

TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
CASE: ZB-24-06

IN RE:	:
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PUBLIC SERVICE ELECTRIC	: TRANSCRIPT OF REMOTE
AND GAS COMPANY	: PROCEEDINGS
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35 MOUNT PLEASANT AVENUE	:
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BLOCK: 155	:
LOT: 26.01	:
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Thursday, October 17, 2024
ZOOM REMOTE HEARING
Commencing at 8:00 p.m.

B E F O R E:

PHILIP D. NEUER, CHAIRMAN
WILLIAM MICHAEL BARBEE
JEROME EBEN
PETER RICCI
BRENT SCOTT
MICHAEL DANNEMILLER (Alt)
MARK SUSSMAN

DIANA CHANDLER, BOARD SECRETARY
JOHN HESS, BOARD CONSULTING ENGINEER
GEORGE WHEATLE WILLIAMS, TOWN PLANNER
JOSEPH FAGAN, MEETING MODERATOR

PRECISION REPORTING SERVICE

908.296.8166

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

2

3 SAVO, SCHALK, CORSINI, WARNER, GILLESPIE,
 O'GRODNICK & FISHER, P.A.

4 BY: MATTHEW R. FLYNN, ESQ.

5 Attorney for the Board

6 CHIESA, SHAHINIAN & GIAN TOMASI, PC
7 BY: ERICA ANTONYA PARLAVECCHIO, ESQUIRE

8 And JENNIFER M. PORTER, ESQUIRE

9 Attorneys for the Applicant

10 KEVIN MALANGA, ESQUIRE, Pro Se

11

12

13 A L S O P R E S E N T:

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1 CHAIRMAN NEUER: With the power vested in
2 me as chairperson, I call this special meeting of the
3 West Orange Zoning Board of Adjustment to order.
4 Today is October 17, 2024, it is 8 p.m. This meeting
5 is being conducted by the Zoom platform. Notice of
6 this meeting was given to the township clerk, The
7 West Orange Chronicle, and the Star Ledger, posted on
8 the township bulletin board all in accordance with
9 the Senator Byron M. Baer Open Public Meetings Act.
10 Kindly rise as we pledge allegiance to the flag.

11

12 (At which time, all stood for the Pledge
13 of Allegiance)

14

15 CHAIRMAN NEUER: Let's have Mr. Flynn
16 present the opening statement, please.

17 MR. FLYNN: Sure. Opening statement,
18 West Orange Zoning Board of Adjustment. Zoning board
19 of adjustment is a quasi-judicial body, it hears
20 evidence from sworn witnesses and makes decisions as
21 a court of law. The applicants are here because the
22 projects they propose do not meet the requirements of
23 the West Orange zoning code, or they have been denied
24 permits by the building inspector. We are their
25 first avenue of appeal.

1 Board members have a twofold
2 responsibility, first to see that the applicant is
3 treated as fairly as possible since no zoning code
4 can foresee all possible inequities, and second, to
5 protect the welfare of the community as a whole,
6 which is the basic purpose of municipal zoning.

7 The procedures are simple. The applicant
8 presents it's case, objectors then present their
9 case. Citizens in the audience are then given an
10 opportunity to speak both for or against an
11 application. We expect the conduct of these
12 proceedings to be dignified and orderly so that all
13 parties may obtain a fair and impartial hearing. As
14 our proceeding is public, so is our decisionmaking
15 which usually takes place the same evening.

16 Because appeals from the decisions of the
17 board can be made to the courts and in some cases to
18 the township council, solely on the basis of the
19 record before this body and since the rules of
20 evidence and case law are technical, we would like to
21 advise all persons of their right to legal counsel on
22 these proceedings, and we believe the board will
23 consider an adjournment to anyone who wishes
24 additional time to obtain counsel. Thank you, Mr.
25 Chair.

1 CHAIRMAN NEUER: Thank you Mr. Flynn. Ms.
2 Chandler, will you call the roll, please.

3 MS. CHANDLER: Of course. Mr. Barbee?

4 MR. BARBEE: Here.

5 MS. CHANDLER: Mr. Dannemiller?

6 MR. DANNEMILLER: Here.

7 MS. CHANDLER: Mr. Eben?

8 MR. EBEN: Present.

9 MS. CHANDLER: Mr. Ricci?

10 MR. RICCI: Here.

11 MS. CHANDLER: Mr. Sussman?

12 MR. SUSSMAN: Here.

13 MS. CHANDLER: Mr. Schwarzbaum?

14 CHAIRMAN NEUER: Excused absence.

15 MS. CHANDLER: Mr. Scott?

16 MR. SCOTT: Present.

17 MS. CHANDLER: Mrs. Weiss?

18 CHAIRMAN NEUER: Excused absence.

19 MS. CHANDLER: Chairperson Neuer?

20 CHAIRMAN NEUER: I am here as well.

21 During the warmup, without discussing anything of
22 substance, I was taking everybody's temperature on
23 the requests for special meetings. Mr. Malanga,
24 you're in the room now, how does December 5th look
25 for your group?

1 MR. MALANGA: Not good, but Ms. Porter
2 and I have spoken and December 12 is available for
3 both of us and our experts.

4 CHAIRMAN NEUER: We have a potential issue
5 from the board's standpoint on the 12. This matter
6 is scheduled to be heard again at the regular meeting
7 of November 21, and although I would have liked to
8 have finalized arrangements for a special meeting
9 tonight, we will consider to work on generating all
10 of the necessary professionals, staff members, and
11 board members for the 12 or another night if
12 necessary. But, we can't confirm the 5th right this
13 minute so at the end of tonight's we will probably be
14 adjourning this application to the regular meeting of
15 November 21 at which time we will finalize the
16 arrangements for this special meeting. I thank both
17 Ms. Porter and Mr. Malanga for working cooperatively
18 with each other to try to put something together.
19 Mr. Williams, you had a question?

20 MR. WILLIAMS: No, Mr. Chairman.

21 MR. MALANGA: Mr. Chairman, are you
22 saying that testimony will be taken on November 21?

23 CHAIRMAN NEUER: Yes.

24 MR. MALANGA: My witnesses are not
25 available on that date.

1 CHAIRMAN NEUER: We need to move this
2 matter along, Mr. Malanga, and as you know, we try to
3 grant adjournments whenever it's convenient for all
4 parties. You need to work a little harder on getting
5 some people here.

6 MR. MALANGA: Well, I thought that was
7 the purpose of the conversation that you, Ms. Porter,
8 and I had last Friday and the purpose of the
9 conversation that Ms. Porter and I had this week to
10 establish a date in December, and it seemed to be
11 agreeable to Ms. Porter.

12 CHAIRMAN NEUER: I understand what you and
13 Ms. Porter tried to do, I still chair this board and
14 I control the agenda. We'll jump off that bridge if
15 we have to on November 21, the meeting will be held
16 whether or not we have testimony as a matter for you
17 to be able to put together something or not and we'll
18 discuss it on the 21.

19 MR. MALANGA: All right, as I mentioned
20 I will not be in the country on November 21, so that
21 is the reason why I have requested an adjournment
22 from November 21, Mr. Chairman.

23 CHAIRMAN NEUER: I know, but you did
24 indicate you had someone to cover the meeting.

25 MR. MALANGA: No, that was for the

1 other meeting, Wonder Foods.

2 CHAIRMAN NEUER: That was for Wonder
3 Foods. Let's see how much we get done tonight and
4 before we adjourn, we'll discuss meeting schedules.

5 MR. MALANGA: Okay, thank you, Mr.
6 Chairman.

7 CHAIRMAN NEUER: Okay, future meetings of
8 the board are scheduled for November 14, a special
9 meeting November 21, the regular meeting December 19,
10 a regular meeting. Mr. Flynn, would you be so kind
11 as to swear Mr. Hess and Mr. Williams, please.

