

Township of Cranford Planning Board
December 07, 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.

- - -
December 7, 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 JACQUELINE DIRMAN
14 NICHOLAS DICKERSON
15 DIANA SEN

10

FOX ROTHSCHILD

11

BY: HENRY KENT-SMITH, ESQUIRE.

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Lawrence Township, NJ 08648

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P R O C E E D I N G S

MR. VICE CHAIR: Everyone, before we go into the public meeting, we -- technically, we're in closed session. May I have a motion to open - - to close -- close session, please, and head into open.

FEMALE SPEAKER: So move.

MR. VICE CHAIR: Thank you.

Okay. Second, please? Anyone?

FEMALE SPEAKER: Second.

MR. VICE CHAIR: All right. Roll call, please.

MS. LENAHAN: Mr. Pistol.

MR. PISTOL: Yes.

MS. LENAHAN: Mr. Leber.

MR. LEBER: Here.

MS. LENAHAN: Mr. Taylor.

MR. TAYLOR: Yes.

MS. LENAHAN: Ms. Sen.

MS. SEN: Yes.

MS. LENAHAN: Ms. Rappa.

MS. RAPPA: Yes.

MS. LENAHAN: Mayor Prunty.

MAYOR PRUNTY: Yes.

MS. LENAHAN: Ms. Pedde.

1 MS. PEDDE: Yes.

2 MS. LENAHAN: Deputy Mayor Gareis.

3 DEPUTY MAYOR GAREIS: Yes.

4 MS. LENAHAN: Mr. Nordelo.

5 MR. NORDELO: Yes.

6 MS. LENAHAN: Motion carries.

7 MR. VICE CHAIR: Thank you.

8 Welcome, everyone, to this evening's
9 regularly scheduled planning board meeting on
10 Wednesday, December 7, 2022, at 8:15 p.m. in
11 Room 108 at the municipal building, 8 Springfield
12 Avenue, Cranford, New Jersey.

13 This meeting is in compliance with the
14 open public meetings act, as adequate notice of
15 this meeting has been provided to the Westfield
16 Leader and the Star Ledger with the agenda
17 specifying the time, place, and matters to be
18 heard, having been posted on a bulletin board in
19 the Town Hall reserved for such announcements and
20 the filing of said agenda with the township clerk
21 of Cranford. Formal action may be taken at this
22 meeting.

23 May we all rise for the Pledge of
24 Allegiance, please.

25 I pledge allegiance to the flag of the

1 United States of America and to the Republic for
2 which it stands, one nation under God,
3 indivisible, with liberty and justice for all.

4 Roll call please.

5 MS. LENAHAN: Mr. Pistol.

6 MR. PISTOL: Here.

7 MS. LENAHAN: Mr. Leber.

8 MR. LEBER: Here.

9 MS. LENAHAN: Ms. Sen.

10 MS. SEN: Here.

11 MS. LENAHAN: Mr. Taylor.

12 MR. TAYLOR: Here.

13 MS. LENAHAN: Ms. Rappa.

14 MS. RAPPA: Here.

15 MS. LENAHAN: Mayor Prunty.

16 MAYOR PRUNTY: Here.

17 MS. LENAHAN: Ms. Pedde.

18 MS. PEDDE: Here.

19 MS. LENAHAN: Deputy Mayor Gareis.

20 DEPUTY MAYOR GAREIS: Here.

21 MS. LENAHAN: Mr. Nordello.

22 MR. VICE CHAIR: Here.

23 MS. LENAHAN: Mr. Drill.

24 MR. DRILL: Here.

25 MS. LENAHAN: Ms. German.

1 Ms. GERMAN: Here.

2 MS. LENAHAN: Mr. Dickerson.

3 MR. DICKERSON: Here.

4 MS. LENAHAN: And I am here.

5 Let the record show Ms. Kellett has
6 recused herself and Ms. Didzbalis is out --
7 absent.

8 MR. VICE CHAIR: Prior to starting
9 tonight's application -- continued application
10 with Hartz Mountain, 750 Walnut.

11 Mr. Drill, there's an announcement on
12 the 201 Walnut Avenue application?

13 MR. DRILL: Yes. There's a letter sent
14 in today from Jason Tuvel, the applicant's
15 attorney, 201 Walnut Avenue LLC and Iron Ore
16 Properties LLC. And it's addressed to
17 Ms. Lenahan. And it says, "As you were aware,
18 this office represents the applicant in
19 connection with the application for preliminary
20 and final major site plan approval for the above-
21 referenced property. This letter shall serve as
22 a formal request that the application which is
23 currently -- currently scheduled to be heard by
24 the planning board tonight, December 7, be
25 carried to the regular scheduled meeting of the

1 board on December 14 with no further notice to
2 the public necessary. When the application is
3 called, kindly note on the record the time, date,
4 and place of the next scheduled meeting and at
5 the application shall be carried thereto without
6 further notice. And the applicant consents to
7 any extension of time required for the board to
8 hear and decide the application through
9 January 6, 2023."

10 So that's the announcement. The
11 hearing on 201 Walnut Avenue is going to be
12 continued -- actually, it's going to be adjourned
13 to start on December 14, 2022, with no need for
14 further notice.

15 MR. VICE CHAIR: Thank you, Mr. Drill.

16 Tonight, we will -- continuing from
17 November 30, 2022, application number PB-22-002.
18 The applicant being Hartz Mountain Industries
19 Incorporated, 750 Walnut Avenue, Block 541, Lot
20 2. The applicant in this matter is seeking
21 preliminary and final major subdivision,
22 preliminary and final major site plan,
23 residential and preliminary, and final major site
24 plan nonresidential approval.

25 Mr. Kent-Smith.

1 MR. KENT-SMITH: Thank you,
2 Mr. Chairman, members of board.

3 Henry Kent-Smith, Fox Rothschild, on
4 behalf of the applicant Hartz. This is the
5 continued hearing that was last considered on
6 November 30 before this board. I concluded most
7 of my witnesses. And the board had certain
8 questions that were raised at that hearing that
9 I'd like to address. So for tonight, I have the
10 landscape architect from Stonefield who is the
11 landscape architect for the commercial side, who
12 is also working with the landscape architect --
13 architect David Liseberg on the residential side
14 as well.

15 The board had a lot of issues and
16 questions relative to the berm, the existing
17 landscaping, what would be proposed. I will be
18 calling Mr. DeVitto up to address that issue and
19 introduce exhibit and request the board to
20 consider a resolution of how we're going to
21 supplement landscape planning on the berm.

22 MR. DRILL: What -- what is this
23 witness's name?

24 MR. KENT-SMITH: It's Paul, D-e-v-i-t-
25 t-o, DeVitto.

1 MR. DRILL: Okay. So we have to swear
2 him in and qualify him.

3 MR. KENT-SMITH: Yes.

4 MR. DRILL: All right. So where is he?
5 Can you come on up? Can you raise your
6 right hand? And do you swear or affirm the
7 testimony you're gonna give during this
8 proceeding will be the truth, the whole truth and
9 nothing but the truth?

10 MR. DEVITTO: I do.

11 MR. DRILL: And what is your name again
12 and spell your last name?

13 MR. DEVITTO: It's Paul DeVitto, D-e-v-
14 i-t-t-o, with Stonefield Engineering and Design
15 located at 92 Park Avenue, Rutherford, New
16 Jersey.

17 MR. KENT-SMITH: And I will qualify
18 him.

19 MR. DRILL: Right.

20 MR. KENT-SMITH: I just wanted to get
21 into his -- --

22 MR. DRILL: You have a professional
23 license, your LOA.

24 MR. DEVITTO: Yes. I'm a licensed
25 landscape architect in the state of New Jersey.

1 MR. DRILL: Okay.

2 MR. KENT-SMITH: Okay. So -- and then
3 the last witness I will have will be our
4 professional planner, Kenan Hughes. So then why
5 don't we go ahead and get started. You are
6 sworn. I'm going to take the microphone. You
7 can get yourself set up as you wish.

8 MR. DEVITTO: Yep.

9 MR. KENT-SMITH: So, Mr. DeVitto, could
10 you please provide the board with your
11 qualifications, professional licensure,
12 experience in the area of landscape architect
13 architecture and why you're qualified to testify
14 as an expert?

15 MR. DEVITTO: Yeah. Absolutely. So
16 I'm a licensed landscape architect in the state
17 of New Jersey. I graduated from West Virginia
18 University in 2010 with a Bachelor's of Science
19 in landscape architecture. I've been accepted
20 before prior planning, zoning land use boards
21 throughout the state of New Jersey. And
22 additionally, my license is in good standing.
23 Also hold licenses in Florida, Michigan, and
24 Ohio, which all licenses are in good standing.

25 MR. KENT-SMITH: And you are the

1 landscape architect who prepared the landscape
2 plan relative to the commercial portion of the
3 property.

4 MR. DEVITTO: Correct.

5 MR. KENT-SMITH: I am submitting
6 Mr. DeVitto as a professional landscape architect
7 on this application.

8 MR. VICE CHAIR: Are there any
9 questions from our board members on his
10 qualifications?

11 Any questions from members of the
12 public on this (inaudible) qualifications?

13 I accept him as a witness.

14 MR. KENT-SMITH: Thank you very much.

15 So then, at request of the applicant,
16 did you undertake further valuation of the
17 proposed landscaping plan on the commercial
18 property?

19 MR. DEVITTO: Yes. A site visit was
20 performed on December 6 to -- specifically to
21 review the current state of the berm plantings
22 with the intention to improve the berm and repair
23 the functionality of the existing berm. This was
24 not a tree-by-tree analysis, but rather a review
25 of the existing conditions, provide general

1 recommendations, and a -- and a path to move
2 forward.

3 MR. KENT-SMITH: And have you prepared
4 an exhibit to show to the board of representation
5 of what you had analyzed in your findings?

6 MR. DEVITTO: Yes. The exhibit on the
7 board or on the TV screens currently.

8 MR. DRILL: Let's get a paper copy of
9 that and mark it as Exhibit A-28. I believe
10 that's the next exhibit.

11 MR. KENT-SMITH: I am marking A-28.

12 MR. DRILL: And can you identify what
13 does it say in the lower right-hand corner?

14 MR. KENT-SMITH: Just identify it for
15 the record.

16 MR. DEVITTO: This is the overall site
17 plan.
18 Sheet C-4.

19 MR. DRILL: Yeah. But it's a color --

20 MR. DEVITTO: Yes. It's a markup.
21 It's a color-coded mark above the berm conditions
22 with our findings.

23 MR. DRILL: A color-coded markup of the
24 berm condition on the overall site plan sheet --

25 MR. DEVITTO: C-4.

1 MR. DRILL: C-4.

2 Okay. Kathy, you got that?

3 Okay.

4 MR. KENT-SMITH: And I note again, just
5 for the record, the last -- the last revision
6 date being, it looks like October 3, 2022?

7 MR. DEVITTO: Correct.

8 MR. KENT-SMITH: Okay. So please
9 explain to the board what your analysis of the
10 berm and landscaping in that area from your site
11 visit?

12 MR. DEVITTO: Sure. So the -- the
13 color-coded exhibit indicates good, fair, and
14 areas in need of improvement with color over --
15 overlays. So the green indicating areas in good
16 condition; yellow, fair condition; and red as
17 areas in need of improvement.

18 MALE SPEAKER: On the -- on the
19 computer screen, can you zoom in a little bit
20 better?

21 MR. DEVITTO: Zoom out or in?

22 MALE SPEAKER: Just make the actual
23 berm larger.

24 Just give it a second. There we go.

25 MALE SPEAKER: Nick, you want to give

1 some assistance? Okay. Don't touch it. Let it
2 load.

3 MR. DEVITTO: I'm not.

4 MALE SPEAKER: I'm not talking to you.
5 I'm talking to him. Nick. Where's the mouse?
6 No, we don't -- oh, the mouse is off. Ah, there
7 we go.

8 MALE SPEAKER: Nick, you have the --
9 well, wait. We don't have the --

10 MALE SPEAKER: Hold on. He doesn't
11 have the Magic Touch yet. He almost did. Ah.
12 Okay. Is that a good enough scale? Okay, good.

13 MR. DEVITTO: Thank you.

14 MR. DRILL: All right. Mr. DeVitto
15 please continue.

16 MR. DEVITTO: Yeah. So moving south to
17 north at the intersection of Raritan Road --

18 MR. KENT-SMITH: Which way is south?

19 MR. DEVITTO: Yeah. So South would be
20 plan to the left.

21 MR. KENT-SMITH: So when we're looking
22 at the exhibit, South is to the left, North is to
23 the right, correct?

24 MR. DEVITTO: Yeah. So starting from
25 Raritan, the intersection of Raritan Road and

1 Walnut Avenue, which is right here on the screen,
2 the berm was in good condition up until the first
3 driveway entrance. And we categorize that as
4 minimal earth berm plantings just in good
5 condition, minimal spotting of evergreen trees to
6 account for gaps in the berm.

7 MR. KENT-SMITH: I take that good is
8 shown in green?

9 MR. DEVITTO: Yes.

10 Then moving towards the internal of the
11 site, internal portions of the site, along the
12 frontage of Walnut Avenue, this area was marked
13 as fair. And this becomes spotty with dead
14 trees, gaps, and gaps within the berm naturally
15 occurring.

16 MR. KENT-SMITH: And that's color-coded
17 yellow, correct?

18 MR. DEVITTO: That is color-coded
19 yellow.

20 MR. KENT-SMITH: Thank you. Continue.

21 MR. DEVITTO: Moving along, Walnut
22 Avenue towards the northern portion of the
23 frontage, there was an area that required
24 additional plantings. And then from there that
25 transitioned into an area that --

1 MR. KENT-SMITH: Wait, wait, wait.

2 That area is colored orange.

3 MR. DEVITTO: Yes, orange.

4 MR. KENT-SMITH: Orange means what?

5 MR. DEVITTO: That was -- that was the
6 area that needed the most repair.

7 MR. KENT-SMITH: So if green is good
8 and yellow was fair, is orange poor?

9 MR. DEVITTO: You could say that, sure.
10 And then that transitions into an area of the
11 berm that was deemed healthy and in good
12 condition. And that would close out the property
13 frontage.

14 MR. KENT-SMITH: Now as a landscape
15 architect in your analysis of the existing
16 landscaping, what further observations did you
17 make relative to the existing landscape?

18 MR. DEVITTO: Yeah. So the areas in
19 need of most attention were the white pines.
20 They have a lot of loss due to --

21 MR. KENT-SMITH: They have a lot of
22 what?

23 MR. DEVITTO: They have a lot of loss
24 of their lower branches.

25 MR. KENT-SMITH: I thought you said

1 moss

2 MR. DEVITTO: Oh, sorry.

3 MR. VICE CHAIR: Mr. -- Mr. Drill, I
4 believe our planners have a question. Sure.

5 MR. DRILL: Yeah. Give him the
6 microphone.

7 MALE SPEAKER: Just a question for
8 clarification for those of us who don't speak
9 landscape architect. Where it's talks about
10 either spotting or leggy.

11 MR. DRILL: Yeah. Good point.

12 MR. DEVITTO: So when -- when in
13 reference to a leggy tree, we're talking --

14 MR. DRILL: Leggy?

15 MR. DEVITTO: Yeah. So that's a tree -
16 - that's a mature tree that might be spotty or
17 missing limbs on the lower portions of the tree.
18 It might have a full -- full top or full crown
19 where it's getting its sunlight from.

20 MR. DRILL: Okay. So leggy is missing
21 limbs. What's spotty?

22 MR. DEVITTO: Spotty could also -- it
23 could be used as a term for spots in the -- in
24 the berm that are missing --

25 MR. DRILL: Missing vegetation?

1 MR. DEVITTO: Yeah, missing vegetation.

2 MALE SPEAKER: Yeah. So -- but I have
3 a -- in reference to legginess and buffering or
4 what the -- what the value of that means, like,
5 for the actual tree, does that it doesn't make it
6 harder to buffer if it's leggy? Can you just
7 explain what impact it has?

8 MR. DEVITTO: Yeah. So -- so those
9 trees are still valuable. They're still
10 providing canopy cover for those higher, tall --
11 and taller portions of the berm. But they can be
12 supplemented with additional evergreen trees on
13 the lower portions.

14 MR. KENT-SMITH: So in other words that
15 like the street level or at the top of the berm,
16 there would be visible gaps in the coverage of --

17 MR. DEVITTO: Yeah. Yes.

18 MR. KENT-SMITH: So based on that --

19 MALE SPEAKER: Well, one more question.
20 Yellow equals fair where the dead tree is spotty
21 and leggy. So the orange poor, what's -- what do
22 you see in that poor area? There just things
23 that are as missing?

24 MR. DEVITTO: Yeah. It was just a
25 little. It was in worse condition than -- than

1 that yellow portion. But it still had those same
2 features, just a little more emphasized.

3 FEMALE SPEAKER: Although -- sorry. On
4 your note, it says existing berm in good
5 condition; however, due to tree removal, there
6 will be a large gap in the screening for the
7 orange section?

8 MR. DEVITTO: Yes.

9 FEMALE SPEAKER: That's removal of
10 trees that are dead?

11 MR. DEVITTO: Yeah. So -- so this
12 area, it was -- it was both. It was a little.
13 It was in fair condition. And then on top of
14 that, it was the tree removal in that area
15 anticipated it was going to be an area that was
16 going to need to be buffered.

17 FEMALE SPEAKER: But my question is the
18 trees are being removed because they're dead.

19 MR. DEVITTO: There are dead trees in
20 this area, yes.

21 MR. VICE CHAIR: So you just said it
22 was in good condition, but then at the same time,
23 it's in poor condition. So can you just
24 explain --

25 MR. DRILL: In other words, A-28 says

1 that red is in good condition. But you've just
2 described it as poor condition. Is that a typo?

3 MR. DEVITTO: I believe it's a typo.
4 I'm sorry. Yeah.

5 MR. DRILL: That should be poor.

6 MR. VICE CHAIR: So once and for all,
7 just reiterate. It's in poor condition. And it
8 needs additional plantings to improve the
9 buffering because there's large gaps and they
10 need to remove trees that are dead.

11 MR. DEVITTO: Yes.

12 MR. VICE CHAIR: Correct?

13 MR. VICE CHAIR: Okay.

14 MR. DEVITTO: Yeah. That was -- that
15 was the intention. I'm sorry for the confusion.

16 MR. KENT-SMITH: Okay. Now as a result
17 of the analysis that you've just gone through
18 with existing conditions, what is your
19 recommendation as landscape architect relative to
20 plantings and supplemental landscaping for the
21 berm?

22 MR. DEVITTO: Sure. So we recommend
23 the removal and re- -- replacement of all the
24 dead trees on -- on site within the berm. We'd
25 also suggest the spotting of additional evergreen

1 trees. And we --

2 MR. KENT-SMITH: Again, when you say
3 spotty, or the planting --

4 MR. DEVITTO: Planting of.

5 MR. KENT-SMITH: -- evergreen trees in
6 selected spots in order to cover the gap. Would
7 that be better? More accurate --

8 MR. DEVITTO: That's correct.

9 And we would like to do this with
10 native species, preferably deer-resistant
11 species.

12 MR. KENT-SMITH: And --

13 MALE SPEAKER: When you -- when you --
14 excuse me, when you when you're referring to
15 that, are you referring to the color-coded yellow
16 areas?

17 MR. DEVITTO: This would take -- this
18 is a general recommendation for the entire berm.

19 MALE SPEAKER: Including the green
20 areas?

21 MR. DEVITTO: Yes, some -- some of the
22 portions of the green area had trees that were
23 dead that would need to be removed, but it wasn't
24 -- it wasn't a dominant feature of this area.

25 MALE SPEAKER: Thank you.

1 MR. KENT-SMITH: So then --

2 MR. VICE CHAIR: I'm sorry, Mr. Kent-
3 Smith. Just very quick. When you say
4 "replanting," if you can get into this further,
5 can you just define what that means that?

6 MALE SPEAKER: Exactly. Exactly.
7 Thank you, Mr. Kent-Smith.

8 MR. KENT-SMITH: So in the
9 recommendation that you're making relative to the
10 planting, walk the board through what it is
11 you're exactly proposing to do, how it will be
12 done, and verification that it was done in
13 accordance with the direction of the board and
14 its professionals

15 MR. DEVITTO: We think it'd be a good
16 recommendation to walk the site with the
17 Township's professionals; flag trees marked for
18 removal, whether they're diseased or dead; and
19 stake out additional spots that would be deemed
20 beneficial to plant additional evergreen trees
21 and then supplement that with agreeable species
22 that the Township has.

23 MR. KENT-SMITH: And in this process,
24 then, you would then locate, after you've done
25 the walk with the board's landscape architect, a

1 plan that would actually then specifically
2 identify trees to be removed, where the new trees
3 are going to be planted, what the species will be
4 and their height in order to provide the correct
5 coverage?

6 MR. KENT-SMITH: Correct.

7 MR. VICE CHAIR: So when you're
8 replanting, to the height -- you know, again, I'm
9 not a landscape architect -- but you're making
10 sure that what you are replanting is of the same
11 height to provide that adequate coverage.

12 Because, you know, trees -- are these mature
13 trees that you're planning or just you're
14 specifying to where the gaps are?

15 MR. DEVITTO: Well, that would be
16 something that would also have to be worked on
17 together. You wouldn't plant a tree that's --
18 you wouldn't want to plant a tree that's 20 feet
19 tall. It would -- it would be too arduous to
20 actually physically get that tree into there. So
21 we would want to plant a smaller-sized tree,
22 something that would take to the ground and be
23 hard -- be healthy and be a good -- good buffer
24 tree for years to come

25 MR. KENT-SMITH: So is part of your

1 concern, then, that the replacement trees be
2 planted at an appropriate height and location so
3 that they don't get killed by the existing trees
4 overly shaded and not grow properly, that they
5 would be properly located at a suitable side to
6 maximize their function as a screen.

