RS

Law Offices of
Richard Schkolnick, LLC

75 Main Street, Suite 201
Millburn, NJ 07041

973-232-5061

Rick@SchkolnickLaw.com
SchkolnickLaw.com

October 6, 2026

**VIA Email Only**

Dr. Robert Bagoff, Chairman
Planning Board
Township of West Orange
66 Main Street, Room 214
West Orange, NJ 07052

**Re: Crestmont Country Club**
**750 Eagle Rock Avenue**
**Block 174, Lot 1.01**

Dear Dr. Bagoff:

This Firm represents Crestmont Country Club, Inc. ("Crestmont"). We have the letter dated September 16, 2026 from Paul Tractenberg, Esq., requesting that you, as the presiding officer of the Planning Board, issue a broad subpoena for a wide series of documents. For the reasons that follow, Crestmont requests that this request be denied in its entirety.

At the outset, we mention that Mr. Tractenberg has not cited any case law (or other guidance) for a legal standard to guide his request for such a broad subpoena in a land use proceeding. We could not locate any such case law or guidance either.

We note two other relevant matters. First, Mr. Tractenberg lists his address as "96 Sullivan Drive." We do not know if that address is a home or business, or whether Mr. Tractenberg resides or owns property within 200 feet of the subject parcel. Our internet search reveals that 96 Sullivan Drive is approximately one half mile (as the crow flies) from the subject site, and a longer driving distance. We trust that the Board will consider whether Mr. Tractenberg is an "interested party" living within 200 feet and the implications of allowing a person living (or working) a material distance from a proposed development site to have such a profound impact on a land use proceeding. See generally N.J.S.A. 40:55D-4 (defining "interested party"). This is not a situation in which a property owner is faced, for example, with a proposal for an all night fast food restaurant on an immediately adjacent property. The pending application before the Board is a proposal that does not put forth any new buildings or structures, located (we believe)

a half mile from Mr. Tractenberg's residence. Yet, the implications of granting the request are profound.

Second, we trust that the Board understands that issuance of a subpoena for documents in a land use proceeding in exceedingly rare and that issuance of a subpoena in this matter will, without doubt, result in a significant delay to this application. Approval of the request will also invite similar requests in every contested matter that comes before this Board, exponentially raising costs on applicants and their professionals. The Board will, we can reasonably predict, be engulfed with subpoena requests similar to the one made by Mr. Tractenberg's and its decision here will undoubtedly be cited as authority.

We treat each request in the order set forth in Mr. Tractenberg's letter.

1. The 2025 WEHI -Crestmont Agreement

Mr. Tractenberg fails to explain how the 2025 WEHI/Crestmont agreement is related to the land use issues at stake in this matter. He does not say how this agreement impacts the statutory criteria for c" variances or site plan approval. His request, we suggest, is a fishing expedition.

This matter is a routine request for site plan approval with 'c' variances, filed by Crestmont as property owner in good faith and in accord with its rights as a property owner and the MLUL. Ms. Cancellaro, Crestmont's General Manager and Chief Operating Officer testified about this agreement and its origins. Mr. Tractenberg had an opportunity to cross examine her. Her testimony was complete months ago.

Mr. Tractenberg cites no authority the proposition in his letter (page 4, bottom) that whether Crestmont "independently conceived, commissioned, and financed" the proposal before the Board is actually relevant to the Board's evaluation of this matter. Ms. Cancellaro testified about Crestmont's legitimate business reasons for this application, including the proposed parking lot expansion and safety improvements that would accrue from the closing of the existing exit driveway and reconfiguration to create a new 4-way intersection. She testified that she was approached by WEHI, and that she was presented with documentation (which is a public record) wherein the Township of West Orange committed to exercising eminent domain in order to construct the traffic signal at issue. She testified further that Crestmont made a reasonable business decision to negotiate with WEHI in order to further its own interests and avoid the logistical "mess" that would undoubtedly take place if Crestmont did not amicably resolve the matter.

Mr. Tractenberg is certainly free to make arguments impugning Ms. Cancellaro's credibility or Crestmont's motives. But, he should not be permitted to take advantage of the Board's subpoena power to delay this case, add monumental costs to the proceedings, and go on a fishing expedition.

