we know what
8 happens when cars collide. What happens -- how do we
9 use Morris Road as a barrier? It's not a barrier. It's
10 a road with cars and people and 40 miles per hour and
11 accidents, semi s.

12 So what I'm saying here is -- obviously I don't
13 have prepared words. But you are the stop gate for
14 protecting the children and the people of this town.
15 And asking for variances of this nature -- when maybe we
16 can't talk about Riverwalk because it's not in yet and
17 we don't have the plan yet. But we've all seen it,
18 we've all seen it in the paper. And there will be
19 buildings there. So what I'm asking is that you please
20 consider those children sitting in those rooms, because
21 they don't have a chance to go somewhere else. They
22 can't move. They're in that building. Thank you.

23 MS. DURAN: Elizabeth Duran, 4504 Halter
24 Way. I just wanted to say that I am opposed to the
25 granting of variances for this property here that we are

1 speaking about this evening. I am opposed to it because
2 of health concerns and because of safety concerns. And
3 I know that you feel that there is a right for you to
4 put this well there, but I feel that we have a duty and
5 an obligation as citizens of Flower Mound to protect our
6 community, to protect our families, to protect our
7 children. And we're asking for your support in this
8 matter because we are entrusting you with our care.
9 Thank you very much.

10 CHAIR MURPHY: Are there anymore?

11 MS. MILES: Deanna Miles, 4212 Zachary Way.
12 I know when the Board considers this logic is very
13 important. So therefore I believe that they have not
14 met standards for Number 4, Number 5, Number 6 and
15 Number 9. Number 4, no material detriment to public
16 welfare or value of property in the vicinity. Studies
17 show that property values do go down 5 to 15 percent in
18 areas that allow urban drilling.

19 Another thing, people are attracted to Flower
20 Mound all over the United States to relocate here.
21 People -- once the word gets out that we allow urban
22 drilling in Flower Mound, how many people do you think
23 will want to move here? I wouldn't if I had a choice.

24 Number 5, whether the operations proposed are
25 reasonable. I don't believe they are. In the middle of

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1 town it's not reasonable. It's dangerous to the
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2 citizens. There is always a possibility of an
3 explosion, and that would be devastating. If you study
4 these things, explosions that have happened in Palo
5 Pinto County, things that have happened in Colorado,
6 houses that have exploded.

7 Number 6, whether the drilling of such wells
8 would conflict with the orderly growth and development
9 of the Town. I believe it would. We will have very
10 heavy truck traffic through the Town. And we're talking
11 large trucks, not small trucks. They will damage the
12 roads, and we in addition will have noise pollution from
13 these trucks.

14 Number 9, whether the operations proposed are
15 consistent with protecting the environmental quality. I
16 don't believe they met the standard there. Drilling in
17 urban areas is new. We do not know the long-term
18 effects of it. So if they need to drill, let them go to
19 the farms and ranches in Flower Mound. We have plenty
20 of acreage where it will not endanger lives.

21 Also air pollution we're talking about. We're
22 talking about chemicals into the aquifer. We're talking
23 about chemicals being injected into the ground. And
24 they also did not say where they are getting their water
25 to inject into the ground, and that's another concern

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1 for the City of Flower Mound.

2 And that's all I have to say. Thank you.

3 CHAIR MURPHY: Are there anymore? For the

4 record, I do have some cards that were presented. And
5 this is from Kathy McGage [phonetic] at 3400 North
6 Drive. Flower Mound has a good Oil and Gas Ordinance.
7 It provides good opportunity for drillers and safeguards
8 for our citizens. Please don't grant -- grant
9 precedents -- precedentizing variances to our ordinances.

10 I have a couple more, but I don't -- they didn't
11 come to speak; so I don't know if they're still here,
12 and there's nothing written either way.

13 Okay. Anyone in the audience that would like to
14 speak in support for the variance request?

15 MS. ENBODEN: Good evening Ladies and
16 gentlemen, Board Members. Sylvia Enboden, 2017
17 Brookville Lane. I want to take this opportunity to
18 thank you all for serving as a volunteer on this Board.
19 Tonight you are faced with a difficult decision. While
20 it is a difficult one, we must remember that it is based
21 -- your decision should be based on facts and never
22 emotion.

23 The Town of Flower Mound has the opportunity to
24 have a premier development in the center of town,
25 something for many years many of the residents have been

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1 Looking forward to. This development the Riverwalk at
2 Central Park is not reliant on the exploration of gas on
3 the property. However, of all the recent talk of gas
4 drilling, this location is the least intrusive of all
5 future rumored drill sites in Flower Mound.

6 What I want you to consider tonight is the fact
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7 that the variances that are being asked for are quite
8 different than future urban drilling sites. This area
9 is not in the middle of a residential area, and the
10 future development citizens are not opposing it. In
11 fact, some are here tonight to show their support for
12 this project.

13 I'm quite sure they have considered all the pros
14 and cons and feel comfortable enough to invest and
15 proceed forward with their own multimillion dollar
16 contribution to Flower Mound. The current site plans of
17 the project include redirecting the flow of water away
18 from the original floodplain, thereby lessening any
19 negative impact on the floodplain. Although the
20 Ordinance does not allow for any drilling activity
21 within that area without a variance, it is my
22 understanding that with the redirection of the possible
23 flood waters, it appears to negate any adverse impact.

24 I believe the hospital is here tonight to say
25 that they are not afraid of locating and spending all

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1 this money and time to build a hospital on this
2 property; and so therefore, that tells me that a lot of
3 the fears that we've heard in this room tonight are
4 really unfounded. And I have a lot of confidence in
5 every one of you on this Board that you will vote your
6 conscience to that criteria that you must use. And I
7 thank you so much for all of your efforts, every one of
8 you.

9 MR. RYTHA [phonetic]: My name is Stan
10 Rytha. I'm a senior vice president of TPHP, address,
11 14131 Midway Road, Addison, Texas 75001. I'm part of
12 the team that's working to develop the new hospital here
13 in the market, the Lewisville Flower Mound market. Over
14 the past year we've been working very closely with the
15 surface owner, and we've found them to be very
16 cooperative in working with us to meet our operational
17 needs.

18 While I will not claim that our team has general
19 expertise in the drilling issues that you are
20 considering, I can say that the current configuration
21 being proposed does meet our operational needs and we
22 believe meets all of the mandates of the Texas
23 Department of Health, including setbacks. One other
24 item I'd like to also reiterate in response to a
25 question that Ms. Rich brought up.

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1 The hospital does not have mineral rights to the
2 piece of property that's being proposed. We do not have
3 an economic interest in the gas drilling lease. Our
4 only interest is finding an appropriate site for a new
5 hospital somewhere in the market. Thank you.

6 CHAIR MURPHY: Thank you.

7 MR. RESCH [PHONETIC]: Good evening. I'm
8 Bill Resch with Bi star Development representing Flower
9 Mound CBD, Limited located at 800 Parker Square. We're
10 here as the surface rights owner to -- to voice our
11 support for this location and to voice our support for

12 the variances that are requested to drill in this
13 location.

14 We believe this site has the least amount of
15 impact of any potential site on the property and the
16 least amount of impact on the adjoining property owners,
17 the general public; and also it has the least amount of
18 impact we think on our site as well -- the use of our
19 site. As pointed out in the presentation, there are a
20 number of different sites that have been evaluated.

21 And through that process we've really been able
22 to refine where we've looked at the potential to have
23 these sites and for the operator to drill on the
24 property, and it really is in our opinion the best
25 location. It ends up providing a lot of open space that

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1 -- adjacent to existing park land. There are a lot of
2 benefits to it, and so we're -- we really think it is
3 the best location for the property and for the project
4 and for the drilling operator. Thank you.

5 MS. KOHANKE: Carol Kohanke, 4312 Lauren
6 Way. This property is vacant land right now, so we're
7 not having to talk about a lot of buildings on this.
8 And in light of that, you know, 28 years ago we didn't
9 know what the Barnett Shale was. And it's here, and
10 they now can access it.

11 From the research that I've done, evidently the
12 impact there'll be is 28 days that they're in and
13 they're out. And then it's buttoned up, and we go

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14 forward. This town is riddled currently with natural
15 gas pipelines into each of our homes. This has been
16 approved by the fire marshal. His charter is the safety
17 of this community. I trust him. I ask you to take --
18 consider that issue and vote. I am in favor of this.
19 Thank you.

20 CHAIR MURPHY: Are there any others? Well,
21 we do have some more, and I'm going to pass them out to
22 my fellow Board Members. And we're going to read into
23 the record, if we may, Counselor; is that okay?

24 MR. LATHROM: That's fine, Madame Chair.

25 CHAIR MURPHY: Thank you, sir. The people

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1 that have sent e-mails in support -- have y'all got some
2 down there? And I think all you have to do is just
3 basically read the name and address and -- and read it
4 off. And I will start this one.

5 And this one's from Paul Stone, 709 Lake Bluff
6 Drive. Due to work obligations, I'll be unable to
7 attend tonight's Board meeting. Please register my
8 support for variances on both agenda items regarding
9 McDowell 1H and 2H wells. I believe the variances are
10 fair and reasonable and will expedite the proposed
11 development which will offer additional opportunities
12 and tax base for our community. Amy.

13 BOARD MEMBER WALLACE: Okay. I have one
14 from Mr. and Mrs. Gregg Fredette, 2801 Lake Crest Drive.
15 We are at Texas Tech in the middle of daughter's
16 orientation. Greg and I support the drilling, and you

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17 may use this e-mail as proof. Jules.

18 CHAIR MURPHY: Thank you. Alisa.

19 BOARD MEMBER RICH: This is from Brenda
20 Wyndham [phonetic], no address given. I support gas
21 drilling. This is directed to Matthew Woods.

22 Mr. Woods, I just wanted to send you a quick note to
23 tell you that the Wyndham family supports gas drilling.
24 Not only will it bring more money into our economy, but
25 also more and better jobs. I am from a small west Texas

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1 town, and I have seen firsthand what the oil and gas
2 business can do to help benefit the schools, businesses,
3 and wellbeing of all citizens in general.

4 CHAIR MURPHY: Go ahead, Mr. Walker.

5 BOARD MEMBER WALKER: It's an e-mail from
6 Darlene Wood, director of the Applewood Learning Center.
7 Dear Mr. Woods, we've reviewed the request for a
8 variance from Red Oak Gas Operating Company, LP. We
9 have no objection to the Town of Flower Mound granting
10 the variance they have requested. The cause is
11 GO-082118, and the application is for the McDowell 1H
12 and 2H gas well permits. Please let me know if I can be
13 of further assistance.

14 BOARD MEMBER POSTON: I have an e-mail from
15 Bob Millard, no address given. However, I do note that
16 the e-mail address is bmillier@pacesetterenergy.com.
17 Dear Mr. Woods, 2001 Timber Creek, LLC, is the surface
18 and material mineral owner of the property located just

19 east of the proposed pad site for the McDowell 1H and 2H
20 wells as presented by Red Oak Gas Operating Company.

21 In recent telephone conversation with our land
22 manager Kathleen Watson who confirmed that as an
23 offsetting tract, we will not be required to comply with
24 the oil and gas setback ordinances, particularly as such
25 ordinances relate to future commercial development of

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1 our tract. With that understanding, we have no
2 objection to the proposed location of the well site or
3 the City granting a variance.