7 MR. DEVITTO: Correct. Yeah.

8 MR. KENT-SMITH: Thank you.

9 FEMALE SPEAKER: And do you have a
10 sense of where the -- particularly the orange
11 that's in poor condition --

12 MR. DEVITTO: Uh-huh.

13 FEMALE SPEAKER: -- what the sidewalks
14 look like and whether they're directly with the
15 curb or where they are in relation to this? Do
16 you have a diagram that shows where the sidewalks
17 are? Cause we'd previously mentioned --

18 MR. DEVITTO: Yeah. We can go to the
19 next one.

20 MR. KENT-SMITH: We actually have a
21 special exhibit on that specific area. So let's
22 go ahead and get this identified and marked.

23 MR. DRILL: So that's going to be A-29.
24 And what is A-29?

25 MR. KENT-SMITH: Identify that.

1 MR. DEVITTO: This is the landscape
2 plan sheet C-14 with color-coded markup.

3 MR. DRILL: Sheet A-14?

4 MR. DEVITTO: I'm sorry. C-14.

5 MR. DRILL: Okay.

6 MR. KENT-SMITH: And please describe
7 what this exhibit is showing.

8 MR. DEVITTO: This is the current
9 landscape plan with areas highlighted that we
10 would like to supplement with additional
11 plantings.

12 MALE SPEAKER: Can we -- I'm sorry.
13 This computer didn't switch to the next exhibit
14 for us. No. The other ones did, but this one
15 still on the first -- the previous. Sorry.

16 MR. DRILL: No, we are. We are. He's
17 not. Everyone else is.

18 MALE SPEAKER: Could I just, as a -- as
19 a point of clarification, because you talked
20 about selecting the tree. You know, it should be
21 deer resistant, etc.

22 MR. DEVITTO: Sure.

23 MALE SPEAKER: But I think in answer to
24 a question that Kent-Smith raised, you said that
25 -- you said that the function was for screening.

1 I just want to be overt with that and make sure
2 that that's on the record that the purpose of
3 those plantings are primarily as a screen.

4 Correct?

5 MR. DEVITTO: Correct.

6 MALE SPEAKER: Okay. Thank you.

7 MALE SPEAKER: Do we have everything in
8 order now?

9 MALE SPEAKER: Yep.

10 FEMALE SPEAKER: So -- so, now that you
11 have the diagram, you know, I'm assuming are
12 those orange piece -- pieces -- areas where the
13 berm is poor and may need replacement?

14 MR. DEVITTO: Yes.

15 FEMALE SPEAKER: Okay. And how is that
16 in contrast to the actual sidewalks?

17 MR. DEVITTO: The berm would be -- is
18 proposed on -- to be placed on the backside of
19 the sidewalk on the site side. So there'd be no
20 -- no plantings between the curb and the
21 sidewalk. It'd be on the sidewalks or it'd be on
22 the site side.

23 FEMALE SPEAKER: Okay. Because
24 earlier, there was an exhibit -- I believe it was
25 like C-19 and was like photo 7 and photo 8, where

1 there was a drop off. So it went from sidewalk
2 straight to the curb --

3 MR. DEVITTO: Uh-huh.

4 FEMALE SPEAKER: -- of the street. Do
5 we have -- do we know --

6 MR. DRILL: So on this map, it doesn't
7 go that far. North or to the right. So this is
8 -- still has the green between the sidewalk and
9 the street line. The sidewalk doesn't move -- it
10 actually is not shown on this exhibit.

11 FEMALE SPEAKER: Okay. So do you know
12 what the condition of the berm is in photo 7 and
13 8?

14 MR. KENT-SMITH: Like further north --
15 like down that sidewalk that? Yeah, so it was in
16 good condition there, the berm.

17 FEMALE SPEAKER: So the berm didn't
18 have any dead trees or need any replacement.

19 MR. DEVITTO: It would -- it would need
20 a -- a minor -- a walk-through to identify any
21 dead trees. But for the most part, it was dense,
22 and the evergreens were full.

23 MR. KENT-SMITH: So just so everybody's
24 clear, going back to A-28, you have shown in
25 green next to the orange area, that's what you

1 were just referencing.

2 MR. DEVITTO: That is that portion of
3 the site, yes.

4 MR. KENT-SMITH: Okay.

5 MR. DEVITTO: Like, yeah.

6 MR. KENT-SMITH: Does your computer
7 have the ability to pull up Google Street View?
8 Because it shows pretty clearly what it looks
9 like.

10 MR. DRILL: Nick -- let's let Nick pull
11 up a Google Street View or attempt to pull up a
12 Google Street View. He just needs an outside
13 line.

14 MALE SPEAKER: Is there -- ahh.

15 MR. DEVITTO: Thank you.

16 MR. KENT-SMITH: Okay. So we -- we --
17 you now see Street View, correct? So where do
18 you want me to draw?

19 MR. DRILL: I think he wants you to
20 start on the north --

21 FEMALE SPEAKER: Towards the railroad.

22 MR. DRILL: -- towards the railroad and
23 work back --

24 MR. KENT-SMITH: So go all the way down
25 to the railroad and then come back down towards

1 the south.

2 MR. DRILL: Right. Nice and slow.

3 MALE SPEAKER: Sure. That sounds fine.

4 MR. DRILL: Nice and slow. I mean, get
5 down to the railroad first. But then when you
6 come back, come slow.

7 MR. KENT-SMITH: And then orient that -
8 - there we -- there we go.

9 MALE SPEAKER: That is what we --

10 MR. DRILL: Whoa, whoa, whoa. Don't
11 start doing it yet.

12 MR. KENT-SMITH: No?

13 MR. DRILL: Get back to the railroad.
14 Someone -- okay.

15 MR. KENT-SMITH: That's the railroad.

16 MR. DRILL: Stop. Stop right there.
17 Where would the railroad be on Exhibit A-28? Not
18 A-29.

19 MR. KENT-SMITH: So here's the railroad
20 tracks, right?

21 MALE SPEAKER: That's A-29. Go to A-
22 28. Right.

23 MR. KENT-SMITH: So here are the
24 railroad tracks. Coming down. Coming down.
25 Coming down. Here's where the bridge is over

1 Walnut at the edge of the map at the end of where
2 it showed green at the north corner of the
3 property.

4 MR. DRILL: So let me ask you this. It
5 looks like there's a concrete retaining wall
6 that's triangular in shape.

7 MR. KENT-SMITH: Correct.

8 MALE SPEAKER: Is that -- any part of
9 that retaining wall on the applicant's property
10 or not?

11 MR. KENT-SMITH: I don't believe so. I
12 think all of that is within the right-of-way.

13 MALE SPEAKER: Okay. So the only part
14 of what --

15 MR. KENT-SMITH: Just for the record,
16 Mr. Drill -- just so -- the -- the area that is
17 shown in the green. There's a dotted line, which
18 I believe that dotted line represents a county
19 easement. That is appurtenant to the slope --
20 it's a slope easement. So just -- just so you
21 understand. We may own it, but it's subject to
22 the slope rights that are related to this
23 crossing.

24 MR. DRILL: All right. Right. So if,
25 hypothetically, the board wanted the sidewalk to

1 be increased in that location, from the current,
2 I believe we said, it's four feet to eight feet,
3 you'd have to cut into that slope, and then you'd
4 have to construct your own retaining wall,
5 correct.

6 MR. KENT-SMITH: Well, and quite
7 honestly, we'd have to have county approval
8 because of the slope easement.

9 MR. DRILL: I -- I -- I understand. It
10 would be subject to county approval.

11 MR. KENT-SMITH: Yes.

12 FEMALE SPEAKER: But I -- I think we
13 need actual testimony. I don't think counsel can
14 -- can give that information. I would think we
15 need an expert or at least some assessment that's
16 official.

17 MR. DRILL: Well, put it this way. I
18 was just asking him legally, not factually --

19 MALE SPEAKER: Right.

20 MR. DRILL: -- if the sidewalk is four
21 feet wide, because that's what they testi- --
22 they had someone testify to that --

23 MALE SPEAKER: Show on the exhibit. I
24 don't know where your property line is.

25 MR. DRILL: -- if you increase it to

1 eight feet, I believe their engineer testified
2 they'd have to cut into the slope. So I'm asking
3 him legally if they had to cut into the slope,
4 okay, it would be subject to county approval, but
5 is there any reason that that couldn't be done?
6 That's my question. Legally, is there any reason
7 why that couldn't be done? So this is for the --

8 MR. KENT-SMITH: The legal reason is
9 that it would be subject to slope preservation
10 rights that I don't know we would have the
11 authority and, quite frankly, it'd have to be
12 modified with the -- with the county.

13 MR. DRILL: Right. But -- that -- I'm
14 saying.

15 MR. KENT-SMITH: Yeah.

16 MR. DRILL: Subject to county approval,
17 assume -- look, if the county said no, and they
18 had some slope, well, okay. But if the county
19 said yes, is there some legal reason that I don't
20 know about that if the county said, "Yes, you
21 could go into our slope easement," assuming they
22 have one there, is there any other legal reason
23 of why it couldn't be done?

24 MR. KENT-SMITH: The answer is I don't
25 know of any leet direct legal impediment. I will

1 state this, that this area is subject to existing
2 slope easement. It is subject to the county's
3 ownership and authority. There are utility poles
4 and other obstructions in the way. This is an
5 affordable housing project that is subject to
6 limitations on cost generation. And in an issue
7 such as this where we are dealing with an
8 affordable housing project with cost generation
9 limits, I will tell you to go through that
10 exercise and implement that expanded sidewalk in
11 this specific area would be cost generated.

12 MR. DRILL: I disagree with you on
13 that. Because the way I read the cost generation
14 cases, it's if you had some other ordinance
15 provision, some general ordinance provision in
16 the Township that you needed relief from the
17 cases say the board has to be flexible with that.
18 But this is a tailor-made redevelopment plan.
19 And the cost generation cases go to the ordinance
20 is either cost-generative or not, not the board
21 granting relief from a tailor-made redevelopment
22 plan. So my opinion on that is that this would
23 not be a cost-generative requirement, if that's
24 where the board's gonna go.

25 If you want to make -- get some

1 witnesses and make an argument that, you know,
2 there's a utility pole in the way, you have some
3 sort of --

4 MR. KENT-SMITH: We've already provided
5 that testimony, Mr. Drill.

6 MR. DRILL: I understand. But I'm
7 saying if the board doesn't agree with that, I
8 just wanted to bring this to the fore. I don't -
9 - in my opinion, this would not be considered
10 cost-generative where it's a tailor-made
11 redevelopment plan for this affordable housing
12 project. It's not some general ordinance
13 requirement. So we have a difference of opinion
14 on that. But that's -- I represent the board.
15 That's my opinion to the board.

16 MR. KENT-SMITH: So then -- is there
17 any other issues relative to --

18 MR. DRILL: Mr. Kent-Smith -- Mr. Kent-
19 Smith -- Ms. Dirmann?

20 MR. VICE CHAIR: Ms. Dirmann.

21 MS. DIRMANN: So --

22 MR. DRILL: Microphone.

23 MS. DIRMANN: I don't know. I don't
24 see your civil engineer here. But I was just
25 scrolling through the plans. It looks like

1 there's a dimension on the plan that shows the
2 existing sidewalk at over seven feet in width in
3 that area, in front of the berm.

4 MR. DRILL: Hmm.

5 MS. DIRMANN: Sheet C-5. I don't know
6 if --

7 MR. DRILL: Well, this is --

8 MS. DIRMANN: So --

9 MR. DRILL: Now Ms Sen's comment is --
10 is absolutely correct. If -- I was talking
11 hypothetically, right? If it's factual, they
12 need some expert. It can't be Mr. Kent-Smith.
13 And the en- -- their engineer would be the best
14 person to do it and if he's not here, I don't
15 know what to say.

16 MS. DIRMANN: That's what's shown on
17 your plan. I just scaled it off of my elect- --
18 you know, my PDF.

19 MR. DRILL: Can you go over to their
20 plan and take a look?

21 MR. KENT-SMITH: Yeah. That shows
22 seven feet.

23 MS. DIRMANN: That's not what your
24 exhibit shows.

25 MR. KENT-SMITH: (Inaudible).

1 MS. DIRMANN: No. The -- the exhibit
2 from last meeting. I thought you had indicated
3 that was four.

4 MR. KENT-SMITH: (Inaudible).

5 MS. DIRMANN: Four or five.

6 MR. KENT-SMITH: (Inaudible).

7 But it is dimensions. The plan does --
8 the plan does state seven feet is the dimension
9 on the -- on C-7.

10 MR. DRILL: Let me just add one other
11 thing. Let's assume that you're correct -- I
12 don't think you are, but assume you're correct
13 about cost-gen- -- that would only apply to the
14 residential side. That wouldn't apply to the
15 commercial side. Right?

16 MR. KENT-SMITH: All I am saying is
17 this: That the way that I think we should be
18 able to resolve this is, first, let's get the
19 facts accurate.

20 MR. DRILL: Yeah. Correct. I agree
21 with that.

22 MR. KENT-SMITH: And to the extent
23 that, factually, it's seven feet and we're
24 talking about one foot, that's an entirely
25 different discussion.

1 MR. DRILL: I also agree with that. I
2 bet you could get to one foot without all the
3 problem. I bet you can get -- add one more foot
4 to get to eight feet without the problems you'd
5 have if you had to add four feet to get to eight
6 feet.

7 MR. KENT-SMITH: I think that's pretty
8 accurate statement.

9 MR. DRILL: Yeah.

10 MR. KENT-SMITH: So let's do this, as -
11 - what I would ask the board's indulgence,
12 because this would require just the -- and -- and
13 this is leading back to landscape architect, that
14 there will be a site visit with the Township's
15 engineer and landscape architect to go through
16 the berm, that that also be directed to fully and
17 accurately measure the sidewalk dimensions. And
18 to the extent feasible, for example, seven feet
19 to eight feet -- foot, the answer is: That's
20 something we can accommodate. But I want to make
21 sure we get it factually accurate first. We
22 cannot do that until I have our engineer surveyor
23 at the property with the Township so everybody
24 takes a tape measure and agrees on the
25 measurements so there's no issues there.

1 MR. DRILL: So put it this way: Let's
2 assume that the applicant wraps up its case this
3 evening, before the deliberation that has to get
4 done. That that -- the sidewalk issue, because
5 you're applying for an exception, that can't be
6 the condition of approval. That would have to
7 get done between now and next week.

8 MR. KENT-SMITH: May I ask Ms. Dirmann
9 and her office, would we be able within the next
10 week with our availability to do this with your
11 office?

12 MS. DIRMANN: (Inaudible).

13 MR. KENT-SMITH: I don't -- it doesn't
14 make sense for us to unilaterally do this.

15 MS. DIRMANN: Right. No. I -- I
16 understand that, but I just want you to know that
17 the testimony has been very clear by your
18 witnesses that it's four feet. So I do think if
19 there is a factual issue, we need to make sure
20 that that's clear because the record is
21 conflicting.

22 MR. KENT-SMITH: And, Ms. Sen, I think
23 it's a hundred percent things that need to be
24 done that should be done in consultation with
25 your own staff so that there's a second set of

1 eyes verifying.

2 MS. SEN: As long as its objective. I
3 mean, it's one of these things where, you know --

4 MALE SPEAKER: If you --

5 MR. KENT-SMITH: Right.

6 MALE SPEAKER: -- reposition the Street
7 View, you get a better look at the sidewalk and
8 then, to me, it does not appear to be seven feet
9 in width.

10 MR. DRILL: Look, I can't -- obviously,
11 you can't testify. I certainly can't testify.

12 But my recollection from the notes was that it
13 said seven feet, the engineer said no, they went
14 out and took a look. It was actually four feet.

15 MR. KENT-SMITH: So I think we have to
16 clarify that.

17 MR. DRILL: Correct.

18 MR. KENT-SMITH: And I don't think it
19 can be clarified tonight. So again, as --
20 provided that we can make an arrangement with
21 Colliers that we would have one of their
22 representatives there, we can schedule that to be
23 completed next week.

24 MR. VICE CHAIR: And you'll schedule
25 that ahead of --

1 MR. DRILL: It has to be --

2 MR. VICE CHAIR: -- has to be ahead of
3 this next meeting.

4 MR. DRILL: -- by next Wednesday.

5 MR. VICE CHAIR: Okay. Thank you,
6 Mr. Kent-Smith.

7 MR. DRILL: You can proceed.

8 MR. KENT-SMITH: So is there anything
9 more that you wanted to add on your testimony,
10 Mr. Devitto?

11 MR. DEVITTO: No, I was complete.

12 FEMALE SPEAKER: Excuse me. So just --
13 I just have a concern. Why wasn't all that
14 measuring done before tonight's meeting?

15 MR. KENT-SMITH: I believe it had been
16 done. I don't understand why it wasn't done. I
17 was led to believe it was. I don't have an
18 answer for you because I don't know.

19 FEMALE SPEAKER: Uh-huh. Okay.

20 MR. TAYLOR: On the Street View we're
21 looking at now, can you go closer to the sidewalk
22 in question?

23 MR. DRILL: Again, I don't think --
24 Mr. Taylor, I don't think it's possible for us to
25 make that determination.

1 MR. TAYLOR: I agree. But I just
2 wanted to take a view, a different perspective.

3 MR. KENT-SMITH: You know, the answer
4 is: We'll find the -- the correct answer. And
5 if there was an inaccuracy one way or the other,
6 the plan or the testimony, we have to get
7 resolved.

8 MS. SEN: Okay. Thank you. And I just
9 wanted to be clear. If we could do that for the
10 entire sidewalk, right, because there's a lot of
11 testimony. In fact, I think it was the traffic
12 expert -- I forgot his name.

13 MR. DRILL: Mr. Seckler.

14 MS. SEN: -- that he said he measured
15 it and was exactly four feet everywhere. So the
16 difference is, you know, I just want to be clear.
17 Because we have one issue of what is the actual
18 width today, right, which we're obviously going
19 to measure, which we appreciate. And then the
20 second part is, what is the plan? If the plan
21 drawn says seven feet, well, that's very
22 different from what your expert testified --

23 MR. KENT-SMITH: Understood.

24 MS. SEN: -- is four feet. So we want
25 to just make sure that we know. And I want to

1 make sure that we know for the entire sidewalk,
2 not just one little section.

3 MR. KENT-SMITH: Well, this is why I
4 think that with Colliers, you know, your
5 consultant along with ours, we can make sure the
6 whole site is walked, maybe not do all the
7 landscape location, but at least identify and
8 verify areas where we're going to then have a
9 more focused analysis for the landscaping. And
10 that can all be done between now and next
11 Wednesday.

12 MS. SEN: Thank you.

13 MR. KENT-SMITH: So I have no further
14 questions for Mr. DeVitto.

15 MR. VICE CHAIR: I have a question. So
16 on the area facing Walnut Avenue, where there are
17 purportedly not that many evergreen trees and
18 you're talking about the supplemental plantings
19 that needs to take place to provide adequate
20 coverage, so you'll ensure that it's not just
21 ornamental shrubs or -- or tall grasses -- you'll
22 ensure that they are the proper height to provide
23 sufficient buffering and sufficient coverage,
24 correct?

25 MR. DEVITTO: Yes. We'll -- we'll

1 specify industry standard evergreen tree
2 material.

3 MR. VICE CHAIR: Okay. Thank you.

4 Before I move on to questions from the
5 public for this witness, do our professionals
6 have any outstanding questions --

7 MR. TAYLOR: Well -- well, before we do
8 that --

9 MR. VICE CHAIR: Or member of the
10 board. I'm sorry.

11 MR. TAYLOR: I was really hoping for
12 the benefit of the public that you use the Street
13 View to go along the sidewalk to show the berm
14 and the condition of the plantings.

15 MR. VICE CHAIR: My apologies,
16 Mr. Taylor. Correct.

17 MR. DRILL: All right. So you're going
18 -- you're using Street View, not for the sidewalk
19 with issue. You're using Street View so everyone
20 can see what the -- what the berm looks like from
21 the railroad trestle all the way down.

22 MR. TAYLOR: So I have a question on --
23 on -- so the view that we have right here, you
24 classified that as a green, which means it's in
25 good condition. Help me with that.

1 MR. DEVITTO: Well, this -- this
2 portion of the site, it's going to remain
3 undisturbed. And then coming back into this
4 area, it's -- there's no development happening in
5 this -- in this corner.

6 MR. DRILL: Yeah. He's -- what he's
7 asking is take a look on the right-hand side of
8 the screen. Right there where that little
9 pointer is. He's saying that that doesn't look
10 lke it should be green. That looks like it
11 should be --

12 MALE SPEAKER: Yellow --

13 MR. DRILL: -- yellow or orange,
14 because you have bare spots in there. That's
15 what he's asking about.

16 MR. KENT-SMITH: Well, that's not --
17 again, I don't know where the Conrail right-of-
18 way is. But it's awful, doggone close that
19 utility pole.

20 MR. TAYLOR: Look to the south of that.
21 Look -- look further down Walnut Avenue to the
22 left side of your screen. I mean, it's not.
23 That's north. That's north. The other
24 direction. Yeah. I mean, it's -- I'm just
25 struggling with if -- if that's --

1 MR. KENT-SMITH: You might be at that
2 point in the curve of the road beginning to hit
3 this orange area here.

4 MR. TAYLOR: But I guess --

5 MR. KENT-SMITH: In that view from
6 where that car is and that utility pole, you're
7 getting -- you're getting -- yeah.

