

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
SPECIAL MEETING
WEDNESDAY, JANUARY 29, 2025
GRACE LUTHERAN CHURCH, 65 E MAIN ST, MENDHAM, NJ**

CALL TO ORDER/FLAG SALUTE

The regular meeting of the Mendham Borough Joint Land Use Board was called to order at 7:00 p.m. and the open public meeting statement was read into the record.

Vice Chairman noted that Mendham TV was recording the hearing.

ROLL CALL

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| Mayor Glassner – Absent | Mr. Egerter – Present |
| Ms. Bushman – Present | Ms. Garbacz – Present |
| Councilmember Traut – Present | Mr. Molnar – Present |
| Mr. Smith – Present | Mr. Kay – Alternate 1 - Present |
| Mr. Sprandel – Present | VACANT- Alternate 2 |
| Mr. D’Urso– Absent | Mr. Pace – Alternate 3- Present |
| | Mr. Chambers– Alternate 4 – Present |

Also Present: Mr. Ferriero – Board Engineer
Mr. Germinario –Board Attorney
Ms. Caldwell – Board Planner

PUBLIC COMMENT

Vice Chairman Smith opened the meeting to the public for questions and comments on items not included on the agenda or any pending applications. There being none, the public session was closed.

HEARING

**23-22 V-Fee Mendham Apartments
84-86-88 East Main Street
Blk 801 Lot 20**

Refer to attached transcript

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Mr. Pace and seconded by Mr. Egerter. On a voice vote, all were in favor. Mr. Smith adjourned the meeting at 10:45PM.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator

In The Matter Of:
In Re: 23-22 V-Fee Mendahm

Transcript of Proceedings
January 29, 2025



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Min-U-Script® with Word Index

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| <p>1 BOROUGH OF MENDHAM 2 JOINT LAND USE BOARD 3 Wednesday, January 29, 2025 4 Commencing at 7:05 p.m.</p> <p>5 ----- 6 IN THE MATTER OF: 7 8 23-22 V-FEE MENDHAM 9 APARTMENTS 10 84-86-88 EAST MAIN 11 STREET 12 BLOCK 801 LOT 20 13 -----</p> <p>14 15 B E F O R E: 16 17 BOROUGH OF MENDHAM JOINT LAND USE BOARD 18 THERE BEING PRESENT: 19 20 21 RICHARD SMITH, CHAIRMAN 22 23 JOYCE E. BUSHMAN, BOROUGH ADMINISTRATOR 24 25 JIM CHAMBERS 26 27 KEITH KAY, MEMBER 28 29 JAMES MOLNAR, MEMBER 30 31 DAVE SPRANDEL, MEMBER 32 33 JOHN EGERTER, MEMBER 34 35 MARRIE ROSE GARBACZ, MEMBER 36 37 RICHARD PACE 38 39 ALEXANDRA HENRY TRAUT, ALTERNATE 1 MEMBER 40 41 RICHARD PACE, ALTERNATE 4 MEMBER 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100</p> <p>101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200</p> <p>201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300</p> <p>301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400</p> <p>401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500</p> <p>501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600</p> <p>601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700</p> <p>701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800</p> <p>801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900</p> <p>901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p> | <p>1 A P P E A R A N C E S: 2 3 THOMAS GERMINARIO, ESQ. 4 Counsel to the Joint Land Use Board 5 6 INGLESINO TAYLOR 7 Attorneys for Applicant 8 600 Parsippany Road 9 Parsippany, New Jersey 07054 10 973.947.7111 11 BY: DEREK W. ORTH, ESQ. 12 13 14 15 LIEBERMAN BLECHER & SINKEVICH, P.C. 16 Attorneys for the Mendham Alliance for Preservation 17 and Conservation 18 10 Jefferson Plaza 19 Princeton, New Jersey 08540 20 732.355.1311 21 BY: MICHAEL SINKEVICH, ESQ. 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100</p> <p>101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200</p> <p>201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300</p> <p>301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400</p> <p>401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500</p> |
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| <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100</p> <p>101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200</p> <p>201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300</p> <p>301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400</p> <p>401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500</p> | <p>1 CHAIRMAN SMITH: We're going to go 2 right into hearings, and if you want to help us with 3 this, Tom. 4 BOARD ATTORNEY: So tonight we're 5 having the eighth and, hopefully, the final hearing 6 on the V-Fee apartments application, and it is the 7 intention of the board to complete the hearings of 8 this application and to come to a vote on this 9 tonight. 10 So tonight we will hear testimony from 11 the public as to which the following time limits 12 will apply. We'll begin with the expert direct 13 testimony on behalf of Mendham Alliance, and that 14 will be limited to a total of one hour to be 15 allocated between their two experts as counsel sees 16 fit, and that is direct testimony. If there's 17 cross-examination or redirect, that will be allowed 18 as the board sees fit in addition to that total one 19 hour. 20 Then that will be followed by factual 21 direct testimony on behalf of Mendham Alliance, 22 again, through their counsel Mr. Sinkevich which 23 will be a total of one half hour, again, to be 24 allocated between his witnesses as he sees fit. 25 Then there will be an expert direct</p> |

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| <p style="text-align: right;">Page 5</p> <p>1 testimony by Raritan Headwaters Association if they 2 are here tonight, and that will be limited to 15 3 minutes, and then we will open it to the general 4 public for fact testimony, and that would be for all 5 those who are not represented by Mendham Alliance 6 and its legal counsel. 7 So I just want to be clear about what 8 is fact testimony and what is not. It will not 9 include posing questions to the board or to the 10 other witnesses. That phase of the application 11 process has already passed. It would not be for 12 statement of opinions, because other than the 13 experts, you are not qualified to give opinions. It 14 will be restricted to facts personally known by the 15 witness. It must be relevant to the issues of this 16 application, and it must not be repetitive of prior 17 testimony. 18 So with that being said, thank you, 19 Tom. 20 Derek, you want to -- 21 MR. ORTH: Yes. Thanks, Tom. Thank 22 you, members of the board. My name is Derek Orth on 23 behalf of the applicant V-Fee Mendham Apartments. 24 This application was carried last week 25 at my request. I was deathly ill. I was able to</p> | <p style="text-align: right;">Page 6</p> <p>1 get off the couch two or three days ago, and I'm 2 here and I'm happy to close out this application. 3 Just before we get started, I wanted to thank the 4 board, members of the public, the board's 5 professionals, and, of course, the objectors for 6 accommodating my extension, and I do look forward to 7 closing out this application this evening. 8 I do have a -- I may have objections to 9 the testimony which is provided, but I'll reserve 10 those at the appropriate time when the witnesses are 11 presented and their credentials are presented to the 12 board for consideration. 13 Thank you very much. 14 CHAIRMAN SMITH: All right. 15 BOARD ATTORNEY: At this point, the 16 objector counsel and his witnesses can come forward. 17 BOARD SECRETARY: They have to turn 18 that one on. Push the red button. Push it and hold 19 it until you see it. 20 BOARD ATTORNEY: Do you want to enter 21 your appearance for the record? 22 MR. SINKEVICH: Good evening, board 23 members. Michael Sinkevich from the law firm of 24 Lieberman Blecher & Sinkevich on behalf of the 25 Mendham Alliance for Preservation and Conservation.</p> |
| <p style="text-align: right;">Page 7</p> <p>1 BOARD SECRETARY: Can everybody hear 2 him? 3 MR. SINKEVICH: Is this better? 4 BOARD SECRETARY: Yeah. 5 MR. SINKEVICH: Michael Sinkevich from 6 the law firm of Lieberman Blecher & Sinkevich on 7 behalf of the Mendham Alliance for Preservation and 8 Conservation. 9 As was laid out previously, we have two 10 experts witnesses that we are going to be presenting 11 today and then one fact witness. I would like to, 12 before I get started, first, of course, thank the 13 board for their time and consideration of our 14 testimony. 15 Secondly, I'd like to lodge a objection 16 to the time limitations. As members of the public, 17 we have the right to present witnesses, and to the 18 extent that they can't be completed in one hour for 19 the experts or whatever the time allocation is, I 20 believe that goes against the Municipal Land Use Law 21 and case law. 22 So I'd just like to note that for the 23 record, but without further -- or maybe a point of 24 order for Tom or whoever I should ask this question 25 to. I have a few exhibits, the reports. Would it</p> | <p style="text-align: right;">Page 8</p> <p>1 be easiest if I just handed them all out before I 2 got going so I don't have to do it as we're -- 3 BOARD ATTORNEY: Well, let's hold off 4 on that because I understand Mr. Orth might have -- 5 might have the opportunity to object to the 6 admissibility of one or more of these exhibits. 7 So why don't we start out with the 8 testimony, and then Mr. Orth, based on the 9 testimony, can pose whatever objections he wants, 10 and then the board will determine the admissibility 11 of the two expert reports. 12 AUDIENCE MEMBER: Wow. 13 BOARD ATTORNEY: Did you not hear me? 14 Is that why you're saying wow? 15 AUDIENCE MEMBER: No. 16 BOARD ATTORNEY: Wow is not a legal 17 term. So I'll ignore it. 18 Go ahead, Mr. Sinkevich. 19 MR. SINKEVICH: One last point. We do 20 have one demonstrative exhibit that my first witness 21 Ms. Mary Paist-Goldman is going to be using. I 22 recognize Mr. Orth may object to it, but I think it 23 will at least be helpful for the board to see. I 24 have a copy for him as well. 25 BOARD ATTORNEY: Could you make a</p> |

