

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	:	

WEDNESDAY, AUGUST 14, 2024
TOWNSHIP OF WEST ORANGE
66 MAIN STREET
WEST ORANGE, NJ 07052
COMMENCING AT 6:38 P.M.

BOARD MEMBERS PRESENT:

DR. ROBERT BAGOFF, Chairman
JERRY GUARINO, Vice Chairman
MAYOR SUSAN McCARTNEY (arrived when noted)
BILL RUTHERFORD, Council President
(arrived when noted)
KEN ALPER
LEE D. KLEIN, P.E., PTOE
JOHN R. CARDOZA (Alternate #1)

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:

MICHELE QUICK, CCR, RMR, CRR
NJ Licensed Court Reporter
(VIA Zoom - listen mode only)

Magna Legal Services
866-624-6221

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I N D E X

APPLICANT'S WITNESSES: SWORN

LAURANCE APPEL, P.A. 7

BOARD'S WITNESSES:

JOHN J. HESS, P.E., P.P. 5

GERARD M. HAIZEL, P.P. 5

EXHIBITS MARKED INTO EVIDENCE

NUMBER	DESCRIPTION	PAGE
A-3	Foundation Exposure Exhibit dated 8/14/24, prepared and presented by Mr. Appel	8

(Zoom meeting begins at 6:38 p.m.)

CHAIRMAN BAGOFF: ...August 14, 2024 at 6:30 p.m. 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 The Star Ledger. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act. No new matters will start after 10:30 p.m.

May I ask everybody to rise for the Pledge of Allegiance.

(The Pledge of Allegiance is recited.)

CHAIRMAN BAGOFF: Thank you. Please be seated. The next regular Planning Board meeting will be held September 4, 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: Mr. Klein?

MR. KLEIN: Here.

MS. BAQUERIZO VITE: Mayor McCartney?

(No response)

MS. BAQUERIZO VITE: Mr. Morgan?

(No response)

MS. BAQUERIZO VITE: Mr. Wilkes?

MR. WILKES: Here.

MS. BAQUERIZO VITE: Council President Rutherford?

(No response)

MS. BAQUERIZO VITE: Mr. Guarino?

VICE-CHAIRMAN GUARINO: Here.

MS. BAQUERIZO VITE: Chairman Bagoff?

CHAIRMAN BAGOFF: Here. Thank you.

Would you swear in the township professionals, Ms. McGovern?

JOHN J. HESS, P.E., P.P., Consulting Engineer, is duly sworn/affirmed by the Board attorney.

GERARD M. HAIZEL, P.P., Consulting Planner, is duly sworn/affirmed by the Board attorney.

MS. McGOVERN: Thank you.

CHAIRMAN BAGOFF: Two housekeeping things. I incorrectly previously stated this is an overlay zone. This is not. This is an actual zone in the Township of West Orange.

The second thing is, somebody had asked

1 a question about the deer fencing and it led people
2 to comment that no matter what, the application was
3 a foregone conclusion and the Board has concluded.
4 We have not. The deer fence will only be put up if
5 the application is approved. If the application is
6 not approved, there will be no deer fencing. Please
7 make that clear in your minds, okay?

8 And I would ask if anybody has
9 questions, please contact our Board attorney. Thank
10 you.

11 Application PB 24-01, West Essex
12 Highlands, Incorporated, Block 79, Lot 31, Zone
13 IH-1, Warner Road. The applicant is proposing to
14 develop a 496-unit inclusionary multifamily
15 residential development on a vacant 120-acre
16 property in the northwest corner of the Township of
17 West Orange.

18 For the applicant, Mr. Plocker.

19 MR. PLOCKER: Hi. Good evening,
20 Chairman Bagoff and Board members. Brian Plocker
21 from the firm of Hutt, Shimanowitz & Plocker on
22 behalf of the applicant, West Essex Highlands, Inc.

23 Just a couple of housekeeping items.
24 Our court reporter requested that she be able to
25 transcribe via Zoom tonight. It is much clearer on

1 the scene, I believe it was Mr. Haizel, the Board's
2 planner, that had asked for some kind of
3 demonstrative exhibit regarding the bulk variance
4 that we're seeking regarding exposure of the
5 foundations. Is that your recollection?

6 MR. APPEL: Yes.

7 MR. PLOCKER: Okay, and did you
8 prepare such an exhibit?

9 MR. APPEL: Yes.

10 MR. PLOCKER: Okay, I'll let you take
11 it away.

12 MR. APPEL: Hello, everyone. The
13 exhibit that was prepared today that is dated
14 8/14/24, it includes seven sheets, and the seven
15 sheets should -- what should we be tagging this?

16 MS. McGOVERN: A-3.

17 MR. APPEL: A-3? Okay.

18 MS. McGOVERN: What are we going to
19 call this, Mr. -- is it a PowerPoint?

20 MR. APPEL: I will call it a
21 Foundation Exposure Exhibit --

22 MS. McGOVERN: Okay.

23 MR. APPEL: -- if that's clear.

24 MS. McGOVERN: Sure.

25 MR. APPEL: So I will --

1 the Zoom, apparently, than in the room, so I did
2 talk to Ms. McGovern today and she said that would
3 be acceptable. I'd just like to confirm with Mr.
4 Fagan that Ms. Quick, our reporter, is on the Zoom.

5 (Mr. Fagan, Zoom Moderator, confirms that Ms.
6 Quick is attending via Zoom.)

7 MR. PLOCKER: Okay, thank you very
8 much. That being said, I believe we last left off
9 with our architect, Larry Appel. He had finished
10 his initial testimony, took questions from the Board
11 and the Board professionals. Mr. Appel is here
12 again tonight and I would like to call him for some
13 additional testimony, after which the Board, the
14 professionals and the public can ask their
15 questions.

16 CHAIRMAN BAGOFF: Go right ahead.

17 MR. PLOCKER: The applicant calls Mr.
18 Appel.

19 CHAIRMAN BAGOFF: You know you're
20 still under oath, for the record.

21 THE WITNESS: Yes.

22 CHAIRMAN BAGOFF: Okay, thank you.
23 L A U R A N C E A P P E L, P. A., was previously
24 sworn/affirmed by the Board attorney.

25 MR. PLOCKER: Mr. Appel, just to set

1 MS. McGOVERN: And you'll send that to
2 our Board -- or you already did send it to the Board
3 secretary?

4 MR. APPEL: Yes, I did.

5 MS. McGOVERN: So Jamilet, in the
6 records that we have, this will be marked as A-3. I
7 think that was our next -- our next number.

8 UNIDENTIFIED VOICE: I'm sorry, is
9 that A, for apple, 3?

10 CHAIRMAN BAGOFF: Yes, apple 3.

11 MS. McGOVERN: Applicant, A for
12 Applicant, yes.

13 CHAIRMAN BAGOFF: Say that again for
14 the people in the back, Ms. McGovern.

15 UNIDENTIFIED VOICE: (Inaudible)

16 MS. McGOVERN: Speak up or turn it
17 off?

18 MEMBER OF THE PUBLIC: Or lower it.
19 (Many members of the public speaking at
20 once...inaudible)

21 MS. McGOVERN: All right, we'll be
22 louder until they can figure out if they can turn it
23 down. Okay.

24 MR. APPEL: All right, can everyone
25 hear me all right?

CHAIRMAN BAGOFF: Yeah.

MR. APPEL: Okay, great.

(Whereupon Council President Rutherford joined the meeting.)

CHAIRMAN BAGOFF: Hang on one second. Let the record show Council President Rutherford joined the Board.

MR. APPEL: So on this exhibit, we have taken each of the elevations from the Planning Board set and we have appended a blue line and that blue line is across here (indicating), and that blue line represents the line of conformance with the ordinance. So there was a metric of 50 percent of exposure and we had -- Mr. Anderson, during his site testimony, had explained that due to grading conditions and not having walls, that -- and there's a lot of changes in topography, that the exposure on some of the buildings varies and was triggering above that 50 percent, so what we're showing in here is that this line, if this is conforming, then what is below the line between this line and grade is, um, is what the relief that is being requested is, and we explained the whys and the hows, but I think, graphically, this shows more of a picture. And as you can see, as you scroll through all of these --

where the maintenance building is on the site, which is kind of over where the north arrow is on the, uh, on the map. So these areas have very little visibility, and now I'm going to switch to the last page of the exhibit that is going to show -- what we did is we blew up that area at center where we had the worst of the exposure and put some color on this, and one of the things that we were talking about when we -- on testimony last time was that, where we had these areas that were dropped because, in this particular case, we're exposing a second level of the -- of a garage below the building, and why did we do this? Because it was -- grade was taking us there. It was -- we're putting these buildings on a site that has a bunch of topography, and when we balance off getting all the vehicular circulation to work and all the pedestrian circulation to work, we have to get all the grade to match up or else we're going to end up with a series of retaining walls all over the place, which I think would be worse, so we concentrated on the architecture in here, and in these lower exposed areas, we started creating -- in the openings that are for natural ventilation, we started creating what we're calling these "green walls," and that's

as you scroll through all of these elevations, there's not an awful lot that is -- that is below that blue line. That blue line, in certain cases, based on grade, is that it creates -- this area, for instance, is Elevation C facing the clubhouse, and I'm going to show a larger version of this because I think it will be helpful to explain how we're addressing this and how we're treating this elevation.

So what -- what we have in here is this is the area, that blue line is representative of conforming, and in some cases, when you come to the ends, you can see that there is a broader piece and this is exactly the point that we're making, is that, as the topography changes, there was importance and reason to follow that.

Now, some of these areas are exposed and some of the areas are not exposed. So for instance, I'm showing an area for Building A-2 elevation. If you can zoom back out, please. And then A-2. These are all keyed in -- these are the end caps of the elevations in here so that you can see. This is Tag 4. So this is on the left side of the building, so the only people that will really see this are residents coming into the building and

what I referred to, where we're taking and growing vegetation up from planters through what would have been just a guardrail to help soften these areas.

In addition to that, remember there is -- there are foundation plantings along the building as well as street trees or, I'm not going to call them street trees because this is really an access aisle, but there -- there are trees in here as well. We've drawn these trees semi-transparent as a blend because, in the winter, they're going to have less foliage; in the summer, they will have more, so this was sort of getting you to a place halfway between.

And then what -- also another element brought up was about -- one of the Board members had suggested adding tree islands in the parking areas, and I think this would only further, if we're smart on where we place these -- these additional trees in the island, it's only going to provide another -- still another layer of greenery and landscaping, so we have potentially the tree islands in the parking area plus these additional trees at the building, then layered beyond that is the foundation landscaping, and then beyond that in some of these openings is what I'll call "the green wall" or "green facade." And again, this was what we

1 believed to be one of the worst areas for foundation
2 exposure.

3 I think that was everything directly
4 related to this issue and I think -- I believe
5 addresses the questions raised by the -- by the
6 Board here.

7 MR. PLOCKER: Thank you, Mr. Appel.

8 CHAIRMAN BAGOFF: Okay, Mr. Klein.

9 MR. KLEIN: Can you go back half a
10 step and just explain? So what's the regulation
11 that you're asking for relief from; can you describe
12 it a little?

13 MR. APPEL: So the metric in the
14 ordinance presents that you're allowed to have --
15 you have to balance that you can have 50 percent of
16 the foundation is exposed and 50 percent would be
17 buried, and in our case, due to topography, we have
18 certain areas, and I'll go back over here, that's
19 the balancing point there, so just between the blue
20 line down to grade is what we're seeking relief on.
21 Now, every facade looks a little bit different, but
22 that is what we did as a tool in here. These were
23 done in collaboration with the site engineer and we
24 did these exposure calculations for the foundation.

25 MR. KLEIN: So -- so leave that one

1 MR. KLEIN: Right.

2 MR. APPEL: -- a key plan. So there's
3 certain areas that -- the back side of this
4 building --

5 MR. KLEIN: Right.

6 MR. APPEL: -- nobody sees.

7 MR. KLEIN: Right.

8 MR. APPEL: This edge of the building
9 in here (indicating), I don't believe anyone will
10 readily see.

11 The area of Building A in here that is
12 exposed, the public would not see that, it's
13 residents or visitors coming to this back parking
14 lot that would see that.

15 Building C, you wouldn't see, really,
16 any issues except for the clubhouse looking back at
17 this building.

18 MR. KLEIN: And from that building
19 right below it when they look, right?

20 MR. APPEL: No, it actually -- kind of
21 the grade picks back up because --

22 MR. KLEIN: Oh.

23 MR. APPEL: -- this road is climbing
24 back up, so there's a low point over here --

25 MR. KLEIN: Okay.

1 up. Are there doors on that side? I see a couple
2 of doors in some places. If you were to bury that
3 -- I'll call it "bury it" -- 50 percent below grade,
4 you couldn't have doors on that side of the
5 building, right?

6 MR. APPEL: Well, it would have
7 required -- we worked closely with the site engineer
8 and we started looking, is that, yes, it would have
9 created issues with circulation, it would have
10 created additional retaining walls, it would have
11 also created additional disturbance and coverage to
12 get all this to work, so we did look to try and get
13 it as good as possible, but we felt that this
14 solution was far better architecturally as well as
15 on a -- on a site response than to do retaining
16 walls and wells for doors and all these other
17 elements like that.

18 MR. KLEIN: So around the perimeter,
19 the outside of all the buildings, that's going to be
20 viewed by the woods, that's going to be --

21 MR. APPEL: Well --

22 MR. KLEIN: -- shown out to the woods.

23 MR. APPEL: You're absolutely correct,
24 is that -- I'm going to, like -- up here, there's --
25 you have --

1 MR. APPEL: -- and then it slopes back
2 up, so if we looked at that Building C, which is
3 right here, as you can see, that depression then
4 looks back up --

5 MR. KLEIN: Okay.

6 MR. APPEL: -- and picks up from
7 grade. So it's --

8 MR. KLEIN: Okay.

9 MR. APPEL: -- dropped over here
10 (indicating) -- I'm sorry, I apologize, dropped over
11 here --

12 MR. KLEIN: Right.

13 MR. APPEL: -- and then picks back up.

14 MR. KLEIN: Okay.

15 MR. APPEL: So this is the only area.
16 These areas over here, I think are really quite de
17 minimis.

18 MR. KLEIN: I don't want to put --

19 MR. APPEL: And this is where we did
20 that elevation --

21 MR. KLEIN: Right.

22 MR. APPEL: -- in this area, because
23 we felt -- we tried to pick the area that was most
24 critical and the worst area to -- to show you how we
25 were handling it.

1 MR. KLEIN: Right. And that's the
2 one, upper and middle, that's where the garage door
3 is --

4 MR. APPEL: Right.

5 MR. KLEIN: -- so instead of having
6 ramps inside the garage, you can come out that level
7 and the upper level comes out the other side.

8 MR. APPEL: That's correct.

9 MR. KLEIN: Okay.

10 Mr. Haizel, I hate to put you on the
11 spot, but do you know what the intent of covering 50
12 percent of the -- and you're calling it "the
13 foundation" but it's really the first floor.

14 MR. HAIZEL: Yeah, in terms of the
15 intent, I was thinking the same thing, as a matter
16 of fact. It's not as striking looking at it at this
17 scale, but when you do get up -- close-ups of the
18 elevations you had, it is a little more striking.

19 One question I have that you may have
20 gone over at the last meeting, the green walls, as
21 you were referring to them, are those going to be
22 artificial synthetic or are they actual growing --

23 MR. APPEL: We would advocate that
24 that would be true, you know, natural plantings, not
25 artificial.

1 some homes; we were trying to design basically four
2 elevations that all had the same level of
3 architectural treatment and materials, et cetera.

4 MR. HAIZEL: And I would expect that,
5 based on the way that the height of the building is
6 measured, that you take it from the average grade,
7 this -- if I was standing up at the lowest point on
8 this elevation, the lowest point of where the...

9 (Whereupon the screen containing the plan
10 goes blank and then it is restored.)

11 MR. APPEL: I'm sorry.

12 So the way height is measured per the
13 ordinance is we have a height metrics -- metric from
14 the first floor upward in here --

15 MR. HAIZEL: Right.

16 MR. APPEL: -- so...

17 MR. HAIZEL: So, technically, if I was
18 standing up, this -- using this elevation that you
19 have here and I was looking up, my experience
20 looking from the grade level to the top of the
21 building would be quite different if I were in that
22 area where it goes down --

23 MR. APPEL: Yes.

24 MR. HAIZEL: -- the lower --

25 MR. APPEL: Yes. Absolutely.

1 MR. HAIZEL: And this is something
2 that would grow -- be green year round?

3 MR. APPEL: We'd be looking for
4 something, yes --

5 MR. HAIZEL: Okay.

6 MR. APPEL: -- that would be green.

7 MR. HAIZEL: But getting back to the
8 question you asked, I'm not sure exactly why, I
9 think that, you know, it does look a little more
10 striking as you are closer to it because you're not
11 actually looking at the building yet, you're sort of
12 looking at that basement, if you want, level --

13 MR. APPEL: Yeah.

14 MR. HAIZEL: -- you know, on this
15 perspective, it's pretty -- it's pretty noticeable.

16 MR. APPEL: And we also looked at
17 architecturally, we cut back this portion of the
18 roof, we did a cut-back over here (indicating) so
19 that we tried to soften the height of the building
20 at this area as well, so we looked to incorporate as
21 -- you know, and again, this is a facade that does
22 not face toward any of the neighbors, this faces
23 toward the clubhouse, but notwithstanding, we were
24 trying to -- remember, this project was not designed
25 with a front elevation and a rear elevation like

1 MR. HAIZEL: -- (indiscernible).

2 MR. APPEL: You're correct.

3 MR. KLEIN: Right, but you said you've
4 shortened the building.

5 MR. APPEL: Well --

6 MR. KLEIN: If you're standing that
7 close to the building, you won't see it.

8 MR. APPEL: We wedding-caked --

9 MR. KLEIN: Right.

10 MR. APPEL: -- this portion of the
11 building. Let me make sure we're looking at the
12 right -- over here. We wedding-caked this portion
13 of the building --

14 MR. KLEIN: Right.

15 MR. APPEL: -- so this building comes
16 up and then cuts back over here (indicating) --

17 MR. KLEIN: Right.

18 MR. APPEL: -- so as you're looking
19 down -- as you're close to the building, you're
20 going to be looking at this as a cornice line --

21 MR. KLEIN: Right.

22 MR. APPEL: -- as opposed to this top
23 portion because you're -- as you get back farther
24 and farther, then this will start coming into view.

25 MR. KLEIN: And to the left, you're

1 looking at the full height of the building.

2 MR. APPEL: That's correct. And to
3 the right. But over here, grade starts ticking back
4 -- back upwards.

5 CHAIRMAN BAGOFF: Council President
6 Rutherford.

7 COUNCILMAN RUTHERFORD: Thank you,
8 Chairman. I'm not sure that I understood the answer
9 to the question, so either Mr. Hess or Mr. Haizel,
10 what is the purpose for having the code this way in
11 the first place? Is it a safety issue? Is it a
12 stability issue; what is this, you know, this
13 foundation exposure percentage; why is that the
14 recommendation in the first place? And then -- and
15 I have a couple follow-ups.

16 MR. HAIZEL: My sense of it is the
17 area that's being affected by this is the parking
18 floor, the parking garage, and the intent, in my
19 opinion, of that would be so that there was a very
20 limited amount of that part of the building you see,
21 which is why I asked the question about the height.
22 If I were standing up at the bottom of that lowest
23 point, I would see one level of parking, another
24 level of parking, then the entire building, which is
25 a much different experience rather than if you were

1 50 percent of the first floor? It's a hundred
2 percent of the first floor. Right? It looks like
3 --

4 CHAIRMAN BAGOFF: Let him calculate --

5 MR. KLEIN: Yeah.

6 CHAIRMAN BAGOFF: -- and then he'll
7 answer your question.

8 MR. APPEL: I believe that will be --
9 I believe from that low point in here to the rooftop
10 will be 67 feet.

11 UNIDENTIFIED VOICE: Just from the
12 blue line, you're asking, right?

13 COUNCILMAN RUTHERFORD: From the blue.

14 MR. APPEL: So I'm going to basically,
15 not from the -- not from the blue but from the
16 bottom where grade is all the way up to the top of
17 the roof. Is that what you're asking?

18 COUNCILMAN RUTHERFORD: So that wasn't
19 what I was asking but that is a follow-up question
20 because that gets to the actual height of the
21 building as experienced from people walking at that
22 level, but what I wanted to know, and this is a
23 different way of asking the same question Mr. Klein
24 asked. I wanted to know what the height is from
25 where the grade is on this drawing to where it

1 standing at grade level, maybe at one level of
2 garage, and then the building.

3 COUNCILMAN RUTHERFORD: Okay.

4 MR. HAIZEL: So I think it's trying to
5 avoid that sense of being larger than it is type of
6 thing. That's -- that's -- that's my sense of the
7 intent of it.

8 COUNCILMAN RUTHERFORD: Got it. So
9 following up on that, do we know what the height is
10 from the lowest point where you are seeking this
11 variance to where the grade would be? So in this
12 particular -- the top drawing that you have, that's
13 Building C, elevation south. From the lowest point
14 in that dip to where grade should be, according to
15 code, do we know what that height is?

16 MR. APPEL: Bear with me one moment
17 because I want to -- rather than -- it'll be easier
18 for me to look at it on my computer, if I can zoom
19 in.

20 MR. KLEIN: So say again, that blue
21 line represents --

22 CHAIRMAN BAGOFF: Wait.

23 MR. KLEIN: I'm sorry.

24 CHAIRMAN BAGOFF: Mr. Klein.

25 MR. KLEIN: That blue line represents

1 should be, which I think is the blue line.

2 MR. APPEL: Correct. That -- that is
3 going to be closer to 67 minus 12, so 55.

4 COUNCILMAN RUTHERFORD: So 12 is the
5 number I was looking for.

6 MR. APPEL: And by the way, your
7 height is 75 feet permitted, so all these heights
8 are below, you know, we're talking about heights,
9 but all of these are below the height and the height
10 is permitted to be measured from the first
11 residential floor upward. So even if we take -- and
12 we took that height measurement down to that lower
13 point, we're still within the ordinance.

14 COUNCILMAN RUTHERFORD: So from the
15 bottom -- the lowest point to the top is 67 feet and
16 you're allowed to go 75.

17 (Whereupon Mayor McCartney joined the
18 meeting.)

19 CHAIRMAN BAGOFF: Hang on. Jamilet,
20 let the record show that Mayor McCartney joined the
21 Board. All right, go ahead, Mr. Appel.

22 (Inaudible discussion)

23 MR. KLEIN: Yeah, so can I --

24 CHAIRMAN BAGOFF: Mr. Klein.

25 MR. KLEIN: To me, I thought I would

1 see something that goes halfway through the first
2 floor --

3 MR. APPEL: Well, so --

4 MR. KLEIN: -- 50 percent.

5 MR. APPEL: So what you're not seeing
6 is that -- so this whole portion of the building is
7 completely buried to the first floor, so basically,
8 if you're going around the whole perimeter, if one
9 side is fully buried, the other side can be fully
10 exposed to get that 50 percent --

11 MR. KLEIN: Right.

12 MR. APPEL: -- and that's sort of the
13 balancing act that we were -- we were doing in here.
14 So the issue is one side's raised high but we can't
15 go higher or it'll cover the resident windows --

16 MR. KLEIN: Right.

17 MR. APPEL: -- and the unit windows --

18 MR. KLEIN: Right.

19 MR. APPEL: -- so we can't raise grade
20 anymore, you know, at this side, it's going to
21 impact windows.

22 MR. KLEIN: Right.

23 CHAIRMAN BAGOFF: Council President.

24 COUNCILMAN RUTHERFORD: That's it, Mr.
25 Chair.

1 consequential.

2 MR. PLOCKER: And just for the record,
3 the section of the zoning ordinance that Mr. Appel
4 is referring to is 25-19E(8)(a).

5 MR. KLEIN: So -- one more. So
6 between Mr. Haizel and Mr. Hess --

7 CHAIRMAN BAGOFF: Mr. Klein.

8 MR. KLEIN: -- which one of you
9 calculated the percentage that they are not below
10 grade or buried or whatever the -- non-exposed or
11 exposed?

12 MR. HAIZEL: This is (indiscernible) I
13 have with it --

14 MR. KLEIN: Okay.

15 MR. HAIZEL: -- because my reading
16 with it originally was it was 50 percent of that
17 height.

18 MR. KLEIN: Of the first floor.

19 MR. HAIZEL: Of the -- of that --

20 MR. KLEIN: Well, the whole foundation
21 basically.

22 MR. HAIZEL: Yes.

23 MR. KLEIN: Okay, all right.

24 MR. HAIZEL: But it, you know, it
25 looks as though now it's the -- the area of the

1 CHAIRMAN BAGOFF: Mr. Appel, in your
2 opinion, what is the ordinance for? Is it counting
3 stories?

4 MR. APPEL: Well, I believe the
5 ordinance -- I don't have this in front of me right
6 now but my understanding is height is measured from
7 the first floor, basically the residential first
8 floor, not the parking side of the building, so --
9 and -- so we've included those measurements for the
10 building, we're considerably below, and then we're
11 conforming with all other heights. Even if we took
12 worst-case scenarios down to these other grade lines
13 and things like that, but there was a metric, and I
14 think the metric was in there to not count this --
15 the -- basically the podium or the garage level for,
16 um, for height; they were providing some rules so
17 that the entire building wouldn't be out of grade,
18 but even if we were including the full height of the
19 building to the low point, we're conforming, so it's
20 -- it's a metric that sort of was there to protect
21 you from doing a 75-foot building and then having
22 the exposed or have a shorter building so that
23 exposure sort of is kind of, um --

24 MS. McGOVERN: Inconsequential.

25 MR. APPEL: -- you know, it's not

1 building itself, looking at the building, not just
2 ceiling height.

3 MR. KLEIN: So you can average it.

4 MR. HAIZEL: You can average it.

5 MR. KLEIN: Yeah, okay.

6 MR. APPEL: Which is -- which is
7 exactly the calculations that we had done. We went
8 around the building, we calculated it, we realized
9 that we were over this 50 percent metric and -- but
10 we were acceptable height-wise, and then we went
11 back looking "Okay, how do we fix it," and the fixes
12 were not good because they included retaining walls
13 and awkward grading concerns and additional
14 disturbance and we felt that this was a far better
15 way to address that metric.

16 MS. McGOVERN: What percentage over is
17 it?

18 MR. APPEL: Well, I think Mr. Anderson
19 had testified on the numbers in here. Building D is
20 54.8, so you're just a minor amount over; BC is
21 69.1; Building B is 67.4 and Building A is 76.5.
22 Now, also just to note, some of these where the
23 grade drops down is not open and visible. Some
24 areas are. I chose to pick out and highlight what I
25 considered the worst case, and that's why we did the

1 color -- the partial colored rendering at that
2 position.

3 CHAIRMAN BAGOFF: Mr. Guarino, do you
4 have any questions?

5 VICE-CHAIRMAN GUARINO: Not at this
6 time, Mr. Chairman.

7 CHAIRMAN BAGOFF: Mr. (pause) Alper.
8 I couldn't spit it out, I got stuck.

9 MR. ALPER: I think back on night 1, I
10 think I had asked Mr. Anderson about the 50 percent
11 foundation. My concern at the time was really if it
12 were -- if there were a technical reason from a
13 safety perspective, if it was about weathering or
14 ice or something being -- the building being exposed
15 versus aesthetics, and I think the gist of your
16 answer was aesthetics?

