

1
2 TOWNSHIP OF WEST ORANGE
3 DEPARTMENT OF PLANNING AND DEVELOPMENT
4 WEDNESDAY, AUGUST 13, 2025
5 6:30 P.M.

6 RE; PB-24-01 WEST ESSEX HIGHLANDS, INC.
7

8 BOARD MEMBERS:

9 ROBERT BAGOFF, Chairman
10 JERRY GUARINO, Vice Chairman
11 KEN ALPER
12 LORI KAPFERER
13 SUSAN SCARPA, Council Person
14 RYAN MacNEILL, Engineer
15 GERARD HAIZEL, Planner
16 JAMILET BAQUERIZO VITE, Board Secretary
17 GENIECE GARY-ADAMS, Zoning Official
18 JOSEPH FAGAN, Zoom Moderator

19 WITNESSES:

20 GEOFFREY GOLL
21

22 FISHMAN COURT REPORTING AGENCY
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12 **Appearing on behalf of the Board**

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10 **BRUCE I. AFRAN, ESQ.**
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13 **Appearing on behalf of the Objector, We Care NJ 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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0-21

GOLL REPORT

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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. Plocker, for the applicant.

8 MR. PLOCKER: Hi. Good evening. Bryan
9 Plocker from Hutt, Shimanowitz & Plocker on behalf of
10 the applicant, West Essex Highlands, Inc.

11 CHAIRMAN BAGOFF: Mr. Afran.

12 MR. AFRAN: Good evening, Mr. Chairman.
13 Bruce Afran for the Objector, We Care.

14 I heard just a moment ago that you indicated
15 there's an ordinance review you moved to the end of the
16 meeting.

17 CHAIRMAN BAGOFF: Yes.

18 MR. AFRAN: If it's a separate matter, I
19 assume it is, Mr. Goll is on the parkway in a deluge and
20 he asked me to tell you that climate change is delaying
21 him. He had an estimated time of arrival of 6:53, but
22 he says it keeps getting longer. So if you had another
23 matter, you might want to turn to that.

24 CHAIRMAN BAGOFF: Thank you for that
25 information.

1 Mr. Afran, I just want to share this with
2 you and the public. We had seven meetings, this will be
3 the eighth meeting of the objectors. The reason for
4 having information on both sides is that the Planning
5 Board has the understanding of information in relation
6 to the zone plan and what our obligation is to weigh the
7 application. The information that we have reviewed, I
8 believe, and I'm going to ask the Planning Board, I will
9 poll the members, do you, from the seven meetings that
10 we have, have almost enough information to make a
11 decision based on the IH-1 zone plan.

12 MR. AFRAN: Mr. Chairman, may I point out --

13 CHAIRMAN BAGOFF: I'm talking to the board
14 now.

15 MR. AFRAN: Well, before you ask such a
16 question the board needs to know what other witnesses
17 are coming.

18 CHAIRMAN BAGOFF: Well, we're going to get
19 there. We're going to get there. I didn't say we're
20 making the decision tonight.

21 MR. AFRAN: Well, I know you didn't. But
22 nevertheless, the board doesn't know who's coming.

23 CHAIRMAN BAGOFF: Well, the board will
24 know who's coming very shortly when I ask. Okay.

25 MR. AFRAN: Okay.

1 CHAIRMAN BAGOFF: So we want to try to give
2 everybody time to say their peace, which apparently we
3 don't have all the people that we want to get to us. So
4 I want to --

5 MR. AFRAN: Not today.

6 CHAIRMAN BAGOFF: Not today, but we're going
7 to get there. Okay.

8 So we have had seven meetings, tonight would
9 be the eighth, and we have heard many objectors and
10 applicants and the information in the zone plan is
11 there's been back and forth. We have our experts and
12 Mr. MacNeill will share certain information with us on a
13 report that he has reviewed after I question the board
14 looking at a number of things. Okay. So what I'm going
15 to suggest is, Mr. Afran, tonight and your next meeting,
16 which will be on the 25th, that's going to be the last
17 meeting, unless there's something that is unable to
18 happen at that night, we ask the objector to finish up
19 with whoever we haven't heard from. Okay. Use the
20 entire meeting because as we have looked at, most of the
21 meetings have not been used for the entire evening, for
22 whatever reason. However, we also know that the
23 applicant has the right to have a reasonable application
24 going forward and we are trying to be reasonable to both
25 sides. We want to hear from the people -- we want to

1 hear from the people in the community. We want to hear
2 from the objectors and we also want to deliver a fair
3 application to the applicant. So I will say next
4 meeting please let us know who's coming, what they're
5 talking about, so we can all understand. If we have
6 questions we can get reasonable questions based on who's
7 coming.

8 MR. AFRAN: I can tell you now who's
9 scheduled right now just so you know.

10 CHAIRMAN BAGOFF: Okay. If you can -- if
11 you would, e-mail that to the board attorney, that would
12 be fantastic.

13 MR. AFRAN: That's already been done. The
14 difference is Mr. Hasse, Professor Hasse can't be here
15 tonight and the board doesn't wish to zoom, so he will
16 be on the 25th as well.

17 CHAIRMAN BAGOFF: Okay.

18 MR. AFRAN: And Michele Beyer's, whose
19 testimony is brief, but follows Dr. -- Professor Hasse's
20 will have to be on the 25th as well.

21 CHAIRMAN BAGOFF: Okay.

22 MR. AFRAN: We may be able to make it,
23 depending of course how many questions there are from
24 the board. Mr. Plocker typically does not do a lot of
25 cross, I don't think that takes a lot of time, but the

1 board may have a lot of questions. There's traffic
2 planning and --

3 CHAIRMAN BAGOFF: That may be and we'll
4 expand as we need to, but we're going to try and get as
5 much as we can done this meeting and the next meeting --

6 MR. AFRAN: We certainly endeavor to do
7 that.

8 CHAIRMAN BAGOFF: -- and then we will try to
9 have public comment after that and then we will go for
10 -- both sides can sum up and then the board will have
11 time to review.

12 MR. AFRAN: I imagine we'll be using
13 literally the entire night no matter what at the next
14 meeting.

15 CHAIRMAN BAGOFF: I'm sorry.

16 MR. AFRAN: The objectors case will take the
17 whole night, I'm sure.

18 I would just note for the record that
19 Professor Hasse was not available because of a family
20 medical problem, which I indicated generally in my
21 letters to counsel and board counsel.

22 CHAIRMAN BAGOFF: Right. For this evening.

23 MR. AFRAN: Right. He was willing, I'm not
24 suggesting you have to do it, but I want to put it on
25 the record --

1 CHAIRMAN BAGOFF: Put it on the record. I
2 understand.

3 MR. AFRAN: He was willing to do it by
4 zoom --

5 CHAIRMAN BAGOFF: Right.

6 MR. AFRAN: -- so we could speed along the
7 process, but the boards preference, and I understand
8 that entirely, the boards preference is live witnesses,
9 but he was available in that way.

10 CHAIRMAN BAGOFF: That's the way it's been
11 published.

12 MR. AFRAN: No, I just want to make sure it
13 was clear. He wasn't available, but I understand the
14 boards preference.

15 CHAIRMAN BAGOFF: I understand that, but it
16 was also published in person.

17 MR. AFRAN: I understand.

18 CHAIRMAN BAGOFF: So we will follow the
19 rules, but I appreciate that and we're going to work
20 towards this. Thank you.

21 MR. AFRAN: Can I have one moment.

22 (Whereupon, a short recess is taken.)

23 MR. AFRAN: Thank you.

24 CHAIRMAN BAGOFF: Is he here?

25 MR. AFRAN: He is here.

1 CHAIRMAN BAGOFF: Okay. Great.

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

8 For the objector, Mr. Afran.

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

10 Our witness, Jeff Goll of Princeton Hydro is
11 here. I also want to advise the board, all though it's
12 not my witness, I was advised the representative of the
13 West Orange Environmental Commission was going to be
14 present tonight to present the resolution. I don't know
15 as a curtesy whether the board would like to hear from
16 them first. They're not my witness but I was advised
17 they were here. I believe that they're here tonight.

18 CHAIRMAN BAGOFF: Yes. So the resolution
19 has been presented to the Planning Board, we're going to
20 send the question to the township attorney. There are
21 some other legal issues that have to be addressed, so
22 we're not going to hear that this evening.