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| <p style="text-align: right;">Page 9</p> <p>1 proffer, Counsel, so we can see if Mr. Orth does 2 have any objection to it? 3 MR. SINKEVICH: It's going to be a hard 4 proffer for me to make because I haven't quite seen 5 it, but it's a site plan. I believe it's an overlay 6 that depicts where the soil testing was done in 7 relation to the BMPs for the stormwater management 8 system. 9 BOARD ATTORNEY: Do you have any 10 problem with that, Mr. Orth? 11 MR. ORTH: I'll have to hear. The way 12 it typically works is -- 13 BOARD SECRETARY: Mr. Orth. 14 MR. ORTH: I don't have a mic. 15 BOARD SECRETARY: I know. I 16 understand. 17 MR. ORTH: So the way it typically 18 works, Mr. Sinkevich has an expert. He's going to 19 present the expert. The expert will be qualified as 20 an expert to testify, and as they proceed through 21 their testimony, the expert would identify the 22 exhibit, say what it is. At which point, I would 23 have an opportunity to lodge any objections. If I 24 may just allow that process to occur, I think Mike's 25 probably fine with that.</p> | <p style="text-align: right;">Page 10</p> <p>1 MR. SINKEVICH: That's fine. I just 2 don't want for these procedural things to eat into 3 the time. I know we're going to be running up 4 against it for these two experts. 5 BOARD ATTORNEY: I think somebody in 6 the audience said you have to speak into the mic. 7 These mics are not that good at picking up sound. 8 So just be careful of that. 9 MR. SINKEVICH: I will speak louder. 10 With that, if it's all right with the 11 board, I'll call our first witness to get this 12 going. 13 BOARD ATTORNEY: Go ahead. 14 MR. SINKEVICH: Ms. Mary Paist-Goldman. 15 BOARD ATTORNEY: Okay. Ms. Goldman, do 16 you swear that your testimony this evening will be 17 the truth, the whole truth and nothing but the 18 truth? 19 MS. PAIST-GOLDMAN: Yes, I do. 20 BOARD ATTORNEY: You want to qualify 21 her? 22 MARY PAIST - GOLDMAN, having been 23 first duly sworn, testifies as follows: 24 DIRECT EXAMINATION BY MR. SINKEVICH: 25 Q. Mary, would you please, for the record,</p> |
| <p style="text-align: right;">Page 11</p> <p>1 go over your background and qualifications? 2 A. Absolutely. I am a licensed 3 professional engineer in the State of New Jersey 4 since 2005. I received a degree from the University 5 of Maryland and College Park in 2000. 6 I have been practicing civil 7 engineering focusing on water resources, hydrology, 8 hydraulics, soils and environmental work exclusively 9 based in New Jersey for the last 25 years. 10 CHAIRMAN SMITH: Thank you. 11 MR. SINKEVICH: I would like to offer 12 Ms. Paist-Goldman as an expert in the field of civil 13 engineering with a focus on environmental issues. 14 CHAIRMAN SMITH: That's fine. Thank 15 you. 16 BOARD ATTORNEY: Mr. Orth, do you have 17 any issues with that? 18 MR. ORTH: No, I don't, not at this 19 time. Thank you. 20 BOARD ATTORNEY: Go ahead. 21 Q. Ms. Goldman, have you had an 22 opportunity to review this application? 23 A. Yes, I have. 24 Q. And do you have any opinions on the 25 things that you reviewed?</p> | <p style="text-align: right;">Page 12</p> <p>1 A. Yes, I do. 2 Q. Please go ahead. 3 A. Okay. I'd like to start with 4 stormwater management which was a big portion of the 5 review that I completed. I reviewed the materials 6 available on the borough's website as well as 7 information from the NJDEP applications that had 8 been filed, specifically focusing in on the 11 9 proposed BMPs soils testing. 10 BOARD ATTORNEY: The public might not 11 be familiar with the. 12 A. The term BMP, yeah. It's a best 13 management practice. It's considered a BMP just for 14 acronym sake speaking towards how they manage the 15 stormwater for the proposed development. 16 BOARD ATTORNEY: Okay. Go ahead. 17 A. So there are 11 proposed porous 18 pavement systems which are to collect the stormwater 19 runoff that falls on the site, and those will all be 20 pipd then and connected to a discharge point into 21 an existing water feature along the western property 22 boundary. 23 So to speak specifically to some of my 24 points, I had prepared what I'd like to call an 25 exhibit which is just an overlay of the site plan</p> |

