TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
HELD VIA ZOOM CONFERENCE

WEDNESDAY OCTOBER 7, 2026 :
PLANNING BOARD MEETING :

TRANSCRIPT ORDERED BY:

UNKNOWN

PRESIDING:

CHAIRMAN ROBERT BAGOFF

MEMBERS OF THE PLANNING BOARD:

PRESENT:

CHAIRMAN ROBERT BAGOFF
VICE-CHAIR JERRY GUARINO
BOARD MEMBER KEN ALPER
BOARD MEMBER CHRISTOPHER MORGAN, SR.
BOARD MEMBER LORI KAPFERER
BOARD MEMBER FRANK NOBORINE

OTHERS PRESENT:

MAYOR SUSAN McCARTNEY
COUNCILWOMAN SUSAN SCARPA
DIANA P. McGOVERN, ESQ., BOARD ATTORNEY
MALVIKA APTE, AICP/PP, CONSULTANT PLANNER
GREGORY VALESI, PE, PP, CME, CONSULTANT ENGINEER
JAMILET BAQUERIZO VITE, BOARD SECRETARY

APPEARANCES FOR THE APPLICANT:

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Attorney for the Applicant, Crestmont Country Club

JAMES M. TURTELTAUB, ESQ. (The Turteltaub Law Firm, LLC)
Attorney for the Objector

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CHAIRMAN BAGOFF: PB-26-03, Crestmont Country Club, 750 Eagle Rock Avenue, Block 174, Lot 1.01, zone R-2. The applicant is proposing installation of a traffic signal at the intersection of Eagle Rock Avenue and Oval Road. Modification to the existing driveway and parking area also are being proposed.

So administratively, we have a couple of things to deal with. There is a request for a subpoena from an attorney, Mr. Tractenberg, who is an objector and an interested party. Both myself and counsel have reviewed the request and I will read into the record where we are and the board will hear what I have to say.

So I have three questions. Mr. Schkolnick, these are yes/no questions. In this application, are there entities beside Crestmont Country Club that own more than 10 percent of the property sited in the application?

MR. SCHKOLNICK: There are no other.

CHAIRMAN BAGOFF: Good. Is it your testimony the appli -- that the application, if approved, will be done as proposed, a driveway exit and entrance or not?

MS. McGOVERN: Meaning whether or not a proposed traffic signal is erected.

CHAIRMAN BAGOFF: Right. Whether or not the traffic signal is erected, this project will go forward.

MR. SCHKOLNICK: Chairman, I -- I can't testify. I can represent for my client --

CHAIRMAN BAGOFF: Yeah. You represent. Can you represent that? To the best of your knowledge.

MR. SCHKOLNICK: We -- we continue to seek the approval whether or not the traffic light is ultimately approved by the county.

CHAIRMAN BAGOFF: Okay. Is this application relying on any other applications previously heard by this board in the last year to move forward?

MR. SCHKOLNICK: No. It -- it stands as -- as submitted and as testified to by the experts.

CHAIRMAN BAGOFF: Okay. PB-26-03, Crestmont Country Club, 750 Eagle Rock Avenue, Block 174, Lot 1.01, zone R-2. In the matter of PB-26-03, Crestmont Country Club, an interested party, objector, member of the public has asked the chairman, myself, of the planning board to issue a subpoena duces tecum.

A subpoena duces tecum is a legal court order that requires a person or organization to produce specific physical or digital documents, records, or tangible evidence for a legal proceeding. The Latin

phrase "duces tecum" means "you shall bring forth".

Statutory rule: according to the New Jersey Municipal Land Use Law at N.J.S.A. 40:55D-10(c), the officer providing (sic) at the board hearing or a person designated by the presiding officer is explicitly empowered to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of rev -- relevant evidence or documents. I have reviewed the request and will publish my answer to the board and the public at this time.

A request for information must follow -- be -- must have the following criteria. Will the information that is obtained relate to the zoning, site plan variance criteria, or consistency with the master pl an? These documents and testimony are required and are enumerated in our application process.

Under N.J.S.A. 40:55D-48.1, if the application is a corporation, partnership, or limited liability company applying for a specific large-scale actions such as subdividing land into six or more lots, construction of multi-family dwellings of 25 units, commercial site plan approvals, they must list the names and addresses of everyone owning a 10 percent or greater interest in the company.

The chain of ownership cascade rule under

N.J.S.A. 40:55D-48.2, if a 10 percent or greater owner itself is a corporation or partnership, the applicant must continue tracking and disclosing ownership of the chain until individual humans or non-corporate entities holding 10 percent or greater stake are fully revealed.

West Orange code 25-46.7, governing the powers and duties of the planning board expressly that the county and municipal investigations law applies to the issuance of subpoenas, the administration of oaths, and taking testimony.

West Orange code 25-48.4(a) provides that interested parties shall be afforded the right to cross-examine witnesses, either through their counsel or directly un -- un-represented, subject to the presiding officer's discretion and reasonable limitations consistent with due process.

The country club manager was presented to the planning board during open testimony. The public and objectors had the right to ask her questions of the application. The board held and is holding public hearings based on the Open Public Meetings Act.

Based on the testimony of the documents provided to date, Crestmont Country Club is not seeking approval for the placement of a traffic light. They may or may not -- that may or may not happen on a piece

of land that is part of this application. There has been testimony about upgrading the parking lot and moving the present exit from the golf club from its present location, if approved, opposite the -- the side of Oval Road.

A sidewalk along Eagle Rock Avenue is proposed on the site and that is consistent with the township's master plan.

Agreement between the parties that are not part of this application is outside the purview of the planning board unless the material interest is 10 percent or mo re. Statutory authority: the requirements is (sic) governed by the state N.J.S. 3 40:55D-48.1 and N.J.S.A. 40:55D-48.2, municipal land use applications.

Any business agreement between an applicant and their experts is not germane to the land use application. The extension of that would be any document related to payments of their experts for testimony is not relative to the decision-making process. All testimony is taken under oath and truthful as presented based on their expertise and license active in the state of New Jersey.

The placement of a traffic signal is not what the applicant seeks at this time. There may or may not

be a traffic signal placed in the future. That is under the purview of the county planning board and the governmental authorities. The planning board has not been asked in this application to decide if or if not this signal -- this intersection should be signalized.

A W-9 form is not made available to the public even when part of the land or -- or use, or zoning applica -- or in a zoning application package. While the broader land use application file is a public record open to inspection, a form W-9 contains highly sensitive personal information, P -- PHI, specifically social security numbers or employer identification numbers alongside home or business addresses and legal signatures.

A section from the IRS non-disclosure protections, per IRS regulation, information gathered from a W-9 is strictly collected for tax compliance like the interest or escrow in a 1099 reporting and cannot be disclosed for outside purposes.

When -- whatever entity designed, crafted, or financed the application is not the planning board concern. The application before us has been presented by Crestmont Country Club, a legal entity in the state of New Jersey. We're asked to look at the land use application. Whether Crestmont Country Club moves

forward based on our approval or denial, it is not what we are evaluating. Our task is to hold hearings on a land use application that proposes modification to their site.

Escrow funding, real party interest. If a person funding the escrow also holds an ownership interest in the applicant or property, the ownership disclosure rules discussed earlier may apply. But because of the interest is not in escrow itself, there's conflicts of interest. If someone on the board or a professional it relies on has a connection to further -- to funder, that is a separate issue that should be raised by your attorney.

There are usually no legal requirements that every business relationship an applicant has be disclosed at a planning board meeting in New Jersey. The disclosure requirement is filed to ownership N.J.S.A. 40:55D-48.1 and 48.2 require a corporation or partnership applying for a subdivision site plan or variance to disclose names and addresses of ownership of 10 percent or more of its stock or interest traced up through layers -- layered entities. A party with no ownership interest falls outside of that requirement.

The request for the subpoena has not been narrowly tailored. Each request would open up business

dealings with entities that are not participant -- part -- or participant in this application. The purpose of this application for subpoena relates to business dealings and not to land use law and ordinances of which we are charged with hearing.

Based on the review of myself and the planning board attorney, I do not find that this (sic) material to be relevant to the ordinance, site plan, zone and wouldn't -- would not enhance the decision-making process of planning board.

Therefore, I will not execute the power granted unto to issue a subpoena duces tecum under New Jersey Municipal Land Use Law and New Jersey S.A. 40:55D-10(c).

The reason I read this into the record was the -- the requestor -- the requestor of the subpoena asked that I address each issue. I also wanted the planning board to understand that the issues requested are outside of our purview and have -- and again, after speaking with Ms. McGovern and spending hours and hours researching MLUL and law, this is what I've come up with and that's where we stand. So, the subpoena will -- is not going to be issued, and that's my decision.

Okay. Mr. Schkolnick, do you have to say anything, Sir?

MR. SCHKOLNICK: Not about the subpoena, Chairman. I can give a little recap for everybody to sort of get our heads back into it. Would that --

CHAIRMAN BAGOFF: Go right ahead, Sir.

MR. SCHKOLNICK: -- be acceptable?

CHAIRMAN BAGOFF: Yup. Go right ahead. Quickly.

MR. SCHKOLNICK: Chairman, the hearings in this application started on June 3rd. That night, we had the civil engineer from Langan, John Cote. He started off and presented the aerial photograph. Then we moved on to Ms. Cancellaro. She is Crestmont's general manager and chief operating officer. We had her direct and we had her cross, and then we started with Karl Pehnke, the traffic engineer, for his direct. That was June 3rd.

We came back July 1st. We had Mr. Pehnke's cross and we had the direct of John Cote, the civil engineer. And we wrapped up on July 1st. Then we were back on September 2nd. We had Mr. Cote on his cross and then we had the affirmative testimony of the planner. He went through the criteria, talked about each of the variances, and we started with his direct. It did go on for a bit but we didn't finish.

So, that's where we pick up, Chairman. We

had the three hearings: June 3rd, July 1st, September 2nd. Mr. Moronski's our final witness at this point. And we are in the middle of his cross.

CHAIRMAN BAGOFF: Okay. Mr. Moronski, you realize you're still under oath, Sir?

MR. MORONSKI: I do.

CHAIRMAN BAGOFF: Okay. We were at public comment. I mean, public questions, as I recall?

MR. MORONSKI: Yes.

CHAIRMAN BAGOFF: Okay. Do any members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified. Do any members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Paul? Please state your name and address for the record.

MS. McGOVERN: Mr. Turteltaub's hand is up.

CHAIRMAN BAGOFF: Okay. Mr. Turteltaub?

MR. TURTELTAUB: Good evening, Mr. Moronski. I just -- I had a few questions for you.

MS. McGOVERN: Hold on one second. We don't have a -- this is -- does not get a timer because Mr. Turteltaub is an attorney representing an objector.

MR. TURTELTAUB: Yes. Yup.

MS. McGOVERN: I'm sor -- I don't think.

MR. TURTELTAUB: That's okay. That's okay.

MS. McGOVERN: I'm sorry, Mr. Turteltaub.

MR. TURTELTAUB: That's all right.

CROSS EXAMINATION BY MR. TURTELTAUB:

Q Mr. Moronski, a couple questions for you. On -- on the applications before the board, we've heard a lot of testimony regarding the traffic signal, and now tonight we're hearing that it's not germane to this application. So, my question to you is what in your testimony -- is your testimony dependent upon the traffic light being there or not?

A Um, no.

MR. SCHKOLNICK: Mr. Chairman, I'll object to that que -- Sean, excuse me. I'll object to that question. First, we didn't say it's not germane. I was asked a question, I asked it specifically. You can go ahead and answer.

MR. TURTELTAUB: No. I -- I think that before you lead the -- the witness on this, my concern here is this, is that this application has spent a lot of time on a traffic signal, on the benefits of a traffic signal, on the changes that are going to occur because of this, it's going to clean up problems, it's going to do -- it's -- it's been -- most of the

testimony here is the impact of a traffic signal on this application, and all of the testimony has been focused on that. And now, tonight, we're hearing that the traffic signal -- this -- is not germane to this application, that it's for the county board to do it.

And I'm trying to understand what the application is before this board because right now, according to your -- your decision -- the chairman's decision on the subpoena, which, again, I have -- I have not weighed in on that, but I'm just confused trying to li -- understand what this application is because this application I think has to be redone, and I have other concerns about -- about the application itself, but is -- is this testimony about a -- a exit drive out onto -- onto Eagle Rock Avenue, or is this application about redoing an intersection, changing the -- the whole intersection and the way cars travel through this area? Because I don't know and I -- and I think that it's germane to what has happened already so far tonight. Thank you.

CHAIRMAN BAGOFF: Okay. Mr. Schkolnick?

MR. SCHKOLNICK: Chairman, no one testified that it's not germane, and so I object to the assumption that that is on the record that the traffic signal is not germane. You asked me a question and you

said does Crestmont want to pursue this application regardless of what the county ultimately does, and I answered yes, we seek to continue to pursue the application whether the county approves it or doesn't approve it, and that was what I put forward as a representation for my client.

So, I -- let Mr. Moronski answer if he wants, but the foundation that there -- it's in the record that the traffic light is not germane is an incorrect assumption and really has a chance to prejudice this proceeding.

MR. TURTELTAUB: I -- I -- if I may, Mr. Chairman? The --

CHAIRMAN BAGOFF: Go right ahead, Mr. Turteltaub.

MR. TURTELTAUB: The question is going to be eventually presented to this board to take a vote, and what are you voting on? Because is -- is the site plan going to be contingent upon a traffic light or is it not? Because if it is contingent upon a traffic light, then some of the issues that you raise there about whether somebody else is financing it or somebody else might benefit, it may be an issue, I don't know.

But the -- what I'm -- what I'm trying to figure out is having listened to the testimony, and I

know I'm late to the game here. Having listened to the testimony, having got caught up to speed, this whole application has been about a traffic light, and -- and your -- the chairman's ruling and the way this has gone tonight is well, we may or may not have it. But if it's not going to be a traffic light, then this whole application has to be redone and analyzed as if there's no traffic light there at all, and it is just going to be an exit drive out onto Eagle Rock Avenue.

Traffic study's done on that basis, everything done on the basis of no traffic light because if it doesn't matter, then it has to be -- it has to proceed as if there is no traffic light.

CHAIRMAN BAGOFF: Mr. Schkolnick?

MR. SCHKOLNICK: Chairman, we had extensive testimony which Mr. Turteltaub did not take part in that there have been many, many meetings with the county and the very, very high odds are the county is going to approve this traffic light. It hasn't made a final decision, but we had testimony about years of meetings with the county, so we assume they're going to approve it.

We are not in a position now to decide. If the board approves it, they can do what they want with a condition of approval, to -- to make it make sense,

but whatever the colliloquy (sic) about the ruling on the subpoena was a question that you asked me as a representative. And I testified Crestmont wants to move forward to complete this process, and we're entitled to a hearing and to complete this process in a reasonable time.

The application does discuss the traffic light and we believe it's going to be approved, but we want to move forward and get to the end of this, and the county is going to do, like in every other circumstance, there's another government agency that has to approve the rest of the application. Every project has other government approvals, and we don't know if they're going to be granted or not at the end.

So we haven't withdrawn a request for a traffic signal. It's still relevant to it, and the board will decide at the end how it wants to decide this application. This is a -- this is an attempt at obfuscation, I submit.

MR. TURTELTAUB: No.

MR. SCHKOLNICK: It's --

MR. TURTELTAUB: This is a question of what is the -- what is the application before the board? Is it just an exit drive, or is it a whole new intersection? And -- and I think all of the testimony,

then, should -- should flow from there. And what I hear tonight is that this is just an exit drive.

MR. SCHKOLNICK: It's an application for an exit drive and a traffic light if the county ultimately approves it. We've made representations we've met with the county. They've -- they've verbally told us it makes a lot of sense. They would have liked to have done it, but they don't have the money for it.

CHAIRMAN BAGOFF: Okay.

MR. SCHKOLNICK: And the board will deci -- and the board will decide, after the evidence is in, how it wants to decide on the application. We're not eliminating the -- the potential for the traffic light there. Nobody testified to that. The plans show it. I -- I think what you're --

MR. TURTELTAUB: So is it -- is this pro -- is this project conditioned upon the obtaining of the traffic signal?

MR. SCHKOLNICK: That'll be for the board to decide. But --

MR. TURTELTAUB: I think that's a material -- it's a material flaw in this whole application because you can't -- you can't assess traffic, you can't assess a number of things, including some of the changes that they're making to the site just to accommodate this

traffic light; the location of it, everything else.

MR. SCHKOLNICK: That's an incorrect statement of how land use law works. The MLUL says we apply and other government approvals are still out there, and -- and the board cannot stop the application because we have other government approvals pending. Every application is like this.

MR. TURTELTAUB: But the question is going to -- the application is being presented in a manner that -- that still is unintelligible in the sense that you don't know whether -- what Mr. Schkolnick's talking about is if it's going to be done with the traffic light, then it is a condition of approval, a condition of proceeding with the project is you'd have to get county approval for the traffic light. That -- that would be the -- that would be the condition. But if it's not going to be a condition, then we have to assume it doesn't exist because -- because otherwise, you're getting -- you may approve this application with the assumption maybe there's going to be a traffic light, but there's not going to be any. And we have Mr. Moronski, who's testifying about the benefits of this project, we've had engineers talking about all the great things this project is going to do Eagle Rock Avenue but if it doesn't matter, then -- then what are

we talking about here?

MR. SCHKOLNICK: That'll be for the board to decide, Jim, at the end. If it -- if it feels that the -- the benefits aren't there, the board will say approved and you've got to go get the approval for the traffic signal. We're prepared to live with that. But I'm entitled to move forward with the application. And -- and to -- and to incorrectly characterize that it's not germane, I think is unfair and prejudicial. That's my point, Chairman. I made my point. He can answer the quest --

MR. TURTELTAUB: I've made mine.