23 MR. AFRAN: Fair enough and if Ms. McGovern
24 could send me a copy of the resolution, I've never seen
25 it.

1 MS. MCGOVERN: I don't have a copy of it. I
2 got to see it and I handed it back. It's going to the
3 township attorney.

4 MR. AFRAN: Okay. I'll get a copy of it
5 then.

6 MS. MCGOVERN: At some point, yes.

7 MR. AFRAN: So Mr. Gaff is here obviously
8 and I have some proffers to make, but I think that
9 should be done after his testimony.

10 CHAIRMAN BAGOFF: Go right ahead, sir.

11 MR. AFRAN: Mr. Goll, excuse me.

12 MS. MCGOVERN: And the next number on our
13 exhibits are 21.

14 MR. AFRAN: Mr. Goll has already been sworn,
15 I assume he continues to remain under oath.

16 MS. MCGOVERN: You understand you are still
17 under oath?

18 THE WITNESS: I do.

19 MS. MCGOVERN: Okay.

20 MR. AFRAN: I'm going to allow Mr. Goll to
21 just present his report. I may interject questions at
22 some point. I assume he's prepared to do that.

23 THE WITNESS: Yes.

24 MR. AFRAN: Thank you.

25 THE WITNESS: The last time I was here I

1 testified -- thank you for waiting for me. I appreciate
2 it.

3 MR. AFRAN: Try to be close to the mic.

4 THE WITNESS: The last time I was here --

5 CHAIRMAN BAGOFF: Excuse me one second.

6 I'm going to ask members of the public, if
7 you can't hear just raise your hand. Okay. So he's
8 going to talk loud and if you can't hear just raise your
9 hand, I will identify you and I will know.

10 Do me a favor, go to the town council
11 meeting and please express to them that you can't hear
12 during the Planning Board meetings. Okay.

13 Go right ahead, sir.

14 THE WITNESS: Thank you.

15 The last time I was here I testified on a
16 report from July that I prepared reviewing the
17 geotechnical slope stability analysis in the area of
18 Building D. The question was asked that, I apologize to
19 the member of the board, one of the board members
20 herself, my answer was I just -- I didn't have time but
21 also I thought the applicant might do that as well. But
22 what I did is I just ended up running the numbers
23 myself. So what we did is we took two, two of the cross
24 sections using the applicants data or the applicants
25 engineers data and used their borings and if you recall

1 the last meeting that I was here, I stated that they
2 used the best data that they found. In other words, the
3 most confident rock subsurface conditions in all their
4 cross sections. There was a -- some of their borings
5 they got, for example, very low RQDs, if you can
6 remember that. The rock quality designation. The lower
7 -- it's from zero to 100 percent and the lower the
8 quality, in other words, the lower the percentage, the
9 worse the rock quality was in. And we're using the
10 higher rock quality data that they had and assuming
11 they're very high, what's called a geological strength
12 index, which is also reflective of, you can use that
13 during the RQDs you get in the field. So for cross
14 section C and D -- cross section C is the section that
15 is the most northeast of the property. It's actually
16 the section that goes through and then it goes down
17 Howell Avenue. It's where the closest houses are --
18 excuse me, on Howell Drive, are located.

19 And we also looked at Section D, which is
20 just next to that, just a little bit more south of that
21 in the same vicinity of that slope. So we ended up
22 using their information to develop our slope stability
23 analysis. So we obtained topographic data from the town
24 that's available, the township wide topographic data
25 because I did not have access to the applicants

1 topographic information and CAD. We reviewed it, it was
2 essentially the same as we would expect it to be and
3 then we input that into the geometry of the slopes and
4 then took the boring data that they provided in those
5 locations and entered them into the program, to make
6 sure that we were running a similar model or a similar
7 analysis. We simply just accepted on our first run,
8 based on our geometry, just to sort of like a test to
9 make sure that we're kind of talking the same language
10 in terms of the analysis. We put their same exact
11 parameters in. And so for example, on Figure 1 that you
12 might look at, we got a factor of safety 1.589 in the
13 worst case scenario and they had a factor of safety of
14 1.599. For all intents and purposes that's the same,
15 that's for Section C.

16 And then for Section D similar analysis. We
17 came up with a factor of safety of 1.936 and they came
18 -- they had developed a factor of safety of 1.938.
19 That's assuming, again, we're using their data. And
20 we're just using that to corroborate our -- the layout
21 of our model to make sure it's the same.

22 MR. PLOCKER: I'm going to object just for
23 the record. It looks like the notation, the caption at
24 the bottom of the exhibit, it looks like it's reversed.
25 It says that Langan was on top and Princeton Hydro is on

1 the bottom. I think the testimony just reflected the
2 opposite. So just so the record is clear can we get
3 some clarification.

4 MR. AFRAN: Let's ask the witness then to
5 explain. Mr. Plocker's suggesting that on Page 2 of
6 your report, right Mr. Plocker?

7 MR. PLOCKER: Two and three.

8 MR. AFRAN: Two and three that it may be,
9 Mr. Plocker thinks from what you said, that the Langan
10 version versus your version, Princeton Hydro's version,
11 may be transposed.

12 THE WITNESS: Could you read back what I
13 said, if possible.

14 MR. AFRAN: We would not object, there's a
15 court reporter present.

16 CHAIRMAN BAGOFF: I don't know.

17 THE WITNESS: Let me just --

18 CHAIRMAN BAGOFF: I'll tell you what. I'll
19 tell you what, for clarity look at your diagram and read
20 the diagram into the record so it's clear.

21 MR. AFRAN: We can also -- Mr. Chairman --

22 MS. McGOVERN: From top to bottom.

23 CHAIRMAN BAGOFF: From top to bottom.

24 MR. AFRAN: Mr. Chairman, we do have it
25 available on the screen, if that's available.

1 CHAIRMAN BAGOFF: I know. Let him read it
2 from it and say, this is yours or it's theirs. And if
3 from the bottom it's either yours or it's theirs.

4 THE WITNESS: On Figure 1 the Langan model is
5 on the top and the Princeton Hydro model is on the
6 bottom. That is correct. They both reflect that. If I
7 had misspoke and reversed that I apologize but that's --

8 CHAIRMAN BAGOFF: Thank you.

9 THE WITNESS: Regardless it makes no
10 difference because we basically replicated their model
11 and we came up with the same number because we used
12 their parameters that they assumed based on test rock
13 information.

14 And the same thing on Page 3. We also came
15 up with similar factors of safety regarding the model.
16 Ours -- theirs was on top and ours was on the bottom.
17 So we came up with a factor of safety of 1.938 and they
18 came factor of safety of 1.36. So I thank you for that
19 correction if I had reversed that.

20 MR. AFRAN: Mr. Goll, I have a couple quick
21 questions for you.

22 When you said the numbers were basically the
23 same, you're referring on Page 2 of your report to the
24 fact that the Langan number was 1.589 and yours was
25 1.599, is that correct?

1 THE WITNESS: The Langan's number is 1.589
2 and our number was 1.599.

3 MR. AFRAN: Right. When you said it didn't
4 make that much difference, is that because those numbers
5 were close?

6 THE WITNESS: Yeah, they're very close.

7 MR. AFRAN: Okay. And the same applies to
8 Page 3?

9 THE WITNESS: Yes. Yes. I mean, we're down
10 to a hundredth of numbers, so it's not -- in this
11 analysis not, it's not a big deal.

12 MR. AFRAN: Thank you. Please continue.

13 A. Yes.

14 So we did that same thing on Figure 2, Langan's
15 analysis on the top, this is basically a screen shot
16 from their report, and ours is a screen shot from our
17 analysis at the bottom.