12
13 GEORGE WHEATLE WILLIAMS, W-I-L-L-I-A-M-S, having
14 first been duly sworn, testified under his oath as
15 follows:

16
17 JOHN HESS, H-E-S-S, having first been duly sworn,
18 testified under his oath as follows:

19
20 CHAIRMAN NEUER: The only application on
21 the agenda this evening ZB-24-06, Public Service
22 Electric and Gas, 325 Mount Pleasant Avenue.
23 Counselor, your appearance for the record.

24 MS. PORTER: Yes, good evening Mr.
25 Chairman, Jennifer Porter on behalf of CSG Law for

1 PSE&G, the applicant.

2 CHAIRMAN NEUER: Thank you. My notes
3 reflect that this matter has been heard on August 15,
4 September 12, and September 19. When we ended on
5 September 19, we had concluded your planner's
6 testimony, Ms. Merainer and that members of the
7 public as well as the board and professionals had
8 concluded their cross examination. Do you have
9 another witness to present this evening?

10 MS. PORTER: So, everything you said, Mr.
11 Chairman is correct, I do not have a new witness,
12 however I would like to recall two of our prior
13 witnesses based on additional information we would
14 like to supplement the record with because there have
15 been a series of meetings at the site, and so we
16 wanted to provide additional engineering and
17 additional landscape architecture, testimony with
18 regard to follow up we had at the last meeting as you
19 indicated on September 19.

20 CHAIRMAN NEUER: Ms. Porter, it's your
21 case, you're entitled to call your witnesses as you
22 see fit. Witnesses are sometimes allowed to have
23 repetitive testimony. Please call your first
24 witness.

25 MS. PORTER: Great, thank you. For my

1 first witness this evening, I would like to call Mr.
2 Michael Blake, our civil engineer.

3 CHAIRMAN NEUER: Because it's been a
4 while, would you be kind enough, Mr. Flynn to swear
5 the witness.

6 MR. FLYNN: Sure.

7

8 MICHAEL BLAKE, B-L-A-K-E, having first been duly
9 sworn, testified under his oath as follows:

10 MR. FLYNN: And Mr. Chairman, for the
11 record, I did review, because this is a special
12 meeting, the applicant did renotice. The notice's
13 content was sufficient and it was timely served and
14 published, so the board has continuing jurisdiction
15 over this matter.

16 CHAIRMAN NEUER: Thank you very much and
17 based on the roll call that we took we do have a
18 quorum and can conduct business this evening.

19 Ms. Porter, what witness do you -- he has
20 been recognized as an expert, you don't have to
21 requalify him.

22 MS. PORTER: Great, thank you. So Mr.
23 Blake, having reconfirmed your ability to provide
24 expert testimony in the field of civil engineering, I
25 would like to begin by asking if you were previously

1 called and provided expert testimony in the field of
2 civil engineering for this project on September 12.

3 MR. BLAKE: Yes, that's correct.

4 MS. PORTER: And as part of that
5 testimony, you specifically addressed the site design
6 and proposed storm water management system for this
7 site, is that correct?

8 MR. BLAKE: Yes, that's correct.

9 MS. PORTER: And you determined, as part
10 of that testimony, that in order to comply with the
11 storm water management regulations and specifically,
12 the green infrastructure requirements, since the site
13 is considered a major development and must address
14 water quantity, that the number and location of storm
15 water management bioretention basins and under drains
16 were necessary for this project, is that correct?

17 MR. BLAKE: Yes, that's correct.

18 MS. PORTER: Okay, and you also testified
19 regarding the replacement fence and the existing
20 condition of that fence and brick pillars and the
21 need to bring that site into compliance with current
22 electrical code and PSE&G requirements, is that
23 correct?

24 MR. BLAKE: Yes.

25 MS. PORTER: Thank you. And finally, you

1 testified as to why the site driveway was being
2 reconfigured to better accommodate turning situations
3 from either direction on Mount Pleasant Avenue, is
4 that correct?

5 MR. BLAKE: Yes, that is correct.

6 MS. PORTER: Thank you. Now, specific to
7 the testimony I just described that you previously
8 provided, you addressed certain tree removal that
9 would be required in connection with that proposed
10 site design, is that correct?

11 MR. BLAKE: Yes, that is correct.

12 MS. PORTER: And did you attend all other
13 meetings in connection with this application?

14 MR. BLAKE: Yes, I did.

15 MS. PORTER: And did you hear the
16 testimony of all other witnesses for PSE&G for this
17 application?

18 MR. BLAKE: Yes, that is correct.

19 MS. PORTER: And did you hear questions
20 asked by Mr. Malanga and other members of the public
21 regarding PSE&G's application and specifically
22 relating to tree removal?

23 MR. BLAKE: Yes, I did hear all those.

24 MS. PORTER: So, since the last meeting,
25 have you had any opportunity to address or further

1 consider those questions or comments specific to the
2 trees and preservation of the trees on the site?

3 MR. BLAKE: Oh, yes, so one of the things
4 that we did is we decided to schedule a site visit
5 meeting. We held something on September 30 of this
6 year. Myself and several of the other members of the
7 project team had decided to go over the project's
8 current design. We also, you know, part of the team
9 that was there included our electrical engineer,
10 project manager, planner, permitting manager,
11 landscape architect, and then PSE&G also brought
12 their, one of their vegetation management supervisors
13 as well as one of their security personnel.

14 MS. PORTER: Great. And the individual
15 that came for PSE&G's vegetation management, he is a
16 qualified tree expert?

17 MR. BLAKE: As far as I know, that is
18 what I've been told, yes.

19 MS. PORTER: Okay, so you indicated it was
20 the electrical engineer, project manager, planner,
21 permitting -- planner and permitting manager,
22 landscape architect, and an individual from
23 vegetation management.

24 MR. BLAKE: Correct.

25 MS. PORTER: Among others from corporate

1 security.

2 MR. BLAKE: Yes, there was other people
3 there as well, but in general that was kind of the
4 core team.

5 MS. PORTER: Got it. And during that site
6 visit, what specifically did you focus on in terms of
7 the site?

8 MR. BLAKE: I mean, we kind of generally
9 looked at some equipment where the site is, but our
10 main focus was in the areas where the trees are
11 proposed to be removed, where a lot of Mr. Malanga
12 and the other people who've questioned the tree
13 removal, we went there to kind of revisit those trees
14 to see how we can, how it fit in with our design.
15 Some people hadn't been there for a while since the
16 design has progressed. I personally had never been
17 there so that was a good chance for me to visit, only
18 people from my team had been there. But, in general,
19 we kind of went over the lay of the land, we had
20 drawings in front of us to kind of give us a visual
21 picture of where the bioretention basins are, the
22 switch gear, the access drive, and where it was in
23 relation to what trees were in question. We looked
24 at, as far as, is there any other place we could put
25 the bioretention? I mean the site doesn't drain or

1 slope very much, so we really had to co-locate it in
2 an area where that was draining downhill, that was
3 kind of our best option where that was.

4 As far as access to the site, you know,
5 the existing drive kind of goes off towards the west
6 when you pull in and we need more of a straight
7 access into the site. The switch gear is a pretty
8 large building; now granted, it will come in multiple
9 pieces, but we needed to provide easy access for
10 those heavy halls. Additionally, there is existing
11 equipment like, there is a transformer on that side,
12 which, with the new equipment and everything the way
13 it's considered, the access to that portion of the
14 sub would be better if it was a straight on access.