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| <p style="text-align: right;">Page 13</p> <p>1 with the 11 BMPs shown in blue and the soil test pit 2 locations that were conducted by Whitestone for the 3 applicant. 4 BOARD ATTORNEY: All right. Do you 5 have an extra copy of that? 6 THE WITNESS: I have 20 here because I 7 wasn't sure how many to bring. So I have 20 of 8 them. 9 BOARD ATTORNEY: Okay. Could you -- 10 for the present purposes, could you pass one over to 11 Mr. Orth, and he could look at it and give him a 12 minute to determine whether he's got any issues with 13 that? 14 MR. ORTH: No issue. I would just ask 15 that there be a description of where the underlying 16 data was drawn from so it's noted on the record. 17 THE WITNESS: Absolutely. Yeah. This 18 came from the stormwater -- the site plan that was 19 submitted with the application dated July 2nd of 20 2024, and I took the soil test locations from 21 Appendix A, the test pit figure from the Whitestone 22 engineering report. 23 MR. ORTH: And what was the date of the 24 site plan drawing that you overlaid this exhibit 25 onto?</p> | <p style="text-align: right;">Page 14</p> <p>1 THE WITNESS: It was the July 2, 2024, 2 last revision. 3 BOARD ATTORNEY: July 2nd? 4 THE WITNESS: Uh-hmm. 5 MR. ORTH: No further questions. 6 BOARD ATTORNEY: Okay. So that being 7 said, you can distribute that to the board, and 8 we'll call this Objector's Exhibit 1, O-1. Okay. 9 THE WITNESS: Thank you. 10 A. While that's being handed out, I just 11 want to read the stormwater best management 12 practice, the BMPs, are shown as blue rectangles on 13 there, and they're numbered which match and 14 correspondence to the stormwater report that was 15 prepared by the applicant. 16 The red squares on there are the 17 locations of the soil tests that were completed 18 along with their numbers. 19 So the requirements in the State of New 20 Jersey related to soil testing for stormwater 21 management facilities is outlined in a document 22 called the New Jersey Stormwater Best Management 23 Practices manual. Chapter 12 of that manual 24 provides a detailed requirement list of what needs 25 to be completed in order to certify a stormwater</p> |
| <p style="text-align: right;">Page 15</p> <p>1 design. 2 Chapter 12 specifically includes 3 requirements for how to determine a seasonal high 4 groundwater table. It also includes requirements 5 for the number of tests and the location of where 6 those tests need to be taken in order to be used for 7 stormwater design. 8 When I went through my initial review 9 of the stormwater report that was available on the 10 borough's website, there was a summary of the soil 11 testing that was completed by Whitestone, but it was 12 missing Appendix A and B in that document. So I 13 went back to Mr. Sinkevich's office, requested a 14 copy of that soil testing information that was 15 missing. It was kind of the details. I only had a 16 summary table. 17 We received that information just a few 18 days ago. So I was able to cross-reference that, 19 and I completed this overlay just to get a full 20 understanding of what was used to determine the 21 seasonal high water tables. The reason that's so 22 important is, with a system like these 11 systems 23 that are proposed, the clearance from the 24 groundwater table to the bottom of the BMP has to be 25 a minimum of one foot, and in this case, they are --</p> | <p style="text-align: right;">Page 16</p> <p>1 the applicant has claimed that they're more than 2 2 feet above that seasonal high. 3 When I went back to look at the soil 4 testing information that was available, I had some 5 concerns with the way the tests were conducted and 6 the locations. For the BMP manual, each one of the 7 stormwater facilities is supposed to have two soil 8 tests that were conducted within the footprint of 9 the BMP. As you can see from this overlay, only one 10 of the 11 stormwater facilities has two tests 11 conducted in the footprint. 12 What that means is that the data that 13 was used to make determinations about seasonal high 14 groundwater and about the soils themselves isn't 15 considered sufficient from the state standpoint on 16 what's required to properly design the systems. 17 The reason that's important is because, 18 when we have stormwater systems taking water in and 19 we don't know where that seasonal high groundwater 20 table is, we can run into a situation where we have 21 the groundwater table interfacing with the 22 stormwater and you get what's called a mound. 23 So think about it like if you're lining 24 a fish tank with gravel. Right. These systems that 25 are proposed have gravel on the base. You have</p> |

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| <p style="text-align: right;">Page 17</p> <p>1 glass at the bottom of your tank. Pretend that is 2 your water table. 3 Now you dump in water into your fish 4 tank for the stormwater piece. The glass in the 5 tank obviously doesn't mix because that's a solid. 6 In groundwater there is a constant movement. We 7 have different times of year with different 8 precipitation. We have stormwater. We have snow 9 melt. We have droughts, we have other things coming 10 in from off-site. There's actually like a whole 11 interconnected water system that exists below the 12 surface that actually has variability in how it 13 functions. 14 With this site, we have soils that are 15 indicative of past hydric conditions meaning that 16 they were associated with wetlands in the past and 17 there's fill on top. We know, you know, this 18 development originally was constructed years ago 19 prior to some of the environmental regulations, 20 probably placed soil on top. 21 What I saw when I reviewed the soil 22 test pits in particular was indication of seepage. 23 Seepage means that water is flowing into the sides 24 of the soil test location, and that seepage was 25 noted at varying levels.</p> | <p style="text-align: right;">Page 18</p> <p>1 In the summary table that had been 2 provided to me initially, it indicated that had 3 seasonal high water table depths were somewhere 4 between 6 and 10 feet below the ground meaning, for 5 these stormwater systems, there would be ample 6 clearance above the seasonal high water table. 7 When I reviewed the test pit data I 8 received a few days ago, they had seepage as close 9 as 2 feet below the ground surface. Reporting it as 10 being six to 10 feet below the grade when the test 11 pit data shows seepage at 2 feet is erroneous and is 12 actually inaccurate in terms of an estimation of 13 seasonal high. 14 With the seasonal high water table 15 being inaccurate, that has a sort of a snowball 16 effect with regards to the rest of the calculations 17 that are then completed for the engineering design. 18 I would have concerns about these systems as they 19 are currently designed because there's insufficient 20 soil testing information. 21 In addition, the test pit logs that I 22 received noted that there was snow on the ground 23 when the testing was completed. Generally, snow on 24 the ground is an indication that the testing can't 25 proceed unless the temperature is below freezing,</p> |
| <p style="text-align: right;">Page 19</p> <p>1 because what happens, snow melts just like we're 2 experiencing right now outside. 3 When you have snow melt, that creates a 4 situation where, as the soil investigator, I have a 5 hard time differentiating between what's the snow 6 melt falling in my hole and what is actually the 7 groundwater table because both things wet the soils. 8 Both things create what appears to be running water 9 which is what they noted in their test, and they 10 even put in the notes may be snow melt, may be 11 seepage, unclear, and then they made an assumption. 12 It's really not desirable to do testing for that 13 reason in a condition when snow melt is actively 14 occurring because it can really make that indication 15 unclear. 16 I also saw in the test pits indications 17 of redoximorphic features which is a big fancy word, 18 but what it basically means is that you have 19 saturated soil for long periods of time, and when 20 the soil is saturated for long periods of time, it 21 takes the color out. 22 So if you look like you dig a hole in 23 your yard, your garden, you see shades of brown, 24 red, you know, sometimes a little bit of yellow, 25 orange. Those are sort of our natural soil colors</p> | <p style="text-align: right;">Page 20</p> <p>1 when they're not in saturated conditions. 2 When you have saturated conditions, you 3 have gray. You have like almost white in some 4 instances, and that is because there's a chemical 5 reaction taking the minerals, the metals and turning 6 those -- it creates an oxidation where it actually 7 makes like almost orangey-red stains and everything 8 else is in that gray family, and that's considered a 9 redoximorphic feature. 10 So I also noted there were 11 redoximorphic features flagged in many of the soil 12 test pit tests. That's indicative of saturated 13 soils for long periods of time which, for me, as a 14 stormwater designer, would make me concerned about 15 the functionality of the system. 16 Looking at this exhibit that I provided 17 to you, as I mentioned, the state requirement is for 18 two test pits per -- per BMP, and as you can see, 19 there are nowhere near that number. So I would 20 think it would be prudent to have this applicant 21 complete new testing in the footprints that meets 22 the standard and then reverify their calculations in 23 order to ensure they function as the applicant's 24 engineer intended. 25 I also did have one other concern on</p> |

