

TOWNSHIP OF WEST ORANGE
DEPARTMENT OF PLANNING AND DEVELOPMENT
WEDNESDAY, JULY 16, 2025
6:30 P.M.

RE; PB-24-01 WEST ESSEX HIGHLANDS, INC.

BOARD MEMBERS:

ROBERT BAGOFF, Chairman
SUSAN McCARTNEY, Mayor
JERRY GUARINO, Vice Chairman
KEN ALPER
LEE D. KLEIN
SUSAN SCARPA, Council Person
RYAN MacNEILL, Engineer
GERARD HAIZEL, Planner
JAMILET BAQUERIZO VITE, Board Secretary
GENIECE GARY-ADAMS, Zoning Official
JOSEPH FAGAN, Zoom Moderator

WITNESS:

GEOFFREY GOLL, Princeton Hydro

FISHMAN COURT REPORTING AGENCY
89 HEADQUARTERS PLAZA NORTH
4 SPEEDWELL AVENUE, SUITE 1440
MORRISTOWN, NEW JERSEY 07960
(973) 285-5331 - FAX - (732) 605-9391

1 A P P E A R A N C E S:

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3 **HUTT, SHIMANOWITZ & PLOCKER, ESQS.**
4 **BY BRYAN D. PLOCKER, ESQ.**
5 **Bplocker@huttshim.com**
6 459 AMBOY AVENUE
7 WOODBIDGE, NEW JERSEY 07095
8 **Appearing on behalf of the Applicant**

6

7 **GACCIONE & POMACO, ESQS.**
8 **BY DIANA P. McGOVERN, ESQ.**
9 ONE BOLAND DRIVE, SUITE 102
10 WEST ORANGE, NEW JERSEY 07052
11 **Appearing on behalf of the Board**

9

10

11 **BRUCE I. AFRAN, ESQ.**
12 10 BRAEBRUN DRIVE
13 PRINCETON, NEW JERSEY 08540
14 **Appearing on behalf of the Objector, We Care NJ**
15 **Corp.**

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I N D E X O F E X H I B I T S

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EXHIBITDESCRIPTION

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O-16

GEOFFREY GOLL CURRICULUM VITAE

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O-17

REPORT - JULY 16, 2025 - GEOFFREY GOLL

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O-18

VIDEO DECEMBER 18 - MAYOR DAVIS - FLOODING

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O-19

VIDEO - MAREA DePALMA - FIRE ON GOLF COURSE

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1 CHAIRMAN BAGOFF: PB-24-01 West Essex
2 Highlands, Incorporated. Block 179 Lot 32 Zone IH-1,
3 Warner Road. The applicant is proposing to develop a
4 496 unit inclusionary multifamily residential
5 development on a vacant 120 acre property in the
6 northwest corner of the Township.

7 Mr. Arfan.

8 MR. AFRAN: Good evening, Mr. Chairman.
9 Thank you. Good evening everyone. We are ready to
10 proceed.
11 I think Mr. Goll, our geotechnical engineer has arrived.
12 He was in thunderstorms, he needs a couple minutes to
13 set up. We're ready to proceed with his testimony.

14 CHAIRMAN BAGOFF: Okay. Mr. Afran, we're
15 going to do a little case management now. July 30 we
16 have a meeting, are there any other experts or people
17 you wish to have speak at that meeting?

18 MR. AFRAN: Yes. We have our planner,
19 Dennis Hudacsko. Our traffic expert, Albert Warnia
20 (phonetic spelling). Michele Byers, who will testify.
21 While she's formally on the State Planning Commission
22 and she's also the former recently retired executive
23 director of the New Jersey Conservation Fund, among
24 other things. We have two witness who have been in
25 contact with us, but they're independent, but they'll be

1 here. That's Greg Descera and Mike Petry. Mike Petry
2 is an engineer, I believe of Verona and Greg is one of
3 the Township attorney's who has background on certain
4 agreements and restrictions that he will testify to.

5 In addition we expect to have Chris Boekel,
6 B-O-E-K-E-L, Essex Fells Fire Department commander who
7 was on scene at the time of the event that Ed Davis
8 spoke to the last meeting. And in addition we have what
9 I understand will be a witness as an expert fire chief,
10 Richard Schartel and Richard Schartel is purely
11 phonetic, I do not have the precise pronunciation of his
12 name and we additionally have John Hasse, who is the
13 chief of the Geospatial Department at Rowan University
14 who actually has been a consultant for many state
15 departments, Fair Share Housing, State Department of
16 Agriculture on Geospatial aspects of properties that are
17 identified for different state purposes. Development
18 purposes, agriculture, preservation, parkland and
19 actually for affordable housing and so he will testify
20 as to their data collection with respect to this site.
21 However, he's out of the country the whole month. He
22 does not return until August 3, so I know the Chair
23 wanted our witnesses to finish on that date, which I
24 don't think is inherently unreasonable, but he is not
25 here and so he won't be here until, let's assume he gets

1 back August 3, he's not here until after August 3. So
2 that, as far as I know, comprises our witnesses. If
3 anyone has an illness or any need we might have to put a
4 different figure in their place, but that's essentially
5 the list who we have. That would be a full night I am
6 sure on July 30. Obviously I don't know the extent to
7 which there would be board or community questions, Mr.
8 Plocker is always very efficient in his cross
9 examination, but I don't know the extent to which the
10 community may have questions relating to those
11 witnesses.

12 CHAIRMAN BAGOFF: Mr. Afran, will you
13 transmit a list to Ms. McGovern of everything you just
14 said so it'll all be in a nice concise e-mail

15 MR. AFRAN: Yes, I think I'll have to do it
16 Friday morning, I have a medical appointment.

17 MS. MCGOVERN: Any of these people for
18 tonight? Can any of them be available tonight. Any of
19 them here.

20 MR. AFRAN: No, they're not.

21 MS. MCGOVERN: Who do you have tonight?

22 MR. AFRAN: Ed Davis is here, who does have
23 a video presentation he didn't have last meeting, but he
24 is here. John Hadu will be arriving and he has a video
25 presentation relating to flooding and related issues

1 because he's one of the individuals who lives on the
2 border of this property and we have Geoffrey Goll, Geoff
3 Goll who's with Princeton Hydro, he's getting ready. He
4 is the geotechnical engineer.

5 MS. McGOVERN: All right.

6 MR. AFRAN: I'm sorry, one additional, Marea
7 DePalma, who also has a video that she did not have with
8 her the last meeting. She is here.

9 Can I have one moment, I want to make sure
10 there is no other names.

11 There was an individual who was ready to
12 testify two meetings back, there was some confusion as
13 to which agency she was from, the Chair felt her
14 testimony was moot because there was confusion of her
15 agency. She is from, Ann Marchione, she's from the
16 Essex County Environmental Commission, she may be here
17 tonight. That concludes my information.

18 MS. McGOVERN: How are these videos going to
19 be transmitted?

20 MR. FAGAN: I have them.

21 MS. McGOVERN: You have them already?

22 MR. FAGAN: Yes.

23 MS. McGOVERN: All right.

24 MR. AFRAN: I know we have a date on July
25 30, I know we also have tonight, potentially more

1 community comment, that's obviously in the Chairs
2 discretion and we have to have a night for closings and
3 then I don't know how much deliberation the board needs.
4 The board might need a whole night, I don't know, so it
5 would be helpful, especially in terms of community
6 comment, so the community knows when to come for that
7 because many people, Mr. Bagoff you are the victim,
8 you're the target of those comments. Many people said,
9 I want to comment now, I don't want to just ask
10 questions. So many people want to do that I know and it
11 would be helpful if we could set a date somewhat in
12 advance so the community knows when that night might be.
13 I don't know how far ahead you could schedule, but my
14 client asked me if I could raise that potential
15 possibility.

16 CHAIRMAN BAGOFF: I think we should get the
17 list of all the people you want and what they're talking
18 about and then we'll be better to organize when that's
19 going to happen.

20 MS. McGOVERN: We can't have public comment
21 until the testimony is done, because the people have to
22 know everything that's being testified to.

23 MR. AFRAN: I don't disagree. I am just
24 conveying the request.

25 MS. McGOVERN: And if we get all those

1 people that you said for July 30 on July 30, I don't
2 know.

3 MR. AFRAN: I don't know if we can get them
4 all in either. It would require extreme efficiency on
5 behalf of 100 people in this room. I don't know if that
6 can really happen.

7 MAYOR McCARTNEY: That was my question. Has
8 it been determined that we have a quorum on July 30?

9 MS. McGOVERN: Do we have a quorum?

10 MR. GUARINO: For July 30, right?

11 MS. McGOVERN: Yes. We're checking.

12 MS. VITE: They haven't confirmed yet.

13 MS. McGOVERN: You have some missing people?

14 MAYOR McCARTNEY: Our last discussion was
15 that there were quite a number of people that were not
16 available.

17 MS. VITE: Mr. Alper, are you available?

18 MR. ALPER: I am.

19 MS. VITE: Mr. Guarino?

20 MR. GAURINO: Yes.

21 MS. VITE: Mr. Klein?

22 MR. KLEIN: No, I am not.

23 MS. VITE: Mayor McCartney?

24 MAYOR McCARTNEY: No.

25 MS. VITE: Councilwoman Scarpa?

1 COUNCILWOMAN SCARPA: Yes.

2 MS. VITE: And then Mr. Cardoza said he was
3 available on the 30th.

4 MS. McGOVERN: So what are we up to, four or
5 five?

6 MS. VITE: We have five so far.

7 MS. McGOVERN: That's a quorum.

8 MS. VITE: We have to find out about Mr.
9 Wilkes and Ms. Kapferer to confirm.

10 MS. McGOVERN: All right. So, yes, it's
11 looking --

12 MR. AFRAN: I'm sorry, I was talking to my
13 client.

14 MS. McGOVERN: We have a quorum for July 30,
15 yes.

16 MR. AFRAN: Thank you.

17 The request, I have been asked to make --
18 and is that regardless of the content of the particular
19 night? Whether it's testimony, rebuttal, community
20 comment. It's made known to me it would be helpful if
21 we could get several dates in advance for all those
22 purposes just so people who want to attend could plan
23 say four to six weeks ahead or eight weeks ahead. I'm
24 conveying that request, I don't take a position, but I
25 am conveying that request.

1 MS. McGOVERN: We can't go that far. We
2 can't. First of all --

3 MR. AFRAN: Simply conveying the request.

4 CHAIRMAN BAGOFF: Let's see the list first.

5 MR. KLEIN: Can you give us a guess like how
6 long they're going to be?

7 MR. AFRAN: I imagine, if all of those
8 people are here on the 30th with questions from the
9 board and the public, that will be that whole night at
10 least.

11 MR. KLEIN: Plus.

12 MR. AFRAN: Plus probably.

13 I am not suggesting we identify the subject
14 of the meetings, but if you're able to identify when the
15 meeting will be for the next --

16 MS. McGOVERN: We can't give you other
17 meetings. We have to send out feelers for the board
18 members to see who's got vacations planned in August,
19 holidays in September.

20 MR. AFRAN: I'm conveying the request from
21 my client. He's free to --

22 MS. McGOVERN: The room gets reserved by
23 other people.

24 MR. PANNULLO: May I please. Please. The
25 practical matter, the same way people are scheduled,

1 there are eight plus people we're trying to schedule. I
2 am the one organizing the schedules. A meeting in
3 advance, two meetings in advance. This was a little
4 easier tonight. Now next week is off, the 30th is on.
5 There's no visibly past the next meeting, so one guys
6 out of the country until the 3rd, he'll be back. If we
7 can't get everybody in and finished on the 30th, well, I
8 can anticipate that's plausible, but if that happens,
9 great. If there's another meeting or two dates set for
10 which maybe there's public comment, closing arguments,
11 deliberations. However far out you want to go, doesn't
12 really matter, as long as there's hard dates that if
13 they need to change, because we got everything in we
14 could on the 30th, we didn't finish, people can
15 rearrange ahead of time with visibility. I can't do
16 that without one meeting at a time a week in advance and
17 know, people are out of the country, it's summer. I
18 don't know practically how to do it. So I am just
19 trying to find a way to have visibility. If we are all
20 done we are done. If not, I will know who's around.
21 Some people are coming -- the planners AN hour and a
22 half away, the traffic guys AN hour and a half away, two
23 different directions. In August some people are going
24 to be away. People are away now. It's been hard to
25 slot this all in. I am trying as a practical matter to

1 make it possible. So more than one meeting at a time
2 visibility helps that possibility. That's all I ask.

3 CHAIRMAN BAGOFF: Please send the list.

4 MR. PANNULLO: I can -- we'll send the list.
5 Does that mean the answer won't be known until July 30?

6 CHAIRMAN BAGOFF: Send the list and we'll go
7 from there. I will speak to the attorney, Mr. Plocker.

8 MS. MCGOVERN: We will make every effort to
9 do it as far in advance as we can. It's also up to the
10 board members and the board members are all volunteers,
11 they're not being paid to be here.

12 MR. PANNULLO: That's true for us too.

13 MS. MCGOVERN: They have given their time
14 and then some, so we are working with them and working
15 -- and Mr. Afran can tell you, Mr. Plocker, we work well
16 in advance when something gets scheduled we will know
17 that.

18 MR. PANNULLO: I'm trying to do the same
19 thing for everybody.

20 CHAIRMAN BAGOFF: You send the list, we'll
21 get back with Mr. Afran and give times so we better
22 understand what we need. So that will help us give an
23 answer.

24 MR. PANNULLO: Either way, we need to
25 schedule a date. If we close on the 30th we still need

1 to know.

2 CHAIRMAN BAGOFF: We are sensitive to the
3 issues and we'll work --

4 MR. PANNULLO: Okay. Thank you Mr.
5 Chairman, I appreciate it.

6 MR. PLOCKER: I do have one request. I look
7 forward to getting the list of all the names and
8 professionals identified. I am mostly interested in the
9 planner and traffic engineer and I would ask if they
10 could bring them on the 30th.

