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1	1	CHAIRMAN BAGOFF: PB-24-01 West Essex
2	2	Highlands, Inc., Block 179, Lot 32 Zone IH-1.
3	3	The public hearing portion of this application is
4	4	closed. There will be no further testimony taken.
5	5	We have a packed room and it's a very important
6	6	topic before us. I ask that everyone here remain
7	7	respectful, refrain from shouting, clapping and allow
8	8	the board to conduct its business with civility and
9	9	respect for all parties.
10	10	Tonight is the Board's deliberation of the final
11	11	vote only for preliminary and final site plan approval
12	12	for PB-24-01, West Essex Highlands, Block 179, Lot 32,
13	13	Zone IH-1, Warner Road.
14	14	The applicant is proposing to develop a 496-unit
15	15	inclusionary multifamily residential development on a
16	16	120 acre property in the northwest corner of the
17	17	township.
18	18	Before we begin, I want to acknowledge the
19	19	extensive approximately 30 hearing process we have
20	20	completed. The Board has heard hours of testimony,
21	21	received dozens of documents consisting of hundreds of
22	22	pages of information and listened to experts on both
23	23	sides of the application and our neutral board experts
24	24	to both support, provide strong support and significant
25	25	concerns from our community and our neighboring

5 1 communities. 2 The objectors, through their attorney Mr. 3 Afran, have brought numerous issues to light that the 4 Planning Board has evaluated, the applicant has heard 5 and conditions were recorded. 6 At one of our previous meetings the Planning 7 Board -- I'm sorry. At one of our previous -- hold it. 8 Lost it again. I tell you, I'm trying. At one of our 9 previous meetings the Planning Board attorney, Ms. 10 McGovern, has enumerated the conditions to be resolved 11 by the applicant if the application moves forward 12 At our last meeting the Board dispensed with 13 the questions of two de minimus exceptions and one C 14 variance 15 I want to take this opportunity to thank the 16 applicants attorney, Mr. Bryan Plocker, and the 17 objectors attorney, Mr. Afran, for the time they have 18 spent guiding us through the myriad of issues brought to 19 light to bring us to this moment 20 I want to thank the public whose energized 21 interest in participating in the public process. 22 It is the goal of tonight's meeting that the 23 Board discuss and decide if application PB 24-01 West 24 Essex Highlands, Inc., and it's conditions, de minimus 25 exceptions and C variance enumerated fulfill the	7 1 and discussion? 2 CHAIRMAN BAGOFF: Who sent this letter to 3 the board attorney? 4 THE PUBLIC: This letter was sent to the 5 board attorney on March 23rd from James Bannon on behalf 6 of the Township of Verona and Planning Board to Ms. 7 Diana McGovern on March 23, 2026 regarding the emergency 8 road access and access to the site. 9 CHAIRMAN BAGOFF: Great. The application -- 10 the information to add to the board's information, the 11 application was closed. No, will not be introduced. 12 Thank you. 13 THE PUBLIC: Okay. 14 But other correspondence has been 15 introduced, so I think it's relevant. 16 CHAIRMAN BAGOFF: Thank you. 17 THE PUBLIC: And it was not shared. 18 CHAIRMAN BAGOFF: No. Thank you. 19 Okay. So we'll start with Ms. Kapferer, do 20 you have any questions, thoughts on the application? 21 Deliberations. 22 Go right ahead. 23 MS. KAPFERER: Should we have somebody else 24 first. 25 CHAIRMAN BAGOFF: Okay.
6 1 requirements of the IH-1 zone. Has the applicant met 2 the burden of proof required in this application. This 3 is the same method that we have used in the past or use 4 in the future for every application that comes before 5 us. We are not a legislative body, the Township Council 6 has, through it's legislative power, created the IH-1 7 zone. 8 With that, I open the floor to the board 9 members to discuss the application. At any time during 10 our deliberation a motion may be introduced and once 11 seconded on the motion we will progress to a vote. 12 So we'll start with the board members. Does 13 anybody have any questions, discussion, things that you 14 still have open in your minds? 15 I will go around the board. 16 THE PUBLIC: Mr. Chairman, can I ask a 17 procedural question, please? 18 CHAIRMAN BAGOFF: One moment. 19 THE PUBLIC: Procedural 20 CHAIRMAN BAGOFF: Okay. Come up to the mic. 21 THE PUBLIC: Real quick. Pardon my 22 interruption, but just a procedural question. If 23 correspondence was submitted to the board attorney but 24 not entered into the record, should the board consider 25 whether to reopen or supplement the record before voting	8 1 Mr. Klein. 2 MR. KLEIN: No, I think you start with, 3 like, Mr. Alper because that's -- 4 CHAIRMAN BAGOFF: Okay. 5 Mr. Alper. 6 MR. ALPER: You know, stop me if you've 7 heard this before. 8 So, you know, I don't think much has changed 9 for me. I had a few issues last time, I think five. 10 Some were at least partially resolved for me by 11 responses by Mr. MacNeill. Others, including sewer 12 capacity and the potential water tower, maybe less, but 13 my major focus last time was traffic circulation and 14 safety. My belief remains that the RSIS street 15 hierarchy section is about usable access points to roads 16 and the answers as to whether we have a multifamily 17 cul-de-sac or a minor collector road depends entirely on 18 how usable those access points are for the vehicles 19 making up the average daily traffic on those roads. 20 Emergency vehicle access for life safety is a separate 21 issue outside of the street hierarchy which aims at 22 regular traffic and the average daily trips. You know, 23 as was established, Howell is definitely not an access 24 point under RSIS. There was testimony on that. And 25 that residents would be impeded until it was cleared if