17 MR. HAIZEL: Yes. I'm sorry. Yes.
18 Yes. And again, I think unless you really
19 experience looking at a building and looking at the
20 first two floors of a building --

21 MR. ALPER: Um-hum.

22 MR. HAIZEL: -- its parking, it's a
23 different experience, it is.

24 MR. ALPER: Right. But Mr. Anderson,
25 if you could just nod if I have it right. It was --

1 MR. DRUCE: Yes, my name is Howard
2 Druce and I live on Barbara Avenue, which is
3 downstream from Howell Drive.

4 CHAIRMAN BAGOFF: Could I trouble you
5 to spell your last name for the record, please?

6 MR. DRUCE: D-R-U-C-E.

7 CHAIRMAN BAGOFF: Thank you.

8 MR. DRUCE: 15 Barbara Avenue. I have
9 two questions for the architect. The first question
10 relates -- well, they all relate to Building D
11 because that is what faces Howell Drive. The
12 rendering that you showed on the first time show the
13 front facing. I would like to ask you about the
14 rear aspect of Building D, which is what the
15 residents of Howell Drive are going to be looking
16 at, a 75-foot building in front of them.

17 Could you tell us, please, if there are
18 going to be the same facings as there are to the
19 front of the building, if there are going to be any
20 utility areas at the rear, such as for HVAC or for
21 trash or other installations that usually you see at
22 the rear of a building but you don't see on a front
23 facing?

24 MR. APPEL: I -- there are a bunch of
25 questions in there. I'll try and I will hopefully

1 it was -- between (indiscernible word) and
2 aesthetics, it was an aesthetic concern. Let the
3 record show he nodded, rather than having...

4 My only other question on tonight's --
5 on the living green wall, would the applicant be
6 amenable to a condition that that be maintained in
7 perpetuity, that it always be green, that it
8 wouldn't end up being dead in the winter, that sort
9 of thing?

10 MR. PLOCKER: That would be acceptable
11 to the applicant.

12 MR. ALPER: That's all I've got for
13 that. Thank you.

14 CHAIRMAN BAGOFF: Mr. Wilkes? No
15 questions. Mr. Cardoza?

16 MR. CARDOZA: None at this time, Mr.
17 Chairman.

18 CHAIRMAN BAGOFF: Okay, I'll go back.
19 Mayor McCartney. Thank you. Mr. Hess? I have no
20 questions. Mr. Haizel?

21 MR. HAIZEL: No.

22 CHAIRMAN BAGOFF: Do any members of
23 the public have any questions? Sir, you're up
24 first. State your name and spell your last name for
25 the record, please.

1 hit all of those, if I can go back to my exhibit.

2 So this drawing, I'm going to go to --
3 I'm going to switch to -- these are the D
4 elevations. So -- I'm looking over here. So we
5 have -- 4 is one of the elevations that is facing
6 toward Howell and the other is the rear. So let's
7 look to -- we're -- we're going to be looking --
8 let's first look at the north-facing Building D-2
9 elevation. So this is what you're -- what you're
10 looking at in here. So you were mentioning the 75
11 feet in height. 75 feet is the ordinance limit,
12 that's not the height of the building. So the
13 height of the building each face an exposure, so
14 this building, per the ordinance, is 47 feet 6
15 inches, but if you measured it onto grade, it's
16 going to be another 12 feet or so to that
17 approximate grade line. So you're considerably
18 lower than that 75.

19 Now, I'm going to -- so what you're
20 looking at on the building is this building, not
21 only does it present well, just like all the
22 architectural treatment around the front of the
23 building, but the building is wedding-caked, so if
24 you look at the side elevation in here, the building
25 goes up. You have one, two floors and then it cuts

1 back a floor and then it cuts back more. The
2 building's wedding-caked as it faces in that
3 direction, and that was done to soften all of these
4 edges architecturally. Why? We think it looks
5 good. It also created some outdoor space for
6 residents but it was mostly to what we call
7 "de-mass" the edges of the building.

8 Now, the other piece to look at in here
9 would be the -- along the east side over here and
10 this is what you will see. So the building presents
11 itself in two separate pieces separated by the
12 entry, so there's actually a D1 and a D2, and the
13 buildings -- so it breaks up into two pieces but --
14 if you can pull back, please. Great. And what you
15 will end up seeing is this portion of the building
16 and as you can -- as you can see, there are some
17 cut-backs that provide some relief. This face of
18 the building has a very similar feel, albeit it
19 doesn't have the front entry but it has a very
20 similar feel. Now, also, this portion of the
21 building, grade is up quite high over here.

22 (Document is scrolled.)

23 MR. APPEL: Right there. This portion
24 of the building is at that corner closest to Howell,
25 is -- grade is up quite high over here as well.

1 MR. APPEL: Right. There are no magic
2 pack or those type of HVAC units that would be
3 through wall or seen on the facade. They're
4 internal furnaces very similar to what people have
5 in their homes. It's called a split system. The
6 condensing units that I discussed during my
7 testimony, those are the areas on the roof where
8 those condensing units would be situated. There may
9 be one or two small condensing units on the ground,
10 but very limited.

11 MAYOR McCARTNEY: Thank you. Thank
12 you.

13 CHAIRMAN BAGOFF: Yes, sir, go right
14 ahead, state your name and spell your last name,
15 please, for the record.

16 MR. MISARTI: Okay. My name is Victor
17 miss, M-I-S-A-R-T-I, and I have a few questions
18 about the heights and specifically you just
19 mentioned the air-conditioning condensers that are
20 up on the roof. You show them on the roof plan and
21 I was just wondering, you don't show them at all on
22 the elevations. Does that affect the height
23 restriction?

24 MR. APPEL: That's a great question.
25 The reason why you don't see them on the elevation

1 MS. McGOVERN: (Audio distortion)
2 about utilities, where they would be.

3 MR. DRUCE: My second question, again,
4 I understand there are other things that you didn't
5 answer that could be on the record.

6 You talked about deer fencing, but I
7 did not hear anything about perimeter fencing.
8 Could you share with us if there will be perimeter
9 fencing around the property and especially facing
10 Howell Drive?

11 MR. APPEL: I -- I think that's a site
12 -- I think that's a site question, not an
13 architectural question. I don't believe that there
14 is perimeter fencing, that I recall, on there, but
15 it's really a site question.

16 MEMBER OF THE PUBLIC: Thank you.

17 CHAIRMAN BAGOFF: Hang on. Mayor
18 McCartney.

19 MAYOR McCARTNEY: So Mr. Appel, part
20 -- thank you, Chairman. Part of that question was
21 asking about utilities as well, and are those all on
22 the rooftop so nothing is visible on the rear of the
23 building?

24 MR. APPEL: So --

25 MAYOR McCARTNEY: (Inaudible)

1 is because they're all concealed.

2 MR. MISARTI: Oh. Behind the parapet?

3 MR. APPEL: You don't see them behind
4 parapet walls or screening so they're -- none of
5 them are visible.

6 MR. MISARTI: I see, good. Okay, and
7 you pointed out there were rooftop patios and they
8 have -- some of those have, like, decorative roofs
9 or something on it. Those -- are those shown? I
10 think so, right?

11 MR. APPEL: Excuse me, are they what?

12 MR. MISARTI: Are they shown on the
13 elevations?

14 MR. APPEL: You can -- you can see
15 those on the elevations, yes.

16 MR. MISARTI: Yes, I think so. Okay,
17 good.

18 The other thing I'm kind of surprised,
19 like, you say it's a four-story building, but then
20 you've got 50 percent more height, you've got two
21 more stories of parking, and that does not affect
22 the height, like, it fits within the height?

23 MR. APPEL: Well, there's -- there's
24 -- yes, they're all conforming with the height,
25 that's the first question, but more importantly is

1 that the -- all of the buildings have one story of
 2 parking below, it's called a podium, the parking is
 3 tucked under. There are a lot of benefits for this.
 4 It hides a lot of the parking that otherwise would
 5 have been creating a lot more disturbance on the
 6 property. In a couple of locations, due to a lot of
 7 constraints, we have tucked in, on Building C, a
 8 very small area to -- to provide some overflow
 9 parking as well as storage for the clubhouse, so
 10 only a small portion of Building C has -- has two
 11 levels of parking. Building A does not, Building B
 12 does not, Building C has a small area, and Building
 13 D, less than half of the building has a -- has an
 14 additional story of parking, and that was -- there
 15 was limited area at the -- at the top of the hill
 16 and that flat area and so we -- as grade dropped
 17 down, it just seemed to be a very natural place to
 18 tuck some additional parking there rather than
 19 creating more disturbance.

20 MR. MISARTI: Okay. Thank you. And I
 21 just have one question about the parking, under-the-
 22 building parking. When you showed the plan, that
 23 parking plan, it looks like there are a lot of
 24 columns, like you've got two or three parking spaces
 25 and the columns are right there and then especially

1 the condensers up on the roof.

2 MR. MISARTI: Okay. That's it. Thank
 3 you.

4 CHAIRMAN BAGOFF: Thank you. Please
 5 come up, state your name and spell your last name,
 6 please.

7 MS. BENYO: Hi. Good evening,
 8 everyone. Claire Benyo, B-E-N-Y-O. All right, I
 9 have several questions so just bear with me.

10 So first I wanted to ask, in follow-up
 11 to the sales pitch that we heard last week about all
 12 of the features and amenities that would be
 13 available to the residents, there were specific
 14 features that were highlighted, such as the
 15 buildings would be carved in and it would be nestled
 16 into the side of the slope, so I think there was a
 17 little bit of a conflicting viewpoint from the side
 18 view to the overhead view of how much this building
 19 is being carved into the slope. We were assured by
 20 the engineering team that it was set far back from
 21 the slope, but it was highlighted very much that it
 22 was nestled in, was actually the exact words that
 23 were used, that it was nestled in, it was a feature
 24 of those first-floor apartments.

25 MR. APPEL: I'm not sure of the

1 you're showing a lot where the tandem parking is. I
 2 mean, is that a risk that people are going to be,
 3 like, smashing into those columns with their car?

4 MR. APPEL: We've -- we've done a lot
 5 of these buildings; these are not -- these are
 6 standard stalls, not compact stalls, so we have a
 7 lot of jobs that have smaller drive aisles and
 8 compact stalls. This is actually very well
 9 proportioned, both for vehicular movement and moving
 10 cars, and these dimensions, we've -- we've used on
 11 several thousand other apartments and they -- they
 12 -- they do work quite well.

13 MR. MISARTI: Okay. You're not going
 14 to -- you're not going to smash into them. And you
 15 mentioned at the last meeting that they were pitched
 16 roofs on the building. It seems like they're all
 17 flat roofs.

18 MR. APPEL: I -- if I mentioned
 19 something pitched, it would have been in connection
 20 either with the maintenance building or the
 21 clubhouse. The remaining -- all of the residential
 22 buildings are flat roof, and the reason why we made
 23 them flat roof is because to get the high efficiency
 24 that was required by your -- the green provisions in
 25 the ordinance, we needed to use split systems with

1 context of what you're -- what you're asking in
 2 here.

3 MS. BENYO: Last time we were here,
 4 you showed some drawings of the building that was
 5 nestled into the side of the slope.

6 MR. APPEL: Well, all of the -- all of
 7 the buildings have a high side and a low side, so
 8 the high side, the buildings are, in fact, all
 9 pushed into the grade and the slope, so -- but
 10 that's why I'm not --

11 MS. BENYO: So it's pushed into the
 12 grade of the slope but it's not on the slope, we
 13 were assured it was very far from the slope.

14 MR. APPEL: Oh, I think --

15 MS. BENYO: Or is it built into the
 16 slope?

17 MR. APPEL: I think you're talking a
 18 different question.

19 CHAIRMAN BAGOFF: Mr. Plocker.

20 MR. PLOCKER: I just wanted to
 21 clarify. I believe there was a discussion in
 22 testimony regarding the distance of Building D from
 23 what we'll call "the ridgeline," or it's not really
 24 the ridgeline but it was the line that was used in
 25 the concept plan on the settlement agreement, and

1 Mr. Appel had testified about how the ordinance and
2 the settlement agreement required building all
3 construction or development to be west of that
4 ridgeline, and Mr. Appel testified that the actual,
5 you know, land east of that line actually still
6 remains a bit flat but -- I don't want to take his
7 words from him, but I think there might be some
8 confusion about all the buildings and how they're
9 built into the slopes on the property with the
10 actual ridgeline that's on the concept plan and on
11 our plans.

12 CHAIRMAN BAGOFF: Mr. Appel, do you
13 agree with that?

14 MR. APPEL: Yes. Yes, I do. Building
15 D, if that is your question --

16 MS. BENYO: Um-hum.

17 MR. APPEL: -- was placed on the flat
18 area that was prescribed in the ordinance and
19 there's a -- there are ridgeline measurements and we
20 designed the building to fit within those lines that
21 were created by the ordinance.

22 MS. BENYO: Okay, thank you. And what
23 geotechnical assessments have been done for those
24 buildings on that slope?

25 MR. APPEL: Well, what you've got to

1 remember is this is a Planning Board application, so
2 the hard engineering for construction drawings
3 hasn't been done yet.

4 MS. BENYO: If I might, I'm running
5 out of time so if I might just interrupt you. When
6 will the geotechnical assessments --

7 MR. APPEL: There was --

8 MS. BENYO: -- be done?

9 MR. APPEL: There was already
10 geotechnical reports --

11 MS. BENYO: Um-hum.

12 MR. APPEL: -- as a starting point,
13 indicating height and levels of rock and suitability
14 for design and foundations. That is done, not by me
15 but by a structural engineer who will review all
16 that and design the foundation so that they will
17 properly interface with the subsurface conditions.

18 MS. BENYO: And where is that
19 information available to the public?

20 MR. PLOCKER: It's not.

21 MR. APPEL: It's not --

22 MR. PLOCKER: It's not part of this
23 application.

24 MR. APPEL: -- part of this
25 application.

1 MS. BENYO: Will there be any publicly
2 available information for a geotechnical assessment
3 on the stability of the slope with the additional
4 weight of the building and construction and blasting
5 and water irrigation systems and new pipes and
6 gates?

7 MR. PLOCKER: My client will have to
8 apply for building permits with the Township of West
9 Orange. There are many regulations and state
10 regulations that govern those items and my client
11 will have to comply with them. And once those
12 permit applications are filed, presumably, they will
13 be available from the Township of West Orange.

14 MS. BENYO: And what would be some --
15 an example of a reason that you might not be able to
16 build on a site based on those assessments?

17 MR. APPEL: I'm not aware; the
18 question is not if, the question is how, so
19 normally, these things are -- they design the
20 foundations based on the subsurface conditions.

21 MS. BENYO: Thank you. And I have a
22 question for the Board. Will the Township of West
23 Orange be hiring a geotechnical engineer to assess
24 the stability of the slope and the impact that this
25 will have to the land and the surrounding land

1 around it?

2 CHAIRMAN BAGOFF: Don't know yet.
3 We'll get back to you on that.

4 MS. BENYO: Okay, thank you.

5 CHAIRMAN BAGOFF: You're welcome.

6 MS. BENYO: Can I continue? I have
7 just another section about the fencing.

8 CHAIRMAN BAGOFF: Go ahead. One more
9 and --

10 MS. BENYO: So these are questions now
11 specifically about the fencing. Are you responsible
12 for designing the deer fencing and selecting the
13 materials?

14 MR. APPEL: I am not personally.

15 MS. BENYO: Who is responsible for
16 selecting the materials and installing the deer
17 fencing?

18 MR. APPEL: I would assume it would be
19 under the -- the responsibilities of the site
20 engineer.

21 MS. BENYO: And when will it be
22 available to speak to the site engineer during this
23 hearing process?

24 MR. PLOCKER: Well, Mr. Anderson
25 testified; if you have further questions, there's a

1 very good chance he'll be re-called at some point in
2 these hearings, it's likely not going to be tonight,
3 but with regard to deer fencing, my client would
4 obviously work with the -- should there be an
5 approval, would work with the township professionals
6 in using appropriate material and structure and
7 color and things of that nature.

8 MS. BENYO: Is the sole purpose of the
9 deer fencing solely to regrow the forest; there's no
10 other reason that the fence is in the settlement?

11 MR. APPEL: That's outside my
12 expertise.

13 CHAIRMAN BAGOFF: Okay. Can you let
14 some others and we'll come back --

15 MS. BENYO: Sure.

16 CHAIRMAN BAGOFF: -- thank you.

17 MS. BENYO: Okay.

18 CHAIRMAN BAGOFF: Come back. Thank
19 you.

20 Welcome. State your name and spell
21 your last name for the record, please.

22 MS. PEARSON: Can you hear me?
23 Jessica Pearson, Verona. Good evening and --

24 CHAIRMAN BAGOFF: Spell your last name
25 for the record, please.

1 elevation from ground level showing, so that's one,
2 but I have heard, in passing, others being asked
3 for, "This is going to be a waiver," "We have a
4 variance," "We're going to be asking for a variance
5 for access through this roadway." Could you
6 enumerate the variances that are being sought?

7 CHAIRMAN BAGOFF: Mr. Plocker.

8 MR. PLOCKER: I could state for the
9 Board --

10 MS. PEARSON: Thank you.

11 MR. PLOCKER: -- that the only
12 variance under the Municipal Land Use Law being
13 sought is the one for the percentage of exposure of
14 the foundations. That was just discussed and
15 testified to --

16 MS. PEARSON: Okay.

17 MR. PLOCKER: -- by Mr. Appel. There
18 are two de minimus RSIS exceptions that would be
19 outside of Mr. Appel's expertise.

20 MS. PEARSON: Okay, but I'm asking for
21 the whole kit and caboodle, so are those the only
22 ones, three? Well, outside of his jurisdiction but
23 still de minimis --

24 MS. McGOVERN: He doesn't --

25 CHAIRMAN BAGOFF: Ms. McGovern.

1 MS. PEARSON: P-E-A-R-S-O-N.

2 CHAIRMAN BAGOFF: Thank you.

3 MS. PEARSON: You're very welcome, and
4 I thank the Board for putting in so many hours on
5 this.

6 So Mr. Appel, you have asked a couple
7 of -- you mentioned in passing, but I would like to
8 know if there's ever been a formal enumeration of
9 variances being sought at least from your end and if
10 so, could you please enumerate them? Variances, one
11 being the height of the -- what we were just talking
12 about --

13 MR. APPEL: The --

14 MS. PEARSON: -- the height of the --

15 MR. APPEL: The only --

16 MS. PEARSON: -- base of the building.

17 CHAIRMAN BAGOFF: He can answer.

18 MR. APPEL: The --

19 MS. PEARSON: Are the elevations
20 showing?

21 MR. APPEL: The only relief from the
22 ordinance is the exposure of the foundation. The
23 height is fully conforming -- actually, the height
24 is fully --

25 MS. PEARSON: I was talking about the

1 MS. McGOVERN: If it's -- if it's not
2 within his purview, he doesn't have that
3 information. He's not an expert in that field. I
4 think that's the traffic side of things, is that
5 where the RSIS --

6 MR. PLOCKER: Yeah, I believe Mr.
7 Anderson already touched on them and our traffic
8 engineer, Mr. Pehnke, will testify to those when he
9 testifies.

10 MS. PEARSON: Okay.

11 MS. McGOVERN: So RSIS is different
12 than a variance.

13 MS. PEARSON: I understand what RSIS
14 is. Thank you, though, I appreciate that.

15 The green wall shielding over the
16 garage, over the grills, will any of that green
17 material act to block the necessary ventilation
18 that's needed in some of those underground garages?

19 MR. APPEL: We --

20 MS. PEARSON: Just curious.

21 MR. APPEL: That would be -- that
22 would be designed to balance that off. Some of the
23 garages will require mechanical ventilation. We're
24 hoping the majority of them will remain naturally
25 ventilated because we think that's a better

1 response.

2 MS. PEARSON: Okay. So who's going to
3 testify about that? You're just saying that it'll
4 be mechanically done and that's that?

5 MR. APPEL: Well, it's either going to
6 be naturally ventilated or mechanically ventilated.

7 MS. PEARSON: Okay.

8 MR. APPEL: There's nothing more I can
9 offer on that.

10 MS. PEARSON: Thank you. At one hour
11 and 32 into the meeting on July 31, you stated that
12 Mr. Anderson had shared the geotechnical reports
13 with you, after which you stated the best way to
14 support a building is on bedrock, adding that we
15 have an opportunity here to build on bedrock, noting
16 that you design these things to a degree, but we
17 also hire other people, we read the reports, et
18 cetera, and then you stated that the conditions here
19 are not scary but ideal. However, you did add that
20 there was a negative to this, that there might be
21 some rock that has to be moved away from certain
22 areas in order to construct the building, so with
23 that in mind, would you have a good idea about where
24 the movement of rock will have to occur? Since you
25 had the geotechnical report, could you show us on an

1 MS. PEARSON: Actually --

2 MR. PLOCKER: Is that a matter within
3 your expertise?

4 MR. APPEL: Not really, it's really
5 given to us through geotech reports and other
6 information.

7 MS. PEARSON: But you testified on
8 that report, sir, so I would like to know where that
9 rock will need to be moved, and you also went on --
10 went a little bit further on your testimony on the
11 rock, stating that -- hold on. You also stated that
12 the rock was thin in certain areas and fractured.
13 You said that too.

14 MR. APPEL: So that is --

15 MS. PEARSON: You must know where
16 we're going to have to move rock if you know where
17 --

18 CHAIRMAN BAGOFF: Let him answer the
19 question, please. You asked the question, let him
20 answer, please.

21 MR. APPEL: If I can answer, the
22 geotechnical report provides recommendations for
23 construction.

24 MS. PEARSON: Mmm.

25 MR. APPEL: This is a starting point.

1 overview where you feel the most amount of rock will
2 be being removed, since you told us that you knew --
3 you know where that is.

4 CHAIRMAN BAGOFF: I don't think he
5 testified to that.

6 MR. APPEL: I --

7 MS. PEARSON: One hour and 32. I have
8 it right here.

9 CHAIRMAN BAGOFF: Mr. Appel, did you
10 testify to the movement of rock?

11 MS. PEARSON: Yes --

12 MR. APPEL: I --

13 MS. PEARSON: -- at one minute -- one
14 hour and 32 minutes.

15 MR. APPEL: My --

16 CHAIRMAN BAGOFF: Hang on.

17 MR. APPEL: My --

18 CHAIRMAN BAGOFF: I'm going to ask the
19 expert. Hang on. Thank you. Okay. Did you
20 testify to the movement of rock?

21 MR. APPEL: My recollection in here is
22 that I mentioned only that I understood that some
23 rock would need to be removed, not about locations
24 or amount, and I -- I cannot get into more detail
25 than that.

1 And the recommendations indicated that they -- based
2 on the subsurface analysis, is that some of the rock
3 is friable, that it can be removed mechanically. So
4 that's what I was making reference to.

5 MS. PEARSON: Well, you referenced the
6 geotechnical report a number of times, as did Mr.
7 Anderson; the two of you both took the opportunity
8 to add testimony about that report, so my question
9 is: Why isn't it available for public consumption
10 if we've had two experts, not even just one but two
11 experts testify on a report that has not been made
12 public for us to read? And if you don't want to
13 make it public because only two experts and not the
14 author, then I think that it's time to bring the
15 author of that report in to testify on it because we
16 have two second parties doing so.

17 (Pause)

18 MS. PEARSON: No?

19 CHAIRMAN BAGOFF: This is time to ask
20 questions of the expert.

21 MS. PEARSON: So will you bring the
22 geotechnical or will you make the report public?

23 CHAIRMAN BAGOFF: We don't know yet.

24 MS. PEARSON: Will you send the
25 Planning Board your -- the geotechnical report --

1 perhaps I'm asking the attorney about this -- so
2 that that report, after having been testified by two
3 of you experts, could be made public for public
4 consumption?

5 CHAIRMAN BAGOFF: This is up to the
6 applicant.

7 MS. PEARSON: I am asking the
8 applicant.

9 CHAIRMAN BAGOFF: Okay, good. Thank
10 you.

11 MS. PEARSON: And the applicant is not
12 answering me.

13 MR. PLOCKER: I'm sorry, I'm not -- I
14 did not testify, I'm not answering --

15 MS. PEARSON: Okay.

16 MR. PLOCKER: -- that question right
17 now.

18 MS. PEARSON: So even though you
19 represent this poor gentleman sitting next to you --

20 MR. PLOCKER: Well, I don't think he's
21 a poor gentleman, I think he's a very qualified
22 architect --

23 MS. PEARSON: I understand that but --

24 MR. PLOCKER: -- who I've worked with
25 before.

1 comply with --

2 CHAIRMAN BAGOFF: Ma'am, you're
3 testifying.

4 MS. PEARSON: I'm --

5 CHAIRMAN BAGOFF: Ma'am --

6 MS. PEARSON: -- asking a question.

7 CHAIRMAN BAGOFF: Ma'am, you're
8 testifying.

9 MS. PEARSON: Excuse me. I am not.
10 I'm asking a question, it's a leading question and
11 I'm trying to get to it. Let me finish, please.

12 How can this, with all of those
13 surrounding conditions, be safe? How can you
14 testify to that being safe? If it's an ideal place
15 to put your building on fractured rock, how is that
16 safe?

17 MR. PLOCKER: That's outside the
18 architect's expertise.

19 MS. PEARSON: But he testified to it.

20 MR. PLOCKER: That's outside his
21 expertise.

22 MS. PEARSON: Well, maybe we should
23 have stopped him from testifying when he said it.

24 Sir, could you please answer the
25 question?

1 MS. PEARSON: -- you're leaving him
2 hanging.

3 MR. PLOCKER: I don't want to get into
4 a colloquy, I don't want to argue; what I will
5 represent, again, is that any of the site work post
6 approval that needs to be done, including the
7 removal of rock, it is all regulated, it is
8 regulated by the State of New Jersey, it is
9 regulated by the Township of West Orange, and my
10 client will 100 percent acknowledge on the record
11 that it must comply with all of those requirements.

12 MS. PEARSON: That's fine, but can you
13 make that report public for public consumption, and
14 why not?

15 MR. PLOCKER: I don't have an answer
16 for that now. Thank you.

17 MS. PEARSON: Okay. So Mr. Appel,
18 following up on how this -- I just want to touch
19 base on what you said about the rock, thin in some
20 areas. Even though it's a perfect place to put a
21 building, the ideal place to put a building, how
22 could this fractured rock condition, after removing
23 roughly 5904 trees and while refusing to comply with
24 the most current and more strict stormwater
25 management rules that all major developments have to

1 MR. APPEL: There's -- there will be a
2 structural engineer that will be responsible for the
3 design of the foundations, in accordance with the
4 geotechnical exploration, and that is typically
5 what's done. That's what's done on every project.

6 MS. PEARSON: No answer. Thank you.
7 (Applause by members of the public)

8 CHAIRMAN BAGOFF: Welcome. Please
9 state your name for the record and spell your last
10 name, please.

11 MR. PETER GUARINO: My name is Peter
12 Guarino, G-U-A-R-I-N-O.

13 CHAIRMAN BAGOFF: You have the floor,
14 sir.

15 MR. PETER GUARINO: Okay. Question:
16 My understanding, and if you can confirm, is that
17 you're proposing a kennel, a dog kennel?

18 MR. APPEL: There is a -- there is a
19 building that is -- that is going to be for dog
20 care, correct.

21 MR. PETER GUARINO: Okay. Is it
22 available to the public?

23 MR. APPEL: I don't have details on
24 the operation of that, only that the -- that the
25 building was placed and it's available for -- for

1 residents.

2 MEMBER OF THE PUBLIC: (Inaudible)
3 it's not available.

4 CHAIRMAN BAGOFF: Ma'am, please.
5 Thank you. Ma'am, ma'am, ma'am, I'm asking you to
6 -- thank you.

7 MEMBER OF THE PUBLIC: Okay.

8 CHAIRMAN BAGOFF: Go right ahead, sir.

9 MR. PETER GUARINO: Do you know how
10 big the kennel is where you propose it?
11 (Pause)

12 MR. APPEL: The current footprint of
13 the building is 50 feet by 24, so that's 1200 square
14 feet times two stories.

15 MR. PETER GUARINO: Two stories.
16 Okay. And if I remember correctly, did you say that
17 that was also part of the maintenance building?

18 MR. APPEL: No, it's next to the
19 maintenance building.

20 MR. PETER GUARINO: It's next to the
21 maintenance building. And what's the proximity of
22 that building to the setback along Avon Drive?

