

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
January 3, 2022
VIA REMOTE MEETING ACCESS ONLY

CALL TO ORDER

Chairman Rochat called the virtual meeting to order at 7:22 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, Mayor Paul Vallone, Councilwoman Sheila Tweedie, Vice Chairman Richard Rinzler, Robert Lewis, John Lawlor, Marilyn Layton, Jack Koury and Suzanne Humbert, Alt. #1

Also Present: Frank Linnus, Board Attorney, David Banisch, Planner, Steve Bolio, Engineer and Shana L. Goodchild, Secretary

Absent: None

There were approximately twenty-two (22) audience members present.

BILL LIST

- January 3, 2022

Councilwoman Tweedie made a motion to approve the Bill List. Vice Chairman Rinzler seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Mayor Paul Vallone, Councilwoman Sheila Tweedie, Richard Rinzler, Robert Lewis, John Lawlor, Marilyn Layton, Jack Koury, Suzanne Humbert, Alt. #1 and Chairman Rochat

Those Opposed: None

MINUTES

- November 23, 2021 Regular Meeting

Councilwoman Tweedie made a motion to approve the minutes of the November 23, 2021 Regular Meeting for content and release. Ms. Layton seconded the motion. All were in favor.

- December 4, 2021 Special Meeting/Site Inspection

Councilwoman Tweedie made a motion to approve the minutes of the December 4, 2021 Special Meeting/Site Inspection for content and release. Mr. Koury seconded the motion. All were in favor. Mayor Vallone, Vice Chairman Rinzler and Mr. Lewis abstained.

RESOLUTION

- **Resolution No. 2022-07** – Far Hills Country Day School –Route 202, Block 4, Lot 11
Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Vice Chairman Rinzler made a motion to approve the resolution as written. Councilwoman Tweedie seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humber and Chairman Rochat

Those Opposed: None

- **Resolution No. 2022-08** – Robustelli – 170 Lake Road, Block 3, Lot 10
Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Vice Chairman Rinzler made a motion to approve the resolution as written. Ms. Layton seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

- **Resolution No. 2022-09** – The Nucleus Group Holdings – 49 Route 202, Suite 13, Block 15, Lot 1.01
Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Koury, and Chairman Rochat

Councilwoman Tweedie made a motion to approve the resolution as written. Vice Chairman Rinzler seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

PUBLIC COMMENT

There was no public comment.

EXTENSION REQUEST

- Badr and Mouna Jebara – 199 Lake Road, Block 6, Lot 38
See letter dated December 3, 2021 and Res. No. 2021-21

Councilwoman Tweedie is a property owner within 200 feet and recused herself from the discussion.

Luke Pontier, Attorney was present on behalf of the Jebara family seeking an extension of a prior variance approval granted by Resolution No. 2016-08 adopted on June 6, 2016. The approval allowed for the continued use and expansion of the pre-existing non-conforming structures on the property. The Board granted a six (6) month extension in 2021 by Resolution No. 2021-21 adopted on July 5, 2021. Since that extension the applicant diligently pursued resolution compliance and there remains one (1) open condition which is a revision to architectural plan sheet SK1. The applicant submitted several revisions for review and the applicant has received updated memorandum from the Board's Engineer and Planner. The applicant remains in ongoing discussions with the Board Planner regarding the required revisions. Mr. Pontier requested another six (6) month extension of the variance approval to finalize plan revisions and submit for construction permits. The prior extension expired on December 8, 2021 and the extension would run from that date.

Mr. Banisch noted that a subdivision approval in 1963 created the lot that contains two (2) single family detached dwellings and the Board's approval was to modify the cottage and the security building as a single-family dwelling; there would continue to be two (2) single family dwellings on the lot. The architectural plans needed to be revised to eliminate a master bedroom however some ambiguity remains that needs to be resolved. Mr. Banisch reminded Mr. Pontier of a specific finding in the resolution that calls for maintaining the breezeway across the driveway as habitable space; there cannot be a dividing wall separating the security building into two (2) dwelling units. Mr. Banisch was confident that the applicant could resolve the outstanding issue within six (6) months. Mr. Bolio agreed with Mr. Banisch's assessment and had no objection to a six (6) month extension.

When asked by Mr. Lewis what the original extension request was, Mr. Pontier responded one (1) year.

Chairman Rochat and Mayor Vallone expressed concern with an additional extension request and Mayor Vallone opined that the approval should be null and void if resolution compliance was not gained within the next six (6) months.

Tim Jebara, owner/applicant 199 Lake Road was present and sworn in by Mr. Linnus. Mr. Jebara confirmed that construction would start as soon as the remaining issue is resolved.

There being no additional questions, Vice Chairman Rinzler made a motion to grant the requested extension to run to June 8, 2022 with the condition that a construction permit must be approved within the extension deadline. 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, Mr. Lawlor, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Those Opposed: None

APPLICATIONS/PUBLIC HEARINGS

- 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 February 7, 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 February 7, 2022.

- 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 – 2/28/22

Because the application involves a Use Variance, Councilwoman Tweedie and Mayor Vallone were recused.

Frederick Zelley, Attorney on behalf of the applicant was present and noted that they have four (4) witnesses and due to the late hour asked if the Board would allow the first witness to testify.

Mr. Henry noted that the Board had jurisdiction to hear the application based on the fact that the notice was found to be sufficient at a prior meeting and the notice was carried to this meeting.

Mr. Zelley provided a brief overview of the application comprising of two (2) components, the first and primary being the proposed installation of two (2) ground mounted solar arrays located in the front yard requiring bulk variances and a use variance (solar is not specifically mentioned in the ordinance). He also outlined a series of rear setback variances required for existing accessory structures all but one (1) existed prior to the applicant purchasing the property, those structures include: a play area, raised garden, generator pad, chicken coop and playhouse. Mr. Zelley noted that

there was a site walk conducted on February 20, 2021 by the Board and since that time there has been some scheduling issues that prevented the public hearing from proceeding.

Philipp Hofmann, applicant/owner was present and sworn in by Mr. Linnus. Mr. Hofmann noted that he and his family purchased the property in 2019. When asked to describe the structures on the property, Mr. Hofmann listed the home, barn, pool house, chicken coop, animal shed, a vegetable garden and a play set. When asked if they all existed when he purchased the property, Mr. Hofmann responded in the positive noting that they installed the tree house. When asked why they didn't seek approval for the tree house, Mr. Hofmann explained that they hired Treehouse Experts from Atlanta, Georgia and were not advised that permits or approvals were necessary since it is a temporary structure.

Mr. Hofmann explained that they are seeking approval for 84 ground mounted solar panels (previously 95) on the northeastern section of the property to produce renewable energy under a net metering approach; a 29-kilowatt system with an annual performance of approximately 40,000 kilowatt hours (this does not cover the demand of the main dwelling). When asked if the solar array will service the dwelling and the barn, Mr. Hofmann explained that it is a net metering system that feeds back into the grid; the barn is not included. He explained that solar energy is important to him to counter the dramatic climate crisis. When asked if the change in panels eliminates the setback variances, Mr. Hoffman responded in the negative but noted that it will move the array further away from Lake Road; the distance from Pennbrook Road will remain the same. When asked what has been done to address the concern of visibility from the public roadway, Mr. Hoffman explained that over \$25,000 was spent planting new evergreens (cedars, arborvitae Norway spruce, viburnum and laurels) along Lake and Pennbrook Roads.

When asked by Mr. Linnus to describe the use of the treehouse, Mr. Hofmann explained that it is used by his children as a recreational gathering area; no plumbing, electricity or kitchen exist. There is no intent to live in or rent the space.

When asked by Mr. Lewis how he classifies the land where the solar panels are proposed, Mr. Hofmann explained that it is designated as the hay field in his farmland assessment. Mr. Lewis referenced another solar array that was approved by the Board which was never constructed but was oversized and would have provided free electricity to the utility. Mr. Zelley noted that there is a similar array behind the Hoffman property that did not gain approval from the Planning Board. Mr. Hofmann noted that it is his intention to add a home battery which will reduce the stress on the grid.

There being no other questions for Mr. Hoffman, Mr. Zelley called Rudy Holtzman, Engineer.

Rudy Holtzman, Engineer with Yannacone, Villa and Aldrich was present and sworn in by Mr. Linnus. Mr. Holtzman provided his credential and was accepted by the Board. Using the Share Screen function of Zoom, Mr. Holtzman displayed the submitted plan, sheet 2 of 3 last revised May 20, 2021 which identified the proposed 84 solar panels. He went on to explain that some grading is proposed to flatten out the area and provide some drainage around the proposed arrays. The plantings were installed along Lake Road providing screening of the array from the public as shown on the plan. When asked by Mr. Zelley how the northeast corner of the property was determined to be the appropriate location for the arrays, Mr. Holtzman explained that roof mounted was not feasible based on the nature of the structures. The need for south facing panels while providing optimal screening

from the street dictated the proposed location. When asked if it would be difficult to buffer the array from Lake Road if it were placed in the southern area of the property, Mr. Holtzman responded in the positive. Mr. Holtzman described the following variances necessary for the solar arrays: 56 foot front yard setback variance from Pennbrook Road, 61.7 foot front yard setback variance from Lake Road (where 200 feet is required) and 92.9 foot rear yard setback variance (where 100 feet is required). When asked the new distance from Lake Road to the reduced array, Mr. Holtzman explained that there is no variance. When asked if there are any wetlands, wetland buffers, State open waters, regulated streams, steep slopes or any other critical areas on the property, Mr. Holtzman responded in the negative.

When asked to identify the other bulk variances required, Mr. Holtzman identified the following structures needing setback relief: treehouse, chicken coop, generator, play area and raised gardens.

Mr. Zelley noted that the applicant submitted a nine (9) page colorized plan with photos from various viewpoints which was marked as **Exhibit A-1**. Using the Share Screen function of Zoom, Mr. Holtzman displayed the map showing an aerial image overlayed on the proposed conditions map. When asked if he took the photographs, Mr. Hofmann responded in the positive. He noted that there are also 12-foot-high arborvitae plantings immediately in front of the array (shown on the plan in green). Mr. Holtzman described each photograph/viewpoint as follows:

- Viewpoint #1 – photograph taken with foliage (proposed array not visible).
- Viewpoint #2 – photograph taken with foliage (proposed array not visible).
- Viewpoint #3 – photograph from the corner of the property (proposed array not visible).
- Viewpoint #4 – photograph with newly planted foliage near the roadway as well as near the array.
- Viewpoint #5 – photograph from Lake Road closer to the proposed array with newer plantings/shrubs shown.
- Viewpoint #6 – photograph taken from Lake Road closer to the intersection of Pennbrook and Lake Roads showing the fence, existing vegetation and viburnums.
- Viewpoint #7 – photograph taken from the corner showing an existing large evergreen.
- Viewpoint #8 – photograph from Pennbrook Road showing the existing spruce trees (proposed array not visible).

When asked if any stormwater management is required, Mr. Holtzman responded in the negative noting that there will be some grading where the solar panels are proposed, a swale to direct drainage away from the area and a gravel dripline to direct drainage from the panels to the meadow. When asked if water will encroach onto neighboring properties, Mr. Holtzman responded in the negative. When asked if any trees will be removed in connection the project, Mr. Holtzman responded in the negative.

When asked if he reviewed the June 2, 2021 report from Ferriero Engineering, Mr. Holtzman responded in the positive and agreed to comply with all of the conditions that have not already been addressed. Mr. Bolio recommended that the applicant provide a right of way easement as opposed to a dedication along Lake Road. He also noted that the setbacks should be measured from the right of way line.

When asked if he reviewed the June 7, 2021 report from David Banisch, Mr. Holtzman responded in the positive and agreed to comply with all of the conditions.

When asked by Mr. Lewis about the maximum installed height of the array, Mr. Holtzman responded 11.2 feet from the ground.

When asked by Mr. Bolio if it is possible to reduce the upper array and provide a conforming rear yard setback, Mr. Hofmann responded in the positive and clarified that the panels face the dwelling not Lake Road.

There being no additional questions from the Board, Chairman Rochat opened the meeting to the public for questions of Mr. Hofmann or Mr. Holtzman. There being no questions, Chairman Rochat closed the meeting to questions.

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

- Appl. No. PB2021-22
DeFilippo and DeFilippo, LLC
Block 15, Lot 4
43 Route 202, Suite 100
Change of Use/Occupancy/Site Plan Waiver

Anthony Melillo was present on behalf of the applicant and sworn in by Mr. Linnus. Mr. Melillo explained that the office will be used for a professional law office with hours between 8 a.m. and 6 p.m., Monday through Friday. It is a mother/daughter law office practicing malpractice cases with two (2) parking spaces required. Using the Share Screen function of Zoom, Mr. Melillo shared the first-floor floorplan which was marked as **Exhibit A-1**. Mr. Melillo agreed to supplement the application file with the floorplan and the square footage.

There being no questions, Vice Chairman Rinzler made a motion to approve the application. 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. Lawlor, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humber and Chairman Rochat

Those Opposed: None

- Appl. No. PB2021-21
Law Office of Karen M. Spano, LLC
Block 15, Lot 4
43 Route 202, Suite 201
Change of Use/Occupancy/Site Plan Waiver

Anthony Melillo was present and remained under oath. Mr. Melillo explained that the office will be used for a professional law office with hours between 8 a.m. and 6 p.m., Monday through Friday. The

owner and one (1) employee will be on-site requiring two (2) parking spaces. Using the Share Screen function of Zoom, Mr. Melillo shared the second-floor floorplan which was marked as **Exhibit A-1**. Mr. Melillo agreed to supplement the application file with the floorplan and add the square footage. When asked what type of law, Mr. Melillo explained that she performs real estate closings but the closings occur at the title office.

There being no questions, Vice Chairman Rinzler made a motion to approve the application. Mr. Koury 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. Lawlor, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humber and Chairman Rochat

Those Opposed: None

Mr. Melillo noted that his tenant in 49 Route 202, Suite 13A, Office 1 requested to relocate to Office 4 (same use in a larger space). He asked if the Board would accept something other than the typical application process to formalize the change. Mr. Banisch opined that the move could be handled through a letter explaining the change along with an updated directory accurately reflecting the tenants. The next formal application would then incorporate the change within the resolution. The consensus of the Board was to allow Mr. Melillo to proceed as described by Mr. Banisch.

CORRESPONDENCE


1. A letter dated December 3, 2021 from Luke Pontier re: Jebara, Block 6, Lot 38, 199 Lake Road.
2. A letter dated December 8, 2021 from Somerset County Planning Board re: Neu, Block 8, Lot 3, 210 Lake Road.
3. A letter dated December 4, 2021 from Somerset-Union Soil Conservation District re: Pool Plan, Block 4, Lot 3.

ZONING UPDATE

- Zoning memo dated December 28, 2021 – Kimberly Coward

ADJOURNMENT

Motion by Councilwoman Tweedie, seconded by Vice Chairman Rinzler and unanimously carried to adjourn the meeting at 11:09 p.m.


Shana L. Goodchild, Planning Board Secretary

APPROVED 3/7/22

STATE OF NEW JERSEY
BOROUGH OF FAR HILLS
PLANNING BOARD
MONDAY, JANUARY 3, 2022
COMMENCING AT 7:00 P.M.