11 MR. AFRAN: That was the plan. Excuse me, I
12 may have to amend what I just said.

13 MR. PANNULLO: You have the fire expert
14 before the traffic guy.

15 MR. AFRAN: Can I take one moment.

16 (Whereupon, a short recess is taken.)

17 CHAIRMAN BAGOFF: Mr. Afran, you have the
18 floor.

19 MR. AFRAN: Okay.

20 We are ready to proceed with Mr. Goll.

21 MS. MCGOVERN: Can you spell his name.

22 MR. AFRAN: G-O-L-L. Geoffrey is spelled, I
23 want to be careful about this, G-E-O-F-F-R-E-Y.

24 MS. MCGOVERN: E-Y. Okay.

25 MR. AFRAN: Yes.

1 So objectors are calling Geoffrey Goll and
2 let me allow Mr. Goll to just state his own credentials
3 and I will move him as an expert and I think for
4 convenience he is going to stand here. He is going to
5 present his own report. If I have any supplemental
6 questions I will present those too.

7 CHAIRMAN BAGOFF: Great. Thank you.

8 Our counsel is going to swear you in.

9 MS. MCGOVERN: Raise your right-hand.

10 Do you swear or affirm to tell the truth the
11 whole truth and nothing but the truth.

12 THE WITNESS: I do.

13 MS. MCGOVERN: Please state your name for
14 the record.

15 THE WITNESS: Sure. I stated before my name
16 is Geoffrey, it's G-E-O-F-F-R-E-Y. Middle initial M.
17 Last name Goll, G-O-L-L.

18 CHAIRMAN BAGOFF: You have the floor, sir.

19 THE WITNESS: Sure. Just for my background,
20 I also, I have copies of a report, a short letter report
21 I prepared just to back up my testimony and then also I
22 have a copy of my CV that's here as well for
23 distribution. I think I brought enough, that should be
24 enough for the Planning Board to have a copy of.

25 But for the -- for my background, I'm the --

1 I'm currently the president of Princeton Hydro. We're
2 a, an environmental geotechnical engineering firm. I
3 have been, I was actually one of the founding partners
4 back in 1998. We have been in business 27 years. We
5 have 60 people. I graduated from Rutgers University
6 with a bachelor's of science in civil engineering in
7 1990. I also have a master's degree from University of
8 Wisconsin Madison. Engineer -- master's of engineering
9 management.

10 I -- beginning of my career as far as
11 geotechnical work, I started at GoodKind and O'Dea back
12 in 1990, which is now Dewberry. I worked there for
13 several years. I then worked for Melick-Tully, which is
14 now, I think was recently purchased by GZA. And they
15 were a geotechnical engineering firm and I worked there
16 for several years as well. And then I ended up at a
17 company called Coastal Environmental Services, this is
18 about 1995, '96, where I met my future business
19 partners, who three years later in 1998 we started
20 Princeton Hydro and we've grown to about, like I said,
21 60 people in that time. We're based right now in
22 Trenton, New Jersey.

23 I'm a licensed professional engineer in the
24 State of New Jersey in good standing as well as ten
25 other jurisdictions, which include also the District of

1 Columbia.

2 I've worked on a number of different types
3 of engineering projects and overseen and been
4 responsible and charged, including slopes and building
5 analysis and in Jersey City for example right now I'm
6 the engineer of record for Liberty State Park through
7 the Army Corps of Engineers, one of our clients, and
8 we're working on the geotechnical work there as well as
9 the site development and I've been working on the slope
10 disability there and also a few projects in Jersey City,
11 Atlantic Highlands, which is another area, slightly
12 different geologically, but steep slopes and they
13 actually have their own steep slope ordinance down
14 there. Cement and sands. I worked on those projects as
15 well and so I don't know if that's enough information.

16 CHAIRMAN BAGOFF: Thank you very much.
17 Board have any questions?

18 So we accept you as a licensed engineer in
19 the State of New Jersey.

20 Go right ahead, sir.

21 MR. AFRAN: Let me just kind of note, I
22 understand you have recently received the Lifetime
23 Achievement Award from the Highlands Coalition, is that
24 correct?

25 THE WITNESS: That's correct.

1 MR. AFRAN: And that was for -- could you
2 describe what that award was for?

3 THE WITNESS: I was just providing for really
4 on the environmental engineering side of business
5 providing support. We do a lot of ecological
6 restoration system work as well and engineering guidance
7 for non profits and geos in the State of New Jersey.

8 MR. AFRAN: We have the CV which I would
9 propose marking as an objectors exhibit.

10 MS. MCGOVERN: Okay.

11 MR. PLOCKER: Can we also have the report
12 marked please and distributed.

13 CHAIRMAN BAGOFF: Had the report been
14 provided to the Planning Board secretary before this?

15 MR. AFRAN: Did you provide --

16 THE WITNESS: No, I brought 20 copies of the
17 report and the CV.

18 MS. MCGOVERN: Okay. So the next marking I
19 have would be O-16 for the CV. And then O-17 will be
20 the report.

21 What's the date on the report, please?

22 THE WITNESS: It's July 16, 2025.

23 MS. MCGOVERN: Thank you.

24 MR. AFRAN: I will get copies to Jamilet
25 after the hearing tonight.

1 MS. McGOVERN: No. No, I thought we're
2 getting them now.

3 THE WITNESS: They're here.

4 CHAIRMAN BAGOFF: It will be posted on the
5 website tomorrow.

6

7 THE WITNESS: I will get started.

8 CHAIRMAN BAGOFF: Go right ahead, sir.

9 A. Thank you very much.

10 So I was tasked, I was contracted by We Care to
11 review the geotechnical slope stability analysis that
12 was recently completed as a supplemental to the January
13 2025 geotechnical investigation. Just as a little
14 background in terms of what I understand. I've reviewed
15 the application materials, the Langan Geotechnical
16 Engineering report that was recently submitted. I also
17 was in attendance by way of zoom at the last June 30
18 Planning Board meeting and listened to the testimony of
19 the geotechnical engineer from Langan Engineering as
20 well, so I understand some of the background and some of
21 the testimony there is the basis of my report.

22 Okay. So just as a, when I was listening to the
23 testimony on June 30 there was wasn't a lot of
24 explanation about exactly what occurred and was tested
25 for, but there are four -- basically four cross sections

1 that were analyzed for steep slopes on the eastern side
2 of the site, that is in the location of the proposed
3 Building D, which is on the top of the ridge of this
4 project site.

5 The -- so what I'm going to talk to you about
6 tonight is the information provided, the borings, the
7 data. The data that was obtained was relatively
8 credible. However, the analysis, as I will discuss, in
9 my professional opinion was flawed in terms of how they
10 used that data to analyze the site.

11 One of the things I wanted to point out is that
12 the overall, what ended up happening with all these
13 borings that were performed, they used the best data,
14 relatively best data on the project site they found as
15 opposed to looking at all data and using some of the
16 areas of less competent material. The investigation
17 comprised of a number of borings, a total of eight
18 borings on each one -- two on each cross section that
19 was provided in the report. There were also a number of
20 test pits that were excavated down in some cases to
21 refusal to characterize the subsurface of the site.

22 Just to understand what we're talking about, is
23 when you're doing a boring, especially if you try to
24 determine the characteristics of bedrock on the site,
25 what you actually do is what's called -- you first go

1 through the topsoils that are there using what's called
2 a split spoon sampler and that's hammered down into the
3 ground with standard using AST standards to basically
4 drive a spoon to collect soil samples. Once you get
5 down to the point of bedrock you then switch over to
6 what's called a corer, a rock corer. And the corer is,
7 basically it's a diamond cutting edge to it, an
8 industrial diamond edge to it and they core through five
9 foot segments through bedrock to collect the samples so
10 that they can then open up the samples on-site and look
11 and characterize the rock.

12 One of the big things we're going to talk about
13 in regard to the adequacy of this slope, is what's
14 called rock quality designation. Rock quality
15 designation, I explain it in the report that I have.
16 Rock quality designation is a method to determine the
17 competency of rock. What you do is you, once you
18 retrieve a sample you look at all the samples that are
19 greater than hundred millimeters and then you basically
20 count those up and add them up and divide that by the
21 total length of the core. So for example, if the ones
22 you can measure that are greater than that, that width
23 or thickness, so to speak, that length of core, you then
24 add the length of all those up. So if you're only
25 finding 50 percent of the core has the length of

1 material that can be counted you basically have what's
2 called 50 percent RQD. Now, 100 percent RQD for
3 example, you got a piece of solid rock that was --
4 basically there was 100 percent recovery, meaning when
5 they did the corer they were able to, of the five feet,
6 they were able to take the five feet out and there was
7 almost no breaks in the rock. So basically a solid
8 piece of rock. As you get lower and lower the quality
9 goes down, meaning the rock is more fractured, more
10 weathered and so for example one of the borings that
11 they had found they actually got what's called a zero
12 percent rock quality. Zero percent means they couldn't
13 find enough of a length of the material of corer rock to
14 actually utilize in that calculation. Meaning it was
15 highly fractured piece of rock. Now, that RQD is very
16 important because what it does is it goes into what's
17 called the Geological Strength Index and -- or the GSI,
18 and that is input into the model, the slope stability
19 model. Okay. So we're going to talk a little bit more
20 about that in a few minutes, but I wanted to kind of go
21 through the order of the report that I prepared.

22 One of the things that I looked at is obviously
23 you're trying to keep the building, when you're
24 developing near a rock face or a rock slope or any kind
25 of steep slope area, is trying to keep the building as

1 far away from that slope as possible so that you're not
2 imparting the roads or doing excavation for example,
3 that would impact the stability of that slope.

4 One of the things that I did find is that in the
5 settlement of litigation agreement signed by Mark
6 Hoffman on April 23, 2020 it states that "The
7 application before the Planning Board must be built
8 consistent with the West Essex Highland Concept." 16
9 for West Essex Highlands. And part of that there's a
10 conceptual layout of the building on the site which
11 relatively, fits relatively in the locations of the
12 proposed buildings as they are proposed today. However,
13 the one thing I noticed about Building D, when you
14 compare the concept to the current plan, they moved the
15 building on the southern side of the building, southern
16 side most building. Well, now it has a jog as opposed
17 to being straight. It used to have one jog in the
18 building and now it has two. But they also moved that
19 side of the building 50 feet closer to the edge of the
20 top of the slope. On the, on the northern side they
21 ended up moving it about 30 plus feet closer to the top
22 of the slope on the side. What I think happened, when
23 you review the plans, in the concept they had a parking
24 lot to the south, a sole parking lot to the south of the
25 building and now the plans show parking along the entire

1 length of the building and also entrances to the parking
2 garage which required them to move the building to the
3 east in order to get between the wetland transition area
4 and the building structure itself. And so that's a
5 pretty significant difference. It's actually putting
6 the building right -- if you look at the plans or been
7 out at the site, there's like a knob on the top of the
8 property as, based on the topography and basically the
9 building used to be behind that knob and now it's on top
10 of that.

11 MR. AFRAN: May I interrupt for a moment.
12 Mr. Goll asked if we could get the report on screen, it
13 is now available apparently, so if you need to refer to
14 any pages on the screen.

15 THE WITNESS: Thank you. All right. Thank
16 you very much. I appreciate it.

17 A. So that's just one thing I wanted to understand
18 is actually, usually instead of getting less
19 conservative they moved it toward the slope. The steep
20 slope for this project site.

21 So one of big the things, the big things that I
22 found in the report is that the slope stability, the
23 parameters that were used do not match the actual
24 conditions. They actually used a RQD of 67 percent
25 throughout the document, throughout the analysis. They

1 basically assumed that the bedrock on this site going
2 down the site was a solid mass of, of the Preakness
3 Formation, which is basalt on this site. And we went
4 all the way down the hill and there was no change to
5 that bedrock quality or anything. But when you look at
6 the table, if you go to Page 2 of this document, you can
7 go there. No, wrong page. Right there. So --

8 MR. AFRAN: Can we zoom in more. Or enlarge
9 it.

10 MR. FAGAN: I cannot.

11 A. So highlighted in red is boring LB-3. LB-3 is
12 identified as cross section B on the plans. If you
13 review the Langan report, they took it basically above
14 the top of the slope and so they took these bores and
15 they got these rock quality designations, as you see on
16 the right, 67 and 77. And they ended up choosing the,
17 it looks like they ended up choosing the 67 in order to
18 determine the overall quality of this material which
19 then translated to the competency of the rock. But when
20 you look down, if you go to, for example cross section C
21 NLB-1 shows, which is at the, basically down slope in
22 the middle of the slope, their rock quality designation
23 is zero. Meaning they didn't get any material that was
24 long enough to count toward that rock quality
25 designation which illustrates that this material is

1 highly fractured. And if you recall from looking at the
2 plans on the, the northeastern side of the property, or
3 the northern part of that building is where the steepest
4 slope is and that is adjacent to the, there's a property
5 on Howell Drive right downhill of that building. It's
6 one of the steepest areas and in my opinion probably one
7 of the worst areas of the slopes. So they basically
8 took that information and they applied it broadly. They
9 took the higher competency material and applied it
10 broadly to the analysis. What that does is all of a
11 sudden takes all that information they did, they might
12 as well have done just one boring on the top slope and
13 ignored all the rest of the information.

14 So, and that's where I talk about Unida 1 on Page
15 2. So they basically talked about that they did an
16 unconfined compressive test were performed on two rock
17 boring samples in borings LB-3 and LB-4. Or, no. From
18 LB-3. And the reason they did that is those were
19 likely, frankly, the most competent pieces of rock of
20 the test and the other rocks probably were fractured.
21 Couldn't get a test.

22 Well, one of things they did find is when they
23 did their compression test, this is going to get
24 technical, so I'll just kind of explain what the results
25 mean. It ended up the strength test of the materials

1 did not reflect basalt type of material. It reflected
2 more of a like a less strength strong type of material
3 like a sandstone or as they call it in our, if you go to
4 the chart on the second -- on the third page. When you
5 look, when you're looking at specimens for the strength
6 of the material, if you have a basalt it's up about a
7 100 to 250 Megapascals. It's a very dense, strong
8 material. However, the strength test that they provided
9 actually came in with between this five and 25
10 Megapascals and it describes more of like a chalk,
11 rocksalt, or potash. Now, do I believe that the rock is
12 that weak or that, you know, such as that type of
13 material. No. But it does show that in that location
14 bedrock is significantly weathered from basalt's
15 ultimate ability to resist the compressive strengths
16 when they were doing the tests. So it's not quite as
17 strong.