18 So one of the things we then wanted to do, we did
19 a sensitivity analysis using GSI and modifying that and
20 came up with, looking at what happens when you change
21 the GSI, which is geological strength index and
22 reflective of the poor -- and the very poor joint
23 condition. And so we looked at a ten-foot thick layer
24 of bedrock with eager parameters that we changed because
25 that was more reflective of the borings that were

1 prepared for this -- that were obtained by Langan on
2 this project. So there was ten-feet of rock boring as
3 well and we used that. That quality of that, that low
4 quality, if you recall, I think it was C had a rock
5 quality data of zero and 23 -- 0 percent and 23 percent
6 of 100. And so we need to take that GSI number and
7 lower it to an appropriate number. And so that's what
8 we did. So we took a number on the Section C and ended
9 up changing the GSI to 20 and our lowest numbers --
10 well, there's an isolated number there that frankly you
11 can disregard, it's point 774 on Figure 3 on the bottom
12 right. That's actually less than one. The slope is
13 actually failing, but it's a very small area down slope
14 and that, even if it is failing that's what it is in
15 that location. It's very isolated. However, when you
16 go up to the other cross sections and looking for the
17 lowest factor of safety, the number on cross section C
18 drops from a 1. -- drops from a 1.589 and 1.599 down to
19 a 1.48. So that dropped as well. But more
20 significantly if you go to Figure 4, that number also
21 drops significantly down to 1.65 at the lowest value.
22 From there 1.9 and change.

23 MR. AFRAN: That was on cross section D?

24 THE WITNESS: That was on -- yeah, cross
25 section D, Figure 4.

1 MR. AFRAN: Thank you.

2 A. So what does that mean. Well, if you recall
3 anything above, if you do your analysis, and I'm just
4 going to be very transparent, when you do an analysis a
5 number of 1.0 on a stability analysis if it's above
6 that, according to the calculation, that means there's
7 more resistance than forces. Resistance to failure than
8 forces pushing it down. Basically a ratio of the forces
9 pushing down to the force of resisting. So if you get a
10 1.1 or a 1.4 that actually shows that there's more
11 resistance from failure than the force trying to fail
12 the slope. Now, you'd say to yourself, that's a good
13 thing. However, because if it's less than one,
14 technically the slopes in a -- it's in an active mode of
15 failure. However, engineering guidance and geotechnical
16 engineering is not an exact engineering science because
17 if you think about it, the ground conditions, the soil
18 conditions, the rock conditions are very -- they're
19 extremely variable from boring to boring, location to
20 location. So the various authorities on these types of
21 -- these subjects, geotechnical engineering in this case
22 comes up with vertical factors of safety that you should
23 meet. So even though you're at a 1.4 let's say in
24 section D on Figure 4, is that enough. And so in
25 accordance with the United States Army Core of

1 Engineers, their manual, November 1994, it's EM, which
2 is the engineering manual, 1110-1-2908, Engineering and
3 Design Rock Foundations. I put a quote out here on Page
4 5 in the middle. "The calculated factor of safety is
5 primarily dependent upon geometry of a potential failure
6 as selected for analysis and the sheer strength
7 representative of the potential failure surface. Other
8 factors such as groundwater conditions and potential for
9 erosion and seismic -- and highlighted -- I bolded this.
10 The possible blasting use of the rock mass must also be
11 addressed."

12 The other thing they recommend, and it's on the
13 second -- the bottom of the Page 5 is, "For major rock
14 slopes where the consequence of failure is severe the
15 minimum required calculated factor of safety is 2.0."
16 So double what would be considered a just balanced at
17 1.0 where resisting factors -- resisting loads are equal
18 to failure loads. But they recommend 2.0. "Other
19 slopes that are not so consequential could be at a
20 factor of safety as low as 1.3."

21 However, based on my analysis and our
22 understanding of the site and the proximity, especially
23 the homes that are located literally on the toe of slope
24 of Howell Drive, with those homes I would say that if
25 there's a potential for damage to life of the property,

1 that the higher factor of safety a severe consequence
2 should be followed. And in this case none of the
3 factors of safety, even the ones that were developed by
4 Langan, let's use their information, do not even meet
5 the standard of care of the 2.0 slope stability.

6 Now, with that said, the slope may exist in that
7 condition naturally, it may just have a low factor of
8 safety. But as you recall, the Army Corps of Engineers
9 recommendation in their manual are concerned about the
10 erosion, seismic loading and blasting loosening of the
11 rock and that's their concern. And so if the factors of
12 safety naturally are already low, again, you're all
13 aware of other rock slides in the area, not pertaining
14 to this specific site, but there have been rock slides
15 that have been induced both by construction activity,
16 but sometimes just by, you know, weather induced
17 conditions, you know, excessive rainfalls and things
18 like that. So this is already a slope that has a
19 potential for not, for not being stable and now they're
20 proposing a building which is going to be right next to
21 it and doing excavations and potentially blasting
22 through these slopes. So I wanted to just bring this up
23 and I brought this to your attention so that you guys
24 can have this to review, and I can take any other
25 questions.

1 CHAIRMAN BAGOFF: Thank you.

2 MR. AFRAN: I have a quick question. I just
3 want to clarify.

4 Q. In your understanding Mr. Goll, to what extent is
5 the Army Corps of Engineers standards and manual
6 representing the standard of care in the engineering
7 profession?

8 A. All engineers and geotechnical engineers follow
9 that standard of care. It's something that we reference
10 off of. So it's something to go by. A lot of other
11 organizations also then refer to the Army Corps of
12 Engineers or American Society of Civil Engineers and
13 other professional organizations in the engineering
14 field.

15 MR. AFRAN: Thank you.

16 CHAIRMAN BAGOFF: Okay.

17 Mayor McCartney, do you have any questions?

18 MAYOR McCARTNEY: Trying to formulate a
19 question with all this information.

20 So it sounds like what's described here, though
21 it says the factor of safety is 2.0, so you're under
22 that but from a geotechnical engineer is there a way to
23 shore it up? What would have to be done to --

24 THE WITNESS: You'd have to do an extensive
25 program, going in and stabilizing it, putting in rock

1 walls --

2 MR. FAGAN: You need a microphone.

3 THE WITNESS: You would have to go and do an
4 extensive program of, you know, rock holding or
5 something to stabilize those slopes to ensure that they
6 are not going to fail. If you ever drive along a
7 highway where they've done some rock cuts, you'll see
8 these bolts and these plates against the side, that's
9 what they usually -- that's what that means, is that
10 there's actually a long rod that's sticks into the rock
11 that's been drilled in to try to stabilize those areas.
12 So that means they didn't have to extend their limit of
13 disturbance and do an extensive stability program on
14 this slope.

15 MAYOR MCCARTNEY: Thank you.

16 CHAIRMAN BAGOFF: Ms. Kapferer, do you have
17 any questions?

18 MS. KAPFERER: I don't have any questions at
19 this time.

20 CHAIRMAN BAGOFF: Thank you.

21 Vice Chairman Guarino, do you have any
22 questions?

23 VICE CHAIRMAN GUARINO: Yes, I have a
24 question. Thank you, Chairman.

25 Thank you for your presentation, sir. Just

1 from your professional experience, are there any
2 processes or construction or any pre things that can be
3 done to offset any potential failures that you're saying
4 are present at this property?

5 THE WITNESS: Well, as I stated, you could
6 do some engineering reenforcements with all of those
7 slopes on that eastern side of the property. So you
8 probably have to clear out trees, go in or clear areas
9 of that slope to go in with machinery that would then
10 drill bolts in or do some type of stability that would
11 reenforce those slopes to get up above the 2.0.

12 VICE CHAIRMAN GUARINO: So there are things,
13 other than natural barriers and stuff, things can be
14 done prior to construction and adjustments and
15 reenforcements can be done before construction starts
16 that would prevent any of your highlighted failures?

17 THE WITNESS: That is -- well, yes, but I
18 don't see any type of methodology being proposed in the
19 application, nor is there a limit of disturbance
20 extended beyond that. So my -- in my understanding of
21 the situation, there will be no work in that area.
22 Which would also increase their, potentially their
23 requirement, back to their DEP permits and materially
24 change this application.

25 VICE CHAIRMAN GUARINO: Okay. Thank you,

1 sir.

2 CHAIRMAN BAGOFF: Mr. Alper, do you have any
3 questions?

4 MR. ALPER: Yes.

5 So when you're talking about rock bolts in
6 place, were you just say the work would have to be done
7 outside of the allowed area of disturbance for that to
8 happen?

9 THE WITNESS: That is correct.

10 MR. ALPER: Okay.

11 Your GSI that you used when you did the
12 number, it says 20, what was Langan's?

13 THE WITNESS: 65.

14 MR. ALPER: 65. And is your 20, is it a
15 conservative number, is it the worst possible number?

16 THE WITNESS: There's a table that we use to
17 figure -- that corollate the GSI numbers and the RQDs,
18 and so you look at it, if it's zero to 25, for example,
19 it's this, it should be this and so you go down the
20 line. So we tried to make it equal to or at least match
21 what is recommended.

