

**BOROUGH OF FAR HILLS**  
Borough Council Regular Meeting  
**MINUTES**  
February 27, 2023

**CALL TO ORDER**

Mayor Welsh called the meeting to order at 6:00 p.m. at the Far Hills Municipal Building and read the open public meetings statement in accordance with the law.

**ROLL CALL**

Present: Councilman Joseph Carty, Council President Mary Chimenti, Councilman Peter J. Coccoziello, Jr., Councilman David P. Karner, Councilman Rick Rinzler, Councilwoman Sheila Tweedie, Mayor Kevin P. Welsh

Absent, as Excused:

Absent:

Also Present: Borough Clerk Dorothy S. Hicks, Borough Attorney Joseph Sordillo, Special Counsel Jeff Lehrer

**EXECUTIVE SESSION**

**Resolution 23-053 - Attorney Client Privilege – Litigation – Affordable Housing**

Motion by Council President Chimenti, seconded by Councilwoman Tweedie, was unanimously carried to approve Resolution 23-053.

**RETURN TO OPEN SESSION**

**CALL TO ORDER**

Mayor Welsh called the meeting to order at 7:05 p.m. at the Far Hills Municipal Building and read the open public meetings statement in accordance with the law.

**PLEDGE OF ALLEGIANCE**

Mayor Welsh led the Pledge of Allegiance.

**ROLL CALL**

Present: Councilman Joseph Carty, Council President Mary Chimenti, Councilman Peter J. Coccoziello, Jr., Councilman David P. Karner, Councilman Rick Rinzler, Councilwoman Sheila Tweedie, Mayor Kevin P. Welsh

Absent, as Excused:

Absent:

Also Present: Borough Clerk Dorothy S. Hicks, Borough Attorney Joseph Sordillo, Chief of Police Michael DeCarolis, Special Counsel Jeff Lehrer, Special Counsel Joe Baumann, and approximately 30 members of the public.

**REPORTS**

**Councilman Coccoziello – Roads**

Councilman Coccoziello provided an update on the Pennbrook Road project and indicated a letter would be sent out to residents who reside in the project area.

**Councilwoman Tweedie – Health/Sanitation**

No report.

**Councilman Carty – Finance/Insurance**

No report.

**Council President Chimenti – Laws, Ordinances & Elections**

Council President Chimenti reported bench warrant court cases were being held in person. She also reported the following Municipal Court deposits: November 2022 \$3,221.00; December 2022 \$3,701.00 and January 2023 \$2,420.00.

**Councilman Karner – Fire, Water, Light, Buildings & Grounds**

No report.

**Councilman Rinzler – Police**

Councilman Rinzler stated an officer would now be present at Borough Council meetings and a metal detector was also being utilized.

**Chief DeCarolis**

Chief DeCarolis informed the Borough Council the department was in the process of purchasing a new patrol truck. He also stated the department was actively recruiting for an additional police officer.

**Mayor Welsh**

Mayor Welsh read the following statement.

I want to thank everyone in attendance this evening. I've lived in Far Hills for over 20 years, my children are the fifth generation of Welshs that live in Far Hills. I care immensely about Far Hills and its residents alike. I treat all our residents with respect and I expect the same in return. My family and I have always been upfront and honest in our business practice and I will do the same as Mayor. This is how we have survived in this little town for so long. I take offense to anyone else who thinks otherwise, unfortunately, sometimes when we are in a project like we are there are disagreements. It's essential to respect each other and each other's opinions during those time. I've heard many residents speak of their frustrations in the past, we cannot live in the past. You have a smart, caring Mayor and Council sitting before you today. We are all working very hard to protect the legacy of the Borough of Far Hills. We appreciate each and every one of you in attendance this evening, including the silent majority that are home this evening. We share with you, your passion for the Errico Acres project and other projects in town. We welcome comments and input from all. We just ask that you act with proper decorum. If you become unruly and act in an inappropriate manner you will be directed to your seat. If you continue to act out of order, you will be asked to leave the building. There is no place for inappropriate behavior at these meetings. There will be ample time provided to the public for input and comments relative to the particular topic that is at hand. We will listen to everybody who wishes to speak in an orderly manner.

As your Mayor and Council, we have been working very hard to address our residents' concerns heard at these council meetings. Collectively, our goal is to work with the residents on all matters in front of us. I feel it is essential to understand the task that is in front of us today. The Errico Acres project has had extensive testimony at the Planning Board over a long period of time. This project was approved by the Planning Board, and it is also a critical piece of our third-round affordable housing obligation.

If we do not follow through we put Far Hills in jeopardy and it is critical to protect Far Hills from a Builder's Remedy lawsuit. We must continue in a path forward and find resolve with this issue at hand. As of February 22, 2023, we are now facing litigation from the developer, Melillo and this is just one of many challenges ahead of us. The Borough is currently engaged with a lawyer whose specializes in complex development and re-development. We welcome their input to ensure that we are above board on all aspects of this project moving forward. Mr. Joseph Baumann, from the very reputable firm of McManimon, Scotland & Baumann, LLC is our selection for special counsel. This is a necessary step to protect the Borough and its residents from every single angle possible. The easements in front of us today are requirements the Borough has placed on the developer, so the Borough has access if needed. This is not a variance application. Simply put, the builder is following through on a requirement we have placed upon them.

At the February 13, 2023 Council meeting, the Council was given a detailed explanation of the Otteau Group report in executive session. This generated multiple requests from the Council for additional information which is to be gathered and provided to the Borough. For those who are interested in the report, it is anticipated to be posted, hopefully within a week, on our website. The additional ask will also be included in that report that you will see. We expect a presentation to the residents shortly thereafter.

In total transparency, the Borough is taking a step forward to provide our residents with a simple location for a page of communication about this project. Dates and additional documentation that may be pertinent to this project can be found on the Latest News tab on the Borough website. Dates and timing are always subject to change and this is a great spot to keep up to speed with the items on the list that we are actively working through. At the last Council meeting, the documents seemed to be delayed as they came in and as of today, I have implemented a hard deadline of Friday to have all documentation provided to both the Borough Council and Planning Board moving forward.