9 1 there was a long emergency. 2 Kuzik, a block and a half long, connects to 3 Warner, a block and a half outside that site, and that 4 goes back to Oval. Kuzik's not a separate access point, 5 it's a stub to Warner, they're the same road. And I 6 thought the Litwornia report was credible on all this as 7 well. 8 Ingress and egress to this specific proposed 9 development is a required element under RSIS as well as 10 under our more general charge of public safety and I 11 don't believe we have sufficient ingress and egress for 12 here without a true second road. So that's where I was 13 and am. 14 CHAIRMAN BAGOFF: Thank you. 15 Mr. Cardoza. 16 MR. CARDOZA: I don't know that I have much 17 to add to what Mr. Alper has said and as you've noted in 18 your opening we've wrestled with this issue for quite 19 some time. I'm happy to proceed to a vote, so long as 20 we've -- we're sure that we recapped what needs to be 21 recapped with the public and, yeah. We had two months 22 to mull this over, proceedings, you know, following what 23 was pretty much deliberation session last time. So with 24 that, I'd like to see us come to some sort of closure, 25 at least this section of this matter.	11 1 brought up, soils and the blasting and whatever's going 2 to be done, a lot of that there are additional steps 3 that need to be fulfilled by the applicant to get 4 permits for things like that. So I think I have an 5 answer in my mind. Thank you. 6 CHAIRMAN BAGOFF: Okay. 7 Mayor McCartney. 8 MAYOR McCARTNEY: Chairman, I have to say 9 that you actually took me by surprise at the last 10 meeting when you asked for the applicant to look for 11 another means of egress, that did take me by surprise 12 because we hadn't discussed that and I don't see that 13 that's not happening, but I do see when we talked about 14 emergency access there are really three points of 15 emergency access. Yeah. Okay. 16 That there are three points of emergency 17 access, one is Oval Road that has been in existence the 18 whole time, Howell Drive, and there's also a way through 19 Bakley Drive as well, so I was okay with the emergency 20 access. 21 Going through the list of all of those 22 conditions, and I don't know if you're going to 23 reiterate them, I still have a question on the sanitary 24 sewer lines. I would really like Mr. MacNeill to weigh 25 in. This -- my question is about the capacity in the
10 1 CHAIRMAN BAGOFF: Thank you. 2 Mr. Morgan. 3 MS. McGOVERN: Mr. Morgan is not voting. 4 CHAIRMAN BAGOFF: I'm sorry. Gotcha. Thank 5 you. 6 Mr. Klein. 7 MR. KLEIN: I'm going to say that I had 8 similar concerns about emergency access, then I thought 9 about what it was like during Hurricane Sandy when I 10 live on a street which I have three ways to get out and 11 all three were blocked with trees and it was three or 12 four days until all the trees were removed so I could 13 get out of there. 14 I also think about times when I've been on 15 the Garden State Parkway when traffic has been stopped 16 and I'm not near an exit so I turn off my engine and 17 just sit there and wait until an emergency has been 18 cleared. But I think we have -- there is a way to get 19 out through Essex Fells if there is some sort of an 20 emergency and if somebody needed to get through. I 21 think they could work something out with the local 22 police, be able to get that person to get through there. 23 And then we're going to have Howell as well. So, yeah, 24 I'm not so much concerned with that. 25 I think the other issues, as Mr. Alper	12 1 town and who really is responsible for any off-site 2 improvements. Because this is a major application, it 3 is a major impact to our sanitary sewer system and I 4 would need assurances that I do -- I made notes. That 5 was really a big question that I still had after we 6 listed all of the conditions. 7 MS. McGOVERN: Okay. I have to just say 8 that you can't consider off-site improvement as part of 9 this application. You can only consider what's on the 10 actual site. So your purview is the project not 11 off-site. 12 MAYOR McCARTNEY: So how do we address that? 13 MS. McGOVERN: You don't. The town has to 14 address it. If it gets approved and something off-site 15 needs to be taken care of then it's the town. It's 16 everything on-site that needs to get done by this 17 applicant. 18 MAYOR McCARTNEY: However, in the settlement 19 agreement on Page 12 it does say -- 20 CHAIRMAN BAGOFF: Wait a minute, we're not 21 going to the agreement. 22 MAYOR McCARTNEY: No. Okay. 23 MR. MacNEILL: To add to that. So this 24 sanitary sewer needs to be reviewed by the township 25 Engineering Department, my office before signing any TWA