8 MR. TAYLOR: I guess -- I guess my
9 point.

10 MR. KENT-SMITH: You're getting close
11 to the orange area.

12 MR. TAYLOR: I don't see anywhere from
13 this entire view all the way down to the railroad
14 track that I -- and I'm not a landscape architect
15 --

16 MR. DEVITTO: Sure.

17 MR. TAYLOR: -- I'll give you that --
18 would -- would classify as green. It all looks
19 like it should be, at minimum, a yellow, if not a
20 red. So I'm just -- I'm struggling with that a
21 little bit. Maybe you can help me.

22 MR. DEVITTO: Yeah. So we felt coming
23 down from this way from this -- from this road
24 that it was just, you know, nice -- nice trees in
25 here, mature shade trees, scrub shrubs. And then

1 as we're moving -- as we're moving north.

2 MR. TAYLOR: Well, if the goal -- if
3 the goal as you said previously to me is to be a
4 screen, shrubs and scrub and deciduous trees
5 aren't really providing a screen.

6 MR. DEVITTO: Well, yeah, we can -- we
7 can take a look into that area a little bit more.
8 As we move a little bit closer to the site where
9 the development will be happening, you can see
10 this condition is fairly dense. And this is
11 really where the buildings are -- are going to be
12 focused.

13 MR. KENT-SMITH: Well, in fact, they're
14 gonna be focused further to the south from where
15 your finger is pointing. The second utility pole
16 where that car is located --

17 MALE SPEAKER: You can't (inaudible) --

18 MR. KENT-SMITH: Well, I'm just giving
19 into the context.

20 MR. DRILL: I know. But ask him that -
21 - don't you.

22 MR. KENT-SMITH: Is this area that
23 you're showing on the screen right now with the
24 trees and the utility, the grade differential in
25 landscaping, I am now going to point in the

1 transition area between the orange and the green.
2 Do you believe that to be approximate location of
3 the area we're looking?

4 MR. DEVITTO: Yes, it's the approximate
5 area.

6 MS. SEN: And how do you have that
7 knowledge? Have you actually been to the site?
8 Have you looked it along with your assessment?

9 MR. DEVITTO: Yes. This was on a site
10 visit based off of December 6, so yesterday.

11 MS. SEN: So in your professional
12 opinion, what did you do? You walked along the
13 berm and you decided what looked good and what
14 didn't look good. And you marked it on a map?

15 MR. DEVITTO: Yes.

16 MS. SEN: And you could remember
17 exactly where that is looking at the picture on
18 Google Maps.

19 MR. DEVITTO: So I think this is.

20 MS. SEN: I can't -- I can't see how
21 that's possible honestly. But I don't have a
22 sense of direction.

23 MR. DEVITTO: Yeah. So this was the
24 area that we were starting to the edge of the
25 green. And then as we were moving forward, we

1 felt like this area, you can see some spottings
2 in here.

3 MS. SEN: Did you measure at all?

4 MR. DEVITTO: No.

5 MS. SEN: So when you were doing color-
6 coded, did you measure that from here to here,
7 it's green; and from here to here, it's -- it's
8 orange?

9 MR. DEVITTO: It was a --

10 MS. SEN: And then you made
11 demarcations of where --

12 MR. DEVITTO: It was a general pacing.
13 This wasn't --

14 MS. SEN: What does that mean?

15 MR. DEVITTO: -- the site -- just kind
16 of pace off.

17 MS. SEN: There's a represent --

18 MR. DEVITTO: It was an estimation. It
19 wasn't an exact tree-by-tree analysis, which
20 would be fairly intense in which we're looking to
21 do with the Township.

22 MR. KENT-SMITH: Right.

23 MS. SEN: But how are you certain that
24 what you did at that day, you could replicate
25 exactly on another day if you didn't mark it in a

1 scientific way?

2 MR. KENT-SMITH: That's what the whole
3 point of the condition that we're proffering to
4 this board is about.

5 MS. SEN: Okay. I would like to hear
6 from the witness, sir.

7 MR. KENT-SMITH: It is to do precisely
8 that so that your consultants, our consultants,
9 can then do a actual measured, plotted and then
10 surveyed and planned landscape plan to supplement
11 the berm as a condition of approval. That's what
12 we're proffering.

13 MR. DRILL: But the question that she's
14 asking to you --

15 MR. DEVITTO: Sure.

16 MR. DRILL: Let's start at some basics.
17 Did you prepare yourself Exhibit A-28 or someone
18 else?

19 MR. DEVITTO: No, that was me.

20 MR. DRILL: Okay. So what her question
21 really is, is did you prepare that out in the
22 field as you were pacing off or did you prepare
23 that back in your office?

24 MR. DEVITTO: Well, I -- I did the
25 markup in the office.

1 MR. DRILL: Right. So what she wants
2 to know is if you didn't take any notes, right --
3 you went out in the field, you paced it off. If
4 you didn't take any notes and you didn't mark up
5 anything out there, how long after you did the
6 walk-through did you get to your office to do
7 that? an hour? a day? a week?

8 MR. DEVITTO: Yes. So I went out to
9 the site, walked it, took notes on a site plan,
10 went back to the office, later that afternoon,
11 completed the -- completed the markup. So it's
12 the same day.

13 MR. DRILL: So she's questioning how
14 can you assure the board that A-28 is accurate if
15 you didn't actually take measurements and you
16 were just doing general markings? That's really
17 what her -- that's really what your --

18 MS. SEN: Yes.

19 MR. DRILL: -- question is, correct?

20 MS. SEN: Yes. And -- and also, like,
21 can you do the same thing and have the exact
22 result? And the question is, If yes, how?

23 MR. DEVITTO: Uh-huh.

24 MS. SEN: Obviously, I understand from
25 counsel that you all are going to endeavor to do

1 this. And if it's, "we didn't do it, and now
2 we're going to do it," I understand that and I
3 appreciate that.

4 MR. DEVITTO: Yeah.

5 MS. SEN: But I want to see -- I mean,
6 you're an expert doing landscaping. You're
7 saying that the actual video is -- is of an area
8 that's either green or orange. And I'm just
9 wondering, how is that possible? And then also,
10 can you replicate it again, if you went today --

11 MR. DEVITTO: Uh-huh --

12 MS. SEN: -- or tomorrow when it's
13 bright, would you have the same exact diagram?

14 MR. DEVITTO: Yeah. I think we'd have
15 a -- an even better diagram, especially working
16 with the professionals. I didn't go tree by
17 tree. But when we -- when we do that, we're
18 actually going to mark and mark off -- we'll
19 tape. We'll flag. So while these are general
20 approximations, general guidelines, if there's a
21 small pocket within that green, that there's
22 three trees or so that needs to be removed, like
23 we'll -- we'll do that. So I am confident we'll
24 be able to not only replicate it, but get an --

25 MR. DRILL: Get a more accurate --

1 MR. DEVITTO: -- a much more accurate
2 representation of what's -- of what's happening.
3 And I'm confident making a good berm.

4 MR. DRILL: Conceding the fact that the
5 exhibit A-28, let's just say, you can't rely on
6 it to be an accurate depiction of what's out
7 there. That's why they're proposing this method
8 of getting an accurate.

9 MS. SEN: Okay. Absolutely.

10 MR. DEVITTO: Yeah. Correct.

11 MS. SEN: And -- and -- and I thank
12 you, you know, for -- for doing it again.

13 MR. DEVITTO: Yeah. It's just -- this
14 is just a general guideline to show the board --
15 present to the board we went out there, we looked
16 at it, this area's in fair condition. We know we
17 need to go out here focus on it and --

18 MALE SPEAKER: You bring the view to --
19 I think it's Behnert. Go to that intersection
20 and then see the berm from that vantage point.

21 MALE SPEAKER: Where's that? Keep
22 going down. I think Behnert's next.

23 MALE SPEAKER: The first street you
24 come to.

25 MALE SPEAKER: Lexington is first.

1 MALE SPEAKER: Okay. Go to Lexington
2 first.

3 MALE SPEAKER: Okay. Go back. Go
4 back. Lexington is the first street you come to.
5 That's Lexington right there.

6 MALE SPEAKER: Okay.

7 MALE SPEAKER: When you are at the
8 intersection of Lexington looking into the site,
9 that is what you're seeing.

10 MR. DRILL: And is this A-28 -- does
11 this have the aerial properly coordinated with
12 the site plan?

13 MR. KENT-SMITH: Yes. This -- yes, it
14 does. This is Lexington coming in it. It then
15 doglegs into where we're looking at this plan
16 view now? Behnert is here. And that will be
17 aligned with the main access road into the
18 residential portion. So we're looking now at
19 Lexington.

20 MS. SEN: Okay. And can we have the
21 witness do it? I'm just -- I want to make sure
22 the witness knows. I mean, you're -- you're
23 testifying --

24 MR. DEVITTO: Sure.

25 MS. SEN: -- that you did this and that

1 you looked at it, and you're an expert. Right?

2 So I'd rather hear from you rather than --

3 MALE SPEAKER: Can you just go a little
4 closer on this view?

5 MR. KENT-SMITH: Well, this is -- this
6 -- these -- this line of questioning factually,
7 isn't -- this a new witness, hasn't been
8 following the proceeding, doesn't know all the
9 exhibits. I'm just giving you an assistance to
10 guide you to make sure you're in the right plan
11 view.

12 MS. SEN: Right. But what we have is
13 we have a situation, right, and I'm just -- where
14 we have conflicting testimony between experts,
15 right? One expert says it's four feet. The
16 other one says it's seven feet. Then we don't
17 know; we're gonna look right.

18 And then what we're doing is we're
19 wanting to look at the berm, right, and we want
20 to look at the sidewalk, and we want to know --
21 because, you know, we want to know, one, what is
22 Hartz asking us to do? Because the plan says
23 there's eight feet.

24 MR. KENT-SMITH: Uh-huh.

25 MS. SEN: So if they're asking us to

1 move it one feet, that's one thing. Hartz's
2 expert has stated that it cannot expand the
3 sidewalk because of the berm and vegetate --
4 vegetation and the slope. So that is why it's
5 relevant. And so I'm asking you if you know,
6 since you're testifying, you know, how does the
7 sidewalk relate to the berm and its condition?
8 Because if the condition is bad and it needs to
9 be replaced, and obviously the sidewalk can't be
10 expanded.

11 MR. DEVITTO: Right. Without knowing
12 any -- any easements, setbacks --

13 MR. VICE CHAIR: We can -- we just
14 focus -- I'm sorry. Let's focus -- so we already
15 have a resolution point on the sidewalk. Let's
16 just focus for these -- and I appreciate that
17 concern, but just on the berm itself, because
18 that's what we're contending with.

19 MR. DEVITTO: Sure. Yes.

20 MR. VICE CHAIR: Go ahead.

21 MR. DRILL: So Mr. Taylor asked that's
22 the view from Lexington. So you want him to
23 continue to move --

24 MR. TAYLOR: Continue south.

25 MR. DRILL: Continue south nice and

1 slow. And then when you get down to Behnert,
2 stop again. Correct?

3 MR. TAYLOR: Sure.

4 DEPUTY MAYOR GAREIS: Can I ask you
5 another question while you're -- I'm sorry to
6 while you're moving it. But did you as the -- as
7 an architect -- as a landscape architect, did you
8 look at the, like, physical dirt berm or did you
9 look at the trees and shrubs and planting on the
10 berm.

11 MR. DEVITTO: I observed the berm just
12 to see if it was -- if there were signs of
13 erosion. It didn't -- did not seem to be
14 especially in these areas that we're kind of
15 getting into. So the berm seems to be in -- in
16 fair condition.

17 DEPUTY MAYOR GAREIS: The physical berm
18 itself.

19 MR. DEVITTO: The physical berm, the
20 actual mound.

21 MALE SPEAKER: Yes. That'd be better.

22 MR. DRILL: Okay. So there's the --
23 there's the view from Bernard. And let's ask the
24 witness to take that microphone that Mr. Kent-
25 Smith is holding and go over to A-28 and point

1 out where Behnert -- Behnert is.

2 MR. DEVITTO: Sure. It's the line --

3 MR. DRILL: Don't worry. Just shout.

4 MR. DEVITTO: It's the line with the
5 main axis.

6 MR. DRILL: Right there. All right.
7 You want to -- Mr. Taylor, I assume you want him
8 to go all the -- continue to go south to the end
9 of the property, correct?

10 MR. TAYLOR: That's fine. The only
11 thing I'd like to mention -- or he can mention is
12 the date of the Street View that's shown on
13 there.

14 MR. DEVITTO: Sure. It's June 2022.

15 MR. TAYLOR: Thank you.

16 MR. DEVITTO: So this past summer.

17 MR. DRILL: Okay. When all the leaves
18 are on the trees is your point?

19 MR. TAYLOR: Yep.

20 MR. DRILL: Okay.

21 MALE SPEAKER: Another question. I
22 know we had testimony the last hearing from a
23 landscape architect who was responsible for the
24 residential side?

25 MR. KENT-SMITH: That's correct.

1 MALE SPEAKER: You're testifying
2 tonight that you or your firm is going to be
3 responsible for the plantings on the berm on both
4 the commercial and residential side or just are -
5 - is your firm only responsible for the
6 commercial side?

7 MR. DEVITTO: When you say the
8 residential side, that's the boundary between the
9 residential and the commercial right --

10 MR. DRILL: Right. There was testi- --

11 MR. DEVITTO: -- within -- within the
12 property.

13 MR. DRILL: -- there was testimony that
14 the commercial side is going to be responsible
15 for maintaining the whole berm. So his question
16 is, are you going to be responsible for designing
17 supplementing whatever the whole berm?

18 MR. DEVITTO: Yes. Thank you.

19 MR. DRILL: I'm the interpreter of
20 questions apparently.

21 MR. VICE CHAIR: Are they still going
22 down, Mr. Taylor?

23 MR. DRILL: Yeah, well -- Mr. Taylor
24 wants to continue all the way down from the end.

25 MR. TAYLOR: From these -- from these

1 viewpoints, like right there --

2 MR. DRILL: Stop --

3 MR. TAYLOR: -- just stop and take a
4 look at the berm here and give me your
5 professional opinion as to its condition. Point
6 out what's good and what's bad about it.

7 MR. DEVITTO: Sure. So you -- you're
8 starting to see some the white pines on the berm
9 in these -- these trees kind of coming up right
10 here --

11 MR. TAYLOR: Yep.

12 MR. DEVITTO: -- you can -- you can see
13 the leggy nature, which means that the branching
14 on the lower portions is -- is absent. And those
15 are -- those are the types of trees that we're
16 looking to supplement.

17 MR. DRILL: And where do you think this
18 is? Go back up to A-28 with the microphone and
19 point to the board where you think the area
20 that's shown now on Google Street View is.

21 MR. DEVITTO: It's approximately.

22 MR. DRILL: So it's in that yellow
23 area, we're still in the approximate location of
24 Behnert, correct?

25 MR. DEVITTO: Yes. Correct.

1 MR. TAYLOR: And how about the berm
2 itself at that location and the grass cover?

3 MR. DEVITTO: Yeah. So I was looking
4 at -- at this. It seems to be pine needles on --
5 on the berm. It did not appear to be exposed
6 soil.

7 MR. VICE CHAIR: Just practically
8 speaking. So let's just say you went out there
9 and you identified this current condition --

10 MR. DEVITTO: Sure.

11 MR. VICE CHAIR: -- and you were trying
12 to increase the -- the screening and buffering to
13 supplement that. How many -- how many trees or -
14 - or plants would you have to -- to put there to
15 address that?

16 MR. DRILL: He's asking to screen the
17 development --

18 MR. DEVITTO: Sure.

19 MR. DRILL: -- from the people on the
20 other side, just in this Google view, how many
21 evergreens do you think you'd have to plant?

22 MR. VICE CHAIR: Because it looks
23 sparse? I mean, yeah.

24 MR. DRILL: That's your question?

25 MR. VICE CHAIR: Yeah. That is my

1 question.

2 MR. DRILL: Want me to tell you his
3 guess? Or why don't we hear your -- your answer?

4 MR. DEVITTO: It -- it -- it's tough to
5 estimate from this perspective. I will say
6 probably six to seven in that range? It -- it
7 would -- it would -- it would vary.

8 MR. VICE CHAIR: And I'm not a
9 landscape architect. But it -- I would -- I
10 would think more than that. So --

11 MR. DEVITTO: It's -- it's tricky in a
12 situation like this, where there's an -- it's
13 mature canopy. There's roots we have to contend
14 with. This is a very difficult view to give a
15 general estimate like that. This -- that's why
16 it's best to do this in the field with actual
17 stakes. I don't fully feel comfortable giving
18 out a number.

19 MR. DRILL: He's just asking for an
20 estimate. He's not asking to have you precise.

21 MR. DEVITTO: It -- it's -- it's a
22 tricky -- it's a tricky estimate.

23 MR. VICE CHAIR: But there are certain,
24 obviously, processes that you engage in to ensure
25 whatever that number is to ensure that that

1 coverage is met and that screening is met?

2 MR. DEVITTO: Yes.

3 MR. VICE CHAIR: Okay.

4 MS. SEN: And I was just curious, like,
5 what's the difference between this that you've
6 assessed as yellow versus something that's
7 orange? How do you make that determination?

8 MR. DEVITTO: It was just -- it was
9 just an eye test. It wasn't a scientific obser-
10 -- or -- or process to get that. So yeah. I --
11 I don't want us to get too hung up in the colors.
12 I think what's more important is the actual on
13 site investigation and the results that come from
14 that.

15 MS. SEN: Thank you.

16 MR. VICE CHAIR: So moving --
17 Mr. Taylor, you want to keep moving?

18 MR. TAYLOR: Yes.

19 MR. DRILL: So keep on heading south.

20 MALE SPEAKER: Quick -- quick question.
21 On these trees that we just saw, would you remove
22 them when you replace them or would you
23 supplement them? How -- how would you deal with
24 those -- those sparse trees.

25 MR. DEVITTO: It would -- it would

1 depend on the condition of each tree. There
2 might be some situations where the tree is not
3 really outputting a canopy, and it's -- there's
4 no branches on it. So in that case, you'd
5 probably want to remove it. But there might be
6 some trees that are just little leggy that have a
7 nice canopy, you would want to -- you would want
8 to keep that tree.

9 MALE SPEAKER: Are you thinking white
10 pines again? Because they're always leggy.

11 MR. DEVITTO: No. I would not
12 recommend white pines.

13 So this is an area that -- I believe
14 we're in the green portion of the body
15 intersection, the southern intersection. You can
16 see these evergreens in here a lot -- a lot more
17 full. They're dense, and they're mature. So
18 that's -- that's -- this is what we're looking
19 for. But even still, there are some dead trees
20 in here that will have to just be removed. I
21 would -- I would say in this area more minor
22 supplementing. But yeah, that's -- that's kind
23 of what I -- what we're looking for.

24 MALE SPEAKER: Well, that's actually
25 not our property.

1 MALE SPEAKER: That's the golf course.

2 MALE SPEAKER: You went too far south.

3 MR. DEVITTO: This is approximate.

4 MALE SPEAKER: Thank you. I think that
5 was helpful.

6 MR. VICE CHAIR: And we've ended in the
7 green, correct?

8 MR. DEVITTO: Yes.

9 MR. VICE CHAIR: Okay. Thank you. Are
10 there any other questions from our board members?

11 MALE SPEAKER: I -- I just had a
12 general question. There were a number of times
13 during your testimony that you refer to as -- or
14 referred to as with the Township or with -- with
15 our experts. Who -- who do you envision that
16 being from the Township?

17 MR. DEVITTO: The Township's
18 professionals and then from their firm --

19 MR. DRILL: The guy sitting in the
20 plaid shirt right behind Jackie. Okay. Well,
21 he's for sidewalk. Who's for trees? Who's --
22 who's the landscape?

23 MALE SPEAKER: (Inaudible).

24 MR. DRILL: So it's going to be
25 someone --

1 MALE SPEAKER: Someone from Colliers.

2 MR. DRILL: -- from Colliers.

3 MALE SPEAKER: Understood. Thank you.

4 MR. VICE CHAIR: Before Mr. Kent-Smith
5 -- just to reiterate what was -- we got into a
6 discussion here. But two things before I move to
7 members of the public with questions. So we're
8 going to measure and handle the measurement issue
9 of the sidewalk?

10 MR. KENT-SMITH: Correct.

11 MR. VICE CHAIR: And then upon
12 completion, we're going to work with officials to
13 do some sort of inventory of the existing berm
14 and its conditions --

15 MR. DRILL: To make a better exhibit
16 that the board can see and feel more comfortable
17 with.

18 MR. KENT-SMITH: So the first -- the
19 measurements, we can resolve before next
20 Wednesday. The second which would be the actual
21 plan layout, determining plant species and
22 location, we would ask --

23 MR. DRILL: Not -- not the proposed.
24 The proposed, you're right, that could be -- but
25 the actual condition of the berm. So it's not

1 just -- I'm looking at Exhibit A-28 as like an
2 estimate. So the board -- I think what you're
3 hearing the board asking for is something more
4 definitive.

5 MR. KENT-SMITH: So would you with
6 somebody from Stonefield and Colliers be able to
7 walk through with A-28 to get a more accurate
8 assessment of quality and areas of concern?

9 MR. DRILL: Again, someone -- your
10 landscape architect to witness, he -- he would be
11 doing it. But that's what they're asking you if
12 you -- if you think you could maybe -- you know,
13 if the guy's available. I don't know.

14 (Indiscernible cross-talk.)

15 MR. DRILL: Nick's gonna text him and
16 it's either gonna be yes or no.

17 MR. VICE CHAIR: So depending on that -
18 - okay, I understand.

19 Thank you, Mr. Kent-Smith.

20 We're good.

21 Okay. Our professionals, we're okay
22 with any questions of this witness?

23 Okay. We'll now move on to members of
24 the public questions of this witness and this
25 witness's testimony. Please state your name and

1 address for the record.