18 Now, they did include the lower compressive test
19 in their slope stability analysis. So one of the big
20 things that it does affect is the factor -- is the, as I
21 was talking about before, the geological strength index,
22 which is another input parameter and when you do that,
23 they ended up, and you use a higher strength material,
24 the GSI is also a higher level of, a higher strength
25 within the slope stability program. But what would

1 happen if they actually would use something more
2 realistic, let's say using an average of all RQD's down
3 slope that were found and just as a function two of the
4 borings by the way, the rock was so weathered they went
5 down 50 feet in one and 45 feet in another and they
6 didn't hit anything that could be core. In other words,
7 they were able to grind through but the material was so
8 broken up and weathered they were able to grind all the
9 way down. They couldn't do a split spoon sample because
10 there was too much rock there, but they also couldn't do
11 a core sample because it was highly fractured that it
12 was not collectible by a rock corer device. What does
13 this mean. What it means is the slope stability
14 analysis they provided is not showing an analysis based
15 on what's actually out there.

16 Another thing that they did, and one of the
17 things they did do, which I do agree with, is they used
18 a disturbance factor in the slope stability, it's
19 another factor. A disturbance factor describes the
20 potential impact of construction or disturbance on the
21 slope. They did use one which is highest. However,
22 what would have been the adequate thing to do was use
23 that disturbance factor of one, because they are going
24 to blow the top of this mountain in order to get down to
25 25 feet, they need to get to the bottom of this garage.

1 They also should have used the quality, the actual
2 quality or at least an average of the quality of
3 material that was at the lower end of the slope.
4 Because that's really, the lower end of the slope, the
5 toe of a slope is what really is supporting everything
6 above. And they should have broken out the cross
7 section to be -- to reflect that.

8 When you average that out, because several, they
9 couldn't even collect samples, we made the assumption
10 that the RQD is zero. And so you get an average RQD on
11 these lower areas of rock cores of basically 23 or less,
12 it's actually about 20 when I created the average which
13 would then drive down that GSI which would then in
14 combination with that disturbance factor, significantly
15 reduce the factor, the factor safety of resistance to
16 failure on the site.

17 While Langan also stated that they used a uniform
18 loading of a thousand PSF for the model -- for the
19 building, basically across the whole building, they
20 considered it far enough away from the top of the slope
21 to have a surcharge impact. However, the proposed
22 building sits right on top of the slope of this area and
23 so there would be an impact of loading on the slope.

24 They also didn't discuss or provide in the
25 modeling, I mean they talked about an excavation of 25

1 feet, but they didn't run a model that shows now there's
2 a 25-foot section that's been excavated out and what
3 does that do now. If you think about it, you got a rock
4 slope, your going to dig down 25 feet, you're going to
5 end up with basically separating that rock slope from
6 the upland or the top of slope and beyond from that
7 bedrock. How stable is the material when they do that?
8 And they're going to basically cutoff that connection to
9 the upper -- the areas above the top of that slope.

10 The model also omitted the presence of the
11 Feltville Formation. If you're not familiar with that,
12 the site at those locations, the basalt picks up the
13 Watchung in this location, it's called the Preakness
14 Formation and it's identified in their report. But just
15 down at the post near the toe of the slope the formation
16 changes to what's called a Feltville. And the Feltville
17 is basically more of a, like a siltstone or a sandstone,
18 siltstone, mud stone type of material, which has a much
19 lower strength. The important thing, the reason I'm
20 bringing this up is, did some of those RQD's of zero and
21 23 maybe they actually reflected more of that
22 sedimentary formation that is not as strong as the
23 basalt formation of that rock, but it was not modeled
24 and they did not separate out whether it was basalt or
25 the Feltville. They basically -- they modeled it all as

1 one type of rock.

2 They also didn't include a discontinuity that was
3 created from the wastewater utility line. There's a
4 utility line that runs at the toe of the downhill slope.
5 I went back to some aerials, historic aerials, and you
6 could see that the utility was installed either 1995 or
7 before that. It's from, I think the photograph was '86,
8 there was nothing there and then in '95 you could see
9 the remnants of what was cleared to install the
10 wastewater pipe. What that does is when you excavate
11 that out they're actually creating more of a weak point
12 on the toe of that slope because now it's an area that's
13 not native, it's not in situ, it was backfilled. Likely
14 because it's not in an area that is supposed to support
15 structures. That trench was probably just simply
16 backfilled. I mean, they might have had to put all the
17 requirements for bedding materials and things like that,
18 but when they started getting up to grade it wasn't like
19 they were required to support a road or a building or
20 anything like that. So the backfilling is probably
21 backfilled less than the optimum potential compaction
22 that it could receive if they were building a structural
23 support on it. What that does though is it creates a
24 weak point all the way across the toe of the slope.
25 That could be a failure location where a slope failure

1 could actually initiate within the trench.

2 They also talked in the report about decomposed
3 rock being a maximum seven feet. When you look at the
4 boring logs, it is significantly more than that.
5 Especially those borings that go down 50 feet and could
6 not collect a core, but were able to drill through with
7 the drill bit. Doesn't mean there wasn't bedrock there
8 it just means it was so highly weathered that, like I
9 said before, they couldn't collect the split spoon
10 because it was, the material was too coarse to be
11 collected in the split spoon but it was so broken up
12 they couldn't collect any rock samples.

13 They also dismissed the risks associated with the
14 landslide class B-3 that's localized in the area
15 directly below the building and the slope. When you
16 look at the mapping for the hazard classification
17 landslide class B, when you look on Page 5, it's at the
18 -- go down to Page 5, please.

19 MR. AFRAN: Maybe while he's looking that,
20 it is kind of hard to see.

21 MR. FAGAN: Is this the page that you need?

22 THE WITNESS: No, that's Page 1. There you
23 go.

24 It's little hard to see, but when you look
25 at this, when you look at a Class III on this, it's

1 basically under B on the second line, on the second row
2 down, you can kind of barely see it on the screen, but
3 the top row is A, the middle row is B, and the bottom
4 row is C and below that there's a higher groundwater,
5 they also have different classifications of a hazard.
6 This sites been identified as a Hazard Class III.
7 Meaning it has a, basically a moderate potential for
8 landslide activity.

9 Now, according to the Langan report they
10 went out and looked at the outcrops, they differentiated
11 the slope stability from rock falls and said, since the
12 rock was fractured and leaned into the slope that there
13 was less of an ability for a failure to occur and
14 therefore we should not consider this an issue.

15 However, when you look at the boring logs
16 and the deteriorated state of bedrock in this location,
17 I would believe that this hazard classifications
18 definitely warranted and they're putting a building
19 right on top of it and they're going to be -- and the
20 slopes going to be right there. So that's a big concern
21 of mine. So I really feel that the stability analysis
22 was inadequate to asses the condition of the subject
23 soil for the proposed building.

24 The parameters used only reflect the most
25 competent locations above the top of the slope in the

1 investigation and not the grade of bedrock and these are
2 conditions that were found in the middle of the slopes.
3 And by also leaving out the impact of subsurface and
4 utility line and the less competent Feltville Formation
5 provides an unrealistic evaluation of the site provides
6 a false sense of security subject for proposed Building
7 D to be constructed.

8 One of the things I also wanted to point out
9 is when I heard the testimony on June 30 they were
10 talking a lot about blasting and whose responsibility
11 was it to control blasting. Now, I see there are two
12 parts when you're dealing with blasting. There's the
13 part of public safety and safety of the workers. So
14 when you're blasting making sure nobody gets hurt, you
15 know, materials don't fly. You know, there's not --
16 they're using the right kind of blasting blankets and
17 that they're doing controlled blasts. It does not --
18 that is the state regulations that cover this and that's
19 what I believe is discussed at the last Planning Board
20 meeting. However, in accordance with the IBC code, the
21 International Building Code, which New Jersey has
22 adopted, you're actually -- it doesn't -- you're
23 required to actually review and approve all the
24 engineering before you go out. Which means, I think at
25 the Planning Board level, I think you need to be

1 comfortable that this building is not going to cause a
2 destabilizing effect. Not only for the residents of
3 that proposed building but also for the residents
4 downhill in those neighborhoods that are potentially
5 subject to if a landslide were to occur.

6 And so the approval of this blasting and
7 saying that the state regulations cover that does not
8 absolve the applicant or the Planning Board from really
9 looking into this and making sure you're comfortable
10 with what is being proposed here. It has to be
11 realistic. Right. So that's where you need to really
12 look at that.

13 MR. PLOCKER: And I'm going to object to
14 that. The applicant does not dispute that it must
15 follow the rules, regulations and work with this town.
16 But that issue is not an issue for this Planning Board
17 to consider pre-approval.

18 MR. AFRAN: The witness --

19 CHAIRMAN BAGOFF: Mr. Afran is speaking.
20 Let him speak.

21 MR. AFRAN: The witness very clearly has
22 spoke to the inadequacy, in his opinion as a
23 professional engineer in his field, to the, of the
24 testing that relies on falsely competent rock figures as
25 opposed to the actual unstable figures.

1 MR. PLOCKER: No, that goes further than my
2 objection.

3 MR. AFRAN: Let me finish.

4 CHAIRMAN BAGOFF: Let Mr. Afran finish then
5 you can reply.

6 MR. AFRAN: Therefore it's quite clear from
7 his testimony that by undervaluing the decomposed rock
8 structure --

9 CHAIRMAN BAGOFF: Let me make --

10 MR. AFRAN: My point is only this. It is
11 relevant for him to raise in that context the question
12 of blasting and how it will impact the site. That's my
13 point.

14 CHAIRMAN BAGOFF: Let him finish, Mr.
15 Plocker.

16 MR. AFRAN: Mr. Goll, you could address
17 that. I'm sorry.

18 MR. PLOCKER: He made certain collusions, we
19 may disagree with them, we may bring a witness back to
20 contest that. My objection dealt solely with the
21 regulations of blasting. And I will repeat, there are
22 regulations, we will work with the town, the state
23 whoever we have to work with to comply with those
24 regulations and do rock removal safely. That's always
25 been our position and it's our position here tonight.

1 However, I believe the witness did not say he was a land
2 use lawyer or an expert to what is within and not within
3 the purview of a Planning Board. And my objection rests
4 solely to the comment made by the witness that the
5 planning -- this is something a Planning Board must
6 consider in connection with an approval.

7 CHAIRMAN BAGOFF: Fair enough. We will
8 review all the information with our legal advisors and
9 our experts and I understand what you're objection is
10 and I understand your comment.

11 Go right ahead.

12 A. I'm sorry and let me clarify. Counsel is
13 correct, it is regard specifically to the state rules
14 regarding safety of blasting. What I was stating was
15 that's separate and apart from reviewing an application
16 following the engineering requirements for the immediate
17 and long term stability of such an operation. So if
18 you're blasting, is it designed in a way and control, is
19 there a control or a operational plan that's going to be
20 clearly overseen. I can tell you from my experience
21 going from blaster to blaster it depends on the company,
22 on their approach. For example, there's a bridge we did
23 down in, down in Hunterdon County in West Amwell, there
24 was a bridge crossing and they were supposed to blast --
25 well, the contractor was supposed to blast to get down

1 to competent rock so that they could then lay a
2 foundation on it. Well, the blaster thought he was
3 doing our client a favor by over blasting so that the
4 excavator could then go in and dig deeper and it was
5 just easier to take it out. Except what happened is
6 they over blasted. Meaning they completely eliminated
7 the structural strength of that material underneath and
8 they had to go in and retrofit.

9 CHAIRMAN BAGOFF: Do you believe that blaster
10 --

11 THE WITNESS: What I'm saying --

12 CHAIRMAN BAGOFF: No, we're not going to
13 hear any more about that. Let's focus on this
14 application here.

15 THE WITNESS: I am --

16 CHAIRMAN BAGOFF: That's opinion. That is
17 not pertinent here. That's somebody else's application.

18 MR. AFRAN: Well, he's explaining why, if I
19 may, why --

20 CHAIRMAN BAGOFF: This is opinion about
21 another site. Focus on this site and information
22 relative to this. But could it be done in the future by
23 somebody else who is or is not doing something in
24 relation to what they think is extra, not here, right
25 now.

1 MR. AFRAN: Well, if I may just reserve a
2 point that in his opinion as an expert is not limited
3 only to looking at this particular case. His concerns
4 that instability obviously drawn on his experience
5 overall. That's why we bring experts here.

6 CHAIRMAN BAGOFF: If somebody doesn't follow
7 appropriate standards, apparently what he's saying.
8 Here we are not there yet. We don't know who's going to
9 be doing it and we don't have the plan in front of us.
10 We're going to surmise that they're going to be done
11 within the right way to do it.

12 MR. AFRAN: Mr. Bagoff, with respect, I
13 don't think you have a legal right to make that
14 statement.

15 CHAIRMAN BAGOFF: The statement is, let's
16 focus on this area and this application and not what
17 somebody else did. There maybe -- and there are many
18 people and I will ask you as an expert, do other people
19 do it correctly? Do other people do blasting correctly.

20 THE WITNESS: Yes, if they're overseen, it's
21 not an outside agency, but they're overseen --

22 CHAIRMAN BAGOFF: That's fine. So both
23 sides heard correctly, in his opinion and people are
24 blasting incorrectly, in his opinion.

25 MR. AFRAN: My concern actually goes back to

1 what happened at the last meeting with Mr. Seel. And
2 that is the Chair repeatedly gave assurances to the
3 public that you can rest assured that the officials will
4 be making sure the rules are adhered to and therefore
5 there's no problem. And with respect Mr. Bagoff, you
6 made repeated statements that there won't be a problem
7 because we have rules. It's not for the chair to
8 address an opinion of that nature. And you did it again
9 just now when you said, well, we don't have to worry
10 about what happened there because we know the rules will
11 be adhered to and if they're adhered to there won't be a
12 problem. It is not for you as Chair to say that.
13 You're not an expert in the field and at the last
14 meeting you said it repeatedly.

