

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
December 6, 2021
VIA REMOTE MEETING ACCESS ONLY

CALL TO ORDER

Chairman Rochat called the virtual meeting to order at 7:03 p.m. and read the Open Public Meetings statement in accordance with the law. Those present stood for the pledge of allegiance.

ROLL CALL:

Present: Chairman Tom Rochat, Vice Chairman Richard Rinzler, Mayor Paul Vallone, Councilwoman Sheila Tweedie, Robert Lewis, Marilyn Layton, Jack Koury, Alt. #1 and Suzanne Humbert, Alt. #2

Also Present: Peter Henry, Board Attorney, Frank Linnus, Conflict Attorney, David Banisch, Planner, Richard Quamme, Engineer (on behalf of Steve Bolio, Ferriero Engineering) and Shana L. Goodchild, Secretary

Absent: John Lawlor

There were approximately thirty-four (34) audience members present.

BILL LIST

- December 6, 2021

Ms. Goodchild reported that some escrows had been replenished since the Bill List was issued. There being no questions, Vice Chairman Rinzler made a motion to approve the Bill List. Councilwoman Tweedie seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Ms. Layton, Mr. Koury, Alt. #1, Ms. Humbert, Alt. #2 and Chairman Rochat

Those Opposed: None

MINUTES

- November 1, 2021 Regular Meeting

Councilwoman Tweedie made a motion to approve the minutes of the November 1, 2021 Regular Meeting for content and release. Vice Chairman Rinzler seconded the motion. All were in favor.

PUBLIC COMMENT

There was no public comment.

APPLICATIONS/PUBLIC HEARINGS

- Appl. No. PB2020-04
Lakehaus, LLC
Block 4, Lot 5
100 Lake Road
Use and Bulk Variances for Ground Mounted Solar
Time for Decision Deadline – 12/31/21

Frederick Zelley, Attorney on behalf of the applicant was present and noted that only six (6) members of the Board were present to vote on the application therefore he requested that the Board carry the public hearing to the January 3, 2022 meeting. In anticipation of the adjournment, Mr. Zelley provided the Board an extension of time to act to the end of February, 2022.

Mr. Henry noted that the Board had jurisdiction, proper notice was provided and the Board could announce the continuation. He asked that Mr. Zelley provide a hard copy of the affidavit to which Mr. Zelley agreed.

It was announced that the public hearing would continue on January 3, 2022, 7 p.m. without further notice.

APPLICATION/COMPLETENESS DETERMINATION

- Appl. No. PB2021-18
Mahoney
Block 5, Lot 6.03
5 Fox Hunt Court
Use Variance
Click link to view application material:
<https://www.dropbox.com/sh/g9qtb87nv1yipvm/AACQO-RGmckEEc2jRxgwBp3ta?dl=0>

Jonathan Mahoney, owner/applicant was present. When asked by Mr. Henry if he was in receipt of the letter from Ferriero Engineering, Mr. Mahoney responded in the positive.

Richard Quamme, Ferriero Engineering recommended to the Board that the waivers referenced in their letter be granted and the application be deemed complete. He noted that the Tax Certification had been provided and did not require a waiver.

There being no questions, Vice Chairman Rinzler made a motion to grant the waivers and deem the application complete. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor:

Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Mr. Lewis (having audio issues but visible gave a 'thumbs up', Ms. Layton, Mr. Koury, Alt. #1, Ms. Humbert, Alt. #2 and Chairman Rochat

Those Opposed: None

Mr. Henry suggested to Mr. Mahoney that he reach out to the Board Engineer to discuss some additional information to supplement the plan to which Mr. Mahoney agreed.

APPLICATION/AMENDMENT AND MODIFICATION TO CONDITION

- Appl. No. PB2021-10
Far Hills Country Day School
Block 4, Lot 11
697 US Hwy Route 202
Amended Prel./Final Major Site Plan and Use Variance Scoreboard Replacement

Katherine Hatfield, Attorney on behalf of the Applicant, was present and explained that they submitted a letter application seeking an amendment to a condition of approval related to the inability to rent the athletic fields.

Lori Fitzgibbon, CFO at Far Hills Country Day School (FHCDS) was present and sworn in by Mr. Henry. Ms. Fitzgibbon noted that she has been employed by FHCDS for seven (7) years and has dealt with the use of the athletic fields. When asked if the fields have been rented out on occasion, Ms. Fitzgibbon responded in the positive. She went on to explain that the fields are rented out during the evening and during the summer if there are no FHCDS programs scheduled. There are no lights on the field so rentals occur during daylight hours (10 a.m. and 6 p.m.). When asked if the fields are rented during the weekends, Ms. Fitzgibbon responded in the positive noting that it is under the same circumstances. When asked if any renter has been permitted or will be permitted to use the scoreboards, Ms. Fitzgibbon responded in the negative. When asked if there has been an increase in field use by outside agencies, Ms. Fitzgibbons responded in the positive noting that there is a shortage of soccer fields available. The usage by the FHCDS is the priority but use by outside agencies is permitted. Ms. Fitzgibbon confirmed that they were requesting to amend the condition of approval to allow the school to rent the fields with the condition that the scoreboards would never be used by any renter and only be used by FHCDS. When asked by Mr. Henry if the fields are used by renters on week days when not in use by FHCDS, Ms. Fitzgibbons responded in the positive. When asked about timing, Ms. Fitzgibbons noted that they don't permit any rentals while the school day is in session; all renters are end by 6 p.m. during the school year and the summer.

When asked by Chairman Roachat if the scoreboards are used for FHCDS summer camp, Ms. Fitzgibbon responded in the negative with the exception of interscholastic games that the school has as part of its athletics program during the school year; the scoreboards have never been used during the summer and that practice would continue.

There being no questions from the Board, Councilwoman Tweedie made a motion to approve the modification to the condition to allow the fields to be used by renters on days when the FHCDS is not using the fields between 2:45 p.m. and 6 p.m. and during the summer, week and weekends between 10 a.m. to 6 p.m.; others using the fields cannot use the scoreboards and the fields would remain unlighted. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Mr. Lewis (having audio issues but visible gave a 'thumbs up', Ms. Layton, Mr. Koury, Alt. #1, Ms. Humbert, Alt. #2 and Chairman Rochat

Those Opposed: None

APPLICATIONS/PUBLIC HEARINGS

- Appl. No. PB2021-15
Robustelli
Block 3, Lot 10
170 Lake Road
Stream Corridor Buffer Variance
Time for Decision Deadline – 2/1/22

Mr. Peter Henry recused himself from participation as Council for the Board and Attorney Francis Linnus was present as the Board's conflict Attorney. Mr. Linnus noted he reviewed the notice provided by the applicant and it was in proper order and the Board has jurisdiction to hear the application.

As a noticed property owner, Mr. Robert Lewis recused himself from the proceedings.

Nicole Magdiak, Attorney on behalf of the Applicant was present and explained that the applicant was seeking a variance relief pursuant to N.J.S.A. 40:55D-70-c.1 which relates to the topography and physical features of the property and the extraordinary or exceptional situations that uniquely impact the property. The variances sought relate to the stream corridor buffer located on the property and also to the rear setback for certain accessory structures below grade but located within the setback area. The applicants propose to construct an addition to the existing home; the property is substantially constrained by the stream corridor and the related buffer.

Candice Davis, Engineer on behalf of the Applicant was present and sworn in by Mr. Linnus. Ms. Davis provided her professional and educational background and was accepted by the Board. Ms. Davis provided an overview of the existing site conditions, particularly noting the environmentally sensitive areas on the property. Using the share-screen capabilities of Zoom, Ms. Davis displayed sheet 2 of 8 (existing conditions and environmental constraints) of the submitted plans. She noted that the access to the existing home is from the corner of Lake Road and Hidden Valley Road. The lot consists of 18.5 acres and is an existing developed lot for residential use but it is severely encumbered by environmental constraints including a Category-1 tributary of the North Branch that flows downhill into a pond and an existing dam on site. There are environmental constraints related to the stream including a floodplain as well as riparian zone buffer regulated by NJDEP. There is also an offsite tributary that impacts the site and the project proposed. The onsite stream and the freshwater wetlands were delineated and approved by NJDEP in 2006 and the buffers and wetlands associated with the stream were deed restricted in March, 2006 (represented by the pink line on the plan). Additionally, the site is encumbered with a Stream Corridor protection zone which is a Far Hills ordinance requirement; the water course, 100-year floodplain designated by FEMA and bank greater than 12% slope are encompassed by that ordinance. Ms. Davis explained that relief was being sought for the impact the proposed development has on the stream corridor. She described the following existing improvements: an existing frame barn, shed, silo, accessory dwelling previously

approved by the Board in 2005, septic system and tanks, drywells, in-ground pool and pool equipment (to be removed) and a frame garage (to be removed). Using sheet 3 of the submitted plans (zoning plan), Ms. Davis described the proposed addition which conforms to the required setbacks for the R-10 Zone. The proposed addition consists of 2,800 sq. ft. in footprint and connects to the existing dwelling by way of a breezeway. There will be additional patio area and retaining walls that extend from the addition throughout the rear of the existing dwelling. When asked why the addition is not proposed on the East side of the house, Ms. Davis explained that the slopes lend to a better area for the addition and the East side of the house has a well, septic system and underground propane tank that would be disturbed. Using sheet 2 of the submitted plans, Ms. Davis described the existing drywells that serve the site currently; they will be replaced with a split stormwater system which was designed with small underground detention piping and two (2) areas of underground drywells to handle all of the stormwater runoff from the existing and proposed conditions. When asked if the drywells closest to the proposed addition are located in the rear setback, Ms. David responded in the positive. Additionally, there are below grade septic system features that will require relief from the Board as they encroach into the required setback. There are two (2) existing A/C compressor units that serve the existing dwelling that will be moved and two (2) additional units will be included with a screening wall. There are future considerations for expansion of patio areas and a retaining wall. An existing generator that will be replaced with a new generator.

Ms. Davis referenced the letters from the Board Engineer dated October 1, 2021 and December 3, 2021. The plans and stormwater management report have been revised to address many of the comments raised in the October, 1, 2021 letter. She agreed to comply with the remaining concerns and conditions outlined in the December 3, 2021 letter (right of way width, as built plans, etc.). Mr. Quamme highlighted Item #3 for the Board's consideration (half width right of way dedication). Ms. Davis also referenced a report from the Borough Planner dated November 1, 2021 and noted that there are no changes to the existing non-conforming conditions. Mr. Banisch noted that the proposed addition is to the north of the existing paved driveway and he reminded the Board of the site walk and the notation of the substantial fill that was the result of prior construction activities. He explained that there was a substantial amount of mature vegetation on the East side of the existing home and it was apparent on the site walk that the West side was superior as it would result in the least amount of disturbance. Mr. Banisch reminded the Board and the applicant that discussion took place at the site walk about adding evergreen landscaping to the West side to enhance the existing vegetative buffer. He also suggested that the Board require screening with a sound barrier to blunt the sound from the generator.

When asked by Mr. Linnus if the applicant would agree to a condition requiring proper disposal of any structures removed, Ms. David responded in the positive.

John Lyons, Architect on behalf of the Applicant was present and sworn in by Mr. Linnus. Using the share-screen capabilities of Zoom, Mr. Lyons displayed drawing P1.2 and explained that the addition has an open area with a billiard room, sitting area, fireplace, bar area and rail that looks down to the indoor pool below. Mr. Lyons displayed drawing P1.1 showing the lower level with a lounge sitting area, changing room, mechanical room for pool equipment, full bath and an underground tunnel that connects into the existing home; the main pool area is 28 feet by 16 feet. Mr. Lyons displayed drawing P2.0 showing the main building elevations and described various architectural features of the structure. He noted that the West side of the property was better suited due to the existing grade and the East side would have required more disturbance of trees and existing well.