13 1 permit to send it really up to DEP. So there -- 2 MAYOR McCARTNEY: For the public concern, 3 TWA, please explain what that is? 4 MR. MacNEILL: Treatment Works Approval. So 5 you -- really any application would need that when 6 you're extending a sewer main and that's a DEP permit. 7 So currently the applicant did submit for the township 8 to review, my office, as well as the township engineer 9 are reviewing that and we will be, if this is granted an 10 approval, it would become a condition of approval and if 11 the applicant cannot obtain that approval from the 12 township, and after that DEP, then they wouldn't address 13 that condition of approval and then could potentially 14 have to come back to the Board for an amended approval 15 or a separate conversation with the Board. 16 MAYOR McCARTNEY: Okay. 17 MR. MacNEILL: So, again, if they receive 18 the sewer approval they cannot proceed with 19 construction, and as I indicated earlier, it would not 20 be my recommendation to allow any tree clearing until 21 all outside agency permits are obtained, to avoid any 22 issues. 23 MAYOR McCARTNEY: Was that a condition? I 24 don't think that was listed in the application. 25 MS. McGOVERN: We'll make sure it's in	15 1 conditions that have been set forth, my concerns public 2 safety, traffic flow, you know, sewage, I mean, we 3 discussed the fact if sewage has to be reviewed and it 4 can't be met, can't be corrected, well, then the project 5 doesn't go forward. I mean, those are the things that 6 you have to understand. So there are withstanding 7 situations of agencies that have to approve this, not 8 only the West Orange Planning Board but other outside 9 agencies. So you look at it, you say, have they met -- 10 has the applicant met and agreed to certain conditions. 11 Yes, they have. If not then we have to say so. As the 12 plaintiff have said, what they've come forward and 13 proved to us, you know, and you look at everything. You 14 worry about egress. You worry about, you know, 15 emergency access. You worry about traffic flows and 16 public safety. But you have to understand yourself and 17 then when things are brought to us about saying, well, 18 affordable housing, and I have to bring that up because 19 this application is not about affordable housing. This 20 application is about a development. Affordable housing 21 is another part of government that's requested it to be 22 part, but the applicant is not coming here as an 23 application for affordable housing. But throughout this 24 whole presentation, the 30 plus meetings, it always 25 comes out and it seems to be that there's a leniency
14 1 there. All -- 2 MAYOR McCARTNEY: Okay. All -- Mr. 3 MacNeill, please say that again. All -- 4 MR. MacNEILL: So all conditions, 5 specifically outside agency approvals, need to be 6 achieved before any clearing occurs on site. 7 MAYOR McCARTNEY: Thank you. 8 CHAIRMAN BAGOFF: Okay. 9 MAYOR McCARTNEY: Thank you. 10 CHAIRMAN BAGOFF: Council President Scarpa. 11 COUNCIL PRESIDENT SCARPA: Yeah, I think 12 really what I have to say is the primary responsibility 13 of government is to keep its citizens safe, and the 14 emergency access is something that I have not been able 15 to wrap my head around. The ingress and the egress is, 16 it remains a concern for me. And since I take that 17 responsibility very serious as an elected official, that 18 primary responsibility of our government is to keep our 19 citizens safe is of grave concern. 20 CHAIRMAN BAGOFF: Vice Chairman Guarino. 21 VICE CHAIRMAN GUARINO: Thank you, Mr. 22 Chairman. 23 Looking at the complex complicity of the 24 application, looking at the agreements and the 25 conditions that have been set forth, looking at the	16 1 towards affordable housing and negativity because of the 2 affordable concept. But I believe that things have been 3 addressed and things are conditions and the conditions 4 that are, Ms. McGovern has made note that will be 5 attached to this application, that going forward that we 6 should look at the application and say, these are the 7 conditions and if the applicant can't meet any of the 8 conditions, particularly, you know, sanitary sewer, 9 things like that, those are the things that have to be 10 brought in. But at this time I feel that the Board 11 should look at the application and this Board -- this 12 application should be approved with the conditions 13 applied throughout the testimony and that's what I have 14 to say, Mr. Chairman. 15 CHAIRMAN BAGOFF: Are you making a motion? 16 VICE CHAIRMAN GUARINO: I'm making a motion. 17 MR. ALPER: I just want to clarify one last 18 thing. 19 CHAIRMAN BAGOFF: Mr. Alper. 20 MR. ALPER: I just want to clarify where I 21 am on ingress-egress, because while I have some concerns 22 about emergency vehicles coming in I think that the 23 Howell access area will work for that. And in a true 24 emergency situation for egress, you know, it's possible 25 the Essex Fells police could set up on the border with