22 MR. ALPER: Okay.

23 Is there a definition of a major rock slope
24 as used in -- where it says, for major rock slopes with
25 a consequence of failure is severe. Obviously the

1 consequence of failure is severe, but does this qualify
2 as a major rock slope? Is there a definition and if
3 there is what is the definition?

4 THE WITNESS: Well, I would say it's a slope
5 that potentially can cause damage and be significant --
6 have significant impacts. That's a pretty major rock
7 slope.

8 MR. ALPER: So it's not -- there's no
9 definition that requires --

10 THE WITNESS: There's not a regulatory --
11 it's not a regulatory, you know, definition. It's just
12 their recommendation.

13 MR. ALPER: Okay. Thank you.

14 CHAIRMAN BAGOFF: Mr. MacNeill, do you have
15 any questions?

16 MR. MacNEILL: Thank you again for your
17 testimony. Just a quick question.

18 Have you identified any noncompliance based
19 on the township zoning code?

20 THE WITNESS: Your township did not cover
21 geotechnical stability, except I would imagine they're
22 required to provide a design and involvement that is
23 safe for the public.

24 MR. MacNEILL: Okay. Thank you.

25 CHAIRMAN BAGOFF: Counsel Person Scarpa, do

1 you have any questions?

2 COUNCIL PERSON SCARPA: No, not at this
3 time.

4 CHAIRMAN BAGOFF: Mr. Haizel, do you have
5 any questions?

6 MR. HAIZEL: Not at this time.

7 CHAIRMAN BAGOFF: Any members of the public
8 have any questions? Please raise your hand, be
9 identified.

10 Come on up, sir. State your name for the
11 record.

12 THE PUBLIC: Orin Knights, K-N-I-G-H-T-S.

13 CHAIRMAN BAGOFF: Go right ahead.

14 THE PUBLIC: And this question is posed to
15 this gentleman right here.

16 CHAIRMAN BAGOFF: Yes, sir.

17 THE PUBLIC: As far as the stability of the
18 area that we're talking about, I know in April 5, 2024
19 we had a magnitude of 4.8 earthquake. I happen to be
20 home that day and it actually shook the house. And just
21 recently August 5 we had a 2.7 I believe it was. It
22 also shook the house. So when you talk about the boring
23 that's going to have to take place, the blasting I
24 believe it is, you're going to have to blast that area?

25 THE WITNESS: Well, I don't know the exact

1 method of excavation they're going to use, but the rock
2 is deep enough that they'll have to -- they'll spend a
3 lot of time using a hydraulic hammer or an excavator
4 versus using blasting. Using blasting is the most
5 efficient.

6 THE PUBLIC: So you mentioned about the
7 slope, because in my recollection building number 4 that
8 they're proposing to build is actually at the edge of
9 the slope. And in addition to that, that's going to be
10 a building along with a swimming pool on top, I believe
11 it is, which in my estimation is going to cause even
12 more impact in that area because of the weight from the
13 water. So what I'm asking is, in lieu of what you just
14 said, and with the earthquakes that we had just recently
15 and a few years ago, on Northfield Avenue we had that
16 rock slide and it moved the building. In your
17 estimation do you believe if we were to have another
18 major earthquake with those particular buildings on top
19 of that area, can it compromise to the point where it
20 causes a rock slide, and number 2, this is my last
21 question to the board. If there is damage to homes from
22 the blasting, who's responsible for the houses, for the
23 residents houses? Is that going to be something that's
24 going to be put in escrow? Who's going to be
25 responsible if our foundations are being damaged by the

1 blasting? That's my questions.

2 CHAIRMAN BAGOFF: Thank you.

3 Can you answer any part of that?

4 THE WITNESS: The answer is, I don't know.

5 I mean, it depends where the earthquake center is, what

6 the situation is. Could it be exacerbated by the

7 building. Maybe.

8 CHAIRMAN BAGOFF: Okay. Thank you.

9 Come right up. State your name and ask your
10 question. You have three minutes.

11 THE PUBLIC: Nancy Meyerowitz, Howell Drive.
12 Picking up on that question, would one of the options be
13 to move Building D so it wasn't sitting on top of that
14 steep slope?

15 THE WITNESS: That's what I testified to the
16 last time. If they moved it back, I don't know, 50, 100
17 feet, something like that, maybe this slope would be a
18 little bit better protected. The further they can get
19 back the better.

20 THE PUBLIC: My understanding is this
21 project was grandfathered into the current steep slope
22 requirement. So if a builder had to comply with the
23 current steep slope would this project be approved or
24 meet the current steep slope requirements?

25 THE WITNESS: I don't know. I didn't look at

1 the steep slope ordinance for this particular analysis.

2 THE PUBLIC: Thank you.

3 CHAIRMAN BAGOFF: Thank you.

4 Any other members of the public have
5 questions? Come up and be identified. You have three
6 minutes.

7 THE PUBLIC: Hi. My name is Valerie
8 McCarthy.

9 Are you aware of where 15 Howell Drive is
10 located in, relative to the proposed development?

11 THE WITNESS: I am not sure. 15 or 17 -- I
12 am not sure. 15 or 17, it's right in the corner there.

13 THE PUBLIC: Correct. I live at 15, which
14 is right at the corner. And I just want to understand
15 based on your analysis of the building closest to my
16 property.

17 If the excavation process and the blasting
18 would be standard in terms of its impact on my property
19 relative to standard development and building, would it
20 be a greater impact in terms of potential damage to
21 foundation or would it be standard for any development
22 that would go up?

23 THE WITNESS: I am not sure what you're
24 asking.

25 THE PUBLIC: So in normal development that's

1 not near a steep slope compared to where my property is
2 located, do you think that the impact of the excavation
3 process would be greater or equal based on the location
4 of the development and relative to my property?

5 THE WITNESS: There's more opportunity --
6 I'm sorry. There's more opportunity for -- I mean,
7 obviously because there's a slope there, there's more
8 opportunity for failure to occur as opposed to being
9 further back or in an area that is relatively flat.

10 THE PUBLIC: Okay.

11 And in terms of that failure, what does that
12 look like? Is it damage to the foundation, is it
13 causing structural --

14 THE WITNESS: Of your home?

15 THE PUBLIC: Correct.

16 THE WITNESS: I don't know, but, you know, if
17 there was a slope failure means rock that would slide
18 down and toward your house, depending where the failure
19 was. If it was in that more eastern corner toward 15,
20 it would be -- it would go toward your house. How far
21 would it go, I don't know. But, yeah, sure, if
22 fragments of rock got to your house it would cause some
23 damage.

24 THE PUBLIC: Okay.

25 And in terms of just a follow up to the

1 prior persons question. In terms of the Planning Board,
2 whose responsibility would that be if there is damage to
3 the homes if you guys approve this development?

4 THE WITNESS: I can't answer that.

5 CHAIRMAN BAGOFF: Thank you.

6 Would any other members of the public have
7 questions, please come up and be identified?

8 THE PUBLIC: Rachel Klein, Howell Drive.

9 Based on your -- so if there's slope failure you
10 indicated it would be possibly rocks falling and damage
11 to the homes. Would there be a warning or this is
12 something we could, oh, like a couple rocks are falling,
13 so somethings going on there. Is there a way to get
14 ourselves, you know, to safety or not have to worry
15 about getting ourselves to safety if this fails or if
16 this goes through? You know, looking towards the future
17 to this building sitting on the slope right above our
18 homes where our children -- where they play, live.

19 THE WITNESS: It's not -- it's not easy to
20 predict in terms of, for example whether it would be a
21 slow sudden -- is the material -- the material on the
22 surface, if the soil material would fail, it would
23 likely, what's called a slump and it would kind of flow
24 down the hill, so you'd probably get, probably get a few
25 minutes of warning. If it's the rock failure, usually

1 rock failures are pretty sudden.

2 THE PUBLIC: So my ten-year old, eight-year
3 old, five-year old, they have plenty of time to get to
4 safety if this failed or possibly not?