2 Ms. Esposito, how are you? Welcome
3 back.

4 MS. ESPOSITO: Christine Esposito, 11
5 Behnert Place. In your expert opinion, as a
6 landscape --

7 MR. DRILL: Can you do us a favor?

8 MS. ESPOSITO: Yes.

9 MR. DRILL: Even though we don't have a
10 court reporter, if you come over here, when he
11 answers the questions, he's answering them facing
12 the board, and we can also hear you better asking
13 your questions from there.

14 MS. ESPOSITO: Do you need me to --
15 Christine Esposito, 11 Behnert Place. In your
16 expert opinion as a landscape architect, can you
17 tell me what the role of a berm is in landscape
18 design?

19 MR. DEVITTO: A berm is used to aid in
20 screening,

21 MS. ESPOSITO: Screening. Do you -- is
22 that just visual? Is it also sound screening?

23 MR. DEVITTO: It's mainly visual.

24 MS. ESPOSITO: Okay. Can you show us
25 on the site plan where the proposed driveway

1 location is? And also, can you also show us on
2 this Google view where the current -- the
3 proposed residential --

4 MR. DRILL: Do you want him to show you
5 on the site plan, or do you want him to show you
6 on Exhibit A-28?

7 MS. ESPOSITO: I'd like to -- I'd like
8 to be able to see it on both. So first, if you
9 can point it out on the --

10 MR. DRILL: A-28.

11 MS. ESPOSITO: -- on A-28 the proposed
12 residential main driveway across from Behnert in
13 the center of the berm. Okay. Can you -- now,
14 on the Google Map, can you show us the view where
15 that driveway location will be?

16 MR. DRILL: Opposite Behnert, right?
17 We're going back to opposite Behnert, correct?

18 MS. ESPOSITO: Yes. Opposite Behnert
19 where the proposed driveway is. That's --

20 MR. DRILL: Right. So now we want --
21 you want it turned around, right? You want to
22 view --

23 MS. ESPOSITO: I want the view where
24 the driveway is from across --

25 MR. DRILL: You understand what she's

1 asking. She wants you to go into Behnert and
2 then pull a 180 so you're looking at the berm.
3 There you go.

4 MS. ESPOSITO: How would you describe
5 is that the yellow area, is that the green area
6 that you're observing across the street from
7 Behnert?

8 MR. DEVITTO: We -- we had this as fair
9 condition.

10 MS. ESPOSITO: Fair condition.

11 MR. DRILL: In other words --

12 MR. DEVITTO: There were some dead
13 trees in there.

14 MR. DRILL: Right. But in other words,
15 she asked you, would that be the yellow area, the
16 green, or the red? Your answer is that would be
17 the yellow area, correct?

18 MR. DEVITTO: Yeah.

19 MR. DRILL: Shown on Exhibit A-28.

20 MR. DEVITTO: Yes. Correct.

21 MR. DRILL: With a driveway gap through
22 the berm, obviously, to get the vehicles in and
23 out, right?

24 MR. DEVITTO: Correct. Yes.

25 MS. ESPOSITO: So in other words, to

1 install that driveway, that fair area would
2 actually have to be completely removed at 50 feet
3 wide?

4 MR. DEVITTO: Yeah. This would be an
5 access drive.

6 MS. ESPOSITO: So it would be a clear
7 visual straight across and that screening would
8 no longer be there?

9 MR. DEVITTO: There would be a visual;
10 however, there is the park area. So it's not
11 going to be a building that's directly up in
12 front along this roadway. It's going to be
13 substantially set back. There's going to be
14 trees within the park. There's going to be the
15 berm. I -- I don't -- in my professional
16 opinion, I don't think that there's any -- any --
17 the building is not going to be impeding on the
18 residence from this side of the street in my
19 professional opinion.

20 MS. ESPOSITO: But in your opinion, the
21 -- the trees that we see there are going to be
22 gone?

23 MR. DEVITTO: Yes.

24 MS. ESPOSITO: And the hill -- and the
25 berm itself.

1 MR. DEVITTO: A portion of these trees,
2 correct?

3 MR. DRILL: Well, 50-foot -- at least a
4 5 --

5 MS. ESPOSITO: Feet wide.

6 MR. DRILL: -- 50-foot wide portion of
7 the berm and the trees have to be removed,
8 correct?

9 MR. DEVITTO: They have to be removed,
10 correct.

11 MS. ESPOSITO: So that would be
12 including the berm, which is that appears to be
13 at least five to six feet tall?

14 MR. DEVITTO: Correct.

15 MS. ESPOSITO: And all those mature
16 trees?

17 MR. DEVITTO: Correct.

18 MS. ESPOSITO: Can you now move down to
19 where the current driveway location is to the
20 right?

21 MR. DRILL: Okay. So kept -- so
22 heading north --

23 MS. ESPOSITO: Yes.

24 MR. DRILL: -- correct?

25 MS. ESPOSITO: To where that current

1 driveway is. And can we look at that?

2 MR. DRILL: And then she wants you to
3 look into that driveway. Right.

4 MS. ESPOSITO: So in the proposed
5 landscape plan, do you propose reinstalling the
6 berm at that portion, building up a six -- five
7 to six-foot berm and planting on top of that? Or
8 is that to remain flat with nothing there?

9 MR. DEVITTO: I believe this area was
10 just going to receive site -- general site
11 grading, so no established berm. However, it
12 would -- you know, when we walk out the site, it
13 would have -- it would have proposed planting.

14 MR. DRILL: How can that be? How can
15 that be? Can you pull out the site plan? That -
16 - that -- that -- maybe you're right, but it
17 doesn't make sense, at least to me. Let's see
18 what the site plan shows.

19 MR. KENT-SMITH: That is the existing
20 condition that you're looking at right now.

21 MR. DRILL: Correct. But we want to
22 see the site plan showing what's the proposed
23 condition when that driveway entrance gets
24 removed?

25 MR. DEVITTO: Where -- where -- there

1 we are right here.

2 MR. DRILL: So, Mr. Kent-Smith, if you
3 can find an exhibit number and then give it to
4 this witness to let the witness answer the
5 question. Yeah. Can you go with Mr. Kent-
6 Smith's?

7 MR. DEVITTO: This is Exhibit A-1,
8 existing conditions.

9 MR. DRILL: Okay. But why --

10 MR. KENT-SMITH: Exhibit A-1, existing
11 conditions, existing driveway opening that is to
12 be removed with what is being proposed in this
13 site --

14 MR. DRILL: On A-28?

15 MR. DEVITTO: This area is going to be
16 green space now. The proposed condition -- the
17 existing condition is a driveway, which will be
18 removed and a green space in here.

19 MR. DRILL: But there's no berm?

20 MR. DEVITTO: There's going to be
21 site --

22 MR. KENT-SMITH: (Inaudible).

23 MR. DEVITTO: That that's a -- a basin.
24 Stormwater.

25 MR. KENT-SMITH: Again, I don't know if

1 I have the survey.

2 MR. DRILL: Can we just look at -- can
3 we just look at the grading plan, please?

4 MR. KENT-SMITH: The existing -- first,
5 focusing on the existing condition again, looking
6 at A-2, this is the driveway that I'm pointing to
7 between Behnert and Lexington. That is the --
8 that was on the aerial. And that is the driveway
9 to be removed. And --

10 MR. DRILL: I think the problem is that
11 I don't think this witness totally appreciate
12 what's shown on those site plans. Okay. I'm not
13 testifying, but I'm going to ask a question. If
14 you could look at the plans and look to see how
15 that basin is being designed. Because again, I'm
16 not an engineer, and I'm not testifying, but when
17 I look at the design of that basin, it sure looks
18 like there's a thing that comes up that's higher
19 than the existing berm. But I -- I could be
20 wrong. But I need someone with actual knowledge
21 so we can get the facts straight here.

22 MS. ESPOSITO: And then will there be
23 plantings in that area?

24 MR. KENT-SMITH: Which is where at the
25 base --

1 MS. ESPOSITO: Are we going to --

2 MR. DEVITTO: So there -- there will be
3 a small -- small berm. Elevation about 71.

4 MALE SPEAKER: Compared to what?

5 MR. DRILL: What is the elevation in
6 the street please? And what's the elevation on
7 the existing berm that's going to remain?

8 MR. DEVITTO: It's about a three-foot
9 berm in this area.

10 MR. DRILL: The existing berm is three
11 feet.

12 MR. KENT-SMITH: Yes.

13 MR. DRILL: Okay. And what's the
14 proposed elevation compared to the three feet
15 going to be in front of that basin?

16 MR. DEVITTO: It's also going to be
17 three feet higher than the -- higher than the
18 roadway.

19 MR. DRILL: Okay.

20 MR. KENT-SMITH: So then what your
21 testimony is, is that the street opening that
22 exists today is going to replicate the elevation
23 shown on the existing conditions of what's there
24 now. So there'll be continuous berm across the
25 existing driveway.

1 MS. SEN: And is that a yes or --

2 MR. DEVITTO: Yes. Correct.

3 MS. SEN: And how do you know?

4 MR. DEVITTO: Just by reviewing the
5 grading.

6 MR. DRILL: By looking at the plan with
7 him getting help, which we shouldn't be doing --
8 but I mean, this witness, he doesn't know.

9 MR. KENT-SMITH: I -- with all due
10 respect, Mr. Drill, he is a landscape architect.
11 He does know grading. He does know elevation
12 lines. To say he doesn't know is unfair and --
13 and quite frankly --

14 MR. DRILL: Mr. Kent-Smith, if I didn't
15 just ask the question like I did, and basically
16 lead him to answering the question, he'd have no
17 idea. He testified there was going to be no berm
18 there. I'm helping the guy out, which I
19 shouldn't do, because I feel bad. I'm trying to
20 move this thing along, so don't criticize me.

21 MR. VICE CHAIR: Let's -- let's --
22 okay. So you said that the existing condition is
23 three. You're going to replicate the existing
24 condition.

25 And Ms. Esposito, back to your

1 question. Does that answer your question?

2 MS. ESPOSITO: (Inaudible).

3 MR. VICE CHAIR: You believe that

4 answers your question?

5 MR. TAYLOR: Well, I'd like to follow
6 up.

7 MR. VICE CHAIR: Well, Mr. Taylor --

8 MR. TAYLOR: As a landscape architect,
9 can you raise that area and make the berm higher
10 in your opinion?

11 MR. DEVITTO: Based on the site
12 grading, no. It's

13 --

14 MR. TAYLOR: And can you explain why?

15 MR. DEVITTO: For -- the contours are -
16 - it appears to be pretty tight in that area.

17 MR. TAYLOR: Because of -- because of
18 the drainage?

19 MR. DEVITTO: Yes.

20 (Indiscernible cross-talk.)

21 MR. TAYLOR: Okay. So maybe you can
22 explain that to the public --

23 MR. DEVITTO: There -- there appears to
24 be a --

25 MR. TAYLOR: -- so that they can

1 understand what the constraints are and why it
2 has to be the way it is. Can you do that,
3 please?

4 MR. DEVITTO: Oh, yes. So along the
5 frontage there is a drainage basin that is
6 proposed. A berm is -- in this area is being
7 reworked to be three-foot tall along the roadway
8 and it's a continuous berm. Yeah. So it's --
9 it's gonna be -- it's gonna be --

10 MR. TAYLOR: Is the width of the berm
11 restricted by the roadway on one side and by the
12 detention basin on the other side?

13 MR. DEVITTO: Yes.

14 MR. TAYLOR: Okay. So therefore, you
15 can't just have a straight up and down pile of
16 dirt; is that correct?

17 MR. DEVITTO: Correct.

18 MR. TAYLOR: And that's why the height
19 of that berm is as what's shown on the site plan,
20 correct?

21 MR. DEVITTO: Correct.

22 MR. TAYLOR: And so that explains why
23 that's not a higher elevation on the grading
24 plan, correct?

25 MR. DEVITTO: Yes.

1 MR. TAYLOR: Okay. Thank you.

2 MS. ESPOSITO: And so --

3 MR. TAYLOR: Sorry for interrupting
4 you.

5 MS. ESPOSITO: So then the intent is
6 then with that smaller berm area is to also add
7 to the screening and plant there?

8 MR. DEVITTO: Correct.

9 MS. ESPOSITO: Can you explain to us
10 when you do remove a large portion of an existing
11 seven -- six- to seven-foot berm at 50 feet wide,
12 what would happen to the root structure of some
13 of the more healthy trees that are existing
14 around that? Would they be compromised in any
15 way?

16 MR. DEVITTO: The -- we would -- we
17 would go through measures with root protection to
18 go in there and make sure those are roped off and
19 the soil disturbance is less than six to -- six
20 feet within the critical root zone of those
21 trees.

22 MS. ESPOSITO: So then, do I understand
23 you that the driveway would be 50 feet wide, but
24 then there's an additional six feet on each side
25 where the roots would be disturbed so that would

1 cause some type of tree removal or --

2 MR. DEVITTO: Yes.

3 MS. ESPOSITO: -- visual screen?

4 MR. DEVITTO: There would be some
5 disturbance that would be re-supplemented.

6 MS. ESPOSITO: Okay. So that would
7 require additional supplementation --

8 MR. DEVITTO: Correct.

9 MS. ESPOSITO: -- than what is proposed
10 now.

11 MR. DEVITTO: Yes. Correct.

12 MS. ESPOSITO: Okay. I think that
13 might have been all my questions. Let me -- oh,
14 my question would be then, what is the stan- --
15 you mentioned that you would replant with
16 standard height evergreens? What is that? What
17 is considered standard height evergreen?

18 MR. DEVITTO: Right now, we are
19 proposing six- to seven-foot tall evergreen
20 trees. Anywhere from there to seven-, eight-foot
21 is -- is standard industry practice.

22 MS. ESPOSITO: Okay. And those would
23 be what would be proposed in this plan across the
24 entire complex?

25 MR. DEVITTO: Correct.

1 MR. VICE CHAIR: Okay. But just to
2 follow up with an important question,
3 Ms. Esposito. So standard industry practice
4 saying you have average of these. But if you
5 find in your walks that it requires a bigger
6 height, you'll consider that correct?

7 MR. DEVITTO: Yes.

8 MR. VICE CHAIR: Okay.

9 MS. ESPOSITO: And my last question is,
10 is the walk-through that is proposed with the
11 town planners with their landscape is that open
12 to the public? Is that considered a planning
13 board session? Is the public allowed to attend
14 that in any way?

15 MR. DRILL: The only way -- I don't
16 think anyone on the board -- I could be wrong.
17 If I'm wrong, you tell me. Do -- any of the
18 board members wanted to make that a site visit?
19 Because if the board wanted to make a site visit,
20 then it would have to be noticed and it would
21 have to be open to the public.

22 If it's just experts from the applicant
23 and experts from the board with no board members,
24 then they could do their thing because you'd want
25 the township and board professionals they're

1 basically as a check. Just like Mr. Kent-Smith
2 wants them there as a check, we want them there
3 as a check. Then, it wouldn't be open to board
4 members or the public. But that's up to the
5 board.

6 MR. VICE CHAIR: I mean, we could -- I
7 -- I trust our professionals. And I -- I believe
8 that there's an adequate check in place in both
9 sides.

10 MR. KENT-SMITH: Any board members
11 interested in doing a site visit when those
12 people are out there?

13 MS. SEN: I think the difference is,
14 you know, there's that question that Ms. Esposito
15 asked. But then I think Ms. Esposito has the
16 right to measure it herself, right?

17 MR. DRILL: Right. She has -- right --
18 you can go out and --

19 MS. SEN: The public can measure and
20 attend. But I think she's just asking whether
21 she or a member of the public can be there with
22 the board professionals and the Hartz Mountain.

23 MR. DRILL: Put this -- put it this
24 way, if it's set up as applicants, professionals,
25 board professionals, it's a professional meeting.

1 If she wants to go out there herself and do her
2 own thing, she can. If board members want to
3 attend and it's noticed, then it's open to
4 everybody. So my question is, do any board
5 members want to attend?

6 MALE SPEAKER: No.

7 MR. DRILL: Why don't you do a straw
8 poll? Do you want to attend?

9 MR. VICE CHAIR: I'm sorry, Mr. Drill.
10 I need clarification. Because -- to Ms. Sen's
11 question, so we're saying that if their
12 professionals, our professionals go out there as
13 is planned and they -- we are not participating,
14 then Mr. Esposito cannot attend that?

15 MR. DRILL: It's a -- it's a private
16 meeting between professional --

17 MR. VICE CHAIR: Two parties --

18 MR. DRILL: Unless our professionals or
19 the applicant's professionals think that you
20 could eliminate some questions and some time by
21 inviting members of the public along?

22 MR. KENT-SMITH: Again, I don't -- I --
23 at this --

24 MR. DRILL: If the board is not going,
25 then it wouldn't be noticed.

1 MR. KENT-SMITH: At this juncture, we
2 need this to be professionals because we need to
3 have the professional analysis as the walk is
4 going along and have a free and fair discussion
5 between your professionals and our professionals
6 so that we can come to a mutually-agreeable
7 determination of what is going to be provided.
8 That plan will then have to be prepared,
9 submitted as a condition for -- for compliance.
10 So that is what we're proposing.

11 MR. DRILL: Whoa, whoa, whoa, whoa.
12 The plan you're talking about as a condition of
13 compliance in case there's an approval is the
14 proposed landscaping plan. What the board wants
15 before they deliberate and vote is they want not
16 an estimation. They want a more accurate
17 depiction than Exhibit A-28 --

18 MR. KENT-SMITH: Okay. Yeah.

19 MR. DRILL: -- of what the existing
20 condition is of the landscaping and they want the
21 accurate representation of the width of the
22 sidewalk. So those are things -- if -- if they
23 don't get them before next Wednesday, they're not
24 going to deliberate.

25 MR. KENT-SMITH: All right. Then --

1 then it's even more imperative that this be just
2 staff relative to those measurements and the
3 information requested by the board. And we'll
4 then move forward following that and the board's
5 deliberation with a more detailed plan.

6 MR. DRILL: That's your request?

7 MR. KENT-SMITH: That is.

8 MR. VICE CHAIR: So we'll keep it to
9 the professionals.

10 Ms. Esposito.

11 MS. ESPOSITO: I understand that, and I
12 agree with that.

13 My second question as follow-up to that
14 is then, would members of the Township's
15 Environmental Committee also be involved in this
16 meeting so they can speak to concerns related to
17 the -- you know, the water that --

18 MR. DRILL: Are you on the
19 Environmental Commission?

20 MS. ESPOSITO: No.

21 MR. DRILL: Is anyone from the
22 Environmental Commission here?

23 MS. ESPOSITO: You know, especially
24 considering the removal of trees --

25 MR. DRILL: Is the Environmental

1 Commission interested in having any
2 representatives at that?

3 FEMALE SPEAKER: If a representative
4 from the Township is going to be there doing
5 their assessment, then I'm comfortable with that
6 assessment.

7 MR. DRILL: Because as long as you
8 didn't have a quorum of the environmental
9 commission and as long as you didn't have a
10 quorum of the planning board, the members of the
11 environmental commission, anyone who wanted to
12 go, as long as it's less than a quorum, could go
13 with them. And it's still -- and it doesn't have
14 to be noticed.

15 FEMALE SPEAKER: Okay.

16 MR. DRILL: So maybe you can pick one
17 at -- how many members are there on the
18 Environmental Commission?

19 FEMALE SPEAKER: On -- in the entire
20 Environmental Commission?

21 MR. DRILL: Yeah.

22 FEMALE SPEAKER: I'm not sure.

23 MR. DRILL: As long as -- leave it to
24 no more than two Environmental Commission members
25 going with them, then we don't have to worry

1 about any notice issue.

2 FEMALE SPEAKER: Okay.

3 MR. DRILL: But then, if the
4 Environmental Commission is going to go, they're
5 going to be asked to either submit a report or
6 something about it. And so you can't be -- any
7 planning board member who's a member of the
8 Environmental Commission cannot be preparing this
9 report, because you can't have a planning board
10 member become a witness.

11 So if the Environmental Commission
12 wants to send people, you know what, it shouldn't
13 be you two. It should be someone who's not a
14 member of the planning board.

15 MALE SPEAKER: It will not be me.

16 MR. DRILL: Okay.

17 FEMALE SPEAKER: We can ask the chair.

18 MR. DRILL: Why don't you ask the chair
19 if the chair will go.

20 MR. VICE CHAIR: So does that sound
21 good, Ms. Esposito?

22 MS. ESPOSITO: That's fine with me.

23 MR. VICE CHAIR: Okay.

24 MS. ESPOSITO: Thank you.

25 MR. VICE CHAIR: We're going to take a

1 15-minute bio break and adjourn, and we'll come
2 back to public questions. Fifteen minutes.

3 (A recess is taken.)

4 MR. VICE CHAIR: Member of the public
5 that would like to ask a question. Name,
6 Address.

7 Ms. Labruzzo?

8 MS. LABRUTTO: Oh, I'm sorry. Rita
9 Labruzzo, 104 Arlington Road. Yes. So I'd like
10 to put these into evidence, if I can. They're.