IN THE MATTER OF : TRANSCRIPT OF
APPLICATION : PROCEEDING
Application 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 :

BEFORE:
BOROUGH OF FAR HILLS, PLANNING BOARD
THERE BEING PRESENT:
TOM ROCHAT, CHAIRMAN
RICHARD RINZLER, VICE CHAIRMAN
PAUL J. VALLONE, MD, MAYOR
SHEILA TWEEDE, COUNCILWOMAN/SECRETARY
ROBERT LEWIS, MEMBER
MARILYN LAYTON, MEMBER
JOHN LAWLOR, MEMBER
JACK KOURY, ALTERNATE MEMBER #1
SUZANNE HUMBERT, ALTERNATE MEMBER #2

HUDSON COURT REPORTING & VIDEO (732) 906-2078

1 APPEARANCES:
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Counsel to the Planning Board
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6 Counsel to the Applicant
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8
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10
11

ALSO PRESENT:

12 SHANA L. GOODCHILD, BOARD SECRETARY
13 DAVID BANISCH, P.P., BOARD PLANNER
14 STEVE BOLIO, P.E., BOARD ENGINEER
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11 EXHIBITS
12 NO. DESCRIPTION ID EVID
13 (No Exhibits Marked)
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1 CHAIRMAN ROCHAT: Let's turn it over to
2 Mr. Gianetti.
3 MR. GIANETTI: Yes. Good evening,
4 Chairman, Members of the Board, Craig Gianetti, I'm
5 with --
6 MR. LINNUS: Mr. Gianetti, before we
7 proceed, just to bring the board and public
8 up-to-date.
9 MR. GIANETTI: Sure.
10 MR. LINNUS: The public hearing is
11 still open.
12 Tonight was to be the public comment
13 and then perhaps the closure of the hearing and your
14 summation.
15 In the meantime I think you need to
16 address, before we proceed to public document,
17 Mr. Banisch's January 3, 2021 [sic] memorandum so
18 that we can proceed --
19 CHAIRMAN ROCHAT: '22.
20 MR. LINNUS: -- in that fashion.
21 You can proceed in that fashion.
22 MR. GIANETTI: Yes.
23 CHAIRMAN ROCHAT: Right, 2022.
24 MR. LINNUS: '22. Excuse me.
25 Time flies when you're having fun.

1 CHAIRMAN ROCHAT: Good.
 2 MR. GIANETTI: Thank you, Mr. Linnus,
 3 and, yes, for the record Craig Gianetti of the law
 4 firm Day Pitney on behalf of the applicant, Pulte
 5 Homes of New Jersey, L.P.
 6 This is a continued application for
 7 preliminary and final major site plan approval and
 8 subdivision approval --
 9 MR. LINNUS: Craig, could you raise
 10 your voice please? I'm having difficulty hearing
 11 you.
 12 MR. GIANETTI: I'm sorry. You know I
 13 might switch only because I've got a new webcam for
 14 Christmas and the audio might not be the greatest. I
 15 am going to switch to my Bluetooth which sometimes
 16 goes and in and out.
 17 I'm hopeful it's working, but give me
 18 one minute.
 19 CHAIRMAN ROCHAT: Santa didn't bring
 20 the right one.
 21 MR. GIANETTI: I know. All right. Now
 22 I switched my Bluetooth, is this better?
 23 CHAIRMAN ROCHAT: Yes.
 24 MR. LINNUS: Much better.
 25 CHAIRMAN ROCHAT: Much better.

1 MR. GIANETTI: Okay. Great.
 2 Thank you.
 3 CHAIRMAN ROCHAT: Your Bluetooth does
 4 break up. It does break up sometimes, though, your
 5 Bluetooth.
 6 MR. GIANETTI: Is it breaking up right
 7 now or just in the past?
 8 CHAIRMAN ROCHAT: It's garbley, so
 9 anyway...
 10 Anyway...
 11 MR. GIANETTI: I apologize.
 12 If not I'll -- I'll switch back to my
 13 other one and just scream at it.
 14 So if you're having any issues with the
 15 hearing me, please let me know, and I'll do my best
 16 to adjust it.
 17 But as Mr. Linnus noted this is a
 18 continued application from preliminary and final
 19 major site plan approval and subdivision approval.
 20 Property located at Block 5, Lot 4 for an
 21 inclusionary project consisting of age-restricted
 22 townhouses and affordable rental apartments.
 23 This is, I think, our ninth hearing on
 24 the application. And we completed our presentation
 25 of witnesses. And the objector, represented by

1 Counsel, presented their planning witness in
 2 opposition. We started some public comment, which
 3 we'll continue tonight, and then have my summations.
 4 We did receive the January 3, 2022
 5 review letter from Mr. Banisch which had a few
 6 comments, some of which I believe we already
 7 testified to, but I will just confirm it on the
 8 record right now. And if any additional follow up is
 9 needed, you know, obviously we can address that.
 10 So looking at Mr. Banisch's letter,
 11 Comment 2, he refers back to three comments from the
 12 November 23, 2021 review letter.
 13 You know his first, Comment 1, the name
 14 of the neighborhood. As the board recalls there was
 15 an original name of Overleigh which we agreed and
 16 taken away as the name and the marketing department
 17 of Pulte is working on a revised name for the
 18 project. One has not been selected yet. But,
 19 obviously, as soon as one is, we will notify the
 20 board as well as the Borough Council. So it's
 21 ensured to be identified in any developer's agreement
 22 with the borough.
 23 And, again, hopefully everyone's
 24 hearing me. Okay.
 25 With respect to Comment 4B from the

1 November 23rd, clarification of proposed delivery
 2 days and times and dates of construction of delivery.
 3 You know I would just note there is a note on the
 4 plan that construction will be done Monday through
 5 Friday, 7:00 a.m. to 7:00 p.m., and Saturday
 6 8:00 a.m. to 5:00 p.m. and I believe that was
 7 selected to be in conformance with the Borough
 8 Ordinance and past practices for what's permitted for
 9 construction. So the applicant will comply with
 10 whatever's required as part of the ordinance for days
 11 of -- you know, time periods for construction and
 12 deliveries.
 13 And I will also note as the board may
 14 be aware, but, obviously, after any approval, after
 15 resolution compliance and we're ready to submit for a
 16 building permit there would be a pre-construction
 17 meeting with the borough professionals, the building
 18 department, the police department, to kind of
 19 coordinate all of this construction when the plans
 20 are fully finalized. The construction plans are
 21 finalized and there's more of a, you know, detailed
 22 construction schedule.
 23 Then refers to Comment 18 from his
 24 November 23, 2021 review letter asking about -- you
 25 know, confirming NJDEP procedures regarding deer

1 protection maintenance and survival of the
2 reforestation area. And this is the area that's
3 already wooded and we would be providing supplement
4 or additional landscaping within that wooded area as
5 part of the reforestation.

6 And as Mr. Kennedy testified at a prior
7 hearing, the DEP requires a five-year maintenance
8 guarantee to ensure that after five years the
9 landscaping that we provided, the trees that were
10 provided are maturing and growing appropriately and
11 if there's anything that needs to be replaced then it
12 has to be replaced and if we don't do it they can
13 call in the guarantee to do it.

14 So that's the procedure that is going
15 to be followed. There's nothing specific as to deer
16 protection unless the DEP provides that guidance, but
17 obviously it's part of the maintenance guarantee we
18 have to ensure that it grows and matures properly.

19 So if there's any issues with deer or
20 anything like that, obviously, after the landscaping
21 is put in, you know, determined by the contractor and
22 the developer, you know, where appropriate deer
23 fencing is needed it would be provided.

24 And Mr. Banisch then refers to --
25 you'll recall we had some discussions about our sales

1 trailer and model home plot plan and Mr. Banisch, at
2 the last meeting we discussed it, they asked that we
3 provide some additional, you know, dimensions even
4 though we discussed it the -- we put it on the plans
5 and resubmit, which what we did.

6 Mr. Banisch noted in comment 3(c)i that
7 there was a two proposed signs. I think they're
8 called sign plans or ID plans which one says
9 "Welcome" and the other says "Thank You For
10 Visiting." It's actually one sign double-sided so
11 you see it saying, "Welcome" when you drive in and
12 you see it saying, "Thank You For Visiting" on the
13 way out as part of the temporary sales that's at the
14 end of the cul de sac at the -- or at the end of the
15 island when you enter into the site and get near that
16 cul de sac what it's called and we can update that
17 plan to show that location, but it's, again,
18 identified, it would be hatched, you know, the
19 entrance as you're pulling in so not something up
20 near the street. There was also discussion as to the
21 feather flag. We updated the map to move the feather
22 flag back, but then it also included a note saying
23 the time and location is subject to, you know,
24 approval of the Borough Council as part of the
25 developer's agreement.

1 Then moving to Comment 4, Mr. Banisch
2 requests that we provide testimony regarding the
3 length of time that the applicant wishes to maintain
4 the proposed sales signs and the conditions under
5 which the sale and construction trailer would be
6 removed.

7 Mr. Holmes previously testified at a
8 prior meeting when we discussed the sales trailer and
9 model home plan that the signs would remain or
10 trailer and the signs would remain on the site during
11 and through construction and he estimated that to be
12 a three-year period.

13 So that's when -- that's how long the
14 trailer and -- or it's estimated that the trailer and
15 the signage would remain.

16 The rest are just further comment from
17 Mr. Banisch he had a suggestion as to how to handle
18 any resolution which I think we can address more, you
19 know, at the time or coming to a vote of whether the
20 board can take action and have a resolution
21 memorialized at a later date.

22 With that I ask Mr. Banisch or any of
23 the board professionals have any further comments or
24 questions of me concerning the review letter prior to
25 going -- returning to public comment.

1 MR. BANISCH: Craig, I do.

2 The welcome and thank you sign, what is
3 the approximate setback from the edge of pavement on
4 202 where you're proposing that?

5 MR. GIANETTI: If you give me a minute.

6 I'm just trying to find the plan in the
7 Dropbox, the whole bunch of it.

8 You know, if I pull up an exhibit, and
9 I believe I have the ability to share me screen,
10 correct, Shana?

11 MS. GOODCHILD: Craig, I will give you
12 a screen-sharing privilege.

13 MR. GIANETTI: Perfect, thank you.

14 MS. GOODCHILD: You're welcome.
15 You should be able to now.

16 MR. GIANETTI: Great.

17 So I am bringing up what's been
18 previously marked as A-14 as the overall site
19 rendering.

20 So I don't know if you could see my
21 screen, you know here is the edge, you know, at the
22 end of the island where I was referring to.

23 It's approximately 350 feet from, you
24 know, the -- the -- the edge of pavement, I guess,
25 from 202, but, again, it's at the end of the island

1 from here to the site by the cul de sac.
 2 MR. BANISCH: Thank you.
 3 VICE CHAIRMAN RINZLER: I have some
 4 questions about the signs, would this be an
 5 appropriate time?
 6 MR. GIANETTI: Sure.
 7 VICE CHAIRMAN RINZLER: I notice that
 8 when I was at your property in Flemington there's a
 9 building of affordable housing that had large banners
 10 that say "Affordable Housing" are you planning on any
 11 kind of signage regarding the affordable housing on
 12 this property.
 13 MR. BANISCH: No. There's not going to
 14 -- I mean the affordable housing is pretty interior
 15 to the site.
 16 So there's a separate marketing
 17 mechanism for the affordable housing as opposed to
 18 your standard marketing for a project.
 19 So these units, there's not going to be
 20 any banner or anything like of that nature just
 21 because the units are not visible from 202.
 22 VICE CHAIRMAN RINZLER: And the -- the
 23 feather -- the feather flags, I know at the last
 24 meeting, I know the Mayor also expressed comments
 25 about the -- concern about those types of signs, will

1 they be set back enough because the concern is if
 2 they're too close and they start blowing in the wind,
 3 you know, sometimes they're the, kind of, signs you
 4 see at a Dunkin' Donuts it says ice cappuccino, you
 5 know, fluttering in the wind. We just -- you know we
 6 just want to make sure that those sign are in good
 7 taste and not, you know, blaring like it's ad -- like
 8 it's advertising something in a -- you know, at a
 9 restaurant, a fast-foot restaurant.
 10 MR. GIANETTI: Understood, Board Member
 11 Rinzler, and I'll share my screen again. I'll show
 12 you, again, we put in -- there's always a lot of, you
 13 know, between the Borough Council and the Board I
 14 think we're -- we're talking about, you know, 15
 15 members, kind of viewing and opining so we don't --
 16 we don't want spend a ton of time on it, because,
 17 again, it's not (Audio Distortion) probably not even
 18 very far along on the premarketing for this project.
 19 So if you see on the sheet where the
 20 three dots are, this is the trailer plan that was
 21 submitted, previously they're up closer to 202, not
 22 -- still on our property, and still, you know, near
 23 the island, but there was push-back even further. I
 24 couldn't give you the distance, but I would have to
 25 guess probably over or around 200 feet from 202.

1 But, again, we put in there that the
 2 location and the times would be subject to, you know,
 3 Council's approval as part of the developers
 4 agreement, figuring by the time we get to the point
 5 of developer's agreements with the borough we would
 6 have our site plan approval. We would have our DEP
 7 approvals.
 8 And, hopefully, be far along -- farther
 9 along in the kind of premarketing plan for the
 10 project. And you can better adjust and answer
 11 specific questions that the Borough Council may have
 12 with respect to, you know, temporary signs near the
 13 entrance.
 14 VICE CHAIRMAN RINZLER: Okay.
 15 And one other question, will there be
 16 any kind of security fence so that when, you know,
 17 nights, weekends when, let's say, no construction is
 18 going on to prevent the public from just driving in
 19 and, you know, sort of checking out the site on their
 20 own.
 21 MR. GIANETTI: Security fencing?
 22 Other than your typical construction
 23 fencing, you know, that will be up. I'm sure there
 24 will be stuff to ensure any materials stored on the
 25 site are kind of protected and removed.

1 But this plan doesn't show any.
 2 VICE CHAIRMAN RINZLER: I mean I was --
 3 I was just referring to people would just decide, you
 4 know, they're driving down 202 and they say: Hey,
 5 let me take a look at this, so you can get a lot of
 6 people just driving in when there's nothing going on.
 7 And you're getting a lot of people, for lack of a
 8 better term, trespassing on the site. Just because
 9 new properties because they generate a lot of, you
 10 know, curiosity.
 11 MR. GIANETTI: Yeah, I guess none
 12 intended or proposed, you know, as part of, I guess,
 13 marketing of the project -- obviously, there will be
 14 "no trespassing" signs traffic, but it's not going to
 15 be gated where, you know, we're going to have a
 16 chain-link fence, you know, blocking off people's
 17 ability to access the property.
 18 I think that's the best answer I can
 19 give you Mr. Rinzler.
 20 VICE CHAIRMAN RINZLER: All right.
 21 Thank you.
 22 MR. LEWIS: Mr. Gianetti?
 23 MR. GIANETTI: Yes. I can hear you,
 24 Mr. Lewis?
 25 MR. LEWIS: I had a question about the

1 construction entrance you mentioned somewhere that
 2 you thought the construction phase would be three
 3 years, what's the -- what do you believe the terms of
 4 use of the existing driveway to be sort of in
 5 operation.
 6 MR. GIANETTI: I'm sorry could you
 7 repeat that question?
 8 MR. LEWIS: You said, you're going to
 9 use the existing driveway as a construction entrance,
 10 the construction entrance for the development.
 11 You submitted -- you said elsewhere
 12 that the development would take three years.
 13 Are you proposing to leave the existing
 14 driveway open for three years after the commencement
 15 of construction?
 16 MR. GIANETTI: When you said I -- are
 17 you saying I just now said the existing drive would
 18 be used as a construction entrance?
 19 MR. LEWIS: You did when you were
 20 reviewing Mr. Banisch's letter.
 21 MR. GIANETTI: I made it -- when I -- I
 22 might have been referring to -- if I said existing
 23 drive, I didn't think mean existing with respect to
 24 the current driveway that is out there.
 25 I might have been referring to proposed

1 of 80.
 2 So I recommended early that you consult
 3 with a forester to get a better tree list.
 4 Like I say, it's not the planning
 5 boards thing. This is the DEP, but, you know, I mean
 6 I am trying to help here.
 7 MR. GIANETTI: No.
 8 MR. LEWIS: I'm not trying to cost you
 9 any money really.
 10 MR. GIANETTI: No, we appreciate that.
 11 And I think that the testimony was that we would
 12 consult. We would also work with the board
 13 professionals as part of, you know, finalizing --
 14 MR. LEWIS: We don't have a
 15 professional on the -- we don't have a professional
 16 on the board.
 17 MR. GIANETTI: No, I said we would
 18 consult with a forester and then the board
 19 professionals would be involved in, you know,
 20 obviously as the landscape plan is finalized as part
 21 of resolution compliance.
 22 MR. LEWIS: So you will consult with a
 23 forester.
 24 MR. GIANETTI: Yes, I believe that was
 25 the testimony that we provided --