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| <p style="text-align: right;">Page 21</p> <p>1 the stormwater facilities tied to the underdrain 2 design. The way the underdrains were designed 3 according to the details provided in the applicant's 4 plans, they are only putting underdrains under 5 portions of the porous pavement system, and, again, 6 those underdrains are the gravel that I was talking 7 about, kind of like picture that fish tank. 8 The way porous pavement systems are 9 typically designed is the gravel goes underneath the 10 entire rectangle. So you look at these 11 11 rectangles. There would be gravel underneath all of 12 it with pipes that would then connect. That's not 13 what's being proposed here. 14 What's being proposed here is only a 15 portion of that area under the rectangles getting 16 the gravel and the pipe, and so I have some 17 concerns, since there's not going to be any other 18 means other than gravity for that water to go 19 through, that it's going to sit and kind of mix with 20 our bad soil with the high seasonal water table and 21 not properly drain and then cause long-term 22 maintenance and flooding issues that are not fully 23 captured by the applicant's submission. 24 Q. Mary, before you go on, I just have two 25 points of clarification.</p> | <p style="text-align: right;">Page 22</p> <p>1 A. Absolutely. 2 Q. You mentioned something about a minimum 3 separation from the BMPs to the seasonal high water 4 table. Were you able to make a determination on 5 what it is? 6 A. So I did see some disparities. So I 7 don't want to specify because I'm not clear on 8 exactly what was in those test pit logs without all 9 of the data, and I know we got part of it but not 10 all of it, but when I did go through my preliminary 11 analysis, it looks like system PB-3, PB-4, and PB-7 12 may not meet the required separation from the 13 seasonal high water table as designed, but because 14 there's not test pits in the footprints of each one, 15 I had to make some broad assumptions about what the 16 applicant's engineer had intended because it's so 17 atypical for me to see a system submitted like this 18 without sufficient testing. 19 Q. And what was that information that you 20 said you didn't receive? 21 A. The infiltration testing information 22 was still not included in the materials we received 23 just a couple days ago. 24 Q. Thank you. Please go on. 25 A. Sure.</p> |
| <p style="text-align: right;">Page 23</p> <p>1 Okay. So that is my high level 2 stormwater overview. I'm trying to keep it to your 3 30-minute limit here. I did not time myself. So 4 I'll do my best. 5 CHAIRMAN SMITH: All right. 6 A. Next piece I want to speak to is the 7 freshwater wetlands and the transition areas on the 8 project site. 9 Specifically, I know a letter of 10 interpretation was issued back in 2020 for the 11 project site and then they received a DEP permit in 12 September of 2023 for the various disturbances. 13 That has kind of created an inconsistency with the 14 submitted environmental impact statement, and so I 15 wanted to just talk about what your ordinance 16 requires for the EIS versus what was submitted. 17 So the EIS was last updated in 2022. 18 So it has quite a few erroneous things stated in 19 there including stating that there are no freshwater 20 wetlands disturbances proposed with the project. 21 So, therefore, that are no adverse impacts. 22 Well, they actually have disturbances 23 to the wetlands as a result of the proposed work, 24 and with that, that needs to be detailed in the EIS 25 in accordance with Section 12443D which states that</p> | <p style="text-align: right;">Page 24</p> <p>1 the EIS must include a listing and evaluation of 2 adverse ecological impacts and damages to natural 3 resources which cannot be avoided, and none of 4 that's in there. It says that there is no 5 disturbance to wetlands. So you are not complying 6 with your own borough ordinance if it's not going to 7 be requested or revised. 8 Section 43E of the ordinance states 9 that the EIS must include steps to minimize and 10 mitigate ecological damage. The description of 11 steps to be taken to minimize and mitigate adverse 12 impact during construction and operation both at the 13 project site and in the affected region. There's no 14 description of the wetland disturbance or the 15 transition area which is the buffer off of the 16 wetlands included in the EIS, and it does not 17 discuss any impacts or any mitigation to those 18 impacts. 19 It does not also include the assessment 20 of evaluating public costs of the project included 21 to, but not limit -- including, but not limited to, 22 the cost of additional schools, roads, police and 23 indirect costs such as the loss of open space. 24 No analysis of public cost was included 25 in the EIS that I reviewed nor was any information</p> |

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| <p style="text-align: right;">Page 25</p> <p>1 on indirect costs included in the analysis. The 2 ordinance requires that all of those things be 3 included in the EIS. They were not in there. As I 4 said, there's only a single sentence that says 5 there's no wetlands disturbance proposed with the 6 project which I know is not correct based on the 7 submitted and approved DEP application. 8 With regards to the wetlands, the LOI 9 was issued in 2020 with a base survey that is 10 different from the survey that was used for this 11 application. More detailed survey was added based 12 on comments from the borough engineer Ferriero who 13 requested more details on the water courses in the 14 northern portion of the site. Those water courses 15 were added in terms of additional detail as part of 16 this application. However, they don't appear in the 17 LOI that was approved. So I believe that the LOI is 18 missing some of the regulated areas in the northern 19 portion of the property. 20 With regards to flood hazard areas, 21 regulated waters and riparian zones at the site, I 22 think that we are missing some of the regulated 23 waters. 24 I reviewed a report that had been 25 prepared by One Water Consulting on behalf of the</p> | <p style="text-align: right;">Page 26</p> <p>1 borough environmental commission which specifically 2 outlined several of the water courses that should 3 have been regulated. Those include the water course 4 that runs along the western property line and 5 connects in with the mapped water course that was 6 included in the DEP approval, and then there's also 7 that additional water course that starts at the 8 stormwater outfall in the northern boundary sort of 9 just straight up at the top of the property. 10 Those two features were not included, 11 like I said, in the survey that was approved with 12 the letter of interpretation from DEP, and that 13 information would impact the limits of regulated 14 areas at the site. 15 My biggest concern with regards to that 16 comes down to several things. The flood hazard 17 that's mapped for the site is wrong. That flood 18 hazard boundary isn't using the new survey data, and 19 there's not sufficient level of survey points in the 20 water course on the western property boundary to 21 justify the line the way it's drawn. 22 I did take all of the paper maps that I 23 had available to me to try to verify whether that 24 matched, and I wasn't able to do it based on the 25 level of detail there. If I had a copy of the CAD</p> |
| <p style="text-align: right;">Page 27</p> <p>1 file with additional detail, I might have been able 2 to actually draw a corrected line, but that is based 3 on information for the flood plain that is 4 incorrect. 5 I think DEP wasn't aware that the 6 information included in that study was inaccurate, 7 but the drainage area was incorrect. The topography 8 in it is incorrect, and so, therefore, the 9 conclusions on that flood study are incorrect. So 10 we have an incorrectly mapped flood plain boundary 11 which in New Jersey we are required to have certain 12 constraints on what we do in flood plains, and so I 13 don't think that flood plain is mapped appropriately 14 here. I think it's missing several of the features. 15 Connecting into that stream at the site 16 we have other features that drain less than 50 17 acres. In New Jersey, every water course that 18 drains more than 50 acres has a flood plain mapped 19 with it. Every water course that drains less than 20 50 acres might have a riparian zone attached to it 21 but only if it's not man-made. 22 So these water course features that I 23 mentioned that were surveyed in response to comments 24 from Ferriero should also have received riparian 25 zone delineations, and those were not completed. I</p> | <p style="text-align: right;">Page 28</p> <p>1 think that is because DEP was not aware of those 2 features. They were not shown on the maps that were 3 submitted with that application, and so I think 4 those boundaries are incorrectly drawn. 5 It's my opinion that they are drawn 6 incorrectly based on the statutes that were in place 7 at the time of the application. 8 Q. What would the impact of that be? What 9 are the restrictions to the flood plains that you 10 were mentioning? 11 A. Absolutely. So with regards to the 12 water course connection, it drains into the North 13 Branch of the Raritan River. That's a category one 14 water. In the State of New Jersey, that's the water 15 courses that have the highest water quantity and 16 have the highest level of protection. 17 So they have what's called a 300-foot 18 riparian zone where a water course in it with more 19 degradation only has a 50-foot riparian zone. So we 20 put a huge buffer on that. You're standing at the 21 top of the bank of the water course. Three hundred 22 feet over from that there's a whole bunch of rules 23 about what you're allowed to do there, how many 24 trees you're allowed to take down. If you do take 25 down vegetation, what is the mitigation that you're</p> |