11 MR. DRILL: We're gonna do what we did
12 with our truck driver.

13 MS. LABRUTTO: Right.

14 MR. DRILL: We're gonna mark them --

15 MS. LABRUTTO: Yeah.

16 MR. DRILL: -- and you can ask him
17 questions about them and --

18 MS. LABRUTTO: Okay.

19 MR. DRILL: So how many --

20 MS. LABRUTTO: There's seven.

21 MR. DRILL: Seven. So why don't we
22 call these the L Exhibits. Do you know why?

23 MS. LABRUTTO: Landscaping?

24 MR. DRILL: Your last name?

25 MS. LABRUTTO: Oh. Okay.

1 MR. DRILL: Do you have these marked?

2 MS. LABRUTTO: I have them numbered 1
3 through 7.

4 MR. DRILL: Okay. So everyone put L in
5 front of the numbers.

6 MR. KENT-SMITH: There you go.

7 So one of the things I was -- as I was
8 marking these, these are very informative
9 photographs.

10 MR. DRILL: These are very what?

11 MR. KENT-SMITH: Informative
12 photographs. I have asked -- what's --

13 MS. LABRUTTO: Rita.

14 MR. KENT-SMITH: -- Rita if we could
15 take these photographs with us when we do our
16 site visit?

17 MR. DRILL: Oh.

18 MR. KENT-SMITH: Is that acceptable?

19 MS. LABRUTTO: Yeah.

20 MR. KENT-SMITH: Okay. We'll -- we
21 will take --

22 MR. DRILL: You'll take one set. The
23 other set's gonna stay with us.

24 MR. KENT-SMITH: Okay. Yes. Thank
25 you.

1 MR. DRILL: So take each photograph --
2 this is L-1. Say when you took it, and then ask
3 him whatever questions you're gonna ask him about
4 it.

5 MS. LABRUTTO: Okay. So I took it on
6 December 1.

7 MR. DRILL: Microphone.

8 MS. LABRUTTO: Oh, I'm sorry.

9 MR. DRILL: You got it, but you gotta
10 use it.

11 MS. LABRUTTO: All of them on
12 December 1.

13 MR. DRILL: All right. Great.

14 MS. LABRUTTO: Yes.

15 MR. DRILL: L-1 through 7.

16 MS. LABRUTTO: L-1 through 7 on
17 December 1.

18 MR. DRILL: Okay.

19 MS. LABRUTTO: Okay. So on the first
20 photograph, I just wanted to confirm though I
21 think they clarified it. But the berm starts at
22 the railroad and goes to Raritan Road up to the
23 Height Hills property.

24 MR. DEVITTO: Correct.

25 MS. LABRUTTO: Okay. And looking at

1 this photograph, so L --

2 MR. DRILL: L, will just give a
3 description. What is -- what does L-1 show? You
4 took the picture?

5 MS. LABRUTTO: L-1 is a shot from
6 Lexington down Walnut Avenue, and it shows the
7 berm as far as I could get.

8 MR. DRILL: Okay. Now, let's ask the
9 witness. Do you agree that that's what is shown
10 in Exhibit L-1?

11 MR. DEVITTO: Yes.

12 MR. DRILL: Beautiful. Ask your
13 question.

14 MS. LABRUTTO: So I think for these
15 purposes, I'm not sure whether these are in the
16 green, the red, the orange, purple, or anything
17 else. But for all intents and purposes, would
18 you say then that there are gaps?

19 MR. DEVITTO: On the lower side, yeah.

20 MS. LABRUTTO: On the lower side.

21 MR. DEVITTO: The lower -- lower
22 branches, yes.

23 MS. LABRUTTO: Okay. So L-2 is --

24 MR. DRILL: Right. L-2 shows what?

25 MS. LABRUTTO: Another shot of the berm

1 that is further up by Bannard.

2 MR. DRILL: Okay. The witness. You
3 agree generally with that?

4 MR. DEVITTO: It's tough to tell. It's
5 so close. But we'll have to think -- take her
6 word for it.

7 MR. DRILL: Okay. Question. Go ahead.

8 MS. LABRUTTO: So the question I guess
9 I have is with something like these trees, do
10 they look dead to you would they be removed?

11 MR. DEVITTO: Those trees, they look --
12 they look to be alive. However, their branching
13 structure is -- is not ideal. So these are trees
14 that would need to be pruned and then
15 supplemented with new -- new evergreens.

16 MS. LABRUTTO: Okay. So then the
17 supplement as you can see here, this is one of
18 the machines that Hartz is using to excavate.

19 MR. DRILL: Wait. This is still in
20 picture L-2?

21 MS. LABRUTTO: Yes. Still in picture
22 L-2. So if you can see a machine like that, you
23 clearly would be able to see a four-story
24 building, right?

25 MR. DEVITTO: Yeah. This -- it needs a

1 little -- a little supplementing.

2 MS. LABRUTTO: Yeah.

3 MR. DRILL: It dropped off at the end.

4 It needs --

5 MR. DEVITTO: It needs supplementing.

6 MR. DRILL: Thank you.

7 MS. LABRUTTO: Okay.

8 MR. DRILL: L-3.

9 MS. LABRUTTO: L-3 is a view from
10 across the street at Lexington. And this is
11 what, if you're standing on this side of Walnut,
12 this is what the residential homes would see when
13 they looked across the street.

14 MR. DRILL: Okay. Does the witness
15 agree with that?

16 MR. DEVITTO: Yes.

17 MS. LABRUTTO: Okay.

18 MR. DRILL: Okay. Ask your question.

19 MS. LABRUTTO: So my question is, since
20 this is at Lexington and I think on here that is
21 where the driveway is going to be cut into the
22 property?

23 MR. DEVITTO: Correct.

24 MS. LABRUTTO: Okay. So can I show you
25 -- if I use this, I have -- it has to go as an

1 exhibit, or should I just show it on there?

2 MR. DRILL: Show it on the picture.

3 MS. LABRUTTO: Okay. It's the same
4 thing that's up there. But -- so my question is,
5 when you come into the driveway, which is here,
6 there doesn't appear to be any planting --
7 plantings on this elbow like, so wouldn't you
8 agree that when you've pulled into the driveway,
9 you would be able to see either -- there's a lawn
10 there or the buildings here? I mean, wouldn't it
11 be worthwhile.

12 MR. DEVITTO: Over here?

13 MS. LABRUTTO: Oh, yeah. Wait a
14 minute.

15 MR. KENT-SMITH: No, no, no, no, no.

16 MS. LABRUTTO: We're at Lexington.
17 Right.

18 MR. KENT-SMITH: Okay. I think what
19 you're --

20 MS. LABRUTTO: So here's -- oh, I'm
21 sorry.

22 MR. KENT-SMITH: No, no, no, no, no.

23 MS. LABRUTTO: So wouldn't it be worth
24 -- like wouldn't it be advantageous to put some
25 plantings on that corner so that when you look

1 down the driveway, you didn't see the corner of
2 the buildings or that --

3 MR. DEVITTO: Yeah. We can increase
4 some -- some buffer, some evergreen shrub
5 plantings within that area.

6 MS. LABRUTTO: Right, you see here --

7 MR. DEVITTO: By the -- by the
8 industrial building.

9 MS. LABRUTTO: There's a Maple, I
10 think.

11 MR. KENT-SMITH: Right. So in this
12 area?

13 MR. DEVITTO: Yes.

14 MS. LABRUTTO: Yes.

15 MR. KENT-SMITH: Got it.

16 MS. LABRUTTO: So a Maple -- what does
17 a Maple do in the winter, right?

18 MR. DEVITTO: Yeah. It's -- it's a
19 deciduous tree. Yeah, that's -- that's an
20 agreeable position.

21 MS. LABRUTTO: Okay. So --

22 MALE SPEAKER: Can you be a little bit
23 more specific as to that location because I don't
24 know what you're talking about?

25 MR. DRILL: Can I just make a

1 suggestion?

2 MS. LABRUTTO: Yes.

3 MR. DRILL: One of my other boards, if
4 -- if this board accept -- let's assume we get by
5 next Wednesday, prior to that, there's some sort
6 of accurate tree survey exhibit. And let's
7 assume that there's also an accurate sidewalk
8 with exhibit. Let's also assume that there's an
9 approval. Let's assume the board is okay with
10 Mr. Kent-Smith's suggestion for basically an on-
11 site landscape committee going out there.

12 What my other -- the Bernards Township
13 Planning Board that does this a lot, after an
14 approval with a compliance condition, they invite
15 any of the interested parties public to go on it
16 to hear what the public wants. It's ultimately
17 the -- the board professionals try to reach an
18 agreement. If they can't, they come back to the
19 board. But instead of trying to write up and
20 find out exactly what they're talking about,
21 which is going to take all night and it's going
22 to be virtually impossible because we don't have
23 those pictures, that's my suggestion on how to
24 handle that.

25 MR. KENT-SMITH: I think that's a very

1 good suggestion. I do understand and it --

2 MS. ESPOSITO: On that committee.

3 MR. KENT-SMITH: No. But -- but,
4 Mr. Drill, again, this's why we want to take
5 these photographs with us.

6 MR. DRILL: I understand.

7 MR. KENT-SMITH: Yeah.

8 MR. DRILL: But I want to find out do
9 you think that's a good suggestion?

10 MS. ESPOSITO: Depends on who's on the
11 committee.

12 MR. DRILL: Well, put it this way --
13 no, no. It's anyone in the -- the board's not
14 going to --

15 MS. LABRUTTO: Anyone in the public can
16 come?

17 MR. DRILL: Yes.

18 MS. LABRUTTO: Yeah. Sure.

19 MR. DRILL: That's not before next
20 Wednesday. This is -- this is.

21 MS. LABRUTTO: Right. But my concern
22 is I would think -- I would not want to see the
23 board vote on this in the abstract form that it
24 is now. I think there has to be a lot more --

25 MR. DRILL: Put it this way, that's

1 going to be --

2 MS. LABRUTTO: -- than 80 percent there
3 type of thing. Right?

4 MR. DRILL: Right. Right. That's
5 going to be your argument when you get to your
6 sworn testimony. I didn't say that the board's
7 going to accept his suggestion or not.

8 MS. LABRUTTO: Right.

9 MR. DRILL: But if they do, that's
10 going to be my suggestion. If they accept his
11 suggestion as to condition, my suggestions to the
12 board is that that should be open to interested
13 members of the public, not anyone, people who
14 have participated by coming out and raising
15 questions like this about landscaping.

16 MS. LABRUTTO: And do they then not get
17 their -- what? -- CO if -- if there's a lot of
18 spots?

19 MR. DRILL: Correct. Correct. Listen.
20 If there's no agreement, they're gonna have to
21 come back to the board and battle it out. Now,
22 I'm not saying that the public has the right to
23 tell them what to do, but the public has input.

24 MS. LABRUTTO: Yeah.

25 MR. DRILL: Because, basically, the

1 applicant's professionals are going to have to
2 get the board professionals to agree.

3 MS. LABRUTTO: Right. I mean, well,
4 this should have taken place.

5 MR. DRILL: Listen. Save it for your
6 argument.

7 MS. LABRUTTO: I mean, I appreciate
8 that it's going on now --

9 MR. DRILL: Let's get back to the
10 questions. Back to the questions.

11 MS. LABRUTTO: Okay.

12 MR. DRILL: L-4.

13 MS. LABRUTTO: So on the drive -- like
14 I said, just going into the driveway, just so
15 when you don't -- when you look down the
16 driveway, you don't see, you know, a big building
17 and lights and everything else, anything that you
18 could do to buffer that elbow area on each side,
19 I think would be helpful.

20 MR. DEVITTO: Yes.

21 MS. LABRUTTO: Okay. Thank you. So
22 now we're at L-4. This is the area that I was
23 saying before by Behnert because there's the
24 machinery again. And again, I -- I just -- would
25 you agree that some of these are dead and laggy?

1 MR. DEVITTO: And yeah, this is a
2 better photo. Although little bit -- step back a
3 little further from -- from L-2. And it does
4 look like there is a dead -- dead tree or two
5 within this photo.

6 MR. DRILL: So okay.

7 MR. DEVITTO: Yes, they would have to
8 be removed and replaced.

9 MS. LABRUTTO: Okay. This was just --
10 what was -- this is L-5. This is further down
11 the berm beyond Behnert, before Lexington. But
12 would you agree that there's still a lot of gaps
13 in that berm?

14 MR. DEVITTO: Yes, there are some gaps
15 in this photo.

16 MS. LABRUTTO: Right. Okay. So this
17 is a view of the berm at the railroad.

18 MR. DRILL: This is L-6. L-6 is a view
19 of the berm at the railroad --

20 MALE SPEAKER: Can I -- can we just go
21 back to five?

22 MS. LABRUTTO: Sure.

23 MALE SPEAKER: There are gaps in the
24 vegetation, not in the berm. Is that --

25 MS. LABRUTTO: Yes.

1 MALE SPEAKER: -- correct?

2 MS. LABRUTTO: Yeah.

3 MALE SPEAKER: Is that --

4 MS. ESPOSITO: In the evergreen.

5 MR. DRILL: Right. And -- and he's
6 correct. You said gaps in the berm. It's gaps
7 in the -- right. Correct.

8 MALE SPEAKER: All right. I just want
9 to --

10 MR. DRILL: Good point.

11 MS. LABRUTTO: Yes. That's true.

12 MR. DRILL: Yep. Yep. Yep. Good
13 point.

14 MS. LABRUTTO: Yes. Good. And then we
15 hit L-6 as a view of the berm --

16 MR. DRILL: Can you just hold that view
17 of the berm -- the view of the berm by the
18 railroad up? L-6.

19 MS. LABRUTTO: Sure.

20 MR. DRILL: So when you say by the
21 railroad, it's not the concrete embankment. It's
22 before you get there?

23 MS. LABRUTTO: Yeah.

24 MR. DRILL: Okay.

25 MS. LABRUTTO: Yeah. It is.

1 MR. DRILL: I'm gonna say it's near --
2 that's a view of the berm near the railroad and
3 ask the witness: Would you agree that's a view
4 of the berm near the railroad?

5 MS. LABRUTTO: Right.

6 MR. DRILL: I'm asking the witness.

7 MR. DEVITTO: Oh, yes. It's tough to
8 tell.

9 MR. DRILL: Okay.

10 MR. DEVITTO: But it -- it looks like
11 to be in this approximate area.

12 MS. LABRUTTO: I could've said "near"
13 instead of "at." Okay. So again, just looking at
14 this, lots of gaps.

15 MR. DEVITTO: There are some gaps, yes.

16 MS. LABRUTTO: Okay. So my question is
17 when you have gaps like that, and then you
18 mentioned contending with roots, do you actually,
19 like, pull the roots out so that you can put more
20 trees in?

21 MR. DEVITTO: No. You would -- you
22 would look to disturb the soil as little as
23 possible. So in this circumstance, you would try
24 to find an area that's or absence of large,
25 mature roots. And that's how you would spot your

1 evergreens. And --

2 MR. DRILL: Just curious. If you ever
3 got to a situation where the trees were too big
4 and the roots were too spread out, and the only
5 way you could do plantings is -- is to remove the
6 trees, dig out the roots and then do your
7 planting, I assume you would do that; is that
8 correct?

9 MR. DEVITTO: That's a possibility.

10 MS. LABRUTTO: Right. Because they may
11 not. How -- how would you? How would you be
12 assured that you're filling the gap --

13 MR. DRILL: Right.

14 MS. LABRUTTO: -- if there was a big
15 clump of roots --

16 MR. DRILL: Roots.

17 MS. LABRUTTO: -- there, you'd have to
18 kind of --

19 MR. DEVITTO: Yeah, the field
20 conditions would -- would determine that right.

21 MS. LABRUTTO: Okay.

22 MR. DRILL: L-7.

23 MS. LABRUTTO: L-7 is -- this is
24 actually at Behnert.

25 MR. DRILL: Can you flip that one

1 there? Okay. That's view of the berm with
2 landscaping across from Behnert?

3 MS. LABRUTTO: Yes, yes.

4 MR. DRILL: You agree with that?

5 MS. LABRUTTO: I wish I had taken the
6 sign, but I didn't.

7 MR. DEVITTO: Yes. It appears so.

8 MR. DRILL: Okay.

9 MS. LABRUTTO: Right. So that's really
10 where, again, it's going to be cut in. And just
11 my general concern there is once you cut into the
12 berm --

13 MR. DRILL: Can you put it into -- make
14 it a question?

15 MS. LABRUTTO: Oh, okay. So would you
16 -- would you think that once the driveway is put
17 in at Behnert is there a way to shield those
18 residential homes from seeing those buildings
19 down the driveway?

20 MR. DEVITTO: We could -- we could just
21 spot additional evergreens. Probably the best --
22 best method.

23 MS. LABRUTTO: Okay. And then I just
24 had some -- I'm sorry -- additional questions.
25 So you may have said this already, what do you

1 think the appropriate height would be for new
2 evergreen --

3 MR. DRILL: He answered that one.

4 MS. LABRUTTO: -- that are put it?
5 Three-foot?

6 MR. DRILL: Yeah.

7 MR. KENT-SMITH: Six to seven -- six to
8 seven feet.

9 MS. LABRUTTO: Oh, six to seven feet.
10 That's even better.

11 MR. DRILL: Yeah.

12 MS. LABRUTTO: So I guess my general
13 question is -- and you may not know this --
14 really -- why would the county really care if you
15 put extra vegetation in their area?

16 MR. DRILL: Do you know the answer to
17 that question?

18 MS. LABRUTTO: No.

19 MR. DEVITTO: Well, the county is gonna
20 have their own -- their own regulations and --

21 MR. DRILL: I understand. But listen.
22 Her question was, why would the county care? If
23 you don't know, just say, "I don't know."

24 MR. DEVITTO: All right. I'll -- I'll
25 defer.

1 MR. DRILL: Well, not defer. If you're
2 gonna defer, you're gonna find out. Do you know
3 the answer?

4 MR. DEVITTO: No. I don't.

5 MR. DRILL: Okay. Great.

6 MS. LABRUTTO: So how would we go about
7 getting permission from the county to clean up?

8 MR. DRILL: That's a legal question.

9 MS. LABRUTTO: Yeah.

10 MR. DRILL: You would make it subject
11 to county approval, then they have to apply for
12 approval.

13 MS. LABRUTTO: Okay. Same way we did
14 with the driveways, right?

15 MR. DRILL: That's right.

16 MS. LABRUTTO: Yeah. And I guess just
17 my general question was, would the public be able
18 to see all of this prior to Planning Board
19 voting?

20 MR. DRILL: Well, okay. That's going
21 to be your argument. Because the -- the planning
22 board has told them if they want -- first, they
23 have to finish this thing. They got to finish
24 the case tonight to have a deliberation next
25 week. But if they -- the planning board has said

1 if you want a deliberation, we have to see an
2 accurate depiction of the width of the sidewalk
3 the whole length and we have to see an accurate
4 depiction of what the existing condition of the
5 berm is. Dave suggested the board hasn't weighed
6 in on it yet that what the proposed will be would
7 be a condition of approval.

8 Now, I will give a legal opinion.
9 Certain things the -- the board cannot condition
10 on. There are four essential elements of the
11 development: Traffic, stormwater, potable water,
12 and sewer. The court cases say even in an
13 affordable housing case, unless the applicant can
14 show that those things are feasible, the board
15 cannot grant site plan approval. But things like
16 landscaping, lighting, if the board has the
17 authority, if it wants to exercise it, that it
18 could grant approval subject to conditions. It's
19 allowed to. Doesn't mean they have to. And
20 that's what they're asking.

21 MS. LABRUTTO: Okay.

22 MR. DRILL: And we'll see what happens.

23 MS. LABRUTTO: All right. On this site
24 plan down here, I guess that is C-14 --

25 MR. DEVITTO: Yes.

1 MS. LABRUTTO: Okay. So on this, I've
2 found about three evergreens. Is it your
3 testimony, or was it your testimony most of these
4 were Magnolia Maple?

5 MR. DEVITTO: Uh-huh.

6 MS. LABRUTTO: Again, is -- you know,
7 am I correct in thinking that in the winter, they
8 really don't give you any screening or buffering?

9 MR. DEVITTO: Yes. Correct. And we'll
10 work on adding additional evergreens.

11 MR. DRILL: And that goes to
12 Mr. Taylor's question. If you recall, when we
13 were looking at Street View, he asked for the
14 date. What's the date of that Street View? And
15 he said, "Oh, it's June 2022," I think the answer
16 was. And the point was that's when all the
17 leaves are out and right now, we're in December.

18 That was your point?

19 MR. TAYLOR: That was my point.

20 MS. LABRUTTO: Right. But I think on
21 the initial plan, there was no berm there. It
22 was just all Maple and Magnolia. So I'm -- just
23 want to make sure. Just for -- there is a berm.
24 The -- the actual grading, there is a berm.

25 MS. LABRUTTO: Okay.

1 MR. DEVITTO: It's just not -- there
2 are shade trees incorporated into this area. So
3 we'll -- we'll incorporate evergreen trees.

4 MS. LABRUTTO: So are you saying these
5 Maples and Magnolias were existing already?

6 MR. DEVITTO: No. Those are proposed.
7 Those are deciduous.

8 MS. LABRUTTO: Yeah. These were ever-
9 -- the -- if -- if this was the berm, these were
10 all evergreens.

11 MR. DRILL: So again, put it -- put it
12 this way.

13 MS. LABRUTTO: Is that correct?

14 MR. DRILL: Again, if the board -- if
15 the board accepts the proposal -- if they got to
16 the point they were willing to grant and you were
17 out there, you would be advocating for evergreen,
18 evergreen, evergreen, not deciduous.

19 MS. LABRUTTO: Right.

20 Okay. Now, does your plan -- will you
21 be looking at irrigation on -- in -- on any of
22 these?

23 MR. DEVITTO: Yeah, for -- for
24 planting. For a landscape plan of this size,
25 irrigation should be considered.

1 MS. LABRUTTO: Okay. And --

2 MR. KENT-SMITH: If I may -- cause I
3 did look through this. In terms of what is it
4 that your redevelopment plan does require. And
5 the redevelopment plan actually has a specific
6 statement relative to the use of irrigation.