## **PRESENTATIONS**

### **Far Hills Bedminster Fire Department**

Chief Carson Brienza provided an overview of the Five-Year Capital Budget and the 2023 Budget.

Councilman Carty commented upon a large percentage of calls on the state and county roadways and inquired as to a reimbursement to the Borough from the state or county. Chief Brienza was asked to provide the Council with the number of calls to these particular roadways.

Councilman Karner inquired about the treatment of fires pertaining to electric vehicles.

There were no questions from the public and Chief Brienza left the meeting at this time.

### **Moorland Farm - 2023 Events**

Mr. Guy Torsilieri, Chairman of the Far Hills Race Meeting Association reviewed the events as follows: May 18, 2023 – Skeet Flurry; June 4, 2023 – Essex Horse Trials; October 21, 2023 – 102<sup>nd</sup> running of the Far Hills Race.

Mayor Welsh inquired how many would attend the Skeet Flurry and the hours of the event due to prior concerns from residents.

Mr. Torsilieri responded the event would have a maximum of 200 attendees and the event runs from 9:00 a.m. to 4:30 p.m.

There were no questions from the public and Mr. Torsilieri left the meeting at this time.

**Errico Acres, LLC – Affordable Housing Update**  
**Errico Acres, LLC – Easements**

**PUBLIC COMMENT**

*The Mayor and Council welcome comments from any member of the public. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers shall limit their comments to 5 minutes.*

A transcript of the Errico Acres, LLC-Affordable Housing Update and the Errico Acres, LLC-Easements presentations, as well as the public comment pertaining exclusively to the two presentations has been appended to the minutes.

**REGULAR AGENDA**

**APPROVAL OF MINUTES**

**2/13/2023 – Regular Meeting Minutes**

Motion by Councilman Karner, seconded by Council President Chimenti, was unanimously carried that these minutes be approved for content and release.

**2/13/2023 – Executive Session Minutes**

Motion by Councilman Karner, seconded by Council President Chimenti, was unanimously carried that these minutes be approved for content only.

**UNFINISHED BUSINESS**

**ORDINANCES – INTRODUCTION** – *Tabled from the 2/13/2023 meeting*

**ORDINANCE 2023-02** – AN ORDINANCE AUTHORIZING THE BOROUGH OF FAR HILLS' ACCEPTANCE OF A PERIMETER BUFFER EASEMENT, STREAM CORRIDOR EASEMENT, SCENIC CORRIDOR EASEMENT, STORMWATER DRAINAGE MAINTENANCE EASEMENT, 100 FOOT COMMON AREA/OPEN LAND EASEMENT, NATURE PATH EASEMENT AND SIGHT TRIANGLE EASEMENT IN CONNECTION WITH THE PLANNING BOARD'S GRANT OF PRELIMINARY AND FINAL MAJOR SUBDIVISION AND SITE PLAN APPROVAL FOR THE AFFORDABLE HOUSING DEVELOPMENT OF THE ERRICO ACRES SITE.

Mr. Sordillo reviewed the procedures for the introduction and public hearing for municipal ordinances. He explained that while there were comments regarding the easements during the presentation this evening, the notice for the public hearing for Ordinance 2023-02 would be published in accordance with law and was scheduled for the March 13, 2023 Borough Council meeting where the public would have an opportunity to make comments regarding the ordinance.

Motion by Council President Chimenti, seconded by Councilwoman Tweedie that Ordinance 2023-02 be introduced.

Roll Call:

Aye: Carty, Chimenti, Karner, Tweedie, Welsh

Nay:

Abstain: Cocoziello, Rinzler

Motion Carried.

## NEW BUSINESS

### CONSENT AGENDA

The items listed within the consent agenda portion of the meeting have been referred to the Borough Council for reading and study; a copy placed on the table in the meeting room and is considered routine and will be enacted with one motion the Borough Council with no separate discussion. If separate discussion is required, the item may be removed from the agenda by Borough Council action and placed on the regular agenda under new business.

### RESOLUTIONS

1. Resolution 23-054 – Authorizing Contract - Flexible Spending Benefit Administrator  
Wex Health, Inc.
2. Resolution 23-055 – Authorizing Contract – Special Counsel Affordable Housing  
McManimon, Scotland & Baumann, LLC
3. Resolution 23-056 – Payment of Bill List

Motion by Councilman Karner, seconded by Councilman Rinzler that Resolutions 23-054 through 23-056 be approved.

Roll Call:

Aye: Carty, Chimenti, Cocoziello, Karner, Rinzler, Tweedie

Nay:

Abstain:

Motion Carried.

**PUBLIC COMMENT** – *The Mayor and Council welcome comments from any member of the public. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers shall limit their comments to 5 minutes.*

Motion by Councilman Karner, seconded by Council President Chimenti to open the meeting to public comment.

Mayor Welsh indicated after the public comments were concluded, he would address and try to provide answers to the questions raised.

Jason Cherchia, Esq, Beattie Padovano, Montvale, NJ representing Far Hills in Crisis, a NJ non-profit corporation comprised of citizens of the Borough of Far Hills. He indicated his office filed an Open Public Records Request with the Borough Clerk and found exception to the Borough's response indicating an extension of time and demanded a response be provided immediately. He opined the Borough was not at risk from a Builder's Remedy lawsuit as it has already complied with the fair share obligation as required by the Mt. Laurel doctrine and through the settlement with Fair Share Housing Center. The recently filed motion to intervene in the Borough's declaratory judgement action was only meant to be a strong arm scare tactic to get the Borough to pay the seller of the Errico Acres site \$7 million which was outrageous and against the law. Lastly, he stated the financial analysis study being prepared by the Otteau Group should be presented to the public with ample time for review.

George Mellendick, 260 Lake Road, Far Hills inquired when the financial report would be provided to the residents and questioned what documents would be provided this Friday. He also asked about the public hearing and the ability for the public to ask questions about the easements.

Mr. Sordillo reiterated the notification and public hearing process for the ordinance introduced this evening.

Denise Errico Duffy, 62 Pheasant Hill Drive, Far Hills inquired about the documents that were presented to the Borough Council on the Friday before the meeting. She also inquired about the litigation filed by Melillo and asked if the Errico Acres property had already changed hands.