We note that Mr. Tractenberg also seeks a 'privilege' log of attorney-client communications that are not produced. He does not identify who would resolve disputes about Attorney-client privilege or the desired privilege log. Simply stated, a land use proceeding is not litigation. Acceptance of Mr. Tractenberg's request would add enormous cost, monumental delay and vast uncertainty (which no established mechanism to resolve what will undoubtedly be numerous "litigation type" disputes).

2. The W-9 and Escrow Funding Documents

Mr. Tractenberg has again failed to explain how the W-9 and "escrow funding documents" are relevant to the land use issues at stake.

Should he so desire, Mr. Tractenberg can argue to the Board that it should consider thw W-9 form or "escrow funding agreement" in its deliberations. However, we fail to see how information on the W-9 form or the identity of the payor of the escrow impacts the Board's consideration of the **land use issues** at stake here. And Mr. Tractenberg has not presented any case law or other authority to support the proposition that such information is relevant to the standards set forth in the MLUL for site plan approval or 'c' variances.

We note further that the W-9 is a sensitive tax document containing information and in today's world of scams and fraud extreme caution must be taken prior to its release.

3. The Crestmont-Langan Agreements

Again, Mr. Tractenberg has failed to explain why a contract between Crestmont and Langan (the engineering firm) is relevant to the land use proceedings before the Board. This request, we submit, appears to be another fishing expedition seeking information that is not germane to the Board's factual and legal considerations.

To the extent that Mr. Tractenberg desires to show bias of the witnesses by revealing who pays their invoices, paid, Mr. Tractenberg had an opportunity to cross examine the "Langan" witnesses. And he is free to argue that their opinions should not be valued by the Board because of such (presumed) bias.

However, if this request is granted, we have little doubt of the "Pandora's Box" that would be opened. Every Planning Board matter with an objector would be met with such a request and the Board, it seems, would not be left with any principled way to deny such a request.

Of course, the civil engineering plans prepared by the "Langhan" witnesses and their expert testimony ARE relevant and there has already been hours (and hours) of testimony and cross examination, to an extent a neutral observer might consider *ad nauseam*. We submit that this request is a transparent effort to delay this matter.

4. Langan Billing and Payment Records

Mr. Tractenberg has not explained how Langan's billing records are relevant to the land use issues at stake in this matter.

If this request is granted, we have little doubt of the "Pandora's Box" that would be opened. Every Planning Board application with an objector would be met with such a request and the Board, it seems, would not be left with any principled way to deny it.

5. WEHI/Garden Homes/Langan Agreement Related to Crestmont

This request seems, in substantial part, to be a repeat of Request # 4.

Mr. Tractenberg has not explained how 'agreements," "proposals," "invoices" that may exist between WEHI and Langan are relevant to the land use issues before this Board. Again, approval of this request will likely create a precedent which will cause land use proceedings to spin out of control.

Mr. Tractenberg has had a reasonable opportunity to cross examine the "Langan witnesses" as to any bias they may have, including but not limited to identification of the entity paying its invoices.

6. Related Communications

This request is an incredibly broad request that seeks to turn a relatively simple land use proceeding into a contested litigation -- essentially with full blown discovery. It is overbroad, vexatious and appears designed to cause delay and enormous expense. The request is made months after the initial hearing in this matter in June. Mr. Tractenberg has not cited any land use matters in New Jersey where such a broad request has been granted.

Respectfully, this request must be rejected. This is not litigation. It is a land use proceeding. The expert reports and witness testimony are, of course relevant. Mr. Tractenberg has had an opportunity to cross examine the witnesses and he certainly will have an opportunity to present opposition experts and reports if he so desires. And the Board can weigh the evidence in accord with the MLUL.

What Mr. Tractenberg should not be able to do, through this subpoena request, is to delay this proceeding or turn it into full blown litigation.

Thank you for your consideration.

Very truly yours,

Richard S. Schkolnick

RSS/lp

Cc: Paul Tractenberg, Esq.(via email only)
Diana McGovern, Esq. (Board Attorney) (via email only)
James Turteltaub, Esq. (via email only)