7 MALE SPEAKER: Nick is gonna pull it up
8 as well.

9 MR. DEVITTO: Thank you. And just give
10 us the page on there, Mr. Kent-Smith.

11 MR. KENT-SMITH: Just --

12 MS. LABRUTTO: It was a very silly
13 comment about using it sparingly or something.

14 MR. KENT-SMITH: Yes. You are correct.

15 MR. DRILL: Hold -- whoa, whoa. Hold
16 on.

17 MR. KENT-SMITH: I'm just --

18 MR. DRILL: This is a legal response to
19 your question about irrigation.

20 MS. LABRUTTO: Okay.

21 MR. DRILL: Nick, do you know where it
22 is?

23 MS. LABRUTTO: I do.

24 MR. DRILL: Because I don't know where
25 it is. So --

1 MR. KENT-SMITH: Yes. I'm sorry. On
2 page -- this is Section -- Subsection 3. My
3 pagination is a little different. Because it's
4 my page 33. But my pagination isn't the same as
5 yours. It is relative to sub district one, under
6 sustainability requirements, paragraph 5, under
7 the sub -- no -- excuse me, paragraph B under
8 subsection 3, landscaping --

9 MR. DRILL: Whoa, whoa, whoa.
10 Paragraph what?

11 MR. KENT-SMITH: 4.6, J, 5, B, 3.

12 MR. DRILL: Okay. And what is it? Can
13 you just read it verbatim?

14 MR. KENT-SMITH: I'm reading it
15 verbatim. Avoid or minimize the use of
16 irrigation to the extent possible. Consider
17 alternative water sources to replace use of
18 potable water for irrigation purposes. That's
19 what we would propose to do. Not direct
20 irrigation, but see, for example, some
21 alternative that would --

22 MR. DRILL: The water bags or whatever.
23 Okay.

24 MR. KENT-SMITH: Yes, that's --

25 MS. LABRUTTO: But also in the

1 redevelopment plan, it says.

2 MR. DRILL: You know where you are in
3 the redevelopment plan?

4 MS. LABRUTTO: Well, let me see here.
5 I'm sorry, it was September 9, 2022, Hartz's
6 response to our professionals. And it was number
7 18. It said landscape plan shall note any areas
8 of irrigation.

9 MR. DRILL: Shall note them, if there
10 is any. What they're saying is they're not
11 proposing any way. That's -- any. That's why
12 it's not noted.

13 MS. LABRUTTO: Okay. So my question
14 is, you're a landscape architect, you have a
15 green space area, that's one.

16 MR. DEVITTO: Sure.

17 MS. LABRUTTO: How do you keep that
18 green in the summer without irrigation?

19 MR. DEVITTO: That area would just be,
20 you know, watered by -- by the rain. You can use
21 cisterns. You can do some stuff like that. But
22 for the most part, we were not proposing
23 irrigation out there.

24 MS. LABRUTTO: And what about all the
25 flowers that are planted there and everything

1 else?

2 MR. DEVITTO: They're largely native in
3 nature. So they would be able to sustain or live
4 in this -- in this region.

5 MS. LABRUTTO: So the berm -- I guess
6 my question is: Are you aware that Cranford
7 would have an ordinance or will there be a
8 condition that says Hartz needs to maintain the
9 berm in perpetuity, so that we don't get to the
10 point where we have these leggy gaps and
11 everything else going on as years progress.

12 MR. KENT-SMITH: So normally, what
13 would be imposed relative to things like a berm
14 would be a conservation easement.

15 MR. DRILL: That would do it.

16 MS. ESPOSITO: I don't know what --

17 MR. KENT-SMITH: Effectively, as long
18 as the use is as approved by the board and as
19 proposed, as long as that's there, there would be
20 effectively a covenant made by --

21 MR. DRILL: It's not going to be a
22 conservation easement. Because if it's a
23 convert- -- conservation easement, you can't
24 touch it. It's going to be some sort of
25 maintenance easement. Correct. And that would

1 be in perpetuity.

2 MR. KENT-SMITH: Well, for as long as
3 the use is as
4 --

5 MR. DRILL: As long as the thing is
6 used as what it was approved for.

7 MS. LABRUTTO: Right. So would you
8 agree that if there was a --

9 MR. DRILL: Listen. Mr. -- Mr. Kent-
10 Smith just agreed to that.

11 MS. LABRUTTO: I -- I know that.

12 MR. DRILL: I would go to your next
13 point.

14 MS. LABRUTTO: Okay. My next point, I
15 -- my next point had to do to sign variance. Are
16 you familiar -- you wouldn't be doing any of that
17 right?

18 MR. DRILL: No. Wrong guy.

19 MS. LABRUTTO: Yeah. All right.

20 MR. DRILL: That's the planner.

21 MS. LABRUTTO: Thank you.

22 MR. DRILL: All right.

23 MR. VICE CHAIR: May we have our -- are
24 there any members, additional members of the
25 public have a question of this witness?

1 Please come up, sir. She'll give you
2 the microphone.

3 Ms. Labruzzo.

4 MS. LABRUTTO: Oh, I'm sorry.

5 MR. VICE CHAIR: Just your name --

6 MR. DRILL: You want -- you're keeping
7 a set of those pictures. We already have ours.

8 MR. KENT-SMITH: The marked set goes --

9 MR. DRILL: Are they both marked?

10 MR. KENT-SMITH: You have the marked
11 set?

12 MR. DRILL: Right. We have the marked
13 set.

14 MS. LABRUTTO: Those are the marked.

15 MR. KENT-SMITH: These are the marked
16 set.

17 MR. DRILL: Switch them, please.

18 MR. KENT-SMITH: These are the marked
19 set.

20 MR. VICE CHAIR: I'm sorry, sir. Just
21 one second.

22 MR. SMITH: Sure.

23 MR. VICE CHAIR: Thank you.

24 MR. DRILL: And can -- you know the
25 routine. You're going to come right up in here.

1 MR. SMITH: Yep. Got it.

2 MR. DRILL: We can hear you better.

3 MR. SMITH: Yep.

4 MR. VICE CHAIR: Name and address for
5 the record.

6 MR. SMITH: Don Smith, 187 Gibson
7 Boulevard, and Clark. I've got experience from
8 my father sitting in the back. So a little
9 experience there.

10 So my question to you is: So you said
11 that you are the landscape architect for both the
12 commercial and the residential; is that correct?

13 MR. DEVITTO: The areas around the
14 residential. Around the resident.

15 MR. SMITH: Okay. So my -- I want to
16 zoom in towards the back. Do you have
17 responsibility for behind the commercial building
18 along the railroad tracks there? Is that -- any
19 of that -- will that any of that be landscaped in
20 any capacity?

21 MR. DEVITTO: Yes, these -- these
22 portions or these regions are -- are proposed
23 with landscaping.

24 MR. SMITH: Okay. And what types of
25 trees are you looking for that? And again, the

1 reason I ask is because those homes there that
2 are behind it, there's houses on Chester Lang as
3 well as Aberdeen Court. I'm sure there's going
4 to be some sort of security lights that are going
5 to be along the back of that building and 24/7
6 with those lights, at least that night.

7 MR. DEVITTO: Yeah.

8 MR. SMITH: You're gonna look out your
9 -- your property, you know, look out the back. I
10 understand those people who bought those places,
11 probably 30, 40 years ago, knew the railroad
12 track was there, but they had no idea that
13 something like this, maybe was going to show up.

14 MR. DEVITTO: Yeah. So along that
15 property line, there's going to be a pretty dense
16 buffer of evergreen trees with also a mixture of
17 shrubs in there. So you'll have your headlights
18 screening, and then also as the trees mature,
19 they'll -- they'll buffer the building.

20 MR. SMITH: Okay. So now you -- as you
21 say, as they mature. So, you know, for our
22 friends there, again, on Aberdeen Court and on
23 Chester Lang, I mean, are they going to have to
24 wait 15 years for those streets to come up to --
25 to not have those lights?

1 MR. DRILL: Could -- can I just -- not
2 to --

3 MR. SMITH: I -- I --

4 MR. DRILL: Hold on. He wasn't here
5 last time. But last time, the other landscape
6 architect -- we have a bunch of notes, my notes
7 to -- that they agreed to supplement the
8 landscaping back there as well.

9 MR. KENT-SMITH: Right. And it -- just
10 for your edification, if you would look at
11 Exhibit A-2, which is existing conditions --

12 MR. SMITH: Okay.

13 MR. KENT-SMITH: Just walk right over
14 there.

15 MR. SMITH: Okay.

16 MR. KENT-SMITH: And you will see a
17 tree line that is actually right on the property
18 line between Conrail -- yes.

19 MR. SMITH: Right there.

20 MR. KENT-SMITH: So those are the
21 existing trees. To the extent that there are
22 issues or concerns that relate to dead trees,
23 etc, that will get addressed. But the intent was
24 to try it to the extent maximum, if it's good,
25 keep it.

1 MR. SMITH: Okay.

2 MR. DRILL: Just so you understand.

3 But -- but my recollection from my notes is that
4 they said -- you guys said that you would
5 supplement, not just if they were needed if you
6 had to add stuff along with the --

7 (Indiscernible cross-talk.)

8 MR. KENT-SMITH: Talking about the
9 backside by the train --

10 MR. DRILL: Oh.

11 MR. KENT-SMITH: (Inaudible).

12 MR. SMITH: That's where I'm talking
13 about that's right along the railroad tracks
14 there, which actually goes back past Lexington.

15 MR. DRILL: Put it this way, is the
16 applicant willing to supplement that as well?

17 MR. KENT-SMITH: When you say
18 supplement, again, if they're dead trees, we'll
19 place them. If there are gaps --

20 MR. DRILL: If there are gaps?

21 MR. KENT-SMITH: -- we discussed we
22 will plant.

23 MR. SMITH: Understood. And then in
24 the actual complex where the warehousing is, or
25 the facility is, whatever we're calling it, is

1 there any landscaping that's going to be done in
2 that particular area, either in the parking lots
3 or are there going to be any kind of trees that
4 are --

5 MR. DEVITTO: So there is a dense --
6 dense plantings in between the residential and
7 the warehouses.

8 MR. SMITH: So then the residence if --
9 if I'm going to spend 2500, or 3000, we don't
10 know what the numbers are for an apartment there,
11 and I got a balcony and I'm looking over, am I
12 going to see any of that? Am I going to be
13 looking at trucks and everything else coming in
14 and out all the time? I mean --

15 MR. DEVITTO: When the berm or the
16 plantings mature, eventually you will not see
17 that.

18 MR. SMITH: And so the maturity date on
19 the -- the maturity date of these plantings, what
20 are we looking at? Like 10 years? 15 years?

21 MR. DEVITTO: Yeah, 10 -- 10 to 15.

22 MR. SMITH: So then if I rent an
23 apartment there, and you go -- and I get a
24 balcony or whatever, I'm more than likely going
25 to be looking at some sort of warehousing for

1 probably the good part of 5 or 10 years?

2 MR. DEVITTO: For -- yeah, for some --
3 yeah. For some time.

4 MR. SMITH: Okay.

5 MR. DEVITTO: That is just the nature
6 of -- of trees and how they grow.

7 MR. SMITH: Okay. Well, again, I just
8 -- in some ways, I hope that gets represented
9 too.

10 MALE SPEAKER: Are there balconies?

11 MR. SMITH: I don't know. I'm just
12 saying --

13 MR. DRILL: Okay. Just so factually,
14 yeah --

15 MR. SMITH: Or even if you look out the
16 window.

17 MR. DRILL: Let me ask one of our --
18 Let me ask our planner or engineer. Are their
19 balconies proposed?

20 MALE SPEAKER: No.

21 MR. DRILL: No. Okay.

22 MR. SMITH: Okay. So then, even if you
23 look at your window, if I'm in my bedroom, or
24 whatever, I'm looking out -- the potential is I
25 could be looking at an entire warehouse complex

1 if I have my apartment on that side.

2 MR. DRILL: That's correct.

3 MR. SMITH: Okay. Okay. I just want
4 to make sure that is --

5 MR. DRILL: Is everyone -- everyone is
6 aware of that, correct?

7 Yeah, the planning board is aware of
8 that.

9 MR. SMITH: Okay. And then you're also
10 going to be responsible for that landscaping
11 that's along the golf course, all the way down to
12 the --

13 MR. KENT-SMITH: No.

14 MR. SMITH: No?

15 MR. KENT-SMITH: Again, that
16 landscaping is actually --

17 MR. DRILL: This is a legal -- this is
18 a legal issue that they went into last time.

19 MR. KENT-SMITH: Right, exactly. That
20 landscaping is actually on the golf course
21 property. I did reach out. The owner-operator
22 of the golf course is a company called Troon, T-
23 r-o-o-n. I reached out to the manager who is
24 responsible for this. We're trying to set up the
25 meeting to talk about the net, but it's also

1 their landscaping. It's not ours.

2 MR. DRILL: Okay. Very good.

3 MR. SMITH: And then my final question
4 is --

5 DEPUTY MAYOR GAREIS: Excuse me. To go
6 back to what we -- the last meeting, I think --
7 didn't you have a colloquy with the other
8 landscape architect that there was one little
9 piece that they were going to supplement?

10 MR. TAYLOR: Yes. Behind the
11 residential, yes.

12 MR. KENT-SMITH: Right. You'll see on
13 the plan, Mr. Taylor, what we were talking about
14 is the -- the curvature of the parking on the
15 northern -- northeastern end behind the
16 residential allows for planting on our property.
17 It's area large enough to sustain that. But the
18 majority of the existing trees that you see are
19 actually on the golf course property.

20 MR. SMITH: I have actually two
21 questions. Again, the second one, whether it is
22 for this witness, I don't know but I'll ask the -
23 -

24 MR. DRILL: We'll find out.

25 MR. SMITH: Yes. Okay. So my first

1 question is, any of the materials, will there be
2 any kind of a push for greener materials as
3 either the upkeep or, you know, the RSA
4 fertilizer or any kind of organic type stuff. So
5 that runoff water doesn't come into the -- you
6 know, into the system that if you're using
7 chemicals, or is there any thoughts about that?

8 MR. DEVITTO: Yeah. So within the
9 project specifications, it's -- we can take a
10 look at that and make sure we're proposing, you
11 know, fertilizers with less phosphorus and, you
12 know, just green -- green-friendly products.

13 MR. SMITH: And, again -- actually, I
14 had two more questions now that you just made
15 that point. So again, this may not be for this
16 witness, but the landscaping that's along the
17 berm there and so forth, it -- was any of that
18 taken into account to the traffic study as well?
19 Because when you come out of those driveways
20 trying to make a left, which honestly to the
21 entire board is gonna be almost impossible at
22 like five o'clock at night. It's already
23 difficult as it is already, but that's traffic --

24 MR. DRILL: Were you here when the
25 traffic guy was testifying?

1 MR. SMITH: I was not. Unfortunately,
2 I was not there.

3 MR. DRILL: So this is not the right --
4 he's going to have no idea.

5 MR. SMITH: But I didn't know whether
6 his planning for those trees and the berm, does
7 he consult with the traffic consultant at all in
8 any capacity?

9 MR. KENT-SMITH: So as a legal
10 principle, the county has what's called a sight
11 triangle easement that the county dictates is
12 clear sight. And there are strict rules that
13 prohibit any plantings that would obstruct sight
14 lines in the sight triangle easement. There will
15 be sight triangle easements that will be imposed
16 by the county. So to answer your question, that
17 county assures there's clear visibility.

18 MR. SMITH: Okay. That's what I want
19 to know.

20 And then my final question is, is once
21 the -- you decide on what kind of trees and so
22 forth that you want for the berm, and even inside
23 the complex, when everything kind of goes hot and
24 we go into the construction phase and then you
25 start marketing this, will that be an accurate

1 representation of what you put in to the
2 marketing? Again, this may not be for this
3 witness, but the only reason I say that is
4 because Woodmont on South Avenue in all the
5 materials for selling that property online, they
6 took out the Raritan Valley line that ran right
7 behind it. Literally was all green grass behind
8 it.

9 MR. KENT-SMITH: But that -- that's not
10 -- yeah. they can't.

11 MR. DRILL: That's a planning board
12 issue. It's not even a --

13 MR. SMITH: Okay. I'm just saying, you
14 know, in a year's time from now when I look at
15 the plant --

16 MR. DRILL: Do it at public comment,
17 even though it might even be relevant for that,
18 but it's certainly not a question.

19 MR. SMITH: Fine. That's fine. Okay.
20 Thank you.

21 MR. VICE CHAIR: Do we have any
22 additional members of the public? Go ahead.

23 Ms. LEARY: Angela Leary, 4 Behnert
24 Place. In your expert opinion, what caused the
25 trees on the berm to become what they are today,

1 leggy, sparse?

2 MR. DEVITTO: It just -- it's just
3 happens with age with certain species. So we're
4 seeing it with light -- white pine a lot. And
5 that's just as they mature, their canopy is
6 pushing higher. They're looking for sunlight.
7 And as a result, the pine needles below, they
8 start to kind of die out. Those branches become
9 weaker. And it stops supporting kind of those --
10 those branches. So that's why you see a lot of
11 fall hazards and -- and items like that.

12 MR. DRILL: That's why Rita, by the
13 way, asked for the maintenance and perpetuity.

14 Ms. LEARY: And I'd just like to go
15 back to a question that I asked probably one of
16 our very first meetings: Who is going to
17 maintain that berm? Which entity is maintaining
18 that berm?

19 MR. DRILL: It's asked and answered.
20 It -- it's been answered.

21 MR. KENT-SMITH: We've answered it, but
22 it's the commercial entity.

23 MR. DRILL: Right. That's what they
24 said.

25 Ms. LEARY: Will we have a phone

1 number?

2 MR. DRILL: Listen.

3 MR. VICE CHAIR: Okay. Are there any
4 other members of the public?

5 MR. DRILL: Before you ask a second
6 question, let's see if there's any other members
7 of the public that want to ask a first question.

8 MR. VICE CHAIR: Anyone?

9 Okay. Ms. Labruzzo.

10 MR. DRILL: So you're the last question
11 of this witness.

12 MS. LABRUTTO: Rita Labruzzo, 104
13 Arlington Road. Can I just ask you? There's a
14 little triangle which I'm trying to find. Here,
15 you see how that green goes down? That -- that
16 one stops at the orange here. So what's going to
17 go in this portion? Or will there be trees
18 there?

19 MR. DEVITTO: This area would -- was
20 going to remain undisturbed from -- from -- from
21 construction. So it would be in its more
22 original state.

23 MR. DRILL: Can you get closer to that
24 microphone to answer that question?

25 MR. DEVITTO: The area pointed out by

1 the railroad along the property frontage.

2 MR. DRILL: The angle in the northern
3 corner of the property.

4 MR. DEVITTO: Yes.

5 MS. LABRUTTO: Right. Right where that
6 is.

7 MR. DEVITTO: This area was -- was
8 aimed to be largely undisturbed.

9 MR. DRILL: Okay.

10 MS. LABRUTTO: Right. But there's a
11 line against the railroad that I don't see any --
12 any trees at all.

13 MR. DEVITTO: This line right here.

14 MS. LABRUTTO: Up --

15 MR. DEVITTO: Oh, this right here?

16 MS. LABRUTTO: Yeah.

17 MR. DEVITTO: That's a setback.

18 MS. LABRUTTO: No.

19 MR. KENT-SMITH: Well, no, there's an
20 easement. What your hand's on is an easement.

21 MR. DEVITTO: Yeah. There's easements
22 and setbacks.

23 MS. LABRUTTO: Over here.

24 MR. KENT-SMITH: Yes.

25 MS. LABRUTTO: Yes.

1 MR. KENT-SMITH: So what you're looking
2 at is actually the dotted line of a right-of-way,
3 which I believe this township is going to vacate.
4 Once the town vacates the right-of-way, then we
5 can do whatever we want to. But until we get
6 that vacation, it's -- it's actually the
7 township's right-of-way.

8 MS. LABRUTTO: Okay. So that's that
9 piece?

10 MR. DEVITTO: Yes.

11 MR. DRILL: What you want to ask him is
12 they proposed putting landscaping in there after
13 the easement is vacated?

14 MS. LABRUTTO: Right. Would you
15 propose putting landscaping in the after the
16 easement is vacated?

17 MR. DEVITTO: Oh, yes. We'll -- we'll
18 observe that area during our sidewalk.

19 MS. LABRUTTO: Okay. Thank you.

20 MR. VICE CHAIR: Any other members of
21 public? Going once. all right.

22 All right. Mr. Kent-Smith, thank you,
23 sir.

24 MR. KENT-SMITH: Thank you very much.
25 My last witness is Mr. Hughes, our

1 professional planner.

2 MR. DRILL: I know he's been sworn in.
3 I just forget if he's ever been qualified.

4 MR. VICE CHAIR: Did we qualify him?

5 MR. KENT-SMITH: I don't believe he
6 has.

7 So Mr. Hughes, if you would, please,
8 give the board your professional education,
9 qualifications, experience, and prior experience
10 on testifying on the pace -- professional
11 planning testimony for boards?

12 Mr. HUGHES: Sure. I don't know that I
13 have been sworn in actually.

14 MR. DRILL: No. You were sworn in. I
15 have you marked down. I'll swear you in again.
16 Raise your right hand, just in case.

17 Do you swear, again, if I didn't swear
18 you in the first time that the testimony you're
19 gonna give in this matter is gonna be the truth,
20 the whole truth, nothing but the truth?

21 Mr. HUGHES: Yes. So by way of
22 background, my name is Keenan Hughes. I'm a
23 licensed professional planner in the state and a
24 member of the American Institute of Certified
25 Planners. I am a principal of Philips Priess,

1 which is a planning firm based in Hoboken. I
2 represent municipalities and private clients
3 throughout New Jersey on planning and land use
4 matters, and frequently appear as an extra
5 witness before boards. And I have previously
6 testified before the Cranford Planning Board.

7 MR. KENT-SMITH: And, Mr. Hughes, your
8 licensure is still in place?

9 Mr. HUGHES: Yes.

10 MR. KENT-SMITH: And you have reviewed
11 and evaluated the application before the board
12 tonight prior to presenting your testimony?