5 THE WITNESS: I can't answer that.

6 THE PUBLIC: You don't know, right?

7 THE WITNESS: I don't know.

8 THE PUBLIC: Thank you.

9 CHAIRMAN BAGOFF: Thank you.

10 Any other member of the public have a
11 questions, please come up and be identified? You have
12 three minutes.

13 THE PUBLIC: Seth Weisleder, 17 Howell
14 Drive.

15 I'm as concerned as my neighbors are, I have
16 lived in my house for three years. 15 and 17 are really
17 close, 200 feet almost from the corner of the building
18 in Building D. When we get heavy rain, water already
19 runs towards their property. I am not an engineer but I
20 have a few questions if things should fail.

21 If part of the slope were to give way, even
22 a small section, would the soil, rock or water reach our
23 homes?

24 THE WITNESS: It's possible.

25 THE PUBLIC: Has any study been done to show

1 exactly how far the slope material could travel if
2 failure could happen in the section towards Howell
3 Drive?

4 THE WITNESS: I don't think that an analysis
5 had been done for that. I did not do that analysis.

6 THE PUBLIC: Could an analysis be done?

7 THE WITNESS: Rock falls are usually from a
8 cliff, it's usually a little easier, there's guidance
9 documents for that, but the slides are a little trickier
10 to model. It's not something that could readily be
11 calculated.

12 THE PUBLIC: So I know the last three years
13 that I lived here, in a very short period of time we had
14 at least one 100 year storms a couple of times. I don't
15 know what we would call them now, but we saw fast moving
16 water down towards Howell Drive. If we have any more
17 storms like this and the extra water weight on the
18 slope, could it more likely make it to fail?

19 THE WITNESS: Yes. I mean, water whenever
20 you, when you introduce water or higher, you know, for
21 example, it elevates groundwater or you get a sudden
22 rush of water to basically both add weight to the slope,
23 which increases the failure forces that are trying to
24 push the slope down, but also acts sort of as a
25 lubricant once it gets into the interstitial spaces to

1 create a slide.

2 THE PUBLIC: And what about the additional
3 shaking of the earth, could that exacerbate a rock slope
4 failure too?

5 THE WITNESS: Of course. Yes.

6 THE PUBLIC: Did your model account for any
7 changes over time, like soil getting weaker or wetter
8 after more and more years of storms?

9 THE WITNESS: No, we used the existing
10 conditions that were obtained by Langan.

11 THE PUBLIC: But could a study be done to
12 show those modeling and what could happen to the slope
13 in ten years from now, five years from now?

14 THE WITNESS: No. The only thing you could
15 do is, as we did, is a sensitivity analysis. You know,
16 lowering parameters, looking at changing the different
17 parameters of the model, seeing if, you know, certain
18 conditions of rock becomes less cohesive or soil less
19 cohesive with itself and if it, you know, it could --
20 and then you'd lower those parameters and remodel it.
21 But that's basically what we do. Timing, the time value
22 of that, I don't know. That's not something I am an
23 expert at.

24 THE PUBLIC: And so you mentioned a lot of
25 safety factors in your testimony. Did that number

1 account for the fact that gravity, and you account for
2 the actual gravity of the sliding material downhill
3 towards our neighborhood?

4 THE WITNESS: Well, it just looks at the
5 resisting versus the pushing load. The failure load.
6 It just looks at the two to see if they're balanced or
7 not.

8 THE PUBLIC: Right. So these models were
9 done without construction. Construction adds weight,
10 adds vibration to the top of the slope that's presently
11 being right on that line. How does that affect the
12 chance of it moving down hill faster or quicker?

13 THE WITNESS: Well, no, that's not
14 necessarily true. There's a -- just trying to read it
15 so I read it properly. So when you're looking at the
16 diagram it's D. So it's basically -- it's a factor of
17 like how much construction is impacting the site.
18 Langan did assume that there will be, you know, somewhat
19 construction impacted, as well as we also assumed the
20 same. So if you use a number one in the model it
21 assumed that there's a disturbance going on. My big
22 disagreement was with the GSI, which is something that
23 it -- actually the two together actually sort of magnify
24 each other. So if you're using a high GSI it
25 artificially lowers the potential factors of safe, or

1 increase the factors of safety. But when you combine
2 them there's actually the combined affect. So they did
3 look at -- they did look at potential construction, but
4 they didn't look at the actual quality of the rock.

5 THE PUBLIC: Mr. Chairman, may I --

6 CHAIRMAN BAGOFF: One more, please.

7 THE PUBLIC: I can return. Can I return?

8 CHAIRMAN BAGOFF: Go ahead.

9 THE PUBLIC: I'll be quick.

10 So from seeing boring logs is there anything
11 that would guarantee the families on Howell Drives home
12 safety if construction would -- changes the slope?

13 THE WITNESS: I can't guarantee you anything
14 on that.

15 THE PUBLIC: Obviously you talked about
16 extra protection, reenforcements, but doing construction
17 on the slope you take away trees, doesn't that -- what
18 affect would that have on water coming down the slope?
19 Does that create another issue?

20 THE WITNESS: Sorry. If you take away
21 vegetation, roots, things like that, it's more exposed
22 to a rainfall, yea, you get more erosion and
23 instability.

24 THE PUBLIC: Final question. If you live
25 where I live and 15 and more 17, with your property

1 directly below the slope, would you be comfortable with
2 this plan moving forward?

3 THE WITNESS: That's -- I mean, probably
4 not. I would be more comfortable if there was some type
5 of activity that made it stable or more stable, but I
6 don't see that in the application material.

7 THE PUBLIC: Thank you.

8 CHAIRMAN BAGOFF: Thank you.

9 Come right up and state your name and three
10 minutes.

11 THE PUBLIC: Hello. My name is Sage
12 Provost. I would just like to remind you that I heard
13 you use the phrase, worst case scenario before. And I
14 would like to say that we've seen worst case scenario
15 happening more and more frequently across the state.
16 And I --

17 CHAIRMAN BAGOFF: I'm sorry, public comment
18 is not tonight. You may ask a question about what he
19 testified to.

20 THE PUBLIC: Okay.

21 Can I say that --

22 CHAIRMAN BAGOFF: You can say a question
23 about what he testified to tonight.

24 THE PUBLIC: I think that a better question
25 to ask then who is responsible for if something happens

1 and there's damage to any property is -- how will those
2 people be held responsible? And then there should be a
3 plan developed like for how.

4 CHAIRMAN BAGOFF: You can ask him a question
5 about what he testified to, please.

6 THE PUBLIC: Okay.

7 I -- is there any way to hold people
8 accountable for how a plan may be developed in the worst
9 case scenario? Or the event of the worst case scenario.

10 THE WITNESS: That's up to the Planning
11 Board.

12 THE PUBLIC: Thank you.

13 CHAIRMAN BAGOFF: Thank very much.

14 Mr. Afran.

15 MR. AFRAN: Thank you.

16 With regard to the last member in there
17 community who spoke. She had a concern to raise which
18 you indicated is properly public comment not during
19 questions. I want to make it clear to the citizens who
20 are here that there is a time later on when she can come
21 back and make those statements.

22 CHAIRMAN BAGOFF: Absolutely.

23 MR. AFRAN: Thank you.

24 CHAIRMAN BAGOFF: Come right up. State your
25 name. You have three minutes.

1 THE PUBLIC: Hi. Daniele DePalma, one L.

2 I have a question. I know on of the
3 planners proposed a water tower. As a geological
4 technical engineer from your standpoint, do you think
5 that the wetlands or the ground of the project is sound
6 enough for a water tower to be supported?

7 MR. AFRAN: May I interject. I think there
8 was a comment that a water tower might be needed for
9 some functions, it's not in the plans.

10 CHAIRMAN BAGOFF: Right.

11 MR. AFRAN: It's not our position that there
12 is a water tower in the plans at present. So perhaps
13 that would help the community members.

14 THE PUBLIC: So if there was going to be one
15 in the -- if the project needed it, would it be support
16 by the ground?

17 THE WITNESS: I would need to do a very
18 detailed geotechnical investigation into the location of
19 that water tower before I make a conclusion. But it's,
20 you know, if, you know, I am not going to make a guess
21 as to that because I don't know the size. I don't know
22 how many gallons, all that stuff definitely adds some
23 load. To support a development this size it would be
24 sizable.

25 THE PUBLIC: And worst case scenario in case

1 there was a landslide, what would the impact be?

