

Planning Board Hearing  
December 14, 2022

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TOWNSHIP OF CRANFORD PLANNING BOARD  
APPLICATION FOR PRELIMINARY AND FINAL  
SUBDIVISION AND SITE PLAN APPROVAL  
750 WALNUT AVENUE A/K/A BLOCK 541, LOT 2  
HARTZ MOUNTAIN INDUSTRIES, INC.

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- - -  
December 14, 2022  
- - -

Planning Board Hearing, held at:

8 Springfield Avenue  
Cranford, New Jersey

1 A P P E A R A N C E S:

2 TOWNSHIP OF CRANFORD PLANNING BOARD:

3 JUAN CARLOS NORDELO, Vice Chairman  
4 JONATHAN DRILL, Attorney  
5 KATHY LENAHAN, Secretary  
6 MAYOR KATHLEEN MILLER PRUNTY  
7 DEPUTY MAYOR JASON GAREIS  
8 DONNA PEDDE  
9 KATE RAPPA  
10 PETER TAYLOR  
11 DAVID LEBER  
12 JEFF PISTOL  
13 JULIE DIDZBALIS  
14 APGAR  
15 BOYER  
16 JACQUELINE DIRMAN  
17 NICHOLAS DICKERSON  
18 DIANA SEN

19  
20  
21  
22  
23  
24  
25  
FOX ROTHSCHILD  
BY: HENRY KENT-SMITH, ESQUIRE.  
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P R O C E E D I N G S

1  
2 MR. NORDELO: Good evening, and welcome to  
3 this evening's meeting of the Cranford Planning  
4 Board on Wednesday, December 14, 2022, at 7:30  
5 p.m. in Room 108 of the Municipal Building, 8  
6 Springfield Avenue, Cranford, New Jersey. This  
7 meeting is in compliance with the Open Public  
8 Meetings Act as adequate notice of this meeting  
9 has been provided to the Westfield Leader and the  
10 Star Ledger with the agenda specifying the time,  
11 place, and matters to be heard having been posted  
12 on the bulletin board in the Town Hall reserved  
13 for such announcements and the filing of said  
14 agenda with the Township Clerk of Cranford.  
15 Formal action may be taken at this meeting.

16 May we all rise for the Pledge of  
17 Allegiance, please.

18 (Recitation of "Pledge of Allegiance.")

19 MR. NORDELO: Ms. Lenahan, roll call,  
20 please.

21 MS. LENAHAN: Mr. Pistol.

22 MR. PISTOL: Here.

23 MS. LENAHAN: Mr. Leber.

24 MR. LEBER: Here.

25 MS. LENAHAN: Mr. Taylor.

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1 MR. TAYLOR: Here.

2 MS. LENAHAN: Ms. Sen.

3 MS. SEN: Here.

4 MS. LENAHAN: Ms. Rappa.

5 MS. RAPPA: Here.

6 MS. LENAHAN: Mayor Prunty.

7 MAYOR PRUNTY: Here.

8 MS. LENAHAN: Ms. Pedde.

9 MS. PEDDE: Here.

10 MS. LENAHAN: Deputy Mayor Gareis.

11 DEPUTY MAYOR GAREIS: Here.

12 MS. LENAHAN: Ms. Didzbalis.

13 MS. DIDZBALIS: Here.

14 MS. LENAHAN: Mr. Nordelo.

15 MR. NORDELO: Here.

16 MS. LENAHAN: Ms. Kellett has recused

17 herself.

18 Mr. Drill.

19 MR. DRILL: Here.

20 MS. LENAHAN: Mr. Dickerson.

21 MR. DICKERSON: Here.

22 MS. LENAHAN: Mr. Apgar.

23 MR. APGAR: Here.

24 MS. LENAHAN: And Mr. Boyer.

25 MR. BOYER: Here.

1 MR. NORDELO: Prior to calling up, Mr. Drill  
2 has an announcement.

3 MR. DRILL: Yeah. So I'd like you to call  
4 the 201 Walnut application first.

5 MR. NORDELO: So that's application number  
6 PB22-003 adjourned from December 7 applicant 201  
7 Walnut Avenue LLC, 201 Walnut Avenue, block 484,  
8 Lot 1901 DT zone. The applicant in this matter is  
9 seeking preliminary and final major site plan  
10 approval to construct a three-story multifamily  
11 apartment building consisting of 34 market rate  
12 units, two affordable housing units, and three  
13 special needs housing units, for a total of 39  
14 units.

15 MR. DRILL: Okay. So there's been back-and-  
16 forth letters between Mr. Tuvall, Mr. Kent-Smith  
17 and myself. And then Mr. Tuvall, sent the letter  
18 in December 14 today, and just paraphrasing some  
19 of it. He says that the applicants understand  
20 that the Hartz application public comment portion  
21 will most likely take the entirety of tonight's  
22 board meeting, resulting in the board's first  
23 January meeting beginning with board  
24 deliberations and a subsequent vote on the Hartz  
25 application.

1           With this in mind, the applicants  
2           acknowledge that the board will not be -- will  
3           not proceed with the application this evening,  
4           but the applicants are willing to consent to an  
5           extension of time through February 28, 2023,  
6           provided that the board agrees to the following,  
7           and he lists three things. And I'm going to read  
8           them. And my advice to the board is that -- that  
9           you accept those three things. The first one is  
10          that the applicants request the entirety of the  
11          board's January 18 meeting, excluding the  
12          deliberations and voting on the Hartz application  
13          be dedicated to the application hearing. And  
14          that's the first thing I'm going to recommend  
15          that the board accept.

16                 Number two, should the application require a  
17          subsequent hearing, the applicants request the  
18          entirety of the board's first February meeting or  
19          a duration of time sufficient to finish the  
20          application hearing if the entire meeting is not  
21          required, be dedicated to the applicants. And  
22          that one, I'm also recommending to the -- that  
23          the board accept.

24                 And number three that the application be  
25          carried at tonight's meeting with me making an

1 announcement that it's been carried to the  
2 January 18 meeting without further notice, which  
3 I would do.

4 I just want to fill in some dates on this.  
5 So the first meeting in February, Ms. Lenahan, is  
6 what February? February 1. So the first part of  
7 this is it's -- I'm going to recommend that the  
8 chair declare the following and if any board  
9 members want to reverse him on majority vote,  
10 they can, that the board grant the applicant's  
11 request for that part of the January 18 meeting  
12 after deliberations and voting on the Hartz  
13 application be dedicated to the 201 application.

14 Number two, that if the 201 Walnut  
15 application requires a subsequent hearing that  
16 the board dedicate the February 1, 2022, meeting  
17 to finish that application. Those are the two  
18 things that I -- I need from the board and I'll  
19 do the third if the board agree.

20 So Mr. Chair, you agree.

21 MR. NORDELO: I agree.

22 MR. DRILL: Anyone on the board want to make  
23 a motion to reverse the chair?

24 Seeing none.

25 So that's what the board is going to do. And

1 I will announce right now the hearing on the 201  
2 Walnut application is going to be carried to  
3 January 18, 2023, without need for further  
4 notice.

5 Now there's some requests that have been  
6 made. And the requests are that if the public  
7 portion of the Hartz application does not  
8 conclude at tonight's meeting, so as to not  
9 infringe on the January 18 meeting beyond  
10 deliberations and voting, the applicant has asked  
11 me for a special meeting for the board to finish  
12 the Hartz application. So it's the 201 Walnut  
13 applicant asking that there be a special meeting  
14 for the 750 Walnut application to finish that  
15 off. And I'm sure if -- 750 Walnut doesn't  
16 object to that.

17 You don't have to say anything, Mr. Kent-  
18 Smith, unless you do object to that.

19 And sounds like a good idea to me. I'd like  
20 to play that by ear and see what happens. So  
21 anyone doesn't think that's a good idea, say  
22 something. Okay.

23 And the applicant humbly requests that the  
24 board consider the first January meeting an hour  
25 earlier than typically scheduled to allow for the



1 duration of time not to exceed the typical  
2 evening adjournment. So in other words, they're  
3 not asking that the board tack an hour on the  
4 end; they're asking the board tack an hour on in  
5 the beginning. Does anyone have a problem -- can  
6 anyone not make a meeting -- in other words,  
7 instead of the meeting starting at 7:30, if the  
8 meeting started at 6:30 on January 18, would  
9 anyone have a problem making that? No.

10 Now since it also involves 750 Walnut, any  
11 of you guys have a problem that that meeting --

12 UNIDENTIFIED MALE SPEAKER: No objection.

13 MR. DRILL: Okay. So you can -- actually you  
14 should --

15 UNIDENTIFIED MALE SPEAKER: That will be  
16 played by ear as well, correct?

17 MR. DRILL: Yeah. Played by ear. You might  
18 enter your appearance on the record please.

19 MR. KLEIN: Thank you, Mr. Attorney. Dan  
20 Klein, K-l-e-i-n, (inaudible) Hackensack on  
21 behalf of the applicants.

22 MR. DRILL: So you can bring that -- tell  
23 that to -- pass it on to Jason and your client.

24 MR. KLEIN: I will.

25 MR. DRILL: Okay. Have a nice night.

1 MR. KLEIN: Thank you.

2 Thank you, board members.

3 MR. DRILL: Okay. Yep.

4 MR. NORDELO: Okay. So thank you,  
5 Mr. Drill.

6 Now we'll be continuing -- apologies --  
7 application number PB-22002, continued from  
8 December 7, 2020. The applicant being Hartz  
9 Mountain Industries Incorporated, 750 Walnut  
10 Avenue, Block 541, Lot 2. The applicant in this  
11 matter is seeking preliminary and final major  
12 subdivision, preliminary and final major site  
13 plan, residential and preliminary and final major  
14 site plan approval non-residential.

15 MR. KENT-SMITH: Thank you, Mr. Chairman,  
16 members of the board.

17 Henry Kent-Smith, Fox Rothschild, on behalf  
18 the applicant Hartz. We are continuing and  
19 hopefully concluding our presentation tonight and  
20 public comment.

21 Just to remind the board, on December 7, we  
22 presented the testimony of our witnesses,  
23 including our landscape architect and our  
24 planner. The meeting left off without -- with  
25 the planner having completed direct but not

1 public questioning. I asked the board's  
2 indulgence because there were -- there's one  
3 really major issue that was raised at the  
4 December 7 meeting which we have proactively, I  
5 think, worked through an agreeable solution, and  
6 that was the berm. There was public comment and  
7 concern from the board and the public relative to  
8 the state of the existing berm.

9 We had agreed that we would do a site visit  
10 -- to with the board's consultants to do a full  
11 analysis of the berm and then come back tonight  
12 with a I think more accurate representation of  
13 the scope of what we will agree to as it relates  
14 to a condition of any approval that would result  
15 in the supplementation of landscaping for the  
16 berm. So Mr. Chairman with -- I just want to  
17 address that one issue.

18 MR. DRILL: Yeah. Before you do that, the --  
19 the chair wanted to say something, and he -- he  
20 forgot; now he's remembered.

21 MR. NORDELO: Thank you.

22 So as we head towards public comment, first  
23 and foremost, we appreciate the members of the  
24 public that have come to every single meeting  
25 that have asked thoughtful and diligent

1 questions. And thank you for your service in that  
2 regard. As we head to the public comment, if we  
3 could keep your -- your comments to five minutes  
4 or so we'd really appreciate it if --

5 MR. DRILL: It's not five minutes or so.  
6 You're asking them to keep their comments to five  
7 minutes.

8 MR. NORDELO: To five minutes. Yes. So that  
9 would just be an announcement to have.

10 Thank You, Mr. Kent-Smith.

11 MR. KENT-SMITH: Thank you very much. So  
12 what I would like to do is to call Mr. DeVitto  
13 back -- no, not you -- Mr. DeVitto back up. So -  
14 -

15 MR. DRILL: Okay. Could you just for the  
16 record identify yourself?

17 MR. DEVITTO: Sure. Paul DeVitto.

18 MR. DRILL: And you remain under oath,  
19 correct?

20 MR. DEVITTO: Correct.

21 MR. KENT-SMITH: And while you're getting  
22 things set up just to please describe to the  
23 board what actions you've undertaken in  
24 consultation with the Township's consultants  
25 relative to the review and analysis of the berm.

1 MR. DEVITTO: Sure. So on 12/12/2022, a site  
2 investigation with the township engineer,  
3 landscape architect, and Shade Tree Commission  
4 representative took place on site. This was in --  
5 to review the existing condition of the berm and  
6 provide recommendations for the appropriate  
7 planting and -- or as it relates to the tree  
8 counts.

9 MR. KENT-SMITH: And you have shared your  
10 findings in consultation with the board's  
11 consultants?

12 MR. DEVITTO: Correct.

13 MR. KENT-SMITH: Now, Mr. Drill, I have  
14 mounted the exhibits for that. I just -- ask to  
15 quick question. We submitted this package of  
16 three plans.

17 MR. DRILL: Yes.

18 MR. KENT-SMITH: But I have each plan  
19 separately mounted. Do you want me to mark them  
20 collectively as one exhibit or as consecutive  
21 exhibits?

22 MR. DRILL: You know what? make them A31 --  
23 A30-1, A30-2 and A30-3, and do the -- the dashes  
24 based on the page numbers. Follow me on that one?

25 MR. KENT-SMITH: I did.

1           So Mr. DeVitto, I have marked as A30-1 --  
2           could you identify that plan for the record?

3           MR. DEVITTO: Sure. So this is the Walnut  
4           Avenue frontage starting with Raritan Road to the  
5           east portion or south portion --

6           MR. DRILL: Start with -- that exhibit is  
7           titled Landscape Berm Analysis, page 1 of 3,  
8           correct?

9           MR. DEVITTO: Yes.

10          MR. DRILL: And it's dated October 3 --

11          MR. DEVITTO: 12/13/2022.

12          MR. DRILL: Right. Okay. And who prepared  
13          was?

14          MR. DEVITTO: And north instead of right on  
15          the page.

16          MR. DRILL: Right. Who prepared this?

17          MR. DEVITTO: Stonefield Engineering,  
18          myself.

19          MR. DRILL: Someone under your direction?

20          MR. DEVITTO: Myself personally.

21          MR. DRILL: Okay.

22          MR. KENT-SMITH: Now, please just describe  
23          what you did when you analyzed the berm, what  
24          discussions that you had with the township  
25          consultants and then what was concluded relative

1 to what we will be doing with the berm?

2 MR. DEVITTO: Sure. So during the site  
3 visit, we really identified two main conditions  
4 of the berm. One of those conditions, we've come  
5 up with Planting Scheme A and the other  
6 condition, Planting Scheme B. Those areas are  
7 marked or hatched in two colors along the  
8 frontage -- the -- the entire frontage along the  
9 property. Scheme A, this area is before --

10 MR. KENT-SMITH: I get into that because I  
11 also want you to -- and I'm going to mark this --  
12 this is page 3 as Exhibit A30-3. Again, identify  
13 this for the record. What is this?

14 MR. DEVITTO: This is A30-3, titled Berm  
15 Analysis Exhibit.

16 MR. DRILL: Okay. It's landscape berm  
17 analysis, 3 of 3. And it's also prepared by you  
18 with the same date of --

19 MR. DEVITTO: 12/13.

20 MR. DRILL: 12/13?

21 MR. DEVITTO: 2022.

22 MR. DRILL: Right?

23 MR. DEVITTO: Yeah. Correct.

24 MR. KENT-SMITH: Doesn't look like it's --  
25 no. Doesn't look like it's working. Well, here.

1 You know what I'm going to --

2 MR. DRILL: You have enough bodies there.  
3 Throw someone -- make someone into a holder.

4 MR. KENT-SMITH: Yeah. Why don't -- why  
5 don't you be the holder? Forget it.

6 Okay. So that what you have just described  
7 to the board being the A and B --

8 MR. DEVITTO: Right.

9 MR. KENT-SMITH: -- just -- just  
10 representationally what -- what -- what we're  
11 talking about?

12 MR. DEVITTO: So Planting Scheme A, this --  
13 this is the condition that took place in more  
14 sparse portions of the site areas that had White  
15 Pines with -- with sparse bottoms and the crest  
16 of the berm with no plantings.

17 MR. KENT-SMITH: Now under View 1, you have  
18 a photograph. Where did you get the photograph?

19 MR. DEVITTO: So this photograph was  
20 provided by one of the --

21 MR. KENT-SMITH: Thank you.

22 MR. DEVITTO: Yep -- residents. This was a  
23 prior submitted exhibit. This photograph was  
24 scanned and put onto the plan.

25 MR. KENT-SMITH: Alright. Please describe



1 then what it is that you're showing.

2 MR. DEVITTO: Sure. So the -- the first  
3 photo here is the existing berm condition as it  
4 is today. The middle image, this is the Planting  
5 Scheme A. This is -- this would be the planting  
6 condition at the approximate time of planting.

7 We zoom in on this.

8 These are artists' representations. So there  
9 is some natural variation that would take place  
10 but we did our best to try to estimate the length  
11 of the -- the -- the frontage along with the  
12 Proposed Planting Scheme A.

13 MR. NORDELO: Can you repeat yourself? I  
14 didn't hear you. You said these are artists  
15 representing -- can you repeat yourself please?

16 MR. DEVITTO: Yeah. These -- so they're  
17 rendered images. They're not -- it's not a -- we  
18 don't have an exact distance on it. It is -- it  
19 is an image that we've created.

20 MR. NORDELO: Thank you.

21 MR. DEVITTO: And the last image here is a  
22 Planting Scheme A, approximately five -- five  
23 years after planting.

24 MR. KENT-SMITH: Now you have also a second  
25 scheme, please.

1 MR. DEVITTO: Correct.

2 MR. KENT-SMITH: So oops.

3 MR. DEVITTO: Planting Scheme B, this takes  
4 place in the -- along the heavily -- heavily  
5 vegetated evergreen areas within the site. These  
6 areas had considerably less opportunity to plant  
7 additional plantings. So within these areas, we -  
8 - we thought upon walking and upon analysis of  
9 our -- of our survey and plans that we'd be able  
10 to plant a smattering of evergreen trees, but  
11 really supplement it with -- with shrubs that  
12 would be able to kind of cover that -- that  
13 bottom layer within the berm.

14 MR. KENT-SMITH: And you have  
15 representational photographs?

16 MR. DEVITTO: Yes. Correct. So we have  
17 another image. Same thing. This -- this  
18 photograph was an image that we -- that we took  
19 just based on the Photoshop capabilities and --  
20 and providing a good image for the board.

21 The first image is the condition as is  
22 today. The middle image is Planting Scheme B at  
23 the time of planting. You can kind of see how  
24 it's -- the shrubs are taking up the bottom  
25 portion of that berm and then we have some

1 additional evergreen trees.

2 Let me zoom in for you.

3 Some additional evergreen trees placed in  
4 there where the opportunity exists. And then,  
5 that same Planting Scheme B at five years' time.

6 MR. KENT-SMITH: Now you've shared this plan  
7 with Colliers and received feedback?

8 MR. DEVITTO: We have.

9 MR. KENT-SMITH: And what was that feedback?

10 MR. DEVITTO: They were in agreement with  
11 the planting densities, quantities, and with our  
12 analysis of both planting schemes.

13 MR. KENT-SMITH: And with regard to  
14 quantities on Exhibit 30-3, please point out the  
15 board. We have agreed to basically a max  
16 planting within the discretion of the location of  
17 that maximum planting to achieve the greatest  
18 screening, correct?

19 MR. DEVITTO: Yes. Correct.

20 MR. KENT-SMITH: Go through that please.

21 MR. DEVITTO: So each planting scheme has a  
22 rough planting rate. Planting Scheme A has --

23 MR. KENT-SMITH: No. The total.

24 MR. DEVITTO: Okay. The totals. Evergreen  
25 trees 100 total trees proposal on the frontage,

1 sub canopy trees 30 total across the frontage,  
2 and large shrubs 200 across the frontage.

3 MR. KENT-SMITH: Now, the A and B planting  
4 schemes have representation of a planning amount  
5 but that's still open to achieving the maximum  
6 screening capability?

7 MR. DEVITTO: Correct.

8 MR. KENT-SMITH: And yet still provide for  
9 sufficient growth?

10 MR. DEVITTO: Correct.

11 MR. KENT-SMITH: Describe that, please.

12 MR. DEVITTO: Yeah. So the part -- part of  
13 the reason to create these planting schemes is  
14 the nature of the berm. There are existing trees  
15 on site. So it's going to be -- it's going to be  
16 a field effort to go out there, stake the trees,  
17 place them in positions where not only the  
18 existing trees can thrive, but the proposed trees  
19 can also thrive.

20 So we don't want to create a competition  
21 between the new trees that are replanting and  
22 then the trees that are existing. So we want to  
23 really complement each other. And with that,  
24 we're going to have that natural variation. It's  
25 not -- it's going to be a very organic planting

1 plan. This is not going to be a row of trees.  
2 There's going to be a significant amount of  
3 staggering which -- which is what we're going to  
4 want. It's going to block sightlines and appear  
5 natural.

6 MR. NORDELO: Just one question before we  
7 proceed. And if I'm -- if I'm getting ahead of  
8 myself, Mr. Kent-Smith, let me know.

9 But you gave the totals. At some point, can  
10 you explain briefly what goes into calculating  
11 those totals?

12 MR. DEVITTO: Sure. So the -- the totals --  
13 the totals for Planting Scheme A per 100 linear  
14 feet, we have six evergreen trees. And -- and  
15 all these totals are in accordance with the  
16 proposed maximums. They -- they play hand in  
17 hand.

18 MR. NORDELO: So it's a formula that's  
19 considered --

20 MR. DEVITTO: Formula, yes. This is just  
21 broken down a little bit further. But these are -  
22 - they are hand in hand with each other.

23 MR. NORDELO: Thank you.

24 MR. KENT-SMITH: So let me just walk you  
25 then through Exhibit 30-1 and let's just start

1 from the intersection of Rariton and Walnut and  
2 let's go northbound on Walnut and just walk  
3 through the board then what your analysis of the  
4 berm show.

5 MR. DEVITTO: Sure. Going back to Exhibit  
6 A30-1, starting at the corner of Raritan Road and  
7 Walnut Avenue, moving north along the roadway.  
8 We have a first section of property that is going  
9 to be proposed for Planting Scheme A. And within  
10 this section, we're going to be proposing  
11 evergreen trees, subcanopy trees, and shrubs.

12 Then we come into a section of pretty  
13 heavily dense -- pretty heavily planted and  
14 evergreen trees that are in good shape. This  
15 area would receive evergreen trees where  
16 applicable, and evergreen -- or evergreen shrubs  
17 across the bottom of it. As we move towards the  
18 first driveway entrance, on either side of it, we  
19 have two applications of the Planting Scheme A.

20 Between the -- moving along Walnut Avenue  
21 towards the north portion of the site, we're  
22 coming to the intersection or the cross street of  
23 Mitchell place. Again, this entire berm area,  
24 this is actually where the rendered photo image  
25 one was taken from in this area this -- this

1 entire strip will receive Planting Scheme A.