1 drive, you know, that's where the construction will
 2 be coming in and trucks will be accessing the site.
 3 MR. LEWIS: So, I -- so, you only have
 4 one driveway when you start?
 5 MR. GIANETTI: Yes, there's going to be
 6 -- there's going to be a driveway -- there's going to
 7 be a driveway put in, you know, at the beginning.
 8 MR. LEWIS: That's the first thing --
 9 MR. GIANETTI: The new drives, that's
 10 --
 11 MR. LEWIS: Okay.
 12 MR. GIANETTI: -- one of the first
 13 thing. And once we -- excuse me -- once we do that,
 14 the other driveway will be closed off.
 15 MR. LEWIS: Okay. All right.
 16 My other question is, I understand that
 17 the DEP has oversight on the planting stuff, I -- you
 18 know, I do find the planting plan defective. You
 19 know I saw the tree list, that yellow birch listed
 20 there, if you open up the -- you know, the tree
 21 planting 101 in New Jersey book, it's got yellow
 22 birch listed for wet woods. However, that's in zone
 23 6A. We're in zone 6B here. We're probably trending
 24 towards zone 7. I don't know any yellow birch to
 25 exist in the wild down here. It's really more north

1 MR. LEWIS: Okay. Great. Thank you.
 2 Thank you.
 3 And -- and at what point does the
 4 easement, is the easement effective, the granting of
 5 the conservation easement effective on that new
 6 forested area?
 7 Is that after -- after year five, after
 8 the DEP is rubber stamped on it.
 9 MR. GIANETTI: I'm sorry.
 10 Can you repeat the question, Mr. Lewis?
 11 MR. LEWIS: Once -- once you do the
 12 reforestation, you're going to grant an easement or
 13 gift an easement to the town, to the borough.
 14 MR. GIANETTI: Yes. Yes. There would
 15 be a --
 16 MR. LEWIS: Observation --
 17 MR. GIANETTI: -- a conservation
 18 easement for the benefit of the borough.
 19 MR. LEWIS: When will that --
 20 MR. GIANETTI: And the DEP.
 21 MR. LEWIS: -- when will that take
 22 place?
 23 MR. GIANETTI: That would be after DEP
 24 approval.
 25 MR. LEWIS: Okay. Okay.

1 Thank you.
 2 CHAIRMAN ROCHAT: Is there any other
 3 questions on Dave Banisch's letter dated January 3rd?
 4 MR. BOLIO: Mr. Chairman, I had one
 5 follow question with regard to the construction
 6 access. There is a note on the -- on the sign plan
 7 which indicates that the existing gravel drive to the
 8 east for construction access until main drive
 9 constructed.
 10 I'll go on a note that on the Soil
 11 Erosion Sediment Control Plan I showed construction
 12 access. It did not depict this driveway being
 13 utilized for construction.
 14 And I just want some clarification --
 15 well, first of all if you're going to utilize that
 16 for construction access, you're going to have to
 17 update the Soil Erosion Sediment Control Plan and get
 18 a recertification or the certification that you get
 19 would need to show that.
 20 And then, too, what exactly is meant
 21 until main drive constructed?
 22 Is it just cutting it in and putting
 23 the stone tracking pad down or is it going to be -- I
 24 assume that's what it would be -- what it would be, but
 25 I'm not sure what your intentions were. I'm not sure

1 sediment control plans as being used as construction
 2 access.
 3 MR. GIANETTI: Okay.
 4 CHAIRMAN ROCHAT: How can we clarify
 5 that?
 6 MR. GIANETTI: I think it could be -- I
 7 mean I think we're getting to some really minutia
 8 detail --
 9 CHAIRMAN ROCHAT: Ah.
 10 MR. GIANETTI: -- that easily can be
 11 addressed through Mr. Kennedy and Mr. Bolio as to,
 12 you know, finalizing resolution compliance if change
 13 to the soil erosion plan needs to be done then, you
 14 know, Mr. Kennedy can do that.
 15 MR. BOLIO: Does the board have any
 16 issues with construction access being located almost
 17 directly across from Lake Road? If you board doesn't
 18 have an issue with it then they have to work out the
 19 details with Mr. Kennedy as needed.
 20 MR. LEWIS: Mr. Bolio, I -- it's going
 21 to adversely affect residents of Lake Road period.
 22 The longer it's there the more it's
 23 going to adversely affect Lake Road residents in the
 24 morning and maybe the afternoon as well. You know my
 25 knee-jerk suggestion would be take out the pillars

1 if that's a question for Mr. Kennedy if he's
 2 available.
 3 MR. GIANETTI: I mean it could be, but
 4 I guess... I think the simple answer is it can be
 5 used for construction so you know there's got be a
 6 base and of course blacktop in order to -- you know,
 7 to be functioning and fully usable.
 8 MR. BOLIO: You said blacktop of the
 9 main driveway to the site.
 10 MR. GIANETTI: Yes. The entrance
 11 drive.
 12 MR. BOLIO: So in your opinion that
 13 needs to be paved before it can be utilize for
 14 construction?
 15 MR. GIANETTI: I can confirm with
 16 Mr. Kennedy, but I believe so.
 17 I believe it's part of their soil
 18 erosion plan or to help the soil erosion.
 19 MR. BOLIO: Soil erosion plan depicted
 20 a stone tracking pad at the entrance which is typical
 21 for construction sites.
 22 I wasn't aware that the road was going
 23 to be paved. It falls back to the question how long
 24 is this existing gravel driveway intended to be used?
 25 And, you know, it should be shown on the soil erosion

1 and open it up a little bit more if you're going to
 2 use it as construction access so it's an actual -- I
 3 mean you pull out of there in a tri-axle truck you're
 4 not going to have much -- you can't -- you're not
 5 going to be able to see much before you pull out into
 6 traffic. You know, obviously, I would like
 7 construction, everything moved down to the -- to the
 8 new entrance area. It's located there for a reason.
 9 More than just -- it's located there for -- to take
 10 the traffic from the site.
 11 MAYOR VALLONE: Yes, Steve, I -- I
 12 agree with Bob Lewis, I have to say, think that if we
 13 could avoid utilization of the present dirt driveway
 14 that's there and utilize the driveway that's further
 15 north, I think that's the way to go.
 16 MR. GIANETTI: Yes, and I think I
 17 agree. And I think, and hopefully I said the correct
 18 or maybe I'm not understanding, but the new driveway
 19 has to be constructed, right? So we -- we have to
 20 use something in order to construct that. It's only
 21 being used in that beginning of construction. Once
 22 that driveway is constructed that's going to be --
 23 once the new driveway is constructed that's going to
 24 be used as the construction entrance.
 25 MR. BOLIO: Yeah. But how long is it

1 going to take to construct that driveway or -- and to
 2 what level does it need to be constructed is my
 3 question?
 4 Is it just putting the DJA stone base
 5 down, grading -- doing the rough grading, putting the
 6 stone base down and using -- utilizing it? Is it
 7 going to be dirt? Or as he said are you going to
 8 have to pave it?
 9 It's a question -- I think there are
 10 questions that need to be worked out with your
 11 engineer. And I think --
 12 MR. GIANETTI: Well, I mean I think
 13 frankly it's really -- again, it's something that's
 14 after an approval we are going through resolution
 15 compliance we're going to have a pre-construction
 16 meeting with the professionals, with the building
 17 department, with the police department. A lot of
 18 these issues get worked out at that point.
 19 I don't think it's necessarily
 20 something that's addressed as part of whether or not
 21 we comply with the site plan.
 22 CHAIRMAN ROCHAT: I think the consensus
 23 would be -- of the board and Bob voiced it, is we're
 24 not going to want to see containers running in and
 25 out of that driveway, pulling out on to 202.

1 If it was a clean site it would be a
 2 different story, but you have a bunch of buildings in
 3 there and they're going to have to get pulled down so
 4 it's going to be a lot of activity besides just doing
 5 dirt work.
 6 COUNCILWOMAN TWEEDIE: I think
 7 Mr. Bolio and Mr. Banisch both understand what the
 8 board is looking for at this point.
 9 CHAIRMAN ROCHAT: Okay. Just everybody
 10 agrees.
 11 MAYOR VALLONE: I think they can work
 12 that out and I think hey -- they hear us load and
 13 clear so I think that's...
 14 COUNCILWOMAN TWEEDIE: That's why we
 15 have our professionals here.
 16 MR. LEWIS: I think it should be -- I
 17 think there should be a condition in there that the
 18 details of timing, duration of that construction
 19 entrance opposite Lake Road will be resolved during
 20 resolution compliance.
 21 CHAIRMAN ROCHAT: Okay.
 22 MR. LEWIS: We do understand you want
 23 that eliminated as quickly as possible.
 24 CHAIRMAN ROCHAT: Correct.
 25 MR. BOLIO: Thank you.

1 COUNCILWOMAN TWEEDIE: Again, David and
 2 Steve understand what the board wants.
 3 MR. BOLIO: I do, Sheila, thank you.
 4 CHAIRMAN ROCHAT: Steve, any other
 5 comments.
 6 MR. BOLIO: No other comments,
 7 Mr. Chairman.
 8 CHAIRMAN ROCHAT: Okay.
 9 And any other comment on the
 10 January 3rd letter from Banisch from the board?
 11 (No Response.)
 12 CHAIRMAN ROCHAT: One other thing, I
 13 don't know if we ever resolved was the changing
 14 station situation as far as where they are going to
 15 be mounted and installed.
 16 I have one concern, is that we've
 17 learned lately in the State of New Jersey that these
 18 charging stations are going to be a franchise -- a
 19 lot of them are going to be franchised. So you're
 20 going to have private entities installing them,
 21 contracting to install them in different places,
 22 which would mean they'd be open to the public.
 23 So I don't know how Pulte wants to
 24 handle that. They're not going to be used by the
 25 public on private property or not?

1 MR. GIANETTI: Well, I think it's also
 2 more, I mean obviously I think the intent and purpose
 3 or the law could be used by the residents and
 4 presumably guests that are visiting and it deals with
 5 off-street parking.
 6 You know this is one of those we agreed
 7 -- I believe it was agreed at the last meeting
 8 between me and Mr. -- and the board, you know,
 9 after discussions between Mr. Henry and I that, you
 10 know, it's a fairly new law, the applicability of it
 11 is not clear. So it was more as part of resolution
 12 compliance and as part of the developer's agreement
 13 the parties would determine the applicability of the
 14 law and what it means with respect to both the
 15 apartment building and the townhouse portion of the
 16 project.
 17 And through that, if it was determined
 18 to be applicable, you know, the parking spaces would
 19 be identified as to where they're going to be.
 20 I think in consultation, you know, with
 21 the board professionals, I think it was -- it was,
 22 obviously, our position that it wasn't applicable,
 23 though we would be willing to provide the nine EV
 24 parking spaces as part of the apartment building.
 25 We didn't -- also didn't believe it

1 applied to the townhouse portion of the project
 2 because the law really applies more to multifamily
 3 apartment than townhouses and the townhouses actually
 4 have to comply with the requirement that the -- when
 5 the units are offered for sale as the option to offer
 6 to make it, you know, have an EV charging station.
 7 So I believe that was, you know, where
 8 it was left that it was during resolution compliance
 9 the applicability of the law would be determined in
 10 compliance with that as well.
 11 MR. LINNUS: And I also believe the
 12 record shows --
 13 MR. GIANETTI: I think --
 14 MR. LINNUS: I believe the record
 15 shows, Craig, at one of the meeting and perhaps it's
 16 the November 23rd meeting that notwithstanding the
 17 applicability or non-applicability of the statute
 18 that the developer will be providing conduits in
 19 certain areas where there would be electric charging
 20 stations and that's clearly in the record.
 21 Do you agree with that?
 22 MR. GIANETTI: Yes. Yes.
 23 MR. BANISCH: I think I would like to
 24 say something, Mr. Chairman, if I might, on this
 25 issue.

1 CHAIRMAN ROCHAT: Sure.
 2 MR. BANISCH: And it's regarding the
 3 concern that you raised which I think, if I am
 4 hearing you correctly I think the concern you're
 5 raising is as these charging stations are developed
 6 they basically become accessible by the public under
 7 these franchise arrangements and that would be
 8 bringing the general public onto the site and, for
 9 example, if the charging stations are installed
 10 adjacent to the affordable apartments that would be
 11 bringing the general public up adjacent to those
 12 residential homes in the neighborhood.
 13 And I think I -- I don't want to speak
 14 out of turn, Mr. Chairman, please correct me if I'm
 15 mistaken, but I think your concern is one focused on
 16 the location of where those things end up in the
 17 neighborhood to minimize any conflict between the
 18 general public and the residents of the community.
 19 Do I understand you correctly in that
 20 regard?
 21 CHAIRMAN ROCHAT: That's correct. Yes.
 22 MR. BANISCH: So I think, Craig, as
 23 part of the conditions that you're looking for,
 24 supposed to be addressed as part of resolution
 25 compliance has to be mindful that concern that we'll

1 be seeking to try to work that out during the course
 2 of finalizing compliance with the new state law.
 3 MR. GIANETTI: Understood.
 4 MR. BANISCH: And you agree with all of
 5 that, yes?
 6 MR. GIANETTI: Yes.
 7 MR. BANISCH: Thank you.
 8 MR. GIANETTI: Yes.
 9 Anything else?
 10 MR. BANISCH: I don't know, is there
 11 another piece of the EV charging stations component
 12 of this, Mr. Chairman, that you wanted us to delve
 13 into?
 14 CHAIRMAN ROCHAT: No. That's -- I
 15 don't know whether -- the Borough's going to have to
 16 come up some sort of a parking regulation which is --
 17 it was just a concern when you're in the general
 18 parking area for the moderate income that you'd have
 19 half a dozen spots open with no cars in them because
 20 they're charging stations. Is that going to be a
 21 problem for other people not -- you know, they can't
 22 park in them with regular cars? Is that -- it's
 23 going to have to be an issue that's going to have to
 24 be handed.
 25 MR. LINNUS: Can you --

1 MR. BANISCH: Frank, do you want to
 2 respond to that? I mean my -- my reaction to the
 3 concern is that's a management issue that you guys
 4 are all going to have to work out internally.
 5 MR. GIANETTI: Yes, I --
 6 MR. BANISCH: Do you agree with that?
 7 MR. GIANETTI: Again, the law creates a
 8 lot of issues and questions and ambiguity, as you
 9 know I mean we can be required to put several in.
 10 There could be no tenants that have an electrical
 11 vehicle. I think it would be on -- on for the
 12 management of the property to determine whether
 13 people without electric vehicles can park there.
 14 There's nothing that prohibits it by law.
 15 So I think it's just more of a
 16 management of the building and the property. Now, to
 17 ensure that people that have electrical vehicles have
 18 access to the EV charging station, but at the same
 19 time if -- there's not many people with electrical
 20 vehicles that they're still, you know, sufficient
 21 parking, people can use those spaces.
 22 VICE CHAIRMAN RINZLER: Would you be
 23 able to put up some sort of sign that says, let's say
 24 these charging -- this is private property and the
 25 charging stations are only for the residents and

1 guests of the development?
 2 MR. GIANETTI: Well, I think -- I mean,
 3 I don't know if signage would necessarily, you know,
 4 be the solution. Obviously I think maybe on it it
 5 can say for residents of the property. I do know
 6 just in dealing with this in other applications that
 7 have put it in, my understanding is there's ways to
 8 ensure that, you know, the app that's used to see
 9 whether or not -- if there's a charging station
 10 around, that you can make your's not discoverable.
 11 So as part of, you know, whoever is
 12 being leased with for lack of a better word,
 13 operating the charging station, that as part of the
 14 agreement that they be identified as
 15 non-discoverable.
 16 MR. BANISCH: So you'd agree to that
 17 then, Craig?
 18 MR. GIANETTI: Yes.
 19 Now, I guess subject to, that's how it
 20 works and you can do that.
 21 You know someone may say you can't do
 22 that, it's not allowed.
 23 I've heard it done before. I haven't
 24 seen it in practice yet, but I've heard, you know,
 25 professionals testify to that.