23 (Pause)

24 MR. APPEL: I would not know the
25 setback without looking at the site plan.

1 about the common amenity deck on the roof of
2 Building D, so that is -- there's exposure toward --
3 I guess facing easterly, which I guess could be a
4 little bit impacted, you know, where you could see
5 some angled view from Howell, it doesn't directly
6 face Howell, but the exposure toward Howell is maybe
7 around 70 feet in width. So -- now, in addition to
8 this, what was discussed at the prior meeting was
9 that there was desire to put some greenery up on the
10 roof and we thought that was a great idea,
11 suggestion by the Board and we think what that will
12 also do is it will push activity away from the
13 perimeter of that deck, so by having either potted
14 trees or planters there, it will push activity away
15 from the edge of the building, which I think will be
16 helpful with -- with regard to that.

17 MS. MEYEROWITZ: Will the trees
18 between the building and the cul-de-sac on Howell be
19 torn down and can those be replanted to prevent the
20 noise?

21 MR. APPEL: I --

22 MS. MEYEROWITZ: Or can anything else
23 be done to mitigate the noise coming from that
24 rooftop to Howell Drive?

25 MR. APPEL: Well, you gotta remember,

1 MR. PETER GUARINO: Okay. And I don't
2 know if you can answer this, but having a kennel
3 that may or may not be available to the public,
4 would that not increase traffic flow?

5 MR. APPEL: I couldn't comment on the
6 traffic that's generated from that.

7 MR. PETER GUARINO: All right. Thank
8 you.

9 CHAIRMAN BAGOFF: Thank you, sir.
10 Ma'am, come up. State your name and
11 spell your last name, please.

12 MS. MEYEROWITZ: Nancy Meyerowitz,
13 M-E-Y-E-R-O-W-I-T-Z. I have a couple questions
14 about the roof deck on Building D.

15 First of all, why would you put the
16 roof deck on Building D, which is only a hundred
17 feet from Howell Drive and many of the houses on
18 Howell Drive and much closer than any of the other
19 buildings to other houses, and what will we see from
20 Howell Drive? Will the windows face -- will there
21 be a patio on both buildings; will the windows face
22 Howell Drive? Can you talk a little bit about the
23 roof deck and the impact on Howell Drive?

24 MR. APPEL: So the roof deck is at
25 center of the building so it's -- if you're talking

1 the closest house to the edge of the closest portion
2 of the building is almost 270 feet.

3 MS. MEYEROWITZ: I thought it was 106.

4 MR. APPEL: So that's --

5 MEMBER OF THE PUBLIC: Woods?
6 (Many members of the public shout out -
7 indiscernible)

8 MS. MEYEROWITZ: We're right on the
9 cul-de-sac, I mean, our property touches on the
10 cul-de-sac.

11 (Many members of the public shout out -
12 indiscernible)

13 MR. APPEL: So I don't have the street
14 addresses of the houses, but from the -- the
15 northern edge of Building D, we took measurements to
16 several of the houses that exist, which would be on
17 the northern side of Howell Drive, I guess around
18 where that cul-de-sac is, and those dimensions to
19 the edge of the building are in excess of 300 feet
20 from the --

21 MS. MEYEROWITZ: Okay, because the
22 documents that are on the website seem to say it was
23 106 feet.

24 MEMBER OF THE PUBLIC: 106 feet.

25 MEMBER OF THE PUBLIC: Yeah.

1 (Many members of the public shout out -
2 indiscernible)

3 MEMBER OF THE PUBLIC: Setback is 106
4 on Howell.

5 CHAIRMAN BAGOFF: Ma'am, you can come
6 up and ask questions. Thank you.

7 MS. MEYEROWITZ: All right, so the
8 last, are there trees coming down between the
9 building and the cul-de-sac and can those be --

10 MR. APPEL: As far as where the
11 disturbance lines are, that's really a site
12 question, site engineering question.

13 MS. MEYEROWITZ: There are trees
14 coming down. Thank you.

15 CHAIRMAN BAGOFF: Thank you.

16 Please come up and state your name and
17 spell your last name, please.

18 MR. DUBOVY: Todd Dubovy, D-U-B-O-V-Y.

19 CHAIRMAN BAGOFF: Thank you.

20 MR. DUBOVY: 10 Burnett Terrace. I've
21 got a question more for clarification.

22 If a person's involved in a settlement
23 agreement on the prior matter, should not the person
24 who's been involved in the settlement agreement
25 recuse themselves from the current matter?

1 conflict of interest --

2 MS. McGOVERN: Well, that's not a
3 conflict. It's not considered a conflict. They
4 have no pecuniary interest in this outcome. It is
5 not a conflict here.

6 MR. DUBOVY: I disagree, but that's
7 okay. All right.

8 The other question I've got has to do
9 with street canopy. We're talking about 6,000-plus
10 trees being removed. Has anybody done a --

11 CHAIRMAN BAGOFF: Sir, I don't believe
12 he testified -- correct me if I'm wrong, did you
13 testify on tree removal?

14 MR. APPEL: No.

15 CHAIRMAN BAGOFF: Okay, he didn't
16 testify to tree removal so he can't answer that
17 question, sir.

18 MR. DUBOVY: Anybody else who can?

19 CHAIRMAN BAGOFF: Yes. But not at
20 this moment.

21 MR. DUBOVY: (Indiscernible)

22 CHAIRMAN BAGOFF: But not at this
23 moment.

24 MR. DUBOVY: Okay. All right.

25 CHAIRMAN BAGOFF: Thank you.

1 CHAIRMAN BAGOFF: No. That's a matter
2 of law, not a matter for the -- this applicant and
3 the questioning for them. So I'll give that to the
4 attorney.

5 MS. McGOVERN: No, not in this case.

6 The Planning Board is composed of people that are in
7 government, the mayor, Council --

8 MR. DUBOVY: Right.

9 MS. McGOVERN: -- persons.

10 MR. DUBOVY: Right, but if somebody --

11 MS. McGOVERN: -- and --

12 MR. DUBOVY: -- has been involved in
13 the settlement agreement prior to --

14 MS. McGOVERN: It's anticipated that's
15 part of being on the Planning Board. This is not
16 Zoning Board. Zoning Board has no members of the
17 governing body --

18 MR. DUBOVY: Right.

19 MS. McGOVERN: -- involved in it. By
20 statute, governing body members are part of the
21 Planning Board. This is -- this is a common thing.

22 MR. DUBOVY: So the government
23 employees --

24 MS. McGOVERN: It's an --

25 MR. DUBOVY: -- or officials can have a

1 MR. DUBOVY: Thank you.

2 CHAIRMAN BAGOFF: Thank you.

3 Come up, state your name and spell your
4 last name for the record, please.

5 MS. RUDIN: Good evening. Joyce
6 Rudin, R-U-D-I-N.

7 Mr. Appel, what did you do as the
8 architect of this project to accommodate affordable
9 housing tenants?

10 MR. APPEL: When you say what did I
11 do, I included the requisite amount of affordable
12 units and dispersed them among all the buildings.

13 MS. RUDIN: Were you directed by the
14 applicant in any particular way in terms of this
15 particular population?

16 MR. APPEL: I don't understand what
17 you're -- what you're asking.

18 MS. RUDIN: Okay, I'll move on.

19 Do you know what the 2023 income limits
20 are for the affordable housing tenants in Essex
21 County?

22 MR. APPEL: I don't -- I do not.

23 MS. RUDIN: Okay, can I state what
24 that is?

25 CHAIRMAN BAGOFF: No.

1 MS. RUDIN: All right.
 2 CHAIRMAN BAGOFF: Thank you.
 3 MS. RUDIN: Do you believe that a
 4 substantial portion of the very low and low --
 5 low-income tenants who earn, some of them, under
 6 \$26,000, will have their own vehicle?
 7 MR. APPEL: Couldn't -- I couldn't
 8 opine on that.
 9 MS. RUDIN: Okay. If they do not have
 10 their own vehicle because they are very low income,
 11 what accommodations will there be for these people
 12 for access to public transportation?
 13 CHAIRMAN BAGOFF: He didn't testify to
 14 that. He didn't testify to that.
 15 MR. APPEL: It's not -- not part of my
 16 responsibility on the project.
 17 MS. RUDIN: So you're -- when you are
 18 building for low-income tenants, there is no
 19 consideration to the fact that they may need access
 20 to public transportation; is that correct?
 21 MR. APPEL: That --
 22 MR. PLOCKER: That's outside of Mr.
 23 Appel's expertise.
 24 CHAIRMAN BAGOFF: That's outside of
 25 his testimony, ma'am.

1 CHAIRMAN BAGOFF: Thank you.
 2 Come right up, ma'am. State your name
 3 and spell your last name for the record, please.
 4 MS. SMALL: My name is Susan Small, I
 5 live at 22 Fowler Drive in the Highlands, and I want
 6 to submit for the Planning Board a picture of the
 7 property -- my property and what the environment is,
 8 the natural environment is behind my unit. It also
 9 extends to others all along the rear of the street
 10 that I am on and that's Fowler Drive. I went to the
 11 Planning Board -- don't --
 12 CHAIRMAN BAGOFF: Ma'am --
 13 MS. SMALL: -- interrupt me, please.
 14 CHAIRMAN BAGOFF: Well --
 15 MS. SMALL: I went to the Planning
 16 Board --
 17 CHAIRMAN BAGOFF: Ma'am, I want you to
 18 listen for a moment. The other people in this room
 19 respect you, as we do. You have to respect them and
 20 the process -- ma'am --
 21 MS. SMALL: What did I just say that
 22 bothered you?
 23 CHAIRMAN BAGOFF: Listen. It's a
 24 process. You're going outside the process. You're
 25 preventing the other people from asking questions

1 MS. RUDIN: Do you know what the
 2 furthest walk is from the high elevation --
 3 CHAIRMAN BAGOFF: Excuse me. Ladies
 4 and gentlemen, we're trying to hear the questions.
 5 We respect you, please respect the young lady who's
 6 speaking.
 7 MS. RUDIN: Thank you so much.
 8 (Public members shout out - indiscernible)
 9 MS. RUDIN: Do you know the distance
 10 from the highest or furthest point in this
 11 development to the closest bus stop?
 12 MR. APPEL: I do not.
 13 MS. RUDIN: Do you know how much of
 14 the walking is not accommodated by sidewalks?
 15 MR. APPEL: That's more of a site
 16 question.
 17 MS. RUDIN: Okay. Sidewalks are not
 18 part of your -- you do not cover sidewalks? As an
 19 architect when you're designing, you don't think in
 20 terms of where the sidewalks will be placed?
 21 MR. APPEL: The discipline, it's
 22 delineated on the site drawings, not the
 23 architectural drawings.
 24 MS. RUDIN: All right. Okay. Thank
 25 you so much.

1 that are relevant. The applicant has provided an
 2 expert and you are now asked to ask them questions
 3 about their testimony. There is time under the law
 4 in the future of this application to make public
 5 comment. I'm going to ask you that you respect the
 6 process, as we respect you and ask him questions of
 7 his testimony --
 8 MS. SMALL: Yes.
 9 CHAIRMAN BAGOFF: -- at this time,
 10 please.
 11 MS. SMALL: Yes. Okay, the first
 12 thing. I came to the Planning Board to look at the
 13 plans. I was not allowed to, I was told they're not
 14 available, they're only available to the Planning
 15 Board. The person who I spoke with was rushing me
 16 out because she had to go to a meeting. I was very
 17 respectful of her and she said to me "If you want to
 18 submit this picture and get it stamped and submit it
 19 for the Planning Board to have as information, you
 20 have to go to the Planning Board," she wrote a
 21 little note when your meeting was and that I should
 22 go and present it here and now. Do you want me to
 23 take an oath of honesty on a Bible to tell you --
 24 CHAIRMAN BAGOFF: Ma'am --
 25 MS. SMALL: -- that that's the truth?

1 So I am coming here, as I was directed to do, I left
2 very cordially from the planning department and came
3 here to do what I was instructed to do. I want to
4 submit the picture for every -- the Planning Board
5 has to be able to see things and know what other
6 people see. This is an exchange of ideas. You
7 can't ask a question of someone who doesn't give
8 answers. I've been sitting here the last meeting
9 and this meeting and you can't ask questions if you
10 haven't been able to look at a map. So the Planning
11 Board are all volunteers, these are people who I
12 presume have a naturalistic interest in the best
13 things for the community and they should be able to
14 hear and to see the things that the community has to
15 offer.

16 NIMBY doesn't exist anymore, "not in my
17 backyard." The attitude toward the people is that
18 they have an investigated interest in not wanting
19 anything to happen --

20 CHAIRMAN BAGOFF: Ma'am --

21 MS. SMALL: -- when they have --

22 CHAIRMAN BAGOFF: Ma'am --

23 MS. SMALL: -- a vested interest in
24 wanting to make money.

25 CHAIRMAN BAGOFF: Ma'am, I will --

1 questions of people who don't answer.

2 CHAIRMAN BAGOFF: Ma'am, let her --

3 MS. SMALL: You shouldn't sit here and
4 waste your time.

5 MS. McGOVERN: I have to finish my
6 comment.

7 MS. SMALL: Okay.

8 MS. McGOVERN: We're taking questions
9 from the architect --

10 MS. SMALL: Um-hum.

11 MS. McGOVERN: -- to the architect.

12 MS. SMALL: Um-hum.

13 MS. McGOVERN: If what you are
14 submitting has to do with laying a foundation for a
15 question that you want to ask the architect, then
16 okay, but if you are submitting a photograph that
17 you want to tell the Board about, which would be
18 public comment, which is coming at the end, then
19 it's not the appropriate time to accept the exhibit.

20 So is this a document you have --

21 MS. SMALL: I have --

22 MS. McGOVERN: -- going to --

23 MS. SMALL: I have a question of the
24 Planning Board. Are you sincerely interested in
25 accommodating a balance of power between the

1 now, listen to me, please. I will direct the zoning
2 official to make that available to you tomorrow at a
3 reasonable time. You can see the plan tomorrow at a
4 reasonable time. Let -- you spoke, let me speak.
5 I'm going to ask the attorney if this is presentable
6 to the Board and if it has relevance in this
7 application.

8 MS. SMALL: Well --

9 CHAIRMAN BAGOFF: Ma'am --

10 MS. SMALL: -- I'm sorry, I'm not
11 available tomorrow. May I come in --

12 CHAIRMAN BAGOFF: Then --

13 MS. SMALL: -- on Friday and look?

14 CHAIRMAN BAGOFF: Then I am going to
15 ask you -- the zoning official says yes, Friday
16 morning. Contact the official tomorrow at 9:00 and
17 they will make a time for you on Friday morning --

18 MS. SMALL: Okay.

19 CHAIRMAN BAGOFF: -- that is amenable.
20 I am going to ask our attorney if this is reasonable
21 for the Board to see associated with this
22 application.

23 MS. McGOVERN: So right now, we're
24 only taking questions about the --

25 MS. SMALL: Well, you can't ask

1 citizens and the government executive and the
2 landowners who want to build?

3 CHAIRMAN BAGOFF: Ma'am --

4 MS. SMALL: There is an imbalance of
5 power here.

6 CHAIRMAN BAGOFF: Ma'am --

7 MS. SMALL: I see how you -- how you
8 treat everybody --

9 CHAIRMAN BAGOFF: Ma'am --

10 MS. SMALL: -- and that's antagonism
11 on your part. I didn't come here to antagonize. I
12 came here to try to inform the Planning Board, I
13 came to the town Board to look at the plans --

14 CHAIRMAN BAGOFF: Ma'am --

15 MS. SMALL: -- and now I have to make
16 an appointment to see the plans?

17 CHAIRMAN BAGOFF: Ma'am --

18 MS. SMALL: Why wasn't it open to me?
19 I pay taxes here.

20 CHAIRMAN BAGOFF: Ma'am, we want it
21 open to you -- I'm directing.

22 (Applause by members of the public)

23 CHAIRMAN BAGOFF: Please don't clap.

24 MS. SMALL: I like the claps, it makes
25 me feel encouraged, not that I'm crazy. I'm not

1 angry with you --
 2 CHAIRMAN BAGOFF: We're not angry with
 3 you.
 4 MS. SMALL: -- I'm frustrated.
 5 CHAIRMAN BAGOFF: I want to --
 6 MS. SMALL: People have a right to ask
 7 the questions. They're asking --
 8 CHAIRMAN BAGOFF: Ma'am --
 9 MS. SMALL: -- the minutia questions.
 10 CHAIRMAN BAGOFF: Ma'am --
 11 MS. SMALL: It's like arguing how many
 12 angels there are on the head of a pin.
 13 CHAIRMAN BAGOFF: Ma'am, I think -- I
 14 think for that one, you're going to have to ask
 15 Avogadro, he's got a number.
 16 MS. SMALL: That you can't meet my
 17 needs.
 18 CHAIRMAN BAGOFF: Ma'am --
 19 MS. SMALL: You should vol -- you
 20 should not volunteer if you're being held captive.
 21 You have a right to --
 22 CHAIRMAN BAGOFF: Ma'am --
 23 MS. SMALL: Express your opinion as a
 24 whole person --
 25 CHAIRMAN BAGOFF: Ma'am --

1 questions, about what's seen on Howell Drive. Some
 2 people live on the cul-de-sac, some people live
 3 directly below this building and I think it's very
 4 important to all of us to get the answers and maybe
 5 everyone -- maybe everyone just needs to come and
 6 see it and see what we're talking about and see the
 7 slope and that and how Howell Drive wraps, and that
 8 leads into my first and second question.
 9 My first question is what plans you
 10 have for Building D and its lights and whether or
 11 not it will be increasing our light pollution. I
 12 personally will be living below Building D on Howell
 13 Drive, but I have neighbors here who will be living
 14 directly across from Building D on Howell Drive.
 15 Secondly, last week, we -- we all lost
 16 power on Howell Drive, some lost power for the
 17 entire day. What plans do you have for 500 homes in
 18 the case of an event where power outages do occur,
 19 and more and more regularly, it seems? Are we going
 20 to have to listen to huge, noisy generators, are you
 21 going to have generators, just out of curiosity?
 22 And one other statement just because it
 23 was put into the record, Exhibit D of the
 24 settlement, the kennel's available to the public, as
 25 per Paragraph 6.

1 MS. SMALL: -- as a resident and as a
 2 volunteer who wants to work for the betterment of
 3 your community --
 4 CHAIRMAN BAGOFF: Ma'am --
 5 MS. SMALL: -- including landowners
 6 who want to use their land.
 7 CHAIRMAN BAGOFF: You're taking the
 8 time of the other people --
 9 MS. SMALL: Can I submit this --
 10 CHAIRMAN BAGOFF: No, ma'am.
 11 MS. SMALL: -- right now?
 12 CHAIRMAN BAGOFF: No, ma'am. Thank
 13 you. Come back during public comment, we'll be
 14 happy to hear from you. Thank you very much for
 15 your time.
 16 (Members of the public shout out -
 17 indiscernible)
 18 CHAIRMAN BAGOFF: Welcome. Please
 19 state your name and spell your last name for the
 20 record.
 21 MS. KLEIN: Rachel Klein, K-L-E-I-N,
 22 Howell Drive. I'm going to make -- I do have
 23 questions for the architect but I just want to say
 24 just two things. Howell Drive wraps around, I think
 25 there's a big confusion about how -- when people ask

1 That's all my questions.
 2 MR. APPEL: So --
 3 MS. McGOVERN: Two questions.
 4 MS. KLEIN: Two questions.
 5 MR. APPEL: So I --
 6 MS. KLEIN: The lights on Building D
 7 and what happens if the power goes off.
 8 MR. APPEL: So the question about
 9 lights, the testimony I gave earlier was that lights
 10 on balconies, terraces would be low, not high
 11 overhead lights shining down but we were looking --
 12 and for instance, like, on the balconies, that they
 13 would be down lights, not lanterns so that they
 14 would not shine outward but they would shine
 15 downward for purpose of --
 16 MS. KLEIN: And you'll --
 17 MR. APPEL: -- minimizing glare.
 18 MS. KLEIN: And people won't be able
 19 to just bring whatever they want to their own
 20 balconies?
 21 MR. APPEL: With regard to --
 22 MS. KLEIN: Like, I'm below this,
 23 right? So anything -- I'll be able to see plenty if
 24 anything's shining downward. Even if you say -- if
 25 they decide they want to have more lights on their

1 property.

2 MR. APPEL: The lights that will be
3 included as part of the building --

4 MS. KLEIN: Yeah.

5 MR. APPEL: -- that's what I can
6 testify to, not what a resident could --

7 MS. KLEIN: But they are going to have
8 balconies facing --

9 MR. APPEL: There are units that have
10 balconies and I've given testimony that the lighting
11 was designed in a certain way, down lights, so that
12 it would minimize glare coming off the building.

13 And I believe the testimony with regard to
14 generators is that generators were being proposed
15 for providing security and gate controls, you know,
16 so people can get in and out of the garage, not the
17 entire building, on emergency power, so it's very
18 small, limited generators.

19 MS. KLEIN: Thank you.

20 CHAIRMAN BAGOFF: Thank you.

21 Please state your name and spell your
22 last name for the record.

23 MR. SHARRET: Sure. Good evening.
24 Jonathan Sharret, S-H-A-R-R-E-T. I also live on
25 Howell Drive.

1 the site engineer places that building, but we made
2 numerous adjustments to the building to make sure
3 that it would fit and work with the -- where the
4 site engineer was able to place the building.

5 MR. SHARRET: So the site engineer
6 determined that it should be placed seven feet away
7 from the ridgeline.

8 MR. APPEL: Well, seven feet is just
9 one -- is the closest point. Many of the areas, I
10 think Mr. Anderson testified that there's many areas
11 that are significantly larger than that.

12 MR. SHARRET: Sure, but I'm talking
13 about the pinch point. So would it be possible to
14 move Building D further away from the ridgeline?

15 MR. APPEL: That would be outside of
16 my expertise.

17 MR. SHARRET: Okay, but the way that
18 you designed the building accommodated for the
19 seven-foot distance from the ridgeline.

20 MR. APPEL: That's correct.

21 MR. SHARRET: Okay. And you never
22 considered whether to move the building further away
23 from the ridgeline.

24 MR. APPEL: Outside of what, you know,
25 that was really a site engineering process.

1 I had a couple questions about Building
2 D. You had testified last time that at one point,
3 Building D is only about six or seven feet off of
4 the ridgeline, correct?

5 MR. APPEL: Yes, I believe seven feet
6 to the ridgeline was the closest point.

7 MR. SHARRET: And why was it decided
8 to build Building D so close at that point to the
9 ridgeline?

10 MR. APPEL: This was a balance of
11 designing the building as well as the roadways in
12 dealing with all the other constraints, so this is
13 what was believed to be the best placement.

14 MR. SHARRET: Was there ever any
15 considerations to move Building D further away from
16 that ridgeline?

17 MR. APPEL: I don't -- I don't know
18 all of the steps that the site engineer took, I just
19 know where the landing point was, and there was a
20 lot of investigation and this was deemed to be the
21 best location.

22 MR. SHARRET: Were you involved in any
23 of the decision-making as to where to place the
24 building?

25 MR. APPEL: We adjusted the building,

1 MR. SHARRET: Do you know if the site
2 engineer ever considered moving it further away from
3 the ridgeline?

4 MR. APPEL: I don't know all the
5 iterations prior to this.

6 MR. SHARRET: Maybe the questions will
7 be the same answer, but you had testified also that
8 Building D is about 106 feet away from the homes on
9 Howell Drive, correct?

10 MR. APPEL: I don't believe that I
11 gave that testimony of 106 feet.

12 MR. SHARRET: I could be wrong but I
13 have it in my notes that somebody testified that
14 it's about 106 or so feet off of the homes on Howell
15 Drive.

16 VOICE: (Inaudible)

17 MR. APPEL: That is likely a dimension
18 that Mr. Anderson provided to the property line.

19 MR. SHARRET: So, again, the same
20 question. Why was it decided to build Building D?
21 That's the closest point to the property line,
22 right? So of all the existing homes in the area,
23 the building that is closest to the property lines
24 is Building D, so why was it decided to build
25 Building D there, closest to the existing homes?

MR. APPEL: I don't have all the steps, but there -- there were numerous design iterations. This was deemed to be the best and we had provided sections showing the relationship of the building directly to the closest house on Howell.

MR. SHARRET: Right. But Building D is the largest of the four buildings, correct?

MR. APPEL: I believe it is the largest, correct.

MR. SHARRET: Right, and it has the most residential units as well, correct?

MR. APPEL: I want to double-check.

(Pause)

MR. APPEL: Yes.

MR. SHARRET: So I guess the question I have is: Why was the decision made to put the largest building with the most number of residential units and have that be closest to the ridgeline and closest to existing homes?

MR. APPEL: This -- this was consideration of a lot of different issues and it is a site engineering issue, but there were a number of --

MR. SHARRET: What were some of the

considerations that were taken into account when making the decision to put that largest building right up against the ridgeline and right up against the existing homes?

MR. PLOCKER: For the record, I'm just going to interject. Our site plan is the site plan. It fully conforms with all setbacks and it conforms with the requirement that the building we placed west of the ridgeline. And that's the application that's before this Board, not any internal thinking or processes that may have led to the site plan that is before the Board, so I would just instruct the Board and everybody in the room that that's the situation.

MR. SHARRET: Are you asserting privilege? I'm trying to understand what that instruction was.

CHAIRMAN BAGOFF: He's making a comment. Keep going.

MR. SHARRET: Okay. I think that these are relevant questions and I hope that the Planning Board at least will consider them.

So was there ever a consideration to make Building D smaller and to increase the sizes instead of Buildings A, B or C?

MR. APPEL: I don't recall all the prior iterations because it's been in this configuration for quite some time.

MR. SHARRET: And again, going back to decision-making for Building D, Building D is the only building that currently is contemplated to have a roof deck, correct?

MR. APPEL: That's correct.

MR. SHARRET: So again, a decision was made to put a roof deck on the building that's going to be closest to existing homes and not to put a roof deck anywhere else.

MR. APPEL: But the location of the roof deck is -- was pushed, not to the edge of the building closest to Howell but is more central to the building.

MR. SHARRET: Right, but that wasn't my question. The only building that has a roof, that is Building D and Building D is the unit that is closest to existing homes, correct?

MR. APPEL: That is the -- the edge of -- the edge of that building is. It's a long building, so only that one edge is very close to the building.

MR. SHARRET: Right, but a roof deck

could have been put on Buildings D, B or C, which would have been much further away from existing homes, no?

MR. APPEL: This was what was put in the application and this is what's being proposed.

MR. SHARRET: Do you have any idea as to why that decision was made?

CHAIRMAN BAGOFF: Sorry, that decision -- he's not here for decision-making. I want to stop you right there. You've asked him about nine questions about decision-making. You can ask him about decision about architecture, but the process is here. So they've made their decisions, he's not the person to ask how they came to that decision. The application stands before us, sir. So you can ask him about the architecture, but not the decision-making process. Thank you.

MR. SHARRET: Understood. So just to clarify that point, then, I guess, were you instructed by the applicant to put the roof deck on Building D and therefore, that's how you designed it?

MR. PLOCKER: Again, that goes to the same point. That is all part of the decision-making process. The application and the site plan before

1 the Board --

2 MR. SHARRET: I'm asking if he's the
3 one who decided or if he was told --

4 CHAIRMAN BAGOFF: Well, he --

5 MR. SHARRET: -- to put this.

6 CHAIRMAN BAGOFF: He was told to do
7 it, as evidenced by the application, he's the
8 architect, so --

9 MR. SHARRET: But he didn't testify to
10 that. You're saying that, but I want to know if
11 that's the testimony.

12 CHAIRMAN BAGOFF: Well, it's -- it
13 stands in the public view that there is a building,
14 it's D, it has a roof deck on it and he's the
15 architect, so -- I mean, here it is, A, B, C. You
16 want him to say that, that he put the roof deck
17 there? I'm -- the Board -- the Board is here so we
18 get information to make a decision. If you're
19 asking did he physically draw that, he can answer
20 that question. That -- that would make sense. Did
21 he have a decision in the process? The applicant's
22 attorney said "We're not discussing that." This is
23 stuff that's here.

