

TOWNSHIP OF WEST ORANGE
PLANNING BOARD
SPECIAL MEETING

IN THE MATTER OF:	:	TRANSCRIPT
	:	OF
PB-24-01	:	PROCEEDINGS
WEST ESSEX HIGHLANDS, INC.:	:	
BLOCK: 179, LOT: 32,	:	
ZONE: IH-1	:	
	:	

TUESDAY, JULY 30, 2024
TOWNSHIP OF WEST ORANGE
66 MAIN STREET
WEST ORANGE, NJ 07052
COMMENCING AT 6:35 P.M.

BOARD MEMBERS PRESENT:

DR. ROBERT BAGOFF, Chairman
JERRY GUARINO, Vice Chairman
MAYOR SUSAN McCARTNEY
BILL RUTHERFORD, Council President
CHRISTOPHER MORGAN, SR.
KEN ALPER
WILLIAM B. WILKES II
JOHN R. CARDOZA (Alternate #1)
LORI KAPFERER (Alternate #2)

ALSO PRESENT:

JAMILET BAQUERIZO VITE, Board Secretary
JOHN J. HESS, P.E., P.P., Consulting Engineer
GERALD M. HAIZEL, P.P., Consulting Planner
GENIECE GARY-ADAMS, Zoning Official
JOSEPH FAGAN, Zoom Moderator

STENOGRAPHICALLY REPORTED BY:

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APPEARANCES:

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BRUCE I. AFRAN, ESQ.
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Attorney for Objector, We Care NJ Corp.

CHAIRMAN BAGOFF: Good evening, ladies and gentlemen, welcome to the West Orange Planning Board meeting. Notice of this meeting was given to the township clerk and posted on the township bulletin board and township website calendar and sent to the West Orange Chronicle and Star Ledger. This meeting has been properly noticed according to the Open Public Meetings. Act no new matter will start after 10:30 p.m.

I'm going to ask all of you to rise for the Pledge of Allegiance.

(Pledge of Allegiance is recited.)

CHAIRMAN BAGOFF: I'd also like to welcome all those who are watching on Zoom this evening. The next Planning Board special meeting will be held on July 31, 2024 at 6:30 p.m. in Town Hall. The next Planning Board regular meeting will be held August 7, 2024 at 7:30 p.m. via Zoom.

Roll call, please, Jamilet.

MS. BAQUERIZO VITE: Mr. Alper?

MR. ALPER: Here.

MS. BAQUERIZO VITE: Mr. Cardoza?

MR. CARDOZA: Present.

MS. BAQUERIZO VITE: Ms. Kapferer?

MS. KAPFERER: Here.

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WITNESSES: SWORN

PAUL ANDERSON, P.E. 19

EXHIBITS MARKED INTO EVIDENCE

NUMBER	DESCRIPTION	PAGE
(NONE MARKED)		

MS. BAQUERIZO VITE: Mr. Wilkes? Council President Rutherford?

COUNCILMAN RUTHERFORD: Here.

MS. BAQUERIZO VITE: Mayor McCartney?

MAYOR McCARTNEY: Present.

MS. BAQUERIZO VITE: Mr. Guarino?

VICE-CHAIRMAN GUARINO: Present.

MS. BAQUERIZO VITE: Chairman Bagoff?

CHAIRMAN BAGOFF: Here. Thank you.

MS. BAQUERIZO VITE: And just for the record, Mr. Klein won't be joining us tonight and Mr. Smeraldo is excused.

MS. McGOVERN: He's recused --

MS. BAQUERIZO VITE: He's recused.

MS. McGOVERN: -- he won't be participating.

(Whereupon the Board attends with other matters on the agenda.)

CHAIRMAN BAGOFF: We are on Application PB-24-01, West Essex Highlands, Incorporated, Block 179, Lot 32, Zone: IH-1, Warner Road. The applicant is proposing to develop a 496-unit inclusionary multifamily residential development on a vacant 120-acre property in the northwest corner --

MEMBER OF THE PUBLIC: Excuse me.

CHAIRMAN BAGOFF: -- of the township

MEMBER OF THE PUBLIC: Excuse me. We cannot hear you back here. Can you please put a microphone on?

CHAIRMAN BAGOFF: Can you hear me?

MEMBER OF THE PUBLIC: Yes.

MEMBER OF THE PUBLIC: Now we can.

CHAIRMAN BAGOFF: I'm sorry about that. Okay, so for housekeeping, I have a statement I'd like to read. The Master Plan consists of a long-term vision for the community, development, policy, and implementation. It is a well-thought-out, high-level plan intended to set out objectives and strategies of how particular areas of town can develop and redevelop in the future. It is a living document that must be updated at least once every ten years and more often as the vision of the community changes. The process is not only subject to the desires and plans of the local population but the legislation of the state and federal government.

(Whereupon Mr. Wilkes arrived at the meeting.)

CHAIRMAN BAGOFF: Following the New

in the Superior Court of Essex County.

This agreement between the parties obligated the Township of West Orange to draft and adopt an overlay zone. To that end, a zoning amendment was formulated and adopted by the Township of West Orange in 2020. It is known as Chapter 25.19 IH-1 (Inclusionary Housing) District.

An overlay zone is also known as an overlay district. It is a land use planning tool that adds a layer of zoning standards to a specific area. These standards can supplement or replace those of the underlying zoning district and can apply regardless of the base zoning. Overlay zones can be used to manage development or protect the character of an area and can help communities meet their goals.

The Planning Board was not party to the settlement agreement; however, the settlement agreement states: The Planning Board will consider the proposed development in accordance with the applicable laws of land use, municipal ordinances and the Township's approval of the settlement agreement.

The Township adopted the zoning ordinance, as per the agreement, and amended the

Jersey Supreme Court's decision (Fair Housing Act), every town that has filed a declaratory judgment since 2015 is ultimately seeking a final order that finds them in compliance and grants repose, meaning that their town has a realistic plan for fulfilling their affordable housing obligations and is no longer subject to Third Round litigation (Builder's Remedy litigation) through 2025. The municipality must prove through a compliance package that they will implement the mechanisms to provide their fair share of the region's need for affordable housing. Compliance is a critical element of the process that ensures affordable housing will come to fruition, and it is a source for the public to better understand affordable housing in their neighborhood.

The application is presented as a result of a settlement agreement signed in 2020 from protracted litigation that involved the participation of Applicant's representatives, representatives from the Township of West Orange that included the Township Planner, the Mayor, the Council President, Township Attorney and Fair Share Housing person. Also involved were representatives of West Essex Highlands Condominium Association. The settlement was reviewed and approved by a judge

Master Plan.

The property is approximately 120.5 acres and is located in the northwest corner of the Township adjacent to the northern terminus of Warner Road and bordered by the Townships of Essex Fells and Verona to the north. To the south in West Orange is West Essex Highlands Condominium Development. Only slightly over 30 acres will be developed in this project. The remainder of the land will not be developed.

The settlement agreement was that the property would be developed as a multifamily residential development consisting of 396 market-rate units and a hundred affordable housing units, for a total of 496 units and a clubhouse and amenity building.

The West Essex Highlands 1, which is the applicant, agreed to obtain all necessary approvals and permits, which include Planning Board site approval, Essex County Planning Board approval, New Jersey Department of Environmental Protection approval. The parties agreed to cooperate to obtain approvals for the installation of a traffic signal at the intersection of Eagle Rock Avenue and Oval Road.

1 The settlement agreement also included
2 design terms and conditions. At the time of the
3 settlement, the project was not fully engineered and
4 so it was anticipated that the applicant may apply
5 for waivers or bulk variances in the future.

6 Certain items would be part of the
7 Planning Board's usual review but which would be
8 decided as part of the settlement agreement and the
9 accompanying modified zone ordinance specific to
10 this development. These items include the
11 following: The concept plan includes Kuzik Drive as
12 a means of ingress and egress; however, the Planning
13 Board has to grant an exception and there may be
14 some discussion about this issue.

15 There are a large number of trees that
16 are to be removed. The agreement includes its own
17 tree removal and replacement plan (different than
18 the Township ordinance - this is specific to this
19 development only).

20 Similarly, the steep slope ordinance
21 will not apply to this development, as the zoning
22 ordinance adopted for this development proscribes
23 the terms of construction relative to the steep
24 slopes ordinance in this area.

25 The number of one-, two- and three-

1 ordinance. The applicant must also provide
2 sufficient specificity pertinent to the site plan.

3 In anticipation of issues related to
4 other agency or governmental approvals, such as the
5 DEP approval or County Planning Board approval
6 regarding the traffic controls at Eagle Rock Avenue,
7 the Board may add conditions that involve matters
8 outside of its jurisdiction. The Municipal Land Use
9 Law allows for these conditional approvals.
10 Specifically, N.J.S.A. 4:55 D-22 states, "In the
11 event that the development proposed by an
12 application for development requires an approval by
13 a governmental agency other than the municipal
14 agency, the municipal agency shall, in appropriate
15 circumstances, condition its approval upon the
16 subsequent approval of such governmental agency,
17 provided that the municipality shall make a decision
18 on any application for development within the time
19 period provided in this act or within the extension
20 of such period as has been hereby agreed to by the
21 applicant unless the municipal agency is prevented
22 or relieved from so acting by the operation of law."

23 Therefore, the Board will be listening
24 to the testimony of all witnesses, the applicant's
25 witnesses, witnesses who may provide opposing

1 bedroom units for the affordable housing units is
2 preset (no more than 21 bedroom -- no more than 20%
3 one-bedroom, at least 30% two-bedroom and at least
4 20% three-bedroom [sic]. The affordable housing is
5 broken into three levels with 13% to be affordable
6 to very-low-income households, 37% to low-income
7 households, and 50% to moderate-income households.
8 The minimum sizes for these apartments are set forth
9 in the zoning ordinance created for this development
10 in IH-1.

11 The concept plan controls where the
12 building will be constructed.

13 The zoning ordinance for this
14 development has specific detail regarding the
15 buffering required, building in the area near the
16 peak of the ridgeline, the number of stories and
17 specific parking details. Accessory uses such as
18 clubhouses and recreational areas are exempt from
19 the parking requirements.

20 As the application proceeds, you will
21 hear testimony from the applicant's experts, the
22 Township engineer and planner as there are some
23 areas where the applicant must satisfy the Board
24 that the plan conforms to the zoning ordinance and
25 the applicable provisions of the site plan

1 viewpoints and the Board's own experts to determine
2 if the application satisfies both the site plan
3 requirements of the Township ordinance as well as
4 the zoning ordinance that applies to this
5 development.

6 I want to take this opportunity to
7 thank you for joining us in the public process and
8 look forward to hearing from all of you in person
9 and on Zoom. Thank you very much on behalf of the
10 Planning Board.

11 Okay, the next portion of housekeeping
12 will be I would like to ask anybody who represents a
13 group -- any attorney who represents a group, please
14 come to the mic, identify yourself and the group
15 that you represent, for the record, please.

16 MR. AFRAN: Good evening, Mr.
17 Chairman. My name is Bruce Afran, I represent We
18 Care NJ Corp., and that is an organization which is
19 organized and dedicated with the mission of
20 addressing development on this very parcel, and so
21 I'm representing We Care NJ Corp. as objectors. We
22 do expect to call witnesses, particularly experts.
23 I have reviewed that generally with counsel for the
24 Board and for the applicant, and at the appropriate
25 time, we can discuss that schedule, I'd imagine.

CHAIRMAN BAGOFF: Can you spell your name, please, sir, for the record?

MR. AFRAN: Oh, yes, my name is spelled A, F as in Frank, R, A, N as in Nancy.

CHAIRMAN BAGOFF: Thank you, sir.

MR. AFRAN: Thank you.

CHAIRMAN BAGOFF: Are there any other attorneys representing groups?

(No response)

CHAIRMAN BAGOFF: Seeing none, thank you.

Let the record show that Mr. Wilkes has joined the Board prior to any deliberations.

One more housekeeping measure, notice. We have a resolution for the Planning Board. You want to read that?

MS. McGOVERN: "Whereas Section 25-46.6 of Chapter 25 of the revised general ordinances of the Township of West Orange empowers the Planning Board to appoint experts as the Board may deem necessary, and whereas, Wayne DeFeo of DeFeo Associates, having personal knowledge and expertise related to the site and landscaping, including trees, shrubs and other plant matter, located at the site known as West Essex Highlands,

located at Warner Road, Block 179, Lot 32, in the Township of West Orange --

MEMBER OF THE PUBLIC: Can you speak up --

MEMBER OF THE PUBLIC: We can't hear back here.

MEMBER OF THE PUBLIC: -- because the air-condition is blocking you out.

MS. McGOVERN: All right. This resolution will be available on the website, but it's a resolution appointing by the Planning Board Wayne DeFeo as an expert in the application of this area of landscaping trees, shrubs and other environmental issues.

CHAIRMAN BAGOFF: I make a motion that we adopt this resolution.

VICE-CHAIRMAN GUARINO: So moved, Mr. Chairman.

CHAIRMAN BAGOFF: Vice Chairman seconds. Ms. Jamilet, on the motion?

MS. BAQUERIZO VITE: Mr. Alper?

MR. ALPER: Yes.

MS. BAQUERIZO VITE: Mr. Morgan?

MR. MORGAN: Yes.

MS. BAQUERIZO VITE: Mr. Cardoza?

MR. CARDOZA: Yes.

MS. BAQUERIZO VITE: Ms. Kapferer?

MS. KAPFERER: Yes.

MS. BAQUERIZO VITE: Mr. Wilkes?

MR. WILKES: Yes.

MS. BAQUERIZO VITE: Council President Rutherford?

COUNCILMAN RUTHERFORD: No.

MS. BAQUERIZO VITE: Mayor McCartney?

MAYOR McCARTNEY: Yes.

MS. BAQUERIZO VITE: Mr. Guarino?

VICE-CHAIRMAN GUARINO: Yes.

MS. BAQUERIZO VITE: Chairman Bagoff?

CHAIRMAN BAGOFF: Yes. Motion carries. Thank you.

At this time, I would like ask to Mr. Plocker, who represents the applicant, to join us.

MR. PLOCKER: Thank you very much, Chairman Bagoff, Madam Mayor, members of the Board. Good evening, it's a pleasure to be here. My name is Bryan Plocker, I'm with the law firm of Hutt, Shimanowitz & Plocker in Woodbridge, New Jersey. I represent the applicant, West Essex Highlands, Inc.

Chairman Bagoff, you really stole my thunder. Much of what you were going to say, I was

going to address the Board with, so I will make my comments brief before we get going with our first witness. I know brevity is sometimes appreciated.

I do appreciate the Chairman's reference to the township's declaratory judgment lawsuit which was ultimately settled in this matter and from which our settlement agreement and the ultimate IH-1 zoning ordinance was born. That was the product of many, many mediation sessions down the hall here with the township's professionals representative my client, Fair Share Housing Center, and the court-appointed Special Master. As a result of countless sessions and follow-up communications, the township ultimately settled its overall Third Round affordable housing obligation and did receive a follow-up judgment in its favor in that action.

Just a couple of the salient points of what drove those negotiations that wound up in our zoning ordinance and, accordingly, in our plan today, is that the town was insistent that the disturbance of this 120-1/2-acre site be limited to no more than 30 acres and we are proud to say that our plan comes in under that. The remaining 90-plus acres, as is provided for in the settlement agreement, will be deed restricted by my client as

open space in favor of the Township of West Orange. Importantly, the settlement agreement referenced by the Chairman and the applicable affordable housing regulations, more importantly, do require the township to cooperate with my client regarding the bringing of this project to the proverbial finish line, including the granting of reasonable relief if necessary. The regulations also provide, importantly, that the focus of the Board on an inclusionary development that is part of the town's court-approved housing plan is that the Board focuses on whether the development complies generally with the zoning ordinance. We understand there are many people in this room tonight who disagree that the zoning ordinance is adopted or that the town settled its case on -- affordable housing case on certain terms, so what we are here to say is that the Board just needs to look at the plan and look at the zoning ordinance requirements that do exist and not which don't or which used to exist or which some people may wish existed.

So with that being said, I have nothing further, I thought the Chairman did a great job in covering the history and I am ready to proceed with my first witness.

CHAIRMAN BAGOFF: Go right ahead, sir.

MR. PLOCKER: Okay, the applicant would like to call Paul Anderson, our civil engineer.

CHAIRMAN BAGOFF: Raise your right hand, sir.

P A U L A N D E R S O N, P. E., is duly sworn/affirmed by the Board attorney.

CHAIRMAN BAGOFF: Will you voir dire him, please?

MR. PLOCKER: Yes. Thank you, Mr. Anderson. Could you please give the Board the benefit of your credentials.

MR. ANDERSON: Yes, I have a Bachelor of Science --

(Public outburst)

CHAIRMAN BAGOFF: Woah. Ladies and gentlemen, we're going to try, as best we can, to have everybody in the room hear. If somebody in the back can't hear, raise your hand, one of us will identify -- I gotch ya, I got -- can you not hear me now? Can you hear me?

MEMBER OF THE PUBLIC: Yes, we can hear you.

(Public outburst)

CHAIRMAN BAGOFF: I'll work on it, I'll talk louder.

MEMBER OF THE PUBLIC: Talk slower, not only louder, talk slower.

CHAIRMAN BAGOFF: Okay. Thank you. Go right ahead.

MR. PLOCKER: Mr. Anderson, please give the Board the benefit of your credentials.

MR. ANDERSON: Yes. I have a Bachelor of Science in civil and environmental engineering --

CHAIRMAN BAGOFF: I'm sorry, Mr. --

MEMBER OF THE PUBLIC: Can't hear you.

MEMBER OF THE PUBLIC: Can't hear you.

CHAIRMAN BAGOFF: I got it. I got it. Trust me, I got it.

MR. ANDERSON: This one may be better. I have a Bachelor of Science in civil and environmental engineering from Clarkson University, 1983. I was licensed as a Professional Engineer in 1988 in the state of New York and New Jersey. My licenses are current and in good standing. I'm a principal with Anderson Consulting Services, the firm that prepared the plans that are before you this evening. I've been accepted as an expert witness in planning and engineering throughout the

State of New Jersey, including this Board at one point when we had the single-family residential application for this parcel. And that's...

MR. PLOCKER: Okay. Thank you, Mr. Anderson.

CHAIRMAN BAGOFF: And you are testifying today as a civil engineer?

MR. ANDERSON: That is correct.

CHAIRMAN BAGOFF: Okay. Unless any member of the Board has a question about his credentials, I recommend that we accept him as a civil engineer licensed in the State of New Jersey. You have the floor, sir.

MR. ANDERSON: Thank you, Mr. Chairman. I have a PowerPoint presentation which I will start momentarily.

CHAIRMAN BAGOFF: Okay. PowerPoint?

MR. ANDERSON: Yes.

CHAIRMAN BAGOFF: Okay. Ladies and gentlemen, this is going to be a PowerPoint presentation so I am going to move off the dais but still remain in control.

MR. PLOCKER: And Paul, just so we have a clear record, you prepared the site plan set that was filed with this application?

MR. ANDERSON: That is correct.

MR. PLOCKER: Okay, thank you. Go ahead.

MR. ANDERSON: All right, so the property is Block 179, Lot 32, it's 120.49 acres located in the IH --

CHAIRMAN BAGOFF: Mr. Anderson, talk into the mic, please.

MR. ANDERSON: Still. Okay.

CHAIRMAN BAGOFF: Thank you.

MR. ANDERSON: -- located in the IH-1 zone. With regard to where it is, there is -- the green parcel is colorized, a portion of this plan is the subject property. To the north or to the top of the sheet of it is Howell Drive, partially -- again?

MEMBER OF THE PUBLIC: Yeah.

MR. ANDERSON: I'm going to stick it down my throat.

All right, so to the top of the sheet is Howell Drive, which is partially in West Orange and partially in Verona. To the left side is Essex Fells and single-family homes on that -- on those properties. To the bottom of the sheet is the condo association and Warner, uh, Warner Road coming into the subject property, and to the right side is the

Essex Fells line. As we go towards setbacks to the association property, we have 471 feet from the maintenance building down to the property line, and we have 534 feet from Building D to the property line, so we have exceeded the settlement agreement setbacks significantly and that was anticipated in the, uh, in the exhibit -- the concept plan that was approved for this project, so you can see there is a very nice buffer all the way around.

The second thing that was paramount in this concept was that we were under 30 acres of disturbance. We have 27.85 acres of disturbance and it is primarily in the Center of the site, allowing for large buffer areas to the east and to the west. That leaves 92.6 acres of undisturbed open space that can be deed restricted in favor of the township. No further development.

The buildings that you see in orange here, the larger buildings, the residential structures are four-story buildings over parking, so there's parking underneath each of the buildings to minimize the surface parking and the limit of disturbance. These are accessed by -- from Warner Road as the main roadway coming through, it comes to a traffic circle, and you can come around the

community -- the roads of Rosemont and Mayfair, uh, Mayfair Road.

So this -- the settlement agreement, as was mentioned, establishes the location and the density and the building as you see them here are in the general vicinity of what was approved in the settlement agreement as part of the exhibit in the settlement agreement.

One of the specific requirements in the settlement agreement was setbacks from the property line so that this property -- so that the development would be buffered from the adjoining properties. There's a minimum 100-foot setback required. We have a 106-foot setback from the Building D, which is on the right-hand side. I'll get my blinker. Right here is 106, uh, 106 feet. Now, as we -- thank you -- as we go to the left, other properties to the -- what is to the north, towards Howell Drive, we have 218 feet from the property line to Building C, we have 301 feet from Building B, which is the building right here, to the property line, and then as we go to the west, we have 988 feet from Building B to the Essex Fells property line. That's this dimension here. We have 658 from what is the maintenance building to the

traffic circle and go to the right and go over to what we are calling Building D on Road D currently, there's no name for it as of yet, or you can continue around the circle and go towards what -- this is the clubhouse; go past the clubhouse to Building C, B or A or down as far as the dog kennel or the maintenance building. The access continues along, we plan on building the roadway Kuzik drive to make a connection, but as was mentioned, we are seeking a de minimus waiver for keeping that roadway open. We currently have on the plans a gate that, if the de minimus exception is granted, would be left closed so the traffic would not go through Kuzik Drive unless someone thought better of it that it was required at a later date, the township could ask, you know, ask for us to --

(Public outburst)

CHAIRMAN BAGOFF: Okay, I got it. Talk louder, please.

MR. ANDERSON: I will try.

MEMBER OF THE PUBLIC: That's better.

(Public outburst)

MR. ANDERSON: All right, so --

MR. AFRAN: Mr. Chairman, the explanation beginning with the granting of the

1 waiver --

2 CHAIRMAN BAGOFF: Woah, woah, woah.

3 MR. AFRAN: The explanation beginning

4 --

5 CHAIRMAN BAGOFF: Wait, wait.

6 MR. AFRAN: -- with --

7 CHAIRMAN BAGOFF: Sir --

8 MR. AFRAN: I'm sorry.

9 CHAIRMAN BAGOFF: -- sir, you have to
10 be identified. He's in the middle of testimony.

11 Let --

12 MR. AFRAN: I'm concerned about the
13 record. Bruce Afran, objector's counsel.

14 CHAIRMAN BAGOFF: Ms. McGovern?

15 MS. MCGOVERN: You're looking for
16 qualification on what he just said or you want him
17 to repeat what he said?

18 MR. AFRAN: Let me explain.

19 CHAIRMAN BAGOFF: Time out. Guys, you
20 must identify yourself for the record who's
21 speaking.

22 MR. AFRAN: Bruce Afran, counsel for
23 We Care New Jersey.

24 CHAIRMAN BAGOFF: Thank you.

25 MR. AFRAN: I simply wanted to note

1 that, beginning with the statement from Mr. Anderson
2 that "we're seeking a de minimus waiver," I don't
3 believe the rest was intelligible because we
4 couldn't hear it, so I didn't want him to move on
5 because I don't know whether we can hear that,
6 that's all I was pointing out.

7 MS. MCGOVERN: Okay, so it's just a
8 question of.

9 CHAIRMAN BAGOFF: That's fine.

10 MS. MCGOVERN: Will you please repeat
11 what you just said.

12 MR. ANDERSON: I will repeat it.

13 CHAIRMAN BAGOFF: Thank you.

14 MR. ANDERSON: So the applicant is
15 seeking, as required in the settlement agreement, a
16 de minimus exception from the RSIS requirements for
17 this roadway connection. If granted, we will have a
18 gate across this roadway and have it closed and only
19 used in emergency situations where there's some need
20 for a fire vehicle or an ambulance to get through
21 there, but it would be closed on a regular basis.
22 The traffic engineer for this project will go over
23 the traffic considerations of the volumes of traffic
24 and how that relates to how the granting -- or
25 considerations that the Board can make in granting

1 that de minimus exception.

2 So we also have one other exit to the
3 property and that is an emergency exit to Howell
4 Drive, which is a 15-foot-wide asphalt roadway that
5 has a gate -- this is proposed to be closed at all
6 times, unless there's an emergency where they need
7 to get in.

8 The roads are all designed as high-
9 intensity minor collector roads. To the left or the
10 west of the circle, they're designed without parking
11 on the street, and to the right or to the east by
12 Building D, they do have parking on both sides.

13 So if we look at the zoning schedule
14 for this property, it conforms to virtually
15 everything in the IH zone requirements, the one
16 exception being, which I will go over last, the
17 percentage of foundation exposure. So it conforms
18 with lot area, disturbed area, total number of
19 units, total number of affordable units, bill of
20 lading height, parking space size, sparking space
21 number. With regard to the exposure of the
22 foundation, the zone permits a 50 percent exposure.
23 Building A has 76.5 percent, Building B has 76.4
24 percent, Building C, 69.1, and Building D, 54.8. So
25 this property is ungulating, has topography that

1 goes up and down, and you could see that the
2 topography -- well, maybe you can't see, the
3 topography goes up and down and what we've tried to
4 do is build these buildings into the slope so that
5 we minimize the actual disturbance around each
6 building. Instead of creating a large-level area
7 and sinking the building into the ground to limit
8 the foundation exposure, we have, for example, we
9 have this entire side of Building B exposed, same
10 thing for Building A, the entire side is exposed so
11 that we don't have to grade further down the hill by
12 burying it, and it goes on like that, so in my
13 opinion, this is a better zoning alternative to have
14 more limited disturbance, less clearing associated
15 and working with the existing topography. Also,
16 what's important is if you recall the setbacks, the
17 large setbacks that we have for each of these
18 buildings to the property line, the impact to
19 adjoiners is -- is negligible at best, being, like I
20 said, 900 feet from this property line because no
21 one's going to see some additional foundation. Our
22 planner will go over the plan proofs for that
23 variance when he gets his opportunity to testify.

24 We have -- this is the parking
25 analysis, this is part of our set. The project

requires 966 parking spaces and we have 1,070, and those are the spaces that I have -- the way I've counted is 1,070 spaces that are associated with the buildings themselves, so that means under the building and immediately outside the building, but we do have other uses which don't have a parking demand associated with the zoning ordinance, like the clubhouse and then animal -- a dog kennel and maintenance building. So we felt it was appropriate to have additional parking in those locations, so the 1,070 represents only the parking associated with the buildings. We have 102 other spaces, 55 at the clubhouse surface spaces, we have a lower garage in Building C that is under the main garage for tenants that will be available for overflow parking for the clubhouse if there is an event, and there's 18 parking spaces at the dog kennel so that people can park there as they're dropping their dog off or picking it up. The -- I want to point out that there's adequate spaces for each building, so each building stands alone in terms of having enough spaces, there's not, you know, an over amount of spaces on one building and not enough at the other, each stands alone in its own accord. All the spaces meet the size requirement.

We also will meet the ADA and EV parking space number and all the parameters with that. Currently, we have a limited number of EV spaces located on my site plans outside the building, it's similar for ADA spaces, because most of those two types of spaces will be provided in the under-building parking for the tenants who would have first shot at it, but we do have some guests who tend to park outside the building.

This exhibit is showing accessibility -- thank you -- for a fire truck, so it's emergency vehicle access. So we took a fire truck as close to an ambulance, it's a larger vehicle, and we have a turning radius coming into the site to come from Warner Road, it goes around the circle and all the way past Building D where it can turn around in the cul-de-sac outside of Building D and return and leave the site via Warner Road.

MEMBER OF THE PUBLIC: Can you show us this with your laser, please?

MEMBER OF THE PUBLIC: Yeah, please.

MEMBER OF THE PUBLIC: We don't know what you're talking about.

MR. ANDERSON: So --

CHAIRMAN BAGOFF: Ladies and

gentlemen, at the end of his presentation, the public will have a chance to ask questions, this will be left up, he'll go over it. Let him finish his presentation, the Board will ask questions, our experts will ask questions and then the public will ask questions. Thank you.

MR. ANDERSON: Just to clarify, this exhibit demonstrates that a fire truck sized vehicle can come down Warner Road, around the circle, staying within the roadway limits and easily turn, all the way through and get itself through the site so that it can do what it's intended to do, fight fires or if it's an ambulance, to, you know, to help someone in need, and this is accessed to the eastern portion of the site with an emergency vehicle, fire truck.

The second exhibit is the same, the same type of presentation, only it comes up through Warner Road and around the circle and goes towards Buildings A, B, C, the clubhouse and the dog kennel and maintenance building. It would leave Kuzik Drive, uh, Kuzik Drive through the gate; if there's a fire, they can open the gate, provided the exception is granted.

And then I have one further, which is

what happens if there's a tree across Warner Road, what do you do? Well, we have the emergency access -- I'm sorry. We have the emergency access on Kuzik Drive and this demonstrates the truck turning through the site coming in Kuzik Drive, all the way around, and has no difficulty maneuvering through the entire site and it can leave via the emergency access on Howell and also this works equally well in reverse where you come in Howell and get all the way through the entire site with an emergency vehicle the size of a fire truck.