When asked by Mr. Linnus to confirm that there are no kitchen or bedrooms in the proposed addition, Mr. Lyons responded in the positive. When asked if the proposed addition will be utilized as a rental apartment or residential use, Mr. Lyons responded in the negative. When asked by Mayor Vallone the height of the new addition, Mr. Lyons responded 29'6" measured from the lower level to the peak of the roof (not including the cupola). When asked by Chairman Rochat about exterior lighting on the West side, Mr. Lyons responded two (2) sconces on either side of the door. When asked by Mr. Banisch if the applicant would agree to an in-service lighting inspection with shielding, if necessary, Ms. Magdziak responded in the positive. When asked by Mr. Banisch if the applicant would agree to a condition to provide vegetative screening and sound barrier, Ms. Magdziak responded in the positive and noted that they would agree to work with his office to provide the landscape screening.

A brief discussion ensued regarding the road dedication and Mr. Linnus suggested that the dedication be in the form of an easement so as not to impact the lot area. Mr. Banisch noted that the Board's practice has been to take the dedication as an easement rather than fee simple.

There being no additional questions from the Board, Chairman Rochat opened the meeting up to the public for questions of the witnesses. There being none, the public questioning portion of meeting was closed.

Ms. Magdziak recapped the testimony and noted that the applicant requires C1 variance relief related to the proposed addition and stormwater and utility structures located within the stream corridor buffer area. The stormwater and utility structures also require relief for being in the setback area. By eliminating the existing swimming pool and garage the disturbance is minimized, there is no impact to any existing trees or vegetative buffers and no significant impact on the neighbors or streetscape.

Mr. Linnus outlined various potential conditions of approval including but not limited to: compliance with the reports issued by the Board professionals, a restriction against using the proposed addition as a residence/apartment, new LOI (if applicable), all other permits and approvals required including the soil conservation district, NJDEP flood hazard applicability determination, payment of taxes and escrow, submission of as-built plans, Department of Health approval, amend reference to Harding Twp. on the plans, lighting inspection, landscape buffering plan and sound buffering for the generator.

Councilwoman Tweedie made a motion to approve the application with the conditions enumerated and discussed. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Ms. Layton, Mr. Koury, Alt. #1, Ms. Humbert, Alt. #2 and Chairman Rochat

Those Opposed: None

Mr. Lewis returned to the meeting at this time.

- Appl. No. PB2021-07
Pulte Homes of NJ, Limited Partnership/Residences at Overleigh
Block 5, Lot 4

220 Route 202
Prel./Final Subdivision and Site Plan and Variance
Time for Decision Deadline – 12/6/21

A transcript of the Pulte Homes of NJ, Limited Partnership/Residences at Overleigh public hearing has been attached to the minutes.

It was announced that the public hearing would continue at the regularly scheduled meeting of January 3, 2022, 7 p.m. (to be held remotely) without further notice.

Mr. Gianetti agreed to grant an extension of time for the Board to take action to January 3, 2022.

- Appl. No. PB2021-19
The Nucleus Group Holdings
Block 15, Lot 1.01
49 Route 202, Suite 13
Change of Use/Occupancy/Site Plan Waiver

Ms. Layton and Ms. Humbert recused themselves from the application due to residing within 200 feet of the subject property.

Anthony Melillo was present on behalf of the applicant and sworn in by Mr. Henry. He provided a summary of the proposed use as a medical communications use. He explained that they have downsized during the pandemic from 25 employees to six (6) employees. The hours of operation are proposed for Monday through Friday, 6 a.m. to 6 p.m., no visitors with six (6) employees on site with six (6) parking spaces required and provided. Signage will be a re-decal on the monument sign and any additional signs that pertain to that particular suite; no site modifications are required. Mr. Melillo requested that the applicant be permitted to occupy the space prior to the resolution of approval. The Board had no objection to the space being occupied prior to the adoption of the resolution.

Mr. Banisch asked if the occupants will have assigned parking in the rear of the site since parking is in high demand closer to Route 202. Mr. Melillo noted that there is no assigned parking but they are encouraged to park in the rear of the property. Mr. Banisch requested that the situation be policed as the front of the site gets overparked and crowded and no parking is available. Mr. Melillo agreed to try to monitor the parking situation.

Chairman Rochat opened the meeting up to the public for questions or comments.

Jon Sobel was present and asked to speak about the Pulte Homes of NJ/Residences at Overleigh application. Mr. Henry explained that the application was over for the evening and he again explained the process for public questions and comments.

There being no questions or comments, the public portion of the meeting was closed.

Vice Chairman Rinzler made a motion to approve the application with the normal conditions. Councilwoman Tweedie seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Mr. Lewis, Mr. Koury, Alt. #1 and Chairman Rochat

Those Opposed: None

CORRESPONDENCE

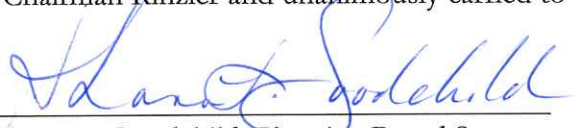
1. A letter dated November 22, 2021 from Paul Ferriero, Ferriero Engineering re: Mahoney Variance, Block 5, Lot 6.03, 5 Fox Hunt Court.
2. A letter dated November 19, 2021 from Kathryn Hatfield re: Variance Application – Far Hills Country Day School Scoreboards – Resolution No. 2021-24.
3. Notice dated October 28, 2021 from EcolSciences, Inc. re: Residences at Overleigh, Block 5, Lot 4.

ZONING UPDATE

- Zoning memo dated November 30, 2021 – Kimberly Coward

ADJOURNMENT

Motion by Councilwoman Tweedie, seconded by Vice Chairman Rinzler and unanimously carried to adjourn the meeting at 10:39 p.m.


Shana L. Goodchild, Planning Board Secretary

APPROVED 2/7/22

BOROUGH OF FAR HILLS PLANNING BOARD
COUNTY OF SOMERSET - STATE OF NEW JERSEY

SPECIAL MEETING FOR:
PULTE HOMES OF NEW JERSEY, LIMITED PARTNERSHIP/
RESIDENCES AT OVERLEIGH
BLOCK 5, LOT 4
220 ROUTE 202

APPLICATION NO. PB2021-07

MONDAY, DECEMBER 6, 2021
COMMENCING AT 7:00 P.M.
TRANSCRIPT OF PROCEEDINGS
CONTINUED PUBLIC HEARING - VIA ZOOM

BOARD MEMBERS PRESENT:

TOM ROCHAT, CHAIRMAN
SUZANNE HUMBERT
JACK KOURY
MARILYN LAYTON
ROBERT LEWIS
RICHARD RINZLER, VICE-CHAIR
SHEILA TWEEDIE, COUNCILWOMAN
PAUL J. VALLONE, MAYOR
ALSO PRESENT:
PETER HENRY, ESQUIRE, BOARD ATTORNEY
RICHARD QUAMME, P.E., Board Engineer
DAVID BANISCH, P.P., Board Planner
SHANA L. GOODCHILD, Board Secretary
STENOGRAPHICALLY REPORTED BY:
ANGELA BUONANTUONO, CCR, RPR, License No. 30X100233100

HUDSON COURT REPORTING & VIDEO (732) 906-2078

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EXHIBITS NOT RETAINED BY REPORTER

1 (Application is called at 8:36 p.m.)
 2
 3 CHAIR ROCHAT: Okay, next on the
 4 agenda Pulte Homes application, PB2021-07. Mr.
 5 Gianetti is here?
 6 ATTORNEY HENRY: Shannon, I don't know
 7 who it is, but someone who I think is coming into
 8 the meeting by phone, the phone keeps breaking into
 9 the testimony and to the -- the video and I don't
 10 know what's causing it or why.
 11 SECRETARY GOODCHILD: Okay. I'll
 12 keep -- I'll keep an eye on it, Peter.
 13 ATTORNEY HENRY: It's the 6554
 14 number -- 908-285-6554 --
 15 MEMBER LEWIS: Peter, that's a good
 16 sign because that's my number.
 17 SECRETARY GOODCHILD: Yeah. That's
 18 Mr. Lewis trying to get audio.
 19 MEMBER LEWIS: I'm sorry about that.
 20 ATTORNEY HENRY: Okay.
 21 SECRETARY GOODCHILD: Okay.
 22 CHAIRMAN ROCHAT: Are we ready, Mr.
 23 Gianetti?
 24 ATTORNEY GIANETTI: Yes. Good
 25 evening, Chairman, members of the board, Craig

1 Gianetti, the law firm of Day Pitney on behalf of
 2 the applicant, Pulte Homes New Jersey, LP. This is
 3 a continued application. This is, I believe, our
 4 eighth hearing on the application seeking
 5 preliminary final major site plan approval along
 6 with subdivision approval in connection with
 7 property located at 220 Route 202, Block 5, Lot 4,
 8 proposing an inclusionary residential development
 9 consisting of 105 age-restricted townhouse dwelling
 10 units and an apartment building consisting of 29
 11 affordable apartments, of which 25 would be family
 12 affordable apartments and four would be
 13 age-restricted apartments.
 14 The property is located TH-6-IAR zone
 15 and the zone was created as part of the settlement
 16 agreement between Melillo Equities and the Borough
 17 as part of the Borough's affordable housing plan.
 18 If you recall, at the last meeting
 19 November 23rd, we completed the testimony of our
 20 last witness, our planner, Paul Phillips. And at
 21 the meeting we began public comment. There is a
 22 member of the public represented by counsel, Mr.
 23 Owens, who is going to present an objection case
 24 with his witness.
 25 Before, I guess, we begin to that,

1 there were just kind of two items with respect to
 2 the last meeting, I guess, questions posed to us
 3 concerning the board engineer stormwater management
 4 report.
 5 And first, you recall the board
 6 engineer's review letter had a number of stormwater
 7 management comments. And as part of that, the board
 8 engineer indicated that a lot of those comments come
 9 from being addressed as part of resolution
 10 compliance and working out with our engineer.
 11 However, before he could get to that point he wanted
 12 additional soil sampling done with respect to the
 13 soils and, I guess, the depths of the soil sampling
 14 in -- previously as part of the stormwater
 15 management report.
 16 Those tests were done and completed and
 17 the results were submitted, I believe, Thursday to
 18 Mr. Ferriero's office. And I mean, my understanding
 19 from our engineer with that submission, it
 20 confirms -- excuse me -- the prior testimony of
 21 Mr. Kennedy as to the stormwater management system
 22 and its ability to function properly in its
 23 compliance with the DEP regulations.
 24 So we don't believe it changes anything
 25 to what Mr. Kennedy testified to and we believe all

1 these other comments or questions are matters that
 2 can be addressed as part of resolution compliance
 3 with Mr. Ferriero's office and Mr. Kennedy's office
 4 on the details.
 5 And also recall, too, the applicant is
 6 seeking DEP permits as part of this application. As
 7 part of that permitting process the DEP will also be
 8 reviewing the stormwater management to ensure we
 9 comply with the DEP zone stormwater management
 10 regulations.
 11 And then last, too, there is
 12 a question, if you recall, Mr. Kennedy testified as
 13 to the -- the last sheet of the plan set submitted
 14 in October had the temporary sales trailer along
 15 with temporary signage to be up during construction
 16 and while the units are being sold. There was three
 17 feather flags as well as two sale signs to the
 18 interior of the unit -- or interior of the property
 19 by two model units as well as a community ID sign
 20 near the entrance. There was a question as to the
 21 dimensions of that, which we indicated would be
 22 included on a revised plan set as far as resolution
 23 compliance. But they asked, you know, for the
 24 information as well as to confirm, you know, there
 25 wasn't anything crazy, I guess, being proposed.