2 Flip the page to A30-2. Yes. So continuing  
3 along, we have an -- we have a section of  
4 Planting Scheme A where the old driveway will be  
5 removed or proposed to be removed, which then  
6 transitions into a -- the -- where the image of -  
7 - the photoshopped image number two was taken of  
8 the evergreen screen. And that -- and that will  
9 lead to the additional driveway -- or the new  
10 proposed driveway entrance towards the northern  
11 portion of the site.

12 We are now entering towards the railroad  
13 track portion. And this area is to receive  
14 Planting Scheme A.

15 MR. KENT-SMITH: And there's another  
16 representation of an area between the Planning  
17 Area A and the sidewalk on Walnut Avenue. What  
18 is that?

19 MR. DEVITTO: This -- this area is -- are  
20 the steep slopes heading from the top of the berm  
21 to the sidewalk.

22 MR. KENT-SMITH: And what are you going to  
23 do there?

24 MR. DEVITTO: This area, we can propose to  
25 reseed and stabilize the slopes.

1 MR. KENT-SMITH: So, again, just so the  
2 board's aware, we're providing this as a  
3 representation of a condition that we would agree  
4 to so that we have a frame of reference relative  
5 to what we're agreeing to to supplement relative  
6 to the berm. It's not a plan that's approval  
7 ready because we're not seeking approval, but  
8 that this would be a condition that we're  
9 requesting that the -- and green that the board  
10 may oppose to address the berm.

11 The app- -- the applicant would agree to  
12 implement the landscape plan representation set  
13 forth in A30-1, -2, -3 in the quantities as  
14 represented on that plan subject to two municipal  
15 landscape architects or engineers' review as to  
16 the specific location of plantings for maximum  
17 survivability, growth, and screening.

18 Okay. I have no further questions.

19 MR. NORDELO: Do any of our board members?

20 UNIDENTIFIED FEMALE SPEAKER: I have a  
21 question. So the existing driveways now.

22 MR. DEVITTO: Yes.

23 UNIDENTIFIED FEMALE SPEAKER: Okay. Before  
24 you realign anything, what's going to happen with  
25 those? Can you just reiterate that?



1 MR. DEVITTO: Sure. I believe -- believe  
2 that one driveway was largely going to be re- --  
3 reused, just modified.

4 MR. KENT-SMITH: Right.

5 MR. DEVITTO: This is the driveway along  
6 Walnut --

7 MR. KENT-SMITH: Yes.

8 MR. DEVITTO: -- close to the Raritan Road.  
9 In here, I think this just provided additional  
10 planting area. Let me zoom in for you.

11 UNIDENTIFIED FEMALE SPEAKER: Well, you  
12 create a berm there also?

13 MR. KENT-SMITH: That one's going to stay.  
14 That -- it's just going to be slightly modified  
15 but that driveway stays.

16 MR. DEVITTO: Yeah. So this -- this is the  
17 same driveway entrance as there is now that's  
18 being modified to the one way.

19 MR. KENT-SMITH: Uh-huh. And then --

20 MR. DEVITTO: In this area, this berm is  
21 being cut back just slightly, but the top of this  
22 berm is remaining.

23 MR. KENT-SMITH: All right. If you would  
24 then move to 30-2 because that's the other  
25 existing driveway that is being closed.

1 MR. DEVITTO: Correct. Let's go to this.

2 MR. KENT-SMITH: And I'm just pointing out  
3 to the board on Exhibit A30-2, this is -- this is  
4 the existing driveway right here.

5 MR. DEVITTO: So right. We looked into this  
6 area. I know this was a comment from the prior  
7 hearing. There are existing trees on this higher  
8 side. This is the existing berm. We can adjust  
9 some of the grades in here. However, if we do, we  
10 run the risk of suffocating the roots from these  
11 trees on top of the berm. So we could -- there's  
12 -- there's some play available in there. We  
13 might be able to increase that, you know, 6 to 12  
14 inches. But it becomes a delicate game of  
15 preserving the trees and enhancing the berm.

16 Right now, there is about a two-and-a-half  
17 to three-foot berm. It's just pushed back a  
18 little bit in the rear or pushed back from the  
19 roadway a little bit. We can get creative and  
20 put a little -- maybe a little mound up front.  
21 But in -- in this area, it was -- it was tight  
22 just due to the site constraints -- due to those  
23 trees due to the basin and just trying to  
24 preserve as many trees as long that frontage as  
25 can -- as we possibly could that are healthy.

1 UNIDENTIFIED FEMALE SPEAKER: Thank you.

2 MS. DIDZBALIS: You gave us a count for the  
3 various trees and shrubs, but could you tell me  
4 the minimum caliper or -- and/or height?

5 MR. DEVITTO: Sure. So the -- these were --  
6 these would remain consistent with our landscape  
7 plan itself. I Believe the evergreen trees were  
8 six- or seven-foot height. And then the caliper  
9 of the trees --

10 MS. DIDZBALIS: Three and a half to four and  
11 a half. Was that what -- I mean --

12 MR. DEVITTO: No. So these would be  
13 subcanopy trees. These would be ornamental trees  
14 proposed. So typically, they're a little smaller  
15 because they grow a little slower --

16 MS. DIDZBALIS: Uh-huh.

17 MR. DEVITTO: -- from the nurseries. And for  
18 this, I would recommend a two-inch caliper.

19 MS. DIDZBALIS: Just two?

20 MR. DEVITTO: It -- yeah, I would. So  
21 planting -- so planting smaller material is  
22 actually -- it's healthier for the tree in  
23 relation to the size of the caliper to the root  
24 ball itself. The larger tree you -- you go  
25 with --

1 MS. DIDZBALIS: Uh-huh.

2 MR. DEVITTO: -- you run the risk of that --  
3 that specimen tree kind of dying out because that  
4 root ball isn't as large -- isn't large enough to  
5 support the canopy or the trunk itself. The other  
6 thing with planting larger trees, it takes longer  
7 for it to stabilize. The first couple of years  
8 of growth, it spends its time repairing the tree  
9 roots rather than growing out. So while most  
10 people want the immediate impact of "I want the  
11 larger tree," sometimes it's not always the best  
12 for the tree or for the neighborhood because that  
13 smaller tree is going to be able to adapt much  
14 faster to that soil, grow quicker and -- and run  
15 less of a risk of perishing.

16 MS. DIDZBALIS: But wouldn't it be dependent  
17 on the specific tree that you picked? So in  
18 certain cases, couldn't you go to a larger  
19 caliber tree on the ones that can adapt better?

20 MR. DEVITTO: It's -- it's really more of a  
21 function of the -- of the root ball size. And  
22 from the nurseries, the way that they cut them,  
23 it's just typically not -- it's typically not  
24 large enough to really support the size root ball  
25 that's -- that's required.

1 MS. DIDZBALIS: Okay.

2 MR. DEVITTO: There are some trees that are  
3 fall dig hazards, but all trees would struggle  
4 with the larger -- the larger size of tree, the  
5 more it's going to struggle as -- as it's  
6 transplanted.

7 MS. DIDZBALIS: I understand this is a  
8 difficult planting spot for you.

9 MR. DEVITTO: Yeah.

10 MS. DIDZBALIS: But I think where you can  
11 choose height and a larger caliber, I'm sure that  
12 you could work something in a little bigger in  
13 certain spots. I'm sure you could --

14 MR. DEVITTO: Sure.

15 MS. DIDZBALIS: -- kind of cherry pick those  
16 a little bit better so that you can maybe fill in  
17 some of that. I mean, really, that's the biggest  
18 concern. So okay. Thank you.

19 UNIDENTIFIED MALE SPEAKER: I don't know if  
20 you're an arborist or if you have one on staff.

21 MR. DEVITTO: Uh-huh.

22 UNIDENTIFIED MALE SPEAKER: Do any of the  
23 existing trees needed to be trimmed? Or do you  
24 have that as a part of your proposal?

25 MR. DEVITTO: Yeah. So on our plans, we have

1 a note that -- that trees in poor condition. I  
2 think some of those white pines, they do need to  
3 be trimmed -- trimmed up a little bit. So while  
4 it's while on site over there, they can be safety  
5 pruned.

6 UNIDENTIFIED MALE SPEAKER: So that would be  
7 part of your plan?

8 MR. DEVITTO: Yes. That is incorporated  
9 into the plan.

10 UNIDENTIFIED MALE SPEAKER: Thank you.

11 MR. NORDELO: Okay. Go ahead Mr. Leber.

12 MR. LEBER: I just need some -- some  
13 clarification. So the -- the berm on the northern  
14 side is -- is lower than the berm on the southern  
15 side. So what you were saying before is you  
16 really can't enhance that because it would damage  
17 the -- the tree roots. Is -- is there any way  
18 that because -- because I'm going through there  
19 is a significant height difference between those  
20 two. Is there anything that can be done that  
21 could rectify that aside from maybe more dense  
22 planting of shrubs without damaging the roots of  
23 the existing trees?

24 MR. DEVITTO: I'm sorry. Which portion are  
25 we --

1 MR. LEBER: The portion of -- there's --  
2 there's -- the -- the berm that's on the north  
3 part closer to the -- to the railroad --

4 MR. DEVITTO: Okay.

5 MR. LEBER: -- it seems to me to be  
6 significantly lower -- just the -- the soil part  
7 seems to be lower than the part closer to Raritan  
8 Road. And it's pretty material. Is there  
9 anything that you can do to -- to rectify that  
10 without endangering the existing trees that are  
11 there?

12 MR. DEVITTO: I think when -- to preserve  
13 the trees, we're going to want to stay out of the  
14 drip zone. I know this is a -- this is a touchy  
15 area. So it's a tough spot. I lean away from just  
16 disturbing the soil in this area, if possible, to  
17 preserve -- preserve as many trees as we can.

18 MR. NORDELO: Yeah. All right. I'm seeing  
19 Mr. Dickerson. If you have any question, and  
20 specifically, if you could go over the memorandum  
21 prepared. Just for clarity sake. If you could -  
22 - that's dated December 14. It's regarding the  
23 berm landscaping at 750 Walnut. if you could  
24 summarize what's been agreed to. If you have any  
25 questions, so ask questions.

1 MR. DICKERSON: So as was mentioned, our  
2 office did have a chance to visit the site on  
3 Monday. And this exhibit that's being shown is  
4 the product of the discussion from the landscape  
5 architect on my staff who visited the site. And  
6 he had a chance to review these plans when they  
7 were prepared earlier this morning. And through  
8 his review, we prepared this memo. And he notes  
9 that -- let's see, just the bottom line point is  
10 that we are satisfied that this will provide the  
11 desired screening and buffering in a manner that  
12 will be aesthetically pleasing. I -- I believe  
13 the intent here is, as was mentioned, is to fill  
14 in the gaps.

15 MR. NORDELO: Okay. Thank you,  
16 Mr. Dickerson.

17 Okay. Now I'll invite members of the public  
18 to ask questions of this witness. Please  
19 remember, name, and address. Thank you.

20 MR. DRILL: And if you can, this is the --  
21 right -- the standing area right over here. It's  
22 very helpful for us.

23 MS. LA BRUTTO: Rita LaBrutto, 104 Arlington  
24 Road. Can I just comment that I looked at the  
25 bylaws, and there's nothing in there about public



1 comments being five minutes?

2 MR. DRILL: Correct. There's case law that  
3 says if the board wants to they could limit  
4 public comment to three minutes. And they didn't  
5 say they're going to limit it, but they said --  
6 they're asking people to try to keep their  
7 comments to five minutes.

8 MS. LA BRUTTO: It's a very large  
9 application.

10 MR. DRILL: I understand. So we'll see --  
11 we'll see what happens. Right now, there's only  
12 three members of the public here.

13 MS. LA BRUTTO: I understand that.

14 MR. DRILL: So maybe -- maybe it won't be a  
15 problem. But the chairman's asking -- again, the  
16 MLUL says there's three instances where questions  
17 or comments can be prohibited. That's if they're  
18 irrelevant, immaterial, or unduly repetitious.  
19 So maybe if they're not repetitious, maybe,  
20 especially in light of the fact there's three  
21 people that you won't be limited to five minutes.  
22 The chairman asked if you could try to --

23 MS. LA BRUTTO: But the problem, Mr. Drill,  
24 that has been with this application is that the  
25 public is constantly surprised by new testimony.

1 And when did the public have a chance to see this  
2 December 14 memo. That is today. Okay. When  
3 did --

4 MR. DRILL: Hold up.

5 MS. LA BRUTTO: December 13.

6 MR. DRILL: Right. Remember. December 7,  
7 we had a big discussion, they were going to go  
8 out and do this. And they went out. They  
9 testified December 12. And then the board said  
10 they wanted it witnessed and they had someone  
11 from Collier's witness it.

12 MS. LA BRUTTO: Correct.

13 MR. DRILL: And he -- and you -- I just said  
14 to the chairman that after --

15 MS. LA BRUTTO: But they weren't --

16 MR. DRILL: -- I just said to the chairman  
17 that after this witness is questioned, you could  
18 question Mr. Dickerson

19 MS. LA BRUTTO: We don't have any of the  
20 memos. This wasn't supposed to happen tonight.  
21 This was supposed to happen at a subsequent  
22 meeting.

23 MR. DRILL: So you know --

24 MS. LA BRUTTO: So you know what? This  
25 application has been rushed. It has been all over

1 the place. The board has been -- I don't even  
2 know what to say to be honest with you --

3 MR. DRILL: Mr. Dickerson, you have an extra  
4 copy of your memo?

5 MS. LA BRUTTO: -- amount of questions that  
6 this board has even asked of the applicant.

7 MR. DRILL: Okay. Kathy, you have an extra  
8 copy of the memo?

9 It's a one-page memo. And after you  
10 question him and someone else's question him and  
11 someone else else was questioning, you can read  
12 the memo and then you question Mr. Dickerson.

13 MS. LA BRUTTO: Well --

14 MR. DRILL: But why don't you -- why don't  
15 you ask your questions if this witness.

16 MS. LA BRUTTO: Okay. Here's the question.  
17 You mentioned in Plan A evergreen trees and  
18 shrubs, where did shrubs come into this picture?  
19 It was always supposed to be trees.

20 MR. DEVITTO: Sure. So this was a result of  
21 the sidewalk. On Monday, it was recommended that  
22 we not only include the trees, the evergreen  
23 trees, include subcanopy trees as well as shrubs  
24 to create like you can see in this photo, to just  
25 aid and provide additional -- additional

1 screening for the top of this crest on the berm.

2 So it's --

3 MS. LA BRUTTO: The top of the crest -- the  
4 shrubs are never going to get to the top. Now,  
5 you don't have one rendering here of the building  
6 --

7 MR. NORDELO: There has to be a question,  
8 Ms. La Brutto. You can't comment. Thank you. If  
9 you could just ask the question.

10 MS. LA BRUTTO: Is there any -- any  
11 rendering of the building behind what you plan to  
12 do?

13 MR. DEVITTO: We do not have one right now,  
14 no.

15 MS. LA BRUTTO: So how do you know that it's  
16 going to cover the building?

17 MR. DEVITTO: I never said it will cover the  
18 building at this point. They're shrubs.

19 MS. LA BRUTTO: How do you know that the --

20 MR. DRILL: Whoa, whoa, whoa. Listen.  
21 You're gonna get to cross him. We have a memo  
22 you're --

23 MS. LA BRUTTO: Okay.

24 MR. DRILL: -- gonna get to read. Please  
25 ask him the questions.

1 MS. LA BRUTTO: So we don't know -- okay. So  
2 you really don't know that the buffering is  
3 sufficient?

4 MR. DEVITTO: No. I am confident as the  
5 buffer matures, it will do a good job --

6 MS. LA BRUTTO: It's going to go to 30 feet?

7 MR. DEVITTO: The trees selected, yes, they  
8 will grow.

9 MS. LA BRUTTO: The shrubs are gonna go to  
10 40 feet?

11 MR. DEVITTO: The shrubs will cover the --  
12 the bottom part of the berm.

13 MS. LA BRUTTO: The bottom part of the berm  
14 is -- won't there be a building behind the bottom  
15 part? I mean, you're gonna see the building?

16 MR. DEVITTO: Sure, yes.

17 MS. LA BRUTTO: The idea is to not see the  
18 building.

19 MR. DEVITTO: The shrubs -- the shrubs  
20 aren't --

21 MR. DRILL: Is --

22 MR. DEVITTO: -- the entire building.

23 MR. DRILL: Have you looked at the  
24 redevelopment plan?

25 MR. DEVITTO: Yes.

1 MR. DRILL: When you look at the  
2 redevelopment plan is the purpose of the  
3 landscape berm to totally screen the building or  
4 some other purpose?

5 MR. DEVITTO: The purpose -- actually, let  
6 me -- I don't -- I don't want to misspeak.

7 MR. DRILL: Get that part of the  
8 redevelopment plan out. Because I'm not sure what  
9 the purpose is supposed to be.

10 MS. LA BRUTTO: It's today --

11 MR. DRILL: Let -- let -- let's -- so let's  
12 -- so let's find out -- let's find out what the  
13 purpose of the landscape berm is supposed to be.

14 Nick, can you pull this up because we're  
15 gonna end up asking you. And if we don't,  
16 Mr. La Brutto is.

17 MR. DEVITTO: So --

18 MR. DRILL: Yeah. Give us the paragraph  
19 you're reading from and reading into the record  
20 nice and slowly, please.

21 Tell you what. To speed this along,  
22 Mr. Henry, I'm going to ask Nick, if he has it up  
23 just to read it. Nick read -- give him  
24 microphone, please.

25 MR. DICKERSON: So the section I'm looking

1 at here -- and this is -- in my draft, this is  
2 page 42. So I believe that there might be a two  
3 page or two margin of error.

4 Okay. That's 39 (inaudible) for landscaping  
5 and buffers. And so this is subsection K,  
6 landscaping and buffers, subsection one.  
7 Landscaping shall be provided along property  
8 lines to create buffers with adjacent property  
9 uses. Buffers are intended to establish clear  
10 delineation between properties and to minimize  
11 the visual impacts between properties.

12 MR. DRILL: Okay. You have any other  
13 section that you guys think is relevant to read?

14 MR. KENT-SMITH: There's another section.  
15 Let me just make sure I get the citation correct.  
16 it's -- yes, 4.7D7.

17 MR. DEVITTO: 4.7D7, the existing berm along  
18 Walnut Avenue frontage --

19 MR. KENT-SMITH: Whoa, whoa. Slow.

20 MR. DEVITTO: Sorry.

21 The existing berm along Walnut Avenue  
22 frontage shall remain. Changes to the existing  
23 berm for pedestrian access may be approved by the  
24 township.

25 MR. DRILL: Okay. Do you see that, Nick?

1 MR. DICKERSON: I do see that section as  
2 well.

3 MR. DRILL: All right. Is there anything  
4 else in that section?

5 MR. DEVITTO: We'll read -- 4.7 -- or 4.8 --  
6 I'm sorry -- 4.7D8, the design of the privately-  
7 owned public space should --

8 UNIDENTIFIED MALE SPEAKER: (Inaudible) no,  
9 just talking about the part. That's --

10 MR. DEVITTO: No. That's it.

11 MR. DRILL: Okay. You see anything else  
12 about that berm?

13 MR. DICKERSON: No, I do not.

14 MR. DRILL: Okay. Keep on asking.

15 MS. LA BRUTTO: Does Hartz intend to show a  
16 rendering with the buildings behind what you're  
17 proposing as far as buffering?

18 MR. DEVITTO: No.

19 MS. LA BRUTTO: No? Okay.

20 Can I ask the board if they intend to ask  
21 for that?

22 MR. DRILL: No. You can -- in your  
23 comments, you can say that they should.

24 MS. LA BRUTTO: Yeah, they should. So how --  
25 if you could go to the one photo, I guess it was



1 the one below this. So all of these trees and  
2 even the one above, all the trees are very leggy  
3 at the top. Because they were pine trees that at  
4 one time were completely full.

5 MR. DRILL: So your question is, Do you  
6 agree -- do you agree with that statement?

7 MS. LA BRUTTO: My question is, Do you agree  
8 that those were at one time full pine trees.

9 MR. DEVITTO: In the past, I -- it'd be an  
10 assumption on my end. I don't know what the  
11 condition of the site was.

12 MR. DRILL: You would assume it, but you  
13 don't know it.

14 MR. DEVITTO: You could assume, but I do not  
15 know.

16 MR. DRILL: Listen to --

17 MS. LA BRUTTO: Well, in your expert opinion  
18 being a landscape architect, if you ended up with  
19 evergreens 40-foot high, what do you think  
20 happened between zero and 39? Do you think there  
21 were evergreens in between there?

22 MR. DEVITTO: Yes.

23 MS. LA BRUTTO: Okay. So you would agree  
24 that that is now gone. And how do you intend to  
25 fill that area where you only have evergreens up

1 at the very top?

2 MR. DEVITTO: Sure, so -- so we're proposing  
3 different tree species. Ones not -- not like  
4 these white pines that have become a little -- a  
5 little sparse throughout the lower and middle  
6 portions. So -- so we are confident in the tree  
7 species that we're proposing that it's going to  
8 supplement and fill -- fill in the rest of this.

9 MS. LA BRUTTO: So you don't intend to take  
10 those leggy pines that are dead potentially out  
11 and put something of that height back?

12 MR. DEVITTO: No. I would not recommend  
13 removing those trees.

14 MS. LA BRUTTO: And why wouldn't you?

15 MR. DEVITTO: They do provide a fairly  
16 decent buffer with the existing condition.

17 MS. LA BRUTTO: Would you agree that --  
18 that --

19 MR. DRILL: I thought she asked you if  
20 you're going to take out dead ones and you just  
21 answered you weren't? I think you gotta listen to  
22 the question.

23 MR. DEVITTO: I'm sorry. I'm sorry. Yeah,  
24 the dead ones would be removed from this area. I  
25 thought you meant the whole thing.

1 MS. LA BRUTTO: Okay. Okay. And a pine tree  
2 like that, where there's approximately two feet  
3 of evergreen and the rest of it is pretty much  
4 bark, what -- what are you calling that? Are you  
5 calling that dead or are you calling that an  
6 actual tree?

7 MR. DEVITTO: This -- this tree is proposed  
8 to remain.

9 MS. LA BRUTTO: That's proposed to remain?

10 MR. DEVITTO: Yes.

11 MS. LA BRUTTO: And you're going to, you  
12 think, fill that tree with what? A two-foot  
13 bush?

14 MR. DEVITTO: No, we're proposing evergreen  
15 trees in this area?

16 MS. LA BRUTTO: No. But right there where  
17 that gap is. Basically there's a gap --

18 MR. DEVITTO: Yeah. So this is just a  
19 representation. These -- these trees can be  
20 shifted around in any number of ways. It's --  
21 it's merely just a discussion point. These --  
22 these trees that we're proposing can be shifted  
23 over to the left or to the right. They can be  
24 grouped in an area. It's -- the -- the intent is  
25 that we're providing trees for this area and that

1 we're going to identify where they go in the  
2 fields.