MR. SCHKOLNICK: Sean can answer the question. I didn't tell him to not answer the question. I said that that assu -- that clever assumption to say it's not germane is -- is not what this record reflects.

CHAIRMAN BAGOFF: Okay. Mr. Moronski, can you answer Mr. -- Mr. Turteltaub, would you re-ask the question again just for clarity, and Mr. Moronski, you'll see if you can answer it.

BY MR. TURTELTAUB:

Q And I'll -- and I'll try to rephrase it in -- in -- Mr. Moronski, is the traffic light germane to your testimony? Does it have any impact on your

planning analysis of this re -- of this project?

A Well, when I -- when I went through my testimony prior and I went through what I believe were the -- the benefits, the public benefits, in talking about the roadway improvements, it -- it didn't just refer to a traffic light per se. We talked about I believe the -- the safety benefits in terms of the design, the aesthetic benefits along the roadway.

But I also discussed the benefits of the project on the site itself. So, you know, there were various points where I believe the public benefits of the application derive from it. It wasn't tied to one particular aspect of it, but looking at the entirety of the application.

Q So when you say you look at the entirety of the application and the benefits to the public, Crestmont is a private country club. Correct?

A Correct.

Q Okay. And the general public is not allowed to trans -- to traverse the driveways on -- on Crestmont Country Club. Correct?

A Only guests -- guests come. Correct.

Q Okay. And when you talk about the -- the road alignments, the intersection, those -- those are benefits that -- for -- assuming don't exist, what

other public benefits, then, are derived from this project?

A Well, I talked about the roadway improvements. You're looking beyond just a traffic signal. I mentioned the improvements along the roadway, the addition of a sidewalk, the addition of landscaping, the sidewalks going to Laurel, the roadway improvements, and also, the on-site improvements with regards to stormwater -- im -- improving the stormwater situation certainly has benefits beyond the property.

And to have -- to have intersections that align, you know, ultimately the decision on the traffic signal is going to be up to the county, but it's better to have intersections that align as opposed to disjointed intersections. So from my point of view, it certainly is a benefit to have that driveway align as opposed to the current situation now.

Q But -- but the alignments may not happen if the county doesn't approve it. Is that correct?

A I don't know that that's true.

Q Well, okay. Doesn't -- doesn't this -- this application require county bla -- planning board approval?

A There -- yes, it does.

Q Okay.

A Yes, it does.
Q So if they -- if they deny certain aspects of this, they could deny the -- the realignment or the -- realignment of Eagle Rock Avenue. Correct?
A They could do it for a variety of reasons.
Q They could do it for -- they could make it so that there are no changes done at all onto Eagle Rock Avenue. Correct?
A Again, this is -- you know, you -- you can go in all sorts of directions with it. This is the application that we're -- we're proposing and not just myself but my -- my colleagues outlined the technical and the planning reasons as to why what's being proposed does have public benefit in terms of the road improvements, not just the traffic signal.
Q Okay. But -- but you're talking about alignment and other issues that are subject to county approval. Correct?
A Any -- any application that's going to have access to and from Eagle Rock Avenue, the county's going to have to review it.
Q They'll have to review it, but -- but to be conditioned -- but if the application is not conditioned upon it, about those changes in the roadway, about the intersection, then none of those

benefits are going to exist. Correct?
A But -- but that -- applications are conditioned all the time on whether it's county approval, state agency approvals. It -- it's -- I -- that's pretty consistent in -- in land use and zoning. I don't think that's unusual to require county approval on a county road. And -- and if there were state approvals here, the same thing.
Q So -- what we've heard -- we've heard discussion here tonight earlier on about the fact that this application is not contingent upon the traffic light and all these county improvements. So if they don't exist, then the benefit testimony you said from anything that happens on Eagle Rock Avenue wouldn't exist. Isn't that correct?
A Again, you're -- you're having a hypothetical situation. I'm addressing the application that's -- that's in front of us.
Q Okay.
A And I -- I have no reason to believe that it's not going forward, and I believe that for the reasons I've outlined in my testimony and the others, that it -- it does meet the criteria.
Q And it's your professional opinion that the application is identical whether it has the traffic

light or it doesn't have the traffic light, whether changes happen on Eagle Rock Avenue or they don't? In your opinion --
A I don't know what you mean by identical.
Q -- exact same application.
A I don't know what you mean by identical, because obviously if there's a change in the application, it -- it might be different. So could you --
Q Okay.
A -- clarify that, please?
Q So I'm saying is is that -- is that is your analysis -- you're saying that you're opinion of this project is the exact same whether it has a traffic light or not?
A My -- my opinion of this project is based on what's being proposed --
Q Okay.
A -- and that's what's in front of us. And ultimately, it's going to be subject to county approval because as was noted, we're on a county road and the county has to make their decisions regarding the application.
Q Okay. I have nothing further.
A Thank you.
CHAIRMAN BAGOFF: Do any other members of the

public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified. Do any other members of the public have any questions for Mr. Moronski? Please raise your hand and be identified.
ZOOM OPERATOR: V. Misarti, please state your name and address for the record.
MR. MISARTI: Yes. Hi. My name is Victor Misarti. My address is Mayfair Drive in West Orange, and I do have a question. So, Mr. Maroney -- Moronski, that I was going to ask last time, we ran out of time.
So, my question was there was -- there were two reports that were done by the planning board planner and the planning board attorney and they listed of -- reviews of the site plan that was submitted. And I asked the question, you know, that, you know, it seems like we need all this additional information before the planning board can make a decision. Wait. I take it back. I didn't ask you, I asked the engineer, Cote, from Langan.
MR. MORONSKI: Okay.
MR. MISARTI: And he said yes. But then it was questioned later by a different member of the public and the answer was really no, like, it was going to be addressed after the planning board votes for

whether to approve this or not.

So, my question tonight is, you know, how -- how can the planning board possibly vote if, you know, their own experts have -- have said that, you know, additional is needed, you know, before they can vote. So that -- that's my question.

MR. MORONSKI: Okay. Thank you.

MR. SCHKOLNICK: Chairman? Chairman? We do -- we do not have a report from the planning board attorney, so I don't know what the reference is to. It may be planning board engineer and planner, but we do not have a report from the planning board attorney as part of this file.

CHAIRMAN BAGOFF: And I agree with that.

MR. MISARTI: Okay. Maybe I --

MS. McGOVERN: I don't do reports.

MR. MISARTI: -- said it wrong. So the planning board planner, which was HGA, and then the planning board engineer, which is Artheon, and so the -- they both had reports, let's say from April -- let's say to -- and June, April and June of this year, and they had lists of things that they wanted to see on the site plans. You know, that's what I meant to say.

MR. SCHKOLNICK: And we stated on the record that we would agree to the items in those reports as

conditions of approval. Those are minor technical items that were customarily handled in resolution compliance plans and we agreed to make all the changes.

MR. MISARTI: Okay. So again, so just a little bit further on this question. You know, the issues were about, you know, in put from the West Orange Forester. Obviously, Essex County, which you already addressed, but the trees, the trees that were supposed to be planted off-site, steep slope, the driveway slope, and the lighting. So those don't seem like, you know, minor issues that, you know, we could change later. I mean, it would change the whole, you know, design of -- of the site plan, so, you know. That was just my question. You know, how -- how could the planning board vote before any of that information is before them?

MR. MORONSKI: Well, Mr. Misarti, as -- as was -- well, it was noted by our attorney, we've reviewed the letters. Plans have been updated. And whatever issues would have to be addressed, as there typically are in applications, they are minor in scale. They don't involve substantial changes to the plan but rather, meeting requirements -- the -- the board professionals making sure that requirements are met.

For example, you know, with land -- the

landscape -- landscaping, that certain tree planting types are included. So, it's -- it's really more dealing with the -- the last technical type of issues as opposed to, you know, broadly changing the application.

MR. MISARTI: Okay. Great. And can I just one more question? Do I have time?

CHAIRMAN BAGOFF: Go ahead, Sir.

MR. MISARTI: Okay. Thank you. So, you know, I just -- my question is about all these waivers. There are waivers and variances, we're asking for all these different things, and it's all, you know, being driven by the fact that, you know, the applicant wants to change the driveway.

You know, so I'm just wondering, and I don't know why there's really no -- to me, I'm just making a comment, it doesn't -- well, I'm asking the question. Why -- why do they need to change the driveway? It seems adequate the way it is. They wouldn't have to do any -- need any of these variances if they just left the driveway. Why wouldn't they want to just leave it?

MR. MORONSKI: I will just say that the application stands on its own merits, as was discussed in prior testimony about the improved alignment, as has been spoken about. And, you know, the var -- the

variances, I outlined the reasons, the planning criteria, and -- and Mr. Cote discussed the technical aspects regarding the variances.

MR. MISARTI: Okay. Thank you for letting me ask those questions.

CHAIRMAN BAGOFF: Thank you.

MR. MORONSKI: Thank you, Mr. Misarti.

CHAIRMAN BAGOFF: And one housekeeping. People who ask questions, you have time to ask a question tonight of the expert. You have three minutes. The clock will stop when you stop asking your questions. Questions start with if, when, why, what, here, how, where, which, and does anybody have another -- any other questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Zoom User, please state your name and address for the record.

MR. COHEN: Lawrence Cohen, Lincoln Avenue, West Orange.

CHAIRMAN BAGOFF: Go right ahead.

MR. COHEN: Yes. I have a question that sort of dovetails from the last moments of last meeting, and it really refers to what the -- the members of Crestmont Country Club, how involved they are. This is a major, major development for the -- for the club and

for major development, the membership are supposed to vote on this because they pay for it; it's paying members, it's membership -- Crestmont Club. I -- I asked the lawyer and I asked the -- the expert to please tell me that the members are involved in this, because this is a very expensive overhaul of the -- the roads and the cutting the trees and the variances and the excavation. It's -- it's a big job. They should be involved. Are they involved?

CHAIRMAN BAGOFF: That's a question for Mr. Schkolnick, if he can answer it.

MR. SCHKOLNICK: Crestmont and its leadership have authorized me to make this application on its behalf. It -- I have to assume they follow their own internal procedures and authorize their general manager and chief operating officer to pursue the application. It's not a question for Mr. Moronski, for sure.

MR. COHEN: Well, I ask this question because if somebody else is paying for it, then it won't affect the membership so much because it's being paid for by somebody else. And that may be the reason membership hasn't been notified of this big -- this big change, and I think this is very serious.

CHAIRMAN BAGOFF: I'm going to stop right there. The -- the planning board, though it sounds very

interesting, is not -- cannot hear that because it is irrelevant to zone plan ordinances and, as I said before, so I -- I want to keep this on questions for Mr. Moronski. And I -- I understand what you're asking, but this is not the venue for that.

MR. COHEN: Okay. I'll ask Mr. Moronski, though, sort of the same question. I visited the site recently and -- and just saw the -- the beauty of the original driveway going out. There's -- there's visual -- good visual clearance for the person to look either way of Eagle Rock to make a turn and I -- I think it keeps the beauty of the country club and -- and seclusion of it by not having --

CHAIRMAN BAGOFF: I'm going to ask you to ask a question. You're testifying.

MR. COHEN: I don't -- okay. My question is -- my question is does this really create a benefit for the town of West Orange by -- by -- by not keeping the seclusion and -- and solitude of this club?

MR. MORONSKI: My -- my testimony, we had discussed a public benefit with regards to the roadway improvements in addition to improvements at the club. But if you note through prior testimony that the existing -- the existing driveway had bad sight angles that made circulation practically -- practically

difficult, it certainly would be more difficult than what is being proposed.

And also, with regards to the entirety or the -- I'll call it the seclusion, as your words, of the club, most of the country club is not affected by this proposal. It's a small area centered around the parking and -- and the driveway area, so in terms of the intensity -- the intensity of the country club use, as I noted in my testimony, is not substantially increasing in any way, or changing.

MR. COHEN: Also, Mr. Moronski, I have a question about the need of a sidewalk on Laurel. This is another -- a very rural area. I do not see pedestrian walkers there, ever. I mean, I don't understand the need for the sidewalk there. It does, I think, a detriment for the town for the master plan of keeping a town like it is.

MR. SCHKOLNICK: You can take that up with the chairman. He's the one who requested it. We agreed to it. It was not originally proposed. The chairman and other board members seem to want a sidewalk, and we agreed.

MR. COHEN: Okay. Thank you very much, then. Thank you for your time.

CHAIRMAN BAGOFF: Thank you.

MR. MORONSKI: Thank you.

CHAIRMAN BAGOFF: Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Paul, please state your name and address for the record. Paul, please un-mute.

MR. TRACTENBERG: I beg your pardon. Paul Tractenberg, 96 Sullivan Drive, West Orange. I have a preliminary question. I was identified by the chair as an objector. If I'm an objector without an attorney representing me, do I have the opportunity to participate in a way similar to the way Mr. Turteltaub was participating?

CHAIRMAN BAGOFF: Ms. McGovern?

MR. TRACTENBERG: That is, not as a member of the general public.

MS. McGOVERN: Well, Mr. Turteltaub sent in a letter of representation of a third party. If you're representing yourself, it complicates things. But you never actually sent in a letter requesting to be promoted to panelist, so this is where it is.

MR. TRACTENBERG: Well, I did include in my request for a subpoena reference to me as being an objector. The chair, in reading that statement in response to the subpoena referred to me as an objector.

I would assume that qualifies me as an objector.

MS. McGOVERN: Mr. Tractenberg, just because you're an attorney and an objector doesn't mean that you become a panelist. When you're an attorney representing a client, then we -- we move you up to panelist. There are other attorneys in the town that come in and make objections that they are with the general public. That's the way it has been done in the four years that I've been working with the board.

So unless there's something different, this is the way -- this is the procedure.

MR. TRACTENBERG: Well, it -- to me, it's a curious distinction between an objector who's represented by an attorney and then the attorney can participate --

MS. McGOVERN: Well --

MR. TRACTENBERG: -- fully and an objector who's not represented by an attorney who happens to be an attorney but that's coincidental and therefore that objector is limited to the role of a general member of the public.

MS. McGOVERN: When you're representing yourself, it's a different category. There's -- there -- you know, when you're representing a client, you have a step back that you -- you are able to -- it's

just different. I'm not going to go into any further detail. That's the way it's always been handled and I don't think that it's a bad process at all. I think it's actually a better way to proceed.

MR. TRACTENBERG: Well, there is in court, if I'm correct, the notion of a pro se litigant who gets the rights of an attorney.

MS. McGOVERN: Oh, yes. If you're representing yourself in court. But you're not represen -- this here, it's public comment. You're not representing a client outside --

MR. TRACTENBERG: -- administrative proceeding. And lawyers representing objectors get one role and objectors without lawyers representing them get a totally different and secondary role. It seems to me a curious procedure that I don't think makes a lot of sense to me.

MS. McGOVERN: Well, do you have a question for the witness?

CHAIRMAN BAGOFF: Administratively, Mr. Tractenberg, I'm going to reset the clock to three minutes.

MR. TRACTENBERG: Okay. Thank you.

CHAIRMAN BAGOFF: Go right ahead, Sir.

MR. TRACTENBERG: I do have some questions.

Mr. Moronski, are you familiar with the -- the existing driveway leaving Crestmont?

MR. MORONSKI: Yes, I am.

MR. TRACTENBERG: The exit?

MR. MORONSKI: Yes, I am.

MR. TRACTENBERG: Do you know -- do you know how long it has been in existence as an exit?

MR. MORONSKI: I don't know the exact length of time, no.

MR. TRACTENBERG: But -- but do you know it's been a substantial period of time?

MR. MORONSKI: I -- I believe so, but I don't -- I don't know the definite answer to that question in terms of the specific length.

MR. TRACTENBERG: Are you aware of any accidents that resulted from that exit?

MR. MORONSKI: I did not -- I did not do any accident reports on the -- on the driveway.

MR. TRACTENBERG: Well, according to my OPRA request to the town, there are no police reports of any accidents from that intersection. Do you -- do you know how many cars during peak hours, morning and afternoon, leave that exit?

MR. MORONSKI: I did not do -- I didn't do the traffic report.

MR. TRACTENBERG: And you're therefore not familiar with it?

MR. MORONSKI: I don't have -- I don't have that information handy. I did -- I did review it, but it was not a direct part of my testimony.

MR. TRACTENBERG: Would it surprise you if I told you that the traffic report, which I have looked at carefully, indicates --

CHAIRMAN BAGOFF: Don't tell him.

MR. TRACTENBERG: -- that there are --

CHAIRMAN BAGOFF: Mr. Tractenberg, you're testifying. You're testifying, Sir.

MR. TRACTENBERG: Well, it's a preliminary to a question. Would it change --

MR. SCHKOLNICK: (Indiscernible.)

MR. TRACTENBERG: Would it change your analysis of the public benefit accruing from this change of the -- the exit if it's the case that two cars leave the exit at morning rush hour and 17 at afternoon rush hour?

MR. MORONSKI: No.

MR. TRACTENBERG: You still think there's a public benefit and it improves the general welfare to go through this project to change the configuration of the driveway?

MR. MORONSKI: I -- I believe I outlined the reasons why I believe it -- it met the purposes of zoning and was a public benefit in my testimony.

MR. TRACTENBERG: Are you familiar with the opposition to this application of the Pleasantdale Chateau, which is directly across the road from where the new exit will be?

MR. SCHKOLNICK: Objection to the quest -- objection to the question. We have no idea whether Pleasantdale Chateau is objecting or not.