Mayor Welsh provided clarification regarding the receipt of documents on Friday as being a procedural change in order for the Mayor and Council to have ample time for review prior to the Monday meeting.

Suzanne Voorhees, 5 Castle Court, Far Hills inquired about the calculation of the number of market rate and affordable units as well as expressed concern regarding the responsibility for the maintenance of the treatment facility at the development.

Johanna McCarten, 38 Peapack Road, Far Hills inquired who was eligible to speak if a group hired an attorney.

Jonathan Sobel, 44 Spring Hollow Road, Far Hills expressed concern regarding the litigation being brought against the Borough by Melillo who he stated was not the applicant on the Planning Board application. He also expressed concern regarding the notification process and lack of transparency and asked that the Borough slow down the process regarding this development and stated it was not a benefit to Far Hills.

Stuart Valentine, 47 East Fox Chase, Chester Township commented upon the current traffic issues at the Far Hills Country Day School and how it would be further adversely impacted by the development. He also commented upon the number of units being built.

There were no further comments from the public.

Motion by Council President Chimenti, seconded by Councilman Karner to close the meeting to public comment.

Mayor Welsh began to respond to the questioned raised this evening.

He stated the Mayor and Council are thoroughly reviewing the Borough's financial obligations on the current agreement. He explained the Errico Acres project had already been approved by the Planning Board and extensive testimony was provided at numerous Planning Board meetings. The displays presented this evening were being provided for the benefit of the residents for clarity as well as a visual depiction of the easements.

Mayor Welsh asked Mr. Sordillo to provide additional information regarding the affordable housing litigation and the motion filed by Melillo.

Mr. Sordillo provided an overview of the Borough's affordable housing obligation in compliance with the third round currently being imposed by the courts. He clarified this litigation pertained to the Borough's filing of a declaratory action with the courts in order to be granted a judgment of repose which provided the Borough immunity against builder's remedy lawsuits subject to certain compliance conditions which included the acceptance of the easements and the authorization of the developer's agreement.

Mr. Sordillo reviewed the settlement agreement between the Borough and Fair Share Housing Center and affordable housing agreements between the Borough and the developers included in the Borough's affordable housing plan.

Pertaining to the Errico Acres development, he provided a brief history of the application process with the Planning Board and indicated there were at least ten public hearings before the Board granted approval. The approval was subject to numerous conditions, of which included the acceptance of the easements and authorization of a developer's agreement.

With regard to the motion recently filed by Melillo Equities, he explained it was a motion to intervene into the Borough's litigation and to also enforce litigant's rights. If the Borough does not comply with the conditions previously explained, the Court could strip the Borough of the current immunity from a Builder's Remedy lawsuit as well as remove the age restriction currently imposed on the 105 market rate units at the development.

Mr. Sordillo stated he and the Borough's Special Affordable Housing Counsel, Jeff Surenian would be preparing the Borough's opposition to the motion.

With regard to Dr. Mellendick's comment about the ability to ask questions about the ordinance at the next Council meeting, Mayor Welsh responded everyone would be given an equal opportunity to be heard when appropriate.

In response to residents' concerns regarding the number of market rate units, Mayor Welsh asked Mr. Banisch to provide additional information.

Mr. Banisch provided an overview of the Borough's affordable housing obligation and reviewed each of the projects being utilized to satisfy this obligation. He explained an inclusionary development was the most common method municipalities utilize to meet their obligation. An inclusionary development builds market rate housing at a higher density than normally required in exchange for building the affordable housing units. The Errico Acres project is an inclusionary development which provides 29 affordable units. He also noted this has been an ongoing concern amongst residents and there was a selection process of several other sites considered for inclusionary development which resulted in several contentious presentations to the Borough Council.

A brief discussion ensued regarding the future affordable housing obligations and alternate development proposals submitted for consideration by the Borough.

Mayor Welsh asked Mr. Sordillo to provide clarification regarding Ms. McCarten's question about having an attorney present and the ability to ask questions.

Mr. Sordillo explained the attorney representation and public comment apply to public hearings before the Planning Board and not the Borough Council. A brief discussion ensued regarding the regulations regarding the opportunity and timing for public comment at the Planning Board.

Mayor Welsh indicated once the Otteau Report was finalized it would be posted on the Borough website and asked Mr. Chris Otteau for an update.

Mr. Chris Otteau responded that due to delays with the calculations pertaining to the school tax he anticipated the report could be presented to the Borough Council for review within the week.

Mr. Sordillo addressed the inquiry as to the current ownership of the development and based upon the currently recorded deeds the property was owned by Errico LLC.

Mr. Sordillo responded the responsibility of the operation and maintenance of the onsite treatment facility was with the Homeowner's Association (HOA). The Planning Board's condition of approval indicated the HOA would also need to establish a financial reserve.

A brief discussion ensued regarding the requirements for the reserve funding and provisions in the HOA and Developer's agreements.

Although public comment had been officially closed, Mayor Welsh allowed residents another opportunity to ask questions limited to one minute.

Dr. Mellendick inquired as to the availability of the other previously considered development proposals. He also had concern with holding the responses to the comments until the end.

It was noted the proposals would be detailed in the prior minutes.

Lee Pressler, 80 Lake Road, Far Hills inquired if the developer was responsible for funding the reserve for the maintenance of the package plant.

Mayor Welsh responded this was currently being reviewed as it was also a concern of the Borough Council.

Suzanne Voorhees inquired if the other proposals had the same number of market rate units as the current development.

Mayor Welsh responded that there were multiple proposals submitted and each had a similar number of market rate units.

## **EXECUTIVE SESSION**

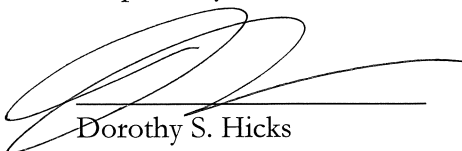
### **Resolution 23-056 - Attorney-Client Privilege – Litigation – Affordable Housing**

Motion by Councilman Karner, seconded by Council President Chimenti, was unanimously carried to approve Resolution 23-056.