15 Additionally, we kind of walked the fence
16 line, I can't say that I walked the entire length,
17 but we walked a good portion of it, looked at the
18 state of it, what kind of conditions it was in, noted
19 where there was some bad areas, pillars, the brick
20 pillars, saw the existing condition of those.

21 MS. PORTER: And what was that condition
22 that you observed?

23 MR. BLAKE: There was a lot of cracks, a
24 lot of, there was parts where there was missing
25 bricks or chunks out of the brick, I know that a lot

1 of the portions of the wrought iron fence were
2 pretty, I would say kind of rusted, you know, it
3 wasn't in like great shape in my opinion. It just
4 didn't seem like they were something that would be
5 reusable.

6 And then finally, we had the discussion
7 as a group but in particular I was talking with both
8 the landscape architect which is John Futey, and then
9 DS&S Vegetation Management Supervisor, his name is
10 Jay Kaplan. We kind of went over their opinions on
11 trees, it's good to kind of have both their
12 perspective. Jay's kind of the person who maintains
13 the trees, and he deals with the trees from PSE&G,
14 deals with them in the right of way, and you
15 typically don't deal with trees in a substation, but
16 within proximity of substations, and so he can, he
17 knows the rules and the requirements and distances
18 and the amount of tree limbs that have to be cut down
19 in order to meet spacing requirements for it. So, it
20 was good to have both of them there to kind of talk
21 things through and we went through some of the
22 conditions of the trees and looked at the bigger ones
23 that we talked about, or their ways to preserve them
24 or work around, work the design around them.

25 MS. PORTER: And ultimately, what were the

1 results of that discussion, did you have the ability
2 based on that discussion to make modifications to the
3 design, or did you ultimately reach another
4 conclusion after going over the plans and reviewing
5 documents as you just indicated?

6 CHAIRMAN NEUER: Before you answer, Mr.
7 Blake, Ms. Porter although the rules of evidence are
8 not strictly enforced, my concern is whether or not
9 Mr. Blake will be stating or repeating things told to
10 him that was purportedly an expert and we can't go
11 that far down that rabbit hole.

12 MS. PORTER: I would limit his testimony,
13 so Mr. Blake I appreciate where Mr. Neuer is going.
14 So, you can't say, it's hear say for you to state in
15 the record essentially what other individuals told
16 you without the benefit of them being present. I
17 would appreciate if you could discuss any
18 conversations that you had specifically with Mr.
19 Futey as he will also be testifying tonight in terms
20 of your analysis with respect to the design, and
21 specific to your civil engineering background.

22 MR. BLAKE: Yeah, I mean, what I talk
23 specifically with them was just kind of getting my
24 understanding of the situation with the trees, but as
25 far as the storm water management I mean, I did point

1 out to several people in the group the approximate
2 locations of bioretention, I gave them kind of a
3 visual definition, tried to point out exactly where
4 the start and stop of the bioretentions were based on
5 the drawings that were in front of me, and then you
6 know --

7 MS. PORTER: And then before you go on,
8 sticking with that theme in terms of the bioretention
9 basin, so you had previously testified as we
10 indicated earlier that essentially the location of
11 those were fixed in terms of you had done an analysis
12 where they would necessarily need to be situated in
13 order to comply with the green infrastructure
14 requirements, is that correct?

15 MR. BLAKE: Yeah, that's correct. So
16 when I got back to Kansas City, you know, I went back
17 in to the, both the West Orange storm water ordinance
18 and the administrative code, I looked at some of the
19 options that comes with the design of those
20 bioretentions and spacing requirements and
21 restrictions from staying, providing clearance from
22 the electrical equipment. In my professional
23 opinion, I believe that the bioretention basins are
24 in the best location that they can be.

25 MS. PORTER: And do you know or are you

1 aware of whether or not the site could accommodate
2 underground detention?

3 MR. BLAKE: So, in, that was, you know,
4 one of the things that I also looked into, I went
5 back and looked in, you know, the storm water
6 ordinance for West Orange and the New Jersey
7 Administrative Code section 78, and I was not able to
8 find anything about an underground detention or an
9 extended detention without a variance or a waiver.
10 So, as part of that, I reached out to John Hess with
11 CME just to see if there was anything that I was
12 overlooking, just because I wanted another engineer's
13 opinion to see if there was something maybe I wasn't
14 seeing and we kind of came to the same conclusion
15 that without a variance or a waiver, you couldn't do
16 underground detention, and then in addition, the
17 underground detention, the footprint would probably
18 still impact some of the trees. I don't know what
19 the extent of it is, because I haven't designed it.

20 MS. PORTER: So, in terms of your
21 discussion and your review of the West Orange
22 ordinance as it relates to a waiver or a variance, is
23 there an ability under the West Orange ordinance to
24 seek a variance or a waiver? Is there specific
25 language within the code present to allow for that to

1 even occur?

2 MR. BLAKE: There is a way for there to
3 be a variance or a waiver, but then my understanding
4 is if that happens, then it has to be sent to DEP and
5 then DEP would then have to approve it, and then that
6 would be something that both the city and DEP would
7 have to figure out if that's a possibility. But, in
8 my understanding, it's not a simple just, yes, you
9 can do it. In general though, underground detention
10 is not a viable solution as a green infrastructure
11 for BMP, for Best Management Practice.

12 MS. PORTER: And are you aware of the
13 provision under NJAC 7:8-4.6A which states that a
14 municipality may grant a variance from the design and
15 performance standards for storm water management
16 measures if the municipal plan includes a mitigation
17 plan? Are you aware of that provision? Is that
18 something that you looked at in connection with the
19 language in the code?

20 MR. BLAKE: Yes, I am aware of that.

21 MS. PORTER: And are you aware of whether
22 or not West Orange has a mitigation plan as part of
23 it's municipal requirements?

24 MR. BLAKE: It does not, is my
25 understanding.

1 MS. PORTER: Correct --

2 CHAIRMAN NEUER: I'm sorry, Ms. Porter,
3 would you repeat the citation because you went a
4 little bit --

5 MS. PORTER: I'm sorry -- oh, go ahead.

6 MR. BLAKE: I was gonna say it's NJAC
7 789-4.6A.

8 CHAIRMAN NEUER: Thank you. It's 7:8.

9 MS. PORTER: Right. And so that
10 particular provision states that a municipality may
11 grant a variance, but only in the event that the
12 municipal plan includes a mitigation plan. And is it
13 correct that the West Orange ordinance does not
14 contain a mitigation plan, is that correct?

15 MR. BLAKE: Yes, that is correct. It
16 does not, I was not able to find anything that stated
17 it had a mitigation plan.

18 MS. PORTER: And did you confirm that with
19 Mr. Hess?

20 MR. BLAKE: I did.

21 MS. PORTER: And therefore, a variance
22 would not be possible with respect to this provision
23 within the ordinance?

24 MR. BLAKE: Yes, that is correct.

25 MS. PORTER: Okay, thanks. Okay, so going

1 back to being on this site beyond specifically your
2 determination as to the location of the detention
3 basin, what other conclusions did you make in terms
4 of the remainder of the design as it relates
5 specifically to your civil engineer testimony and
6 knowledge?

7 MR. BLAKE: I mean, in my opinion the
8 design, you know, as far as the sequence of
9 construction, in order to accommodate both the
10 electrical equipment, the installation, the delivery
11 of the equipment, and also provide storm water
12 management in compliance with the rules, the, there
13 wasn't, I don't see any ways to really adjust the
14 design to make it a more efficient or reduce the tree
15 removal. I mean, the basins have been adjusted and
16 you know, tweaked as much as possible and I think
17 that the current design that we have, I believe the
18 current design that we have is the best solution.

19 MS. PORTER: Thank you. I have no further
20 questions for Mr. Blake.

21 CHAIRMAN NEUER: Thank you, Ms. Porter.
22 Let's start, because he was mentioned a few times,
23 Mr. Hess, any questions?