4 BOARD MEMBER WALLACE: Mine's from Bob
5 Balekian, 5100 Cross Timbers Road, Flower Mound. In the
6 early 1900s they protested against allowing horse --
7 horseless carriages inside towns; too loud, too
8 dangerous and too smelly. Now it is desperately needed
9 natural gas. The current ordinances you crafted is both
10 fair and realistic. It is still stricter than most in
11 the area. Those in opposition should be more sensitive
12 to the needs of their fellow citizens, their town and
13 their country.

14 CHAIR MURPHY: This is from Worth Williams
15 of Worth Williams Properties. As the owner of almost
16 100 acres of undeveloped land in the Town of Flower
17 Mound, I would like to voice my strong support for the
18 approval of any land owner who requests a variance for
19 the right to drill in the Town of Flower Mound.

20 Municipalities are slashing their budgets for
21 public service because of the eroding U.S. economy; but

22 by God's grace, Flower Mound sits right on top of one of
23 the largest and most profitable natural reserves in the
24 history of the U.S. I suggest that you follow the lead
25 of your neighbors like Fort Worth and Arlington who are

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1 taking advantage of this opportunity.

2 This is an incredible opportunity to reap the
3 windfall from the Barnett Shale. I ask that you not
4 deny your community access to this important resource.

5 BOARD MEMBER RICH: Jim Robertson, 4029
6 Dendron Drive, Flower Mound. Dear Members, as a
7 resident of the Forum residential neighborhood, please
8 know that I personally support the approval of the
9 proposed gas wells as being proposed by Red Oak which is
10 to be located within the future development known as the
11 Riverwalk at Central Park.

12 I believe any proposed variances being submitted
13 by this entity should be carefully considered and
14 honored. I appreciate the caution that the Commission
15 has given this Applicant during the review process but
16 believe that the limits being imposed by the Town of
17 Flower Mound should be viewed as guidelines instead of
18 restrictions.

19 Please consider for approval this proposal to
20 move forward as quickly as possible. Thank you for
21 hearing my opinion.

22 BOARD MEMBER WALKER: E-mail from Bob
23 Kohanke to Matt Woods. Please forward this to the Oil

24 and Gas Committee. I'm a very strong supporter of gas
25 drilling on the Riverwalk property with the variances

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1 they are requesting because the drilling will be
2 completed before any other construction is commenced.
3 It is a small step that we can take for less dependence
4 on foreign energy sources. Thank you.

5 CHAIR MURPHY: Does Gavin have another one
6 down there?

7 BOARD MEMBER POSTON: This is an e-mail from
8 Donna Bradshaw. Dear Mr. Woods, as a citizen of Flower
9 Mound I would like to express my support for natural gas
10 drilling. I believe it to be a benefit to our community
11 and to our nation. Thank you.

12 BOARD MEMBER WALLACE: This is from Thomas
13 W. Jacob who is a real estate specialist for the United
14 States Postal Service, P.O. Box 667180. Gentlemen --
15 and I'm going to interject, Ladies -- after discussing
16 the subject proposed projects with the folks at Red Oak
17 Gas Operating, LP, we feel that development of the
18 minerals in the area of Long Prairie Road north of
19 Euclid Avenue, west of Morris Road and south of Timber
20 Creek Trail appears to be in the best interest of the
21 citizens of Flower Mound.

22 The length of time that the community would
23 suffer any possible inconvenience would be more than
24 offset by the revenue generated for the community and
25 the long-term benefits to be derived. We have no

1 objection to the Town of Flower Mound granting the
2 variance that Red Oak Gas Operating, LP, has requested.

3 The United States Postal Service has property
4 just south of the area outlined above. At this point it
5 would not appear that the variance requested would
6 present any excessive hazards to the local business
7 and/or residents in the area.

8 CHAIR MURPHY: This is from Rita Bryant,
9 Realty Income Corporation, 600 La Terraza Boulevard,
10 Escondido, California. To whom it may concern, we have
11 received the request for a variance from Red Oak Gas
12 Operating Company, LP. We have no objection to the Town
13 of Flower Mound granting the variance they have
14 requested. The cause is Number G0-082118, and the
15 application is for the McDowell 1H, 2H gas well permits.
16 Many thanks.

17 BOARD MEMBER RICH: This is from a Dr. Doug
18 France, address is given as assistant professor,
19 department of biochemistry. I don't see a personal
20 address. We're going to assume he's a resident here.
21 I'm writing this letter to you as a resident of Flower
22 Mound who is in complete support of the Riverwalk
23 project and would love to see it come to fruition.

24 I am also in full support of urban gas drilling,
25 and I have been recently made aware that another permit

1 request has been submitted for a gas well pad for the
2 McDowell lease. From my understanding, this permit is
3 crucial to push the Riverwalk project forward and allow
4 the existing plans to meet their goals.

5 Flower Mound has been the first place I have
6 lived where I can actually see my family calling it home
7 for a long time to come. However, as a professor of
8 organic chemistry at UT Southwestern Medical Center in
9 Dallas, I have become very concerned about the fact that
10 gas drilling issues seem to be driving economic and
11 environmental decisions for our town based on little or
12 no data.

13 I have worked in both academics and industry for
14 over 15 years dealing with hazardous waste disposal and
15 chemical safety and thus have an educated perspective on
16 the chemical consequences of gas drilling. As you
17 probably already know, many of the concerns expressed by
18 my more vocal neighbors in Flower Mound are based on
19 very little science and more on personal agendas.

20 Thus I would hate to see these same issues cloud
21 the judgment on this gas pad permit for the Riverwalk
22 project which this town so desperately needs. I am in
23 full support of the proposed gas pad permit on McDowell
24 lease, and I hope that Riverwalk project moves forward
25 as fast as possible. This town not only needs this

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1 project to define its place in north Texas, but also to
2 establish itself as a place where all of us can call it
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3 home.

4 Please do not hesitate to pass this message onto
5 the rest of the Oil and Gas Board. Best regards.

6 BOARD MEMBER WALKER: This is from David
7 Williams to Matthew Woods. Matthew, our administrative
8 team has reviewed the request for a variance from Red
9 Oak Gas Operating Company, LP. We have no objections to
10 the Town of Flower Mound granting the variance they have
11 requested. The cause is GO-082118. The application is
12 for McDowell 1H and 2H gas well permits. From David
13 Williams, pastor, First Baptist Church, Flower Mound,
14 Texas.

15 BOARD MEMBER POSTON: This is from Mark
16 Glover at icyclecool.com. Subject, Riverwalk gas well.
17 Matt, I support the gas well for this project. I
18 believe this well site is important for the economic
19 value of our town and the energy independence of our
20 nation. I also believe the environmental impact on our
21 community and residents will be minimal. Please approve
22 this application. God bless, Mark Glover.

23 CHAIR MURPHY: This one is from Flower Mound
24 CBD, Limited, 800 Parker Square, Suite 260, Flower
25 Mound, Texas. Ladies and gentlemen, Flower Mound CBD,

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1 Limited, as the owner of the surface consents to the
2 location of the subject gas wells, pad sites and related
3 facilities and the requested variance for same.

4 Anyone else that would like to come to the

5 lectern and speak in favor of the Applicant's request?

6 At this time the meeting will be closed to the
7 public, and we will allow the Board Members to ask
8 questions of either the Staff or the Applicant or
9 whomever they feel can answer the question so that we
10 can decide on what we want to do in deciding this
11 variance.

12 MR. LATHROM: Madame Chair, if I might --

13 CHAIR MURPHY: Yes, sir?

14 MR. LATHROM: Have you made a decision
15 whether you're going to allow the Applicant a period of
16 -- to rebut the --

17 CHAIR MURPHY: Oh, that's right. I'm sorry,
18 I forgot, I did. Excuse me. Please proceed before we
19 close it then.

20 MS. LINDELOW: Melissa Lindelow, 301 --

21 CHAIR MURPHY: Thank you, Melissa.

22 MS. LINDELOW: -- Commerce Street, Fort
23 Worth. I'll try to keep this brief, because I know this
24 has been a long evening. I know there were some
25 concerns expressed about flooding. I do want to point

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1 out that with the development of the Riverwalk tract
2 will come compliance with stringent Town Ordinances
3 which will improve the flooding situation in the area,
4 not worsen it. I also am under the understanding that a
5 lot of the flooding of existing structures in the area
6 is due to the fact that many of those structures are in
7 the floodplain, which is a fact we don't control.

8 With regard to smells or odors associated with
9 gas wells, I believe that's associated with oil well
10 drilling, not gas well drilling. Methane is odorless.
11 Let's see, as we've pointed out already, the surface
12 owner and the mineral owners are different. This is a
13 severed mineral estate. And we represent -- the
14 Applicant is the mineral lessee. I just want to point
15 that out if anyone thought everybody was the same on
16 this site, they're not.

17 To address concerns that drilling is not in fact
18 permitted by right, I do want to reiterate that it is
19 permitted by right. And it is a right that's recognized
20 under state and federal law. And I don't think we need
21 to go into all of that, but I do want to reiterate the
22 Applicant's position that it is definitely permitted by
23 right.

24 It's my understanding that the Riverwalk is an
25 approved economic development project; so with respect

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1 to furthering goals of -- the goals of the economic
2 development component of the Master Plan, I think the
3 Town's already made a finding that -- that those goals
4 are met, because it's been granted some sort of status.
5 And I don't have the full details on that, but you can
6 ask the Riverwalk developer.

7 The hospital, while everyone would love for it to
8 go forward, it's my understanding that it's the Town's
9 preference that the gas well site be established so that

10 that'll be a known fact, that location, as they move
11 forward and look at concept plans for the surface. So I
12 think the surface is on hold while we decide this
13 matter, because that's the way it's been handled so far.

14 I think the Riverwalk and the hospital are valid
15 considerations. I understand your concerns with surface
16 development, but I think that the Town's drilling
17 ordinance provides criteria that allows you to consider
18 those factors. And I also think that many of the
19 concerns expressed tonight are related to just an anti
20 drilling sentiment in general, not directly related to
21 the setbacks that have been requested by the Applicant.
22 Thank you.

23 CHAIR MURPHY: Okay. Now we will close the
24 meeting to the public, and we will deliberate amongst
25 ourselves with the Board Members. And they'll be -- if

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1 they want to ask questions to Staff or the Applicant,
2 just do so.

3 BOARD MEMBER WALKER: Just for
4 clarification, some of the comments related to the noise
5 during the activity, if you could just for the education
6 of everyone, what is existing ordinance restrictions on
7 noise, the Db at the property line, etcetera. The same
8 thing is true for -- I think somebody mentioned
9 dangerous chemicals being spilled or somehow getting off
10 site, not being controlled. Matthew, if you could just
11 talk about those two.

12 MR. WOODS: Sure. The -- the noise
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13 regulations require that the drilling during the daytime
14 is at 70 decibels at -- measured at 300 feet. The
15 nighttime noise drilling noise regulations are 56
16 decibels; and that's measured at the nearest noise
17 sensitive area which would be a church, school,
18 residence, something of that nature. And fracking
19 regulations are 70 decibels measured at 300 feet, and
20 that's only allowed during the daytime.

21 BOARD MEMBER WALKER: Just for the people
22 that aren't familiar with what 70 Dbs is equivalent to
23 and 50, could you give us a comparison, normal voice,
24 music, that type of thing?