24 MR. SHARRET: Well, somebody submitted
25 this plan -- all right? -- with the fact that

1 question on this, and I --

2 CHAIRMAN BAGOFF: Thank you.

3 MR. SHARRET: -- understand your
4 point. Thank you.

5 Were you the one who made these
6 decisions, yes or no?

7 MR. APPEL: No.

8 MR. SHARRET: Okay. At the last
9 meeting, you put up a slide showing Building D
10 relative to steep slope. Do you recall that?

11 MR. APPEL: You said Building D
12 relative -- there were -- there were two site
13 sections that were shown at the last hearing.

14 MR. SHARRET: Right, there was a
15 cross-sectional view showing Building D and how it
16 was positioned relative to the steep slope. Do you
17 recall that?

18 MR. APPEL: Yes.

19 MR. SHARRET: All right. Do you have
20 that slide? I think it would make the question
21 easier.

22 MR. FAGAN: I don't have Mr. ...
23 (inaudible)

24 MR. SHARRET: Okay. Well, let me ask
25 the question if we don't need the slide, that slide.

1 Building D is closest to the ridgeline, closest to
2 existing homes, has the highest ceilings, has the
3 roof deck. All right? Somebody made that decision,
4 somebody submitted the plan -- all right? -- with
5 that decision. If it wasn't the architect who made
6 that decision, that's fine, but I still would like
7 to know who made that decision and whether the
8 Planning Board, you know, and this may be perhaps a
9 separate issue not for, you know, this particular
10 witness, but whether the Planning Board is even
11 considering, you know, asking for a change of plans
12 to move things back off of that ridgeline, to move
13 things away from the... (audio distortion)

14 CHAIRMAN BAGOFF: The applicant has
15 the right under the law to present a plan. The
16 Planning Board listens to the public, listens to the
17 questions, listens to our experts, listens to their
18 experts, then decides based on all the testimony.
19 So, again, if your question is did he draw it, he
20 can answer that question because he did testify. If
21 you're asking did he decide that, he can answer
22 that, if he did or did not. It's a yes-no question.
23 Those are the issues and I want to keep this so we
24 have a clear record.

25 MR. SHARRET: I'll ask one final

1 Do you recall, from that cross-
2 sectional view, how far away Building D was in the
3 ridgeline in that cross-section?

4 (Slide is put up on the screen.)

5 MR. SHARRET: Yes, I believe this was
6 the slide.

7 (Inaudible discussion)

8 MR. APPEL: So on that, and I'm just
9 looking at the site plan right now and that area,
10 it's hard to discern exactly where -- where that is,
11 but it would be ranging somewhere between 20 and 40
12 feet.

13 MR. SHARRET: All right. Would it be
14 possible for you to provide a slide showing the
15 cross-section at that pinch point?

16 MR. APPEL: You're talking about where
17 -- where that corner is? It's going to be quite
18 similar to -- to what's -- to what's already shown
19 here on section -- on section PB-4.4C.

20 MR. SHARRET: Right, but the way that
21 you're presenting this here, and there were a lot of
22 questions, you know, concerning access to the rear
23 of the building, some safety questions in that
24 regard, you're showing this here as between 20 and
25 40 feet. I think it would be helpful to be able to

1 see what it looks like at that pinch point. Are you
2 able to provide that cross-section?

3 MR. APPEL: It would be -- it would be
4 quite similar to this but obviously, there would be
5 just some grade changes, uh --

6 MR. SHARRET: No, obviously, there
7 would be grade changes; that's what I'd like the
8 cross-section to show, because there were questions
9 about how there would be access to the rear of the
10 building and I think it would be helpful to be able
11 to see what the grade looks like at that pinch
12 point. So I'm asking you if you can provide that.

13 MR. APPEL: The -- actually, the
14 grading would be shown on the site drawings, so it
15 wouldn't need to be shown on a separate section
16 because you can pick up that grading right on the
17 site plan.

18 MR. SHARRET: No, I understand that,
19 but there was a decision made to draw the cross-
20 section at this particular point, correct? And as
21 the architect, I assume you were the one who made
22 the decision to show the cross-section, you know,
23 where it's widest at, you know, between 20 and 40
24 feet, as opposed to where it's narrowest at seven
25 feet, right?

1 because it provided an opportunity to have units
2 with dens on one side and units without dens on the
3 other and that, we thought, was a better decision
4 for the project.

5 MR. SHARRET: Part of the decision-
6 making also was to be able to put the affordable
7 units on the smaller side of the hallway, correct?

8 MR. APPEL: That's where they're
9 presently shown, correct.

10 MR. SHARRET: Right, and the reason
11 why, at least in part, the central hallway was
12 offset was to make smaller units that could then be
13 affordable units, correct?

14 MR. APPEL: Are you asking me or
15 telling me?

16 MR. SHARRET: It's a leading question,
17 but it is a question.

18 MR. APPEL: The primary reason was
19 done for dens. There are market units on the short
20 side -- the shorter side of the hallway. It's only
21 a couple of feet difference, it's not -- it's not
22 hugely different.

23 MR. SHARRET: Right, I'm glad you
24 mentioned that because you had testified that when
25 you're standing in that hallway and you're looking,

1 MR. APPEL: It doesn't -- it doesn't
2 change the picture very much.

3 MR. SHARRET: All right, but could you
4 provide that picture?

5 (Pause)

6 MR. APPEL: I don't -- I don't have
7 that section available.

8 MR. SHARRET: I'm not asking if you
9 have it available here, I'm asking could you go back
10 to your office and create it?

11 MR. PLOCKER: That's a -- the
12 applicant will take the comment under advisement.

13 MR. SHARRET: Okay. Thank you.

14 One final set of questions. There were
15 some slides, some testimony, about the positioning
16 of the central hallway within the building and you
17 had testified that it was offset, such that one side
18 of the building had larger units and one side of the
19 building had smaller units, correct?

20 MR. APPEL: That's correct.

21 MR. SHARRET: Okay. Was there ever
22 any consideration made to have that central hallway
23 not offset so that both sides of the hallway would
24 be equal in size?

25 MR. APPEL: We -- we did that merely

1 you know, at the doors, for example, of the units,
2 no one would be able to tell that one is an
3 affordable unit and one is not, correct?

4 MR. APPEL: That was my testimony,
5 yes.

6 MR. SHARRET: Right, but there are
7 also utility closets and storage closets along each
8 floor, correct?

9 MR. APPEL: Out of necessity, correct.

10 MR. SHARRET: Right. And all of those
11 units -- I'm sorry, all of those utility closets and
12 storage closets, they happen to be carved out from
13 only the affordable units, correct?

14 MR. APPEL: What's shown in there on
15 the plans, likely they're -- they're carved out, the
16 utility closets are carved out of the affordable
17 units.

18 MR. SHARRET: Right, so that makes the
19 affordable units smaller than the market units, even
20 on the same side, correct?

21 MR. APPEL: In a very de minimus way,
22 yes.

23 MR. SHARRET: Right, and also, if you
24 were standing in that hallway and you saw a storage
25 closet or a utility closet and you saw an apartment

1 door right next door to that, you would know that
2 that's an affordable unit, correct?

3 MR. APPEL: That's a little bit of a
4 leap --

5 MR. SHARRET: Okay.

6 MR. APPEL: -- but I suppose someone
7 could make that connection.

8 MR. SHARRET: Well, I'm not asking if
9 somebody can make the connection, it's a fact --
10 right? -- that you made all of the affordable units
11 smaller by putting them on the smaller side of the
12 hallway and then cutting storage units out of them,
13 right?

14 MR. APPEL: The storage -- either the
15 storage or utility closets are necessary to make the
16 building work.

17 MR. SHARRET: Right, but you didn't
18 decide to pull them out of the market units,
19 correct?

20 MR. APPEL: I did not -- in some
21 cases, they may be in market units, but on the plans
22 that were submitted, they're -- they're all carved
23 out of the affordable units.

24 MR. SHARRET: Okay. All right, thank
25 you, no further questions.

1 at here, so there's a lot of mix and confusion, so
2 that's my question.

3 CHAIRMAN BAGOFF: So you're basically
4 saying that -- I just want to get this for the Board
5 and the public.

6 MR. WEISLEDER: That's for example.
7 Building D, did those plans initially have a
8 balcony? Did they have a rooftop? Was it as close
9 to the homes? What has shifted, what was changed?
10 They have gone -- they, their attorney, they have
11 gone back to this agreement several times, so
12 they've opened the door to this question. I would
13 like to know if these are the plans that were
14 submitted or ones in discussion because it's a bait
15 and switch.

16 CHAIRMAN BAGOFF: So you're basically
17 asking are the conceptual plans that were part of
18 the agreement --

19 MR. WEISLEDER: The Planning Board has
20 to follow, yes.

21 CHAIRMAN BAGOFF: Are the conceptual
22 -- you're asking, I just want to be clear, are the
23 conceptual plans that are agreed to by the parties
24 the same plans as presented today.

25 MR. WEISLEDER: Correct.

1 CHAIRMAN BAGOFF: Thank you.
2 Please -- please state your name and
3 spell your last name for the record.

4 MR. WEISLEDER: Seth, S-E-T-H,
5 Weisleder, W-E-I-S-, as in Sam, L-E-D-, as in David,
6 E-R.

7 CHAIRMAN BAGOFF: Thank you.

8 MR. WEISLEDER: West Orange.

9 I guess my question is, we talked a lot
10 about the settlement agreement and what was agreed
11 upon by the town and by the West Essex Highlands,
12 the two parties involved. I live on Howell Drive,
13 not involved. Just making a statement there, and my
14 question is: Which plans were discussed in that
15 meeting, these plans that we're seeing tonight or
16 were they the concept plans, and what has changed
17 between the two? And there's where we -- I'm sorry
18 but the attorney has gone back that "this is an
19 agreement and we are allowed to do this," and yes,
20 you have sent in an application by law and you are
21 following the law. My question is, to the
22 architect, which plans were discussed, conceptual
23 plans, and which are before the Planning Board?
24 Because what was agreed upon by those three parties
25 was the plans that were looked at there, not looked

1 CHAIRMAN BAGOFF: Okay, good.

2 MR. PLOCKER: First -- I'd just like
3 to comment --

4 CHAIRMAN BAGOFF: Mr. Plocker.

5 MR. PLOCKER: -- and maybe Ms.
6 McGovern would like to chime in. First of all,
7 whatever was discussed during the settlement
8 negotiations between the parties in that room were
9 privileged, there was pending and ongoing litigation
10 at that time and that is privileged, and from a
11 legal standpoint, it would not be proper to air that
12 before this Board.

13 CHAIRMAN BAGOFF: All right.

14 MR. PLOCKER: Second -- I need to
15 finish.

16 CHAIRMAN BAGOFF: Go ahead.

17 MR. PLOCKER: Second, the concept plan
18 attached to the settlement agreement is typical; it
19 is only a concept plan. There are several
20 references in the settlement agreement that talk
21 about how the project is not fully engineered,
22 things can change. What was discussed and what is
23 in the concept plan attached to the settlement are
24 the general locations of the buildings in addition
25 with the ordinance requirements that the town agreed

1 to adopt, which as part of compliance mechanisms,
 2 the town eventually did adopt that ordinance, which
 3 is now known as the IH-1 zoning ordinance, but to
 4 discuss before this Board what was discussed in the
 5 settlement room would be wholly improper, and two --
 6 excuse me, I just need a little water, my throat
 7 just --

8 CHAIRMAN BAGOFF: Take your time, take
 9 your time.

10 (Pause)

11 MR. PLOCKER: And second, to the
 12 extent that the concerned citizen tried to challenge
 13 the settlement agreement or tried to amend it or --

14 MR. WEISLEDER: I'm not trying to
 15 challenge it.

16 MR. PLOCKER: -- or object to it, that
 17 would not be within the purview or jurisdiction of
 18 this Board.

19 CHAIRMAN BAGOFF: Okay, good. One
 20 second. I know, everybody's going to get a chance,
 21 everybody's going to get a chance.

22 Ms. McGovern.

23 Hang in there, we're getting back, I
 24 promise.

25 MR. AFRAN: I want to respond to --

1 CHAIRMAN BAGOFF: One minute. Ms.
 2 McGovern, you, you (indicating). We're getting
 3 there.

4 MS. MCGOVERN: I'm not going to the
 5 privilege issue, I don't know what you're going to
 6 say; what I would like to say, a concept plan is a
 7 more general plan and these are more specific, and
 8 in the settlement agreement, it's been made clear
 9 that this is a general, general idea of placement,
 10 and then what they did was specifics and there are a
 11 design criteria and there's a specific ordinance for
 12 this piece of property that they have complied with,
 13 those design terms as well as setbacks, heights, the
 14 things that this Board is reviewing on site plan.
 15 So specifics as some balconies, decks, those are
 16 details that, no, were not in a concept plan. It's
 17 more fleshed out in this plan that the Board is
 18 having. But the positioning of the buildings, as I
 19 understand it from the concept plan, were
 20 substantially, if not identical, to where these
 21 buildings are right now.

22 CHAIRMAN BAGOFF: Okay. Mr. Afran.

23 MR. WEISLEDER: And for the record, I
 24 am not challenging the settlement.

25 CHAIRMAN BAGOFF: Okay, thank you.

1 MR. WEISLEDER: If I want to do that,
 2 I'll do that in a court of law and go to a judge.
 3 Okay?

4 CHAIRMAN BAGOFF: Mr. Afran. Thank
 5 you.

6 MR. AFRAN: For the record, this is
 7 Bruce Afran, counsel for We Care New Jersey. I just
 8 want to respond not on the issue of whether the
 9 concept plan is the same or differs; that's not my
 10 concern at the moment. I just want to respond to
 11 Mr. Plocker's comment that in his view, what was
 12 discussed in connection with that is privileged.
 13 You know, on the one hand, Mr. Plocker made multiple
 14 statements, as did Mr. Anderson, that the settlement
 15 governs, the settlement governs, this Board has to
 16 follow the settlement. So the settlement, in the
 17 applicant's view, is a public interest that this
 18 Board must follow, yet at the same time, the
 19 settlement discussions that led to it are privileged
 20 and no one can know what it said. So I just want to
 21 state my legal disagreement. If there is a question
 22 to a witness that requires such information and the
 23 witness has it, in my judgment, there is no
 24 privilege, and I just want to assert that position
 25 for the objectors. I don't know if we're going to

1 reach such a question, but if we do, I want to state
 2 my respectful disagreement with Mr. Plocker's
 3 interpretation.

4 CHAIRMAN BAGOFF: Thank you, so noted.
 5 You're up.

6 MR. WEISLEDER: Now I know I should
 7 have gone to law school. That was well said. Thank
 8 you. My next chapter maybe.

9 So with regard to -- it was mentioned
 10 in your testimony about barbecues and grills being
 11 allowed on the balconies, so I guess my question:
 12 Will the other buildings have balconies as well or
 13 just Building D?

14 MR. APPEL: I believe my testimony --
 15 I believe my testimony was that the grills would
 16 only be on the common roof amenity, not on the
 17 balconies. So typically, they're not permitted on
 18 balconies, but you can have, in the -- on the common
 19 area of the roof, you could have grills up there.

20 MR. WEISLEDER: Okay. And also, it
 21 was brought up with several questions the use of a
 22 back patio. I guess that was going to be on the
 23 ground floor facing the slope, and my biggest
 24 concern from the balcony and reading other studies
 25 and things like that is the echoing of sound. Has

1 that been taking into any consideration? Echoing of
2 sound traditionally goes into valleys and can be
3 heard from the top. For instance, when people are
4 playing loud music up there and doing other things
5 that they're not supposed to do, we can hear the
6 music coming down the slope.

7 MR. APPEL: So we have -- we have not
8 done that type of analysis yet.

9 MR. WEISLEDER: That is a big concern,
10 especially since Building D is the only one with the
11 roof balcony and that type of amenity.

12 MR. PLOCKER: I'll just represent for
13 the applicant --

14 CHAIRMAN BAGOFF: Mr. Plocker.

15 MR. PLOCKER: -- we'll comply with all
16 township ordinances, nuisance ordinances, noise
17 ordinances.

18 MR. WEISLEDER: So Building D is the
19 only one that has that amenity balcony for use?

20 MR. APPEL: Are you talking about
21 balcony or --

22 MR. WEISLEDER: I'm sorry, rooftop.
23 Rooftop.

24 MR. APPEL: Okay. Rooftop, you're
25 correct. Balconies are consistent on all the

1 are down, the people from Howell can look right up
2 and see back side of things like that and you're
3 proposing green and things like that. We live in a
4 seasonal-climate area. I drive around, I don't see
5 green all around, so I don't know what we're going
6 to be planting and maintaining through winter, fall,
7 spring. It's beautiful pictures, don't
8 misunderstand me, but there's a reality to this, and
9 I don't see that being a reality. But maybe you can
10 expand on that.

11 MR. APPEL: I'm not sure what the
12 question was.

13 MR. WEISLEDER: You showed on the
14 garages green to make it look pretty and said "It
15 will stay green, we're going to use real things to
16 keep it green."

17 MR. APPEL: Right.

18 MR. WEISLEDER: I'm not sure what
19 we're proposing here.

20 MR. APPEL: We are proposing that
21 these would be green, so...

22 MR. WEISLEDER: Okay. Maybe I'm in
23 the wrong climate.

24 And I also said that the closest house,
25 which I was told was mine, is 270 feet from that

1 buildings.

2 MR. WEISLEDER: On all the buildings.
3 Okay.

4 So the one question that I have is the
5 -- you were asked in regard to, I guess, how much is
6 going into the ground and the 50 percent and all
7 those things. In regard to the, you know, blasting,
8 in making that decision to ask for the variance,
9 wouldn't you agree that that's more of a cost
10 savings for the builder rather than looking nice?
11 Because you referred that we would have to then
12 build this or build extra walls and all of these
13 other things; it sounds like it's more of a cost
14 savings. It's nice to ask for a variance but then
15 it sounds like a more cost-savings feature for the
16 building.

17 MR. APPEL: My opinion is that,
18 aesthetically, this is far superior than having
19 walls and disruptions in grade and additional
20 disturbance and I think that was -- there was also
21 discussion by Mr. Anderson similar to that.

22 MR. WEISLEDER: Okay. In addition, I
23 would like to ask about, you showed a lot of green
24 and you made a statement that, really, no one's
25 going to see the back side, but when all the leaves

1 corner, from Building D facing north, correct?

2 MR. APPEL: To the corner that -- call
3 it the northeasterly corner of the building to the
4 actual house, not the property line but the house,
5 is that I scaled off 264 feet 8 inches, you know,
6 and that's off of a site plan so I would say that's
7 an approximate --

8 MR. WEISLEDER: Okay.

9 MR. APPEL: -- dimension.

10 MR. WEISLEDER: And also, the setbacks
11 that you've created -- and I appreciate that, thank
12 you -- to ease the view for us on Howell, what kind
13 of sight studies were done, sight-line studies were
14 done looking down from Howell and from what points
15 were those done?

16 MR. APPEL: Well, that -- that was
17 exactly the purpose that -- why we were doing those
18 cross-sections, so that we had a better
19 understanding of the relationship of grade and trees
20 and everything else, so that -- that -- that was why
21 we took the time to do those cross-sections.

22 MR. WEISLEDER: Um-hum.

23 MR. APPEL: These were done not for
24 this meeting but done, you know, quite a bit --
25 quite a bit of time ago.

MR. WEISLEDER: Right. And I do appreciate you being consistent with the lights, but there will be lights from the apartments and other lights people bring and I still think there's going to be a lot of light pollution coming down that hill, especially in the fall and in the winter time when there is no coverage. So I don't know how we're going to be preventing that being so close to a -- a slope and those people in the Howell valley, I'll call it now.

MR. APPEL: So one of the things that I also wanted to clarify, that dimension that I gave you was not to the upper floors, that was to the base of the building, and the upper floors, based on what we were just discussing with the wedding-caking of the upper floors, actually cuts back and would actually be additional dimension because the building steps as it goes upward at those end caps.

MR. WEISLEDER: Okay. My last question for you is: Obviously, it's a puzzle laying out all these buildings, you know, and we're trying to understand why Building D, the largest building with all this room and space, we could all be challenged, but there's got to be a way to move it -- make it more amenable to the neighbors on

One was for the 50 percent foundation and the second is for the seven-foot? Or no? No. That's not an exception.

MR. PLOCKER: No, I addressed it before but I would be happy to address it, ma'am.

CHAIRMAN BAGOFF: Mr. Plocker.

MR. PLOCKER: The only bulk variance that the application seeks is for relief from the 50 percent requirement for the exposed foundations. What everyone is calling "the ridgeline," that dotted line on the concept plan and you refer to the seven-foot measurement from the pitch point, unless I misunderstood you.

MS. JHAVERI-GAJARAWALA: Yup.

MR. PLOCKER: That is not a lot line, that is not a setback line. All that the ordinance requires is that we stay west of that line.

MS. JHAVERI-GAJARAWALA: Okay.

MR. PLOCKER: Thank you.

MS. JHAVERI-GAJARAWALA: Understood. Thank you for the clarification.

So one of my questions -- hang on a second so I can go through this. Sorry, I should have been more prepared.

Now I understand there's no ordinances

Howell Drive that have the least say. Was there an opportunity to do that?

MR. PLOCKER: This is the plan that's before the Board.

CHAIRMAN BAGOFF: Okay.

MR. WEISLEDER: Okay. I'll finish my questions for now. Thank you.

CHAIRMAN BAGOFF: Thank you. We're going to take a ten-minute bio break.

(Recess taken)

CHAIRMAN BAGOFF: Welcome, ladies and gentlemen, everybody on Zoom. Thank you so much.

Young lady, you're up.

Q. Thank you. I appreciate being young lady. Who do I spell my name out to? Sorry. Who do I spell my name out to?

BOARD MEMBER: All of us.

MS. JHAVERI-GAJARAWALA: Okay. First name is S-E-J-A-L and then the last name is J-H-A-V-E-R-I-hyphenated G-A-J-A-R-A-W-A-L-A, West Orange. Is that good?

All right, so I think my first question, I just want a clarification posed to all the different comments before. There are actually two variance exceptions you're looking for, right?

or laws for this, but since we are in extraordinary times --

CHAIRMAN BAGOFF: Can you hear?

MS. JHAVERI-GAJARAWALA: -- will all the buildings be built with potential earthquakes in mind?

CHAIRMAN BAGOFF: I'm sorry, ma'am --

MS. JHAVERI-GAJARAWALA: We have --

CHAIRMAN BAGOFF: Ma'am, can I ask you to speak into the microphone? They can't hear you in the back.

MS. JHAVERI-GAJARAWALA: Oh.

CHAIRMAN BAGOFF: They can't hear you in the back.

MS. JHAVERI-GAJARAWALA: Oh. Sorry. Can you hear me?

CHAIRMAN BAGOFF: The air-conditioning's too loud?

(Many members of the public shout out - inaudible)

MS. JHAVERI-GAJARAWALA: Can you hear me now?

CHAIRMAN BAGOFF: Is that better?

MS. JHAVERI-GAJARAWALA: Okay, let's try this again.

1 So I said I understand there may be no
2 ordinances or laws for this, but since we are in
3 extraordinary times, will all the buildings be built
4 with potential earthquakes in mind? The one in
5 April definitely impacted this area and we had two
6 on that one day?

7 MR. APPEL: So the building code has
8 seismic requirements and sections and we will be
9 fully conforming with the building code --

10 MS. JHAVERI-GAJARAWALA: Okay.

11 MR. APPEL: -- with regard to that.

12 MS. JHAVERI-GAJARAWALA: And this
13 whole -- I'm learning still. This whole 50 percent
14 foundation piece, that doesn't get -- I'm sorry, I
15 have a son who lives in California so I know under
16 the parking and all that stuff, so I just want to
17 verify. The two-level parking now won't have an
18 impact.

19 MR. APPEL: Nope. It's design --
20 design issue, not a concern.

21 MS. JHAVERI-GAJARAWALA: Okay. All
22 right. My next question goes to, can you share any
23 local complexes that use the tandem parking? I
24 definitely ventured out to quite a few around this
25 area and I have not seen it, so I think it would be

1 it's -- there's a daycare in the building --

2 MS. JHAVERI-GAJARAWALA: I know what
3 you're talking about. By Primrose.

4 MR. APPEL: That has -- the Primrose
5 school. That has tandem parking. That's probably
6 the closest one that's finished --

7 MS. JHAVERI-GAJARAWALA: Okay.

8 MR. APPEL: -- that somebody can look
9 at, but it's -- it's quite common. It's no
10 different having a tandem stall than having a car in
11 a garage and a car in the driveway in front and
12 you've got to move the car that's covered, you know,
13 but there's a traffic engineer who's going to be
14 talking possibly this evening or another evening and
15 they can probably provide some insight as well
16 because it's quite -- quite common.

17 MS. JHAVERI-GAJARAWALA: Okay. Thank
18 you for that information. My next question is
19 regarding sanitation. So it was noticed that
20 there's only one compactor and one recycling room on
21 each floor; is that correct?

22 MR. APPEL: Well -- so let me explain
23 a little bit more. The compactors are at the garage
24 level. Some of the buildings only have one
25 compactor and some of them have two compactors.

1 good for some of us who haven't seen it to
2 understand how it works, what happens with it,
3 because -- and also, the question would be from a
4 day-to-day building operations team, which may not
5 be used, so I apologize, to avoid the use of visitor
6 parking spaces when they should be tandem parkers.

7 MR. APPEL: So I'll answer the second
8 one first. It's an operational issue, so the
9 developer, when they manage the property, they want
10 to make this all work, and if they have to change --
11 if people are abusing the parking, they will put in
12 procedures to mitigate and correct that, so I -- you
13 know, it's one of those things is that you have to
14 be a little bit nimble and fluid to address that and
15 you address a problem like that operationally.

16 MS. JHAVERI-GAJARAWALA: Okay. How
17 about any local -- I don't know if the Planning
18 Board has seen any local complexes that do tandem
19 parking. It's a new concept for me, so...

20 MR. APPEL: So I'm going to say almost
21 every one of our projects do have tandem parking,
22 it's very, very common right now, so I'm thinking --
23 let's talk West Orange, right -- how about right
24 across from South Mountain arena, there's a building
25 I don't know what the name of the building is but

1 Then there's trash chutes that go from the compactor
2 up and hit a small trash room on each floor. So --
3 and those -- if there's two compactors, there will
4 be two trash rooms --

5 MS. JHAVERI-GAJARAWALA: Okay.

6 MR. APPEL: -- and we try to locate
7 those strategically and conveniently, but this is
8 the preferred way to do this. This is far better
9 than carrying trash down in elevators and --

10 MS. JHAVERI-GAJARAWALA: Perfectly
11 fine with that, I just want to -- but I guess the
12 question is the size of those rooms, right? There's
13 a lot of recycling, you're talking about a lot of
14 residents on that floor to just have one area to
15 bring all their stuff into and then not have impact,
16 because they're supposed to bring all their
17 recycling there. I put three cans of recycling out
18 today and we're two people in our house, so I'm just
19 trying to understand how all of those people on one
20 floor is going to be able to handle one area for
21 recycling.

22 MR. APPEL: So we -- we looked at that
23 there are metrics that are available that talk about
24 how much recycling is generated and we did look at
25 that and we even used the smaller containers as a

1 comparison and a metric for calculation and it
 2 worked fine, and if we use larger containers, then
 3 that would even work even better. So there's --
 4 when you consider I didn't even include that there's
 5 storage inside the units, which there is, I
 6 considered only the trash room on each floor and the
 7 main trash room at the -- at the basement -- at the
 8 garage level.