MR. TRACTENBERG: Well, they've submitted a letter to Joe DeVincenzo, which we have copies of, and -- and you can cert -- we'll certainly provide them.

MR. SCHKOLNICK: Is Joe DeFrancenzo (sic) a member of this board?

MR. TRACTENBERG: You asked me whether there was evidence that they had objected to this application. I'm telling you there is. There --

MR. SCHKOLNICK: It's not in the record. It's -- it's not --

MR. TRACTENBERG: Also, their public relations person testified at the planning board and expressed the opposition of Pleasantdale Chateau to this application. So Mr. Moronski, I'm having trouble really grasping exactly what the public benefit of this

project is if a major business across the street is opposed to it.

MR. SCHKOLNICK: Objection to the question. You can answer. There's been no foundation that Pleasantdale Chateau is objecting. We didn't even get to the objector's case yet. They asked questions, but we don't know whether they're formally objecting or not. They asked questions of our witnesses, which they're --

MR. TRACTENBERG: Did you hear the testimony of their representative?

MR. SCHKOLNICK: -- entitled to. You can answer it.

MR. TRACTENBERG: I don't have any further questions. Thank you.

MR. MORONSKI: Well, I provided -- I provided my testimony and the reasons I believe it meets the criteria. There has been no other testimony otherwise. There may be. But I stand by the testimony I presented.

CHAIRMAN BAGOFF: Mr. Tractenberg?

MR. TRACTENBERG: Yeah. I -- I think the only other thing is a question of -- of the chair. I would love to see a transcript of what you said a little while ago at the conclusion of your statement

about the subpoena because as I heard it, and I wrote down some notes to that effect, you said that the traffic light is not part of the application.

CHAIRMAN BAGOFF: We don't have any say over a traffic light, Mr. Tractenberg. That's for the county. So we don't approve or disapprove of it. It happens to be something that was suggested could be there based on the county evaluation. That's testimony that's been provided. So the planning board of West Orange doesn't approve or disapprove the traffic -- the traffic light on a county road.

MR. TRACTENBERG: Just one further question. The -- the description of the -- this application in your own agenda says the applicant is proposing the installation of a traffic signal at the intersection of Eagle Rock Avenue and Oval Road. Modifications to the existing driveway and parking area are also being proposed. So the headline item is the traffic signal in the board's own description of what this application is about, so I'm --

CHAIRMAN BAGOFF: Well, that's not -- that's not the -- Mr. Tractenberg, that's not the board's description, that's the applicant's description. The board will discern what information that it can have sway over. Things that we have no sway over, we can't

discuss as far as permitting or not permitting it based on our ordinance. So as you know, that this is a function of the county, so the applicant can say what they wish and the board takes the information that it can use based on our attorney and our experts to have -- discuss.

MR. TRACTENBERG: I -- last point. I appreciate the time, Dr. Bagoff. I -- I think the applicant's attorney should be cautioned about representing what the county's predisposition is towards the traffic light application because I have letters from the county planner which express a somewhat different view of where the county stands on it now. So I -- I think it's not helpful to have representations as to what the county will do.

CHAIRMAN BAGOFF: Okay. Thank you.

MR. TRACTENBERG: Thank you.

CHAIRMAN BAGOFF: Thank you, Mr. Tractenberg. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Rachel Klein, please state your name and address for the record.

MS. KLEIN: Rachel Klein, Howell Drive. Sorry, Mr. Chairman. I have to do a quick preamble to

my question.

CHAIRMAN BAGOFF: Go ahead.

MS. KLEIN: I was doing a little research into Crestmont Country Club, basically as if I were going to be -- host a wedding there to find out what their lot capacity was, and they say it's about 250 to 290 cars now. I know that we're also not looking at the 2017 application for on-site seasonal housing, but my question is has anyone ever seen this lot filled up that we need to actually be going through all these major changes and huge retaining walls and things for 36 more spots when their capacity is -- seems to be adequate now?

CHAIRMAN BAGOFF: I -- I -- it is not the planning board's job to decide what is or is not good for business. It's our job to decide does it fit the zone plan? Is it consistent with the master plan? What variances are needed and what the applicant has to do to -- to comply with the zone plan an the master plan and all variances. How'd I do? Malvika, did I do okay with that?

MS. APTE: Yeah.

MR. SCHKOLNICK: Chairman, can I suggest a suggestion to the members of the public that --

CHAIRMAN BAGOFF: Yes. Mr. Schkolnick?

MR. SCHKOLNICK: -- we're in the question -- we're in -- we're in the time period of the questioning of the planner, the cross examination. Ms. Klein is certainly free to make comments, comment on the other applicants, but there's a time and a place for that, that's during the public comment --

CHAIRMAN BAGOFF: I got it, Mr. Schkolnick.

MR. SCHKOLNICK: -- portion, so --

CHAIRMAN BAGOFF: We hear you.

MR. SCHKOLNICK: -- suggesting that -- that suggestion to help move us along in a reasonable time frame.

CHAIRMAN BAGOFF: Yeah. I got it. Ms. Klein, would you go -- thank you for your comment. Would you go right ahead now? Ask Mr. Moronski a question about his testimony, please.

MS. KLEIN: I -- that was all. Thank you.

CHAIRMAN BAGOFF: Oh. Thank you. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Richard Baum, please state your name and address for the record.

MR. BAUM: All right. Richard Baum, 10 Kinzel Lane, West Orange, New Jersey.

CHAIRMAN BAGOFF: Go right ahead, Sir.

MR. BAUM: Thank you. So, I come in and out of Oval Road frequently, probably five to ten times a day because we live right behind the Pleasantdale Chateau in The Grande. Based on what I've heard, the variances for the steep slope wall of 21 feet high and 13 feet long is a requirement of changing this driveway location. Is that correct?

MR. MORONSKI: It does -- it does factor -- it does factor in, but it's also to deal with the basins for stormwater as well.

MR. BAUM: So if you didn't move this driveway to where you want to move it, you wouldn't need the steep slope wall or -- or the -- the length and the height of it. 21 feet is pretty high.

MR. MORONSKI: Well, as I said, it's -- it's not just the driveway, it's also the stormwater improvements as well.

MR. BAUM: Well, I've -- I've lived here for 25 years and I -- I don't think Oval Road in this location has much stormwater problems. So, if the club could build 36 new parking spaces because they feel they need those spaces and leave the driveway alone, that would basically require no high wall or -- or, you know, long wall here to -- you know, a retaining wall

or a variance. Is that correct?

MR. MORONSKI: We don't know that. This is the application that's in front of us. Each design stands on its own merits and if you do a different design, it may have different consequences. The design that was proposed is because you need the basins for both the widening and the parking, also. So you may have another design which could have more detrimental -- potentially detrimental effects on the site.

MR. BAUM: So you think the traffic from Oval Road and the club can easily be handled with a stop sign instead of a traffic light?

MR. MORONSKI: I -- I think the -- the traffic testimony mentioned about how the intersection would handle traffic, and I defer to -- I defer to the previous traffic testimony.

MR. BAUM: Are you aware of any other four-way intersections like this in West Orange?

MR. SCHKOLNICK: Objection to the question. You can answer.

MR. MORONSKI: I -- I don't understand what you mean by these type of four-way intersections.

MR. BAUM: Low volume exiting vehicles from Crestmont, high volume from Oval Road. Are you aware of any four-way --

MR. MORONSKI: Well --

MR. BAUM: -- four-way intersections like this?

MR. MORONSKI: Again, it's -- it's too vague. It's too vague and I -- I really -- I really can't answer that question.

MR. BAUM: You know, I've lived her for 25 years. I've never seen more than one car waiting to exit Crestmont Country Club. I -- I certainly don't see the reason for this -- this change if you can put 36 spots in that parking lot, which you can easily do in other locations. Thank you.

CHAIRMAN BAGOFF: Thank you. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Keith Sly, please state your name and address for the record.

MR. SLY: Keith Sly, 757 Eagle Rock Avenue, Pleasantdale Chateau, objector to this application, for the record. And the -- I believe the board was copied on the objection letter as well, so all members should have seen that. If not, it can certainly be reissued.

MS. McGOVERN: The board can't accept just documents without verification. You're here today, if

you want to read the letter to the board, you can feel free to do that at the public comment time. Right now, it's questions.

MR. SLY: I'm happy to do that. I'm just trying to provide some clarification for pre -- previous objections from the attorney. In this sort of Schrödinger's cat scenario where there's both a traffic light and not a traffic light, can you, Mr. Moronski, explain as you have mentioned in your words repeatedly no impairment or detriment involved to all, how having to compete for residents exiting Oval Road to now, without a traffic light, have to compete with people exiting across from them, how that is -- improves the situation rather than actually makes the situation worse for people exiting from Oval Road.

MR. MORONSKI: Well, what I said was no substantial detriment. I didn't say no impediments or no substantial, and that's a term of art in the Municipal Land Use Law. And the traffic testimony described the circulation and I believe the -- the traffic testimony and the engineering testimony helped to support when I described why the application presented no substantial detriment to the public good for the several reasons I noted in my testimony.

MR. SLY: Would it not then be your

professional recommendation to have the traffic engineer re-present information based on the specifics of not having a traffic light, as that would material -- materially change the situation?

MR. MORONSKI: The traffic engineer presented his testimony.

MR. SLY: That was not the question. Would you recommend having him re-present with a different scenario involved?

MR. MORONSKI: It's not my place --

MR. SCHKOLNICK: Objection to the question. Chair -- Chairman, this is not a proper question. This is not what he testified about. And he -- he's asking for our -- our presentation strategy of which witnesses we want to present and whether we should have a rebuttal case? It's not appropriate --

MR. SLY: If I -- if I may clarify to help, excuse my --

CHAIRMAN BAGOFF: Go right ahead. Go right ahead.

MR. SLY: -- naivete, but I believe he's testifying that he reviewed that information and assessed in his own personal or professional capacity that there was no impairment. I believe that does justify the -- the question as to his professional

assessment being based on particular information.

MR. MORONSKI: I -- I would ask --

MR. SLY: So the question stands, in my mind.

MR. MORONSKI: I would ask again, it's -- the word "substantial" is important here, and it is -- it is what you see in the record, ultimately, in the resolution. And to say I'm saying no impairment or no detriment is misrepresenting my testimony.

MR. SLY: Okay. Let's take out the word "substantial" do you find that there is --

MR. MORONSKI: No. Put it in. Put it in. Substantial. I said no substantial. You said no detriment.

MR. SLY: Okay. I must have misquoted you, but I would refer back to the transcript for what you had said, and I'll let the coun -- the board decide on that. Excuse my mistake, if so. Have you ever physically visited Pleasantdale Chateau?

MR. MORONSKI: Have I visited Pleasantdale Chateau?

MR. SLY: Yes, Sir.

MR. MORONSKI: In what capacity? I don't understand the question.

MR. SLY: Have you ever approached, anyone from Pleasantdale Chateau to ask how they could be

potentially affected by the changes proposed here?

MR. MORONSKI: I -- I -- I've been to Pleasantdale Chateau years ago for an event, but beyond that, I -- I have not visited the -- the Pleasantdale Chateau in conjunction with this application, no.

MR. SLY: Okay. All right. Well, hopefully you enjoyed your time there.

MR. MORONSKI: I did. It was very nice. Thank you.

MR. SLY: Great. And hopefully more hospitable than we are today. So, those two statements you still believe align that you can confidently say that being said, that there is no substantial impairment in your assessment?

MR. MORONSKI: Oh, I stand by my testimony.

MR. SLY: Very good. Thank you.

MR. MORONSKI: Thank you.

MR. SLY: I have more questions, if you don't mind.

CHAIRMAN BAGOFF: Go right ahead.

MR. SLY: I think as Ms. Apte helped to clarify in the last meeting regarding understanding meeting the burden of proof for the hardship necessities and criteria for variances, does that best case or -- or lowest-impact plan con -- have

considerations of engineering possibilities for access on Laurel Avenue at the existing entrance or other scenarios in which you had just previously today said that it would have to stand on its own merits?

MR. MORONSKI: I -- I did not testify regarding hardship. My testimony was under the -- what's call the c(2) criteria, Section 70c(2) of the Municipal Land Use Law in which the overall benefits of the project outweigh the detriments that might be caused from the granting of the variance. There was no reference to hardship.

MR. SLY: Okay. It -- it appears I've run out of time. I would just like to state for the record, particularly given the new information presented to the consideration of traffic light or lack thereof, that I would like an opportunity to present additional questions, if available.

MR. MORONSKI: I just have --

MR. SLY: If I can be indulged.

MR. MORONSKI: -- one clarification, I'm sorry. With regards to the slopes, there was a -- what's called a c(1)(b) variance that had to do with the extraordinary topographic features of the site. So I wanted to clarify that to make sure I gave you a complete answer regarding the justification for the

variances.

MR. SLY: Thank you.

MR. MORONSKI: Thank you.

CHAIRMAN BAGOFF: Mr. -- Mr. Sly, I'll give you two more minutes.

MR. SLY: Okay. Thank you. I -- much appreciated, Doctor. There was also much discussion over the expanse of the wall that was to be put into place. Has there been submitted a hardscape rendering in any form so that everyone concerned, board members included, can get a more broad scale of the aesthetic impact along Eagle Rock Avenue?

MR. MORONSKI: All the plans -- the plans have been submitted. They're available for review.

MR. SLY: Okay. I believe there's prior testimony that this great wall which was described as akin to what's seen in typical developments will cover approximately 1300 feet. Is that correct?

MR. MORONSKI: Well, no. The length of the wall is 1300 feet. That doesn't necessarily mean that all of it has the highest height of -- the highest height. It varies -- it varies in height, and that's noted in the plans.

MR. SLY: And you raise an interesting point that Ms. McGovern and I believe Mayor McCartney had

raised last meeting, which I believe you'd asked for time to get an answer on, the average height of the wall. I know there was a soaring 21 and a half feet, I believe, at highest, but is -- is there an average you can provide at this point, please? Or can you, I guess, to form it in the phrase of a question?

MR. MORONSKI: I -- I don't have -- I don't have the average height, but they do -- they do var -- along Eagle Rock Avenue, I do note that it averages about eight to nine feet to minimize the impacts on existing trees. The point that was made by Mr. Cote with the proposed walls was to minimize the -- the tree disturbance to the extent -- to the extent possible.

MR. SLY: And this improvement is -- of the addition of a block wall, it will be in place of the native old-growth trees that are in place currently?

MR. MORONSKI: Well, as was noted --

MR. SLY: Is that correct?

MR. MORONSKI: As was noted in the -- in the testimony, there will be a substantial new number of trees that are being proposed. You know, 303 trees -- 303 trees are being remove, 191 percent of them are on slopes greater than 10 percent, but there are going to be 597 replacement trees, 500 -- 539 -- 313 removed -- I'm sorry. 539 trees restored and off-site, 55 trees,

that will be in coordination with the forester. Again, if this application were improved (sic) we -- the applicant will have to work with the forester regarding the placement of those off-site trees and the landscaping plan in general.

MR. SLY: Okay. With the changing in grade of the exit, I think it was some points over eight -- eight percent, and now the addition of a sidewalk which, I don't know, brings us back six to eight feet or more, does that affect the slope of the exit drive or any sight lines necessary, particularly presuming no stoplight?

MR. MORONSKI: Based on prior testimony, no, because we're proposing -- it's an eight and a half percent slope on Eagle Rock, 10 and a half exists at -- at Laurel and -- and to remain. And as I had noted that the project design proposes to work to minimize the disturbance of trees to the extent feasible.

MR. SLY: Okay. Since a large portion of this proposed disturbance, tree removal and the heavy construction I presume will be needed at the edge of Eagle Rock right along the roadway, is there any testimony as to the projected period of time that traffic will be disrupted and potentially, our guests, et cetera?

MR. MORONSKI: I -- I don't -- I don't have any information on that. I don't know.

MR. SLY: Do you know if there will be any need for closure of traffic, detours, redirecting impact potentially on our guests arriving on time to their appointed events, et cetera?

MR. MORONSKI: I don't know.

MR. SLY: Do you know if there are any plans in place to protect from the runoff of the soil and erosion that will result during this period of construction?

MR. MORONSKI: The plans include a soil erosion and sediment control plan, which has to be approved by -- as part of the overall site plan. These erosion measures will be implemented and the -- the county Soil Conservation District will also review the plan.

MR. SLY: Thank you. It appears I'm out of time.

CHAIRMAN BAGOFF: Thank you, Mr. Sly

MR. MORONSKI: Thank you.

CHAIRMAN BAGOFF: Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Joe P., please state your

name and address for the record.

MR. PANNULLO: Joseph Pannullo, Holton Lane, Essex Fells. Good evening.

CHAIRMAN BAGOFF: Go right ahead, Sir.

MR. PANNULLO: Thank you. Mr. Moronski, are you familiar with Vision Zero Safe Streets in New Jersey and West Orange?

MR. MORONSKI: I -- I did -- I did reference that in my testimony, the 2023 West Orange action plan, Vision Zero; yes.

MR. PANNULLO: Okay. And have you considered that as it applies to this application?

MR. MORONSKI: We did. Although it's not directly a master plan document, it's obviously of interest to the township and to the community, and one of the factors involved there is pedestrian safety. And any time you have an opportunity to have sidewalks, as we talked about, and it's hard to build sidewalks on an existing street network. And when you get an opportunity to, as -- as this app -- as this application is doing, I think it does contribute in the long run toward pedestrian safety goals, so it would be part of Vision Zero.

MR. PANNULLO: So would you recommend as a planner that this -- that the -- that what is

considered here, subject to an approval, take into account Safe Streets, Vision Zero on all four sides of this intersection?