3 MS. LA BRUTTO: Okay. So can I just ask you  
4 this? What, then, happens to that area where you  
5 can see right through to the -- where the  
6 building would be? You say here at your planning  
7 scheme, which is a real scheme, but in Scheme B.  
8 If you move over to Scheme B down here.

9 MR. KENT-SMITH: Go to the other.

10 MS. LA BRUTTO: You see the pawn. Yeah. So  
11 you have Scheme B here, right?

12 MR. KENT-SMITH: Maybe it would be better if  
13 you use --

14 MR. DRILL: Yeah. Why -- why don't you get  
15 the hard line exhibit and go up there and point.  
16 It's easier. So he can see what you're asking.

17 MR. KENT-SMITH: I think it's better because  
18 you have the -- you could actually --

19 MS. LA BRUTTO: Fine. So this is at five  
20 years and we still have these leggy pines. What  
21 did you -- do you intend to do anything with this  
22 at any point in time?

23 MR. DEVITTO: No, it's --

24 UNIDENTIFIED FEMALE SPEAKER: He needs to be  
25 on the mic.

1 MR. KENT-SMITH: Take the microphone.

2 MR. DEVITTO: The existing trees, even  
3 though they may have portions that are a little  
4 lucky towards the bottom or the center, they are  
5 providing a canopy cover, something that we  
6 wouldn't want to remove in this area.

7 MS. LA BRUTTO: (Inaudible).

8 MR. DEVITTO: Yes. Those trees are  
9 providing valuable -- valuable coverage in the --  
10 at the top of the tree and they will continue to  
11 do so.

12 MS. LA BRUTTO: (Inaudible).

13 MR. DEVITTO: Correct. But they -- above  
14 that is viable plant growth.

15 MS. LA BRUTTO: So this is even after five  
16 years. This is what you have is these -- these  
17 trees down here. And how high are they?

18 UNIDENTIFIED MALE SPEAKER: Microphone  
19 (inaudible).

20 MR. DEVITTO: The -- the trees in this area,  
21 after five years, could expect to grow at a rate  
22 of plus or minus 18 inches a year.

23 MS. LA BRUTTO: 18 inches?

24 MR. DEVITTO: A year, yes. Well, 18 inches a  
25 year on top of -- on top of there -- on top of

1 the berm on top of their already starting height.

2 MS. LA BRUTTO: At 18 inches, (inaudible)

3 MR. DEVITTO: It would be about a 15-foot  
4 tall evergreen after about five years.

5 MS. LA BRUTTO: We have to wait five years  
6 for (inaudible).

7 MR. DEVITTO: Yeah. It would be about five  
8 years to be about 15 -- 15 feet tall. It could be  
9 taller. They could grow quicker.

10 MS. LA BRUTTO: (Inaudible).

11 MR. DEVITTO: Those, a rough approximation,  
12 it would be about -- it's about the height of a  
13 utility pole. Yeah, it's about -- it's about 40  
14 feet -- 30 -- 30 or maybe a little less, 35 feet  
15 tall.

16 MS. LA BRUTTO: And how tall is the building  
17 (inaudible)?

18 MR. DEVITTO: It's about 40 feet.

19 MS. LA BRUTTO: (Inaudible).and in five  
20 years, we'll have 15 feet?

21 MR. DEVITTO: Sure, but --

22 MR. KENT-SMITH: The building will be set  
23 back, though, further.

24 MR. DEVITTO: Yeah. So -- so the building --  
25 the building will be set back. And from the

1 viewing angle, it's -- it will provide enough  
2 coverage from an visual cone of analysis that you  
3 will not see the building.

4 MS. LA BRUTTO: (Inaudible)?

5 MR. DEVITTO: Yes.

6 MS. LA BRUTTO: So why wasn't there a  
7 rendering of the building behind (inaudible)?

8 MR. DEVITTO: It was just the focus on the  
9 berm condition.

10 MS. LA BRUTTO: But isn't the idea of  
11 buffering and screening the building?

12 MR. KENT-SMITH: Wasn't -- didn't you just  
13 read into the record what the requirements were  
14 for the buffer on the existing berm and just  
15 explained what it says.

16 MR. DEVITTO: Yes, it's to supplement.

17 MR. DRILL: You've asked him now -- this is  
18 the third time about the rendering. Okay. My  
19 opinion, this is asked and answered. She doesn't  
20 like the answer, but that's what the answer is.  
21 They're not doing it. They're not willing to do  
22 it. No one asked him to do it. And If you think  
23 that should be done, make it in your comments.  
24 But you can't -- this is getting unduly  
25 repetitive.

1 MS. LA BRUTTO: Okay.

2 MR. DRILL: That's -- that's my advice to  
3 the chair. Do you make that ruling?

4 MR. NORDELO: Yes, I make that ruling.  
5 Please just proceed with new line of questioning  
6 or you just can't -- it's already been answered.  
7 So continue.

8 MS. LA BRUTTO: You have a schedule of  
9 (inaudible) that's been provided to the board?

10 MR. DEVITTO: Yes. The -- the plant -- the  
11 proposed planting species were in accordance and  
12 recommended by the township landscape architects.

13 MS. LA BRUTTO: (Inaudible)?

14 MR. DEVITTO: Or professional or board  
15 professional? I'm sorry.

16 MS. LA BRUTTO: And who was that?

17 MR. DRILL: From Nick's office, correct?

18 MR. DEVITTO: Correct.

19 MR. DRILL: That's why you're going to  
20 question him.

21 MS. LA BRUTTO: (Inaudible).

22 MR. DRILL: Correct.

23 MS. LA BRUTTO: Would you say this is a  
24 cheap way of filling in?

25 MR. DEVITTO: No. This is very -- this is a



1 significant monetary contribution.

2 MS. LA BRUTTO: Would you (inaudible) not  
3 sure (inaudible) but since Hartz bought this  
4 property, they've --

5 MR. NORDELO: That's not a question.

6 MR. DRILL: Whoa, whoa, whoa, whoa. That's  
7 irrelevant -- my opinion, that's irrelevant to  
8 this application.

9 MR. NORDELO: Please ask a --

10 MR. DRILL: Do you agree?

11 MR. NORDELO: Yes, I agree.

12 MS. LA BRUTTO: It goes to maintenance.

13 MR. NORDELO: But just ask the question.

14 MR. DRILL: No. It doesn't go to  
15 maintenance. From what happened in the past.  
16 They're proposing this going forward? In my  
17 opinion, it's irrelevant and immaterial.

18 MR. NORDELO: Correct. I -- I agree.

19 MS. LA BRUTTO: All right. Thank you.

20 (inaudible)

21 MR. DRILL: Yeah, after the questions are  
22 done of their witness --

23 MS. LA BRUTTO: (Inaudible).

24 MR. DRILL: That's right.

25 Ms. Esposito.

1 MS. LA BRUTTO: Yeah. And I just wanted to  
2 confirm. I just -- if there's a dead tree -- and  
3 you're going to remove it, correct?

4 MR. DEVITTO: Correct.

5 MS. LA BRUTTO: Will you replace it with a  
6 tree the same height?

7 MR. DEVITTO: No. The -- the dead trees are  
8 taken into account, both on the exhibit and  
9 within the planting schemes.

10 MS. LA BRUTTO: And is there a certain type  
11 of tree that you're going to replace it with,  
12 just like a new tree that's little that's growing  
13 or any criteria?

14 MR. DEVITTO: Yeah, it would be -- it would  
15 be an evergreen tree. it would be never -- yeah,  
16 it'd be it would be an evergreen tree. Okay.  
17 Thank you.

18 MR. NORDELO: Just name and address.

19 MS. ESPOSITO: Yep. Thank you. Everyone  
20 knows my name.

21 MR. NORDELO: Sorry. Go ahead.

22 MS. ESPOSITO: That's okay. Christine  
23 Esposito, 11 Behnert Place. I have four  
24 questions, and they'll be short.

25 Do you have an artist's rendering or can you

1 show us on the plan the plantings that are  
2 proposed at the new entrance along with the  
3 signage at that proposed entrance across from  
4 Behnert Place?

5 MR. DEVITTO: So we don't have a rendering  
6 for that area. We would have -- we have the  
7 proposed Planting Scheme A which would take place  
8 there?

9 MS. ESPOSITO: Is that where the old  
10 driveway was, or is that the new driveway  
11 location -- proposed new driveway location?

12 MR. DEVITTO: Let's go take a look. Which  
13 would you like to see right now?

14 MS. ESPOSITO: It's a trick question.

15 MR. DEVITTO: This is the old -- so this is  
16 the --

17 MS. ESPOSITO: That's the existing driveway.

18 MR. DEVITTO: The existing driveway  
19 location, correct.

20 MS. ESPOSITO: Do you have any of these  
21 designs that show the proposed driveway location  
22 and the planting scheme in that area?

23 MR. DEVITTO: We don't have -- this is the  
24 proposed planting scheme for this area for --  
25 it's for all the areas

1 MR. DRILL: When you say -- when you say  
2 this, you're saying Berm Planting Scheme A?

3 MR. DEVITTO: Yes, berm planting scheme A is  
4 the proposed planting scheme for both those  
5 areas.

6 MS. ESPOSITO: Okay. Including the area  
7 around where the berm is going to be proposed to  
8 be removed for the new driveway?

9 MR. DEVITTO: Correct.

10 MS. ESPOSITO: Did parts for our board  
11 professional discuss that area specifically with  
12 you during your walkabout?

13 MR. DEVITTO: We did -- we did mention a --  
14 that this was going to be a new driveway location  
15 in this area. And part of that was the  
16 preservation of those existing trees in that  
17 area. We can go to it right now. Zoom in on this.  
18 So -- so one of the things that's happening here  
19 is these contours are being taken back for the  
20 berm and the tree -- we are able -- because these  
21 contours are so tight and so condensed in this  
22 area, we are able to preserve a lot of that  
23 existing tree material.

24 MS. ESPOSITO: So is there going to be  
25 provided to the board a rendering of the

1 landscape design with the signage and the new  
2 driveway, the street view?

3 MR. DEVITTO: At this time, it is -- it is  
4 not.

5 MS. ESPOSITO: So the board is going to  
6 deliberate without that information?

7 MR. DEVITTO: Correct.

8 MS. ESPOSITO: Okay.

9 MR. NORDELO: Do we have any additional  
10 members of the public to ask questions of this  
11 witness?

12 MR. DRILL: Okay. So if not, let's open up  
13 questioning of Nick on this landscape issue.

14 MR. NORDELO: Members of the public to our  
15 board professional on this issue.

16 Mr. Dickerson, grab a mic.

17 MR. DRILL: And my suggestion now is that  
18 the members of the public come up to the podium  
19 mic and Mr. Dickerson will answer on the handheld  
20 mic.

21 Now, Rita, did you have a chance to read the  
22 one-page memo?

23 MS. LA BRUTTO: It says nothing.

24 MR. DRILL: Okay. Into the microphone?

25 MS. LA BRUTTO: Yes, I did have a chance to

1 read.

2 MR. DRILL: Okay.

3 MS. LA BRUTTO: Right.

4 MR. DRILL: Fire away.

5 MS. LA BRUTTO: Okay. So Mr. Dickerson --

6 and by the way, in my opinion, this should not

7 only be questions of Mr. Dickerson about

8 landscaping, but since you wanted to question him

9 about other things you had told me, maybe we can

10 get two for the price of one and have questions

11 about Mr. Dickerson -- questions for

12 Mr. Dickerson on landscaping and anything else.

13 Unless you want to save that for later. Do you

14 have an objection to that?

15 MR. DICKERSON: No, I don't.

16 MR. NORDELO: Okay. You can proceed on any

17 questions to Mr. Dickerson.

18 MS. LA BRUTTO: Okay. So I'm looking at the

19 memo that was just handed to me now, even though

20 the public did not have this available before the

21 meeting.

22 MR. DRILL: Okay. What's the date on that

23 memo?

24 MS. LA BRUTTO: December 14.

25 MR. DRILL: And what's today's date?

1 December 14.

2 MS. LA BRUTTO: Right.

3 MR. DRILL: Right. The board member -- the  
4 board members got it maybe a couple hours ago, so  
5 it's not like the public is -- we purposely --  
6 like it was hidden or anything just for the  
7 record.

8 MS. LA BRUTTO: And --

9 MR. DRILL: It's a late breaking memo. Ask  
10 him the questions, and you've read it.

11 MS. LA BRUTTO: Having read this memo, it  
12 really doesn't say anything about what kind of  
13 trees, the height of the trees, it just basically  
14 says that they met with them and they were, you  
15 know --

16 MR. DRILL: Make it a question, please.

17 MS. LA BRUTTO: Yes.

18 MR. DRILL: Make it --

19 MS. LA BRUTTO: Okay. So would you agree it  
20 says the applicant agrees to remove all dead  
21 trees from the buffer and clear areas of  
22 excessive growth?

23 MR. DICKERSON: Is that a question?

24 MS. LA BRUTTO: Yes. Do you agree that the  
25 applicant --

1 MR. DICKERSON: That's -- they provided  
2 testimony demonstrating that they would be  
3 removing dead trees?

4 MR. DRILL: Nick, you've got to talk louder  
5 even though you have the mic.

6 MR. DICKERSON: Yes, it is -- and from the  
7 testimony that they provided that they would be  
8 removing the dead trees and, I believe, trimming  
9 the dead portions of the other trees remaining.

10 MS. LA BRUTTO: And the trees that are being  
11 planted, Mr. Dickerson, by -- are they the same  
12 height of the trees that they're removing?

13 MR. DICKERSON: I don't believe so. And I  
14 believe that was the testimony provided.

15 MS. LA BRUTTO: Right. And have you seen  
16 any rendering of the building behind any of this  
17 landscape berm?

18 MR. DICKERSON: I have not seen any  
19 renderings.

20 MS. LA BRUTTO: So how do you feel --

21 MR. DRILL: Just for the -- just for the  
22 record, there is no such rendering that the  
23 board's aware of because it hasn't been  
24 submitted.

25 MS. LA BRUTTO: Right.



1 MR. DRILL: Have they submitted --

2 MS. LA BRUTTO: So --

3 MR. DRILL: Anything to you --

4 MS. LA BRUTTO: -- how --

5 MR. DRILL: -- that they haven't submitted  
6 to the board?

7 MR. DICKERSON: Not that I'm aware of.

8 MS. LA BRUTTO: So how can you feel  
9 confident that this will provide sufficient  
10 buffering or screening, if you haven't seen any  
11 rendering?

12 MR. DICKERSON: Well, you're making the  
13 assumption that we have a problem with seeing a  
14 portion of the building. We understand the fact  
15 that trees are not going to block the building  
16 100 percent. We understand that the building is  
17 set back far enough where you have a nice park  
18 and buffer area between it. We understand that  
19 there's lots of plantings and improvements that  
20 are being made, that are not going to shield this  
21 building from who's ever driving down Walnut  
22 Avenue. And that's not the purpose of the -- of  
23 the buffer.

24 MS. LA BRUTTO: So our planter is  
25 comfortable with not -- not really seeing or I

1 guess you have a level of comfort that what  
2 they're providing is sufficient buffering --  
3 buffering and screening.

4 MR. DICKERSON: That is correct.

5 MS. LA BRUTTO: Okay. The other question I  
6 had is on zoning as to what's the -- actually in  
7 the redevelopment plan. Just bear with me one  
8 minute.

9 So here's my question. In the land use  
10 ordinance, it states that office distribution  
11 centers shall not include mini warehouses or  
12 similar uses or truck depots or similar uses.  
13 During the planning board meetings, there was a  
14 lot of testimony relate -- related to tractor  
15 trailers entering the site. Given that many  
16 warehouses and truck depots are not permitted,  
17 can there even be tractor trailers on the site?

18 MR. DICKERSON: The representation that was  
19 made by the applicants was that this would  
20 qualify as the permitted use of a -- just going  
21 to that section of the redevelopment plan.

22 MR. DRILL: Not to put words in your mouth,  
23 an office distribution center, maybe?

24 MR. DICKERSON: Yes. An office distribution  
25 center. There are no definitions in the code for

1 a truck depot. And if the representation that  
2 they made was that this is an office distribution  
3 center, and based on the definition in the code  
4 and in the redevelopment plan -- let's see. Just  
5 scrolling. Bear with me. Just trying to get to  
6 the right page here.

7 Now the definition that is in the  
8 redevelopment plan was taken directly from the  
9 code. And I believe that this definition has been  
10 in place based on my research since at least  
11 1990. And the definition here is that an office,  
12 distribution center includes the warehousing and  
13 distribution of goods provided that up to 10  
14 percent of the gross floor area of any office  
15 distribution center maybe --

16 MR. DRILL: Slow down. Slow it down a  
17 little, Nick.

18 MR. DICKERSON: May be used for executive or  
19 administrative offices, office uses ancillary to  
20 the warehouse and distribution uses. Warehousing  
21 and office distribution centers shall not include  
22 the storage of fuels, hazardous materials,  
23 hazardous waste, highly flammable liquids, or  
24 gases or petrochemical products.

25 All warehousing and storage of goods shall

1 be conducted entirely within enclosed structures  
2 and buildings. Quote, office distribution  
3 centers, unquote, shall not include mini  
4 warehouses or similar uses or truck depots or  
5 similar uses. And the applicants have made the  
6 representation that they are an office  
7 distribution center, and there's nothing to  
8 suggest that they're not.

9 MS. LA BRUTTO: My -- that wasn't my  
10 question, though. My question is that the  
11 testimony has been related to tractor trailers  
12 entering the site. So I'm asking you, when they  
13 say --

14 MR. DRILL: Wait a minute. Hold, hold,  
15 hold. They've been asked questions about that,  
16 and they've answered questions about that. So --  
17 so just because they've answered questions about  
18 tractor trailers entering the site doesn't mean  
19 that's contrary to the representation of what the  
20 use is. I'm just putting that out there. You can  
21 ask him, but if you're going to ask him a  
22 question, that -- what your question implied that  
23 the applicant was presenting that as their  
24 primary use when, the way I see things from up  
25 here is that they've been asked all sorts of

1 questions about that. And they've been answering  
2 it and it's taken a lot of hearing time, but it's  
3 -- it's been responding to questions.

4 MS. LA BRUTTO: Okay. Then the question  
5 that I have for Mr. Dickerson is, what do you see  
6 as the definition of a truck depot?

7 MR. DRILL: Fair enough.

8 MR. DICKERSON: I have looked into this  
9 question and -- and there's a book of development  
10 definitions that people will look to, and that's  
11 the --

12 MR. DRILL: The Moscovitz book, by any  
13 chance?

14 MR. DICKERSON: -- the Moscovitz book. And  
15 I believe the most recent definition -- edition I  
16 have is the 2014 edition.

17 MR. DRILL: That's correct.

18 MR. DICKERSON: And there's nothing that  
19 addresses truck depots. I also tried to take a  
20 look just through some Googling around to see  
21 also if there are other ordinances out there, and  
22 there's not really much that defines what is a  
23 truck depot. I know that Cranford's code used to  
24 be based on, I believe, the SIC code and not that  
25 NAICS code. And in checking those definitions,

1           there's nothing relating to truck depots as well.  
2           From what I was able to search around for truck  
3           depots usually will. And this -- and this is not  
4           a scientific assumption, this is just based on  
5           from what I was able to find, since there are no  
6           definitions really established that truck depots  
7           tend to refer to the storage of trucks or other  
8           vehicles like a bus depot would store buses.

9           MR. DRILL: That's your -- your professional  
10          opinion based on looking at things in the  
11          literature, correct?

12          MR. DICKERSON: Correct.

13          MS. LA BRUTTO: So would a truck depot allow  
14          trucks to stay there overnight. Is there a time  
15          line for how long these trucks can stay on the  
16          property?

17          MR. DICKERSON: There is no standards in the  
18          town code concerning truck depots. So I wouldn't  
19          have an answer for you on that one.

20          MS. LA BRUTTO: But you wrote the  
21          redevelopment agreement, right? What were you  
22          thinking when you wrote the truck depot?

23          MR. DRILL: Actually, did you have anything  
24          to do with writing that redevelopment plan?

25          MR. DICKERSON: I did not write the

1 redevelopment agreement and I did not write the  
2 redevelopment plan.

3 MR. DRILL: Do you know who wrote the  
4 redevelopment plan?

5 MR. DICKERSON: The redevelopment plan was  
6 drafted by typology.

7 MR. DRILL: Is that related to your firm?

8 MR. DICKERSON: It is not.

9 MS. LA BRUTTO: Okay. So you're our planner  
10 and there's something in here called the truck  
11 depot, but we really don't know, the truck depot,  
12 like, what's the length of time a truck can stay  
13 on that property --

14 MR. DRILL: Again, this is your assumption.  
15 He's already told you. He looked all over the  
16 place for a definition of a truck depot. He  
17 couldn't find it. You're now asking him questions  
18 about how much time a truck has to stay there to  
19 be a depot or not. He's told you he doesn't know  
20 -- he doesn't know what a truck depot.

21 MS. LA BRUTTO: Okay.

22 MR. DICKERSON: Might I add that the  
23 previous use of this property was a warehouse  
24 with trucks that were parked on site for a  
25 prolonged period of time, so it's not anything

1 unusual that's -- that's going to be taking place  
2 on this site. Again --

3 MS. LA BRUTTO: I think those trucks were  
4 related to like JB Williams Production.

5 MR. DRILL: You use it for your -- your  
6 comment -- your public comments.

7 MS. LA BRUTTO: Right.

8 MR. DRILL: But you're gonna keep on asking  
9 and --

10 MS. LA BRUTTO: I'm just Wondering should  
11 the redevelopment plan, have a definition of what  
12 a truck depot is or what mini warehouse is?

13 MR. DRILL: Does the redevelopment plan have  
14 a definition for that?

15 MR. DICKERSON: For.

16 MR. DRILL: Truck depo.

17 MS. LA BRUTTO: Truck depo.

18 MR. DICKERSON: It does not.

19 MS. LA BRUTTO: Okay.

20 MR. DRILL: And, again, not to repeat  
21 because I don't want to be unduly repetitive, but  
22 did your office have anything to do with writing  
23 that redevelopment plan?

24 MR. DICKERSON: We did not.

25 UNIDENTIFIED MALE SPEAKER: Might I add for



1 the record that Hartz Mountain had approached the  
2 planning board for 100 percent residential  
3 development. That was turned down. And through  
4 the lawsuit, through negotiations, it was agreed  
5 that the township were the ones that partially  
6 requested a commercial aspect to this site.

7 MS. LA BRUTTO: Commercial, Yes. My question  
8 more relates to the amount of truck traffic.  
9 Not --

10 MR. DRILL: Right. Asked --

11 MS. LA BRUTTO: We weren't told commercial.  
12 Right. Okay.

13 UNIDENTIFIED MALE SPEAKER: I'm just making  
14 comments so that she understands the board knows  
15 what this application is about.