## **RETURN TO OPEN SESSION AND ADJOURNMENT**

Motion by Councilman Karner, seconded by Councilwoman Tweedie was unanimously carried to adjourn the meeting at 9:45 p.m.

Respectfully submitted,



Dorothy S. Hicks  
Borough Clerk

APPROVED – 3/13/2023



1  
BOROUGH OF FAR HILLS  
BOROUGH COUNCIL REGULAR MEETING  
COMMENCING AT 7:21 P.M.  
MONDAY, FEBRUARY 27, 2023

----- X  
4 ERRICO ACRES, LLC - TRANSCRIPT  
AFFORDABLE HOUSING UPDATE; OF  
5 ERRIC ACRES, LLC - PROCEEDINGS  
EASEMENTS  
6 ----- X

7 BOROUGH OF FAR HILLS  
8 6 PROSPECT STREET  
FAR HILLS, NEW JERSEY 07923

9  
10 COUNCIL MEMBERS PRESENT  
11 Mayor Kevin P. Welsh  
12 Councilman Joseph Carty  
13 Council President Mary Chimenti  
14 Councilman David P. Karner  
15 Councilman Rick Rinzler  
16 Councilwoman Sheila Tweedie  
17 Councilman Peter J. Cocozziello, Jr.

18  
19 ALSO PRESENT  
20 DAVID BANISCH, Board Planner  
21 DOROTHY S. HICKS, Borough Clerk  
22 JOSEPH SORDILLO, ESQ., Attorney for the Borough  
Council

23  
24 STENOGRAPHICALLY REPORTED BY:  
25 CARMEN WOLFE, CCR  
NJ Licensed Stenographer

QUICK COURT REPORTING, LLC  
47 BRIAN ROAD  
WEST CALDWELL, NEW JERSEY 07006  
(973) 618-0872  
office@quickreporters.com

1 municipalities who want to comply with their affordable  
2 housing obligation to do so through the courts through  
3 a declaratory judgment action. Far Hills did that and  
4 settled its litigation on October 15, 2018. And the  
5 obligations that were identified in that settlement  
6 agreement are a rehab obligation of four units if they  
7 can be found in the Borough, a prior round obligation  
8 of 38 units, and a round three obligation of 75 units.  
9 Now, that round three -- prior round obligation was  
10 1987 through 1999. The 75 units in round three cover  
11 the period of time 2000 to 2025.

12 Now, I've distributed to Council a memo.  
13 And I apologize for the bad pagination in that memo,  
14 but what I did was I excerpted a couple of pieces from  
15 the settlement agreement to show you how the two  
16 components are addressed. The two substantial  
17 components here. That is the prior round obligation  
18 and the 75-unit round three obligation. To satisfy the  
19 38-unit prior round obligation, there are Polo Club  
20 units, Dumont Road Apartments, something referred to in  
21 the settlement agreement as Hatz Apartments. There is  
22 a project referred to as Melillo. That is the Errico  
23 Acres project. And then there's a second reference to  
24 Melillo. And that's for age-restricted housing. Of  
25 the 38 units, the Melillo project I'll refer to

1 MAYOR WELSH: Mr. Banisch will be next  
2 up discussing affordable housing with the Errico Acres  
3 site.

4 MR. BANISCH: Mayor, the affordable  
5 housing issues obviously are what bring us here tonight  
6 in these somewhat contentious circumstances. The  
7 affordable housing regime, if you will, in New Jersey  
8 really began in earnest in the 1980s. The Borough has  
9 always fully responded to its affordable housing  
10 obligations as they have been assigned to the Borough  
11 over time. The easements that you'll be discussing  
12 this evening, and possibly introducing, all have to do  
13 with an inclusionary zoning project commonly referred  
14 to here in town as the Errico Acres project. That  
15 particular project provides a fairly substantial  
16 component of affordable housing to address the  
17 Borough's obligations which I'll review with you. The  
18 third round was very slow getting off the ground.  
19 There were two -- two initial rounds of affordable  
20 housing. They're collectively referred to as the prior  
21 round. And they ran from 1987 to 1999. The Polo Club  
22 largely responded to the Borough's obligations during  
23 that time. And the fourth round was fits and starts  
24 for over a decade. Rules were published. They were  
25 defeated. Ultimately, the courts stepped in. Required

1 provides a total of 14 units and rental bonus credits  
2 toward the 38-unit obligation. Then in -- for round  
3 three, the Borough had a 75-unit obligation. And  
4 because of the somewhat unusual system of addressing  
5 your affordable housing obligation, the projects are  
6 broken up between the two rounds so that you could  
7 maximize the number of bonus credits obtainable to the  
8 Borough. Bonus credits are awarded for rental  
9 projects. And they help you get to achieving your  
10 obligation of achieving your obligation faster. So if,  
11 for example, we had just simply listed the projects in  
12 the order in which they were produced over time, we  
13 wouldn't have been able to maximize the number of units  
14 and bonus credits to address the obligation.

15 So now I'm going to go through the  
16 75-unit obligation. You'll hear a couple projects  
17 referred to. Again, the Polo Club. 17 of those units  
18 were counted toward the 75-unit obligation. A new  
19 project, Matheny Group, which is now completed and  
20 occupied, Hatz apartments, again, couple units there,  
21 and the Melillo project or the Errico Acres project, 20  
22 rental units. Those 20 rental units earn the Borough  
23 nine bonus credits. So of that 76-unit round three  
24 obligation, 29 credits are attributable to the Errico  
25 Acres project. Now, the cumulative obligation, if you