1 MR. LINNUS: And I think that depends
 2 on what the legislation actually says and whether the
 3 legislation applies to this particular application.
 4 MR. GIANETTI: Correct.
 5 CHAIRMAN ROCHAT: And it depends
 6 whether you take state funding to construct the
 7 units.
 8 COUNCILWOMAN TWEEDIE: This is a
 9 developing issue --
 10 CHAIRMAN ROCHAT: Yeah, right.
 11 COUNCILWOMAN TWEEDIE: -- that I don't
 12 know that -- we can't really try to make decisions
 13 now or ask the applicant to until we all -- until the
 14 applicant knows what the requirements are actually
 15 going to be by the time it's constructed.
 16 MR. LINNUS: That's correct.
 17 You have to make a determination based
 18 the adequacy of the number of parking spaces. And
 19 then, of course, if the legislation is applicable
 20 what does that legislation say with respect to issues
 21 you're raised. There's only so much that the
 22 Planning Board can do.
 23 COUNCILWOMAN TWEEDIE: Correct.
 24 MAYOR VALLONE: I agree with Frank and
 25 Sheila. And I think it comes down to the legislation

1 if it says that a developer takes state money that
 2 opens up those charging stations to the public and
 3 the very simple answer is in this case the developer
 4 will to take state money to build --
 5 COUNCILWOMAN TWEEDIE: Yes.
 6 MAYOR VALLONE: -- the charging stations
 7 and I think that precludes the issue.
 8 COUNCILWOMAN TWEEDIE: Yes, I agree.
 9 MAYOR VALLONE: So let's keep an open
 10 mind on this, but I think that may be the simple
 11 answer.
 12 CHAIRMAN ROCHAT: Correct.
 13 MR. LINNUS: It may be correct, Mayor.
 14 COUNCILWOMAN TWEEDIE: But I think the
 15 point is it's too early to try to put restrictions on
 16 it until we know what the legislation is actually
 17 going to say.
 18 CHAIRMAN ROCHAT: Right.
 19 MS. LAYTON: I agree.
 20 CHAIRMAN ROCHAT: All right. The only
 21 thing at all possible not make it a regular filling
 22 station for electric cars, that's all you don't want.
 23 MR. GIANETTI: I think everyone agrees.
 24 CHAIRMAN ROCHAT: You don't want that.
 25 MR. GIANETTI: I think everyone agrees.

1 I don't think --
 2 CHAIRMAN ROCHAT: All right.
 3 MR. GIANETTI: -- the developer wants
 4 that either.
 5 CHAIRMAN ROCHAT: No.
 6 All right. Any other questions on
 7 that?
 8 MR. KOURY: Mr. Chairman?
 9 Mr. Chairman, this is Jack --
 10 CHAIRMAN ROCHAT: Sure.
 11 MR. KOURY: I have a question I'd like
 12 to address to Mr. Kennedy, if I may?
 13 I was directed at a previous meeting
 14 about -- I'm still having an issue with the sewer
 15 waste treatment plant and its location.
 16 And I was told Mr. Kennedy would
 17 probably -- he would probably be the most reliable
 18 person to give us the reasoning why it has to go
 19 literally in the middle of the development.
 20 I have it on good authority that plant
 21 can go just about anywhere. But I -- I would like to
 22 get a good explanation why it has to be central in
 23 this whole development. It's just -- it's been a --
 24 it's been a sore spot of mine through all these
 25 talks.

1 MR. GIANETTI: I mean I can bring up
2 Mr. Kennedy up.
3 I believe, though, Mr. Koury, you asked
4 that question before. And I think you specifically
5 asked it of our expert that testified as to this
6 wastewater treatment plant or this treatment
7 facility.
8 And his testimony was that there wasn't
9 many other locations either due to, you know, the
10 environmental constraint, the slope, in that this
11 property where it's being located is not too far of a
12 distance from where it is and it's an easy connection
13 to the field, you know, that it's going to.
14 MR. KOURY: Mr. Gianetti, the only
15 reason I ask is from the minutes on September 22nd,
16 you stated as you know Mr. Kennedy will be coming
17 back to testify about the revised plans and he can
18 address -- and he can address that comment and
19 again --
20 MR. GIANETTI: Mr. -- I understand, but
21 Mr. Stern who was the actual expert and with NSU
22 that's operating it came and testified -- I'd have to
23 check, at the November meeting -- I believe it was
24 the November meeting --
25 MR. KOURY: Yes, that's -- it was -- it

1 was towards -- it was towards the end.
2 MR. GIANETTI: Yes.
3 And testified at length as to this
4 facility and why that location was selected.
5 MR. KOURY: I'm not an architect so I
6 don't understand all the details, but I just have a
7 difficult time understanding how we can put a waste
8 treatment plant in the middle of the development
9 because -- but...
10 MR. GIANETTI: I would -- I mean I
11 would disagree with the concept that it's in the
12 middle of the development. I think it is somewhat,
13 where it's placed, you know, between the retaining
14 walls and between the existing grading it's got to go
15 somewhere.
16 MR. KOURY: I realize that. It's also
17 in --
18 MR. GIANETTI: You don't want it in the
19 front.
20 You know it's towards the rear of the
21 development, but has -- from a grading and -- and
22 directional standpoint an easy run line to the -- the
23 field.
24 MR. KOURY: I mean you have --
25 MR. GIANETTI: Mr. Stern addressed

1 that.
2 MR. KOURY: -- apartments -- I mean you
3 have the apartments that are going to have a view of
4 it. You're going to have probably 13 to 15 units
5 that are going to be able to look out their unit and
6 see it.
7 So it's -- it's a sizable -- it's a
8 sizable number. But I'm just -- I'm just -- just
9 asking a question.
10 So thank you very much. I appreciate
11 your time, sir.
12 MS. LAYTON: I also have a concern with
13 that, it's not only in the middle, but it's like
14 50-feet from where the wetlands are.
15 I have a problem with that.
16 And then there's also wetlands, I
17 guess, going down the slope. I don't know how far it
18 is, but I'm having some concerns about this treatment
19 building anyway.
20 Also with the trucks coming in to empty
21 it and -- I got to find my notes here...
22 Yeah, that discharging so close to the
23 emergent wetlands. I have a problem with that. And
24 -- and the pumping, I don't know how that works, but,
25 you know, down below we have the railroad tracks.

1 And I don't understand how all of this works.
2 I have a problem with the generator,
3 with the weekly testing for 20 minutes every week
4 with an alarm going off, daily inspections. I just
5 think it's very intrusive on such a small tract of
6 land and a compromised tract of land.
7 MR. GIANETTI: So you're -- just to be
8 clear there's -- there's --
9 MS. LAYTON: I can barely hear you.
10 MR. GIANETTI: Sorry.
11 Just -- can you hear me now?
12 MS. LAYTON: No.
13 MR. GIANETTI: Hold on.
14 Is this any better?
15 MS. LAYTON: I don't -- maybe.
16 MR. GIANETTI: Any better?
17 MS. LAYTON: Yeah.
18 MR. GIANETTI: Okay.
19 So I think -- you know a few things
20 again, we did not -- we had a large amount of
21 testimony on this. We have an expert come testify on
22 that.
23 But to be clear there's nothing
24 discharging into the wetlands. The facility is
25 taking in the water that's treated so it's like --

1 and as he testified it's technically drinking water
2 is being, you know, pumped or released to the field
3 up towards the front of the property which is
4 furthest away from the wetlands.

5 As to the trucks and the generator, you
6 know, a lot of the -- the point of that testimony was
7 reinforced. There was concerns as to the operation
8 of this and whether or not, you know, what if it
9 failed? What id there's a problem with this? What
10 if there's a problem with that. And it was
11 highlighting all the redundancies. It's checked on
12 routinely there's -- there's backups there's -- you
13 know, to ensure there is an issue whether it's the
14 generator, whether it's the inspections, all of this
15 being done to ensure that it operates, you know,
16 efficiently.

17 He also testified as to, you know,
18 these being more and more commonplace, you know, in
19 these types of developments and gave examples of
20 some, you know, throughout the northeast.

21 So I don't want to, kind of, rehash or
22 get back into Mr. Stern's testimony, but, you know,
23 we went -- we did go through this at great length.

24 I think we spent the whole night with
25 him.

1 MS. LAYTON: I agree, which is part of
2 my problem. I'm just grasping -- I mean I know
3 there's a lot of operators, licensed operators,
4 that's not the point. The point is I think it's very
5 intrusive to the -- the property on a -- such a small
6 lot to have all this trucks and operators and -- and
7 an hour every -- what? Every day to remove the --
8 the bio -- I thought bio sludge, but I don't...

9 COUNCILWOMAN TWEEDIE: I don't think it
10 was an hour each day and if you have a generator
11 whether it's a whole house generator or a whole
12 development generator or a sewage treatment plant
13 generator you have to exercise it. That --

14 MS. LAYTON: Yes.

15 COUNCILWOMAN TWEEDIE: -- the expression
16 "exercising it" means turning it on once a week and
17 running it to -- to test to it and to exercise it.

18 And if you don't do that then when you
19 need it, it doesn't work. There's a lot of people
20 learn that the hard way, when they -- when they
21 don't have -- don't bother the test their generator.

22 And I understand what you're saying
23 that, you know, it's -- but I have complete faith in
24 Adam Stern he is our borough sewer engineer. He has
25 kept our sewer system in the Borough running it's 100

1 years old. He knows his stuff. And I -- I -- I have
2 total confidence in the information that he gave us
3 when he explained how this system was going to work.

4 That's why we hire professionals
5 because we -- we don't know how these things work
6 unless it happens to be our background.

7 So there are times when even if you
8 don't understand something you just have depend on
9 the professionals.

10 That's why we hire them.

11 MS. LAYTON: Okay.

12 CHAIRMAN ROCHAT: Okay. Thanks,
13 Marilyn.

14 MS. LAYTON: All right.

15 MR. LEWIS: Since we got on to the
16 sewage treatment plant. There's a couple of things
17 that have been on my mind for a while, one is concern
18 with diligently squirreling away money along the way
19 so you can replace it when it needs to be replaced,
20 seeing as Melillo Equities seemed to be the -- seemed
21 to be staying in the development as owners of the
22 low-income housing rentals. I think that they would
23 be a powerful voice on the homeowner's association.
24 And they don't want to go through a mistake of not
25 having enough money to replace the thing. So that

1 gives me a little bit of comfort.

2 You know in any other septic system
3 that's designed there's something called a reserve
4 area. This particular -- this particular plan does
5 not have a reserve area.

6 In other words they treat all their
7 sewage and they start pumping it into the field and
8 the field fails or for one reason or another such as
9 it -- the -- the hydro -- hydrogeological model
10 doesn't work and it can't take that much water or it
11 starts putting it -- putting it into the ground and a
12 spring develops on the hillside below Far Hills
13 Country day school or it communicates with the Ramapo
14 fault which is near by for some reason that fails,
15 there's no reserve area.

16 I think based on what I am hearing
17 about how this -- the testimony of how this plant
18 functions, if it does fail they may be able to
19 release into Mine Brook.

20 If it is truly drinking water quality
21 and sewage treatment, that's the only back up plan I
22 see for that.

23 You know I -- I don't know. And the
24 other -- the other thing is, is the DEP regulates
25 septic systems, you know, not us.

1 So in -- in a way we have to -- we need
 2 to trust the DEP. That's what we're doing.
 3 COUNCILWOMAN TWEEDIE: Yes.
 4 MR. LEWIS: That's my perspective on
 5 the whole thing.
 6 COUNCILWOMAN TWEEDIE: And, Robert, as
 7 well, we've had the discussion before that it is the
 8 developer's responsibility if there is a problem with
 9 the system, not the Borough's expense.
 10 MR. LEWIS: Thank you, Sheila. Yes.
 11 COUNCILWOMAN TWEEDIE: That was -- the
 12 Council was very careful to get that into the
 13 agreement.
 14 MR. LEWIS: Thank you for adding that.
 15 COUNCILWOMAN TWEEDIE: Okay.
 16 CHAIRMAN ROCHAT: Mr. Gianetti,
 17 anything else for us right now?
 18 MR. GIANETTI: Nothing further. I
 19 think we can continue with public comment.
 20 CHAIRMAN ROCHAT: Anybody else from the
 21 board?
 22 (No Response.)
 23 CHAIRMAN ROCHAT: Okay. I would like
 24 to open it up for public comment.
 25 MS. GOODCHILD: Anyone in the public

1 that wishes to make a comment on the application
 2 please raise your hand?
 3 Chairman Rochat, we have William
 4 Kibler.
 5 CHAIRMAN ROCHAT: Okay.
 6 MR. KIBLER: Thank you, Mr. Chairman.
 7 MR. LINNUS: Mr. Kibler, where are you?
 8 Okay. There you are. I see you.
 9 MR. KIBLER: Yup.
 10 MR. LINNUS: You want to raise your
 11 right hand, sir?
 12 MR. KIBLER: Yes. I was going to say
 13 I'm in my basement of my house if you really want to
 14 know.
 15 MR. LINNUS: There you go.
 16 Now I see you in the basement of your
 17 house.
 18 Do you swear that the testimony you're
 19 about to give will be the truth, the whole truth and
 20 nothing but the truth, so help you God?
 21 MR. KIBLER: I do.
 22 WILLIAM KIBLER,
 23 2121 Larger Cross Road, Bedminster, New Jersey,
 24 having been duly sworn, testifies as follows:
 25 MR. LINNUS: Okay.

1 You want to state your name and address
 2 for the record.
 3 MR. KIBLER: My name is Bill Kibler.
 4 I'm the policy director for Raritan Headwaters.
 5 Our office is located at 2121 Larger
 6 Cross Road in Bedminster.
 7 And thank you Mr. Chairman, Members of
 8 the Board, for the opportunity to comment on this
 9 application.
 10 Happy New Year to everyone.
 11 I recognize that the Borough has
 12 significant challenges in meeting its affordable
 13 housing needs. And I appreciate you're trying to
 14 find appropriate ways to do. That's an important
 15 thing.
 16 But affordable housing can't come and
 17 should not come at the expense of your environment
 18 and -- and your community. No development, whether
 19 it's this or any other proposed development, should
 20 occur in an area that's environmentally critical
 21 whether that development is affordable or not
 22 affordable.
 23 We have three specific concerns with
 24 that application. The first is the wastewater
 25 treatment facility which was just discussed recently.

1 We share many of the concerns that were addressed
 2 there, in particular our very strong preference would
 3 be to see wastewater go to a public wastewater
 4 treatment plant instead of being treated on the site.
 5 The proximity of the wetlands, the
 6 proximity to Mine Brook are very concerning.
 7 And if the back-up plan is discharged
 8 to the Mine Brook that is significantly -- that is a
 9 very significant concern. The Mine Brook, as you
 10 probably know, is part of the Raritan River Basin.
 11 It's part of a water supply system that provides
 12 drinking water to 1.5 million people downstream of
 13 you, but 1.5 million New Jersey residents. And the
 14 potential for harm to that drinking water is pretty
 15 significant.
 16 There were two variances that I wanted
 17 to address, the applicant has asked for a variances
 18 to develop within 100 foot of a stream corridor or
 19 excuse me within the 100 stream corridor buffer. We
 20 suggested that variance should be denied because that
 21 -- because of the critical role of that buffer along
 22 the Mine Brook and its tributaries which support the
 23 drinking water system for 1.5 million New Jersey
 24 residents as well as being a critical part of your
 25 local environment there in Far Hills.