2 THE WITNESS: Well --

3 THE PUBLIC: On the water tower.

4 THE WITNESS: Well, I don't know, depends
5 where the water towers placed. If the slide happened
6 underneath, yeah, it would undermined the support of the
7 water tower. If it was above it, that means the water
8 can hit, I don't know where the water would be placed,
9 but if it was down slope of something and there's a
10 slope failure, it could damage the water tower, so.

11 THE PUBLIC: Thank you.

12 CHAIRMAN BAGOFF: Thank you.

13 Anyone else from the public have any
14 questions? Come up and state your name. Three minutes.

15 THE PUBLIC: Hi. Valerie McCarthy again.

16 I just had a question, follow up on --
17 following up on Seth's question. Does the proposed
18 project recognize engineering standards for construction
19 on a steep slope or a near steep slope, in your opinion?

20 THE WITNESS: I think it's more a matter of,
21 you know, I mean, I think the Township does have a steep
22 slope ordinance, usually there's setbacks and things
23 like that, but I'm not, you know, familiar, to familiar
24 specifically with this townships steep slope ordinance.
25 I've seen others where you need to have like 50 feet

1 away. Like in Jersey City has a steep slope ordinance
2 that requires, I think you have to be at least 50 feet
3 away from the edge or 30, I think it's 40 or 50 feet
4 from the edge of a cliff and there's a number of
5 different requirements for that, both from a -- from an
6 aesthetic standard.

7 THE PUBLIC: But from an engineering
8 standpoint, is there a, is there a standard,
9 construction standard for a building on a steep slope or
10 near a steep slope?

11 THE WITNESS: Well, as I said, you know, it
12 depends on how much investigation, how much design
13 you're willing to do. I mean, with enough money you can
14 do a lot of things. But you would also then have to
15 expand the footprint of the development going into these
16 stabilization measures and they're not inexpensive.
17 They're probably at least a hundred of thousands of
18 dollars, you know, could be over millions. Very
19 expensive.

20 THE PUBLIC: And in terms of mitigation of
21 safety, part of your comment was that that was not
22 included in the proposed development. As an engineer
23 would that give you pause as it relates to particularly
24 the residents at 1 Howell Drive, that those mitigation
25 standards were not part of the development or the plan?

1 THE WITNESS: Yeah, if there was, I am,
2 again, I am not the design engineer on this site, I'm
3 not the geotech, but we would want to look at this
4 carefully and closely. If it ws below factors of safety
5 we would recommend that they go further to increase that
6 factor of safety along that slope.

7 THE PUBLIC: Based on your analysis is it at
8 safety or below the standard?

9 THE WITNESS: Well, based on my letter and
10 our analysis, it is below the required or the industry
11 standard factor of safety that's recommended by the
12 United States Army Core of Engineering.

13 CHAIRMAN BAGOFF: Okay.

14 Do any other members of the public have any
15 questions? Please come up.

16 THE PUBLIC: Seth Weisleder, 17 Howell
17 Drive. One question. What additional investigation
18 measures would you recommend to the Planning Board to
19 determine if this slope possesses no undue risk to the
20 neighboring homes?

21 THE WITNESS: I would do a, if it were me, I
22 would do more soil borings and cores. I would go deeper
23 with the cores because they only went ten-feet. Like I
24 said at the last meeting, some of the cross sections
25 didn't extend necessarily far enough. It should have

1 probably meet standard RS sections to show the depth of
2 potential impact was. I would look more of doing a
3 geological analysis. They talk about how in their
4 report that they went out in the field and they saw
5 small outcrop and it looked like it was, you know, the
6 dip of the fracturing was in towards the slope. But
7 that's really a very isolated small area. Who knows
8 what it's like for the rest of the leg. You want to --
9 you have aerial stereos and other GIS and actually look
10 at the geology of the area. And then I would have gone
11 further to also, and I didn't do it in mine, because as
12 I said, we did this one exercise, I didn't want to do
13 too much in fairness to our client, but also looking at
14 the, for example, the wastewater utility line that's
15 down there that has now, you know, it was excavated at
16 one time into the native soils and presumably, yes,
17 probably proper bedding and things like that, but it is
18 in an open space area probably back filling wasn't
19 exactly like the structural standard for example,
20 preparing for a road or something like that. I don't
21 think they foresaw, you know, something developed that
22 would be going on and up to the top of the slope.

23 CHAIRMAN BAGOFF: Any other members of the
24 public have any questions? Please come up and be
25 identified.

1 Young lady first, please.

2 THE PUBLIC: Hi. It's Barbara White, 51
3 Howell.

4 I have a question for you regarding the
5 extent of the investigation you did. I think it was
6 primarily around Building D, is that correct?

7 THE WITNESS: Well, I didn't conduct the
8 investigation.

9 THE PUBLIC: I'm sorry, what did you do?

10 THE WITNESS: Yeah, I focused, the report
11 that I was provided was a focused investigation around
12 Building D.

13 THE PUBLIC: So in your professional
14 opinion, while you may not have looked at A, B and C,
15 would there be similar considerations that need to be
16 looked to regarding the other structures as well?

17 THE WITNESS: I would say that the Building
18 D is probably the most exposed to a, you know, a
19 potential slope issue. It's at the top where it drops
20 off again. Looking at the other plans for the other
21 buildings they're not quite as close to any other steep
22 slopes in those areas. I'm going by recollection from
23 looking at the plans that focused on D, but I would say
24 D would be sort of the biggest concern I would have.

25 THE PUBLIC: Thank you.

1 CHAIRMAN BAGOFF: Thank you.

2 Any other members of the public have a
3 question? Please raise you hand and be identified. You
4 have three minutes.

5 THE PUBLIC: Yeah, Bernard Fiscus on the
6 other side.

7 The question I have for you is that the bore
8 holes were ten-feet, in your opinion is that deep enough
9 to do a proper analysis?

10 THE WITNESS: Just to be clear, the borings
11 were much deeper than ten-feet. That was just the rock
12 core portion of it. So they went down through the soil
13 that sits on top, weathered rock and materials that
14 settle there over time and then they, once they hit
15 competent rock, not competent rock, rock able to collect
16 core data through these diamond teeth core barrels,
17 that's when they took the samples. You know, there was,
18 especially one boring, where they got a very poor RQD at
19 the bottom, I forget what boring it was, but it was on
20 Section C, cross section C. They still had only gotten
21 a RQD of 23 and I would have, you know, requested of my
22 client to go another five-feet to see if it gets better.

23 THE PUBLIC: So you're opinion is that the
24 holes weren't drilled deep enough where you think they
25 should have gone deeper?

1 THE WITNESS: I would've pushed it deeper to
2 get more competent rock.

3 THE PUBLIC: Thank you.

4 CHAIRMAN BAGOFF: Okay.

5 Any other members of the public have any
6 questions? Please raise your hand and be identified.
7 Any members have any questions, please raise your hand
8 and be identified. Come right up, sir.

9 THE PUBLIC: I have one last question. As
10 far as the area that the work is being projected, does
11 that area being affected as far as water runoff, as far
12 as building number 4, it's at the edge of the slope.
13 One -- two questions. Is there going to be possibly a
14 retaining wall that he mentioned about reenforcing that
15 area?

16 Building number 4 is right on the edge
17 actually --

18 THE WITNESS: Which is building number 4?

19 THE PUBLIC: That's D.

20 THE WITNESS: D. Okay.

21 THE PUBLIC: In your professional opinion
22 should there be a retaining wall in that area right
23 there?

24 And number 2, right in that area downstream
25 there's other streets down there where there's a lot of

1 flooding on a normal basis. So is there, I'm not sure
2 if it's for you or for the city, but is there a
3 stormwater runoff system that was studied to handle the
4 amount of water that's going to be coming down, because
5 they're cutting down trees, parking lots and so a lot of
6 waters going to be coming down. So would that affect
7 downstream like the streets down there like Rosemont and
8 other streets?

9 THE WITNESS: A stormwater analysis was not
10 part of my analysis. I know another gentleman from my
11 firm had testified to the stormwater system previously.
12 So that is the person who you should ask.

13 THE PUBLIC: Thank you.

14 CHAIRMAN BAGOFF: Thank you.

15 Any other members of the public have
16 questions? Please come up and be identified. You have
17 three minutes.

18 THE PUBLIC: Rachel Klein, Howell Drive.

19 I am trying to remember if this was asked, I
20 know we're talking a lot about possible damage to
21 surrounding homes, but would you be worried at all about
22 Building D itself and it's structural families if it
23 were put there based on what possibly could happen with
24 what it's, you know, being anchored by? You know, if it
25 was built where they're proposing to build it would you

1 live in it?