1 So the feathered flags, of which there
2 are three on each the side of the internal roadway
3 as shown on that last sheet of the site plan set,
4 are 26 inches wide and 144 inches tall. And that's
5 not necessarily the entire area of it but for the
6 flag, you know, being in the ground up. It's
7 144 inches high. And then there are --
8 ATTORNEY HENRY: 12 feet, right?
9 ATTORNEY GIANETTI: I'm sorry?
10 ATTORNEY HENRY: That's 12 feet.
11 ATTORNEY GIANETTI: Correct. The area
12 itself is not 12 feet, but from the flag in the
13 ground to the top of the flag -- the feather flag.
14 And these, I'm sure, people have seen them before.
15 They're your typical feather flags. You might see
16 it at either a business or you've seen it at, you
17 know, residential development where they're having
18 sales. You know, it's typical from what you would
19 see.
20 ATTORNEY HENRY: How about the
21 dimensions on the other signage and such?
22 ATTORNEY GIANETTI: So the sale
23 signage are 3 feet wide by 4 feet wide, and if you
24 recall that's on the interior of the property. It's
25 going to be where the model units are going to be

1 and the sales trailer is going to be. So you
2 wouldn't have any visibility from the roadway.
3 And then the community ID sign, which
4 is located on our property but near the entrance is
5 4 feet high and 8 feet wide. And those dimensions
6 would be added to that -- that plan sheet, the
7 revised site plan set.
8 BOARD PLANNER: Mr. Gianetti, those
9 signs, the feather flags, the six of them, will they
10 be removed when the sales office is closed?
11 ATTORNEY GIANETTI: When the sales
12 office is closed, in the sense of when they're done
13 with the sales, yes, they will be removed.
14 You're referring to hours of operation?
15 BOARD PLANNER: Yeah.
16 ATTORNEY GIANETTI: No, they don't --
17 they don't come down daily. You know, these flags
18 are in the ground and stay up during the sales
19 process.
20 MEMBER RINZLER: I have a question.
21 The height of the flagpoles at 12 feet, we just
22 passed -- we just passed an ordinance in Far Hills
23 regarding how the US flag is displayed and the size
24 of flagpoles. How would this fit in with our new
25 regulation?

1 ATTORNEY GIANETTI: That would be
2 something Mr. Banisch can -- but these aren't
3 necessarily, you know, flags you're flying like, you
4 know, the United States flag or -- it's almost more
5 like a banner sign, I guess, but going up and down.
6 MEMBER RINZLER: I mean, I know
7 they're tall signs because I have seen them at your
8 property in Creekside in Flemington.
9 ATTORNEY GIANETTI: Um-hum.
10 MEMBER RINZLER: And I mean, they are
11 large flags. Currently there are flags that say, I
12 think, "Only Three Available."
13 ATTORNEY GIANETTI: I can't say
14 they're the same sign as you are looking at there,
15 the same type of feather flag sign.
16 MEMBER RINZLER: Also, would this be
17 an appropriate time to raise questions about the --
18 the mailboxes that were sent to us in the photos?
19 ATTORNEY GIANETTI: If you like, yes,
20 there was a question -- again, there was a lot of
21 questions on the mailbox corral which were
22 identified in the plan. They asked for a detail and
23 a photo, which we've sent to the board and to Mr.
24 Banisch showing a detail, as well as the sample of
25 what it would look like.

1 MEMBER RINZLER: Is it appropriate
2 time to ask questions about that?
3 ATTORNEY GIANETTI: Yeah, if you have
4 a question, sure.
5 MEMBER RINZLER: Well, I mean my
6 concern, when I look at the photo I get the
7 impression there's 36 mailboxes. And just the idea
8 of, you know, at any given time there's a lot of
9 people queuing up to get their mail, they're
10 standing in the street.
11 I mean, was there a reason why they had
12 to be ganged in a group of 36? It just looks
13 like -- not very attractive in terms of the number
14 of mailboxes clumped together. And considering --
15 ATTORNEY GIANETTI: I think it's --
16 it's consistent with what they have at other
17 developments and use at other developments and it
18 has been approved by the -- the postmaster and post
19 office. So nothing out of the ordinary that
20 they're -- they're proposing.
21 MEMBER RINZLER: Okay. I mean I know
22 in earlier presentations the comments were made that
23 the mailboxes would be sort of similar to the ones
24 they use at The Polo Club and -- and they're not
25 massive mailboxes here like that. I'm just raising

1 the question.
 2 ATTORNEY GIANETTI: Well I think it
 3 was more of an example of a gang mailbox. Wasn't
 4 going to be identical to what The Polo Club...
 5 THE WITNESS: Okay. I think "gang" is
 6 probably a well-used term, because if all 36
 7 residents show up for the mail at any time, that
 8 would be quite a gang to have waiting on line to get
 9 their mail.
 10 ATTORNEY GIANETTI: I think it's
 11 consistent with their type of development.
 12 I can tell you I lived in a townhouse
 13 development. I had a pretty large one. I don't
 14 think I ever ran into anybody at the mailbox. So
 15 there is a lot there, but people get their mail at
 16 all different times.
 17 And again, this is all going to be
 18 subject to the review of the Postmaster and -- and I
 19 just know in experience they tend to encourage these
 20 type of gang mailboxes.
 21 MAYOR VALLONE: Mr. Gianetti, it's
 22 Mayor Vallone. I just wanted to reach out to you
 23 with regard to the flags.
 24 So the impression that I get is that if
 25 the development takes three years to build out, that

1 these flags will be flying for night and day for
 2 three years?
 3 ATTORNEY GIANETTI: Correct. If it
 4 takes three years to build out, they will be there.
 5 Now again, they're not -- they're not
 6 on the right-of-way or in the road.
 7 MAYOR VALLONE: I'm completely against
 8 that. Completely against it. Just for the record.
 9 So those flags have to go. We are not going to have
 10 our residents look at horrible flags for three
 11 years. That is not going to happen.
 12 ATTORNEY GIANETTI: If I may, Mayor,
 13 I'm just going to pull up on the screen --
 14 MAYOR VALLONE: I know what they look
 15 like and they don't belong in Far Hills.
 16 ATTORNEY GIANETTI: Well, not so much
 17 what they look like, but even the location and
 18 maybe, you know, to some extent, you know, we're
 19 balancing -- you know, the Borough's gone a great
 20 extent to make sure a lot of this is not visible
 21 from Route 202, which is, you know, a major road.
 22 But to some respect, if people are coming to the
 23 site, they need to see it and be able to identify it
 24 and turn into it.
 25 So here you can see, if you can see my

1 mouse, they're not along the roadway. We are going
 2 to have a lot of screening along the frontage.
 3 They're on the interior side as you turn into the
 4 building -- or I mean, I'm sorry, into the
 5 development. They could be, you know, maybe pushed
 6 back a bit little further.
 7 But again we're -- during the sale
 8 you're drawing people to the site, you want to make
 9 sure they know where it is.
 10 MAYOR VALLONE: I do think that they
 11 should be constructed in a way so that they're
 12 further back on the driveway and that they are able
 13 to be taken out, especially during holiday times or
 14 when the sales of these units is not ongoing. I
 15 think it's not -- not in keeping with what we expect
 16 in Far Hills to have the banners flying 24 hours a
 17 day, seven days a week.
 18 ATTORNEY GIANETTI: Understood. But
 19 again, we're balancing it with -- being able to, you
 20 know, identify the site to make sure people can safe
 21 and adequately, you know, enter this development
 22 that hasn't been built yet. And we're happy --
 23 sorry, what was that, Mayor?
 24 MAYOR VALLONE: Those flags are not
 25 going to be there. That's all I'm going to say to

1 you.
 2 ATTORNEY GIANETTI: Well, we would be
 3 happy to work with Mr. Banisch on pushing them
 4 further back and finding a location that's, you
 5 know, not as visible from the roadway, you know, to
 6 some extent.
 7 You know, again, most -- most people
 8 driving on the road that are not going to be coming
 9 to the site are going to be driving right past it
 10 and probably won't have much visibility to it
 11 because it's a main roadway and it's landscaped, you
 12 know, for much -- on either side of it.
 13 So the further they're pushed back,
 14 you're probably not going to see it as much, except
 15 for when -- as you're pulling into the development.
 16 MAYOR VALLONE: All right. Well,
 17 we'll talk about this again. Go ahead.
 18 ATTORNEY GIANETTI: So I guess, you
 19 know, before we go to continue the public comment
 20 and the public presentation, you know, I guess we
 21 can see where it goes tonight. But in our mind,
 22 with respect to the stormwater management and what
 23 is provided by -- to Mr. Ferriero's office, you
 24 know, we believe it's confirmed in prior testimony
 25 of Mr. Kennedy, that the stormwater management

1 functions. And the rest of the information that was
2 requested as noted at the -- by the board engineer
3 at the last meeting can be provided to the board as
4 part of resolution compliance.

5 ATTORNEY HENRY: I think that's
6 something we should determine as either correct or
7 not because that was the key to your being able to
8 conclude your case as of your conclusion last month.
9 So I guess we need to hear from the engineer about
10 that.

11 As I understand it -- though I am not
12 an engineer, my understanding is that the key
13 question was whether the additional soils work that
14 was going to be done would support an engineering
15 finding with respect to the design for the various
16 elements of the drainage system. And if the answer
17 were in the affirmative, that the board and Borough
18 engineer were satisfied that the rest of the
19 stormwater management comments in their report were
20 things that lent themselves to appropriate
21 engineering solutions. And that they expected those
22 solutions could be worked out without impacting the
23 layout of either the buildings or the roadways.

24 But it takes us back -- assuming I'm
25 correct about that -- to, I think we do need to

1 resolve did the soils work produce that satisfactory
2 result such that we can now move on from the
3 stormwater management comments question, or is that
4 something that is still open because the soils work
5 still needs work.

6 BOARD ENGINEER: I can answer to that,
7 Chairman. Our office did receive the soil -- the
8 additional soil information. And both Paul and
9 another individual in our office looked at the soils
10 and found it to be in the affirmative of that
11 question. So, yes.

12 ATTORNEY HENRY: So that --

13 ATTORNEY GIANETTI: Thank you.

14 ATTORNEY HENRY: As I understand what
15 you're saying, Rich, that would then leave the other
16 stormwater management comments that still have to be
17 addressed, but those lending themselves to your
18 office concluding that engineering solutions to all
19 of those things are, more or less, readily available
20 and can be worked out in a way that it is not going
21 to affect the layout of the project itself.

22 BOARD ENGINEER: That is correct.

23 ATTORNEY HENRY: Okay.

24 ATTORNEY GIANETTI: Thank you.

25 ATTORNEY HENRY: And before we move on

1 too far, I just want to tell you I have a handful of
2 things that at some point I'm going to want to go
3 through with you, Craig, on where we have come out
4 on things.

5 In trying to go through it and look at
6 that. I think I know what some of the answers are
7 and I'm not quite so sure about a couple of them.
8 And there's about five things I just want to hit.
9 We can do that now before we go forward, or we can
10 do that after we return from the presentation that,
11 I gather, the neighbor wishes to make, however you
12 would like to proceed.

13 ATTORNEY GIANETTI: I think we can
14 continue with public comment. And then, you know,
15 at the end when I give my summation, and if there's
16 any talk of resolution or clarification, that we can
17 go through either the conditions and/or any item you
18 need clarification on.

19 ATTORNEY HENRY: Okay.

20 Thank you, Mr. Chairman.

21 CHAIRMAN ROCHAT: Okay.

22 ATTORNEY GIANETTI: And then I guess,
23 you know, Mr. Henry, if it makes sense I think it
24 was last -- we had a few members of the public speak
25 last time.

1 ATTORNEY HENRY: Yes.

2 ATTORNEY GIANETTI: And, you know,
3 there was a time limit placed and I guess, you know,
4 reiterating the time limits and restrictions for
5 public comment, that Mr. Owens would be permitted to
6 present, you know, his witness exempt from that.

7 ATTORNEY OWENS: Great.

8 If I may, Arthur -- just to recap --
9 Arthur Owens from Lum, Drasko & Positan. And my
10 co-counsel, Keith McKenna, online with me as well.
11 Our clients are Ken and Suzanne Voorhees, who are
12 located at 5 Castle Court.

13 I have Barbara Woolley-Dillon. If we
14 can unmute her and she can turn her camera on.
15 Barbara is a proposed planning expert that's
16 conducted an evaluation here and would like to
17 provide some -- some comments.