<p style="text-align: center;">5</p> <p>1 wanted to look at the two of them all together, the  2 38-unit obligation and the 75-unit obligation totals  3 113 units of obligation. And if you look at just the  4 yield on the Errico Acres inclusionary project, 43 of  5 the Borough's 113-unit obligation is satisfied by that  6 project alone. That's about 38 percent of the  7 Borough's total affordable housing obligations.  8       There's -- if you also want to take a  9 step back and get a sense of how these -- how these  10 obligations seem to accrue to the Borough, they seem to  11 accrue at the rate of about three affordable units per  12 year. So if you look at that 113-unit obligation over  13 the course of the last 38 years, you come to up with,  14 like, 2.97 affordable units per year. That's no  15 prediction or certainty going forward, but it's one way  16 of looking at the obligation. And to just give you a  17 sense that beyond this, there will be more. And there  18 will be more in the not too distant future.  19       The easements themselves, the proposed easements  20 in ordinance -- proposed ordinance 2023-2, responds to  21 ordinance requirements. Mayor, you made reference to  22 this, I think, earlier in your introductory remarks.  23 They're required by the Planning Board's 2022 approval  24 of the Errico Acres inclusionary projects. And they  25 include conservation, stormwater, site distance</p>	<p style="text-align: center;">7</p> <p>1 that the concept plan was presented to Council, the  2 developer essentially made a promise to Mayor and  3 Council and the public. And what they said was that  4 they could build the project and they could maintain a  5 300-foot setback to all structures included in the  6 project. Just so happens that the Borough has a scenic  7 corridor ordinance that requires a 200-foot setback on  8 all the scenic corridors in town. 202 is among the  9 roads in town that are designated a scenic corridor.  10 So that 200-foot scenic corridor easement is one which  11 will permit no development for a distance of 200 feet,  12 essentially, from the edge of 202.  13       There are a couple of controls in there.  14 There won't be any clearing immediately along the road.  15 Behind the initial or the existing hedge row that lines  16 202 there will be some clearing. And there will be  17 substantial reforestation behind that. There will also  18 be supplementation of the hedge row that lines Route  19 202. And then behind that 200-foot scenic corridor  20 setback, there's another 100 feet of setback that's an  21 open lands conservation easement. After the initial  22 phases of development which will include a pedestrian  23 walking path within that hundred foot area, there will  24 be no disturbance and no future development. That  25 easement will permit small improvements such as, like,</p>
<p style="text-align: center;">6</p> <p>1 easements. These are the kinds of easements that the  2 Borough routinely accepts. And they flow from Planning  3 Board development approvals. So it's not that the  4 Borough hasn't seen easements like this before, you  5 probably just haven't seen this many together at one  6 time in one [inaudible.] The perimeter buffer easement  7 which is one of the easements included in there, it's a  8 55 -- excuse me. A 50-foot wide landscape buffer. And  9 it's intended to soften the potential impacts of new  10 development on the adjoining land, some of which are  11 occupied by existing Borough residents. There is a  12 stream corridor easement. It protects lands adjacent  13 to a stream corridor that flows from the site to the  14 Mine Brook on the south side of the site. It's  15 intended to assure that there's no development activity  16 with any potentially negative impact to the stream and  17 water quality. And it provides an additional measure  18 of protection to the NJDEP controls that are in place.  19 But it is an added measure of protection for the  20 Borough's streams, open water, steep slope, and wetland  21 areas.  22       The scenic corridor easement works kind  23 of in combination with another easement that's referred  24 to in the list as 100-foot common area open lands  25 easement. Members of Council may remember at the time</p>	<p style="text-align: center;">8</p> <p>1 park benches or something like that for people on the  2 walking trail, but nothing beyond that. So there will  3 be no buildings or structures to speak of for a setback  4 distance of 300 feet from the edge of Route 202.  5       There's a stormwater -- excuse me. A  6 detention basin drainage and access easement.  7 Obviously, a development of this density and this  8 complexity requires stormwater management. And the  9 state stormwater management rules that have recently  10 been updated required a very complex design of  11 stormwater management for the project. This easement  12 places protection and maintenance requirements over all  13 the stormwater management structures for the  14 neighborhood. And they are extensive, as I said. It's  15 going to protect both the new residents of the  16 neighborhood and the Borough's existing residents by  17 controlling stormwater in an appropriate way. It's  18 going to prevent uncontrolled increases in stormwater  19 discharges from the site. But most important, this  20 easement is going to make sure that the drainage system  21 is maintained to function as it is designed.  22       There's a nature path easement. Within  23 the ordinance authorizing the inclusionary development,  24 there was a provision that allowed a walking trail  25 around the perimeter of the neighborhood. And there is</p>