25 MR. WOODS: Sure. Generally heavy truck

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1 traffic is generally seen around 80 -- to be 80
2 decibels, bearing down to a library which is seen about
3 -- measured about 50 decibels. Office -- an office
4 space is around 60 to 70 decibels, chain saw would be up
5 near 90. If you want to give me a minute, I'll -- I'll
6 check the regulations as far as odor, noise, dust,
7 things like that if you'd like me to do that.

8 BOARD MEMBER WALKER: I just think this --
9 the comments related to the chemicals being not
10 controlled in some way, I just think it's important to
11 state what's exactly in our ordinance restricting that
12 type of material.

13 MR. WOODS: Well, if you're referring to
14 chemicals during the drilling process, there's a closed

15 loop system, which all the spoils basically go into a
16 contained unit on site, not a frac tank or not a pond or
17 an on-site waste pond. It's an enclosed container which
18 is pumped off site, trucked off site. So the chemicals,
19 spoils from the drilling, drilling mud, things like that
20 are contained in the closed loop system.

21 BOARD MEMBER WALKER: I think someone had
22 mentioned something about injecting waste materials into
23 the ground. I know that's not permitted. You know,
24 there's no brine wells permitted in the Town's limits,
25 and I just -- that's correct?

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1 MR. WOODS: That's correct. No saltwater
2 injection wells, those are per -- those are prohibited
3 within the Town. They're not allowed.

4 BOARD MEMBER WALKER: Thanks.

5 BOARD MEMBER RICH: Is Mr. Von Beougher
6 still here? Would you -- could I bother you, please, to
7 come to the lectern again? We have -- I have a few
8 questions for you. And are we killing your last name?
9 Is it --

10 MR. BEOUGHER: Beougher.

11 BOARD MEMBER RICH: Beougher, I apologize.
12 I would like to address some of the issues that have
13 been raised and could be concerns as well as we all
14 could use a lesson at times in drilling. The comment
15 was made that land shifts under drilling. Could you
16 explain that or if -- or if it has any validity; could
17 you just illuminate on that?

18 MR. BEOUGHER: Yeah. I couldn't explain
19 that. That was a new one to me. I don't -- I don't
20 agree with that statement. And I don't know if Tyler
21 with Red Oak would have any -- any comments on that.
22 I'm not aware of land shifting under the wells.

23 CHAIR MURPHY: Be sure and state your name
24 so we know who's talking.

25 MR. BEOUGHER: I was Von Beougher, G & A

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1 Consultants, 111 Hillside Drive.

2 BOARD MEMBER RICH: Thank you.

3 MR. DINAS: Tyler Dinas, 685 Chaparral
4 Court, Highland Village. During the fracture process,
5 for one thing, the Barnett in this area is about eight
6 and a half to 9,000 feet as you get over into eastern
7 Flower Mound; and so you're a mile and a half deep. And
8 you're in a very dense rock, and you're pressuring --
9 you're injecting fresh water mixed with sand and
10 cracking open that rock so that the gas can flow into
11 the well bore and out.

12 You're creating a frac height of maybe a couple
13 of hundred feet. And it's all contained by the
14 Forestburg limestone on top of the Barnett, the lower
15 Barnett and the Viola limestone underneath which are
16 very dense, hard. So you're fracturing the shale --
17 about 450 feet of shale through here and letting the gas
18 flow out through there.

19 It's a very tight rock. You're creating micro

20 fractures. You're pumping 100 mesh sand into that,
21 which is the kind of sand that will come through -- it's
22 like powder. It will come through a sieve size of 100
23 squares per inch. And so it's -- it's -- there's not
24 going to be any subsidence related to this.

25 You know, we've -- we're over 8,000 Barnett wells

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1 in the Fort Worth basin now; so there is quite a bit of
2 history. It's been producing for decades basically, and
3 it's come into town.

4 BOARD MEMBER RICH: And I understand from
5 research that I've done on the Barnett specific that it
6 is a different type of gas -- or different type of
7 formation -- geologic formation. It's an extremely
8 solid formation versus some which have a high porosity;
9 is that correct?

10 MR. DINAS: Yes. It's considered
11 unconventional gas --

12 BOARD MEMBER RICH: Unconventional --

13 MR. DINAS: -- in that it's not a porous
14 sandstone or a porous limestone like you would have
15 offshore, Gulf coast or down in south -- down around
16 Houston or something like that. It is a hard dense
17 shale. It's a source rock, so it's created as it's --
18 it has a very high organic carbon content. And as it's
19 buried and pressured and the temperature and pressure
20 rose high enough that the carbon cracked.

21 And the Fort Worth basin is basically a dry gas
22 basin. There's not much oil associated with it because

23 it was subjected to so much heat and temperature, as
24 opposed to west Texas. But the Barnett is a source and
25 now a reservoir. And it's basically a function of price

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1 that you're able to -- and technology, you're able to
2 get this gas out where before you couldn't.

3 BOARD MEMBER RICH: Right. So because of
4 the lack of porosity, you have less shifting than what
5 somebody may consider; is that correct?

6 MR. DINAS: Yes.

7 BOARD MEMBER RICH: Or where you may find
8 under a sandstone or a light sand material.

9 MR. DINAS: Yeah. Subsidence along the Gulf
10 coast is a real thing. Subsidence -- Long Beach, you
11 know, I think -- I think the shoreline there sunk 20
12 feet before they instituted the every barrel you take
13 out you've got to put a barrel back in to maintain. But
14 no, it's certainly -- and it would also be more
15 associated with oil. Gas won't support overburdened
16 pressure like oil can or fluid can, because gas can just
17 compress.

18 BOARD MEMBER RICH: And there is a concern
19 that with the drilling there will be excessive flooding
20 associated with this well site. With drilling do you
21 have a flooding situation in an area which has a natural
22 tendency to flood? Do you have a greater tendency?

23 MR. DINAS: There will really be no impact
24 due to the floodplain situation from -- from this two

25 acre pad site is what I've been told. Of course Josh

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1 would speak better to that.

2 MR. HOLLAND: Let me get up here. I need to
3 be here for a reason, so I'll address the flooding
4 concerns. The pad site is --

5 BOARD MEMBER RICH: Sorry, name again.

6 MR. HOLLAND: Josh Holland, Jacobs, Carter,
7 Burgess, 777 Main Street, Fort Worth. The pad site is
8 completely outside the 100-year floodplain for Timber
9 Creek and for Timber Creek 15, so it will not impact the
10 conveyance of the flood flows of either of those
11 tributaries. The pad site is only two acres in a
12 sub-basin of Timber Creek, which is several square
13 miles.

14 So even if there -- if there was increased
15 discharge from the pad site, you know, rain off -- rain
16 -- rain runs off site, right now a lot of it drains into
17 the ground through infiltration. With a compacted rock
18 pad site, it's susceptible to more runoff; but off of
19 such a small pad site, that increased runoff does not
20 have an effect on the overall Timber Creek peak flow.

21 So no, there's no reason to believe this two acre
22 pad site would have any adverse impacts to existing
23 flooding conditions.

24 BOARD MEMBER RICH: And because it has a
25 closed loop system, you also do not have some of the

1 fears of others -- other type of drilling systems; is
2 that correct, of flooding or --

3 MR. HOLLAND: Contamination to the flood --

4 BOARD MEMBER RICH: Contamination to the
5 flood -- or to the --

6 MR. HOLLAND: Because you're outside of the
7 floodplain and because of the environmental safety
8 practices or considerations of the closed loop system,
9 the threat of runoff -- contaminated runoff into the
10 floodplain is reduced.

11 BOARD MEMBER RICH: Excellent. I think
12 we've addressed the odor. One of the continuing
13 questions that -- that I think we need to address or I
14 would like some clarity to is, again, your
15 transportation in and out of the site. Could you once
16 again, I apologize, but make it very clear how you
17 expect to access this site during fracking and
18 afterwards, please?

19 MR. BEOUGHNER: Both operations will -- will
20 come from ultimately 35W, down 407, State road, TxDOT
21 road, over to 2499, down to the site and then into the
22 site and leave the same way; out to 2499 north, 407,
23 back out to 35W.

24 BOARD MEMBER RICH: Will you be following a
25 road similar to where Eaton will be? I understand

1 you're establishing your own road to -- for ingress and
2 egress of that location. It's not -- it's not there
3 now, is it?

4 MR. BEOUGHER: Correct. Eaton is not in
5 place at this time. We're building basically a private
6 road to access the well pad site. So I'm not sure I
7 understand your question. The road won't be --
8 initially it won't be a concrete road. It will be, you
9 know, typical gas well pad road with a hard surface, 20
10 feet wide or whatever we're -- we're doing now and --
11 and, you know, built to the same standard as we've seen
12 before. Does that answer your question?

13 BOARD MEMBER RICH: Yes, it does. Could you
14 tell me how you -- is there going to be a turn off lane
15 on 2499, a left turn lane so that you can access the --
16 the road or --

17 MR. BEOUGHER: I wish Bobby were here,
18 because he knows that answer right off the top of his
19 head.

20 BOARD MEMBER RICH: Well, we can --

21 MR. BEOUGHER: Does anybody from the team
22 know for sure? Is there a left turn lane planned
23 ultimately for 2499 at this location? Right now it's
24 two lanes, so there's not a planned left -- private left
25 turn bay.

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1 BOARD MEMBER RICH: Do we have anybody that
2 has the answer on Staff? Where is our transportation --

3 CHAIR MURPHY: Aren't they -- aren't they

4 working on -- working on widening 2499 right now up to
5 that area?

6 BOARD MEMBER RICH: Yes. Are we assuming
7 there's a left --

8 CHAIR MURPHY: No, I don't assume anything.

9 BOARD MEMBER RICH: Yeah, I don't -- I don't
10 either.

11 MR. BEOUGHNER: There's a left --

12 MR. WOODS: I can't speak to that fact. I
13 don't know either. I'm not certain.

14 MR. BEOUGHNER: There's a left turn bay -- a
15 dedicated left turn bay planned somewhere north of the
16 proposed signal light that we showed on our earlier
17 slides for the hospital. I don't know if it's exactly
18 in line with the yellow stripe we have shown here or if
19 it's a little bit further north. I just don't know --

20 CHAIR MURPHY: Was that -- was that Windsor?

21 MR. BEOUGHNER: No. Windsor -- I know you
22 can't hear me if I'm --

23 CHAIR MURPHY: Randi, can you bring it back
24 up on the computer?

25 MR. BEOUGHNER: Yeah, Randi probably could.

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1 CHAIR MURPHY: I'd really rather have it on
2 the screen, if you can.

3 MR. BEOUGHNER: We'll do that. But Windsor
4 comes in down here.

5 CHAIR MURPHY: Okay.

6 MR. BEOUGHER: The signal light will be down
7 here. And again, I don't know if it's going to happen
8 here or -- or further up where that left turn bay is. I
9 know there's one someplace. And with the signal light
10 here, we can't get a full median break; but there is a
11 left turn coming in. And again, Bobby has that answer;
12 but I don't.

13 BOARD MEMBER RICH: Well, we'll blame Bobby
14 if we don't have the answer tonight.

15 MR. BEOUGHER: Maybe Scott knows.

16 BOARD MEMBER RICH: While that's being
17 pulled up, again, you're building an eight foot sound
18 wall surrounding the pad site?