MR. MORONSKI: I can on -- the application is limited to -- to this site and we were -- we could -- these are the portions of the site that are under our control and management.

MR. PANNULLO: Does the site as designed now with respect to at least the driveway that will be across Oval Road have sidewalks or a pedestrian path from Eagle Rock Avenue up to the Crestmont?

MR. MORONSKI: No, it does not.

MR. PANNULLO: Okay. So those -- that roadway, if you will, would simply be made to accommodate vehicles. Is that correct?

MR. MORONSKI: You're talking about the driveway?

MR. PANNULLO: Yes, Sir.

MR. MORONSKI: Yes.

MR. PANNULLO: Okay. So, have you seen the -- there -- there are a number of reports, documents entered on the -- the agenda. I don't believe you were here the night that Mr. Pehnke -- I got to ask him some questions. I didn't get to finish. I think that was July 1st. But some of the things he testified to were

specific to the traffic study. One specifically was there's one on file dated -- I think it goes back to February, but during cross-examination, he admitted there was another one that was recently completed in June. Have you seen --

MS. McGOVERN: Is this a question?

MR. PANNULLO: Well, yeah, it is a question. Mr. Moronski, have you seen that traffic impact study that is not on the agenda but was dated in June, according to Mr. Pehnke?

MR. MORONSKI: I just want to note for the record that I was at the meeting where Mr. Pehnke testified.

MR. PANNULLO: Yup.

MR. MORONSKI: I did not testify that night, but I was present at the meeting and I heard his testimony. As to -- you're referring to a second traffic study?

MR. PANNULLO: Yes, Sir.

MR. MORONSKI: I'm looking to see.

MR. SCHKOLNICK: Are you -- do you have a copy of that, Mr. Pannullo? I'm -- I'm not sure we submitted that.

MR. PANNULLO: No. I don't think you did. But I think you objected when he -- when he brought it

up and told it to stick to the prior study that was on file. I thought it might have been added to the agenda at some point going forward, it's now October.

MR. SCHKOLNICK: I don't --

MR. PANNULLO: I don't know it's in the record.

MR. SCHKOLNICK: I don't think I submitted that. If you have a copy and you want to show it to us --

MR. PANNULLO: No. I don't -- I don't have -- I didn't know about until Mr. Pehnke acknowledged that it existed.

MR. SCHKOLNICK: I'm not -- I'm not sure you're right on that, but we didn't -- I don't think we put it in the record, whatever it is.

MR. PANNULLO: Okay.

MR. SCHKOLNICK: But if you have a copy, send it in and we'll take a look at it.

MR. PANNULLO: I wouldn't know where to get it, Sir, but okay.

MR. SCHKOLNICK: Okay.

MR. PANNULLO: Maybe Mr. Pehnke's the one who can provide it.

MR. SCHKOLNICK: He -- his testimony is done.

MR. PANNULLO: Well -- okay. Well, I wasn't

done.

CHAIRMAN BAGOFF: Let's move on. Let's move on. Next question, Sir.

MR. PANNULLO: So Mr. -- Mr. Chairman Bagoff requested sidewalks be installed on both sides of Eagle Rock on the south side on either side of the driveway. I think I hear it's 1300 feet, ball park.

MR. SCHKOLNICK: I don't think he suggest both sides. We don't --

CHAIRMAN BAGOFF: I did not.

MR. SCHKOLNICK: We don't own the other side.

MR. PANNULLO: Oh.

CHAIRMAN BAGOFF: I did not.

MR. PANNULLO: Okay. The length of the sidewalk is 1300 feet is simply on one side of the driveway?

MR. SCHKOLNICK: The side that Crestmont owns.

MR. MORONSKI: Yes.

MR. PANNULLO: Crestmont owns a driveway that will be on both sides of the street. South side of Eagle Rock.

MR. SCHKOLNICK: That's a statement that you can --

MR. PANNULLO: No. It's a fact. It's in

your drawings. It's a fact. I'm sorry.

MR. SCHKOLNICK: Crest -- it's a -- it's a fact that Crestmont owns the sidewalk on both sides of Eagle Rock?

MR. PANNULLO: There is no sidewalk on Eagle Rock. Crestmont owns the property on both sides of the proposed driveway from Laurel Avenue to the driveway that is being replaced, or being supplemented. So I guess Chairman Bagoff can elaborate on exactly what he did request, because I thought he asked for a sidewalk to exist on the south side of Eagle Rock Avenue at the edge of the property.

MS. McGOVERN: I think you misspoke and they -- and you confused things when you said both sides of Eagle Rock Avenue. What I think you're meaning is both sides of the driveway on --

MR. PANNULLO: Yes. Yes.

MS. McGOVERN: -- that side of Eagle Rock Avenue. Yeah.

MR. PANNULLO: Yes. That's exactly what I mean. I'm sorry if that wasn't clear. So the question is, and I asked the question of Mr. Cote and I'm also looking for drawings to reflect the addition of the sidewalk, the push-back, if you will, and any change to the degree of the slope that would be at the retaining

walls. I don't know if they're on file yet. Are they, in the record?

MR. SCHKOLNICK: They're -- they're not, but Mr. Pehnke said you didn't have to change the slope, if I could summarize his testimony so you could be clear on that, Sir. I can represent --

MR. PANNULLO: Why can't -- it was actually Mr. Cote that I asked the question of.

MR. SCHKOLNICK: All right. Mr. Cote said there -- there didn't have -- it's already going to be graded, it's already shown as graded on the plan, so there's no -- I believe his testimony was there's no additional grading that's going to have to take place.

MR. PANNULLO: So, is that to say that what was going to be on the side of the road but wasn't a sidewalk was simply dirt, and there's no change?

MR. SCHKOLNICK: I don't know if it was going to be dirt, but -- I don't want to characterize it like that. But it -- we had -- this is not Mr. Moronski's testimony. This is back -- you're back to Mr. Cote here.

MR. PANNULLO: Unfortunately, I actually wasn't finished with either Mr. Pehnke or Mr. Cote. My hand was raised, but we're on Zoom, so --

CHAIRMAN BAGOFF: Okay. Let's -- listen.

Let's focus on Mr. Moronski. One more question, Sir, for Mr. Moronski. Let's focus on that, please.

MR. PANNULLO: Sure.

CHAIRMAN BAGOFF: Good. Thank you.

MR. PANNULLO: Is Mr. Moronski prepared to sign off on a plan as a planner for documents that are not in evidence for the public?

MR. MORONSKI: I don't understand the question.

MR. PANNULLO: There are --

CHAIRMAN BAGOFF: Rephrase the question, please.

MR. PANNULLO: I'm sorry?

CHAIRMAN BAGOFF: Rephrase the question, because I don't understand it, either.

MR. PANNULLO: There are -- there's a traffic study that's not on file that's admitted in evide -- is admitted that it exists, and there was an amendment to the drawings, or at least the site plan at the edge on the south side of Eagle Rock Avenue in front of Crestmont that you requested and I'm simply asking if those refle -- the reflection of that change with the sidewalk, whatever bump back, whatever maybe changing degree of slope, steep slope, would be affected or not is in evidence, was submitted. That's all.

CHAIRMAN BAGOFF: I -- Mr. Schkolnick, I -- I think -- you have to answer one question. Are you presenting -- I'm not asking if you have. Are you presenting any other traffic study for the board to look at?

MR. SCHKOLNICK: No.

CHAIRMAN BAGOFF: Okay.

MR. PANNULLO: Okay.

CHAIRMAN BAGOFF: so it -- Mr. -- Mr. Pannullo, you know that's always the applicant to present information for us.

MR. PANNULLO: Understood. Yes, I do.

CHAIRMAN BAGOFF: And --

MR. PANNULLO: I'm sorry.

CHAIRMAN BAGOFF: And then that's -- that's what we got.

MR. PANNULLO: Okay. So do you -- do I need to wait for everybody to circle back around and come back for three minutes, or --

CHAIRMAN BAGOFF: Nope. There is no circling back. We're not circling. We're done.

MR. PANNULLO: Oh.

CHAIRMAN BAGOFF: This is a finish. Thank you, though. Thank you --

MR. PANNULLO: I wasn't -- I'm not -- for the

third time, for the third expert, I'm not finished Chairman. So would you like me to wait or would you just deny me the op --

CHAIRMAN BAGOFF: No. There -- there is no -- Mr. -- you didn't hear me earlier. There is no wait. The questions are done. I'll tell you what, ill give you one more minute, and that's it. There's -- there's no more time. One more -- ask the best question you can, Sir.

MR. PANNULLO: We make -- we make this up as we fly. I appreciate that, Sir.

CHAIRMAN BAGOFF: Good. I'm trying. I'm trying hard.

MR. PANNULLO: I see it. Mr. Moronski, are you familiar with the notion of a bus stop, the provision for a bus stop, on either side?

MR. MORONSKI: Could you rephrase that? I'm not -- I'm not sure what you mean.

MR. PANNULLO: So, a bus stop was discussed with Mr. Pehnke last time; it was discussed in a different application that is su -- as part of this. Is there a bus stop plan? Would you support the notion of a bus stop on -- in this -- on Eagle Rock Avenue in support of this application or afterwards? Is that a good idea?

MR. MORONSKI: I'm not aware of a bus stop plan at the site, and that's -- that's ultimately someone else's decision. I don't -- I don't know.

MR. PANNULLO: That would involve --

MR. SCHKOLNICK: We's be happy to accommodate the town if it wants to, the town requests. We would take that under consideration. That's a good idea, Mr. Pannullo.

MR. PANNULLO: Yup. Well, we discussed it with Mr. Pehnke and it was another one of those questions I didn't get finished asking, but I'll surrender for now. I guess you guys are -- no more Mr. Pehnke, no more Mr. Cote. Is that fair?

MS. McGOVERN: They're done.

MR. SCHKOLNICK: And -- and -- but we don't know about no more Mr. Nice Guy. There's another Mr. Involved here.

CHAIRMAN BAGOFF: Okay. Good. Thank you. Thank you, Mr. Pannullo.

MR. PANNULLO: Thank you, folks.

CHAIRMAN BAGOFF: Thank you.

MR. PANNULLO: Yes, Sir.

CHAIRMAN BAGOFF: Thank you.

MR. PANNULLO: Yup.

CHAIRMAN BAGOFF: Have a wonderful evening.

Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: So the person with their hand up has already spoken.

CHAIRMAN BAGOFF: Can't do it. Next. Sorry. Thank you.

ZOOM OPERATOR: At this moment, I'm seeing no other hands.

CHAIRMAN BAGOFF: Do any other members of the public have any questions for -- Mr. Turteltaub has his hand up. Go right ahead, Mr. Turteltaub.

MR. TURTELTAUB: I -- I appreciate your indulgence. Just a couple of a quick questions. Real quick, if I may. Mr. Moronski, do you know the -- the current seating capacity at the Crestmont Country Club?

MR. MORONSKI: I do not.

MR. TURTELTAUB: Do you know the current occupancy capacity?

MR. MORONSKI: I do not.

MR. TURTELTAUB: Okay. And do you know whether there -- is there -- has there been -- okay. The basis for -- what's the basis that you understand the need for more parking on the site?

MR. MORONSKI: Well, one of -- one of the

bases I understand is that based on West Orange's ordinance, we're in a non-conforming condition. And while the requirement as I noted is relatively high, one of the -- one of the benefits is try -- attempting to get closer to conformance.

And it's not just the number of parking spaces, it's also the realignment of the parking lot that provides for a more efficient -- a more efficient internal circulation and operation.

MR. TURTELTAUB: Thank you very much.

MR. MORONSKI: Thank you.

CHAIRMAN BAGOFF: Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Reina, please state your name and address for the record. Ms. Sharenow? Please un-mute. Reina Sharenow? She's not un-muting.

CHAIRMAN BAGOFF: Okay. Do any other members --

ZOOM OPERATOR: Oh. There we go.

UNIDENTIFIED MALE: We got it. We got it.

MS. McGOVERN: We got it.

CHAIRMAN BAGOFF: Go right ahead. Okay.

MR. SHARENOW: Mr. Moronski, have you given any consideration --

ZOOM OPERATOR: Name and address, please.

MR. SHARENOW: Bob Sharenow, 9 Cadmus Court, West Orange. Have -- Mr. Moronski, have you given any in -- any consideration of the tremendous increase in danger that your plan has? And let me be -- I'll explain what I'm talking about.

If you were driving out of Oval Road like I've done for the last 29 years, I get to the end and I have to deal with four lanes and I'm going to make a left or a right. With your proposal, I would now come up to Oval Road and I'd be facing against -- across four lanes of traffic, cars that want to come out of Crestmont Country Club and do the same thing that I want to do.

If there is no light, you're -- you're digging a grave for somebody. Have you considered facing four -- two cars on the other side of the road wanting to do the same thing that you want to do the same thing that you want to do and cross four lanes?

MR. MORONSKI: The applicant has provided substantial traffic testimony as to why the proposed application and the circulation as based upon the signal, why it -- why it will work and it will be an improvement over the current condition.

MR. SHARENOW: But there -- there is no

signal. Right now, there's no -- there's no traffic light there, Sir.

MR. MORONSKI: Right now, there is not.

MR. SHARENOW: I -- I don't think you can even bring this thing up until you have permission for a traffic light. You're causing tremendous amount of danger to the people out of Crestmont and the people coming out of Oval Road. I'm listening.

MR. MORONSKI: I -- what's the question?

MR. SCHKOLNICK: There's no question. There's no question. There's no question, Sean. He -- he -- there's no question pending.

UNIDENTIFIED FEMALE: Yes, he was.

MR. SHARENOW: The question was has he considered that coming out Oval Road, looking across four lanes, cars coming out of Crestmont Country Club want to come right and left at the same time you want to go right and left with four lanes of traffic moving.

UNIDENTIFIED FEMALE: If there's no light.

MR. SHARENOW: If there's no light. Has he considered what danger that would increase? That's all. A simple question.

MR. MORONSKI: And I -- and I answer -- I answered it earlier, what I based my testimony on.

MR. SHARENOW: But you based your testimony

on having a light there, Sir, do you not?

MR. MORONSKI: I based -- I based my testimony on the design, and yes, with a light, and also with the proposed alignment as -- as it's presented. And what's also been presented is that applications are subject to other agency approvals all the time. They do not necessarily wait for every other agency to make their decisions or approvals because of the length of time sometimes that is involved in those applications, and there's nothing different here.

MR. SHARENOW: There's nothing different except extreme danger. That's what's different. I have nothing more to say.

CHAIRMAN BAGOFF: Thank you. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: iPhone 215, please state your name and address for the record.

MR. HADU: Hi. My name is John Hadu, 81 Avon Drive, Essex Fells.

CHAIRMAN BAGOFF: Go right ahead, Sir.

MR. HADU: A question about the traffic light. If there's going to be a sidewalk on the side of Eagle Rock where Crestmont is, is there any room to

put a sidewalk on the Essex Fells County Club side?

CHAIRMAN BAGOFF: That's not part of the application, Sir, so it -- we can't tell -- we haven't talk about that. There's no application before us.

MR. HADU: Well, if you're going to put a light there, what's going to be on the other side of the --

CHAIRMAN BAGOFF: We're not putting a light anywhere. This is the county. All we're talking about is the Crestmont Country Club side, Sir.

MR. HADU: Well, what happens if you approve it? Then what happens to the other side of the street?

CHAIRMAN BAGOFF: This is the -- up to the county. That's the county planning board, Sir.

MR. HADU: So you're going to approve something without knowing what's going to happen on the other side of the street?

CHAIRMAN BAGOFF: There's no application before us on the other side of the street, Sir.

MR. HADU: So with a bus stop -- what side would a bus stop be on?

CHAIRMAN BAGOFF: There's no bus stop proposed and --

MR. HADU: I'm not asking you the questions.

CHAIRMAN BAGOFF: Oh. I'm sorry. Who would

you like to ask the question of, Sir? Mr. Moronski?

MR. HADU: Yes, please.

CHAIRMAN BAGOFF: Oh. Mr. Moronski, you're up.

MR. HADU: Can't I ask you the -- why did you answer his questions?

CHAIRMAN BAGOFF: I answered the question because he doesn't --

MR. HADU: I didn't ask you the questions.

CHAIRMAN BAGOFF: Well, you asked an administrative question, Sir. There's no application before us. We can't opine on that, neither can he. That's administrative. I'm sorry you misunderstood. Mr. Moronski, please answer his question about the bus stop.

MR. MORONSKI: Okay. As I had noted earlier, I'm not aware of any proposal but as I previously noted, our -- my -- our client would, you know, if there's interested, would work with the township if -- if it was something that was desired at this location. But as of today, I am not -- I'm not aware of any plans for a bus stop at that location.

MR. HADU: Good -- my question about the bus stop to you would be would it be on the east side or the west side of the street, because --

MR. MORONSKI: I can on -- I can only speak to the application where my client is -- has control over the land. And ultimately, where buses -- where bus stops are going to be would be up to the respective operator.

MR. HADU: My question would be for the safety of, like, just for instance, if someone worked at Crestmont Country Club and they were coming up Eagle Rock Avenue, they'd be on the other side of the road. I was just wondering how they would get across the street. If there no sidewalks on that side of the street, how they would cross to get to the Crestmont street.

So basically, the -- if they were coming in on a bus, they'd have to come from Roseland to get off onto the Crestmont side of the street. They couldn't come up from Pleasant Valley Way, there would be no way for them to cross the street.

MR. MORONSKI: I don't know, because one, we don't control that side of the street and number two, this is a hypothetical situation because as of today, there is no bus stop planned on either side of the street. And this application, we can only address our -- our side of Eagle Rock Avenue.