17 1 shotguns leveled at people and tell them they're not 2 crossing because they don't want people to leave, but I 3 feel confident that something would be worked out. That 4 people would be able to leave in an emergency. But the 5 street hierarchy section of RSIS, the way I read it, 6 isn't concerned in that particular section with 7 emergency access, it's concerned about every day ingress 8 and egress and with only one road in and out, which is 9 what we accepted at -- what we really have here, because 10 all roads lead to Oval via Warner. There's not 11 sufficient RSIS every day ingress-egress for the average 12 daily traffic. That's really where my concern is, that 13 the RSIS isn't being met there. 14 VICE CHAIRMAN GUARINO: Thank you, Mr. 15 Alper. 16 CHAIRMAN BAGOFF: Ms. Kapferer. 17 MS. KAPFERER: Yeah, can I add that, I think 18 that, you know, I've shared some of the environmental 19 concerns that have been discussed over the last 18 20 months. You know, and tonight. In particular concerns 21 about, you know, flooding and the sanitary sewer 22 capacity. You know, we do have an obligation to meet 23 our affordable housing obligation. We do -- we are 24 going to need to welcome others to our community. Our 25 community is definitely going to look different than it	19 1 the Highlands itself, and, you know, how are people 2 supposed to, you know, if you wanted to walk to an 3 actual destination, like Pleasantdale, a business, how 4 would you do it. It's tough running or walking on Oval 5 Road. I do it frequently, there's not as much traffic 6 now. I don't, frankly don't think it's safe. So I'm 7 thinking about public health and safety. I do have 8 significant, real lingering concerns that have not yet 9 been addressed. 10 CHAIRMAN BAGOFF: Thank you. 11 You're up. 12 VICE CHAIRMAN GUARINO: I just want to add, 13 I want to thank my colleagues, Ms. Kapferer, Mr. Klein. 14 Yes, walkability, and that's what we've done 15 in complete streets. We've looked at that. We made 16 West Orange a more walkable community and as this 17 development is constructed and goes forward we can add, 18 we can approve upon what we've done in other 19 developments throughout the township. We've done that 20 as we've shown at the new Target shopping center. We've 21 shown that how we've done it on Prospect, we've shown 22 it, how it can be done. And I agree with you Lori, I do 23 agree with you, there are concerns, we do have concerns, 24 but the thing is, we put it into the application and we 25 have a developer who has to meet those obligations and
18 1 does now and that's a really hard thing for some or all 2 of us to understand or to grasp. We are going to have 3 to look at the infrastructure improvements that will 4 need to happen so that we can accommodate the extra 5 units. But, yeah, like I said, I am concerned about the 6 lingering -- there's some lingering questions, I think, 7 regarding those environmental concerns and additionally 8 the ingress and egress. That's really my hang-up with 9 all of it. I just -- I have a really hard time getting 10 over or just thinking about, to Lee's point, you know, 11 even when there's like a, you know, infrastructure 12 improvement or a downed power line, you know, when that 13 scenario was discussed during the hearing what I heard 14 from the applicants expert was that residents would just 15 have to simply wait until it's cleared and I read -- and 16 that's, that's what I read in the notes, or in the 17 transcript and that's what I understood. And it's, I 18 don't know, I just think about how that would impact 19 daily life. It feels not acceptable to me. 20 And I think -- I do have larger concerns too 21 about the circulation element of our Master Plan, that 22 maybe we've talked about at some points but about, you 23 know, complete streets. You know, there is, there's 24 definitely efforts in the plan itself to accommodate 25 pedestrians and cyclists, but it's kind of confined to	20 1 if they can't, and particularly with environmental 2 issues, particularly with sewage, if they can't make 3 that mandate and meet the specifications then the 4 project doesn't go forward. But now we'll never know 5 unless we try to let it go forward and work with them as 6 we've done with other developers. And like I said, you 7 and I are on the Pedestrian Safety Board. You've been a 8 tremendous asset to that board, as Mr. Klein has, and 9 Ken has put in his input as a school board member. 10 That's where I'm coming from. So whatever I said, I 11 don't disagree with you. It shows the heart and sole 12 that we all put into this. Every member of this Board. 13 We care about this township, as I care about this 14 township, but when it comes to doing this, to many other 15 things have been thrown to this application that have 16 nothing to do with it. It needs to be addressed and be 17 given it's rightful way before the Planning Board and 18 before the township. So, like I said, I totally respect 19 everybody's put the time and effort. The residents I 20 respect, I know most of you, okay, and I respect 21 everything you've said. And I respect both the 22 applicant and the plaintiff tremendously. Your effort. 23 So now I'd to put in, I would like to make a 24 motion that we approve the application with the 25 stipulation -- what?