15 CHAIRMAN BAGOFF: I did not say anything
16 about rules. I said there's two sides to that. One is
17 he testified that in another site something was done
18 awry. And I asked him as an expert are there sites
19 where everything's done perfectly, absolutely
20 reasonable. I didn't say who did what, I said somebody
21 that did something in his opinion blasting at sites are
22 not done correctly and there are sites where blasting is
23 done correctly. That's all I wanted to bring out. So
24 both opinions are his as an expert so it could be done
25 well. Or maybe not. That's the future not right now.

1 We are here right now focusing on the site information
2 he is providing about this site as an geotechnical
3 report.

4 MR. AFRAN: I think he was giving examples
5 where people appeared to be following the rules and
6 problems emerged and that was the point I understand his
7 testimony was focusing on. That even where you have
8 people following the rules there are intangible factors,
9 for example unstable rock that you're not seeing because
10 you're misstating the report and he is saying even where
11 you're following the rules because it is intangible
12 factors you could have problems. He's entitled to go
13 into that subject by analogy. I don't think Chair, you
14 have the right to limit his testimony.

15 CHAIRMAN BAGOFF: He used the term, over
16 blasting, is that following the rules as an expert? You
17 used the term over blasting in your description, is that
18 following the rules.

19 THE WITNESS: Yes and no. It's not
20 following the engineering design --

21 CHAIRMAN BAGOFF: Stop right there.

22 MR. AFRAN: Let him finish. He said yes and
23 no.

24 CHAIRMAN BAGOFF: The question was, is it
25 following the design and he just said it's not following

1 the design. So in that case, not this case, things
2 could go awry anyplace.

3 MR. AFRAN: With respect Mr. Chair, you're
4 cross examining yourself.

5 CHAIRMAN BAGOFF: I am asking him a
6 question.

7 MR. AFRAN: You asked if his example was
8 following the rules. He said yes and no. He said they
9 were following the engineering design and then you
10 interrupted him and said, Okay. So following the
11 design. You asked him if they're following the rules.
12 There is a difference between following the state rules
13 and following the design.

14 CHAIRMAN BAGOFF: Go right ahead.

15 THE WITNESS: What I was trying to say, to
16 clarify. When -- if something gets over blasted or
17 deeper than they expected, it's not a violation of the
18 state regulation, it's a violation of the engineering
19 design. It basically throws all our parameters, design
20 parameters out the window. So that's why I'm saying
21 there's a separation there and that's why, from an
22 engineering standpoint, all that should be approved with
23 the right protocols in place and not left with the state
24 regulations, which is -- which are perfectly valid for
25 making sure nobody gets hurt while they're blasting but

1 it's what happens to the rock when you blast it. It's
2 the engineering standard not a public, not a state
3 regulation. That's all I was trying to say.

4 MR. AFRAN: Thank you. That was the point I
5 was trying to bring out.

6 CHAIRMAN BAGOFF: Is there anything in the
7 report that would lead you to believe that from what
8 you've seen from the design that they would be anything
9 less than what is supposed to be done?

10 THE WITNESS: Well, yes. I am concerned
11 because the report basically used the most competent
12 information that they found on site and applied that all
13 across the site and all the slope stability, so
14 therefore right now they don't know what the actual
15 factors of safety are for the slopes.

16 CHAIRMAN BAGOFF: Okay. That's what I am
17 trying to get to. So the public and board hears that
18 piece of information.

19 MR. AFRAN: Mr. Bagoff, I couldn't hear you.

20 CHAIRMAN BAGOFF: That information is of
21 value.

22 MR. AFRAN: Thank you.

23 CHAIRMAN BAGOFF: Go right ahead.

24 THE WITNESS: That's essentially my
25 testimony. The geotechnical investigation is limited in

1 scope, so was my review.

2 CHAIRMAN BAGOFF: Thank you, sir.

3 MR. AFRAN: That concludes Mr. Goll's
4 presentation. I have no questions at this point, but
5 obviously the board may and the public may.

6 CHAIRMAN BAGOFF: Thank you.

7 So we are going to start with Mayor
8 McCartney. Do you have any questions of the witness on
9 his testimony?

10 MAYOR McCARTNEY: Thank you.

11 You raised an important consideration --

12 MR. AFRAN: Mayor, I'm sorry, I can't hear
13 you.

14 MAYOR McCARTNEY: I thank you for your
15 testimony. You raised some important considerations.
16 One in particular was the impact of the wastewater
17 management utility line and would that create an
18 unstabilization.

19 My question is, can the average on the chart
20 provide stability? Is that -- is this, are these
21 typical conditions found when developing a site across a
22 slope?

23 THE WITNESS: Well, every site is different.
24 So for example, if this building maybe was setback 100
25 feet or 200 feet away from the slope, it might be on

1 more competent rock and not necessarily back of the
2 slope. For example, some towns, and I'm not familiar
3 with West Orange's ordinances, some towns have like
4 distance requirements from edges of slope so they don't
5 cause it to destabilize the slope.

6 MAYOR McCARTNEY: Our ordinance does that
7 but that was adopted after this.

8 THE WITNESS: All I'm saying is there's an
9 ordinance and then there's also a, you know, a physical
10 concern.

11 MAYOR McCARTNEY: Okay.

12 CHAIRMAN BAGOFF: Mr. Afran wants to say
13 something.

14 MR. AFRAN: I think the witness was
15 answering affirmatively but nodded and didn't say yes to
16 the Mayors question. The Mayor asked you a question,
17 can you answer yes or no because you just nodded and the
18 record won't show your answer.

19 THE WITNESS: Answer --

20 MAYOR McCARTNEY: My question -- my question
21 was, on the chart here on Page 3 the average of the
22 strengths.

23 THE WITNESS: Actually the chart, in looking
24 at the chart of the quality would be on the plan.

25 MAYOR McCARTNEY: Well, I'm am talking about

1 strength though.

2 THE WITNESS: Yes.

3 MAYOR McCARTNEY: The strength, you take the
4 average does that provide stability when developing
5 across a stream?

6 THE WITNESS: Well again, you have to take in
7 account all the factors. That strength is accounted
8 for. Like I said, the geotechnical engineer did the
9 analysis, actually used what strength they found in the
10 field on those competent materials. However, they
11 didn't combine that with the conditions of the rock in
12 the highly fractured condition. So if you go back to
13 the chart, the table on the previous page, the rock
14 quality, Page 2, the lower rock quality designation
15 would have a very large impact on the geological -- the
16 geological structural index and show a much more
17 fractured material which would have a lower factor in
18 which would then reduce the stability of the slopes and
19 may or may not lower it to an unstable condition.

20 Did I answer your question?

21 MAYOR McCARTNEY: No, just raises more
22 questions because then in number III where it said "The
23 need to have an appropriate GSI factor that will truly
24 dictate the overall stability of the slope."

25 THE WITNESS: Correct. That is correct. So

1 that is -- that was one of the bigger issues we found in
2 the analysis, it is not using -- what was found in the
3 field and applying the correct GSI.

4 MAYOR McCARTNEY: Thank you.

5 CHAIRMAN BAGOFF: Mr. Klein.

6 MR. KLEIN: All this is just focusing on
7 Building D?

8 THE WITNESS: That's all I was asked to do.

9 MR. KLEIN: Okay.

10 So you don't know if there's issues with the
11 other buildings?

12 THE WITNESS: I don't.

13 MR. KLEIN: So is there, is there a way to
14 build a foundation -- so the lack of stability has to do
15 with the blasting and the excavation portion of it. So
16 if they blast too much they're going to get a rock
17 slide. If they didn't take into account the lack of
18 stability the rock may slide when they start excavating,
19 is that what you're saying?

20 THE WITNESS: That's one of the concerns.
21 But also, even if you do everything neatly and cut it
22 out and change the configuration, now, like I said along
23 that entire length of building when they excavate down
24 into rock that sort of like a triangular piece if you
25 will. This being the slope and I'm sorry to --

1 basically my right-hand is showing the slope and my
2 left-hand being vertical being the foundation of the
3 building, you now isolated that bedrock. So what does
4 that do in terms of stability. Can it stand on its own
5 or could there be potentially like, for example,
6 drainage issues or things like that getting into the
7 rock now that it's unstabilized.

8 MR. KLEIN: Is that when they were saying
9 the rocks are tilted uphill, so it was less likely?

10 THE WITNESS: They were saying that, but
11 they also looked at the superficial exposed rock, but if
12 you look at the rock below grade, the grading down
13 slope, they're in an entirely different condition.

14 MR. KLEIN: So even though the upper rocks
15 on the slope are tilted up the toe of slope is where
16 you're referring to it is going to erode?

17 THE WITNESS: So what we do when
18 constructing a slope --

19 MR. KLEIN: Well, you're not constructing
20 this.

21 THE WITNESS: No, I'm going to explain.
22 This is sort of the physics of it. When you build a
23 slope you can't build from the top down. Until you
24 start dumping material over it. A slope needs something
25 as you build it up to support it. So if the material at

1 the toe of the slope, that's the most critical part,
2 material at the toe of the slope or down halfway through
3 the slope, if that material is much less competent
4 that's where it's prone to failure and if it slides it
5 can't support the material above. So I don't think an
6 incline in that bedrock that they observed is
7 necessarily indicative of a stable slope.

8 MR. KLEIN: So during construction are they
9 going to, if they took more samples -- so let me ask you
10 this question. So did they not take enough samples?
11 Did they not take enough samples.

12 THE WITNESS: They didn't take a lot of
13 samples across the, across the cross section. Some of
14 them don't even go, they go like on the top, above this
15 top slope.

16 MR. KLEIN: Wish we had a visual like on
17 your slide. You're talking about the S shape?

18 THE WITNESS: That's the building.

19 MR. KLEIN: Right. And the slope goes down?

20 THE WITNESS: Yes.

21 MR. KLEIN: You don't have this slide here?

22 THE WITNESS: No, it's the Langan report.

23 MR. KLEIN: This is your slide show. That's
24 not you, Princeton Hydro?

25 THE WITNESS: That wasn't me.

1 MR. AFRAN: That's from hydrological. It
2 may be the same building but that's --

3 MR. KLEIN: All right. Never mind. All
4 right.

5 THE WITNESS: So actually if you look, and
6 again, this is the Langan report, I know this is not
7 good for the record, but when you look at the cross
8 section that they analyzed nothing was taken over here.

9 MR. KLEIN: And that's the toe of the slope?

10 THE WITNESS: And nothing over here. This
11 is the toe. There's the utility line.

12 MR. KLEIN: All right. So what are they
13 missing if you go further east?

14 THE WITNESS: More borings.

15 MR. KLEIN: As you go further east of
16 Building D it starts to slope down or up? Down.

17 THE WITNESS: Building D it slopes down.

18 MR. KLEIN: Right. So you're saying they
19 didn't go far enough to get to the toe of the slope?

20 THE WITNESS: Well, actually the majority of
21 my report basically used information I had to make an
22 analysis.

23 MR. KLEIN: I was going to get to that next.
24 All right. So the borings are there. The data is
25 there. You could have reanalyzed it or too much effort

1 to reanalyze?

2 THE WITNESS: I'm not designing the study.

3 MR. KLEIN: No, I understand. Okay.

4 So all you could say is with your experience
5 if they plugged in the correct RQD's, GSI's what? It
6 would be worse than what they said. You don't know how
7 much worse but worse?

8 THE WITNESS: Right. Correct.

9 MR. KLEIN: Okay.

10 THE WITNESS: If the question is why. Why
11 did they do that, it would have been simple enough.

12 MR. KLEIN: Well, if it's that simple, you
13 couldn't have done it?

14 THE WITNESS: I'm not the geotechnical
15 engineer.

16 MR. KLEIN: No, I am saying like if you're
17 -- well, I am trying to prove something. I can say
18 that's wrong, and I think it's going to fail. If I can
19 show that it failed then there's no doubt that it
20 failed. You're saying that this data, they're not using
21 the right factors. They're cherry picking the best
22 factors on their slope and then they do their analysis.
23 Yeah, it's going to be fine. It wouldn't fail. But you
24 are saying no, that's not right. They should use this
25 factor and that factor and this factor and then you

1 would see it would fail?

2 THE WITNESS: Let them reanalyze it and
3 we'll take another look.

4 MR. KLEIN: All right.

5 MR. AFRAN: It's clear to us that the burden
6 of -- the burden of this evidence is the applicants. We
7 are demonstrating that the applicant chose to cherry
8 pick certain statistical figures, ignored others and
9 therefore it shows, as the witness says, a significant
10 flaw. It's the applicants burden to show this can work
11 safely. It's not our burden to do the figures and proof
12 what or disprove what they're supposed to show. We're
13 showing their analysis is not meeting, as the witness
14 says, a proper engineering analytical standard. It is
15 not our job to proof what they're supposed to prove.

16 MR. KLEIN: I understand.

17 So then is it the method of removing the
18 rock to make the foundation for the building and garage,
19 is that, is there, is there an ability to still dig the
20 foundation for the building and the garage and not
21 effect the slope? Have a different method, it may be a
22 more expensive way of doing it or do you just --

23 THE WITNESS: It also -- well, there's two
24 factors. There's the construction method. I've seen it
25 where we do what's called a rock trench which is where

1 instead of blasting, building a trench for rock, a
2 little less vibration, still vibration. But it's also
3 the configuration of the rock itself. One thing I
4 didn't see here is any recommendations, for example,
5 remediation. If all of a sudden these slopes start to
6 destabilize are they going to go in and install, you
7 know, anchors on the -- are they going to rundown there
8 and is there a plan, an approved area of disturbance
9 that they can then go in and now install these rock
10 anchors and as they start seeing this slope start to
11 fail. Or can they even do it in time before it fails.
12 Sometimes it's simply the condition of the material. If
13 they put this building there it could just destabilize.