19 CHAIR MURPHY: Can you answer that one,
20 Tyler?

21 MR. DINAS: You got my name still?

22 BOARD MEMBER RICH: Yes, please, Tyler.

23 CHAIR MURPHY: Go ahead.

24 MR. DINAS: It's pretty standard practice
25 now with -- with the road -- the rig we have right now,

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1 for one thing, it's a low profile rig. It's a hydraulic
2 hoist rig. It's not a typical rotary rig. It's a quiet
3 rig. And we're still staying with the double-stacked
4 containers all the way around. And the -- any time you
5 do -- you've got to be careful with those, because you
6 can kind of build a megaphone.

7 So you want -- you want to leave an area for the
8 sound to get out, and we always will direct that down

9 towards the vacant land and things like that. But yes,
10 we're staying with the -- the double-stacked trailers.
11 About 17 feet high is what you achieve with that.

12 CHAIR MURPHY: You call it a double-stacked
13 trailer. Is it truly a trailer like semi trailer,
14 vertical?

15 MR. DINAS: It's like storage --

16 MR. GARZA: If I may. I think there's
17 some --

18 CHAIR MURPHY: Oh, need your name. Need
19 your name.

20 MR. GARZA: It's Martin Garza.

21 CHAIR MURPHY: Thank you, Martin.

22 MR. GARZA: Okay. During the -- the
23 drilling and completion process, there will be an actual
24 double-stacked trailer. The industry's found that to be
25 very effective during the drilling and completion

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1 process as a sound barrier. Once completion is done and
2 the site's in place, then the eight foot masonry wall
3 would be installed, of course subject to any building
4 permit requirements.

5 CHAIR MURPHY: Yeah, thank you. Is there
6 anything in the -- those trailers?

7 MR. GARZA: No. They're just empty --

8 CHAIR MURPHY: Shells?

9 MR. GARZA: They're bigger than PODS, but
10 that's --

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CHAIR MURPHY: Yes.

MR. GARZA: -- kind of what they're like.

And they're each eight and a half feet tall.

MR. WOODS: A shipping container, if that helps.

CHAIR MURPHY: A shipping container, like a -- yeah, yeah. I've seen -- they have had them out in Argyle and on 407, so they are in place. I have seen those.

Anything else for Mr. Beougher or Mr. -- Tyler and Von?

Okay. Mr. Stan Rytha, would you please come back to the lectern, please? Thank you, gentlemen.

Would you state your name, please.

MR. RYTHA: Sure. I'm Stan Rytha with TPHR,

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address 14131 Midway Road, Addison, Texas 75001.

BOARD MEMBER RICH: And can you -- can you just clarify who TPH is?

MR. RYTHA: TPHR is a wholly-owned subsidiary of Texas Health Resources. Texas Health Resources is the health system, umbrella organization over the Presbyterian Health System of North Texas, the Harris Methodist System of North Texas and Arlington Memorial Hospital. We are a wholly-owned subsidiary that leads many of their development efforts, new development efforts.

BOARD MEMBER RICH: And you have reviewed this property as far as development-specific for this

14 hospital; is that correct?

15 MR. RYTHA: Yes. And we've entered into a
16 land purchase contract with the surface owner.

17 BOARD MEMBER RICH: And how -- what -- what
18 size of this facility is -- how many bed facility will
19 it be?

20 MR. RYTHA: Initially approximately 100 to
21 113 beds.

22 BOARD MEMBER RICH: After the initial what
23 do you propose it to be?

24 MR. RYTHA: Well, that will all be driven by
25 future patient and community demand. It's hard to say

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1 at this time. Right now based upon the input provided
2 by the physicians who are part of this project and
3 helping us to design and configure it, we've come up
4 with about 100 to 113 bed configuration.

5 BOARD MEMBER RICH: And it will have a full
6 emergency; is that correct? It's proposed?

7 MR. RYTHA: It's a general acute care
8 hospital with a full emergency room, labor-delivery,
9 surgery. This is not a surgery center or a surgical
10 hospital, per se. It is a general community hospital.

11 BOARD MEMBER RICH: General.

12 CHAIR MURPHY: You called it an acute
13 care --

14 MR. RYTHA: An acute care hospital versus a
15 lower level, a rehab hospital, rehabilitation facility,

16 a long-term acute care. This will be a general acute
17 care hospital.

18 BOARD MEMBER RICH: Do you have any concern
19 with the location of -- the proposed location of your
20 hospital in relation to the proposed gas well site?

21 MR. RYTHA: As currently configured, no. As
22 mentioned, based upon the knowledge we have at this
23 time, it meets our operational requirements of getting
24 patients, supplies in and out of the campus, as well as
25 from what we've been told and interpreted by the Texas

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1 Department of Health meets their requirements, including
2 their setbacks, which are the Town's plus 150 feet.

3 So they're somewhat more extensive, and was all
4 -- which was one of the drivers for the surface owner
5 having to move. As well as the question of proximity to
6 residences, we needed them further east on the site to
7 meet those requirements.

8 BOARD MEMBER RICH: So you have no concerns
9 about the setbacks, that the setbacks are met according
10 to --

11 MR. RYTHA: As it relates to our hospital?

12 BOARD MEMBER RICH: Correct.

13 MR. RYTHA: No.

14 BOARD MEMBER RICH: Do you have any concerns
15 for any contamination, explosions or any adverse effects
16 on any of your patients?

17 MR. RYTHA: No, not at this time. And
18 again, if there were -- again, I'm not an expert on gas

19 drilling. If such concerns I believe were present, I
20 believe the Texas Department of Health, especially given
21 the State's experience in the drilling process, would
22 have included that or accounted for it in their
23 mandates.

24 BOARD MEMBER RICH: And your counsel has
25 reviewed this as well?

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1 MR. RYTHA: Yes.

2 BOARD MEMBER RICH: The location of this,
3 and your counsel has found nothing that -- that they
4 feel could expose you to any liability in regards --
5 liability or environmental exposure to patients?

6 MR. RYTHA: At this time based upon the
7 knowledge we have -- again, we are -- we and the entire
8 development, the surface development are going through
9 the P & Z process. Now, whether that causes us to shift
10 the hospital one way or another -- but based on the
11 assumptions in place at this time, we have no concerns.

12 BOARD MEMBER RICH: And can you tell me how
13 many visits you expect in that hospital? Not -- not
14 beds, but do you have a foot visit and a patient visit
15 per day you're anticipating at the hospital?

16 MR. RYTHA: I believe by year three we're
17 looking at an average daily census of 93 patients.
18 There would also be additional outpatients coming in for
19 X rays, blood work, etcetera. And then the employees,
20 which would be approximately 500 employees once this

21 hospital is fully ramped up.

22 BOARD MEMBER RICH: And the proposed ingress
23 obviously and egress for the hospital is 2499?

24 MR. RYTHA: Yes, the primary.

25 BOARD MEMBER RICH: Primary. I think that's

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1 all, thank you.

2 CHAIR MURPHY: Thank you.

3 We need to take another ten-minute break before
4 we continue this. My apologies, but we've got to take a
5 little break. We will reconvene at 10:00 exactly.

6 (A recess was taken.)

7 CHAIR MURPHY: Okay. Now reconvening the
8 Town of Flower Mound Oil and Gas Board of Appeals for --
9 Board of Appeals meeting on June 18th, 2008 at 10:00
10 p.m. We are -- have closed the meeting to the public,
11 and we will be deliberating amongst the Board Members to
12 reach a conclusion on this variance request.

13 Fellow Board Members, do you have any particular
14 questions for either the Applicant or Town Staff or
15 comments on what your feelings will be, what your
16 thought process is in reviewing the information
17 submitted tonight?

18 MR. WOODS: Madame Chairman, if I may, if
19 Vice Chair Rich wasn't going to follow up with the
20 residential zoning question, if I may just interject
21 that now.

22 CHAIR MURPHY: Uh-huh, absolutely.

23 MR. WOODS: The zoning -- the current zoning
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24 is basically -- it's an obsolete zoning; but it's medium
25 density, single family attached and multi family. Those

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1 are the residential zones -- zoning on the property.

2 CHAIR MURPHY: So the zoning is single
3 family attached and multi family?

4 MR. WOODS: For medium density.

5 CHAIR MURPHY: For medium density, which is
6 four per acre, four homes -- four single family
7 residences per acre?

8 MR. WOODS: Medium density is actually -- I
9 believe it's an obsolete zoning now, but that's what was
10 applied on the property. But I believe you're correct
11 that it's approximately a quarter-acre, four per acre.
12 I can verify that if you want that detail, too; but I
13 believe that's --

14 CHAIR MURPHY: No, no. That just kind of
15 gives the general idea.

16 MR. WOODS: Okay.

17 CHAIR MURPHY: Well, let me go one more
18 step. If it is 123 acres and it's medium density, when
19 you take out the roads and all the setbacks, how many
20 homes are we talking about?

21 MR. WOODS: The entire property is not zoned
22 residential. There's a mix. There's a spa on a portion
23 of that property --

24 CHAIR MURPHY: Yes.

25 MR. WOODS: -- a specific plan area.

1 There's also multi family. There's office and retail, so
2 it's --

3 CHAIR MURPHY: Okay. It's still a mixture.

4 MR. WOODS: It is.

5 CHAIR MURPHY: Which means if a development
6 such as the Riverwalk would go in, it would be
7 appropriate for the zoning?

8 MR. LATHROM: No, ma'am.

9 CHAIR MURPHY: Thank you. That's all I need
10 to know.

11 MR. LATHROM: The -- the concept plan or the
12 site plan that you've been shown this evening is not
13 consistent with the zoning that is currently on the
14 property.

15 CHAIR MURPHY: Okay, thank you.

16 BOARD MEMBER POSTON: If I may ask a
17 question of counsel, just clarification, just to be
18 sure. It seems to me that our agenda for tonight was to
19 talk just about variances to proposed gas well sites.
20 But in the presentation and mentioned not only in the
21 e-mails but almost by every proponent or person in favor
22 of there seems to be a link -- a very, very deliberate
23 link between approval of these variances and this
24 Riverwalk.

25 Now, as I understand my charter, that I am to

1 just be concerned with what we have heard concerning the
2 variances and to discount either questions about
3 hospitals or Riverwalk; or is Riverwalk and hospitals --
4 or is that in play as I consider where I stand with
5 this?

6 MR. LATHROM: There are two of the criteria
7 that discussion of development of the surface property
8 could fall into, being Criteria 3 and Criteria 4 where
9 it talks about the granting of the variance -- whether
10 the granting of the variance will adversely affect
11 features of the comprehensive Master Plan of the Town
12 and whether the variance will be of material detriment
13 to the public welfare or injury to the use, enjoyment or
14 value of property in the vicinity.

15 So two of the criteria could encompass plans for
16 development. But what you've been presented and what
17 has been discussed is simply that, there -- they are
18 concept plans. There are -- there have not yet been any
19 approvals, either of a Master Plan amendment or of a
20 zoning ordinance amendment that would allow the
21 Riverwalk concept plan or the Riverwalk development as
22 it's conceptualized right now to proceed on this
23 property.

24 BOARD MEMBER POSTON: Thank you. I asked
25 that question as a follow-up to what Board Member Walker

1 had asked earlier, and I thought that was clear; but we

2 just kept coming back to it. And I just wanted to make
3 absolutely certain that we were on the same page with
4 this.