This is the overall utility plan. The first thing that is important to understand here is that the limitations of the project were to not build to the east of the ridgeline. The ridgeline is a line at the top of the hill all the way through the eastern portion of the site. This building, Building D, is located to the west of that ridgeline, and all of the drainage coming from that building is directed to the west. There is no building or -- and very minimal grading, if any, over the ridgeline, it's intended to stop at the ridgeline so that there's no change to the existing conditions from the ridgeline to the east down towards Mayfair. So there should be no impact to

1 additional stormwater going to the east.

2 The remainder of the site is part of
3 our stormwater management system. So to -- in order
4 to manage the stormwater in accordance with the
5 state regulations and the West Orange regulations,
6 which are pretty much one in the same, we have four
7 surface basins, one surface basin here, small scale,
8 another small scale on Warner Road, and a small
9 scale and a large-scale basin on either side of
10 Kuzik Drive. In addition to that, we have these
11 darker areas, our porous pavement systems, where the
12 water falls on the pavement, absorbs through the
13 pavement and goes into a gravel storage layer, and
14 we also have roof areas from these buildings going
15 into these porous pavement areas. That way, we can
16 control the stormwater discharge rate, we can
17 recharge into the ground and control -- and meet the
18 discharge requirements. We have two streams that
19 are crossing the site, New Brook tributary and the
20 Canoe Brook, and in each case, the drainage areas
21 will have a reduction in flow in accordance with the
22 state standards, so with the development in place,
23 the stormwater discharge from any frequency storm
24 would have the reduction that's required by the
25 state, it would be less than what it is under

1 existing conditions. This is subject to a DEP --
2 this is part of the subject of a DEP permit
3 application that we currently have pending and
4 details of this, in addition to answering the Board
5 engineer's comments, will all be addressed before it
6 is 100 percent finalized.

7 The sanitary sewer for this project is
8 a gravity-flow system that flows through -- through
9 the project from the buildings up on the hill down
10 past the circle to a low point that is just to the
11 west of Building D. Building D also flows down to
12 that, and at that point, we have a small sewer pump
13 station that will pump it up to Bakley Terrace, to
14 the terminal manhole on Bakley Terrace, which is
15 part of the West Orange sanitary sewer system. I
16 want to point out that there is an existing sanitary
17 sewer system that crosses the site that services the
18 condo association, they have a forced main that goes
19 from their pump station across our site and there
20 has been some reported smells associated with this.
21 We are neither modifying or connecting in any way to
22 that existing system. This is a completely
23 independent system that will function on its own.

24 We have a water system associated with
25 this project, which interconnects from Howell Drive

1 through to Warner and to Kuzik, creating a loop for
2 the project, ensuring sufficient water flow for --
3 for sprinkler systems in the building, for potable
4 waters for the building, and the sewer and the water
5 that I just described are -- will be part of a DEP,
6 which we will have to work with the local -- the
7 West Orange engineering department to, you know,
8 make the design in accordance with their standards
9 with their, you know, from their existing conditions
10 plans.

11 This is the overall landscape plan.

12 The landscaping, we have a total of 27.85 acres of
13 disturbance and the ordinance requires 212 trees to
14 be provided for every acre of disturbance. In this
15 case, that ends up to 5,904 trees that are required
16 to be replaced on site. One of the provisions in
17 the settlement agreement and in the IH-1 ordinance
18 is that we can provide deer fencing around portions
19 of the site to allow the understory of the
20 vegetation to grow. Currently, the condition of the
21 trees and the forest on site has been classified as
22 poor because the deer have consumed all the
23 understory and it's important that in order to allow
24 it to have a better environmental impact, the
25 understory needs to grow back and that's why the

1 deer fence was put into this agreement and into the
2 IH-1 zoning ordinance. So we have proposed 33.6
3 acres of deer fence so that the buffer area between
4 the project and Essex Fells and also between the
5 project Building D and the Mayfair area has deer
6 fencing that allows the understory to grow and
7 become more dense and provides a much better buffer
8 and environmental conditions for -- for this forest
9 to remain.

10 So in addition, that -- so that 33.6
11 acre gives us a credit of 7,123 trees, and then in
12 addition to that, all of these small trees -- these
13 trees you see in here lining the road and around all
14 the buildings, we have 279 native trees proposed to
15 be planted on site. That gives us an additional
16 credit of 279 trees, and if you do the math, it ends
17 up being 1498 surplus trees. So the ordinance
18 requires the 5904 and we provide, not only the 5904,
19 but 1498 additional credits.

20 In addition to the trees, we do have
21 1,013 native shrubs and 2320 native grasses and
22 ground covers proposed throughout the site.

23 In summary, this project has one minor
24 C variance from the IH-1 ordinance. The project has
25 been designed in, I believe, substantial conformance

1 with the settlement agreement and the zoning
2 parameters that are required by the IH-1 zone. And
3 that is my direct testimony, Mr. Chairman.

4 CHAIRMAN BAGOFF: Thank you. At this
5 time, ladies and gentlemen, the members of the Board
6 ask questions, then our experts ask questions, then
7 the attorney for We Care will ask questions and then
8 the general public can ask questions.

9 Vice-Chairman Guarino, do you have any
10 questions?

11 VICE-CHAIRMAN GUARINO: Yes, I do.
12 Thank you, Mr. Chairman. Mr. Anderson, I have a
13 couple questions --

14 MEMBER OF THE PUBLIC: We can't hear
15 you.

16 MEMBER OF THE PUBLIC: We can't hear
17 you.

18 VICE-CHAIRMAN GUARINO: Okay. If you
19 want, I'll shout. Okay.

20 MEMBER OF THE PUBLIC: No.

21 MEMBER OF THE PUBLIC: Still not.

22 MEMBER OF THE PUBLIC: Speak up.

23 (Public outburst)

24 VICE-CHAIRMAN GUARINO: Okay. Mr.
25 Anderson, my questions are related to two things:

1 Public safety and fire department. Have your plans
2 and dimensions and area specifications, have they
3 been discussed with our fire department?

4 MR. ANDERSON: They have not, we have
5 not had a review from the fire department. We had
6 preliminary discussions a few years back but they
7 have not commented on this current plan.

8 VICE-CHAIRMAN GUARINO: Okay. Because
9 we need to know, our fire department, are they
10 comfortable with your summations about turn radius
11 in and out of the facility, in and out of the
12 environment, that's something that we need to be
13 comfortable that, you know, they're comfortable
14 with, then we can be comfortable with.

15 My second question, sir -- can
16 everybody still hear me?

17 (Members of the public shout out simultaneous
18 either "yes" or "no.")

19 MEMBER OF THE PUBLIC: Stand up and
20 talk to us, please.

21 VICE-CHAIRMAN GUARINO: Anyway, Mr.
22 Anderson, when you talk about sewage, sanitary
23 sewage -- ah, give me this one.

24 (Mr. Guarino switches microphones.)

25 VICE-CHAIRMAN GUARINO: Is that

1 better?

2 (Members of the public say "yes"
3 simultaneously.)

4 VICE-CHAIRMAN GUARINO: Amazing.
5 Amazing. Anyway, Mr. Anderson, talking about waste,
6 you know, waste sewage, have your calculations, the
7 number of increased, you know, sanitary sewage and
8 everything else, have these numbers and
9 qualifications that they needed, have they been
10 discussed with the Joint Meeting? And if anybody
11 doesn't know what the Joint Meeting is, that is the
12 sewer commission that covers 11 municipalities
13 between the Essex and Union. So sir, I'd like to
14 know, have they been involved in your evaluation of
15 increased sanitary sewage?

16 MR. ANDERSON: Not to date. Right
17 now, we've only discussed it with the municipal
18 engineer and with regard to where it goes and what
19 kind of flows we would anticipate, and the process
20 typically is to get a municipal approval, then to
21 work with the municipal engineering department to
22 get them to sign off on conveyance and then go to
23 Joint Meeting where you would allow or where you
24 would be looking for the gallonage available.

25 VICE-CHAIRMAN GUARINO: Okay. Have

1 your numbers and calculations been shared with our
2 township engineer?

3 MR. ANDERSON: We discussed them
4 verbally, yes.

5 VICE-CHAIRMAN GUARINO: Okay. All
6 right, thank you, Mr. Chairman. Thank you, Mr.
7 Anderson.

8 CHAIRMAN BAGOFF: Thank you,
9 Vice-Chairman Guarino. Mayor McCartney.

10 MAYOR McCARTNEY: Thank you, Chairman.
11 Mr. Anderson, my questions were similar, that you
12 were talking about the sanitary sewer capacity of
13 Bakley --

14 MEMBER OF THE PUBLIC: Speak up.

15 CHAIRMAN BAGOFF: Mayor --

16 MEMBER OF THE PUBLIC: Can't hear.

17 MAYOR McCARTNEY: Thank you.

18 Mr. Anderson, my questions were similar
19 to Vice-Chairman Guarino's about the capacity going
20 into the sanitary sewer at Bakley Terrace and,
21 similarly, have the engineers weighed in on that to
22 be sure that the capacity of what you're generating
23 -- our capacity can match what you're generating?

24 MR. ANDERSON: Yes, we have discussed
25 that in detail. There is some concern about

1 capacity but there's really very few as-built plans
2 of the existing West Orange sanitary sewer system,
3 so --

4 MEMBER OF THE PUBLIC: We can't hear.

5 MAYOR McCARTNEY: Closer to the mic,
6 please.

7 CHAIRMAN BAGOFF: Mr. Anderson,
8 louder, please.

9 MR. ANDERSON: There's no concrete
10 answer as to the capacity that's available. We have
11 discussed alternates, such as off-peak pumping, but
12 -- so the general process that we go through is we
13 discuss the capacity of the existing system and the
14 gallonage we would be putting into the system and
15 when with the municipal engineer until they feel
16 comfortable that it meets the proper standards where
17 they can sign off on the conveyance part of the
18 application for the sewer extension permit.

19 MAYOR McCARTNEY: And then you would
20 build and maintain that system?

21 MR. ANDERSON: We would build and
22 maintain on site. The off-site, we would be
23 connecting in -- and that would be all of the things
24 I just talked about, the pump station and any tanks
25 needed to --

1 approved-by-DEP wetlands areas, there and then also
2 around here (indicating). And then along the Canoe
3 Brook, there's this odd shape that goes down either
4 side, but we are not going anywhere near those
5 wetlands.

6 MAYOR McCARTNEY: Joe, keep that up a
7 minute?

8 Mr. Anderson, I appreciate all the
9 setbacks, they exceed what the township requires,
10 but can you tell me, from the east where that long
11 building is, how far away is that from the steep
12 slope? How many feet is that?

13 MR. ANDERSON: It -- I don't have that
14 information. It's very close to -- it's at the top
15 of the hill, so immediately after -- it levels off
16 at the top of the hill, it's probably 30 feet before
17 it starts pitching down, but we do not disturb any
18 of that area.

19 MAYOR McCARTNEY: Right, and I
20 understand that we do have the new steep slope
21 ordinance and that was put into place after our --
22 after this Fair Share Housing settlement agreement,
23 so I'm curious to know -- that was a hundred feet
24 away; I'm just curious to know what that variance
25 would be from that steep slope.

1 MAYOR McCARTNEY: Closer to the
2 microphone. Closer to the microphone.

3 MR. ANDERSON: Closer?

4 MAYOR McCARTNEY: (Mayor nods.)

5 MR. ANDERSON: Okay. So off-site, the
6 sewer obviously still falls under the realm of
7 maintenance by the community.

8 MAYOR McCARTNEY: And the map is not
9 up --

10 CHAIRMAN BAGOFF: I'm sorry.

11 MAYOR McCARTNEY: The map is still not
12 up, but I want to -- I know that you do have DEP
13 permits pending and I wanted to see where the
14 wetlands were on that map. Where the wetlands on
15 the map, that was my question.

16 MR. FAGAN: I'll bring that back up.

17 MR. ANDERSON: Thank you.

18 MAYOR McCARTNEY: Joe, can you zoom
19 in?

20 MR. ANDERSON: All right. So these
21 lines here represent the wetlands limits and it's on
22 the inside here, outside, we are not disturbing
23 anything, only at the crossings. It's an odd shape,
24 there's some isolated areas, but these are inter-
25 connected through -- so these are the current

1 MR. ANDERSON: Well, I don't believe
2 it would be a variance because the steep slopes do
3 not apply --

4 MAYOR McCARTNEY: That's true.

5 MR. ANDERSON: -- to this application

6 --

7 MAYOR McCARTNEY: That's true.

8 MR. ANDERSON: -- so it meets the
9 requirement of being to the west of the ridgeline
10 and at the ridgeline, as you might imagine, it's the
11 top of a hill and so it goes up and up and then it
12 levels off before it goes down the other side and we
13 stop on the -- well, it's still coming up before it
14 goes over the top.

15 MAYOR McCARTNEY: So --

16 MEMBER OF THE PUBLIC: Can't hear you.

17 CHAIRMAN BAGOFF: Mr. Anderson, could
18 you repeat that for the public, please?

19 MR. ANDERSON: Yes, I will. So the --
20 we stop the disturbance for Building D to the west
21 of the ridgeline, and as you understand, at the top
22 of the hill, it goes up on one side, it levels off
23 and then it goes down the other side. So we are
24 stopping before the Center point at the top where it
25 reaches its pique or where it's leveled off, so we

1 are short of that and it is not on the steep slope
2 going down the other side towards the municipal
3 streets to the east.

4 MAYOR McCARTNEY: And can you assure
5 us that even if our current steep slope ordinance
6 does not apply to this, then every precaution would
7 be made to shore up whatever development is here?

8 MR. ANDERSON: Could you -- I didn't
9 hear you, I'm sorry, Mayor.

10 MAYOR McCARTNEY: Well, I --

11 MEMBER OF THE PUBLIC: We can't hear.

12 CHAIRMAN BAGOFF: Okay, okay, I got
13 it. Mayor -- I'm sorry.

14 MAYOR McCARTNEY: My question is:
15 Even if our current steep slope ordinance does not
16 apply to this, would every precaution be made to any
17 development?

18 MR. ANDERSON: Absolutely.

19 MEMBER OF THE PUBLIC: Oh, yeah.

20 MAYOR McCARTNEY: Thank you.

21 MEMBER OF THE PUBLIC: Yeah, sure.

22 (Public outburst)

23 CHAIRMAN BAGOFF: Council President
24 Rutherford.

25 Ladies and gentlemen, I'm trying.

1 Thank you. Council President.

2 COUNCILMAN RUTHERFORD: Thank you, Mr.
3 Chair. Thank you, Mr. Anderson and all of you that
4 are here in person and virtually. I just want to
5 know for the record, Mr. Chair, at 7:13, there were
6 122 people on Zoom. Is that still correct, Mr.
7 Fagan? 122 people. We can see how important of an
8 issue this is. I do have a few questions, some are
9 piggy-backing off of the questions the Vice Chair
10 and Mayor have already asked but I still would like
11 to ask them for additional clarity, and I'm going to
12 go in the order of my notes.

13 So, you have the buffer, particularly
14 with regard to the deer fence, highlighted on the --
15 on the map that we see. We can see that there is
16 more than 100 feet between each of the buildings and
17 the property lines. Are those buffers undisturbed
18 trees, undisturbed foliage, are you planting
19 anything in there or certainly where the deer
20 fencing is, is that the only thing going in that
21 buffer?

22 MR. ANDERSON: So -- yes, that is
23 correct. So -- here, let me try to show you --
24 explain the exhibit a little bit further. So --
25 thank you for turning that light off. The lighter

1 green color in here is inside that dark line.

2 That's the inside limit of disturbance line.

3 Outside that limit of disturbance line as you go
4 around the site is the existing native forest. So
5 we are not doing anything where there's -- where
6 there's no deer fence associated with this and
7 there's wetland area, that will remain exactly as it
8 is today, if it's outside the limit of disturbance.

9 Where we propose the deer fence is outside the limit
10 of disturbance by definition, but it's permitted to
11 be placed without calling it "disturbance" by
12 ordinance, and that is just going to allow the
13 trees, the understory, to grow back in these areas.

14 But there's different colors, the darker green for
15 where the understory will grow back, a little bit
16 lighter than that green where it's the existing
17 forest to remain, and the light-color green where we
18 actually are disturbing where it's grass or lawn
19 planted back again.

20 COUNCILMAN RUTHERFORD: Got it and so
21 -- I will skip around since we're talking about
22 trees. You stated there are 1,498 surplus trees as
23 a result of this plan. Did I get that right?

24 MR. ANDERSON: I believe so, yeah.

25 COUNCILMAN RUTHERFORD: But that

1 includes a credit of over 7,000 trees because of the
2 deer fencing. So how many total trees will be
3 replaced with actually trees, not the deer fencing?

4 MR. ANDERSON: We are proposing 279
5 new trees.

6 COUNCILMAN RUTHERFORD: And will --
7 (Public outburst)

8 COUNCILMAN RUTHERFORD: So 279 will be
9 planted on site.

10 MR. ANDERSON: That's correct.

11 COUNCILMAN RUTHERFORD: And how many
12 are coming down again?

13 MR. ANDERSON: 5,904.

14 (Applause by members of the public)

15 COUNCILMAN RUTHERFORD: Have we any
16 understanding -- I understand that you are -- you
17 have a stormwater management plan.

18 MR. ANDERSON: Um-hum.

19 COUNCILMAN RUTHERFORD: Have we any
20 understanding of what those what are called hundred-
21 year storms that seem to come every two or three
22 years now, do we have any understanding of what type
23 of impact that amount of water would have with that
24 amount of trees coming down?

25 MR. ANDERSON: We do. It is part of

1 the drainage design, and part of this design is that
 2 we maintain the discharge from the site at a rate
 3 that is, for the 100-year storm that you're
 4 discussing, at 80 percent of the rate that is under
 5 current condition with all of the trees there. We
 6 have to hold back the water in all of these
 7 locations that I pointed out before, the porous
 8 pavement areas and the four detention basin areas to
 9 slowly, carefully let the water out and into the
 10 stream so that they don't impact the next-door
 11 neighbor. That's the stormwater ordinance of this
 12 community as well as the ordinance for the state.
 13 DEP is reviewing it for those standards and we have
 14 to meet that standard for each point of analysis.
 15 In this case, the point of analysis would be "What
 16 are you putting into the Canoe Brook and what are
 17 you putting into the Canoe Brook tributary?" Those
 18 are the only two places that we are discharging.

19 COUNCILMAN RUTHERFORD: So you
 20 mentioned one of these hundred-year storms, 80
 21 percent of that water would be managed by your
 22 system and the additional 20 percent would be --
 23 now, I'm a layman so I don't --

24 MR. ANDERSON: Yeah. No, let me
 25 restate it, then, because you did not understand

1 what I said.

2 CHAIRMAN BAGOFF: Can you speak a
 3 little louder?

4 MR. ANDERSON: I will try.

5 CHAIRMAN BAGOFF: Thank you.

6 MEMBER OF THE PUBLIC: Speak into the
 7 microphone.

8 MR. ANDERSON: I'm speaking with the
 9 microphone almost into my throat, so there's not
 10 much I can do with the volume --

11 CHAIRMAN BAGOFF: Okay, let's work
 12 together, guys.

13 MR. ANDERSON: -- we're just trying to
 14 make the best of it.

15 So if, on the 100-year storm, 100 cubic
 16 feet per second is discharged under today's
 17 circumstance -- under today's conditions, the
 18 regulations state that I can only discharge 80 cubic
 19 feet per second, so there's a reduction in the total
 20 discharge from the site by regulation. That's what
 21 I -- those are the standards that I have to meet in
 22 the design, and that is reviewed by your Board
 23 engineer and by the DEP and ultimately approved by
 24 the DEP when we get our permits.

25 COUNCILMAN RUTHERFORD: All right. I

1 think I understand that. Again, I am a layman so
 2 I'm going to ask some questions that seem basic. I
 3 hope you will indulge me.

4 MR. ANDERSON: Um-hum. Of course.

5 COUNCILMAN RUTHERFORD: You mentioned
 6 there's a gate on Kuzik and I don't know what --
 7 what is that street at the top of the map?

8 MR. ANDERSON: Howell?

9 COUNCILMAN RUTHERFORD: Howell?

10 MR. ANDERSON: Yes.

11 COUNCILMAN RUTHERFORD: So we're
 12 anticipating a gate there should the exception be
 13 granted. Is that for both or just Kuzik?

14 MR. ANDERSON: Kuzik is the only one
 15 we're seeking exception. Howell is a classic just
 16 emergency access only; the gate would only be open
 17 if, say, a fire truck needed to get into there or an
 18 ambulance needed to get into there. All right? But
 19 Kuzik is the one that we are requesting a de minimus
 20 exception for. You could say "No, you're not going
 21 to get that," in which case, it will be open all the
 22 time, or you could say "Yes, we'll give you the
 23 de minimus exception," in which case we will build
 24 the roadway and leave it there for emergencies and
 25 put a gate across it so it could not be used by the

1 general public just leaving every day.

2 COUNCILMAN RUTHERFORD: So can you
 3 characterize the gate for me? How would that work
 4 in case of emergency?

5 MR. ANDERSON: It's a gate that the
 6 fire department would have the key for that they
 7 could open up if they needed to get through there.

8 COUNCILMAN RUTHERFORD: Got it.
 9 Similar to the box that you have on a building, they
 10 show up, they have their key?

11 MR. ANDERSON: We'll have a method
 12 where they can get in there so they can use that
 13 emergency access and get to the emergency in a
 14 timely way.

15 COUNCILMAN RUTHERFORD: All right.
 16 I'm going to follow up on Vice Chair's question with
 17 regard to the fire department. You said you had not
 18 yet discussed your fire truck accessibility with the
 19 fire department and I gather that's because we're
 20 not at that point in the process yet. Did I
 21 understand your comment correctly?

22 MR. ANDERSON: Yeah, we do not have a
 23 review from the fire chief and if he has any
 24 concerns with that, we'll be happy to go over it
 25 with him and make any modifications needed to do

1 that, but I think what I was trying to demonstrate,
2 that there's an easy route for his fire trucks to
3 get in and around, and I don't believe that he would
4 have an issue with it but, obviously, he has to
5 review it and approve it.

6 COUNCILMAN RUTHERFORD: I'm a layman,
7 again, so those terms look relatively navigable for
8 large vehicles to meet but, you know, I'm not a
9 fireman. I just wanted to know, did you -- when you
10 were looking at your turn radiuses, did you look at
11 the largest piece of equipment we have or the pieces
12 of equipment that would be needed for this
13 development?

14 MR. ANDERSON: I looked at a large
15 fire truck that is representative of -- that would
16 get through this community. I didn't go and get the
17 exact truck and that exact turning radius, but it's
18 a larger fire truck that I use to go through this
19 area. And it made it actually -- it wasn't like
20 you're going to have to go over this curb here or
21 that curb there to make it; it made it fairly
22 easily.

23 COUNCILMAN RUTHERFORD: Yeah, I will
24 echo the sentiments of the Vice Chair. I think,
25 understanding the type of equipment that the fire

1 department would have to deploy to address an
2 emergency there is important. There are different
3 size fire trucks that have different functions --

4 MR. ANDERSON: Yes.

5 COUNCILMAN RUTHERFORD: -- and we want
6 to make sure that all of them can get in or out.

7 MR. ANDERSON: We do as well.

8 COUNCILMAN RUTHERFORD: Building D,
9 which is west of the ridgeline --

10 MR. ANDERSON: Correct.

11 COUNCILMAN RUTHERFORD: -- you stated
12 you don't know how close to the steep slope that it
13 is. Is that accurate?

14 MR. ANDERSON: Yes, because steep
15 slope is not part of this application. We haven't
16 studied steep slope, it is not part of this zoning
17 ordinance. So I don't have a lot of information for
18 you as to where the steep slope begins by your
19 definition of "steep slope" on the new steep slope
20 ordinance because it's not relevant to this
21 application.

22 COUNCILMAN RUTHERFORD: Well, following
23 the ordinance may not be relevant, but understanding
24 the impact on the steep slope is relevant --

25 MEMBER OF THE PUBLIC: Right.

1 COUNCILMAN RUTHERFORD: -- and so I do
2 think it's important --

3 (Applause by members of the public)

4 COUNCILMAN RUTHERFORD: I think it's
5 important to understand how close to the steep slope
6 you will be building. I understand you are building
7 into the ridge, which will minimize, according to
8 your testimony, the impact on the ridge, but we
9 already had a tragedy in town where a hillside
10 collapsed on an apartment building that has now been
11 vacant for almost three years and we certainly would
12 not like to see a similar tragedy because we're
13 building close to the -- to the edge of the steep
14 slope.

15 MR. ANDERSON: Yeah, I understand
16 that, I heard of that, that tragedy that happened,
17 and I don't believe you will have any concern for
18 this building having a similar circumstance. The
19 architect will be testifying with regard to the
20 building, how it lays with the land and how it will
21 be stable, as it's built into the top of that hill,
22 into the -- into the, you know, almost to the top of
23 the hill, but it is -- it -- when he demonstrates it
24 to you, I believe you'll see that there's not a
25 concern for that same circumstance to happen again

1 here.

2 COUNCILMAN RUTHERFORD: And I
3 appreciate your answer; this is not -- this is
4 agnostic to you as a professional and an individual,
5 but the township has some difficulty accepting some
6 of these professional opinions when we've seen those
7 types of opinions here before and then an accident
8 has still occurred. So I don't know what you can do
9 to assuage the fears of the residents in those
10 neighborhoods and this Council member and the
11 Planning Board, but that is a serious concern and it
12 should be understood and addressed.

13 Now, with regard to that steep slope,
14 it appears to me on that map that very -- that very
15 little of the foliage approaching the slope will be
16 disturbed, but I can't really tell. Are you taking
17 trees down off the top of the slope? I see some
18 light green along Building D but I'm not...

19 MR. ANDERSON: Immediately behind the
20 building, some trees come down.

21 COUNCILMAN RUTHERFORD: Okay. And
22 that line that is immediately behind the building,
23 does that line represent the high point on the map?

24 MR. ANDERSON: The curved line
25 represents the high point, the ridgeline, yes,

1 correct.

2 COUNCILMAN RUTHERFORD: So that
3 Building D, it looks to me that the bottom of
4 Building D is literally at that line. Am I
5 understanding that correctly?

6 MR. ANDERSON: There is one point
7 where it is very close to that line, that's correct.

8 COUNCILMAN RUTHERFORD: So that can't
9 possibly be 30 feet.

10 MR. ANDERSON: Well, what I'm trying
11 -- what I -- well, first, number one, I said I don't
12 have an exact measurement, but if I was to suggest
13 it's 30 feet, it's because I know at the top of the
14 ridge, there's a flat area at the top of the ridge,
15 and before it starts going downhill again, which is
16 where your steep slopes occurs, I would be just
17 estimating from my experience walking the site. So
18 it -- so, again, you can't hang your hat on the
19 number 30, 30 feet. You can say "I'd go to the top
20 of the center of that ridge or just short of it but
21 before it gets steep." I don't know where that gets
22 steep, so that's why I don't have the answer for
23 you.

24 COUNCILMAN RUTHERFORD: All right,
25 turning to the tie-in to the sewer system that's

1 or do you understand the impact but don't understand
2 the available capacity?

3 MR. ANDERSON: No, we don't understand
4 -- there's a lack of existing records in the town
5 engineering department. They do not have pipe size,
6 slope location, so those are the items that are
7 necessary to determine capacity. So it will require
8 some engineering discussion with the town engineer
9 to identify a path where they can sign off on the
10 conveyance.

11 COUNCILMAN RUTHERFORD: And by
12 "identify a path," you mean to somehow analyze and
13 understand what the --

14 MR. ANDERSON: Yes.

15 COUNCILMAN RUTHERFORD: -- available
16 capacity is and then compare that with the
17 anticipated flow.

18 MR. ANDERSON: That's correct. And
19 understand when we could pump, what pumping that
20 amount of effluent would mean to the system and so
21 forth. It's a -- yes, it's a calculation that has
22 to be done in conjunction with the West Orange
23 engineering department.

24 COUNCILMAN RUTHERFORD: All right. I
25 wanted to go back to the wetlands. You talked about

1 located at --

2 MR. ANDERSON: Bakley Terrace.

3 COUNCILMAN RUTHERFORD: -- Bakley
4 Terrace. So you discussed flow data verbally with
5 our engineer, our township engineer; is that right?

6 MR. ANDERSON: Right.

7 COUNCILMAN RUTHERFORD: But from your
8 testimony, it is -- we're not at the point in the
9 application process where you would discuss that
10 with the Joint Meeting?

11 MR. ANDERSON: That's correct. We
12 can't make an application to the DEP for sewer
13 before we actually have a municipal approval. So
14 once we have a municipal approval for the -- for
15 this thing that -- for this application, then we can
16 start the process of going and getting the
17 concurrence that the collection system -- the
18 conveyance system is appropriate or whatever we're
19 doing to it is appropriate and it can convey the
20 flow and then we'd go, after that, the next step is
21 to go in the Joint Meeting.

22 COUNCILMAN RUTHERFORD: And this
23 verbal discussion, is that where you determined that
24 it was difficult to understand the available
25 capacity at Bakley and the impact on that capacity

1 the disturbance relative to the trees.

2 MR. ANDERSON: Um-hum.

3 COUNCILMAN RUTHERFORD: Have you --
4 well, actually, the entire site. Have we discussed
5 disturbance or displacement relative to the birds or
6 animals, any of the other creatures that call that
7 forest home?

8 MR. ANDERSON: We have not discussed
9 that.

10 COUNCILMAN RUTHERFORD: Are we aware,
11 do we have an understanding of what endangered
12 species may live there or if there are any that live
13 there?