13 Mr. HUGHES: I have.

14 MR. KENT-SMITH: I am submitting
15 Mr. Hughes as a professional planner providing
16 planning testimony in support of the application.

17 MR. VICE CHAIR: Are there any
18 questions from any other board members as to the
19 qualifications?

20 Professionals?

21 Members of the public?

22 I accept you as a witness.

23 Mr. HUGHES: Thank you.

24 MR. KENT-SMITH: Thank you.

25 Mr. Hughes, if you would please,

1 explain to the board what it is you've evaluated
2 and then provide your assessment and opinion
3 relative to the relief requested by the applicant
4 on this application.

5 MR. DRILL: You have a list. I mean,
6 Mr. Kent-Smith has submitted something. Do you
7 have an up-to-date list of all the relief that's
8 required?

9 Mr. HUGHES: I'll be going through
10 that.

11 MR. DRILL: Okay.

12 Mr. HUGHES: So just by way of
13 background, I do have experience on this property
14 extending back to the original rezoning
15 application in the context of this site plan
16 application. I was asked to review it from a
17 planning perspective with an emphasis on the
18 relief that's being requested. That'll be the
19 focus of my testimony this evening. So we are
20 requesting two variances from the redevelopment
21 plan. The first that I'll start with is for the
22 front yard setback.

23 Now, both of these variances are C-type
24 variances and that can be justified on a C-2
25 basis. The front yard setback, this is the

1 dimension basically in between the -- the
2 southerly industrial building to the proposed
3 subdivision line in between Subdistricts 1 and
4 Subdistrict 2. One hundred feet is the
5 requirement whereas 63.2 feet is proposed.

6 I will just say at the outset that the
7 redevelopment plan is not well worded on this
8 specific requirement. The language is somewhat
9 convoluted. What the plan says relative to the
10 placement of buildings within Subdistrict 2 is
11 that a building's primary facade shall front on
12 the property line between Subdistrict 1 and 2 and
13 a second building shall front towards the Conrail
14 line. The frontage shared with the residential
15 development will serve as the front yard for
16 Subdistrict 2 and be indicated through
17 architectural treatment and site landscaping
18 design in accordance with Section 4.6. Now
19 there's a front yard setback minimum of 100 feet
20 from what it says is the property line.

21 Clearly, the proposed site plan and the
22 architecture before you has achieved the
23 objectives of this section of the redevelopment
24 plan in that the front portion of the industrial
25 building is oriented to that property line.

1 There's adequate landscaping. We've basically
2 accommodated the intent being that the -- the
3 front entrance, so to speak, of the industrial
4 building is oriented towards the residential.

5 I would further note that the actual
6 setback from the front property line along Walnut
7 Avenue, which is typically what is considered the
8 front yard, well exceeds the requirement, it's
9 roughly 150 feet. There's no other specific
10 requirement.

11 If this is the front yard in between
12 Subdistricts 1 and 2, there's no specific front
13 yard requirement for the separation of the
14 building to Walnut Avenue. And as I said, it's
15 150 feet here.

16 So what I can also offer to the board
17 is, having been involved with this project for a
18 number of years and also participated in the
19 drafting of the redevelopment plan itself, the
20 orientation of these buildings has not changed.
21 This is, in fact, the concept plan that was
22 essentially attached to the settlement agreement
23 with the Township. So I think here we're dealing
24 with a matter of how the plan is being
25 interpreted. We're clearly meeting the intent.

1 And for those reasons, I think the
2 board can grant this variance on a C-2 basis, and
3 that the benefits substantially outweigh the
4 detriments, because granting this variance is
5 really integral to facilitating the overall
6 project, which would advance purposes A and G of
7 the municipal land use law, particularly as it
8 relates to advancing the general welfare to
9 accommodate this proposed overall inclusionary
10 development.

11 The second variance that we're being --
12 that we're requesting from the board is for the
13 elimination of the basketball court from the site
14 plan. And we're really following the board's
15 lead on this aspect of the proposal. As you are
16 aware, the redevelopment plan requires the
17 basketball court. But there has been prior
18 testimony that by eliminating the basketball
19 court, it will actually have the benefit of
20 improving stormwater management facilities on the
21 property.

22 And we've, of course, heard some
23 feedback from the board that it's, you know,
24 perhaps less comfortable with that -- the
25 basketball court concept than when the plan was

1 originally conceived by the governing body. So
2 in that case, it's clear that the board can find
3 that this results in a better zoning alternative
4 for the site. And the board can then grant this
5 variance again on a C-2 basis and that the
6 benefits substantially outweigh any detriments.

7 MR. DRILL: And in fact, the board
8 asked you guys to ask for that variance.

9 Mr. HUGHES: That's correct.

10 And then in terms of the negative
11 criteria for both the C variances, I'll just
12 note, as it relates to these specific two
13 deviations, there's really no substantial
14 detriments to the public good. As I pointed out,
15 as it relates to the setback variance, we're
16 clearly meeting the design intent of the plan in
17 terms of the layout of the buildings as well as
18 the architecture.

19 And then secondly, there's no
20 substantial impairment to the redevelopment plan,
21 the overall zone plan of the community because,
22 in my opinion, we are still meeting the intent
23 through development planning, of course,
24 following the board's lead as it relates to
25 the -- the basketball court.

1 Now turning the board's attention to
2 the four design exceptions that we're requesting.
3 These are exceptions, in my opinion, under sub --
4 Subsection 51 of the Municipal Land Use Law. So
5 the board here has the power to grant exceptions
6 from the standards in the plan as may be
7 reasonable and within the general purpose and
8 intent of the provisions of the redevelopment
9 plan in this case if the literal -- literal
10 enforcement of one or more provisions of the
11 ordinance is impracticable or will an exact undue
12 hardship because of peculiar conditions
13 pertaining to the land in question.

14 So the first one that I'll start with
15 is sidewalk width. And there's been extensive
16 discussion on this topic with the board over
17 multiple hearings. As you are aware, the
18 redevelopment plan requires a width of eight
19 feet. For a number of reasons, six feet is the
20 maximum width and can be achieved along the
21 frontage of this property. It's simply
22 impracticable to achieve eight feet in width
23 without impacting the existing berm area, which
24 we know from tonight's discussion is, of course,
25 a very important priority in terms of creating a

1 visual barrier to the site, and also due to
2 existing utilities and other infrastructure in
3 this area.

4 So as you heard from Mr. Chaplin, the
5 sidewalk is being widened to six feet wherever
6 possible, which results in six-foot width of
7 roughly 1200 linear feet across the frontage of
8 the property. So I believe given the physical
9 constraints that we're dealing with, we're
10 satisfying the intent of the plan to the maximum
11 extent possible. But we simply cannot achieve
12 full compliance with the eight-foot standard
13 without significant disturbance. So there's
14 clearly -- while this is a design exception, I
15 would say there's also a better zoning
16 alternative aspect to this relief that we're
17 requesting and that we are preserving the berm in
18 the existing vegetation to the maximum extent.

19 MR. DRILL: Before you go to the next
20 one, I have questions about this one. Because
21 isn't this really -- this one's a question of
22 money? Because --

23 Mr. HUGHES: No.

24 MR. DRILL: -- if -- but if you disturb
25 the berm and you'd have to take down some trees

1 and then the board requires that additional trees
2 be planted is that going to harm the structural
3 integrity of the berm?

4 Mr. HUGHES: Based on the proposed site
5 plan and, again, this plan is part of the overall
6 settlement agreement with the Township, we don't
7 have room to work with in terms of widening that
8 berm along the frontage of the property due to
9 the testimony that you heard from the site
10 engineer relative to accommodating adequate
11 stormwater management on the property as well as
12 achieving the landscape buffering.

13 MR. DRILL: What does the -- the
14 stormwater management, how does that come into
15 the question of the sidewalk width? I understand
16 that the applicant doesn't want to disturb any
17 part of the berm. I understand they don't want
18 to do that. I asked the engineer is it
19 physically impossible? He said anything's
20 possible. I said, If you disturb the berm to
21 maintain the structural integrity of the berm,
22 couldn't you put up a retaining wall? He said,
23 Yes. And then couldn't you replant? He said,
24 Yes. So based on those concessions from him, how
25 can you say that it's physically impossible to do

1 it? Because --

2 Mr. HUGHES: That's not the standard,
3 Mr. Drill. The standard is impracticable
4 hardship.

5 MR. DRILL: That's one of the -- it's
6 hardship or impracticable. How was it
7 impracticable if it can be done if it's not
8 financial?

9 Mr. HUGHES: Right, as I pointed out,
10 there's clearly physical constraints. I thought
11 his -- his testimony was crystal clear in that
12 there are utility constraints, there are --

13 MR. DRILL: So stop. Let's go one by
14 one.

15 Mr. HUGHES: There is the existing
16 berm --

17 MR. DRILL: Let's go with the utility
18 restraint.

19 Mr. HUGHES: -- as well as the existing
20 vegetation that all pose physical constraints to
21 fully achieving an eight-foot wide sidewalk along
22 the frontage of the property.

23 MR. DRILL: Why is it --

24 Mr. HUGHES: So those factors provide
25 the basis for the board to grant an exception in

1 that it's impracticable to achieve a full eight-
2 foot width sidewalk along the frontage of the
3 property.

4 MR. DRILL: Why removing some trees
5 makes it impracticable?

6 Mr. HUGHES: It's not just a matter of
7 moving trees. That was not his testimony.

8 MR. DRILL: Let's say the utility
9 structure has to remain. They said, Well, can't
10 you put it eight feet and in a couple places, the
11 sidewalk's gonna have to be around a utility pole
12 unless the utility company wants to move it. How
13 is that -- so the utility pole. You have a
14 couple of locations. How many utility poles are
15 along the entire lineal footage of the sidewalk?

16 Mr. HUGHES: I'm relying upon the
17 testimony from our civil engineer --

18 MR. DRILL: I am too.

19 Mr. HUGHES: -- who -- who clearly
20 pointed out utility constraints. We have county
21 specifications. We have the berm. Believe me,
22 we would like to achieve an eight-foot sidewalk
23 along the frontage of the property, but it's not
24 practicable. It's simply not.

25 MR. DRILL: That's a conclusion: It's

1 not practicable. What's the factual basis?
2 Besides you keep on saying that there's some
3 utility poles, and you'd have to --

4 Mr. HUGHES: I'm relying on his
5 testimony, which I thought was crystal clear.
6 It's in the record. We provided --

7 MR. DRILL: You're relying on a portion
8 of his testimony and I believe the board could
9 rely on another portion of his testimony.

10 MR. VICE CHAIR: Ms. Sen, my apologies.

11 Mr. -- Mr. Leber, you --

12 MR. LEBER: Just -- just one point.
13 Utility poles are being moved to to relocate the
14 driveways. So moving utility poles when it serve
15 -- serves a purpose, can be done.

16 MR. KENT-SMITH: Well, Mr. Leber, we're
17 talking about the one pole with the relocated
18 driveway that will be fronting on Behnert. That
19 will have an eight-foot sidewalk because we will
20 be relocating the utility pole in conjunction --
21 in conjunction with that entrance area because
22 that connects into the main part of the site.
23 That's the one area where we can do that.

24 MR. LEBER: No. But my point is that
25 utility poles can be moved. You are doing that.

1 MR. DRILL: Legally, why can't you
2 arrange to have the utility poles --

3 MR. KENT-SMITH: Legally, because,
4 Mr. Drill, this is part of a settlement of an
5 inclusionary development for affordable housing
6 in which we have to deal with our affordable
7 housing set aside in this development in
8 conjunction with all of the other improvements
9 that are being requested and required by the
10 board.

11 MR. DRILL: Why -- why --

12 MR. KENT-SMITH: At some point --

13 MR. DRILL: -- why did you guys agree
14 that --

15 MR. KENT-SMITH: -- Mr. Drill --

16 MR. DRILL: -- why did you agree on the
17 redevelopment plan that said eight feet, then?

18 Mr. HUGHES: Well, I think whoever
19 drafted this redevelopment plan did this in a
20 vacuum. They said eight feet without actually
21 having the benefit of an engineering evaluation
22 of the site, which we now have, which now
23 provides the board the basis of granting this
24 relief.

25 MS. SEN: So -- so Mr. Hughes, I'm a

1 little concerned that you're summarizing other
2 experts' testimonies, and I want to ask how you
3 are qualified to do that being that you are only
4 being admitted here for a planning -- as an
5 expert as a planner?

6 MR. KENT-SMITH: And I just -- the
7 rules of evidence are crystal clear when it comes
8 to expert testimony, particularly --

9 MR. DRILL: Can I come into this --
10 listen, Mr. Kent, Rule 703 of the New Jersey
11 rules of evidence allow this expert, especially
12 planners, to rely on technically hearsay
13 testimony from another expert. But in this case,
14 it's not even hearsay testimony. He's relying on
15 testimony that another expert gave. So legally,
16 my opinion is totally allowable, for him to do
17 this. In fact, that's what planners have to do.

18 The issue is he's relying on certain
19 parts of the testimony, not all of it. I heard
20 all the -- I don't vote. If the board heard
21 other parts of the testimony, the board could
22 disagree that the factual basis for his opinion
23 was only based on some of the testimony. If --
24 if the board wants to find that, it can. But the
25 fact that he's relying on the other testimony,

1 he's supposed to.

2 MS. SEN: I'm concerned about -- what
3 we're dealing with, you're -- you're testifying -
4 - sorry. Apologies.

5 You're testifying as to the
6 practicability, right? So that's the real issue,
7 like, can these berm be moved? Can we move
8 poles? About practicability. And I'm just
9 asking what qualifications do you have to be able
10 to testify about the practicability of extending
11 a sidewalk?

12 Mr. HUGHES: I have nothing to add as
13 to what Mr. Joe just said.

14 MR. VICE CHAIR: Can you just
15 reiterate, I think, Mr. Pistol, just so why is it
16 impractical and summarize that -- the physical --

17 Mr. HUGHES: Physical constraints.

18 MR. VICE CHAIR: Due to the physical
19 constraints, it's impractical, correct?

20 Mr. HUGHES: Yes.

21 MR. VICE CHAIR: Mr. Pistol.

22 MR. PISTOL: As far as the expenses
23 that would be incurred and the fact that it's an
24 affordable housing unit, isn't the concept behind
25 the affordable housing unit that the developer

1 gets to build 80 percent of the properties at
2 market rate and that subsidizes the 20 percent,
3 so isn't there money there to operate
4 infrastructure?

5 MR. KENT-SMITH: The jurisprudence
6 relative to cost generation has been pretty well
7 developed. It relates to the fact that in an
8 inclusionary development, the aspect of
9 profitability is subsidy compromised. By that, I
10 mean subsidizing the creation of affordable
11 housing creates a compromise to what would be or
12 an ordinary market rate of return.

13 The courts have said it is an
14 affirmative obligation of planning boards when
15 they are reviewing inclusionary developments to
16 fairly consider relief requested by an applicant.
17 The intent of which is to reduce costs for the
18 development. That is the well established from
19 Mount Laurel 2 on jurisprudence relative to the
20 request for, in this instance, a waiver from
21 specific design standard, the purpose of which is
22 to reduce costs to the development.

23 MR. DRILL: And Mr. Kent-Smith is
24 partially correct, but he's partially incorrect.
25 The -- the cost-generative features can't be in

1 an ordinance. Now, if they're saying that the
2 eight-foot sidewalk requirement in the -- in the
3 ordinance is cost-generative, that's between him
4 and the township. What the COLA rules -- what
5 the third round COLA rules say is the board when
6 considering exceptions or variances, they have to
7 be flexible and reasonable. So you do -- it's a
8 slightly lessened standard for the residential
9 side of the project, because there are affordable
10 housing units there.

11 But if you want to make the argu- -- if
12 you want to make the financial argument, then
13 quite frankly, you're gonna show what it will
14 cost then to --

15 MR. KENT-SMITH: Again, let's don't --
16 (Indiscernible cross-talk.)

17 MR. DRILL: -- just saying it doesn't
18 do it.

19 MR. KENT-SMITH: This board reached a
20 covenant with my client when it resolved this
21 litigation.

22 MR. DRILL: This board, you mean this
23 township?

24 MR. KENT-SMITH: This township made the
25 covenant. The township made a covenant relative

1 to this board and the processing of the
2 application. And in that settlement agreement,
3 it says that relief may be required and that the
4 board would fairly consider that relief. It also
5 said that these proceedings were to be expedited,
6 such that there would not be undue delay in the
7 processing of the application.

8 I think we are at a point here, where
9 it is time for us to fairly consider the relief
10 in the context of the application as presented,
11 and let's move forward.

12 FEMALE SPEAKER: And I have another
13 question related to this witness. I don't know
14 if that's appropriate.

15 MR. DRILL: Well, if it's on this
16 issue.

17 Mr. HUGHES: I'm -- I'm still finishing
18 my testimony.

19 FEMALE SPEAKER: Okay. Okay.

20 MR. DRILL: I interpreted him --

21 FEMALE SPEAKER: Sure.

22 MR. DRILL: -- because on this one,
23 this was like a -- I know that this was a big one
24 with the board.

25 FEMALE SPEAKER: Yes. I just had a

1 couple of questions. At the appropriate time,
2 you can advise on the Community Impact Statement?

3 MR. DRILL: Yeah. That -- that's
4 right. I would say let him finish.

5 MR. VICE CHAIR: So Mr. Hughes, I
6 mean --

7 (Indiscernible cross-talk.)

8 Mr. HUGHES: The next exception we're
9 requesting is for the height of the wall-mounted
10 fixtures on the industrial buildings. So as you
11 may recall from the prior testimony, these are
12 wall-mounted fixtures within what I'll call the
13 truck court area in between the two industrial
14 buildings. The mounting height that's proposed
15 is 25 feet where there's a limitation of 16 feet
16 in height. It simply needed to adequately light
17 the loading and circulation areas in between
18 these two buildings.

19 Lowering the lights would not provide
20 adequate illumination per the testimony of the
21 civil engineer. However, the lights are
22 shielded, and they will not spill outside of the
23 internal loading area. And they're also blocked
24 by the buildings themselves, at least to the
25 north and the south.

1 MR. DRILL: On this one, your argument
2 is in practicality. Because to enforce that
3 condition for the sake of enforcing it, when you
4 can solve your safety and solve your, you know,
5 aesthetics without enforcing it, that's
6 impractical. That's your argument on this one?

7 Mr. HUGHES: Yes, thank you. And then
8 the next one is --

9 MR. VICE CHAIR: Mr. Taylor had a
10 question.

11 MR. TAYLOR: Yeah. Staying on that,
12 the -- I wouldn't even mind having another design
13 exception for reducing the foot-candles for the
14 lights. And I know you're not the expert in
15 that. But it goes into planning in the sense
16 that you're going to have a lot of light that's
17 going to be visible, you know, between these
18 commercial buildings and on both frontages which
19 are going to be viewed from Walnut Avenue and
20 from the residence on the opposite side of the
21 train tracks. So part of the reason for the
22 height increase of the lights in my understanding
23 is to achieve the what I consider an excessive --

24 MR. DRILL: Amount of light.

25 MR. TAYLOR: -- amount of light at the

1 -- at the lowest point within the parking lot.

2 So if this is not --

3 MR. KENT-SMITH: Well, let me ask the
4 question, Mr. Taylor and Mr. Drill. So the way I
5 hear this is the board would have an inclination
6 that it would permit the deviation from the .5
7 minimum foot-candle illumination standard.

8 Mr. HUGHES: No, it's a 1.5 minimum.

9 MR. KENT-SMITH: Okay. I want it to be
10 .5 because you can still see at .5. 1.5 is
11 really bright. So then I think it would be
12 appropriate because it's in the board's
13 authority, that if the board so chose, it could
14 authorize -- us in consultation, ultimately with
15 your consultants on the final lighting plan to
16 reduce from the 1.5 standard to -- and then got
17 to set a floor.

18 MR. DRILL: So just so you understand,
19 this will be similar to the basketball. I think
20 the board should straw poll itself and see --
21 right now, we're hearing from Mr. Taylor. Let's
22 see how the board feels about that. Because if
23 the board agrees, then I agree with Mr. Kent --

24 MR. VICE CHAIR: Prior -- prior to this
25 straw poll, Mr. Taylor, just explain your point

1 again. You're saying that it's adequate light?

2 MR. TAYLOR: Industry -- industry
3 standards for the minimum lighting in a
4 commercial parking lot generally is .5 foot-
5 candles. Cranford has an ordinance that says the
6 minimum is 1.5, which is three times --

7 MR. DRILL: Whatever you do, do not
8 criticize the ordinance. Say in this particular
9 case, because you have neighbors across the
10 street and you don't want the extra light. Do
11 not -- because you can't --

12 MR. TAYLOR: Okay.

13 MR. DRILL: -- say that the ordinance
14 is no good; therefore, we're going to grant an
15 exception.

16 MR. TAYLOR: Even with the lights being
17 phased downward, the neighboring properties
18 across from the railroad tracks and anyone
19 driving down Walnut Avenue --

20 MR. DRILL: On a foggy night.

21 MR. TAYLOR: -- are going to see the
22 glow of that illumination. And I just think it
23 would make a better project if the -- if the
24 lights were not as intense.

25 MR. KENT-SMITH: So we use property,

1 may I suggest, Mr. Drill, you and I can work on
2 this language.

3 MR. DRILL: I want the board to poll
4 itself to see if --

5 MR. KENT-SMITH: May I suggest,
6 Mr. Drill, we've got to set the lower limit.

7 MR. DRILL: .5, he said.

8 MR. KENT-SMITH: Oh .5.

9 MR. DRILL: He wants to go from 1.5 to
10 .5.

11 MR. KENT-SMITH: And just -- -- just
12 for the record, the minimum of a street would be
13 .5. So it's -- it's just for the -- it's the
14 parking area that is --

15 MR. VICE CHAIR: Okay. And then I
16 understand that Mr. Kent-Smith, .5 would --

17 MR. KENT-SMITH: Would be a permissible
18 lower limit.

19 MR. VICE CHAIR: Okay. So Ms. Lenahan,
20 we need a straw poll on whether they would like
21 to go from 1.5 to .5 on board members.