5 MR. LATHROM: There is also a third
6 criteria, and I'm sorry I overlooked it, Number 6 that
7 deals with whether the drilling of the wells will
8 conflict with the orderly growth and development of the
9 town. There again, that is a criteria under which that
10 information could be viewed.

11 Now, the weight to be given to and the credence
12 to be given to those items is up to the discretion of
13 the Oil and Gas Board of Appeals, much like the weight
14 and credence to be given to the information that's
15 provided to you is subject to your determination as to
16 what amount of credence or weight that you want to give
17 to that information.

18 I say that specifically with respect to the
19 e-mails that you received. They were made a part of
20 your packet, and that's why I did not, you know, object
21 to --

22 CHAIR MURPHY: The reading of them.

23 MR. LATHROM: -- your reading those because
24 those had already been made a part of the packet to you.
25 There again, those people were not here this evening and

1 did not speak in person. The amount of weight and
2 credence that you want to give to those e-mails is
3 subject to your discretion.

4 CHAIR MURPHY: I thought it was a very
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5 important part considering they did take the time and
6 they weren't here, so I'm glad we did.

7 BOARD MEMBER RICH: I agree with what Member
8 -- Board Member Poston said. We are to look at what is
9 proposed -- or what is in front of us specific for the
10 variances this evening. But one of the comments that
11 has been consistently made has been the fact that
12 drilling is against the Master Plan.

13 And I had to go back and reread the Master Plan
14 so that I fully understood if I had missed something,
15 and I did not miss anything. It does not specifically
16 refer to that. However, what I found which I thought
17 was very interesting was in the 2001 issue of the Town
18 of Flower Mound Master Plan, it's -- it specifically
19 identifies that area.

20 And it -- the comment is this. In the Specific
21 Plan 456 addresses the area adjacent to FM 2499, north
22 of the intersection of 1171. FM 2499 was realigned and
23 widened north from its intersection with FM 1171 in '96,
24 '97. A meandering farm road was transformed into what
25 ultimately will be a six-lane thoroughfare connecting

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1 southern Den -- Denton County to Dallas Fort Worth
2 Airport.

3 The potential impact upon Flower Mound and the
4 region cannot be overstated. The 1994 comprehensive
5 plan had envisioned FM 2499 bisecting low density
6 residential land uses north of Timber Creek and Estate

7 and medium density residential land south of Timber
8 Creek to specific Plan Area Number One. Only at the
9 northern limit of 2499 at the southeast corner of FM 407
10 was commercial land use anticipated.

11 The 1994 plan did not address potential conflict
12 and quality of life issues that a six-lane thoroughfare
13 brings to a residential development and did not seek to
14 capitalize on the commercial development possibilities
15 that were created with these roadway improvements.

16 What I am hearing from people, which burdens me,
17 is that their life would be impacted; their homes would
18 be impacted by the development of this well. And I
19 remember one of the cases that we had, we evaluated a
20 comment that was made -- although the case has nothing
21 to do with this case.

22 It was, again, a comment that a woman made that
23 she was within -- within so many feet -- her property
24 was within so many feet -- obviously within the 1,000
25 foot variance, that's why she -- they were requesting a

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1 variance; and that her quality of life would be ruined
2 by the development of the gas well.

3 And we -- when we evaluated the future
4 potential -- excuse me. When we evaluated the future
5 development that was slated in the Master Plan for the
6 property that she was saying was going to horribly
7 impact her, the development of residential was actually
8 much greater impact than what the impact that was seen
9 in -- and is continuing to be seen due to the

10 development of this -- of this gas well on that piece of
11 property.

12 Instead of having homes adjacent to hers, which
13 would have happened because they would have been
14 allowed, the development would -- the development, from
15 my recall, and this has been awhile, allowed for 30
16 acres or -- it was quite a -- quite a few acres of trees
17 to remain between her property and the gas well. And in
18 some ways when we identify a gas well location, we
19 actually wind up protecting a lot more of property and a
20 lot more of the existing properties than ultimately if
21 the land is developed.

22 Now, in this -- in the other case that I was -- I
23 was stating -- and again, the case has nothing to do
24 with it. It's just that the concept of we are not --
25 we're not addressing what goes on today. We're

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1 addressing issues that we grant variances to and how it
2 affects Flower Mound 25 years from now. So your -- the
3 question, Board Member Poston, is very valid. Why are
4 we even talking about the hospital? Why are we even
5 talking about any of this?

6 And we're talking about this because if we
7 grant -- if a -- if the variances are granted that the
8 gas well is being developed, it will directly impact
9 what can be developed on that land in the future. Not
10 that we're considering the proposed Riverwalk, but we're
11 considering what impacts the gas pad will have on future

12 developments. That's where I'm coming from in asking
13 some of the questions.

14 My questions to the hospital were are you
15 concerned about a gas well, has your counsel addressed
16 your liability or your exposure or your risk management
17 in exposure near a gas well. If that's the case and the
18 hospital says yes, and we are not comfortable with it,
19 then if we grant variances we've eliminated any chance
20 of having a hospital there.

21 Not that we -- not that anybody has -- has slated
22 that we will have a hospital. But it continues with
23 what -- what are we trying to do, and how are we to
24 develop this, and how are we to protect the development
25 of our town, and is a gas well put in that location

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1 protective or is it not protective.

2 When we review many of the variances, the
3 variances, as I asked Mr. Woods, are directly related to
4 any development, not just a gas well. But most of the
5 variances that we're discussing tonight are directly
6 related to that property being developed in any way
7 other than one large park, which that will not happen.
8 It would be financially not viable.

9 Well, it may; if somebody wants to donate the
10 land, I'm sure the Town would be more than happy to
11 receive that donation. But chances are it's not -- the
12 whole property is not going to be a great large park.
13 It'll -- it most probable -- probability-wise that it
14 will be developed, and it will be developed into

15 something.

16 And that is the question of how we want to see it
17 or how the Town's vision is to develop it. So the
18 variances that are requested tonight are consistent --
19 not all of them, but many of the variances are
20 consistent with any type of development, not just a gas
21 development, but any type of development that will go on
22 that property.

23 The ESAs, the environmentally sensitive area is
24 global. It is not restrictive because -- it is not an
25 ESA area because they have asked for a gas well there.

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1 It's an ESA -- it's an environmentally sensitive area,
2 an ESA area despite. It's a floodplain despite what
3 anybody wants to build. It's a riparian habitat, it's
4 an upland habitat, it's an endangered and -- and
5 whatever species of -- of creature that flies through
6 there, despite whatever is built there.

7 The problem that we start getting into or the
8 question that we start getting into is the type of
9 development and whether or not the variances specific to
10 that development warrant variances, the variances
11 requested warrant --

12 CHAIR MURPHY: I will say that -- that the
13 variances that have been granted with the gas wells have
14 been in the Conservation District. It has always been
15 one of our main concerns and top priorities with
16 respecting the environmentally sensitive areas, the

17 Waters of the State, the uplands and the floodplains.

18 And if I'm not mistaken, we even give a variance
19 for a floodplain. And that's when we discovered that by
20 granting the variance for the well -- for the gas well
21 sites is when we really did protect the land from future
22 development. However, this is a different circumstance.

23 And I want to commend the group for your
24 presentation, outstanding; even the stuff that we
25 received I thought was wonderful. Very specific, and

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1 you can follow it. And it was a much better location
2 with much better setbacks than what we had two months
3 ago. And as I'm driving around Flower Mound the other
4 day, these beautiful greenbelts, I happen to see an
5 orange pole sticking up and said that's a gas line.

6 They're all over the place. They're in our
7 greenbelts that run through our community, so it's here.
8 And I absolutely respect the right for the minerals. I
9 do realize that concept. The mineral owner does have
10 the right to retrieve those minerals. And I appreciate
11 all the words that were written in e-mail and in
12 letters. I -- that spoke volumes to me.

13 I truth -- truly also appreciate the closed loop
14 system. That is something that was very unique with
15 Flower Mound, and that was one of the things that turned
16 the light on to all of us that they really do care about
17 the environment and there's not the erosion. And the
18 new sound and technology that they're using to buffer
19 the sound, all those are the good things.

20 The unfortunate thing, it's all or nothing. And
21 I can see a lot of the setbacks that were given that
22 could be tolerated, that would be okay. But if one of
23 the variances aren't granted, it messes up the whole
24 thing. And timing is everything, and I feel like that
25 the timing is not what it needs to be for the Town of

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1 Flower Mound.

2 I don't say that for an applaud. But I think
3 about the trucks coming down 407 and 2499, and I
4 absolutely avoid that place in daylight hours; sometimes
5 even nighttime is questionable. And it's going to be a
6 further nightmare in the years to come. And the
7 alternate 1171 is going to be even worse. We have
8 waited for years to get this done.

9 And if you remember 3040, that we passed a bond
10 to pay for half of it; and it still took six years. And
11 all -- it's bad enough just to keep our citizens safe on
12 2499 and 407, much less the teenagers, the people
13 driving. And those trucks and the roads and -- and
14 that's my concern, too, the impact on those two-lane
15 roads right now while we're trying to get the other two
16 put on the side, the one at 407 -- you know, TxDOT does
17 not move that quickly.

18 So those are the things that I'm leaning to. And
19 it's unfortunate that it's either all or nothing. And
20 that also brings back to the four -- or the 12 criteria
21 that we have. We don't have to look at every single

22 one. There are some that apply, and there are some that
23 don't.

24 The spec -- the special circumstances existing on
25 the property, which Ms. Lindelow did all ev -- she

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1 enumerated very well what they are. But at the same
2 time, in my opinion, that's what makes it special. And
3 that's why we need to look at it, because it is a
4 special piece of property in the environmentally
5 sensitive area, in the upland habitat, in the Waters of
6 the State.

7 And to enjoy the same rights by other people in
8 the vicinity and the zone, I understand the owner's
9 rights to the -- for the minerals. I understand that.
10 But it's not happening in that vicinity and in that
11 zone. And the granting of the variance on a specific
12 property will not adversely affect any other feature of
13 the Mast -- or the comprehensive Master Plan, I don't
14 think we've decided that yet.

15 The Riverwalk is a great concept. But we've just
16 talked about the Master Plan, and timing is everything.
17 And I feel like that we're being pushed to make a
18 decision on this, because if we don't we're going to
19 lose; and I just don't feel comfortable with that. They
20 did come up with alternative sites, and they even showed
21 some other sites that they looked at which were even in
22 a worse situation.

23 And then we go to whether the -- the operations
24 proposed are consistent with the health, safety and

25 welfare of the public when and if conducted in

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1 accordance with the Oil, Gas and Combined Well Permit
2 conditions to be imposed. Again, I'm not really
3 concerned about any tragedies happening, because they --
4 it's still a good distance. But at the same time, every
5 says -- everyone says "not in my backyard."

6 I still like the 1,000 feet. I can live with a
7 little bit less than 1,000 feet. But when it gets
8 beyond 500, I go -- you know, it just gives me a moment
9 to pause. I was very impressed that the pastor of
10 Flower Mound Baptist Church sent the letter. But the
11 question I have is was that his opinion, or was it his
12 congregation's opinion.

13 And the same way with Applewood. I appreciate
14 him writing the letter; but was that his opinion, or was
15 that his customers' and patrons' opinion. So for those
16 reasons, I find it very difficult to -- to grant every
17 variance. And like I said, and if one is not granted,
18 it throws the whole thing off. And I would welcome -- I
19 welcome any comments from the Board Members.