18 Peter, if you can swear her in.

19 ATTORNEY HENRY: I have to find her
20 first.

21 ATTORNEY OWENS: I think she just
22 turned her camera on.

23 ATTORNEY GIANETTI: If she says
24 something it'll know to highlight her.

25 BARBARA WOOLLEY-DILLON: Hi.

1 ATTORNEY HENRY: There she is. Would
2 you raise your right hand? Do you swear the
3 testimony -- you happened to be off the screen. Now
4 I see you.

5 Do you swear the testimony you are
6 about to give in this hearing will be the truth, the
7 whole truth, and nothing but the truth, so help you
8 God.

9 BARBARA WOOLLEY-DILLON: I do.

10 ATTORNEY HENRY: Would you, for the
11 record, state your full name and spell your last?

12 BARBARA WOOLLEY-DILLON: Yes. Excuse
13 me. My full name is Barbara Allen, A-L-L-E-N,
14 Woolley-Dillon, W-O-O-L-L-E-Y-D-I-L-L-O-N. My
15 address is 5856 Route 9, Tuckerton, New Jersey
16 08087.

17 ATTORNEY HENRY: Thank you.

18 ATTORNEY OWENS: Thank you, Peter.

19

20 EXAMINATION

21

22 DIRECT BY ATTORNEY OWENS:

23 Q. Good evening, Barbara. For the purpose
24 of your qualifications, could you just go over your
25 background to begin?

1 A. Yes. I am a professional planner
2 within the State of New Jersey. I have my NJ PP. I
3 also have my -- excuse me -- American Institute of
4 Certified Planners, or AICP designation.

5 I am a certified zoning official also
6 through the Rutgers University Continuing Education
7 Program. And I have my Wetlands Delineation for
8 wetlands, soils, hydrology, and vegetation through
9 Rutgers Continuing Education Program as well.

10 I have achieved an undergraduate degree
11 from Rutgers University in Camden with a BA in Urban
12 Studies with an urban planning option. And then
13 I've also achieved a masters degree, or an MCP, from
14 the University of Pennsylvania. Excuse me.

15 I have testified before approximately
16 120 boards throughout the State of New Jersey and
17 including most in Atlantic County, Cape May County,
18 as well as a significant number in Burlington
19 County.

20 I have also worked for, as part of my
21 past capacities, a staff member for the Office of
22 Land Use Planning for the Burlington County Office
23 of Planning. And in addition to that, I have
24 prepared master plans for Collingswood, East Hampton
25 Township, Egg Harbor Township, Galloway Township,

1 Gloucester City, Hamilton Township, Atlantic County,
2 Jackson Township, the Borough West Wildwood,
3 Winslow. And most recently I also serve as the
4 Director of Planning and Development for the City of
5 Atlantic City. We're in the process of releasing
6 our updated 2021 Master Plan Report.

7 I have also prepared re-examination
8 reports, consistency reviews, Fair Share Housing
9 plans, center designation petitions, redevelopment
10 plans, and tax abatement studies for several other
11 communities.

12 Q. Thank you, Barbara.

13 ATTORNEY OWENS: With that, I would ask
14 the chair to confirm that Ms. Woolley-Dillon can
15 provide planning testimony before the board.

16 CHAIRMAN ROCHAT: She can.

17 ATTORNEY OWENS: Thank you.

18 BY ATTORNEY OWENS:

19 Q. Barbara, have you -- can you go over
20 what documentation you've reviewed in connection
21 with your evaluation?

22 A. Yes. I reviewed the municipality
23 zoning ordinances, master plans, master plan
24 re-examination reports and amendments, county plans,
25 farmland preservation reports, corridor plans,

1 county soils reports, environmental studies and
2 mapping, as well as Municipal Land Use Law, the
3 application itself, the numerous documents that have
4 been submitted, and looked at and reviewed all of
5 the transcripts for the different hearings.

6 Q. Thank you, Barbara. And did you come
7 to an opinion as to whether this application
8 satisfies the purposes of the zoning or the variance
9 relief sought?

10 A. Yes, I did.

11 Q. And could you go over your methodology
12 in reaching that opinion?

13 A. Yes. In looking at everything that
14 was submitted, there were several things that I
15 looked at, including what was being proposed, in
16 particular the -- not just the overall lots itself
17 but what was happening with the subdivisions and the
18 requirements for the subdivision.

19 If you look what's being proposed, the
20 applicant is actually subdividing off the -- the lot
21 that has the affordable housing from the rest of the
22 development. It actually creates its own lot that
23 do not meet the requirements of the ordinances, as
24 well as any documents that were adopted by the
25 municipality for this site.

1 For example, in looking at what is
2 required, they're seeking a maximum permitted
3 building height for proposed 34 of the walkout units
4 for the townhomes themselves. They're also having a
5 maximum permitted building coverage for each of the
6 townhome lots. And possibly the multi-family lot.
7 No information has been provided about that on the
8 plans.

9 There appear to be minimum required
10 front-yard, side, and rear-yard requirements for the
11 individual townhome lots. There also appear to be
12 the minimum required setback relief for the
13 townhomes from the rear deck patios to each of the
14 rear deck patios, 30 foot is required, where only
15 26.5 feet is shown between at least two of the rear
16 deck patios at the sides.

17 There's also required variance relief
18 from the minimum required side-yard setbacks for
19 townhomes to the tract boundary line. 100 feet is
20 required where about 20 feet is proposed to the new
21 multi-family dwelling lot. As well as minimum
22 required side-yard setback of 52.9 feet and
23 rear-yard setback of 85.9 feet for the multi-family
24 building lot where 100 feet is required to be
25 proposed to the new tract boundary line.

1 have not provided any testimony or justification
2 about that.

3 The only other way that they could
4 argue the variance relief would be under the C(2)
5 criteria. And based on Kaufmann v. The Planning
6 Board for Warren Township, the case states that by
7 definition then no C(2) variance should be granted
8 when merely the purposes of the owner would be
9 advanced. The grant of the approval must actually
10 benefit the community in that it represents a better
11 zoning alternative. The focus of the C(2) case then
12 will not be on the characteristics of the land that
13 in light of current zoning requirements create a
14 hardship on the owner, warranting relaxation of the
15 standards, but on the characteristics of the land
16 that present an opportunity of planning that will
17 benefit the community.

18 Basically, for these type of variances
19 there can be no substantial detriment to the public
20 good. The purposes of the Municipal Land Use Law
21 have to be advanced by the requested deviation from
22 the requirements of the zoning ordinance, and the
23 benefits of the deviation are to substantially
24 outweigh any possible detriment. Particularly the
25 purposes of the Municipal Land Use Law must be

1 Finally, minimum required setback of
2 50 feet for parking areas for the affordable rental
3 housing units where approximately 10 feet is
4 proposed to the new property line near the overall
5 townhouse lots.

6 And then there are also steep slope
7 disturbances. They are not permitted in slopes
8 greater than 25 percent, and 68 percent is proposed.
9 And there's additional relief for that. As well
10 as -- excuse me -- a variance from the stream
11 corridor buffer requirements of 100 feet.

12 The application does not meet those
13 requirements. So I believe an extensive amount of
14 variance relief is required for the proposed
15 development. Excuse me.

16 With regard to the burden of proof that
17 the applicant is compelled to provide to the board
18 to justify granting the variance relief, the
19 applicants -- they have not given any -- any of the
20 variance relief under their testimony under the C(1)
21 criteria or what we would call the hardship
22 criteria. Basically they could ask for that under
23 things such as a unique configuration or a shape
24 with the lot and structures lawfully existing
25 thereon. However, they have not sought that. They

1 advanced by the requested deviation from the
2 requirements of the zoning board and the benefits of
3 the deviation would substantially outweigh, again,
4 any possible detriment. In particular the purposes
5 of the Municipal Land Use Law must be advanced by a
6 deviation from the literal requirements of the
7 zoning ordinance.

8 I believe that the application for the
9 purposes that can be provided are found in N.J.S.A.
10 40:50D-2. There are 16 that are listed. 18
11 purposes have been found by the courts. I believe
12 that the application contradicts eight of those 16
13 purposes.

14 I'm going to summarize what they are,
15 the small letters, and then go into the rational for
16 why. I believe that they contradict small letters
17 A, B, C as in cat, D as in dog, G as in goat, H as
18 in hamster, I as in igloo, and J as in Jacob.

19 I looked at the application, the
20 information that was proposed, and I really
21 struggled with this one. I believe, again, that
22 they need a lot of variance relief that was not
23 initially requested, and I believe that the variance
24 relief is substantial.

25 I also am struggling with the fact that

1 they have separated out the affordable housing units
 2 from the balance of the units. One of the things
 3 that we look at when we're proposing affordable
 4 housing is how do we integrate it as part of the
 5 community, to make this segment of the population
 6 feel as if they are a part of the community, that
 7 they are not to be distinguished, separated, or
 8 differentiated from the rest of the community, and
 9 I'm simply not seeing that. They're in a building
 10 left unto themselves. Now, obviously being proposed
 11 as completely separated from the rest of the
 12 development.

13 Again, this is simply not what was
 14 envisioned by COAH or the municipality or the -- the
 15 adoption of good design standards that would
 16 incorporate or be incorporated to achieve good
 17 affordable design units for the community.

18 The other question that I ask when
 19 looking at the information that was provided is, for
 20 affordable housing units, the affordability index is
 21 based on a 30 percent -- and that's no more than
 22 30 percent of the income. It is unclear how the
 23 proposed development is going to achieve that
 24 especially subdividing it off from the rest of the
 25 community.

1 and there are also the presence of threatened and
 2 endangered species on the site.

3 THE WITNESS: Do I have screen-sharing
 4 privileges?

5 SECRETARY GOODCHILD: Yes, you should
 6 have the ability to share your screen.

7 THE WITNESS: Okay. I did a bit of
 8 research on the site itself to see what was going
 9 on. In looking at the site, I went to the NJ-GeoWeb
 10 site to determine how the site is ranked, if there
 11 are sites of concern, et cetera, in this area.

12 One of the first things I pulled up, as
 13 you can see the site here, is a map that indicates
 14 that there is a potential for two contamination
 15 points at this site. And in looking at this site, I
 16 wondered what those sites were.

17 If you go to the NJDEP sites, they're
 18 identified as Site Number 1730. I have those shown
 19 on the screen here. They're the Agway Petroleum
 20 Corporation site. And there appear to have been
 21 some inspections of air quality that were done. And
 22 if you look here in this column, these are active
 23 sites. They're undergoing active investigation.
 24 And again, this is simply part of what was located
 25 with regard to this.

1 I have a tremendous amount of concerns
 2 with regard to the environmental portion of the
 3 proposed development. They're going to, in certain
 4 cases, encroach into that minimum required 50-foot
 5 buffer in wetlands, especially in the area of the
 6 proposed access drive. The drainage basins that
 7 they're proposing are going to drain directly into
 8 the wetlands. That has the propensity to pick up
 9 oils, dirt, et cetera, from the roadways and
 10 transport -- transport them into the basins and
 11 wetlands, potentially polluting the wetlands.

12 And again, they're proposing into the
 13 steep slope areas which your Master Plan has
 14 recognized the key significance and value of not
 15 developing in the steep slope areas. Basically the
 16 Master Plan indicates that once you do this, it
 17 compromises the integrity of the area and has the
 18 potential for disastrous effects.

19 I also have an issue, in looking at the
 20 plans, they have a proposed 17-foot-tall retaining
 21 wall near the pumping station and it's located in
 22 the wettest, worst portion of the site. It is going
 23 to have the propensity to eventually erode and
 24 collapse the structure. Again, there are soils and
 25 potential contamination and environmental conditions

1 The other thing that I would also like
 2 to point out in going through all of the sites, in
 3 looking at the application that was submitted along
 4 with the plans, there appear to be a triangulation
 5 of monitoring wells on the site. This is also an
 6 indication that the site has some type of
 7 contamination on it. So that is of a major concern
 8 to me.

9 I know one of the other questions that
 10 was asked were with regard to any historical and
 11 archeological sites. I have pulled up the
 12 historical and archeological resources map from
 13 NJDEP. Again, here is the site as shown. And if
 14 you look at the site, there are areas that have not
 15 yet been assessed and it is unknown if they have
 16 historical and archeological significance.