MR. HADU: Okay. Thank you.

MR. MORONSKI: Thank you.

CHAIRMAN BAGOFF: Thank you. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Both people with their hands up have already spoken.

CHAIRMAN BAGOFF: Sorry. I said before, you get one shot at the experts tonight, there are so many things to do. But thank you very much for asking. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Seeing no other hands.

CHAIRMAN BAGOFF: One more time. Do any other members of the public have any questions for Mr. Moronski on his testimony? Please raise your hand and be identified. Seeing none. Thank you, Mr. Moronski.

MR. MORONSKI: Thank you, Mr. Chairman.

CHAIRMAN BAGOFF: We're going to take a 10-minute break.

(Board takes brief recess.)

CHAIRMAN BAGOFF: There you are. Mr. Schkolnick, I have a question for you. This is only an exit. Is that correct? It is not an entrance.

MR. SCHKOLNICK: Correct.

CHAIRMAN BAGOFF: I just want that clear so before Mr. Sly was talking about it, there's no possibility of somebody crossing the road from the left side from going -- from going westerly to go into Crestmont because this is only an exit. Is that correct?

MR. SCHKOLNICK: The way I understand it as the lawyer.

CHAIRMAN BAGOFF: Okay. Well, I looked at the -- I looked at the plans. It looks like this is only an exit.

MR. SCHKOLNICK: That -- that, I believe is accurate.

CHAIRMAN BAGOFF: Okay. Because I think his questions in my mind were a little unclear was why would people do that, and they wouldn't do that because it's only an exit. Okay. That makes it a little clearer in my head. Okay. Mr. Schkolnick, you have the floor.

MR. SCHKOLNICK: We rest our case, Sir.

CHAIRMAN BAGOFF: No more witnesses. Do you want to sum up?

MS. McGOVERN: No. We have -- I think the objectors have --

CHAIRMAN BAGOFF: Okay. Okay. Mr. Turteltaub?

MR. TURTELTAUB: Good evening and again, thank you, Mr. Chairman and members of the board for your time tonight. I intend to call Peter Steck tonight, initially for an issue that has come up in our review of the application. It is only going to be brief testimony by Mr. Steck and then I'm going to reserve him for his planning testimony after we have John Linson, who will be testifying with regards to the steep slopes and the removal of the trees.

So if I could first have Mr. Steck elevated as -- to a panelist.

CHAIRMAN BAGOFF: Absolutely.

ZOOM OPERATOR: Okay. He'll be in in just a second.

CHAIRMAN BAGOFF: Sure.

ZOOM OPERATOR: There we go.

CHAIRMAN BAGOFF: Mr. Steck, welcome.

MR. STECK: Thank you.

MR. TURTELTAUB: Good evening, Mr. Steck. For -- if you could, for the benefit of the public and for the board, I'd like to qualify him as an expert in planning. Could you please give the board a brief summary of your credentials, Sir?

CHAIRMAN BAGOFF: Mr. Turteltaub, Mr. Steck --

MR. TURTELTAUB: Yes.

CHAIRMAN BAGOFF: -- is well-known to the planning board and the township of West Orange. He has testified before us numerous times. His reputation is exemplary and I just have one question. Is your license in -- in good standing in the state of New Jersey at this time, Sir?

MR. STECK: It is.

CHAIRMAN BAGOFF: Thank you so much. Go right ahead, Mr. Turteltaub.

DIRECT EXAMINATION BY MR. TURTELTAUB:

Q Mr. Steck, tonight you've been hearing testimony with regards to the application of the Crestmont Country Club, an application to modify their driveways and parking areas. Correct?

A That's correct.

Q Okay. And in doing your review, did you review the property as a whole that's involved in this application?

A I did.

Q Okay. And can you give the board the benefit

A Okay. If you read the plans, read the application form, the applicant has identified the property as

Block 1.01 -- excuse me, Lot 1.01 in Block 174, which property is entirely in the Township of West Orange. If you look at the applicant's exhibits, as well as any aerial photo, you will note that the golf course itself extends, in my opinion, both into Livingston and to Roseland. Two of the fairways extend into Livingston and occupy, in Livingston, Lot 7, in Block 2,300.

There is also a portion of the -- of a fairway and a pond that extends into Roseland, which is Lot 1 in Block 55. These are integral parts of the golf course and in my opinion, they are integral to the subject property. The reason that's significant is when the applicant requested from both Livingston and Roseland when they requested a property -- a list of property owners within 200 feet, they did not make that request from either, in Livingston, Lot 7 in Block 2300, nor did they make the request in Roseland from Lot 1 in Block 55.

In my opinion, since they are integral parts of the golf course, they -- golfers golf on parts of those properties, they are part and parcel of the applicant's property and the 200-foot line that indicates who is required to get public notice extends further into both Livingston and Roseland than was identified by the applicant, because the applicant did not, in requesting

a certified list -- not identify the extension of the golf course into both of those municipalities. So there are a number of property owners, both in Livingston and Roseland that did not get public notice of this application.

In my opinion, that is a jurisdictional issue, and I'll let the attorneys argue about it.

Q I'll -- I'll raise the issue formally, but yes.

A But -- but the answer is there are -- if -- I looked at the affida -- the lists that were on the municipal website, the requests for, you know, 200-foot notice lists, and it's clear that these additional properties were not given notice. And in my opinion, that is a significant issue, because the property and the active golf course does extend into these two properties, and it's used as a unit.

And the fact that the applicant is artificially confining the notice determination to just the West Orange property, in my opinion, is incorrect.

Q Mr. Steck, did you have an exhibit that -- or did you have a drawing that you showed where these parcels are?

A Yes, I --if -- if -- let's see if I can share my screen. Let's see if I can do this. Okay. Is that a

map on the screen?

Q Yes.

A Okay. So, on the -- the dark black lines are the municipal property lines. And so the --

SECRETARY VITE: Sorry. Mr. Steck, are we presenting this as an exhibit?

MR. TURTELTAUB: Yes. I'm sorry. We can -- we can do that as 01.

SECRETARY VITE: How -- how we name it --

CHAIRMAN BAGOFF: Yeah. Can you -- can you describe it, the date that it was --

MR. TURTELTAUB: Yes.

CHAIRMAN BAGOFF: -- made, who made it, and so on and so forth.

MR. TURTELTAUB: Okay.

THE WITNESS: This is a 2020 satellite photo from the NJ DEP geo website where they superimpose lot lines and lot and block numbers on the aerial photograph. I have enhanced it by, in black, showing municipal property lines; in orange, by highlighting the dimensions of the two lots in Livingston and Roseland where the golf course extends and I have approximated in blue the new limits of the 200-foot notice line.

So, just to graphically talk about this, on

the right-hand side is the -- is a portion of Lot 1.01 in West Orange. Again, the only lot that is identified by the applicant as the subject property. As you can see in the lower part of this exhibit -- and this is an infrared photo, so the trees tend to disappear, but you see the grass shows up in kind of a solid red color in the fairways.

You can see that there is a hole and two fairways that extend onto Lot 7 in Block 2,300 in Livingston, and you can see that there is a fairway that extends onto Lot 1 in lot -- Block 55 in Roseland. So in my opinion, because these are used as part of the golf course, they are part of the subject property. And in blue, I've approximated a 200-foot limit and I've listed -- I -- in bold black the additional lots that in my opinion should have been given notice.

So, for example, in Block 54, there are a number of lots on the far side of Laurel. In Block 49, there are additional lots and in Livingston, there are five lots which in my -- in my review of the record were not given notice, five or six lots, not given notice. And in -- in -- and that's a -- in my opinion, a -- a major deficiency because of the requirements of the Municipal Land Use Law in order for the board to have jurisdiction.

Q Thank you very much, Mr. Steck.

MR. TURTELTAUB: At this point, I would like to defer any additional testimony for Mr. Steck until after Mr. Linson but first would like to raise an objection as to jurisdiction on the issue of notice. Based on Mr. -- and again, I don't know if the board would like to question Mr. -- Mr. Steck on this, but in looking at the application itself, there are -- there are three parcels that make up the Crestmont Country Club, and those being the ones that were cited by Mr. Steck.

And what I'd like to do is I'm going to share if I could with the board the 200-foot lists that were requested from Livingston and from -- from Roseland, neither of which indicate that the properties -- you know, the only property that's listed is the West Orange property in terms of what was being sought in terms of the -- of the 200-foot list.

And if I may share my screen with you, we have here the request -- the certified list of owners, township of Livingston. It's just block 174, Lot 1.01 in West Orange. That's the only lot that was within the 200-foot list that was requested. And that's what the response was for. So it did not capture the full 200 feet within Livingston Township, nor was

publication made in the Livingston official newspaper. It was -- it was -- and there's no certification to that in this -- in this regard.

If I may, I'm going to bring up Roseland right now. And again, these are all within the files that are on -- on the board's website because this is where I got these from. We now have Mr. Esposito, the assessors list that was provided, which again, only lists Bloc 174, Lot 1.10 as being the property from which the 200-foot list was being obtained. And again --

MR. SCHKOLNICK: Chairman, I will -- Chairman, to save time, I'll stipulate that the 200-foot list request was made from the properties that have disturbance and where activity is being made. I do object to Mr. Steck's expertise. This is strictly a legal issue. I don't know why it's a planning issue, but I think it should be decided at some later time. Mr. Turteltaub could write a letter, I'll respond. We'll cite any case law for this proposition that the golf course is used as a unit because there's some fairways thousands of feet away and different -- on a different tax lot, these are different tax lots in Livingston and Roseland where no disturbance is taking place.

So if -- if Mr. Turteltaub or Mr. Steck have legal authority for their proposition, I invite them to provide it. I don't think we should be spending time here. We've had three hearings already where the board has accepted jurisdiction. They accepted jurisdiction, which includes notice, in June. And so I don't think we should be spending time. Mr. Turteltaub can submit a letter and we could decide it an appropriate time. It's a strict legal issue, and I suggest this is -- you know, if they have authority for it, that's fine, but I don't think we should be using valuable time to discuss a legal issue about notice when the board's accepted jurisdiction June -- five months ago.

CHAIRMAN BAGOFF: Well, Mr. Schkolnick, it's a very interesting issue. This has happened before in West Orange and I'm going to ask Ms. McGovern -- so we can do two things, which is one, the applicant moves forward at its own peril based on a letter from Mr. Turteltaub and we look at exactly how notice should be done.

I will tell you that for applications that we've had, we -- it was the representation that notice was for the entire property. Now you're telling us that notice was for the disturbed areas. I --

MR. SCHKOLNICK: Tax lot 200 -- I'm at -- I'm

required to --

CHAIRMAN BAGOFF: 200 feet. 200 feet around the disturbed area.

MR. SCHKOLNICK: Any tax lot -- any tax lot that is being disturbed, that's the subject parcel of this application. They -- Mr. Steck and Mr. Turteltaub refer to Livingston Block 2300, Lot 7 and Roseland Lot 55, I didn't get the block. We are not disturbing any -- any lands at all.

CHAIRMAN BAGOFF: I -- I understand. I understand what you're saying.

MR. SCHKOLNICK: So this -- this is a novel concept of used as a unit when it's a separate tax lot in another municipality. And I -- if they have a case law that says that, that I'm required, then we'll see if it's binding, but I highly doubt --

CHAIRMAN BAGOFF: Okay.

MR. SCHKOLNICK: -- that they're going to produce case law -- because they would have if they could have.

CHAIRMAN BAGOFF: Well, I -- at this point, I want to err on the side of conservativeness, but I want to hear what Ms. McGovern has to say and we may just continue on the application, which --

MS. McGOVERN: Well, I'm -- I'm in the

process of trying to find that describes specifically what the notice requirement is, to begin there, because --

MR. SCHKOLNICK: NJ 40: -- NJ 40:55D-12. It's the property that's the subject of the application.

CHAIRMAN BAGOFF: Okay. We're going to -- we're going to hold that in abeyance while Ms. McGovern looks --

MS. McGOVERN: Yeah. I -- I don't want to -- I'm -- this is an important question and I don't want to rush this, so --

CHAIRMAN BAGOFF: Right.

MS. McGOVERN: I think we either proceed at -- as the -- the chairman indicated, to move this along at your own risk for fear that this whole thing has to be started over again. Oh, God. Or that we look at it and it appears to be okay in my opinion or our -- however it's framed.

CHAIRMAN BAGOFF: We're going to -- we're going to move forward based on opinions.

MS. McGOVERN: Okay. Okay.

CHAIRMAN BAGOFF: And -- and we will hold all things based on opinions, but go right ahead. We'll -- let's move forward, Mr. Turteltaub. We hear what Mr.

Steck says and Ms. McGovern will be our final evaluator on this, eventually.

MR. SCHKOLNICK: We -- and just so I can clarify where we go from here because I also do have, for instance, to show the -- even though it -- even though it may cover three -- three municipalities, it is one property and in fact, I have a copy of mortgage and/or other documents that they have used where they cite the title for the property as being one, albeit in three different properties -- three different municipalities.

CHAIRMAN BAGOFF: Okay. You --

MR. SCHKOLNICK: So Chairman, the proper way --

CHAIRMAN BAGOFF: Mr. -- Mr. -- wait. Let --

MR. SCHKOLNICK: The proper way to handle this --

CHAIRMAN BAGOFF: Mr. Schkolnick, go right ahead.

MS. McGOVERN: Okay.

MR. SCHKOLNICK: The proper way, if mis -- if Mr. Turteltaub has legal support for this property concept as opposed to a tax lot concept, let him submit that to the board. Why hasn't he already?

CHAIRMAN BAGOFF: It's okay. It's okay.

We're here. Ms. McGovern?

MS. McGOVERN: I'm looking at 40:55D-12 and it says in section (b), "Except as provided in paragraph 2 of subsection (h), notice of a hearing required public notice pursuant to section (a) of this section shall be given to the owners of all real property as shown on the current dax -- tax duplicate," and here's the key, "located in the state within 200 feet in all directions of the property which is the subject of the hearing."

MR. SCHKOLNICK: And we're in -- the subject of this hearing is the tax lot in West Orange. It's -- we would have to go to Livingston or go to Roseland at -- if we needed it. Say, for example, there was a road through Livingston or Roseland. We would have to go those towns and --

MS. McGOVERN: Okay. So --

MR. SCHKOLNICK: -- and the lists would be different. I just had this case because I was on the border of two towns and there were different lists for different towns.

CHAIRMAN BAGOFF: So what we're going to do --

MR. SCHKOLNICK: So this --

MS. McGOVERN: I need to do --

MR. SCHKOLNICK: Just used as a --
MS. McGOVERN: -- more in-depth research.
CHAIRMAN BAGOFF: Okay.
MS. McGOVERN: I -- I think --
CHAIRMAN BAGOFF: Yes.
MS. McGOVERN: -- we need to -- to look at the case law.
CHAIRMAN BAGOFF: Yeah. Mr. Schkolnick, Mr. Turteltaub, Ms. McGovern is going to look at the case, not right now and get back to us and where the board is going to move forward with the rest of the testimony, but the applicant understands they move ahead at their own peril.
MR. TURTELTAUB: I thank the board for listening to this and at this time, I'd like to reserve further testimony of Mr. Steck until after Mr. Linson, who I'd like to have promoted to a panelist.
CHAIRMAN BAGOFF: Go right ahead.
MR. TURTELTAUB: Mr. Linson, if you could raise your hand to make sure they can find you?
ZOOM OPERATOR: I found him. Just give me one second.
MR. TURTELTAUB: Okay. Thank you.
ZOOM OPERATOR: There we go. You're -- You're in, Mr. Linson.

MR. LINSON: All right. I -- I think I'm there. Can you hear me?
(Zoom operator works out technical difficulties.)
MS. McGOVERN: Please raise your right hand. Could you please raise your right hand?
MR. LINSON: Okay.
J O H N L I N S O N, OBJECTOR'S WITNESS, SWORN
MS. McGOVERN: Please put your name on the record and then Mr. Turteltaub, you can continue.
MR. TURTELTAUB: Mr. Linson, just -- just your name for the record.
MR. LINSON: It's John Linson, L-I-N-S-O-N.
MS. McGOVERN: Thank you.
DIRECT EXAMINATION BY MR. TURTELTAUB:
Q And Mr. Linson, by whom are you employed?
A By whom am I what?
Q Employed.
A Oh. Employed. I'm -- I'm self-employed. I'm a consultant.
Q And what do you consult in?
A I'm a tree expert. I have been a New Jersey licensed tree expert for 50 years.
Q And as a tree expert, what -- do you have any specific training to be a tree expert?
A Well, I have a four-year college degree in

forestry and I passed the New Jersey certified tree expert exam in 1976, and they have converted that over to be called a licensed tree expert.
So, I -- I've worked in municipal arboriculture for 48 years of the 50 years that I've been a licensed tree expert. I -- I worked for Millburn Township for 25 years and retired, started my own consulting business. I worked as a consultant for West Orange for 14 years.
I'm still actively -- I've worked for -- as a consultant for 45 municipalities in three counties.
Q And is your current license with the state of New Jersey valid?
A Yes. Number 198.
Q 198. Very good.
MR. TURTELTAUB: I'd like to introduce Mr. Linson as a tree expert.
CHAIRMAN BAGOFF: Unless any member of the board has any questions, Mr. Linson, we accept you as a tree expert in the state of New Jersey. Go right ahead, Sir.
BY MR. TURTELTAUB:
Q Mr. Linson, are you familiar with the property known as the Crestmont Country Club?
A I'm familiar with the property. I'm not familiar

with the owners.
Q Okay. With the property. We're here to talk about the property.
A I'm familiar with the property, but not the owners.
Q And we're here for a site plan application. Have you had a chance to review the plans that are being proposed here for -- for Crestmont Country Club?
A Yes. I've looked at the proposed tree removals and the proposed planting plans.
Q Okay. And did you form any opinions with respect to what you reviewed?
A Yes. You know, West Orange has probably the strictest tree protection ordinance in the state of New Jersey and as I read through the purpose and intent of the -- of the ordinance in the very beginning, it seems that this application conflicts with a number of the purposes and -- and intent of the tree preservation ordinance itself.
Q What -- what in particular did you find that it violates?
A Well, if I can read from -- from the ordinance itself, 28-2(c), "The purpose of this article is to protect and foster the existence and health of trees growing within the township's borders, to preserve the

maximum possible number of trees in the development of a site or lot, to protect specimen trees, to encourage innovative design and grading to promote the protection of existing trees and to prevent indiscriminate, uncontrolled, and excessive removal and cutting of trees as well as land use activities inconsistent with accepted arboricultural practices.