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| <p style="text-align: right;">Page 29</p> <p>1 going to be doing with that, and the inner 150 feet 2 on that they kind of have as a do-not-touch zone. 3 There's very, very few things you do in that inner 4 150 feet because we're trying to protect the waters 5 we have. 6 We have a state that has a high 7 population density and we have a lot of polluted 8 waterways. We also have a lot of flooding issues in 9 our state. So we're doing what we can in the 10 professional community working with the state to try 11 to reduce those water quality impacts, and those 12 flooding issues, and this water course system is 13 considered a headwater. 14 Headwaters are where the streams start. 15 So if you think about on a hill slope sometimes, 16 you'll look at a hill slope, and you'll see water 17 kind of bleeding out of a slope, and you think of 18 like, oh, that's a spring, and maybe you've been on 19 vacation somewhere and you've seen springs kind of 20 bleeding out of the hill. 21 Ultimately, those channelize. The 22 water concentrates. It doesn't flow out in a sheet 23 for very long. It concentrates down into a stream, 24 and that is how a headwater forms. 25 Because of this wetland complex here</p> | <p style="text-align: right;">Page 30</p> <p>1 being of exceptional value which was noted in the 2 letter of interpretation and the fact that these are 3 headwater stream channels, they deserve the highest 4 levels of protection and have the highest levels of 5 protection in the state regulation. So they should 6 be getting extra justification from the applicant 7 for what they're doing with their disturbances, and 8 your EIS is so strongly worded with regards to 9 details on site hydrology showing all regulated 10 water courses on the property, explaining how the 11 water drains on the current property, none of that 12 is in existence in the EIS that was submitted by the 13 applicant. 14 So none of your borough professionals 15 have had the opportunity to review that, and you, as 16 a board, haven't been given the right and 17 opportunity to review what's required by your 18 ordinance. 19 Q. And you said your EIS. Do you mean 20 that the EIS is a land use code requirement for this 21 municipality? 22 A. It is, yeah. 23 So regarding the site hydrology, the 24 on-site streams, the ditches, the open waters, even 25 the existing stormwater facilities, because this</p> |
| <p style="text-align: right;">Page 31</p> <p>1 isn't a redevelopment site, are all supposed to be 2 detailed in the EIS and documented with what's being 3 changed. 4 The EIS states that all water on the 5 site drains to a single point of discharge. We know 6 isn't true because Ferriero had them do the 7 additional survey. We have two points of discharge. 8 One that's to the north. One that's to the west. 9 So that whole EIS document is just filled with 10 erroneous information that is inconsistent with the 11 applicant's materials that they've done in response 12 to your other professionals and documents. 13 The only other thing I want to mention 14 before I close my specified testimony here is, with 15 regards to the presence of the threatened and 16 endangered species, we know that there's documented 17 sightings of bobcats and Indiana bats on the project 18 site. Both of those are threatened and endangered 19 species. They have sightings that are known to have 20 existed at this actual site. That's not that 21 common. 22 I do a lot of these things around the 23 state. Sometimes it's within a mile. Maybe it's 24 within a half a mile. These are documented 25 sightings on the property of these species. That is</p> | <p style="text-align: right;">Page 32</p> <p>1 absent from the environmental impact statement. 2 There's no mention of those species. There's no 3 mention of how the development would impact them 4 from a noise standpoint, from a water quality 5 standpoint, from just a habitat standpoint, and most 6 of those species have different habitat 7 requirements. 8 I am not a biologist or an expert in 9 those species. However, I definitely run into that 10 in my line of work, and I feel like you would be 11 doing a disservice to your community if you do not 12 require the applicant to do additional studies on 13 those two species. 14 MR. SINKEVICH: I believe Mary started 15 to around 7:15. So I think we have about five 16 minutes of testimony. 17 BOARD ATTORNEY: 7:15 is right. 18 A. Oh, good. I did it on under 30 19 minutes. 20 Q. I have some follow-up questions or 21 maybe some amplification. 22 I noted in your report that you 23 discussed -- going back to stormwater, you discussed 24 groundwater recharge and stormwater quality and 25 then, of course, stormwater quantity which I believe</p> |

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| <p style="text-align: right;">Page 33</p> <p>1 the quantity portion was really what you were 2 hitting at. 3 A. Yes. 4 Q. Could you just go into those briefly 5 because we have some time? 6 A. Absolutely, yeah. So I focused on the 7 stormwater quantity side because that's what I am 8 most concerned with here at the site is the flooding 9 implications and then, frankly, the functionality of 10 the system. 11 Stormwater quality, this system is 12 designed to the bare minimum requirements, and I 13 don't believe that it fully complies with the 14 requirement for the 95 percent total suspended 15 solids reductions. I know that the applicant 16 believes based on their information that they're 17 outside of the riparian zone, but we know that's not 18 true with where this outfall is located. It's in 19 the riparian zone. So the 95 percent standard 20 should apply. That's a requirement for discharge 21 into a riparian zone for a category one stream. 22 Q. And by requirements, you mean is it 23 part of the New Jersey -- 24 A. It's part of the NJAC 7:8 stormwater 25 rules specifically spelled out for category one</p> | <p style="text-align: right;">Page 34</p> <p>1 streams. 2 Q. Thank you. 3 And is there anything with recharge? 4 A. With recharge, the applicant chose not 5 to provide any recharge because of the 6 redevelopment. I don't have the infiltration tests 7 which I know I mentioned already. 8 So I suspect that perhaps the soils 9 infiltration testing wasn't good which would be 10 consistent with my findings of the fact that it 11 appears to be hydric and redoximorphic features at 12 shallow depths, and so infiltration just wouldn't 13 make sense, and so I believe that is why the 14 applicant chose to exclude any groundwater recharge 15 analysis, but I would go so far as to say probably a 16 groundwater mounding analysis should be required to 17 just document what's going on with the flooding and 18 with that groundwater level. 19 Q. You mentioned the BMP manual. Is that 20 in some way incorporated into these stormwater 21 regulations? 22 A. The BMP manual is the approved guidance 23 document for design. It's required under the 24 infiltration and groundwater recharge standard to 25 use the soil testing criteria from chapter 12 by</p> |
| <p style="text-align: right;">Page 35</p> <p>1 proxy there. That's the link to the stormwater 2 rules. 3 Q. And I guess I have one last question, 4 and then I'll turn it over to Mr. Orth. 5 I know -- I think we all know your 6 position on the EIS and that it is deficient. 7 With regard to the stormwater 8 management system, I mean do you have an overall 9 position on its compliance? 10 A. This doesn't comply. The soil testing 11 is insufficient, and the analysis is based on the 12 limited soil testing which really isn't even in the 13 footprint of the BMPs. So it's not compliant. 14 Q. And it doesn't comply with that? 15 A. With quantity standards, the water -- 16 the groundwater recharge and soil testing standards. 17 Q. And those are all contained in the 18 stormwater regulations. Is that correct? 19 A. Yes, and incorporated into the 20 borough's ordinances by reference in I believe it's 21 Section 152. Although, I don't have that right in 22 front of me. 23 Q. Unless you have anything else -- 24 A. I think I'm all set. 25 MR. ORTH: Thank you. Thanks, Mike.</p> | <p style="text-align: right;">Page 36</p> <p>1 CROSS-EXAMINATION BY MR. ORTH: 2 Q. Just for the record, Derek Orth on 3 behalf of the applicant. 4 Thank you for your testimony, Ms. 5 Paist-Goldberg. Did I say that correctly? 6 A. It's Paist-Goldman. Close. 7 Q. Paist-Goldman. 8 So let me just go back a little bit so 9 I understand what it is that you reviewed in 10 connection with your testimony this evening. 11 Did you observe any of the eight 12 hearings that occurred prior to your testimony here 13 this evening? 14 A. Only the recordings that were 15 available. 16 Q. So did you listen to every single 17 recording of every single meeting? 18 A. Yes, I did. 19 BOARD SECRETARY: Derek, I'm sorry. I 20 can't hear you. 21 Q. Whose testimony did you observe in 22 connection with your testimony tonight? 23 A. The Stonefield engineer. I don't have 24 the name in front of me because it's in my folder, 25 but I could pull it up.</p> |