16 MS. LA BRUTTO: Right. Can --

17 MR. NORDELO: Ms. La Brutto, do you have --  
18 do you want to proceed with a question for  
19 Mr. Dickerson?

20 MS. LA BRUTTO: I do. Can an office  
21 distribution center use big trucks?

22 MR. DICKERSON: Considering -- considering  
23 that definition includes warehousing and  
24 distribution, I -- it would go without -- in my  
25 opinion, that would include trucks.

1 MS. LA BRUTTO: Do you have any sense of  
2 what size trucks for an office distribution  
3 center?

4 MR. DICKERSON: This --

5 MR. DRILL: Listen, it's a fair question.

6 MR. DICKERSON: It would have been something  
7 that would have been considered at the time of  
8 the drafting of the redevelopment plan.

9 MR. DRILL: And is there anything in the  
10 redevelopment plan that either restricts or talks  
11 about a truck not over certain size?

12 MR. DICKERSON: There is no restrictions.  
13 But as we've discussed, there are the provisions  
14 in the redevelopment plan, which we spent several  
15 hearings on discussing the traffic impacts and a  
16 traffic impact statement was one of the required  
17 provisions of the redevelopment plan.

18 MS. LA BRUTTO: Okay. In your opinion,  
19 should there be a definition of warehousing in  
20 the redevelopment plan?

21 MR. DRILL: Okay. This one's --

22 MS. LA BRUTTO: That's not his --

23 MR. DRILL: You ready for this? This one, in  
24 my opinion, is irrelevant and immaterial, because  
25 there's no definition.

1 MR. NORDELO: I would agree that's an  
2 irrelevant and immaterial question. If you can  
3 move on to the next question.

4 MS. LA BRUTTO: Truck depots and  
5 warehousing.

6 MR. DRILL: If there's no definition, and  
7 you're asking him should there be a definition,  
8 that's got nothing about -- to do with this case?  
9 You can argue to the township committee that  
10 there should have been. You can argue to the  
11 board. But that that's not a -- that's not a  
12 material or relevant cross-examination question  
13 to this witness, in my opinion.

14 You agree?

15 MR. NORDELO: I agree. Next question,  
16 please.

17 MS. LA BRUTTO: Yeah. Is -- as a planner is,  
18 do you see that as something the redevelopment  
19 plan should be --

20 MR. DRILL: Again, now, this is unduly  
21 repetitious. You're just -- you're answering the  
22 -- asking the same question in a different way.  
23 Come on.

24 MS. LA BRUTTO: I'm asking whether you  
25 should revise the plan to put some --

1 MR. DRILL: That's beyond the scope of  
2 what's in front of the board, in my opinion.

3 MR. NORDELO: I agree with that opinion.

4 MS. LA BRUTTO: Okay. All right.

5 MR. NORDELO: Thank you.

6 Are there any other members of the public  
7 that have any questions for our planning board  
8 professional?

9 Ms. Esposito?

10 I gotta stop saying that. I'm sorry.

11 MS. ESPOSITO: Christine Esposito, 11  
12 Behnert Place. At any point as our planner, did  
13 you see a plan proposed by Hartz Mountain without  
14 the driveway location realigned with Behnert  
15 Place?

16 MR. DICKERSON: I did not. And again, this  
17 is -- I was not involved in the preparation of  
18 the redevelopment plan.

19 MR. DRILL: Now, I'm going to tell you what  
20 I tell them all the time. Answer the question.  
21 You don't have to go on with another explanation.

22 MS. ESPOSITO: Okay. As our planner, were  
23 you involved in any of the traffic planning or  
24 what was designated to be part of the traffic  
25 study?

1 MR. DICKERSON: I am not a traffic engineer.  
2 So no.

3 MS. ESPOSITO: But as our planner, did you -  
4 - were you privy to any of those discussions?

5 MR. DICKERSON: I was not.

6 MS. ESPOSITO: Okay. So at no point did you  
7 hear or see, or was it related to any statements  
8 from Union County mandating that the driveway  
9 location must be moved to Behnert Place?

10 MR. DICKERSON: I was not involved in those  
11 discussions.

12 MS. ESPOSITO: Right. In the redevelopment  
13 plan, it does state that the berm shall remain  
14 intact. However, the applicant is proposing to  
15 remove a large portion of this berm. Are you  
16 aware of that?

17 MR. KENT-SMITH: Large portion?

18 MS. ESPOSITO: 50 feet --

19 MR. KENT-SMITH: (Inaudible).

20 MS. ESPOSITO: -- at seven feet high.

21 MR. DICKERSON: And I'm just going to go to  
22 that section of the redevelopment plan because I  
23 believe this was just discussed a few minutes  
24 ago, where it states that the existing berm along  
25 the Walnut Avenue frontage shall remain. Changes

1 to the existing berm for pedestrian access may be  
2 approved by the township.

3 MS. ESPOSITO: Does it --

4 MR. DRILL: Whoa, whoa. Let him finish.  
5 Let him finish.

6 MS. ESPOSITO: Okay.

7 MR. DRILL: Are you finished?

8 MR. DICKERSON: There is an additional  
9 provision concerning modifications to the berm  
10 relating to the privately-owned public open  
11 space. Sorry. Mouthful. And yeah.

12 MS. ESPOSITO: I'm sorry. Can you just more  
13 slowly read the part about the berm shall remain.  
14 Does -- is there language in there that says it  
15 shall remain intact or does it just say it shall  
16 remain?

17 MR. DICKERSON: The existing berm shall  
18 remain?

19 MS. ESPOSITO: And so the plan that is  
20 proposed, does it appear that the applicant is  
21 planning to remove part of that berm?

22 MR. DRILL: You mean for the driveway  
23 access.

24 MS. ESPOSITO: For the driveway, yes.

25 MR. DICKERSON: Yes.

1 MS. ESPOSITO: Okay. So then is the  
2 applicant also doing so with -- with the approval  
3 of the board or is your -- the planner and -- are  
4 they planning to do this without any sort of  
5 variance?

6 MR. DRILL: Hold on. Hold on. This one is  
7 a legal question. I did that -- remember I did  
8 the memo. You guys asked about that. I did a  
9 memo dated September 28, 2022, and I rendered an  
10 opinion. And it's a detailed three-page single  
11 spaced memo with exhibits that the driveway  
12 access is mandated by the developers' agreement,  
13 not the redevelopment plan. So this is a legal  
14 issue that I have -- I've weighed in on that.  
15 That's my opinion. That was my opinion that -- to  
16 the board, but I also purposely released this  
17 thing to the public so they would know it. So to  
18 me, this is a illegal question, not a question  
19 for the planner.

20 MR. NORDELO: I would agree.

21 MS. ESPOSITO: Okay.

22 MR. DRILL: In other words, how are they  
23 going to have access if they don't cut through  
24 the berm for the access driveways and the  
25 location of the driveways. You've already got my

1 opinion in the memo.

2 MS. ESPOSITO: Okay. In redevelopment plan  
3 was also a basketball court, and that is no  
4 longer part of this plan --

5 MR. DRILL: Right. Because -- right.  
6 Because the members of the public asked them to  
7 remove it. The board didn't say you have to  
8 remove it. The board actually said to them,  
9 Listen, you hear what the public's saying? If  
10 you want to remove it, they straw polled. If you  
11 ask that it be removed, we probably vote to give  
12 you a variance to remove it. So they asked it to  
13 be -- to be removed.

14 Let me just ask Mr. Kent-Smith for the  
15 record. You voluntarily want to change those  
16 driveway locations?

17 MR. KENT-SMITH: Absolutely not.

18 MS. ESPOSITO: I'm sorry. So you're saying  
19 parts are saying that they don't voluntarily want  
20 to move the driveway locations? They're okay with  
21 the driveway location where it is currently?

22 MR. DRILL: No.

23 MR. KENT-SMITH: No. Absolutely not.

24 MR. DRILL: The proposed.

25 MR. KENT-SMITH: We are going to abide by



1 the driveway locations set forth in the  
2 redevelopment agreement and redevelopment plan.

3 MR. DRILL: Whoa, whoa, whoa. Mr. Kent-  
4 Smith, first of all, don't follow my lead. Relax.  
5 Okay. Second of all, reference the redevelopment  
6 agreement because that's what ties in the  
7 driveway locations.

8 MR. KENT-SMITH: In the redevelopment  
9 agreement, there's attach an exhibit. The exhibit  
10 shows the driveway relocations as we're proposing  
11 them before the board tonight we are seeking this  
12 board's approval of that plan in accordance with  
13 the redevelopment agreement and redevelopment  
14 plan and the ordinances.

15 MS. ESPOSITO: As far as it's asking for --  
16 if Hartz had to ask for a variance to remove the  
17 basketball court which was in the redevelopment  
18 plan, would they not have to ask for the same  
19 variance to remove a portion of the berm when it  
20 states that the berm shall remain intact?

21 MR. DRILL: Not if -- in my legal opinion,  
22 not if the exhibit shows a driveway going through  
23 the berm? The answer's no, in my opinion. Yeah.  
24 Again, that's my -- that's -- that's a legal  
25 issue, in my opinion. And that's my -- my legal

1 opinion on it, my professional opinion.

2 MS. ESPOSITO: As a planner, did you have  
3 any concerns about the relocation of the  
4 driveways as proposed in the plan that you saw?  
5 Again, I'm not a traffic engineer. And I think  
6 that question would be it. I can't answer that  
7 question.

8 MR. NORDELO: Do you have any further  
9 questions?

10 MS. ESPOSITO: No. I don't think I do.  
11 Okay.

12 MR. NORDELO: Okay. Thank you.

13 Before you go, are there any other members  
14 of the public that have any questions of our  
15 professional and (inaudible)?

16 So are there any other members of the  
17 public?

18 Seeing none.

19 MR. DRILL: Okay. Next -- your next  
20 witness?

21 UNIDENTIFIED FEMALE SPEAKER: I have a  
22 question about are going to see the signs? Are  
23 we ever gonna see the signs that's going to be --

24 MR. KENT-SMITH: The answer is the sign is  
25 going to conform with the township ordinances.

1 It will be shown as a condition of approval as  
2 part of the plan set, then will be resubmitted.

3 MR. DRILL: Let me -- let me just clarify  
4 something. You're representing that the  
5 applicant is not going to be seeking any  
6 variances or --

7 MR. KENT-SMITH: Yes.

8 MR. DRILL: -- or objections for the sign.  
9 The sign is going to be compliance sign. And what  
10 you're asking is that that be a condition of  
11 approval that some board expert, presumably the  
12 planner, review the sign to make sure it  
13 complies?

14 MR. KENT-SMITH: Exactly.

15 MR. NORDELO: Mr. Kent-Smith, I'm just going  
16 to do a five-minute recess.

17 Five minutes, folks. Five minutes.

18 (A recess is taken.)

19 MR. KENT-SMITH: Thank you, Mr. Chairman.

20 Again, back -- for the record, Mr. Hughes,  
21 you are under oath. You've been previously  
22 qualified and provided you direct testimony. You  
23 remain under oath. You confirm that?

24 MR. HUGHES: Yes.

25 MR. KENT-SMITH: All right.

1 MR. DRILL: You want the public to ask  
2 questions first and the board to ask questions?

3 MR. NORDELO: The board.

4 So are there any members of the board that  
5 have questions from last time?

6 Mr. Sen, I know you did.

7 MS. SEN: Hi, I was curious. I have a -- a  
8 community impact statement that's dated April 6,  
9 2022. Is there any other recent -- more -- any  
10 more recent community impact statement?

11 MR. HUGHES: No.

12 MR. DRILL: What's the date on that one?

13 MS. SEN: April 6, 2022.

14 MR. DRILL: April 6?

15 MS. SEN: Yeah. April 6.

16 MR. DRILL: Okay. Thanks. Got it.

17 MS. SEN: Okay. Because I'm looking at this  
18 community impact statement, and I want -- I had a  
19 couple of questions. So this community impact  
20 statement, is it true that it states, quote, a --  
21 I think of the second paragraph -- a pilot-based  
22 analysis is not considered in this community  
23 impact statement; is that correct?

24 MR. HUGHES: Yes.

25 MS. SEN: Why was it not included in a

1 community impact statement?

2 MR. HUGHES: At the time of the preparation  
3 of the community impact statement, we did not  
4 have the benefit of a final agreed-upon palate  
5 analysis that could provide the basis for  
6 factoring it in this analysis.

7 MR. DRILL: Can you talk louder, please?

8 MR. HUGHES: Yes.

9 MS. SEN: So you're saying it was not -- you  
10 were not expecting to have a pilot in -- on April  
11 6, 2022, when you drafted this report?

12 MR. HUGHES: No. What I said was at the  
13 time of drafting this report, we didn't have a  
14 final pilot analysis that can provide the basis  
15 for this analysis.

16 MS. SEN: Do you have that now?

17 MR. HUGHES: Personally, I do not.

18 MS. SEN: Do you know -- do you have an  
19 estimation of what that is?

20 MR. HUGHES: No.

21 MS. SEN: Why not?

22 MR. HUGHES: Because it wasn't part of the  
23 analysis that we prepared back in April. I mean,  
24 I do know that the settlement agreement does  
25 stipulate that both parties agree that a pilot

1 will be executed in connection with the  
2 residential parcel, but I don't know that the  
3 final details have been worked out.

4 MR. DRILL: Actually, Mr. Kent-Smith, has a  
5 -- has a pilot agreement being signed?

6 MR. KENT-SMITH: No, it has not.

7 MS. SEN: So what is the status? My  
8 understanding was that there was an ordinance  
9 that was passed yesterday by the township  
10 committee authorizing a pilot; is that correct?

11 MR. KENT-SMITH: I believe that was --  
12 did -- okay. So yes, the council did authorize  
13 the pilot.

14 MS. SEN: So if there is an authorized  
15 pilot, so to speak, I mean, obviously, of course,  
16 it can be challenged by court and the like, why  
17 does not -- why is there not a revised community  
18 impact statement talking about the financial  
19 impact that this pilot program would have on the  
20 schools and the community?

21 MR. HUGHES: I -- I think I've already  
22 answered the question, which is we prepared this  
23 in April as part of our site plan application.  
24 It was a checklist item. And we used the best  
25 available information at that time to prepare

1 this analysis.

2 MR. DRILL: Can I ask him --

3 MS. SEN: Sure.

4 MR. DRILL: -- I think what -- what the  
5 question that you're getting to -- I think what  
6 she wants to know is, do you believe that since  
7 one was authorized albeit last night to be  
8 signed, do you in your opinion believe that that  
9 community impact statement should be amended or  
10 revised to reflect it? That's really what her  
11 question is going to be --

12 MS. SEN: It's one of the questions.

13 MR. HUGHES: I don't have an opinion  
14 obviously. If the board were to request us to do  
15 that as a condition of approval, for example,  
16 personally, I'd have no problems doing that.

17 MS. SEN: And what is the purpose in your  
18 expert view of a community impact statement in a  
19 redevelopment plan?

20 MR. HUGHES: Well, the purpose is set forth  
21 in the code, which is to describe and explain the  
22 impact and effect of the proposed land  
23 development upon the township's educational  
24 system and other municipal facilities.

25 MS. SEN: Well, how can we do that if you

1 don't have an assessment?

2 MR. HUGHES: Well, we do have an assessment  
3 that was based on the information available as of  
4 April 2022, which clearly demonstrates that this  
5 project will have a significantly positive fiscal  
6 impact on the community. I would not expect that  
7 to change in any way once the pilot is factored  
8 in. And as I just stipulated, we could certainly  
9 do that as a condition of approval.

10 MS. SEN: Well, I would assert that such is  
11 -- is essential to know the community impact  
12 statement. I also had a couple other comments --  
13 Mr.

14 MR. KENT-SMITH: I do want to just make sure  
15 that we all understand. So the matter before  
16 this board related to the residential is part of  
17 a Mount Laurel Affordable Housing Settlement. It  
18 is axiomatic from Mount Laurel I on that the  
19 issue of fiscal impact of an affordable housing  
20 site -- well, actually Mount Laurel II, of an  
21 affordable housing site on the community is not a  
22 relevant consideration relative to whether the  
23 site meets the criteria for development, whether  
24 the municipality agrees to rezone it to create  
25 affordable housing opportunities, that that



1 fiscal -- fiscal impact as it relates to an  
2 inclusionary development is not a relevant  
3 consideration.

4 MS. SEN: Yes, but -- okay.

5 MR. DRILL: Where your plan and where in the  
6 ordinance does it talk about -- does it talk  
7 about community impact statement? So I want to  
8 start in the Nick, this is the code, correct?

9 MR. DICKERSON: That's correct.

10 MR. HUGHES: Not the redevelopment plan?

11 MR. DRILL: Not yet. First -- the first  
12 provision is in the code. This is Ordinance  
13 Section 255-24 and this is sub item 22. I don't  
14 know. There must be a letter before it, but  
15 whatever, community impact statement. And what  
16 the -- what the township code says, quote, the  
17 planning board or board of adjustment, or the  
18 development review committee, whichever is  
19 appropriate, in its sole discretion may as a  
20 condition of preliminary major subdivision or  
21 site plan approval require the applicant to  
22 prepare at its own expense a community impact  
23 statement describing and explaining the impact  
24 and effect of the proposed land development upon  
25 the township's educational system and other

1           municipal facilities. So I'm going to -- I'm  
2           going to see what the redevelopment plan says.

3           But under the code, the board, according to  
4           this, cannot consider this fiscal impact --  
5           forget about affordable housing -- on whether or  
6           not to grant preliminary or final site plan  
7           approval. They condition it because this is  
8           supposed to go to the -- the township for  
9           planning purposes. I'm going to add -- forget  
10          about the board of adjustment because that's a  
11          separate issue where I actually -- I mean, that's  
12          what the ordinance says. Maybe I wouldn't have  
13          written the ordinance that way with the board of  
14          adjustment. But for the planning board for a  
15          permitted use, this is consistent with what the -  
16          - the law would say. Now can you show me what  
17          the redevelopment plan says about it? Because  
18          this is a legal issue. Take your time. I popped  
19          in on you, I know.

20                 MR. DICKERSON: (Inaudible).

21                 MR. DRILL: Nick, do me a favor, you're much  
22                 better with the fingers. Can you get that to  
23                 where it has to be? I thought you were better  
24                 than me.

25                 MR. DICKERSON: And then the page I'm

1 looking at is 51, subsection 27.

2 MR. DRILL: So this is subsection 27. And I  
3 assume it's -- no, no, Nick, this doesn't help me  
4 here. This is a subset -- it looks like it's  
5 under Subsection B27. It looks like that this is  
6 what has to be --

7 MR. DICKERSON: Required submission.

8 MR. DRILL: -- required submission. But does  
9 it say anything about what needs to go into it?

10 MR. DICKERSON: No, it does not.

11 MR. DRILL: Does it say anything about what  
12 the planning board is allowed to do with it?

13 MR. DICKERSON: Does not.

14 MR. DRILL: Okay. So the regular code  
15 provision is going to apply. And what the code  
16 says is you can condition preliminary site plan  
17 upon them submitting one. Apparently what they  
18 said there must be a checklist item and I think  
19 that's what Nick showed me under the 27, you  
20 said?

21 MR. DICKERSON: Yes.

22 MR. DRILL: They had to submit one to get  
23 the application complete. What his testimony is  
24 they did. And at the time they submitted it on  
25 April 6, 2022, there was no pilot.

1           Your question which I asked for you was, do  
2           you think the thing has to be revised? And what  
3           he said was not even knowing that the ordinance  
4           would actually support what he said, but it ends  
5           up supporting what he said is, we're willing to  
6           do it as a condition. The ordinance says you can  
7           impose it as a condition.

8           So in my opinion, you on- -- the board can  
9           only impose it as a condition of approval. You  
10          can't require them to submit it ahead of time.  
11          You can ask him to. But even if he submitted it  
12          ahead of time, you can't take any of that the  
13          financial stuff into account in whether to  
14          approve or deny the application, even if it  
15          wasn't an affordable housing project, which it  
16          is.

17          MS. SEN: Okay. So I obviously would like to  
18          take the time to be able to read that because I  
19          also have gone to law school and like to look at  
20          my own view by looking at the ordinance, but I do  
21          appreciate that. My question is, honestly, we've  
22          been here for -- what? I don't know -- over 10  
23          hearings. And every time just from the beginning,  
24          I saw the community impact statement and my first  
25          question was always like, if there's an

1 expectation of a pilot, why is there a community  
2 impact statement that specifically exempts the  
3 analysis of pilot? Now each time --  
4 unfortunately, you haven't been here and/or I was  
5 never given the opportunity, but I find it  
6 disingenuous to not proffer it, or to at least  
7 have an estimate.

8 I think that any financial plan would have  
9 that information. To say that Hartz Mountain  
10 does not know the cost impact that it would have,  
11 to me is disingenuous. Now, whether it's required  
12 or not, I will obviously confer with our lawyers.  
13 I will do my own assessment as well. And I would  
14 give my opinion to the board and the public, but  
15 I find it to be very disingenuous, and it is an  
16 important question. I also had several  
17 questions.

18 The community impact statement does not seem  
19 to assess growing inflation. Is that correct? I  
20 remember at the time it fluctuates between seven  
21 to eight percent. Is that correct?

22 MR. HUGHES: In what context? I mean, what  
23 the -- what the fiscal -- what the community  
24 impact statement does is essentially reflect a  
25 snapshot in time, you know, based on current

1 spending levels within the community to  
2 anticipate whether the revenues that are  
3 anticipated to be generated by this project,  
4 offset the anticipated costs.

5 MS. SEN: So was there inflation as high as  
6 we are experiencing currently, which is ranging  
7 from seven to nine percent?

8 MR. HUGHES: All of the data in here are  
9 based on current budgetary spending within the  
10 community, current tax rates, current estimated  
11 market rents, so there's no need to adjust for  
12 inflation.

13 MS. SEN: Okay.

14 MR. HUGHES: We're not making any  
15 projections.

16 MS. SEN: Was not concerned. Okay. It was  
17 not corrected. I also had a question is, when is  
18 the first year of stabilization in the car, the  
19 community impact report?

20 MR. HUGHES: Again, this is assuming -- this  
21 is upon full build out.

22 MS. SEN: So what does that mean?

23 MR. HUGHES: Upon full build out and  
24 assuming that the project is fully stabilized?

25 MS. SEN: Can you explain what that means? I

1 mean, I -- I know the word "stabilized," but I  
2 don't --

3 MR. HUGHES: I'm not sure how you -- what  
4 I'll -- what I'll tell you is how I'm  
5 interpreting it is that it's a fully built out  
6 project that is occupied at sort of fully  
7 expected levels in terms of what a -- what a  
8 typical vacancy rate would be for both the  
9 residential and the commercial.

10 MS. SEN: And when is that expected?

11 MR. HUGHES: Oh, I don't know.

12 MS. SEN: So the first year of stabilization  
13 could be Year 30, it -- could it be Year 5, do  
14 you have an expectation given your expertise as  
15 an expert of --

16 MR. HUGHES: No. That's not a -- that's not  
17 a relevant consideration for this type of  
18 analysis.

19 MS. SEN: Okay. So what would be? I don't -  
20 - I guess I don't really understand what the  
21 concept of the first year stabilization and how  
22 that is a basis for a community impact statement?