2 THE WITNESS: Well, that was asked the last
3 --

4 THE PUBLIC: I said I couldn't remember,
5 yeah.

6 THE WITNESS: Yeah, no, I would not, based
7 on the current situation. And I'm going by my
8 recollection of my report and I remember looking at some
9 of the blogs and they didn't seem to go as deep as the
10 basement would go. Or the garage was going to go. So
11 they didn't go far enough. So I wouldn't be able to
12 look at the analysis of that. My concern was also
13 stability of the slope immediately next to the building.
14 So when you excavate down to stabilize that slope, which
15 then could lead to potential impacts for the building
16 itself.

17 THE PUBLIC: Okay. Thank you.

18 CHAIRMAN BAGOFF: Thank you.

19 Any other member of the public have
20 questions? Please come up and be identified. You have
21 three minutes, sir.

22 THE PUBLIC: Justin Goldman, Moran Road.
23 Just had a question in terms of both the application and
24 our general consensus about what we're talking about.
25 Seeing people are talking a lot about start to finish

1 from this project, if we're at point A and by point B
2 should we have these concerns of stability. Do we have
3 like a phasiology projection to say that in Phase 1
4 these are some expectations, you know, versus in Phase
5 II towards the end of the progress, towards the end of
6 the process. Right now there's X amount of trees,
7 obviously all the trees aren't coming down in one swoop,
8 so as they slowly or expedientially come down, is there
9 a continuous progression of, if there's 5000 trees today
10 we can expect this much soil, water, tomorrow we're
11 moving here, etc. And in terms of how that might impact
12 the residents in the area and should they then be
13 notified as the process is ongoing or in Phase 1 these
14 are expectations you can assume from drilling from
15 things this is now Phase II, so is there a phasiology of
16 progressive development in the application?

17 THE WITNESS: I don't know anything about the
18 phasing of the project. And that sounds like what a
19 person asked before, that's kind of more a similar
20 question. That would be the other expert.

21 THE PUBLIC: Would we potentially -- would
22 you, sorry, potentially as this project, if it does in
23 fact go through as the construction development goes,
24 can we expect the further along the project goes to see
25 if it exacerbates the level of environmental concerns?

1 THE WITNESS: Again, I can't answer that. I
2 can tell you based on experience that the most critical
3 time on this project is usually during construction.
4 It's bare, it's still trying to stabilize the soils, so
5 you would expect excessive runoff. That's why you have
6 sedimentation basins, things of that nature. So it will
7 definitely increase stormwater runoff. It's a matter
8 how it's controlled during the project.

9 THE PUBLIC: Thank you. Appreciate it.

10 CHAIRMAN BAGOFF: Anybody else?

11 Come right up.

12 THE PUBLIC: So going back to the whole
13 issue of stabilization. You indicated that there is
14 potential to stabilize the slope. Expensive, yes.
15 Based on your experience and knowledge, have you run
16 across instances where people were stabilizing a slope
17 where the actual building was to be built on was this
18 close to the edge of the slope? That's question number
19 one.

20 And then two, with anything you do, you
21 build, there's always a possible of failure. I am
22 curious, again, what you have seen or know of, have
23 there been slope stabilization the type that you talked
24 about that ultimately failed?

25 THE WITNESS: No, I have not seen something

1 that would -- I have not seen a failure after something
2 had been built. I've seen, anecdotally over in
3 Watchung, Plainfield, you know, I was once overseeing a
4 project for a geotechnical firm I was working for and
5 the ground seemed they were filling the side slopes and
6 the building had sloped and I happened to be -- looked a
7 little funny like the machine was on jello and it was
8 June and they started doing the test pit and excavation,
9 they went down about 15-feet there was snow. My firm
10 wasn't there to oversee the initial project, so I had to
11 take the soil down. But I mean, those things could
12 happen. You asked about adequate oversight and if it's
13 designed, you know, the engineer that designs it has to
14 pay close attention to the oversight construction.

15 THE PUBLIC: So going back to my first
16 question. Again, you may not have seen this in your
17 experience but considering how little distance there is
18 from the edge of that building to the slope, is it your
19 opinion that there is even enough space in order to do
20 appropriate remediation? Or is that doubtful.

21 THE WITNESS: You have to do the work on the
22 slope itself. I mean, that's not necessarily easy, it
23 can be done. There's contractors out there that can do
24 it. My recommendation last time was to move the
25 building back. Move it way from the slope.

1 THE PUBLIC: Thank you.

2 CHAIRMAN BAGOFF: Any other members of the
3 public have questions? Please raise your hand and come
4 up and be identified.

5 Seeing none. Thank you very much.

6 I'm sorry, Mr. Plocker.

7 MR. PLOCKER: Thank you, Mr. Chairman.
8 Thank you, Mr. Goll. I just have a few questions. I
9 won't be very long.

10 I just want to make clear, in the slope
11 study area is the applicant proposing disturbance on the
12 actual slope?

13 THE WITNESS: No.

14 MR. PLOCKER: Okay.

15 Does the applicant propose --

16 THE WITNESS: Well, depends -- I'm sorry.
17 Depends if they're blasting.

18 MR. PLOCKER: I just asked if there's going
19 to be any proposed disturbance on the slope?

20 THE WITNESS: You mean like going in and
21 grading and doing tree clearing?

22 MR. PLOCKER: Or building a building, any
23 kind of disturbance?

24 THE WITNESS: Well, they're building it up
25 to the edge of the slope.

1 MR. PLOCKER: What is the slope area that
2 you studied in the report?

3 THE WITNESS: Well, I looked at all four
4 cross sections of that. Looked at the northeastern side
5 of the building, so the slopes all along the eastern
6 side of the building.

7 MR. PLOCKER: Let me rephrase it and I'll
8 refer to slithers for frame of reference. I'll refer to
9 the zoning ordinance. The zoning ordinance for this
10 particular property says that the east face of the
11 Watchung Mountain shall remain undisturbed from the peak
12 of the ridge line, except utility construction shall be
13 permitted east of the ridge line. Is the applicant
14 proposing any disturbance to the east of the peak of the
15 ridge line?

16 THE WITNESS: Yes. The grading plan,
17 there's a big knob, there's two knobs on the building.
18 They're putting the building right on top.

19 MR. PLOCKER: It is your testimony that
20 Building D violates the zoning ordinance?

21 THE WITNESS: If -- I don't know the zoning
22 ordinance side, but if that's the zoning ordinance
23 they're in violation, yes.

24 MR. PLOCKER: Okay.

25 So there's actually a line -- so it's your

1 testimony that Building D violates the zoning ordinance?

2 I just want to get that on the record.

3 THE WITNESS: Like I said, I'm not going to
4 state it violates the zoning ordinance, simply because I
5 didn't look at the zoning ordinance. If you want me to
6 take a look at the zoning ordinance --

7 MR. PLOCKER: Okay.

8 MR. AFRAN: Yeah, I'm going to raise an
9 objection because the witness is not a planner. He
10 didn't speak to violations or zone codes. Simply spoke
11 to the geotechnical questions and referred to the
12 effects of blasting that would have impact --

13 CHAIRMAN BAGOFF: Mr. Afran, the answers no.
14 The answers no, I don't know. He can answer that.

15 MR. AFRAN: Well, it's outside the scope of
16 direct.

17 CHAIRMAN BAGOFF: Okay.

18 MR. AFRAN: I mean, Mr. Plocker's trying to
19 score points in a sense with a witness that didn't speak
20 to that.

21 CHAIRMAN BAGOFF: Then the answers no.

22 MR. AFRAN: You hear my objection for
23 whatever it's worth. Thank you.

24 THE WITNESS: Can I just clarify.

25 CHAIRMAN BAGOFF: Absolutely.

1 THE WITNESS: The attorney, the applicants
2 counsel gave me the definition, he explained it to me.
3 Based on that interpretation what he's saying is they
4 built on top of the ridge.

5 The other thing is, I just remembered, the
6 last meeting we looked at the concept that was approved
7 for the settlement, the buildings east of that 150-feet.
8 So it's not the same as the concept.