<p style="text-align: center;">9</p> <p>1 one provided in the approved plans by the Planning  2 Board. This nature path easement will ensure the  3 maintenance and longevity of that system for the  4 benefit of the new residents. And perhaps even at some  5 point in the future, other residents of town may be  6 able to benefit from this. It basically encircles the  7 site. And it connects to a utility maintenance access  8 road on the southerly side of the site associated with  9 the power line easement adjacent to the rail tail.  10 Excuse me. To the railroad.  11         Site triangle easement where the new  12 access road to the site intersects Route 202. That's  13 obviously required for public safety. There will be  14 some clearing to maintain sight lines within there.  15 However, the Planning Board made sure that that  16 clearing was minimal along 202 and only that which was  17 necessary to maintain safe sight distances for cars  18 turning into and out of the site.  19         MR. SORDILLO: Mayor, before you move  20 on, I believe we have some slides that were prepared to  21 actually show where those easements are on the site to  22 help identify it for the Council and for the public.  23 Are we able to, maybe, put those up through the  24 projector or -- I know we had the time to make those.  25 I just want to make sure that we present those so the</p>	<p style="text-align: center;">11</p> <p>1 whether state regulations are also involved in  2 requiring these easements that are before Council  3 tonight.  4         MAYOR WELSH: Let's go one by one just  5 as -- Anthony, you just queue through. I'm not asking  6 for any testimony for you today, Anthony. This is  7 strictly you're going to be the maestro for the slide.  8         MR. BANISCH: This is the 100-foot  9 common area open lands easement. And this is -- I'm  10 going to walk up to the exhibit. Just maybe explain it  11 little bit better if I may, Mayor. I talked about the  12 scenic corridor easement. I believe there's going to  13 be an exhibit that shows it. That's the first 200 feet  14 of setback. Looking at this page or at this exhibit,  15 Route 202's on the left. The 200-foot scenic corridor  16 setback is this open strip of land within which there's  17 no development except the septic system and the road.  18 And this is the 100-foot additional setback to any  19 structure within the development that's referred to in  20 your packet as the 100-foot Common Area Open Lands  21 Easement.  22         MR. ANTHONY MELILLO: So this is the  23 nature path exhibit.  24         MR. BANISCH: This one's going to be a  25 little bit difficult perhaps for some of you to see</p>
<p style="text-align: center;">10</p> <p>1 public can see exactly which each easement is and where  2 they are on the site to get a better understanding.  3         MAYOR WELSH: Dave, I'm going to ask as  4 he's queuing this up that you just review the photos of  5 what the easement they're attached to so that everybody  6 understands so we're not providing testimony this  7 evening. This is simply just for point of  8 clarification for the Council and the residents as we  9 move forward.  10         MR. BANISCH: So this is all,  11 essentially, water over the dam, but this is what the  12 Planning Board reviewed as part of the public hearing  13 process. I should say -- while this is queuing up, I  14 should say that these are not easements that the  15 Applicant necessarily wants to voluntarily give to the  16 Borough. These are in response to Borough ordinance  17 requirements or state regulations. So, for example,  18 the perimeter buffer easement. There's a requirement  19 in the local ordinance for that. The same thing with  20 the stream corridor easement. That's been in the local  21 zone ordinance or the land management ordinance for a  22 very extended period of time. Same thing is true with  23 the scenic corridor easement. That's a local ordinance  24 requirement. So I've included a table in my memo that  25 identifies the sections of the local ordinances and</p>	<p style="text-align: center;">12</p> <p>1 because it's a very narrow line. It's a light green  2 line that, essentially, extends around the majority of  3 the perimeter of the site. I'm going to trace my pen  4 along the line to see if maybe you could pick it up and  5 see it. Can you all see that green line now? That's  6 the perimeter -- pedestrian path easement around the  7 perimeter of the site as it was presented to the  8 Planning Board and as it is on the approved plans.  9         MR. ANTHONY MELILLO: So this is the  10 perimeter easement.  11         MR. BANISCH: So is the 50-foot setback  12 perimeter easement. There is supplemental landscaping  13 that will be added within this easement. The purpose  14 of this easement, as I said earlier, you may have heard  15 me say, was to soften the impact on adjoining  16 residential neighbors to the extent that some of the  17 lands are not occupied by neighbors. Most of them are,  18 however. This buffer easement is to really buffer the  19 potential impact of the neighborhood on the adjoining  20 neighbors. May I please have the next?  21         MR. ANTHONY MELILLO: This is the scenic  22 corridor easement.  23         MR. BANISCH: As you recall, I tried to  24 explain this one to you, kind of draw my fingers around  25 it. This is that 200-foot setback along Route 202.</p>

<p style="text-align: center;">13</p> <p>1 Added to this one is an additional 100 feet of setback</p> <p>2 to any of the structures within the new neighborhood.</p> <p>3 MR. ANTHONY MELILLO: This is the site</p> <p>4 easement.</p> <p>5 MR. BANISCH: This one's a little bit</p> <p>6 subtle. Thank you. But you can -- this is now the</p> <p>7 access road referred to on the plans as Dylan Boulevard</p> <p>8 to 202. This site access easement or this site</p> <p>9 easement is to make sure that there is a clear line of</p> <p>10 sight for vehicles entering Route 202 from the access</p> <p>11 road. As I said earlier, there will be some clearing</p> <p>12 within there. It's going to be as conservative as</p> <p>13 possible. And behind it will be some supplementation</p> <p>14 of that existing hedge row to try to, basically, limit</p> <p>15 the amount of change in the scenic corridor hedge row,</p> <p>16 but you will notice change on this one.</p> <p>17 COUNCILMAN CARTY: David, can I ask</p> <p>18 where's the affordable housing? Is that over there to</p> <p>19 the right?</p> <p>20 MR. BANISCH: Yes, it is.</p> <p>21 COUNCILMAN CARTY: And north on the map,</p> <p>22 is that somebody else's property up there to the north</p> <p>23 of the -- where it says lot 402 I think?</p> <p>24 MR. BANISCH: Yes, it is.</p> <p>25 COUNCILMAN CARTY: That's somebody's</p>	<p style="text-align: center;">15</p> <p>1 MR. ANTHONY MELILLO: Yes. This is the</p> <p>2 tail end of the site.</p> <p>3 MR. BANISCH: So this incorporates not</p> <p>4 only the Borough's stream corridor easement, but also</p> <p>5 lands regulated by the state of New Jersey. The stream</p> <p>6 corridor itself, essentially, follows this line, flows</p> <p>7 off site into the Mine Brook. And this conservation</p> <p>8 easement limits any disturbance within that area.</p> <p>9 Purpose behind the stream corridor ordinance itself is</p> <p>10 to protect surface water quality in the Borough.</p> <p>11 Residents routinely bump into this when they have</p> <p>12 surface water courses or wetlands on their property.</p> <p>13 And they come before the Planning Board, for example,</p> <p>14 for a variance application where they want to --</p> <p>15 they're proposing some development within the regulated</p> <p>16 area. So it's fairly extensive when viewed in the</p> <p>17 context of the site. I think that's all.</p> <p>18 MR. ANTHONY MELILLO: That's all seven.</p> <p>19 MAYOR WELSH: Does anybody from the</p> <p>20 Council have any questions while the slides are up?</p> <p>21 COUNCILMAN COCOZIELLO: David, in lot</p> <p>22 4.02, does the perimeter buffer easement go on that --</p> <p>23 is that a flag lot?</p> <p>24 MR. ANTHONY MELILLO: It is a flag lot.</p> <p>25 COUNCILMAN COCOZIELLO: So in that area</p>
<p style="text-align: center;">14</p> <p>1 property there?</p> <p>2 MR. BANISCH: Unoccupied, I think, by</p> <p>3 any structures at this point in time. Undeveloped.</p> <p>4 COUNCILMAN CARTY: Thank you.</p> <p>5 MR. BANISCH: As I said, the stormwater</p> <p>6 management system in the neighborhood is fairly</p> <p>7 extensive. It is quite extensive. This easement</p> <p>8 covers all of the various structures, drainage swales,</p> <p>9 detention basins that are required under state law as</p> <p>10 well as the Borough's ordinances. And so this graphic</p> <p>11 depicts those areas of the site that are covered within</p> <p>12 that -- let me just get the name of that right. Drain</p> <p>13 basin. Excuse me. Detention basin, drainage, and</p> <p>14 access easement. Important thing here is to make sure</p> <p>15 that these are maintained and protected from any</p> <p>16 alteration. May I please have the next one?</p> <p>17 MR. ANTHONY MELILLO: This is the stream</p> <p>18 corridor easement. This one's a little faded.</p> <p>19 MR. BANISCH: This one doesn't show up</p> <p>20 so well. You may have heard me mention -- you may have</p> <p>21 heard me mention that there's a surface water course</p> <p>22 that flows to the south to the Mine --</p> <p>23 MR. ANTHONY MELILLO: One second.</p> <p>24 MR. BANISCH: Think you have a better</p> <p>25 exhibit of it?</p>	<p style="text-align: center;">16</p> <p>1 in between the adjoining property, what's contemplated</p> <p>2 in the area? Is that landscaped?</p> <p>3 MR. BANISCH: Landscaping. No</p> <p>4 disturbance. It's got some -- it's got some scrub</p> <p>5 growth in that area already, but it's part of the</p> <p>6 buffer area landscape.</p> <p>7 COUNCILMAN COCOZIELLO: In the scenic</p> <p>8 corridor easement, that's a 200-foot easement along the</p> <p>9 road. So that easement -- I believe there was</p> <p>10 testimony provided at the Planning Board as it</p> <p>11 pertained to the -- and I don't know if I'm using the</p> <p>12 right word -- the leach field for the packer [phon]</p> <p>13 treatment plant or the --</p> <p>14 MR. ANTHONY MELILLO: Recharge.</p> <p>15 COUNCILMAN COCOZIELLO: Recharge area.</p> <p>16 So that area's within -- solely within that easement?</p> <p>17 MR. BANISCH: I think it extends back</p> <p>18 into the 100-foot open lands portion of the site as</p> <p>19 well. I think it kind of straddles the two, but a very</p> <p>20 substantial portion of it is within the 200-foot scenic</p> <p>21 corridor.</p> <p>22 COUNCILMAN COCOZIELLO: So when they're</p> <p>23 installing the water recharge area in there, how does</p> <p>24 that affect the existing vegetation? And what's being</p> <p>25 planted or contemplated?</p>