20 BOARD MEMBER RICH: Well, I have to actually
21 address the transpor -- transportation issue. That is a
22 prime concern to me. That -- I'm not underestimating
23 our growth. That -- 2499 will be a six-lane road.

24 CHAIR MURPHY: It's already there.

25 BOARD MEMBER RICH: Morris will be a

1 six-lane road. And I'm sorry for the people that are
2 going to be exposed to that and exposed to the
3 expansion. I'm sorry for the people who have lived here
4 for 36 years. But I was raised in Scottsdale, Arizona;
5 and I guarantee you that house that I was raised in no
6 longer exists because Scottsdale grew. And that's
7 what's happening in Flower Mound.

8 And if those houses that currently get flooded
9 were to be built today, they wouldn't be built because
10 y'all built in a floodplain. So the development of this
11 area will actually benefit many people that are
12 currently in a floodplain by removing some of that. But
13 nonetheless, when I look at it, two issues have me
14 stumped. And one is the transportation.

15 I can't see -- I'm just having a real hard time
16 seeing semis coming down that road in -- in -- in
17 congruence -- at the same time with emergency vehicles.
18 I'm having a real hard time with that. I respect their
19 right to develop the minerals. There's absolutely no
20 question --

21 CHAIR MURPHY: And -- and by the way, they
22 are entitled.

23 BOARD MEMBER RICH: Oh, they're entitled.

24 CHAIR MURPHY: However --

25 BOARD MEMBER RICH: They're completely and

1 totally entitled as much as we're entitled to live on
2 the property. They have -- they have -- they are
3 entitled. They are entitled. Don't -- don't even get
4 to us on the rights. They have the rights.

5 The -- Number 2 is an issue that I have. You
6 know, again, the permit -- the variance is necessary to
7 permit the Applicant the same right in the use of the
8 property that are presently enjoyed by other properties
9 in the vicinity. This is the first one that came to us.
10 I'm sure we'll have others that come to us. Sometimes
11 the first born have a little harder time than the
12 second. But there isn't any other -- that we can
13 actually relate to that, so I honestly -- I'm having a
14 problem with that one.

15 The granting of the variance on the specific
16 property will not adversely affect other features of the
17 comprehensive Master Plan. The one that also bothers me
18 that I'm trying to really work with, but I'm not able to
19 get across it, is the 700 -- I want to quote it
20 correctly -- 730 feet to Applewood Day Care. Whether
21 the operations proposed are consistent with the health,
22 safety and welfare of the public when and if conducted
23 in accordance with the Oil, Gas and Combined Well Permit
24 conditions to be imposed.

25 The other one I'm having a problem with is Number

1 11; not B, because they -- they did a fantastic job
2 looking for alternative drill sites. But whether the

3 impact upon the adjacent property and the general public
4 by operations conducted in compliance with the Oil, Gas
5 and Combined Well Permit are reasonable and justified
6 balancing the following factors: the reasonable use of
7 the mineral estate by the mineral estate owners to
8 explore, develop and produce the minerals.

9 Knowing the volume of the Barnett Shale, I am
10 concerned about the volume that would be -- the
11 additional well sites that --

12 CHAIR MURPHY: That they would be able to --
13 also never mentioned here was also --

14 BOARD MEMBER RICH: They will need to or
15 they'll blow.

16 CHAIR MURPHY: The same --

17 BOARD MEMBER RICH: The volume is so great
18 under the Barnett Shale -- which you know, God bless
19 y'all who -- who if you own mineral reserves, I mean,
20 you know, think of us some day if you --

21 CHAIR MURPHY: Well, there's also the
22 compression stations --

23 BOARD MEMBER RICH: But you've got -- you've
24 got issues with needing more -- more because your volume
25 is going to exceed every --

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1 CHAIR MURPHY: And it's already been proven
2 in the Town of Flower Mound.

3 BOARD MEMBER RICH: It's already been --

4 CHAIR MURPHY: More than what they ever had
5 expected. Also there's also the issue of where are the

6 lines going to connect.

7 THE REPORTER: Chair Murphy, speak up for
8 me, please.

9 CHAIR MURPHY: Excuse me, Sherry. Where are
10 the lines going to connect? Where are they going to
11 drill the lines? It's already been proven in the Town
12 of Flower Mound that the Barnett Shale is -- is better
13 than they ever expected. That it is a living -- it's
14 not taking the minerals, it's making it; and that's why
15 it's not going to run dry.

16 So I certainly understand all of this. But at
17 the same time, there's too many that would not be
18 appropriate in granting this variance. And
19 unfortunately, it would affect all the other variances.
20 And timing is everything.

21 BOARD MEMBER RICH: There are many variances
22 here that I would support. There are some that I ab --
23 I --

24 CHAIR MURPHY: It's not really that big of
25 an issue --

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1 BOARD MEMBER RICH: -- can't support.

2 CHAIR MURPHY: -- but there's some that you
3 can't support. And that's where I am. It's all or
4 nothing. And -- and that's where I am. I'd love to
5 hear from Board Member Walker and Board -- if we'd hush
6 long enough --

7 BOARD MEMBER WALKER: Yeah. I've been

8 listening to the comments; and unfortunately, I disagree
9 with a lot of your statements. I mean, to me the -- the
10 decision is the reasonable use of the mineral estate by
11 law versus proving that the proposed activity is
12 detrimental to the health, safety and welfare of the
13 Town.

14 And I believe with all the mitigation, the
15 Ordinances, all the -- movement of the well pad away
16 from residents, which is, by the way, probably the most
17 significant I believe issue is proximity to homes. Then
18 in my list the next would be floodplain. And I think
19 that the Applicant has done their best to mitigate -- I
20 mean, they're beyond 1,000 feet from the nearest
21 residence.

22 Everything else in terms of habitat and Waters of
23 the State and the property line, the public park, which
24 both are undeveloped -- I'm looking at what would impact
25 -- you know, grossly impact the Town that would be

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1 extraordinarily -- and would have to be demonstrated
2 that this is a detriment to our health, safety and
3 welfare. I know there's -- believe me, I know there's
4 accidents with gas drilling. Some of the -- some of the
5 oil accidents are being brought over to gas drilling,
6 and they're not the same.

7 But I'm still not convinced -- it has not been
8 demonstrated to me that the danger of this in Flower
9 Mound is so extraordinary that we would deny the rights
10 to access the minerals, especially because more than

11 1,000 feet to a residence which impacts people living in
12 their homes and the drainage area. Well, I think
13 they've -- I don't see anything in there; and the Staff
14 concurs, that those two major areas are a problem. I
15 think they've done their due diligence.

16 They went back after our comments from the
17 earlier meeting and modified their pad site and added
18 additional mitigation. So again, you have to convince
19 me that this is really a horrific danger to the welfare
20 of the Town of Flower Mound and its residents. And I --
21 you know, maybe, might, and could and may -- you know,
22 five years from now something might happen is not
23 compelling enough --

24 CHAIR MURPHY: Are you --

25 BOARD MEMBER WALKER: -- to deny the access

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1 to mineral rights.

2 CHAIR MURPHY: Are you saying that it is --
3 you think it's a big danger?

4 BOARD MEMBER WALKER: I do not think it is a
5 big danger.

6 CHAIR MURPHY: Oh, okay.

7 BOARD MEMBER WALKER: I think -- why?
8 Because we have, if not the strictest, one of the most
9 strict ordinances in the State of Texas to regulate gas
10 drilling. And I'm proud of that.

11 CHAIR MURPHY: Yes.

12 BOARD MEMBER WALKER: I mean, that's a

13 collective effort of all the citizens that put time and
14 effort into it. It's been through public hearings.
15 Actually twice it went through the system, and this is
16 what we have. Many communities are cloning our
17 ordinances because --

18 CHAIR MURPHY: That's why we get to give up
19 an extra night.

20 BOARD MEMBER WALKER: Right, exactly. So I
21 understand the concern about it, and I wish I could
22 allay everybody's fears. I don't think you can ever
23 allay everybody's fears. It would be like telling you
24 that flying is safe; and you say yeah, well, one just
25 crashed last week. Yeah, but if you look at the

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1 statistics, flying is pretty safe. And I feel the same
2 way about this gas drilling activity.

3 CHAIR MURPHY: I agree. I agree.

4 BOARD MEMBER WALKER: I'm not -- I'm not
5 somebody that believes in granting every variance
6 related to gas drilling. I mean, we've -- we've done
7 some issues here in the past and considered issues where
8 we have put more requirements on the Applicant. But
9 tonight I feel that I just have not been convinced that
10 this is a massive danger to the Town and to the citizens
11 of Flower Mound versus their right to access minerals.

12 I just -- I don't see it. You know, that's my
13 opinion; but that's the way I feel about it.

14 BOARD MEMBER POSTON: Well, I'd like to
15 clarify or at least talk about one of the last things

16 that Attorney Lindelow said for the presenters; and that
17 was that -- something about comments pertaining to this
18 is an anti-drilling sentiment or that people are
19 generally opposed to drilling. I disagree with that.

20 We -- we on this Board -- and I've been on this
21 Board for, what, three or four years. And up until
22 March people haven't come to our meetings because, guess
23 what, we've granted waivers out in, say, west, you know,
24 Flower Mound in areas where there aren't houses and
25 there aren't schools and there aren't elementary schools

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1 and things like that. So I don't think that we are an
2 anti-drilling people. I'm not.

3 However, this is about a different situation
4 where you're inside a town. Most people refer to that
5 as urban drilling. And there's a lot of difference
6 between that drilling in this place and drilling out in
7 a farm area for which many of us haven't even been out
8 there. So I don't think the issue is about drilling as
9 much as it is about drilling in the immediate city or
10 urban area.

11 CHAIR MURPHY: I support what you're saying,
12 and I support the Ordinance that the Town of Flower
13 Mound has. And luckily, the people in -- in place in
14 Council and Staff eight years ago recognized what could
15 be, just like the Master Plan and the Smart Growth.
16 They put this together in case something like this came
17 up. And that's why we're here, and this is why I think

18 the process works.

19 BOARD MEMBER POSTON: Chair Murphy, I agree
20 with you. And I would also say, as many people have
21 said, is that that Ordinance and the plan that was put
22 in place by people well before us is very sound. And
23 that is one of the reasons why we are here. That's one
24 of the reasons why we will stay here. And I see other
25 communities that surround us that don't have the same

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1 standards; and frankly, too bad for them.

2 But I think that Flower Mound is well served by
3 our leadership, by the people who put that Ordinance and
4 the Ordinances in place. And I certainly hope that we
5 keep those.

6 BOARD MEMBER RICH: You know, one of the
7 things that we have looked at before, which is of
8 concern to me, is when we have granted variances at
9 other times we have been directly conscious of the
10 location of schools and how many feet -- in fact, in
11 nondeveloped areas we've been very, very aware of the --
12 of the fact that a variance in place of 1,000 feet to a
13 school would pro -- prohibit school development in an
14 area. And we are very, very careful about that.