17 If you'll also look here, the site is
 18 indicated in blue. This is an identified individual
 19 site. So again, there are potential for historical
 20 and archeological resources on the site.

21 I would also like to put out -- point
 22 out, that this area -- and, again, the site is
 23 featured in yellow -- it's part of, if you're
 24 looking at the map that I'm showing, this shows a
 25 critical habitat map within the State of New Jersey.

1 And down here, the green area that is shown, this is
2 core for a critical habitat area as you can see.
3 It's part of the bigger regional picture and extends
4 through the site and down further.

5 This is one of the largest connection
6 points in the State of New Jersey in this particular
7 area. And the significance of this is that
8 disturbing these areas has the potential to disturb
9 or destroy habitat on this site.

10 One of the things that I did notice
11 with regard to what was presented in their
12 environmental impact report is there are threatened
13 and endangered species on this site. They have been
14 identified on this site. So I'm really struggling
15 with this because there seem to be a lot of
16 challenges with the site.

17 I would also -- excuse me -- like to
18 point out that species that they have for the
19 evergreens for the buffers and re-vegetation, white
20 pines, this is a tough species. What they're
21 proposing is -- it takes over 20 years to grow up,
22 and when it finally hits its height that it's
23 supposed to be, there isn't any lower canopy. It's
24 gone. And it doesn't serve the buffering purpose
25 that I think it's intended to serve.

1 Additionally, they're proposing a
2 substantial planting of re-vegetation in a forested
3 area. And in the front of the site, near that very
4 large septic disposal bed, that has the potential
5 for a lot of conflict with the species that they're
6 proposing with the proposed improvements.

7 They have also provided a significant
8 number of off-street parking spaces. The question
9 is, could that be considered as too much and does
10 that take up additional space on the site? Does it
11 take up additional impervious space? Absolutely.

12 One of the other challenges that I'm
13 seeing with regard to the project is there are very
14 few actual active proposed recreational amenities.
15 This is also very difficult when you have smaller
16 children and you haven't proposed any place for them
17 to physically play. In looking at the proposed type
18 of development, one of the things that is of concern
19 to me, when you're looking at the lack of
20 recreational amenities, where are the residents
21 supposed to take these small children to play?

22 It means that they're going to be out
23 on the street. It means that they're going to leave
24 the driveway. They are going to have to go
25 someplace else to provide an area for recreation.

1 There really isn't anything proposed on the site.

2 I would also offer that the affordable
3 housing units -- they are permitted in other
4 portions of the municipality, in the R-10, the R-6,
5 the R-3, R-1, R-5, and the NO, or Neighborhood
6 Office Zone. In looking at what is intended for
7 affordable housing units, it seems it would be in
8 some of the other -- those other zoning districts,
9 it would be a better chance to incorporate it into
10 the fabric of the community and make it appear to be
11 a seamless transition where you will not be able to
12 tell where the affordable housing units are. That
13 is not what is being proposed with this -- excuse
14 me -- development.

15 One of the other challenges in looking
16 at the development application, I'm looking at the
17 schedule that is being proposed, basically the
18 applicant does not need to construct the first unit
19 until the 25th market-rate unit is constructed. To
20 me that is a real challenge and that you will get
21 25 units for the age-restricted townhouses before
22 you will get any or see any of your affordable
23 housing units. At 50 percent of the market-rate
24 units, they're only going to have to provide
25 50 percent of the affordable housing units. It does

1 not make any sense with this proposal.

2 The other challenge that I'm facing
3 with this is that deed restriction -- I understand
4 that this is supposed to be for age-restricted
5 townhouse development. However, recent court
6 rulings have held that if these type of units do not
7 sell well, the deed restriction can potentially be
8 lifted. It simply involves an application to the
9 judge and the judge makes a decision on this.

10 So I think that there are a lot of
11 concerns about this. For those reasons I do not
12 believe that it, again, satisfies:

13 Small letter a, which is "to encourage
14 municipal action to guide the appropriate use for
15 development of all lands in the state in a manner
16 which promotes the health, safety, morals and
17 general welfare." Again, endangered species,
18 contamination. There is also a 100-foot power line
19 that goes right through the middle of the site.

20 Small letter "b) to secure from flood,
21 -- excuse me -- "fire, panic, and other natural and
22 manmade disasters." Again, we're developing into
23 the wetlands -- wetlands and buffers. We are also
24 developing into the steep slopes, there is specific
25 relief being sought for that.

1 Small letter "c) to provide adequate
2 light-air open space." Again, I believe that the
3 application requires substantial variance relief.
4 Small letter "d) to ensure that the
5 development of individual municipalities does not
6 conflict with the state and the general welfare of
7 neighboring municipalities, the county, region, and
8 the state as a whole." Again, this has to do with
9 the COAH premise and the regional plans. If you
10 look further -- and I may have to do a new share --
11 ATTORNEY GIANETTI: Well, if I just
12 may, for a second, Mr. Henry, I don't believe any of
13 these exhibits were submitted prior to the meeting,
14 so I don't think they have been identified or
15 marked. So at some point I think some of these
16 documents need to be marked.
17 ATTORNEY OWENS: We can. I can have
18 them submitted and marked.
19 ATTORNEY GIANETTI: Yeah. I guess for
20 purposes of tonight, as she's testifying, so when
21 she refers to an exhibit she can refer to it as "A"
22 or I guess "O something," just so the record is
23 clear when she's speaking what -- what exhibit she's
24 referring to.
25 ATTORNEY HENRY: I think, although

1 ultimately we'll want hard copies of things with
2 proper exhibit markings on them submitted to
3 Shana -- and I would like copies of those as well --
4 I think that Craig is right, we should be
5 identifying these with exhibit numbers tonight on
6 the record here to match up with what is being
7 referred to by the witness.
8 ATTORNEY OWENS: Okay. Would you --
9 would you prefer we go back through the ones that
10 she has marked already and we can deem them --
11 ATTORNEY HENRY: Yes.
12 ATTORNEY OWENS: Okay.
13 ATTORNEY HENRY: We'll start with that
14 rather than going farther down the road.
15 ATTORNEY OWENS: Sounds good.
16 BY ATTORNEY OWENS:
17 Q. Barbara, could you -- I think you put
18 three or four exhibits up?
19 A. Yes.
20 Q. Could you go back through them and we
21 can -- we can identify them for the record and mark
22 them as a -- as an exhibit. And I will, obviously,
23 circulate them later to the -- to the board's
24 attorney and to Craig.
25 A. Okay. The first exhibit that I placed

1 up is entitled -- excuse me -- "NJ Geo-Web" and this
2 shows the site location with two potential areas of
3 concern.
4 Q. All right.
5 ATTORNEY OWENS: Should we call that
6 Objector's Exhibit A?
7 ATTORNEY HENRY: Number 1. O-1.
8 ATTORNEY OWENS: Okay, O-1.
9 (Exhibit O-1, NJ-GeoWeb map, was marked
10 for Identification.)
11 THE WITNESS: The second had to do
12 with the program interest. It was two pages and it
13 identified the contamination on the site. And that
14 it was active and ongoing.
15 ATTORNEY OWENS: All right. And that
16 will be O-2?
17 ATTORNEY HENRY: Correct.
18 (Exhibit O-2, Map of contaminated
19 sites, was marked for Identification.)
20 THE WITNESS: Number 3 was the -- if
21 I've got this correct -- the historical and
22 archeological resources map, which showed the site
23 itself being identified individually along with
24 areas that have not been assessed on the site.
25 ATTORNEY OWENS: All right. That will

1 be O-3.
2 (Exhibit O-3, Historical and
3 archeological resources map, was marked.)
4 THE WITNESS: And then the fourth one
5 would be the critical habitats.
6 (Exhibit O-4, Critical habitats map,
7 was marked for Identification.)
8 THE WITNESS: Okay. And tell me if
9 this next series -- can you see the next series of
10 maps?
11 ATTORNEY OWENS: The screen has your
12 file list on one half of it and then a map on the
13 right half.
14 THE WITNESS: Oh, okay. Let me do a
15 new share. Here we go.
16 Okay, is it -- are you able to see a
17 map?
18 ATTORNEY OWENS: Yes.
19 THE WITNESS: Okay.
20 ATTORNEY OWENS: All right. So this
21 is going to be O-5. Can you tell us what -- what
22 this document is?
23 THE WITNESS: Yes. O-5 shows an
24 approximate location of a designated village center.
25 ATTORNEY HENRY: Designated what?

1 THE WITNESS: "Village Center," quote,
2 unquote, for Far Hills. This is taken -- based on
3 the Master Plans and Master Plan re-examination
4 reports.

5 And here is a blow-up from the Land Use
6 Plan village inset simply overlaying overtop of a
7 general area map. And it's entitled "Overall site
8 concept map."

9 (Exhibit O-5, Overall site concept map,
10 was marked.)

11 THE WITNESS: The next one that I
12 would then draw your attention to is -- this is
13 Figure 2 from the 2003 Master Plan for the --

14 ATTORNEY OWENS: Barbara, real quick,
15 is this one -- one document that is multiple pages,
16 or are we going to mark this as a separate --

17 THE WITNESS: This is one document
18 that has multiple pages. I can separate out the --

19 ATTORNEY OWENS: Yes, that's fine. As
20 long as there is no objection we'll call this O-5.

21 ATTORNEY HENRY: Let's keep each page
22 separately numbered.

23 ATTORNEY OWENS: Okay, that's fine.
24 So this will be O-6.

25 Can you identify this document for the

1 record, Barbara?

2 (Exhibit O-6, Figure 2 from the
3 Borough's 2003 Master Plan Report, was
4 marked.)

5 THE WITNESS: Okay, what this shows is
6 this is the State Plan Policy Map. It is Figure 2
7 from the Borough's 2003 Master Plan Report.

8 What this shows is -- the area in green
9 shows the surrounding communities. The Fair[sic]
10 Hills area village center right in here. And what
11 it shows, all of the green is what we call a PA5 or
12 Environmentally Sensitive Planning Area. There are
13 areas of PA3 and PA2. However, they are outside of
14 the municipality. Most of this area is identified
15 as a PA5, Environmentally Sensitive Planning Area.

16 These are what is commonly referred to
17 as your environs or areas where you are not supposed
18 to be engaging in development. They're supposed to
19 be left open and provide a boundary and a hard
20 boundary from development for the municipality.

21 The next map is a map --

22 ATTORNEY OWENS: So this -- this is
23 going to be O-6?

24 ATTORNEY HENRY: O-7.

25 ATTORNEY OWENS: O-7, I'm sorry.

1 You're right, Peter.

2 THE WITNESS: Sorry. I'm also taking
3 notes.

4 ATTORNEY OWENS: So just for the
5 record, identify O-7 for us, Barbara.

6 (Exhibit O-7, 2003 Master Plan Report,
7 Figure A-9, was marked for identification.)

8 THE WITNESS: Yes. This is Figure A-9
9 from the 2003 Master Plan Report also. It shows
10 farmland capability soils based on the municipality.
11 And, again, this is directly from the Municipality's
12 Master Plan.

13 As you're looking at it here in the
14 legend, the dark green show prime soils, and then
15 the lighter green are statewide important soils.
16 Both sides shows the approximate beginning of the
17 location of the site here. As you can see, most of
18 the site is comprised of prime agricultural soils
19 and soils that are also of statewide significance.

20 The next map is Figure A-10, again,
21 from the 2003 Master Plan Report --

22 Q. This is going to be O-8?

23 A. That's correct.

24 (Exhibit O-8, 2003 Master Plan, Figure
25 A-10, was marked for identification.)

1 THE WITNESS: And this also shows the
2 limitations for on-site disposal of effluent. And
3 as you can see here in the area with the black
4 bull's-eye shows the approximate location of the
5 site. Here is the lake, here is Route 202. And you
6 can see that the majority of this map is red and
7 this means that there are severe limitations for
8 on-site disposal of effluent right in the site.
9 It's just -- it's very limited. There's limited
10 capacity.