23 MR. HUGHES: My answer is, again, this  
24 analysis is basically assuming that the project  
25 is completely built out, and it's operational.

1 MS. SEN: So you're saying that  
2 profitability begins once the project is  
3 completed and that is where the community impact  
4 statement begins its assessment?

5 MR. HUGHES: Well, it has nothing to do with  
6 profitability. It's about revenues versus costs.

7 MS. SEN: Okay. And then I also had a  
8 question. You use some 2018 multipliers. Is  
9 that industry standard --

10 MR. HUGHES: Yes.

11 MS. SEN: -- given that we're in 2022?

12 MR. HUGHES: Yes.

13 MS. SEN: Are there any more recent  
14 multipliers you could have used?

15 MR. HUGHES: No.

16 MS. SEN: When is the next multiplier  
17 expected?

18 MR. HUGHES: I don't know.

19 MS. SEN: I also had a question. It seemed  
20 like the community impact statement was basing  
21 its assessment on what was an expected revenue  
22 from the federal government. So in a lot of its  
23 analyses, it had the expectation that the federal  
24 government would continue to give at the same  
25 rate, such that its analysis only focused on



1 Cranford's taxpayers. Is that correct?

2 MR. HUGHES: No, I have no idea what you're  
3 referencing.

4 MS. SEN: So throughout the community impact  
5 statement, it talks about the revenue that is  
6 expected that Cranford would receive, and a  
7 portion of that revenue was what the federal  
8 government would normally provide. And that is in  
9 the impact statement.

10 MR. DRILL: Tell him where.

11 MS. SEN: So you know, in a lot of -- you  
12 know, I think it was multiple. So most of these  
13 charts, it talks about the revenue. Let me look  
14 at my notes. So it talks about the actual amount  
15 that the taxpayers would provide, right, the  
16 municipality taxes, right? And then it also  
17 talks about the expectation of what the federal  
18 government would provide.

19 MR. DRILL: Where is that?

20 MS. SEN: So I'm looking for it.

21 MR. DRILL: Okay.

22 MS. SEN: So, you -- that -- that doesn't  
23 ring a bell to you at all?

24 MR. HUGHES: No, we're talking about local  
25 property taxes. Okay. It's my understanding was

1 that there is an assessment. I'm looking for it.  
2 But it were related to a lot of the charts, where  
3 there was an expectation that -- I think it might  
4 even be Table 3.4 for public services.

5 So what I did is I basically felt that the -  
6 - I did a calculation of the numbers. And they  
7 seem that they were off. Because they were  
8 expecting that federal government funds would  
9 stay at the current levels. And if anyone works  
10 with the federal government, they would know that  
11 with Congress, right, these appropriations and  
12 different things vary each year. So to assume  
13 that you have the same assessment for federal  
14 government revenue was something that I thought  
15 could be problematic. But I -- I will look for  
16 the exact provision. But it seemed like that was  
17 the whole basis of all of these charts, talking  
18 about the -- the amount that would be expected.

19 MR. DRILL: Listen, unless you come up with  
20 a place, he's already said he doesn't know.

21 MS. SEN: Yeah. I mean, it's basically  
22 every chart. So there is a -- like, when you  
23 write a report, there is certain assessments or  
24 assumptions that are made. And one of the  
25 assumptions of this community impact report, when

1 I read it, was that it was only looking at the  
2 financing that would be provided by Cranford  
3 taxpayers, right? Is that correct? And that the  
4 understanding was all of the analysis focused on  
5 that because it was assuming that the federal  
6 government funds that New Jersey receives, right  
7 -- Cranford is also financed as well from the  
8 federal government in certain respects -- that  
9 that amount for the federal government would  
10 remain from year to year.

11 And I believe that that is an improper  
12 assumption that stands to discredit the community  
13 impact statement as written. Because as many of  
14 you know, with federal government funding, it  
15 varies every year. We can assume and we hope  
16 that we continue to get the same federal  
17 government stream that we do, but we know it  
18 varies widely from year to year. That's all I  
19 have.

20 MR. HUGHES: Okay.

21 MR. NORDELO: I just had a quick one. And  
22 this is more of an explanation. So in the public  
23 school formula, if you could just -- I see like -  
24 - I -- I know it's generating or expected to  
25 generate 27. This is table 2.2. I see from one

1 of the one bedrooms 0.360 children. I just --  
2 how do -- how do you come up with those numbers?

3 MR. HUGHES: Yeah. So that's based on there  
4 are per unit multipliers that are based on  
5 demographic analysis. And as you can see here in  
6 Table 2.2 for a market rate one-bedroom unit, the  
7 multiplier is 0.004, which results in a fraction,  
8 right? It's not a full student. But when you add  
9 that all up, you know, we average it out to 27.

10 MR. NORDELO: What's the margin of error on  
11 something like this? If you -- I mean, just --

12 MR. HUGHES: Off the top of my head, I don't  
13 know the margin of error in that particular  
14 study.

15 MR. DRILL: Where -- where are those figures  
16 coming from? Is that from the Rutgers study?

17 MR. HUGHES: This analysis is from the 2018,  
18 who lives in New Jersey report from the Rutgers  
19 Center for Urban Policy Research.

20 MR. NORDELO: But at the end of the day, it  
21 could be more than 27, it could be less.

22 MR. HUGHES: Correct.

23 MR. NORDELO: Thank you.

24 MR. DRILL: Do planners in general rely on  
25 that study when putting together a community

1 impact statement?

2 MR. HUGHES: Yes.

3 MR. NORDELO: Thank you.

4 MS. SEN: Another question about the school  
5 children. So is it correct that any money from  
6 pilots that is received does not go directly to  
7 the schools?

8 MR. HUGHES: I think that's a legal  
9 question.

10 MS. SEN: Do you have an understanding of  
11 whether grant money goes to schools?

12 MR. NORDELO: Ms. Sen, I think might be  
13 relevant to the scope of the conversation.

14 MAYOR PRUNTY: That -- that goes to the  
15 agreement that the township makes with the  
16 developer? There are instances where there's a  
17 payment directly to the schools and there's an  
18 instance where -- there's various formulas, so  
19 it's not -- it's not a question for him to  
20 answer.

21 MR. NORDELO: Thank you. Do any members of  
22 the board have any questions for Mr. Hughes?

23 Do our -- Nick, any questions for Mr.  
24 Hughes --

25 MR. DRILL: My microphone --

1 MR. NORDELO: -- or things to address?

2 MR. DICKERSON: Our report -- and I'm  
3 referring to my November 4 report, most of the  
4 questions that I had raised had been asked as  
5 part of this. I know we had one question about  
6 just if there was any analysis of the potential  
7 development fee that would be realized as part of  
8 this project as being the affordable housing.  
9 This would be the nonresidential --

10 MR. DRILL: The commer- -- he's asking about  
11 the commercial. He's not asking -- right. Nick,  
12 specify. Why aren't you asking about the  
13 affordable housing project? Because they're  
14 exempt?

15 MR. DICKERSON: Because -- yes, that is  
16 correct.

17 MR. DRILL: So you're asking about an  
18 estimation of the fees from the commercial?

19 MR. DICKERSON: That is correct.

20 MR. HUGHES: We did not include that in the  
21 report. I mean, that's a -- it's a one-off fee.  
22 It would be -- you know, we certainly could, but  
23 I think the board and the township would just  
24 have to realize that that's a one-off event,  
25 essentially. So we were looking at this on an

1 annual basis going forward.

2 MR. DICKERSON: So looking at the long-term  
3 costs, and not just the one-offs.

4 MR. HUGHES: Correct.

5 MR. DICKERSON: I have no other questions.

6 MR. NORDELO: Thank you. We'll now proceed  
7 to members of the public that have questions of  
8 this witness, which is Mr. Hughes. Do any members  
9 of the public have any questions for this  
10 witness? Name and address, if they do.

11 MR. DRILL: And Mr. Dickerson is ready to  
12 hand off the microphone.

13 MS. LA BRUTTO: Are you --

14 MR. NORDELO: Name and address, please.

15 MS. LA BRUTTO: Rita La Brutto.

16 MR. DRILL: Come on. Come on. Rita, come  
17 on --

18 MR. NORDELO: On the microphone.

19 MS. LA BRUTTO: I'm sorry. Rita La Brutto,  
20 104 Arlington Road.

21 Are you familiar with a memo that came from  
22 Union County dated December 8?

23 MR. HUGHES: No.

24 MS. LA BRUTTO: It was -- this memo was  
25 received December 12 in our planning and zoning

1 department. So you're not familiar with that?

2 MR. DRILL: Rita -- Rita, we're not picking  
3 you up. You've got to talk louder or make sure  
4 the mic's on.

5 MS. LA BRUTTO: So --

6 MR. DRILL: There we go. That's better.

7 MS. LA BRUTTO: Just for clarity, this was  
8 received in our planning and zoning office on  
9 December 12. So you're still not familiar with  
10 it?

11 MR. HUGHES: What is it regarding?

12 MS. LA BRUTTO: Okay. The memo is regarding  
13 they reviewed the application --

14 MR. DRILL: Is it a memo? Is it a letter?  
15 Who's it from? Who's it to? And what's the  
16 date?

17 MS. LA BRUTTO: It was to Ms. --  
18 Ms. Lenahan.

19 MR. DRILL: From?

20 MS. LA BRUTTO: From the planner at the  
21 county --

22 MR. DRILL: This is from the Union County --

23 MS. LA BRUTTO: Union County. It's from  
24 Kamal --

25 MR. DRILL: Yeah, but is it --



1 MS. LA BRUTTO: -- Saleh --

2 MR. DRILL: Okay.

3 MS. LA BRUTTO: -- supervising planner.

4 MR. DRILL: Is it from the Union County  
5 Planning Board, Union County, or just from him?

6 MS. LA BRUTTO: It's sincerely him,  
7 supervising planner. Kamal --

8 MR. DRILL: Okay. And what's the date on  
9 it?

10 MS. LA BRUTTO: It's dated December 8. We  
11 received it December 12.

12 MR. DRILL: So it's -- there's a memo  
13 apparently from County -- Union County planner,  
14 dated December 8, received December 12 --

15 MS. LA BRUTTO: 12th.

16 MR. DRILL: -- and her question is, do you  
17 recall seeing it?

18 MR. HUGHES: No. I -- and I did not have  
19 that at the time of doing my testimony last week.

20 MS. LA BRUTTO: Okay. He goes on to review.

21 MR. DRILL: Hey. Hold -- hold on.

22 MS. LA BRUTTO: I'm sorry.

23 MR. DRILL: If it hasn't seen it, go on to  
24 the next question.

25 MS. LA BRUTTO: I can't ask him about it.

1 MR. DRILL: That's right.

2 MS. LA BRUTTO: Okay.

3 MR. DRILL: My recommendation is --

4 MS. LA BRUTTO: So is it a question for the  
5 board?

6 MR. HUGHES: I agree.

7 MS. LA BRUTTO: So is it a question for the  
8 board?

9 MR. DRILL: It's gonna be for your -- your  
10 sworn testimony. I mean, you can't ask someone  
11 who hasn't seen the thing a question about it.

12 MS. LA BRUTTO: Well, they're withholding  
13 approval.

14 MR. DRILL: Listen, you tell that to the  
15 board.

16 MS. LA BRUTTO: Okay. All right. Thank you.

17 MR. NORDELO: Do we have any other members  
18 of the public that have any questions for this  
19 witness?

20 Seeing none.

21 MR. DRILL: Okay. Mr. Kent-Smith, you have  
22 anyone else? I think you should. I think you got  
23 one -- one issue left that you had to clean.

24 MR. KENT-SMITH: Yes, I do.

25 MR. DRILL: Two issues left.

1 MR. KENT-SMITH: Well, I'm gonna --

2 MR. CHAPLIN: I'll stand there.

3 MR. KENT-SMITH: Oh, yes. Let's switch  
4 sides. Yeah. All right. So --

5 MR. DRILL: Who is this for the record, by  
6 the way?

7 MR. KENT-SMITH: Oh, yeah. By the way,  
8 introduce yourself.

9 MR. CHAPLIN: For the record, Zachary  
10 Chaplin with Stonefield.

11 MR. KENT-SMITH: And you affirm you remain  
12 under oath?

13 MR. CHAPLIN: Yes.

14 MR. KENT-SMITH: There was a question raised  
15 at the last hearing relative to sidewalk  
16 dimensions. Did you go back out to reconfirm or  
17 reverify sidewalk dimensions?

18 MR. CHAPLIN: Yes, I did.

19 MR. KENT-SMITH: And there was a question  
20 relating to the sidewalk section as the sidewalk  
21 goes down from the site, it -- underneath the  
22 railroad bridge relative to that dimension. Can  
23 you explain what went on there?

24 MR. CHAPLIN: Yes, absolutely. I just want  
25 to refer back. This has already been marked for

1 the record. It's a sidewalk expansion exhibit.  
2 There's two sheets prepared by Stonefield. I  
3 don't recall the -- what we marked this  
4 as

5 MR. DRILL: Hold on. He's gonna --  
6 You're gonna get it up on our screen here or  
7 not.

8 UNIDENTIFIED MALE SPEAKER: (Inaudible).

9 MR. NORDELO: Oh, it's not on ours.

10 Ms. Lenahan --

11 MR. DRILL: Not on ours.

12 MR. NORDELO: Seems like it's stuck on the  
13 cursor.

14 MR. DRILL: And by the way, this is  
15 everyone's screen.

16 Mr. Kent-Smith, do you happen to --

17 MR. KENT-SMITH: I am looking for it as we  
18 speak.

19 Brian, do you know what the exhibit number  
20 was?

21 All right. Let's see here.

22 Reference the exhibit number. Get back to  
23 the microphone and reference the exhibit number.  
24 I'll take care of this.

25 MR. CHAPLIN: Okay. It's Exhibit A16 and

1 A17.

2 MR. KENT-SMITH: Mr. Chaplin, what -- the  
3 question was raised relative to sidewalk  
4 diameters. Did you reverify those?

5 MR. CHAPLIN: I think I'm just waiting for  
6 them to see it.

7 MR. KENT-SMITH: Oh.

8 MR. DRILL: It's hard to suppress a sneeze.

9 MR. KENT-SMITH: While we're at that,  
10 there's another question I can ask you that you  
11 don't need -- so did you receive the Union County  
12 letter of December 8, 2022, that was addressed to  
13 this board?

14 MR. CHAPLIN: Yes, I did.

15 MR. KENT-SMITH: And can you just briefly  
16 describe to the board response to the  
17 recommendations made by the county relative to  
18 the plan resubmission necessary for the county to  
19 proceed to act on the application?

20 MR. CHAPLIN: Yes. So there are a number of  
21 comments from the county as is typical when  
22 submitting the app.

23 UNIDENTIFIED MALE SPEAKER: (Inaudible).

24 MR. CHAPLIN: Okay.

25 UNIDENTIFIED MALE SPEAKER: And that's

1 really not hard. (inaudible).

2 MR. CHAPLIN: Sure. So as is typical, we  
3 submitted to the county and they provided us with  
4 comments. These are comments on the application.  
5 I believe there are six total comments which we  
6 will have to address and obtain their approval as  
7 a condition of approval, which again is standard.  
8 The comments are mostly technical in nature.  
9 Some of which are related to replacement of  
10 sidewalk, which we're doing and other comments  
11 related to providing standard county details.

12 MR. DRILL: So you're suggesting what as a  
13 condition of approval?

14 MR. KENT-SMITH: That we resolve the design  
15 issues raised in the December 8, 2022, memo to  
16 the satisfaction of the Union County Planning  
17 Board so as to receive, you know, Union County  
18 Planning Board approval.

19 MR. CHAPLIN: Can -- can everybody see the  
20 screen? Okay. So I personally went to the site  
21 again, just to take a closer look at the sidewalk  
22 measurements. 95 percent of the sidewalk along  
23 the frontage is approximately four feet plus or  
24 minus an inch. So where it does change is at the  
25 northern end. And what I'll say is that -- and I

1 think that where the confusion came with the  
2 seven-foot sidewalk is that there's a three-foot  
3 concrete swale. And actually Mr. --

4 MR. DRILL: Three-foot what swale?

5 MR. CHAPLIN: Concrete swale. And actually  
6 Mr. Seckler from my office previously testified  
7 to this when he was also presenting an exhibit.  
8 Essentially, what happens is these -- there's a  
9 very steep slope right up against the berm as we  
10 head down towards the bridge. I'm zooming into  
11 that -- that part of the exhibit.

12 MR. DRILL: So I just want to clarify  
13 something, 95 percent of the sidewalk is  
14 approximately four feet wide. The other 5 percent  
15 is at the northern end. It is approximately four  
16 feet wide, but there's an additional three feet  
17 for a concrete swale. That's your testimony.

18 MR. CHAPLIN: Almost.

19 MR. DRILL: Okay.

20 MR. CHAPLIN: So there's a three-foot  
21 concrete swale. It actually starts at the limit  
22 where we are expanding the sidewalk to six feet  
23 to the point where we can't because we're trying  
24 to protect the berm. That's that differentiation  
25 between the red and the blue color, where we're

1 showing that at that point, it's not practical  
2 for us to --

3 MR. DRILL: Stop, stop, stop.

4 MR. CHAPLIN: Yeah.

5 MR. DRILL: Existing conditions. That's one  
6 of my question is.

7 MR. CHAPLIN: Yeah.

8 MR. DRILL: Existing conditions. The 5  
9 percent at the northern end, what's the existing  
10 condition, sidewalk versus swale?

11 MR. CHAPLIN: So at this point, it's four  
12 feet, and it continues to be four feet until the  
13 last 50 feet of the frontage. At that point, it  
14 tapers and the last 50 feet up until our property  
15 line, it gets as high as 66 inches is at its  
16 widest point, plus the three-foot concrete swale.  
17 So only 50 feet at the very end of our frontage  
18 does it taper out and the sidewalk widens. The  
19 remainder is at 51 inches exactly, relatively  
20 four feet. And then beyond that, going south  
21 across the entire frontage, it's four feet today.

22 And I just want to -- as a reminder, we're  
23 replacing 785 linear feet -- or sorry -- 1268  
24 linear feet, we're replacing and widening to six  
25 feet, which is 62 percent of the sidewalk.



1 UNIDENTIFIED MALE SPEAKER: Did you have an  
2 opportunity to go on the other side of the train  
3 tracks?

4 MR. CHAPLIN: I did not walk to the other  
5 side of the train tracks now.

6 UNIDENTIFIED MALE SPEAKER: Do you have any  
7 -- do you know if the sidewalk gets wider on the  
8 other side or if it stays the same?

9 MR. CHAPLIN: I -- I don't know offhand. I  
10 stopped at the train tracks.

11 UNIDENTIFIED MALE SPEAKER: It stays the  
12 same. I'm pretty sure.

13 MR. DRILL: It's not that you're a witness,  
14 but that's based as your experience as a board  
15 member and a member of the township based on your  
16 personal observations, correct?

17 UNIDENTIFIED MALE SPEAKER: Correct.

18 MR. DRILL: Okay.

19 MR. KENT-SMITH: And I believe we've covered  
20 everything unless I missed something.

21 UNIDENTIFIED FEMALE SPEAKER: So who  
22 developed the plan that I think our expert Jackie  
23 showed that had the seven feet -- you're saying  
24 that includes like a three-foot swale.  
25 So the survey, the way the survey was prepared,

1           they basically took from the curb to the edge of  
2           the concrete as a seven-foot dimension, they did  
3           not --

4           MR. DRILL: Differentiate. They didn't  
5           differentiate between sidewalk and swale. They  
6           just took the concrete, you're saying?

7           MR. CHAPLIN: Correct.

8           UNIDENTIFIED FEMALE SPEAKER: Now, what's  
9           the purpose of that concrete swale? Well, could  
10          it be removed and a sidewalk be placed instead?

11          MR. CHAPLIN: We would not recommend that.  
12          It was purposely put there. Because what's  
13          happening in that specific area, you have very  
14          steep slopes where when it rains, the runoff is  
15          hitting the sidewalk essentially so that swale is  
16          essentially picking up that rain and directing it  
17          to the north --

18          MR. DRILL: Picking up the stormwater  
19          runoff.

20          MR. CHAPLIN: Stormwater runoff so as to not  
21          hit the sidewalk pond (inaudible) icy conditions.  
22          It does have a purpose. And even speaking with  
23          the board's engineer, they also agree that it  
24          makes sense to have that remain.

25          UNIDENTIFIED FEMALE SPEAKER: And then just

1 to look at the exhibit, so 7 and 8 that --

2 MR. DRILL: Photo 7 and 8?

3 UNIDENTIFIED FEMALE SPEAKER: Those are  
4 photo 7 and 8 that I know I've probably cited  
5 many times in our past hearings. So in that  
6 particular area where it literally goes from  
7 sidewalks to street without a buffer is Hartz  
8 proposing to extend those four feet sidewalks?

9 MR. CHAPLIN: Extend four feet how? How do  
10 we --

11 UNIDENTIFIED FEMALE SPEAKER: So -- so --  
12 so --

13 MR. DRILL: Make it wider is her --

14 MR. CHAPLIN: No, we're not --

15 MR. DRILL: She said extend, but she meant  
16 wider.

17 UNIDENTIFIED FEMALE SPEAKER: Wider. Right.

18 MR. CHAPLIN: No. We're not proposing to do  
19 that.

20 UNIDENTIFIED FEMALE SPEAKER: Okay. So 7  
21 and 8 remain --

22 MR. CHAPLIN: Correct.

23 UNIDENTIFIED FEMALE SPEAKER: Sidewalk,  
24 street, no increase.

25 MR. CHAPLIN: Yes.

1 UNIDENTIFIED FEMALE SPEAKER: And is that  
2 four feet currently as we speak?

3 MR. CHAPLIN: So that's what I said before.  
4 It's four feet up until the last 50 feet of  
5 linear frontage where it does taper and get the  
6 66 inches at the -- at the end of the property.

7 UNIDENTIFIED FEMALE SPEAKER: Thank you.

8 MR. DRILL: I do not want to ignite a  
9 firestorm. I just -- and I'm not taking a factual  
10 position on this. I just want to just make sure  
11 that the record is clear. Last hearing,  
12 Mr. Kent-Smith and I had a spirited back and  
13 forth. And I just want to put in the record  
14 because the board is going to have to decide what  
15 it wants to do about this exception request,  
16 Mr. Kent-Smith was talking about the COA rules  
17 saying, you know, that there can't be a cost-  
18 generative requirement of the board. And we --  
19 I'm not going to rehash.

20 But the one thing I do want to say, I went  
21 back to look at the COA rules, and it's  
22 interesting. The second round Kohler rules  
23 say -- this is N.J.A.C. 5:93-10.1(a) talks about  
24 that municipalities shall eliminate development  
25 standards that are not essential to protect

1 public welfare. So in my opinion, sidewalks would  
2 be part of public welfare.