14 MR. ANDERSON: It's not my expertise.
15 It's part of the environmental expertise.

16 COUNCILMAN RUTHERFORD: Is that
17 something the DEP is going to weigh in on?

18 MR. ANDERSON: There's -- yes, they
19 will look and see whether there's threatened and
20 endangered species as part of the application. I
21 don't believe that they've found them previously on
22 this site. The buffers have been 50 feet -- 50-foot
23 buffers. If there was threatening endangered
24 species on site, they typically would require 150-
25 foot buffers and it would change the parameters of

1 the application that we already have in, so although
2 I'm not, you know, privy to what exactly is there
3 and what their service is, the DEP has not indicated
4 that it's exceptional resource value because of an
5 endangered species.

6 COUNCILMAN RUTHERFORD: If it were to
7 determine that, how would that impact this project?

8 MR. ANDERSON: It would change the
9 permit requirements from the DEP for crossings of
10 wetlands.

11 COUNCILMAN RUTHERFORD: So those
12 buffers that you have now between the buildings and
13 the wetlands would not be sufficient?

14 MR. ANDERSON: There's buffers
15 associated with the wetlands and we are crossing the
16 wetlands in two locations, so those buffers would
17 increase and the amount of buffer to service would
18 increase, it would change the permit that we would
19 have to get from the DEP, but it would not
20 necessarily change the design after the roadway
21 network. It would change the permits that we are
22 seeking.

23 COUNCILMAN RUTHERFORD: But it would
24 not force you to relocate any of the existing
25 buildings or parking lots?

1 impact on the site plan?

2 MR. ANDERSON: So -- no, I think -- so
3 as part of this application, there is a natural
4 heritage report that the environmental scientist
5 obtained and --

6 CHAIRMAN BAGOFF: Mr. Anderson, I'm
7 sorry, a little louder please.

8 MR. ANDERSON: Yes.

9 CHAIRMAN BAGOFF: Thank you.

10 MR. ANDERSON: Thank you for your --
11 let me know when it happens next time.

12 CHAIRMAN BAGOFF: Yeah. That's all
13 right.

14 MR. ANDERSON: So the natural heritage
15 report comes out and it indicates what, you know,
16 species are available or are around within this
17 habitat and they look at it. That's already been
18 done and that's -- when we had our LOI granted many
19 times, it's never found threatened and endangered
20 species. We've been at this project for many years
21 and it's been -- we've had several LOIs and none of
22 them have ever found threatened endangered species,
23 so -- and we have a valid LOI we can rely on that
24 states that. So there's no further determination
25 with our permit application.

1 MR. ANDERSON: I don't know that, I'd
2 have to -- it's a more complicated question than
3 just shooting from the hip. I'd have to look and
4 see which ones, if any, were within 150 feet.

5 COUNCILMAN RUTHERFORD: Do we have an
6 estimate on when DEP will weigh in?

7 MR. ANDERSON: On whether there's
8 threatened -- they've already -- we have an LOI that
9 we can rely on for the next period of time, for next
10 year, that, uh, that indicates that they're not
11 exceptional -- there's not exceptional resource
12 value wetlands and there's not threatened endangered
13 species on it. We can rely on that legally with
14 this application and for this application because
15 that is in place.

16 COUNCILMAN RUTHERFORD: But your
17 application is being reviewed now by the DEP; is
18 that right?

19 MR. ANDERSON: For permits, yes,
20 correct.

21 COUNCILMAN RUTHERFORD: And when that
22 application -- when that review is complete, they
23 will then, as a part of returning that application
24 to you, whether they approve it or not, they will
25 give some detail with the endangered species and any

1 COUNCILMAN RUTHERFORD: All right.
2 Last thought is with regard to ingress, egress and
3 the number of cars, because there's 1,070 parking
4 spaces, 900 and something are required for the
5 development, and the way I understand your map,
6 there's only one road to get in and out. Is that --
7 I know that there's a gate on Kuzik and a gate on
8 Howell, so they are not going to be used except in
9 emergency, so on a daily basis, there's one road in
10 and one road out; is that right?

11 MR. ANDERSON: If the de minimus
12 exception is granted, that is the plan.

13 COUNCILMAN RUTHERFORD: Have we done
14 traffic -- is that -- would that fall under you, the
15 environment? That's not under you?

16 MR. ANDERSON: We have a traffic
17 engineer who will be testifying after -- not
18 immediately after me but at some point after me.

19 COUNCILMAN RUTHERFORD: All right,
20 that'll do it for me. Thank you, Mr. Chair. Thank
21 you, Mr. Anderson.

22 CHAIRMAN BAGOFF: Thank you, Council
23 President.

24 (Applause by members of the public)

25 CHAIRMAN BAGOFF: Mr. Alper.

1 MR. ALPER: Sure. Mr. Anderson,
2 first, on the ridgeline, is it the case that the
3 ordinance that's been agreed to -- is it the case
4 that the ordinance that's been agreed to as far as
5 the ridgeline doesn't specify a number of feet but
6 only says that construction needs to take place west
7 of the ridgeline?

8 MR. ANDERSON: That's correct.

9 MR. ALPER: Okay. I do think that
10 we're -- speaking just for myself, I think we're
11 going to want to know the exact footage when you're
12 able to. I realize we're in a multi-day process,
13 but I think that's going to be an important number
14 that we're going to want to hear.

15 MR. ANDERSON: All right.

16 MR. ALPER: What would the plan be to
17 protect the ridgeline during construction?

18 MR. ANDERSON: We would be setting
19 silt fence out. We don't anticipate any significant
20 amount of water going in that direction because
21 we're on the west side of the ridge, so everything
22 is coming towards the -- towards the interior of the
23 development. So we would put silt fence out maybe,
24 hay-bale barriers, something like that, to delineate
25 exactly where that ridge, uh, ridgeline is. But

1 there's -- I don't -- without having water running
2 over, I don't know what you're really protecting
3 that from.

4 MR. ALPER: Would there be any issues
5 from construction equipment being on that bridge
6 while you're building that portion of the building
7 that comes close to it?

8 MR. ANDERSON: It shouldn't be in any
9 significant way because, you know, it's supposed to
10 be no disturbance to the east of that.

11 MR. ALPER: On the foundation exposure
12 being higher than allowed, are there renderings of
13 that so that people can see what exactly we're
14 talking about, what it looks like?

15 MR. ANDERSON: Yeah, I think that's an
16 architectural question.

17 MR. ALPER: That's fine.

18 MR. ANDERSON: He will show you how it
19 is calculated, those are actually his numbers.

20 MR. ALPER: Gotch ya. If we can go to
21 the fire-truck turning radius, the west version of
22 that, I did have a question on that.

23 MR. ANDERSON: Which one?

24 MR. ALPER: The west version, the
25 second one you showed us.

1 MR. ANDERSON: This one?

2 MR. ALPER: Yeah, I think so.

3 MR. ANDERSON: Yeah, okay.

4 MR. ALPER: Can you zoom in on that?
5 Yeah, that's good enough, I think.

6 Could a fire truck that comes in from
7 Warner and goes around the circle and goes too far
8 and needs to turn around because, you know, they
9 thought they had to go further for some reason but
10 they need to come back, is there a way for them to
11 turn around, because there's no circle down on the
12 Kuzik end of this. Can they do it in the -- is that
13 the maintenance or kennel parking lot; is there
14 space there?

15 MR. ANDERSON: They can certainly turn
16 around as a K-turn in that parking lot, but I just
17 anticipated that they will be going out Kuzik Drive.

18 MR. ALPER: Right, but -- they could
19 certainly leave after the event via Kuzik, but my
20 concern is that if they go too far and need to come
21 back, that they shouldn't have to go all the way
22 down Kuzik and then turn and then come back up
23 Warner and go all the way around the circle to get
24 to the corner of Building A, if that's Building A on
25 the bottom half there. So I think we would want to

1 see a turning radius that shows that they could do a
2 turn in the parking lot of the maintenance/kennel
3 and/or add another way to make sure that that turn
4 around can happen.

5 MR. ANDERSON: Okay. I got it.

6 MR. ALPER: And also on fire, and I
7 know a lot of times, these reviews happen later, but
8 because this is, you know, all new construction with
9 the new water system, will the fire department be
10 getting a chance -- are there hydrants diagrammed?

11 MR. ANDERSON: There are hydrants on
12 the plan of every building --

13 MR. ALPER: Okay.

14 MR. ANDERSON: -- and we do not show
15 fire department connections yet, but that would
16 require the fire chief's input as to where he wanted
17 them.

18 MR. ALPER: Gotch ya. I think my next
19 thing is, the body of water to the left is Canoe
20 Brook and its tributary?

21 MR. ANDERSON: What -- I'm sorry.

22 MR. ALPER: The body of water on the
23 left side of the plan.

24 MR. ANDERSON: Yeah, Canoe Brook
25 tributary is to the right, Canoe Brook is to the

1 left.

2 MR. ALPER: Okay. I believe that's
3 the reservoir source for New Jersey water, so I'm
4 wondering if they weigh in on a project like this,
5 if that's DEP's responsibility.

6 MR. ANDERSON: I don't know if they
7 weigh in or not; I've never seen them weigh in on
8 any of our past applications for this. We have a
9 very minor impact in terms of that wetland area over
10 there, I mean, we just have one headwall from the
11 discharge from Basin 1 in that location.

12 MR. ALPER: So it shouldn't be the
13 case that any construction debris or anything would
14 end up in the waterway.

15 MR. ANDERSON: Should not.

16 MR. ALPER: On the stormwater water
17 discharge on that, I know you say, you know,
18 obviously, you have to reduce the current discharge,
19 but the current discharge is from nature, right? So
20 it's the trees and the soil and the waste of the
21 animals that live on the site.

22 MR. ANDERSON: Right.

23 MR. ALPER: When that changes and the
24 runoff becomes, you know, what's in the parking lots
25 in oil and the residue from human habitation, how

1 in this case, we've used a Filterra, which is a tree
2 planter and a medium and the water goes through and
3 filters through the medium, and then once it's
4 filtered through, it goes down to the basin for
5 quantity control, and so that's how that's handled.

6 MR. ALPER: Okay.

7 MR. ANDERSON: The porous pavement
8 systems are similar, they are -- they are green
9 technology for quantity, quality and groundwater
10 recharge, so those other ones that are up on the top
11 of the hill on those parking lots take care of
12 themselves independently at the top of the hill.

13 MR. ALPER: Got it. On the trees, the
14 number you said, 5,904, is that the number that's
15 actually being removed or is that the obligation
16 that you need to replace? Because I thought you had
17 given a formula 212 trees per acre times 27 point --
18 acres and that is where the 5904 came from; I wasn't
19 sure if that was the exact same number that was also
20 coming down.

21 MR. ANDERSON: So there was an
22 estimate of the amount of trees in the forest based
23 on a study done years ago and it was decided to put
24 into the ordinance a 212 trees per acre, and the
25 replacement was based on a one-for-one tree

1 does that figure into the calculations --

2 MR. ANDERSON: So --

3 MR. ALPER: -- and the requirements?

4 MR. ANDERSON: It's not a volume
5 calculation. Part of the design is -- there's three
6 parameters, there's water quality, water quantity,
7 the discharge rate and groundwater discharge. So
8 there are green technologies associated with various
9 stormwater management devices, so small-scale
10 infiltration basins are considered green technology.
11 The water comes in and it has a pretreatment device
12 for each surface basin and then it absorbs water
13 into the ground and also has water quality elements
14 in the basin itself. Okay? And then the water that
15 is actually discharged to the outlet structure is to
16 have 80 percent suspended solids removed from it
17 prior to it discharging. So the design includes
18 that kind of technology.

19 In the case of the large-scale
20 detention basin that we have that goes to Canoe
21 Brook, that -- a large-scale does not provide the
22 water quality element so we had to have 80 percent
23 removal with filtration devices prior to the
24 discharge into the basin, so the oils and greases or
25 whatever you're finding from the site goes through,

1 replacement --

2 MR. ALPER: Got it.

3 MR. ANDERSON: -- and we have -- let
4 me just get my number right. We have the 27.85
5 acres of disturbance and we have -- let me find it
6 -- we have 5,904 trees required to be replaced based
7 on the 212 times the acreage, and so that's what we
8 have to replace.

9 MR. ALPER: Got it.

10 MR. ANDERSON: And they also gave a
11 similar credit to the deer fencing, 212 per acre.

12 MR. ALPER: So it's 212 per acre of
13 deer fencing?

14 MR. ANDERSON: For the -- yes, for the
15 placement of deer fencing, correct.

16 MR. ALPER: So each acre of deer
17 fencing counts as 212 trees --

18 MR. ANDERSON: Correct.

19 MR. ALPER: -- though it's not,
20 obviously, any -- one tree, let alone --

21 MR. ANDERSON: It's not adding trees,
22 it's just making that portion of the forest
23 healthier.

24 MEMBER OF THE PUBLIC: No way.

25 MR. ALPER: Okay. That's all I got.

1 MEMBER OF THE PUBLIC: No way.

2 CHAIRMAN BAGOFF: Thank you. Mr.
3 Wilkes.

4 MR. WILKES: Yes. Going back to the
5 emergency vehicles, you had mentioned that, you
6 know, possibly doing a K-turn or anything like that,
7 but you said you also -- you guys have not spoken to
8 the fire department as of yet. What other basis do
9 you guys use to create a plan like this? Because if
10 you don't talk to them at all, are you putting
11 emergency vehicles in, fire hydrants; how did you
12 base this whole plan off of not talking to them at
13 all and knowing location of hospitals or anything
14 like that?

15 MR. ANDERSON: Well, we have a water
16 system that goes through the entire site. We put
17 hydrants periodically but we put --

18 CHAIRMAN BAGOFF: I'm sorry.

19 MR. ANDERSON: I'm sorry. It's just
20 difficult to get this close.

21 CHAIRMAN BAGOFF: I know, I know.

22 MR. ANDERSON: I'm trying.

23 MR. WILKES: The air-conditioning,
24 too, doesn't help.

25 MEMBER OF THE PUBLIC: You need to

1 "Well, I want to change it so that you're closer to
2 our fire department, let us have an interest that
3 way," you'll just change it?

4 MR. ANDERSON: So very often when we
5 have a review of this, we get a review from your
6 municipal engineer, your planner, your environmental
7 scientist, other -- your traffic engineer, and we
8 also get a review from police and fire, but I don't
9 have reviews from police and fire.

10 MR. WILKES: Okay.

11 MR. ANDERSON: So at that time -- so I
12 would expect that I would get those reviews and then
13 I would respond to it. If I have to meet with him,
14 I would meet with him. If I don't have to meet with
15 him, I could just comply and do whatever he's
16 asking. Typically, the comments are adding an extra
17 hydrant or moving it slightly, things of that
18 nature, providing fire-zone striping along the curb
19 line; those are typical comments that require their
20 input.

21 MR. WILKES: Okay. Well, I'm sure
22 we'll come back to that, but also you did testify --
23 Council President asked you about some of the other
24 animals in the area, you did testify about the deer
25 in the area. Why is it that we don't have anything

1 project your voice.

2 MR. ANDERSON: So we have a waterline
3 that goes all the way through the site and we put
4 hydrants where they are necessary for each building,
5 you know, and we have -- it's very possible that the
6 fire chief says that's fine but I want one more, I
7 want an extra one. That's fine; when we talk to
8 him, we would add an extra hydrant, similar to what
9 I just said previously, is we don't know where the
10 fire department connection would be, where they
11 would want it or sprinkler systems in the building,
12 so we'd have to talk to him and then place the fire
13 department connection where they could pressurize
14 the sprinkler system in the building where they want
15 it.

16 MR. WILKES: Well, I was really asking
17 also -- that's good to know, but just the basis of
18 it, because based on their location, wouldn't you
19 want the ingress egress closer to where they would
20 be coming in at or where they would get to the
21 situation faster? Why is that not considered? If
22 you haven't spoken to them -- that's what I'm trying
23 to get to. If you haven't spoken to them, how do
24 you create a plan like this and then, all of a
25 sudden, he comes in, he or she comes in, and says

1 known about the other animals? You mentioned the
2 deer fence, you mentioned that the deer were doing
3 damage in some of the areas. Why is it that we
4 don't have any knowledge of any other animals in the
5 area that you testified to?

6 MR. ANDERSON: It's just -- it's not
7 really an engineering question.

8 MR. WILKES: Okay.

9 MR. ANDERSON: It's something the
10 environmental scientists for this application with
11 DEP would have a better handle on.

12 MR. WILKES: Okay.

13 MR. ANDERSON: I know they did various
14 studies, bat studies and things, they didn't find
15 anything in danger, they approved all those things.
16 I'm sure you have a standard amount of animals in
17 this area that you would in any forest in -- in
18 northern New Jersey.

19 MR. WILKES: Okay. No more questions
20 right now.

21 CHAIRMAN BAGOFF: Thank you. Mr.
22 Morgan.

23 MR. MORGAN: Yes. Can you hear me all
24 right?

25 (Members of the public say "yes.")

1 MR. MORGAN: Thank you.
 2 Mr. Anderson, thank you for your time.
 3 A number of my concerns, you've already discussed
 4 thus far, parking, fire, truck access, wetlands --
 5 (Court reporter advises Mr. Morgan that she
 6 cannot hear him.)
 7 MR. MORGAN: I'll try, but I'm
 8 muffled.
 9 Undisturbed areas, steep slopes, et
 10 cetera, et cetera. So my question has been reduced
 11 to this one: Does the settlement agreement provided
 12 provide a required duration of care to protect the
 13 newly planted trees and understory until they reach
 14 maturity?
 15 MR. ANDERSON: Let me see if I
 16 understand your question. Does the settlement
 17 agreement provide the care for this, of the trees?
 18 MR. MORGAN: A duration of care, like
 19 a time period.
 20 MR. ANDERSON: I don't recall seeing
 21 that, but that's fairly standard language. Any time
 22 you have a development, you're required to, you
 23 know, make sure the trees are growing for two years
 24 or more, so that would be fairly standard language,
 25 but I'm not sure I recall it in the settlement

1 agreement.
 2 MR. MORGAN: Okay, just something of
 3 note. Thank you.
 4 MR. ANDERSON: Sure.
 5 CHAIRMAN BAGOFF: Mr. Cardoza.
 6 MR. CARDOZA: Hello. Thank you, Mr.
 7 Chairman.
 8 I am interested in hearing more from
 9 the -- or something from the traffic engineer
 10 regarding specifically the proposed gates versus the
 11 vehicle access and sidewalks coming up, but other
 12 than that, I think that my fellow Board members have
 13 had some excellent questions, no questions at this
 14 time.
 15 CHAIRMAN BAGOFF: Thank you, Mr.
 16 Cardoza. Ms. Kapferer.
 17 MS. KAPFERER: Thank you, Mr.
 18 Chairman. Hi, Mr. Anderson.
 19 MR. ANDERSON: Hello.
 20 MS. KAPFERER: Could you comment on
 21 the stormwater management rules of -- like, what
 22 generation are you required to use for this project?
 23 MR. ANDERSON: Well, we are re -- we
 24 are -- because of the time of our application to
 25 DEP, we are -- we are on the old standard.

1 MS. KAPFERER: Okay, like 2021, is
 2 that what you --
 3 MR. ANDERSON: Yes.
 4 MS. KAPFERER: Okay.
 5 MR. ANDERSON: Yes. We are on -- we
 6 are grandfathered to the older standard.
 7 MS. KAPFERER: Okay. And then did you
 8 have geotechnical testing done for this project?
 9 Did you --
 10 MR. ANDERSON: Yes, we did.
 11 MS. KAPFERER: Okay. For the porous
 12 pavement and the other infrastructure?
 13 MR. ANDERSON: The geotechnical
 14 testing was for multiple purposes but primarily for
 15 soil borings for stormwater management.
 16 MS. KAPFERER: Okay. And can you
 17 comment at all on your findings related to the depth
 18 to high groundwater? It appears that it was
 19 suitable based on the fact that you are proposing
 20 less pavement, but, you know, is it 10 feet below
 21 the ground surface, I mean, did it vary a lot across
 22 the site.
 23 MR. ANDERSON: It varies significantly
 24 throughout the site, and in each distance, we're
 25 obligated to keep a two-foot distance between the

1 seasonal high-groundwater level that was found in
 2 any of the borings within the porous pavement system
 3 and the bottom of the system, so we -- we have done
 4 that.
 5 MS. KAPFERER: Okay. And are you
 6 providing any sort of filtration or anything like
 7 that? I think you commented on green connections
 8 directly to the porous pavement.
 9 MR. ANDERSON: Yes, we will have some
 10 kind of leaf-guard system on the building itself to
 11 prevent the leaves from getting into the porous
 12 pavement system.
 13 MS. KAPFERER: Can you say more about
 14 the DEP permits? Which -- what permits are you
 15 applying for for this application?
 16 MR. ANDERSON: Well, we have FHA
 17 permits for riparian zone disturbance and we have
 18 wetlands crossing, I believe it's a 10B wetlands
 19 crossing, and there's also permits associated with
 20 stormwater discharges.
 21 MS. KAPFERER: Okay. And then --
 22 yeah, I was going to ask questions about -- similar
 23 to others who were asking about capacity, whether
 24 the capacities provided for water and sewer, whether
 25 you've received letters, but it sounds like you're

1 going to request those at a later time; is that
2 correct?

3 MR. ANDERSON: We are.

4 MS. KAPFERER: Okay. Can you comment
5 on any provisions regarding pedestrian safety, like
6 sidewalks or crosswalks, anything like that, that
7 you have proposed on the site?

8 MR. ANDERSON: So we have crosswalks,
9 there will be signage associated with crosswalks.
10 Your planner's report indicated a desire to have
11 traffic calming measures and we agree with that. We
12 would love to add traffic calming measures to make
13 it safer, to add additional pedestrian sidewalks
14 crossing from one side to the other so that people
15 in the western section of the development can get
16 to the clubhouse with an -- over, you know, an
17 accessible walkway, so those are all things that we
18 are very happy to do. We want this to be a walkable
19 section of the community. We have extensive wooded
20 area, there's existing natural trails that go
21 through there that we assume that people will enjoy
22 walking on in the future, so we do have sidewalks
23 throughout development.

24 MS. KAPFERER: And can you tell us a
25 bit more about the proposed deer fencing and how

1 that works? Is it something, just a high fence that
2 keeps deer out or it...

3 MR. ANDERSON: Essentially. It's an
4 eight- to ten-foot-high fence that is placed around
5 -- in the vicinity where we're showing on the plan
6 and it keeps deer from coming in and overbrowsing on
7 the vegetation.

8 MS. KAPFERER: And has any thought
9 been given to, like, what happens to the deer that
10 are currently in that area, like where they may go?
11 That might not be in your area.

12 MR. ANDERSON: It's not, I'm just
13 trying to develop a plan that follows the ordinance
14 and these are all provisions that were thought
15 favorably of in the negotiations for the development
16 of this ordinance and the settlement agreement and
17 -- so we have implemented those into our plan.

18 MS. KAPFERER: And I think someone, I
19 think it was you, shared something about that the
20 current -- the forest has been classified as being
21 in poor condition. Is that based on a report that
22 an expert provided or where does that come from?

23 MR. ANDERSON: I believe it's in the
24 settlement agreement, number one, and it was based
25 on an evaluation by an arborist and the town's

1 environmental professionals who walked the site with
2 us on -- during the negotiation period and looked at
3 the existing conditions, and in their opinion, as
4 forestry people, it was a poor condition.

5 MS. KAPFERER: Okay. I have no
6 further questions at this time.

7 CHAIRMAN BAGOFF: Thank you, Ms.
8 Kapferer. Mr. Hess, Board engineer.

9 MR. HESS: Thank you, Mr. Chairman. I
10 have two questions, if I may, Paul. The first is --

11 MEMBER OF THE PUBLIC: We can't hear.

12 MEMBER OF THE PUBLIC: We can't hear.

13 MEMBER OF THE PUBLIC: We can't hear.

14 MR. HESS: Any better?

15 (Members of the public say "yes.")

16 MR. HESS: Okay. I have two
17 questions, if you will. The first is, you testified
18 that you have a letter of interpretation or an LOI
19 from DEP. Could a copy of that be provided to the
20 Board and that would show the Board what the, um,
21 what the classification is?

22 MR. ANDERSON: Yes.

23 MR. HESS: Okay. So I think that will
24 be helpful for the Board to see that.

25 Second is, we issued a traffic letter

1 and also an engineering letter on the project and
2 there were a fair number of comments in the letter.
3 I assume you agree that you'll work with our office
4 on resolving all of those issues?

5 MR. ANDERSON: I do.

6 MR. HESS: Okay. That's the biggest
7 concern I have, I want to make sure the comments get
8 addressed. And I think it's important for the Board
9 to see a copy of the LOI. Thank you, Mr. Chairman.

10 CHAIRMAN BAGOFF: Thank you, Mr. Hess.
11 Mr. Haizel, the Board Professional Planner.

12 MR. HAIZEL: Yes. Mr. Anderson, you
13 did discuss the pedestrian circulation throughout
14 the site, which was one of my concerns. Can you
15 address the issue.

16 MEMBER OF THE PUBLIC: Can't hear you.

17 MEMBER OF THE PUBLIC: Can't hear you.

18 MR. HAIZEL: Sorry. Could you address
19 the issue related to the Warner Road where the
20 sidewalk sort of --

21 MR. ANDERSON: Yes.

22 MR. HAIZEL: -- flips over to the
23 other side?

24 MR. ANDERSON: Yes. There was one
25 comment in your report that questioned why I, just

1 to the east of -- to the south of the traffic
2 circle, I crossed the roadway with a sidewalk and
3 where I go from one side to the other and that is
4 because that sidewalk on the east side would line up
5 with the sidewalk that is proposed in -- on Warner
6 Road within the condominium association property.

7 MR. HAIZEL: Thank you.

8 CHAIRMAN BAGOFF: Are you done, Mr.
9 Haizel?

10 MR. HAIZEL: Um-hum.

11 CHAIRMAN BAGOFF: Thank you. Mr.
12 Afran. Any questions, sir?

13 MR. AFRAN: Yes. I just need one
14 moment, I'm sorry.

15 CHAIRMAN BAGOFF: No problem.

16 COUNCILMAN RUTHERFORD: Mr. Chair,
17 while he's getting ready, can I ask two follow-ups?

18 CHAIRMAN BAGOFF: I'm sorry. Yes,
19 Council President, go right ahead, sir.

20 COUNCILMAN RUTHERFORD: Thank you. I
21 can't remember which of my colleagues brought it up
22 but someone mentioned there were some surveys done
23 with regard to animals in the forest here.

24 CHAIRMAN BAGOFF: Yes, sir.

25 COUNCILMAN RUTHERFORD: Was one of

1 that would affect this development between the newer
2 standards and the '21 standards?

3 MR. ANDERSON: There are differences
4 in the standard and many people say they are
5 stricter. I don't know what the impact would be
6 with this development. We have numerous locations
7 where stormwater management within the limit of
8 disturbance and I don't know whether we could
9 possibly still meet the newer standards but we're
10 not obligated to.

11 COUNCILMAN RUTHERFORD: Thank you, Mr.
12 Chair.

13 CHAIRMAN BAGOFF: Thank you, Council
14 President. Vice-Chairman Guarino.

15 VICE-CHAIRMAN GUARINO: Thank you, Mr.
16 Chairman. Can everybody hear me? Here we go.
17 Okay. (Indiscernible)

18 MEMBER OF THE PUBLIC: We can't hear
19 you.

20 (Public outburst)

21 VICE-CHAIRMAN GUARINO: Just to what
22 my colleagues said about storm, sanitary and a few
23 other things, one question. Mr. Anderson, did you
24 ever take a look at our Complete Streets
25 requirements in the Master Plan that deal with

1 those for the Indiana bat?

2 MR. ANDERSON: Yes, it was.

3 COUNCILMAN RUTHERFORD: And what was
4 the result of that?

5 MR. ANDERSON: I believe it was
6 negative, there was no Indiana bats.

7 COUNCILMAN RUTHERFORD: In that letter
8 of interpretation that was just discussed, our --
9 Mr. Hess brought up and asked you to forward it to
10 us, when was that drafted or sent to you?

11 MR. ANDERSON: I don't know the exact
12 date; it's probably three or four years ago.

13 COUNCILMAN RUTHERFORD: And then Ms.
14 Kapferer referenced different stormwater management
15 standards and so are you clear on -- can you tell,
16 are you -- I wasn't sure if you were sure that the
17 '21 standards are the ones that govern here. Are
18 they?

19 MR. ANDERSON: They are. There was
20 new regulations presented and after we made our
21 application -- after we made our application and
22 they do not apply to our application of the DEP.

23 COUNCILMAN RUTHERFORD: So -- and are
24 the -- are the newer standards stricter, are they --
25 or how are -- how -- are there any major differences

1 public safety, sidewalks, crossing, lighting, you
2 know, all the people that come before the Planning
3 Board have, in many of our major projects, have
4 looked at, too, our Complete Streets requirements
5 and ordinance in the Master Plan, so if you haven't,
6 sir, and if the architect hasn't, we'd appreciate if
7 you did take a look at it because it does enable you
8 to make the, you know, the project more accessible
9 to our residents' walkability and safety,
10 particularly, for all the residents.

11 Secondly, sir, I was going through my
12 notes and in the site plan review meeting in March,
13 it was questioned about the sanitary volume pumping
14 stations and there were requirements to get back to
15 the Board, such as specifications, calculations. Do
16 you know when those questions and responses will be
17 available to the township engineers and to us?

18 MR. ANDERSON: I was planning on
19 approaching that process after Planning Board
20 approval --

21 (Public outburst).