11 One of the next maps that I would like
12 to show is -- and this is going to be Number 9 --
13 would be Figure A-13 from the 2003 Master Plan
14 Report. And again, this shows the topography and
15 ridge lines.

16 (Exhibit O-9, 2003 Master Plan Report,
17 Figure A-13, was marked for identification.)

18 THE WITNESS: The significance of this
19 is right in the middle of the site -- as you can see
20 here, the red bull's-eye is the site, where the site
21 begins right at 202 -- you can see it's already been
22 identified. It's already been mapped out there.
23 It's existing. It's been showing. And it shows
24 that there is an area on ridge lines -- here's
25 the -- what the key means -- going right through the

1 site, right in this area.
 2 This is something that I wish I could
 3 say that I have made up, but this again, has been in
 4 place since 2003. We're talking 18 years. It's
 5 been there. It's identified. And these are
 6 critical areas of importance for the municipality.
 7 So having looked at all of this
 8 information together, to me the wealth of planning
 9 documents speaks volumes about this area. I do have
 10 some concerns about it. And again, I would say that
 11 this goes back to the purposes of zoning that I was
 12 talking about for looking at the development of this
 13 individual municipality in the -- in the context of
 14 the county, of the region, and of the state as a
 15 whole.
 16 Number 5, that I believe that this
 17 purpose that it does not satisfy, is small letter g,
 18 which is, "to provide sufficient space and
 19 appropriate locations for a variety of uses and open
 20 space according to the respective environmental
 21 requirements in order to meet the needs of all New
 22 Jersey citizens."
 23 Again, I talked about the wetlands, the
 24 wetlands' buffers and the steep slopes. I have also
 25 talked about and shown that this is in a PA5,

1 a -- just a tremendous challenge in that area.
 2 I'm also struggling with the fact that
 3 there is no existing public transportation within
 4 close proximity to this site, bus routes, things
 5 like that, that would provide the much necessary
 6 transportation especially to the types of residents
 7 that would be using the affordable housing
 8 component. And if they don't have public
 9 transportation how are they going to get there?
 10 They're going to have to have a car. And with many
 11 of them, that's factored into 30 percent of their
 12 household costs. It simply isn't going to be
 13 achievable in this location.
 14 Small letter, "i, is to promote the
 15 desirable visual environment through creative
 16 development techniques and good civic design and
 17 arrangement." Again, I think it's going to be
 18 significantly out of character with what's in the
 19 rest of this area, especially given that it's
 20 designated as a PA5 or environmentally sensitive
 21 environment under the state.
 22 And finally, small letter "j, to
 23 promote the conservation of historic sites,
 24 districts, open space, energy resources, and
 25 valuable natural resources in the state, and to

1 environmentally sensitive area, on the state
 2 mapping.
 3 The next purpose that I believe that it
 4 contradicts is small letter "h, to encourage the
 5 location and design of transportation routes which
 6 will promote the free flow of traffic while
 7 discouraging location of such facilities and routes
 8 which will result in congestion and blight."
 9 Route 202 has been identified on
 10 Page 20 of the 2003 Master Plan report as
 11 experiencing, quote, unquote "the most difficult
 12 traffic management concerns in the Borough." I
 13 think that that is significant. And to now place an
 14 additional how many units that are going to go on
 15 here? I think that's -- that can be overwhelming.
 16 Also in particular concern in this
 17 area, as you are approaching the site -- and I was
 18 sitting right at the edge of the site, waiting to
 19 come back out onto 202, and in looking at this as I
 20 appeared towards my left side, coming around the
 21 bend -- this is a 45-mile-per-hour rated area --
 22 there is a major bend in the road. As you look,
 23 then, to the right, as you're sitting there, coming
 24 up across and cresting a hill, you're going to be
 25 pulling out onto this. I think that that is

1 prevent urban sprawl and the degradation of the
 2 environment through the improper use of land."
 3 Again, I've stated we're going into
 4 steep slopes. They're asking for deviation.
 5 They're asking for permission to develop in those
 6 areas. They're also asking for permission to
 7 develop in wetlands buffer areas. I think that that
 8 is simply -- it's just too much. And when it's
 9 heaped on with all of the other relief that is
 10 required, I simply think it's too much.
 11 So again, I think that the application
 12 contradicts eight of the 16 purposes of zoning and
 13 it does not meet the design goal of incorporating
 14 and integrating affordable housing units into the
 15 proposed development.
 16 The applicant is required to
 17 demonstrate that the public -- there is a public
 18 benefit in granting the variances. Basically the
 19 variances cannot be attributed, again, to be
 20 something that is unique about the size or the shape
 21 of the parcel. It's simply too much on this site
 22 and in this location and I think that it will appear
 23 to be dramatically out of character with the
 24 surrounding community.
 25 I would offer as the negative impacts

1 of the proposed development that the -- excuse me --
 2 the applicant needs, again, additional variance
 3 relief over what was anticipated or identified as
 4 part of the application. I think that they have
 5 failed to demonstrate compliance with all of the
 6 requirements for all development and for the site to
 7 be developed in a manner that promotes energy
 8 conservation and maximizes active and passive solar
 9 energy.

10 They've also admitted that there is
 11 going to be a substantial increase in traffic in
 12 this location. And again, I have talked about
 13 the -- the real challenge when you're sitting there
 14 looking to leave the site. You have got cresting a
 15 hill on your far right and then towards the left you
 16 are coming around a sharp bend in the road, and I
 17 think that that has the potential to create major
 18 issues in this area.

19 Soils, environmental conditions, active
 20 monitoring for contamination, and the presence of
 21 threatened and endangered species on the site, by
 22 the applicant's own admission, make this site less
 23 than desirable for development.

24 Again, I think there's simply too much
 25 variance relief being requested. The variance

1 relief is self-created. There is no additional
 2 benefit to the general public. And there are other
 3 locations that are available to the municipality to
 4 develop -- excuse me -- affordable housing. And
 5 those sites were rejected for the same reasons that
 6 this site was selected.

7 Granting the requested variance relief
 8 will increase the intensity of use on the site
 9 beyond what was ever anticipated or envisioned in
 10 this particular location and there will be a
 11 substantial detriment impact to the site itself,
 12 surrounding properties, neighborhood and the area.

13 My conclusion is that the applicant,
 14 again, requires multiple variance relief as part of
 15 the application and again, there are a significant
 16 number of variances that are required and again, the
 17 variances are self-created. I believe that the
 18 applicant has failed to demonstrate the burden of
 19 proof necessary to grant the requesting variances,
 20 the purposes of the zoning or zoning criteria, and
 21 that the requested variance can be granted without
 22 substantial detriment to the public good and will
 23 not result in a substantial detriment to the public
 24 good and will not substantially impair the intent
 25 and purpose of the zone plan and zoning ordinance.

1 The applicant has also failed to prove
 2 any public benefit or gain by the board granting the
 3 requested variance relief. The only benefit that is
 4 to be gained by the proposed application is for
 5 the -- solely for the applicant's own convenience
 6 and profit.

7 This development is not consistent with
 8 the zoning ordinance and zone plan even as proposed
 9 for the affordable housing component. Again, it
 10 segregates the segment of the population that would
 11 be eligible for affordable housing opportunities and
 12 physically divides them from the balance of the
 13 development and community. Again, these are not the
 14 goals of affordable housing.

15 Further, it does not promote and even
 16 contradicts the goals of the Master Plan and Master
 17 Plan re-examination reports for reasons that I have
 18 previously stated. And I believe that the requested
 19 variances will substantially impair the intent and
 20 purpose of the zone plan and zoning ordinance and
 21 that the benefit of granting the requested variances
 22 will not -- not outweigh the negative impacts
 23 associated with the proposed development.

24 Q. Thank you, Barbara.

25 A. You're welcome.

1 ATTORNEY OWENS: I have no further
 2 questions of the witness at this time.

3 ATTORNEY GIANETTI: Mr. Henry, there's
 4 a lot to un-package there and there's a lot that was
 5 thrown up against the wall there. I will need a
 6 minute to go through my notes to kind of gather. I
 7 don't know if the board has any questions of the
 8 witness before I go on my cross-examination.

9 I would like to ask for like a
 10 five-minute recess just to take a break, gather a
 11 lot of this -- this is the first time I have seen
 12 these exhibits that were presented -- and then start
 13 my cross-examination.

14 ATTORNEY OWENS: I have no objection
 15 to that.

16 ATTORNEY HENRY: Mr. Chairman, I
 17 think -- I think, given the nature of the testimony
 18 which has just been offered, along with the
 19 exhibits, that it's sensible to allow Mr. Gianetti
 20 to, as he says, gather his -- his thoughts about
 21 what has just been presented.

22 He certainly has the right now to
 23 examine the witness, but I think it may take a few
 24 minutes to get that to make sense in a way that will
 25 then make the cross-examination make sense to the

1 board as well.
 2 SECRETARY GOODCHILD: We can't hear
 3 you.
 4 BOARD MEMBER: Can't hear you.
 5 CHAIRMAN ROCHAT: Can we take five
 6 minutes; is that what you're requesting?
 7 MEMBER LAYTON: That's right.
 8 ATTORNEY GIANETTI: That should be --
 9 that should be enough.
 10 Are we doing that now? Will my five
 11 minutes start?
 12 (A recess is taken at 9:38 p.m.)
 13 (The record resumes at 9:43 p.m.)
 14 ATTORNEY HENRY: All right, Mr.
 15 Gianetti?
 16 Perhaps there has been too long -- too
 17 long a history of judges taking five-minute recesses
 18 that last 20 minutes.
 19 CHAIRMAN ROCHAT: Oh, you know those
 20 attorneys. We should have a discussion when he
 21 comes back about cutoff time also.
 22 ATTORNEY HENRY: Yep.
 23 CHAIRMAN ROCHAT: Shana, are we ready
 24 to go?
 25 SECRETARY GOODCHILD: I think we are.

1 I think Mr. Gianetti has returned.
 2 ATTORNEY GIANETTI: I have.
 3 Everyone's on?
 4 SECRETARY GOODCHILD: Everyone is on.
 5 CHAIRMAN ROCHAT: Before we start I
 6 just want to remind you that we have a 10:30 cutoff
 7 time. We do have one more thing on the agenda. So
 8 I would say 10:15 is going to be pretty much it.
 9 ATTORNEY GIANETTI: Yeah, I would
 10 just -- Mr. Chairman, I would like a little just
 11 latitude with that. And I think the board is aware,
 12 you know, I have been running two inclusionary
 13 development applications that have objectors that
 14 are -- your board and the Rumson board are both the
 15 first Monday of the -- of the month and you'll
 16 recall I have Pete Wolfson fill in for one meeting.
 17 I was supposed to be in Rumson tonight as well. I
 18 had that carried to another meeting. So I'm trying
 19 to balance and juggle the two of these at the same
 20 time, so the more I can accomplish tonight obviously
 21 helps with ensuring, you know, no conflicts at
 22 future meetings.
 23 So with that, Ms. Woolley-Dillon on? I
 24 don't see her.
 25 CHAIRMAN ROCHAT: Yes.

1 SECRETARY GOODCHILD: Yes. She's
 2 here.
 3 ATTORNEY GIANETTI: Yes. Is she
 4 unmuted? Great.
 5 THE WITNESS: Yes.
 6 CHAIRMAN ROCHAT: Thank you.
 7
 8 EXAMINATION
 9
 10 CROSS BY ATTORNEY GIANETTI:
 11 Q. I'm sorry, is it Miss -- it's
 12 Ms. Woolley-Dillon?
 13 A. That's fine.
 14 Q. Okay. You listed a number of towns
 15 that you've represented. Is it fair to say that
 16 most of those towns are down the shore in Atlantic
 17 County, Ocean County?
 18 A. Yes and no. I did mention some in the
 19 far reaches of northern New Jersey.
 20 Q. The majority of that work was in
 21 Atlantic County and Ocean County; in shore
 22 communities, correct?
 23 A. Actually, no, that is not correct. I
 24 have also done a lot of work in Ocean County,
 25 Monmouth County. And I have done Union -- I have

1 done into Union County.
 2 Q. Well, according to your bio, though,
 3 that you've submitted most of the sites where you're
 4 doing municipal work identified Atlantic County,
 5 Ocean County, and some of Monmouth County.
 6 You're saying that's not where the
 7 majority of your work is?
 8 A. That's where I have done -- that is
 9 where I have done the majority of my municipal work.
 10 But my private work has been up and down the coast
 11 and up to Union City.
 12 Most -- even though I work for Atlantic
 13 City, I do have permission to continue -- continue
 14 my private practice. And that's where I have gone
 15 to, all the way up to Union, et cetera.
 16 Q. Have you ever done work in Far Hills
 17 before?
 18 A. I'm sorry?
 19 Q. Have you ever done work in Far Hills
 20 before?
 21 A. No.
 22 Q. How about the surrounding towns?
 23 A. No. I do not believe so.
 24 Q. Do you know what the surrounding towns
 25 are of Far Hills?