14 MR. KLEIN: Just the weight of the building?

15 THE WITNESS: No, just the fact that they're
16 excavating and they're separating it from the rest of
17 the rock mass. It could be a destabilizing factor, but
18 I didn't see anything in the report that discussed that.
19 Move the building away one hundred feet and I think they
20 would get a better result.

21 MR. KLEIN: So there is a solution?

22 THE WITNESS: Well, they'd have to go into
23 the wetlands.

24 MR. KLEIN: Okay.

25 THE WITNESS: That's why they jammed it,

1 they put it right next to the slope for their parking
2 lot. Between there and the wetlands. They didn't want
3 to get a permit for the lot.

4 MR. KLEIN: So if they want to try to get a
5 permit they possibly could do it?

6 THE WITNESS: Sure. I guess. I don't know
7 why they didn't.

8 MR. KLEIN: All right.

9 CHAIRMAN BAGOFF: Mr. Guarino.

10 MR. GAURINO: That was my question, so thank
11 you, Chairman.

12 CHAIRMAN BAGOFF: Mr. Alper.

13 MR. ALPER: Sure. Thank you.

14 Are you saying that it's unstable to build
15 or that there is not enough information to tell if it's
16 unstable to build?

17 THE WITNESS: I think it's not necessarily
18 responsible to build that close to the slope. This
19 Township is no stranger to landslides, it's occurred
20 before. So to have that information I would say, yeah,
21 there's not enough -- the information is not robust
22 enough. The analysis was not done in a manner that
23 would provide myself at least with any confidence that
24 nothings going to happen or there's going to be no
25 failure of the slope.

1 MR. ALPER: What are the chances of a slope
2 failure or a landslide if Building D is built as
3 proposed?

4 THE WITNESS: I am not a statistician. I
5 have no idea.

6 MR. ALPER: Is it a non zero chance?

7 THE WITNESS: Oh, it's definitely a non zero
8 chance. I can say, as we say when we testify, it's
9 within a reasonable degree of engineering scientific
10 certainty, which really is a 50/50. So 50/50.

11 MR. ALPER: He said a 50/50 chance.

12 THE WITNESS: A reasonable -- I'd say
13 there's a reasonable -- within a reasonable degree of
14 engineering certainty.

15 MR. ALPER: Would you live there?

16 THE WITNESS: No.

17 MR. ALPER: I'm good.

18 CHAIRMAN BAGOFF: Thank you.

19 Council Person Scarpa, any questions?

20 COUNCILWOMAN SCARPA: My question has been
21 answered. Thank you very much.

22 CHAIRMAN BAGOFF: Thank you.

23 Mr. MacNeill, do you have a question?

24 MR. MacNEILL: One quick question.

25 Do you have a recommendation for the number

1 of borings that you would recommend that the applicant
2 complete to ensure stability?

3 THE WITNESS: Well, there's a number of
4 different things they could do. Obviously the more
5 borings, the better usually, to try to get a more
6 understanding of the distribution of unstable rock
7 materials. There's also what's called seismic analysis,
8 where you can actually use, basically a geophysical
9 means to look at the surface of the rock. Look at the
10 competency and through seismic analysis you could
11 actually also look at rip ability of the rock. Which
12 means it shows the quality of that rock as well. There
13 are a lot of different things you could do to give you
14 more information. Will it show that it's stable or
15 maybe it will provide them better solution, but maybe it
16 will say hey, we need to move the building. I don't
17 know.

18 With geotech work, one of the things to
19 understand geotechnical, we're dealing with borings. So
20 we're dealing with one boring here, one boring 50 feet
21 away or 100 feet away and we're interpolating in
22 between. And so that's why there are factors of safety,
23 but at the same time if you have a boring up here on the
24 top of the slope and then you have a boring at the
25 middle or the bottom of the slope very far away and then

1 you can tell judgmentally as an engineering judgement
2 that there's a very big difference in quality of rock
3 between those two borings.

4 MS. McGOVERN: What's the number? What's
5 that number.

6 THE WITNESS: Number of borings?

7 MS. McGOVERN: Yeah. That's what he asked.

8 THE WITNESS: No, it would be and it, I
9 mean, it's an engineering judgment. And it's --

10 MR. MacNEILL: Thank you. That's all I
11 have.

12 CHAIRMAN BAGOFF: Mr. Haizel, do you have a
13 question?

14 MR. HAIZEL: To what extent would you -- to
15 what extent would your conclusions or your inferences
16 change if you knew for a fact that blasting was not
17 going to be used in excavating?

18 THE WITNESS: I'm sorry. If blasting was
19 what?

20 MR. HAIZEL: Was not going to be used.

21 THE WITNESS: Again, still have to
22 understand the configuration of that rock. It's overall
23 like condition of the quality of that material during
24 the slope stability material. Now, keep in mind, none of
25 their analysis addressed blasting or not blasting. None

1 of it. It addressed static condition of the slope as it
2 exists and one with loading of the building on it. And
3 one if there was an earthquake. They didn't do anything
4 about blasting. There was no actual analysis.

5 MR. HAIZEL: Thank you.

6 CHAIRMAN BAGOFF: Do any other members of
7 the public have any questions for Mr. Goll on his
8 testimony? Please come up, state your name and ask your
9 question. You have three minutes.

10 Do any members of the public have any
11 questions. Come up and ask Mr. Goll. You have three
12 minutes.

13 THE PUBLIC: Seth Weisleder, 17 Howell
14 Drive. So I live on one of those toes of the slope, I
15 guess close enough, about 150 feet. As testified before
16 we have 15 Howell that's even closer, directly in line
17 with this --

18 THE WITNESS: You're 15 Howell?

19 THE PUBLIC: No, I'm not 15 Howell, but
20 right next door. When you -- did you physically observe
21 the property by any chance? Did you walk-through there.

22 THE WITNESS: No, I did not.

23 THE PUBLIC: Okay.

24 So were you able to look at Google Maps
25 looking down?

1 THE WITNESS: Yes.

2 THE PUBLIC: So can -- so are those homes on
3 the toe of the slope, are they built into the toe of the
4 slope? Because I know my backyard has several --

5 THE WITNESS: Retaining walls.

6 THE PUBLIC: -- Retaining walls. Correct.

7 THE WITNESS: Yeah, I saw those.

8 THE PUBLIC: So is that part of the toe, the
9 original slope that's already been built into?

10 THE WITNESS: Yes, they cut -- in order to
11 make those houses work, you can see how the topography,
12 the slope goes down, it then gets cut off by a retaining
13 wall and then you get a lower elevation. A much lower
14 elevation that shows that a retaining wall was
15 constructed into the slope. For example that's why I
16 was asking 15 Howell, there's not, at least that's the
17 one closest to that northeastern or that northwestern
18 side of the site.

19 THE PUBLIC: I think most of the homes there
20 have an average of, how many retaining walls would you
21 say were built?

22 THE WITNESS: I don't know.

23 THE PUBLIC: You don't know.

24 So if this was built as it's proposed today,
25 not on a conceptual plan that was originally shown and,

1 and if we had another 100 year rainstorm similar to like
2 what we did the other night, what would I expect as a
3 person down slope and what will my neighbor expect and
4 the other three homes and the other five homes, what
5 would happen?

6 THE WITNESS: Well --

7 THE PUBLIC: This is very disconcerting
8 hearing two very different reports, so.

9 THE WITNESS: It's an excellent question.
10 Water is the enemy of slope stability. Basically as
11 soon as you start, for example, suddenly like for
12 example in Atlantic Highlands, which is not bedrock
13 geological formation, it's more of cements and sands.
14 More recent sudden changes in groundwater elevation such
15 as a rainstorm initiates what's called landslides. Or
16 they're called, it's a block failure of the slumping --
17 it's a slumping of the soils. But similar things can
18 happen if rainwater gets sandwiched between fractures
19 and rock, not only acts as sort of a lubricant it also
20 can add in water pressure basically. That would
21 actually lower the strength of the rock.

22 THE PUBLIC: So if this was built as
23 proposed and approved as proposed what could be done to
24 protect the homes that are the closest to this
25 construction?

1 THE WITNESS: I don't know because I don't
2 have enough information.

3 THE PUBLIC: Okay.

4 I guess the question is, there was
5 identified that there was basalt rock more towards the
6 top that was strong, could blasting create cracks within
7 a strong basalt type rock and cause additional problems?

8 THE WITNESS: Let me back up. The whole
9 point of blasting is to basically weaken the rock so you
10 can excavate down.

11 THE PUBLIC: Right.

12 THE WITNESS: You have to do a controlled
13 basting. I mean, there's always an element just beyond
14 the area they're blasting you're intending it to be rock
15 but, you know, if it's a solid rock formation and
16 they're blasting it appropriately you can do it and not
17 reduce strength of that rock. In this situation though
18 my concern is less on the top of the slope than it is
19 the bottom. It is on the slope.

20 CHAIRMAN BAGOFF: Okay. Thank you.

21 Come right up and state your name for the
22 record and ask your question, please.

23 THE PUBLIC: Rachel Klein, Howell Drive.

24 When you looked at the numbers were you
25 aware that there had been a landslide on this mountain

1 top before, only about 100 feet away from where they're
2 proposing to blast, in 1998?

3 THE WITNESS: I heard some anecdotal
4 testimony at the June 30 meeting. There was discussion
5 about that.

6 THE PUBLIC: Does that change anything or do
7 you think that event might happen again and something to
8 be concerned about?

9 MR. PLOCKER: I'm going to object. Does he
10 know about the event. Was there an event. I don't
11 know. I'm hearing this for the first time. If he has
12 the details he can testify, but if he doesn't know about
13 it I think it would be speculative.

14 MR. AFRAN: Well, he did say -- I'm sorry.

15 MS. McGOVERN: He's giving a hypothetical.

16 THE PUBLIC: No, it happened.

17 MR. AFRAN: The witness said he heard
18 testimony about it at the prior meeting.

19 MS. McGOVERN: He's taking it as
20 hypothetical, which is permitted for an expert to do.
21 I'm not saying it didn't happen. I am not saying it did
22 happen. Representing it as a hypothetical.

23 MR. AFRAN: Thank you.

24 THE WITNESS: Well, to be clear, I don't
25 know the nature of that failure. I don't know the

1 configuration. I don't know exactly what caused it.
2 But if a landslide had occurred in that vicinity it can
3 occur again. Just don't know the condition of that
4 specific incident.

5 THE PUBLIC: Thank you.

6 CHAIRMAN BAGOFF: Thank you.

7 Any other member of the public have any
8 questions regarding the testimony? Please come up and
9 state your name.

10 THE PUBLIC: Bob Sharenow, S-H-A-R-E-N-O-W.
11 Based on your analysis of all the rock there and the
12 blasting that would have to take place, will there be
13 any kind of serious vibration that will go to those
14 homes on Howell a short distance away?

15 THE WITNESS: Well, that's what would be,
16 and I'll back roll. That's going to be a combination of
17 geotechnical design and also making sure that there are
18 -- that's part of the state regulations where they're
19 making sure, you know, adjacent structures are not going
20 to be damaged and things like that. Could it happen.
21 Absolutely. I mean, you set up seismographs and what
22 you do is, in a lot of blasting locations or even deep
23 excavations in an urban environment, for example when
24 buildings are very close, they would install -- they
25 basically place the portable seismographs that can

1 detect vibrations and if it goes above a certain
2 vibration amount, then they have to actually figure out
3 something else to do or stop what they're doing until
4 they could figure out to make sure the slope isn't
5 damaged.

6 THE PUBLIC: Is it possible that they would
7 be doing after they start and would have to stop and
8 there would be no solution, is that a possibility too?

9 THE WITNESS: I can't answer that, I don't
10 know. I mean, it's, it would be site specific but I
11 would imagine, you know, it is there to make sure that
12 they're -- they might just have to change the method of
13 where they're excavating.

14 THE PUBLIC: Do I understand what you were
15 saying, there is a possibility after this building is up
16 that there could be some sagging in one area of the
17 building?

18 THE WITNESS: No, I never said that. I never
19 said there would be sagging.

20 THE PUBLIC: Is there a possibility based on
21 all the information about the rock, the blasting?

22 THE WITNESS: If the slope were to
23 destabilize underneath the building, then yeah.

24 THE PUBLIC: It could happen?

25 THE WITNESS: It could settle, yeah.

1 THE PUBLIC: It could happen, right?

2 THE WITNESS: It's in the realm, I guess, of
3 possibility. But I just don't know.

4 THE PUBLIC: It's happening with 20
5 buildings in Florida right now. Thank you.

6 CHAIRMAN BAGOFF: Thank you, sir.

7 Do any other members of the public have any
8 questions for Mr. Goll?

9 THE PUBLIC: Debra Butensky, 11 Rappleye
10 Court, West Orange.

11 So can you just clarify a little bit, you're
12 saying that they have to -- to build the southern part
13 of Building D they have to go down 25 feet to build
14 parking?

15 THE WITNESS: Yes. Well, I looked at the --
16 the topo, it's a little hard to distinguish. The Langan
17 report specifically states that they'll have to, in a
18 location, they're going to have to build at least 25
19 feet down.

20 THE PUBLIC: And how many -- so my question,
21 what is, the northern part has basalt, as you go to the,
22 toward the south, you said you got more fracture, more
23 fragile rock formation?

24 THE WITNESS: Well, as you went down slope it
25 became -- so along the whole slope. As you went down

1 slope. The worst area was the north, the northeastern
2 side of the corner by 15 Howell, I believe it is.
3 That's where you were getting RQD's of like zero.

4 THE PUBLIC: And what about the part of the
5 slope near the area where you're excavating for the
6 parking, what was that like?