And it goes on and on a little bit more than that, but in the ordinance, it specifically -- I'm going through the ordinance and turning the pages, as you can see. There are specific prohibitions in this ordinance. 28-4(b), number four: cut down or remove any tree on a slope with a grade of 10 percent or greater on a slope where vegetation is presently stabilizing soils. So, we have that --

Q Is -- is that -- is that true in this situation?

A The construction of the sidewalk and the retaining wall is -- is an intrusion into the steep slopes. And this -- it's a prohibition, so.

Se -- number seven, remove trees within 100 feet of a ridge line. I think that -- that applies. Number nine, remove trees if tree removal will negatively alter existing drainage patterns and stormwater runoff. Well, that's true.

Number 10, remove tree if it will result in soil erosion. Well, the existing trees along Eagle Rock Avenue are stabilizing that -- those slopes, so in order to construct a wall and a sidewalk, you have -- physically have to remove the stumps of -- of all of those trees.

Number 11, remove trees if it would increase the amount of stormwater runoff and/or negatively affect stormwater runoff patterns on any lots, whether con -- contiguous or not.

Number 12, remove trees if it would constitute a significant change in the screening between existing or proposed structures on roads and/or adjacent lots.

Number 13, I'm -- again, prohibitions. Remove trees where it would alter topography of the area where such trees are located and will create conditions which may be injurious to the trees or other trees located nearby.

And I'll refer to this later, but in that whole area, there's only -- or where there's 313 trees being removed, there's only about 60 trees that would be saved. And by changing the grading and everything, it's questionable whether those 60 trees that are surrounded by -- by improvements would actually survive.

So -- and 14, remove trees where it would impair suitable habitats and migratory zones for endangered or threatened species or animals.

And -- so those are -- those are specific prohibitions in the ordinance which I see this -- see a conflict with this application. And basically, you're supposed to -- if you -- if you look at just the specific area where all the activity is -- is going to take place, 313 trees to come down. Well, only -- only 82 of those actually involve the parking area and the construction of the -- of the exit driveway onto Eagle Rock Avenue.

Sixty of the tree -- tree removals have to do with the bio barriers, the retention basins. So if we could eliminate the bio basins and -- and put rete -- retention tanks within the parking lot area or within the roadway, we could right off the bat save 60 trees.

And then -- so doing the math, I'm subtracting 80 and 60 from the 313. That means that 171 trees have to be removed to construct the wall and the sidewalk. So -- a sidewalk that is questionable of whether it's really necessary or not.

So -- at any rate, so that's sort of what I'm -- what I'm seeing with this application, that -- that it's -- it's quite contrary to -- to the purposes and

intent of our -- of the tree preservation ordinance, which again, I say it's -- it's one of the strictest in the state and it just seems that there's so many departures from that that it -- it's questionable.

You know, it seems to me, you -- you can still build a parking lot and you can still have the exit driveway by only removing 82 trees, not 313 trees.

Also, I question the math in calculating the replacements. Now, the -- the gathering of information was supposed to be done by a licensed tree expert. I think it was done by a landscape architect, which is contrary to the -- to the ordinance. It has to be done by a New Jersey licensed tree expert. And all those Xs you see on the -- to be removed, well there should be a number next to all of those Xs that refers back to a table that says this is the diameter of this tree, it's 12 inches in diameter, it's a red maple. And there should be a column that says is it -- is it a viable tree or is it a non-viable tree?

And that's very important in doing the calculations. So the table they've presented cannot really be -- be scrutinized by somebody who is familiar with the process of -- of identifying trees and -- and tabulating these tables. I've done a couple of them for other applications in -- in West Orange and, you

know, I -- I -- I'm skeptical about the math that -- that went into this and -- and I'm skeptical into who collected the data, if it was an engineer or a surveyor, a landscape architect, it doesn't comply with the statute of being a licensed tree expert that's embodied into your ordinance.

So that -- that pretty much summarizes what I had to say about the application. It just seems that if -- if we're striving to minimize the impact on the trees in West Orange, well, we -- we can construct the added driveway -- driveway exit and -- and parking spaces by only taking down 82 trees instead of 313 trees if we can -- we can put storm -- stormwater collection into tanks within those disturbed areas. You know, the -- the trees on the steep slope are -- they do provide great screening, wildlife habitat.

About a year ago, I was driving up Eagle Rock Avenue and going towards Roseland and I -- I saw this -- this big bird flying up the -- right over the road. It was a bald eagle. And it -- and it turned and went into Essex -- Essex Fells County Club.

But there is a lot of wildlife in the area and by -- by removing 313 trees, it -- and replacing them with -- I mean, there's a movement to replace with -- and the -- and the landscape list is heavily balanced on --

on putting natives back in, which is a good thing. But -- but still, you know, the trees that are there provide terrific canopy coverage and that's one of the purposes of having a tree protection ordinance, is we want to protect our -- our canopy coverage. It's -- it's a hedge against global warming and -- and climate change and removing 100-foot trees that have been there for 100 years, replacing them, you know, with -- with two-inch caliper, four-inch caliper trees that are 20 feet tall, it doesn't -- it doesn't provide the same -- same benefit as what -- what we have already.

Q So, in working with tree ordinances over the years, let's -- let's talk about the habitat. Does -- does the loss of habitat for different species that live in these trees provide a benefit or a detriment to the area?

A Well, you know, they do, you know, provide -- I mean, 280 is right -- right around the corner, and the filtration of carbon -- carbon dioxide, the process of turning it into oxygen, which we all appreciate, those trees provide a great benefit, and also, you know, habitat for -- for birds and -- and mammals. So it -- you know, the replacement -- and then all the new trees you have to plant, you have to put protection that they don't get devoured by -- by the deer that are present

on the -- on the property, so -- so we have a balance right now.

Not to say all those trees in -- in the existing buffer don't need some work. They've never been maintained. There are some trees in there that are -- that are not viable and -- and should be removed, or pruned to correct defects that -- that could be potential safety hazards. But still, they're -- the trees are there -- that are there are much more beneficial to the environment than -- than anything that we could -- we could re-plant.

Q The -- the applicant proposes re-planting a certain number of trees. Do those trees provide the same type of habitat for the wildlife that's there today?

A Well, you know, basically, what we -- a big consideration of re-planting with native trees is -- is, you know, the -- the insects and the birds that are attracted to the -- to the trees and they obtain sustenance off of the trees, the fruit, the insects that are attracted to them, and the habitat that is provided for squirrels in cavities of trees and raccoons and, you know, and deer browsing on under -- undergrowth.

So not to say that the replacement trees won't

provide any benefit, but they will not provide an equivalent benefit for many, many years, until -- until there's some kind of a balance. And -- and basically, we have -- we have existing under-story that would not be replaced by the -- by landscaping, so.

And, you know, just disturbance of the soil, drainage patterns. You know, I -- I really question whether the -- the trees that would be "preserved" within this area really would survive, based upon the amount of disturbance that's -- that's surrounding them.

And -- and, you know, they do cite on there, you know, we're going to protect the trees and everything, but, you know, once you change a water table on a tree that's 100 years old, they're -- they're not going to be happy. So -- and then just to acclimate the -- the new landscaping, you -- you need to do a complete watering for at least two seasons until -- until the trees get acclimated.

And, you know, most likely, a trickle irrigation system, a permanent trickle irrigation system installed for the new trees would not be a bad idea.

Q With respect to the tree ordinance itself, when you -- when you were working for the town, or when you work for towns, do you review tree plans -- tree

removal plans?
A Yes. You know, basically, for a number of towns, I enforce their existing ordinances, none of which -- well, actually, I think Chatham Township's probably gives West Orange a run for the money in terms of -- of how intense it is. It's a seven-page application and it -- it's very comprehensive, but they don't go down to a four-inch diameter tree, which -- which West Orange does.
Q In -- in your experience as -- you know, reviewing these plans, do you have enough information in the plans that are being presented by the applicant here to be able to make informed decisions as to what the total impact is going to be on -- the environmental impact of the removal of all these trees will be?
A I have a pretty good idea of how it would go. And I, you know, I'm questioning the math in -- in the replacement, the number of replacement trees, because I -- there's not enough information to, to check the calculations and the tables, and -- and I -- I don't know -- I don't know who collected that data.
Q So -- so without that data, can you make an informed decision then on on the impacts of what this tree removal plan will be?
A Well, the -- I mean, basically, by removing trees

on the steep slope, I mean, that is -- it's prohibited. So, it's sort of, you know, when -- when West Orange revised this ordinance, they preserved in time the trees on steep slopes. And, you know, to -- to, you know, just not -- not pay any attention to that is really a disservice -- disservice to -- to the township -- township committee, town council, who -- who drafted this ordinance and passed this ordinance. So it just -- it doesn't stand a reason to allow for all of the removal of the trees on the steep slope.
And they can still have the parking lot and the exit driveway by only removing 82 trees instead of, you know, the total 313 trees. So don't -- so you would be saving, you know, 200 and some-odd trees by -- by not doing the wall and sidewalk.
Q Are you familiar with the PSE&G site on -- on Mount Pleasant?
A Yes, I am.
Q And Prospect? And are you aware of what happened there with respect to their initial plans and what ended up happening there?
A Yeah. They -- they were going to be removing a lot of trees up by Prospect itself, and the purpose of that was for water retention, and I believe they ended up putting the water retention into subsurface tanks

instead of having to remove trees to create a detention basin.
Q And were they able to save a lot of trees then in that regard?
A Yeah, and there were -- there were some big trees up -- there still are some huge trees up there. They lost a lot of ash trees, but so did everybody else in New Jersey when Emerald Ash Borer was brought in, but, you know, all trees need some kind of maintenance, and all trees have a -- have a life span. And when you -- you can't make them safe, they -- you know, they have be removed.
I -- sometimes I have to remind some of these tree huggers that a person's safety is more important than an unsafe tree. I we can't make a tree safe, it's gotta go. But when we remove a tree, it's an opportunity to replace it and sustain the forest, urban forest.
Q And ultimately, do you believe that the goals of the tree ordinance, the West Orange tree ordinance, which you've identified, in your opinion being stringent, are achieved by this plan that you're seeing here, being presented in this application?
A Well, this -- you know, this proposal really violates just about everything -- everything that was

designed to be preserved in -- in the -- in the ordinance. So it -- it just -- it violates so many things.
When -- you know, understandably, you know, to create more parking spaces and to create an exit driveway that is an improvement to traffic flow and safety of people exiting out onto the road, that can be -- that's a good thing, but it should be done to minimize the trees being removed, not maximizing the trees by building a wall and putting in a sidewalk that few people are going to use and creating other -- other issues that affect the surrounding community.
So, the -- those -- the trees right now provide a great screening and buffer to the -- to the course and, you know, I -- I drive by there on a weekly basis and I would miss them.
MR. TURTELTAUB: Very good. I have nothing further for Mr. Linson.
CHAIRMAN BAGOFF: Okay. Vice-Chairman Guarino, do you have any questions for Mr. Linson on his testimony?
VICE CHAIR GUARINO: Yes -- yes, I do, Mr. Chairman. Thank you.
CROSS EXAMINATION BY VICE CHAIR GUARINO:
Q Mr. Linson, how are you, Sir?

A I'm doing all right for an old guy.
Q Very good.
A It's nice to see, Jerry.
Q I have a quick -- I have a quick question, Sir. Did you take a look at the trees that were being required to be removed?
A Did I see marks -- marks on the trees, did you say?
Q Have you -- have you gone up to the property and taken a look?
A I've not been on the property, but I've been by the property. You know, I -- I actually parked on Oval and -- and walked the length of the -- of the property.
Q Okay. So in your expert, Sir, from your -- what you were able to view, could you give an idea of what condition the trees were in, say, for example, you know, were they in need of, you know, treatment? Were they in need of trimming, removal, and situations like that, Sir? I'm just trying to get an idea of what --
A Well, and that's -- that's a good question, Jerry, because, you know, when we -- when we strive to preserve trees, we need to know that they're safe. And basically, it -- it's -- to be a good steward of the property, there should be periodic inspection of the trees and -- you know, the -- the possibility of trees

falling into Eagle Rock Avenue.
So if -- if there's trees that have defects, you know, the -- the entire grove of trees should be inspected by a licensed tree expert and the golf course should take remedial efforts to -- to keep them in a safe and viable condition.
Q Thank you very much, Mr. Linson. It was good seeing you, Sir.
A Okay. Good to see you, too.
CHAIRMAN BAGOFF: Mr. Guarino, did he answer your question? I'm sorry. I thought the question was did you look at the trees and you answered a different question. I just want to be sure I'm -- I'm hearing the same thing. Was your question answered, or did he give you an answer that wasn't your question?
VICE CHAIR GUARINO: He -- thank you, Mr. Chairman. (Indiscernible) go on the property, but I'm sure he has to ask permission to go on the property. But I was trying to get an idea of his expertise. Did he have an idea or could he make an assumption that -- are the trees in good condition? Are any of the trees that are being requested to be removed, you know, are not in good health, they're in need of treatment, they're in need of trimming, they're in need of being removal. That's what I was asking, Mr. Chairman, and I

think --
CHAIRMAN BAGOFF: I didn't hear the answer to that question. I heard something else.
MR. TURTELTAUB: But he -- he also answered that he had parked on Oval and walked along the property along Eagle Rock. That was part of his testimony, too.
CHAIRMAN BAGOFF: Right. I understand that, but that wasn't the question. The question was can he say how many trees or were salvageable and were not salvageable? I'm just asking to find out for the record if the question is -- well, I looked at it and I -- I can't tell you exactly how many, but I picked out, on the other hand, 82, and I came up with the number 82 and this is based on your engineering skills, figuring that the roadway can be made -- I'm just trying to figure out where these numbers come from because if you didn't -- if you weren't -- didn't ask to or you didn't count the trees but you come up with 82 from 300 and something, I'm trying to figure -- listen. I'd love to save the trees. I just want to know how the driveway, which you say can be constructed with only 82 trees, how that happened. I'm confused.
MR. LINSON: Can I answer that ?
CHAIRMAN BAGOFF: Absolutely.

MR. LINSON: Okay. All right. What I did was, you know, in the plans that were provided for me, I went to Staples, I printed them out. I counted Xs. I counted Xs in the -- in the bio-basins. I -- I counted Xs within the -- within the parking lot. I -- I counted Xs within the driveway, and that's where I came up with these numbers.
So I didn't go on the property. I didn't have permission to go on the property. So all of my -- my opinions were based upon walking along Eagle Rock Avenue looking into the property, and examining the -- the landscape plans, and the tree removal plans, and the tabulation of trees that would be removed and compensating quantities that would have to be replaced.
CHAIRMAN BAGOFF: Okay, and the second part is, you said the driveway could be created. Would that be in the place that they want to do it, or in a different place?
MR. LINSON: Same place. Right there. I mean, they -- they, you know, they -- they have to cut into a steep slope, but it's -- but it's only the width of the driveway, and not -- and, you know, it doesn't require a wall and a sidewalk, which would -- would remove, you know, 200 -- I came up with a figure of 231 trees have to be removed to build the wall and -- and

the sidewalk. So, that's a big difference between, you know, 313 to do the whole project, or 82.

CHAIRMAN BAGOFF: So -- so Vision Zero, which is in the master plan, is -- we save the trees, but Vision Zero, we're not going to have, which is in our master plan. So there's two -- there's two competing things here in our master plan, where we want to have sidewalks, we want to have connectivity, but we're not going to take any trees down, so we have no connectivity and increased safety for pedestrians. Again, I'm trying to put all the things that all the experts are saying together.

MR. LINSON: You have an awesome responsibility, to --to filter all of this out, and try to -- try to meet the -- the requirements of the tree removal plan, and that doesn't -- the tree removal ordinance, it doesn't -- it doesn't say you can't remove any trees, it just says, let's try to re -- let's try to minimize the amount of -- amount of trees, and -- and so, I'm suggesting, let -- let's -- let's build a parking lot, let's build the exit driveway out onto Eagle Rock Avenue, but let's not build a retaining wall on a sidewalk that's gonna require, you know, 231 trees to be removed, so --

CHAIRMAN BAGOFF: Okay.

MR. LINSON: But that's -- that's my opinion, that's my recommendation --

CHAIRMAN BAGOFF: Yeah. It's a good opinion.

MR. LINSON: -- to the board, but you know, you -- you have to filter it all out. What's -- what's the best solution for West Orange?

CHAIRMAN BAGOFF: Okay. Thank you. Mayor McCartney, do you have any questions for Mr. Linson on his testimony?

MAYOR McCARTNEY: I do, Chairman, thank you. I have always respected John Linson's expertise ever since he was our town forester, but he certainly does raise some questions here that I'd like to ask. But I want to go back, because I still don't think the question was answered about are the trees healthy or salvageable? John, you mentioned the emerald ash borer. We have -- what's -- the black scorch going on. Did you notice any of that? That trees that needed to come down, or is that not something you can readily observe?