1 The second variance that wanted to
 2 address, they've asked for a variance for permit to
 3 -- that would permit disturbance of steep slopes.
 4 That variance should also be denied. The applicant's
 5 attorney mentioned a couple of times or someone who
 6 testified on behalf of the applicant mentioned a
 7 couple of time that their opinion the slopes -- steep
 8 slopes, the constrained slopes on this property were
 9 not naturally occurring, but artificial. I've looked
 10 at your municipal ordinances. I am sure many of you
 11 are familiar with them, but your municipal ordinance
 12 does not differentiate between naturally occurring
 13 steep slopes and manmade steep slopes, nor should it.
 14 Your ordinance is very well written and you should do
 15 your part to defend it all of the reasons we protect
 16 or limit development on steep slopes, things like
 17 being concerned about soil erosion, concerns for
 18 water quality, concerns about the engineering
 19 challenges of developing on steep slopes and a
 20 multitude of others, all of the reasons that we don't
 21 allow or that we restrict development on steep slopes
 22 apply whether those slopes are naturally occurring or
 23 whether they're manmade. They are, in that sense,
 24 similar to wetlands. When we regulate wetlands
 25 development we don't differentiate whether the

1 wetlands are naturally occurring or manmade if the
 2 wetland has wetlands functions we regulate it as a
 3 wetland.
 4 The same thing is true of steep slopes.
 5 And the -- your ordinance is a good ordinance and you
 6 should not allow a variance for development on steep
 7 slopes.
 8 The bottom line is that if this
 9 development plan cannot be realized without doing
 10 environmental harm in your community or creating a
 11 significant threat of environmental harm to your
 12 community then it's the wrong development for this
 13 property.
 14 And that's all I have, Mr. Chairman.
 15 I'll be happy to take questions if you
 16 have any.
 17 CHAIRMAN ROCHAT: Thank you, Will.
 18 MR. KIBLER: Thank you, sir.
 19 CHAIRMAN ROCHAT: Thank you.
 20 Any questions or comments about
 21 Mr. Kibler?
 22 MR. GIANETTI: I have no questions.
 23 CHAIRMAN ROCHAT: Okay. Thank you.
 24 Anyone else, Shana?
 25 BOARD SECRETARY: I don't see anyone

1 else raising their hands, but last chance to raise
 2 your hand if you have any comments in the
 3 application.
 4 (No Response.)
 5 MS. GOODCHILD: No, Chairman Rochat, I
 6 don't see anyone else raising their hand.
 7 CHAIRMAN ROCHAT: I would like to close
 8 the public comment period and send it back to
 9 Mr. Gianetti.
 10 MR. GIANETTI: Sure. Yes.
 11 If there's nothing further, I would
 12 like to give my summation to the board.
 13 CHAIRMAN ROCHAT: Just, Craig?
 14 MR. GIANETTI: Yes.
 15 CHAIRMAN ROCHAT: Is everybody having a
 16 problem hearing, Craig?
 17 BOARD MEMBERS: Yes.
 18 MS. LAYTON: He's breaking up.
 19 MR. GIANETTI: All right. I'm sorry.
 20 I switch to my -- hold on one second.
 21 Is this any better.
 22 CHAIRMAN ROCHAT: Probably better if
 23 you're -- you're going to have to speak up.
 24 MR. GIANETTI: All right. I'll try to
 25 get it even closer to me.

1 I apologize for the technology issues.
 2 What I was going to say, if there's
 3 nothing, I'd like to give my summation and then call
 4 for a vote.
 5 And we can discuss what that vote and
 6 any sort of resolution, what that would look like.
 7 First I want to thank the board for
 8 their time on this application. I note that know the
 9 this is our 9th hearing. It has been a lot of
 10 information.
 11 I know we had a number of witnesses
 12 that we presented to the board. All, you know, going
 13 from civil engineering, to architecture, to planning,
 14 to engineering, to the developer, to the wastewater
 15 treatment facility expert, all trying our best to
 16 address all the questions that the board had. We
 17 appreciate the board's time and consideration with
 18 this.
 19 We do understand that this is a
 20 significant development for Far Hills probably the
 21 largest one since the Polo Club, I guess, in the
 22 '90s.
 23 You know this is also a significant
 24 part of the borough's affordable housing plan, you
 25 know addresses the Borough's Constitutional

1 compliance with its affordable housing obligation.
 2 As part of this site plan and approval
 3 of the site plan as well as the court's approval of
 4 the town's affordable housing plan has protected the
 5 town from any builder's remedy lawsuits where, you
 6 know, the borough would close control as to where the
 7 affordable housing goes and rather the court and
 8 other professionals would determine on its own.

9 So we understand the significance of
 10 this. We understand the board and their passion and
 11 inquisitiveness with respect to the application
 12 because of that and we also understand from the
 13 public standpoint, the public's emotions with respect
 14 to it.

15 So, again, we appreciate all of this.
 16 We appreciate the courtesy with the way the board has
 17 handled the application. I would hope the board
 18 would respect -- they've given us a lot of comment, a
 19 lot of feedback, both the board members and the board
 20 professionals. We've revised the plans a few
 21 different times to address of those comments, whether
 22 it dealt with the look of the townhouse units,
 23 whether it dealt with the look of the wastewater
 24 treatment facility, you know, trying to ensure that,
 25 you know, it's a project that the borough, you know,

1 in the end is going to be proud of and not regret.
 2 Pulte Homes is a national home builder
 3 with the stellar reputation and as I noted also a
 4 local connection being based in the -- or the
 5 northeast division being based in Basking Ridge as
 6 well as the two representatives that were testifying
 7 and will be involved with this development being
 8 local, people that grew up in Bernardsville, in the
 9 Basking Ridge, Far Hills area.

10 We understand to the character of Far
 11 Hills, Pulte understands it and they've worked hard
 12 to design a project, though it may be different from
 13 the traditional Far Hills, is still a project that we
 14 were trying to make sure was particular to Far Hills.
 15 And provided the board grants approval for the
 16 project, they look forward to continuing to work
 17 productively with the Borough as the project gets
 18 built.

19 The project is in this town's
 20 affordable housing zone and the site plan exhibit
 21 that's attached to the affordable housing agreement
 22 as well as the architectural elevations that are
 23 attached to the affordable housing agreement are all
 24 consistent with what we presented to this board as
 25 part of this site plan application.

1 The Board is well aware, you know we
 2 are fully confirming with the TH6IAR zone but for the
 3 height requirement on the 34 units that have the
 4 walkout basement. And as testified to both by our
 5 architect, our engineer and our planner that the
 6 height variance -- those height variances where they
 7 do, based upon how height is measured, exceed 36 feet
 8 that's related to the topography and the grading
 9 issues which would then result in the walkout exposed
 10 basement, based upon the measurement of those units
 11 the height comes in at 38.08 feet.

12 So it's just a C variance height
 13 variance, not a D variance height variance.

14 The roof line is the same and visually
 15 from the front it looks the same as all the other
 16 units. It's not like we're going to have some units
 17 higher than others, you know, from a visual
 18 standpoint.

19 One thing to note too as testified by
 20 our architect is the walkout basement, you know we
 21 could comply, and the architect said as part of
 22 compliance we'd have to do a lot of regrading. We
 23 would have to do away with the walkout basements
 24 where now you would have exposed basements where
 25 you'd see a significant amount of the concrete

1 basement being exposed, but not having a walkout and
 2 there would have to be additional retaining walls.
 3 And from the architect's opinion as well as from the
 4 planner's opinion the it's a better design to have
 5 the walkout basements for it. You know, though,
 6 typically financials aren't a consideration of the
 7 board when determining variances or analyzing
 8 variances it has been a focus of the public and even
 9 some of the board members to ensure, you know, that
 10 these are high-quality luxury units befitting of Far
 11 Hills and I think as the architect and planner has
 12 noted, you know, the walkout basement is in line with
 13 that type of unit, having exposed basements without a
 14 walkout aren't in line with high-quality luxury
 15 units.

16 Again, it doesn't change the visual
 17 height from the road, it's just really a function of
 18 how it measures.

19 With respect to the variance our
 20 planner testified that it satisfied both the C-1
 21 hardship applicant and the C-2 variance. The
 22 hardship being with the existing topography and
 23 grading including the naturally disturbed --
 24 including the manmade disturbance of the slopes in
 25 that area which required some additional grading and

1 topography. And then also the C-2 variance in that
2 it promotes the general welfare allowing for the
3 high-quality product that's also providing the
4 affordable units and subsidizing the affordable
5 units. It's conserving open space and valuable
6 resources because we're doing less grading by having
7 the walkout basement as opposed to trying to comply
8 and grade up and have exposed basements.

9 And then purpose I of the MLUL
10 promoting a desirable visual environment.

11 So you know with the testimony provided
12 I think we satisfied both the C-1 and C-2 criteria
13 for the height variance.

14 Onto the steep slope disturbance,
15 disturbance of steep slope unless -- from 15 percent
16 to 25 percent category and 25 percent to 35 percent
17 category as being proposed.

18 Again, the disturbances are occurring
19 in areas that are manmade and don't have any inherent
20 benefit. Most of those steep slopes are towards --
21 or the significant area of the steep slopes
22 particularly the ones that are naturally occurring,
23 especially from a drainage standpoint are not being
24 disturbed and a lot of that is going to be placed in
25 a conservation easement.

1 So, again, as testified to by our
2 engineer with those items as well as our planner that
3 we're satisfying the C-one and C-2 justification for
4 this steep slope disturbance.

5 And citing to purpose G, having
6 sufficient space in appropriate locations for a
7 variety of uses and, M, more efficient use of the
8 land for the purposes.

9 And then with the stream corridor to
10 permit the development within 100-foot stream corridor
11 buffer where none is permitted.

12 You recall this is triggered because
13 the Borough's Ordinance is effectively more
14 restrictive than the DEP requirements as to the
15 stream corridor, as the 100-foot buffer is measured
16 from the banks of the water course including
17 contiguous wetlands and slopes greater than
18 12 percent. And when plotted that buffer extends
19 beyond the DEP regulated area.

20 Now, again, this is the result of
21 manmade slopes, not naturally occurring slopes, so in
22 effect those manmade slopes are artificially
23 extending -- excuse me -- the stream corridor area
24 where we have, you know, minimal disturbance.

25 I think we have shown on the exhibits,

1 it's not like we're putting a ton of buildings within
2 this area, it's more, I think, some roadway, maybe
3 some of the parking for the apartment building.

4 So it's not a significant disturbance
5 of the area.

6 With respect to it, the areas also
7 mostly meadow land as opposed to vegetated areas
8 associated -- I am sorry -- not meadows referring to
9 the other -- the other variance.

10 Now, again, too, as testified to by
11 Mr. Kennedy and noted by our planner, you know, the
12 alternative would be to move some of the development
13 closer to the property lines and still outside of the
14 -- the setback area, you know towards the rear of the
15 property there is some developable area outside of
16 the setbacks, which we're going to be placing in a
17 conservation easement area, as well as significant
18 other areas of the rear of the property that are
19 outside of the buffer, outside of the stream
20 corridor, but we are going to place in a conservation
21 easement area.

22 So, though, we're having some, you
23 know, minimal disturbance in the stream corridor
24 area, we are placing a significant area that is
25 technically developable within a conservation

1 easement. So, again, the testimony from our planner
2 was both C-1 and C-2 variance justifications
3 satisfying Purpose C for adequate light, air and open
4 space. Purpose G, providing sufficient space for a
5 variety of uses. And Purpose J to conserve open
6 space and natural resources which the conservation
7 easement is going to do.

8 And then lastly the scenic corridor
9 development which is to permit the subsurface
10 groundwater recharge field within the 200 foot scenic
11 corridor, if you recall the relief was being required
12 for the groundwater recharge trenches from the
13 treatment facility that are going to be in the area
14 that: A, is currently meadowed so it's not like
15 we're taking down trees or any existing vegetation
16 for this field. And it's going to be underground so
17 visually you're not going to see anything from Route
18 202 and the corridor. This area was selected because
19 of it has the best geological and hydrological
20 features as testified to by our expert. And, again,
21 it was already an existing meadow area so it would
22 cause the least disturbance to the existing
23 vegetation.

24 And, again, we're providing
25 significantly more extensive new planting around this

1 area along the corridor and along our frontage to
2 enhance that corridor.

3 So, again, we believe that this would
4 satisfy the C-1 hardship variance as well as a C-2
5 standard.

6 And in sum with all of that, you know,
7 the benefits of the deviation would substantially
8 outweigh the detriments.

9 And as we noted or I noted in some of
10 my introductions as well as noted by our planner that
11 the COAH regulations require boards to grant
12 reasonable variances for inclusionary projects given
13 the importance in satisfying municipal obligations in
14 complying with the zoning.

15 And just noting too that both the
16 scenic corridor, the stream corridor and the steep
17 slope disturbance are separate provisions of the
18 ordinance outside of the inclusionary zoning
19 ordinance that addresses this project.

20 Now, we've heard a lot of concerns,
21 obviously, from the public. And we also heard from
22 objector's counsel and their planner of a lot of
23 issues, and it wasn't really much substance to
24 planner's testimony. She threw a lot of things at
25 the wall trying to see what sticks, but in the end

1 there was no real substance. She's not an
2 environmental expert. She acknowledged that. She's
3 not a civil engineer. She's not a traffic engineer.
4 And you know some of the testimony I just -- I
5 couldn't reconcile with what is in the record and
6 what's in the ordinance.

7 For instance she gave a laundry list of
8 other variances she claimed we needed despite Section
9 Q of the ordinance specifically dealing with the fact
10 that we can get a technical subdivision for the
11 fee-simple townhouse units as well as for the
12 apartment building and no relief would be required
13 for those technical aspects all the relief would
14 relate to the property as a whole when you're dealing
15 with coverage, when you're dealing with the setbacks
16 and things of that nature.

17 She talked about disturbing the
18 wetlands and, yes, we do have a general wetlands
19 permit which is, I would classify by the lower end of
20 the permit because it's not an individual permit, but
21 a wetlands permit for a minor road crossing near the
22 entrance and a transition area averaging plan.

23 These are all permits permitted by the
24 DEP. You're allowed to apply for them from the DEP.
25 And are often granted as long as you satisfy the

1 requirement of the DEP regulations as part of that.
2 We have those application pending.

3 She raised concerns about disturbing
4 the steep slopes as did Mr. Kibler just before, but,
5 again, the ordinance as well as the Master Plan notes
6 that the board can grant relief from that when
7 considering and balancing the various interests
8 including as project like this that has the
9 affordable units associated with it and the
10 market-rate units subsidizing the affordable units.
11 And some of that disturbance is from the parking area
12 of the -- the affordable units.

13 She also noted that -- and tried to
14 make a point that this property is located in
15 Planning Area 5, which is considered environmental
16 area and limit development. The whole town -- if I
17 looked at the map she showed the whole town is in P-5
18 and the surrounding towns, a lot of them are all in
19 the P-5 area. It doesn't mean development can't
20 happen within Planning Area 5. And it doesn't mean
21 multifamily housing or affordable housing can't
22 happen in Planning Area 5.

23 She talked about separating -- you know
24 the fact that the affordable units were separate from
25 the market-rate units. But, again, this is quite

1 common especially when you have market rate for sale
2 townhouse units and affordable rental units in the
3 same development. They almost have to be separated
4 which is why Fair Share Housing Center approved the
5 settlement agreement. And which is why the court
6 also approved the settlement agreement which called
7 for this. So we're not doing anything different than
8 what was approved by the court and Fair Share Housing
9 Center. And the town gets the benefit of if this was
10 just all a townhouse project with the townhouse units
11 being affordable there would be less market-rate
12 units but way less affordable units as well.

13 The town's getting the benefit of
14 having the apartments with the density where they can
15 get the rental units and the bonus credits associated
16 with the rental units.

17 So from a planning perspective I
18 believe it made sense for the Borough in having it
19 designed in this fashion where they can get the
20 benefit of the rental affordable units with
21 age-restricted market-rate townhouse units to limit
22 impacts.