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| <p style="text-align: right;">Page 37</p> <p>1 Q. And you listened to each single night 2 of testimony that occurred on the prior eight 3 application hearings? 4 A. Yes, I did. 5 Q. And how many hours of testimony do you 6 think you observed? 7 A. Oh, gosh. I don't know. Ten, 12 8 somewhere. Maybe more. I can't speak to that 9 exactly. 10 Q. Would it surprise you if I told you 11 there was approximately 40 hours of testimony on 12 this application? 13 A. Yes. It's not necessarily that it 14 surprises me, but I did not listen to like things on 15 traffic or things outside of my expertise. 16 So I focused in specifically on the 17 civil engineer and the relevant pieces to me. 18 Q. And did you review all the plans in 19 connection with your testimony this evening? 20 A. Yes, I did. 21 Q. And how many stormwater management 22 plans have you designed in connection with a 23 multi-family project in excess of 50 units? 24 A. Multi-family stormwater design, I don't 25 think I've ever done a multi-family design. I've</p> | <p style="text-align: right;">Page 38</p> <p>1 done commercial developments. I have done 2 institutional developments and single-family 3 subdivisions, but I don't think I've ever done like 4 a multi-family building. 5 Q. So you never designed a stormwater 6 management system in excess of 50 units, correct? 7 A. For multi-family, no, but for 8 commercial buildings larger than this, yes. 9 Q. Have you taken any NJDEP review courses 10 in connection with stormwater management and design? 11 A. Yes, many. I started from my -- the 12 beginning of my career back in the late '90s all the 13 way through present day. 14 Q. Do you have any NJDEP certifications 15 for stormwater management review? 16 A. No. I don't have their certification. 17 Q. Is a NJDEP certification required to 18 review a stormwater management plan? 19 A. No. 20 Q. Is it something that is offered by the 21 NJDEP? 22 A. They offer them, yes. 23 Q. And you do not have that certification, 24 correct? 25 MR. FERRIERO: Let me interrupt here</p> |
| <p style="text-align: right;">Page 39</p> <p>1 because I can tell you that, in order for a 2 municipality to review a stormwater system, you must 3 be certified by the DEP. 4 Q. So you do not have a certification, for 5 instance, if you were to represent a municipality in 6 connection with the stormwater management plan 7 design, correct? 8 A. I'm not a stormwater engineer for any 9 towns. 10 Q. You also mentioned that you had 11 reviewed various submissions that went into the 12 NJDEP as part of the wetland permitting for this 13 application, correct? 14 A. Yes. Yes, I have. 15 Q. And you made a particular note of a One 16 Water Consulting report that you saw? 17 A. Yes. 18 Q. Are you aware that that One Water 19 Consulting report was submitted to the NJDEP? 20 A. No, I was not. I didn't get a full 21 copy of the materials that went in to DEP. So it 22 wasn't clear to me whether that had been given to 23 them. 24 It was addressed to the borough. So I 25 was given that as part of materials that I was</p> | <p style="text-align: right;">Page 40</p> <p>1 provided with, but I'm not sure that it was 2 submitted to the state. 3 Q. So I'll represent to you that that One 4 Water Consulting report was submitted to the NJDEP. 5 Nevertheless -- 6 BOARD ATTORNEY: By the way, I have the 7 letter of transmittal of that report to the DEP. It 8 was dated February 2, 2023. So it was submitted, 9 that One Water report was submitted by the borough 10 to the DEP in the course of that permitting. 11 Q. And much of your objections to the 12 stormwater management design, which is part of this 13 project, do you agree with what was presented in the 14 One Water Consulting report, correct? 15 A. Some of the things. I didn't focus 16 really on their report for the stormwater side. I 17 was looking at that more for the flood hazard and 18 the wetlands because that was in the file materials 19 I've been given for the DEP application, but, yeah, 20 when I looked through their report, I think some of 21 their conclusions were similar to mine. 22 Q. But the DEP also would have reviewed 23 the flood hazard area delineation for this project, 24 correct? 25 A. Yes.</p> |

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| <p style="text-align: right;">Page 41</p> <p>1 Q. And the DEP also would have reviewed 2 and granted the letter of interpretation for the 3 site, correct? 4 A. Yes, they did. 5 Q. And so the objections that you raised 6 which you concurred with in the One Water Consulting 7 report were, in fact, submitted to the DEP, correct? 8 A. Well, again, I don't have that evidence 9 other than you all saying that, but, you know -- 10 BOARD ATTORNEY: Would you like to see 11 the letter, ma'am? I have it here. 12 THE WITNESS: Sure. If you want to 13 share it. 14 Q. While you take a look at it, did you 15 ever file an OPRA request, an Open Public Records 16 act request with the NJDEP for the permitting 17 materials associated with this project? 18 A. I have filed some. I have two that 19 came back and one that's still pending. 20 So this letter is dated February 2. 21 The One Water report that I was reviewing was dated 22 June 12th of 2023. So I don't think this is for the 23 same One Water letter unless this was -- 24 BOARD ATTORNEY: There were apparently 25 revisions and updates to that letter, but the</p> | <p style="text-align: right;">Page 42</p> <p>1 report -- the base report was submitted. 2 THE WITNESS: Okay. Yeah. 3 BOARD ATTORNEY: I can show you the 4 attachments that went with this letter if you want 5 to look at it. Okay. I just gave you the cover 6 letter, but here's the attachments -- 7 THE WITNESS: Okay. 8 BOARD ATTORNEY: -- with the cover 9 letter. 10 Q. And just for the record, I will just 11 represent to you that the various iterations of the 12 One Water Consulting report were, in fact, submitted 13 to the NJDEP as an objection to all of the NJDEP 14 permitting that the applicant submitted as part of 15 this project. 16 A. Okay. 17 Q. So with that in mind, the NJDEP, 18 nevertheless, issued all of the permits which you 19 previously referenced as part of its approvals for 20 this project. Are you aware of that? 21 A. I know they've issued permits. Yes. 22 Q. So all of the objections that you made 23 which you concurred with the objections that have 24 been made by One Water Consulting and what you just 25 raised were, in fact, considered by the NJDEP as</p> |
| <p style="text-align: right;">Page 43</p> <p>1 part of their permit issuance for this project? 2 A. I don't know that I can conclude that 3 simply, because with the soil test pit information, 4 it wasn't included in the stormwater report that was 5 in the borough materials, and the OPRA I still have 6 pending with the state is for that stormwater 7 report. 8 So it's not clear to me whether they 9 had all the information that I specifically 10 commented on with regards to stormwater. 11 Q. So are you saying that the NJDEP didn't 12 consider the One Water Consulting report or other 13 information in connection with the permit issuance 14 for this project? 15 A. I don't know what they -- like, you 16 know, this is new to me. So I don't know what they 17 had in front of them. I'm still waiting for some of 18 my OPRAs, and once I have those, I can tell you 19 whether I agree with that, but I can't comment on 20 that now. 21 Q. In fact, the NJDEP is the sole source 22 of approval for wetlands, special activity, 23 redevelopment permit, transitional wetlands. Is 24 that correct? 25 A. It is. However, they don't have all</p> | <p style="text-align: right;">Page 44</p> <p>1 the information, and this has happened before where 2 information was missing from a file. They always 3 have the rightness in the conditions of this permit 4 just like it is for every permit to reopen the 5 permit review if they feel that something was not 6 included that should have been. 7 Q. You actually don't know based upon your 8 testimony you gave 30 seconds ago what the NJDEP 9 considered as part of the permit issuance process, 10 correct? 11 A. On the stormwater management report, 12 that's the piece I'm still waiting for. 13 Q. And when did you file that OPRA request 14 with the NJDEP? 15 A. For the stormwater report, once I 16 realized those materials were missing, it was last 17 week. The exact date I'm not sure. So I should be 18 getting it back within the week. 19 Q. But the objection that you just raised 20 which concerned the NJDEP, does the board have any 21 approval to overturn something that the NJDEP 22 grants? 23 A. No. 24 Q. Have you been to the site? 25 A. I have.</p> |