21 1 MAYOR McCARTNEY: I'm sorry. I thought we 2 were going to listen to the conditions. 3 CHAIRMAN BAGOFF: Well, no. You have to 4 have a motion first, then we'll go to the -- go ahead. 5 Keep going. 6 VICE CHAIRMAN GAURINO: I'd like to make a 7 motion to the Board to approve the application with the 8 addition of the conditions that must be met for this 9 project to move forward and then it to be properly 10 monitored and such. So that is my motion, Mr. Chairman. 11 CHAIRMAN BAGOFF: Do I have a second on the 12 motion? Do I have a second on the motion? There's a 13 motion to approve the application, do I have a second on 14 the motion? 15 MR. KLEIN: I'll second the motion. 16 CHAIRMAN BAGOFF: Mr. Klein seconds the 17 motion. Okay. 18 Ms. McGovern, would you read the conditions 19 we have. 20 MS. MCGOVERN: We have our standard 21 conditions, which Applicant shall comply with all 22 applicable township, county, state and federal laws, 23 ordinances, regulations and directives, including 24 without limitation obtaining all applicable local, 25 state, and federal approvals or permits. If another	23 1 and conditions of this resolution. 2 Number 4. The Applicant shall pay all 3 outstanding application fees and technical review fees, 4 board attorneys fees for preparation of the resolution, 5 as well as any inspection fees that may be required 6 hereunder. 7 The Applicant shall pay any additional fees 8 or escrow deposits which may be due and owing within 30 9 days of the notification or this approval shall be 10 deemed withdrawn. 11 Number 5. All notes including in the 12 approved plan, including notes required by this 13 resolution, shall be deemed conditions of approval 14 having the same force and effect as conditions expressly 15 set forth in this resolution. 16 Number 6. Applicant agrees to abide to all 17 of the suggestions and directives set forth in the CME 18 reports by John Hess, dated June 26, 2024 and July 29, 19 2024. And if there are subsequent dates which I think 20 there are later on, those are also included. 21 Applicant must clean up garbage in the 22 wooded area before deer fencing is installed. 23 Applicant agrees to additional landscaping 24 in the form of spruce, evergreens in the locations of 25 the southern edge of the project.
22 1 governmental entity or agency grants a waiver or 2 variance affecting the plans and or exhibits submitted 3 by the applicant this approval or the conditions 4 attached to it, then the applicant shall reapply to this 5 Board respecting the same and this Board shall have the 6 right to review that issue as it relates to this 7 approval and these conditions and modify and amend same, 8 if appropriate. 9 Number 2. In the event that any other 10 required regulatory approval conflicts with the terms 11 and conditions hereof, or materially alters the same or 12 the terms and conditions hereof are materially altered 13 by any change in applicable law or regulation, other 14 than those municipal regulations for which change is 15 prohibited by the Municipal Land Use Law, MLUL, or in 16 the event applicant or it's successor or assigns, 17 construct or attempt to construct any improvement in 18 conflict with or in violation of the terms of this 19 approval the Board hereby reserves the right to 20 withdraw, amend or supplant the instant approval. 21 Number 3. All construction use and 22 development of the property shall be in conformance with 23 the plans approved herein. All representations of the 24 applicant and it's witnesses during the public hearing, 25 all exhibits introduced by the Applicant and all terms	24 1 Applicant must supply a blasting plan and 2 survey and pre-blasting survey that includes a plan for 3 vibration and dust. 4 Applicant shall also submit a post-blasting 5 plan, I think is coming up later on. 6 Applicant shall apply all geotechnical 7 studies to the township -- shall supply all geotechnical 8 studies to the township engineers. 9 The units designated as affordable housing 10 shall be constructed so as to be indistinguishable on 11 the outside from the market rate apartments and have the 12 same appliances or materially similar if there are other 13 supply chain problems as are installed in the market 14 rate apartments. This condition applies in the future 15 for any necessary replacement appliances that may be 16 needed in the future. 17 An AED will be available in each building of 18 the complex and will be located in the amenity section 19 of the building. 20 The site will be serviced by private trash 21 and recycling haulers. 22 Applicant shall install bicycle racks near 23 the clubhouse. 24 The dog park and kennel amenity will be for 25 residents of the project site only. Only residents of