23 Again, the objector's planner referred
24 a lot of the 2003, 2003, not once did she mention the
25 2019 Housing Element and Fair Share Plan which

1 addressed some of the issues she was raising and also
2 specifically called for this site to be zoned and
3 developed with what we're proposing before this
4 board.

5 In the end a lot her issues, and I
6 think it came out in some of the objector's issues,
7 came out in some of the comments. The real issue is
8 whether or not we comply with the inclusionary zoning
9 ordinance or whether we comply with the steep slope
10 and other ordinance. They don't like the fact that
11 the property was rezoned for affordable housing in
12 the first place.

13 But at this point that's already been
14 decided. The property has been rezoned. There is a
15 settlement agreement, Fair Share Housing Center, the
16 court has approved the same. The court has approved
17 the town's plan.

18 So, though, I appreciate you know that
19 some people don't like the fact that this property
20 was zoned and going to be developed for affordable
21 housing, that's not really the issue before this
22 board. And again there is a benefit, the Borough got
23 to decide what they felt it was best to go and to
24 insulate them from builder's remedy lawsuits where
25 you would have more inclusionary housing and more

1 family market-rate housing as opposed to how we have
2 it set up here age-restricted, market-rate townhouse
3 for-sale units and mostly -- and the apartments being
4 the family. And, obviously, the apartments being
5 family because a significant amount of the Borough's
6 affordable housing obligation has to be family units.

7 So again the Borough was able to
8 minimize the impact to the Borough by having -- by
9 making these units age restricted. There's also
10 again a lot of discussion on the wastewater treatment
11 facility. We have -- I think we addressed it with
12 Adam Stern's testimony from NSU. I know I was
13 impressed in listening to his testimony as Board
14 Member Tweedie notes he knows his stuff and his --
15 every question that was asked by the board, that was
16 asked by the public he answered it with confidence
17 and stood by everything being proposed. And he had
18 has zero concern with what was being proposed as part
19 of this project. And he had no doubt of it
20 functioning properly and not cause an issue.

21 He highlighted all the redundancies to
22 ensure that the system operates properly and
23 sufficiently.

24 And as I noted before this is all done
25 with DEP oversight and approval.

1 So, again, yes, it might be near
2 wetlands, but we're not discharging to the wetlands.
3 And if the DEP had any issue with be us being near
4 the wetlands, believe me they wouldn't approve it.
5 They have oversight over the wetlands. They have
6 oversight over the sanitary sewer. So, you know,
7 again I think we addressed all the board's questions
8 with that and the affordable housing agreement
9 contemplates that there would be on-site treatment
10 and public sewer would only occur if the on-site
11 treatment didn't work.

12 And you know there's risks associated
13 with public sanitary sewer because once there's a
14 pipe running down a road going to a long connection,
15 that allows future development in the future. It's a
16 lot harder to put -- you know, to stop that in the
17 future. Maybe in a year or two you can, but going
18 down even further years from now eventually someone's
19 going to be able to tap into that sewer system.
20 So I understand the Borough's
21 consideration and even board's consideration of why
22 the on-site treatment facility makes sense in a
23 project like this.

24 So with that I appreciate the board's
25 time through this whole entire process. I appreciate

1 courtesy they have shown me throughout this including
2 accommodating some of my schedule where I had
3 conflicts in scheduling a special meeting.

4 And with that, we would ask the board
5 vote in favor on the application, subject to the
6 conditions that were all discussed at our prior
7 meetings and this meeting.

8 And we have transcripts of all those
9 hearings. And I am confident Mr. Linus and I can
10 work out, as part of any resolution of approval, to
11 be memorialized in the future including a list of all
12 those conditions and, obviously, no resolution would
13 be memorialized without all those conditions being
14 listed and identified.

15 With that I thank the board.

16 I hope you heard all of that.

17 MAYOR VALLONE: Very good, thank you.

18 VICE CHAIRMAN RINZLER: Thank you.

19 COUNCILWOMAN TWEEDIE: We did.

20 MR. LINNUS: Mr. Chairman, at this
21 point the hearing's been concluded. Public comment
22 is closed.

23 You're at the point where you can vote
24 on the application. There appears to be, under the
25 Municipal Land Use Law there is two options that the

1 board has with respect to concluding these
2 proceedings. One of the options would require an
3 extension of time from the applicant.

4 Mr. Banisch points out in his
5 January 3rd review memo that that might be a best
6 option for all concerned due to the number of
7 conditions that must be established in connection
8 with the application.

9 So if the board exercises that option
10 it requires, it requires the consent of the
11 applicant.

12 The other option that's available to
13 the board under the Municipal Land Use Law is to
14 deliberate and take a vote tonight and then
15 memorialize that vote in the form of a resolution to
16 be adopted at a later meeting. That is the position
17 of the applicant. The applicant is seeking a vote
18 tonight.

19 If the board is required to pursue that
20 avenue then I have a number of conditions that I
21 would state on the record based on my conversations
22 with Mr. Henry, my review of the record and I would
23 be happy to do that if the board would go in that
24 direction.

25 So, perhaps, the board should give the

1 applicant some indication as to whether they're
2 comfortable approving the application tonight or
3 taking a motion tonight to approve the application,
4 taking action tonight, with the conditions or whether
5 they're more comfortable seeing a resolution
6 authorizing me to draft a resolution with all the
7 conditions so that you have it in black and white at
8 a later meeting. So the board should entertain a
9 discussion on those issues.

10 And I would be happy to answer any
11 legal questions the board has with respect to the
12 options that I just now outlined.

13 CHAIRMAN ROCHAT: Thank you.

14 VICE CHAIRMAN RINZLER: Mr. Chairman?

15 CHAIRMAN ROCHAT: Yes.

16 Is there any questions from the board
17 for Mr. Linnus about this?

18 VICE CHAIRMAN RINZLER: Mr. Linnus,
19 regarding the second option, if I understand
20 correctly, if we -- if we vote to extent for -- to
21 the next meeting then we would have everything in
22 front of us so we can clearly see what -- what the
23 outstanding issues are, correct?

24 MR. LINNUS: That's correct, but it's
25 not your choice, it's the applicant who must grant --

1 VICE CHAIRMAN RINZLER: No, I
2 understand that.

3 MR. LINNUS: -- the extension.

4 Yes.

5 VICE CHAIRMAN RINZLER: Okay. Thank
6 you.

7 MR. GIANETTI: If I just may,
8 Mr. Rinzier, in either -- in either scenario you'd
9 all have the resolution before the meeting, you will
10 have an opportunity to review it and discuss it prior
11 to memorialization.

12 The method, I think, suggested by
13 Mr. Banisch, I've seen before. I would say it's
14 exception, not the rule, and in the instances where
15 I've seen that, it's typically when there might be
16 some minor thing that the applicant still needs to
17 either address or make a plan revision and submit it
18 to the board for their professional to review and
19 they expect that will be an administrative matter,
20 but they don't want to take action until that's done
21 so they would direct the board attorney to draft the
22 resolution for the next meeting in the affirmative so
23 that once they get confirmation they can then vote on
24 the resolution that same night.

25 What we were asking for, just given the

1 length of time that's gone by and there's really
2 nothing outstanding that we necessarily need to
3 present any further to the board that they could take
4 action, we can discuss the conditions and Mr. Linnus
5 will work on our resolution for memorialization, but
6 the board members will have that in advance. We'll
7 have an opportunity to discuss that resolution at
8 that next meeting before you memorialize it in case
9 there's any questions and, you know, I have shared
10 with Mr. Linnus and Mr. Henry all the transcripts of
11 the meetings, so I think we can, you know, adequately
12 document what those conditions are so when it comes
13 time for memorialization, there's not any surprise.
14 The board will have had the resolution to review as
15 well as to discuss at the meeting in case there's any
16 concerns as part of the memorialization where they
17 want Mr. Linnus to make any edits.

18 VICE CHAIRMAN RINZLER: Mr. Chair?

19 MR. LINNUS: Mr. Gianetti, is correct
20 with respect to your run of the mill, normal
21 application.

22 This is a substantial application which
23 will have many, many conditions.

24 So, basically, it would be up to the
25 board at this point to request the extension of time

1 if the board wants to go in that direction.
 2 Once, again, if you take action tonight
 3 and the action would be taken tonight and approval
 4 presumably would be granted subject to the
 5 memorialization of the resolution with all the
 6 conditions.
 7 So that's what's on the table tonight
 8 for discussion.
 9 MAYOR VALLONE: And, Mr. Linnus, I
 10 think that -- first of all I want to thank the board
 11 for all of the work they've done. And I know we have
 12 been through this for some nine or ten months.
 13 If we were to take action in the form
 14 of a vote this evening, you would be able to
 15 memorialize all the conditions that we have heard and
 16 discussed going forward, correct?
 17 MR. LINNUS: Typically, in an instance
 18 like this an affordable housing major application it
 19 would require the participation of the attorney for
 20 the applicant who, in fact, has provided the
 21 transcripts and the record in proceedings.
 22 But if you do take action tonight
 23 Mayor, it can be done and it can be memorialized that
 24 would be the way to go if that's the option that
 25 you're faced with and the only option that you're

1 faced with.
 2 MAYOR VALLONE: Right, I appreciate
 3 that.
 4 MR. BANISCH: Mr. Chairman, I --
 5 having made the suggestion, I think I just like to
 6 offer a brief comment about this for the board to
 7 consider.
 8 May I please?
 9 CHAIRMAN ROCHAT: Yes.
 10 MR. BANISCH: Okay. Thanks.
 11 So looking at the -- the normal
 12 run-of-the-mill application where you would -- where
 13 you would vote to approve and then look at the
 14 resolution next month, they are relatively simple and
 15 straight forward.
 16 This is obviously a very important
 17 application in the borough. There have been a number
 18 of hearings about it. And if you were to vote the
 19 way the applicant is requesting tonight, that vote is
 20 binding.
 21 So when Mr. Linnus reduces it all in
 22 writing and you -- and you read it prior to
 23 memorialization next month, it may not actually be
 24 your understanding of what you're approving tonight.
 25 But if you take an approval vote

1 tonight the action is binding based on the
 2 articulation of all of those conditions and the
 3 subsequent memorialization of the resolution.
 4 But at that point next month or in two
 5 months if it takes two months to put the resolution
 6 together, you're simply memorializing an action that
 7 is already been taken. A binding action on the
 8 board.
 9 The reason I brought this up is because
 10 I can imagine -- I may be mistaken certainly, I can
 11 imagine that an approval, a resolution of approval
 12 may like somewhat different if the board has hasn't
 13 already committed itself simply hearing conditions
 14 recited verbally tonight before taking a vote.
 15 I think it would give you a chance to
 16 ask any additional questions or make any
 17 modifications without being bound by a vote tonight.
 18 It's really just to give you all a comfort level if
 19 you think you need that and if you think that's the
 20 way to proceed with it. I am assuming that the board
 21 would authorize a resolution in favor of the
 22 application, actually to approve it. So you know
 23 that would be my expectation with the suggestion.
 24 VICE CHAIRMAN RINZLER: I think
 25 Mr. Banisch gave a really great summary.

1 I understand Mr. Gianetti where you're
 2 coming from, you would prefer option 1.
 3 But at the same time this is not a --
 4 this is not a trivial, you know, matter that we're
 5 considering and I think -- I'll just speak for myself
 6 would feel better if we had the time and maybe -- I
 7 am not sure, I don't think there's any downside with
 8 the second option.
 9 CHAIRMAN ROCHAT: You know I will add
 10 that it has been a practice of this board to hold off
 11 until the resolution is written up. And everyone has
 12 a chance to read it and then vote on it. But on
 13 complicated applications it is certainly a practice
 14 of this board and I would suggest that we ask,
 15 request an extension from Mr. Gianetti, get this
 16 thing written up, it's going to be a bear to write
 17 up, get it out to all the --
 18 MR. LINNUS: That's for certain.
 19 CHAIRMAN ROCHAT: -- all the Board
 20 Members and let's look at it and we'll comment on and
 21 hopefully I -- I imagine it would be a short meeting
 22 on -- a short finish to the hearing, let me put it
 23 this way.
 24 MR. GIANETTI: Yes, again there is
 25 obvious concern of just continuing the public meeting

1 because it's -- as you said it a continuation of the
 2 public meeting. And so it's, essentially, still not
 3 over. It's ongoing.
 4 CHAIRMAN ROCHAT: We are not asking you
 5 for anything we have not done in the past. We are
 6 not requesting --
 7 MR. GIANETTI: Well, I can't -- I can't
 8 say -- I can't say for sure.
 9 I know in my discussions with Peter
 10 Henry he -- he viewed this as kind of the exception,
 11 not the rule. And I am not asking -- the record is
 12 clear, right. There's transcripts.
 13 And I have my list of conditions and I
 14 am sure Mr. Linnus has been reviewing the record.
 15 I don't see them as the whole
 16 significant number of them. I see, you know, several
 17 conditions.
 18 But in the end any vote would be on
 19 conditions we agreed to as part of the record.
 20 And the transcript speaks for itself, I
 21 can't -- I can't weasel my way or wiggle my way out
 22 of what was said and agreed to on the record.
 23 So in the end we're -- again, this is
 24 our ninth hearing. I know we have a court conference
 25 coming up with Judge Miller inquiring the status of

1 minimum, though, in our mind -- and, again, I don't
 2 want too talk -- say anything before speaking to my
 3 client, but it should be clear then we're not
 4 bringing any more witnesses back to testify.
 5 And you know the vote on that kind of a
 6 resolution and then the act would just be ironing out
 7 between Mr. Linnus and I of what is in the record and
 8 what was agreed to. I am not looking to go back and
 9 say, well, can your bring Mr. Stern back I want to
 10 hear more on the treatment facility or bring Mr. Dean
 11 back I want to hear more on traffic. Because I am
 12 just concerned of getting stuck in a hamster cage
 13 where we can't bring this to a final conclusion.
 14 VICE CHAIRMAN RINZLER: Well, I think
 15 we agree that it's got to come to a final conclusion,
 16 hopefully, by the next meeting once we have all the
 17 information from it.
 18 I don't think we're asking for anything
 19 that's unreasonable.
 20 COUNCILWOMAN TWEEDIE: Mr. Gianetti, I
 21 was actually -- I am actually prepared to ask for a
 22 vote tonight but I am seeing reluctance from some of
 23 the board members which I think we need to pay
 24 attention to. You have finished presenting. And I
 25 think -- maybe Mr. Linnus can back me up on this, but

1 all of these things. We're trying to bring finality
 2 to it.
 3 We're not trying to evade any of these
 4 conditions. Again, it's all in the record of what we
 5 agreed to. It will be presented to the board and if
 6 there's any questions or concerns about that or
 7 clarification or adjusting some of the language in
 8 that condition, that can all still be done as part of
 9 the memorialization. I don't -- I don't think there
 10 was any condition in there that was -- you know,
 11 Mr. Banisch was saying that would shift a board
 12 member of: I wouldn't have voted yes if I knew that
 13 were the condition.
 14 VICE CHAIRMAN RINZLER: I am still -- I
 15 am still not hearing any downside to the second
 16 option. I mean I understand where you're coming from
 17 you want this put to bed and done as soon as possible
 18 but we -- we have a responsibility and whether it's
 19 eight hearings or nine hearings or ten hearings, at
 20 the end of the day we want to do what's right.
 21 MR. GIANETTI: Well, I would say -- and
 22 maybe if I could have maybe just five minutes to talk
 23 to my client? Because we had -- you know we only got
 24 the review letter this afternoon that had this
 25 recommendations in a there. And I think at the