22 MR. ANDERSON: -- which is when I can
23 make the application to the DEP.

24 (Public outburst)

25 MR. ANDERSON: I cannot make the

1 application to the DEP without a resolution of
2 approval.

3 (Public outburst)

4 VICE-CHAIRMAN GUARINO: Thank you.
5 Thank you -- Mr. Anderson, thank you. Thank you,
6 Mr. Chairman.

7 CHAIRMAN BAGOFF: Mr. Hess, can you
8 comment on that?

9 (Applause by members of the public)

10 CHAIRMAN BAGOFF: Ladies and
11 gentlemen, I'm trying as hard as I can. You gotta
12 help me. We all want to hear the information. The
13 goal of this meeting is that the Board hears the
14 information, you hear the information, we make a
15 decision based on the facts, the ordinances and the
16 law, and if we do this, we're not going to get
17 there. We appreciate that you're standing there
18 with us. We're all together in this. Okay? So I'm
19 trying.

20 Mr. Hess, there were questions that
21 have not been answered. Mr. Anderson said they will
22 be answered after the Board's decision. I believe
23 that it is our usual and customary methodology to
24 have these -- that information prior to the Board's
25 decision so you, as our expert, can look at this

1 concerns, what remedy will they need to do to, you
2 know, mediate any additional concerns with sewage
3 and such. Thank you, Mr. Chairman.

4 MR. HESS: Right, and I don't know
5 that they're going to be able to come up with that
6 information that quickly. I think they'll be able
7 to tell us what the anticipated sewage flows are and
8 what the water usage will be, but what the remedy is
9 going to be, based on the lack of information,
10 that's going to take a while to put together. But
11 ultimately, that would have -- the township would
12 have to be satisfied with the improvements, there
13 would have to be water and sewer approvals granted
14 by the municipality to allow whatever upgrades are
15 required.

16 CHAIRMAN BAGOFF: So if approved, the
17 application may have conditions associated with
18 those forward-looking approvals --

19 MR. HESS: Right.

20 CHAIRMAN BAGOFF: -- based on -- based
21 on evaluation afterward.

22 MR. HESS: Typically, it would be
23 what's called "conditions subsequent."

24 CHAIRMAN BAGOFF: Perfect. Okay,
25 thank you. Mayor McCartney.

1 with the town engineer and make a rational decision
2 to help us. Am I correct?

3 MR. HESS: Well, I think the applicant
4 would be able to give flow estimations for sewage
5 flow and water demand. Those are simple
6 calculations based on the Residential Site
7 Improvement Standards.

8 CHAIRMAN BAGOFF: Yes.

9 MR. HESS: It's more difficult to make
10 a decision and come up with information regarding
11 how the sewage is going to be handled because that's
12 going to require additional -- additional studies
13 and collection of information, which currently is
14 not available.

15 CHAIRMAN BAGOFF: Okay.

16 VICE-CHAIRMAN GUARINO: Can I --

17 CHAIRMAN BAGOFF: Vice-Chairman
18 Guarino.

19 VICE-CHAIRMAN GUARINO: I just want to
20 go back -- Mr. Hess, I just want to go back to the
21 point that when they do give us the information, it
22 needs to be soon because we need to know, if they
23 know there's a problem or there's going to be
24 issues, what remedies are going to be done that are
25 going to impact this project? Those are the key

1 MAYOR McCARTNEY: Thank you, Mr.
2 Chairman. I wanted to ask Mr. Hess, what other
3 questions did you have of this applicant in your
4 report that you said that he would get back on? Can
5 you elaborate on the questions you had?

6 MR. HESS: We had questions regarding
7 -- obviously, regarding the stormwater management --
8 MEMBER OF THE PUBLIC: Can't hear.

9 MR. HESS: We had questions regarding
10 stormwater management, we also had questions
11 regarding -- regarding the sanitary sewer service to
12 the city, the water service to the site, we've asked
13 the applicant to address the -- asked them to
14 address the required outside agency approvals.
15 We've talked about that tonight, what's required for
16 the project. And we had asked for some revisions to
17 the plan, like they show -- they show the locations
18 of the electric vehicle charging stations on the
19 ground level or on the surface on the site plan
20 drawings but they're not yet shown on the
21 architecturals, so we need -- we need the plans
22 revised to provide that information.

23 We had a couple questions regarding the
24 overall number of parking space, just a lot of it is
25 minor technical details that just need to be worked

1 out between the design engineer and our office.

2 MAYOR McCARTNEY: Thank you. Mr.
3 Anderson, that raises another question. Chairman,
4 if I may.

5 CHAIRMAN BAGOFF: Go right ahead,
6 Mayor McCartney.

7 MAYOR McCARTNEY: On the -- I
8 understand, when the application was initially
9 submitted, there were four electric charging
10 stations and now I believe there are 15. Are they
11 scattered along the buildings or centrally located?

12 MR. ANDERSON: So I show, I believe,
13 two outside every building. There are some --
14 obviously, the remainder of the 5 percent that's
15 required initially have to be inside the building
16 and the wiring for future ones would also be in the
17 building itself, they would not be outside, because
18 it's our feeling that people that are going to be
19 charging are going to be residents --

20 MAYOR McCARTNEY: Right.

21 MR. ANDERSON: -- not guests, so we do
22 provide a minimal outside, but most of them will be
23 inside.

24 MAYOR McCARTNEY: At each location, at
25 each building.

1 MR. ANDERSON: At each building, yes.

2 MAYOR McCARTNEY: Thank you. Thank
3 you.

4 CHAIRMAN BAGOFF: Okay, thank you.
5 Mr. Afran.

6 COUNCILMAN RUTHERFORD: Mr. Chairman,
7 just --

8 CHAIRMAN BAGOFF: I'm sorry, Council
9 President Rutherford.

10 COUNCILMAN RUTHERFORD: Thank you,
11 sir. I do apologize. I promise to be brief. It's
12 just one question.

13 So, you know, as we sit here and debate
14 this, all of the impact from stormwater, sanitary
15 sewer, has been discussed with regard to West
16 Orange. Is there any impact to our neighboring
17 towns either with regard to stormwater or sanitary
18 sewer?

19 MR. ANDERSON: There is no impacts for
20 any of those utilities to your neighbors. There's
21 no disturbance or drainage going towards Essex
22 Fells, there's -- Verona is uphill from the site so
23 there's no stormwater impact there, we're not
24 utilizing their sanitary sewer system or their water
25 system; it's just the water tends to flow to the

1 south, which is towards the condo association, and
2 to the two streams that discharge there and we're
3 using the West Orange water system and sewer system,
4 so there's no impact to your neighboring towns.

5 COUNCILMAN RUTHERFORD: Great. And
6 then with regard to the condominiums that are
7 downhill, we know that they have flooding now. Have
8 there been any studies or observances of the water
9 that comes through that development under current
10 conditions?

11 MR. ANDERSON: We're obligated to
12 reduce the flow from the current conditions, so the
13 development of this project will actually improve
14 discharge that goes towards the condo association.

15 COUNCILMAN RUTHERFORD: Thank you, Mr.
16 Anderson. Thank you, Mr. Chair.

17 CHAIRMAN BAGOFF: Thank you, Council
18 President. Mr. Afran, you're up, sir.

19 MR. AFRAN: Thank you. If my voice is
20 too low, please let me know. I'm having some speech
21 problems, which is not good for a lawyer.

22 Good evening. Thank you. I'm Bruce
23 Afran, counsel for the objector, We Care New Jersey
24 Corp. I just want to apologize to two members of
25 the Council -- Planning Board.

1 MEMBER OF THE PUBLIC: We can't hear
2 you.

3 MR. AFRAN: I just want to apologize,
4 I had to leave for a moment or two while two members
5 were questioning so my apologies for walking out.

6 Mr. Anderson, good evening.

7 MR. ANDERSON: Good evening.

8 MR. AFRAN: I'll have some questions
9 for you. I'll just start in my notes --

10 CHAIRMAN BAGOFF: Mr. Afran, a little
11 louder.

12 MR. AFRAN: Oh, I'm sorry.

13 CHAIRMAN BAGOFF: Or can you hold the
14 mic?

15 MR. AFRAN: I'll hold the mic. Thank
16 you. Is that better?

17 (Members of the public say "yes.")

18 MR. AFRAN: Thank you. I'm going to
19 go in the order of my notes. I know many members
20 had questions that moved it back and forth, so I
21 apologize if it seems a bit disjointed.

22 You mentioned that the residences will
23 be above parking; is that correct?

24 MR. ANDERSON: That's correct.

25 MR. AFRAN: Now, the parking is going

1 to be underground as the present conditions exist?

2 MR. ANDERSON: There is one side of
3 the building that is exposed, the foundation is
4 exposed; on the other side of the building, it will
5 be buried to just about below the finished floor
6 elevation of the first floor of the apartments.

7 MR. AFRAN: Will you be blasting into
8 stone to make the underground parking?

9 MR. ANDERSON: I would assume there
10 would be some type of rock removal associated.
11 There is rock in various locations throughout the
12 site. How it's removed, whether it's blasting or
13 hammering of the rock is not to be determined. If
14 it is blasting, it would have to be in accordance
15 with all state blasting requirements.

16 MR. AFRAN: But you don't yet know
17 whether the neighbors will expect blasting as part
18 of this project.

19 MR. ANDERSON: It's really something
20 to be determined by the contractor when he's there
21 whether he can actually hammer through --

22 (Public outburst)

23 MR. ANDERSON: -- whether he can
24 hammer the rock out or if the nature of the rock
25 that he's dealing with has to be blasted. So it's

1 possible that he has to blast it, and if he does, he
2 would have to follow the standard requirements of
3 notifying the neighbors doing pre-blast surveys and
4 all the standard requirements.

5 MR. AFRAN: Now, have you done any
6 evaluation in the event of blasting as to the effect
7 of particulate on the association and on the natural
8 setting of the site itself?

9 MR. ANDERSON: I have not done any
10 studies on blasting.

11 MR. AFRAN: Thank you. Now, you
12 mentioned earlier that there will be 966 parking
13 spaces. There'll be some overage and you
14 identified, I believe, 102 other spaces, if I'm
15 correct.

16 MR. ANDERSON: 966 is the required
17 number of parking spaces. 1,070 is what the
18 proposed number is, and in addition to the 1,070,
19 there's the additional 102.

20 MR. AFRAN: Now, how many of these 966
21 spaces do you expect to be occupied by cars owned by
22 the people living in these buildings?

23 MR. ANDERSON: It's an RSIS standard,
24 so whether people -- they will very likely be -- you
25 know they're all reserved for the population plus

1 their guests, so --

2 MR. AFRAN: All right, my question was
3 very specific. Of these 966 spaces, do you have an
4 understanding at present as to how many are expected
5 to be used by cars owned by people to live in these
6 buildings?

7 MR. ANDERSON: I don't have an actual
8 number for you. It's more of a traffic engineering
9 number. The breakdown between residents and guests
10 is something that our traffic engineer can discuss.

11 MR. AFRAN: You've never talked about
12 it with your traffic engineer?

13 MR. ANDERSON: No, I have not talked
14 to him about it. It's not a question that I've
15 heard before. We're obligated to provide 966, we
16 provide 1,070 and plus an additional 102, we've met
17 our parking obligation.

18 MR. AFRAN: Why are you closing Kuzik
19 Road except for emergencies?

20 MR. ANDERSON: Because it was
21 requested as part of the settlement agreement.

22 MR. AFRAN: And that settlement
23 agreement was between the town, the association, I
24 believe, and who else? And the developer.

25 MR. ANDERSON: And the developer,

1 correct.

2 MR. AFRAN: Now, that settlement
3 agreement was not part of any site plan application
4 before this body, was it?

5 MR. ANDERSON: That's correct.

6 MR. AFRAN: Now, why is the settlement
7 agreement seeking to close Kuzik Road?

8 MR. PLOCKER: Board Chairman, may I
9 address that? I believe it is a legal issue.

10 CHAIRMAN BAGOFF: Mr. Plocker, yes, go
11 right ahead, sir.

12 MR. PLOCKER: All right.

13 CHAIRMAN BAGOFF: Mr. Afran, one
14 minute, please.

15 MR. PLOCKER: Just so it's clear, and
16 I appreciate Mr. Afran asking, the settlement
17 agreement itself was made a part and was submitted
18 in connection with this application for site plan
19 approval. I believe your question dealt with did
20 the -- was there any kind of proceeding before the
21 Planning Board in connection with the negotiation
22 and execution of the settlement agreement. Was that
23 your question?

24 MR. AFRAN: I -- it's a very lawyer-
25 like question, I compliment my colleague. That

1 wasn't really my question. My question is simply:
 2 Why is Kuzik Road being closed, what's the reason?
 3 MR. PLOCKER: Okay, that is an easy
 4 answer and I'll address everybody here. The
 5 settlement agreement is between the Township of West
 6 Orange, the applicant and the West Essex -- the
 7 Highlands Condominium Association. Attached to the
 8 settlement agreement were many terms and conditions
 9 which were negotiated specifically between the town,
 10 my client and the condominium association. One of
 11 those terms was the association expressed a desire
 12 not to have traffic for the proposed development
 13 traverse Kuzik Drive; therefore, as part of the
 14 settlement agreement, we agreed to submit a site
 15 plan application which had Kuzik Drive open but that
 16 we would seek a de minimus exception or waiver or
 17 whatever would be required to close off Kuzik to
 18 emergency access and only allow emergency access.

19 MR. AFRAN: I appreciate counsel's
 20 explanation.

21 Now, is it fair to say -- and if
 22 counsel wishes to answer, that's certainly fine. I
 23 don't mean that sarcastically. Is it fair to say
 24 that this settlement agreement did not get put up
 25 for public discussion before this Board so that

1 these good people could comment on the question of
 2 so little actual access for all of these vehicles?

3 MR. PLOCKER: I can address that.
 4 Obviously, there was a pending Mount Laurel
 5 declaratory judgment litigation that was filed by
 6 the Township of West Orange which sought compliance
 7 with their Third Round affordable housing
 8 obligation. The Planning Board was not a party to
 9 that litigation and was not required --

10 CHAIRMAN BAGOFF: Excuse me. Speak up
 11 a little bit more.

12 MR. PLOCKER: Oh, I'm sorry.

13 CHAIRMAN BAGOFF: That's okay.

14 MR. PLOCKER: The litigation that was
 15 filed was filed by the Township of West Orange, it
 16 is what we call a declaratory judgment action.
 17 Towns who are looking to voluntarily comply with
 18 their Third Round Mount Laurel affordable housing
 19 obligation were given the option to file that type
 20 of lawsuit by July of 2015 pursuant to a Supreme
 21 Court ruling. Many towns filed them, West Orange
 22 was one of them. The Planning Board was not a party
 23 to that case. My client, as a developer owning
 24 property in town, successfully intervened in that
 25 litigation along with the Fair Share Housing Center,

1 who is the public -- the organization nonprofit who
 2 kind of serves as the public advocate for the
 3 protected class of those people who are in need of
 4 the housing units.

5 The negotiations and the mediation
 6 sessions were conducted with the association. My
 7 client, the township, Fair Share Housing Center, in
 8 connection with the court-appointed Special Master,
 9 the settlement agreement was borne out of those
 10 negotiations. The Planning Board was not a party to
 11 that case. There was no public process before the
 12 Planning Board in connection with the settlement
 13 agreement and none was required; however, when the
 14 zoning ordinance was introduced by the township
 15 counsel pursuant to their obligation under the
 16 settlement agreement, which was required by a court
 17 order, that went through the normal process, the
 18 ordinance was introduced, and eventually, there was
 19 a discussion held on second reading before the
 20 Council adopted that ordinance. In between the
 21 reading -- the first reading and the second reading,
 22 it was referred to the Planning Board, which is
 23 required by law.

24 MR. AFRAN: It hasn't been before this
 25 Board on a site plan application, I think we can

1 agree on that, correct?

2 MR. PLOCKER: I'm sorry, I didn't hear
 3 the question.

4 MR. AFRAN: It has not come before --
 5 am I on?

6 MR. FAGAN: Yes.

7 MEMBER OF THE PUBLIC: Yes.

8 MR. AFRAN: It has not come before
 9 this Board in a site plan application. That's
 10 correct, right?

11 MR. PLOCKER: What has not come before
 12 this Board? I just want to make sure the record is
 13 clear.

14 MR. AFRAN: The element of the
 15 settlement agreement recommending the closing of
 16 Kuzik.

17 MR. PLOCKER: That was not discussed
 18 by this Board before the settlement agreement was
 19 signed and approved by the Board.

20 MR. AFRAN: I appreciate that. Thank
 21 you. Now, you would agree that this Board is not
 22 bound to that provision in the settlement agreement;
 23 is that a fair concession I can ask of the
 24 applicant?

25 MR. PLOCKER: I'm not sure what the

1 question is because, obviously, we're getting into
2 some legal conclusions here.

3 MS. McGOVERN: He's talking about
4 Kuzik Road.

5 MR. PLOCKER: What about Kuzik?

6 MR. AFRAN: This Board is not bound to
7 that provision in the settlement closing Kuzik, is
8 it?

9 MR. PLOCKER: No. The way it --

10 MR. AFRAN: That's all I want to know.

11 MR. PLOCKER: Yeah, and I just want to
12 clarify. I think Mr. Anderson did explain it, I
13 believe the Chairman even referenced it in his
14 opening comments. The site plan that is before the
15 Board now as filed has Kuzik open, along with Warner
16 Road as a means to access the site. The applicant
17 has asked for the granting of what, under the RSIS
18 standards, the Residential Site Improvement
19 Standards, a de minimus exception that would permit
20 the closure of Kuzik to regular traffic and allow it
21 to serve as an emergency access only.

22 MR. AFRAN: I understand. I
23 appreciate that, thank you.

24 Now, if you would turn, Mr. Anderson,
25 to the top of -- I believe -- is that north, the top

1 additional studies, this is part of the concept
2 plan, it is part of the settlement agreement, that
3 we would have another access point there for use in
4 emergencies only.

5 MR. AFRAN: My question was. What
6 studies have been done with respect to the carrying
7 capacity of the roads past the gate for purposes of
8 accepting and facilitating the movement of emergency
9 vehicles, fire trucks and the like. What study of
10 that nature has been done?

11 MR. ANDERSON: So you're asking
12 whether the roads have the capacity to -- the
13 pavement could handle the traversing of a fire
14 truck; is that what you're asking me?

15 MR. AFRAN: I asked what study has
16 been done to determine whether the road past the
17 gate and the network of roads past that gate are
18 suitable and capable of adequately accepting the
19 emergency truck traffic.

20 MR. ANDERSON: I'm not aware of any
21 study. I did not do a study myself.

22 MR. AFRAN: I couldn't hear the last
23 part.

24 MR. ANDERSON: I did not do a study
25 myself.

1 of the map? Is that intended to be north? I can't
2 tell from here.

3 MR. ANDERSON: It would be north at
4 the top of the sheet, correct.

5 MR. AFRAN: Thank you. So if you turn
6 to the right-hand corner of the northern part of the
7 map, Warner Road goes right up to Howell; is that
8 correct?

9 MR. ANDERSON: Right up a hollow?

10 MR. AFRAN: No, no, no. In other
11 words, you mentioned there's a second exit that's
12 gated for emergency use. What street is that?

13 MR. ANDERSON: There's a secondary
14 exit to Howell.

15 MR. AFRAN: To Howell.

16 MR. ANDERSON: Yes.

17 MR. AFRAN: Now, that will also be
18 closed except for emergencies, correct?

19 MR. ANDERSON: That's correct.

20 MR. AFRAN: What study or survey or
21 research has the applicant done with respect to the
22 utility of the roads past the gate in terms of
23 accepting emergency traffic and emergency trucks and
24 vehicles?

25 MR. ANDERSON: There's been no

1 MR. AFRAN: And you're not aware of
2 any such study.

3 MR. ANDERSON: That's correct.

4 MR. AFRAN: On the zoning schedule
5 slide, there's a reference to "design into
6 hillside." What do you mean by that reference?

7 MR. ANDERSON: Well -- could you zoom,
8 please?

9 MR. AFRAN: If you could go to the
10 zoning schedule page.

11 MR. ANDERSON: I'm trying to show what
12 I mean by that --

13 MR. AFRAN: Oh, okay.

14 MR. ANDERSON: -- with a pictorial
15 view. So, for example, Building B is here
16 (indicating). It's -- this is uphill going downhill
17 and we built this building into the slope where the
18 back of this parking lot is almost at grade at the
19 curb line and then we cut into the slope and then at
20 the back of this building, the existing grade is
21 very close to where the finished floor of the
22 building is. That's building the building into the
23 slope.

24 MR. AFRAN: Okay. That's what you're
25 referring to.

1 MR. ANDERSON: That is what I was
2 referring to, correct.

3 MR. AFRAN: Thank you. I just wanted
4 to clarify.

5 Did you do any balloon tests to
6 determine height viewpoints, sight lines, things of
7 that nature, from any adjoining areas?

8 MR. ANDERSON: We did not. There was
9 discussion of a balloon test. We had difficulty
10 getting the balloons through the dense trees, and as
11 an alternate, we met with representatives of the
12 condo association who was requesting the balloon
13 test so that they could see where the building was
14 proposed and what their visibility of the building
15 would be, and after meeting with them on site and
16 realizing that they could not see any portion of
17 their development from where the building was, they
18 dropped their concern. After that, the settlement
19 agreement was signed by those same representatives
20 or that organization.

21 MR. AFRAN: The answer is no balloon
22 study was done.

23 MR. ANDERSON: That is correct.

24 MR. AFRAN: Thank you.

25 MR. PLOCKER: But I believe, for the

1 record, Mr. Anderson did testify that one was
2 attempted but the conditions did not allow it to
3 occur.

4 MR. AFRAN: Well, Mr. Anderson, what
5 you meant was the tree canopy is so dense that you
6 couldn't get any balloons through it; isn't that
7 correct?

8 MR. ANDERSON: That is one of the
9 impediments, yes.

10 MR. AFRAN: That speaks to a very
11 mature set of woods that you're going to destroy for
12 this project; isn't that correct?

13 (Applause by members of the public)

14 MR. PLOCKER: Chairman Bagoff, I
15 believe the settlement agreement does speak for
16 itself. The quality of the forest at the time the
17 settlement agreement was entered into was vetted by
18 the township's professionals, which is why that
19 language wound up in the settlement agreement. I
20 just want to state that for the record.

21 MR. AFRAN: I think the witness really
22 could handle this himself. But the woods is a
23 mature, dense woods that will be destroyed by these
24 buildings; isn't that correct?

25 MR. ANDERSON: There will be 27.85

1 acres of tree removal, yes.

2 MR. AFRAN: 25 acres or 27 acres?

3 MR. ANDERSON: 27.85 acres.

4 MR. AFRAN: 27.85 acres of trees will
5 be removed; is that correct?

6 MR. ANDERSON: That is correct.

7 MR. AFRAN: What percent of the tree
8 cover on the existing conditions does that
9 represent?

10 MR. ANDERSON: 23 percent.

11 MR. AFRAN: So approximately one-
12 quarter of the trees on this property will be
13 destroyed; is that a fair statement?

14 MR. ANDERSON: Correct.

15 MR. AFRAN: Now, I'd like to review
16 specifically the number of trees that will be
17 physically removed. I want to clarify this issue.
18 How many trees will actually be removed under this
19 plan?

20 MR. PLOCKER: Chairman, this was
21 already testified to. It was in Mr. Anderson's
22 presentation, we comply with the tree ordinance, so
23 I don't mind Mr. Afran having some leeway, but this
24 has already been testified to.

25 MR. AFRAN: I'm not sure my

1 cross-examination is limited to what the witness
2 said on direct.

3 CHAIRMAN BAGOFF: Well, Mr. Afran, the
4 testimony has been provided already, you really have
5 no foundation for an additional question.

6 MR. AFRAN: Well, I certainly do.

7 CHAIRMAN BAGOFF: So this has been
8 heard about four or five times how many trees are
9 being removed.

10 MR. AFRAN: Well, I certainly do have
11 a foundation, I'll go further.

12 CHAIRMAN BAGOFF: Okay. Okay.

13 MR. AFRAN: Thank you.

14 CHAIRMAN BAGOFF: Go quickly. Please.

15 MR. AFRAN: What is the definition of
16 "tree" that is being used to reach this total of
17 approximately 5,000-something trees that you said
18 would be removed? How are you defining "tree"?

19 MR. ANDERSON: The trees were defined
20 previously in terms of what the tree was acreage --
21 per acre, so there was counts done by, I believe,
22 the municipality with regard to how many trees per
23 acre we would have on average here, it was not based
24 on a specific diameter of a tree, type of a tree or
25 condition of a tree, so it was 212 trees per acre

1 and that's the number that we used.

2 MR. AFRAN: Well, are these mature
3 trees; are they six-inch-minimum trees; what is the
4 actual data point that supports the number of trees
5 you calculate will be removed?

6 MR. ANDERSON: The data point that was
7 determined by the town is unknown. I don't know
8 what their standard was. It is likely to be
9 something on the order of six inches and above, but
10 I don't have that actual fact. It was determined
11 and given to the applicant to use.

12 MR. AFRAN: Well, saplings, for
13 example, are very numerous in many wooded area and
14 yet they're usually much less than six inches.
15 Would you agree with that general statement?

16 MR. ANDERSON: Yes, I would.

17 MR. AFRAN: So how many saplings are
18 going to be removed that are below this four- to
19 six-inch-diameter width?

20 MR. ANDERSON: I do not have an answer
21 for that.

22 MR. AFRAN: In other words, the number
23 of trees you've given is based on some minimum
24 diameter four to six inches, but you're unable to
25 tell us how many thousands of other trees will be

1 MR. AFRAN: Thank you, Mr. Chairman.

2 CHAIRMAN BAGOFF: And if there's no
3 methodology, then there's no methodology, that's the
4 answer, but you guys will have to provide that.

5 MR. AFRAN: Do you have any further
6 information you can provide in answer to these
7 questions?

8 MR. ANDERSON: No.

9 MR. AFRAN: Has any examination been
10 taken with respect to other animal species whose
11 movement will be limited by the deer fences?

12 MR. ANDERSON: I have not undertaken
13 any such study.

14 MR. AFRAN: Are you aware of any?

15 MR. ANDERSON: I am not.

16 MR. AFRAN: Has your clients or you,
17 in connection with your client, consulted with any
18 experts to determine whether the placement of the
19 deer fences will have an adverse effect on the
20 movement of other fauna aside from you?

21 MR. ANDERSON: I am not aware of any
22 such inquiry.

23 MR. AFRAN: Has any environmental
24 impact statement been done in connection with this
25 project?

1 destroyed. Is that correct?

2 MR. ANDERSON: We only have the
3 formula that was given to us in the settlement
4 agreement and in the ordinance of 212 per acre of
5 trees that could be relied on. It was not a site-
6 specific study that we went out and counted every
7 tree out there, so we don't have the information
8 that you're looking for in terms of how many
9 saplings and so forth. So --

10 MR. AFRAN: So no one actually knows
11 how many trees are actually going to be removed;
12 isn't that correct?

13 MR. PLOCKER: Mr. Chairman, I'm going
14 to renew my objection. These numbers are set forth
15 in the settlement agreement and the ordinance. This
16 is the Planning Board; for all the power that it
17 has, its job is to not revisit or re-litigate or
18 renegotiate that agreement or ordinance --

19 MR. AFRAN: I'm --

20 MR. PLOCKER: -- so I'm going to
21 respect --

22 CHAIRMAN BAGOFF: Wait, wait, wait. I
23 don't think he's renegotiating, he's asking what the
24 methodology was to get to that number, which is -- I
25 think that's a fair question.

1 MR. ANDERSON: It has not been
2 required.

3 MR. AFRAN: That's not what I asked
4 you, I simply asked if it's been done.

5 MR. ANDERSON: It's not been done as
6 part of this application.

7 MR. AFRAN: Has any ecological study
8 of any kind been done as part of this application?

9 MR. ANDERSON: There's environmental
10 studies done with regards to the wetlands
11 application.

12 MR. AFRAN: I'm sorry, you'll just
13 have to speak up.

14 MR. ANDERSON: There's environmental
15 studies done with regards to the wetlands
16 application.

17 MR. AFRAN: Besides what you have
18 submitted to DEP, have any other ecological studies
19 been done?

20 MR. ANDERSON: No. I am not aware of
21 any other studies.

22 MR. AFRAN: Now, is there a credit
23 built into the formula under which a certain number
24 of shrubs for replanting are equal to one tree?

25 MR. ANDERSON: No.

1 MR. AFRAN: There's no credit in which
2 a certain number of shrubs will allow you to avoid
3 planting a full tree?

4 MR. ANDERSON: Not that I've seen. We
5 have shrubs and they're not included in our tree
6 count.

7 MR. AFRAN: So you say you're going to
8 actually physically plant 279 actual trees.

9 MR. ANDERSON: Actual trees and 1,013
10 native shrubs.

11 MR. AFRAN: And how many shrubs will
12 be removed that are in the woods at this time as a
13 result of this project?

14 MR. ANDERSON: I do not know.

15 MR. AFRAN: Has any survey been done
16 as to the age of trees that ought to be removed?

17 MR. ANDERSON: Not that I'm aware of.

18 MR. AFRAN: Have you done any study as
19 to the presence of vernal ponds or vernal -- strike
20 that. Have you done any study as to the presence of
21 vernal ponds on this site?

22 MR. ANDERSON: The wetlands scientist
23 for this project has studied it in its entirety, and
24 if they had found vernal ponds, it would have showed
25 up on the letter of interpretation that was granted

1 MR. AFRAN: Thank you.

2 Several members asked about the
3 movement of fire trucks and other types of emergency
4 vehicles, if you recall. What actual test did you
5 do to determine the efficacy of these plans with
6 respect to the movement of such emergency vehicles,
7 particularly fire trucks?