15 And -- and here again, we've got 760 feet to a
16 school. I -- it's a little bit more than that I guess
17 to the church. I would agree that I do not feel that
18 there is an imminent danger of a gas well explosion.
19 It -- history does not support that, nor does it support
20 fear. It's just not appropriate in this case. There's

21 so much new physical --

22 CHAIR MURPHY: Technology.

23 BOARD MEMBER RICH: -- technology that --
24 that can -- that, you know, prevents a lot of -- a lot
25 of things that yes, there are explosions; but the

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1 explosions often are from --

2 CHAIR MURPHY: Human error.

3 BOARD MEMBER RICH: Yeah, large human error
4 or carelessness in -- in the actual imp -- the actual
5 drilling. But again, I've got that 6 -- 760 feet to an
6 existing school where I'm very uncomfortable with that.

7 CHAIR MURPHY: One of the things that I keep
8 hearing all the time is Flower Mound is not very
9 developer friendly. I've served on the Zoning Board of
10 Adjustment and the Master Plan Steering Committee Update
11 Committee, and we've listened to the residents of Flower
12 Mound. And people move to Flower Mound for a reason,
13 because of its urban setting. And they don't really
14 care about having a lot of expanded growth.

15 We talked a lot about population as well. And I
16 just think that the Town of Flower Mound -- although,
17 any of these drills may be financially promising for the
18 Town of Flower Mound's pocket, but the only thing Flower
19 Mound gets is the ad valorem tax. They don't get
20 anything else unless they own the property.

21 I just think the Town of Flower Mound, the
22 residents of Flower Mound love it so much they want to

23 keep it just as rural and protect the environment and
24 the safety that I think we will do anything or pay any
25 price, if we have to even increase dollars and taxes to

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1 keep it this way. And what I really want to see --
2 you've seen a lot of these aerial shots. And flying in
3 the airplane, you can look down on north Texas; and you
4 can see the rigs. Now, those rigs are only there for 30
5 days, but there is a lot of them.

6 And then you have the maps that I -- Andy Eades
7 [phonetic] just showed recently at a meeting all the
8 little dots of all the new wells, and you saw where they
9 were. And I think that's great. I just want to see
10 this little hole around central Flower Mound, there's
11 nothing there. So you know, because we do care about
12 our environment; and that's why this -- this process is
13 good.

14 Do I think this would really do that, no, I
15 really don't. But it's not the right setting, and it's
16 not the right time. And more than anything else, the to
17 and from, the egress and -- and -- and whatever the word
18 is --

19 BOARD MEMBER RICH: Ingress.

20 CHAIR MURPHY: -- ingress, thank you, is
21 what is not good in the timing right now today. Until
22 these roads are done, it's bad enough for us to even
23 travel on them in a car; and that's my big issue why I
24 can't support that particular variance.

25 BOARD MEMBER RICH: At this time we're

1 preparing a motion to approve vari -- we'll go one by
2 one and (inaudible).

3 CHAIR MURPHY: One by one.

4 BOARD MEMBER RICH: All right. Variances
5 associated -- and let's start with the variances
6 associated, and then I'll go one by one on them. Hold
7 on. Okay. The motion is to approve variances -- or
8 approve the request from Red Oak Gas Operating, LP, for
9 a variance from Sections 34-420 K and N under Oil and
10 Gas Well Permit Required, Sections 34-422 D under Oil
11 and Gas Well Permit, and Section 34-427 A35 under
12 Technical Requirements.

13 The request is to decrease floodplain,
14 environmentally sensitive area, public park, public
15 building, property line, right-of-way, tank battery and
16 storage tank setback requirements for the natural gas
17 well permit known as McDowell Number 1H and Number 2H.
18 The property involved is generally located east of FM
19 2499 Long Prairie Road, north of Euclid Avenue, west of
20 Morris Road and south of Timber Creek Trail, GO-08-2118.

21 (Inaudible conversation between Board
22 Member Rich and Chair Murphy.)

23 BOARD MEMBER RICH: Number one, floodplain.
24 We move to approve the request for a variance to the
25 floodplain setback requirements stated in Section 34-420

1 K, Oil and Gas Well Permit Required of the Town's Code
2 of Ordinances to allow the McDowell gas well pad site
3 and associated edge of construction limits to be
4 situated no closer than 30 feet from the floodplain
5 located to the north and west of the gas pad -- gas well
6 pad site. The motion is to approve.

7 CHAIR MURPHY: Do we have a second?

8 BOARD MEMBER WALKER: Second.

9 CHAIR MURPHY: Rachel, can you call roll.

10 MS. HAYNES: Board Member Poston?

11 BOARD MEMBER POSTON: Nay.

12 MS. HAYNES: Board Member Walker?

13 BOARD MEMBER WALKER: Aye.

14 MS. HAYNES: Vice Chair Rich?

15 BOARD MEMBER RICH: Aye.

16 MS. HAYNES: Chair Murphy?

17 CHAIR MURPHY: Nay.

18 MS. HAYNES: Board Member Wallace?

19 BOARD MEMBER WALLACE: No.

20 CHAIR MURPHY: The variance was denied.

21 BOARD MEMBER RICH: Waters of the State, a
22 motion has been made to approve the request for a
23 variance to the environmentally sensitive area Waters of
24 the State setback requirement stated in Section 34-420 N
25 Oil and Gas Well Permit Required of the Town's Code of

2 associated edge of construction limits to be situated no
3 closer than 272 feet from the Waters of the State
4 located to the west of the gas well pad site and 414
5 feet from the Waters of the State located to the north
6 and east of the gas well pad site. The motion is to
7 approve.

8 CHAIR MURPHY: Do we have a second?

9 BOARD MEMBER WALKER: Second.

10 MS. HAYNES: Board Member Wallace?

11 BOARD MEMBER WALLACE: No.

12 MS. HAYNES: Chair Murphy?

13 CHAIR MURPHY: Nay.

14 MS. HAYNES: Vice Chair Rich?

15 BOARD MEMBER RICH: Aye.

16 MS. HAYNES: Board Member Walker?

17 BOARD MEMBER WALKER: Aye.

18 MS. HAYNES: Board Member Poston?

19 BOARD MEMBER POSTON: Nay.

20 CHAIR MURPHY: The motion has been denied --
21 the variance has been denied.

22 BOARD MEMBER RICH: Riparian habitat, a
23 motion is made to approve the request for a variance to
24 the environmentally sensitive area, riparian habitat,
25 setback requirements stated in Section 34-42N Oil and

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1 Gas Well Permit Required of the Town Code -- Town's
2 Code of Ordinances to allow the McDowell gas well pad
3 site and associated edge of construction limits to be

4 situated no closer than approximately 140 feet from the
5 riparian habitat located to the west of the gas well pad
6 site.

7 MR. LATHROM: Vice Chair Rich, was that to
8 Section 34-420 N?

9 BOARD MEMBER RICH: That's correct.

10 MR. LATHROM: Thank you.

11 BOARD MEMBER WALKER: Second.

12 MS. HAYNES: Board Member Poston?

13 BOARD MEMBER POSTON: Nay.

14 MS. HAYNES: Board Member Walker?

15 BOARD MEMBER WALKER: Aye.

16 MS. HAYNES: Vice Chair Rich?

17 BOARD MEMBER RICH: Aye.

18 MS. HAYNES: Chair Murphy?

19 CHAIR MURPHY: Nay.

20 MS. HAYNES: Board Member Wallace?

21 BOARD MEMBER WALLACE: No.

22 CHAIR MURPHY: The variance has been denied.

23 BOARD MEMBER RICH: Upland habitat, a motion
24 is made to approve the request for a variance to the
25 environmentally sensitive area, upland habitat, setback

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1 requirements stated in Section 34-420 N Oil and Gas Well
2 Permit Required of the Town's Codes of Ordinances to
3 allow the McDowell well pad site access road and
4 associated edge of construction limits to be situated
5 within approximately 2.19 acres of upland habitat.

6 BOARD MEMBER WALKER: Second.

7 MS. HAYNES: Board Member Wallace?
8 BOARD MEMBER WALLACE: No.
9 MS. HAYNES: Chair Murphy?
10 CHAIR MURPHY: Nay.
11 MS. HAYNES: Vice Chair Rich?
12 BOARD MEMBER RICH: Aye.
13 MS. HAYNES: Board Member Walker?
14 BOARD MEMBER WALKER: Aye.
15 MS. HAYNES: Board Member Poston?
16 BOARD MEMBER POSTON: Nay.
17 CHAIR MURPHY: The variance has been denied.
18 BOARD MEMBER RICH: Public park, a motion is
19 made to approve the request for a variance to the public
20 park setback requirements stated in Section 34-422 D1A
21 Oil and Gas Well Permit of the Town's Code of Ordinances
22 to allow the McDowell 1H and 2H gas wells to be situated
23 no closer than 331 feet and 312 feet from the public
24 park located to the northwest of the gas well pad site,
25 453 feet from the public park located to the northeast

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1 of the gas well pad site and 900 feet from the public
2 park located to the east of the gas well pad site and
3 east of Timber Creek Road.

4 BOARD MEMBER WALKER: Second.
5 MS. HAYNES: Board Member Poston?
6 BOARD MEMBER POSTON: Nay.
7 MS. HAYNES: Board Member Walker?
8 BOARD MEMBER WALKER: Aye.

9 MS. HAYNES: Vice Chair Rich?
10 BOARD MEMBER RICH: Aye.
11 MS. HAYNES: Chair Murphy?
12 CHAIR MURPHY: Nay.
13 MS. HAYNES: Board Member Wallace?
14 BOARD MEMBER WALLACE: No.
15 CHAIR MURPHY: The variance has been denied.
16 BOARD MEMBER RICH: Property line, a motion
17 is made to approve the request for a variance to the
18 property line setback requirement stated in Section
19 34-422 D1F Oil and Gas Well Permit of the Town's Code of
20 Ordinances to allow the McDowell 1H and 2H wells to be
21 situated no closer than 309 feet from the property line
22 located to the east, DCAD Parcel R17355, 409 feet to the
23 property line located to the east, DCAD Parcel 17209,
24 445 feet to the property line located to the northeast,
25 DCAD R19202, and 312 feet from the property line located

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1 to the northwest, DCAD Parcel R17364.
2 BOARD MEMBER WALKER: Second.
3 MS. HAYNES: Board Member Wallace?
4 BOARD MEMBER WALLACE: No.
5 (Inaudible conversation between Board
6 Member Rich and Chair Murphy.)
7 BOARD MEMBER RICH: We want to scratch that.
8 MR. LATHROM: Vice Chair Rich, you can go
9 ahead and proceed with that motion. As you know, we
10 gave you an updated sheet; but the motion that you just
11 made for a property line is in the list. We just have

12 an omission before you get there. So you can go ahead
13 and proceed with the public -- or the property line
14 motion, and we can pick back up with --

15 BOARD MEMBER RICH: Public park --

16 MR. LATHROM: Public building.

17 BOARD MEMBER RICH: -- public building.

18 MR. LATHROM: Yes, ma'am.

19 BOARD MEMBER RICH: You know, I was
20 wondering where that went.

21 MR. LATHROM: Yes, ma'am.

22 BOARD MEMBER RICH: That was the one I had a
23 problem with, too. Oh, thank you. See, these guys keep
24 us all straight. All right.

25 CHAIR MURPHY: We still have a motion.

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1 BOARD MEMBER RICH: We have an active --

2 CHAIR MURPHY: Do we have a second?

3 BOARD MEMBER RICH: We have an active motion
4 for the property line. Can we proceed with that motion?

5 MR. LATHROM: Yes, Vice Chair Rich.

6 BOARD MEMBER RICH: So we do have a motion.
7 I did make a motion. It is clear on record, and we're
8 waiting for a second.