22 MR. DRILL: The straw poll is whether
23 the board would be in favor of even though they
24 didn't apply for it just like with the basketball
25 court, telling them to apply for an exception to

1 allow them to go from 1.5 foot-candles to .5
2 foot-candles --

3 MR. KENT-SMITH: Well, I would like to
4 have it arranged, Mr. Drill, because I don't know
5 if we can go all the way down to .5. But between
6 1.5 and .5, we will work with your board
7 consultants to identify the appropriate
8 lumination.

9 MR. DRILL: And this is only in the
10 commercial parking lot, correct?

11 MALE SPEAKER: I think that's the only
12 place that applies.

13 MR. DRILL: Okay. That's the straw
14 poll question.
15 It's a "yes" or a "no."

16 DEPUTY MAYOR GAREIS: Can I ask a
17 question before we take a straw poll? The other
18 relief that they were looking for from 25 and 16
19 feet, your suggestion, does the height matter?

20 MR. TAYLOR: They would have to --
21 their engineer would have to redo the lighting
22 plan. And it may resolve the one -- you may be
23 able to put lights lower. I don't know. You
24 can't -- you'd have to do the --

25 MR. DRILL: We can't --

1 MR. TAYLOR: So I would still --

2 MR. DRILL: We're already complicating
3 it. I don't want to --

4 DEPUTY MAYOR GAREIS: My -- my question
5 just to Mr. Taylor since it was his suggestion is
6 does -- does the reduced elimination have an
7 effect on how high or low you mount the lights?
8 That -- that -- that's my question.

9 MR. TAYLOR: Yeah, it would. And it
10 may -- it also may affect the quantity. Like you
11 may have to add a light, but it wouldn't be in a
12 different location or have -- but that would be
13 up to your -- your expert.

14 MS. LENAHAN: Are we ready?

15 MR. DRILL: Yes.

16 MS. LENAHAN: Yes.

17 MR. DRILL: Okay. Yes is to indicate
18 that -- again, just a straw poll. You'd be in
19 favor of an exception to go from 1.5 to as close
20 to .5 as possible.

21 MS. LENAHAN: In the commercial parking
22 area.

23 MR. DRILL: In the commercial parking
24 area.

25 MS. LENAHAN: Okay. Loading -- loading

1 zone or no?

2 MALE SPEAKER: In the commercial zone
3 where it applies.

4 MR. DRILL: Commercial parking lot,
5 that's what he said.

6 MS. LENAHAN: Asking about the
7 loading --

8 FEMALE SPEAKER: The loading --

9 MS. LENAHAN: You have to be -- you
10 have to be on a mic.

11 MR. DRILL: You gotta get a microphone.

12 MR. TAYLOR: I believe it is. Although
13 it may also
14 -- I think it's between the two buildings, but it
15 may --

16 MR. DRILL: What he's talking about is
17 the area between the two buildings.

18 MR. TAYLOR: But also if it -- I don't
19 have the plan in front of me, so I don't know
20 what the lighting is on the front sides of the
21 building. So I wouldn't want those to be 1.5 of
22 the property line.

23 MS. LENAHAN: Did you say commercial
24 property?

25 MR. TAYLOR: That's what I just said.

1 Commercial property.

2 MS. LENAHAN: But not just commercial
3 parking area? You had said commercial parking.

4 MR. TAYLOR: Oh, it's commercial
5 parking -- no. Property. Property.

6 MS. LENAHAN: Commercial property.

7 MR. TAYLOR: Commercial property.

8 Correct.

9 MR. VICE CHAIR: Okay, Mr. Kent-Smith.
10 Okay. Good to go. Okay.

11 DEPUTY MAYOR GAREIS: Does that change
12 the testimony about number two about asking for
13 25 to 16, meaning will you not be making that
14 request for that specific --

15 MR. KENT-SMITH: He's not going to
16 know. He's not going to know.

17 DEPUTY MAYOR GAREIS: But if you don't
18 know, you can't make the request is what I'm
19 saying. He's -- he's -- he just asked to be --

20 MR. DRILL: Right. They applied
21 because their plans show them at 25 feet.

22 DEPUTY MAYOR GAREIS: Right.

23 MR. DRILL: The straw poll could be
24 that you want to grant to grant an exception to
25 go from 1.5 foot-candles to as close to five

1 [sic] foot-candles as possible. And if possible,
2 lower the heights of the fixtures on the
3 building.

4 DEPUTY MAYOR GAREIS: Right. But what
5 I'm saying is you don't -- you -- you won't know
6 that now.

7 MR. DRILL: That's right.

8 DEPUTY MAYOR GAREIS: So how can you
9 ask for it if you don't know it?

10 MR. DRILL: Because they know they're
11 going to need the relief? And --

12 MR. KENT-SMITH: Well, we're trying to
13 accommodate the board's concern.

14 MR. DRILL: Right.

15 MR. KENT-SMITH: We're fine with the
16 existing ordinance standard. If the board wants
17 in its discretionary authority to grant us
18 leeway, that's what we're asking.

19 MR. DRILL: Right.

20 MS. LENAHAN: We're ready?

21 MR. DRILL: Yes.

22 MS. LENAHAN: All right.

23 MR. VICE CHAIR: Yes.

24 MS. LENAHAN: All right. Mr. Pistol.

25 MR. PISTOL: I would -- I think that we

1 should ask our planner and engineer, the town
2 planner and engineer, what they think.

3 MR. DRILL: Well, listen. We can. But
4 this is -- as I understand, Mr. Taylor, this is a
5 subjective type of thing, which is for a board
6 member. It's not a scientific thing. He's
7 trying to lower --

8 MR. PISTOL: Well, no. I understand
9 that but I will -- I would like their advice --

10 MALE SPEAKER: I think it makes sense
11 for our engineer to comment.

12 MR. PISTOL: -- what they say.

13 FEMALE SPEAKER: But I would -- I would
14 agree with Mr. Taylor. Usually, the other --
15 ordinances usually require .5 foot-candle --

16 MR. PISTOL: Okay.

17 FEMALE SPEAKER: -- in parking areas.

18 MR. PISTOL: Okay.

19 FEMALE SPEAKER: That and the fact is
20 that this area is going to be elevated. You
21 could see from the street. It's higher than the
22 street level.

23 MR. PISTOL: Okay.

24 FEMALE SPEAKER: So that kind of --
25 while there's a berm, it's still higher, so

1 you'll see it more. So it does make sense.

2 MR. PISTOL: Okay. Okay. Then, yes.

3 Thank you.

4 MS. LENAHAN: Yes?

5 Mr. Leber?

6 MR. LEBER: Yes.

7 MS. LENAHAN: Mr. Taylor?

8 MR. TAYLOR: Yes.

9 MS. LENAHAN: Ms. Sen.

10 MS. SEN: Yes.

11 MS. LENAHAN: Ms. Rappa?

12 MS. RAPPA: Yes.

13 MS. LENAHAN: Mayor Prunty?

14 MAYOR PRUNTY: Yes.

15 MS. LENAHAN: Ms. Pedde?

16 MS. PEDDE: Yes.

17 MS. LENAHAN: Deputy Mayor Gareis?

18 DEPUTY MAYOR GAREIS: Yes.

19 MS. LENAHAN: And Mr. Nordelo?

20 Mr. NORDELO: Yes.

21 MR. DRILL: Okay. So we're going to
22 add that one to the list. And I think at this
23 point, you don't have to testify about that. We
24 just ground that one, beat it like a dead horse.
25 So instead of having four, you now have five. So

1 you're now -- you're number three is now my
2 number four.

3 Mr. HUGHES: All right. So the next
4 one is the commercial building signs facing
5 residential. This is a standard that actually
6 comes from the existing C-3 zoning which the
7 redevelopment plan defers to. And what this is
8 referencing is the anticipated wall signs along
9 the frontage of the northerly industrial building
10 that faces the rail line.

11 The -- the C-3 residential zone line is
12 essentially within the middle of the rail right-
13 of-way. And the distance from the facade of the
14 northerly industrial building to that zone line
15 is approximately 100 feet. So 150 feet is not
16 possible to achieve based on this concept plan.

17 The signs as we have testified to
18 previously will otherwise comply with the
19 ordinance requirements for commercial signage.
20 And I would further point out that while the zone
21 district boundary is less than 150 feet away, the
22 actual distance to residential properties is
23 significantly greater than that. And it's also
24 partially screened by existing vegetation, which
25 we will be supplementing along that property

1 line, as well as just the sheer distance from the
2 industrial building itself to the residential
3 properties on the opposite side of the rail line.

4 So --

5 MR. DRILL: Can you just tell everyone
6 exactly what's the requirement and what's the
7 exception -- what's the deviation that you're
8 seeking?

9 Mr. HUGHES: 150 feet to the zone line,
10 whereas we're proposing approximate 100 feet to
11 the zone line.

12 MR. DRILL: But the -- okay. The size
13 of the sign complies, but it's the distance to
14 the zone line?

15 Mr. HUGHES: Correct.

16 MR. DRILL: And which zone line? So if
17 you -- I don't know which exhibit you want to
18 use.

19 Mr. HUGHES: It's the zone line within
20 the rail right-of-way.

21 MR. KENT-SMITH: So this is
22 (inaudible).

23 Mr. HUGHES: It's --

24 MR. KENT-SMITH: This is the
25 residential R1. Zone line goes right down the

1 tracks. Our building signage facing the tracks
2 approximately 100 feet from that zone line where
3 (inaudible).

4 MR. DRILL: Is that the only area on
5 the property where you need this exception.

6 Mr. HUGHES: Correct.

7 MR. KENT-SMITH: Well, let me just,
8 again, clarify for the record. So relative to
9 the internal layout of the property, there are
10 two subdistricts. Subdistrict 2 and Subdistrict
11 1, under the redevelopment plan. The ordinance
12 standard that you're referring to is a zoning
13 standard, correct?

14 Mr. HUGHES: Correct. And it's
15 specific to commercial building science.

16 MR. KENT-SMITH: So in your opinion as
17 it relates to the internal setback between the
18 residential Subdistrict 1 and residential and
19 commercial --

20 MR. DRILL: I'm talking about the
21 building sign.

22 MR. KENT-SMITH: Right. Right. But
23 I'm just saying is there's no relief required
24 relative to those sides and that --

25 Mr. Dickerson, unless you (inaudible) -

1 -

2 MR. DICKERSON: Can you just clarify?

3 I was just looking at the last time.

4 MR. DRILL: And I didn't understand
5 what you were talking about.

6 MR. KENT-SMITH: The question relative
7 to the (inaudible) just so that we're all clear.

8 MR. DRILL: A-28.

9 MR. KENT-SMITH: A-28. Just
10 referencing A-28, the question is that what we've
11 established is we need to variance relative to
12 the (inaudible) boundary and the building facing
13 the rail, because that's 100 feet to 150 feet,
14 correct?

15 Mr. HUGHES: Correct.

16 MR. KENT-SMITH: Okay. My only
17 question, just so that we're all clear, if
18 currently they're in the redevelopment plan,
19 there is a subdistrict for residential --

20 MR. DRILL: But is that a zone
21 boundary?

22 MR. KENT-SMITH: No. (inaudible)
23 exactly --

24 MR. DRILL: So why don't you just ask
25 him: Do you need it anywhere else? And the

1 answer's no.

2 Mr. HUGHES: No.

3 MR. KENT-SMITH: Okay. You agree,
4 right?

5 Mr. HUGHES: Yes.

6 MR. KENT-SMITH: There we go.

7 Mr. HUGHES: All right. The final
8 exception requesting is for -- you'll recall in
9 the last meeting there was a deviation requested
10 for ground floor transparency on the residential
11 buildings, which I think is another one where the
12 board took a straw poll and --

13 MR. DRILL: Yeah, yeah, yeah.

14 Mr. HUGHES: -- supported the idea of
15 not getting including --

16 MR. DRILL: That's with the -- that's
17 with the --

18 Mr. HUGHES: -- windows within the --
19 the residential buildings and Subdistrict 1.

20 MR. DRILL: Yeah.

21 Mr. HUGHES: So I think technically an
22 exception is needed from that.

23 MR. DRILL: And it was just the ground
24 floor. It wasn't anything else.

25 Mr. HUGHES: Correct. We would be

1 avoiding the faux -- the two faux windows within
2 the ground floor of both residential buildings.
3 Again, first floor only. And as it was pointed
4 out on the upper floors, we're actually exceeding
5 the transparency requirements. So I think that's
6 another one taking the board's direction. We can
7 respectfully request that exception.

8 MR. VICE CHAIR: Mr. Dickerson, your
9 comment or question on this? No, you're good.
10 All right.

11 Mr. HUGHES: And that will conclude my
12 direct testimony.

13 MALE SPEAKER: Just two questions
14 concerning the exceptions. Based on my list,
15 there were the two freestanding signs that were
16 shown on the site plans that seem to exceed the
17 maximum height and, I believe, maximum area. I
18 know that there was in previous testimony that
19 there would be compliance but it looked like the
20 revised plans didn't show that.

21 MR. DRILL: Okay. So yes, the intent
22 is to comply.

23 MALE SPEAKER: Okay. So those are not
24 needed.

25 MR. DRILL: Yes.

1 MALE SPEAKER: And the only other
2 exception in my notes would just relate to the
3 parking, which would just be the de minimis
4 exception required.

5 MALE SPEAKER: (Inaudible).

6 MALE SPEAKER: That's correct.

7 MR. KENT-SMITH: Yes. So again,
8 Mr. Hughes, you're aware that as part of the
9 relief requested, we will be making a de minimis
10 exception relief from the RSIS standards relative
11 to the number of parking spaces for the
12 residential?

13 Mr. HUGHES: Yes.

14 MR. KENT-SMITH: And again, that would
15 be something that would be addressed through the
16 -- was it DCA? What is it?

17 MR. DRILL: If it's -- if it's de
18 minimus, is it a waiver? Or is it because if
19 it's --

20 MR. KENT-SMITH: The de minimis
21 exception from the residential site and permit
22 standard.

23 MR. DRILL: The -- the planning board
24 can grant that. Then you have to report it down
25 to the DCA. It's only if you need -- so you have

1 to add that -- let's add that to the list.

2 MR. KENT-SMITH: That's -- yeah. Let's
3 do that, Mr. Hughes.

4 MR. DRILL: This RSIS relief for the
5 number of residential parking space.

6 MR. KENT-SMITH: Correct.

7 MR. DRILL: And just refresh our
8 recollection. What does RSIS require? What does
9 the redevelopment plan require and what's being
10 proposed?

11 MR. KENT-SMITH: It was my
12 understanding that the RSIS standard would result
13 in a 1.8 per unit standard --

14 MR. DRILL: Yeah, I actually believe
15 that that's correct. And what's the
16 redevelopment plan?

17 MR. KENT-SMITH: Well, that's what I'm
18 trying to find.

19 Mr. HUGHES: Well, let me -- let me
20 just clarify. The redevelopment plan requires
21 1.8 spaces per dwelling unit, whereas RSIS is a
22 greater number.

23 MR. KENT-SMITH: Yes.

24 Mr. HUGHES: 1.8 for one bedroom, 2 for
25 two-bedroom and 2.1 for three bedrooms.

1 MR. DRILL: Okay. Does anyone have a
2 calculation of under RSIS how many parking spaces
3 would be required? And I assume, but I want
4 someone to be able to testify that the number of
5 parking spaces you have is X and that complies
6 with the redevelopment plan standard.

7 MR. KENT-SMITH: Oh, yes.

8 Mr. HUGHES: Well, I can testify that
9 450 spaces are required by the redevelopment plan
10 and --

11 MR. DRILL: 400 --

12 Mr. HUGHES: 450 are provided for the
13 residential.

14 MR. DRILL: Okay. So all we needs to
15 know is the RSIS requirement, how many spaces
16 that would be?

17 MR. KENT-SMITH: Again, I'm looking at
18 the plan and I don't see the RSIS calculation on
19 the plan. I'll look.

20 MALE SPEAKER: Does that meet it, like,
21 exactly or is there --

22 MR. DRILL: No. It's an exact amount.

23 MALE SPEAKER: It's an exact?

24 MR. DRILL: Yeah. It's an exact amount
25 and it has different things depending on the

1 different number of bedrooms. And I'm sure their
2 engineer testified about it. But see if I can
3 find it --

4 MALE SPEAKER: Yeah. 1.8 per unit.

5 MR. DRILL: No. 1.8 pre unit is what
6 the redevelopment plan requires.

7 MALE SPEAKER: And that's what they're
8 meeting.

9 MR. DRILL: I understand. But the RSIS
10 --

11 MALE SPEAKER: Oh. I understand that,
12 but I wanted to make sure that the one -- the 40
13 -- 50 wasn't 1.83.

14 MR. DRILL: Oh, I get it. I get it.

15 Mr. HUGHES: I mean, is this something
16 that can be provided as part of perhaps drafting
17 the resolution? Or do we need to --

18 MR. DRILL: It can be provided --
19 listen.

20 MR. KENT-SMITH: We can definitely
21 provide by next meet.

22 MR. DRILL: Listen. Just so you
23 understand, this next meeting --

24 Mr. HUGHES: Yes.

25 MR. KENT-SMITH: Yes.

1 MR. DRILL: He hasn't been cross-
2 examined yet.

3 MR. KENT-SMITH: No.

4 MR. DRILL: Okay. And the public has
5 the right to ask questions of the board's two
6 experts. And at least one member of the public
7 has told me that she intended to do that.

8 And I just saw George Collins walk in
9 with a bunch of exhibits. Now, he doesn't have
10 questions for the planner, but he's going to be
11 presenting, you know, testimony.

12 MR. KENT-SMITH: Right.

13 MR. DRILL: So this thing is absolutely
14 going to be continued without need for further
15 notice to December 14.

16 MR. KENT-SMITH: Yes.

17 MR. DRILL: You're gonna have to get a
18 hold of -- ask for the extension from 201.
19 You're going to ask them for the end of February
20 because this thing is going on -- and I owe you a
21 six-pack of soda.

22 Okay. I made a bet. I figured that
23 we'd be done tonight and we'd be deliberating
24 next week. I lost the bet.

25 Now your application --

1 MR. KENT-SMITH: That's not a bad bet.

2 MR. DRILL: You should see what she
3 wanted. But your -- your application? What --
4 what's the extension?

5 FEMALE SPEAKER: What was that you
6 said?

7 MR. DRILL: (Inaudible) What's the
8 extension date?

9 FEMALE SPEAKER: It was December 31.

10 MR. DRILL: Yeah, so we're gonna also
11 need an extension from you to January --

12 FEMALE SPEAKER: 31st.

13 MR. DRILL: -- 31st.

14 MR. KENT-SMITH: January 31. Will you
15 send me the form, Kathy? Or do you have a form
16 that you use or have I've been sending you my --

17 MS. LENAHAN: Just been sending a
18 letter.

19 MR. DRILL: Okay. Great.

20 FEMALE SPEAKER: And -- and just to
21 confirm that Mr. Hughes will be available to
22 answer questions.

23 MR. DRILL: Say again.

24 FEMALE SPEAKER: Just to confirm that
25 Mr. Hughes will be available the next hearing to

1 answer questions on the --

2 MR. DRILL: He has to be --

3 FEMALE SPEAKER: -- community impact
4 statement. Okay. Perfect.

5 MR. DRILL: He has to be because if he
6 doesn't, then the board cannot consider any of
7 this testimony.

8 FEMALE SPEAKER: Okay.

9 MR. DRILL: So Mr. Kent -- okay.

10 MR. KENT-SMITH: We have a -- again,
11 Mr. Hughes does have a conflict for the 14th. My
12 question to the board is that -- you still have
13 to introduce your CIS too. Could we extend this
14 at least to complete your direct relative to --

15 Mr. HUGHES: I'm done with direct.

16 MR. DRILL: His direct is done, Henry?

17 MR. KENT-SMITH: Okay.

18 MR. DRILL: He's -- he's ready for
19 cross.

20 MR. KENT-SMITH: Okay. So, I mean,
21 again, if -- if at least for cross examination --

22 MR. VICE CHAIR: Mr. Kent-Smith, we're
23 gonna -- we're not -- we're gonna have to
24 continue.

25 MR. DRILL: The board said they'd go

1 past 10:30 with a hard stop at 11.

2 How many people in the public want to
3 ask questions of the planner? Just raise your
4 hand.

5 All right. One, two, three, four.

6 MR. VICE CHAIR: All right.

7 MALE SPEAKER: And board questions
8 prior.

9 MR. DRILL: And board questions prior
10 to that. So that's not going to happen. So you
11 got to see if you can resolve your conflict,
12 otherwise --

13 MR. KENT-SMITH: Understood.

14 MR. DRILL: -- we'll have to figure out
15 what to do about it.

16 MR. KENT-SMITH: Understood.

17 MR. DRILL: Okay. So again, the
18 hearing's continued to December 14. No need for
19 further notice. The applicant has agreed to
20 extend the time the board has to decide the case
21 to January 31.

22 MS. LENAHAN: Correct.

23 MR. VICE CHAIR: That being said, may I
24 have a -- Kathy, we're good?

25 We're gonna -- may I have a motion to

1 adjourn.

2 FEMALE SPEAKER: So moved.

3 MR. VICE CHAIR: Second?

4 MALE SPEAKER: Second.

5 MR. VICE CHAIR: Thank you. Meeting
6 adjourned.

7 (End of audio-recorded proceeding.)

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CERTIFICATE OF TRANSCRIPTIONIST

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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 13th day of December 2022.



Teresa Johnson

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