9 MS. JHAVERI-GAJARAWALA: Okay. I will
 10 still have my concerns about that because I just
 11 feel like one room --

12 MR. APPEL: But we did --

13 MS. JHAVERI-GAJARAWALA: -- there's so
 14 many.

15 MR. APPEL: -- that.

16 MS. JHAVERI-GAJARAWALA: Okay. I
 17 guess to add, just to complete out sanitation,
 18 looking at, you know, forward, because we're looking
 19 at buildings being built forward, has composting
 20 ever been thought of in these units as well? I
 21 mean, we're doing -- a lot more people are doing
 22 composting and a couple of years from now, we'll do
 23 even more.

24 MR. APPEL: That's a good question. I
 25 can opine on whether there -- that can be

1 CHAIRMAN BAGOFF: Thank you very much.
 2 MS. JHAVERI-GAJARAWALA: It was more
 3 on the affordable housing side.

4 CHAIRMAN BAGOFF: Thank you.
 5 Come right up, sir, and state your name
 6 and spell your last name for the record, please.

7 MR. LATERZA: Patrick Laterza,
 8 L-A-T-E-R-Z-A, I live in Verona. I've got a few
 9 questions because we're going over two days of
 10 testimony here.

11 I just want to -- I know it's been --

12 CHAIRMAN BAGOFF: Sir, can you speak a
 13 little louder? I'm sorry.

14 MR. LATERZA: Can I take this off, is
 15 it all right?

16 CHAIRMAN BAGOFF: Yeah, sure.

17 MR. LATERZA: I know it's been alluded
 18 to but I just want to confirm, are all of the
 19 affordable housing units on the smaller side of the
 20 building? Of the buildings?

21 MR. APPEL: They're on the shorter
 22 side of the corridors, yes.

23 MR. LATERZA: Okay, so they're
 24 segregated to the shorter side of the building,
 25 every one of them.

1 incorporated right now, but it is, you know, we will
 2 -- we will look into that.

3 MS. JHAVERI-GAJARAWALA: Okay. And I
 4 guess my other question was to follow up on the
 5 power grid. So I don't know if that's a question
 6 for you or not.

7 MR. APPEL: I -- I -- I don't know
 8 what I could answer; that could be way out of --

9 MS. JHAVERI-GAJARAWALA: Okay. Should
 10 I hold that for someone else or...

11 MS. McGOVERN: What was the question?

12 MS. JHAVERI-GAJARAWALA: So the
 13 question is, we've, you know, I mean, we are seeing
 14 so many more power outages coming out. I'd like to
 15 understand where the power line's going to be
 16 sitting for this, what power grids are they going
 17 into? Because we have two in our neighborhood and,
 18 trust me, they get impacted and that, you know, and
 19 ours is a newer neighborhood, to begin with, so...

20 MR. APPEL: The only thing I could
 21 mention is that the proposed distribution is
 22 underground for the power.

23 MS. JHAVERI-GAJARAWALA: Okay. I have
 24 some other stuff but I'll hold them for public
 25 comment.

1 MR. APPEL: Along with market units as
 2 well.

3 MR. LATERZA: Okay. I know you gave
 4 us a range in your testimony last time of the sizes
 5 of units. Have -- have you calculated the average
 6 size of the units? Since you have some of the
 7 market units that are on the smaller side and most
 8 are on the larger side, that would skew those
 9 numbers.

10 MR. APPEL: I have not done various
 11 calculations, the only thing I could tell you is
 12 that when you look at -- there are market one-
 13 bedroom units that are in the similar location and
 14 with the exception of the utility closet, they are
 15 the identical dimension as the market.

16 MR. LATERZA: Sure, but there's more
 17 one-bedroom units that are market rate on the larger
 18 side.

19 MR. APPEL: There are -- there are
 20 other larger units, but there are smaller and very
 21 similar size --

22 MR. LATERZA: But there are fewer, so
 23 your average size will be skewed larger by the
 24 market units because there's more market units on
 25 the larger side of the building.

1 MR. APPEL: I -- I can't give you
2 those calculations.

3 MR. LATERZA: Okay. But you're an
4 architect, you know math. Right?

5 MR. APPEL: Excuse me?

6 MR. LATERZA: You're an architect, you
7 know math.

8 MR. APPEL: Yes.

9 MR. LATERZA: So sounds about right,
10 right?

11 MR. APPEL: I'm not even -- until you
12 provide an average or a weighted average with the
13 number of units and stuff like that, I couldn't even
14 tell you, you know, how much it's... (indiscernible)

15 MR. LATERZA: Okay. Could I ask the
16 Board if that would be an important number they
17 would want to know about the affordable housing, how
18 much smaller they're going to be on an average than
19 the larger ones, than the market rate?

20 CHAIRMAN BAGOFF: There's a minimum
21 that the law sets for units, so they're going to
22 have to comply with the law.

23 MR. LATERZA: Sure, but you're making
24 an assumption, you guys are making a decision based
25 off of the importance of these affordable housing

1 there's been multiple references when we're talking
2 about fire safety about those areas of refuge, but
3 they haven't been planned out at all.

4 MR. APPEL: Well, it's -- this is a --
5 this is a concept level of drawings right now; all
6 of that is looked at very carefully code-wise when
7 the construction documents are put together.

8 MR. LATERZA: I think there was
9 concern about fire, but areas of refuge, if you're
10 saying conceptually they're going to be there,
11 you're saying they could hold anywhere from one
12 person, just in case, to a family of four?

13 MR. APPEL: It is going to meet or
14 exceed the code.

15 MR. LATERZA: Okay.

16 MR. APPEL: In every respect.

17 MR. LATERZA: I know this wasn't your
18 testimony but it was brought up during the last --
19 during this portion so I'm going to bring it up.
20 Mr. Hoffman testified that you could get a credit if
21 you didn't use your parking spot, but people weren't
22 paying for parking spots. I was just curious how
23 that's different. So if you chose -- and I know,
24 once again, this wasn't your thing, but if you chose
25 not to use your parking spot and instead parked on

1 units and how important they're going to be, how
2 they're going to be utilized, so I think that would
3 be an important factor for you guys, but I don't
4 want to be making commentary. I'm sorry, I just
5 wanted to ask that question.

6 Has anything been done -- since you're
7 cutting down so many trees, has anything been done
8 to mitigate heat island effect for the buildings?

9 MR. APPEL: There are a number of
10 green provisions in the ordinance and we are going
11 to meet the ordinance. I can't give you
12 calculations or additional information about
13 providing numbers or other metrics of that.

14 MR. LATERZA: Okay. Approximately,
15 how many people could fit in the fire areas of
16 refuge?

17 MR. APPEL: The fire areas of refuge
18 have not yet been designed, we're just going to
19 comply with the code. I don't have an answer with
20 the exact number and whether we're going to be using
21 a -- whether we're going to put an area of refuge
22 that would be separating the building into two
23 pieces or if it will be contiguous and connected to
24 one of the stair towers.

25 MR. LATERZA: Okay, so it -- because

1 the street because you could get a credit for it,
2 how is that any different than paying for parking
3 spots?

4 MR. APPEL: Well, there's no -- you're
5 talking about a surface spot or a street spot
6 because I don't know that there is street parking,
7 there is surface parking that --

8 MR. LATERZA: Yes, surface parking or
9 utilizing any other parts of the street that aren't
10 necessarily parking areas and they're walking to
11 their house.

12 MR. APPEL: Operationally, I don't --
13 I don't know how that would work in a different...
14 (indiscernible)

15 MR. LATERZA: And you were just saying
16 about how building management would handle misuse of
17 visitor parking spots. Has anyone had any sort of
18 plan on how that misuse would be managed? I know,
19 once again, this is not going to be your space but
20 you mentioned it, so...

21 MR. APPEL: This is operational. I
22 design buildings but I -- you know, it's a good
23 question but these are operational, you know, issues
24 and they want to make it right. They don't want it
25 to function poorly.

1 MR. LATERZA: Okay. Those are my
2 questions. Thank you, guys.

3 MR. APPEL: Thank you.

4 CHAIRMAN BAGOFF: Thank you.

5 Please step up, sir, state your name
6 and spell your last name for the record, please.

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

9 Mr. Appel, you had testified the last
10 time that you have done many projects like this and
11 so I have a question. Regarding -- with a project
12 like this, your anticipation of sort of the
13 occupancy, and it's related to -- well, first of
14 all, could you restate again how many one-bedroom,
15 two-bedroom and three-bedroom units there are?

16 MR. APPEL: The -- you want me to give
17 you a recap of -- of --

18 MR. ERSHOW: Just the total number. I
19 don't care whether they're affordable or market
20 rate.

21 MR. APPEL: Let me... I'm sorry, the
22 copy that I have is too small to read.

23 (Pause)

24 MR. APPEL: Okay, so you're looking
25 for totals?

1 as well, so --

2 MR. ERSHOW: But in general, it's not
3 being designed with the anticipation for any
4 children.

5 MR. APPEL: Well, there -- there is
6 currently not a dedicated tot lot right now on the
7 property; however, the clubhouse was considered to
8 have space at the lower level that would accommodate
9 children and likely would have a babysitting room as
10 well, so --

11 MR. ERSHOW: Okay, so --

12 MR. APPEL: -- there were
13 considerations on the architectural side, but I
14 don't believe that there was a dedicated tot lot --

15 MR. ERSHOW: Okay.

16 MR. APPEL: -- on the property.

17 MR. ERSHOW: In your experience, and
18 you've done many of these, with -- irrespective of
19 where Building A, B and C and D is and all of that,
20 a project of this size, with this number of rooms,
21 any sense of how many children there might be?

22 MR. APPEL: Could not -- could not
23 give you an answer on that.

24 MR. ERSHOW: So no -- whether we --
25 whether there might be, with 500 units, 50 children

1 MR. ERSHOW: Yeah, just the total
2 number.

3 MR. APPEL: The total number of
4 one-bedrooms is 68, total number of one-bedroom plus
5 dens is 101. This is -- I'm reading from the
6 market. Three-bedroom plus den is 16, three-bedroom
7 is 66. Two-bedroom plus den, 120, two-bedroom, 25,
8 and then the affordable one, two and three,
9 respectively, are 12, 64 and 24.

10 MR. ERSHOW: What?

11 MR. APPEL: 12, 64 and 24, for a total

12 --

13 MR. ERSHOW: 24?

14 MR. APPEL: For a total of a hundred.

15 MR. ERSHOW: So when you were talking
16 about the amenities and everything, I heard you talk
17 about a dog park. I don't recall you mentioning any
18 other types of parks in anything. Was I mistaken;
19 are there any other parks or playgrounds or anything
20 like that?

21 MR. APPEL: There are outside
22 amenities contiguous with the clubhouse, there's
23 walking trails. The anticipation is that there are
24 sidewalks around the -- the community as well. The
25 idea is that the site would be walkable and bikable

1 or 200 children, that order of magnitude?

2 MR. APPEL: I've answered that, I
3 don't want to speculate on something that I don't
4 have separate knowledge of.

5 MR. ERSHOW: Okay. I mean, I -- and I
6 understand that and I appreciate it; the only reason
7 I ask it is because there's not even a provision in
8 the plan anywhere for any children outside of the
9 buildings and it should be considered somewhere. I
10 moved out of town 20 years ago and with some people
11 in this room, in addition to on the dais, a thousand
12 of us built schools that had people in trailers that
13 we had to account for and so everybody needs to
14 think about it. So we all have to think about it.
15 That's why I raised the topic.

16 CHAIRMAN BAGOFF: Thank you.

17 MR. APPEL: Okay. Thank you.

18 CHAIRMAN BAGOFF: Come right up and
19 state your name and spell your last name for the
20 record, please.

21 MS. GOLDSTEIN: I guess I'm the last
22 one, right? So Susan Goldstein and it's
23 G-O-L-D-S-T-E-I-N.

24 I primarily want to talk about -- and
25 thank you, Planning Board, for spending so much time

1 on all of this. It's very upsetting to most of us.

2 I was wondering if you could pull up Building D on
3 the slides there. You have a couple pictures of it?

4 CHAIRMAN BAGOFF: Could you speak up?
5 Ma'am, could you speak up a little bit, please?

6 MS. GOLDSTEIN: I'll try again. I was
7 wondering if you could put back Building D up there.

8 MR. APPEL: You're looking at -- you
9 want to look at D-4?

10 MS. GOLDSTEIN: The one that has the
11 orange sort of, Building D, and it also has the
12 slope with the trees on it. You had it up a while
13 ago.

14 (Site plan is put up on the screen.)

15 MS. GOLDSTEIN: You guys must be tired
16 of craning your necks.

17 CHAIRMAN BAGOFF: So -- oh, do you
18 know something? You want the --

19 MS. GOLDSTEIN: The one that showed
20 Howell. Yeah.

21 CHAIRMAN BAGOFF: The other
22 PowerPoint.

23 MS. GOLDSTEIN: I'm going to start to
24 ask my question while you're pulling that up.

25 So there's been a lot of discussion

1 about Howell, which is on one side, and then The
2 Grand is over here, my topic is Building D, but
3 there's been no discussion of the Highlands of West
4 Essex where I believe Building D -- I hate to point
5 but if you had a pointer -- right there. That
6 should be -- what I'd like you to discuss is the
7 footage from that part to Bayowski Road in the
8 Highlands of West Essex.

9 MR. APPEL: You're talking about
10 somewhere down here (indicating).

11 MS. GOLDSTEIN: I'm not sure; I can't
12 tell from your maps.

13 MR. APPEL: Is that over here
14 (indicating)?

15 MS. GOLDSTEIN: So I can't see where
16 the cul-de-sac is.

17 MR. APPEL: I don't know that -- that
18 distance, you know, directly. It's -- it would need
19 to be scaled off the site plan.

20 MS. GOLDSTEIN: So that's pretty
21 important because, as the young man over here said
22 -- because I'm the young lady, right -- the young
23 man over there said "Why would you build Building D
24 closest -- as the largest building, closest to all
25 the residences -- all the residential buildings

1 around?" Bayowski is right at one end with about
2 six homes there, and Howell's on the other end, and
3 you've got The Grand on the right, and it doesn't
4 make sense to me on top of it; I'm asking, with it
5 being on the top of a slope, ridge, we've had two
6 landfill slides here in West Orange. I just -- I
7 would like to know the footage from the end of that
8 building, I don't know if that's north, south, east
9 or west towards Bayowski, and how much of the forest
10 footage would be left? We face the forest, so how
11 much would be left?

12 MR. APPEL: You're asking -- this is
13 really a site question.

14 MS. GOLDSTEIN: Is it site? Okay.
15 But we don't have someone coming back to talk to us
16 about site planning, do we? I'm asking. I don't
17 know. Because a lot of these questions that
18 everyone's been asking has to do with site planning,
19 because they keep saying "Oh, this isn't my
20 territory, it's site planning," but it's really hard
21 as a resident who's facing that forest and knowing
22 that that forest is going to get torn down. How
23 much of my footage of forest is going to be left for
24 us to look at with our house that faces that?

25 MR. APPEL: So you're talking about

1 the forest being torn down over here (indicating)?

2 MS. GOLDSTEIN: Well, you can't build
3 Building D without tearing down your -- that 6,000
4 trees, which nobody's going to sit there and count.
5 I just don't understand where Building D ends and
6 the cul-de-sac for Bayowski, what that footage is.
7 What's that frontal footage? How much green are we
8 going to be left with?

9 MR. PLOCKER: I just want to clarify,
10 and thank you for your question and concern, but I
11 just want to understand the member of the public's
12 question. You're talking about the area -- and
13 correct me if I'm wrong but --

14 MS. GOLDSTEIN: Yeah.

15 MR. PLOCKER: -- this is laid out
16 north, south, east, west, so the top of the image is
17 the north, the bottom --

18 MS. GOLDSTEIN: So that's where Howell
19 is, at the top. Yes?

20 MR. PLOCKER: Yes.

21 MS. GOLDSTEIN: Okay.

22 MR. PLOCKER: So Bayowski would be the

23 --

24 MS. GOLDSTEIN: Correct.

25 MR. PLOCKER: -- where Mr. Appel

1 pointed.

2 MS. GOLDSTEIN: Correct. We're at the
3 end, we face the forest, and we would have emergency
4 exits possibly besides Kuzik, so I just don't
5 understand how much forest you're going to leave us.

6 UNIDENTIFIED VOICE: No, that's
7 Bakley. That's Bakley.

8 BOARD MEMBER: (Inaudible)

9 UNIDENTIFIED VOICE: Well, no, it's
10 not -- it's right next to -- a little left from
11 Bakley.

12 BOARD MEMBER: That's a house.

13 MS. GOLDSTEIN: That's my house right
14 there, that's me. So how much -- you know, it's
15 really hard to read these maps and figure out "Okay,
16 how much green are you going to leave me that I'm
17 facing?"

18 And that leads back to that young man's
19 question as to why you would build not only Building
20 D on a steep slope -- I teach science, you've got,
21 you know, fracking -- frail rock under there, slate
22 probably, shale probably, clay, so why would you put
23 the biggest building with the most residences near
24 all these buildings?

25 MR. PLOCKER: So just to confirm that

1 remaining, and I believe the setback from the
2 southern part of Building D to the property line is
3 over 500 feet.

4 MS. GOLDSTEIN: 500 feet, okay.

5 MR. PLOCKER: And --

6 MS. GOLDSTEIN: I'm not being smart;
7 how many feet or yards is a football field? Who
8 knows?

9 (Members of the public shout out -
10 indiscernible)

11 MS. GOLDSTEIN: How many?

12 UNIDENTIFIED VOICE: 300 feet.

13 MS. GOLDSTEIN: 300 feet, so a little
14 more than a football field. Okay, thank you.

15 MR. AFRAN: (Inaudible)

16 CHAIRMAN BAGOFF: Mr. Afran, yes.
17 Could you say it in the microphone so we have it on
18 the record, sir?

19 MR. AFRAN: (Indiscernible)

20 MR. PLOCKER: Thank you, Mr. Chairman.
21 I didn't mean to start testifying, I just wanted to
22 make a clear record to make sure to make sure the
23 area that we were talking about.

24 CHAIRMAN BAGOFF: Absolutely.

25 MR. PLOCKER: Thank you.

1 the area is the southern --

2 MS. GOLDSTEIN: South.

3 MR. PLOCKER: -- and you have Building
4 D --

5 MS. GOLDSTEIN: Yeah.

6 MR. PLOCKER: -- and going down to
7 Bayowski?

8 MS. GOLDSTEIN: Yes.

9 MR. PLOCKER: The site plan does not
10 propose to open Bayowski even for emergency access.

11 MS. GOLDSTEIN: That, I know changed,
12 it went to Kuzik instead, but for a while, I was
13 thinking that there would be a road there, because
14 right at the end of our cul-de-sac, there's a road
15 -- I mean a path that goes into the woods. But --

16 MR. PLOCKER: Yeah, there is no access
17 at all being proposed from Bayowski.

18 MS. GOLDSTEIN: Okay.

19 MR. PLOCKER: That was actually one of
20 the salient points that was requested by the...
21 (indiscernible)

22 MS. GOLDSTEIN: So how much green will
23 be left in that forest that we face?

24 MR. PLOCKER: We can certainly bring
25 our site engineer back, but almost all of it's

1 CHAIRMAN BAGOFF: Welcome. State your
2 name and spell your last name for the record.

3 MR. DOODNAUTH: Jeremy Doodnauth,
4 D-O-O-D-N-A-U-T-H. Quick question. Did you refer
5 to the building as being a green building?

6 MR. APPEL: Not green building but
7 having green -- there was a number of green
8 provisions in the ordinance.

9 MR. DOODNAUTH: So I think you said
10 that some of the criteria were optional versus
11 mandatory.

12 MR. APPEL: Well, they -- they listed
13 a bunch of requirements, but you didn't have to
14 choose all of them. So in other words, you needed
15 to have a certain, you know, certain of these to
16 perform and we will be building to meet or exceed
17 all of the green provisions.

18 MR. DOODNAUTH: Meet or exceed, okay.

19 MR. APPEL: Yes.

20 MR. DOODNAUTH: So is it safe to say
21 that you would be going for some type of LEED
22 certification?

23 MR. APPEL: That is not part of the
24 ordinance --

25 MR. DOODNAUTH: No.

1 MR. APPEL: -- but many of the items
2 in here are very similar to --

3 MR. DOODNAUTH: Similar to not getting
4 you there.

5 MR. APPEL: We're not -- we're not
6 filling out and registering the project, but we are
7 going to be needing to submit this information to
8 the town so that it can be evaluated and -- to show
9 that we are going to meet or exceed the ordinance.

10 MR. DOODNAUTH: Okay, so my question
11 is, there's a lot of people here that have been
12 asking about environmental impact on the land, the
13 air around. Wouldn't it behoove the contractor to
14 go for the gold standard of protecting the area and
15 environment?

16 MR. APPEL: That -- that -- while many
17 of the features in the ordinance that are connected
18 to LEED provisions, we are not pursuing the
19 registration.

20 MR. DOODNAUTH: Is it purely financial
21 or just what you feel is --

22 CHAIRMAN BAGOFF: I'm sorry, sir,
23 that's beyond the scope of the architect.

24 MR. PLOCKER: And I'm just going to
25 clarify for the record --

1 agreement itself is not binding on the Board. Only
2 to the extent that the ordinance incorporates and
3 imports parts of the settlement is it binding on the
4 Board, and we need to get beyond this point of
5 always saying the settlement binds the Board. It
6 does not. What binds the Board is solely and
7 exclusively those elements of the settlement that
8 are incorporated into the ordinance. Now, I believe
9 Mr. Plocker may be right, the design elements may be
10 incorporated, but my point is it's not the
11 settlement that binds us, it's that part of the
12 settlement that's incorporated into the ordinance.
13 It's a very important distinction we have to bear in
14 mind.

15 CHAIRMAN BAGOFF: Mr. Plocker.

16 MR. PLOCKER: And I appreciate Mr.
17 Afran's comment so I'm going to read Section 25-19A,
18 it's the first provision of the IH-1 zoning
19 ordinance. It says. "Purpose. The purpose of the
20 IH-1 district is to provide for inclusionary
21 development that contributes to the region's fair
22 share of affordable housing in accordance with a
23 court settlement agreement which outlines provisions
24 per se," period.

25 MR. AFRAN: Well, it also goes further

1 CHAIRMAN BAGOFF: Mr. Plocker.

2 MR. PLOCKER: -- that Mr. Appel
3 slightly misspoke. The design terms and conditions
4 which are green related are not contained in the
5 ordinance, but they are contained in Exhibit C to
6 the settlement agreement, which was made part of the
7 application materials. It's entitled "Design Terms
8 and Conditions" and it is a one, two, three, four,
9 almost five-full-page single-spaced document and the
10 settlement agreement does require my client to abide
11 by those items as part of this. Even though the
12 Planning Board is not part of the settlement
13 agreement, we recognize fully that this development
14 must adhere to Exhibit C, these design terms and
15 conditions.

16 CHAIRMAN BAGOFF: Thank you, Mr.
17 Plocker. Mr. Afran.

18 MR. AFRAN: Yes, thank you. For the
19 record, Bruce Afran again. I just want to note that
20 our position is very simply the binding nature of
21 anything in the settlement agreement depends on its
22 incorporation into the ordinance. To the extent the
23 ordinance incorporates the design elements and
24 others of the settlement, that becomes binding on
25 the Board. I want to clarify, the settlement

1 and the settlement agreement -- I'm going to leave
2 it as I said it, but our position is it's the
3 ordinance that binds, not the agreement per se.
4 Thank you.

5 CHAIRMAN BAGOFF: On the record,
6 perfect. Thank you, sir.

7 MR. DOODNAUTH: Just one more
8 question. So I know that you said the LEED is, you
9 know, like you said, the gold star. Did you think
10 about going for the carbon neutral green building
11 just to show good faith and say "Hey, we're putting
12 this type of product out into the -- into the
13 environment"?

14 MR. APPEL: The provisions that were
15 included and referenced by Mr. Plocker was what we
16 were designing for.

17 MR. DOODNAUTH: So although you said
18 exceeds, it's fair to say you pretty much did the
19 bare minimum.

20 MR. APPEL: Well, it's -- it exceeds
21 code, so if there weren't -- if these provisions
22 weren't made available, we would be doing less to
23 meet code. This set a higher bar significantly
24 higher than most of the other projects we're
25 designing in West Orange as well.

MR. DOODNAUTH: Then I would just say throwing the catch phrase and the buzz word "green" around should have accreditation to it. That's it. Thank you.

CHAIRMAN BAGOFF: Thank you. Mr. Afran.

MR. AFRAN: Yeah, my client just asked me to clarify a point based on the colloquy we just had.

We understand that the ordinance as it stands now is what governs the Board, of course. We have legal challenges to that ordinance that are for another forum. And as also mentioned at the last meeting, we believe a 2004 settlement precludes the developer from doing this anyway. So when I address the zoning ordinance governs, to the extent it's enforced, that's our position, but -- in other words, our position is that you need to adhere to the zoning ordinance in force now. Our position is, legally, it may be defective and illegal, but that's for another forum. I just want to reserve that position. I don't want to seem like I'm conceding those points by accident.

CHAIRMAN BAGOFF: No problem.

MR. AFRAN: Thank you very much.

we'd like you to ask questions of the architect based on his testimony, please.

MR. FRESCHI: I understand, it just seems like that's -- when is that time to ask --

CHAIRMAN BAGOFF: As soon as everybody has testified, all testimony's in, and Mr. Afran may or may not present his experts; at the end of everything, we will ask for public comment. And it will be posted on the township website.

MR. FRESCHI: Thank you.

CHAIRMAN BAGOFF: Thank you, sir.

Welcome. State your name and spell your last name for the record, please.

MR. FRESCHI: Good evening. My name's Jonathan Redwine, R-E-D-W-I-N-E. I'm from West Orange. I just have a couple of comments for you, the architect.

Are you aware of the applications that your client has made to the Department of Environmental Protection?

MR. APPEL: On a peripheral basis.

CHAIRMAN BAGOFF: I'm sorry, could you -- could both parties speak up a little bit? The people in the back can't hear.

MR. REDWINE: Sorry, do you want me to

CHAIRMAN BAGOFF: Thank you, sir. Come on up sir, spell your name for the record, please.

MR. FRESCHI: Yeah, David Freschi, F-R-E-S-C-H-I, Verona.

My question is directed to the Board and any Council members that are here. While I understand West Orange needs to address its affordable housing obligations, this project is so flawed for so many different reasons, I'm perplexed as to how we even got this far. So how does the Council and the Board see it in their -- in the best interest of anyone other than the developer? It's not even in the best interest --

CHAIRMAN BAGOFF: Sir, can I -- I don't mean to interrupt, but this is public comment. At this time, it's time --

MR. FRESCHI: Right.

CHAIRMAN BAGOFF: What you're saying is public comment.

MR. KLEIN: Oh.

CHAIRMAN BAGOFF: At this time, I'd ask you to ask a question of the architect. I understand what you're saying and there's a time in the process for that, absolutely, but at this time,

repeat the question?

CHAIRMAN BAGOFF: (Chairman nods.)

MR. REDWINE: Okay. Are you aware of your client's applications to the Department of Environmental Protection?

MR. APPEL: Peripherally.

MR. REDWINE: And have you dealt with designs and plans that you've made before that have had pending applications before the Department of Environmental Protection?

MR. APPEL: There's a number of projects that had requirements for either submission or approvals at the DEP.

MR. REDWINE: Okay, so what's the DEP's roles to your client's application to that body? Is it possible that your plans that you've created may need to change?

MR. APPEL: I could not -- I could not have imagined that, but it's a little outside of -- of my expertise to know what items would be triggered from DEP. You know, am I aware of anything? No.

MR. REDWINE: Have you ever needed to change architectural plans that you've made on behalf of a client as a result of any sort of

1 regulatory proceeding?

2 MR. APPEL: Not -- not one that has
3 gone through this, you know, amount of, you know, of
4 design and interaction with the DEP.