7 THE WITNESS: What was that like?

8 THE PUBLIC: Yeah. In terms of stability,
9 in terms of strength of the rock.

10 THE WITNESS: Let me look to see where they
11 took the borings in comparison to the -- it looks like
12 when they printed this out, this is 24 by 36 not eight
13 and half by 11. Let me look, just take a look at this a
14 little closer. Well, let's see. They did borings, they
15 did test pits in that area. There were no borings --
16 there's one boring in the right northeastern corner,
17 which was NLB-4. And look at the NLB-4 quality, that
18 boring log. NLB-4 they identified -- they stopped
19 drilling down 22 feet. So they didn't go -- I'm sorry,
20 they didn't go as deep as the buildings going to be but
21 they went down 22 feet and according to LB-4 they were
22 getting, they got RQD's of 52 and 93. 52 would be just
23 above what's considered fair. And it goes into, that it
24 looks like right over the border it goes into 50. 50 is
25 the cutoff between poor and fair and it ends up going

1 right into fair. So it's not, it's the most, it's not
2 the highest core. As a matter of fact in that location
3 they did get 83 in a lower core, so 12 to 17 feet they
4 got RQD of 52 and then at 17 to 22 feet they got 83, so
5 it started improving at that depth.

6 THE PUBLIC: My question is conceptually is
7 there a potential for a sinkhole?

8 THE WITNESS: No. No sinkholes. No.

9 THE PUBLIC: Okay.

10 CHAIRMAN BAGOFF: Thank very much.

11 Any other members of the public have any
12 questions? Please come up.

13 THE PUBLIC: Jean Stoloff, One Fairway.

14 I didn't get a chance to read the Langan
15 report. Could you explain what the impact of the high
16 groundwater is in the vicinity of Building D related to
17 the development of the building and the grass?

18 THE WITNESS: As it relates to the slope
19 stability, when you look at the model it appears they
20 did put a water table, there's a dashed line in there.
21 It basically sits atop the highly fractured and
22 decomposed bedrock and in some cases it sits on top of
23 bedrock. But that looks like it was accounted for in
24 the analysis.

25 THE PUBLIC: All right. Thank you.

1 CHAIRMAN BAGOFF: Any other members from the
2 public who have questions? Please come up.

3 THE PUBLIC: Mark Patel, West Orange.

4 If the plan proceeds forward as it is laid
5 out right now, what kind of impact would it translate to
6 Bakley Terrace, which is right close to the building
7 that's under question?

8 THE WITNESS: Which road?

9 THE PUBLIC: Bakley, B-A-K-L-E-Y, Terrace.

10 THE WITNESS: It was cutoff. Is it also
11 near Rosemont.

12 THE PUBLIC: Yeah. The top area.

13 THE WITNESS: That's a hard question. I
14 don't know. What do you mean impact?

15 THE PUBLIC: So if the plan goes as -- if
16 the building goes as planned, current plans and you
17 mentioned earlier that there could be stability issues,
18 if, as we proceed forward then those unstable grounds
19 can they penetrate or pass onto have an effect on other
20 streets and areas around there?

21 THE WITNESS: I would say not necessarily.
22 You mean like a subsurface problem?

23 THE PUBLIC: Subsurface problem that can
24 pass onto other houses.

25 THE WITNESS: No, I think you're far enough

1 away that it would not cause a subsurface problem. It
2 would be a matter if the slope failed, the material
3 coming down the surface would be a problem.

4 THE PUBLIC: Okay.

5 And then water impacts, would that be heavy
6 rains or anything else once a 100 year storm, would that
7 also increase any kind of impact or any kind of
8 concerns?

9 THE WITNESS: I didn't look at the
10 stormwater system for the building, so I don't know
11 which way they're directing water.

12 THE PUBLIC: Okay. Thank you.

13 CHAIRMAN BAGOFF: Okay. Thank you.

14 Any other members of the public?

15 THE PUBLIC: Tony Vastola, V-A-S-T-O-L-A, 10
16 Lapis Circle.

17 When you're talking about the boring you
18 indicated you went down around 25 feet --

19 CHAIRMAN BAGOFF: Can you speak into the
20 microphone.

21 THE PUBLIC: You were talking about the
22 boring, you indicated that they took core out, they were
23 checking the quality and some of it was pretty well
24 broken up and not solid?

25 THE WITNESS: Correct.

1 THE PUBLIC: If they -- that seems to me
2 like that would be excavation level until it got down to
3 something solid. How far did they possibly go down
4 until they hit solid that they could, you know, put
5 beams in and put a foundation for a building?

6 THE WITNESS: Well, it wasn't an extensive
7 set of borings done below the building. There were a
8 few test pits, the poorer quality was more downhill from
9 the building. All though -- yeah, it's on the downhill
10 slope of the building, so it's not under the foundation.

11 THE PUBLIC: Were you surprised about the
12 quality of the cores?

13 THE WITNESS: I mean, not when you review in
14 accordance with the geologic mapping of the area, it
15 makes sense and the topography. So obviously whenever
16 you have an area that has exposed outcrops and rocks
17 it's -- and this is geological time, it's an active, you
18 know, when you have exposed rock it's, they're actively
19 moving over. It might not be over years or decades or
20 100 years or something like that, but that just shows
21 that it is, you know, it is an active movement over
22 time. More erosion than if you're on a level area of
23 land. So that would be a, you know, and then when you
24 look at the contact between Preakness Formation and
25 Feltville Formation, any time you get an area of contact

1 between two different formations, I even state it in my
2 letter, you get more propensity for surface water to
3 migrate down because of that contact. At the contact
4 zone the rock is always a little less quality and then
5 by adding all that water will actually increase the
6 degradation and wearing of that rock.

7 CHAIRMAN BAGOFF: Any other questions for
8 Mr. Goll? Please come up.

9 THE PUBLIC: Rachel Klein. So I know that
10 -- did you have a chance to study the whole site or you
11 really just focused on Building D?

12 THE WITNESS: My focus was Building D.

13 THE PUBLIC: Building D. As you go into the
14 woods there's another slope and Building A, I believe
15 Building A is going to be the side of another traumatic
16 slope, not a slope as we are talking about, but because
17 it's on the ridge line of the mountain top would it have
18 behooved them to maybe also do a couple boring studies
19 on the other side of the slope where the other buildings
20 going to sit?

21 THE WITNESS: I don't know if they did or
22 did not. I apologize, I don't have that. I don't know
23 if they did the borings.

24 THE PUBLIC: Do think that would have
25 been --

1 THE WITNESS: If it's over a certain height,
2 the building, a specific amount of borings, and that's
3 for foundation design. But I don't know specifics of
4 those borings.

5 THE PUBLIC: Thank you.

6 CHAIRMAN BAGOFF: Okay.

7 Anyone else from the public have any
8 questions? Please come up.

9 THE PUBLIC: Seth Weileder, 17 Howell Drive.
10 So with regards to Building D, what are you
11 recommending for this slope to be safe and how should
12 this be built?

13 THE WITNESS: Well, like I said, the most
14 simplest, most straight forward is move the building
15 away from that slope and not impact it.

16 THE PUBLIC: If you took away the garage
17 underneath?

18 THE WITNESS: Lessen the excavation.

19 THE PUBLIC: So would new permits have to be
20 taken out in dealing with the water, the environmental
21 issues, new permits have to be taken out with DEP and
22 things like that, if you moved the building?

23 THE WITNESS: If they move it?

24 THE PUBLIC: Yeah.

25 THE WITNESS: Well, yeah. That wasn't the

1 focus of my review, but based on my experience in my
2 firm, yeah. They encroach onto those transition areas
3 and wetlands they need to modify.

4 THE PUBLIC: Thank you. A lot of technical
5 terms tonight. Sorry.

6 So in any of your reports do you have a map
7 of where that sewer line is because most of the reports
8 that we have seen in testimony did not show this
9 specific area of Howell Drive in relation to Building D,
10 which is a concern. So do you have a map that shows
11 where that sewer line is?

12 THE WITNESS: Well, the map that was
13 provided to us Langan prepared. It was their
14 investigation plan. I'm not sure, I don't know who the
15 engineer was who did the civil design for the site but
16 on their existing topo maps and the information and
17 property boundaries and easements it does identify the
18 easements, so it is on the plans. So you could see
19 that.

20 THE PUBLIC: I guess I will try to look for
21 that.

22 And I guess the last issue is, what if this
23 does get built the way it is, you did mention in your
24 testimony draining issues. What could be done to
25 resolve some of that? Initially you said there could be

1 drainage issues, so what could the developer do to
2 prevent drainage issues if it is built like it's
3 supposed to be as it's being submitted today?

4 MR. PLOCKER: I'm going to object. I
5 believe the witness testified he did not analyze the
6 stormwater runoff.

7 THE PUBLIC: Had said there could be
8 drainage issues. I am wondering what remedy he might
9 suggest to prevent drainage issues if this building,
10 which is 150 feet, 200 feet from our homes on an
11 unstable slope, what can be done by the developer. It's
12 a fair question.

13 CHAIRMAN BAGOFF: He didn't testify to
14 stormwater management nor is he an expert.

15 He didn't testify to stormwater management
16 nor is he an expert in stormwater management, so.

17 THE WITNESS: I'm sorry. I actually do work
18 on stormwater management, I just wasn't sworn in tonight
19 for that purpose and I didn't study that as part of
20 this.

21 THE PUBLIC: Fair enough.

22 CHAIRMAN BAGOFF: Any other members of the
23 public who have any questions of Mr. Goll on his
24 testimony? Please come up and be identified.

25 Seeing none.

1 Thank you very much. Thank you Mr. Goll.

2 THE WITNESS: Thank you.

3 CHAIRMAN BAGOFF: Mr. Afran.

4 MR. AFRAN: One moment, please.

5 I assume we're not up for a break yet.

6 We're ready to go.

7 Mayor Ed Davis will come back and supplement
8 his testimony from last meeting. There's also a video
9 that was not available at the time, which is now
10 available and that is in Mr. Fagan's collective memory.

11 CHAIRMAN BAGOFF: You're going to have to
12 authenticate the video, exactly what it is and what you
13 are offering it for.

14 MS. MCGOVERN: Whose video is it?

15 THE PUBLIC: It is a video not taken by me.

16 MR. AFRAN: I can explain. The video is not
17 taken by Mr. Davis but reflects the scenes he witnessed
18 and he's going to speak to the actual video
19 demonstration of what he saw.

20 MS. MCGOVERN: That's what -- he just needs
21 a proffer on what the video is about. And this is
22 something that you're going to testify about, you're
23 going to show it first or after?

24 THE PUBLIC: It's up to the board. I would
25 suggest that while the video is playing I will describe

1 what you can see or show it and Mr. Fagan can stop it
2 and I will pause occasionally to talk about where it was
3 taken from.

4 MR. PLOCKER: If Mr. Davis -- if Mayor Davis
5 didn't take the video how can he authentic what's in it?

6 MR. AFRAN: Because he was at the scene when
7 it was happening.

8 MR. PLOCKER: You need to be establish that
9 for the record, Bruce.

10 MS. MCGOVERN: Let me just remind you, you
11 were sworn the last time, so you're still under oath.
12 You acknowledge that?

13 THE PUBLIC: Yes.

14 MS. MCGOVERN: Now --

15 MR. PLOCKER: Just have him walk-through it
16 and establish the authentication. Let him show it but I
17 think the record should be clear.

18 MR. AFRAN: I think what we could then is as
19 he walks through --

20 MS. MCGOVERN: Mr. Afran, can you do that?

21 MR. AFRAN: Let me ask you a general
22 question, Mayor Davis. Were you personally present and
23 witnessing the scene when this took place?

24 THE PUBLIC: Yes, sir. The video was taken
25 December 2023, which is what I talked about the last

1 application. I was there myself. The aftermath of that
2 storm, I believe it was the 17th or the 18th of December
3 2023. The video is taken not during the storm but after
4 the storm. I was there during the storm and also there
5 the next day. So I was there the same day but I did not
6 take the video. It was given to me by a resident.

7 MR. AFRAN: If we need to authenticate the
8 video, the gentleman who took the video is present and
9 is here.

10 CHAIRMAN BAGOFF: Okay.

11 MS. McGOVERN: We're going to mark this the
12 next exhibit, that would be O-18. We now have it on the
13 website.

14 MR. AFRAN: You said this would be O-18,
15 right?

16 MS. McGOVERN: Right.

17 THE PUBLIC: So pause it one second, please.
18 For this spot the photographer in this case, you can go
19 forward slightly. This is, again, this is a reminder of
20 my testimony last session, this is what I call the
21 retention pond. In that testimony this spot is in West
22 Orange, the person taking the photo is in Essex Fells
23 Country Club in Essex Fells from that site looking up
24 across the retention pond. That retention pond is the
25 very bottom, it's adjacent to Warner Road in West

1 Orange. That water you see flowing is entirely in West
2 Orange. The project site is on the other side of that
3 pond. So you're basically looking to the north, roughly
4 northeast, toward the West Essex Highlands Condominium
5 Association. Above that is the project site.

6 Go ahead, please.

7 Stop there for a minute, please.

8 So you'll see in the next 30 seconds or so
9 that the videographer is walking from West Orange --
10 toward the edge of West Orange towards West Orange/Essex
11 Fells border. So he's walking basically toward Oval
12 Road and you'll see, directly behind these trees you'll
13 eventually see the edges of the detention pond and then
14 you'll see the Canoe Brook which headwaters are at this
15 project site coming from the right to the left into the
16 corner of Essex Fells.

17 So the house you see through the woods,
18 that's Essex Fells. The videographer's in West Orange
19 looking across the border. I believe that house is 163
20 Oval Road. It's the first or second house in Essex
21 Fells.

22 Go ahead. So, again, you can continue.

23 This is, again, the videographers standing
24 on Oval Road in West Orange and looking up, looking to
25 the north. To the left is Essex Fells, to the right is

1 West Orange. Again, that's 163 Oval Road, Essex Fells,
2 that house to the left. What you're seeing is typical
3 of what I described in my testimony in a medium to heavy
4 rainfall. This is after the rain subsides.

5 Back up two seconds to the wooden gate.
6 Right there.

7 That wooden gate I described in my
8 testimony, that's the border of West Orange and Essex
9 Fells. That's Oval Road on both sides of it. So the
10 water, asked by the council -- I'm sorry, by the
11 Planning Board member when I talked about concerns about
12 potential impact on the road washing out and potentially
13 cutting off emergency access, like police and fire, the
14 emergency access through that gate, I think it's
15 controlled by Essex Fells. You see water on the left,
16 you see water on the right, that's the level of the
17 water I referenced. I'm concerned about it, current
18 conditions under a rainstorm that road is under stress
19 and the infrastructure you're seeing, which we will see
20 more detail going forward, is under stress. So that's
21 the impact I'm concerned about.