24 MR. HESS: I have no questions, Mr.
25 Chairman. I also reviewed the township ordinance and

1 I found no provision in there for a mitigation plan.

2 CHAIRMAN NEUER: So, do you have any
3 dispute with anything that Mr. Blake said that he
4 attributed to you?

5 MR. HESS: No, I do not. What he said
6 was what we discussed earlier today and yesterday and
7 today.

8 CHAIRMAN NEUER: Members of the board, Mr.
9 Barbee?

10 MR. BARBEE: No questions.

11 CHAIRMAN NEUER: Mr. Dannemiller?

12 MR. DANNEMILLER: No further questions.

13 CHAIRMAN NEUER: Thank you, Mr. Eben?

14 MR. EBEN: Chairman, none for me either,
15 thank you.

16 CHAIRMAN NEUER: Thank you, Mr. Ricci?

17 MR. RICCI: No questions.

18 CHAIRMAN NEUER: Thank you, Mr. Scott?

19 MR. SCOTT: Thank you. Mr. Blake, so
20 based upon what you've reviewed here, do you believe
21 this is the best nature positive aspect of this plan
22 for that site?

23 MR. BLAKE: I'm just here to testify on
24 the storm water management design. So to answer your
25 question, you know about nature, that's, I don't have

1 that experience. Mine is just how to design a storm
2 water management system in accordance with the codes
3 or regulations.

4 MR. SCOTT: And you believe that the best
5 plan, the one that you've just been discussing, is
6 that the trees that are slated to come down, should
7 come down.

8 MR. BLAKE: I believe that the trees that
9 are located where the bioretention basins are and the
10 equipment, yes, I believe that that is the best
11 layout and design with the site constraints that we
12 have.

13 MR. SCOTT: Thank you.

14 CHAIRMAN NEUER: Thank you, Mr. Scott.
15 Mr. Sussman?

16 MR. SUSSMAN: No questions, Mr.
17 Chairman.

18 CHAIRMAN NEUER: And Ms. Porter, I have no
19 questions for the witness other than what we've
20 already discussed. Members of the public, this is
21 your opportunity to question the witness based upon
22 the testimony that he has presented, that's the scope
23 of your questioning. The timer that usually comes up
24 on the screen is broken, so I'm going to keep the
25 time on the questioning, the timing, and the clock

1 will run only during the question, not during the
2 answer. Members of the public, please raise your
3 hand. Mr. Malanga, your hand is up, so I'll
4 recognize you first.

5 MR. MALANGA: Thank you, Mr. Chairman.
6 Mr. Chairman, good evening, members of the board,
7 good evening, Mr. Blake, good evening.

8 MR. BLAKE: Good evening.

9 MR. MALANGA: You just stated that you
10 are there to testify with regards to storm water
11 management design and exclusively that, is that
12 right?

13 MR. BLAKE: That is my area of expertise.
14 I do also discuss certain items with regards to
15 access and the fence layout.

16 MR. MALANGA: And in Ms. Porter's
17 initial questioning, she said that you gave testimony
18 previously with regard to the conformity of the fence
19 with current electrical code, that was her word.

20 MR. BLAKE: Correct, but I am aware of
21 what the IEEE requirements are for fencing and that's
22 just what the code's under, but that is what all
23 substations are designed to is where the fencing is,
24 is IEEE standards. I am not on the board, but there
25 are several civil engineers that are involved in

1 IEEE, but it's not something out of the ordinary.

2 MR. MALANGA: So, you're not qualified
3 to give testimony with regard to that?

4 CHAIRMAN NEUER: Is that a question?
5 That's a conclusion you want to reach, he can't opine
6 on that, that wasn't part of his testimony. Go on to
7 something else, Mr. Malanga.

8 MR. MALANGA: You started giving an
9 answer and then you abbreviated it with regard to
10 bringing equipment on to the site and I thought you
11 were about to say heavy hauling, is that what you
12 were about to say?

13 MR. BLAKE: Yeah, during construction you
14 have to have heavy haul access.

15 MR. MALANGA: When you say heavy
16 hauling, what types of weight of equipment are you
17 referring to?

18 MR. BLAKE: It's the larger pieces of
19 equipment, it's over the road approved weights, it's
20 just more of like a semi truck, but it brings in
21 larger pieces of equipment.

22 MR. MALANGA: So, how many pounds of
23 weight for the load and the vehicle?

24 MR. BLAKE: The equipment will be based
25 on whatever the vendor supplies, I don't know those

1 numbers off the top of my head, but they will be
2 permitted through DOT regulated requirements.

3 MR. MALANGA: So, you don't know
4 whether it's in fact in compliance with any New
5 Jersey regulations as to pounds per square inch of
6 tire width, you have no information about that?

7 MR. BLAKE: I guess, I don't know if you
8 are understanding what you're asking. What I'm
9 trying to tell you is that it will be permitted
10 before it is allowed to either not only enter the
11 state, but be delivered to the site. There is code
12 requirements and permits that have to be obtained in
13 order for large pieces of equipment to be hauled and
14 to go over the road, they have to meet certain
15 requirements.

16 MR. MALANGA: Indeed. So, you don't
17 know whether they will be transported on a flatbed, a
18 low bed, an I-beam, nothing like that?

19 MR. BLAKE: I mean, it could be various
20 pieces of standard WB50 truck, I don't know specifics
21 on that.

22 MR. MALANGA: I have no other
23 questions, thank you.

24 CHAIRMAN NEUER: Thank you, Mr. Malanga.

25 MR. FAGAN: Mr. Chairperson, we have

1 several members of the public who have their hands
2 raised.

3 Whitmer, welcome to the meeting, please
4 state your full name and address for the record and
5 unmute yourself. Can you hear us? You are on mute,
6 okay. Okay, Mr. Chairman, Whitmer is getting her
7 issues --

8 CHAIRMAN NEUER: Move on to someone else.

9 MR. FAGAN: Sally Malanga, welcome to the
10 meeting, please state your name and address fro the
11 record.

12 MS. MALANGA: Sally Malanga, Ridge
13 Road.

14 CHAIRMAN NEUER: Please state the number
15 on Ridge Road.

16 MS. MALANGA: 57.

17 CHAIRMAN NEUER: Thank you.

18 MS. MALANGA: Okay, Mr. Blake, are you
19 stating that the trees for the road being moved over
20 are strictly going to be cut down because of the
21 delivery of equipment?

22 MR. BLAKE: No, not strictly for the
23 delivery of equipment, they're also there for the
24 long term. It's part of a reliability for a
25 substation, you have to be able to provide access for

1 that equipment, if, for whatever reason, it had to be
2 replaced.

3 MS. MALANGA: And are you saying that
4 they would be unable to replace equipment or make
5 repairs if you didn't cut down all those trees and
6 move the road?

7 MR. BLAKE: I didn't say that.

8 MS. MALANGA: Okay, well, if the road
9 has been functional for the past 100 years and
10 they've been able to make their repairs and do
11 whatever they need, why now do all these trees have
12 to be cut in order to straighten out a road today?

13 MR. BLAKE: If you look at the drawings,
14 I don't know, Ms. Malanga if you actually reviewed
15 the drawings, but there is not a lot of trees being
16 removed because of the realignment of the access
17 drive.