5 MR. REDWINE: Has the DEP made a final
6 ruling on any of your client's applications?

7 MR. APPEL: I'm not aware of the final
8 status.

9 MR. REDWINE: Okay, is that -- once
10 the DEP makes a final ruling, is that something you
11 will need to re-review?

12 MR. PLOCKER: Mr. Appel did not
13 testify as to any environment --

14 CHAIRMAN BAGOFF: All he has to do is
15 say he didn't testify to it, that's the answer.

16 MR. APPEL: It's not part of my
17 testimony, the DEP's work.

18 MR. REDWINE: Okay. If your
19 architectural plans need to change as a result of
20 any sort of regulatory -- any sort of review of our
21 town's ordinance, any sort of regulatory proceeding
22 before the DEP or anything else, are you prepared to
23 come back and testify and spend several days with
24 all the good people in this room again?

25 MR. PLOCKER: Once again, I'm going to

1 Chairman, or the attorney.

2 CHAIRMAN BAGOFF: The question is
3 actually now for the applicant's expert.

4 MS. BENNETT: Just point of -- I'm
5 just trying to find -- it'll streamline my questions
6 if the environmental impact statement was
7 accomplished or not.

8 CHAIRMAN BAGOFF: Did you do -- I
9 don't know. We have to look. It's a good question;
10 we have to look. Why don't you go on with your
11 questions while we look.

12 MS. BENNETT: All right. It would
13 abbreviate my questions and I'd like to be brief for
14 you all.

15 All right, so Mr. Appel, again, I
16 apologize, I walked in late, I don't want to assume,
17 but you were qualified as an expert in -- in
18 architecture, yes?

19 MR. APPEL: Architecture.

20 MS. BENNETT: And design, right.
21 Okay, and so your website is ADGarchitects.com.

22 MR. APPEL: That is correct.

23 MS. BENNETT: Okay, and you're a
24 principal of that -- of that company.

25 MR. APPEL: Yes.

1 address that. If any requirements change that
2 legally and lawfully apply to this application and
3 this site, obviously, he would have to come back,
4 but it all depends what that would be and the
5 circumstances under which that would advise.

6 MR. REDWINE: Thanks.

7 CHAIRMAN BAGOFF: Thank you.

8 Come right up, state your name and
9 spell your last name for the record, please.

10 MS. BENNETT: Micaela Bennett,
11 B-E-N-N-E-T-T.

12 Chairman, just -- and I apologize, I
13 walked in a little late, so... This is a major or
14 minor application before you?

15 CHAIRMAN BAGOFF: Major site plan.

16 MS. BENNETT: Major.

17 CHAIRMAN BAGOFF: Yes.

18 MS. BENNETT: So did it have the
19 environmental impact statement, the environmental
20 impact piece accomplished yet?

21 MR. PLOCKER: It's not part of his
22 testimony.

23 MR. APPEL: That was not part of my
24 testimony.

25 MS. BENNETT: My question is of the

1 MS. BENNETT: Okay. So on your
2 website, you state that many of your projects have
3 also incorporated green sustainable design and
4 planning technologies, and it goes on, but that
5 paragraph ends with describing how you worked very
6 hard to receive the CGP designation, certified green
7 professional. Yes?

8 MR. APPEL: Yes.

9 MS. BENNETT: Okay. So a lot of my
10 questions are going to be about your environmental
11 considerations, and if it wasn't one of your
12 considerations, that's fine, if you would just say
13 whether it was or not.

14 Okay, so -- but the reason I'm going to
15 ask you questions about the environment is because,
16 as I understand -- I could be wrong, I'm not an
17 architect, but as I understand, the architect for
18 any design project should be considering, amongst
19 other things, the environmental impact, correct?

20 MR. APPEL: Environmental -- you're
21 talking about certain portions of environmental
22 impact are site related, there are certain pieces
23 that are architecturally related. My expertise and
24 responsibility is on the building design.

25 MS. BENNETT: Under -- I understand,

1 but my question was a little different. My question
2 was: Is it your responsibility as an architect to
3 consider the environmental impacts of your design
4 and to consider any harmful -- or mitigate any
5 harmful impacts there might be?

6 MR. APPEL: So my responsibilities are
7 to follow the laws, regulations, ordinances and all
8 applicable codes that govern the project, so that
9 is, you know, that's what I need to do, and that's a
10 minimum standard, not a -- so that's what I would be
11 looking at.

12 MS. BENNETT: Okay, understood. So
13 when you say "all the applicable laws," so
14 regulation, like the wetlands, the Protection of
15 Wetlands Act, that would be something that you
16 should consider if there were wetlands on the site.

17 MR. APPEL: And that -- that is
18 something that is under the -- other consultants
19 would be working on giving us that information.

20 MS. BENNETT: Are you saying that the
21 architect for the site who's designed the plan
22 should not be familiar with where the wetlands exist
23 --

24 MR. APPEL: Of course --

25 MS. BENNETT: -- and whether or not --

1 MS. BENNETT: Understood. So your
2 wetlands expert, if they designated that the
3 wetlands on this site was of extraordinary resource
4 value, you would have to take into consideration the
5 setbacks; is that correct?

6 MR. APPEL: I would follow the -- the
7 regulations and metrics that they provide.

8 MS. BENNETT: Okay, and that includes
9 the setbacks, correct.

10 MR. APPEL: Of course.

11 MS. BENNETT: Okay. You think --

12 CHAIRMAN BAGOFF: Excuse me. Excuse
13 me one second, I'm sorry to interrupt but --

14 MS. BENNETT: No problem.

15 CHAIRMAN BAGOFF: -- CME Associates,
16 our engineering firm, on their July 29, 2024 letter,
17 No. 15 describes the wetlands freshwater boundaries,
18 and the Planning Board has also engaged Wayne DeFeo
19 & Associates, who is an environmental consultant.
20 So there are and will be environmental information
21 available to the public.

22 MS. BENNETT: Okay, and I -- I'm sorry
23 to cut you off, Mr. Bagoff. So I will ask those
24 experts the questions that I have that is pertinent
25 to them, but I do believe that members of the public

1 MR. APPEL: Of course, I am, but I
2 don't delineate those wetlands, I am not the --

3 MS. BENNETT: I understand.

4 MR. APPEL: -- expert --

5 MS. BENNETT: I understand.

6 MR. APPEL: The applicant hires
7 experts who do that professionally.

8 MS. BENNETT: I understand. But
9 knowing where the wetlands are delineated and
10 understanding the law on the wetlands, their
11 resource value, et cetera, that would impact your
12 design, right? Where you could design and build a
13 building, correct?

14 MR. APPEL: Well, the situation is
15 that there are various consultants that will work as
16 a team together --

17 MS. BENNETT: Right.

18 MR. APPEL: -- that way --

19 MS. BENNETT: Right.

20 MR. APPEL: -- you don't have this
21 tremendous overlap of responsibilities.

22 MS. BENNETT: Right.

23 MR. APPEL: I defer to people who are
24 far more skilled in their experience and education
25 than I am on wetlands.

1 who are here tonight asked questions about the
2 environment that if the expert could answer then, he
3 should have been permitted to answer them, and I
4 believe that Chairman and the applicant's attorney
5 suggested that they were inappropriate at this time,
6 so I would just suggest, to the extent that people
7 wanted to ask about trees, I saw trees on his -- his
8 renderings, so to the extent that they wanted to ask
9 about trees, at least you should have given some
10 latitude for that, but I -- but I don't want to --
11 you have competent counsel so I'm sure you'll be --
12 I'm sure you'll be, you know, but I think that you
13 should let some people ask some questions of this
14 expert because this expert just said that he has to
15 consider the environment and he has to mitigate any
16 negative impacts in the environment that he can with
17 his design.

18 MR. PLOCKER: No, no, that's -- I just
19 want to be clear --

20 CHAIRMAN BAGOFF: Wait, wait,
21 everybody, one at a time.

22 MS. BENNETT: Should I read from
23 the --

24 CHAIRMAN BAGOFF: No.

25 MS. BENNETT: -- licensure?

CHAIRMAN BAGOFF: No, not yet.

MS. BENNETT: Okay.

CHAIRMAN BAGOFF: Go for it.

MR. PLOCKER: All right. Thank you, Chairman Bagoff. I just want to make sure that Mr. Appel testified this evening and at the last meeting in his capacity as an architect. He is now fielding questions regarding wetlands delineation and I believe Mr. --

MS. BENNETT: I didn't ask about delineation, sir.

CHAIRMAN BAGOFF: Okay, let him finish, please.

MS. BENNETT: I don't want him to misstate what I said.

CHAIRMAN BAGOFF: You could -- you'll have time afterwards. Let him finish, please.

MS. BENNETT: Okay.

MR. PLOCKER: And if I misspoke, my apologies, ma'am, but Mr. Appel testified in his capacity as an architect. He is not an environmental professional, he never made himself out to be one in his testimony. I believe his testimony was that he designs the buildings and places them where other professionals told him to

in this audience who asked some questions that it sounds like should have been permitted to -- at least to inquire, and if he could answer, he should answer.

Okay. So -- so in your training and experience, if you were asked to design a plan for a dangerous location or that would be dangerous to an environmental condition --

CHAIRMAN BAGOFF: Okay, I'm going to stop you right there. You can ask about this location, you can ask about his testimony; we're not going into hypotheticals, okay?

MS. BENNETT: Okay.

CHAIRMAN BAGOFF: I just want to focus because the people in the audience have questions about this location, not a hypothetical. Okay?

MS. BENNETT: Okay, no problem.

CHAIRMAN BAGOFF: Thank you.

MS. BENNETT: You've drawn plans within seven feet of a ridgeline or a steep slope?

MR. APPEL: So the ridgeline in here was a -- the ridgeline was a part of the ordinance identifying a ridgeline and there were dimensions that located the building in accordance with that ridgeline, so that was one of the metrics that we

place them, and that was his testimony.

CHAIRMAN BAGOFF: Okay. Thank you.

MS. BENNETT: So, just in response, Mr. Appel, if you know, are you required by your licensure, by your profession, to consider negative environmental impacts when you render designs? Simple question.

MR. APPEL: So what I indicated is that --

CHAIRMAN BAGOFF: Could you speak into the microphone, sir?

MR. APPEL: What I indicated is the information was provided by -- by the team and my responsibility is to follow applicable laws and regulations that govern the design of this project.

MS. BENNETT: And when I asked you laws like the Protection of Wetlands Act, when I asked you laws about steep slope, when I asked you, like, laws about ridgeline, or when I asked you laws like the tree ordinance, I thought you agreed that you had to follow all those laws.

MS. McGOVERN: He did.

MS. BENNETT: That's what I thought. Okay, okay, so then I'll just continue with the questions. My only point was that there were people

were instructed to follow.

MS. BENNETT: Okay. Seven feet from the ridgeline, at least in one point, the largest building?

MR. APPEL: That was represented as the pinch point to the ridgeline.

MS. BENNETT: Is that a yes? Seven feet from the ridgeline at some point in the building?

MR. APPEL: It's shown as seven feet to -- to that -- the ridgeline, which is basically a line on a drawing.

MS. BENNETT: Has this project minimized the impact upon the trees?

MR. APPEL: My opinion is there was a lot of areas of the site that were preserved. That was an important portion of the design. As far as where all the trees are and how that was done, that was a real part of the site engineering and site design.

MS. BENNETT: Has your design minimized the negative impact on the ridgeline?

MR. APPEL: I don't know what the negative impact of the ridgeline would be.

MS. BENNETT: All right, so I'll ask a

1 couple questions at the very end that might further
2 elucidate that.

3 All right, and so then protected
4 waterways. Has this plan mitigated the impact of
5 the protected waterways that are present on the
6 site?

7 MR. APPEL: This is part of the site
8 design. There was testimony given the other
9 evening.

10 MS. BENNETT: Has your plan minimized
11 the negative impacts of the protected waterways on
12 the site plan stormwater management?

13 MR. APPEL: We followed the locations
14 that were prescribed on the site plan, so in that
15 respect, yes.

16 MS. BENNETT: Okay. So this body has
17 previously heard an application not dissimilar to
18 this one, a clear-cut of the forest, build on a
19 ridgeline, that had a catastrophic outcome as a
20 result. Are you familiar with the Rogilin
21 (phonetic) project?

22 CHAIRMAN BAGOFF: Ma'am, ma'am, let's
23 focus on this application --

24 MS. BENNETT: I am, I'm just asking if
25 he's familiar. If he's not familiar, I can't ask

1 MS. BENNETT: You were the architect
2 on that project.

3 MR. APPEL: Yes, I was.

4 MS. BENNETT: Okay. And the tandem
5 parking was your idea, correct?

6 MR. APPEL: I don't -- I don't know
7 whether it was my idea or the site engineer's idea
8 but --

9 MS. BENNETT: And it remedied an issue
10 of parking because there was difficulty with parking
11 on that site.

12 MR. APPEL: I don't recall that there
13 was difficulty.

14 MS. BENNETT: Okay. Do you know of
15 any other location in West Orange that utilizes
16 tandem parking except for the two locations that
17 you're the design professional?

18 MR. APPEL: In West Orange?

19 MS. BENNETT: Yes.

20 MR. APPEL: I'm not familiar.

21 MS. BENNETT: Thank you.

22 CHAIRMAN BAGOFF: Thank you.

23 Go right ahead.

24 MS. STOLOFF: Jean Stoloff,
25 S-T-O-L-O-F-F, like French fry at the end.

1 the next question.

2 CHAIRMAN BAGOFF: Great.

3 MS. BENNETT: If he's familiar with
4 the --

5 MR. APPEL: I'm not familiar with the
6 details of that.

7 MS. BENNETT: You don't know what
8 happened?

9 MR. APPEL: I --

10 CHAIRMAN BAGOFF: The answer is no.
11 Let's move on, please.

12 MS. BENNETT: Okay.

13 CHAIRMAN BAGOFF: Thank you.

14 MS. BENNETT: Okay. So -- the Board
15 is familiar with that project. So 555 Northfield,
16 you --

17 CHAIRMAN BAGOFF: Ma'am, ma'am, focus
18 on this application, nothing else.

19 MS. BENNETT: I am. This architect
20 raised 555 Northfield in the discussion of tandem
21 parking. All I'm going to ask him is about 555
22 Northfield.

23 CHAIRMAN BAGOFF: And tandem parking.

24 MS. BENNETT: Correct.

25 CHAIRMAN BAGOFF: That's it.

1 CHAIRMAN BAGOFF: Thank you.

2 MS. STOLOFF: I'll be brief.

3 Could you go back to the picture in
4 which you described the sidewalks in front of the
5 buildings?

6 MR. APPEL: The sidewalks in front of
7 the rendering?

8 MS. STOLOFF: The other day, you
9 talked about the sidewalks near the buildings.

10 MR. APPEL: It'll be the other...

11 (Site plan is put up on the screen.)

12 MR. APPEL: So is this --

13 MS. STOLOFF: Yeah.

14 MR. APPEL: Is this the picture that
15 you're --

16 MS. STOLOFF: Sure. So how wide are
17 those sidewalks in front of the buildings?

18 MR. APPEL: I am not -- I'm not fully
19 sure. I would have to check with the site engineer.

20 MS. STOLOFF: Okay.

21 MR. APPEL: It's either five or six
22 feet.

23 MS. STOLOFF: Okay. And can you
24 describe how the sidewalks from Building A, B, C and
25 D are connected?

1 MR. APPEL: This is -- this is really
2 a site question, you know, of overall, you know, how
3 the buildings are connected and the site engineer
4 gave testimony of where -- where all the sidewalks
5 and pedestrian circulation is.

6 MS. STOLOFF: Okay, so you're not
7 familiar with --

8 MR. APPEL: I was not responsible for
9 this --

10 MS. STOLOFF: Okay.

11 MR. APPEL: -- drawing so I'd be
12 testifying with somebody else's work product.

13 MS. STOLOFF: That's fair. I don't
14 know if he'll be brought up another time, but I just
15 wanted to understand how, especially kids, get from
16 Buildings A, B, C and D around the community. Thank
17 you.

18 CHAIRMAN BAGOFF: Thank you.

19 Will you state your name, sir, and
20 spell your last name for the record, please.

21 MR. DUBOVY: Todd Dubovy, D-U-B-O-V-Y,
22 10 Burnett Terrace.

23 I wanted to follow up on a question
24 that I wanted to ask earlier but I was told I could
25 not, with reference to the trees. Since you gave

1 testimony speaking to deciding where certain trees
2 would be kept and others would not be, has there
3 been any --

4 CHAIRMAN BAGOFF: I don't -- I'm
5 sorry. I don't think he provided testimony about
6 keeping trees and that -- I don't --

7 MR. DUBOVY: He did. He specifically
8 said where location of trees were located on the
9 property relative to buildings.

10 MR. APPEL: I -- I think my testimony
11 was that there were areas that were fenced off and
12 preserved in order to --

13 MR. DUBOVY: No, no, that -- different
14 issue.

15 MR. APPEL: Okay.

16 MR. DUBOVY: My question specifically
17 is whether or not any consideration has been given
18 to how much of the town's tree canopy is going to be
19 reduced by 6,000 trees you're removing.

20 CHAIRMAN BAGOFF: If he didn't
21 testify, the answer is no, he doesn't know.

22 MR. DUBOVY: You're going to give him
23 the answer?

24 CHAIRMAN BAGOFF: Well, no --

25 MR. DUBOVY: That's good.

1 CHAIRMAN BAGOFF: -- that's what the
2 applicant -- the applicant has the right to answer
3 the question --

4 MR. DUBOVY: Yes.

5 CHAIRMAN BAGOFF: -- if -- if there is
6 testimony to that specific answer. If he doesn't
7 know how much of the tree canopy --

8 MR. DUBOVY: Then let him say that.

9 CHAIRMAN BAGOFF: -- then he can say
10 it.

11 MR. DUBOVY: Well --

12 CHAIRMAN BAGOFF: If he does, he can.
13 So the answer is?

14 MR. DUBOVY: Let him answer that.

15 MR. APPEL: This is a site question.

16 MR. DUBOVY: Okay.

17 CHAIRMAN BAGOFF: Thank you.

18 MR. DUBOVY: Thank you.

19 CHAIRMAN BAGOFF: Okay.

20 MS. WHITE: Good evening. I hope my
21 voice --

22 CHAIRMAN BAGOFF: Good evening.

23 MS. WHITE: -- is clearer than it was
24 the last time, working on my throat. My name is
25 Barbara White, I live on Howell Drive, directly

1 across from the subject property.

2 CHAIRMAN BAGOFF: Thank you. Will you
3 spell your last name, please?

4 MS. WHITE: W-H-I-T-E.

5 CHAIRMAN BAGOFF: Thank you.

6 MS. WHITE: All right. And I'd
7 appreciate it if you could put back up, it was
8 PB-4.4C. My questions are relative to Building D.

9 MR. APPEL: So that's the -- from the
10 first round of sets.

11 (Site plan is put up on the screen.)

12 MS. WHITE: That's it, and I need the
13 blow-up of the corner piece.

14 UNIDENTIFIED VOICE: (Inaudible)

15 MS. WHITE: That's it. So if you go
16 to the top of the Building D, I'm assuming that's
17 basically across from Howell Drive; is that correct?

18 MR. APPEL: Over here (indicating).

19 MS. WHITE: Yes, up there. Make sure
20 I'm reading it correctly.

21 So a couple of questions with respect
22 to that. First is something I'd like to know
23 relative to the settlement agreement itself. I
24 already know that you're talking about this building
25 being roughly four feet higher than the others with

1 the ten-foot ceilings, probably still within your
2 requirements for height, but my question really is s
3 around whether or not the settlement agreement
4 addressed in part or all the proposed rooftop deck,
5 which is both for public access, as you described,
6 in the center of the building as well as private
7 structures that people would reach through their
8 apartments, and that to me, appears to be a de facto
9 fifth story, so my question is: Was it included and
10 was that, again, part of what was taken into effect
11 or not relative to your design?

12 MR. PLOCKER: It's in the ordinance.
13 The ordinance permits rooftop amenities, and then
14 I'll let Mr. Appel answer the question.

15 MR. APPEL: Yeah, and I was going to
16 -- my recollection, and I don't have the ordinance
17 in front of me, but that it did permit rooftop
18 amenities without it being considered an additional
19 story.

20 MS. WHITE: Okay, so with that, if you
21 can, looking at that part where the Howell side
22 faces, that flat face there, what is the height at
23 the highest on that place? That is a place that I
24 will look at from my home, as will many of my
25 neighbors.

1 or in their backyards, that people living in those
2 buildings would not be able to see our homes. And
3 I'm asking that because there was testimony given by
4 your civil engineer addressing a balloon test, which
5 I understand were never performed, I'm not sure why
6 they weren't performed, which would certainly give
7 us some assurance that if I am in my home or in my
8 backyard, that people would not have purview to the
9 activities there.

10 MR. APPEL: So --

11 MS. WHITE: And looking at what I see
12 here, nothing tells me, other than whatever trees
13 you decided to draw in, that that privacy would be
14 maintained, especially given the size of those trees
15 relative to the size of the property itself.

16 MR. APPEL: Well, I -- I think that
17 the -- based on the topography as well as the trees
18 in between the house and the building here, provide
19 buffering to the -- to the building itself.

20 MS. WHITE: Okay. If you could then
21 just help me for a second. I'm trying to understand
22 this; I'm not an architect. That structure you have
23 to the right, can you tell me approximately what
24 house on Howell Drive that represents.

25 MR. APPEL: The corner --

1 MR. APPEL: Well, I think what you
2 have to look at in here is that when you look at the
3 edge of the building -- actually, let me do it...

4 MS. WHITE: Is that looking --

5 MR. APPEL: So --

6 MS. WHITE: -- onto Howell --

7 MR. APPEL: So --

8 MS. WHITE: -- or is that looking
9 down? That's --

10 MR. APPEL: So this -- this is the
11 section --

12 MS. WHITE: Um-hum.

13 MR. APPEL: -- right here
14 (indicating) --

15 MS. WHITE: Okay.

16 MR. APPEL: -- going over toward
17 Howell. So you can see that the building steps
18 down, so the dimension that I gave in prior
19 testimony was measured from the low point in here,
20 not measured to the wedding-cake stepping as it goes
21 farther and farther back.

22 MS. WHITE: Okay. So if I'm reading
23 this correctly, I'm looking at the little dashes you
24 have, it gives the appearance that if I'm sitting in
25 my home, or my neighbors are sitting in their homes

1 MS. WHITE: Okay.

2 MR. APPEL: And this is an
3 extrapolation just to be diagrammatic.

4 MS. WHITE: Right, and I understand
5 that. So, again, looking at the height of the trees
6 relative to the height of the structure, we are
7 given no assurances that whatever existing trees are
8 there and those would clearly be extremely old trees
9 to have that height, that none of those trees would
10 be moved or removed, because to replace that with a
11 standard tree would not give the privacy that we
12 have been enjoying up until now.

13 MR. APPEL: So the only thing that I
14 can tell you is the site engineer gave testimony
15 that there was a very large area that had preserved
16 trees. I -- I --

17 MEMBER OF THE PUBLIC: (Inaudible)

18 MR. APPEL: Outside of that area, as
19 long as there's -- anything that is outside of that
20 property line obviously won't be touched and the
21 area that would be cleared would only be to
22 accommodate the building and grading, not clear-
23 cutting all of that, uh, that growth in there. So
24 what we did with the, uh, with the section was to be
25 as representative as possible.

1 MS. WHITE: Okay. So -- so with that,
2 I believe that the engineer did testify that the
3 shortest setback on Howell is 106 feet, basically
4 the length of a garden hose. So I'm asking you
5 again, understanding, because I'm not an architect,
6 with this clear-cutting you're referring to, et
7 cetera, et cetera, what will be the visibility of
8 any portion of that building to those of us who
9 reside on that part of Howell, and I have a further
10 question to that once you answer.

11 MR. APPEL: So the reason we did this
12 section was to illustrate to our, you know, the best
13 we could, the representation between the two and to
14 illustrate that this -- this area -- these are new
15 plantings, but once you get away from where you're
16 building, none of this is going to be -- none of
17 that is going to be impacted.

18 MS. WHITE: All right.

19 MR. APPEL: So --

20 MS. WHITE: So is that a matter of
21 fact or speculation?

22 MR. APPEL: Excuse me?

23 MS. WHITE: Is that a matter of fact
24 that it will not be impacted or is it just your
25 speculation this point -- that they will not --

1 that on the real estate values of the existing
2 properties?

3 MR. APPEL: We -- there was no
4 discussion that -- that I've had personally with
5 regard to real estate values, but one of the things
6 that was done is that this building originally was
7 full height and squared off. We worked hard to try
8 and soften all the edges, which were -- we thought
9 was going to be appropriate and respectful to the
10 adjoining residents.

11 MS. WHITE: Okay.

12 MR. APPEL: All those things are --
13 are not, you know, take time and money and
14 additional construction for us to do, but we thought
15 it was appropriate.

16 MS. WHITE: Okay. Perhaps you can't
17 answer the question but I hope at some point, the
18 Planning Board could, and that is whether or not any
19 consideration was given to any sort of study that
20 might indicate what the potential impact on real
21 estate values would be of having this structure, not
22 even the final structures but perhaps even multiple
23 years of construction, literally across the street
24 from us. Thank you.

25 CHAIRMAN BAGOFF: Thank you.

1 MR. APPEL: I'm --

2 MS. WHITE: -- disturb that?

3 MR. APPEL: I'm just going -- it's not
4 speculation, this is what's on the site drawings.

5 MS. WHITE: Okay. I don't know the
6 site drawings, I'm asking.

7 MR. APPEL: But I'm not -- you know,
8 the -- again, this is, you know, you're asking me
9 questions that, yes, I prepared this section because
10 it was appropriate because of the architecture, but
11 I'm following the site drawings and illustrating, as
12 representative as possible, what is on the site --

13 MS. WHITE: And I --

14 MR. APPEL: -- plan.

15 MS. WHITE: I feel I have the right to
16 ask these questions because you have submitted this
17 along with your testimony.

18 MR. APPEL: Absolutely.

19 MS. WHITE: So in that same regard,
20 since you know the proximity of that Building D in
21 particular to the larger neighborhoods, when you
22 were given instruction to look at that whole
23 property around the placement of buildings, were
24 there any things that you were told relative to the
25 potential impact of having buildings as close to

1 MR. PLOCKER: May I have one second,
2 Chairman?

3 CHAIRMAN BAGOFF: Mr. Plocker.

4 MR. PLOCKER: Yeah, just with respect
5 to the last comment about real estate values, just
6 for the record, we are zoned, we are a permitted
7 use, and I appreciate the member of the public's
8 comments, but it is a permitted use. If this was
9 the Zoning Board of Adjustment and we were seeking a
10 use variance, certainly, that type of testimony and
11 expert testimony would be relevant, but it really is
12 not something that this Board should consider.