22 To the left. Again, that's the entrance to
23 Essex Fells Country Club. That's coming from West
24 Orange. All that water on your left that -- stop it.
25 That water, that bridge is on the grounds of Essex Fells

1 Country Club. It's a situation, again, Borough of Essex
2 Fells and all the surrounding towns have a direct
3 interest here. The Borough's owned the water utility
4 since 1920, owned the land to the left. Basically right
5 from the foreground, which you see as a golf course is
6 what we consider a well field, roughly 17 acre well
7 field. We owned it since 1920. We maintain it for
8 water purposes. We lease the land to the Country Club.
9 That little bridge you see in the foreground is for golf
10 purposes. The country club built that, it's spanning
11 the Canoe Brook. So the water -- now you're back into
12 West Orange, the project site. You're looking across
13 the Country Club. In the far distance is basically
14 Eagle Rock Avenue and toward Roseland.

15 All right. So just if you go back. Pan to
16 the left.

17 When I talked about the building, we have
18 the Borough of Essex Fells owns on this site, right. A
19 well field. The building you see before you is owned by
20 the Borough of Essex Fells. It's currently a storage
21 building but that is the site. Half that building
22 doesn't exist any more because that's where we're
23 building a PFAS treatment facility that I mentioned. So
24 that's the, currently the three million dollar project,
25 could go up to five million dollars. That's going to be

1 the site of it. We're putting it in the same place.
2 It's going to look very familiar, slightly elevated, but
3 you see the water going up to that building which is a
4 concern of ours given the equipment of the water
5 treatment facilities going to be in that building
6 roughly at the same elevation. So, again, Canoe Brook
7 is to your right, it goes basically behind that
8 building.

9 So now you're seeing overflow in a storm
10 where the banks of Canoe Brook overflow. You'll see the
11 entire span of it but eventually I'm going to reference
12 the distance between that left edge of that building and
13 one of the questions I got is, I described it as 150
14 yards roughly of overflow, right. Streams normally ten
15 feet. They said, how do you know it's 150 yards. Well,
16 I know because basically I measured it. The left edge
17 of that building and where that water is to what I will
18 show on the right side as the camera pans out, which is
19 the green on this Country Club.

20 So if you stop right there.

21 You're starting to see on the right the
22 small white building, that is a well. That's a well
23 house. So basically the well house, basically the water
24 is up to the edge of it. We talked a little about my
25 concern about water under the current conditions, but

1 certainly under future conditions all the water getting
2 into the well, contaminating the well. So that well,
3 we're not doing anything with that. That's remaining
4 where it is, so that's one of our concerns. You see, it
5 gets inside, it's not under water yet, but it's close.

6 Continue, please.

7 All right. So stop right there for a
8 second. Yeah, so stop right there.

9 In the 150 yard estimate what you're seeing,
10 that's still sort of looking at some of our buildings.
11 If you go a little bit forward in distance. Right there
12 is fine. In the distance toward the right of this
13 picture, this is a golf course believe it or not. Can't
14 quite tell right now, it's underwater. But the far
15 right is the green for the first hole of Essex Fells.
16 Basically if you look at the span of this, and similar
17 pictures that I received and I regularly see myself when
18 it rains, if you measure that left edge of that
19 building, that's what I call the storage building, our
20 future PFAS treatment facility, to the right edge of
21 that water, which is not completely covering green, but
22 up to the front of it, that's specifically, if you
23 measure it, it's 516 feet. That's 172 yards. To be
24 fair, I kind of rounded down and said 150, but that's a
25 standard, you know, condition today when we have a

1 moderate to heavy rain.

2 So if you would continue.

3 That's Canoe Brook right there. That, you
4 know, ten to 15 feet you see a little grass in there.
5 That's the high top of the bank.

6 To the left here you're seeing, again,
7 looking back towards the project site, Roseland to my
8 back, you're seeing there's a path right here on the
9 left where the water is. The channel normally is to the
10 right on the, just the right side of that intermediary
11 grass.

12 And this relative to where we were before --
13 you can keep running. Relative to where we were, this
14 is closer to Oval Road.

15 See now, going back to where the building
16 was. Kind of going back and forth, this is the bridge
17 you saw earlier toward the edge of Oval Road. Again,
18 this is -- if you can stop it there. Although this is
19 the country club golf cart bridge, which is not what I
20 was focused or concerned about in my testimony. Beyond
21 that -- go ahead, please. Let it run. Beyond that is
22 basically, again, that's 163, the house right there in
23 the distance, that's 163 Oval Road, Essex Fells.

24 This water that's coming in, right there, is
25 coming from West Orange. And you can see it's basically

1 at the top of the bank and it's also the top of the
2 culvert as I described it in my testimony today under
3 existing conditions. So one of our concerns is if
4 there's any appreciable impact from this development,
5 you know, basically washing out Oval Road. And that's
6 going to have a drastic impact on West Orange
7 infrastructure there and Essex Fells infrastructure.

8 The other thing, again, by reference to my
9 testimony, I talked about a sewer uplift station.
10 That's not shown on this video, but based on where we
11 just were 30 seconds ago in this video, when you're
12 looking at that culvert from here, that sewer uplift
13 station is just to the left of this video. So what
14 happens is this wall of water from West Orange also
15 blocks the culvert from Essex Fells where the sewer
16 uplift station is. So that water backs up, even though
17 the sewer uplift station is probably, estimate, 40 feet
18 to the left. That's the one where we're, I talked about
19 \$200,000 repair we're doing this year to that. That's a
20 significant sewer infrastructure station for the Borough
21 of Essex Fells. We can't let that sort of go under our
22 impact of our future stormwater impact. If it's damaged
23 by additional flooding we have a major problem.

24 Please continue.

25 Again, this is looking the other way, back

1 -- my backs to West Orange here and Oval Road. I am
2 looking towards Roseland, but you can see basically this
3 is not the entire length of the golf course, the entire
4 width of the golf course, but you can see sort of the
5 flow of water. This is sort of the day after the storm.
6 Obviously you see some of the ponding and that's my
7 concern. This is all -- relative to the project site,
8 the proposed project site this is basically to the
9 southeast. This is, topographically this is downhill
10 and it is downstream of the Canoe Brook. Basically it's
11 the corner of Essex Fells and West Orange and then as
12 you're looking here you're looking towards where Canoe
13 Brook flows which is eventually Eagle Rock Avenue in
14 Roseland and onto other sections of Roseland.

15 MEMBER IN THE AUDIENCE: How long did that
16 building take --

17 THE WITNESS: I think that's the end of the
18 video. You can pause there for any board questions.

19 CHAIRMAN BAGOFF: Is that the end of your
20 testimony, Mayor?

21 THE PUBLIC: It is.

22 CHAIRMAN BAGOFF: Thank you.

23 Mayor, you have a question?

24 MAYOR MCCARTNEY: No.

25 CHAIRMAN BAGOFF: Mr. Klein, any questions?

1 MR. KLEIN: No.

2 CHAIRMAN BAGOFF: Mr. Guarino, any
3 questions?

4 MR. GUARINO: No.

5 CHAIRMAN BAGOFF: Mr. Alper, any questions?

6 MR. ALPER: No questions.

7 CHAIRMAN BAGOFF: Council Person Scarpa, do
8 you have any questions?

9 COUNCILWOMAN SCARPA: I want to thank the
10 Mayor. I offered to go out and see this myself, because
11 it's really a concern of mine, during that storm but his
12 presentation was very thorough and as I suspected it
13 does look like it really impacts the structure of West
14 Orange/Essex Fells. So I want to thank him.

15 CHAIRMAN BAGOFF: Thank you, Council
16 Person.

17 Mr. MacNeill, do you have any questions?

18 MR. MacNEILL: No thank you, Mr. Chairman.

19 CHAIRMAN BAGOFF: Mr. Haizel, do you have
20 any questions?

21 MR. HAIZEL: No.

22 MR. PLOCKER: I just have a couple
23 questions.

24 CHAIRMAN BAGOFF: Mr. Plocker.

25 MR. PLOCKER: Mayor, I want to confirm for

1 the record, I believe you did testify last time you are
2 not a professional engineer, is that correct?

3 THE WITNESS: Correct.

4 MR. PLOCKER: Okay.

5 And you are then unable to analyze the
6 stormwater proposal that's proposed as part of this
7 application and how that may effect runoff from the
8 subject property, is that correct?

9 THE WITNESS: From an expert perspective,
10 yes, that's correct.

11 MR. PLOCKER: Okay. Thank you.

12 CHAIRMAN BAGOFF: Thank you, Mr. Plocker.
13 Members of the public have any questions based on the
14 testimony? Please come up.

15 Do any members have any questions of Mayor
16 Davis on the testimony, then please come up and be
17 identified.

18 THE PUBLIC: Marea DePalma. I wanted to
19 know how long did that water take to recede?

20 THE WITNESS: Yeah, I don't have a specific
21 answer. Typically, this is a representative example of
22 what I see. It typically takes at least hours, it takes
23 half a day minimum. And what you're seeing is a lot of
24 water receded in this picture. You see it kind of
25 starting to go back into the banks. This was taken the

1 next morning after the storm, so I estimate probably 12
2 hours after the storm past.

3 CHAIRMAN BAGOFF: Thank you members of the
4 public.

5 MR. AFRAN: I just want to ask the Mayor, if
6 you could just state the date of the storm event, just
7 so the records clear.

8 MS. MCGOVERN: You said December 17.

9 THE WITNESS: Yeah. The video I believe is
10 taken December 18. So by that it was the night before,
11 so December 17 into the early morning of December 18,
12 but that's 2023.

13 MR. KLEIN: One more time the date. We have
14 December 28.

15 THE WITNESS: No, 17th and 18th of December.

16 MR. KLEIN: 17th was the storm, 18th was the
17 video?

18 THE WITNESS: Correct.

19 CHAIRMAN BAGOFF: Thank you.

20 Okay. Any other members of the public have
21 any questions for Mayor Davis on his testimony? Seeing
22 none.

23 Thank you very much, sir.

24 THE PUBLIC: Donald Gershow, Holmehill Lane,
25 Roseland and I'm also the president of the Holmehill

1 Association, which is 65 homes on the other side of
2 Eagle Rock Avenue and of which about a dozen are
3 directly effected by stormwater because they're on the
4 eastern side of our development where the Canoe Brook
5 runs specifically alongside their homes. And I
6 appreciate the Mayor having shown this. And I know I am
7 not allowed to testify, so I just want to mention that
8 just even recently storms --

9 CHAIRMAN BAGOFF: Sir, you can ask Mayor
10 Davis a question.

11 THE PUBLIC: Mayor, I have a question
12 relative to water that you were showing with the pumping
13 station because we get our drinking water from Essex
14 Fells, right. And you talked about the pumping station
15 there.

16 THE WITNESS: Yes.

17 THE PUBLIC: Right. How does it effect the
18 drinking water, the flooding?

19 THE WITNESS: Yes, so how does it effect
20 their drinking water. Two potential ways. Right now
21 the well is off, obviously we're hoping to restart the
22 well once the new facility is in place. Yes, we provide
23 100 percent of Roseland's water through multiple wells,
24 including this one. Basically if the flooding gets to
25 great the concern, one concern I have is the well might

1 be shutdown because once it gets flooded it can't pump
2 sort of groundwater out into the drinking water
3 community.

4 The second concern is just contamination.
5 Where you have flooding of this nature the waters
6 dirtier from the downhill. We're worried about
7 contaminating the water source long term. Whether
8 that's through lack of recharge, things of that nature.
9 So there's infrastructure damage, there's potential
10 inability to supply the water which we're obligated to
11 supply to four towns in West Essex, in addition
12 obviously any amount we're spending to repair damage.
13 It's the Borough's water customers, that's not just
14 Essex Fells problem, it's basically every resident of
15 North Caldwell, Caldwell, Roseland, Essex Fells, that
16 bears that burden. So that's the concern.

17 CHAIRMAN BAGOFF: Okay.

18 Any other members of the public have a
19 question for Mayor Davis?

20 Come right up, sir.

21 THE PUBLIC: Mark Patel, West Orange.

22 Based on your experience, right, this storm
23 category, was it closer to medium, have you seen it
24 worse than this, less than this or this was one of the
25 smaller storms?

1 THE WITNESS: I would describe this as one of
2 the larger storms. Certainly seen this multiple times,
3 you know, this amount. I have not seen for instance
4 that green that was in the distance further out which I
5 described as, you know, 172 yards roughly. I have not
6 seen that green underwater. Mainly because it's a
7 little bit higher than some other things, the water
8 spreads out before that happens. And to say, as I
9 testified in the last meeting, basically it's not as
10 common to see water going over Oval Road. You see a
11 little bit in the video at the beginning where you see a
12 little bit of ponding on the left and the right shoulder
13 of Oval Road. I have seen that at least five times, but
14 I have not seen it, and this is sort of what you're
15 seeing on the video which is at the height, I have not
16 seen it regularly above that.

17 THE PUBLIC: Thank you.

18 CHAIRMAN BAGOFF: Thank you.

19 Any other members of the public have any
20 questions for Mayor Davis?

21 Please come up and identify yourself.

22 THE PUBLIC: Laura Masci, I'm from
23 Montclair, New Jersey.

24 My question Mayor Davis is, is that area
25 where the water is going on the golf course, is that

1 identified as FEMA wet plains?

2 THE WITNESS: I can't testify to the entire
3 length of it, but, yes, the Canoe Brook is mapped.
4 There's both mapped wetlands, I can testify to because
5 I'm in the middle of that with our project site and our
6 existing buildings. There's a lot -- we had to, as part
7 of our of project, map that area. And so, yes. I'm not
8 a stormwater expert, I can't testify as to which FEMA
9 map, but that is no question a protected wetlands
10 halfway through and it is, I believe, mapped on the FEMA
11 maps of the floodplain.