18 MS. MALANGA: Okay, thank you.

19 MR. BLAKE: The bioretention is what is--

20 CHAIRMAN NEUER: Mr. Blake, you've
21 answered the question. Anything else, Ms. Malanga?

22 MS. MALANGA: That's all my questions.
23 Thank you.

24 CHAIRMAN NEUER: Mr. Fagan, who else do we
25 have?

1 MR. FAGAN: Whitmer, we're gonna give you
2 another try, you have to unmute yourself, I see your
3 hand raised. Please unmute yourself, I cannot do
4 that. Usually on the top bar of your computer, there
5 is an unmute button, or on the lower end of your
6 screen if you hover your mouse over it, you'll see
7 the mute and you can unmute yourself. Mr.
8 Chairperson, she is still muted unless she can hear
9 us.

10 CHAIRMAN NEUER: You have to unmute
11 yourself. There you go.

12 MR. FAGAN: Welcome to the meeting, please
13 state your full name and address for the record.

14 MS. WHITMER: I'm so sorry, I've been
15 trying to get connected. My name is Amy Whitmer, I
16 live on Franklin Avenue in West Orange.

17 CHAIRMAN NEUER: What number on Franklin
18 Avenue?

19 MS. WHITMER: 13 Franklin.

20 CHAIRMAN NEUER: Please ask your
21 questions.

22 MS. WHITMER: I am wondering why the
23 fence can't be repaired separately on it's own,
24 bricks can be shored up and replaced. I know the
25 fence looks bad, but I'm wondering why it's going to

1 be painted or parts of it replaced from the outside
2 without affecting the trees and maybe there's more
3 going on that I don't understand, but just wondering
4 about that.

5 MR. BLAKE: The main reason for the fence
6 replacement is to bring it up to the current codes.
7 It's not tall enough.

8 MS. WHITMER: Oh, it's not tall enough.

9 CHAIRMAN NEUER: Do you have any other
10 questions, Ms. Whitmer?

11 MS. WHITMER: No, thank you.

12 CHAIRMAN NEUER: Thank you for your time.
13 Mr. Fagan, any other hands up?

14 MR. FAGAN: Last call, there are no more
15 hands raised, Mr. Chairman, so this will be the last
16 call. That is still the situation, no hands are
17 raised, Mr. Chairperson.

18 CHAIRMAN NEUER: Okay, public questioning
19 is at an end, Ms. Porter, do you have any redirect
20 for your witness?

21 MS. PORTER: I do not.

22 CHAIRMAN NEUER: Please call your next
23 witness.

24 MS. PORTER: Great, thank you. Next I
25 would like to call Mr. John Futey, our landscape

1 architect, if he could be resworn.

2

3 JOHN FUTEY, F-U-T-E-Y, having first been duly sworn,
4 testified under his oath as follows:

5 CHAIRMAN NEUER: Mr. Futey, you've already
6 been qualified as an expert in the field of landscape
7 architecture. Ms. Porter, please provide your
8 questioning.

9 MS. PORTER: Great, thank you. Mr. Futey,
10 you were previously called and provided expert
11 testimony in the field of landscape architecture for
12 this project on both September 12 and September 19,
13 is that correct?

14 MR. FUTEY: That's correct.

15 MS. PORTER: And as part of that
16 testimony, you specifically walked through the tree
17 removal plan and explained the basis for tree removal
18 as it relates to PSE&G's application, is that
19 correct?

20 MR. FUTEY: Yes, that's correct.

21 MS. PORTER: And the tree removal and tree
22 replacement plans you presented were also submitted
23 to the township forester for review, is that correct?

24 MR. FUTEY: Yes.

25 MS. PORTER: And the forester issued a

1 memorandum, actually, a revised memorandum dated
2 September 6 of 2024 which found that everything in
3 the removal and replacement plan was consistent with
4 the new tree ordinance, is that correct?

5 MR. FUTEY: That's correct.

6 MS. PORTER: And have you attended all of
7 the meetings for this application?

8 MR. FUTEY: I have.

9 MS. PORTER: And did you hear the
10 testimony of the other witnesses for PSE&G?

11 MR. FUTEY: Yes, I have.

12 MS. PORTER: And did you hear the
13 questions asked by Mr. Malanga and other members of
14 the public regarding PSE&G's application, and what,
15 if anything, could be done to preserve additional
16 trees at the site?

17 MR. FUTEY: Yes, I have.

18 MS. PORTER: And since the last meeting,
19 have you had any opportunity to address those
20 questions or comments any further?

21 MR. FUTEY: I have, yes.

22 MS. PORTER: And how did you do that?

23 MR. FUTEY: I've been a part of the two
24 site visits the last hearing, the one on September
25 30th and the additional one on October 10.

1 MS. PORTER: And with who were those
2 meetings held, so starting first with the meeting on
3 September 30?

4 MR. FUTEY: On September 30, that was the
5 same meeting that Mr. Blake had brought up, I
6 included PSE&G's vegetation management licensed tree
7 expert, project civil engineer, Mr. Blake who we just
8 heard from, project electrical engineer, Mr. Copa,
9 who had testified previously, Division of PSE&G
10 project manager, PSE&G's planner and permitting
11 manager.

12 MS. PORTER: And at the second meeting on
13 October 10, who specifically attended that site
14 meeting?

15 MR. FUTEY: That meeting included the
16 township forester, Mr. Walt Kipp of PSE&G's
17 vegetation management licensed tree expert, PSE&G's
18 project manager, and PSE&G's planning and permitting
19 manager.

20 MS. PORTER: Okay, so, could you please
21 discuss the conversations that specifically took
22 place onsite specifically from your perspective, so
23 meaning that you can't obviously state what other
24 individuals who are not present this evening stated,
25 but specifically from your perspective what you

1 discussed and ultimately what conclusions you reached
2 in connection with those site visits.

3 MR. FUTEY: Sure, on the September 30
4 meeting, the project team, we walked the site, we
5 discussed the nature of the improvements, and the
6 impact those improvements will have on the existing
7 trees and the adjustments that can be made, which Mr.
8 Blake had alluded to. The focus was on the large
9 trees close to the project entrance, but also
10 included trees along the fence line. Due to the
11 improvements will primarily have on the existing
12 tree's root systems, it was determined that the
13 current tree removal plan is the most responsible way
14 forward, regrading, trenching, and root coverage are
15 specifically are expected to negatively impact the
16 future viability of the trees, designated for removal
17 with a high risk of those trees becoming a safety
18 hazard both inside the station and into the public
19 right of ways. Proximity to the substation equipment
20 was also a primary concern. Of those, I would like
21 to highlight three of the largest trees on the site,
22 if I can share my screen.

23 MS. PORTER: Certainly. Is that okay, Mr.
24 Chairman?

25 CHAIRMAN NEUER: Please.

1 MR. FUTEY: I have the tree removal plan
2 up, this was previously presented.

3 MS. PORTER: If you could please describe
4 it.

5 MR. FUTEY: Yes, it's sheet TR-01, it has
6 a revised date of 8/11/2024.

7 CHAIRMAN NEUER: I'm sorry, what 11?

8 MR. FUTEY: 8, August 11.

9 CHAIRMAN NEUER: Please continue.

10 MR. FUTEY: So, tree 4078, this is the
11 tree that we've discussed previously, it's a 42 inch
12 diameter repressed height Linden tree located central
13 to the front yard of the station, it's within the
14 electrified perimeter of the station, within the
15 access road. This area is expected to function as a
16 staging area with potential for vehicular
17 circulation. The current grade will be filled with
18 gravel to complete the yard ground plane, and is also
19 only about plus or minus 35 feet from adjacent
20 infrastructure. This tree can be expected to get
21 upwards of 50 to 70 feet, so it's well within the
22 potential fall range of that tree. Another tree
23 we're looking at.

24 CHAIRMAN NEUER: Was that number 4076?

25 MR. FUTEY: Correct. No, 4078, I'm

1 sorry.