13 CHAIRMAN BAGOFF: Thank you, Mr.
14 Plocker.

15 Go right ahead, state your name and
16 spell your last name, please.

17 MS. KLEIN: Rachel Klein, K-L-E-I-N,
18 Howell Drive.

19 That picture that was just up -- I'm
20 sorry, I forgot you -- Mr. Appel?

21 MR. APPEL: Yes.

22 MS. KLEIN: Is that your picture, that
23 design?

24 CHAIRMAN BAGOFF: Ma'am, speak into
25 the mic.

1 MS. KLEIN: Sorry. The last picture
 2 --
 3 CHAIRMAN BAGOFF: Thank you.
 4 MS. KLEIN: -- that was just up --
 5 MR. APPEL: Yes.
 6 MS. KLEIN: -- that Ms. White --
 7 MR. APPEL: The section.
 8 MS. KLEIN: -- was talking about --
 9 MR. APPEL: Yes.
 10 MS. KLEIN: -- was that from your
 11 design firm?
 12 MR. APPEL: Yes.
 13 MS. KLEIN: What's that a picture of?
 14 Like, what's -- is that Ms. Paul's house? That
 15 picture defies reality. So we're just -- we all
 16 live there, we know the area; we're just trying to
 17 understand what we're looking at.
 18 MR. APPEL: The --
 19 MS. KLEIN: So her house has a huge
 20 cul-de-sac and the grading is actually a lot flatter
 21 in that area. So we're just -- we just don't
 22 understand what you're showing us.
 23 MR. APPEL: I -- I may -- it's very
 24 possible that it may be the house right next to it,
 25 but I --

1 MR. APPEL: -- the house is here
 2 (indicating).
 3 MS. KLEIN: So that's Mr. Weisleder's
 4 house.
 5 MR. APPEL: I apologize, I don't -- I
 6 don't know the residents of each house.
 7 MS. KLEIN: Is that yours?
 8 MEMBER OF THE PUBLIC: It's Mayfair.
 9 MS. KLEIN: It's Mayfair and Estro and
 10 that's the grading?
 11 MEMBER OF THE PUBLIC: (Inaudible)
 12 MS. KLEIN: No, that's --
 13 MEMBER OF THE PUBLIC: (Inaudible)
 14 MS. KLEIN: No, that --
 15 MEMBER OF THE PUBLIC: (Inaudible)
 16 MS. KLEIN: Is that my house?
 17 MEMBER OF THE PUBLIC: (Inaudible)
 18 MS. KLEIN: So is that my house?
 19 MEMBER OF THE PUBLIC: Number 15. It
 20 looks like number 15.
 21 MR. APPEL: Is it meant to represent a
 22 specific house? I don't know the -- I don't know
 23 the exact address.
 24 MS. KLEIN: My neighbor's house.
 25 Okay. So if you actually -- okay, so the grading's

1 MS. KLEIN: (Indiscernible)
 2 MR. APPEL: -- I don't know --
 3 MS. KLEIN: I'm sorry, if we're trying
 4 to understand the picture and the design, if that --
 5 if that's -- no, there's no house next to it at all,
 6 there's empty lots. There's a huge cul-de-sac
 7 between Ms. Paul's house and the first street, and
 8 the grading in that specific area is not nearly that
 9 steep. So, yeah, we're just a little confused. Is
 10 that supposed to be the top of Howell Drive?
 11 MR. APPEL: Are you talking about on
 12 the cul-de-sac?
 13 MS. KLEIN: Yeah, is that the house on
 14 the cul-de-sac?
 15 MR. APPEL: No.
 16 MS. KLEIN: So --
 17 MR. APPEL: No.
 18 MS. KLEIN: -- whose house is that
 19 supposed --
 20 MR. APPEL: Actually --
 21 MS. KLEIN: -- to be?
 22 MR. APPEL: Actually, look at the
 23 site, if we can zoom that. So the cul-de-sac is
 24 here --
 25 MS. KLEIN: So that's --

1 even worse, it's actually exceptionally steep in
 2 that area, much, much steeper than your design
 3 shows, but at least now we have an idea of what
 4 we're looking at. Thank you.
 5 CHAIRMAN BAGOFF: Okay. Hello.
 6 MS. BENYO: Good evening once again,
 7 everyone.
 8 CHAIRMAN BAGOFF: Hi.
 9 MS. BENYO: Claire Benyo, B-E-N-Y-O.
 10 Earlier, there was a series of
 11 questions about the decisions that -- and thought
 12 process that went into the building placement, and I
 13 understand that you can't speak to that
 14 specifically, but during that period of time, you
 15 mentioned that there were various issues that led to
 16 the decisions about where those buildings were
 17 placed. I would ask if you could expand on what
 18 those various issues were?
 19 MR. PLOCKER: Yeah, I would instruct,
 20 the site plan that's here is the site plan and
 21 that's what this Board needs to evaluate, and Mr.
 22 Appel is happy to answer any questions about the
 23 designs on that site plan.
 24 MS. BENYO: And so the site engineer
 25 would be the one to answer those questions?

CHAIRMAN BAGOFF: What are the questions?

MS. BENYO: Who is the site engineer?

CHAIRMAN BAGOFF: He testified already.

MS. BENYO: Mr. Anderson, the first gentleman, who we asked these questions of and he said "Oh, that was the architect that was going to answer those questions" and so we all showed up to ask these questions of the architect and now the architect is telling us "Oh, we must ask these questions of the site engineer"?

CHAIRMAN BAGOFF: What's the -- try a question.

MS. BENYO: Shall I pull up all the questions I asked the last two sessions --

CHAIRMAN BAGOFF: Try --

MS. BENYO: -- that I was told to --

CHAIRMAN BAGOFF: Try a question.

MS. BENYO: Who's installing the fence? Whose responsibility is it to install the fence?

CHAIRMAN BAGOFF: Okay.

MS. BENYO: The deer fence. Whose responsibility is it to install the deer fence?

CHAIRMAN BAGOFF: We haven't gotten there yet. That's the environmental people.

MS. BENYO: I was informed it was the site engineer who was going to --

CHAIRMAN BAGOFF: Okay.

MR. PLOCKER: To install it, that's a construction issue.

CHAIRMAN BAGOFF: Construction issue, okay.

MS. BENYO: Who's in charge of installing the fence?

MR. PLOCKER: It's a little premature right now. We're here seeking site plan approval from the Board. Obviously --

MS. BENYO: With all due respect, who is in charge of installing the fence?

CHAIRMAN BAGOFF: Okay. There's going to be a plan and -- listen. You want to have the answer.

MS. BENYO: Yes.

CHAIRMAN BAGOFF: There's somebody who's constructing the place, right?

MS. BENYO: Um-hum.

CHAIRMAN BAGOFF: He just said it. The person who's constructing it is installing it.

MS. BENYO: And who would that be?

CHAIRMAN BAGOFF: Whoever they hire. Ask him who they're going to hire.

MS. BENYO: Who are you hiring to install the fence?

MR. PLOCKER: That is premature, it's an ownership issue. They're not going to go down that path and have full building plans engineered without an approval. This is the first step in the process.

MS. BENYO: Will Mr. Anderson be coming back up for public hearing for repeat questions that have already been asked that have been pushed to subsequent meetings that we're all anxiously attending every couple weeks because our questions were told that it's not their expertise, it's not their purview, it's someone else's responsibility? So will he come back up so they can answer the questions that were previously asked?

CHAIRMAN BAGOFF: It's up to the applicant. The applicant can hear your questions and they -- they may choose to or not provide Mr. Anderson to come back.

MS. BENYO: So when will all of the questions be answered, because I was informed that

this gentleman was the one who was going to answer my questions about the fence material, the installation, the concerns of the wildlife, when the fence was being instructed.

CHAIRMAN BAGOFF: So that's going to be the environmental. Our environmentalist, Mr. DeFeo can talk to -- specifically to those answers.

MS. BENYO: And when will Mr. DeFeo be here?

CHAIRMAN BAGOFF: After the applicant has finished their portion of the application and the objectors have finished theirs, our -- Mr. DeFeo will be on the list, it'll be published on the website.

MS. BENYO: When will Mr. DeFeo be available for public comment and question?

CHAIRMAN BAGOFF: We don't know 'til the applicant is finished with their portion. I wish I could tell you, but there's a process. He will be up there, so... I don't know yet.

MS. BENYO: You have -- correct me if I'm wrong, but you have already hired the environmental specialist?

CHAIRMAN BAGOFF: Yes, we have.

MS. BENYO: And when will we have an

1 opportunity -- if he's here -- well, is tonight an
2 opportunity?

3 CHAIRMAN BAGOFF: He hasn't testified.
4 The applicant is putting on their portion of the
5 application --

6 MS. BENYO: And will the environmental
7 specialist be able to answer my questions about the
8 building materials that are being used by the fence
9 and the installation of the deer fence?

10 CHAIRMAN BAGOFF: Not tonight, because
11 our expert is not testifying.

12 MS. BENYO: When the environmental
13 specialist is available, will they be able to answer
14 my questions about the building materials of the
15 fence and the installation of the fence?

16 CHAIRMAN BAGOFF: If it's within his
17 scope of expertise, he will.

18 MS. BENYO: Whose scope is it -- whose
19 scope is it, responsibility to answer those
20 questions?

21 CHAIRMAN BAGOFF: Which questions,
22 ma'am?

23 MS. BENYO: The installation and
24 materials of the deer fence.

25 CHAIRMAN BAGOFF: The installation's

1 probably done by a contractor, the materials could
2 be talked about by Mr. DeFeo.

3 MS. BENYO: When will we have an
4 opportunity to speak to --

5 CHAIRMAN BAGOFF: Okay, I'm going to
6 try this again. The applicant has to finish their
7 portion of the application. I don't know when. The
8 applicant has more people to bring before the Board
9 and the public. So as the application progresses,
10 we'll have a better idea.

11 MS. BENYO: I think that there's a
12 general feeling that the public keeps coming here
13 and asking questions and they keep being told
14 "That's not my area of expertise, I'm not authorized
15 to answer that question," and then we have the
16 lovely lawyer who chimes in and gives his written
17 statement for his responsibility --

18 CHAIRMAN BAGOFF: That's why the
19 Planning Board has --

20 MS. BENYO: -- I keep coming here with
21 questions and I keep being told that's not the
22 person's responsibility to answer.

23 CHAIRMAN BAGOFF: And that's why the
24 Planning Board hired an expert in environmental
25 science.

1 MS. BENYO: And the Planning Board --
2 the cost of that environmental specialist, that's
3 being burdened by the West Orange taxpayers?

4 CHAIRMAN BAGOFF: No.

5 MS. BENYO: Who is paying for that?

6 CHAIRMAN BAGOFF: The applicant,
7 through the escrow fund.

8 MS. BENYO: Previously, I asked that
9 question specifically and the applicant specifically
10 said that they were not hiring any environmental
11 specialist.

12 CHAIRMAN BAGOFF: We didn't. They
13 didn't, we did. Ma'am, you have to follow the
14 rules. The Board has an escrow fund supplied by the
15 applicant. The township has not done that. We, at
16 our last meeting, had a motion and we engaged Mr.
17 DeFeo. Okay? There's a process. We're following
18 the process.

19 MS. BENYO: And who -- and who's
20 paying Mr. DeFeo, to confirm?

21 CHAIRMAN BAGOFF: I'm going to try
22 this again. I want you to listen closely. This is
23 paid for by the applicant through the escrow fund.
24 The Planning Board, at its pleasure, can hire
25 experts when we feel there's more information that

1 the Board and the public needs to hear. And Mr.
2 DeFeo is a well-known expert.

3 MS. BENYO: And the last time the -- I
4 apologize, I forgot the lawyer's name, he
5 specifically said that they were not -- he confirmed
6 that they were not hiring --

7 CHAIRMAN BAGOFF: Okay.

8 MS. BENYO: Any --

9 CHAIRMAN BAGOFF: Can I just try this
10 one more time? The Planning Board, us, on behalf of
11 the township, have hired an environmental expert.

12 MS. BENYO: The township has hired an
13 environmental --

14 CHAIRMAN BAGOFF: Ma'am, I need you to
15 listen to me real closely. The Planning Board works
16 for the township but has a fund that is not from the
17 taxpayer pool. Okay?

18 MS. BENYO: So the applicant is paying
19 for the environmental specialist.

20 CHAIRMAN BAGOFF: Indirectly, yes.

21 MR. PLOCKER: And Mr. Hess and Mr.
22 Haizel.

23 CHAIRMAN BAGOFF: I'm sorry?

24 MS. BENYO: Can I ask if there's a
25 conflict of interest between the township hiring a

1 specialist and the applicant --

2 CHAIRMAN BAGOFF: I'm going to turn
3 that over to our attorney.

4 MS. BENYO: Thank you.

5 MS. McGOVERN: Okay. So in any
6 Planning Board application with a site plan, we
7 always have a planner and our engineer. They're
8 hired by the town.

9 MS. BENYO: Um-hum.

10 MS. McGOVERN: Before an application
11 begins, they're required, the applicant, to put
12 money into a fund, the escrow fund. They don't get
13 to pick our experts. In this case, we asked for
14 even more money because we knew we wanted to hire an
15 environmental expert. They didn't hire Mr. DeFeo.
16 This Board selected him. They get to pay for him,
17 but they don't get to choose who he is. The Board
18 did. Just like the Board selected their planner and
19 their engineer, just like they testify in every one
20 of our applications, but in this case, because of
21 the environmental concerns, a separate expert was
22 hired.

23 MS. BENYO: Excellent. Thank you for
24 the clarification. Just one final question. A
25 clarification to confirm that Mr. DeFeo will be

1 not be worded well at all, but they also are not
2 professionals and we have to give them that grace.
3 And Mr. Chair, I would ask -- I would ask that you
4 would help police that because I think we're giving
5 an impression -- we may be giving an impression that
6 we're not intending to. Thank you, Mr. Chair.

7 CHAIRMAN BAGOFF: You're welcome. I
8 think the Chair and the Board has, by extending
9 hours and hours of time to hear every person's
10 questions and make sure that the Board -- and ladies
11 and gentlemen, the goal of this is a fewfold, but
12 the biggest goal is that the Board hear your
13 comments, your questions and the answers by the
14 applicant so we can make a decision based on the
15 facts. So we want -- that's why I'm trying to keep
16 everything on the narrow, right in the middle, we
17 don't go too far left or too far right, because
18 other people in the room have questions, and we
19 don't want people going too far off with the -- with
20 the experts because if it's not in their purview, we
21 should get to the people who it is in their purview.
22 So to that end, I want to thank you again, as
23 Council President said, for your help, questions,
24 and go right ahead, young lady.

25 MS. RUDIN: Joyce Rudin. You might

1 available for public comment and questioning at some
2 point during this process.

3 CHAIRMAN BAGOFF: Yes, and he will
4 make a presentation based on this application.

5 MS. BENYO: Okay. Thank you very
6 much.

7 CHAIRMAN BAGOFF: You're welcome.

8 COUNCILMAN RUTHERFORD: Mr. Chairman.

9 CHAIRMAN BAGOFF: Council President
10 Rutherford.

11 COUNCILMAN RUTHERFORD: So there's
12 some back-and-forth, on this side of the table at
13 least, with regard to some of the questions that are
14 being posed. I do think it's important for us and
15 for the applicant and their professionals to
16 understand that the folks that are asking these
17 questions are not professionals. They have a
18 personal interest in this project. They matter,
19 they are important to me, I expect they are
20 important to this entire body, and will deserve to
21 be treated with respect. So I think we all need to
22 take a deep breath and afford them the grace that
23 they are due, since they have now come out at least
24 three times and they just want answers to their
25 questions. They may not ask them artfully, they may

1 not recognize me because I'm a bit younger than I
2 was a few minutes ago.

3 CHAIRMAN BAGOFF: And I just had my
4 eyes checked so it looks good from here.

5 MS. RUDIN: I would just appreciate if
6 you could put up that cross-section of the hill with
7 the trees and the building and the house. Whose
8 house it is, we don't know, but it's in the woods.

9 (Site plan is put up on the screen.)

10 MS. RUDIN: Okay. So we're not sure
11 whose house that is.

12 MR. APPEL: The house is --

13 MS. RUDIN: It's in the woods, though.
14 Right there, right before the woods.

15 MR. APPEL: So you're talking about
16 the house that's sitting right here (indicating), at
17 that corner.

18 MS. RUDIN: Yes. So I was just
19 wondering, will construction equipment be going up
20 that hill so that the buildings can be built?

21 MR. APPEL: You're talking about which
22 hill, you're talking about this hill here
23 (indicating)?

24 MS. RUDIN: Well, if you could show me
25 the other hill where the cross-section is.

1 MR. APPEL: I'm just trying to
2 understand, going in -- I'm trying to -- if I can
3 answer the question, I'll answer the question, but
4 I'm not sure of what you're asking. You're talking
5 about this hill (indicating)?

6 MS. RUDIN: If that's the same hill
7 that's in the cross-section that you showed in the
8 other image, if that's the same place, then yes.
9 Will construction equipment be going up that hill in
10 order to build this --

11 MR. APPEL: I can't --

12 MS. RUDIN: -- building?

13 MR. APPEL: I can't fathom why it
14 would be going up and down this hill. It would be
15 on the top of the hill over here (indicating).

16 MS. RUDIN: And how is that -- those
17 large instruments, machines, getting there? Are
18 they going in a different way, in a road that
19 currently exists?

20 MR. APPEL: So there's -- there's
21 roadways -- as far as the sequencing of
22 construction, I'm really -- you know, I'm an
23 architect, I'm not involved in this. I'm trying to
24 do my best to answer your question. I -- I -- I
25 can't fathom why vehicles would be going up and down

1 these trees are deciduous, correct.

2 MS. RUDIN: So --

3 MR. APPEL: I think so.

4 MS. RUDIN: Because I see that there
5 are two conifers over there by the building. So the
6 deciduous trees, obviously, the leaves fall,
7 correct?

8 MR. APPEL: Yes.

9 MS. RUDIN: So there was a -- there
10 was a member of the community that asked a question
11 about whether or not there would be a buffer, but
12 when those leaves fall, the community that's living
13 in the older community will see the lights from the
14 new buildings, correct? Because the trees will be
15 bare.

16 MR. APPEL: Well, the --

17 MS. RUDIN: And they can -- and
18 vice-versa.

19 MR. APPEL: The lights -- the lights
20 face downward, not outward.

21 MS. RUDIN: But the lights from the
22 apartment face -- don't face downward, they face
23 out; is that correct?

24 MR. APPEL: Which lights are you
25 talking about?

1 in here (indicating), but there would be
2 construction access to bring materials and vehicles
3 and construction equipment in to build and
4 afterwards, it's made clean and paved and the
5 project finished.

6 MS. RUDIN: So no -- to your -- to the
7 best of your knowledge, construction equipment will
8 not be going up that cross-section hill that -- that
9 you're looking at over there. Right there. Equip
10 -- where there are trees, the big tree barrier --

11 MR. APPEL: It is not -- it's not the
12 applicant's property.

13 MS. RUDIN: Okay. So if you could go
14 back to that other -- other picture.

15 MR. APPEL: Here we go.

16 MS. RUDIN: Okay.

17 MR. APPEL: This one?

18 MS. RUDIN: Are those -- are those --
19 the drawings, are they the type of trees that are
20 there right now?

21 MR. APPEL: These were just
22 diagrammatic just to be -- just representative.

23 MS. RUDIN: Can we assume that most of
24 these trees are deciduous?

25 MR. APPEL: I would think most of

1 MS. RUDIN: The lights from the
2 apartments of the people who will be living in those
3 buildings.

4 MR. APPEL: I was indicating that the
5 balcony lighting is not -- they're not wall-mounted
6 lanterns that face outward but they're down-lights
7 that face down.

8 MS. RUDIN: I understand, but the
9 apartments have -- they all have windows and they
10 have lights and we're not just talking about the
11 balcony, the apartments will have lights that'll be
12 on that will bleed onto the community that currently
13 lives there.

14 MR. APPEL: Assuming --

15 MS. RUDIN: Is that correct?

16 MR. APPEL: Assuming that they don't
17 draw shades, in the same way that if there's lights
18 in this house over, they would -- they would be
19 shining back at the apartment and vice-versa.

20 MS. RUDIN: Okay, so there will be
21 light that they're not exposed to at this point
22 because woods protect them and the buildings are not
23 there, so there will be more light shedding on the
24 community that lives there right now.

25 MR. APPEL: I couldn't opine upon the,

1 you know, the differences.

2 MS. RUDIN: Okay.

3 MR. APPEL: But you're talking --
4 you're talking about in excess of about 230 feet, so
5 -- and there are still limbs and other -- you know,
6 when the trees drop their leaves, there's still some
7 substance to the trees as well.

8 MS. RUDIN: Right, but that's pretty
9 bare, bare bones, I would say. Okay, thank you so
10 much.

11 MR. AFRAN: Mr. Chairman? Before Ms.
12 Paul asks her question --

13 CHAIRMAN BAGOFF: Mr. Afran --

14 MR. AFRAN: I'm sorry.

15 CHAIRMAN BAGOFF: -- go ahead.

16 MR. AFRAN: Before Ms. Paul asks her,
17 I just wanted to note for the good order of the
18 meeting that I have yet to do cross-examination.
19 I'm not complaining, I just didn't want anyone to be
20 shocked if, in 20 minutes, I say "By the way, at the
21 next meeting, we still need to do that." I don't
22 think anyone's inclined to hear me do it at this
23 hour, I'm inclined not to, but I did want to note we
24 still need to do that at some point, so I didn't
25 want the Board not to be aware of that. It won't be

1 MR. AFRAN: One other thing while I'm
2 standing here, it will be easier. We had
3 anticipated, and Mr. Chairman, maybe you see it
4 differently, that Mr. DeFeo would make a
5 presentation before we put on our case, and the
6 reason is that our choice of environmental experts
7 or the need for them probably depends on Mr. DeFeo
8 --

9 CHAIRMAN BAGOFF: It's okay.

10 MR. AFRAN: -- so I would think if we
11 could do it that way, that would be easier.

12 CHAIRMAN BAGOFF: We'll work together
13 to make sure that everything works out.

14 MR. AFRAN: Okay.

15 CHAIRMAN BAGOFF: Okay?

16 MR. AFRAN: Thank you.

17 CHAIRMAN BAGOFF: Okay.

18 MS. PAUL: Gilda Paul, P-A-U-L, and
19 before I start, I just want to thank the birthday
20 boy. Is that Mr. Rutherford? Are you Mr.
21 Rutherford?

22 COUNCILMAN RUTHERFORD: Yes. Thank
23 you.

24 MS. PAUL: Thanks for your comments, I
25 really appreciate them.

1 exceptionally long but it'll be longer than our time
2 tonight and I would assume people are tired at this
3 point.

4 CHAIRMAN BAGOFF: One moment.
5 (Off-the-record discussion)

6 CHAIRMAN BAGOFF: Mr. Plocker?

7 MR. PLOCKER: Yes.

8 CHAIRMAN BAGOFF: You good? Are you
9 good for September 11, Mr. Afran? Are you good for
10 September 11? 9/11.

11 MR. AFRAN: I think so.

12 CHAIRMAN BAGOFF: Okay, good.

13 (Off-the-record discussion)

14 MR. AFRAN: (Inaudible)

15 CHAIRMAN BAGOFF: Okay. So you'll go
16 on on September 11. Yes? Good. Okay.

17 MR. AFRAN: (Inaudible)

18 CHAIRMAN BAGOFF: Okay, good. We'll
19 finish the citizens tonight and you'll do September
20 11.

21 MS. McGOVERN: But you have to make a
22 motion --

23 CHAIRMAN BAGOFF: Yes.

24 MS. McGOVERN: -- at the end.

25 CHAIRMAN BAGOFF: Yes, yeah.

1 COUNCILMAN RUTHERFORD: Oh, thank you.

2 MS. PAUL: So could you put -- do you
3 mind putting your drawing back up, the one that you
4 just had?

5 MR. APPEL: Sure.

6 MS. PAUL: Thank you.

7 (Site plan is put up on the screen.)

8 MS. PAUL: Okay, so I'm about as far
9 as an architect as you can get and I'm not used to
10 looking at architectural renderings --

11 MR. APPEL: That's all right.

12 MS. PAUL: -- so if you'll bear with
13 me. So I thought that little shed at the bottom was
14 my house but it's not, apparently. So if we go to
15 that drawing, can we blow up the thing at the top?

16 MR. APPEL: Okay.

17 MS. PAUL: Is that -- yeah. So if you
18 go -- is that an access road, the little brown line
19 over there?

20 MR. APPEL: This one here (indicating)?

21 MS. PAUL: Yeah. What is that?

22 MR. APPEL: I believe -- I believe
23 that's an emergency -- it's emergency access.

24 MS. PAUL: Okay, so my house is right
25 across from that.

1 MR. APPEL: Oh, up over here
 2 (indicating).
 3 MS. PAUL: Well, not up over there.
 4 Right there.
 5 MR. APPEL: Okay.
 6 MS. PAUL: A little closer -- a little
 7 closer to the cul-de-sac. No, not there. Right
 8 across the cul-de-sac, right there, from the woods.
 9 How many trees are there blocking my
 10 house?
 11 MR. APPEL: I -- I -- I don't -- I
 12 don't have an answer from -- from in between the
 13 houses. I know these lots are all vacant, if I --
 14 if I recall.
 15 MS. PAUL: There's no -- right, there
 16 are no houses on that side of the street, but I'm
 17 right across from the cul-de-sac. Is there any --
 18 is there any trees or anything blocking my view?
 19 MR. APPEL: I -- I don't know without,
 20 you know, that's a -- really a site question and I
 21 don't -- I don't know where the trees are.
 22 MS. PAUL: Okay. Okay. And the site
 23 engineer will be back and I guess I'll be able to
 24 ask them? And is my house the one that has the
 25 hundred feet from the -- the hundred feet from the

1 MR. APPEL: But if --
 2 MS. PAUL: -- 100 feet.
 3 MR. APPEL: But if your house is over
 4 here, this is, you know, this is --
 5 MS. PAUL: Yeah, I'm not that far, I'm
 6 the cul-de-sac.
 7 MR. APPEL: So --
 8 MS. PAUL: But that's all right.
 9 MR. APPEL: -- you're on the
 10 cul-de-sac, I guess at the end over here
 11 (indicating)?
 12 MS. PAUL: No, right across.
 13 MR. APPEL: Here (indicating)?
 14 MS. PAUL: No. Right across that
 15 access line. You see there's the cul-de-sac? On
 16 the other side of the cul-de-sac, right there, is my
 17 house, yeah.
 18 MR. APPEL: That's where I was
 19 pointing, over here (indicating).
 20 MS. PAUL: Yeah. Okay.
 21 MR. APPEL: Okay, so that -- so I
 22 think that, to where your house is and your property
 23 line, I've got to think it's probably closer to, you
 24 know, maybe 300 feet or something like that, maybe
 25 more than that, but I don't -- I don't know without

1 building?
 2 MR. APPEL: So when you said a hundred
 3 feet from the building, somebody -- I -- I tried to
 4 correct this a couple of times. I think this was
 5 something someone else gave testimony about distance
 6 probably to a property line.
 7 MS. PAUL: Okay. Same thing, my
 8 property line. Is my property line the one that's a
 9 hundred feet from the building?
 10 MR. APPEL: I -- I think you're
 11 considerably more than that, I'm just not sure where
 12 that --
 13 MS. PAUL: Because I'm assuming I'm
 14 the closest house, so if I'm not a hundred feet,
 15 which house would be?
 16 MR. APPEL: I -- I'm not -- I'm not
 17 sure what was a hundred feet. I apologize but --
 18 MS. PAUL: No, but it may not have
 19 been you --
 20 MR. APPEL: It's not my --
 21 MS. PAUL: -- it may have been someone
 22 else who testified --
 23 MR. APPEL: It's not my --
 24 MS. PAUL: -- the other night about a
 25 house being --

1 -- without pulling up a site plan --
 2 MS. PAUL: Okay.
 3 MR. APPEL: -- and looking at that.
 4 MS. PAUL: All right, and the site
 5 engineer will come and he will be able to tell me
 6 how many trees and what -- what will be blocking my
 7 view; is that correct?
 8 MR. APPEL: I'm sorry?
 9 MS. PAUL: When the site engineer is
 10 back, he will be able to tell me how many trees will
 11 be between my house and that building; is that
 12 correct?
 13 MR. APPEL: I can't tell you what the
 14 site engineer will testify to or not, but --
 15 MS. PAUL: Okay. That's fair.
 16 MR. APPEL: -- he is more in tune with
 17 trees and clearing and any of the site work than I
 18 --
 19 MS. PAUL: All right. Thank you. I
 20 have one more question.
 21 MR. APPEL: Okay.
 22 MS. PAUL: It seems to me you talked
 23 about there being a dog boarding -- a kennel and a
 24 grooming facility on the property.
 25 MR. APPEL: I -- I don't -- I don't

1 know specifically all the operations, you know, that
2 would be there but --

3 MS. PAUL: Is this a commercial
4 property, is this zoned for commercial use?

5 MR. APPEL: I believe the building was
6 and this use was always contemplated, so it's --

7 MS. PAUL: So I guess it must be.
8 Does the Planning Board know whether it's zoned
9 for --

10 MS. McGOVERN: I think --

11 MS. PAUL: -- commercial use?

12 MS. McGOVERN: -- it's definitely
13 zoned for the kennel because that's part of the
14 ordinance. I don't know whether outside -- people
15 outside of the complex and if it's something that --

16 MS. PAUL: Even if it's someone in the
17 complex, I'm assuming they'll pay for the service,
18 no?

19 MS. McGOVERN: Yes, but it's part of
20 the ordinance. That's allowed under the ordinance.
21 They have -- I'm trying to find it. The ordinance
22 that was designed for this complex --

23 MS. PAUL: I got it.

24 MS. McGOVERN: -- the fact --

25 MS. PAUL: So --

1 the ordinance provides, so --

2 MS. PAUL: Wait, so they're having a
3 dog park indoors?

4 MS. McGOVERN: No, I think in addition
5 to an --

6 MS. PAUL: Oh, okay.

7 MS. McGOVERN: -- outdoor --

8 MS. PAUL: -- sorry.

9 MS. McGOVERN: -- dog park.

10 MS. PAUL: I'm sorry. Thank you.

11 MS. McGOVERN: Okay?

12 MS. PAUL: Yeah. I'm sorry.

13 MS. McGOVERN: So that's what the
14 ordinance provides. If they go past what the
15 ordinance provides, a decision on zoning will be
16 made by the Zoning Officer. That's not -- we're not
17 here to interpret it, they're just building the
18 building.