9 BOARD MEMBER WALKER: Second.

10 MS. HAYNES: Board Member Wallace?

11 BOARD MEMBER WALLACE: No.

12 MS. HAYNES: Chair Murphy?

13 CHAIR MURPHY: Nay.

14 MS. HAYNES: Vice Chair Rich?
15 BOARD MEMBER RICH: Nay.
16 MS. HAYNES: Board Member Walker?
17 BOARD MEMBER WALKER: Aye.
18 MS. HAYNES: Board Member Poston?
19 BOARD MEMBER POSTON: Nay.
20 CHAIR MURPHY: The variance request has been
21 denied.
22 BOARD MEMBER RICH: Now we're at public
23 building. A motion is made to approve the request for a
24 variance to public building setback requirements stated
25 in Section 34-422 D1D Oil and Gas Well Permit of the

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1 Town's Code of Ordinances to allow the McDowell 1H and
2 2H wells to be situated no closer than 779 feet from a
3 public building located southeast of Well 1H and
4 identified as First Baptist Church Flower Mound, DCAD
5 Parcel R238018.

6 BOARD MEMBER WALKER: Second.
7 MS. HAYNES: Board Member Poston?
8 BOARD MEMBER POSTON: Nay.
9 MS. HAYNES: Board Member Walker?
10 BOARD MEMBER WALKER: Aye.
11 MS. HAYNES: Vice Chair Rich?
12 BOARD MEMBER RICH: Nay.
13 MS. HAYNES: Chair Murphy?
14 CHAIR MURPHY: Nay.
15 MS. HAYNES: Board Member Wallace?
16 BOARD MEMBER WALLACE: No.

17 CHAIR MURPHY: The variance has been denied.
18 BOARD MEMBER RICH: A motion is made to
19 approve -- schools, a motion is made to approve the
20 request for a variance to the school setback
21 requirements stated in Section 34-422 D1D Oil and Gas
22 Well Permit of the Town's Code of Ordinances to allow
23 the McDowell 1H and 2H gas wells to be situated no
24 closer than 695 feet from a school located east of Well
25 1H and identified as Applewood Learning Center, DCAD

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1 Parcel R117208.
2 BOARD MEMBER WALKER: Second.
3 MS. HAYNES: Board Member Wallace?
4 BOARD MEMBER WALLACE: No.
5 MS. HAYNES: Chair Murphy?
6 CHAIR MURPHY: Nay.
7 MS. HAYNES: Vice Chair Rich?
8 BOARD MEMBER RICH: Nay.
9 MS. HAYNES: Board Member Walker?
10 BOARD MEMBER WALKER: Aye.
11 MS. HAYNES: Board Member Poston?
12 BOARD MEMBER POSTON: Nay.
13 CHAIR MURPHY: The variance has been denied.
14 BOARD MEMBER RICH: Tank battery and public
15 building. All right. Tank battery and public building,
16 a motion is made to approve the request for a variance
17 to the public building setback requirements stated in
18 Section 34-422 D2 Oil and Gas Well Permit of the Town's

19 Code of Ordinances to allow the tank battery and storage
20 tanks for McDowell 1H and 2H gas wells to be situated no
21 closer than 885 feet from a public building located
22 southeast of the storage tanks and identified as First
23 Baptist Church Flower Mound, DCAD Parcel R238018.

24 BOARD MEMBER WALKER: Second.

25 MS. HAYNES: Board Member Poston?

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1 BOARD MEMBER POSTON: Nay.

2 MS. HAYNES: Board Member Walker?

3 BOARD MEMBER WALKER: Aye.

4 MS. HAYNES: Vice Chair Rich?

5 BOARD MEMBER RICH: Nay.

6 MS. HAYNES: Chair Murphy?

7 CHAIR MURPHY: Nay.

8 MS. HAYNES: Board Member Wallace?

9 BOARD MEMBER WALLACE: No.

10 CHAIR MURPHY: It has been denied.

11 BOARD MEMBER RICH: Tank battery and school,
12 a motion is made to approve the request for a variance
13 to the school setback requirement stated in Section
14 34-422 D2 Oil and Gas Well Permit of the Town's Code of
15 Ordinances to allow the tank battery and storage tanks
16 for McDowell 1H and 2H gas wells to be situated no
17 closer than 827 feet from a school located east of the
18 storage tanks and identified as Applewood Learning
19 Center, DCAD Parcel R117208.

20 BOARD MEMBER WALKER: Second.

21 MS. HAYNES: Board Member Wallace?

22 BOARD MEMBER WALLACE: No.
23 MS. HAYNES: Chair Murphy?
24 CHAIR MURPHY: Nay.
25 MS. HAYNES: Vice Chair Rich?

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1 BOARD MEMBER RICH: Nay.
2 MS. HAYNES: Board Member Walker?
3 BOARD MEMBER WALKER: Aye.
4 MS. HAYNES: Board Member Poston?
5 BOARD MEMBER POSTON: Nay.
6 CHAIR MURPHY: The variance has been denied.
7 BOARD MEMBER RICH: Right-of-way, a motion
8 is made to approve the request for a variance to the
9 public right-of-way setback requirement stated in
10 Section 34-422 D1H Oil and Gas Well Permit of the Town's
11 Code of Ordinances to allow the McDowell 1H and 2H wells
12 to be situated no closer than 309 feet from Morris Road
13 public right-of-way located to the east.
14 BOARD MEMBER WALKER: Second or third.
15 MS. HAYNES: Board Member Poston?
16 BOARD MEMBER POSTON: Nay.
17 MS. HAYNES: Board Member Walker?
18 BOARD MEMBER WALKER: Aye.
19 MS. HAYNES: Vice Chair Rich?
20 BOARD MEMBER RICH: Nay.
21 MS. HAYNES: Chair Murphy?
22 CHAIR MURPHY: Nay.
23 MS. HAYNES: Board Member Wallace?

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BOARD MEMBER WALLACE: No.

25 CHAIR MURPHY: The variance has been denied.

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1 BOARD MEMBER RICH: Tank batteries and
2 public park, a motion is made to approve the request for
3 a variance to the tank batteries, compression
4 facilities, well facilities and equipment setback
5 requirements stated in Section 34-422 D2 Oil and Gas
6 Well Permit of the Town's code of Ordinances to allow
7 the tank batteries and associated equipment with the
8 McDowell gas well pad site to be situated no closer than
9 220 feet from a public park located to the north of the
10 gas well pad site, and 560 feet from the public park
11 located northeast of the gas well pad site.

12 BOARD MEMBER WALKER: Second.

13 MS. HAYNES: Board Member Wallace?

14 BOARD MEMBER WALLACE: No.

15 MS. HAYNES: Chair Murphy?

16 CHAIR MURPHY: Nay.

17 MS. HAYNES: Vice Chair Rich?

18 BOARD MEMBER RICH: Aye.

19 MS. HAYNES: Board Member Walker?

20 BOARD MEMBER WALKER: Aye.

21 MS. HAYNES: Board Member Poston?

22 BOARD MEMBER POSTON: Nay.

23 CHAIR MURPHY: The variance has been denied.

24 BOARD MEMBER RICH: Storage tanks and
25 property line, a motion is made to approve the request

1 for a variance to the storage tank setback requirements
2 stated in Section 34-427 A35A Technical Requirements of
3 the Town's Code of Ordinances to allow the storage tanks
4 located for the McDowell gas well pad site to be
5 situated no closer than 220 feet from the property line
6 located to the northwest, DCAD Parcel R17364, and 443
7 from -- feet from the property line located to the east,
8 DCAD Parcel R17355.

9 BOARD MEMBER WALKER: Second.

10 MS. HAYNES: Board Member Poston?

11 BOARD MEMBER POSTON: Nay.

12 MS. HAYNES: Board Member Walker?

13 BOARD MEMBER WALKER: Aye.

14 MS. HAYNES: Vice Chair Rich?

15 BOARD MEMBER RICH: Aye.

16 MS. HAYNES: Chair Murphy?

17 CHAIR MURPHY: Nay.

18 MS. HAYNES: Board Member Wallace?

19 BOARD MEMBER WALLACE: No.

20 CHAIR MURPHY: The request has been denied.

21 BOARD MEMBER RICH: Storage tanks and
22 right-of-way, a motion is made to approve the request
23 for a variance to the public right-of-way setback
24 requirements stated in 30 -- Section 34-427 A35A
25 Technical Requirements of the Town's Code of Ordinances

1 to allow the McDowell 1H and 2H wells to be situated no
2 closer than 443 feet from Morris Road public
3 right-of-way located to the east.

4 BOARD MEMBER WALKER: Second.

5 MS. HAYNES: Board Member Wallace?

6 BOARD MEMBER WALLACE: No.

7 MS. HAYNES: Chair Murphy?

8 CHAIR MURPHY: Nay.

9 MS. HAYNES: Vice Chair Rich?

10 BOARD MEMBER RICH: Aye.

11 MS. HAYNES: Board Member Walker?

12 BOARD MEMBER WALKER: Aye.

13 MS. HAYNES: Board Member Poston?

14 BOARD MEMBER POSTON: Nay.

15 CHAIR MURPHY: The variance has been denied.

16 BOARD MEMBER RICH: Storage tanks and
17 floodplain, a motion is made to approve the request for
18 a variance to the storage tank setback requirements
19 stated in Section 34-427 A35B Technical Requirements of
20 the Land Development Regulations to allow the storage
21 tanks located for the McDowell gas well pad site to be
22 situated no closer than 40 feet from the floodplain
23 located to the west of the gas well pad site.

24 BOARD MEMBER WALKER: Second.

25 MS. HAYNES: Board Member Poston?

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1 BOARD MEMBER POSTON: Nay.

2 MS. HAYNES: Board Member Walker?

3 BOARD MEMBER WALKER: Aye.
4 MS. HAYNES: Vice Chair Rich?
5 BOARD MEMBER RICH: Aye.
6 MS. HAYNES: Chair Murphy?
7 CHAIR MURPHY: Nay.
8 MS. HAYNES: Board Member Wallace?
9 BOARD MEMBER WALLACE: No.
10 CHAIR MURPHY: The variance has been denied.
11 Matt and Alan, did we get all of the variances?
12 MR. WOODS: Yes.
13 CHAIR MURPHY: Given the variances were
14 denied, Item Number Three will not be considered. Is
15 that the right word to use, Alan?
16 MR. LATHROM: Madame Chair, Item Number
17 Three was a request for a variance for new construction
18 setbacks from gas well permits that had been approved.
19 At this point we don't have a gas well permit that's
20 been approved for this site, so it would be premature to
21 undertake or consider --
22 (Inaudible.)
23 CHAIR MURPHY: Before the meeting is
24 adjourned, I do want to thank all of you for coming and
25 staying with us. And thank you for giving everyone the

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1 respect and listening, because we all have a lot to say.
2 Thank you.
3 The meeting is adjourned.
4 (Meeting adjourned at 11:05 p.m.)

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1 STATE OF TEXAS)

2 COUNTY OF DALLAS)

3 I, Sherry Patterson, Certified Shorthand
4 Reporter, in and for the State of Texas, certify that
5 the foregoing proceedings were reported stenographically
6 by me at the time and place indicated.

7 Given under my hand on this the _____ day of
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8 _____, 2008.
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