8 MR. ANDERSON: We use a program called
9 AutoTurn that places a fire truck -- a vehicle the
10 size of a fire truck and basically routes it through
11 the street network to see if it stays within the
12 curb lines.

13 MR. AFRAN: Did you do that analysis
14 for the movement of trucks past the Howell gate?

15 MR. ANDERSON: Yes, I did.

16 MR. AFRAN: On the actual layout of
17 streets beyond Howell?

18 MR. ANDERSON: Just for the initial
19 portion.

20 MR. AFRAN: The initial portion is
21 where? Please point to that.

22 MR. ANDERSON: Zoom, please.

23 MR. AFRAN: I'm sorry, are you
24 pointing?

25 MR. ANDERSON: So right up here

1 by the DEP.

2 MR. AFRAN: Are you able to answer
3 that question yourself sitting here?

4 MR. ANDERSON: I did not do the study.

5 MR. AFRAN: Okay. And if I asked you
6 about vernal habitat in the area of disturbance,
7 would you be able to address that issue?

8 MR. ANDERSON: Could you restate that,
9 please?

10 MR. AFRAN: If I asked you about the
11 presence of vernal habitat in areas of disturbance
12 for this project, would you be able to address --

13 MR. ANDERSON: Yes.

14 MR. AFRAN: -- that question?

15 MR. ANDERSON: There's no vernal
16 habitat that's been identified within the limit of
17 disturbance.

18 MR. AFRAN: Is there any vernal
19 habitat that's been identified on the site outside
20 the limits of disturbance?

21 MR. ANDERSON: Not that I'm aware of;
22 I don't recall it in the LOI.

23 MR. AFRAN: So you're basing that on
24 your recollection of the LOI; is that fair to say?

25 MR. ANDERSON: Yes, that's correct.

1 (indicating). So you see it coming into the
2 cul-de-sac and it gets down to here just before the
3 first intersection (indicating).

4 MR. AFRAN: Right, so aside from that
5 small stretch just above the northern limit of the
6 site, did you do any actual study beyond that point?

7 MR. ANDERSON: The study has not
8 extended past that point.

9 MR. AFRAN: I couldn't quite hear you,
10 I'm sorry.

11 MR. ANDERSON: The study has not
12 extended past that point.

13 MR. AFRAN: Thank you. Did you
14 contact the fire chief?

15 MR. ANDERSON: No.

16 MR. AFRAN: So when you say the fire
17 chief hasn't gotten back to you, it's fair to say
18 you never asked the fire chief about his viewpoint
19 or her viewpoint on these plans?

20 MR. ANDERSON: What I said is it's
21 typical to get a review letter from the police
22 department and fire chief outlining any concerns
23 that they have, and I have not seen that review
24 letter come. It is not that I requested a meeting
25 and it was -- and it was rebuffed or anything like

1 that; I expected a review letter based on our
2 submittal.

3 MR. AFRAN: Why didn't you call and
4 say "Where's your review letter?"

5 MR. ANDERSON: It's -- we got review
6 letters just this past week. We submitted these
7 latest set of drawings just a few weeks ago and it's
8 a fast turnaround. It might not have had a chance
9 to get there -- get to that review, so it's not
10 something -- I was giving it more time.

11 MR. AFRAN: Now --

12 MR. PLOCKER: And we certainly welcome
13 the input of the fire department.

14 MR. AFRAN: I couldn't hear that.

15 MR. PLOCKER: We certainly welcome the
16 input of the fire department and we would look
17 forward to any review letter that may be
18 forthcoming.

19 MR. AFRAN: You might want to give
20 them a call.

21 (Applause by members of the public)

22 MR. AFRAN: Why haven't you spoken
23 with the Joint Commission?

24 MR. ANDERSON: Because it's -- you
25 typically apply for a sewer extension permit after

1 sequence is done after this approval.

2 MR. AFRAN: Well, who says the
3 sequence is done that way, you or some rule, statute
4 or regulation?

5 MR. ANDERSON: I can't file the
6 application until after the approval, so I do not
7 personally file applications or garner this unless
8 there's a sewer ban on the application, there's no
9 sewer ban for Joint Meeting, so there's very likely
10 to be gallonage available but we have to get through
11 this phase first, then the phase of getting the
12 conveyance system approved, and then the treatment
13 works approved.

14 MR. AFRAN: You said you had a verbal
15 discussion, didn't you?

16 MR. ANDERSON: With the municipal
17 engineer.

18 MR. AFRAN: Why didn't you put down --
19 well, strike that.

20 Did you ask questions of the engineer
21 or did you present information to the engineer in
22 that verbal discussion?

23 MR. ANDERSON: We discussed the type
24 of gallonage that we would have with this property
25 and we discussed where we were discharging it to and

1 municipal approval, at which point, we get approval
2 of the conveyance system and then we get approval of
3 the sewer gallonage. It is not something you do
4 prior to -- prior to this -- prior to the approval.

5 MR. AFRAN: You say it's not something
6 you do prior to the approval, but there's no rule,
7 regulation or statute that requires it to be done in
8 this chronological, is there?

9 MR. ANDERSON: You can't process the
10 permit without a municipal approval.

11 MR. AFRAN: You can't even consult to
12 find out the actual statistics on the carrying
13 capacity before this body meets?

14 MR. ANDERSON: The carrying capacity
15 or --

16 MR. AFRAN: Well, what is it you need
17 to know from the Joint Commission that you haven't
18 found out yet?

19 MR. ANDERSON: To know whether they
20 have sufficient gallonage -- treatment gallonage
21 available at the sewer treatment plant.

22 MR. AFRAN: Okay, it's carrying
23 capacity. So why don't you find that information
24 out before you come here?

25 MR. ANDERSON: As I had mentioned, the

1 their concerns about where we were discharging it to
2 and the potential solutions to that.

3 MR. AFRAN: So you can't answer those
4 questions at this time because you haven't yet
5 spoken to the Joint Commission; is that fair to say?

6 MR. ANDERSON: The Joint Commission
7 has nothing to do with conveyance, they have to do
8 with the treatment capacity of the sewage flow.

9 MR. AFRAN: Okay, so these are
10 separate issues.

11 MR. ANDERSON: These are separate
12 issues, yes.

13 MR. AFRAN: Thank you, I appreciate
14 that.

15 Have you done any analysis as to the
16 present natural drainage and movement of water
17 across this site under existing conditions in terms
18 of how water reaches the wetlands and other
19 watercourses on the property?

20 MR. ANDERSON: We have done a drainage
21 analysis of the existing condition, yes.

22 MR. AFRAN: And have you made a
23 comparison of the change in the movement of water to
24 the wetlands under existing conditions compared to
25 after construction?

1 MR. ANDERSON: Well, we have designed
2 systems that mimic the existing conditions, so
3 instead of having one large detention basin at the
4 base of the hill and draining the wetlands, we have
5 --

6 CHAIRMAN BAGOFF: Mr. Anderson, speak
7 up.

8 MR. ANDERSON: I'm sorry.

9 CHAIRMAN BAGOFF: Thank you.

10 MR. ANDERSON: We have basins
11 throughout the site, including, say, for example, a
12 porous pavement system that is located up in this
13 area here (indicating) that recharges into the
14 ground and will be, by groundwater flow, this
15 wetland system, so that is similar to what is done
16 in existing conditions.

17 MR. AFRAN: That's at Building D where
18 you were just pointing.

19 MR. ANDERSON: That is the -- yes,
20 that's the example I have for Building D, correct.

21 MR. AFRAN: Well, what about the rest
22 of the structures, what impact are they going to
23 have on the natural movement of water that presently
24 exists in connection with the wetlands?

25 MR. ANDERSON: Well, we tried to

1 discharge water to -- to the ground and -- all
2 right, so -- so, for example, we have porous
3 pavement in this area here where it's dark, there,
4 there, there (indicating), so in each of these
5 locations where you have the darker color, those are
6 porous pavement systems. They recharge water from,
7 uh, from the pavement through the porous pavement,
8 also water from the roofs, that would typically have
9 flowed naturally down towards the wetlands here or
10 down towards this wetlands here, and it recharges it
11 into the -- into the ground, and therefore, the
12 groundwater flow will go back and feed these natural
13 systems. And this is --

14 MR. AFRAN: Where is -- sorry.

15 MR. ANDERSON: This is the preferred
16 methodology that the DEP wants with multiple
17 locations of stormwater management throughout the
18 site.

19 MR. AFRAN: Well, that's a groundwater
20 recharge; isn't that correct?

21 MR. ANDERSON: Yes.

22 MR. AFRAN: That's not for the purpose
23 of making certain that the wetlands are not deprived
24 of the normal water flow they receive under existing
25 conditions.

1 MR. ANDERSON: They receive water from
2 underground, from groundwater flow, as well as
3 surface flow.

4 MR. AFRAN: Have you made a study of
5 what losses from surface flow will be experienced by
6 the wetlands after construction?

7 MR. ANDERSON: Not by the wetlands per
8 se, but by the site itself. The groundwater
9 recharge to, uh, to this entire site equals or
10 exceeds what is recharged to the ground under
11 current conditions, so there will be ample water
12 recharging these areas after we're done.

13 MR. AFRAN: Have you made a study as
14 to what percent of surface water flow to the
15 wetlands will be lost after construction?

16 MR. ANDERSON: I haven't looked at it
17 in that regard, no.

18 MR. AFRAN: Okay, thank you. That's
19 all I was asking.

20 Your application to DEP was pulled the
21 first time, wasn't it?

22 MR. PLOCKER: I'm going to object to
23 this regard. This is about a pending DEP
24 application --

25 MR. AFRAN: No, it's not.

1 MR. PLOCKER: -- and that's outside
2 the purview of this Board.

3 MR. AFRAN: It's not and I'll explain
4 why. It relates directly to questions many of the
5 Board members made with respect to the 2021
6 standards versus the new standards.

7 MS. McGOVERN: So -- I didn't hear the
8 first part of the question. Ask the question again.

9 MR. AFRAN: It relates to the issue
10 Board members raised as to whether the '21 standards
11 apply and whether possibly the later standards
12 apply.

13 MS. McGOVERN: And the testimony was
14 that the '21 standards applied, so --

15 MR. AFRAN: I know what the testimony
16 was but my question --

17 MS. McGOVERN: So you're asking what
18 are the standards versus --

19 MR. AFRAN: No, that's not my
20 question.

21 MS. McGOVERN: What is it?

22 MR. AFRAN: I simply asked "Did you
23 pull your DEP application at any point?"

24 MS. McGOVERN: "Did you pull your DEP
25 application at any point?"

1 MR. AFRAN: And the answer was "yes"
2 and I was going to go further.

3 UNIDENTIFIED VOICE: Into the mic,
4 Diana, into the mic.

5 MS. McGOVERN: I'm sorry. Was the
6 answer yes, is that what the answer was that you
7 pulled your DEP application?

8 MR. ANDERSON: Yes, the answer was
9 yes.

10 MS. McGOVERN: And so your next
11 question was?

12 MR. AFRAN: When did you re-file?

13 MR. ANDERSON: Just a few weeks ago; I
14 don't have the exact date.

15 MR. AFRAN: So you're no longer under
16 the 2021 rules because you pulled your application
17 and you re-filed it in 2024; isn't that correct?

18 MR. ANDERSON: That's not the case.
19 We have verified --

20 MS. McGOVERN: This is not the purview
21 of the Planning Board. I understand the point
22 you're making; however, the Planning Board can't
23 rule on something like that.

24 MR. AFRAN: Well, I'm not asking the
25 Board to rule on it, but Board members had many

1 questions concerning what standards would apply and
2 it was raised by Board members and now I'm trying to
3 identify the fact that there's a significant
4 question different from what was stated earlier.

5 MS. McGOVERN: Whatever the standard
6 is, the legal -- the legal timing -- I understand
7 what you're saying, is whatever time the old law was
8 in effect versus what would be applicable. We're
9 not -- we're not here to decide that at this point.

10 MR. AFRAN: Well, with respect -- with
11 great respect, though, Board members asked
12 specifically --

13 MS. McGOVERN: I understand.

14 MR. AFRAN: -- about the hundred-year
15 storm and what standards apply for that analysis.
16 Under the new regulations is a requirement of future
17 storm trend analysis. That was not done.

18 MS. McGOVERN: Okay.

19 MR. AFRAN: And so that's the next
20 question I have.

21 MS. McGOVERN: Okay, so --

22 MR. PLOCKER: Just for the record, Ms.
23 McGovern and Chairman Bagoff --

24 CHAIRMAN BAGOFF: Mr. Plocker, go
25 right ahead.

1 MR. PLOCKER: Okay. Thank you very
2 much, Mr. Chairman. It's clear and it's been
3 stipulated to that there are old stormwater
4 regulations and there are new ones. Mr. --

5 CHAIRMAN BAGOFF: Mr. Plocker, could
6 you speak up a little bit?

7 MR. PLOCKER: Mr. --
8 (Public outburst)

9 CHAIRMAN BAGOFF: Okay, okay, okay.

10 MR. PLOCKER: Thank you. It was made
11 clear by Mr. Anderson and everybody here that there
12 are new stormwater regulations and there are old
13 ones, to --

14 MEMBER OF THE PUBLIC: Still can't
15 hear you.

16 MR. PLOCKER: -- refer to it very
17 colloquially. Mr. Anderson testified that despite
18 the re-filing or amendment or whatever we want to
19 call it, a few weeks ago, he believes that the old
20 regulations still apply. As Ms. McGovern said, that
21 is a DEP issue, they're in Trenton and I'm sure they
22 are more than happy to deal with you on that
23 information, but Mr. Anderson's testimony was his
24 testimony.

25 MR. AFRAN: Well, the question is very

1 simple: If it was pulled and then re-filed under
2 the new rules, as an engineer, isn't it fair that
3 you can answer the question whether or not it's
4 governed under the new rules, not the old one?

5 MR. ANDERSON: We have a letter from
6 the DEP saying the old rules govern.

7 MR. AFRAN: What's the date of that
8 letter?

9 MR. ANDERSON: I don't have the letter
10 in front of me, I can't tell you that.

11 MR. AFRAN: Was that issued before you
12 pulled it or after?

13 MR. ANDERSON: After.

14 MR. AFRAN: Can you supply that
15 letter?

16 MR. ANDERSON: I --

17 MR. PLOCKER: It would be public
18 record, I don't -- I don't know if we have it here
19 tonight, I don't know, but it's definitely --

20 MR. AFRAN: I didn't mean tonight.

21 MR. PLOCKER: -- part of a public
22 record.

23 MR. AFRAN: Well, it relates to
24 questions --

25 CHAIRMAN BAGOFF: Mr. Afran, at the

1 end of the day, they're going to have to apply to
2 whatever the DEP, whether it's 2021 or '24, whatever
3 the rules are, they're going to have to apply, so
4 the Board, whether it has that information or not at
5 this moment, we will condition the application on
6 applying to the appropriate DEP standards --

7 MR. AFRAN: I accept that.

8 CHAIRMAN BAGOFF: -- and they will
9 then have to, if it's the new standards, provide new
10 studies to the township.

11 MR. AFRAN: I -- I have gone as far as
12 I need to on the issue, so I respectfully...

13 CHAIRMAN BAGOFF: Okay, let's move on.
14 Mr. Afran, it is a little after 9. If it's okay,
15 I'd like to take a ten minute bio break.

16 MR. AFRAN: And that'll give me time
17 to wrap up after, yes. I'll be able to consult my
18 notes anyway. Thank you.

19 CHAIRMAN BAGOFF: Thank you. Ladies
20 and gentlemen, there's two bathrooms out here. Take
21 your time, sit here, relax. Ten minutes, we'll be
22 back on the record. Thank you very much.

23 (Recess taken)

24 CHAIRMAN BAGOFF: We are back live.
25 9:20, back on the record. Thank you ladies and

1 this time.

2 CHAIRMAN BAGOFF: Thank you, sir.

3 MR. CARDOZA: Mr. Chairman.

4 CHAIRMAN BAGOFF: I'm sorry, Mr.
5 Cardoza has a question, one more member of the
6 Board.

7 MR. CARDOZA: I'd just like to make
8 sure we clarify the distinction between public
9 questions and comments and that they'll have the
10 opportunity to comment later.

11 CHAIRMAN BAGOFF: Yes. Good question.
12 So there's two parts of the application in the
13 public venue. The public can come up and, as an
14 expert testifies under oath, you may ask questions
15 about their testimony directly. You may ask a
16 question that seems to be slightly off of their
17 testimony, it will be up to them and their attorney
18 to decide if they have the expertise and/or
19 knowledge to answer that question. If the answer is
20 no, we'll ask you to move on. Okay? So basically,
21 you're going to ask your question, if, when, why,
22 what, how, where. If you start with testimony, I'm
23 going to ask you to stop, rethink -- this is like
24 jeopardy. So I'm going to ask you to stop and
25 rethink the question and then propose it as a

1 gentlemen. Mr. Afran, you have the floor.

2 MR. AFRAN: Mr. Chairman, I am pleased
3 to say think I've concluded my cross-examination.

4 CHAIRMAN BAGOFF: Thank you, sir.

5 MR. AFRAN: I thank Mr. Anderson and
6 Mr. Plocker.

7 MR. PLOCKER: Thank you.

8 CHAIRMAN BAGOFF: Thank you. Now,
9 ladies and gentlemen, the next part of the meeting
10 is the public may come up and ask questions. We
11 would -- and I will ask this: If somebody comes up
12 and asks a question, everybody else doesn't have to
13 ask the same question. Please listen to the
14 answers. The goal is that the Board hears the
15 questions and then gets the answers from the
16 applicant. Okay? So one at a time, raise your
17 hand, be identified. Sir, right in -- I'm sorry,
18 Mr. Afran?

19 MR. AFRAN: Yeah. I just wanted to
20 note that my clients, Board members, we've discussed
21 this with Ms. McGovern, are not going to be asking
22 direct questions of the witnesses, but if they have
23 anything to say, they'll reserve that for public
24 comment. So if any of my client Board members are
25 listening, please don't come up for questions at

1 question because that's the way the process works.
2 We want you to ask questions that we'll provide
3 answers that make sense to you, or if you have other
4 questions, we will get those out also. We're going
5 to give you a three-minute time limit and then
6 people can go again if there's enough time or people
7 don't ask questions.

8 Comments are at the end of the
9 application. You may -- you may say what is on your
10 mind about the project, whatever is on your mind,
11 but the question period which we have now is to ask
12 a question of the person who's just testified and
13 then that person will answer or the attorney will
14 say they don't have the understanding, knowledge or
15 expertise to answer that question, it's not in their
16 testimony, and somebody else may answer that
17 question. Okay? So under those rules, we're going
18 to ask you to come up, we're going to do this in a
19 civil manner. Sir in the middle, will you come up,
20 please? You're up. State your name for the record,
21 please.

22 MR. CASTANO: Chris Castano.

23 CHAIRMAN BAGOFF: Thank you, sir.

24 MR. CASTANO: Can you hear it all
25 right?

1 CHAIRMAN BAGOFF: Yes, sir.
 2 MR. PLOCKER: Could he just spell his
 3 last name, please?
 4 CHAIRMAN BAGOFF: Could you spell your
 5 last name?
 6 MR. CASTANO: I can, since I was a
 7 kid. C-A-S-T-A-N-O.
 8 So Mr. Anderson, you testified that
 9 there would be no impact on any of the neighboring
 10 towns in terms of the water runoff; is that -- is
 11 that correct?
 12 MR. ANDERSON: That is correct.
 13 MR. CASTANO: But I believe you also
 14 testified that you would be releasing water into the
 15 Canoe Brook.
 16 MR. ANDERSON: That's correct.
 17 MR. CASTANO: And do you know where
 18 the Canoe Brook flows?
 19 MR. ANDERSON: The point of analysis
 20 that we use is at the property line where Canoe
 21 Brook leaves, so we have a reduction in the rate of
 22 discharge at our point of analysis and, therefore,
 23 there's less water in the streams for the hundred-
 24 year storm, as I indicated before, 80 percent of the
 25 rate that -- of the pre-development rate, so it's

1 have in your plans a period of time in which you're
 2 going to maintain that filter system?
 3 MR. ANDERSON: It has to come with an
 4 annual maintenance plan that is filed with the
 5 county. This is fairly standard operations for
 6 this. So, upon approval, we file a maintenance plan
 7 for every stormwater management device on the
 8 property and then it runs with the land and the
 9 ownership of the land, they're obligated to maintain
 10 it every year.
 11 MR. CASTANO: So "they" being the
 12 owners of the condo association.
 13 MR. ANDERSON: Whoever is the owner at
 14 that time, correct.
 15 MR. CASTANO: Did you speak with
 16 Caldwell, North Caldwell, Essex Fells, Roseland,
 17 Livingston, Millburn, Short Hills and Summit, which
 18 all get their water from wells that are fed into it
 19 by the Canoe Brook and part of that aquifer, before
 20 any of this testing?
 21 MR. ANDERSON: I did not.
 22 MR. CASTANO: Okay. Thank you.
 23 CHAIRMAN BAGOFF: Thank you, sir.
 24 Yes, sir, come right up. State your name and spell
 25 your last name for the record, please.

1 not going to go overtop the banks of the stream
 2 because of the excess of flows from this project
 3 downstream from our point of analysis.
 4 MR. CASTANO: All right, and did I
 5 understand that you said that there would be filters
 6 put in place for water that's running off from all
 7 of the hardscape even if it's porous? You said
 8 they're going to be released into Canoe Brook?
 9 MR. ANDERSON: For -- yes, for that
 10 system itself being a large-scale detention basin,
 11 there is filtration systems that are approved by the
 12 DEP for 80 percent suspended solid removal that
 13 filters the water prior to discharging it through
 14 the drainage system down to the basin.
 15 MR. CASTANO: And it filters out all
 16 contaminants like oils and other kinds of
 17 discharges?
 18 MR. ANDERSON: 80 percent of all
 19 suspended solids is removed from the stormwater.
 20 MR. CASTANO: "Suspended solids"
 21 meaning, like, leaves and things like that but not
 22 necessarily --
 23 MR. ANDERSON: It gets oils and other
 24 things too, it meets the DEP standard.
 25 MR. CASTANO: And how long -- do you

1 MR. COYNE: Sure. Is it on? Kevin
 2 Coyne, C-O-Y-N-E.
 3 CHAIRMAN BAGOFF: Thank you, sir.
 4 MR. COYNE: Thank you for having me,
 5 thank you for the time.
 6 Just if I could refer to -- are you
 7 ready or... Building D, which I believe is the most
 8 eastern-facing building --
 9 CHAIRMAN BAGOFF: Mr. Fagan, can you
 10 put up the map again, please?
 11 MR. COYNE: On one side, there's a
 12 wall and then on the other side, it's right against
 13 the ridgeline. Is it standard practice for an
 14 emergency vehicle to get around all parts of a
 15 vehicle -- all parts of a building in case one side
 16 of a facade is engulfed in flames where you would
 17 need to access the other side?
 18 MR. ANDERSON: That depends on how the
 19 fire chief is going to fight the fire. It will be a
 20 sprinklered building, it may not need to be accessed
 21 from all four sides, but there is level areas that
 22 they can drive around, they certainly can drag a
 23 host around to the opposite side of the building.
 24 MR. COYNE: Have you done, through
 25 your fire truck software that you referenced

1 earlier, have you done that test to see if your fire
2 truck can, in fact, proceed up the incline and go in
3 the back?

4 MR. ANDERSON: It's not going to go up
5 the incline that is to the east of that building.
6 It's just -- it's more of dragging hoses and relying
7 -- thank you. It's more of dragging hoses and
8 relying on -- from this point here, around -- like
9 to this point and going from this parking lot here
10 up and around here, dragging hoses to the back of
11 the building if they need to fight from that side.

12 MR. COYNE: And how many stories is
13 that building?

14 MR. ANDERSON: Four stories over the
15 parking story.

16 MR. COYNE: And is it common practice
17 for a town to have a ladder system that can service
18 the height of those systems in that town in case
19 people need to evacuate from a window?

20 MR. ANDERSON: It is; I believe that
21 the height of the building was thought out prior --
22 as part of the settlement agreement based on the
23 firefighting equipment that was available --

24 MR. COYNE: So that ladder should be
25 able to go in the back if need be for evacuation; is

1 system, are you using an average, let's say a 50
2 percentile, so not the hundred-year average or --
3 you said you're using 80 percent of the hundred-year
4 average; is that correct?

5 MR. ANDERSON: No, I think you
6 misunderstood that -- that testimony. So if we have
7 a certain volume of water coming in during the
8 existing conditions leaving the site, say going to
9 the Canoe Brook, as you were asking, that volume
10 times .8 is what I'm permitted to put back in there
11 later --

12 MR. COYNE: Okay.

13 MR. ANDERSON: -- so it's 80 percent
14 of what the total discharge rate would be at that
15 discharge point. So I have to reduce the flow based
16 on, it's not 80 percent of the water, it's 80
17 percent of the total discharge rate. Also, they
18 make you do -- there's standards also where you
19 could assume that, say, the forest is woods in good
20 condition, and that is not the case here but we have
21 to --

22 MR. COYNE: Okay.

23 MR. ANDERSON: -- assume that anyway.
24 In terms of --

25 MR. COYNE: Just for sake of time, I'm

1 that fair?

2 MR. ANDERSON: Or to the front. I'm
3 not -- this is a question we will meet with the fire
4 chief and ask him how he will fight this fire.

5 MR. COYNE: Thank you. Just turning
6 to one other topic of the water runoff. Can you
7 define what hundred-year water is, maybe in terms of
8 inches per year?

9 MR. ANDERSON: So it's basically a
10 storm that happens on a probability of once every
11 100 years --

12 MR. COYNE: Um-hum.

13 MR. ANDERSON: -- for each area of the
14 country, that rainfall intensity varies. In this
15 area of the country, it's -- I think for this site,
16 it's probably around eight-and-a-half inches of
17 rainfall over a 24-hour period.

18 MR. COYNE: And how many have we had
19 in the last 10 or 20 years?

20 MR. ANDERSON: I'm not aware of the
21 exact number.

22 MR. COYNE: When you -- you've used
23 the term "average conditions," I believe, in some of
24 your reference to rainfall. When you do your
25 studies in terms of the capacity of your runoff

1 just going to squeeze one more question in just so I
2 have the liberty to finish.

3 MR. ANDERSON: Go right ahead.

4 MR. COYNE: Or you want to finish
5 your testimony?

6 MR. ANDERSON: No, no, you're running
7 out of time so go ahead.

8 MR. COYNE: So just if you could
9 explain to us, the way any system works, I know it's
10 like New York's runoff system like this where there
11 is overflow where overflow gates open and allow for
12 runoff because a system can't handle it. If we get
13 rainfall that is in excess of the capacity of your
14 system, where does that water go?

15 MR. ANDERSON: The water goes through
16 the detention basins and there's overflows in the
17 detention basins that discharge into the discharge
18 pipes that go out to the -- say, for example, we
19 have a discharge pipe at this point here that goes
20 into the culvert, we have one of the discharges here
21 and one of the discharges here. We also have one
22 here and here (indicating).

23 MR. COYNE: And that discharge is
24 untreated, correct?

25 MR. ANDERSON: Well, that discharge is

1 -- the treatment is required for the two-year storm
 2 or the water quality storm, not for the 100-year
 3 storm, so the water quality storm is 1.25 inches of
 4 rainfall, not the eight and a half or more that you
 5 would see on a hundred-year storm. So after the
 6 first flush is through, the water quality
 7 requirement is -- it's gone. You would have a
 8 controlled discharge through an outlet structure and
 9 a pipe to a stabilized discharge point.
 10 MR. COYNE: Okay. Thank you for your
 11 time.
 12 CHAIRMAN BAGOFF: Thank you. Yes,
 13 sir, with your hand raised, stand -- come up.
 14 MR. FAGAN: Mr. Chairman, excuse me,
 15 do you want me to keep the map up or do you want me
 16 to put the timer up?
 17 MR. MISARTI: Please keep it up.
 18 CHAIRMAN BAGOFF: Please keep it up.
 19 MR. FAGAN: Okay. I will put the
 20 timer on stopwatch.
 21 MR. MISARTI: I'm sorry, I didn't mean
 22 to answer for him.
 23 CHAIRMAN BAGOFF: Go ahead.
 24 MR. MISARTI: I have questions about
 25 this, though.