19 MS. PAUL: Yeah, no, I'm just trying
20 to understand, I'm sorry. Thank you.

21 CHAIRMAN BAGOFF: Thank you.

22 MR. WEISLEDER: Seth Weisleder
23 S-E-T-H, W-E-I-S-L-E-D-E-R.

24 My question is, on the ---en all the
25 buildings, actually, if we can pull up the slide of

1 MS. McGOVERN: -- that --

2 MS. PAUL: So if it's open to people
3 outside the complex, is that a different ordinance
4 or is that a different rule or --

5 CHAIRMAN BAGOFF: It's managed by the
6 complex.

7 MS. PAUL: I mean, I have no --

8 MS. McGOVERN: I'm just going to read
9 the ordinance, and I'm not the one to make an
10 interpretation of it --

11 MS. PAUL: So who would --

12 MS. McGOVERN: -- I'm just reading it.

13 MS. PAUL: Who will know the answer to
14 this, though?

15 MS. McGOVERN: I guess we'll get more
16 specifics if we need to, but it says in the
17 ordinance "Pet-Friendly Amenity. As part of the
18 amenity package in addition to dog parks and other
19 playgrounds above, a development shall be permitted
20 to include an on-site pet service that shall be
21 permitted to offer walking services, pet-sitting
22 services, a pet spa or grooming service, overnight
23 boarding or related services, which shall be
24 permitted to operate indoors as part of a building
25 and/or as a standalone building." So that's what

1 all the buildings, if you can just depict for us how
2 many feet each -- each side or flat side of the
3 building, I think there were six of them, is from
4 different homes.

5 (Site plan is put up on the screen.)

6 MR. WEISLEDER: So let's just start
7 with Building A. How close is that? Which one's
8 Building A? I'm more familiar with D because we've
9 been focused on D all night. But if we look at
10 Building A, if you look at the -- just the flat
11 sides of it -- like, Building D had that red line;
12 if we could just look at the other buildings and say
13 "Okay, the left of Building A" -- right. So how far
14 is that side from the nearest home?

15 MR. APPEL: So what I had done was I
16 think we had taken a line from here over to -- from
17 this corner here over to, I think the corner of the
18 building that's next to -- that's just off the --
19 off the line, so that in here, I think -- and these
20 are scaled-off site plans so that, you know, this is
21 an approximation, was 648 feet.

22 MR. WEISLEDER: Okay. Can we go to
23 the next building and just do the same thing,
24 please? Thank you.

25 MR. APPEL: And we took, from this

1 corner coming back over to -- to this house over
2 here that I'm pointing to, which is, I guess, at the
3 -- and I apologize, I don't have the lots, blocks or
4 addresses --

5 MR. WEISLEDER: That's okay.

6 MR. APPEL: -- but I was estimating
7 that to be around 509 feet.

8 MR. WEISLEDER: Okay.

9 MR. APPEL: From this corner of the
10 building, Building C, going back to the same house
11 over here (indicating), at that corner, about 480
12 feet, 482 feet. From this corner -- from that same
13 corner up going to the house, the closest house
14 across from Howell, so it's not these lots but
15 across from Howell, was 545 feet.

16 MR. WEISLEDER: Okay. And then --

17 MR. APPEL: And all these are, you
18 know, clearly, you know, everything is within all of
19 the setback lines that were included in the
20 ordinance.

21 MR. WEISLEDER: Sure. And then
22 Building -- just, again, Building D is how far from
23 the nearest home?

24 MR. APPEL: You said Building D?

25 MR. WEISLEDER: Yeah.

1 year that was -- that this was created, this actual
2 image was created? Was it four years ago; three
3 years ago; a year ago?

4 MR. APPEL: Between a year -- maybe a
5 year or year and a half --

6 MR. WEISLEDER: Okay.

7 MR. APPEL: -- ago.

8 MR. WEISLEDER: Given, you said, that
9 this is a diagram -- dia -- I can't even say the
10 word -- diagrammatic, trees and showing -- I mean,
11 it looks beautiful, it looks nice but we heard that
12 the forest is not good from previous testimony. Is
13 there other technologies to better depict to the
14 public the sight lines and what it would look like
15 using architectural technologies besides this
16 drawing? I'm not familiar with all the systems out
17 there, but I believe there are other technologies
18 that could be used to depict this more clearly and
19 better of what the homes on Howell would see or
20 other homes on Highland would see.

21 MR. APPEL: So our first mission was
22 to make sure that we were locating and designing in
23 accordance with the metrics in the ordinance. Our
24 second issue is we thought having these sectional
25 drawings, and we did two of these, help show the

1 MR. APPEL: So the closest was where
2 we drew this section, and that dimension, I have as
3 around -- so on the site plan, from the lower point
4 of the building here, the building steps up in two
5 tiers, so the lower point was approximately two
6 hundred and -- I'm showing 264 feet and I just want
7 to make sure that's consistent.

8 MR. WEISLEDER: That's good, it's
9 fine.

10 MR. APPEL: It will be -- and I'm
11 showing on the other 230 feet, but that may have
12 been to the upper tier.

13 MR. WEISLEDER: So would you agree
14 with the testimony of your engineer that that was a
15 nice buffer all around to all the homes, from an
16 architectural point of view?

17 MR. APPEL: I -- I -- I think that the
18 idea to kind of cluster the structures toward center
19 of the property was quite successful, in my opinion.

20 MR. WEISLEDER: Okay. The -- the
21 picture, did you do the red lines for all the homes
22 or just that one home on Howell?

23 MR. APPEL: We did one section here
24 (indicating) and we did another section going down.

25 MR. WEISLEDER: And can I ask what

1 representative scale of things, and while they're
2 still diagrammatic, I think it shows how far these
3 distances, you know, are and the representative
4 scale of a house to a building, and I think that --
5 and the grading as well, and I think that's very
6 important.

7 MR. WEISLEDER: I don't -- I agree and
8 I disagree because I think there's a reality to
9 things. Have you been to the site to see this and
10 see what this drawing looks like compared to what
11 you did and stand at that gentleman's house, which
12 is not mine, by the way, for the record, but I'm
13 just wondering, you know, because I think there's
14 better technologies to depict a reality of what it
15 is, and yes, this gives us a sense but not a
16 realistic sense. Would you agree with that?

17 MR. APPEL: I, you know, looking --
18 looking at a diagram like this, for me, it tells a
19 picture and it tells a story, so I was confident
20 that the exhibit in here, that it's -- it's -- it's
21 telling a story.

22 MR. WEISLEDER: Okay. Fair enough.
23 Thank you.

24 CHAIRMAN BAGOFF: Thank you.
25 Please step up to the mic, state your

1 name and spell your last name, please, for the
 2 record.
 3 MS. SMALL: Susan Small, 22 Fowler
 4 Drive, West Orange, New Jersey.
 5 (Inaudible) I have a question. The men
 6 in suits sitting here, are they part of the
 7 organization that you're -- that you're
 8 representing?
 9 MR. APPEL: Other consultants on the
 10 team.
 11 MS. SMALL: Other consultants. What
 12 expertise is each of them in consulting?
 13 CHAIRMAN BAGOFF: Ma'am, ma'am, again,
 14 I would like to focus -- I un --
 15 MS. SMALL: (Inaudible)
 16 CHAIRMAN BAGOFF: Ma'am --
 17 MS. SMALL: (Inaudible)
 18 CHAIRMAN BAGOFF: I'm going to -- I'm
 19 going to --
 20 MS. SMALL: (Inaudible)
 21 CHAIRMAN BAGOFF: Ma'am --
 22 MS. SMALL: (Inaudible)
 23 CHAIRMAN BAGOFF: Ma'am --
 24 MS. SMALL: (Inaudible)
 25 CHAIRMAN BAGOFF: Function?

1 this evening, has hired an environmental expert.
 2 The environmental expert will testify, has been at
 3 each of the meetings, has a lot of information, has
 4 walked the site, has understood what's going on on
 5 the site, and will present to us, will present to us
 6 --
 7 MS. SMALL: (Inaudible)
 8 CHAIRMAN BAGOFF: I appreciate that.
 9 MS. SMALL: (Inaudible)
 10 CHAIRMAN BAGOFF: I'm wasting my
 11 breath.
 12 MS. SMALL: (Inaudible) the people who
 13 are volunteers on this Board have any -- are not
 14 exasperated for the hours that they spend?
 15 CHAIRMAN BAGOFF: Not at all. It's
 16 part of the process.
 17 MS. SMALL: Okay.
 18 CHAIRMAN BAGOFF: We are here for the
 19 process.
 20 MS. SMALL: And they're giving it out
 21 of love, their time.
 22 CHAIRMAN BAGOFF: Yes. Absolutely.
 23 MS. SMALL: Right.
 24 CHAIRMAN BAGOFF: But --
 25 MS. SMALL: And there are --

1 MS. SMALL: (Inaudible)
 2 CHAIRMAN BAGOFF: You're looking for
 3 that word. Okay, good. So --
 4 MS. SMALL: (Inaudible)
 5 CHAIRMAN BAGOFF: Ma'am, there's a lot
 6 of substance here, you're just not following --
 7 MS. SMALL: (Inaudible)
 8 CHAIRMAN BAGOFF: Ma'am, there are --
 9 MS. SMALL: (Inaudible)
 10 CHAIRMAN BAGOFF: Ma'am --
 11 MS. SMALL: (Inaudible)
 12 MR. APPEL: I don't know what your
 13 question is.
 14 MS. SMALL: Is there --
 15 CHAIRMAN BAGOFF: Okay, listen.
 16 MS. SMALL: -- an environmental person
 17 who did some evaluation on the plans or the
 18 environment?
 19 CHAIRMAN BAGOFF: Ms. Small, can you
 20 listen to me for a second? I'm going to ask you a
 21 question. I need you to focus.
 22 MS. SMALL: (Inaudible)
 23 CHAIRMAN BAGOFF: You're absolutely
 24 right, but I have to answer yours and I'm trying.
 25 The Planning Board, as stated earlier

1 CHAIRMAN BAGOFF: Ma'am --
 2 MS. SMALL: -- there are other people
 3 getting paid --
 4 CHAIRMAN BAGOFF: Ms. Small --
 5 MS. SMALL: -- for their time. Am I
 6 right or wrong?
 7 CHAIRMAN BAGOFF: Ms. Small, the only
 8 thing I got paid was a Starbucks and I bought that
 9 myself.
 10 MS. SMALL: Comment time.
 11 CHAIRMAN BAGOFF: Comment time.
 12 MS. SMALL: Later that --
 13 CHAIRMAN BAGOFF: Yes.
 14 MS. SMALL: -- it's going to be
 15 comment time.
 16 CHAIRMAN BAGOFF: Ms. Small, the
 17 process is, the applicant will be able to present
 18 all of their people. You could ask questions of
 19 their experts. When the application is completed by
 20 the applicant, all the information is heard. Before
 21 the Board deliberates, we will then hear comments
 22 from the public and you can speak to the
 23 application.
 24 MS. SMALL: Okay. Let me interrupt
 25 you for a moment. My time and the time of all these

1 people who pay for the running of this town is just
2 as valuable as anybody who's getting paid for their
3 time. We're not getting paid, and if you don't get
4 paid -- if you have no price in our system, you have
5 no worth.

6 CHAIRMAN BAGOFF: You have a lot of
7 worth.

8 MS. SMALL: That's what you get for
9 nothing, it's worthless, it's priceless, and if it's
10 priceless, it's not paid.

11 CHAIRMAN BAGOFF: Ma'am --

12 MS. SMALL: So I want to know whether
13 you will give me a discount off my taxes, or the Tax
14 Office will, for the time --

15 CHAIRMAN BAGOFF: Ms. Small --

16 MS. SMALL: -- valuable time, because
17 my time is running out --

18 CHAIRMAN BAGOFF: Ms. Small --

19 MS. SMALL: -- I'm getting old --

20 CHAIRMAN BAGOFF: Ms. Small --

21 MS. SMALL: -- and time is everything.

22 CHAIRMAN BAGOFF: Ms. Small --

23 MS. SMALL: Time is money.

24 CHAIRMAN BAGOFF: Ms. Small, you're
25 taking the time from the people who are sitting next

1 I appreciate that. The gentleman --

2 MS. SMALL: (Inaudible)

3 CHAIRMAN BAGOFF: Yes, you do. The
4 gentleman --

5 MS. SMALL: (Inaudible)

6 CHAIRMAN BAGOFF: Ms. Small --

7 MS. SMALL: (Inaudible)

8 CHAIRMAN BAGOFF: Ms. Small --

9 MS. SMALL: (Inaudible)

10 CHAIRMAN BAGOFF: Thank you.

11 MS. SMALL: (Inaudible)

12 CHAIRMAN BAGOFF: Thank you.

13 MS. SMALL: You're helping them more
14 than you're helping the people you're serving for
15 free as a volunteer. I'm questioning that.
16 Meanwhile -- meanwhile, you said that I could come
17 up and submit this.

18 CHAIRMAN BAGOFF: Ms. Small, there's a
19 gentleman behind you.

20 MS. SMALL: (Inaudible)

21 CHAIRMAN BAGOFF: Ms. Small, the
22 gentleman behind you has got questions. Why don't
23 you let him speak, please.

24 MS. SMALL: (Inaudible)

25 MR. LATERZA: Patrick Laterza,

1 to you who also want to hear the information --

2 MS. SMALL: Is there anybody here who
3 feels that they don't want to hear -- that they want
4 something I'm asking for now?

5 MEMBER OF THE PUBLIC: Yes.

6 CHAIRMAN BAGOFF: Ma'am --

7 MS. SMALL: Why don't you (inaudible
8 word) then?

9 CHAIRMAN BAGOFF: Okay. There's a
10 gentleman behind you who's got a couple of
11 questions. Thank you, have a wond --

12 MS. SMALL: (Inaudible) these four
13 gentlemen, my feeling, as I'm sitting here, seem to
14 be --

15 CHAIRMAN BAGOFF: Ma'am --

16 MS. SMALL: -- impatient.

17 CHAIRMAN BAGOFF: They're not --

18 MS. SMALL: (Inaudible)

19 CHAIRMAN BAGOFF: Ma'am --

20 MS. SMALL: (Inaudible)

21 CHAIRMAN BAGOFF: Ma'am --

22 MS. SMALL: (Inaudible)

23 CHAIRMAN BAGOFF: Thank you very --

24 MS. SMALL: (Inaudible)

25 CHAIRMAN BAGOFF: Thank you very much,

1 L-A-T-E-R-Z-A. Can Ms. Small --

2 CHAIRMAN BAGOFF: No, put it down.

3 MR. LATERZA: Okay. I'm sorry, I'll
4 hold on -- I'll give it back. Not right now, all
5 right?

6 CHAIRMAN BAGOFF: Put it down.

7 MS. SMALL: (Inaudible).

8 CHAIRMAN BAGOFF: Thank you.

9 MR. LATERZA: I'm sorry, I forgot my
10 question.

11 I have two quick questions and
12 hopefully I'm the last. First, going back to, you
13 know, not to belabor the very important point of
14 affordable housing, by my count, there's 97 units,
15 is that correct, or I'm incorrect on that?

16 MR. APPEL: You're talking about --
17 you're talking about --

18 MR. LATERZA: On the plan -- the
19 affordable housing, yes.

20 MR. APPEL: A hundred units.

21 MR. LATERZA: There are a hundred,
22 okay, because the map keeps on glitching on me.

23 The second question has to do with
24 access for construction, the location attached to
25 Howell Drive that's supposed to be used for

1 emergency access. It shows on the picture but I
2 think you know what I'm talking about, not
3 necessarily going up the slope but the actual
4 emergency access. Is that location going to be used
5 for construction vehicles or any construction?

6 MR. APPEL: I don't -- I don't believe
7 so, but I'm going to say the construction team would
8 be the one to opine on -- on that, but I'm not aware
9 of any.

10 MR. LATERZA: So we have a
11 construction team that'll also be testifying at some
12 point?

13 MR. APPEL: It really would be the
14 developer, the site engineer.

15 MR. LATERZA: I thought that might be
16 the case, but okay, you know, that's, I think, of
17 paramount importance to the people who live in the
18 town that is not represented here, Verona, who also
19 shares Howell Drive, so we would like to know, you
20 know, when -- if construction vehicles are going to
21 be driving down our roads that we did not approve
22 that --

23 MR. APPEL: I'm not aware that that
24 would be, you know, the location would be coming up
25 from the main -- the main roadway.

1 and preliminary and final site plan applications
2 consisting of five acres or more shall be
3 accompanied by an environmental impact statement."
4 So --

5 (Someone sneezes)

6 CHAIRMAN BAGOFF: Bless you.

7 MS. BENNETT: -- is that no longer
8 required?

9 CHAIRMAN BAGOFF: Mr. Plocker.

10 MR. PLOCKER: (Inaudible)

11 CHAIRMAN BAGOFF: Sure.

12 MS. BENNETT: So I'm asking the
13 Chairman, is that not required?

14 VOICE: (Inaudible)

15 MS. BENNETT: I understand that he's
16 looking something up, but I'm trying to understand
17 how this Board is convened and costing the taxpayers
18 money and you -- I saw a head shaking in the
19 negative. Mr. Fagan cost the -- Mr. Fagan cost the
20 taxpayers money and others who are here, the police
21 officers cost the taxpayers money, and the building
22 being on cost the taxpayers money. I understand you
23 all are donating your time, but why are you hearing
24 an application that does not have what is required
25 in order for this to get in front of the Board? I'm

1 MR. LATERZA: I think someone should
2 be able to give clarification on that at some point.
3 Okay, thank you.

4 CHAIRMAN BAGOFF: I'm going to ask
5 that the last two people standing -- the last two
6 people standing will be the last two people asking
7 questions this evening and then I think the
8 applicant is going to ask for a special -- another
9 special in September.

10 Ma'am, go right ahead.

11 MS. BENNETT: Thank you, Chairman
12 Bagoff. Do I need to do my name again or --

13 CHAIRMAN BAGOFF: Just -- yeah, say --

14 MS. BENNETT: Micaela Bennett,
15 B-E-N-N-E-T-T.

16 CHAIRMAN BAGOFF: Thank you.

17 MS. BENNETT: Just one really fast
18 question. So I'm reading from the township code and
19 it says that the environmental impact analysis --
20 hold on. I know that you -- just bear with me. I
21 gotta scroll down to "applicability." So this is 25
22 -- 25-13.1. And then I'm going to scroll down to
23 "Applicability," which is .3. 25-13.3,
24 "Applicability." And it says, at B, "All
25 preliminary and final major subdivision applications

1 not asking the applicant and counsel --

2 MS. McGOVERN: The ordinance which has
3 been tasked for this site specifically states
4 "Development of tract shall be exempt from all bulk,
5 design and environmental regulations of the West
6 Orange land use regulations ordinances unless
7 otherwise indicated" --

8 MS. BENNETT: Ms. McGovern --

9 MS. McGOVERN: -- herein."

10 MS. BENNETT: Sorry, I'm having a hard
11 time hearing you.

12 MS. McGOVERN: The ordinance that
13 applies to this property --

14 MS. BENNETT: Yes.

15 MS. McGOVERN: -- specifically exempts
16 them from that legislation and that ordinance that
17 you just read.

18 MS. BENNETT: So this applicant does
19 not need to do an environmental impact analysis?

20 They're on a steep slope, they're on a ridgeline --

21 MS. McGOVERN: Those are all --

22 MS. BENNETT: -- on --

23 MS. McGOVERN: -- (indiscernible).

24 MS. BENNETT: -- resource-valued
25 wetlands, and you're saying that -- and all these

1 trees are going to be taken down.

2 MS. McGOVERN: I'm not saying it, the
3 ordinance is saying it.

4 MS. BENNETT: You're saying that the
5 ordinance exempts this applicant from what's
6 required of every other applicant in this town?
7 That's what you're saying?

8 MS. McGOVERN: I'm saying this is what
9 the ordinance says.

10 MS. BENNETT: And so any other
11 applicant before the Planning Board would have to
12 adhere to providing you with an environmental impact
13 analysis before they can be before this body, but
14 this applicant doesn't need that --

15 MS. McGOVERN: Well --

16 MS. BENNETT: -- because you're saying
17 -- can you -- can you cite the authority, please?

18 MS. McGOVERN: The ordinance --

19 MS. BENNETT: Yes.

20 MS. McGOVERN: -- again, you want me
21 to read --

22 MS. BENNETT: Yes, please, just the
23 citation, please.

24 MS. McGOVERN: It is 25-19(i)(h)(1).

25 MS. BENNETT: Thank you.

1 else's responsibility."

2 CHAIRMAN BAGOFF: Sure. Thank you.
3 Mr. Plocker, I think you're going to
4 ask for a special meeting.

5 MR. PLOCKER: Yes, I --

6 MS. McGOVERN: You want to give us
7 your list of -- your lineup? Do you want to?

8 MR. PLOCKER: Yeah, I don't know what
9 order we're going to be going in, that's something
10 we need to evaluate, but we do have a traffic
11 professional who did submit a report. It's likely
12 he'll go next, but it's something we need to
13 determine.

14 MS. McGOVERN: Okay, so you have a
15 traffic expert and then anybody else?

16 MR. PLOCKER: And we have a
17 Professional Planner.

18 MS. McGOVERN: And a Professional
19 Planner, all right. And --

20 MR. PLOCKER: And -- yeah. And
21 possibly depending on what gets raised and what
22 issues come up, we obviously reserve our right to
23 call anybody else we deem, you know, deem necessary.

24 MS. McGOVERN: Okay, so that's for now
25 and --

1 CHAIRMAN BAGOFF: Go right ahead, sir.

2 MR. PLOCKER: That's not the specific
3 section; I think that's --

4 MS. McGOVERN: No, it's the general
5 ordinance.

6 MR. PLOCKER: It's 25-19, Subsection
7 (c)(5).

8 CHAIRMAN BAGOFF: You're up, sir.

9 MR. SHARRET: Sure. Just a quick
10 question. Jonathan Sharret, S-H-A-R-R-E-T.

11 There's been a lot of kind of confusion
12 here with the public as to kind of who is
13 testifying, what is the purview that they can
14 testify to. Just a question to take under
15 advisement, if it would be possible to inform the
16 public as to who else is going to be testifying on
17 behalf of the applicant, what their purview would
18 be, I think it maybe would make these proceedings
19 more -- flow better perhaps so that people can
20 understand who else is yet to testify and whether
21 certain people will be back to testify and whether
22 they can answer, at least broadly speaking, you
23 know, certain types of questions that have been
24 asked tonight where the answer was "That's not my
25 purview" or "That will be," you know, "somebody

1 MR. AFRAN: I'm just noting I'm going
2 to have a few additional questions for Mr. Anderson.
3 It won't be extensive, but at some point when it's
4 convenient, we can re-call him.

5 MR. PLOCKER: Did you mean Mr. Appel?

6 MR. AFRAN: No, I haven't started with
7 Mr. Appel. I have additional questions of Mr.
8 Anderson at some point.

9 MS. McGOVERN: I don't think they're
10 anticipating bringing him back.

11 MR. AFRAN: I'm bringing him back. I
12 have --

13 MS. McGOVERN: Oh, you're going to --

14 MR. AFRAN: -- some additional
15 questions that have been brought up in my mind that
16 I may wish to address.

17 MS. McGOVERN: Okay. We're not doing
18 that tonight, so --

19 MR. AFRAN: Oh, no, no, no, no. No.
20 I just want to note that I know Mr. Plocker has his
21 list of witnesses, but I want to let him know and
22 the Board that I may have some additional questions
23 for Mr. Anderson. A lot has come out through the
24 public questions that I may need to direct to --

25 CHAIRMAN BAGOFF: So the "may" is --

1 how do we know "may"? Are you -- do you want him
2 back? You said "may." So how does the applicant
3 know that you --

4 MR. AFRAN: Well, he's going to be
5 here anyway so --

6 CHAIRMAN BAGOFF: I'm sorry?

7 MR. AFRAN: -- that's not the point.
8 He's coming back, right? He's going to be here.

9 MR. PLOCKER: I don't know who's
10 coming here. We need to discuss our dates.

11 MR. AFRAN: No, no, I don't mean that,
12 I --

13 MR. PLOCKER: We're definitely moving
14 forward on a date.

15 MR. AFRAN: Right.

16 MR. PLOCKER: I don't know if all of
17 our team is going to be here, it's something we need
18 to evaluate and discuss.

19 MR. AFRAN: Okay, so Mr. Plocker and I
20 can talk and we can try to work out if I need Mr.
21 Anderson back, we'll find out when he's going to be
22 here.

23 CHAIRMAN BAGOFF: So right now, we're
24 looking at Wednesday, 9/11, 6:30, for a special
25 meeting. Is that good for you guys?

1 September 11 at 6:30 p.m. live in Council Chambers,
2 and the next regular Planning Board meeting will be
3 Wednesday, September 24, 2024 at 7:30 p.m. via Zoom.
4 Do I have a motion to adjourn?

5 COUNCILMAN RUTHERFORD: So moved.

6 VICE-CHAIRMAN GUARINO: Moved.

7 CHAIRMAN BAGOFF: Council President
8 motions, Vice-Chairman seconds. All in favor?

9 BOARD MEMBER: Aye.

10 CHAIRMAN BAGOFF: Opposed?
11 (No response)

12 CHAIRMAN BAGOFF: The ayes are above
13 the nos. I want to thank the people on Zoom and the
14 public for joining us.

15 (Hearing adjourned at 10:44 p.m.)
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1 MR. PLOCKER: That's acceptable, thank
2 you.

3 CHAIRMAN BAGOFF: Very good. Don't go
4 away yet, we're not done. Getting closer. And I
5 would like to thank the public, you brought up some
6 very good questions; we're going to do better with
7 the applicant, but the Planning Board can't present
8 our side of things or environmental stuff till the
9 applicant finishes their portion of the application.
10 Our environmentalist will be listening and has been
11 listening to the questions that the audiences
12 brought up, and he will be able to, within reason,
13 answer these questions. So that's why we're
14 planning it this way. And the objector can ask the
15 applicant to bring back people who have testified.
16 So again, it depends on what the objector is trying
17 to do, what the applicant is agreeing to do, and at
18 the end of the day, all this information is for the
19 Board to evaluate, with our experts, how this
20 application fits into what the township has agreed
21 to, through ordinance and zone.

22 To that end, there will be no
23 additional notice required for this application. We
24 will carry PB-24-01, West Essex Highlands,
25 Incorporated, Block 179, Lot 32, Zone IH-1, to

C E R T I F I C A T E

I, MICHELE QUICK, a Certified Court
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