2 CHAIRMAN NEUER: Please continue.

3 MR. FUTEY: So, the second one we were
4 talking about is 4102, this is a 36 inch diameter
5 breast height Linden, also located within the
6 electrified portion of the station. This clearly is
7 located within the post drive internal drive lane and
8 it's only about 32 feet from the proposed equipment,
9 also well within the expected potential fall range of
10 where that might go should there be a problem in the
11 future.

12 A third tree, I would like to highlight,
13 it's 4135, it's that on the corner here on Pleasant
14 Avenue, it's a 46 inch diameter breast height Linden
15 Plain tree. This one is about 24 feet from proposed
16 trenching for underground utilities. Additionally,
17 tree is expected to require pruning to place a
18 concrete manhole structure with a crane. The nature
19 of the pruning would require the removal of some
20 large leaders, some large limbs which would be
21 difficult for the tree to recover from, and in
22 addition to creating an unstable condition of the
23 tree between the trenching and the weight of the tree
24 being unequally distributed, at least to the risk of
25 uprooting and the tree potentially falling

1 specifically towards Mount Pleasant Avenue.

2 I could move on to the October 10th
3 meeting. The October 10th meeting also included
4 members of my project team, Mr. Walt Kipp, West
5 Orange's forester, and PSE&G's vegetation licensed
6 tree expert as I mentioned on permitting and planning
7 representative. Mr. Kipp noted that he had walked
8 the perimeter of the site and additionally became
9 familiar with the application. He did reaffirm his
10 review and acceptance of the plan being in compliance
11 with the ordinance. We did discuss moving forward,
12 this is almost like the beginning of the discussion
13 of his presence onsite. As part of his approval,
14 either him or one of his representatives will be
15 reviewing the tree removal tagging prior to also
16 being onsite during tree removal activities. We also
17 discussed, we had the board engineer's comment,
18 previously received review letter regarding the
19 calendar size with the proposed trees amending that
20 from four inches to two and a half inches. Mr. Kipp
21 noted that he didn't have any concerns amending the
22 sizes.

23 Also, update the tree replacement table
24 to compensate the number of trees planted onsite, or
25 contribute to the town's tree fund as previously

1 proposed. We will make that change.

2 MS. PORTER: And just to go back to Mr.
3 Kipp's September 9th report that he had provided,
4 that report specifically indicated that he reviewed
5 and found everything presented on both the tree plan
6 which is the plan that you're showing on the screen
7 today, as well as the tree replacement plan were
8 consistent with the tree ordinance, is that correct?

9 MR. FUTEY: That's correct. It included
10 the entire landscape package, the tree removal plan,
11 and also the proposed plan as well.

12 MS. PORTER: Okay. And did he also, as
13 part of that review, review the planting list?

14 MR. FUTEY: Yes.

15 MS. PORTER: And did he find in connection
16 with his review that it was consistent with using
17 native plants and pollinator friendly species?

18 MR. FUTEY: He did.

19 MS. PORTER: And did he note as part of
20 his September 5th review, that everything in his
21 prior review, from his prior report was specifically
22 addressed with the updated plan?

23 MR. FUTEY: Yes, that's correct, he did.

24 MS. PORTER: And now as part of the
25 updated plans in between the first report you

1 received from Mr. Kipp, which I believe was in
2 August, and the second report which we were just
3 discussing on September 6th, what did PSE&G do --

4 CHAIRMAN NEUER: At one point you said
5 September 9th, was it the 6th or the 9th?

6 MS. PORTER: I'm sorry, September 6th,
7 9/6/24.

8 CHAIRMAN NEUER: Thank you. Please repeat
9 the question, I don't think the witness remembered.

10 MR. FUTEY: Yeah, I'm sorry, I didn't
11 hear the question.

12 MS. PORTER: Oh, sure. So, in between Mr.
13 Kipp's initial review and his second review letter
14 that was issued on September 6th, what, if any
15 changes were made specific to the tree removal or
16 tree replacement plan? Were any additional trees
17 preserved in that time period?

18 MR. FUTEY: Not in that time period, no,
19 we did previous to that. The application was
20 submitted back in May under the old tree ordinance.

21 MS. PORTER: Okay.

22 MR. FUTEY: After that time and with the
23 new tree ordinance that was adopted in June, we did
24 go back at that point in time and we did reevaluate
25 the trees and we did save effectively 17 trees from

1 that first application to the second application.

2 MS. PORTER: So, you had gone back prior
3 the site visits at a point in time and reevaluated
4 whether any of the trees onsite could be saved and
5 had saved 17 additional trees, is that correct?

6 MR. FUTEY: That is correct, yes.

7 MS. PORTER: And this is reflected in the
8 most current plan which is up on the screen?

9 MR. FUTEY: Correct, it is.

10 MS. PORTER: Thank you. I have no further
11 questions.

12 CHAIRMAN NEUER: Thank you. Let's take
13 the exhibit down, please. We may have to put it back
14 up. Mr. Hess, any questions for the witness?

15 MR. HESS: I have no questions, Mr.
16 Chairman.

17 CHAIRMAN NEUER: Mr. Williams?

18 MR. WILLIAMS: Mr. Chairman, likewise, I
19 have no questions for this witness. Just to --
20 actually I do. One quick one, just to reconfirm, the
21 number of trees we saved based on the reevaluation is
22 17?

23 MR. FUTEY: No, the number of trees being
24 saved is, I believe is 137 total -- 150. We have to
25 go back, we did go back, I had the number right at my

1 fingertips, it's more than 17, the 17 was the delta,
2 that was the difference between the two. So there
3 was an additional 17.

4 MR. WILLIAMS: That's how I should have
5 phrased it, thank you.

6 CHAIRMAN NEUER: What's the total number
7 of trees being saved now with that 17?

8 MR. FUTEY: Total number with that 17
9 included, I have, well, the removal is going to be
10 150 tress, 14 of those were considered nonviable.

11 CHAIRMAN NEUER: I'm sorry, 150 are being
12 removed?

13 MR. FUTEY: Correct. 388 are being
14 preserved.

15 CHAIRMAN NEUER: 188 preserved?

16 MR. FUTEY: 338.

17 CHAIRMAN NEUER: Members of the board time
18 for questioning, let's go the other way, Mr. Sussman?

19 MR. SUSSMAN: No questions, Mr.
20 Chairman.

21 CHAIRMAN NEUER: Thank you. Mr. Scott?

22 MR. SCOTT: Thank you. Mr. Futey, thank
23 you for going back and reevaluating. Can you tell us
24 a little bit about the 17 additional trees that you
25 were able to save and to include in that which would

1 not be cut down, where are they, are they in one
2 particular spot, are they all over, can you tell us,
3 and how large are they?

4 MR. FUTEY: They're primarily along the
5 fence line and it was in reevaluating the alignment
6 of the fence, and we even discussed this at our site
7 meeting as well. The nature of where the fence is
8 located and how we might be able to shift it even
9 slightly to accommodate those trees. Like I said,
10 they're primarily along Prospect Avenue, they're not
11 the largest of the trees on the site, they're in the
12 medium range.

13 MR. SCOTT: And just another question on
14 the landscaping and the need to do some shifting on
15 the road. The civil engineer testified that he
16 couldn't say exactly what size vehicles would be
17 needed to bring it in, so how can you decide, how can
18 it be decided how much roadway you need to cut away
19 to increase, what is that -- how is that -- what is
20 that based on if you don't know exactly what size
21 transport vehicle is required?

22 MR. FUTEY: I can't really comment on the
23 civil engineering.

24 MS. PORTER: For the record, the road
25 alignment is consistent with normal roadway width

1 standards. The testimony he was providing and Mr.
2 Blake can clarify it for the record if needed, was
3 that part of the, the road is being realigned in
4 order to provide access to the new equipment that is
5 being serviced, but in addition to that, during
6 construction because vehicles were bringing in heavy
7 equipment to perform the replacement, that that too
8 would need adequate turning distances and thus the
9 realignment was aiding in that respect. So, it's not
10 driving the realignment, but it's an added benefit,
11 that was the point of that testimony.