<p style="text-align: center;">17</p> <p>1 MR. BANISCH: Well, there's going to be</p> <p>2 substantial clearing and excavation associated with</p> <p>3 that. And so then following that, there will be --</p> <p>4 it's kind of quasi reforestation of areas around the</p> <p>5 permitter of that recharge basin.</p> <p>6 COUNCILMAN COCOZIELLO: And help me</p> <p>7 understand. Correct me if I'm wrong. So in this</p> <p>8 specific situation, is it typical that we usually take</p> <p>9 these easements prior to any substantial work being</p> <p>10 performed within that easement area?</p> <p>11 MR. BANISCH: That's normally part of</p> <p>12 the process in perfecting the approval before permits</p> <p>13 are issued for this to know that these things have been</p> <p>14 satisfied.</p> <p>15 COUNCILMAN COCOZIELLO: Do we have any</p> <p>16 utility or access easements that go over this property?</p> <p>17 I see there's a driveway going through there. How do</p> <p>18 we handle that?</p> <p>19 MR. BANISCH: I don't believe we do have</p> <p>20 -- I don't believe we have an access easement across</p> <p>21 the streets.</p> <p>22 COUNCILMAN COCOZIELLO: Okay. The</p> <p>23 scenic corridor area, one of the requirements in the</p> <p>24 final resolution was a utility easement. So,</p> <p>25 obviously, I think there must be utilities entering</p>	<p style="text-align: center;">19</p> <p>1 typically handle that?</p> <p>2 MR. BANISCH: How do you handle the gap</p> <p>3 in time?</p> <p>4 COUNCILMAN COCOZIELLO: With so much</p> <p>5 infrastructure being installed in this specific area</p> <p>6 and a lot of clearing and planting requirements, how</p> <p>7 can we be certain that at some moment in time all the</p> <p>8 work's going to be performed in accordance with the</p> <p>9 plan? And that -- do we have a meets and bounds of the</p> <p>10 recharge area? Is it something that we should? I</p> <p>11 don't know. I'm asking.</p> <p>12 MR. BANISCH: I don't know if we have a</p> <p>13 meets and bounds of the recharge area. I don't believe</p> <p>14 one's been prepared.</p> <p>15 COUNCILMAN COCOZIELLO: And we have no</p> <p>16 obligation whatsoever to do anything --</p> <p>17 MR. BANISCH: To that.</p> <p>18 COUNCILMAN COCOZIELLO: -- to that.</p> <p>19 MR. BANISCH: We don't have to maintain</p> <p>20 it. We have no maintenance responsibilities or</p> <p>21 obligations to that whatsoever.</p> <p>22 COUNCILMAN COCOZIELLO: All right.</p> <p>23 MAYOR WELSH: Anybody else on the</p> <p>24 Council have any questions? I'll open up to the public</p> <p>25 if you have a question for Mr. Banisch on this topic</p>
<p style="text-align: center;">18</p> <p>1 into the site somewhere; right? Probably go through</p> <p>2 this specific area?</p> <p>3 MR. BANISCH: They're going to cross it.</p> <p>4 And I believe that they're going to -- I believe</p> <p>5 they're going to extend along it for some distance but</p> <p>6 not the entire length of it. But I'd have to go</p> <p>7 back --</p> <p>8 COUNCILMAN COCOZIELLO: Serving the</p> <p>9 development?</p> <p>10 MR. BANISCH: Yes.</p> <p>11 COUNCILMAN COCOZIELLO: So we'll have to</p> <p>12 modify -- are we getting utility easements for the</p> <p>13 utility connection between the development going</p> <p>14 through the scenic corridor and the conservation</p> <p>15 easement area?</p> <p>16 MR. BANISCH: I don't know that we are.</p> <p>17 COUNCILMAN COCOZIELLO: I guess my</p> <p>18 concern is just the gap of time between the Applicant's</p> <p>19 requirements to complete all the work that they need to</p> <p>20 do and what the expectation is of the public of</p> <p>21 everything that will ultimately be. How do you handle</p> <p>22 this gap typically? We're trying to move -- to give an</p> <p>23 easement. Yet, so much work needs to be performed</p> <p>24 within that area before it, you know, it's completed</p> <p>25 pursuant to the resolution of approval. How do you</p>	<p style="text-align: center;">20</p> <p>1 only. Sir.</p> <p>2 MR. NEWMAN: Steve Newman, 19 Lake Road.</p> <p>3 I always heard for the last two years that there was</p> <p>4 going to be a 300-foot setback. And then just last</p> <p>5 week it was the first time I heard about this walking</p> <p>6 path. And I'm curious. Is there going to be any</p> <p>7 lighting on that walking path?</p> <p>8 MR. BANISCH: No. It's going to be</p> <p>9 essentially a naturalized path with no lighting. And</p> <p>10 we would have to put the exhibit up again to show you</p> <p>11 that, yes, that walking path will go through the</p> <p>12 hundred foot --</p> <p>13 MR. NEWMAN: Is it right off of 202?</p> <p>14 MR. BANISCH: No. It's set back from</p> <p>15 it.</p> <p>16 MR. NEWMAN: How far?</p> <p>17 MR. BANISCH: Well, he'll bring up the</p> <p>18 exhibit. Maybe it will give you an estimated --</p> <p>19 MR. NEWMAN: Approximate is it 50 feet?</p> <p>20 20 feet?</p> <p>21 MR. BANISCH: Looks like its closest</p> <p>22 point is about 50.</p> <p>23 MR. NEWMAN: Okay. Thank you so much.</p> <p>24 MAYOR WELSH: Thank you, Mr. Newman.</p> <p>25 Anyone else from the public have a comment or question</p>