1 A. I'm sorry?
 2 Q. Do you know what the surrounding towns
 3 of Far Hills are?
 4 A. Yes, I do.
 5 Q. And what are they?
 6 A. If you would like me to list them,
 7 they're Bedminster -- I'm sorry?
 8 Q. I didn't say anything.
 9 A. I'm getting a lot of feedback.
 10 Q. I'm getting it as well. I'm not sure
 11 whose it is.
 12 SECRETARY GOODCHILD: Yeah. I'm
 13 not -- Peter, did you have something?
 14 ATTORNEY HENRY: No, I was -- I was
 15 simply saying there was a lot of feedback.
 16 SECRETARY GOODCHILD: Oh, okay. I'm
 17 not sure where it's coming from.
 18 ATTORNEY HENRY: And when I turn my
 19 "Lower Hand" off, it comes back on.
 20 SECRETARY GOODCHILD: I know. I keep
 21 seeing your hand.
 22 BY ATTORNEY GIANETTI:
 23 Q. Can you hear me now, Ms. Dillon -- or
 24 Ms. Woolley-Dillon?
 25 A. Yes, I can.

1 you said the individual lots for the townhouses and
 2 for the apartment buildings don't meet certain
 3 requirements; is that correct?
 4 A. That's correct.
 5 Q. As part of this application, or as part
 6 of your testimony, you've indicated you reviewed a
 7 whole series of documents in preparation for
 8 tonight, like the zoning ordinance, correct?
 9 A. That's correct.
 10 Q. And you're aware that this property is
 11 located in the TH-6-IAR zone?
 12 A. Yes.
 13 Q. And you reviewed that zone prior to
 14 tonight?
 15 A. Yes.
 16 Q. Do you recall reviewing Section --
 17 Section Q, which is the last section of that
 18 ordinance?
 19 A. I believe so, yes.
 20 Q. Doesn't that provision specifically
 21 allow for the subdivision of the lots for various
 22 financing, property management, conveyance, and
 23 creating a fee simple lot; is that true?
 24 A. Yes.
 25 Q. And doesn't it say, "Notwithstanding

1 Q. Okay. And when were you engaged for
 2 this matter?
 3 A. I was engaged to perform work on this
 4 matter in October -- late September or early October
 5 of this year.
 6 Q. And you were qualified as an expert in
 7 the field of professional planning, correct?
 8 A. I believe the board has done that,
 9 yes.
 10 Q. But you're not a landscape architect,
 11 correct?
 12 A. No, I'm not.
 13 Q. You're not an environmental engineer;
 14 is that correct?
 15 A. No, I'm not.
 16 Q. You're not a civil engineer?
 17 A. No, I'm not.
 18 Q. And you're not a traffic engineer
 19 either; is that correct?
 20 A. That's correct.
 21 Q. You mentioned all this other relief
 22 that you believe is required as part of this
 23 application, correct?
 24 A. Yes.
 25 Q. And you -- you referenced -- I believe

1 that after the subdivision, the individual lots and
 2 improvements thereon may not comply with all
 3 requirements of this chapter provided that the
 4 pre-subdivision lot remains in compliance with the
 5 site plan approved by the board."?
 6 A. Yes.
 7 Q. And therefore, isn't it true that
 8 relief is not required because it's applying to the
 9 overall tract, not those individual lots pursuant to
 10 the subdivision?
 11 A. Do you mean for the townhouses or for
 12 what you're creating with the affordable housing
 13 unit, those units?
 14 Q. Both. Because it says, "for the fee
 15 simple lots and the apartment units."
 16 A. I'm sorry. Could you repeat the
 17 question?
 18 Q. I'm referring to both, as that Section
 19 Q refers to the fee simple lots for the townhouses
 20 or for the separation of the apartment units from
 21 the townhouse units.
 22 A. Yes. There is a portion of the
 23 ordinance that does deal with that, yes.
 24 Q. And that's why, as part of this
 25 application, both the board and the applicant didn't

1 identify -- or the board professional and the
 2 applicant didn't identify these other variances that
 3 you're claiming are required as part of this
 4 application?
 5 ATTORNEY OWENS: Objection.
 6 Objection. You're asking her why you did something?
 7 I mean, you can answer the question but I just want
 8 to note the objection.
 9 THE WITNESS: I don't think that I can
 10 answer the question because he's asking me to
 11 presuppose what the board has done, and I do not
 12 always understand or pretend to know what the board
 13 professional planner does.
 14 BY ATTORNEY GIANETTI:
 15 Q. So you indicated you reviewed that
 16 Section Q of the zoning ordinance, correct?
 17 A. Yes.
 18 Q. And despite that section, it's your
 19 opinion that other relief not identified by the
 20 board professionals or the applicant is required?
 21 A. Yes.
 22 Q. A lot of the exhibits you referred to
 23 included schedules from the 2003 Master Plan; is
 24 that correct?
 25 A. I believe that they're mapping images

1 zoning ordinance that was adopted as well, the
 2 TH-6-IAR zone that calls for this development?
 3 A. That is correct.
 4 Q. You also raised concerns about
 5 separation of the affordable units from the
 6 townhouse units; is that correct?
 7 A. That is correct.
 8 Q. You're aware that the townhouse units
 9 are age-restricted, correct?
 10 A. Yes, that's correct.
 11 Q. But the majority of the apartments are
 12 family units, correct?
 13 A. I wouldn't say a majority, there are a
 14 different number of different types of bedrooms.
 15 And depending on the number of unit -- individuals
 16 in the family depends on if they are a one-bedroom,
 17 two-bedroom or a three-bedroom unit.
 18 Q. Well, but isn't it true that the
 19 application is proposing four of those affordable
 20 apartments to be age-restricted and 25 of those
 21 apartments to be family units, meaning they're not
 22 restricted by age, correct?
 23 A. That's correct, yes.
 24 Q. And by the laws, if the family units --
 25 or family affordable units were included within the

1 from the 2003 Master Plan.
 2 Q. And you referred to the 2003 Master
 3 Plan with regard to, you know, some of the steep
 4 slope discussions, environmental constraints
 5 discussions; is that correct?
 6 A. That's correct, yes.
 7 Q. Now, interestingly, you didn't refer to
 8 the 2019 Housing Element and Fair Share Plan that
 9 was adopted by the board and endorsed by the
 10 Governing Body; isn't that true?
 11 A. I did not make a reference to it, no.
 12 Q. But wouldn't that be -- wouldn't that
 13 be part of the planning documents that's reviewed by
 14 a planner as part of providing their professional
 15 testimony?
 16 A. Yes. And I did review that particular
 17 document. You just questioned me about it. In
 18 particular, Section Q, which I have indicated that I
 19 have read and I did read the entire document, yes.
 20 Q. And that 2019 Housing Element and Fair
 21 Share Plan specifically calls for the development
 22 that's being proposed as part of this application in
 23 it; isn't that true?
 24 A. Yes.
 25 Q. And it also calls for the zoning -- the

1 rest of the development, wouldn't the rest of the
 2 development also have to be a family project as
 3 opposed to age-restricted?
 4 A. I'm sorry, I don't understand the
 5 question. Could you repeat that again, please?
 6 Q. If you mixed the -- the affordable
 7 units are family. And that is, you know, a typical
 8 requirement because there is a limit on how many
 9 affordable -- or you're aware there's a limit on how
 10 many affordable units that a town provides as a part
 11 of their affordable housing plan can be
 12 age-restricted, correct?
 13 A. Yes.
 14 Q. And so a substantial number of the
 15 affordable units produced by a municipality has to
 16 be family, correct?
 17 A. Typically, yes.
 18 Q. And isn't it true if the family
 19 units -- family affordable rental units are mixed in
 20 with the townhouse units, that the townhouses then
 21 would also have to be family?
 22 ATTORNEY OWENS: Objection. I don't
 23 understand what's being asked.
 24 THE WITNESS: Thank you.
 25 ATTORNEY GIANETTI: Well I'm asking --

1 you may not understand it, but I'm asking the
 2 witness to understand it. It's a planning -- it's a
 3 planning concept.
 4 ATTORNEY OWENS: Well, I think she
 5 testified that she didn't understand it either.
 6 BY ATTORNEY GIANETTI:
 7 Q. So if the family affordable units are
 8 mixed in with the townhouse units, those townhouse
 9 units couldn't be age-restricted anymore, correct;
 10 they would have to be family also?
 11 A. Not necessarily, sir, because some of
 12 the units could be age-restricted, the majority of
 13 them could be age-restricted.
 14 You also, as you have stated and has
 15 been clearly relayed in the application, there are
 16 four of the units that are for age-restricted as
 17 part of the apartment. So the units for the
 18 affordable family, they may not be age-restricted
 19 but that may be just part of the development.
 20 Q. With respect to the separation of the
 21 affordable units as apartments, are you
 22 saying -- let me ask you this.
 23 You're aware that Fair Share Housing
 24 Center approved the settlement agreement?
 25 A. Can you repeat the last part of

1 the question? You were breaking up. My apologies.
 2 Q. Sure. Are you aware that Fair Share
 3 Housing Center -- do you know who Fair Share Housing
 4 Center is?
 5 A. Yes.
 6 Q. And they're the nonprofit public
 7 housing advocacy group that promotes the development
 8 of affordable housing for low- and moderate-income
 9 households; is that correct?
 10 A. Yes.
 11 Q. Are you aware or isn't it true that
 12 they approved the settlement in the zoning for this
 13 site that provided for the affordable apartments to
 14 be separated from the family age-restricted units?
 15 A. I am aware that they approved the
 16 concept of the agreement, yes.
 17 Q. And that agreement contemplated the
 18 separation of the affordable units, the family
 19 affordable units or the family -- the affordable
 20 rental apartments from the age-restricted
 21 townhouses, correct?
 22 A. Yes.
 23 Q. And in addition, didn't the court
 24 master appointed by the court, the planning
 25 consultant appointed by the court, also approve the

1 concept of the affordable units being separated from
 2 the townhouse market-rate units?
 3 A. Yes.
 4 Q. And, in fact, didn't the court also
 5 approve the concept of the affordable units -- the
 6 affordable -- affordable rental units being
 7 separated from the for-sale townhouse age-restricted
 8 units?
 9 A. Yes. But it doesn't necessarily make
 10 it proper or right.
 11 Q. So your issue is more with the -- the
 12 affordable housing agreement in the zoning that was
 13 adopted by the municipality, not the actual
 14 development application itself?
 15 A. No.
 16 Q. Well, if the zoning calls for it then
 17 you're having an issue with the zoning that was
 18 adopted, not for the application being proposed? In
 19 fact, if we proposed the apartments in the townhouse
 20 units we would be needing variance relief.
 21 ATTORNEY OWENS: Objection.
 22 Objection. I am not sure what the question was
 23 there.
 24 ATTORNEY GIANETTI: Again, I'm
 25 asking her -- I'm asking the planner.