25 1 the project may utilize the kennel dog park amenity. 2 Applicant will install solar panel 3 directional signs. 4 Each floor of every building must have a 5 fire safe room. 6 The proposed model apartment shown on the 7 plans and the clubhouse building may not be used as a 8 permanent tenant occupied apartment and must remain 9 unoccupied. 10 There shall be no four bedroom units 11 permitted, including that no den may be converted into a 12 bedroom. 13 All plants located in the area and on the 14 trellis proposed as foundation covers, the living green 15 wall for the parking areas, shall be live plants. No 16 artificial plants are permitted. The live plants must 17 be maintained in perpetuity. 18 Applicant will shield from view the roof 19 deck and any balconies facing Howell Drive with live 20 greenery, potted live plants or the like to be 21 maintained in perpetuity. 22 Applicant must comply with the 23 recommendations and directives set forth in the CME 24 letter from Kevin B. Chen, PE, dated July 28, 2024. 25 Applicant shall install a sign at the	27 1 of that report. 2 Applicant agrees to be bound by the design 3 terms for the proposed deer fence and will meet all 4 specifications of the New Jersey Department of 5 Agriculture for deer fencing. 6 Applicant shall install and maintain plastic 7 sleeves or other deer protection methods to protect the 8 plants on-site that are outside the deer fenced area. 9 Applicant will work with Wayne DeFeo or a 10 forester as to the type of number of trees and plants 11 that will be planted. The planted trees shall be 12 approved by either the forester or Wayne DeFeo. 13 Applicant will install speed reduction 14 features, traffic calming such as raised crosswalks and 15 will work with the township engineer for those measures. 16 Applicant will do a GIF overview to 17 determine what trees can be preserved in the development 18 area. 19 Applicant shall submit to the building 20 department certificates of insurance for all contractors 21 and subcontractors. 22 Applicant shall conduct a post-blasting 23 survey. 24 No sanitary sewer pipe may be located in any 25 area of stormwater infiltration.
26 1 parking garages that warns drivers to go slow and to 2 watch for pedestrians. 3 Applicant must install audible signals at 4 each garage to alert pedestrians and other drivers of 5 exiting vehicles. 6 Applicant must incorporate crosswalks, stop 7 signs and stop bars at the upper level exit of Building 8 D and Building C, and stop bars at all garage entrances 9 that are adjacent to sidewalks. 10 Applicant shall construct a sidewalk/walkway 11 from Building D to the clubhouse. White stripes shall 12 be added on each side of the paver crosswalks. 13 Fire, police and ambulance shall be provided 14 with emergency access via Knox Box. 15 The deer fence must be evaluated each year 16 by the management company and repaired as per those 17 findings. 18 Applicant agrees to perform GPS 19 documentation mapping of select specimen trees and/or 20 areas with LOD in accordance with the recommendations 21 set forth in the report by Wayne DeFeo, dated October 22 16, 2024, specifically Page 3 of that report. 23 Applicant agrees to install plant selection 24 pollinator garden recommendations as set forth in report 25 by Wayne DeFeo, dated October 16, 2024. Again, Page 3	28 1 Applicant agrees to work with the municipal 2 engineer as to the connection of the proposed sewer to 3 the municipal system, and applicant will install 4 alternatives such as off peak plumbing or other 5 reasonable alternatives as suggested by the township 6 engineer. All alternatives must be maintained in 7 perpetuity. 8 Every five years or when the township 9 engineer deems necessary, applicant must have the 10 stormwater and sewer system evaluated with those 11 evaluations supplied in a report to the township 12 engineer. 13 Applicant must plan to maintain -- oh, I 14 already said that one. 15 Applicant will follow all of the 16 recommendations set forth in the August 15, 2025 CME 17 memo pertaining to soil testing and infiltration. 18 Applicant must satisfy all the conditions 19 set forth in the report of Samuel A. Kleinberg, dated 20 October 28, 2025. 11 conditions on Pages 19 through 20. 21 Should any Native American artifacts been 22 uncovered during any phase of construction of the 23 project, those artifacts must be preserved and reported 24 to the New Jersey Commission on Indian Affairs with a 25 copy of that notice to the Planning Department.