12 MR. SCOTT: I understand, thank you for
13 that clarification. Again, I want to thank you for
14 going back and adding that up doing what you could do
15 make this more nature positive. Thank you.

16 CHAIRMAN NEUER: Thank you, Mr. Scott.
17 Mr. Ricci?

18 MR. RICCI: No questions, Mr. Chairman.

19 CHAIRMAN NEUER: Thank you. Mr. Eben?

20 MR. EBEN: None.

21 CHAIRMAN NEUER: Thank you, Mr. Eben. Mr.
22 Dannemiller?

23 MR. DANNEMILLER: No questions.

24 CHAIRMAN NEUER: Thank you, Mr. Barbee?

25 MR. BARBEE: No questions.

1 CHAIRMAN NEUER: Mr. Futey, you testified
2 to three specific trees, 2078, 4102, and 4135, those
3 were the only trees -- withdrawn.

4 Are those trees the ones that are being saved?

5 MR. FUTEY: No, those are being removed.

6 CHAIRMAN NEUER: Those are being removed,
7 and you explained why you needed to remove them and
8 that was all based on your meeting on the site on
9 September 30?

10 MR. FUTEY: That's correct, yes. Those
11 were some of the discussions that we had and the
12 conclusions that we had come to.

13 CHAIRMAN NEUER: Okay, I have no further
14 questions. Members of the public, this is your
15 opportunity to question the witness based upon the
16 testimony he has presented this evening. Kindly
17 raise your hands so you can be recognized. Mr.
18 Malanga, you are recognized.

19 MR. MALANGA: Thank you, Mr. Chairman.
20 Mr. Futey, good evening.

21 MR. FUTEY: Good evening.

22 MR. MALANGA: Of the trees on the site
23 that are greater than 50 inches in diameter, how many
24 are being preserved?

25 MR. FUTEY: I'm not actually sure that

1 any are being preserved over 50 because they're all
2 located within that electrified portion of the site
3 down towards the southeast corner.

4 MR. MALANGA: So, how many trees of
5 that size are being cut down?

6 MR. FUTEY: 55, I don't have that number
7 broken out specifically. I can tell you that of, if
8 we base it on the ordinance, the ordinance allows
9 removal of trees over 33 inches EBH, and we have 17
10 of those trees total.

11 MR. MALANGA: So, you are removing 17
12 trees greater than?

13 MR. FUTEY: 33 inches, which is a
14 threshold given in the township ordinance.

15 MR. MALANGA: Are you able to state
16 whether all the trees greater than 50 inches are
17 being removed from the site?

18 MR. FUTEY: I would have to double check
19 that to definitively say that.

20 MR. MALANGA: Are you able to say
21 whether all the trees greater than 40 inches in
22 diameter are being removed?

23 MR. FUTEY: Again, I would have to
24 double, I don't have those numbers broken out
25 specifically like that. Like I said, the 33 inches

1 is the number given in the ordinance itself and it's
2 given in the table that allows for their replacement.

3 MR. MALANGA: So, there are in fact
4 trees greater than 40 inches diameter breast height
5 being removed, is that right?

6 MR. FUTEY: That's correct, I discussed a
7 couple of those tonight.

8 MR. MALANGA: Okay, I have no other
9 questions, thank you.

10 CHAIRMAN NEUER: Thank you, Mr. Malanga.
11 Other members of the public with questions, please
12 raise your hand so that you can be recognized.

13 MR. FAGAN: Mr. Chairperson, there
14 currently are no hands raised from any member of the
15 public.

16 CHAIRMAN NEUER: Going once, going twice,
17 any members of the public please raise your hand now
18 so that you can be recognized.

19 MR. FAGAN: No hands are raised -- oh,
20 I'm sorry, one just came up. Ms. Whitmer, welcome
21 back to the meeting, please state your name and
22 address for the record.

23 MS. WHITMER: Thank you. Amy Whitmer,
24 13 Franklin Avenue.

25 I'm just wondering about all the trees

1 that are very near the fence. I mean, I'm not
2 hearing why so many other trees need to be removed.
3 I understand those large trees that could fall over
4 and damage the facilities, I understand why those
5 should be removed, but why so many other trees?

6 CHAIRMAN NEUER: Respectfully, those,
7 that's not part of tonight's testimony, that was part
8 of the witness's testimony in prior meetings.

9 MS. WHITMER: Oh, I'm sorry.

10 CHAIRMAN NEUER: No, that's okay. If you
11 could understand that, I'll direct the witness to
12 answer the question, but let's limit your
13 questioning, if you have any others, to what was
14 presented this evening.

15 MS. WHITMER: Okay.

16 CHAIRMAN NEUER: Mr. Futey, are you able
17 to answer the question?

18 MR. FUTEY: Yes, I mean, most of the
19 trees actually along with the fence line especially
20 along Prospect Avenue, they were already previously
21 removed because they were considered a hazard. The
22 previous forester reached out to PSE&G with that
23 concern. So they were removed because they were
24 dropping limbs and they were primarily ash trees
25 which are being affected by a number of ash --

1 actually kind of rampant on the site right now with
2 the existing trees. So, most of those have already
3 been removed, and there is really not many more
4 slated for removal along the fence line. Where there
5 is a cluster, it is down by the entrance on Mount
6 Pleasant Avenue, they are slated for removal not
7 really because of the fence as much as the
8 bioretention basin that's going there because the
9 grading there, when we're grading down, we are gonna
10 be cutting out the root stock of those trees and the
11 viability of those, it's just, the long term health,
12 it's a risk, it's a safety hazard.

13 MS. WHITMER: Right, okay, thank you
14 very much.

15 CHAIRMAN NEUER: Thank you. Mr. Fagan,
16 any other hands up now?

17 MR. FAGAN: Mr. Chairperson, there are no
18 other hands raised. Oh, I'm sorry, one just came up.
19 Andy Macleod, welcome to the meeting, please state
20 your name and address for the record.

21 MR. MACLEOD: Hi, my name is Andrew
22 Macleod, 19 Fundus Road.

23 MR. FAGAN: Please continue.

24 MR. MACLEOD: Thank you so much, just a
25 quick question, a clarification really, apologies if

1 this has been discussed in a prior meeting, please
2 feel free to cut me off, but you talked about a lot
3 about the removal and the ultimate replacements as
4 part of this process. Are you able to elaborate a
5 little bit on what the replacement element looks
6 like, is it a material replacement like a commitment
7 to plant trees, or is it a monetary donation?
8 Because I think there was some reference to a
9 monetary fund or what have you, I just wanted a bit
10 more clarification of what the actual eventual
11 replacements of the trees would look like.

12 CHAIRMAN NEUER: That wasn't testified to
13 this evening, I'm gonna allow the witness to answer
14 the question.

15 MR. FUTEY: Can I share my screen again,
16 Mr. Chairman.

17 CHAIRMAN NEUER: Surely.

18 MR. FUTEY: I can show you some of the
19 proposed plan. So, with the new ordinance --

20 CHAIRMAN NEUER: Can you describe the
21 drawing?

22 MR. FUTEY: Sure, the revised date is
23 8/11/2024.

24 CHAIRMAN NEUER: Thank you.

25 MR. FUTEY: So, this is the proposed

1 plan. We're coming in with the new tree ordinance,
2 actually the difference between the two, the previous
3 tree ordinance, we were in compliance with that with
4 the original application, that required 167 trees to
5 be replanted on the site. We came back with that
6 plan at 170. With the new tree ordinance, those
7 numbers went way up. The whole number was 351, we're
8 able -- or 350, and we're able to get 317 trees
9 onsite, which is overlooking that here.