3 But having said that, in the second round  
4 rules in N.J.A.C. 5:93.10.2(a)(4), it actually  
5 said that the excessive requirements for  
6 sidewalks and paved paths are that the council  
7 should spell -- should give special attention to.  
8 Didn't say it was cost-generative.

9 But then I looked at the third round rules.  
10 And this excessive requirement for sidewalks and  
11 paved paths was  
12 taken out --

13 MR. KENT-SMITH: Well, just so you know --

14 MR. DRILL: Whoa, whoa, whoa. I'm not done.

15 MR. KENT-SMITH: -- third round rules were  
16 not adopted.

17 MR. DRILL: I'm not done. I'm not done --  
18 was taken out of the third round rules. And this  
19 part of the third round rules is not growth share  
20 based. And under Mount Laurel IV, in my opinion,  
21 this third round rule would apply. So therefore,  
22 in my opinion, when the board considers whether  
23 or not to grant this exemption -- exception for  
24 the sidewalk width -- and again, I'm not taking a  
25 position on whether you should grant it or not

1 grant it. But in my opinion, my legal opinion is  
2 if the Board found that they didn't prove -- or  
3 you weren't satisfied that they proved an  
4 exception from the eight-foot, in my opinion,  
5 denying that exception would not be cost-  
6 generative, even under the COA rules under --  
7 specifically under the third round color rule.  
8 Now, if you want to put something in the record,  
9 go for --

10 MR. KENT-SMITH: All I wanted to say is I  
11 respectfully disagree. I don't think that  
12 provision is applicable relative to the Court's  
13 underlying decisions under Mount Laurel III. I  
14 further -- also there's the Morris County case,  
15 which specifically states that boards are to  
16 consider reasonable deviations for the interest  
17 of creation of affordable housing, inclusive of  
18 reduction of cost-generative standards. So this  
19 is a legal issue. Drill's rendered his opinion.  
20 I respectfully disagree.

21 MR. DRILL: Yeah. And I just want to add  
22 one more thing. Like I said last time, if the  
23 argument is that this is going to create so much  
24 expense it's going to negatively impact on the  
25 affordable units, in my opinion, you have to put

1 some proofs in about that.

2 And I want to be clear about something we  
3 had this discussion about moving utility poles  
4 and I want to be crystal clear, in my opinion,  
5 the board should not -- if the board denies the  
6 exception and says you have to have eight-foot  
7 wide sidewalks, the board should not condition  
8 that they have to move any utility poles. Those  
9 utility poles, in my opinion, can stay right  
10 where they are and if they're right in the middle  
11 of an eight-foot sidewalk. You could argue that  
12 what's the purpose of expanding the sidewalk to  
13 eight feet if you have a utility pole in the  
14 middle of it.

15 But I want to ask --

16 Can you give the microphone to  
17 Mr. Dickerson?

18 Because I want to ask Mr. Dickerson: In  
19 your experience as a planner seeing, you know,  
20 sidewalks to get widened and sidewalks to get put  
21 in and utility poles, have you -- have you seen  
22 any sidewalks that have either utility poles or  
23 trees or whatever in the middle of a sidewalk? So  
24 basically, if you're walking down the sidewalk,  
25 you got to move out of the way.

1 MR. DICKERSON: Yes, I have.

2 MR. DRILL: Now, I assume that you don't  
3 think that it's a good planning principle to do  
4 that.

5 MR. DICKERSON: It's not pretty, no.

6 MR. DRILL: Right. It's not. But it  
7 happens, correct?

8 MR. DICKERSON: That's correct.

9 MR. DRILL: Okay. So you want to -- if you  
10 want to respond on the record to that, go for it.  
11 But beyond -- be clear that adding the expense of  
12 moving utility poles, you might have a point -- I  
13 want to make it clear that if the board denies  
14 the exception, you do not impose a condition in  
15 my opinion that they move the utility poles. You  
16 focus on the sidewalk, not utility poles.

17 MR. DICKERSON: I want to give just a  
18 refresher a little bit on just what we spoke  
19 about previously. A lot of the frontage, we're  
20 keeping that grass strip, which I think the board  
21 generally wants to see. I think that's a good  
22 thing to have. That's where the utility poles  
23 are. So what we're not -- where we're not  
24 explaining is where the berm is.

25 So I know the utility poles came up, but



1 really the main reason -- and you could see it in  
2 the exhibit that I'm showing right now, you could  
3 see the contours and that start of the berm. We  
4 don't want to expand in that direction. We don't  
5 want to expand to the east because that's the  
6 grass strip.

7 MR. DRILL: I get it. And this is something  
8 that the board is going to have to consider the  
9 proofs are in on it, and the board is going to  
10 have to consider it. Thank you.

11 MR. KENT-SMITH: So I have no further  
12 questions.

13 MR. NORDELO: Any questions for our board  
14 members?

15 Go ahead, Mr. Pistol.

16 MR. PISTOL: So I just want to clarify. If  
17 the board were to grant the applicant's request  
18 for a variance --

19 MR. DRILL: For the -- for the exception.

20 MR. PISTOL: -- right -- from the eight-foot  
21 sidewalk requirement, the applicant has still  
22 agreed to widen 62 percent of the sidewalk 1268  
23 linear feet to be six feet.

24 MR. KENT-SMITH: That is correct.

25 MR. PISTOL: Okay. Thank you.

1 MR. NORDELO: Mr. Taylor.

2 MR. TAYLOR: And since Mr. Drill brought it  
3 up, I just want to point out that in the area  
4 where the -- at the northern end of this property  
5 where the sidewalk is abutting the -- the severe  
6 slope, and where that drainage swale is located,  
7 the concrete that we just found out about, from  
8 an engineering point of view, it would not be  
9 advisable to widen the sidewalk from an  
10 engineering point of view, correct?

11 MR. CHAPLIN: Correct.

12 MR. TAYLOR: Okay. I agree with you. I just  
13 wanted to make sure that when I talk to my fellow  
14 board members that --

15 MR. DRILL: You want to ask him to explain  
16 why so the board members would understand?

17 MR. TAYLOR: Well, instead of -- sure.

18 MR. DRILL: Not you explain why, him.

19 MR. TAYLOR: Can you give another overview  
20 of that, please?

21 MR. CHAPLIN: Yeah. When you have such a  
22 change in grade, it's such a steep slope. The  
23 stormwater runoff is basically the -- the rate of  
24 flow is very high and it's going to hit right  
25 onto the sidewalk area. So that drainage swale is

1           able to collect it, and is able to convey it to  
2           the south and eventually it hits storm pipe and  
3           ties into the conveyor, municipal conveyance  
4           system. So it doesn't go into the sidewalk. It  
5           doesn't go into the street, won't impact  
6           pedestrians, or even gutter flow where people are  
7           driving.

8           MS. SEN:    Would a swale not be possible on  
9           the outside of an expanded sidewalk?

10          MR. CHAPLIN:  Swale on the outside of the  
11          sidewalk? I'm sorry.  What do you --

12          MS. SEN:    Right.  So if you -- you're  
13          saying --

14          MR. KENT-SMITH:  In other words, she's  
15          asking -- can -- can I?

16          MS. SEN:    Yeah.

17          MR. KENT-SMITH:  You mind?

18          MS. SEN:    No.  Go ahead.

19          MR. KENT-SMITH:  Ms. Sen, do you mind?  What  
20          she's asking is if you expanded the sidewalk,  
21          could you then construct a new three-foot swale?

22          MR. CHAPLIN:  No.  Because that's where the  
23          steep slope starts.  We'll be eating into that  
24          berm.

25          MS. SEN:    Okay.

1 MR. CHAPLIN: Yeah.

2 MS. SEN: And how do you know that with your  
3 expertise? Because you're -- you're a traffic  
4 expert, correct?

5 MR. DRILL: He's the site design and civil  
6 engineer.

7 MS. SEN: Okay. Site designer. Okay. So my  
8 question relates to, obviously, safety, right? So  
9 if you have a street -- a sidewalk that goes  
10 straight to the street without a buffer that's  
11 only four feet, you know, how can -- and you have  
12 a very busy area? I mean, how is that possible,  
13 right? I mean, the ADA -- a wheelchair alone is  
14 like three feet. So I'm just concerned about the  
15 safety. Like is there anything that possibly you  
16 would be willing to do to expand that sidewalk,  
17 particularly, in photos 7 and 8?

18 MR. CHAPLIN: I think it's worth  
19 understanding that it is a common condition to  
20 have a four-foot sidewalk abutting the road  
21 without a grass strip. I think, ideally, where  
22 you have the room, you provide the grass strip,  
23 but there's plenty of towns, plenty of areas  
24 where that's not the case. You have a four-foot  
25 sidewalk, and it abuts the road. That's a common

1 condition that we see. I don't think it's a  
2 safety hazard the way it is. I -- I think that -  
3 - again, where we have the room and we're able to  
4 do it, it's better to have a wider sidewalk, it's  
5 better to have the grass strip, but in that  
6 specific -- in this specific case, we're doing  
7 everything we can.

8 We're dealing with a steep slope, you know,  
9 with the concrete gutter, and then obviously the  
10 roadway. So there's really no -- there's no  
11 feasible way for us to make it wider.

12 So you're saying you can't widen it at all, even  
13 if it's an extra foot, an extra two feet --

14 MR. CHAPLIN: I would say --

15 MS. SEN: -- four feet, boom, fall into the  
16 street? I mean, honestly, I would not go with my  
17 kids.

18 MR. CHAPLIN: We could widen it by removing  
19 the swale but then I think you'd have the issue  
20 of when it rains,  
21 you're gonna have -- but you're saying it is  
22 possible, you're just not willing to do it.

23 MR. KENT-SMITH: It would -- in the  
24 consideration of safety versus the widening --  
25 Mr. -- no, I have --

1 MR. CHAPLIN: I -- I don't recommend it as  
2 an engineer to widen the sidewalk, I think with  
3 the conditions that are in place, that the way it  
4 currently is the safest way given all the  
5 constraints that we have.

6 MR. KENT-SMITH: If it rains and then it  
7 freezes and if you don't have the swale, what  
8 would happen on the sidewalk?

9 MR. CHAPLIN: It would -- it would create  
10 icy conditions.

11 MR. KENT-SMITH: Okay.

12 MR. CHAPLIN: We're doing everything we can.  
13 It's not like we're purposely trying to not make  
14 it better. You can see that we've -- that we've  
15 gone out of our way to expand the sidewalk --

16 MS. SEN: I can tell you there's one  
17 strip -- I walk everywhere with my kids. I have  
18 walk just because I hate driving. And the one  
19 area that I'm always very concerned about is when  
20 we cross the river and we're going into town,  
21 because it literally goes sidewalk to street.  
22 And it is wide. I -- it's probably about six to  
23 eight -- maybe eight feet. It complies with  
24 everything. But I'll tell you, I am very  
25 cautious, and very careful with my children when

1 I walk and they're very small kids.

2 So to know Walnut and how heavily trafficked  
3 it is and how difficult it is now, I'll tell you,  
4 it's hard every time we go to the Ani Ramen House  
5 to just walk around that area and to park to know  
6 that you literally have no buffer and you're  
7 going straight from a sidewalk to street concerns  
8 me about safety.

9 MR. NORDELO: Thank you, Ms. Sen.

10 Any other questions -- are there any other  
11 questions from our board members for this  
12 witness?

13 And our professionals?

14 No.

15 MR. DRILL: And the public.

16 MR. NORDELO: Any members of the public have  
17 questions for this witness?

18 MR. DRILL: (Inaudible).

19 MR. NORDELO: Okay. Any members of the --  
20 question -- go ahead. Members of the public.  
21 Name and address.

22 MR. KENT-SMITH: This is just limited to  
23 what he just has testified.

24 MR. NORDELO: Yeah, to this limited --

25 MR. KENT-SMITH: Just this testimony --

1 MR. NORDELO: Understand. Yep. She  
2 understands.

3 Can you grab her -- can you hand her the  
4 mic, please?

5 Well, actually, Ms. La Brutto, just one  
6 second. We have a board member that has a  
7 question.

8 MAYOR PRUNTY: So I was -- we can't see the  
9 picture up here of the area that Mr. Sen is  
10 talking about, but is there a possibility as  
11 you're heading towards the overpass, the Conrail  
12 site, that there could be bollards along like the  
13 curb line?

14 MR. CHAPLIN: It would have to be subject to  
15 county review and it's --

16 MAYOR PRUNTY: Okay.

17 MR. CHAPLIN: -- pretty on -- yeah. I do --  
18 I do want to point out there -- these are  
19 shoulders, so it's not like you're going right  
20 onto traffic.

21 MAYOR PRUNTY: I know. It's straight --

22 MR. CHAPLIN: Right.

23 MAYOR PRUNTY: -- straight shoulder.

24 MR. CHAPLIN: Yep.

25 MR. NORDELO: Thank you.



1           Mr. Kent-Smith, can you hand Ms. La Brutto  
2 the microphone. Thank you.

3           MS. LA BRUTTO: I gotta go --

4           MR. NORDELO: Yeah. Switch places. All  
5 right. Name and address.

6           MS. LA BRUTTO: Rita La Brutto, 104  
7 Arlington Road. There's an item on there that  
8 talks about the flashing lights to cross Wal- --

9           MR. DRILL: An item on -- on where?

10          MS. LA BRUTTO: On the letter. I'm sorry.

11          MR. DRILL: The Union County letter?

12          MS. LA BRUTTO: Yeah, the Union County  
13 letter.

14          MR. DRILL: Okay.

15          MS. LA BRUTTO: So do you -- they're asking  
16 for proof based on the analysis as to whether or  
17 not you can justify having a flashing light  
18 there. Do you feel comfortable that you have  
19 those proofs?

20          MR. CHAPLIN: I don't think I can speak to  
21 this. I think the traffic engineer is more  
22 suitable to answer that.

23          MS. LA BRUTTO: All right.

24          MR. NORDELO: Thank you. Are there any other  
25 members -- members of the public that have

1 questions for this witness?

2 Seeing none, Mr. Kent-Smith.

3 MR. TAYLOR: Can I just ask one follow-up?

4 MR. NORDELO: Sure, Mr. Taylor. My  
5 apologies.

6 MR. TAYLOR: Well, I have my own question.

7 Okay. If you were (inaudible) this -- or not  
8 talking about this development, but if you were  
9 doing a site plan for a residential development  
10 and you had to design a sidewalk in front of that  
11 house or -- or structure, how wide would that  
12 sidewalk have to be to get the code for Cranford?

13 MR. CHAPLIN: I want to say four feet, but  
14 I'm not confident.

15 MR. TAYLOR: Okay. I believe that's what our  
16 code is.

17 You know what our code says?

18 MR. DICKERSON: (Inaudible).

19 MR. NORDELO: He needs a microphone.

20 MR. DRILL: Microphone.

21 MR. NORDELO: For the record.

22 MR. DICKERSON: The way that it's written in  
23 the code, I believe it states a minimum width of  
24 four feet. That's correct.

25 MR. TAYLOR: Thank you.

1 MR. NORDELO: Okay, Mr. Kent-Smith.

2 MR. KENT-SMITH: Thank you very much. At  
3 this juncture, I have no further evidence to  
4 present to the board. I do want to just reserve  
5 in the case of public comment if there's  
6 something that's raised that I have an  
7 opportunity to --

8 MR. DRILL: You want to reserve a right to  
9 rebuttal.

10 MR. KENT-SMITH: Correct.

11 MR. DRILL: Well, maybe you should take your  
12 second five-minute break.

13 MR. NORDELO: So we'll adjourn for five  
14 minutes. And then we'll head into public  
15 comment.

16 UNIDENTIFIED MALE SPEAKER: But no more than  
17 five?

18 MR. NORDELO: Okay. Too soon.

19 All right. Mr. Kent-Smith, proceed.

20 MR. DRILL: Let's just see if we -- if -- if  
21 -- let me just see if there's any other  
22 outstanding (inaudible).

23 MR. NORDELO: So public comment. First  
24 member of the public?

25 MR. KENT-SMITH: Wait a minute. I'm sorry.

1 You get the mic.

2 MR. SMITH: Don Smith, 21 Oneida Place.

3 Just a general question at this point.

4 MR. DRILL: Can you identify yourself?

5 MR. SMITH: Don Smith, 21 Oneida Place.

6 MR. DRILL: All right. Raise your hand  
7 please.

8 You swear that the comments and testimony  
9 you're gonna give will be the truth, the whole  
10 truth, and nothing but the truth?

11 MR. SMITH: I do.

12 MR. DRILL: Okay.

13 MR. SMITH: My question is now that this  
14 basically has all been presented to the board,  
15 what is the schedule from this date going forward  
16 as to when you plan to have a final vote?

17 MR. DRILL: Yes. So tonight is the public  
18 comments. And then the deliberation and vote is  
19 going to be on January 18 --

20 UNIDENTIFIED MALE SPEAKER: Or immediately  
21 following tonight?

22 MR. DRILL: Well, what we committed to do --  
23 now if you guys want to change, but I said before  
24 the end of the year, I'd give you a jury charge  
25 to give you the standards --

1 UNIDENTIFIED MALE SPEAKER: Okay.

2 Understood.

3 MR. DRILL: Right?

4 MR. NORDELO: Mr. Smith, to answer your  
5 question, we will proceed as the schedule  
6 Mr. Drill just said in January.

7 MR. DRILL: Tonight's the public comments.  
8 And then January 18, the board's gonna deliberate  
9 and vote after I give them a jury charge. And I'm  
10 going to submit this jury charge both to  
11 Mr. Kent-Smith and anyone in the public who wants  
12 to look at it and give me comments on it. On  
13 controversial large applications, that's been my  
14 practice to do.

15 And it's gonna come out of -- I'm not  
16 creating, you know, not reinventing the wheel,  
17 it's gonna come out of my crib sheets. But I'm  
18 going to take the crib sheets for each type of  
19 relief that's sought and I'm going to put it out  
20 there. And I may even have like a jury form to  
21 help the board with their deliberations.

22 So tonight's tonight. If you want to say  
23 anything, you should -- I just swore you in.

24 MR. SMITH: I'm just trying to get the  
25 schedule right now. And the fact is that that

1 vote that this board is going to take is going to  
2 be in public?

3 MR. DRILL: Yes.

4 MR. SMITH: It's going to be public?

5 MR. NORDELO: Correct.

6 MR. DRILL: Yep.

7 MR. SMITH: The only other piece of  
8 information I would submit is on the issue of the  
9 berm and the trees. All right. Now, our new  
10 commissioner coming on board in January is a  
11 member of the Cranford Tree Commission. And they  
12 have done some things and he's an advocate for  
13 more trees. So if by chance the berm turns out to  
14 be spots in it, with Hartz's permission, maybe  
15 the committee, your tree committee, could then  
16 participate in working to fill in the gaps at  
17 their expense, but our labor.

18 MS. LENAHAN: Actually, Cranford no longer  
19 has tree commission. But Mr. Curran is --

20 MR. SMITH: I suspect we're going to get  
21 one.

22 MAYOR PRUNTY: -- Mr. Curran is --

23 MR. SMITH: So I submit that as an item for  
24 consideration.

25 MR. NORDELO: Thank you, Mr. Smith.

1           Next witness -- not witness, member of the  
2 public.

3           MR. DRILL: Identify yourself for the  
4 record.

5           MS. SMITH: Sure. I will. Loretta Smith 21  
6 Oneida Place.

7           MR. DRILL: And can you raise your right  
8 hand?

9           MS. SMITH: Oh.

10          MR. DRILL: Do you swear the comments or  
11 testimony that you're gonna get this evening will  
12 be the truth, the whole truth, nothing but the  
13 truth?

14          MS. SMITH: I do.

15          MR. DRILL: And can you pull that mic down a  
16 little bit more?

17          MS. SMITH: Turn this down?

18          MR. DRILL: Yeah. There you go. That's  
19 good.

20          MS. SMITH: That sounded like it was gonna  
21 break, didn't it?

22          MR. DRILL: Nah, it's not gonna break.

23          MS. SMITH: I have a question. At what  
24 point, excuse me, are any, like, the -- the fire  
25 department, when will they -- the building -- the

1 residential building has to be built.

2 MR. DRILL: Everything has been reviewed by  
3 all the agencies that are going to --

4 MS. SMITH: So the fire department and the  
5 chief decided that two staircases are good enough  
6 in the residential area with four elevators?  
7 Obviously, he checked out the fire conditions and  
8 whatever when the building is going to be built,  
9 I'm sure he checked out windows to make sure that  
10 little child and dogs can't fall out a window  
11 that has no screens or bars, and I'm sure he  
12 checked out that at the very end, because it's a  
13 U shape, the staircases, nothing across the  
14 front?

15 So my thought was always all along, if  
16 there's a fire on the one side in the -- in the -  
17 - you know, you've got the fire doors. People on  
18 the side are going to see the fire. They can't  
19 get to the staircase. They're going to come  
20 through the fire doors, past the front part, go  
21 through the next section of fire doors all the  
22 way down to the other end. Now the doors are  
23 being left open because people are crying and  
24 screaming of dogs and children, whatever. But you  
25 say the fire department said that that is okay,



1           only two staircases?

2           MR. DRILL: I'm not saying anything. You've  
3           heard the testimony. The --

4           MR. NORDELO: I think we've reviewed that  
5           portion of the testimony and I appreciate you  
6           reminding us of that fact and the concern that  
7           you have in that particular juncture, but that's  
8           been reviewed in the testimony that has been  
9           provided to us by the applicant.

10          MS. SMITH: Nobody --

11          MR. DRILL: In other words, listen, if you  
12          disagree with the fire chief, talk to the fire  
13          chief. The fire chief weighed in. Now, you're  
14          gonna -- you're saying that the fire chief is  
15          wrong or he's missed something --

16          MS. SMITH: No, I didn't say that.

17          MR. DRILL: -- then talk to the chief.

18          MS. SMITH: I said --

19          UNIDENTIFIED MALE SPEAKER: It's really not  
20          the fire chief. It's built to code. The code  
21          dictates the --

22          MR. DRILL: The fire codes.

23          UNIDENTIFIED MALE SPEAKER: The fire codes.

24          MS. SMITH: So you're saying that our fire  
25          chief and our fire department have viewed this --

1 MR. DRILL: We're not -- listen. We're not  
2 saying anything. You can say that you think the  
3 board should impose as a condition if it's going  
4 to approve it, that'd be reviewed by the fire  
5 marshal and the fire chief. Tell that to -- if  
6 that's what you want, tell that to the board.

7 MS. SMITH: Okay. Then how do I do that?

8 MR. NORDELO: You just ask us.

9 MR. DRILL: Tell them right now.

10 MR. NORDELO: Yeah. Right now, if you --

11 MS. SMITH: There you go. I would like it  
12 done that way. I would like, you know, Chief Czeh  
13 to take a look into it, whoever has whatever  
14 would they do. I mean, you can't do anything in  
15 the fireplace without having somebody inspect it.