MR. LINSON: That would require an on-site -- you know, a visit and an inspection. And had the applicant provided a table that -- that was prepared by a New Jersey licensed tree expert, as the ordinance requires, we would have seen another -- we would have

seen each tree listed in all 313 trees, the diameter, the species, and whether it was a viable tree or a non-viable tree. Non-viable trees are replaced on a one-to-one basis. Viable trees are replaced on a basis based upon the diameter of the tree. For example, a 12-inch diameter tree has to be replaced on a one-to-one basis. A 24-inch diameter tree is a two-to-one basis, you know, and so on. That's what the ordinance states.

And so we -- we would like to be able to see the math that went into coming up with that -- the replacement numbers. They -- they elected to put in four-inch diameter trees instead of -- for the most part, and -- which -- which is good and bad. The smaller trees have a -- have a higher -- more survivability than the larger trees. They -- because you're -- you're when you transplant them, you're -- you're moving a greater percentage of -- of root system, a four-inch diameter.

Basically, when you -- a two-inch caliper tree has a two-foot diameter ball. A four-inch diameter tree has a four-footr0 diameter ball, but it's just -- it's -- you know, the smaller trees you find survive better than -- than the larger transplanted trees.

MAYOR McCARTNEY: So the question that I had, though, that I was waiting for that answer, but the question that I really had is that you basically said that the project can move forward if -- and save trees, if we relocate -- if the applicant relocates the bio-basins. Is that what I heard?

MR. LINSON: Yes.

MAYOR McCARTNEY: Yes.

MR. LINSON: Yeah. Yeah. I mean it worked over on the public service property. There's two different basins. One has 15 trees that need to come down, the other has 45. So a total of 60 trees have to be removed just for the bio-basins. So it's almost like the same question that -- that when somebody wants to put solar panels on the roof, but they have to cut trees down, what's greener, the tree that's there or the solar panel?

MAYOR McCARTNEY: Yeah. It's always a dilemma.

MR. LINSON: You know --

MAYOR McCARTNEY: It's always a dilemma; yes. Mm-hmm.

MR. LINSON: Yeah. So.

MAYOR McCARTNEY: Okay. Thank you. Thank you, Chairman.

CHAIRMAN BAGOFF: Okay. Thank you, Council President Scarpa. Do you have any questions for Mr. Linson on his testimony?

COUNCILWOMAN SCARPA: No, I think he summed it up very well. Thank you.

CHAIRMAN BAGOFF: Thank you. Mr. Alper, do you have any questions for Mr. Linson on his testimony?

MR. ALPER: I think so. Sort of a process question, I guess. At -- Mr. -- and maybe from your experience when you were the town forester, maybe you know, maybe someone else knows, maybe the planning director, is there a point in the application process when the planning board, or maybe the SPRAB, should be hearing this sort of suggestion earlier on? Like, is the town forest part of SPRAB? Were you? Is the current one?

MR. LINSON: Actually, Walt Kipp is -- is very capable. I don't know that he -- he is actually supposed to provide a report to the board, based upon an informal visit with the applicant on the site. I don't know that that happened or not. I did not see a report from Walt Kipp, but -- but that's -- that -- you're correct. Mr. Alper. There -- there was supposed to be something from the -- the town forester that -- that was attached to this report, some sort of

commentary.

MR. ALPER: Okay. I mean, it strikes me as something probably for, you know, a different discussion about, you know, process and -- and where this should be, just because I think it requires some expertise to look at the tree ordinance and see if it's being complied with or being violated. And it would be good to have those opinions from the, you know, the same way that we get the opinions from the planner on the planning and the engineering on the engineering. Maybe the trees should be, you know, treated the same way so we have a better sense.

I think… I guess my other question is, have you seen -- there was a letter from, I think, Langan Engineering from back in March that was supporting the tree removal plan. And I'm wondering if you've seen that, and if you have, you know, comments as to whether it addresses, or how well it addresses, the concerns you've raised.

MR. LINSON: I have not seen that, and you know, if -- if a sidewalk is, is necessary, if the walls are necessary, it's just basically within that little area, I mean, we're supposed to be -- in the ordinance -- you know, let's just say this was a single building lot, this whole area. You know, we're -- if

it's a single building lot, you're supposed to save 50 percent of the trees on that property.

Within this area, what they're proposing to do is to remove 80 percent of the trees in that area, and only saving 20 percent, if they go with the bio-basins and -- and the -- the wall.

MR. ALPER: Got it. Okay. I think that's all for me. Thank you.

CHAIRMAN BAGOFF: Thank you. In answer to your question, Mr. Alper, the application goes to the forester, you have no comment. So -- and trees, remember, is out of Chapter 25, so whatever we discuss has to go to the forester for his opinion and discussion, just for the record. Mr. Wilkes, do you have any questions for Mr. Linson on his testimony?

MR. WILKES: No. No questions at this time.

CHAIRMAN BAGOFF: Thank you. Mr. Klein, do you have any questions for Mr. Rin -- Wilson -- Linson on his testimony? Sorry.

MR. KLEIN: Well, I don't know if it's a question for Mr. Linson or just a comment that it sounds like there is a way to save a lot more trees if they do the bio-retention underneath the parking lot, instead of where they're doing it. I'm assuming it's cheaper to do it the way they're proposing it right

now.

The sidewalk, that's kind of a dilemma. Like you said, we're going to rip down trees so people can walk, but they're not going to be walking there? I don't know what to do about the sidewalk. So, yeah. No. I don't have any questions.

CHAIRMAN BAGOFF: Okay. Thank you. We'll discuss that. Mr. Morgan, do you have any questions for Mr. Linson on his testimony?

MR. MORGAN: No questions at this time, Mr. Chairman.

CHAIRMAN BAGOFF: Thank you. Deputy Chief Noborine, do you have any questions for Mr. Linson on his testimony?

MR. NOBORINE: I do not, Mr. Chairman, thank you.

CHAIRMAN BAGOFF: Thank you. Ms. Kapferer, do you have any questions for Mr. Linson on his testimony?

MS. KAPFERER: Thank you, Chairman. Yeah, just one question. Thank you, Mr. Linson, for your testimony. Is there -- can you talk a bit about specimen trees, and whether -- I don't know if you're able to observe whether there would be any here, or just have knowledge of that from your experience in --

in West Orange, but do you know if that's an issue here at all?

MR. LINSON: What kind of trees are you -- I'm sorry.

MS. KAPFERER: Specimen. Specimen trees?

MR. LINSON: Oh, specimen trees.

MS. KAPFERER: Yeah.

MR. LINSON: Well, yeah. You -- West Orange does have specimen trees, and they have -- they have some state records. But, you know, basically the term specimen tree usually would be simply that a tree is experiencing, all of the favorable characteristics of a mature tree.

So, it doesn't have to be the largest tree in New Jersey, but it just has to be in good condition, and, you know, we -- we had thought -- when I was working for the town, we had thought of compiling a list of, like, landmark trees throughout -- throughout the town, and, like, Llewellyn Park has some magnificent beech trees. It actually has a state record. American Hornbeam, on Bloomfield Way, that I found, and we registered it with the state.

So, in this particular section, there are trees that are -- are large and -- and in good condition, that, you know, could -- could qualify as a

specimen tree, but, but are not necessarily, you know, the largest tree in West Orange. There's nothing -- nothing like that on the site.

There were some, like, over at the public -- public service site, there were some spectacular trees over there that really were -- were candidates for the largest trees in -- of that species in -- in the town, but, I did not, you know, from my cursory, you know, walk up -- up Eagle Rock Avenue, looking into the property, you know, I saw some nice, large, mature trees, but, you know, nothing that, you know, that was -- Spectacular, you know, but -- but nice trees, that provided valuable screening. But -- but nothing that, you know, that -- that is going to break any -- any state records.

MS. KAPFERER: All right. That -- that's it for me. Thank you so much.

CHAIRMAN BAGOFF: Thank you. Ms. Apte, do you have any questions for Mr. Linson on his testimony?

MS. APTE: No, Mr. Chairman. Thank you.

CHAIRMAN BAGOFF: Thank you. Mr. Valesi, do you have any questions for Mr. Linson on his testimony?

MR. VALESI: No questions. Thank you, Mr.

CHAIRMAN BAGOFF: Thank you. Do any members of the public have any questions for Mr. Linson on his

testimony? Please raise your hand. Please have the best questions because you get one shot at this. You get three minutes.

MS. McGOVERN: Do you want to ask Mr. Schkolnick. If he wanted --

CHAIRMAN BAGOFF: Oh. I'm sorry. Mr. Schkolnick. I'm sorry, I bypassed you. Mr. Schkolnick, do you have any questions for Mr. Linson on his testimony?

MR. SCHKOLNICK: Thank you. Ju -- just two or three.

CROSS EXAMINATION BY MR. SCHKOLNICK:

Q Mr. Linson, you're -- you're not a licensed civil engineer, are you?

A No.

Q You're not presenting yourself to the board as an expert in stormwater design, are you?

Q I am not.

Q Okay.

A Or traffic.

Q Have you -- okay. Have you evaluated NJ DEP regulations as to whether underground storage tanks are viable in this particular situation?

A Not my area.

Q Excuse me?

A It's a suggestion.

Q Can you say that again?

A It's not my area of expertise.

Q It's not -- so stormwater design and whether underground tanks are actually viable is not your area, that's your testimony?

A My area of expertise is saving trees and planting trees.

Q We appreciate that. Do you know if the NJDP regulations allow underground storage tanks when infiltration is not available? Do you have any knowledge of those regulations one way or the other?

A No, I have no percolation rates and things like that. That's not me. That's somebody else.

Q Okay. So, just assuming my client would like to save as many trees as possible, you don't, as we sit here tonight, have any expert knowledge of whether an underground storage tank is viable in this situation under NJDEP regulations?

A My -- my comment was just --

Q Yes or no, Sir? Yes or no?

A I have no knowledge of that.

Q All right. Thank you for your time, Sir.

CHAIRMAN BAGOFF: Thank you, Mr. Schkolnick.

Do any members of the public have any questions for Mr. Linson on his testimony? Please raise your hand and be identified. You'll have three minutes, and you can only ask three minutes, one time.

ZOOM OPERATOR: Paul, please state your name and address for the record. Paul, please un-mute. Mr. Tractenberg?

MR. TRACTENBERG: Paul Tractenberg, 96 Sullivan Drive. Mr. Linson, thanks so much for your coherent and responsive testimony. I have a couple of questions returning to the tree ordinance. Are you aware that the applicant has proposed to remove 191 trees from steep slopes of 10 percent or greater?

MR. LINSON: Where did you get the 191 from?

MR. TRACTENBERG: From Mr. Schkolnick's letter from I think March of this year.

MR. LINSON: Oh. I hadn't seen -- I haven't seen that letter.

MR. TRACTENBERG: If I can read you the sentence, he says, "Applicant also requests a site plan waiver from Section 28-4.4 -- b.4, removal of trees of slopes of 10 percent or greater, 191 trees proposed to be removed."

I'm assuming from what you said earlier, but I hope you can either confirm or correct, that you read

the tree prohibition section of the tree ordinance as barring the removal of any trees that meet the prescription there, one of which is, as you reported earlier, slopes of 10 percent or greater.

MR. LINSON: Yes.

MR. TRACTENBERG: So, if I understand, that would mean that unless there are trees that are not, able to survive, that those 191 trees ought not to be removed, consistent with the prohibition. Is -- am I reading you correctly?

MR. LINSON: Well, basically, as I said, you know, the -- the table that they provided was -- was insufficient. We actually want to see the diameter and the species and whether they're viable or non-viable. And that information wasn't provided. So assuming they're -- they were all viable trees, you know, that would be, you know, I mean, it's -- that would be an excessive, amount of removals, to, you know, for what they want. They -- they want to create -- is it 14 parking spaces and the exit driveway? You know, it doesn't require, you know, 313 trees to be removed.

MR. TRACTENBERG: So, my -- my question's more focused and narrow. It is to the extent the 191 trees they propose to remove from slopes of 10 percent or greater are all viable, do I understand you read the

ordinance as prohibiting the removal of all --

MR. LINSON: Yeah. I -- I just see -- see that as -- as being totally pro -- prohibited and -- from the -- from the ordinance. There's -- there's no -- there can really be no -- no waiver of that requirement.

MR. TRACTENBERG: Now, one related question. Section 28-6 of the tree ordinance, I'll read you a sentence and then ask you if you could tell me whether you've seen anything that satisfies this requirement.

It says in connection with a development application, an applicant shall file a written report by a qualified tree expert explaining how, why the prohibitions set forth in the section we've been talking about are not violated.

Did you see anything, representing that kind of written report showing that --

MR. LINSON: No. I -- I -- I actually underlined that in my copy of the ordinance. I -- I have -- I suspect that -- that -- that the -- all of the analysis of the trees on the site were done by a landscape architect, because I don't see any reference to -- a qualified tree expert by definition in the ordinance has to be a New Jersey licensed tree expert registered with the Board of Tree Experts, and I do not

see any reference to that on -- on any of the plans that were provided to me.

MR. TRACTENBERG: Mr. Linson, thank you for the answers. I appreciate them, and I have no further questions.

MR. LINSON: Okay.

ZOOM OPERATOR: You're muted, Chairman.

CHAIRMAN BAGOFF: -- read my lips. Do any members of the public have any questions for Mr. Linson on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Joe P., please state your name and address for the record.

MR. PANNULLO: Joseph Pannullo, Holton Lane, Essex Fells. Mr. Linson, nice to meet you. A couple of questions on a few things you said. Describing, I think it was 171 trees removed to make sidewalks and walls, do you know the -- the diameter of the old growth trees? Are they healthy trees? Any idea of ballpark percentage? Are they savable? Why take them out?

MR. LINSON: Well, what you're saying -- you know, basically a number of those trees are actually within the county right of way and the county, Essex County, would have to approve that, as they would also

have to approve other aspects of this application.

But no, the -- for the most part, those are all healthy trees because they're very conspicuous. When you drive past the site, you can see, they all have leaves on them and I didn't see a single dead tree conspicuous to the -- from the road.

MR. PANNULLO: Fair enough. So, for the number of trees that would be removed and then replaced, what's your experience, if any, with regard to -- we're on the top of the second Watchung Ridge here. I know there are steep slopes. They vary in degree, some more, some less than 10 percent. You mentioned within 100 feet of a ridge line. Do you have any experience in the viability of the trees that will be replanted when there are -- you take out X, you replace it with Y, you're changing the water table, I think you made a statement about, the landscaping, the ground. We're planting trees into shallow bedrock and volcanic basalt. Where -- how do those trees -- you may plant 597 or whatever. How many of those will actually take?

MR. LINSON: Well, when -- if -- if the preparation has been proper, preparing the soil, you know, basically -- you know, we want quality soil. We don't want just clay. You know, we want a high organic

matter. We want -- we don't -- we want the water to move through there, there should be a good sand content, but up to -- up to a 10 percent loss -- you know, 90 percent survivability is -- is permissible in a landscape replacement.

But in this case, you know, we're -- we're bean counters. And -- and if it says you're going to replace 200 trees and, you know, only 180 survive, you -- you've got to replace those 20. So it's --it's 100 percent -- we're looking for 100 percent survival on what ever is planted. And -- and basically, the planning board, if they're -- when they approve a plan, that plan goes with the property. As long -- you know, any -- any application when the -- when the planning board approves screening between -- between commercial and residential use, if -- if a tree dies in that hedge, you know, between the properties, they have to replace it. And that's continued on forever.

So -- so whatever landscape plan -- as long as there's a golf course there, you know, they have to replace these trees. If they -- if they -- so survival is -- is very critical and irrigation, particularly in the first two years, is -- is critical.

So, you know, it's -- it's -- the replacement -- the species they chose and everything, almost all of

them were native. So I -- I have no -- I don't find any fault with -- with the -- the landscape plan. I just -- my fault is with the removal plan. I don't want to have to replace them; I want to keep the ones we have already.

MR. PANNULLO: Well, all -- all plans actually fail in theory in application, and my question becomes who is actually keeping an eye on or overseeing not putting clay, proper soil, proper maintenance, proper irrigation? Is that the town forester's job? Who's assigned that --

MR. LINSON: Well, one thing, I -- I review landscape plans for other municipalities, and particularly Roseland right now, I've been reviewing the -- the removal of the pres -- Prudential business campus on Becker's Farm and replacement of -- with townhouses. And one thing I'm recommending to that planning board is that the applicant provides a landscape architect to oversee the installation of the plant material, and that would be from selecting the trees in the nursery before they're dug to having a preconstruction meeting with the -- with the landscape contractor, examination of the planting beds and the back-fill material, and really, on-site supervision throughout the whole process. And that can be part of

the resolution from the planning board, guaranteeing that at least the installation goes in.

And then, going forward with -- with survival, the -- you know, basically, we need -- West Orange has a great code enforcement department, so basically, the zoning officer, they have inspectors going out there, they notice stuff. And then you have Walt Kipp, your -- your forester, so.

And there's also a number of very, very gifted and talented and dedicated local residents who -- who drive around seeing issues that need to be addressed and -- and they -- they bring it to the appropriate people to follow up on. So I'm confident that the -- you know, the landscaping that is installed would be -- would be supervised, but I would -- I would recommend to the planning board that they -- they include a resolution having the applicant provide on-side supervision by a New Jersey licensed landscape architect in regard to the selection of the material and approval of material before it goes in the ground and -- and the supervision of the installation.