1 if we put it off till the next meeting it would
 2 strictly be for a vote. It would not be for any more
 3 testimony. I think that's something we need to
 4 confirm with the board and with the members of the
 5 public that the testimony is over. We are not going
 6 to drag it out, you know, bring witnesses back, as
 7 you mentioned. That's -- that's -- am I correct,
 8 Mr. Linnus, that's not what we're going to do?
 9 MR. LINNUS: That's -- that's correct
 10 the -- the public hearing is in effect, by way of
 11 testimony, over. The applicant has indicated that if
 12 that's the way this goes there will be no further
 13 testimony. The public should understand that. And
 14 whether the resolution is drafted in the affirmative
 15 with the conditions for the next meeting or shortly
 16 thereafter is the -- is the way to go under that
 17 option.
 18 MAYOR VALLONE: And, Mr. Linnus, I
 19 think that that's an important point and I want to
 20 thank Councilwoman Tweedie for making that. I, too,
 21 have no problem waiting until next month, but,
 22 Mr. Gianetti made a very salient point and that is
 23 that I, too, have to report back to the court and
 24 Fair Share Housing. And they have some concerns with
 25 the delay here. So we need to know that if the

1 information that's forthcoming would be for the
 2 members of the board and that an absolute decision
 3 would be made next month, otherwise it's going to be
 4 problematic for the Borough.
 5 MR. LINNUS: Well, I think -- yeah, I
 6 think that, for example, if -- if the extension is
 7 granted I think then we go to work on -- I go to work
 8 with Mr. Gianetti on drafting the conditions and the
 9 draft resolution, it gets circulated to our board
 10 professionals, because they have to be comfortable
 11 with whatever condition are imposed --
 12 COUNCILWOMAN TWEEDIE: Right.
 13 MR. LINNUS: -- and then it's presented
 14 to the board.
 15 COUNCILWOMAN TWEEDIE: Right. And what
 16 I'm seeing now is board members who are not going to
 17 be comfortable without seeing those in writing as I
 18 say, and I think, you know, we have to look at the
 19 whole board and I like -- you know this is a very
 20 serious decision. And I am just a little concerned
 21 about -- as much as I would like to get it over and
 22 done with, having some board members feel unsure
 23 about voting this evening.
 24 MR. GIANETTI: If I may, and it's been
 25 a long run for the board and, you know, normally if

1 we were in person I could turn back and -- and talk
 2 to my client but, obviously, I can't do that here.
 3 If we could maybe have a five-minute
 4 recess --
 5 COUNCILWOMAN TWEEDIE: Sure.
 6 MR. GIANETTI: -- and come back and I
 7 can have time to talk to my client.
 8 COUNCILWOMAN TWEEDIE: Chairman?
 9 MR. LINNUS: Tom?
 10 COUNCILWOMAN TWEEDIE: Yeah?
 11 CHAIRMAN ROCHAT: Yeah, that should be
 12 all right.
 13 The only concern I had was in a month
 14 you're going to put this all together and circulate
 15 it through all the professionals and then we're going
 16 to get it on the Saturday before a Monday night
 17 meeting --
 18 COUNCILWOMAN TWEEDIE: No.
 19 CHAIRMAN ROCHAT: -- and that doesn't
 20 really work for me. So...
 21 COUNCILWOMAN TWEEDIE: No, we need it
 22 the week before.
 23 CHAIRMAN ROCHAT: Right.
 24 And which means it can't -- I don't
 25 think you can put it together in a month or three

1 weeks.
 2 COUNCILWOMAN TWEEDIE: I have great
 3 confidence in Mr. Linnus.
 4 CHAIRMAN ROCHAT: So, I think we're --
 5 our hands are going to be tied pretty much.
 6 MR. LINNUS: I would like to say I am
 7 the new kid on the block because, you know, kid means
 8 younger and I'm not that young.
 9 COUNCILWOMAN TWEEDIE: He's not a new
 10 kid.
 11 MR. LINNUS: But it will be very
 12 difficult, in light of the fact that it has to be
 13 circulated, the record has to be re-reviewed, I just
 14 had the benefit of two boxes being delivered to my
 15 office over the weekend.
 16 I had a wonderful New Year's Eve trying
 17 to look at some of the documents and the transcripts.
 18 But the only thing I could say is we
 19 would do the best we can.
 20 I am sure Mr. Gianetti would contribute
 21 towards the drafting or the reviewing of the drafts
 22 and I am sure the board professionals would cooperate
 23 and in terms of whatever they see by way of a written
 24 product before it gets presented to the board.
 25 But there's no guarantees in life we'll

1 do the best, we can if that's the case.
 2 CHAIRMAN ROCHAT: For instance, if we
 3 did vote on it tonight and it was approved then there
 4 would have -- we'd have a couple of months probably
 5 to put -- put it together, everybody have a lot more
 6 time to look at it, iron out some, maybe, issues that
 7 people may have that's...
 8 MR. LINNUS: That's correct. That is
 9 entirely correct if the board were to take action
 10 tonight then the resolution under the Municipal Land
 11 Use Law would have to be adopted, without extension,
 12 within 45 days of the night of the action taken which
 13 -- in which would bring us to mid-February or
 14 thereabouts.
 15 COUNCILWOMAN TWEEDIE: Well, I think at
 16 this point the ball is in Mr. Gianetti's court.
 17 MR. LINNUS: Yes, it is.
 18 MR. GIANETTI: Yes, if I could just
 19 have --
 20 MR. LINNUS: Yes, it is.
 21 MR. GIANETTI: -- again, if I could
 22 just have five minutes to talk to my client?
 23 CHAIRMAN ROCHAT: Yes, go ahead.
 24 MR. GIANETTI: We'll take a recess.
 25 Thank you.

1 (Whereupon a discussion is held off the
2 record.)
3 MR. GIANETTI: Thank you, Chairman,
4 Members of the Board, and I don't want to keep
5 belaboring this issue, but as I play it out in my
6 head and as I think as -- you know, Mr. Chairman, as
7 you appropriately noted whichever course you take the
8 resolution is not getting drafted in time for
9 February. I think -- I know we'll all try your best
10 but getting the resolution drafted, all the
11 conditions and reviewed by the board and they're okay
12 to vote on it by February is somewhat unrealistic,
13 which means it not until March.

14 And, again, if the board votes tonight
15 to take action, we'll have two months till March we
16 can work out the whole resolution, work out all the
17 conditions, the board will have ample time the review
18 that resolution with all those conditions, but at the
19 same time when I am at the court reference and when
20 the Mayor is at the Court conference they can advise
21 we voted. We took action. We're just waiting to
22 memorialize the resolution.

23 On the flip side, if we just -- if the
24 board just says draft something and we're not taking
25 any action, the board is not likely taking any action

1 That's seems to be a more realistic approach to
2 having a resolution memorialized in March.
3 But of course it's up to the board to
4 answer that first question if they're comfortable
5 with seeing the conditions in writing at the February
6 meeting. And taking action at the February meeting.

7 MR. GIANETTI: I guess, again, the way
8 I am suggesting it, even if the board votes tonight
9 they're going to see all the conditions. There is
10 not an instance where the board does not see all of
11 the conditions.

12 MR. LINNUS: But here's the point, and
13 I think Mr. Banisch raises a good point, and legally
14 you know it's correct that if the board takes action
15 tonight, the action is taken. And I am not sure they
16 know what they're voting on.

17 MR. BANISCH: I agree.

18 MR. GIANETTI: Again, I mean is there
19 -- is there -- can someone give me an example of a
20 condition that we think is something that has that
21 much of an impact? I mean I could give you a list of
22 what I have, you know.

23 MR. LINNUS: Well, I spoke with Peter
24 Henry and I saw Peter at the end of last week and we
25 came up with about 50 conditions.

1 until March. And, again, that will have to be
2 reported back to the court of we have not taken
3 action yet, it's being continued to February, but,
4 you know, the reality is that February is going to
5 come and the board is not going to be able to take
6 action then because you know getting a resolution and
7 everyone signed off by then...

8 MR. LINNUS: Perhaps -- perhaps, Craig,
9 it's more realistic, based on what you just stated,
10 for us to draft up proposed conditions, not take
11 action tonight, take action at the February meeting,
12 when the board has conditions in front of them in
13 writing, and then it makes it more appropriate and
14 reasonable to have the resolution, if approved,
15 adopted and memorialized at the March meeting.

16 So I think you could accomplish your
17 objective, which is to have a resolution in place at
18 the March meeting, if we take that interim step of
19 having the board if they would like to see proposed
20 conditions in writing in front of them and take
21 action at the January meeting. That's seems to me to
22 be the...

23 VICE CHAIRMAN RINZLER: The February
24 meeting.

25 MR. LINNUS: The February meeting, yes.

1 MR. GIANETTI: Fifty conditions?

2 MR. LINNUS: Yeah.

3 Now some of them are repetitive and
4 we'd have to go over them, but we came up
5 collectively with about 50 conditions. I have not
6 seen you're proposed list of conditions so I can't
7 comment on those.

8 MR. GIANETTI: Well, I think, in my
9 mind, that concerns me more than of whether or not
10 we'd even get to a vote then on -- in February.

11 If we're going to be talking -- I mean
12 when you say fifty --

13 MR. LINNUS: Well, if you extend the
14 time --

15 MR. GIANETTI: -- if you realistically
16 have 50 conditions I mean I know there are standard
17 --

18 (Simultaneous Speaking.)

19 MR. LINNUS: Listen to me carefully,
20 Craig.

21 Craig, if you extend the time to the
22 February meeting, without any further extensions and
23 then the board has to take action, what I'm merely
24 suggesting is that I'm not certain that this board
25 would be voting tonight on -- what are they voting

1 on? The conditions are probably the most important
2 part of the resolution.

3 MR. GIANETTI: True.

4 I think the resolution -- you know,
5 again, I don't know what -- what list you're
6 referring to. I mean you have your basic compliance
7 with the board -- you now the board engineer review
8 letter compliance with the board planner review
9 letter and then you have like the specific stuff we
10 discussed in agreed to --

11 MR. LINNUS: Well --

12 MR. GIANETTI: -- like --

13 MR. LINNUS: -- is the board authorizes
14 me the start reading proposed conditions I could do
15 that.

16 MR. GIANETTI: I guess, again, I am
17 just looking for examples of what we're talking about
18 here.

19 CHAIRMAN ROCHAT: But, the end gave
20 game is --

21 MR. BANISCH: Well, I think -- I think
22 -- if I may, I'm sorry, Mr. Chairman, I didn't mean
23 to speak over you.

24 CHAIRMAN ROCHAT: No, go ahead, Dave.

25 MR. BANISCH: I kind of think that this

1 crystalizes the point, while Peter has taken
2 laborious notes, I am sure, as we all have. There
3 are a number of thing, a number of questions, and
4 verbally reciting then may not actually give the
5 board the comfort level that it wishes to have when
6 it approves this application.

7 COUNCILWOMAN TWEEDIE: I agree, David,
8 that's the impression I'm getting of the board's
9 feeling at the moment and as I say I am prepared to
10 make a motion to approve, but I am not -- I don't
11 think that the board is -- what I'm seeing is I see
12 people -- I don't think the board is comfortable to
13 do that.

14 MR. LINNUS: Again, I see no harm to
15 the applicant's position, they talked about a
16 resolution in March. I think it's more realistic to
17 have a resolution in March memorializing the action
18 that the board will be taking in February, once the
19 board has an opportunity to see the conditions.

20 We could discuss the conditions at that
21 meeting and excise certain conditions, remove certain
22 conditions, add to those conditions.

23 VICE CHAIRMAN RINZLER: Reword them.

24 COUNCILWOMAN TWEEDIE: Well, I hope
25 that you and Mr. Gianetti will have done that before.

1 MR. GIANETTI: Yes, I would -- again,
2 I would -- I would maybe say this then, is if we did
3 it in that fashion, could you have a special meeting
4 in February to memorialize it?

5 COUNCILWOMAN TWEEDIE: Well, that might
6 make things easier.

7 CHAIRMAN ROCHAT: It may. It -- the
8 problem is can (Audio Distortion) put it all together
9 by a special meeting in the middle of February.

10 COUNCILWOMAN TWEEDIE: Well, you would
11 hope that most of it is put together by our next
12 Planning Board meeting.

13 CHAIRMAN ROCHAT: Which is the 7th --

14 COUNCILWOMAN TWEEDIE: Yes.

15 CHAIRMAN ROCHAT: -- so you have the 7th
16 and you're going to do it in two weeks, have a
17 resolution.

18 MR. LINNUS: I think it's more
19 realistic to have an outline as outlined previously a
20 deadline of the next meeting to take action.

21 At that meeting you'll have in front of
22 you conditions. So you know what you're voting on.
23 And then assuming it's a favorable vote the
24 resolution gets memorialized at the March meeting.

25 MR. GIANETTI: Or the alternative --

1 MR. LINNUS: I think that's a realistic
2 approach. The applicant at that point has an
3 approval presumably in February.

4 MAYOR VALLONE: But, Frank, what you're
5 saying is that at the Planning Board meeting in
6 February that the board members would have enough
7 information to make a decision and to have that go to
8 a vote at that point.

9 MR. LINNUS: There'd be an actual vote,
10 yes, and action would be taken at the February
11 meeting.

12 COUNCILWOMAN TWEEDIE: And the board
13 would have all the --

14 CHAIRMAN ROCHAT: And that's --

15 COUNCILWOMAN TWEEDIE: -- all of the
16 conditions in front of them when they make that
17 decision.

18 MR. LINNUS: That is correct.

19 The motion would be to -- presumably to
20 grant preliminary and final site plan and subdivision
21 approval and the variances subject to the conditions.

22 COUNCILWOMAN TWEEDIE: And the board
23 would know exactly what the conditions are.

24 MR. LINNUS: That's correct. And I
25 would work on those conditions with Mr. Gianetti and

1 then circulate those conditions first to our board
 2 professionals so they have an opportunity to review
 3 them, add, subtract, delete, comment and then it
 4 would be in the board's hands prior to the next
 5 meeting at which time the board would take action.
 6 For that to take place we would need an
 7 extension of time from the applicant through the
 8 meeting of February 7th.
 9 MR. GIANETTI: Look, if I may, if -- if
 10 you have a list of the 50 conditions already, what --
 11 MR. LINNUS: I have a draft of the list
 12 of was worked on --
 13 MR. GIANETTI: Of a draft of them.
 14 MR. LINNUS: Right.
 15 MR. GIANETTI: Why can't we have a --
 16 why can't you circulate those to me and to the board
 17 members and we can review and what if we do a special
 18 meeting in January, just to vote and take action in
 19 January, they can authorize you to -- they could vote
 20 of the action and then now we have until March to
 21 memorialize the resolution.
 22 I guess what I'm trying to get to is a
 23 point where we consider the conditions and get to a
 24 vote as soon as possible.
 25 MR. LINNUS: Well, that's up to the

1 board, but I don't think realistically we can agree
 2 on the proposed conditions before it gets submitted
 3 to the board within a week or two.
 4 MR. GIANETTI: You don't think you and
 5 I could --
 6 MR. LINNUS: But that's get -- you know
 7 it's totally up to the board.
 8 MR. GIANETTI: I mean if we can, again
 9 -- again, I guess, I want to bring it to a head as
 10 soon as possible.
 11 MR. LINNUS: Craig, based on the
 12 schedule you outlined with the resolution in March, I
 13 think this is the most realistic approach to have a
 14 resolution memorialized at the March meeting with
 15 action taken at the February meeting.
 16 But, again, it's the board's decision
 17 as to which way --
 18 MR. GIANETTI: I guess what I want to
 19 -- what I want to avoid, I guess -- -
 20 MR. LINNUS: -- they want to proceed.
 21 MR. GIANETTI: -- is spending a whole
 22 meeting going over conditions where we don't get to a
 23 vote where now if we have a special meeting in
 24 January, just to deal with the conditions, and if we
 25 can finalize it at that meeting then there's a vote,

1 and action is taken at the January special meeting,
 2 you know, I -- I don't want to belabor this issue and
 3 I appreciate some of the board members' concerns and
 4 I am trying to figure out a way to alleviate some of
 5 those concerns, but also understanding there are
 6 timing issues on our side as well.
 7 VICE CHAIRMAN RINZLER: We understand
 8 that, but I guess I feel like, you know, you want --
 9 I feel like you're asking us to sign the contract and
 10 then read it later and I think our position is --
 11 MR. GIANETTI: No, I'm not --
 12 VICE CHAIRMAN RINZLER: -- we'd like to
 13 read the contract first before we sign it.
 14 MR. GIANETTI: No, that's -- what I am
 15 asking is, the conditions be circulated to me right
 16 at -- you know, tonight, tomorrow morning, and I
 17 start working on them with Mr. Linnus and then it
 18 gets circulates to the board members and we go though
 19 it at a special meeting in January.
 20 And then we can have a vote at a
 21 special meeting in January as opposed to pushing it
 22 off until the next meeting in February.
 23 That's all I'm saying.
 24 VICE CHAIRMAN RINZLER: You say you
 25 want -- you say you want to bring it to a head, but I

1 mean I think this is an important decision and we all
 2 want to be able to think about in a rationale fashion
 3 rather than just bringing it to a head just because
 4 you're insisting it be brought to a head.
 5 MR. GIANETTI: I'm not --
 6 VICE CHAIRMAN RINZLER: I mean I really
 7 feel like we should be given --
 8 MR. GIANETTI: I am not the only one
 9 insisting it be brought to a head. I am not the only
 10 one insisting it be brought to a head.
 11 VICE CHAIRMAN RINZLER: All right. I'm
 12 just, you know...
 13 THE WITNESS: You know normally by time
 14 the resolution is prepared with all of the
 15 conditions, that discussion has gone on between the
 16 two attorneys and between the professionals. I don't
 17 recall the board discussing the conditions to any
 18 great lengths on any application. Those have been
 19 worked out.
 20 So I wouldn't expect that we would be
 21 changing conditions or, you know, adding conditions
 22 or deleting conditions. Usually we get -- you know I
 23 agree at this point it's a lot of conditions for
 24 Mr. Linnus to read out and usually we would add "an
 25 any other conditions" that basically should crop up.