10 So, the intent with this plan was to
11 essentially mimic what is there now, with the new
12 plant material. So, we have a variety of species, a
13 mix of shade trees, a mix of evergreen trees,
14 ornamental trees filling out the understory, and then
15 we do have some evergreen and deciduous shrubs that
16 we're proposing. The placement of the trees
17 primarily along the fence line, we're keeping them
18 deciduous as they are now, so the site's gonna have
19 some visual opacity, especially along Prospect Avenue
20 here. We have evergreen trees that are proposed
21 towards the middle of the site, so you have an
22 evergreen screen which doesn't exist today. One of
23 the benefits here is that we can be intentional with
24 our planting that we're coming back with so many
25 trees.

1 So, the evergreen trees are gonna provide
2 that year round visual barrier as you're moving past
3 the site, but you still have the depth of view
4 because we have deciduous trees right at the fence
5 line, and that's true going pretty much with the
6 perimeter, the entire perimeter of Prospect Avenue.
7 It is a little different right around the front
8 entrance.

9 The front entrance, we do have the
10 bioretention basins, so we're limited on the amount
11 of space that we have. We have proposed a very dense
12 planting here, this is primarily evergreen. So
13 again, we're trying to shield the stations to the
14 best degree possible. We do have a mix of species, I
15 don't like having a monoculture of anything, so we
16 have a number of different species, we can give a
17 sense with the tags at the bottom here, and this also
18 includes some ornamental trees too, so there will be
19 some flowering interest throughout the year as well.
20 That's a little bit of a tour of the proposed plan.

21 MR. MACLEOD: Thank you so much, I
22 really appreciate it. Just, the last question I have
23 was just about, is there a delta between the number
24 of trees that are proposed as part of the
25 replacement, and the number of trees that are gonna

1 be removed, and if so what would that look like if
2 that's something that you can answer tonight?

3 MR. FUTEY: In terms of?

4 MR. MACLEOD: The number of trees that
5 are gonna be removed in comparative to the number of
6 trees that are gonna be replaced.

7 MR. FUTEY: We're gonna be replacing,
8 we're gonna be putting 317 trees onsite. The ones
9 that are removed as on this plan, and we have that
10 at, there are 136 viable.

11 MR. MACLEOD: No further questions,
12 thank you, everybody.

13 CHAIRMAN NEUER: Thank you, Mr. Macleod.
14 Mr. Fagan, any other hands going up?

15 MR. FAGAN: Mr. Chairperson, there are
16 currently no hands raised in the audience.

17 CHAIRMAN NEUER: Okay, then the public
18 questioning portion of the meeting and this witness's
19 testimony has ended. Any redirect, Ms. Porter?

20 MS. PORTER: Yes, Mr. Chairman, I just had
21 one or two questions.

22 Mr. Futey, in terms of the change under
23 the old ordinance where we were replacing 167 trees
24 and the new ordinance where we are replacing 317
25 trees, is it your understanding that PSE&G is not

1 required to comply with the new tree ordinance by
2 virtue of the timing of it's application, but chose
3 to do that voluntarily in connection with this
4 application?

5 MR. FUTEY: That is my understanding
6 since it was initially approved prior to the change
7 in the ordinance.

8 MS. PORTER: Thank you.

9 CHAIRMAN NEUER: Okay. Thank you very
10 much. Any other witnesses, Ms. Porter?

11 MS. PORTER: No, Mr. Chairman, that
12 concludes our testimony.

13 CHAIRMAN NEUER: So, if you have no
14 further witnesses, Mr. Malanga, do you have a
15 witness? Are you ready to present?

16 MR. MALANGA: I have no witnesses for
17 this evening as previously discussed.

18 CHAIRMAN NEUER: During this portion of
19 the meeting, the issue for December 12 with staff and
20 professionals has been resolved. Let me just, since
21 Ms. Porter and Mr. Malanga both do not have issues
22 with regard to a special meeting on December 12,
23 let's take a pole of everyone here to see if we can
24 set that up at the present time, and that way we may
25 not have to have anybody show up on the 21st. We did

1 circulate an e-mail today, Mr. Flynn, is somebody
2 from your office able to cover a meeting on December
3 12?

4 MR. FLYNN: We can make it work.

5 CHAIRMAN NEUER: Thank you so much.
6 Mr. Williams?

7 MR. WILLIAMS: We will also make it
8 work, Mr. Chairman.

9 CHAIRMAN NEUER: Thank you so much. Mr.
10 Hess, I believe you already sent an e-mail to that
11 effect.

12 MR. HESS: Yes, I am available on
13 December 12.

14 CHAIRMAN NEUER: Okay. Mr. Barbee?

15 MR. BARBEE: I will avail myself for
16 December 12.

17 CHAIRMAN NEUER: Mr. Dannemiller?

18 MR. DANNEMILLER: Yes.

19 CHAIRMAN NEUER: Mr. Eben?

20 MR. EBEN: Yes.

21 CHAIRMAN NEUER: Thank you. Mr. Ricci?

22 MR. RICCI: I'll need to verify tomorrow,
23 but I believe yes.

24 CHAIRMAN NEUER: Tentative. Mr. Scott?

25 MR. SCOTT: Yes, 12/12 works for me.

1 CHAIRMAN NEUER: Thank you. Mr. Sussman?

2 MR. SUSSMAN: Yes, Mr. Chairman, as of
3 now, I am available on the 12th.

4 CHAIRMAN NEUER: And I'm available so
5 that's 6 and possibly a 7th. So, you, if we have
6 everybody then you got 7 and if we went to a vote
7 that night, you would have a full board. So, Ms.
8 Porter, are you okay for December 12, then?

9 MS. PORTER: Yes, we are, Mr. Chairman.

10 CHAIRMAN NEUER: Mr. Malanga?

11 MR. MALANGA: Yes, Mr. Chairman.

12 CHAIRMAN NEUER: Okay. Mr. Malanga,
13 please make sure that everybody that you need to
14 present is here because I'm loathed to further
15 adjournments.

16 MR. MALANGA: Understood, Mr. Chairman.

17 CHAIRMAN NEUER: Okay. Members of the
18 public --

19 MR. FLYNN: Do we need an extension of
20 time for decision?

21 CHAIRMAN NEUER: I'm getting that from Ms.
22 Porter. Actually, our application form includes a
23 full extension. Ms. Porter, will you stipulate on
24 the record that you grant an extension of the
25 statutory time until December 13?

1 MS. PORTER: Yes, I will, Mr. Chairman.

2 CHAIRMAN NEUER: Okay, you'll fill out the
3 necessary paperwork and send it to Mr. Chandler,
4 please?

5 MS. PORTER: Yes, I will.

6 CHAIRMAN NEUER: So, based upon the
7 establishment of the special meeting on December 12,
8 this matter will not be heard on November 21, there
9 will be no testimony taken. The next meeting on this
10 application is December 12th. Members of the public,
11 you will not receive any further notice. This is
12 your notice that this application will be continued
13 until a special meeting to be held on December 12,
14 2024. I see nothing else on our agenda for this
15 evening. I want to thank you Ms. Chandler for taking
16 care of what had to be taken care of, and this
17 meeting is adjourned. Thank you all.

18

19 (Hearing was adjourned at 9:09 p.m.)

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C E R T I F I C A T E

I, Deanna Wizbicki, a Court Reporter of the State of New Jersey, certify that the foregoing is a true and accurate verbatim transcript of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Deanna Wizbicki
Notary ID No: 2330518

DATED 10/30/2024

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