16 MR. DRILL: So what you're asking the --

17 MAYOR PRUNTY: May I? May I?

18 MR. DRILL: You can if you want, but you  
19 shouldn't.

20 MAYOR PRUNTY: It's just -- it's not an  
21 opinion. It's just fact. Any application and  
22 certainly one this large goes to the Development  
23 and Review Committee, which is made up the  
24 construction code official, the electrical  
25 inspector, fire department, police department,

1 health department, the whole -- all of them here  
2 in this building, review those plans before they  
3 even come here.

4 MR. NORDELO: And just -- just to add to  
5 that, in the -- in the -- in that review  
6 committee notes that we had, those are all taken  
7 into consideration. But I understand your concern  
8 that you would like the board, you would like to  
9 reiterate that concern to this board, correct?

10 MS. SMITH: Yes.

11 MS. SEN: And I think that, ma'am, you're  
12 asking whether there was a review by the fire  
13 chief, and I believe there was a report that was  
14 filed from the fire department.

15 MR. NORDELO: That's correct, Ms. Sen.

16 MS. SMITH: Now, I sat here through all of  
17 these deliberations. I don't actually remember  
18 him ever saying that. I don't remember hearing  
19 that that was already done.

20 MR. KENT-SMITH: If I could just -- just --  
21 the answer is, if you recall our architect who  
22 was here at the last meeting, his testimony was  
23 that the fire department had reviewed it, that  
24 what he had done is --

25 MR. DRILL: Mr. Kent-Smith, we're gonna get

1 out the DRC memo right now. Let's just -- let's  
2 just, for the record, nail this thing down  
3 instead of -- I don't want to testify about what  
4 I remember in the file. I really would prefer if  
5 board members don't talk until the deliberations.  
6 I mean, you have the right. But I'd really prefer  
7 that --

8 MAYOR PRUNTY: But an application can't come  
9 before the board until it goes to the DRC. And  
10 they issued a report.

11 MR. DRILL: I understand. That's why I'm  
12 asking that they pull the DRC memo right now.

13 MS. SMITH: Hmm. It's really interesting.  
14 All these times I've been sitting here. And I  
15 don't remember Dan Czeh talking about it.

16 UNIDENTIFIED MALE SPEAKER: No, the fire  
17 chief was not here. He did not --

18 MS. SMITH: I don't think so.

19 MR. DRILL: The fire chief doesn't have to  
20 be --

21 MAYOR PRUNTY: No, he doesn't have to be  
22 here.

23 MR. DRILL: Okay. So for the record --

24 MS. SMITH: I would like to have seen that -  
25 -

1 MR. DRILL: For the record, there's a memo  
2 dated July 13, 2022, to the Cranford Planning  
3 Board from the fire official. And the fire  
4 official on -- the memo is four pages long. And  
5 the fire official has reviewed the plans and made  
6 recommendations. And I believe the applicant --

7 MR. KENT-SMITH: Applicant has agreed.

8 MR. DRILL: -- to comply with all the  
9 recommendations that the fire chief made. So you  
10 can ask tomorrow from Ms. Lenahan to get a copy.  
11 And then if you don't agree with something that  
12 fire official said -- that's why I said before  
13 talk to the fire official. But it's been  
14 reviewed and they agreed to comply with  
15 everything. On top of that, they agreed to  
16 comply, which they have to, with the fire --  
17 state fire code.

18 MS. SMITH: Okay. But you said that I can  
19 come tomorrow and --

20 MS. LENAHAN: It's online. Just go right  
21 online.

22 MR. DRILL: Perfect.

23 MS. SMITH: Oh, okay. All righty. Thank you  
24 very much.

25 MR. NORDELO: Thank you. May we go to our

1 next member of the public, please.

2 Go ahead, sir.

3 MR. SMITH: You guys are really getting  
4 triple play from the Smith family. So Don Smith,  
5 187 Gibson Boulevard in Clark. So --

6 MR. DRILL: Whoa, whoa, whoa, whoa, whoa,  
7 whoa.

8 MR. SMITH: What?

9 MR. DRILL: Raise your right hand.

10 MR. SMITH: Oh, sorry.

11 MR. DRILL: Do you swear the testimony and  
12 comments you're about to give will be the truth,  
13 the whole truth, nothing but the truth?

14 MR. SMITH: Absolutely.

15 MR. DRILL: We don't have a Clark exception  
16 for --

17 MR. SMITH: Oh, okay. But I am from  
18 Cranford, so Cranford.

19 MR. DRILL: Okay. I understand.

20 MR. SMITH: So, okay. Again, 187 Gibson  
21 Boulevard in Clark. So my question is --

22 MR. DRILL: Why are these questions? These  
23 should be comments. This is your opportunity to  
24 make some sworn comments.

25 MR. SMITH: Yes. So the comments I have are

1 to have the board really seriously consider the  
2 traffic end of things. Okay. That's my -- been my  
3 career. I'm not a traffic engineer. I'm just a  
4 traffic reporter on TV, so I'm just the deliverer  
5 of the news. But in growing up in that  
6 neighborhood and just seeing how much the traffic  
7 has increased on Walnut Avenue and then it's  
8 going to -- obviously, it's spilling out onto  
9 Raritan Road and then getting down even to where  
10 I am on Gibson Boulevard going through Central  
11 Avenue. And then even further south of that with  
12 the new Valley Road and -- excuse me, Walnut  
13 Avenue Apartments, they're going to add a ton of  
14 traffic.

15 So now, again, seriously consider about  
16 making that left-hand turn coming out of the  
17 residential area. And I believe that -- again,  
18 I'm a little -- maybe a little late to this, but  
19 I believe that there is a left-hand turn from the  
20 commercial side. I believe is that the case that  
21 you're gonna be able to make a left-hand turn?

22 MR. DRILL: You're asking the Board to  
23 impose a condition saying what?

24 MR. SMITH: That -- that there should not be  
25 -- be able to make a left-hand turn trying to

1 make out of that commercial property because of  
2 the sight lines that have come underneath the --  
3 the Conrail Overpass. Because as it stands now,  
4 it's extremely difficult probably to -- I'm sure  
5 Ms. Esposito could -- could testify that, getting  
6 out of Behnert Place to make the left onto Walnut  
7 Avenue at five o'clock in the afternoon.

8 MR. DRILL: Mr. Kent-Smith, does the  
9 applicant agree to that it wants to board to  
10 impose a condition saying no left turns out of --

11 MR. KENT-SMITH: No, we do not agree. No, we  
12 do not agree.

13 MR. DRILL: I understand you want the board  
14 to impose the condition in any event, but I  
15 figured if they agreed, it would make it easier.

16 MR. SMITH: Well, there -- there we go. All  
17 right. Got it. Everybody -- but you know, trying  
18 to make that left is going to be extremely  
19 difficult. Okay. And, again, I'm not looking for  
20 anybody to have a light in front of their house  
21 on Behnert. I'm not. But I mean, in the interest  
22 of safety, possibly that that could -- that  
23 should be really, again, a second look at that.  
24 Again, I'm not advocating for anybody to look out  
25 their window and seeing a light 24/7 going red



1 light -- red, yellow, and green. Not at all.

2 But in the act of safety, I think the  
3 township itself really needs to look at the  
4 bigger picture that if somebody tries to make a  
5 left and all of a sudden you -- the sight lines  
6 or whatever coming out of the commercial side, I  
7 think could pose a major, like, legal liability  
8 for the township, that there could be a major  
9 problem and especially coming up --

10 MR. DRILL: I can tell you this.

11 MR. SMITH: Yes.

12 MR. DRILL: Legally, the township has design  
13 and approval immunity. So the townships -- in my  
14 opinion, the board should not worry about  
15 liability to the township if it granted approval  
16 with a left turn. The -- and I could go further  
17 about that, but I'll just leave it at that.

18 MR. SMITH: Okay. Again, I'm just making  
19 suggestions that the board take that and move  
20 those things to the top of the list.

21 Also, for the -- for that area of -- again,  
22 Sunny Acres doesn't really start there along  
23 Lexington Avenue. But it continues further out  
24 the traffic through those -- those neighborhoods.  
25 You know, who's going to -- obviously, the police

1 are going to -- are we going to enforce that to a  
2 degree. I mean, maybe it starts off once the  
3 building gets, you know, goes hot for the first  
4 six months or so. But I'm talking, you know, 10,  
5 5, 10 years down the road.

6 MR. DRILL: Is there anything else you're  
7 looking for besides the condition of no left turn  
8 out of the commercial site?

9 MR. SMITH: That's basically it. The left-  
10 hand turn, because, I mean, I think it's gonna be  
11 really difficult. And again, if the board would  
12 go possibly for, you know, potentially a traffic  
13 light at that intersection again. But that's,  
14 you know --

15 MR. NORDELO: No. And I -- I appreciate  
16 those comments. So they are concern about the  
17 safety, and I think we've already taken that  
18 down.

19 MR. SMITH: Okay. And as far as the -- the  
20 building itself, I know my mother was talking  
21 about the fire codes. Is this building going to  
22 be a nonsmoking building?

23 Do we know?

24 MR. DRILL: The board is not answering  
25 questions.

1 MR. SMITH: Okay. I'm just saying is that  
2 would be my recommendation.

3 MR. NORDELO: So your recommendation is that  
4 the building is nonsmoking?

5 MR. SMITH: Nonsmoking. To be nonsmoking  
6 inside. Because where -- where I've experienced  
7 that in the past.

8 MR. DRILL: You want -- so you're asking the  
9 board to impose the condition that there could be  
10 no smoking --

11 MR. SMITH: Inside the apartments itself.  
12 Inside the apartment itself. I know there's some  
13 legal things as far as what constitutes a home  
14 and whatever, and I'm not looking to get into a  
15 whole discussion on that. But I do know that  
16 there are some complexes that are setting up -- I  
17 believe actually one in Clark, I think it's the  
18 one on Raritan Road across the Manny's Diner --

19 MR. DRILL: You know, let me give it a shot.

20 Mr. Kent-Smith, your client agree to have a  
21 restriction of no smoking in the building, but  
22 you could have smoking areas outside the  
23 building?

24 UNIDENTIFIED MALE SPEAKER: (Inaudible).

25 MR. DRILL: You pick that up on that

1 recording, I hope? Okay.

2 UNIDENTIFIED MALE SPEAKER: If you'd like,  
3 Mr. Drill, I can let you know by the 18th.

4 MR. DRILL: Yeah. Why don't you let us know  
5 like by the end of next week?

6 UNIDENTIFIED MALE SPEAKER: Oh, no, no, no.  
7 Well, before the 18th certainly.

8 MR. DRILL: Yeah.

9 MR. SMITH: And again, and the reason I make  
10 that recommendation is because I've lived in an  
11 apartment that has had that and, again, just  
12 health standards and health whatever, I think  
13 it's important here in 2022, and this is not  
14 1982.

15 MR. NORDELO: Understood.

16 MR. SMITH: But I think that's probably  
17 really about it.

18 MR. NORDELO: Do you have any other -- so,  
19 it's two conditions.

20 MR. DRILL: Okay. Those are the two  
21 conditions he wants.

22 MR. SMITH: Is the traffic one and -- and  
23 the smoking recommendation.

24 MR. NORDELO: Yep. Understood.

25 MR. SMITH: Okay. Thank you.

1 MR. NORDELO: Thank you, sir.

2 Will -- our next member of the public for  
3 public comment. Remember, these are public  
4 comments, not questions to the board.

5 MS. ESPOSITO: Hi, I'm Christine Esposito,  
6 11 Behnert Place. Oh.

7 MR. NORDELO: You have to be sworn in.  
8 Correct.

9 MR. DRILL: You're from Cranford.

10 MS. ESPOSITO: I am from Cranford.

11 MR. DRILL: You swear the comments and  
12 testimony you're about to give will be the truth,  
13 the whole truth, nothing but the truth?

14 MS. ESPOSITO: Yes, I do. First of all, I'd  
15 like to start off by saying I thank the board  
16 members for being here and listening to this  
17 super lengthy application. I understand you're  
18 all volunteers, and I appreciate you giving the  
19 application ample and thoughtful fair review, and  
20 looking out for what's best in the interest of  
21 the applicant and of the township and the  
22 residents.

23 As you could tell from all of my  
24 questioning, my major concern is the driveway  
25 location in Behnert Place. And the other

1 statement I would like to make is when the  
2 redevelopment agreement was signed, the public  
3 was told to come to the planning board and ask  
4 questions and voice their concerns, which we have  
5 done at length. And I also want you to know that  
6 I think we were given some misguided information  
7 about the ability or the oversight that the board  
8 would have in terms of the gray area between  
9 what's the agreement, what's the plan, when can  
10 things be changed with the variance, when they  
11 can't be changed with the variance, and things  
12 that were in the agreement that are just set in  
13 stone. And it's been a frustrating experience  
14 for me, and I'm sure it has been for you as well  
15 with our -- with so many of our questions.

16 I do want to mention the traffic again, that  
17 I believe there's a lot of concerns with the  
18 traffic that's going to be in the area, and I  
19 believe that it should be addressed and looked at  
20 deeply before the board makes its approval.

21 Just to note that the traffic study did  
22 extend to the -- I'm really bad with directions -  
23 - to the west all the way to Central Avenue and  
24 Clark and ShopRite way. But to the east along  
25 Raritan road, it didn't even study like the end

1 of Lexington or Raritan Road, which is a major  
2 thoroughfare going up to the entrance that they  
3 had proposed for the industrial site at the top  
4 of Walnut. I think that's a huge flaw in this  
5 traffic study. And I wish you would take a  
6 greater look at that.

7 The next thing I would like the board to  
8 request is -- so I made sure I state it  
9 correctly. Can the board propose that the traffic  
10 as it is proposed right now exiting the  
11 residential facility does not cross into Behnert  
12 Place? I noticed that in many of the plans,  
13 there was an arrow that goes straight across.  
14 And we were under the understanding from our  
15 traffic engineer that there would be signage and  
16 mitigation of keeping traffic out of our -- out  
17 of our development.

18 MR. DRILL: So what are you -- what are you  
19 asking them to do now?

20 MS. ESPOSITO: I'm asking that there be no  
21 entrances or exits from 750s residential driveway  
22 at Behnert Place into the neighboring area?

23 MR. DRILL: Yeah, I know. I'm asking.  
24 But --

25 MS. ESPOSITO: Right now, the way it's

1 proposed is the driveway leaving 750 Walnut has a  
2 straight arrow on one side crossing into Behnert  
3 Place and a right. And it has the other side, I  
4 assume, is the entrance. So the entire burden of  
5 all of the traffic at this new site is going to  
6 be at that one driveway location. So I can't  
7 understand how people will not be going directly  
8 across into Behnert Place to exit the facility  
9 down Lexington --

10 MR. DRILL: I don't understand it. So what  
11 do you want the board to do?

12 MS. ESPOSITO: A right turn -- a right turn  
13 only or a left turn only. But then how do you do  
14 that when you -- Behnert Place residents still  
15 want to make a left into their own development?

16 MR. PISTOL: (Inaudible).

17 MR. NORDELO: Please turn on your mic.  
18 Mr. Pistol, you need to be on the mic. But -- if  
19 you're gonna make that comment.

20 MR. DRILL: Hold on one second.

21 Mr. Dickerson, can you? It's the collective  
22 recollections of board members that they  
23 testified and the board's traffic engineer  
24 testified that you can't go straight.

25 MS. ESPOSITO: On the most recent plans



1 we've been seeing, there's an arrow that shows  
2 straight across.

3 MR. DRILL: Okay. If there's an arrow  
4 showing straight across, what you want the board  
5 to do is as a condition to eliminate the arrow  
6 pointing across?

7 MS. ESPOSITO: Right.

8 MR. DRILL: Okay. That is something  
9 concrete.

10 MS. ESPOSITO: Okay. I thought that's what  
11 -- how I was explaining it.

12 MR. DRILL: Yeah. I'm going to -- well, you  
13 keep on asking -- you keep on giving testimony.

14 Mr. Kent-Smith. Henry.

15 MR. KENT-SMITH: (Inaudible).

16 MR. DRILL: I know. I'm gonna ask you when  
17 she's still asking questions, can you check to  
18 see what's shown on that plan?

19 MR. KENT-SMITH: That's exactly what we're  
20 doing.

21 MR. NORDELO: So they'll look at that  
22 Ms. Esposito if you want to continue.

23 MS. ESPOSITO: Also, how is -- I'd like the  
24 board to take into consideration how they do plan  
25 to fund additional mitigation of traffic concerns

1 in the area, and how that's going to be  
2 implemented and secured for the residents,  
3 because I believe it's been discussed that there  
4 is either a financial sum, but I'm concerned  
5 about how that is going to be appropriated to  
6 make sure that there aren't all of the major  
7 traffic issues that are --

8 MR. DRILL: So again, can you make this  
9 concrete? What do you want the board to do?

10 MS. ESPOSITO: I want the board to hold 750  
11 -- Hartz Mountain accountable for the traffic  
12 mitigations that they had said they would fund --

13 MR. DRILL: Correct.

14 MS. ESPOSITO: -- residential  
15 neighborhood --

16 MR. DRILL: So you want the board if it  
17 granted approval to make that a condition of the  
18 approval?

19 MS. ESPOSITO: Yes.

20 MR. NORDELO: I believe that -- well, okay.

21 MR. DRILL: Okay.

22 Now, just quickly, Mr. Kent-Smith, just do  
23 me a favor, give this to an engineer so you're  
24 not answering about what's shown on that plan  
25 with respect to -- is there an arrow going across

1 to the residential street?

2 UNIDENTIFIED MALE SPEAKER: Yes, there is.

3 MR. DRILL: Okay. You willing to remove  
4 that arrow going straight across?

5 MR. KENT-SMITH: Well, that's the one I need  
6 to answer because we have to consult with our  
7 traffic engineer. If the traffic engineer is in  
8 favor of saying it won't cause any other issues  
9 that eliminating through movement is something  
10 that is a good traffic measure, we will  
11 definitely consider it and we'll get you an  
12 answer probably by the end of next week. But we  
13 have to consult our traffic engineer.

14 MR. DRILL: And so you're gonna get an  
15 answer to that one and an answer to the no  
16 smoking in the building?

17 MR. KENT-SMITH: Correct.

18 MS. ESPOSITO: Is -- can I ask that the  
19 board requests that an additional traffic study  
20 is considered --

21 MR. DRILL: You can ask.

22 MS. ESPOSITO: -- if they're going to --  
23 yeah, if they're going to allow through traffic  
24 from 750 into the neighboring area across Behnert  
25 Place.

1 MR. DRILL: You've heard her. That's her  
2 request.

3 MS. ESPOSITO: Can I also request that  
4 the -- the planning board ensures that Union  
5 County is going to --

6 MR. DRILL: Well, there's going to be -- if  
7 there's an approval, there's going to be a  
8 condition that it has to be subject to Union  
9 County approval, because that's what the  
10 municipal land use law says they have to do.

11 MS. ESPOSITO: What are the mitigation  
12 efforts, then, that can happen if the county does  
13 not approve the lowering of the speed limit on  
14 that portion of Walnut to 25 miles per hour and  
15 there's a proposed crosswalk placed there. How  
16 can that be approved --

17 MR. DRILL: If there's a county road, they  
18 have jurisdiction over it. It's going to be up to  
19 them. You're gonna make your arguments to the  
20 county, basically, because this board, my  
21 opinion, especially on a permitted use, they  
22 can't do anything about that.

23 MS. ESPOSITO: So but then the board is  
24 approving a plan that may not be approved.

25 MR. DRILL: Correct. Happens all the time

1 on county roads and state highways. It's subject  
2 to -- a county road is subject to county approval  
3 and state highway is subject to DOT approval. If  
4 they don't get their approvals, they don't go  
5 ahead.

6 MS. ESPOSITO: Okay. All right. Again, I  
7 thank the board for their time and for your  
8 patience. I do believe that the public is very  
9 frustrated, or those of us who have been here for  
10 a long time, about the gray areas in between the  
11 agreement and the plan and not understanding  
12 where the variances are allowed or permitted. And  
13 sometimes the attention to detail in the bicycle  
14 rack versus the traffic in our neighborhood was  
15 very frustrating. So but again to the board, I  
16 appreciate your time and effort with this  
17 application.

18 MR. NORDELO: Thank you. Appreciate your  
19 comments.

20 Next member of the public, please. Name,  
21 address, and the swearing in.

22 MS. LEARY: Angela Leary, 4 Behnert Place.

23 MR. DRILL: Thank you. You swear that the  
24 comments and testimony you're gonna give will be  
25 the truth, the whole truth, nothing about the

1 truth?

2 MS. LEARY: I do.

3 Again, I too would like to thank the board  
4 for their time, their attention. The one issue  
5 that I would like to see addressed would be the  
6 board limiting the size of trucks that are  
7 allowed into that property. That is flex space.  
8 It seems to be wide open for interpretation as to  
9 what flex space really means. And I certainly, in  
10 line with traffic concerns, don't want to see 53-  
11 foot tractor trailers in and out of that property  
12 24-7, which we've been told that facility can  
13 operate 24-7.

14 So I would like to reiterate everything that  
15 Christine has said about traffic. Bennett Place  
16 cannot handle traffic. I open my car door coming  
17 out, I'm afraid it's going to be wiped off.

18 The other thing I would like to -- the board  
19 to really focus on is the -- I think you called  
20 it a mitigation plan. I don't recall the exact  
21 name.

22 MR. NORDELO: In regards to traffic?

23 MS. LEARY: No, in regard to the berm.

24 MR. NORDELO: Thank you.

25 MS. LEARY: The -- the -- the long standing

1 plan that will be for berm conditions and  
2 maintenance. Because I've been on that property  
3 for 43 years, we've lived on that street, and I  
4 can tell you for a fact that berm used to be  
5 pristine. The condition of it now is certainly  
6 not pristine. And so there has to be some  
7 enforcement mechanism to keep that berm in good  
8 condition where we're not constantly looking at  
9 garbage blowing through it, et cetera. Thank you.

10 UNIDENTIFIED MALE SPEAKER: What -- what is  
11 your proposal for --

12 MR. DRILL: She wants a berm maintenance  
13 plan.

14 UNIDENTIFIED MALE SPEAKER: No, no, no, no.  
15 The first one. What is your proposal for limiting  
16 -- like, when you say you want to limit vehicles?  
17 What's the length that you're proposing? The  
18 height.

19 MS. LEARY: We were --

20 UNIDENTIFIED MALE SPEAKER: She's asking for  
21 length.

22 UNIDENTIFIED MALE SPEAKER: Oh, length.  
23 Okay.

24 MR. DRILL: Length. Yeah.

25 MS. LEARY: Length.

1 MR. DRILL: You said you want the board to  
2 limit the size of trucks.

3 MS. LEARY: Correct.

4 MR. DRILL: He wants to know what limitation  
5 are you asking for?

6 MS. LEARY: I believe that when George  
7 Collins spoke, he talked about 53-foot trailers.  
8 I'm not an expert by any means on size of  
9 trailers. But small box trucks would be what I  
10 would say.