1 So I don't see a lot of debate on the
2 conditions at the next meeting. I would think
3 they're a done deal. Both attorneys have reviewed
4 it. Professionals have reviewed it. There shouldn't
5 be a lot of discussion.
6 But I -- I do understand people that
7 would want to actually see those conditions in front
8 of them.
9 MR. LEWIS: Mrs. Tweedie, we just had
10 one attorney saying I can't believe there's 50 and
11 another saying, yes, there are 50 so...
12 COUNCILWOMAN TWEEDIE: That's why the
13 attorneys need to work it out --
14 MR. LEWIS: It's not clear.
15 COUNCILWOMAN TWEEDIE: No.
16 MR. LEWIS: It's not clear.
17 MR. GIANETTI: But it's also -- I mean,
18 you know board attorneys handle conditions
19 differently. If he went through Mr. Bolio's review
20 letter and took every condition from the review
21 letter the, yes, there could be 50 conditions.
22 But if you just said compliance with
23 the Bolio's review letter, well that one condition
24 just addressed 50 issues.
25 MR. BOLIO: There are more than 50.

1 MR. GIANETTI: Exactly. That's my
2 point so again, I don't -- all I'm suggesting is
3 trying to find a middle ground where --
4 MR. LAWLOR: How about this --
5 Mr. Chairman, how about we get -- let
6 them get the -- let Mr. Linnus and Mr. Gianetti get
7 their list together. And once we have them in hand,
8 we'll entertain scheduling a special meeting you know
9 subject for our availability. I don't have a problem
10 with that. We have Zoom.
11 MR. LINNUS: Well, without any
12 additional notice we would have to announce the date
13 of the meeting tonight.
14 MR. LAWLOR: Well, we would have to
15 announce it tonight.
16 MR. LINNUS: Without any additional
17 notice from the applicant, yes.
18 MR. LAWLOR: Well, that's a problem.
19 COUNCILWOMAN TWEEDIE: Well, Shana how
20 is availability usually for squeezing it in at the
21 next meeting?
22 MS. GOODCHILD: Well, usually it's
23 difficult to coordinate with our board professionals
24 because --
25 COUNCILWOMAN TWEEDIE: Right.

1 MS. GOODCHILD: -- they have other
2 commitments. We found that in past when we've
3 discussed scheduling special meetings for this
4 particular application.
5 CHAIRMAN ROCHAT: Wasn't that
6 something, like, the third Tuesday it was the opening
7 both Steve and Dave had.
8 MS. LAYTON: Henry.
9 CHAIRMAN ROCHAT: Or is it the fourth
10 Tuesday?
11 MR. LINNUS: I have issues on the third
12 Tuesday and the fourth Thursday.
13 MR. BANISCH: I think the fourth
14 Tuesday works for me.
15 MR. BOLIO: We have the second meeting
16 in Chester Borough that night, Dave.
17 MR. BANISCH: The fourth Tuesday?
18 MR. BOLIO: I'm sorry. I thought you
19 said Thursday.
20 MR. BANISCH: No. Frank has --
21 MR. BOLIO: The fourth Tuesday would
22 work for me as well.
23 CHAIRMAN ROCHAT: Dave?
24 MR. BANISCH: Yes.
25 CHAIRMAN ROCHAT: I think that's what

1 -- so you're looking at the 28th.
2 VICE CHAIRMAN RINZLER: I think that's
3 -- the 25th is the fourth Tuesday.
4 MS. GOODCHILD: The 25th.
5 CHAIRMAN ROCHAT: Oh, excuse me. I
6 picked that wrong month, the 25th.
7 MR. GIANETTI: I have a conflict that
8 night or not that night, the Monday, Tuesday,
9 Wednesday, the 24th, 25th, 26th.
10 What about maybe the 20th, a Thursday.
11 MR. BANISCH: I can't do that one.
12 MR. LEWIS: Pretty close to
13 February 6th [sic], and it still hits the March
14 deadline for the final resolution.
15 COUNCILWOMAN TWEEDIE: Yes.
16 MR. LINNUS: And, again, action with be
17 taken at the February meeting.
18 MAYOR VALLONE: Craig, let me ask you
19 something, this is the Mayor, you know rather than
20 trying to put a round peg in the square hole look I
21 think that if we shoot for the February meeting, I
22 think it's pretty clear that we're going to have a
23 vote and -- because we have to. I mean we just have
24 to get this done because --
25 THE WITNESS: Yes.

1 MAYOR VALLONE: -- I mean we just have
 2 to get this done because at the end of the day we
 3 have to report back to the court I know I will be at
 4 the same meeting you're going to be at.
 5 So I think the board members have to
 6 realize and, Frank, if you could get the -- the
 7 issues together, the discussion that has to be had so
 8 that we can have everything in front of us and make a
 9 definitive decision at the board meeting -- at the
 10 Planning Board meeting and then we can move on.
 11 But I agree with Mr. Gianetti, as you
 12 get -- delaying extensively here is not in the best
 13 interest of the Far Hills. That's all I'm going to
 14 say.
 15 MR. GIANETTI: So with that, then I
 16 would also -- if it's the board's desire is to have
 17 it go to the 6th [sic], well, I would ask --
 18 MR. LINNUS: That would be the 7th,
 19 Craig.
 20 MR. GIANETTI: Or the 7th, yes, the
 21 February meeting, I am willing to work with
 22 Mr. Linnus and my whole team on light speed. I would
 23 like to try to get a draft resolution on the 6th
 24 [sic] with the conditions.
 25 MS. GOODCHILD: The 7th.

1 MR. GIANETTI: The 7th, sorry, I keep
 2 saying the 6th.
 3 COUNCILWOMAN TWEEDIE: I agree, Craig,
 4 we will have had the resolution in front of us. I
 5 really don't see there being a lot of changes made at
 6 that meeting in the conditions.
 7 So I agree, I think the draft
 8 resolution could be available at the February meeting
 9 if -- when we make a motion. We have done that
 10 before.
 11 MR. GIANETTI: Yes, and -- and I guess
 12 what -- and in that way it would be memorialized the
 13 same night.
 14 MAYOR VALLONE: You know because,
 15 Craig, you've given your closing argument. We closed
 16 the public comments so this is purely for the members
 17 of the planning board to just feel comfortable and
 18 confident that they're making the right choice.
 19 And I think that if we could work
 20 together towards that end I think that things would
 21 -- that would be in the best interest of everybody.
 22 And I would suggest that we'll -- we'll
 23 --
 24 VICE CHAIRMAN RINZLER: Sounds good.
 25 MAYOR VALLONE: -- we'll work on the

1 resolution grant --
 2 MR. LINNUS: I think before Craig
 3 speaks --
 4 MAYOR VALLONE: -- what I would suggest
 5 --
 6 MR. LINNUS: Yes, I think you will at
 7 least have before you enough to take action at the
 8 February meeting, not necessarily the memorializing
 9 resolution --
 10 MAYOR VALLONE: What I --
 11 MR. LINNUS: -- again the key -- the
 12 key items in any resolution would be the conditions.
 13 That's what you will have before you.
 14 MR. GIANETTI: What I would say,
 15 Mr. Linnus.
 16 MR. LINNUS: We'll try our best --
 17 we'll try our best to get a resolution drafted, an
 18 resolution --
 19 MR. GIANETTI: Well, I guess my point,
 20 Mr. Linnus, is if -- if you have the 50 conditions in
 21 draft let's circulate those now, board members and to
 22 me, and we can work on the resolution and those
 23 conditions so we have something that the board knows
 24 what they're voting on on the 6th [sic] to --
 25 MR. LINNUS: That's the key, they have

1 to know what they're voting on on the 7th not the
 2 6th.
 3 MR. GIANETTI: I'm sorry. I keep
 4 saying the 6th. The 7th. The 7th.
 5 But, again, yes, I mean I feel like --
 6 MR. LINNUS: You'll have your action
 7 taken on the 7th --
 8 MR. GIANETTI: So basically come back
 9 full circle to what, I think, Mr. Banisch originally
 10 suggested, and the debate was whether or not it can
 11 get done for the February meeting.
 12 Again, if those conditions would be
 13 circulated to the board members and to me and we can
 14 start working on the resolution as well and have it
 15 all considered on the 6th [sic].
 16 COUNCILWOMAN TWEEDIE: I don't see --
 17 MR. BANISCH: The 7th.
 18 COUNCILWOMAN TWEEDIE: Tom, I don't --
 19 we've done this before, have we not? We have had a
 20 vote and if it was a positive vote we've had the
 21 draft resolution ready to move on the same night. We
 22 have done that before.
 23 CHAIRMAN ROCHAT: We have done that,
 24 but like I said before, I don't want to be getting
 25 thrown a bunch of paper, you know, two days before

1 the meeting.
 2 COUNCILWOMAN TWEEDIE: I agree. I
 3 think --
 4 CHAIRMAN ROCHAT: I just -- everybody
 5 has to digest this thing.
 6 MR. GIANETTI: Well, that's why I said
 7 the conditions can be circulated now.
 8 CHAIRMAN ROCHAT: Correct.
 9 MR. GIANETTI: You have draft
 10 conditions right now.
 11 MR. LINNUS: I think --
 12 MR. GIANETTI: The rest of this we can
 13 speak about --
 14 MR. LINNUS: Yes, I think -- once
 15 again, Craig, could I speak please?
 16 MR. GIANETTI: Yes.
 17 MR. LINNUS: Once again I thin the
 18 conditions can be circulated in rather short order so
 19 that you'll have it in plenty of time.
 20 The only question I have is whether
 21 you're going to have in front of you a full
 22 resolution to be memorialized at that meeting.
 23 Of course we're going to work to try
 24 and do --
 25 MR. GIANETTI: Understood.

1 VICE CHAIRMAN RINZLER: Okay.
 2 Thank you.
 3 COUNCILWOMAN TWEEDIE: That's what we
 4 have to separate is what the board has to worry
 5 about, you know, and conditions made broad enough
 6 that that cort of thing is included in it, but -- but
 7 not word by word. I mean that's -- that's why we
 8 have attorneys. And they can -- you know, they can
 9 cover everything so that small items like that, which
 10 may not be under the purview of the board, but we --
 11 they're still mentioned broadly.
 12 I am sure you can do it, Frank.
 13 MR. LINNUS: Thank you.
 14 We need an extension of time from the
 15 applicant. The extension of time to act on this
 16 application through the meeting of February 7th.
 17 MR. GIANETTI: Yes. February 7th, we
 18 consent to an extension of that time.
 19 COUNCILWOMAN TWEEDIE: And,
 20 hopefully --
 21 MR. LINNUS: Yes --
 22 COUNCILWOMAN TWEEDIE: -- we'll have the
 23 draft.
 24 MR. LINNUS: Yes, but before then the
 25 first item of business will be circulation of

1 MR. LINNUS: -- that, but I think the
 2 important issue is to have the action taken at the
 3 February 7th, meeting which means the condition's
 4 approved and you take a vote and if a resolution is
 5 memorialized at that point fine. If not, it'll be
 6 memorialized at the next meeting.
 7 The Important ingredient for the Court
 8 and for the settlement and for everything else is
 9 that action be taken.
 10 MAYOR VALLONE: That's correct.
 11 COUNCILWOMAN TWEEDIE: I think we
 12 should aim for having the draft resolution available
 13 and memorialized at that same night, if we possibly
 14 can.
 15 VICE CHAIRMAN RINZLER: If.
 16 Craig?
 17 MR. GIANETTI: Yes.
 18 VICE CHAIRMAN RINZLER: Will there be a
 19 -- will you have a name for the mystery acres by
 20 then?
 21 MR. GIANETTI: I don't know. I have to
 22 check with my client.
 23 COUNCILWOMAN TWEEDIE: I am depending
 24 on that, that's a marketing part of it.
 25 MR. GIANETTI: Yes.

1 proposed conditions. And we're going to do -- we're
 2 going to make our best efforts for have a resolution
 3 ready for memorialization, if possible, and
 4 practical.
 5 COUNCILWOMAN TWEEDIE: Yes.
 6 CHAIRMAN ROCHAT: Yes.
 7 MR. LINNUS: And I think that satisfies
 8 all concerned.
 9 COUNCILWOMAN TWEEDIE: Yes.
 10 VICE CHAIRMAN RINZLER: All.
 11 I would like to thank the applicant for
 12 working with the board on this.
 13 MR. LINNUS: All right. And, Craig,
 14 you will just circulate a letter indicating your
 15 extension through the 7th?
 16 MR. GIANETTI: Yes.
 17 MR. LINNUS: I will start working on
 18 circulating the conditions and this pronouncement to
 19 the public is that this public hearing is being
 20 carried to the meeting of February 7th which will
 21 take place at 7:00 p.m.
 22 And there will be no further notice
 23 required. And the meeting, I assume, will be
 24 virtual?
 25 MS. GOODCHILD: Yes.

1 MR. LINNUS: It will be virtual. So
 2 don't show up at the municipal building. This is a
 3 virtual meeting.
 4 CHAIRMAN ROCHAT: Okay.
 5 MR. GIANETTI: Thank you.
 6 CHAIRMAN ROCHAT: Thank you all.
 7 MR. GIANETTI: Thank you.
 8 (Whereupon, this matter is continuing
 9 at a future date. Time noted: 10:03 p.m.)
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1 CERTIFICATE

2
 3
 4 I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary
 5 Public of the State of New Jersey, Notary ID.
 6 #50094914, Certified Court Reporter of the State of
 7 New Jersey, and a Registered Professional Reporter,
 8 hereby certify that the foregoing is a verbatim
 9 record of the testimony provided under oath before
 10 any court, referee, board, commission or other body
 11 created by statute of the State of New Jersey.

12 I am not related to the parties
 13 involved in this action; I have no financial
 14 interest, nor am I related to an agent of or employed
 15 by anyone with a financial interest in the outcome of
 16 this action.

17 This transcript complies with
 18 regulation 13:43-5.9 of the New Jersey Administrative
 19 Code.
 20
 21
 22
 23
 24
 25

LAURA A. CARUCCI, C.C.R., R.P.R.
 License #XI02050, and Notary Public
 of New Jersey #50094914, Notary
 Expiration Date December 3, 2023

Dated:

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