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| <p style="text-align: right;">Page 45</p> <p>1 Q. How many times?</p> <p>2 A. Twice.</p> <p>3 Q. And what's the current status of how</p> <p>4 water enters the site and runs off the site? How</p> <p>5 does that work?</p> <p>6 A. Well, a lot of it is overland flow, but</p> <p>7 there are those existing pipe outfalls which I</p> <p>8 mentioned that kind of drain toward the north and</p> <p>9 toward the northwest.</p> <p>10 Q. And are you aware that this project</p> <p>11 will remove approximately an acre of impervious</p> <p>12 coverage?</p> <p>13 A. Yes, I am.</p> <p>14 Q. And is that an improvement over</p> <p>15 existing conditions?</p> <p>16 A. Removing the pavement, absolutely.</p> <p>17 Q. And the pervious pavers that are being</p> <p>18 proposed as part of this project, is that an NJDEP</p> <p>19 approved technique?</p> <p>20 A. Yes, it is.</p> <p>21 Q. And that's an infrastructure technique</p> <p>22 that's approved by the NJDEP?</p> <p>23 A. Yes, it is.</p> <p>24 Q. And that is an improvement over</p> <p>25 existing conditions on the property, correct?</p> | <p style="text-align: right;">Page 46</p> <p>1 A. If it's designed correctly.</p> <p>2 Q. And do you have any reason based upon</p> <p>3 the knowledge that you have and the NJDEP</p> <p>4 information that you have that suggests any of the</p> <p>5 permits granted by the NJDEP were done incorrectly?</p> <p>6 A. Yes, I believe all of them.</p> <p>7 Q. But do you have --</p> <p>8 CHAIRMAN SMITH: Please let her</p> <p>9 continue.</p> <p>10 A. Yes. I testified to that. The test</p> <p>11 pit information that I literally just received that</p> <p>12 wasn't included in the materials with the borough</p> <p>13 specifies that there's seepage at very shallow</p> <p>14 depths which means that the seasonal high</p> <p>15 groundwater table that's in the stormwater report</p> <p>16 and all the calculations they're based on are</p> <p>17 inaccurate.</p> <p>18 Q. And have you raised this concern with</p> <p>19 the NJDEP?</p> <p>20 A. Not yet.</p> <p>21 Q. Are you aware whether others have</p> <p>22 raised any concern like this with the NJDEP?</p> <p>23 A. No. I didn't see that in the One Water</p> <p>24 report or any other materials that I've reviewed.</p> <p>25 Q. But the permit was, in fact, granted,</p> |
| <p style="text-align: right;">Page 47</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Several permits were granted by the</p> <p>4 NJDEP, correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And this board has no authority nor</p> <p>7 jurisdiction to overturn any permit granted by the</p> <p>8 NJDEP, correct?</p> <p>9 A. That's correct.</p> <p>10 MR. ORTH: Okay. No further questions.</p> <p>11 Thank you.</p> <p>12 MR. SINKEVICH: Just a few questions on</p> <p>13 redirect. I'll be efficient.</p> <p>14 REDIRECT EXAMINATION BY MR. SINKEVICH:</p> <p>15 Q. Your testimony prior to</p> <p>16 cross-examination, you focused on a few points. One</p> <p>17 of which was the EIS. Is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And that's a borough requirement. Is</p> <p>20 that correct?</p> <p>21 A. It is.</p> <p>22 Q. That has nothing to do with the DEP?</p> <p>23 A. No, it doesn't.</p> <p>24 Q. With regard to the stormwater</p> <p>25 management, would you agree with me that the borough</p> | <p style="text-align: right;">Page 48</p> <p>1 has its own stormwater management code?</p> <p>2 A. Yes, it does.</p> <p>3 Q. And it parallels the state</p> <p>4 requirements?</p> <p>5 A. Yes.</p> <p>6 Q. And you would agree with me that the</p> <p>7 borough of the board, I apologize, has an obligation</p> <p>8 to ensure stormwater management compliance?</p> <p>9 A. Yes, they do.</p> <p>10 Q. And that was one of the things you</p> <p>11 discussed, and there was no stormwater management</p> <p>12 permit issued by the DEP?</p> <p>13 A. No.</p> <p>14 Q. And would you be surprised if the DEP</p> <p>15 issued a permit incorrectly or based off of</p> <p>16 incorrect information?</p> <p>17 A. No. It happens more often lately than</p> <p>18 it should.</p> <p>19 Q. And you've seen this happen?</p> <p>20 A. Yes, I have.</p> <p>21 MR. SINKEVICH: I have no further</p> <p>22 questions.</p> <p>23 CHAIRMAN SMITH: Thank you.</p> <p>24 BOARD ATTORNEY: Thank you.</p> <p>25 MR. SINKEVICH: I do want to address</p> |

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| <p style="text-align: right;">Page 49</p> <p>1 the report issue. I don't know if now's the 2 appropriate time.</p> <p>3 BOARD ATTORNEY: Yes. So you want to 4 move that report into Evidence?</p> <p>5 MR. SINKEVICH: I would like to, yeah, 6 put it in the record.</p> <p>7 BOARD ATTORNEY: Okay. So, Mr. Orth, 8 you want to be heard on that at all?</p> <p>9 MR. ORTH: I have no objection if this 10 report is moved into Evidence. I've asked questions 11 of the witness as to the voracity of the report and 12 the voracity that's expressed in the report as given 13 the testimony. Thank you.</p> <p>14 BOARD ATTORNEY: Okay. So the report 15 of Rippled Waters Engineering as prepared by this 16 witness and dated January 10, 2025, addressed to Mr. 17 Stewart Lieberman, Esquire, it will now go into the 18 hearing record in Evidence.</p> <p>19 MR. SINKEVICH: And that's marked O-2 I 20 believe.</p> <p>21 BOARD ATTORNEY: You want to mark it 22 O-2, we can identify it that way. Okay.</p> <p>23 MR. SINKEVICH: I apologize.</p> <p>24 BOARD SECRETARY: OA-2.</p> <p>25 BOARD ATTORNEY: O-2, Objector's 2.</p> | <p style="text-align: right;">Page 50</p> <p>1 BOARD SECRETARY: I thought you said A 2 on the other one. So it's O-2.</p> <p>3 BOARD ATTORNEY: I'll speak more 4 clearly.</p> <p>5 BOARD SECRETARY: That's okay.</p> <p>6 MR. SINKEVICH: I guess, just for the 7 record, the way I put this together, I also attached 8 Ms. Paist-Goldman's C.V. to the back of it.</p> <p>9 MR. ORTH: No issue.</p> <p>10 BOARD ATTORNEY: I think that's part of 11 the report with the O-2 will include both the report 12 and the C.V.</p> <p>13 MR. SINKEVICH: I guess next I don't 14 know if the board has any questions if that's how 15 this board proceeds.</p> <p>16 BOARD ATTORNEY: Does the board have 17 any questions of this witness? Anyone on the board?</p> <p>18 MR. EGERTER: I have one question.</p> <p>19 THE WITNESS: Sure.</p> <p>20 MR. EGERTER: There's an existing 21 structure there that's been there forever, and there 22 was a pool in the back and there was a lot of stuff 23 that went on.</p> <p>24 In your opinion, does the proposed 25 structure impact flooding more or is there no</p> |
| <p style="text-align: right;">Page 51</p> <p>1 difference? Just, in your opinion, what impact on 2 flooding would that be?</p> <p>3 THE WITNESS: Yeah. So, in my opinion 4 on flooding, I think you're ending up shifting water 5 around in terms of location and volume a bit. So 6 you're going to see more water on the western side 7 of the site in the northern back area than you have 8 on the eastern northern side of the site. So you're 9 moving water around, but it's not necessarily going 10 to be like an increased volume overall.</p> <p>11 MR. EGERTER: Okay. Thank you.</p> <p>12 CHAIRMAN SMITH: Anyone else? 13 Professionals? No.</p> <p>14 MR. FERRIERO: I don't have any 15 questions.</p> <p>16 MR. MOLNAR: I have a quick question. 17 You commented that the design of the existing --</p> <p>18 BOARD SECRETARY: You need to speak 19 into the microphone closer.</p> <p>20 MR. MOLNAR: So the design of the 21 existing system -- water management system is at a 22 minimum or something, the most minimum it could be 23 or something? What --</p> <p>24 THE WITNESS: You mean their proposed 25 design?</p> | <p style="text-align: right;">Page 52</p> <p>1 MR. MOLNAR: Yeah.</p> <p>2 THE WITNESS: Yeah. So they don't 3 have -- they didn't include like the groundwater 4 recharge which is something that's encouraged to be 5 included, and they didn't evaluate additional 6 alternative green infrastructure technique.</p> <p>7 So there are things like rain gardens, 8 parking aisles where it's sort of a low depression 9 that then gets planted with vegetation on the 10 surface, green roofs.</p> <p>11 MR. MOLNAR: Which filters out?</p> <p>12 THE WITNESS: Those are all different 13 other BMPs, best management practices, that could 14 have been evaluated or included to perhaps avoid the 15 issue with the groundwater table that I see.</p> <p>16 MR. MOLNAR: Okay. And as far as 17 runoff and going into the main waterway and things, 18 is the biggest thing pollutants or just excessive 19 water changing habitats?</p> <p>20 THE WITNESS: Yeah. So it's both. 21 It's a combination. With the pollutants, I have 22 some concern because we're at that 80 percent 23 threshold, and as I mentioned, category one waters, 24 they try to encourage you to be at a 95 percent 25 total solids reduction, but for this site, also,</p> |