29 1 Applicant will supply two jitney buses to 2 run during the weekday hours to Cody Center Bus Station 3 and to the train station with Jitney stops designated 4 throughout the complex. Hours for the Jitney shall be 5 set to run at peak rush hour times. 6 Applicant must secure all necessary 7 approvals for the installation of a traffic signal at 8 Oval Road and Eagle Rock Avenue and pay for installation 9 of that traffic signal. 10 The Applicant is to maintain a website as to 11 reports submitted to the township and building 12 department, to work with Applicant and request progress 13 reports quarterly per requested. 14 Applicant must keep Oval Road, Howell Drive 15 access and at Grand must be kept clear of snow. 16 And finally, all conditions of all outside 17 agency approvals must be obtained before any clearing 18 may occur. 19 CHAIRMAN BAGOFF: And these will appear on 20 the site plan. 21 MS. McGOVERN: And the last thing is, the 22 applicant shall list all conditions of approval on the 23 final site plan submission prior to the submission of 24 the building permit. 25 CHAIRMAN BAGOFF: Any members of the Board	31 1 MAYOR McCARTNEY: Jamilet just said that 2 there are eight people voting, should there be a tie -- 3 MS. McGOVERN: If there's a tie then it 4 fails. 5 MAYOR McCARTNEY: Oh, okay. 6 CHAIRMAN BAGOFF: Yes, tie fails. 7 MS. McGOVERN: You need a majority to 8 prevail. 9 MR. KLEIN: What fails? 10 MS. McGOVERN: The application. The vote on 11 the motion -- 12 CHAIRMAN BAGOFF: Fails. 13 MS. McGOVERN: -- to approve the site plan. 14 If it ends in a tie it fails. 15 MR. KLEIN: Basically, no. 16 CHAIRMAN BAGOFF: Right. 17 MS. McGOVERN: It's like a no. 18 CHAIRMAN BAGOFF: And then the applicant has 19 options -- 20 MAYOR McCARTNEY: Let's explain that too. 21 CHAIRMAN BAGOFF: Well, if we get there 22 we'll discuss other issues. Okay. 23 Jamilet, on the motion. 24 MS. VITE: Mr. Alper. 25 MR. ALPER: No.
30 1 have any questions, additions, deletions or comments? 2 Seeing none. 3 Jamilet, will you tell the public and the 4 board who will vote. 5 MS. VITE: Okay. So the people voting 6 tonight for this application -- so the people voting 7 tonight for this application will be Mr. Alper, Mr. 8 Klein, Mr. Cardoza, Ms. Kapferer, Council President 9 Scarpa, Mayor McCartney, Mr. Gaurino and Chairman 10 Bagoff. So in total, eight people. 11 CHAIRMAN BAGOFF: So members of the Board, a 12 yes vote means that the Applicant has fulfilled the 13 requirements for the IH-1 zone and conditions thereto 14 and pertaining -- I'm sorry, Mayor McCartney. Okay. 15 And pertaining, will serve the public good. 16 A no vote means that in your estimation the Applicants 17 experts and our experts have not overcome any issues you 18 have, there's still some open issues that are material 19 that can't be addressed during the building process and 20 the application would fail. 21 So Jamilet. 22 MAYOR McCARTNEY: But Chairman, we do take a 23 vote -- 24 CHAIRMAN BAGOFF: I'm sorry. Mayor 25 McCartney.	32 1 MS. VITE: Mr. Klein. 2 MR. KLEIN: Yes. 3 MS. VITE: Mr. Cardoza. 4 MR. CARDOZA: No. 5 MS. VITE: Ms. Kapferer. 6 MS. KAPFERER: No. 7 MS. VITE: Council Person Scarpa. 8 COUNCIL PERSON SCARPA: No. 9 MS. VITE: Mayor McCartney. 10 MAYOR McCARTNEY: Yes. 11 MS. VITE: Vice Chairman Guarino. 12 VICE CHAIRMAN GUARINO: Yes. 13 MS. VITE: Chairman Bagoff. 14 CHAIRMAN BAGOFF: Yes. 15 There's four to four. The application 16 fails. 17 Ladies and gentlemen -- ladies and 18 gentlemen, the board is composed of nine members, one of 19 the members is not here. It is the applicants right to 20 ask the board for a motion to reconsider at a future 21 date. At a future date. The applicant may decide not 22 to do that. That is the applicants right. 23 MR. AFRAN: With respect. 24 CHAIRMAN BAGOFF: Wait a second. Hang in 25 there, we're not done.