1 CHAIRMAN BAGOFF: Okay.
 2 MR. MISARTI: You have the dark green
 3 areas, right? Which are the fenced-in --
 4 MR. ANDERSON: I think they want you
 5 to give the name.
 6 CHAIRMAN BAGOFF: Sir --
 7 MR. MISARTI: Oh.
 8 CHAIRMAN BAGOFF: Sir, sir, excuse me.
 9 Could we have your name, please, and spell your last
 10 name?
 11 MR. MISARTI: I'm sorry.
 12 CHAIRMAN BAGOFF: That's okay.
 13 MR. MISARTI: Misarti, M-I-S-A-R-T-I.
 14 CHAIRMAN BAGOFF: Thank you.
 15 MR. MISARTI: You're welcome. I live
 16 on Mayfair Drive right near it, so my question is --
 17 CHAIRMAN BAGOFF: Talk into the
 18 microphone, sir, so we can hear you.
 19 MR. MISARTI: Okay.
 20 CHAIRMAN BAGOFF: Thank you.
 21 MR. MISARTI: Can I hold it? Hello?
 22 Hello? So the dark green inside the deer fence,
 23 then the light -- the medium green, I have a
 24 question about. And then the light green, the
 25 yellowish green, you said is like the trees that are

1 not -- are going to be cut down. Is that -- is that
 2 correct? You said, like, the area of disturbance?
 3 MR. ANDERSON: So the area that is
 4 dark, as you indicated, is the area where there's
 5 going to be deer fencing where you will have
 6 undergrowth -- understory regrowth over time. The
 7 area that is the medium green is areas that is not
 8 clear, that's a natural woodland that you see today
 9 without any deer fence protection and you'll
 10 probably get some overbrowsing of the understory as
 11 it is today, and then the light green is the area
 12 where we have clearance so that we can do the
 13 construction of the buildings and we've replanted
 14 grass and landscaping associated with the project.
 15 MR. MISARTI: Okay, thank you. That's
 16 what I thought you said. So my question really is,
 17 you know, you're showing the area of clearing of
 18 being, like, right against the road, right against
 19 the buildings, like, you know, if you have like a
 20 four-story building 50-, 60-foot-high building, it
 21 doesn't seem like -- it seems like you'd have to
 22 clear further than, like, two or three feet from the
 23 building. Like, are you showing here that the trees
 24 are, like, going to be right against the building?
 25 MR. ANDERSON: There's some clearing

1 beyond that, beyond that point, but it's -- it's --
 2 we will clear very close to the -- close to the
 3 building at some points; in some places, it's
 4 further away.
 5 MR. MISARTI: Okay. So I have -- I
 6 have just two more questions. One is about that
 7 ridgeline you pointed out on the right side --
 8 MR. ANDERSON: Um-hum.
 9 MR. MISARTI: -- the one line is a
 10 deer fence, then that second line that goes up and
 11 down, that's the line of the ridge; is that correct?
 12 MR. ANDERSON: This line here
 13 (indicating), yeah.
 14 MR. MISARTI: Okay. And is it -- you
 15 know, do you think it's possible to build that close
 16 right up to the ridge?
 17 MR. ANDERSON: I do.
 18 MR. MISARTI: You do. Okay, good.
 19 And I have one last question. The deer fence, like,
 20 are you thinking the deer are going to be -- number
 21 one, I guess where would they go or are they trapped
 22 inside when you put the fence up?
 23 MR. ANDERSON: I believe we would have
 24 them leave the fenced-in area --
 25 MR. MISARTI: You would leave them.

1 MR. ANDERSON: -- and they would be in
2 the surrounding areas, so we have 33 acres, I
3 believe, of deer fence, we have just under 30 acres
4 of developed area, and we have the remainder, which
5 is approximately 60 acres left over on site, so
6 there's -- there's still a lot of space for them to
7 -- to go around.

8 MR. MISARTI: But they're not trapped
9 inside, they're --

10 MR. ANDERSON: They're not trapped
11 inside.

12 MR. MISARTI: Okay, thank you. Thank
13 you.

14 CHAIRMAN BAGOFF: Thank you, sir.

15 MR. ANDERSON: Thank you.

16 CHAIRMAN BAGOFF: Next person in line
17 please come up. Thank you. Please come up, state
18 and spell your last name for the record, please.

19 MR. ERSHOW: My name is Donald Ershow,
20 E-R-S-H-O-W.

21 CHAIRMAN BAGOFF: Thank you.

22 MR. ERSHOW: I'm a resident of
23 Roseland. I grew up in West Orange. I love this
24 town and I have several questions that are overall
25 related to noise, environmental and flooding.

1 perspective, noise matters -- would matter to us,
2 but that's not unique for us, but I'm mostly
3 concerned with the flooding issue because you made a
4 statement earlier that water isn't going to affect
5 anybody south.

6 MR. ANDERSON: Right.

7 MR. ERSHOW: In our community of the
8 people that I represent, about a dozen of the homes,
9 in my community, their backyards are along the Canoe
10 Brook. There are -- and I will misstate it, is it
11 6,000 trees, actual trees?

12 MR. ANDERSON: Um-hum.

13 MR. ERSHOW: Irrespective of how we've
14 counted them --

15 CHAIRMAN BAGOFF: Sir, I'm going to
16 ask you to ask a question.

17 MR. ERSHOW: -- that are there and
18 they flood, those homes flood. So you said they
19 don't flood. Now, that water isn't going to be
20 affected and my community floods. So I want you to
21 address what you said.

22 MR. ANDERSON: So what I said was that
23 we are not -- we are reducing the flow from this
24 project site. The -- we have trees on site that do
25 have some mitigating factor to discharge of

1 I live off of Eagle Rock Avenue. You
2 don't -- unless I'm mistaken, you don't have a map
3 that is any broader than what you've provided,
4 correct?

5 MR. ANDERSON: That's correct. This
6 application this evening is for the on-site work not
7 associated with the signalized intersection that is
8 a part of the agreement.

9 MR. AFRAN: I'm sorry, it's hard to
10 hear. Could that be re-said?

11 MR. ANDERSON: Yes, it can. So this
12 is for the on-site application, not for the off-site
13 work, which is a signalized intersection on Eagle
14 Rock Avenue.

15 MR. ERSHOW: Okay. For perspective,
16 the community that I represent, because I'm the
17 president of my homeowners association, it is
18 located across Eagle Rock Avenue, a little bit west
19 of the entrance to the Pleasantdale Chateau, it's
20 called the Home Hill Association, and as the crow
21 flies, it's about a half a mile, maybe six-tenths of
22 a mile, from where the Pleasantdale Chateau entrance
23 is.

24 MR. ANDERSON: Right.

25 MR. ERSHOW: So from a blasting

1 stormwater, but we have stormwater management basins
2 associated with it to take the place of that and to
3 go beyond the capacity of what the natural capacity
4 is, so we anticipate that the discharge rate is less
5 than what it is under existing conditions, so it
6 will not worsen the conditions of your memberships'
7 properties.

8 MR. ERSHOW: And now, all of that
9 water is then going to go where?

10 MR. ANDERSON: The water that is in
11 the Canoe Brook tributary area -- or Canoe Brook
12 drainage basin will be reduced and it goes to the
13 same place that it always goes, to the Canoe Brook.

14 MR. ERSHOW: So all the water's going
15 to go into the ground, into your basins, and go back
16 into the Canoe Brook.

17 MR. ANDERSON: It will -- yes, we're
18 not denying the Canoe Brook, the natural flow that
19 it has, we're controlling the rate of the
20 discharge --

21 MR. ERSHOW: Okay.

22 MR. ANDERSON: -- to the Canoe Brook.

23 MR. ERSHOW: Now, during the
24 blasting -- okay, I'm not going to dispute your
25 testimony or whatever scientific factors --

CHAIRMAN BAGOFF: Sir, ask a question, please.

MR. ERSHOW: Okay. Now, with the blasting, did I hear you correctly that you're going to mitigate or during the construction 80 percent, did I hear that correctly or what was the filtration? Could you please repeat it so that I have that correct?

MR. ANDERSON: That's not -- that does not have to do with blasting, it has to do with stormwater management, water quality and stormwater management, where you take 80 percent of the suspended solids out of the stormwater runoff.

MR. ERSHOW: And then you let them go.

MR. ANDERSON: And then it goes to the detention basin for control of the rate of discharge.

MR. ERSHOW: So the other 20 percent of whatever goes into the Canoe Brook.

MR. ANDERSON: Well, it's 20 percent that goes to the basin and some is filtered out in the basin also, but the obligation of the statute is to remove 80 percent of suspended solids.

MR. ERSHOW: So 20 percent of whatever the construction disturbance --

MR. ERSHOW: -- because they currently have rights --

CHAIRMAN BAGOFF: Yes.

MR. ERSHOW: -- water rights to swim in the Canoe Brook in their backyards --

CHAIRMAN BAGOFF: Sir --

MR. ERSHOW: And if, during this process, anything's going to change.

CHAIRMAN BAGOFF: We don't know yet. You're going to have to come back for more questions.

MR. ERSHOW: Okay.

CHAIRMAN BAGOFF: But thank you very much.

MR. ERSHOW: All right.

MS. MEYEROWITZ: Nancy Meyerowitz, M-E-Y-E-R-O-W-I-T-Z. We live on Howell Drive below the cul-de-sac at the top. A couple of questions.

One, on construction, how long will the construction project take? Will all the buildings be built at once? And did I hear you correctly, you have no idea how much blasting we will have to live there?

MR. ANDERSON: I'm sure there will be some rock removal, some may be by blasting, I don't know exactly how much. It depends on the methods

MR. ANDERSON: It's not construction, it's just regular everyday what is on the roadways.

MR. ERSHOW: Of the disturbance.

MR. ANDERSON: Yeah.

MR. ERSHOW: Is that -- I'm a layman, I don't --

MR. ANDERSON: But these systems exist after construction is over.

MR. ERSHOW: Okay. So if people are swimming in the Canoe Brook, is there anything that changes --

CHAIRMAN BAGOFF: Sir, I don't think he --

MR. ERSHOW: -- that I need to advise them?

CHAIRMAN BAGOFF: Sir, he didn't testify to swimming in Canoe Brook. I'm going to ask you to come back --

MR. ERSHOW: I just need - okay, I just want to know whether I have to tell my homeowners --

CHAIRMAN BAGOFF: We don't know yet.

MR. ERSHOW: -- that anything's going to change --

CHAIRMAN BAGOFF: Yes.

the contractor chooses to do and the consistency of the rock that they find once they start getting into it. The applicant has a lot of experience doing work with, you know, removal of rock so, you know, they're experienced in doing this. In terms of the --

MS. MEYEROWITZ: But the whole project from beginning to end will be how long --

MR. ANDERSON: I don't know --

MS. MEYEROWITZ: -- and will the buildings be done at once or one at a time?

MR. ANDERSON: I don't know if it's -- I think it's going -- the buildings will be phased, and so they'll build one building at a time or maybe, you know, or start and you'll have a couple going at the same time, but I don't know the exact phasing plan at this point.

MS. MEYEROWITZ: The last question. You said that there wasn't a need for the balloon study on the other side of the development. With only a hundred feet buffer by Howell Drive, do you know for a fact that the houses on Howell Drive won't be able to see the building up above?

MR. ANDERSON: You may see some, but there's -- there'll be an exhibit in the

1 architectural testimony that will show some of the
2 viewpoints of what you can see from below to the east
3 up to the building on Building D. So that might be
4 more --

5 MS. MEYEROWITZ: So there's no balloon
6 study planned for Howell Drive. No balloon study
7 planned for --

8 MR. ANDERSON: No, no, there's -- no.
9 The balloon study was feasibility, location type of
10 study that was recommended during the court, you
11 know, proceedings or during the negotiations and it
12 passed that and the agreement was signed by all of
13 the parties.

14 MR. MEYEROWITZ: Thank you.

15 MR. ANDERSON: Thank you.

16 CHAIRMAN BAGOFF: Thank you. Sir,
17 come up. State your name, please, and spell it for
18 the record.

19 MR. GODLEWSKI: Yes. Good evening.

20 MR. ANDERSON: Good evening.

21 MR. GODLEWSKI: My name is Frank
22 Gerard Godlewski, I live at 249 Runnymede Road in
23 Essex Fells. My house is on the State and National
24 Registry of Historic Sites. It's designed by Edward
25 Bowser, Jr. of East Orange.

1 CHAIRMAN BAGOFF: Could you speak up a
2 little bit, sir? The people in the back can't hear
3 you.

4 MR. GODLEWSKI: All right.

5 CHAIRMAN BAGOFF: Thank you.

6 MR. GODLEWSKI: Can you hear me? All
7 right. I'm from Essex Fells and my home is by
8 Edward Bowser, Jr. of East Orange, it's on the State
9 and National Registry of Historic Sites in the
10 United States, and that's designated by the DEP and
11 I'm working with them on all of the different
12 aspects of the land marking to preserve the house
13 and leave it to public use. It's a lot of work, as
14 you can imagine. And I live alone, so... my
15 mother's deceased, we lived in that house --

16 CHAIRMAN BAGOFF: Thank you, sir. Can
17 you ask a question rather than --

18 MR. GODLEWSKI: Yes, two questions.

19 CHAIRMAN BAGOFF: Thank you.

20 MR. GODLEWSKI: All right. I'm going
21 to, in public comments, describe all about the
22 flooding and the trees falling because of Pine Brook
23 that crosses my property.

24 CHAIRMAN BAGOFF: And the question is,
25 sir? The question is?

1 MR. GODLEWSKI: Do you have studies
2 showing about the water that impacts -- from Canoe
3 Brook, there's water that comes into Pine Brook. My
4 property's flooding and do you have studies --
5 within the studies that you're performing about
6 Canoe Brook, are you aware of the DEP findings of
7 the water that goes to Pine Brook?

8 MR. ANDERSON: I'm not aware of the
9 DEP studies that go to Pine Brook. I'm really just
10 -- my testimony has been that I'm not increasing the
11 discharge, I'm actually reducing the discharge. I'm
12 --

13 MR. GODLEWSKI: No, I was -- I heard
14 that.

15 MR. ANDERSON: Right.

16 MR. GODLEWSKI: Right.

17 MR. ANDERSON: So I'm reducing the
18 discharge, so if there's any contributory factor
19 from this property to that flow that you're
20 concerned about, it will be reduced.

21 MR. GODLEWSKI: Thank you. The second
22 question is about the light pollution, which is one
23 of the most important factors in our territory,
24 because you're going to see that all the way from
25 Parsippany at night, it's going to be all the

1 parking lots, all the parking lights.

2 CHAIRMAN BAGOFF: And the question is,
3 sir?

4 MR. GODLEWSKI: Do you have studies
5 about the light pollution that your project will be
6 causing and impacting us in Essex Fells all the way
7 down to Parsippany?

8 MR. ANDERSON: So we have a lighting
9 plan that I believe meets the standards for lighting
10 intensity and it's dark star compliant, so it cuts
11 down on light pollution, so -- with all LED
12 fixtures, so it is energy efficient and it should
13 not create the light pollution that you're concerned
14 with.

15 MR. GODLEWSKI: Okay. I completely
16 disagree, excuse me for saying that.

17 MR. ANDERSON: Okay.

18 MR. GODLEWSKI: Does -- does -- so you
19 do not have studies about the viewshed -- you
20 understand what a viewshed is.

21 MR. ANDERSON: Yeah.

22 MR. GODLEWSKI: All right. It affects
23 real estate values by 10 percent.

24 CHAIRMAN BAGOFF: Question, sir?

25 MR. GODLEWSKI: So you do not have a

1 viewshed --

2 MR. ANDERSON: I have the lighting
3 analysis that's required by this Board.

4 MR. GODLEWSKI: Thank you.

5 CHAIRMAN BAGOFF: Thank you, sir.
6 (Court Reporter asks for spelling of
7 speaker's last name.)

8 MR. FAGAN: Into the microphone.

9 MR. GODLEWSKI: G-E-R-A-R-D and then
10 G-O-D-L-E-W-S-K-I.

11 COURT REPORTER: Thank you.

12 MR. GODLEWSKI: Thank you. Thank you
13 very much.

14 CHAIRMAN BAGOFF: Thank you.
15 Welcome. State your name and spell
16 your last name, please.

17 MR. FRESCHI: Dave Freschi, F as in
18 Frank, R, E, S as in Sam, C, H, I, Verona.

19 So the estimation for the cars -- for
20 residents' cars is around a thousand, right? And
21 then if you add on Ubers and delivery trucks,
22 Amazon, UPS and whatnot, you could, I think easily
23 add a few more -- a couple more hundred cars a day,
24 so a thousand, significantly over a thousand
25 vehicles on and off the site, so my question is:

1 question is: What would it take? Because if people
2 understood that that's a possibility, then that
3 would be --

4 CHAIRMAN BAGOFF: Sir, it's a good
5 question, that's not his testimony. So you may ask
6 him a question about his testimony or you may come
7 back and see if one of the other experts provides
8 testimony, but the Board has heard you and we'll
9 discuss that in the future.

10 MR. FRESCHI: Okay.

11 CHAIRMAN BAGOFF: Thank you.

12 MS. STOLOFF: Hi, my name is Jean
13 Stolloff, I live in Verona and --

14 CHAIRMAN BAGOFF: Could you speak up a
15 little bit, please, ma'am?

16 MS. STOLOFF: My name is Jean Stolloff,
17 I live in Verona and --

18 CHAIRMAN BAGOFF: And spell your last
19 name, please?

20 MS. STOLOFF: S-T-O-L-O-F-F, like
21 "French fry."

22 CHAIRMAN BAGOFF: Thank you.

23 MS. STOLOFF: So my question is --
24 it's a little bit of a process, so I understand that
25 Verona Township via Boswell Engineering sent a

1 With Kuzik and Howell being closed only to emergency
2 traffic, what would it take to overturn that --
3 right? -- and to open up Howell and Kuzik to traffic
4 when, potentially, we encounter that this one road
5 and this -- the proposed solution, or the proposed
6 plan now, isn't just tenable in the future? What
7 would it take to overturn that?

8 MR. ANDERSON: So number one, we'll
9 hear some traffic testimony later in this
10 application from a traffic engineer who can go over
11 traffic volumes --

12 MEMBER OF THE PUBLIC: Can't hear you,
13 please.

14 MR. ANDERSON: Sorry. We will hear
15 testimony from our traffic engineer later in this
16 application and they will go over the expected
17 traffic at various times of day and so forth. And I
18 will say just with regard to your comment about
19 opening up Howell, it is never envisioned to open up
20 Howell to anything but emergency vehicles.

21 MR. FRESCHI: No, my question was:
22 What would it take to open up Howell?

23 MR. ANDERSON: Well --

24 MR. FRESCHI: So maybe it's a question
25 for the Board or the township attorney. The

1 report to West Orange Zoning with over ten points of
2 concern related to this proposal.

3 CHAIRMAN BAGOFF: Ma'am, ma'am, Mr.
4 Anderson testified. As I said before, you may ask
5 questions about his testimony --

6 MS. STOLOFF: Have you seen -- I
7 figured it's a good idea to give some reference.
8 Have you seen the Boswell Engineering
9 report that Verona submitted?

10 MR. ANDERSON: No, I have not.

11 MS. STOLOFF: What is the process --
12 what is the -- what is your knowledge of the process
13 for you to receive that report?

14 MR. ANDERSON: I -- well, I didn't
15 know the report existed --

16 MS. STOLOFF: May I ask the question
17 of the --

18 MR. ANDERSON: If the township has
19 sent a report and they wanted to share it with the
20 applicant, they could have shared it with the
21 applicant.

22 MS. STOLOFF: May I ask a question of
23 the Planning Board? What is the process for Verona
24 --

25 CHAIRMAN BAGOFF: The process would be

1 that your engineer brings the report, presents the
 2 report in his direct testimony and then he would be
 3 available to have questions asked by the applicant,
 4 the Board and the public.
 5 MS. STOLOFF: So is that something
 6 they should do tomorrow night?
 7 CHAIRMAN BAGOFF: You can come
 8 whenever and we'll have to see where that fits into
 9 the grand scheme of things.
 10 MS. STOLOFF: Okay. Thank you. I do
 11 have a question specifically to that green space on
 12 the bottom right quadrant. So if all of that is
 13 green space and there is a fire amongst that area,
 14 how is the fire department protecting the buildings?
 15 MR. ANDERSON: You're talking about
 16 here (indicating)?
 17 MS. STOLOFF: A little to the left.
 18 MR. ANDERSON: Here (indicating).
 19 MS. STOLOFF: Yeah. If a fire starts
 20 there and it's heading towards those buildings, it's
 21 a way to the street before anyone can stop it.
 22 MR. ANDERSON: So if it's a forest
 23 fire out here in the woods, you know, you have
 24 Bakley Terrace which will have a line cleared, you
 25 have a path that comes where the sewer line is for

1 the condo association that can get fire people in
 2 there. I don't know how they fight fires, it's not
 3 my job, but that's how -- they could also access it
 4 from our street here and do things that way --
 5 MS. STOLOFF: Okay.
 6 MR. ANDERSON: -- but I'm not sure how
 7 they would fight a forest fire.
 8 MS. STOLOFF: All right. Thank you.
 9 MR. ANDERSON: Thank you.
 10 CHAIRMAN BAGOFF: Thank you.
 11 MS. SMALL: I don't think I need this.
 12 MR. FAGAN: You do need it, ma'am.
 13 Ma'am, you have to use the microphone because it has
 14 to go out on the record. It's not --
 15 MS. SMALL: Because nobody will
 16 understand what I'm saying. I've been listening and
 17 most of it is muffled, it's not easy to
 18 understand --
 19 CHAIRMAN BAGOFF: It goes out on Zoom.
 20 MS. SMALL: -- but be patient with me
 21 for one moment, please.
 22 CHAIRMAN BAGOFF: Go right ahead.
 23 MS. SMALL: First of all --
 24 CHAIRMAN BAGOFF: Ma'am, ma'am, focus
 25 for a second. Everybody stop talking, please. You

1 have to --
 2 MR. AFRAN: It's for the Zoom.
 3 CHAIRMAN BAGOFF: You have to speak
 4 into the mic because people on Zoom is listening.
 5 There's people out there listening.
 6 MS. SMALL: Oh.
 7 CHAIRMAN BAGOFF: Thank you.
 8 MS. SMALL: Hi, everybody.
 9 CHAIRMAN BAGOFF: Thank you.
 10 MS. SMALL: I was a land use planner
 11 --
 12 CHAIRMAN BAGOFF: Could you spell your
 13 name and say it, please?
 14 MS. SMALL: Susan Small, like little.
 15 I was a land use planner in the 1970s
 16 in Rockaway Township, I was on the town council
 17 there, we went through the Rockaway Town Square Mall
 18 while I was on the Council and I was a
 19 representative to the Planning Board and so I
 20 understand what all of you are going through.
 21 (Laughter)
 22 MS. LITTLE: I'm sorry.
 23 MS. SMALL: My first concern was, in
 24 listening to this whole presentation, that this is
 25 laughable.

1 CHAIRMAN BAGOFF: Ma'am, ma'am --
 2 MS. SMALL: It --
 3 CHAIRMAN BAGOFF: Ma'am --
 4 MS. SMALL: I will get to the point.
 5 Please.
 6 CHAIRMAN BAGOFF: Right now.
 7 UNIDENTIFIED VOICE: Question.
 8 CHAIRMAN BAGOFF: Right now, question.
 9 MS. SMALL: But you're not allowing
 10 real communication. I'm communicating very well.
 11 MEMBER OF THE PUBLIC: You're rude.
 12 MS. SMALL: I am telling you that 966
 13 units --
 14 MEMBER OF THE PUBLIC: Let her speak.
 15 MEMBER OF THE PUBLIC: Let her speak.
 16 MS. SMALL: -- to just provide or
 17 meet --
 18 CHAIRMAN BAGOFF: Ma'am --
 19 MS. SMALL: -- municipal --
 20 CHAIRMAN BAGOFF: Ma'am --
 21 MS. SMALL: -- standards --
 22 CHAIRMAN BAGOFF: Ma'am --
 23 MS. SMALL: -- of a hundred --
 24 CHAIRMAN BAGOFF: Ma'am --
 25 MS. SMALL: -- affordable units --

1 CHAIRMAN BAGOFF: Ma'am --
 2 MS. SMALL: -- is --
 3 CHAIRMAN BAGOFF: -- listen --
 4 MS. SMALL: -- outrageous.
 5 CHAIRMAN BAGOFF: Ma'am, it's not 960
 6 units. You're wrong.
 7 MS. SMALL: How many.
 8 CHAIRMAN BAGOFF: Ma'am, ma'am, ask
 9 the man a question.
 10 MS. SMALL: All right. How many
 11 units? I'm sorry, I must have misheard because it
 12 wasn't easy to hear.
 13 MR. ANDERSON: It's 496 units, 966
 14 parking spaces.
 15 MS. SMALL: Okay. Do you know what
 16 Warner Road looks like?
 17 MR. ANDERSON: Yes, I do.
 18 MS. SMALL: Two lanes.
 19 MR. ANDERSON: Yeah.
 20 MS. SMALL: And it's blocked at the
 21 end. It's a dead-end.
 22 MR. ANDERSON: Yes --
 23 MS. SMALL: Yes.
 24 MR. ANDERSON: -- I understand that.
 25 MS. SMALL: 400 units and 900 parking

1 spaces and you have apartments that are going to
 2 have three bedrooms, teenagers, younger children --
 3 CHAIRMAN BAGOFF: Ma'am, ma'am --
 4 MS. SMALL: I --
 5 CHAIRMAN BAGOFF: Ma'am, please, a
 6 question.
 7 MS. SMALL: You're not going to be
 8 serving the community as a whole.
 9 CHAIRMAN BAGOFF: Ma'am --
 10 MS. SMALL: The --
 11 CHAIRMAN BAGOFF: Ma'am --
 12 MS. SMALL: -- parking --
 13 CHAIRMAN BAGOFF: Ma'am, I'm going to
 14 throw you off in a minute.
 15 MS. SMALL: -- the traffic is not
 16 bearable --
 17 CHAIRMAN BAGOFF: Ma'am --
 18 MS. SMALL: -- on Eagle Rock --
 19 CHAIRMAN BAGOFF: We're done.
 20 MS. SMALL: -- and on Warner.
 21 CHAIRMAN BAGOFF: We're done.
 22 (Applause by members of the public)
 23 CHAIRMAN BAGOFF: Ma'am, you just gave
 24 me your bona fides. You should understand the
 25 respect you should have for the people in the room.

1 They're not able to speak because you're testifying.
 2 This is a point -- listen to me, please.
 3 MS. SMALL: I am.
 4 CHAIRMAN BAGOFF: This is a point of
 5 the meeting.
 6 MEMBER OF THE PUBLIC: No, no.
 7 MEMBER OF THE PUBLIC: No.
 8 MEMBER OF THE PUBLIC: Don't speak to
 9 her like a child.
 10 CHAIRMAN BAGOFF: This is the point of
 11 the meeting where you ask a question, not testify.
 12 If you have a question, please go ahead and ask it.
 13 That's what this gentleman is here for. The people
 14 want to hear, the Board wants to hear your question
 15 and his answer. If you want to testify, come back
 16 during public comment, please.
 17 MS. SMALL: What is the purpose for
 18 this developer wanting to build these units on this
 19 land? It's a question.
 20 MEMBER OF THE PUBLIC: To make money.
 21 MS. SMALL: What's the purpose?
 22 MEMBER OF THE PUBLIC: To make money.
 23 MEMBER OF THE PUBLIC: To make money.
 24 CHAIRMAN BAGOFF: He didn't --
 25 MR. PLOCKER: He didn't testify to

1 that.
 2 CHAIRMAN BAGOFF: Okay, ma'am, you
 3 told me who you are and what you did.
 4 MS. SMALL: Yes.
 5 CHAIRMAN BAGOFF: You should
 6 understand, the question is appropriate for what he
 7 testified to. Okay? Focus on what Mr. Anderson
 8 testified to and please ask a question on his
 9 testimony. That's the way this works. You know
 10 that.
 11 MS. SMALL: I'm asking him. What is
 12 the purpose of building 400 and some-odd units on
 13 this property?
 14 CHAIRMAN BAGOFF: And if he didn't
 15 have the answer, then the answer is he doesn't have
 16 the answer --
 17 MS. SMALL: Okay.
 18 CHAIRMAN BAGOFF: -- which is fine.
 19 MS. SMALL: He can answer me honestly.
 20 Honesty trumps --
 21 CHAIRMAN BAGOFF: Good.
 22 MS. SMALL: -- everything else. No
 23 pun intended.
 24 MR. ANDERSON: I don't have the
 25 answer, it's not a question about engineering.

1 MS. SMALL: You don't have an answer.
2 MR. ANDERSON: It's not an engineering
3 question. It's not part of my testimony.

4 MS. SMALL: Do you have any idea how
5 much a hundred affordable units can be supported by
6 another 300 unaffordable units?

7 MR. ANDERSON: I don't have any
8 knowledge of the business elements of apartment
9 complexes.

10 MS. SMALL: Okay. Do you have
11 knowledge of, have you visited and seen the road
12 that leads into the Highlands at this point and
13 which will go further?

14 MR. ANDERSON: Yes, I have.

15 MS. SMALL: Yes. Do you have any
16 knowledge of the number of vehicles in a unit like
17 what you're building there that has apartments for
18 three bedrooms, was it? Two bedrooms and one-
19 bedroom apartments?

20 CHAIRMAN BAGOFF: Ms. Small, he didn't
21 testify to that. I'm going to stop that right
22 there.

23 MS. SMALL: Okay.

24 CHAIRMAN BAGOFF: There will be a
25 traffic engineer who will testify to that.

1 CHAIRMAN BAGOFF: Thank you, Ms.
2 Small. Next?

3 MS. SMALL: Thank you.

4 (Applause by members of the public)

5 CHAIRMAN BAGOFF: Come up, ma'am.
6 State your name and spell your last name, please.

7 MS. BUTENSKY: Deborah Butensky,
8 B-U-T-E-N-S-K-Y. I live at The Grand, which is
9 south of your project. We also have flooding that
10 exists now, but we also had a problem in December
11 where we had a fire at the entry to The Grand.

12 CHAIRMAN BAGOFF: Ma'am, question,
13 please.

14 MS. BUTENSKY: So the question is:
15 Are you aware of the ramifications of a fire that
16 doesn't just involve one fire truck but involves
17 major fire companies coming from four towns and all
18 the ancillary first responders, how is that going to
19 be configured in the structured roadways that you
20 designed?