12 CHAIRMAN BAGOFF: Thank you.

13 Is there any other members of the public who
14 have any questions of Mayor Davis on his testimony,
15 please come up?

16 Seeing none.

17 Thank you very much, Mayor Davis.

18 THE WITNESS: Thank you very much.

19 CHAIRMAN BAGOFF: We're going to take a five
20 minute break now.

21 (Whereupon, a short recess is taken.

22 MR. AFRAN: Hang you, Mr. Chairman. I think
23 we have only two other witnesses this evening, Ann
24 Marchioni, who is here, I didn't expect she was here
25 today, I thought that she was coming on the 30th, which

1 is very convenient, so I'll call -- ask Ms. Marchioni
2 from the Essex County Environmental Commission. She
3 intends to read a statement from the commission of which
4 she is a member of.

5 CHAIRMAN BAGOFF: Okay.

6 THE PUBLIC: Thank you. Thank you so much.
7 I am a member of the Essex County --

8 MS. MCGOVERN: Do you swear or affirm to
9 tell the truth the whole truth nothing but the truth.

10 THE WITNESS: I do.

11 MS. MCGOVERN: Please put you name on the
12 record and spell your last name, please.

13 THE WITNESS: Ann Marchioni,
14 M-A-R-C-H-I-O-N-I.

15 A N N M A R C H I O N I, having been duly
16 sworn under oath testifies as follows:

17 CHAIRMAN BAGOFF: Go right ahead.

18 THE PUBLIC: I am a member of the Essex
19 County Environmental Commission and we past this
20 resolution --

21 MR. KLEIN: You've got to yell. Forget the
22 microphone, it's not picking up the volume. Okay.

23 THE PUBLIC: Resolution of the Essex County
24 Environmental Commission requesting that the Township of
25 West Orange support the preservation of the forest of

1 the Second Watchung Mountain Ridge.

2 Whereas: These 120 acres of impacted forest
3 are significantly out of the West Essex area. And --

4 Whereas: The forest provides biodiversity
5 groundwater recharge, clean air and common storage. And
6 --

7 Whereas: This area provides natural
8 habitats for pollenating, birds and other wildlife area
9 -- or wild life. And --

10 Whereas: This area serves clean water to
11 towns in Essex County communities and reduces flooding
12 and erosion. And --

13 Whereas: The area serves as a major cooling
14 zone to offset the humidity and effect. And --

15 Whereas: This area increased open space in
16 an area with little open space.

17 And now therefore be it resolved Essex
18 County Environmental Commission respectfully requests
19 the Township of West Orange reject the proposed housing
20 development and instead permanently preserve the forest
21 on the Second Watchung Mountain Ridge Forest.

22 Thank you.

23 MR. AFRAN: Could you just state the date on
24 that resolution?

25 THE WITNESS: I did not state the date.

1 MR. AFRAN: Do you know the date?

2 THE WITNESS: I have to look at a calendar.

3 First Monday of June.

4 MR. AFRAN: Thank you.

5 The witness said first Monday of June.

6 MR. KLEIN: June 2?

7 THE WITNESS: I think so, yes.

8 MR. KLEIN: All right.

9 CHAIRMAN BAGOFF: Okay.

10 MR. AFRAN: Thank you.

11 Should we mark that document as an objectors
12 exhibit or the statement is sufficient?

13 MS. McGOVERN: It's not really --

14 MR. AFRAN: It's not really a objector
15 document.

16 MS. McGOVERN: Yeah, she read it fully into
17 the record, so I don't think it needs --

18 CHAIRMAN BAGOFF: It's not an exhibit
19 because it's a statement from the commission.

20 MS. McGOVERN: Right.

21 CHAIRMAN BAGOFF: Okay. Good. Thank you.

22 MR. AFRAN: I just want to briefly call John
23 Hadu as a witness for authentication of the video Mayor
24 Davis testified to.

25 MS. McGOVERN: Do you swear or affirm to

1 tell the truth the whole truth nothing but the truth.

2 THE PUBLIC: I do.

3 MS. McGOVERN: Please state your name and
4 spell your last name.

5 THE WITNESS: John Haydu, H-A-Y-D-U.

6 J O H N H A Y D U, having been duly sworn
7 testifies as follows:

8 MR. GAURINO: It says December 28.

9 THE WITNESS: It's the 18th.

10 MS. McGOVERN: Well, he's going to say it.

11 MR. AFRAN: Mr. Haydu, your name appears in
12 the lower left corner where it says, Haydu Flooding.
13 What is your connection to this video, please?

14 THE WITNESS: I took the video on December
15 18, 2023 at 7:50 AM.

16 MR. GUARINO: Then why does it say December
17 28?

18 MR. AFRAN: The witness is pointing and I
19 don't know how to get it into the record. The cellphone
20 version of the video which contains the following
21 information, Essex Fells Country Club, December 18,
22 2023, 7:50 AM.

23 What does that reference on your cellphone?

24 THE WITNESS: That's from my iPhone. That
25 tells me when I took the video.

1 MR. AFRAN: There is a date apparently on
2 the screen of December 28, are you aware of what that
3 date is and what it means on the screen? I can't see it
4 from here but members of the board say they see December
5 28.

6 THE WITNESS: Yeah, might --

7 MR. KLEIN: It's in the title of the video.

8 THE WITNESS: Might be a typo.

9 MR. KLEIN: The time is there too, 7:52.

10 CHAIRMAN BAGOFF: We're going to take his
11 testimony because he took it, so whatever he says. You
12 got a difference of five days.

13 MR. KLEIN: Ten days.

14 CHAIRMAN BAGOFF: Maybe a typo.

15 Sir, you took the video?

16 THE WITNESS: Yeah. I didn't do the
17 wording, I took the video.

18 CHAIRMAN BAGOFF: So that's what I said, you
19 will testify to when the video was taken based on your
20 records.

21 THE WITNESS: Yes.

22 CHAIRMAN BAGOFF: Go right ahead, sir.

23 MR. AFRAN: You heard Mayor Davis's
24 testimony?

25 THE WITNESS: Yes.

1 MR. AFRAN: And did you hear his description
2 of the different scenes in the video as the video was
3 played?

4 THE WITNESS: Yes.

5 MR. AFRAN: Do you have any disagreement or
6 dispute how he characterized the location in various
7 points of the video?

8 THE WITNESS: No.

9 MR. AFRAN: Thank you.
10 That concludes my examination.

11 CHAIRMAN BAGOFF: Does it say the date? I
12 asked you to say the date, please.

13 MR. AFRAN: Would you recite, again, the
14 date you took this video?

15 THE WITNESS: December 18, 2023 at 7:50 AM.

16 MR. AFRAN: Would you be willing to provide
17 a screen capture of your iPhone screen that contains
18 that information?

19 CHAIRMAN BAGOFF: We trust him.

20 MR. AFRAN: I withdraw that proffer.

21 MS. McGOVERN: I have one question. Was
22 that video edited or stopped or added, things added to
23 it at all or is that one continuous video?

24 THE WITNESS: Neither. I have nine videos
25 from that day. I have taken other videos also.

1 MS. McGOVERN: Okay. The video we saw, was
2 that one continuous video or was that a compilation from
3 other videos?

4 THE WITNESS: No. So what happened, we took
5 my videos and put them on this, so that was put
6 together.

7 MS. McGOVERN: So that's --

8 THE PUBLIC: That's all separate videos.

9 MS. McGOVERN: -- separate videos
10 consolidated into one video?

11 THE WITNESS: Correct. So I think the 28th
12 is supposed to be the 18th. It's a typo.

13 MS. McGOVERN: Yeah, we're past that. I
14 just wanted to know whether this video -- you stood
15 there with your phone --

16 THE WITNESS: No, I took like four or five
17 videos and there's video too, I guess you can't listen
18 to video, but you can hear how wet it is. I'm actually
19 walking through about a foot of water at the time.

20 MS. McGOVERN: All the videos that were
21 spliced together were all from the same day?

22 THE WITNESS: Correct.

23 MS. McGOVERN: Okay.

24 MR. AFRAN: That concludes my examination of
25 Mr. Haydu. Unless there are questions.

1 CHAIRMAN BAGOFF: Thank you very much.

2 THE PUBLIC: Thank you.

3 MR. AFRAN: If the board would like the
4 individual who actually did the compilation and put the
5 subtitle in, is here and could explain the date
6 reference --

7 CHAIRMAN BAGOFF: I think we're good.

8 Thank you very much.

9 Any member of the board have any questions?

10 No.

11 I think we're good.

12 MR. AFRAN: We do have one final witness,
13 that is Marea DePalma. She testified last hearing but
14 didn't have the video footage of the fire scene in
15 general. She does have the video now that she wishes to
16 speak to.

17 CHAIRMAN BAGOFF: I want to say for the
18 future any videos, documents must be presented before
19 the hearing. Can't do this at the night. Not going to
20 work any more.

21 MR. AFRAN: Understood.

22 CHAIRMAN BAGOFF: To much to make everything
23 working perfectly plus zoom. Must be presented before
24 to get everything out to the public.

25 MR. AFRAN: I appreciate that. We'll work

1 with that. We'll use the rule of reasonableness in
2 terms of how far in advance.

3 MS. MCGOVERN: At least -- well, should be
4 ten days, but at least a day or two before the meeting.

5 MR. AFRAN: We'll work on that.

6 CHAIRMAN BAGOFF: This is stressing our
7 staff to get everything perfect.

8 MR. AFRAN: We don't want that to happen.
9 The staff has really been great and we really appreciate
10 it.

11 We have one final witness, Marea DePalma.

12 MS. MCGOVERN: Do you swear or affirm to
13 tell the truth the whole truth nothing but the truth.

14 THE WITNESS: Yes, do.

15 MS. MCGOVERN: Give us your name for the
16 record and spell your last name.

17 THE WITNESS: Marea, M-A-R-E-A. DePalma,
18 D-E-P-A-L-M-A.

19 CHAIRMAN BAGOFF: Go right ahead, ma'am.

20 MR. AFRAN: Ms. DePalma, there is a video
21 starting on the screen, are you familiar with this
22 video?

23 THE WITNESS: Yes, I am.

24 MR. AFRAN: And what scene does this video
25 depict?

1 THE WITNESS: It's the day the fire broke out
2 on the golf course.

3 MS. MCGOVERN: We're going to mark this
4 video O-19.

5 MR. AFRAN: And there's smoke evident in the
6 video as it's playing.

7 CHAIRMAN BAGOFF: I'm sorry, for clarity,
8 please state the name of the golf course?

9 MR. AFRAN: What is the name of the golf
10 course, are you aware of it?

11 THE WITNESS: Essex Fells County Club.

12 CHAIRMAN BAGOFF: Thank you.

13 MR. AFRAN: And there's smoke in the scene
14 we're seeing, can you describe what that scene
15 represents?

16 THE WITNESS: I was trying to leave the
17 complex because I got a call from my mom who lives in
18 West Caldwell that she felt dizzy, so I hurried out. I
19 tried to get out of the Warner/Oval exit, but I couldn't
20 because when I got there, there was a fire engine and it
21 was tapped off. So I went around to Baumgart and Oval
22 and found out that I couldn't leave by foot or by car
23 and they couldn't give me a how long, just that the fire
24 chief told me to go back behind the lines. So
25 nonetheless I was trapped. I couldn't get out. Neither

1 of my mother's neighbors were home and I panicked. So I
2 am the emergency call for my mom and I couldn't get
3 there. So this was going on, I don't know how long
4 before I tried to make an attempt to get out, but I
5 smelled fire and we didn't know where it was coming
6 from. So there was a fire engine on the golf course,
7 there was a fire engine down at Warner and Oval and
8 everybody that lived there couldn't get in or out for
9 probably two and a half to three hours.

10 MR. AFRAN: And how long were you delayed in
11 leaving at that length?

12 THE WITNESS: A little over two hours.

13 MR. AFRAN: Is there any doubt in your mind
14 that this video reflects accurately the scene on that
15 occasion?

16 THE WITNESS: Absolutely.

17 MR. AFRAN: Absolutely no doubt or
18 absolutely --

19 THE WITNESS: No, that is what happened. I
20 videoed it.

21 MR. AFRAN: Thank you very much.

22 We have no further questions.

23 CHAIRMAN BAGOFF: Thank you.

24 MR. AFRAN: I'm sorry, Mr. Chairman. I
25 appreciate the boards attention today and the staff.

1 That concludes our witnesses for this evening.

2 CHAIRMAN BAGOFF: Thank you.

3 Do you have anything to say, Mr. Plocker?

4 MR. PLOCKER: Nothing.

5 CHAIRMAN BAGOFF: Okay. Good.

6 MR. AFRAN: Ms. DePalma said to me that the
7 whole thing was not played. The red dot went to the
8 end. It's like two minutes long at least.

9 CHAIRMAN BAGOFF: The problem that we have
10 when it is presented that evening we have technical
11 difficulties.

12 MR. AFRAN: We'll check and if there's more
13 relevant we can bring it back. Thank you.

14 MR. FAGAN: I only have one minute 50
15 seconds.

16 CHAIRMAN BAGOFF: Next Planning Board
17 special meeting will be held July 30, 2025 at 6:30 PM.
18 Council chambers and available on zoom. There will be
19 no further notice required.

20 (Hearing concludes at 9:14 PM.)

21

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1 C E R T I F I C A T E

2 I, ERIC S. FISHMAN, a Shorthand Reporter
3 and Notary Public of the State of New Jersey do hereby
4 certify that the foregoing is a true and accurate
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6 and before me at the time, place and on the date
7 hereinbefore set forth, to the best of my ability.

8 I DO FURTHER CERTIFY that I am neither a
9 relative nor employee nor attorney nor counsel of any of
10 the parties to the action; and that I am neither a
11 relative nor employee of such attorney or counsel; and
12 that I am not financially interested in the action.

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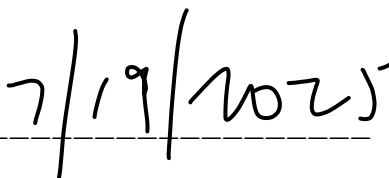
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