<p style="text-align: center;">21</p> <p>1 for Mr. Banisch with regards to this? Mr. Sobel, come 2 forward.</p> <p>3 MR. SOBEL: Jonathan Sobel, 44 Spring 4 Hollow Road. Thank you for a minute of your time. I'm 5 just looking at the agenda tonight. And did we do the 6 presentation on affordable housing update already? Is 7 that covered and now it's just the easement 8 conversation from Mr. Banisch? I do have an easement 9 question.</p> <p>10 MAYOR WELSH: It's all intertwined 11 together. The easements are together with the 12 affordable housing conversation. So if you have a 13 question regarding --</p> <p>14 MR. SOBEL: I'm really concerned about 15 the agenda regarding the last meeting. Nothing really 16 being mentioned that we're going to do an update here 17 and everything like that. There was stuff mentioned. 18 So I was paying attention, but still very concerning 19 where we are and how misleading things can be and how 20 easy and transparent they could be. I'm not sure about 21 the Friday date as well. It sounds like things are 22 already are decided. But as far as the easement 23 question, was a notice provided to people within 24 200 feet tonight for the property at all? Easements.</p> <p>25 MR. BANISCH: I don't think notice is</p>	<p style="text-align: center;">23</p> <p>1 is, you know, could have been done in the meeting 2 before; correct? Or could have been addressed prior, 3 correct, and gave people a little more transparency?</p> <p>4 MR. SORDILLO: I don't know how to 5 answer the second half -- part of your question, but 6 the first part of your question, when is 200 foot 7 notice is required. That's required under the 8 Municipal Land Use Law when an application is going -- 9 is scheduled for public hearing before a land use 10 board, a zoning board, or planning board, not a 11 governing body.</p> <p>12 MR. SOBEL: So I'm just trying to make 13 it known for our council members that you should really 14 be speaking up and trying to include the town a lot 15 more. And as far as the approval process, I know where 16 we are now. I see some other individuals here. I 17 didn't realize this was going to be the affordable 18 housing presentation update. I'm speaking about 19 easements. I'll take my five minutes on easements 20 right now. Just clarifying that people should have 21 been notified in my opinion out of decency. And then 22 I'll think about my comments with affordable housing if 23 you give me another five minutes. Thank you.</p> <p>24 MAYOR WELSH: Anybody else from the 25 public have any comments they'd like to share? Can I</p>
<p style="text-align: center;">22</p> <p>1 required. Under the laws -- it's a technical legal 2 question. I'd have to defer to legal counsel, but I 3 don't believe that an individual property owner notice 4 is required in these instances.</p> <p>5 MR. SOBEL: Can we clarify that since 6 Mr. Sordillo's with us?</p> <p>7 MR. SORDILLO: Yes. Legal notice is not 8 required for an introduction of an ordinance and wasn't 9 provided.</p> <p>10 MR. SOBEL: And my concern is that the 11 last meeting I heard you as well, Borough Attorney 12 representing us, saying -- representing the Board 13 saying that notice was not required for the previous 14 one either. I just want it to be clear, like, when you 15 think it was to be supposed required through this whole 16 development process and when you decided to stop. 17 Because is the largest development. All we ever asked 18 was for total inclusion, transparency, involvement. 19 We'll have our turn. And these meetings are being 20 scheduled on holidays disgustingly. And now we're 21 still coming in and being told some decisions are going 22 to be made, but you're not notifying people close. So 23 out of clarity, a lot of the residents that are, you 24 know, within 200 feet were not notified. The school 25 across the street was not notified. And a lot of this</p>	<p style="text-align: center;">24</p> <p>1 have a motion to close public comment?</p> <p>2 COUNCILMAN KARNER: I'll make a motion 3 to close public comment.</p> <p>4 COUNCILMAN RINZLER: Second.</p> <p>5</p> <p>6 (The matter is adjourned at 7:53 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

## 1 CERTIFICATE

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3 CARMEN WOLFE, a Certified Shorthand Reporter and  
4 Notary Public of the State of New Jersey hereby certify  
5 the foregoing to be a true and accurate transcript of  
6 the proceedings as taken stenographically by me on the  
7 date and place hereinbefore set forth.

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11 CARMEN WOLFE  
12 CERTIFIED SHORTHAND REPORTER

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15 Dated: March 3, 2023  
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16 My Commission expires:  
November 10, 2026  
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