21 MR. ANDERSON: Well, you could have
22 multiple trucks come to any of those buildings and
23 they could line up in the street to fight the fire,
24 and other emergency vehicles. They all have the
25 ability to pass through the streets. And if there's

1 MS. SMALL: Okay.

2 CHAIRMAN BAGOFF: Okay? Thank you.

3 MS. SMALL: Did you look at how the
4 Highlands, which was built with 300 units, is parked
5 up on the roads that are there now? Because that's
6 -- that was built in the 1990s, I believe. I moved
7 in in '96, if I'm correct, and it was much less --

8 CHAIRMAN BAGOFF: Ma'am, you're
9 testifying.

10 MS. SMALL: -- much more sparsely
11 populated --

12 CHAIRMAN BAGOFF: Ma'am --

13 MS. SMALL: -- with cars then than
14 now.

15 CHAIRMAN BAGOFF: Ms. Small, you're
16 done. Thank you. Come back and testify later on.

17 MS. SMALL: Okay.

18 CHAIRMAN BAGOFF: I appreciate your --

19 MS. SMALL: Fine.

20 CHAIRMAN BAGOFF: -- consideration.

21 MS. SMALL: Thank you very much.

22 CHAIRMAN BAGOFF: Thank you.

23 MS. SMALL: And I appreciate you, but
24 put your interests beside and only look at your
25 values.

1 -- if it's a fire emergency, they're not going to be
2 worried about parking on the street, they're just
3 going to park on the street where it's most
4 convenient for them to fight the fire.

5 MS. BUTENSKY: But is there enough
6 surface area to get, let's say, ten vehicles --

7 MR. ANDERSON: Yes.

8 MS. BUTENSKY: -- plus first
9 responders and --

10 MR. ANDERSON: There's thousands of
11 feet of road.

12 MS. BUTENSKY: -- and deal with the
13 ramifications of the cars that can't get in or out
14 because you have one accessway? You've got now
15 thousands of cars. We live -- there's 70 houses.
16 When we had the one fire, it blocked off that little
17 community for hours and you had about 50 cars that
18 couldn't get in and out because there are only 70
19 houses --

20 CHAIRMAN BAGOFF: Ma'am --

21 MS. BUTENSKY: -- and --

22 CHAIRMAN BAGOFF: Ma'am, you're
23 testifying. We're going to have the traffic
24 engineer and the fire subcode official to evaluate
25 this information. Everybody on the Board and the

record has heard this, it will be evaluated.
MS. BUTENSKY: Okay, my next question is --

CHAIRMAN BAGOFF: Absolutely.

MS. BUTENSKY: -- you are talking about gating off the area to the left and to the right, to the east and to the west, with fencing --

MR. ANDERSON: Yes.

MS. BUTENSKY: -- to allow the forest to grow.

MR. ANDERSON: That's correct.

MS. BUTENSKY: On what basis do you feel that that is necessary?

MR. ANDERSON: This was done by environmental professionals who incorporated it into the settlement agreement and then into the ordinance, because it was their opinion that the forest was in poor condition, there was no understory because of deer overbrowsing, and it was an unhealthy forest. They felt if you placed your fencing around a significant portion of it, it would regenerate and you would have more saplings grow and more shrubs grow and it would be a healthier forest scenario, it would be healthier for all animals.

MS. BUTENSKY: So that particular

agreement and an ordinance that specifies how we are to proceed, and we are proceeding in accordance with that legal document and that ordinance.

MS. BUTENSKY: Right, which was --

MR. ANDERSON: And so, I mean, this is what we have to rely on as an applicant. We have to meet that standard, and that's what we are doing.

MS. BUTENSKY: So I guess my appeal is to the Planning Board to realize that that was done in 2020 and things have changed because we're now dealing with four years.

CHAIRMAN BAGOFF: Ma'am, thank you very much, we appreciate it.

MS. BUTENSKY: Thank you.

MR. WEISLEDER: Good evening. Seth Weisleder, spelled W-E-I-S-L-E-D-E-R. I'm a resident of West Orange and I live on Howell Drive.

My question for you is: Building D especially, how many units are in there? And my second part of the question is: Is that the largest building being built on the property?

MEMBER OF THE PUBLIC: What's the question?

MR. WEISLEDER: How many units are in Unit D and is that the largest building being built

study was done in 2020 or earlier, right? Because the settlement happened in March of 2020?

MR. ANDERSON: Yeah, I don't know the timing but --

MS. BUTENSKY: I'm going to respectfully ask --

MR. ANDERSON: -- that's correct.

MS. BUTENSKY: -- -- that somebody review the forest and to evaluate whether that assessment of the health of the forest is accurate, because that was done in 2020, we're now four years beyond that, and the question is, if that could be refuted by experts and we no longer have that fencing, what happens to your calculus regarding the tree replacement?

MR. ANDERSON: Well, it's fairly obvious that if we -- or if your fencing is not part of the equation, we are under the required tree replacement.

MS. BUTENSKY: So is it possible to respectfully ask that that metric be evaluated --

MR. ANDERSON: No.

MS. BUTENSKY: -- meaning the need for the deer fencing --

MR. ANDERSON: We have a legal

on the property?

MR. ANDERSON: So we have 166 in combined Building D1 and D2.

MR. WEISLEDER: And that's a combined building, correct?

MR. ANDERSON: Yeah, that's combined for D1 and D2.

MR. WEISLEDER: Okay.

MR. ANDERSON: And C is smaller, B is smaller, A is smaller, and --

MR. WEISLEDER: So would you believe that all of the buildings in the middle are smallest and the closest one to other houses that are already built and occupied is the largest one?

MR. ANDERSON: That is a correct assessment.

MR. WEISLEDER: Did you not say earlier in your testimony -- oh, by the way, how many parking spots are at the largest building?

MR. ANDERSON: We have 192 associated with D1 and 191 associated with D2.

MR. WEISLEDER: So a combined total of 383?

MR. ANDERSON: Yeah.

MR. WEISLEDER: And that also is the

1 largest amount of parking closest to residents. So
2 I believe in your testimony earlier --

3 MR. ANDERSON: But the majority of
4 that parking is under the building.

5 MR. WEISLEDER: Right. But you said
6 there was a very nice buffer for everyone but not
7 equal. Would you agree to that?

8 MR. ANDERSON: It's not an equal
9 buffer, no.

10 MR. WEISLEDER: It's not a what? I'm
11 sorry, I didn't hear you.

12 MR. ANDERSON: It's not an equal
13 buffer, there are variable dimensions.

14 MR. WEISLEDER: Right, so what is the
15 purpose of putting the largest building closest to
16 the residents and not in the middle away from the
17 residents? Why couldn't we have one with 105 units
18 closest to Howell Drive? This makes no sense, it's
19 a puzzle. You put a puzzle together; is that
20 correct? Based on what the property owner wanted.

21 MR. ANDERSON: This is what was
22 negotiated as a concept plan that we pushed forward
23 with from the years of negotiating the settlement.

24 MR. WEISLEDER: So this exact plan
25 that we're looking at today was a concept plan that

1 MR. ANDERSON: Let me -- hold on one
2 moment, please.

3 MR. WEISLEDER: It's okay.

4 MR. ANDERSON: I believe this is your
5 home?

6 MR. WEISLEDER: I'm not going to
7 discuss my personal home at a public hearing, thank
8 you.

9 MR. ANDERSON: Sorry.

10 MR. WEISLEDER: Nor am I going to give
11 my address out.

12 MR. ANDERSON: I'm sorry.

13 MR. WEISLEDER: Otherwise, I will need
14 police protection. Thank you.

15 MR. ANDERSON: I'm sorry.

16 MR. WEISLEDER: You want to tell me
17 where you live, please? I'm sorry.

18 MR. ANDERSON: Yeah, that's fine.

19 CHAIRMAN BAGOFF: Let's move on.

20 MR. ANDERSON: So it's 260 feet to
21 this property.

22 CHAIRMAN BAGOFF: We're not asking for
23 your address.

24 MR. WEISLEDER: Okay, thank you. I'm
25 sorry?

1 was negotiated by the town of West Orange, the
2 people of west Highlands and the developer, correct?

3 MR. ANDERSON: Not this exact plan,
4 this is an engineered plan and the building
5 architecture has been refined.

6 MR. WEISLEDER: So how big was
7 Building B when it was negotiated?

8 MR. ANDERSON: I don't recall.

9 MR. WEISLEDER: You don't recall.
10 Okay, but now we're looking at a different plan, but
11 you just said that this was already being
12 negotiated. This was not being negotiated; would we
13 agree on that?

14 MR. ANDERSON: It's location and it's
15 approximate size --

16 MR. WEISLEDER: Okay, so we're about
17 106 feet set back and about 120 feet, according to
18 scale, closest to my home and the other homes an
19 Howell Drive that are around the cul-de-sac,
20 correct? Based on this visual drawing.

21 MR. ANDERSON: Based on this visual
22 drawing, you have the lots from -- I believe your
23 house is --

24 MEMBER OF THE PUBLIC: Can you use the
25 mic?

1 MR. ANDERSON: It's 260 feet from the
2 corner of the building down to this property here
3 (indicating). It's 106 feet from here to this
4 property line (indicating). And then you have the
5 depth of this lot, which is approximately --

6 MR. WEISLEDER: Your scale below says
7 120 feet, so how are you getting more than that?
8 Something is not correct. Would you agree?

9 MR. ANDERSON: 120 feet per inch.

10 MR. WEISLEDER: Oh, per inch, okay.
11 I'm not an engineering or a roofing designer.

12 MR. ANDERSON: Yeah.

13 MR. WEISLEDER: Okay. So that's my
14 one question. My other question is the deer
15 fencing.

16 MR. ANDERSON: Yes.

17 MR. WEISLEDER: How and what impact of
18 the study has been done and how the construction is
19 going to downslope of putting in fencing and
20 disturbing the soil and other issues of the forest?

21 MR. ANDERSON: I --

22 MR. WEISLEDER: You're installing
23 fencing. How deep are those poles going to go?
24 What is the materials, what is the structure, and
25 how is that going to affect the steep slope?

1 Because you are doing construction. Installing a
2 fence is construction; would we agree?

3 MR. ANDERSON: It is.

4 MR. WEISLEDER: And that is -- is it
5 also considered development?

6 MR. ANDERSON: It's not by definition

7 --

8 MR. WEISLEDER: Okay.

9 MR. ANDERSON: -- because it's not
10 part of the disturbed area. But it is only periodic
11 fence posts and --

12 MR. WEISLEDER: Are those permanent or
13 they will be removed?

14 MR. ANDERSON: No, they're permanent
15 fence posts and --

16 MR. WEISLEDER: Okay. So in the last
17 four years, have you personally walked through this
18 forest?

19 MR. ANDERSON: In the last how many
20 years?

21 MR. WEISLEDER: Four.

22 MR. ANDERSON: Yes.

23 MR. WEISLEDER: Since that study was
24 done.

25 MR. ANDERSON: Absolutely.

1 MR. ANDERSON: I think you -- from
2 that vantage point from the house I was pointing to,
3 we would probably have to enhance the landscaping
4 around that corner of the building a little bit more
5 to provide additional buffering.

6 MR. WEISLEDER: So that would include
7 some additional trees that you are not already
8 planning for?

9 MR. ANDERSON: That's correct.

10 MR. WEISLEDER: Okay, so your
11 testimony today is that you would add more coverage,
12 more trees, to prevent what you said seems like we
13 might see that corner of the building, correct?

14 MR. ANDERSON: They may but, you know,
15 we have no objection to making modifications. We
16 have review letters from the town engineer's office,
17 from the environmental consultant's office and --
18 regarding changes species and maybe potentially
19 adding in a tree here or there, and there's other
20 circumstances like what you're describing that have
21 come up now, and we're flexible with adding some
22 additional landscaping.

23 MR. WEISLEDER: Okay, and my final
24 question is: Were the residents of Howell Drive
25 consulted by your group as far as sight-line balloon

1 MR. WEISLEDER: Would you agree that
2 there is a lot of garbage and other debris that has
3 destroyed this forest as well?

4 MR. ANDERSON: I would, yes.

5 MR. WEISLEDER: Okay, so it's not just
6 the deer, it's also the forest, so in order for the
7 area -- would you agree that the area that is going
8 to be fenced in needs to be cleaned up first so it
9 can prosper according to this plan or are we just
10 going to put up a fence around a bunch of garbage
11 and -- and other animals?

12 MR. ANDERSON: Well, I know the
13 applicant cleans up various things but there seems
14 to be additional waste deposited there on a regular
15 basis and so, yes, I think they would -- as
16 installing deer fence, they would clean up the area
17 of human debris that -- debris humans have left
18 there --

19 MR. WEISLEDER: Okay.

20 MR. ANDERSON: -- and --

21 MR. WEISLEDER: Thank you. And my
22 last question is, I believe you said that those on
23 Howell Drive might see some of the corner building
24 of D where nobody else is going to see the other
25 buildings, so is that true or false?

1 testing or other things like you did with -- sorry,
2 I can't remember the -- with the community, with the
3 other community on the other side?

4 MR. ANDERSON: I don't believe they
5 were a party to this -- to the agreement, so --

6 MR. WEISLEDER: Why not?

7 MR. AFRAN: Could you repeat that?
8 I'm so sorry.

9 MR. WEISLEDER: I just wondered why
10 the folks in the condo association were given the
11 opportunity to have a balloon test or not but the
12 residents of Howell Drive, who's going to be closest
13 to Building D and have a stronger sight line, not be
14 included in that discussion.

15 MR. ANDERSON: I think it's a legal
16 issue in terms of who is included in the settlement
17 agreement, it's not -- it's not -- certainly not an
18 engineering issue that I've testified to. It's --
19 the settlement agreement was between the distinct
20 parties and that's all --

21 MR. WEISLEDER: I agree.

22 MR. ANDERSON: -- that was included,
23 it wasn't based on engineering.

24 MR. WEISLEDER: So would you be open
25 to doing a sight-line test or a balloon test on that

1 side of the property?

2 MR. ANDERSON: I...

3 MR. PLOCKER: No, first of all, it's
4 not Mr. Anderson's decision --

5 MR. WEISLEDER: Okay.

6 MR. PLOCKER: -- and two, we're going
7 to rely on the settlement agreement and the
8 ordinance.

9 MR. WEISLEDER: We will rely on the
10 settlement agreement too. I'll pass the baton to my
11 next resident. Thank you.

12 CHAIRMAN BAGOFF: Thank you. Please
13 state your name and spell your last name for the
14 record, please.

15 MS. DePALMA: Maria DePalma, D-E
16 capital P-A-L-M-A.

17 CHAIRMAN BAGOFF: Thank you.

18 MS. DePALMA: I've been a resident of
19 the West Essex Highlands since 1996.

20 CHAIRMAN BAGOFF: Ma'am, pull the mic
21 up. Thank you.

22 MS. DePALMA: I've been a resident of
23 the West Essex Highlands since 1996. I'm an
24 original owner, I love it there, I feel safe there.
25 My question is, which I have many: During the

1 from time to time. I would imagine that any
2 equipment that they have will be stored on their
3 site, not on your site, and they're obligated to
4 follow soil erosion sediment control standards if
5 there's dust of the intensity you're talking about,
6 it will be in violation of sediment control
7 standards, and they would have to water the place to
8 keep the dust down. So there's mechanisms in place
9 to protect against some of the things you have. I
10 don't have the answers to the construction
11 questions.

12 MS. DePALMA: I can attest that my
13 window treatments were ruined by the red clay dust.
14 I could attest to that --

15 MR. ANDERSON: Okay.

16 MS. DePALMA: -- so -- and that was
17 way back. Also, bringing my daughter to school
18 every day, now and in prior years, I can say that
19 there is an issue at times to get out of our complex
20 with people leaving for work at the same time, kids
21 going to school at several different times --

22 CHAIRMAN BAGOFF: Ma'am, we're going
23 to have a traffic engineer and Mr. Anderson is not a
24 traffic engineer.

25 MS. DePALMA: Okay.

1 process of this maybe construction for this site,
2 how much machinery is going to be going in and out
3 each day and is the machinery going to be left on
4 our premises, because there's a lot of noise as it
5 is now and do we have to put up with this, I would
6 say for at least four to five years, and there's
7 going to be a lot of clay dust and I was told you
8 won't be able to open up your windows because it
9 will ruin the entirety of your home. So what is the
10 plan for the machinery? Is it going to be left on
11 our premises for you guys to do your construction
12 until you get a place to put everything?

13 MR. ANDERSON: All right, so I'm not
14 in charge of construction, I don't know how they're
15 going to approach the job. It would not be -- I do
16 know that there's a coordination requirement with
17 the association if there's any closure of roads or
18 any disturbances.

19 MEMBER OF THE PUBLIC: Can't hear you.
20 Talk a little louder.

21 MR. ANDERSON: Okay.

22 MEMBER OF THE PUBLIC: That's fine.

23 MR. ANDERSON: All right. So I don't
24 know exactly the equipment they are going to use or
25 the frequency they're going to use it, it will vary

1 CHAIRMAN BAGOFF: So --

2 MS. DePALMA: Okay.

3 CHAIRMAN BAGOFF: -- that's going to
4 answer most of your questions.

5 MS. DePALMA: Okay, then I had my
6 questions answered. Thank you.

7 MR. ANDERSON: Thank you.

8 CHAIRMAN BAGOFF: Thank you very much.
9 Welcome. State your name and spell your last name,
10 please.

11 MR. DOODNAUTH: Jeremy Doodnauth,
12 that's D-O-O-D-N-A-U-T-H.

13 I don't know if it was mentioned, but
14 what is the duration of the project from when you
15 break ground to when people actually move in?

16 MR. ANDERSON: I don't have an answer
17 to that. It's a variable --

18 MR. DOODNAUTH: Estimate?

19 MR. ANDERSON: It would -- it's an
20 uneducated estimate. It depends on how the
21 contractor and the builder want to approach the job.

22 MR. DOODNAUTH: Okay. And the
23 parameters of the traffic study were done just on
24 this block of -- that's highlighted on this map?

25 MR. ANDERSON: The traffic engineer

1 will go over all -- how he -- how he scheduled his
2 -- what he did --

3 MR. DOODNAUTH: Okay. Was it brought
4 to the Board that Kuzik and Warren all feed into one
5 road?

6 MR. ANDERSON: It --

7 MR. DOODNAUTH: It all feeds into
8 Oval, everything goes to Oval.

9 MR. ANDERSON: Yes, and he will go
10 over all the traffic engineering considerations.

11 MR. DOODNAUTH: I just want to know if
12 it was brought to the attention of -- you know, your
13 map stops but it doesn't show where the major
14 roadways are that go in and out of this complex.

15 MR. ANDERSON: Um-hum.

16 MR. DOODNAUTH: Is it left out on
17 purpose or did you just feel it was irrelevant?

18 MR. ANDERSON: This is not a traffic
19 engineering study that considers the things that
20 you're concerned about. This is a site construction
21 plan. We have a traffic engineer who did a study
22 independent of me, all of those off-site
23 intersections that are relevant, and he will go over
24 that once he has an opportunity --

25 MR. DOODNAUTH: Okay.

1 before with the forest fire question that Bakley
2 Terrace will be an outlet. There is no outlet.
3 It's forest. You're not getting through to attack

4 --

5 MR. ANDERSON: Until we cut through
6 for the sewer line, the ten-foot --

7 MR. DOODNAUTH: So where will the pump
8 station be placed for the sewer line.

9 MR. ANDERSON: Down on Road D, which
10 is down here (indicating) --

11 MR. DOODNAUTH: Okay.

12 MR. ANDERSON: -- and Bakley Terrace
13 is up here.

14 MR. DOODNAUTH: So when you say --

15 MR. ANDERSON: But we have to have a
16 force main, a two-inch force main. In order to do
17 that, we have to clear a line up here (indicating),
18 that's what these dashed lines are, the clearing,
19 and then through an existing easement that comes
20 into Bakley Terrace.

21 MR. DOODNAUTH: So when you say "cut
22 through," are you connecting vaguely in any which
23 way to your property? Like is there going to be a
24 road, a --

25 MR. ANDERSON: No.

1 MR. ANDERSON: -- to testify.

2 MR. DOODNAUTH: You talked about the
3 sewer being attached to Bakley Terrace.

4 MR. ANDERSON: Yes.

5 MR. DOODNAUTH: I am a resident of
6 Bakley Terrace and we've had several pipes that have
7 broken in the last year, maybe three residents that
8 had to replace their pipes. That goes from the
9 house to the main that goes down the street. Has
10 anybody talked to anybody, the residents there, to
11 see if, you know, this can be handled by the
12 existing system? Have you -- you know, I know your
13 study isn't complete, but we already know that it's
14 already taxing. Have you talked to anybody that
15 lives on Bakley, have you talked to any of the
16 residents that still smell residual smells from the
17 sewer and what 500 units will do to that?

18 MR. ANDERSON: Well, this is a
19 discussion that we are -- we'll have with the
20 municipal engineer. I would suppose that if you had
21 broken lines and you reported smells to the
22 municipal engineer, then she will, in kind, bring up
23 those concerns with me when I'm discussing how we
24 tie in and how we discharge the flow.

25 MR. DOODNAUTH: I think you mentioned

1 MR. DOODNAUTH: No roads or nothing.

2 MR. ANDERSON: It's just a clear area.

3 MR. DOODNAUTH: Now, if you're going
4 to be cutting through Bakley to build this, you
5 know, irrigation, that's coming through our --
6 you're going to have construction vehicles going
7 through our street every day to do this?

8 MR. ANDERSON: No, not every day.
9 There will be a limited time period when they make
10 the sewer connection.

11 MR. DOODNAUTH: Okay. I just wanted
12 to know how that was going to affect the residents
13 of this area because, you know, we also have kids.
14 We live on this cul-de-sac because nobody can cut
15 through, it's a dead-end --

16 MR. ANDERSON: Of course.

17 MR. DOODNAUTH: -- and that's why we
18 like it, so, you know, it should be addressed to us
19 that you're going to be cutting through our
20 property.

21 MR. ANDERSON: Oh, it will stay a
22 dead-end, there won't be vehicle traffic, it'll be a
23 steeper slope where a utility pipe has been put
24 underground.

25 MR. DOODNAUTH: Okay. I know

1 construction takes a long time so I appreciate your
2 answer.

3 CHAIRMAN BAGOFF: Thank you very much,
4 sir. Welcome. Please state your name and spell
5 your last name for the record, please.

6 MR. POLEYEFF: Good evening. Jacob
7 Poleyeff, P like in Peter, O, L, E, Y double F. I
8 liked "French fries," that was good. I never said
9 that before.

10 Good evening. So I had a couple of
11 questions. First I look at the map out there and
12 it's beautiful, it's clean and green and there's
13 nothing anywhere near anything and it looks like
14 nobody could possibly object to this plan.

15 Unfortunately, I received a letter which says it's a
16 legal notification about the application for an
17 extension of the previously issued letter, and it
18 came along with a diagram, which is not nearly as
19 nice as the one you have there.

20 The Building D over there basically
21 abuts the side of the property, there's a very, very
22 thin area of deer fencing on this version of it. On
23 the left-hand side, that little dippy doodle in the
24 corner near that, I guess that's a brook, I guess,
25 is basically right up against the side of the

1 MR. PLOCKER: I don't know what the
2 notice -- I don't know what notice he is referring
3 to --

4 CHAIRMAN BAGOFF: Okay.

5 MR. PLOCKER: -- so it's hard to --

6 MR. POLEYEFF: Echo Sciences'
7 report --

8 MR. PLOCKER: Okay.

9 MR. POLEYEFF: -- July 12, 2024.

10 MR. PLOCKER: Okay.

11 MR. POLEYEFF: This is not that plan.

12 CHAIRMAN BAGOFF: Okay, sir, one
13 second, one second. Mr. Plocker.

14 MR. PLOCKER: I'm not an expert with
15 DEP filings, I'll be the first one to admit that.
16 It's my -- Echo Sciences is my client's
17 environmental consultant. I believe they provided
18 the notice that is required under the --

19 MEMBER OF THE PUBLIC: We can't hear
20 you.

21 MR. PLOCKER: -- DEP regulations with
22 respect to the filing of permit applications. Mr.
23 Anderson was not involved in that and I don't
24 believe he testified as to making those
25 applications.

1 property, so which one is right?

2 MR. ANDERSON: Well, I believe they're
3 -- I'm not sure what you're looking at --

4 MR. POLEYEFF: I'll show you --

5 MR. ANDERSON: -- but they're probably
6 plans that we prepared for the wetlands application.

7 MR. POLEYEFF: Is that different than
8 the ones that we have here?

9 MR. ANDERSON: The same layout.

10 MR. POLEYEFF: Well, it's a different
11 map.

12 MR. ANDERSON: Well, I don't know what
13 was sent out to you.

14 MR. POLEYEFF: Would you like to look
15 at it?

16 CHAIRMAN BAGOFF: No, he doesn't want
17 to look at it.

18 MR. POLEYEFF: Okay, well, it's a
19 different map.

20 CHAIRMAN BAGOFF: Sir, this is the
21 presentation. Let's look at this.

22 MR. POLEYEFF: This is the
23 presentation, but that's not, unfortunately, the
24 plan. If it is the plan, then we don't have the
25 proper legal notice.

1 CHAIRMAN BAGOFF: Okay. You got that
2 in the mail --

3 MR. POLEYEFF: Got it in the mail.

4 CHAIRMAN BAGOFF: -- and you were
5 notified -- you got a legal notification from?

6 MR. POLEYEFF: Yeah, Echo Sciences.
7 Right? Legal notification that an application for
8 an extension letter of the previously issued letter
9 of interpretation has been submitted to the --

10 CHAIRMAN BAGOFF: Right.

11 MR. POLEYEFF: -- New Jersey
12 Department -- and a map came with it --

13 CHAIRMAN BAGOFF: Right.

14 MR. POLEYEFF: -- and it's not that
15 map.

16 CHAIRMAN BAGOFF: Okay. So this map
17 is more exacting than that map. The original map is
18 on the -- on our website, on the Planning Board
19 website --

20 MR. POLEYEFF: Right.

21 CHAIRMAN BAGOFF: -- and that's part
22 of notice. It is noticed.

23 MR. POLEYEFF: So this is the map --
24 this is not the map.

25 CHAIRMAN BAGOFF: It's not this map.

1 MR. POLEYEFF: No, I know it's not
 2 that map, but which one is the map?
 3 MR. PLOCKER: Chairman Bagoff, may --
 4 CHAIRMAN BAGOFF: That's for a permit.
 5 That's for a DEP permit. Is that correct?
 6 MR. PLOCKER: That is my understanding
 7 and --
 8 CHAIRMAN BAGOFF: Okay.
 9 MR. PLOCKER: I can say, and I'm sure
 10 Mr. Anderson can back me up, that the application
 11 that this Planning Board is considering as a part of
 12 these proceedings is the one you see posted on the
 13 screen.
 14 CHAIRMAN BAGOFF: Right. So we're not
 15 looking at the DEP permit.
 16 MR. POLEYEFF: Okay.
 17 CHAIRMAN BAGOFF: Okay? Different
 18 thing.
 19 MR. POLEYEFF: So we're dealing with
 20 two maps. Okay, so question number two, if I may:
 21 I believe at the beginning of the presentation that
 22 you mentioned that this was going to be it. Okay?
 23 So there was going to be no further development on
 24 this area ever. Is that -- is that correct?
 25 MR. ANDERSON: The requirement in the

1 MR. POLEYEFF: Or any plan.
 2 CHAIRMAN BAGOFF: That's correct. At
 3 this time, that's not part of any plan before the
 4 Planning Board.
 5 MR. POLEYEFF: And it's part of the
 6 agreement not to develop it further.
 7 CHAIRMAN BAGOFF: That's part of the
 8 agreement.
 9 MR. POLEYEFF: Thank you.
 10 CHAIRMAN BAGOFF: Good evening.
 11 MS. WHITE: Hello there.
 12 CHAIRMAN BAGOFF: State your name and
 13 spell your last name, please, for the record.
 14 MS. WHITE: So a couple of comments,
 15 questions.
 16 CHAIRMAN BAGOFF: Could you state your
 17 name and spell your last name for the record,
 18 please?
 19 MS. WHITE: Give me a second. I gotta
 20 remember, I'm old.
 21 CHAIRMAN BAGOFF: Me too.
 22 MS. WHITE: The name is Barbara White,
 23 I do live in West Orange. My neighbor over there
 24 from Howell, I also live on Howell. So some of my
 25 questions are relative to Howell itself and how it

1 settlement agreement is that the remaining property,
 2 after this development is complete, is deed
 3 restricted to not be developed in the future, and
 4 that deed restriction would be in favor of the
 5 Township of West Orange.
 6 MR. POLEYEFF: I'm sorry.
 7 MR. ANDERSON: The deed restriction
 8 would be to the favor of the Township of West Orange
 9 per the settlement agreement, so -- so we would not
 10 have -- this applicant would not have control of
 11 developing that 92 acres later.
 12 MR. POLEYEFF: The developer would not
 13 have control.
 14 MR. ANDERSON: He would not be able to
 15 develop it further.
 16 MR. POLEYEFF: Okay. In any aspect.
 17 In other words, it sure looks like, from Building D,
 18 it would be nice to have a little road going through
 19 Mayfair or Rosemont over there to get to Building D
 20 real quick.
 21 CHAIRMAN BAGOFF: Sir, that's not part
 22 of the plan.
 23 MR. POLEYEFF: That's not part of this
 24 plan.
 25 CHAIRMAN BAGOFF: That's correct.

1 plays out --
 2 (Public outburst)
 3 MEMBER OF THE PUBLIC: You have to
 4 press the button.
 5 MR. FAGAN: No, you don't. You do not
 6 have to press the button.
 7 MS. WHITE: Well, it is on. Closer,
 8 closer, closer. Is it working? Okay. I live on
 9 Howell. So a couple questions. One, I come home
 10 regularly to a half dozen deer on my front yard,
 11 like yesterday, and I'm very curious, when the
 12 environmental work was done, it appears you only
 13 paid attention, quite frankly, not to the animals
 14 but to the ground, so when I looked at what you just
 15 said, it looks like you, based on your testimony,
 16 roughly half of the property is going to be either
 17 used for the buildings themselves or for the deer
 18 fencing, which means 60 of your acres, are still --
 19 MR. ANDERSON: Yeah.
 20 MS. WHITE: -- the deer can roam. So
 21 I'm curious as to how that came about as part of the
 22 settlement and also why there is a settlement that
 23 says that -- that deer fence would be permanent. I
 24 don't know what purpose it serves.
 25 MR. ANDERSON: Why is it permanent?