33 1 MR. AFRAN: Okay, okay. 2 CHAIRMAN BAGOFF: Please let me finish, sir. 3 Ms. McGovern, you want to speak to that. 4 Ms. McGOVERN: Well, it would be a motion 5 and there's a set amount of time and it would have to be 6 before any resolution is prepared, and I don't know what 7 the applicant is going to seek to do. Because the other 8 option is an appeal obviously, but that would -- the 9 time period for an appeal wouldn't begin running until 10 the resolution is prepared, adopted by the board and 11 reported in the -- well, we don't have newspapers 12 anymore, but on a news source. So that's when the 13 appeal runs. So those of you who are wondering if 14 there's going to be an appeal, when does it begin, that 15 time is not yet set. That's -- it's influx, because I 16 think I have 45 days from this date to prepare the 17 resolution for the Boards consideration for 18 memorialization. If at some point in time there's new 19 evidence established or some error brought to the 20 attention of the Board that was overlooked by the 21 applicant, the applicant may seek to request a motion 22 for reconsideration. That doesn't mean it gets 23 reconsidered, it just means the request for a 24 reconsideration is considered by the Board and at that 25 point a decision as to what happens next is up in the	35 1 eight people are here, so the applicant, it is an option 2 of the applicant or to seek other redress in other 3 areas. 4 MR. AFRAN: The applicant absolutely can 5 appeal based on the filing of the resolution, etc. But 6 my point was that reconsideration, all though it's 7 available to an agency, has to be based on a new fact or 8 one that was either overlooked or perhaps mutually not 9 known. 10 CHAIRMAN BAGOFF: Agreed. 11 MR. AFRAN: Not simply because a ninth 12 person is going to be at another meeting we want to take 13 a do-over. 14 CHAIRMAN BAGOFF: Right. There are nuances 15 to that, yes. But for the public digestion, I just 16 wanted to let them know there are other avenues for the 17 applicant and or the objectors, or the application may 18 stay as it is done. 19 MR. AFRAN: Correct. 20 CHAIRMAN BAGOFF: Okay. 21 I'd like to thank all the members of the 22 public. Thank you so much for two and a half years of 23 your fervescence, experts, information, and we 24 appreciate everything from the applicant and the 25 objectors.
34 1 air at this point. 2 CHAIRMAN BAGOFF: Okay. 3 Mr. Afran. 4 MR. AFRAN: Thank you. 5 I didn't mean to jump in. I'm sorry. 6 CHAIRMAN BAGOFF: It's okay. 7 MR. AFRAN: Before I say anything 8 procedural, let me just thank everyone. We've been here 9 almost two years, this has been really a unique 10 experience for me as well. I've done these cases in a 11 lot of forums, this is the one I have the greatest 12 affection for, whether we win or lose. I mean, everyone 13 really came to this with a good spirit. And Mr. 14 Plocker, despite our going back and forth, was a great 15 adversary and colleague. So I just wanted to thank you 16 all, it's something I'm going to remember either way. I 17 hope you all do too in the same spirit. 18 Procedurally I do want to disagree, Mr. 19 Chairman, with one thing you said. It's -- I don't 20 think you meant this, but I want to be clear, I'm 21 reserving the issue. There's no reconsideration just 22 because a ninth person might show up and be able to vote 23 at a future date. 24 CHAIRMAN BAGOFF: I agree. It was, the 25 applicant can ask for it. We have a nine person board,	36 1 (Hearing includes at 7:26 PM.) 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

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C E R T I F I C A T E

I, ERIC S. FISHMAN, a Shorthand Reporter

and Notary Public of the State of New Jersey do hereby
certify that the foregoing is a true and accurate
transcript of the testimony as taken stenographically by
and before me at the time, place and on the date
hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a

relative nor employee nor attorney nor counsel of any of
the parties to the action; and that I am neither a
relative nor employee of such attorney or counsel; and
that I am not financially interested in the action.

ERIC S. FISHMAN, S.R.

Dated: 6/3/2026

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