1 ATTORNEY OWENS: Well that was a
 2 statement. It wasn't a question. It's a statement.
 3 ATTORNEY GIANETTI: I said, "Isn't
 4 that correct?"
 5 ATTORNEY HENRY: This is
 6 cross-examination.
 7 ATTORNEY OWENS: I wasn't objecting
 8 to it being a leading question. I was objecting to
 9 it being a statement, not a question.
 10 ATTORNEY HENRY: Well when you -- when
 11 you make a statement and say, "Isn't that correct?"
 12 That's a question.
 13 ATTORNEY OWENS: But he hadn't done
 14 that when I objected.
 15 BY ATTORNEY GIANETTI:
 16 Q. You talked about the steep slopes and
 17 its reference in the 2003 Master Plan; is that
 18 correct?
 19 A. Yes.
 20 Q. Now, isn't it true on Page 29 of the
 21 Master Plan where it talks about steep slopes it
 22 says, "No disturbance shall occur without board
 23 approval," and it talks about balancing the
 24 interests; isn't that correct?
 25 A. That is correct, yes.

1 Q. So it's not an absolute prohibition?
 2 A. That's why the applicant is seeking
 3 variance relief for that.
 4 Q. And you heard the testimony of Ron
 5 Kennedy where he testified that the steep slopes
 6 incurring in the center of the property where
 7 they're being disturbed were manmade?
 8 A. Yes.
 9 Q. Concerning the comments about public
 10 transportation for affordable units, is it your
 11 testimony that low- and moderate-income households
 12 won't have cars?
 13 A. No.
 14 Q. In many instances, at least in your
 15 experience with affordable housing, do such
 16 residents have cars?
 17 A. It depends on the area where they live
 18 and demographics that are unique.
 19 Q. You mentioned you had an exhibit as to
 20 the -- what you found on the DEP GeoWeb -- or the
 21 DEP website concerning potential for contaminated
 22 sites and you indicated that they're identified as
 23 active; is that correct?
 24 A. That's correct, yes.
 25 Q. Do you know whether they're actively

1 open or just they have not been administratively
 2 closed?
 3 A. The website does not differentiate
 4 between the two. All it indicates is that it's an
 5 active contamination. That's it.
 6 Q. You also provided testimony as to and
 7 used the NJDEP GeoWeb for historical and
 8 archeological resources; is that correct?
 9 A. That's correct.
 10 Q. And for critical habitats as well; is
 11 that correct?
 12 A. Yes.
 13 Q. And you have heard -- and that's the
 14 jurisdiction of the New Jersey Department of
 15 Environmental Protection, correct?
 16 A. That is correct.
 17 Q. And you heard from prior testimony that
 18 the applicant is seeking NJDEP permits as part of
 19 this development, correct?
 20 A. Yes.
 21 Q. And as part of that the NJDEP reviews
 22 the very items you raised or identified on those
 23 exhibits, correct?
 24 A. Yes.
 25 Q. Because isn't it true the NJDEP GeoWeb

1 is not an exact science; it's meant for providing
 2 general information, correct?
 3 A. Yes.
 4 Q. So there could be information on there
 5 that is not entirely accurate, correct?
 6 A. As is with any mapping, anything is
 7 possible and the information that is being portrayed
 8 is only as good as the information put into the
 9 system.
 10 Q. But as part of the DEP permitting being
 11 sought by this applicant, the DEP would do its own
 12 review of all of those items; isn't that correct?
 13 The historic and the threatened and endangered
 14 species?
 15 A. Yes.
 16 ATTORNEY GIANETTI: That's all I have
 17 for cross-examination.
 18 ATTORNEY OWENS: Could I have two
 19 minutes before redirect?
 20 CHAIRMAN ROCHAT: Sure. Go ahead.
 21 ATTORNEY OWENS: All right. Thank
 22 you.
 23 (A recess was taken at 10:10 p.m.)
 24 (The record resumes at 10:14 p.m.)
 25 CHAIRMAN ROCHAT: Okay, Mr. Owens?

1 ATTORNEY OWENS: Thank you.
 2 CHAIRMAN ROCHAT: I have about a
 3 minute -- we have about a minute until a quarter
 4 after ten and --
 5 ATTORNEY OWENS: All right. I will be
 6 very quick. I know that -- I know that you want to
 7 move this along and it's been a long night, so I
 8 just have a couple of questions that are pointed and
 9 we can move on.
 10 CHAIRMAN ROCHAT: Go ahead.
 11 ATTORNEY OWENS: All right. Thank
 12 you. Can you unmute, Barbara, please?
 13 THE WITNESS: Thank you.
 14
 15 EXAMINATION
 16
 17 REDIRECT BY ATTORNEY OWENS:
 18 Q. Barbara, in your evaluation, are you
 19 aware of any other sites in the town that would have
 20 been more suitable for a project of this nature?
 21 ATTORNEY GIANETTI: Objection. It's
 22 not relevant to the planning board application.
 23 That's a -- that's a question on why the Borough
 24 came up with the Affordable Housing Plan, not
 25 whether this application conforms with the zoning

1 ordinance.
 2 BY ATTORNEY OWENS:
 3 Q. Okay. You can answer the question,
 4 Barbara.
 5 ATTORNEY GIANETTI: I have an
 6 objection pending.
 7 Mr. Henry?
 8 ATTORNEY HENRY: I think that
 9 certainly we -- we're not dealing in a situation
 10 as -- as both of you are well aware, where the
 11 strict rules of evidence apply, but the question of
 12 relevance is always relevant. And I -- I think
 13 the problem here is that the issue about whether a
 14 given application for a given development, when
 15 measured against the underlying zoning and other
 16 planning criteria warrants approval or modification
 17 or denial. And the fact that there might be other
 18 places you can do other things really is not
 19 relevant to whether the given application has to
 20 foster on its own merits.
 21 ATTORNEY OWENS: I mean, given that
 22 the -- the cross focused on the Fair Share
 23 Settlement, I mean I do think that that leads us to
 24 this, this question as the logical extension of
 25 that.

1 else, I think we'll need close to a full meeting.
 2 So if either -- not that we need to decide tonight,
 3 but if the board would consider another special
 4 meeting where we can finish this.
 5 I guess the next regularly scheduled
 6 meeting is January 3rd; is that what I heard?
 7 SECRETARY GOODCHILD: That's correct.
 8 ATTORNEY GIANETTI: And I -- and I
 9 think there's already another application on that
 10 night. You know, I know we are not probably going
 11 to be -- I don't have even my whole team scheduled,
 12 but if the board would consider working on another
 13 special meeting, we can get a date that works for
 14 everyone, you know, we have enough time to
 15 re-notice, you know, if the board would consider
 16 that.
 17 CHAIRMAN ROCHAT: Before the 3rd?
 18 ATTORNEY GIANETTI: I recognize
 19 there's difficulties with that, but --
 20 CHAIRMAN ROCHAT: Yeah.
 21 ATTORNEY GIANETTI: But I never want
 22 to -- I never want to say, no, unless I try.
 23 So I am just floating that out there so
 24 the board is aware. And I'll -- I'll consult with
 25 my team and see our -- our availability and what

1 ATTORNEY HENRY: Well I have to tell
 2 you, I don't understand that.
 3 ATTORNEY OWENS: Okay. Well, I mean,
 4 so is the -- the decision is that we're not going to
 5 let her -- she's not going to be permitted to
 6 respond to that question?
 7 ATTORNEY HENRY: I think if -- if we
 8 can limit her answer to a "yes" or "no" and move on.
 9 It will take longer to decide whether she can say
 10 anything than to let her answer if it's a simple
 11 "yes" or "no."
 12 ATTORNEY OWENS: Well, I don't think
 13 anything is a simple "yes" or "no" but let's --
 14 ATTORNEY HENRY: Then we should move
 15 on.
 16 ATTORNEY OWENS: Okay. I have no
 17 further questions at this time.
 18 CHAIRMAN ROCHAT: Okay. We're going
 19 to have to end this portion of the meeting.
 20 ATTORNEY GIANETTI: If I may,
 21 Chairman, as I noted, you know, I have this kind
 22 of -- well, there's two things at play: One, this
 23 is our eighth meeting on the application and I think
 24 we're all hopeful we're close to the finish line and
 25 conclude it at a next meeting, but like anything

1 works.
 2 ATTORNEY HENRY: And, Craig, on that
 3 subject from the other side of the door, we need to
 4 have an extension of time for a decision in which
 5 you have previously given until tonight.
 6 ATTORNEY GIANETTI: Correct. I'll --
 7 I'll send something in writing. I guess we can
 8 extend it to January 3rd. And then, you know, we
 9 can try and work on a special meeting.
 10 BOARD PLANNER: How about in the event
 11 of snow, do we need something a little bit longer
 12 than that, Mr. Henry?
 13 ATTORNEY HENRY: Well, it is that time
 14 of year, isn't it?
 15 ATTORNEY GIANETTI: It is, but I
 16 think, again, this is our eighth hearing on this.
 17 ATTORNEY HENRY: Well, before we go
 18 too far down that road, I know how you count and you
 19 count every time you visited Far Hills, but to get
 20 to eighth you have to include such things as your
 21 completeness hearing as a hearing, which wasn't even
 22 part of the hearing because you have not had eight
 23 public hearings. I counted them myself this
 24 weekend.
 25 MEMBER RINZLER: May I say something?

1 Mr. Gianetti, we are all unpaid volunteers and we
2 want to do this right and hear all the information
3 so I don't -- I'm speaking for myself, but I don't
4 think we should be pressured into jumping, you know,
5 to a particular deadline. We want to hear all the
6 evidence and make the right decision.

7 ATTORNEY GIANETTI: I understand but
8 even, too, it's hard when you're -- it's piecemeal.
9 And you're hearing it -- and I can't remember if
10 July 5th was the completeness hearing or our first
11 presentation. I believe it was our first
12 presentation and that's how I got the eight -- but
13 doing it piecemeal, where we only get, you know, an
14 hour and a half to present and then have to come
15 back and, you know, that's not efficient either.

16 So there's -- what I'm looking for is a
17 meeting where we can just get it all out and -- and
18 finish and the board has everything. As opposed to,
19 you know, an hour and a half here, two hours here,
20 and not -- and just adding onto meetings because
21 it's -- it's a lot of information.

22 And believe me, I respect that the
23 board are unpaid volunteers. And I respect that
24 it's a lot of information you guys have heard over
25 the past several months. So the less we break it

1 up, I think the better. I think that's just -- that
2 was my point. And I didn't mean to diminish or --
3 or not respect the time of the board members.

4 ATTORNEY HENRY: Craig, with respect
5 to the date and -- and David's point about
6 wintertime, if you want to extend to January 3 as a
7 date, that's fine. But I would like, if you are
8 going to do that, that you incorporate in your --
9 your letter extending that, that it's subject to
10 further extension in the event of weather preventing
11 the meeting. Because that's really the worry you
12 get into this time of year.

13 ATTORNEY GIANETTI: Well, if we're
14 virtual, I'm hopeful that we'll all be able to --
15 we're not going anywhere.

16 ATTORNEY HENRY: An argument can be
17 made -- an argument can be made that it's easier to
18 have a meeting if it snows.

19 ATTORNEY GIANETTI: True. True. I
20 don't want to eat up anymore of the next applicant's
21 time. So thank you, Chairman and members of the
22 board and board professionals. I appreciate your
23 time this evening.

24
25 (Application adjourned at 10:22 p.m.)

1 CERTIFICATE

2
3 I, ANGELA C. BUONANTUONO, a Notary Public
4 and Certified Court Reporter of the State of New
5 Jersey and Registered Professional Reporter, do
6 hereby certify that prior to the commencement, the
7 witness was duly sworn to testify the truth, the
8 whole truth and nothing but the truth.

9 I DO FURTHER CERTIFY that the foregoing is a
10 true and accurate transcript of the deposition as
11 taken stenographically by and before me at the time,
12 place and on the date hereinbefore set forth.

13 I DO FURTHER CERTIFY that I am neither a
14 relative, nor employee, nor attorney, nor counsel of
15 any of the parties to this action, and that I am
16 neither a relative, nor employee of such attorney or
17 counsel, and that I am not financially interested in
18 the action.

19
20
21
22
23 Angela C. Buonantuono, CCR, RPR, CLR
24 NJ State Board of Court Reporting
25 License No. 30XI00233100
Dated: December 28, 2021

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