1 MS. WHITE: Why is it permanent?

2 MR. ANDERSON: So it's to let the
3 understory grow and to be healthy and to keep it
4 from being overbrowsed in the future so that it can
5 be a healthy forest.

6 The deer fencing was felt to be
7 appropriate in the settlement agreement and we just
8 followed through with specifying some areas on the
9 plan that would be best suited to have additional,
10 you know, shrub growth and sapling growth, more root
11 zones protection, particularly the steep slopes to
12 the east of the site next to where your property
13 is --

14 MS. WHITE: Okay.

15 MR. ANDERSON: -- so that -- so that
16 you could avoid things like erosion and stormwater
17 runoff.

18 MS. WHITE: Okay, I got that. So with
19 that, what you're also saying is there were no
20 provisions made at all for what happens to the
21 animals who now have one half of their habitat, from
22 what you just said.

23 MR. ANDERSON: That is not something
24 that was under my purview.

25 MS. WHITE: Okay. All right. So my

1 Orange? Because I'm right there almost at the
2 cul-de-sac.

3 MR. ANDERSON: I missed half of what
4 you said, I'm sorry, ma'am.

5 MS. WHITE: I'm trying to determine
6 whether or not your conversations are, in fact, with
7 the Town of West Orange or the Town of Verona.
8 Verona supplies my water, the neighbors going into
9 the cul-de-sac, et cetera, the nearest fire hydrant
10 is Verona, so just, again, is there another party
11 that has to be a part... (indiscernible)

12 (Court reporter asks Ms. White to repeat.)

13 MS. WHITE: Is there another party,
14 another town, that's part of that... (indiscernible)
15 (Court reporter asks Ms. White to repeat.)

16 MS. WHITE: Is there another town that
17 is part of that water conversation?

18 COURT REPORTER: Thank you.

19 MR. ANDERSON: That will have to be
20 flushed out and resolved. It can't be between two
21 different water systems without an agreement.

22 MS. WHITE: Exactly. So that's,
23 again, why I was raising the question.

24 (Court reporter asks Ms. White to repeat.)

25 MS. WHITE: I was raising the question

1 other question -- it's not even a question -- in
2 your testimony, you mentioned that in your
3 conversations where the water service lines would be
4 coming out at Howell --

5 MR. ANDERSON: Yes.

6 MS. WHITE: -- and that those
7 conversations would take place with West Orange?

8 MR. ANDERSON: They would -- it's
9 common to loop water systems into multiple streets
10 --

11 MS. WHITE: Okay, so --

12 MR. ANDERSON: -- in different zones

13 --

14 MS. WHITE: Okay.

15 MR. ANDERSON: -- and that's what
16 we've done.

17 MS. WHITE: Um-hum.

18 MR. ANDERSON: So we come out to --
19 connect to the main at the end of Howell and also
20 connect to the ones in Warner and Kuzik Drive.

21 MS. WHITE: Okay. My question,
22 really, is, I live on Howell, I live in West Orange
23 on the Verona border, as my neighbor is, so I'm just
24 curious whether or not this is something you have to
25 work out with the Town of Verona or is it West

1 because I think there may be an issue with Verona
2 being impacted on the water side, not necessarily
3 West Orange, and Verona has severe water issues, in
4 fact, neither one of the towers are working.

5 MR. ANDERSON: Thank you, we will look
6 into that.

7 CHAIRMAN BAGOFF: Thank you. Please
8 step up, state your name and spell your last name,
9 please.

10 MR. LATERZA: Thank you. Yes, Patrick
11 Laterza, L-A-T-E-R-Z-A. I have, I think, three
12 questions.

13 First, regarding the forest -- I think
14 I know this answer -- was the current town forester
15 asked about the quality of the forest?

16 MR. ANDERSON: I --

17 MR. LATERZA: The West Orange town
18 forester.

19 MR. ANDERSON: I don't believe that
20 was the forester that was consulted. I think that's
21 a question more for the town environmental
22 consultant. I know that there was people from Amy
23 Green's environmental group that was engaged by the
24 township and I'm not sure which one of them was the
25 forest and whether they are connected to the town.

MR. LATERZA: Okay. Well, I actually live in Verona, but I'm north of there, so a couple of quick questions about fire. Was any sort of -- this is a sizable project. Was any sort of impact study done about what the requirements of a major fire would be, not just of West Orange Fire Department but also of the surrounding fire departments?

MR. ANDERSON: I'm not aware of a study of that nature.

MR. LATERZA: Well, the next closest -- there's one small fire department in West Orange that's near this project, the next closest is Verona, which is a volunteer fire department. Has Verona been involved with any conversations whether they have the capacity to assist in a large-scale fire in a project of this size?

MR. ANDERSON: It's not something I'm familiar with, it's not an engineering comment, really.

MR. LATERZA: Okay. Thank you. That's it.

MR. ANDERSON: Thank you.

CHAIRMAN BAGOFF: Thank you, sir. Please state your name and spell your last name,

The other question that I have, if there is an "emergency" emergency in this small area, do you have an estimate of how many fire trucks, ambulances and police cars can actually fit in this small area?

MR. ANDERSON: I -- I -- there's room for a -- there's a long roadway and there's room for a lot of emergency vehicles. How they would delegate emergency vehicles, how many they'd have, I don't know.

MR. KNIGHTS: Okay. Well, that's my two questions, but the most important question is about the dynamiting and the effects it's going to have on the homes.

MR. ANDERSON: So that is something that I believe you file a pre-blast survey before you do the actual construction and they do -- and they basically inspect the adjacent homes to make sure that the blasting does not do additional damage to the -- so --

MR. KNIGHTS: So if it does damage, I can come to you guys for repairs, right?

MR. ANDERSON: To the blaster, yeah.

CHAIRMAN BAGOFF: Thank you, sir. Yes, sir, state your name and spell your last name,

sir.

MR. KNIGHTS: Yes. Orin Knights, K-N-I-G-H-T-S, Knights.

(Court reporter asks Mr. Knights to re-state his first name.)

MR. KNIGHTS: Orin.

COURT REPORTER: Thank you.

MR. KNIGHTS: Orin, O-R-I-N.

COURT REPORTER: Thank you.

MR. KNIGHTS: I have a question to ask. I'm trying to get some clarification as far as the blasting. Now, is this blasting going to be by machinery or by dynamite?

MR. ANDERSON: That was what I was saying before, they'll have to look and see the consistency of the rock before they determine what they need to remove the rock.

MR. KNIGHTS: Okay, has there been a study on the effects of the homes around the area as far as the foundations of your homes? Because in my house, I already have a crack in the wall, so with the blasting, I'm quite sure many homes around here might be affected by it, depending on if you're going to be using dynamite, so that's something that you should let us know about.

please, for the record.

MR. DAVIS: My name is Edward Davis, I'm the mayor of Essex Fells.

CHAIRMAN BAGOFF: Welcome.

MR. DAVIS: Thank you for the opportunity to address the Board. I appreciate all your service. Mayor and Council President, I appreciate your comments on behalf of not just West Orange but all your neighboring towns.

I want to follow up on a question from a gentleman who spoke a few questions ago and that's on the restrictions relating to the development of the other 85 to 90 acres, right? Because a key part of the settlement agreement, as you testified, is you're only developing 27 acres, the rest of it is preserved, for lack of a better term.

Mr. Chairman, you mentioned a minute ago with the testimony that the enforcement mechanism for that is a deed restriction in favor of the Township of West Orange.

MR. ANDERSON: Yes, I believe so.

MR. DAVIS: Okay, so that effectively means you're evaluating this application, yes, on its face, but in five years, if the applicant wants to put up another building or West Orange wants to

1 put up additional apartment buildings, to fulfill an
2 obligation perhaps, on those other 85 or 90 acres,
3 there's nothing in that deed restriction that can't
4 be amended by West Orange and the developer.

5 MR. ANDERSON: Well, that's a legal
6 question, I'll let Bryan address that because I
7 don't know legally what can be done. My
8 understanding was that it was to be preserved in
9 perpetuity, but I don't know legally whether that is
10 a hundred percent correct. Bryan will address that
11 or somebody.

12 MR. PLOCKER: Thank you for the
13 comment, Mr. Mayor. I'm going to review the
14 settlement agreement. I know this is Mr. Anderson's
15 questioning. I have no problem with me addressing
16 it. I don't want to misspeak, I would like to
17 review the settlement agreement.

18 MR. DAVIS: Okay, but just to be
19 clear, it's not just the settlement agreement, this
20 is a question of New Jersey law, basically, where
21 you're saying "Who can amend a deed restriction?"
22 The covenant you're talking about runs in favor of
23 West Orange; the answer is West Orange can amend it.
24 So that means a future Council or a future Planning
25 Board can approve a development of this property,

1 When you're talking about the parking space, there's
2 roughly a hundred-plus additional parking spaces
3 that are not associated with the residential
4 building. Is there any anticipated use by
5 nonresidents, members of the public generally, to
6 the clubhouse, for instance, renting out the dog
7 park? Is this a residential use or is this sort of
8 for the general public, meaning other traffic's
9 coming into the property?

10 MR. ANDERSON: So my understanding is
11 it's primarily for the residents here, but it is
12 going to be opened for -- the dog kennel will be
13 open for other people in the community. I don't
14 know the extent of that, but that's the way it's
15 been described to me. The clubhouse itself, I don't
16 think they're far enough along to understand how
17 they're operated, whether they'll rent it out for
18 events or not. I presume they could. We do have 55
19 parking spaces there and then 40 in the lower garage
20 on Building C. That would be only available when
21 they had an event, so I believe events will be --

22 CHAIRMAN BAGOFF: I'm sorry, Mr.
23 Anderson, will you speak into the mic, please?

24 MR. ANDERSON: I'm sorry, Mr.
25 Chairman.

1 including what is currently preserved as open space.

2 The other way you could do it, as a
3 Planning Board perhaps, with counsel, is you could
4 have that type of deed restriction run in favor of
5 residents around the property; that way, they and
6 their successors could enforce it. So, you know,
7 the question for the developer is basically: Would
8 you be willing to adopt that enforcement mechanism,
9 which would actually preserve the remainder of this
10 property as open space in perpetuity?

11 MR. ANDERSON: That's definitely a
12 question for the developer and his legal counsel.

13 MR. PLOCKER: It is a legal question,
14 Mr. Mayor, and one that we will look into and take
15 seriously. I don't want to misspeak, I would like
16 to consult with my client, and we certainly can have
17 an open line of communication with you, but we will
18 look at the settlement agreement.

19 MR. DAVIS: Okay, thank you.

20 MR. PLOCKER: Thank you.

21 MR. DAVIS: Just one other question.
22 You mentioned some of the other buildings, there's a
23 clubhouse and I think there was reference to a
24 maintenance building and a dog park, I don't know if
25 there's a building associated with the dog park.

1 MEMBER OF THE PUBLIC: We can't hear
2 anything.

3 MR. DAVIS: I heard you.

4 MR. ANDERSON: You heard me, okay. So
5 we don't know if events, we're not quite there yet,
6 but it is possible.

7 MR. DAVIS: And I guess, Mr. Chairman,
8 I'll just ask you the question. Is a planner going
9 to testify on behalf of the applicant to address
10 questions about use such as this one?

11 CHAIRMAN BAGOFF: Not tonight.

12 MR. DAVIS: Not tonight, but as part
13 of your consideration of this application --

14 CHAIRMAN BAGOFF: Yes, sir.

15 MR. DAVIS: Are you going to take
16 testimony from a planner and have your own planner
17 opine on whether that's a permitted use?

18 CHAIRMAN BAGOFF: Yes, and we will
19 have a legal discussion between the applicant, the
20 attorney and the township about deed restriction.

21 MR. DAVIS: And a public -- not the
22 deed restriction, this is a question of permitted
23 use. The second question I was -- we were just
24 talking about is not a deed-restriction question;
25 it's a question of are outsiders, meaning

1 nonresidents, allowed to use this property under the
2 settlement agreement --

3 CHAIRMAN BAGOFF: Absolutely.

4 MR. DAVIS: -- or --

5 CHAIRMAN BAGOFF: Absolutely.

6 MR. DAVIS: -- even though --

7 CHAIRMAN BAGOFF: Under the Open
8 Public Meetings Act, absolutely.

9 MR. DAVIS: Okay. Thank you.

10 CHAIRMAN BAGOFF: Welcome. State your
11 name and spell your last name for the record,
12 please.

13 MR. REDWINE: My name's Jonathan
14 Redwine, R-E-D-W-I-N-E. I live in West Orange.

15 MR. FAGAN: Mr. Chairman, pardon the
16 interruption. Pardon the interruption, Mr. Redwine.
17 Mr. Chairman, our Zoom video feed went blank. We
18 are still recording audio. So I just want to point
19 out to the Zoom audience that I'm trying to correct,
20 restore the Zoom video feed, but I don't know if
21 that's possible, but the meeting is still continuing
22 and recording audio and I'm sorry for the
23 interruption, Mr. Chairman.

24 CHAIRMAN BAGOFF: Okay. Thank you.
25 Yes, sir.

1 the site, what would happen with them. I understand
2 your testimony to be that there isn't currently a
3 plan to move or displace the animals that are
4 currently there relying on the forest.

5 MR. ANDERSON: Well, we would not have
6 them inside the gated area but there's a lot of
7 possibilities with the deer fencing where it's big
8 enough, has a mesh big enough for -- to keep the
9 deer out but to let the other animals enter, so
10 there's possibilities like that that have not been
11 fleshed out in terms of complete design.

12 MR. REDWINE: Okay, and the deer fence
13 is intended to regenerate the forest that's
14 surrounded by that fencing, correct?

15 MR. ANDERSON: Allow for seeds to drop
16 from adjacent areas from the plantings that we're
17 doing and, you know, and adjacent developments and
18 to seed that area with understory.

19 MR. REDWINE: So assuming that the
20 deer and other animals that are there would move to
21 adjacent properties, has there been an analysis of
22 the damage that could reasonably be anticipated from
23 the movement of those animals and feeding on the
24 plants that are present on other properties?

25 MR. ANDERSON: Not by my office.

1 MR. REDWINE: And just so the record's
2 clear, I'm also a member of the Environmental
3 Commission here in town. I have a few questions
4 about some of the testimony and other questions that
5 I've heard tonight.

6 MS. DePALMA: Put the mic to your
7 mouth.

8 MR. REDWINE: One thing I haven't
9 heard is whether there's an analysis of particular
10 plants that are present at the site.

11 MR. ANDERSON: We haven't done an
12 inventory of the existing plants. There's probably
13 many invasive plants associated with it, but I don't
14 have a list of them.

15 MR. REDWINE: Has there been any
16 analysis of native species that are present?

17 MR. ANDERSON: No, not by my office.

18 MR. REDWINE: Or any analysis of
19 plants that may be threatened or endangered that are
20 present on the site?

21 MR. ANDERSON: Not by my office.

22 MR. REDWINE: Okay, I had heard some
23 questions and commentary about the animals that are
24 on the site and recently one of the questions was
25 about a plan for the animals that are currently on

1 MR. REDWINE: On the DEP applications,
2 the permits and applications that are before the
3 DEP, is there a schedule for public comment that
4 you're aware of or meetings that the public could
5 attend to similarly ask questions or make comments?

6 MR. ANDERSON: I don't know of any
7 scheduled meetings. I'm sure you can make comments
8 at any time regarding our application. It seems
9 like they get comments regularly.

10 MR. REDWINE: And then the last thing
11 that I have is really addressed to you, Mr.
12 Chairman. The Environmental Commission sent a
13 letter to the Planning Board and I would ask
14 permission to read it into the record, if it's
15 appropriate at this time to do that.

16 MS. McGOVERN: Well, I remember that
17 we got it, but I don't know that it's appropriate to
18 read a letter. If it's your testimony --

19 MEMBER OF THE PUBLIC: We can't hear
20 you.

21 MR. REDWINE: So just to clarify, I'm
22 not the Chairman of the Environmental Commission.
23 He advised me that it was sent to the members of the
24 Planning Board today.

25 MS. McGOVERN: Oh, today? The

1 Planning Board can't take any extraneous
2 information, it has to be done at the hearing.
3 You're here and are you tasked with -- did you write
4 this letter? Is this a position that your
5 organization is taking that you want to put on the
6 record? Is that what this is? Because that would
7 come to public comment at the end. Right now, we're
8 just doing questions.

9 MR. REDWINE: Okay. That's what I
10 thought you'd say but I told them that I would ask
11 so I've asked. Thank you.

12 MR. PLOCKER: And on behalf of the
13 applicant, I would just ask that if there is any
14 letter issued to the Board regarding the
15 application, that the applicant be provided a copy.

16 MS. McGOVERN: Absolutely.

17 MR. PLOCKER: Thank you.

18 MR. AFRAN: The objector would ask the
19 same.

20 MR. FAGAN: Mr. Chairman, please be
21 advised that we were able to restore the Zoom video
22 feed during Mr. Redline's testimony.

23 CHAIRMAN BAGOFF: Thank you.

24 MR. FAGAN: Apparently, somebody had
25 kicked the plug out by accident.

1 started that a judge said to the town of West Orange
2 "You need Mount Laurel housing. We have a developer
3 who has a piece of property and there's nothing you
4 can do about it," and you as a Board, as a Board,
5 can't do any opposition to this project," and the
6 Board still believes that. Do you know anything
7 about that?

8 MR. PLOCKER: I'll just address it. I
9 believe the comment and it really wasn't a question,
10 was that a judge told the Board and I'm aware of any
11 conversations --

12 MR. SHARENOW: No, not the judge
13 telling the Board. The judge told the town that
14 "You gotta let the developer build because you're
15 short of affordable housing."

16 MR. PLOCKER: Yeah, I can't -- I don't
17 think anybody from us can testify to that and I do
18 know that mediation and settlement negotiations
19 themselves are confidential and part of the legal
20 process, especially ones where the court or the
21 court Special Master was involved.

22 MR. SHARENOW: Okay. Well, our Board
23 never did anything.

24 Do you know that the developer, your
25 bosses, in approximately 2004/2005, put in an

1 CHAIRMAN BAGOFF: Thank you. Okay.
2 And just so the public knows, we don't -- we don't
3 forward letters to members of the Planning Board
4 about an application that is before us. It is not
5 in the best interest of the Board and the public, it
6 violates the Open Public Meetings Act, Open Public
7 Records Act. So anything that is given to the
8 attorney, somebody must come and testify in the
9 public under oath about what they have to say;
10 otherwise, you can bring things, as Ms. McGovern
11 said, during the comments section. So if you want
12 the Board to hear something, it has to go to the
13 applicant, it has to go to our attorney, they'll
14 both decide if it's information that the Board needs
15 to hear, and then we will ask the maker of that
16 letter to come before us. That's the way it works.
17 It's in everybody's best interest. Thank you.

18 Yes, sir. Please state your name and
19 spell your last name.

20 MR. SHARENOW: Bob Sharenow,
21 S-H-A-R-E-N-O-W. I'm a resident of the Highlands
22 for 26 years.

23 Are you aware -- and maybe the lawyer
24 more so -- are you aware that the Board of the West
25 Essex Highlands was told a few years ago when this

1 application or a process to build 138 homes on this
2 property?

3 CHAIRMAN BAGOFF: Okay, stop right
4 there. That's not part of this application. That's
5 not part of this application, Mr. Anderson didn't
6 testify to that. If you want to say something,
7 that's in public comment, sir. Right now, you may
8 ask if, when, why, what, where, how, which; that's
9 what you ask Mr. Anderson about his testimony,
10 please.

11 MR. SHARENOW: Okay. Are you aware of
12 the changing of what they asked for, the reasons why
13 they were turned down for their 138? Is that
14 allowed to be asked?

15 CHAIRMAN BAGOFF: That is not -- I'm
16 sorry, sir. That is not part of this application --

17 MR. SHARENOW: Okay, I just thought
18 they might have a reason because we're dealing with
19 the fire engines not being able to get in.

20 CHAIRMAN BAGOFF: I'm not allowing
21 that.

22 MR. SHARENOW: Okay.

23 CHAIRMAN BAGOFF: It has nothing to do
24 with this application, it's a totally different
25 application.

1 MR. SHARENOW: Okay. Have you had any
2 discussion with West Essex office about water
3 problems that we presently have? For example, in
4 the last six years, we have had eight trenches that
5 had to be dug because of water problems coming down.

6 CHAIRMAN BAGOFF: Sir, stop. Ask a
7 question, please. Ask a question.

8 MR. SHARENOW: Okay. Are you aware of
9 that, have you had a discussion with them on that?

10 MR. ANDERSON: I did not testify to
11 anything regarding your -- your property.

12 MR. SHARENOW: Are you aware that two
13 months ago, the Board allocated \$26,000 to hire an
14 engineering firm to study our water problems?
15 That's before you're going to be building this.

16 MR. ANDERSON: I'm unaware of that
17 conversation.

18 MR. SHARENOW: I suggest to the Board,
19 find out --

20 CHAIRMAN BAGOFF: Stop, don't suggest
21 to the Board, please.

22 MR. SHARENOW: I can't suggest it?

23 CHAIRMAN BAGOFF: Don't suggest to the
24 Board. You've already suggested already. Thank
25 you, sir.

1 traffic. More cars, more people.

2 MEMBER OF THE PUBLIC: More waste.

3 MS. DeCHESER: Oval Road is going to
4 be widened, correctly -- correct?

5 MR. ANDERSON: No.

6 MR. SHARENOW: It's going to remain
7 two lanes.

8 MR. ANDERSON: Yes. There is called
9 for in the settlement agreement repaving of it,
10 which I believe has already been completed.

11 MEMBER OF THE PUBLIC: Can't hear you.

12 MEMBER OF THE PUBLIC: Would you speak
13 up?

14 MR. ANDERSON: There was no change to
15 the geometry of Oval Road. It was going to maintain
16 its current width and it was going to be repaved.

17 MS. DeCHESER: That's interesting
18 because I just heard from someone --

19 CHAIRMAN BAGOFF: Ma'am, ma'am,
20 whatever you heard is good, you heard that. Don't
21 -- don't bring it up here, please. Ask questions.

22 MS. DeCHESER: That there's going to
23 be a four-lane --

24 CHAIRMAN BAGOFF: Ma'am, ask a
25 question.

1 MR. SHARENOW: Okay. That's a shame.
2 It's a shame. I hope you look up what took place in
3 2004 and why they were turned down.

4 CHAIRMAN BAGOFF: Thank you. Please
5 -- welcome. State your name and spell your last
6 name, please, for the record.

7 MS. DeCHESER: Beverly DeCheser,
8 D-e-C-H --

9 MR. SHARENOW: I tried.

10 MS. DeCHESER: Sorry. D-e-C-H-E-S-E-R.
11 My question is: Has there been an environmental
12 impact report?

13 MR. ANDERSON: No.

14 MS. DeCHESER: Do you know what they
15 are?

16 MR. ANDERSON: Yes.

17 MS. DeCHESER: Okay. I find it
18 interesting there's nothing, though. That would
19 help you guys and help us.

20 (Applause by members of the public)

21 MS. DeCHESER: The dog kennel is going
22 to be open to the public?

23 MR. ANDERSON: That's my
24 understanding.

25 MS. DeCHESER: That'll bring more

1 MS. DeCHESER: And you're saying you
2 know nothing about a four-lane on Oval.

3 MR. ANDERSON: There's no four-lane
4 proposed.

5 MEMBER OF THE PUBLIC: Warner.

6 MS. DeCHESER: No, it's not Warner,
7 it's Oval.

8 MR. ANDERSON: There's no four-lane
9 proposed --

10 MS. DeCHESER: Okay.

11 MR. ANDERSON: -- on Oval.

12 MS. DeCHESER: Okay, that's it.

13 CHAIRMAN BAGOFF: Thank you.

14 MS. BENYO: Hi, everyone, good
15 evening. My name is Claire Benyo, B-E-N-Y-O. I'm a
16 resident of West Orange on Mayfair Drive. So we've
17 talked at length about the wildlife and the fence
18 and the deer fence so I'm going to expand on that a
19 little bit specifically. My property goes right
20 behind up on the edge, so the woods have a very
21 special place in my heart, the animals in those
22 woods have a special place in my heart. So the deer
23 fence is being constructed to keep the deer out, so
24 my first question is: What are the efforts going to
25 be to ensure that there's no deer inside the fenced

1 area when that final corner is sealed?

2 MR. ANDERSON: I assume they would
3 herd them out if they are in there.

4 MR. BENYO: How will they herd them
5 out, who will be responsible for that?

6 MR. ANDERSON: It's not -- it's not
7 really an engineering question. Maybe we can get a
8 deer herder in here to answer your question how they
9 specifically herd deer.

10 MR. BENYO: How about the coyotes?

11 MR. ANDERSON: Well --

12 MS. BENYO: How will the coyotes get
13 removed?

14 (Multiple speakers at once - court reporter
15 interruption)

16 MS. BENYO: Understood.

17 COURT REPORTER: Thank you.

18 MR. ANDERSON: So these technical
19 things with regard to how animals are dealt with
20 will have to be dealt with by people that are
21 familiar with that type of work.

22 MR. BENYO: And when during this
23 process does that happen where public will be able
24 to question?

25 MR. ANDERSON: I don't believe that --

1 the -- it stabilizes the soil on the slope. It also
2 provides some habitat for smaller animals and so
3 forth with more trees, with more birds nesting and
4 more other small animals, so overall, you might stop
5 the larger animals from coming into that specific
6 area. It would be a net ecological advantage to
7 have the deer fencing to improve that forest area.

8 MS. BENYO: Okay. And what
9 assessments have been done on the structural
10 security of the slope and what mitigation efforts
11 are the builders going to do to ensure that there is
12 no further impact to erosion or causing landslides?

13 MR. ANDERSON: Okay, so that is really
14 a question for the architect, who will probably
15 testify at the next hearing.

16 MS. BENYO: And that's tomorrow?

17 MR. ANDERSON: I -- yeah. And --

18 MS. BENYO: The architect will be here
19 tomorrow?

20 MS. McGOVERN: I think that's who's
21 scheduled next, right, Mr. Plocker?

22 MR. PLOCKER: Yeah, our architect is
23 here tonight but I think, at this point, I think
24 he'll be fine testifying tomorrow.

25 MS. BENYO: And then a question to the

1 I don't know that it is part of this process.

2 MS. BENYO: There's no consideration
3 for the animals in the area that they'll be
4 displaced from?

5 MR. ANDERSON: There's 60 --

6 MS. BENYO: How about the fox?

7 MR. ANDERSON: The fox would probably
8 -- if the fence is an area that is big enough for a
9 small fox to get through, he could get through.

10 MS. BENYO: The fox will be able to
11 get in through a fence?

12 MR. ANDERSON: It's really -- you
13 know, there's openings in the fence --

14 MS. BENYO: That will be -- go ahead.

15 MR. ANDERSON: -- that will prevent a
16 deer from going in but not smaller animals.

17 MS. BENYO: How about bear.

18 MR. ANDERSON: Probably would be able
19 to stay out.

20 MS. BENYO: So you also talked about
21 the purpose of the fence was to re-grow the trees
22 and the ground, so is there any purpose for that to
23 prevent erosion on the slope?

24 MR. ANDERSON: It does help prevent
25 erosion with undergrowth, more root zone, protects

1 Board. When will we be able to ask questions for
2 specifically environmental-related questions since
3 there has not been any evaluation done by this
4 group?

5 CHAIRMAN BAGOFF: The Board has just
6 engaged an environmentalist this evening and we'll
7 wait for their report and they will present to the
8 Planning Board and the public.

9 MS. BENYO: And when approximately
10 might that be?

11 CHAIRMAN BAGOFF: We don't know yet,
12 we have to see how the application goes and we will
13 publish it when we see where we're going.

14 MS. BENYO: Excellent. Thank you.

15 CHAIRMAN BAGOFF: It's a good
16 question.

17 MR. PLOCKER: Thank you.

18 CHAIRMAN BAGOFF: Thank you. Ladies
19 and gentlemen, it is now 10:54. I would like to
20 thank everybody for being here. Great questions.
21 The application will continue tomorrow evening at
22 6:30 without any additional notice.

23 MEMBER OF THE PUBLIC: What about
24 comments?

25 CHAIRMAN BAGOFF: Question?

1 MEMBER OF THE PUBLIC: Comments.
2 MEMBER OF THE PUBLIC: Can you share
3 tomorrow's agenda?
4 CHAIRMAN BAGOFF: I'm sorry.
5 MEMBER OF THE PUBLIC: Are you able to
6 share tomorrow's agenda, who will be speaking?
7 CHAIRMAN BAGOFF: We are going to have
8 --
9 MR. PLOCKER: Oh. Yeah, absolutely.
10 We plan -- if everybody is finished with Mr.
11 Anderson for now, our next witness will be our
12 architect.
13 CHAIRMAN BAGOFF: Okay, the architect
14 will be the next person to testify tomorrow evening.
15 MEMBER OF THE PUBLIC: Thank you.
16 CHAIRMAN BAGOFF: Okay?
17 (Hearing adjourned at 10:54 p.m.)
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C E R T I F I C A T E

I, MICHELE QUICK, a Certified Court Reporter, Registered Merit Reporter, Certified Realtime Reporter of the State of New Jersey, authorized to administer oaths pursuant to R.S. 41:2-1, do hereby state that the foregoing is a true and accurate verbatim transcript of my stenographic notes of the within proceedings, to the best of my ability.

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