MR. PANNULLO: Unlike Roseland, West Orange has a full-time forester. Any reason that forester, Walter Kipp, wouldn't have a role in making sure these things are complied with?

MR. LINSON: Well, you know -- you know, basically, there -- there are not a whole lot of towns that have a full-time forester and -- and it's -- it's the better towns that do. You know, you -- you have 100 -- hundreds of miles of -- of roadside trees and you have the forester's managing trees within public right of way on -- on public properties as well as monitoring the -- the tree removal process. It's a big job. It's a big job and it really can't be done by a part-time person.

MR. PANNULLO: Okay. Is West Orange's forester full-time?

MR. LINSON: Yes. He is. Yeah. Walt Kipp.

MR. PANNULLO: Yup.

MR. LINSON: Yeah. And I mean, in Roseland, it's -- you know, I provide part-time -- part-time expertise and they have a very gifted superintendent of public works who -- who rides her on stuff. And it's a lot smaller municipality.

MR. PANNULLO: So with regard to relocating bio-basins and whatever that involves, you know, sub -- you know, subterrain (sic), how does that impact stormwater management? This is a water quality management plan area. Canoe Brook flows down. How does that how does water get affected? How does

stormwater get managed when you deal with all this?

MR. LINSON: Well, this New Jersey DEP has over the last, I would say 10 or 15 years has taken great interest in managing stormwater, and they've come out with a lot of new directives, and it's -- you know, they actually came up with a model tree ordinance, which -- which West Orange's ordinance mimics in regard to, replacement, because trees have -- trees have a great value in water retention.

So my suggestion about the bio-basins is just -- it's a suggestion. I have no expertise in that area, but it's something that I would hope that -- that the planning board and the applicant would pursue in the interest of saving trees.

MR. PANNULLO: Thank you. Are you familiar at all with the tree canopy in the town of West Orange and its degradation over the past 15 or so years?

MR. LINSON: What's the question? I'm sorry.

MR. PANNULLO: The tree canopy in the town of West Orange? I think the West Orange Environmental Commission put out numbers about what it was, what it is now, and the degradation. Are you familiar with that?

A Not -- I'm not up to date on that, but, you know, I've been -- I've been out of the loop for about three

or four years now. But, you know, it's -- that's the interest -- that's the reason why you have -- have a tree protection ordinance, is we're -- we're trying to maintain a sustainable tree canopy coverage. And, you know, basically, the state has, you know, set -- you know, like 40 percent tree canopy coverage is like the goal. And one of the reasons West Orange is successful is that because of the amount of Essex County parkland that is in the township.

So I think the town is in pretty good shape overall. But, you know, look at Essex Green, look at the shopping center renovations. There's an attempt to -- to plant trees, and, you know -- and the ordinance says you're supposed to have, I think, 20 percent canopy -- tree canopy coverage of your parking lots. So, I mean, the idea of having a tree in a parking lot is to mitigate the -- the heat -- heat island effect. But also, you know, I mean, when you park your car, where do you want to park? You want to park in the shade of a tree.

So -- so that's -- and I think, you know, your environmental commission and your planning board, you're aware of the need to identify your heat islands. It seems like a lot of them are in Board of Education parking lots. You know, there needs to be more trees

in parking lots, and -- and this -- this new ordinance, it does address that, but, you know, the horse has been out of the barn for many years, and it takes a long time to recover once you've lost these trees.

MR. PANNULLO: Well, one last question. I think if I heard you correctly, you've worked in 45 or a number of municipalities in New Jersey, maybe more northern New Jersey. What's your background? And I'm going to ask you a question based on that.

MR. LINSON: Well, I was -- I was full time forester in Millburn Township for 25 years. And the last few years I worked for Millburn, they started loaning me out through inter-local service agreements. And then, you know, why does somebody retire? Well, you know, it -- it usually is because the politics got to you. And, you know, I have the saying that, you know, I'm still having fun being a consultant. And, you know, they say, John, you're 75 years old. When are you going to retire? And I go, when it stops being fun, I'll get off the merry-go-round.

But my reputation, I don't advertise, but my phone rings every day with new clients. And I've done a lot with all these storm damages, and -- but I've written a number of management plans for different municipalities, and I'm -- I'm still having fun doing

this.

MR. PANNULLO: As the guy across the street who helped to bring the charge to fight the Highlands, I can tell you strong objectors and experts of men of your background expertise are getting harder to find as time goes by. My last question, sorry to see all you guys retiring out, happy to see guys like you still having fun.

My question is, at least in Essex County, are you familiar with a township in the county that is either more heavily forested, more steeply sloped, or has greater stormwater management to contend with?

MR. LINSON: I -- you know, there's -- there's know, I think we've got, what, 21 municipalities in Essex County? You know, some of them, you know, they -- they try to do the best thing, you know, the public works departments. You know, they're not all well-versed and capable in providing tree services. You know, some of them are much more urbanized, but, you know, there's grant money out there, you know. There's a lot of good things happening in Newark and Irvington, believe it or not.

You know, everybody at least is aware of the problem and the need for more trees, and -- and the state is providing grant money through the license --

the tree license plate program to -- to replenish our trees in our urban forests.

MR. PANNULLO: So just to restate the question, in the town of West Orange specifically, is there a township you're familiar with -- you were home to the first and second Watchung Ridge and the Canoe Brook headwaters in between. Are you familiar with a town that is -- has great -- is more heavily forested, more steeply sloped, or stormwater managed in the county than West Orange?

MR. LINSON: Well, you -- you got -- you got two -- two mountains. I -- I think this, you -- you definitely have -- you run the gamut in environmental challenges in West Orange. And, you know, you have some great people and you have some very -- you know, I can -- I can tell from the questions that we had and -- and from the intensity, you have some very dedicated people on the planning board and on your land use boards.

So, you know, you're trying. You know, you're recognizing, you know, what needs to be done, and stepping up to the plate and, you know, we don't always hit a home run, but, you know, we -- we try to do the right thing for the -- for the town and -- and you know, I mean, we -- you look at, the urban forest

and the trends, you know, there were fad trees, we --we planted trees under wires, we didn't do mark-outs, we planted trees on top of --

CHAIRMAN BAGOFF: Okay. Mr. Linson. Mr. Linson. Mr Linson, thank you very much.

MR. LINSON: All right.

CHAIRMAN BAGOFF: This is like the future of Omaha. I appreciate that, but we -- we want to get back to the case here.

MR. PANNULLO: Thank you, Mr. Linson. I appreciate it. Thank you, Sir.

CHAIRMAN BAGOFF: Thank you, Mr. Pannullo. Do any other members of the public have any questions for Mr. Linson on his testimony? Please raise your hand and be identified.

ZOOM OPERATOR: Keith Sly, please state your name and address for the record.

MR. SLY: Keith Sly, 757 Eagle Rock, Pleasantdale Chateau.

CHAIRMAN BAGOFF: Go right ahead, Sir.

MR. SLY: Thank you. Mr. Linson, upon removing 80 percent of the trees in the area in question, could you offer any professional estimation of the survival risk to the remaining 20 percent, post this unique level of disturbance?

MR. LINSON: Yeah. I'm not real optimistic about that. You know, when you're disturbing the soil, you know, at 360 degrees around a little grove in the middle and you're changing drainage patterns and everything, those trees are going to be stressed. And old people don't like change, and old trees don't like change. And, you know, so I -- even though we say we're saving some trees, I'm very skeptical that they're gonna make it.

MR. SLY: To that end, would you have any adjustment to the recommendation of replacement level for new trees?

MR. LINSON: Well, you know, again, I haven't -- haven't see -- you know, I don't -- I don't have a lot of confidence in the calculations that were provided and -- and I haven't really walked the site, but, you know, with -- with the amount of -- of grading changes that are being proposed, you know, I -- I think my recommendation -- I like the smaller trees, the two-inch caliper trees, as opposed to the four-inch caliper trees. I think they have a much better chance at survival. But the way the ordinance was crafted, it's -- you have to replace less if you replace bigger. But it may not be the best -- the best thing for the project.

MR. SLY: Even in that regard, if the replacements were to be four-inch in diameter trees, would there be in your perception any substantial loss of screening than the existing -- than what's provided with the existing trees?

MR. LINSON: Well, if -- you know -- you know, my greatest my hope would be that we can save those trees along Eagle Rock Avenue and not build a wall or a sidewalk, but even -- even those trees that we are -- we would like to save are going to need some maintenance, and -- and they really should be inspected by a New Jersey licensed tree expert.

The golf course should be taking an interest in -- in maintaining them. Some of them would have to be removed, some of them need to pruned, and -- you know, but that's -- that's just ongoing regular maintenance. Every -- every tree needs -- needs a little attention. You know, at least once every 10 years, a tree in a suburban setting needs -- needs pruning, feeding, cabling, insect or dis -- disease control. So it's just one -- living -- living among the trees, they -- they need -- they need some help. You know, usually -- indu -- the industry says, you know, like once every 10 -- 10 or 12 years, every -- every tree needs -- needs to be pruned, so -- some kind

of pruning.

MR. SLY: We do know that well. We go to great extent on our property to -- to try to do that. Speaking of, if trees and the root base are removed directly along the roadside, is there any risk to root systems of trees directly across the roadway? Thinking of our property in particular. Pleasantdale Chateau.

MR. LINSON: Well, the -- the only risk would be if roots are cut on trees that -- that are "preserved" and they fail in a storm when they fall across Eagle Rock Avenue. But, you know, basically, the drainage system on the other -- other side of the street, with -- with the -- the pavement and the curbing, you know, it -- they're really completely isolated from each other.

MR. SLY: Okay. Thank you. And in terms of -- of water absorption, groundwater absorption specifically pertaining to trees, is there any notable difference from the existing stock of trees, if they were to be replaced with four-inch or fewer trees, their ability to absorb the -- the groundwater on the site?

MR. LINSON: Well, it's all -- it's all about the root system, and you know, basically, a two-inch diameter tree retains more of the existing root system

when it was dug in the nursery than does a four-inch caliper tree. It's just -- you know, basically, these trees for the most part are dug with a tree spade, a mechanical tree spade that literally just kind of severs roots and grabs them and puts it in a -- in a burlap-lined wire basket and -- so roots are -- roots are cut, but, you know, the percentage of roots that are retained are much greater for a two-inch caliper tree than -- than a four-inch caliper tree. So, you know, the -- actually, you know, plant -- plant a four-inch caliper tree next to a two-inch caliper tree and pretty soon, that two-inch caliper tree's going to be taller than the four-inch caliper tree. It -- it's just going to make -- make up for a lot -- a lot of lost time because it has a better root system from day one.

MR. SLY: Thank you, Mr. Linson. That's all I have, Chairman.

ZOOM OPERATOR: Chairman, you're muted.

CHAIRMAN BAGOFF: Okay. Thank you. We're going to suspend the remainder of this meeting because the hour is late and we're going to carry this to our next regular meeting. And Mr. Turteltaub, is that good for you, Mr. Steck, and Mr. Linson?

Mr. Turteltaub, you're -- you're -- you're

muted, also.

MR. TURTELTAUB: I should have learned. If -- thank you. My apologies. I -- I know Mr. Steck and Mr. Linson, Mr. Linson can answer for his himself. I can make it on the next meeting.

CHAIRMAN BAGOFF: Okay. Mr. Linson? Mr. Steck.

MR. LINSON: Okay. If -- if needed, I can come back next -- next time.

(Multiple people speaking at once.)

MR. TURTELTAUB: November 4th, that would be.

CHAIRMAN BAGOFF: -- you, Mr. Schkolnick?

MR. SCHKOLNICK: Yes. Is that for some more fun, Mr. Linson?

MR. LINSON: I'm sorry?

MR. SCHKOLNICK: We'll have some more fun that night?

MR. LINSON: Oh, yeah. As long as I keep having fun, I'll keep coming back.

MR. SCHKOLNICK: Okay. Chairman?

CHAIRMAN BAGOFF: Yes.

MR. SCHKOLNICK: Chairman, can you -- can you announce the time of that meeting?

CHAIRMAN BAGOFF: Yes. I'm going to right now. I am going to do that right now. I just wanted

to make sure everybody was on the same page. PB-26-03, Crestmont Country Club, 750 Eagle Rock Avenue, Block 174, Lot 1.01, zone R-2 will be carried to the November 4th, 2026 planning board meeting at 7:00 p.m. via Zoom. There will no -- be no additional notice required.

MR. SCHKOLNICK: You're -- that's right. You can't make it. Right? Chairman?

CHAIRMAN BAGOFF: Yes.

MR. SCHKOLNICK: -- raise an issue with you. I -- I recognize that you put Mr. Posada number one and you also scheduled Ms. Moore.

CHAIRMAN BAGOFF: Yeah. We're going to talk fast.

MR. SCHKOLNICK: Okay. We're requesting at least one, perhaps two special meetings. I want to be frank with the board. We are not going to be in a position to agree to continue this matter past this calendar year when --

CHAIRMAN BAGOFF: I've got -- what I would suggest is you speak with Ms. McGovern and mis -- Gary Adams and we'll come up with something and we will publish it, but right now, we're going to -- for -- for carrying purposes, we're going to carry it to the November 4th meeting and we will see what we can do with the board.

MR. TURTELTAUB: Mis -- Mr. Chairman, I -- I just -- my client just informed me he will not be --

CHAIRMAN BAGOFF: Mr. Turtelbaum (sic), go right ahead.

MR. TURTELTAUB: I'm sorry, Mr. Chairman. Sorry to cut you off. My client has informed me he will not be available on November 4th.

CHAIRMAN BAGOFF: Okay. Is that problematic?

UNIDENTIFIED MALE: Who's Mr. Turtel -- who's client, by the way? Did he identify that?

MR. TURTELTAUB: Kevin Malanga. Kevin Malanga.

MS. McGOVERN: He did write a letter. It's on the agenda.

CHAIRMAN BAGOFF: Yes. Is that going to be a problem, Mr. Turteltaub?

MR. TURTELTAUB: He -- he would like to be part -- part of this process, yes.

CHAIRMAN BAGOFF: Okay.

MR. TURTELTAUB: He's been -- he's been attending all of the hearings and he would like to --

CHAIRMAN BAGOFF: So we will -- for purposes of carrying the meeting and notice, we'll carry it to the 4th and we'll come up with a special meeting in-between that'll be -- hopefully satisfy everybody.

How's that?

MR. TURTELTAUB: I -- I appreciate the board and -- and Mr. Schkolnick's --

CHAIRMAN BAGOFF: Yes.

MR. TURTELTAUB: Yes.

CHAIRMAN BAGOFF: Thank you.

MR. SCHKOLNICK: We appreciate it. But Chairman, I do want to be clear and firm --

CHAIRMAN BAGOFF: I heard. I heard. Mr. Schkolnick --

MR. SCHKOLNICK: -- about that.

CHAIRMAN BAGOFF: Trust me, I heard. I'm dancing as fast as I can.

MR. SCHKOLNICK: Because I'm not going to be accused of --

CHAIRMAN BAGOFF: I'm dancing as fast as I can.

MR. SCHKOLNICK: We -- we appre -- and we appreciate it. It's a very difficult process, but I don't want to be accused of --

CHAIRMAN BAGOFF: No. Not at all. Not at all.

MR. SCHKOLNICK: -- doing anything nefarious --

CHAIRMAN BAGOFF: No. Not at all. Mr.

Turteltaub --

MR. SCHKOLNICK: There is not going to be a situation where board members are not reappointed or leave and we're -- we're faced with eight transcripts for a new board member who hasn't heard the testimony.

CHAIRMAN BAGOFF: No. No. Nope. Nope. No worries. No worries.

MR. SCHKOLNICK: We appre -- appreciate that.

CHAIRMAN BAGOFF: Mr. Turteltaub, would you provide Ms. McGovern tomorrow with your -- all the information about notice and anything that has to do with -- Mr. Klein. Mr. Klein has his hand raised. Go right ahead, Mr. Klein.

MR. KLEIN: I have a -- can somebody go on mute? Somebody's got an echo. I don't know what's going on. All right. So since we've got a month until the next time we may or may not hear this, is it wrong for me to say why doesn't the applicant look into the possibility of putting the detention basins under the parking lot? If they can't do it, explain why, and then that's done. And then can they push the county a little bit to say, look. Are you going to let us have the signal or not, and then another issue that we can set -- put to bed. Is that possible over the next four weeks?

CHAIRMAN BAGOFF: Well, the applicant heard. It will be up to applicant to decide what they wish to do. The way it always is. But thank you, Mr. Klein. That's a great suggestion.

MR. KLEIN: And then what do we want to do about the sidewalk?

CHAIRMAN BAGOFF: We're going to discuss it when we hear what the applicant has to do with the subterranean retention basin, trees, and parking.

MR. KLEIN: Well, that's -- that's two different things. We could save 191 trees by not doing the sidewalk. We could save 82, whatever the numbers were.

CHAIRMAN BAGOFF: Well, I -- I don't know that it was 191 on the sidewalk --

MR. KLEIN: Whatever the numbers were. There were a lot of trees that could be saved if we didn't do that, if they did this.

CHAIRMAN BAGOFF: Right. Right.

MR. KLEIN: So -- do we want to try to get that --

CHAIRMAN BAGOFF: They'll come back. They'll come back, we'll talk more.

MR. KLEIN: All right.

CHAIRMAN BAGOFF: Okay.

MR. SCHKOLNICK: Chair, to -- to Mr. Klein's point, I think it could be appropriate to -- to make an inquiry of the county on -- on their position, if it would be helpful.

MR. KLEIN: Great. Thank you.

CHAIRMAN BAGOFF: Excellent. Thank you. Okay.

****

(Requested presentation concluded.)

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