11 MR. DRILL: And the basis for the limitation  
12 to small box truck or to 53-foot trailer is what?

13 MS. LEARY: What is the basis for my  
14 request?

15 MR. DRILL: Yeah.

16 MS. LEARY: It's a residential neighborhood.  
17 A 50 -- we've had issues on Springfield Avenue  
18 with tractor trailers causing vibration in homes.  
19 What makes Springfield Avenue any different than  
20 Walnut Avenue and the homes that are going to be  
21 affected there? So I would say small trucks. I  
22 was under the impression it was going to be  
23 Amazon size delivery vans, not 53-foot tractor  
24 trailers. I respect the fact that we raise -- we,  
25 the residents, raise the tractor trailer issue.



1 But I would like the board to consider putting a  
2 limitation on the size of those trucks.

3 MR. NORDELO: And then in addition, just to  
4 clarify as well, on the berm, you just want  
5 regular routine berm maintenance to ensure that  
6 it's cleaned up and pristine --

7 MR. DRILL: She wants -- she wants --

8 MR. NORDELO: I understand that condition,  
9 but I just wanted to reiterate that.

10 MS. LEARY: Yeah, I mean, there was a  
11 specific name that you gave the covenant. I think  
12 it was a maintenance covenant or something like  
13 that --

14 MR. NORDELO: Right.

15 MS. LEARY: -- in perpetuity --

16 MR. NORDELO: Understood.

17 MS. LEARY: -- in perpetuity.

18 MR. DRILL: And Mr. Kent-Smith for as long  
19 as this use is on the property, and they agreed,  
20 correct?

21 MR. KENT-SMITH: Yes. So we'll provide the  
22 (inaudible).

23 MR. DRILL: Right.

24 MS. LEARY: Okay. Thank you.

25 MR. NORDELO: Thank you so much. Do we have

1 any additional members of public?

2 MS. LA BRUTTO: Rita La Brutto, 104  
3 Arlington Road.

4 MR. NORDELO: Needs to be sworn in,  
5 Ms. La Brutto.

6 MR. DRILL: You swear or affirm that the  
7 testimony and comments you're about to give be  
8 the truth, the whole truth, nothing but the  
9 truth?

10 MS. LA BRUTTO: I do.

11 So I just wanted to reiterate -- you know,  
12 sorry if I'm a little cranky, but this whole  
13 process has been very frustrating. I don't think  
14 the application -- I think the application has  
15 been rushed, and I don't think it was well  
16 presented. When you have a 70-million-dollar  
17 project, there are plenty of developers who walk  
18 in with models so that planning boards and  
19 residents, especially in a neighborhood, a  
20 residential area, know exactly what they're  
21 getting, what they're going to be living with,  
22 what they're going to be looking at every day.

23 So to not even have a color rendering of  
24 what that property will look like, I think really  
25 falls short of, you know, the requirement. And I

1 would really hope that this board  
2 will --

3 MR. DRILL: Quick question. What  
4 requirement does not having a rendering fall  
5 short? What's the requirement that you're  
6 referring to?

7 MS. LA BRUTTO: I think just it should be  
8 just a basic requirement that the board should  
9 have made a motion to --

10 MR. DRILL: In other words, so it's not  
11 something that we've missed. There's not some  
12 redevelopment requirement that requires that.  
13 You're saying the board should just require that.

14 MS. LA BRUTTO: Well, yeah.

15 MR. DRILL: Okay. I got you.

16 MS. LA BRUTTO: I mean, just as part of  
17 business as usual.

18 MR. DRILL: I understand.

19 MS. LA BRUTTO: I think with something this  
20 size, I think the board would be remiss in not  
21 asking or having a motion almost should have been  
22 done already to request a color rendering of what  
23 that property is going to look at -- like from  
24 every view possible. You know, when you walk  
25 there,

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MR. DRILL: Okay. We got you. We got the point. Go --

MS. LA BRUTTO: Okay.

MR. DRILL: Make the next --

MS. LA BRUTTO: Got the point.

MR. DRILL: Yep.

MS. LA BRUTTO: I would also say that I would basically back the other residents up that traffic has been very difficult. Even taking those photos was difficult. You know, even trying to get your car door open with cars coming down Walnut Avenue was a challenge.

I would also ask that -- and I think Mr. Leber brought this up at one point, that there would be a traffic study after the project is completely built out so that you can kind of test to see how good the traffic study was, and also that would help you -- if there was additional mitigation that was necessary for the neighborhood, then you could use that traffic analysis, you know, to basically backup why you needed the extra mitigation.

I would say I've lived here since 1986. At the time, I would agree the berm was pristine.

1 The -- the town probably should have been giving  
2 violations out for them not -- not -- I don't  
3 know if it's this owner or even previous owners,  
4 I don't know when it went into disrepair. Hartz  
5 has owned it probably since 2008, maybe. But if  
6 the berm was maintained the way it should have  
7 been maintained based on our ordinances and code,  
8 we would not be looking at what we are now.

9 And that's why I can tell you I hope that  
10 the board requests something that looks like a  
11 forest. I really don't care what they do on their  
12 property. I just don't want to see it. I don't  
13 want to see cars. I don't want to see lights. And  
14 I don't think especially the neighbors in the  
15 residential areas should have to look at that.  
16 So but -- but I just wanted to make that point  
17 right now.

18 You know, we're looking at that on  
19 (inaudible). When you pass it, it's lit up like  
20 a light bulb. You know, and that required  
21 buffering. So I just hope that we learned from  
22 our, you know, mistakes. Thank you.

23 MR. NORDELO: Thank you very much.

24 Are there any members of the public that  
25 have -- second bite at the apple?

1 MR. DRILL: You want to come for seconds?

2 MR. NORDELO: I'm sorry. We've -- we've --  
3 you've given your public comments in this  
4 particular matter. That's my ruling.

5 MR. DRILL: Are there any other members of  
6 the public who want to give sworn testimony or  
7 comments?

8 MR. NORDELO: Yeah. Go ahead. Mr. Esposito,  
9 go ahead.

10 MR. DRILL: Just identify for yourself for  
11 the record.

12 MS. ESPOSITO: I know. I know. Christina  
13 Esposito, 11 Behnert Place.

14 MR. DRILL: You're already sworn.

15 MS. ESPOSITO: No. Okay. Okay. Good.  
16 That's good. I would just like to clarify my  
17 proposal that the -- that there is no left --  
18 there is a left and right only out of Behnert  
19 Place and a left and right only at 750 Walnut.

20 MR. DRILL: Okay. Hold on. You're asking  
21 for left and right only out of the -- which  
22 driveways? The two driveways?

23 MS. ESPOSITO: There's -- well, there's  
24 really only one driveway.

25 MR. KENT-SMITH: That's the better driveway,

1 correct?

2 MS. ESPOSITO: The Behnert, yes.

3 MR. DRILL: Left and right only.

4 MS. ESPOSITO: That's the only driveway that  
5 has two-way traffic.

6 MR. DRILL: I get it. I get it.

7 MS. ESPOSITO: Sorry.

8 MR. DRILL: And they're gonna be getting  
9 back to us about that.

10 MR. KENT-SMITH: Correct. Yes.

11 MS. ESPOSITO: Okay.

12 MR. KENT-SMITH: But I heard you correctly,  
13 she also said --

14 MS. ESPOSITO: Out of Behnert.

15 MR. KENT-SMITH: Well, that's we can't have  
16 -- that's a municipal.

17 MR. DRILL: That's not them. That's --  
18 that's a request that goes into the township  
19 committee. They can agree to come out of from  
20 left --

21 MS. ESPOSITO: Even if the traffic would be  
22 going directly into their residence?

23 MR. KENT-SMITH: No, that's a --

24 MR. DRILL: Henry, do me a favor. Hhm.

25 MS. ESPOSITO: No, keep talking.

1           MR. DRILL: A no left or right off of a  
2 township road is up to the township. A no left  
3 to right off a county road is up to the county.  
4 A no left to right out of private property is up  
5 to the property owner. Legally, that's how it is.  
6 It doesn't matter where the traffic's going; it  
7 matters where it's coming from.

8           UNIDENTIFIED FEMALE SPEAKER: Okay. But  
9 that's what I thought you meant, so I wrote it  
10 down when you were up earlier.

11          MS. ESPOSITO: Okay. And is -- can we have  
12 clarification on the address for the commercial  
13 property and the address for the residential  
14 property? Are they both 750 Walnut? Is one 751  
15 Walnut Stuff, 751 --

16          MR. DRILL: Are you ready for this? I don't  
17 know. It would have been a better idea to ask  
18 someone who had it. Now, you guys do not have to  
19 answer that now if you don't want. But if you  
20 know the answer, you can put everyone out of  
21 their misery and give us the answer.

22          MR. KENT-SMITH: The answer is the tax  
23 assessor when we go forward with the subdivision  
24 will assign the tax block and lot. The post  
25 office based on the new block and lot will assign



1 the post office address.

2 MR. DRILL: So they're saying it's not their  
3 decision.

4 MR. NORDELO: Mr. Pistol.

5 MR. PISTOL: I have a question. If the post  
6 office assigns it, doesn't the municipality  
7 designate if there's a new street -- that's the  
8 naming of the new street?

9 MR. KENT-SMITH: There is no street. No.

10 MR. PISTOL: Well, that's what she's asking,  
11 if there's --

12 MR. DRILL: No. She's asking for what  
13 address. Is there going to be a separate address  
14 for the commercial property and a separate  
15 address for the residential property? That's what  
16 she's asking.

17 MR. PISTOL: Is that what you're asking?

18 MR. KENT-SMITH: What the -- so the answer  
19 is, the address will be Walnut Avenue.

20 MR. PISTOL: Oh, that's --

21 MR. KENT-SMITH: Period.

22 MR. PISTOL: Okay.

23 MR. KENT-SMITH: Now, what number, the  
24 assessor does the lot and block. We take that to  
25 the post office. They say, Here's your address.

1 We take that to emergency services and give them  
2 all the information so that they all know.

3 MR. PISTOL: Okay. So it will be Walnut  
4 Avenue. Because I think that in comments  
5 earlier, and I don't know if it was you or some  
6 other member of the public, had wondered whether  
7 it was going to be Behnert Place that was going  
8 to be extended into there, and it would be a  
9 Behnert Place address --

10 MR. KENT-SMITH: No.

11 MR. PISTOL: -- is that correct?

12 MR. KENT-SMITH: No, no. It's a private --

13 MR. PISTOL: I think that's what they had  
14 said. So it's going to be Walnut Avenue.

15 MR. KENT-SMITH: Yeah.

16 MR. PISTOL: Okay. Thanks.

17 MR. DRILL: Who said that?

18 MR. PISTOL: I thought one of the members of  
19 the public had --

20 UNIDENTIFIED MALE SPEAKER: Asked if Behnert  
21 Place was going to be extended?

22 MR. PISTOL: They wanted to know what the  
23 address was going to be.

24 MS. ESPOSITO: It was me.

25 MR. PISTOL: Whether those --

1 MR. DRILL: Listen. This is very easy.

2 MR. PISTOL: Walnut Avenue address or --

3 MR. DRILL: This is one of those --

4 MS. ESPOSITO: If it had a street.

5 MR. DRILL: This is one of the -- one of  
6 those -- this is one of the times that I actually  
7 agree with Mr. Kent-Smith. The address is going  
8 to be Walnut, and what he said is how the numbers  
9 are going to be selected. And that's what you  
10 wanted to know, correct?

11 MS. ESPOSITO: Yes, yes.

12 MR. DRILL: Yeah.

13 MS. ESPOSITO: Can we -- can the board  
14 request that residents of 750 Walnut residential  
15 have a sticker placed on their car so that we  
16 know the residents of that area as opposed to not  
17 parking in the residential area across the  
18 street?

19 MR. NORDELO: You want to differentiate cars  
20 that are part of the residential complex as  
21 opposed to the commercial?

22 MS. ESPOSITO: No, just --

23 MR. KENT-SMITH: She wants to --

24 MS. ESPOSITO: -- the complex as opposed to  
25 general population --

1 MR. KENT-SMITH: -- versus all other cars in  
2 the township of Cranford.

3 MR. NORDELO: Oh, okay.

4 MR. DRILL: That'll be your ask.

5 MS. ESPOSITO: Okay.

6 MR. DRILL: That's a -- that's a big ask.

7 But okay.

8 MS. ESPOSITO: Just so we would know if they  
9 are --

10 MR. DRILL: I got you. I wrote -- I'm  
11 writing down the ask.

12 MS. ESPOSITO: And again, any questions  
13 related to parking on Walnut Avenue would be  
14 something with the county, correct, and not this  
15 board?

16 MR. NORDELO: Correct, as I understand that  
17 jurisdiction, but let's just wait for the  
18 attorney to clarify that.

19 MR. PISTOL: Well, actually a question  
20 related for Hartz. Would you -- are you planning  
21 to issue stickers to occupants of the apartments  
22 and businesses so that you know that there are  
23 people who belong in your parking areas?

24 MR. RHATICAN: Yeah. I -- I -- know  
25 Mr. Kent-Smith handed the microphone to me. But

1 I don't know the answer to that. We -- we don't  
2 always -- yeah, I'm sorry. It Jay Rhatican from  
3 Hartz Mountain. I -- I don't know that we would  
4 do that here.

5 MR. PISTOL: Okay.

6 MR. RHATICAN: Sometimes depending on the  
7 prep -- the project and its location. I don't  
8 know that we would do that here.

9 MR. PISTOL: Okay. Thank you.

10 MR. NORDELO: Mr. Esposito, just -- I know  
11 you wanted to clarification. So you wanted to  
12 know -- any parking questions that you had on  
13 Walnut Avenue, you wanted to know the entity that  
14 you'd have to ask those questions to, correct?

15 Mr. Drill, can you clarify that for  
16 Ms. Esposito? Is that the county?

17 MR. DRILL: Yeah. It's a county road. The  
18 County.

19 MS. ESPOSITO: So it goes to the county as  
20 well?

21 MR. DRILL: Yeah.

22 MS. ESPOSITO: Okay. Thank you.

23 MR. NORDELO: Thank you.

24 Sir?

25 MR. SMITH: Don Smith, 187 Gibson Boulevard,

1 Clark. My addressing the board will be towards  
2 the marketing of the property.

3 MR. DRILL: Hmm.

4 MR. SMITH: No?

5 MR. DRILL: Huh-uh.

6 MR. SMITH: If I just explained it, then  
7 maybe you can --

8 MR. DRILL: Why don't you explain it, but --

9 MR. SMITH: Okay. So anyway, so the Woodmont  
10 property on South Avenue, when that was formally  
11 put on the website and it was live and they were  
12 actively seeking residents and so forth, in the  
13 photographs and all the descriptions that they  
14 had, they took out the Raritan Valley line. They  
15 literally had like grass behind it. They didn't -  
16 -

17 MR. DRILL: Let me ask you this.

18 MR. SMITH: Yeah.

19 MR. DRILL: The -- so the purpose of -- you  
20 want them to --

21 MR. SMITH: Well, I just want --

22 MR. DRILL: Well, just hold on. You want  
23 them to agree to some sort of marketing so that  
24 prospective residents of the building --

25 MR. SMITH: Understand what they're getting.

1 MR. DRILL: -- understand what they're  
2 getting.

3 MR. SMITH: As far as there's going to be  
4 looking over a commercial property off to the one  
5 side.

6 MR. DRILL: There were a bunch of asks.  
7 That one, I'm uncomfortable putting on the list  
8 because I think that's beyond the planning  
9 board's authority to do.

10 MR. SMITH: I'm just saying is that --  
11 that --

12 MR. DRILL: I understand.

13 MR. SMITH: You know, you get people that  
14 come in and they're looking to rent an apartment.  
15 And then all sudden, they look at the website and  
16 materials and there's no --

17 MR. NORDELO: I think relevant to the scope  
18 of the board, so as Mr. Drill just -- and I  
19 appreciate those comments.

20 MR. SMITH: Yeah. That's fine. I wasn't  
21 sure whether this was for this board to address  
22 that. Thank you.

23 MR. NORDELO: Thank you.

24 Okay. Are there any additional -- I don't  
25 want to -- anyone else from the public want to

1 say any -- going once. I don't want to deny  
2 anyone the opportunity -- twice. Anyone? Three  
3 times. Public. So we've concluded public  
4 comment.

5 MR. DRILL: Yes. Closed. The public is  
6 closed.

7 Do you want any rebuttal?

8 MR. KENT-SMITH: No.

9 MR. DRILL: Okay. So, my opinion, the chair  
10 should declare the record is closed now. That --

11 MR. KENT-SMITH: We've got to respond back  
12 to questions.

13 MR. DRILL: Yeah, but those are going to be  
14 written responses.

15 MR. KENT-SMITH: Okay.

16 MR. DRILL: We're not keeping --

17 MR. KENT-SMITH: I see what you're saying.  
18 Written response.

19 MR. DRILL: That those are two written  
20 responses. Because this -- just so you  
21 understand. The jury charge is going to have the  
22 -- you know, the crib sheets, the standard, the  
23 board has to apply to the different relief  
24 requested. But there are tons -- there's a lot  
25 of conditions that the applicant has agreed to;



1 I'm going to list them. And then you have these  
2 asks, and I'm going to list them. Just so -- so  
3 all the issues that the board has to decide --

4 MR. KENT-SMITH: When do you want that by?  
5 When -- when -- I'm just asking. This as  
6 scheduled, because I also would like to have the  
7 list of conditions that we think we've agreed to  
8 so that I can get it to you for you to review.

9 MR. DRILL: Okay. I'm gonna get mine out by  
10 December 31. So if you get me whatever you  
11 want --

12 MR. KENT-SMITH: Okay. So I will get it  
13 before the end of next week. Okay.

14 MR. DRILL: Okay. So because the record is  
15 now -- the applicant has rested, the members of  
16 the public have rested, there'll be no more  
17 testimony. The hearing is closed. There are two  
18 issues that the applicant's going to get back to  
19 the board in writing on.

20 So I'm asking the chair to -- and again, you  
21 could be overruled by the majority of the board,  
22 which I sincerely doubt, but to carry, now, the  
23 hearing to January 18, for the purpose of  
24 deliberations and a vote.

25 No.

1 MR. NORDELO: Yep, I would agree to that.

2 MR. DRILL: Okay. So the hearing on this  
3 application is being continued. Even though the  
4 hearing part is closed, it's going to be  
5 continued to January 18 for deliberations and  
6 vote.

7 And just for the record, the applicant has  
8 extended the time for the decision to January 31.  
9 So the deliberation and vote will be before that  
10 extension. Now is there anything I've missed --

11 UNIDENTIFIED FEMALE SPEAKER: What time?

12 MR. DRILL: Right.

13 UNIDENTIFIED MALE SPEAKER:

14 (Inaudible).6:30.

15 UNIDENTIFIED FEMALE SPEAKER: But that's for  
16 reorg first. We have to reorg first. And then --

17 MR. DRILL: So listen. The board -- so let  
18 the board discuss. There's a reorg on January 18.  
19 Then there's deliberation and vote. And then 201  
20 Walnut is going to start. So the request was made  
21 by 201 Walnut. It wasn't a condition for the  
22 extension. They made -- it was a humble request,  
23 if you recall.

24 So what does the board want to do? Does the  
25 board want to start anytime before 7:30?

1 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

2 Well, can you put your microphone?

3 UNIDENTIFIED MALE SPEAKER: How about 7

4 o'clock.

5 UNIDENTIFIED FEMALE SPEAKER: I'll go 6:30.

6 UNIDENTIFIED FEMALE SPEAKER: I'll go 6:30.

7 MR. DRILL: Can you straw poll?

8 MR. NORDELO: No, I need to understand the

9 (inaudible). So the reorg -- so we're saying that

10 the -- the time at 30 minutes max that -- we're

11 saying we'll start right after that period? What

12 are we negotiating? Tell me. I need to be clear

13 on that.

14 MR. DRILL: To be crystal clear, because we

15 know that we have to reorg on January 18 and

16 because we know that the board has to deliberate

17 and vote and because we know that 201 is going to

18 start, 201 has asked that the January 18 meeting,

19 instead of starting at 7:30, start at 6:30.

20 Now, so I'd like a straw poll on, we stick

21 with 7:30, we go to seven or we go to 6:30.

22 That's what I'd like a straw poll on.

23 MS. LENAHAN: Okay. So you're going to just

24 tell me what time. Okay.

25 MR. DRILL: So just start at -- just straw

1 poll them.

2 MS. LENAHAN: Okay.

3 MR. DRILL: The answers are 7:30, 7:00. or  
4 6:30.

5 MS. LENAHAN: Okay. Mr. Pistol.

6 MR. PISTOL: 6:30.

7 MS. LENAHAN: Mr. Leber.

8 MR. LEBER: 6:30.

9 MS. LENAHAN: Mr. Taylor.

10 MS. RAPPA: 7:00.

11 MS. LENAHAN: Ms. Sen.

12 MS. SEN: 6:30.

13 MS. LENAHAN: Ms. Rappa.

14 MS. RAPPA: 7:00.

15 MS. LENAHAN: Mayor Prunty.

16 MAYOR PRUNTY: 6:30.

17 MS. LENAHAN: Ms. Pedde.

18 MS. PEDDE: 6:30.

19 MS. LENAHAN: Deputy Mayor Gareis.

20 DEPUTY MAYOR GAREIS: 6:30.

21 MS. LENAHAN: Mr. Didzbalis.

22 MS. DIDZBALIS: 6:30.

23 MS. LENAHAN: Mr. Nordelo.

24 MR. NORDELO: 6:30.

25 MS. LENAHAN: 6:30 has it.

1 MR. DRILL: Okay. Now, let me just ask, Are  
2 the seven o'clocks gonna please be there at 6:30,  
3 although it's the reorg? If you're not, you'll  
4 miss the reorg. You won't miss the deliberation.

5 UNIDENTIFIED MALE SPEAKER: Maybe that won't  
6 be a bad thing.

7 MR. DRILL: Okay, so can you do what you  
8 have to do now with an open public meetings act  
9 notice at 6:30? But I'm going to announce that  
10 the January 18 meeting is going to start for MLUL  
11 purposes. Okay. Their application's being  
12 continued to January 18. And even though I know  
13 they're not going to be heard at 6:30, I'm going  
14 to say that they're -- it's being continued to  
15 6:30 just in case like they reorg for five  
16 minutes.

17 Okay. So everyone, if you want to be here  
18 on January 18 to hear the finale, 6:30 p.m.

19 MR. NORDELO: Considering that, we're all  
20 set, Mr. Drill?

21 MR. DRILL: Yep.

22 MR. NORDELO: May I have a motion to  
23 adjourn, anyone?

24 UNIDENTIFIED MALE SPEAKER: (Inaudible).

25 MR. NORDELO: Second?

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UNIDENTIFIED FEMALE SPEAKER: Second.  
MR. NORDELO: Thank you.  
Meeting adjourned.  
(End of audio-recorded proceeding.)

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CERTIFICATE OF TRANSCRIPTIONIST

I, Teresa Johnson, do hereby certify that I transcribed the electronic recording of the foregoing proceedings; and that the foregoing transcript is a true transcript of said electronic recording.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED this 3rd day of January 2023.



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Teresa Johnson

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