9 CHAIRMAN BAGOFF: Okay.

10 MR. PLOCKER: All right. And the applicant
11 strongly disagrees with that. It's not true and we'll
12 clarify that.

13 CHAIRMAN BAGOFF: Okay.

14 Mr. Afran.

15 MR. PLOCKER: Talk about trying to score
16 points.

17 MR. AFRAN: I didn't say anything yet, how
18 could I score points.

19 CHAIRMAN BAGOFF: Gentlemen. Gentlemen.
20 It's been such a nice evening.

21 MR. AFRAN: Thank you.

22 I have no questions.

23 CHAIRMAN BAGOFF: Say nice things.

24 MR. PLOCKER: What is the geological
25 composition of the footprint of the proposed Building D?

1 THE WITNESS: I'm sorry.

2 MR. AFRAN: Object to form.

3 MR. PLOCKER: What's is the geology of the
4 ground under the proposed Building D in the footprint?

5 THE WITNESS: It is -- it's basically
6 volcanic intrusion. It's basalt.

7 MR. PLOCKER: Bedrock?

8 THE WITNESS: I'm sorry?

9 MR. PLOCKER: Any bedrock.

10 THE WITNESS: Yes. Yeah, that's the
11 definition of bedrock.

12 MR. PLOCKER: Okay. I just wanted to make
13 that clear.

14 THE WITNESS: Not competent bedrock. Thank
15 you.

16 MR. PLOCKER: Just give me one moment,
17 please.

18 CHAIRMAN BAGOFF: Sure.

19 MR. PLOCKER: Mr. Goll, is your testimony
20 that you believe that Langan didn't do enough testing on
21 the slope, is that correct?

22 THE WITNESS: Yes.

23 MR. PLOCKER: Okay.

24 But you also testified that geotechnical
25 engineering is not an exact science, correct?

1 THE WITNESS: Correct.

2 MR. PLOCKER: Okay.

3 So if you claim that not enough testing is
4 done and that geotechnical engineering is not an exact
5 science, then how can you make or form the opinion that
6 the proximity of the homes represent a severe
7 consequence of failure?

8 THE WITNESS: Because the location of the
9 proposed building adjacent to a steep slope that has
10 rock quality that's not a high quality rock in a lot of
11 locations would give me pause and I would want to do
12 more investigation of that, of the condition of that
13 slope, so I would recommend more borings.

14 MR. PLOCKER: How many more borings? How
15 many is enough.

16 THE WITNESS: You'll have to ask Langan.

17 MR. PLOCKER: But it's not an exact science,
18 is it?

19 THE WITNESS: It's actually engineering.

20 MR. PLOCKER: It's not an exact science,
21 that's your testimony?

22 THE WITNESS: Well, there is -- well, it's
23 not an exact science simply because as the factor of
24 safety I described is there are so many different
25 factors that you change between borings, the more

1 borings you have the better and if you have a, for
2 example, critical infrastructure or a structure adjacent
3 to let's say a really steep slope that has a potential
4 for failure to hit a house downhill I would do more.

5 MR. PLOCKER: All right.

6 And correct me if I am wrong and I may be
7 wrong, I am not trying to put words in your mouth. Did
8 you testify at one point there was a specific point on
9 the property in your analysis that had a point 79 factor
10 of safety. Did I hear that correctly?

11 THE WITNESS: That was downhill. It was a
12 very -- it was an anomaly.

13 MR. PLOCKER: So, but a point 79 would
14 indicate a failure, correct?

15 THE WITNESS: Well, we've gotten actually --
16 we've done slope stability and I said -- we've done a
17 slope stability analysis where we had actually a factor
18 of safety of less than one. It doesn't mean it's going
19 to immediately fail, but it's -- there's an incipient
20 potential for failure.

21 MR. PLOCKER: Are you aware if there's been
22 any failure?

23 THE WITNESS: Where?

24 MR. PLOCKER: Where you analyzed the point
25 79.

1 THE WITNESS: No.

2 MR. PLOCKER: Thank you.

3 I have nothing else, and just for the
4 record, our geotechnical engineer has reviewed Mr.
5 Goll's testimony from his original hearing, they're
6 going to review this testimony, they reviewed both
7 reports and we will have no issue addressing any of the
8 reports.

9 CHAIRMAN BAGOFF: Thank you.

10 Mr. Afran.

11 MR. AFRAN: And we'll be happy to
12 cross-examine that engineer at the appropriate time.

13 CHAIRMAN BAGOFF: Thank you.

14 MR. AFRAN: We have no further questions for
15 Mr. Goll.

16 CHAIRMAN BAGOFF: Thank you.

17 Okay. Thank you very much, sir.

18 THE WITNESS: Thank you.

19 CHAIRMAN BAGOFF: Mr. Plocker, do you have
20 anything else to say?

21 MR. PLOCKER: I'm all saying out.

22 CHAIRMAN BAGOFF: Thank you.

23 Mr. Afran. We all have our things to do.

24 MR. AFRAN: Thank you. I have very limited
25 work to do right now but I need to just proffer some

1 documents.

2 CHAIRMAN BAGOFF: Need to do what?

3 MR. AFRAN: Proffer some documents.

4 CHAIRMAN BAGOFF: Okay.

5 MR. AFRAN: Also I would like to, before Mr.
6 Goll leaves, we do need to move his report into
7 evidence. I want to move his report.

8 MS. MCGOVERN: You already marked it for
9 identification.

10 MR. AFRAN: Right.

11 MS. MCGOVERN: It's in evidence.

12 MR. AFRAN: I didn't know it was marked.

13 MS. MCGOVERN: Yeah, no. It's O-21.

14 MR. AFRAN: Great. Thank you.

15 At the last meeting Mr. Pannullo wanted to
16 make reference to and introduce certain documents. The
17 Chair said he felt that would not be relevant to be a
18 part of the record for reasons discussed at that time.
19 I have been asked by my client to identify those
20 documents for the record Mr. Pannullo was proffering, so
21 we have a reference point just to what he was proposing.

22 CHAIRMAN BAGOFF: These are the documents
23 that predate, as I recall, this application?

24 MR. AFRAN: No, they don't predate the
25 filing of the application. They predate the hearing.

1 MS. MCGOVERN: Not the filing, the hearing.

2 MR. AFRAN: They predate the hearing and
3 they concern certain legal issues that were raised by
4 Mr. Potter, who was counsel before I came into this
5 case. I did not have anything to do with these
6 documents.

7 CHAIRMAN BAGOFF: I'm going to request you
8 send them to Ms. McGovern, she'll evaluate them and
9 we'll have a decision the next meeting. Are they
10 something that needs to be done between now and the next
11 meeting?

12 MR. AFRAN: It does not need to be done
13 right now. It just needs to be done at some point so we
14 identify what documents we're referring to.

15 CHAIRMAN BAGOFF: We'll have Ms. McGovern
16 look at them.

17 You'll send a copy to Mr. Plocker?

18 MR. AFRAN: Mr. Plocker has a copy.

19 CHAIRMAN BAGOFF: Mr. Plocker has a copy.
20 So Mr. Plocker will respond to Ms. McGovern, when she
21 reviews the documents we'll come up with a solution at
22 the next meeting.

23 MR. AFRAN: Yeah, I understand you ruled
24 they're not part of the record, but I want to identify
25 what we are proffering so the records clear.

1 CHAIRMAN BAGOFF: I understand. I just want
2 to make sure we do it in the correct fashion.

3 MR. AFRAN: Absolutely. We don't need to do
4 it tonight.

5 CHAIRMAN BAGOFF: Okay. Thank you.

6 Okay. The next regular Planning Board
7 meeting will be Wednesday, September 3, 2025, 7:30 PM
8 via zoom. And the next special meeting of the Planning
9 Board will be held August 25, 2025, 6:30 PM here for
10 West Essex Highlands application. No further notice
11 would be required.

12 (Hearing concludes at 8:15 PM.)

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

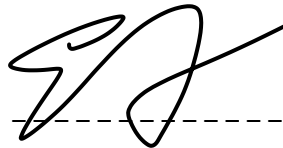
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8 I DO FURTHER CERTIFY that I am neither a
9 relative nor employee nor attorney nor counsel of any of
10 the parties to the action; and that I am neither a
11 relative nor employee of such attorney or counsel; and
12 that I am not financially interested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

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