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| <p style="text-align: right;">Page 53</p> <p>1 it's a hydrology change without water change that I 2 just mentioned to the other board member. When you 3 move water around in a different location or you add 4 more of it into the ground in a location than it is 5 currently going, you can have impacts that are 6 negative on habitats. 7 So you could drown out an area where a 8 salamander was or you could create a drowned 9 condition for, you know, bobcat habitat and that can 10 cause tree die off. It just changes the vegetation 11 and the whole ecosystem really. 12 BOARD ATTORNEY: I have a question. I 13 recall from the testimony of the civil engineer I 14 believe it was that part of the wetlands disturbance 15 is revegetation of the area to complement and 16 sustain the wetlands. Are you familiar with that? 17 THE WITNESS: The wetland disturbance 18 is actually limited to just riprap for their 19 stormwater discharge, but the transition area I 20 think is maybe what you're referring to where 21 they're proposing some enhanced vegetation. 22 So they're doing some work with 23 supplemental mitigation in that area just beyond the 24 wetlands. 25 BOARD ATTORNEY: So wouldn't that</p> | <p style="text-align: right;">Page 54</p> <p>1 testimony be evidence of mitigation measures to 2 mitigate the impacts of the effects on the wetlands 3 in transition areas? 4 THE WITNESS: It's not included in the 5 environmental impact statement. Testifying about 6 that and calling that mitigation certainly is 7 helpful to know, but it's not spelled out and then 8 the benefits to the species weren't specified. 9 BOARD ATTORNEY: Well, I don't want to 10 be argumentative, but the environmental impact 11 statement is meant as a document to inform the board 12 in its decision making, correct? That's the purpose 13 of the ordinance? 14 THE WITNESS: Yes. 15 BOARD ATTORNEY: So if the information 16 is provided in the context of public hearing 17 testimony that the board hears, doesn't that satisfy 18 that part of it? 19 THE WITNESS: It could if everything 20 was covered in the testimony, but I still don't 21 believe that it was. 22 BOARD ATTORNEY: You don't believe that 23 it was or you don't know that it was? 24 THE WITNESS: I don't believe that it 25 was from what I listened to in the recordings.</p> |
| <p style="text-align: right;">Page 55</p> <p>1 BOARD ATTORNEY: Okay. Thank you. 2 MR. PACE: Could you clarify for me 3 what report or information you're concerned may not 4 have found its way to the DEP? 5 THE WITNESS: The soil test pits. So 6 in the stormwater report that I reviewed, it had 7 just the summary from the Whitestone Consulting firm 8 that was I guess a subconsultant to Stonefield. It 9 did not include the actual test pit logs which are 10 the information that would be used to conclude the 11 seasonal high water table depths. 12 MR. PACE: Okay. Thank you. 13 CHAIRMAN SMITH: Anyone else? 14 (Whereupon, the witness was excused.) 15 CHAIRMAN SMITH: You have another 16 witness? 17 MR. SINKEVICH: I do. You don't open 18 to the public now? You wait -- 19 BOARD ATTORNEY: No. We're going to 20 complete your testimony and then the testimony of 21 Raritan Headwaters and then open to the general 22 public, but your next expert witness should be up 23 next. 24 MR. TETREAULT: Good evening. 25 BOARD ATTORNEY: Okay, sir. Could you</p> | <p style="text-align: right;">Page 56</p> <p>1 state your full name for the record please? 2 MR. TETREAULT: Bernard Tetreault. 3 BOARD SECRETARY: Can you spell your 4 last name please? 5 MR. TETREAULT: T, as in Thomas, 6 E-T-R-E-A-U-L-T. 7 BOARD ATTORNEY: Mr. Tetreault, am I 8 saying that right? 9 MR. TETREAULT: Yes. 10 BOARD ATTORNEY: Do you swear your 11 testimony will be the truth, the whole truth and 12 nothing but the truth? 13 MR. TETREAULT: I do. 14 BOARD ATTORNEY: You want to qualify 15 him? 16 B E R N A R D T E T R E A U L T, having been first 17 duly sworn, testifies as follows: 18 DIRECT EXAMINATION BY MR. SINKEVICH: 19 Q. Mr. Tetreault, and I'm sorry if I 20 butchered your last name, could you please go over 21 your qualifications and background in the field of 22 traffic engineering? 23 A. Yes. I've been doing traffic 24 engineering work since 1978. I'm a licensed 25 professional engineer in New Jersey since 1986. I</p> |

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| <p style="text-align: right;">Page 57</p> <p>1 also have my professional traffic operations 2 engineer certification since 2013 and road safety 3 professional Level 1 certification since 2017. 4 Q. And you worked for municipalities in 5 the past? 6 A. Yes, I have. 7 Q. And in what capacity? 8 A. I've done reviews in numerous 9 municipalities and I've testified on behalf of those 10 municipalities. Some of them anyhow. 11 Sometimes I've just done reviews, but 12 I've testified in several municipalities on their 13 behalf as a traffic engineer. 14 Q. And who do you work for right now? 15 A. I work for Environmental Resolutions, 16 Incorporated. 17 Q. Last question. What do you do for 18 them? 19 A. My primary job there is to review 20 traffic information. I also do some traffic reports 21 on behalf of private clients. 22 MR. SINKEVICH: I would like to offer 23 Mr. Tetreault as an expert in the field of traffic 24 engineering. 25 CHAIRMAN SMITH: Okay. Very good.</p> | <p style="text-align: right;">Page 58</p> <p>1 A. Basically, I'm going to try to 2 summarize a letter that I sent which I understand 3 was provided to the board. 4 BOARD ATTORNEY: Well, it hasn't been 5 provided to the board yet, but you can go ahead and 6 summarize the contents of it. The board will then 7 decide whether it's admissible or not. 8 MR. SINKEVICH: We had submitted it, 9 but I understand what you're saying. 10 Q. And before you start, you reviewed the 11 application in this matter. Is that correct? 12 A. Yes, I have. 13 Q. Have you listened to or read the 14 traffic testimony that was presented by the 15 applicant? 16 A. Yes, I have. 17 Q. Please, if you have an opinion, please 18 provide it. 19 A. Okay. So let me start here with a few 20 global issues that have traffic relevance. 21 Ordinance 09-2020 which modified zoning 22 chapter east business zone affordable housing 23 changed character of the site including a list of 24 accessory uses including auto repair, sales and 25 service.</p> |
| <p style="text-align: right;">Page 59</p> <p>1 There is some concerns about the 2 proposed parking garage that's inconsistent with the 3 residential and small business character in the 4 neighborhood. Also, if there's any special events 5 associated with the classic exotic car service sales 6 that are anticipated, these should have been 7 identified since it could create unanticipated 8 increases in parking and traffic demand. 9 Potential parking violations include 10 parking requirements level C variances required for 11 insufficient parking which suggests parking is 12 inadequate, planning for vehicular needs. The 13 requested variance for parking stall size also 14 appears that the site does not adequately support 15 parking needs. 16 Q. Slow down just a little bit because I 17 know the court reporter is trying to take everything 18 down. 19 A. Sorry. I'm trying to rush to get 20 everything in the half hour period. 21 Q. Don't worry about rushing. 22 A. Okay. Let me know if I'm going too 23 fast. Just ask me to slow down. 24 Paragraph C-1 of NJAC 5:21-1.5 entitled 25 scope in the applicability states that where both</p> | <p style="text-align: right;">Page 60</p> <p>1 residential and commercial development are planned 2 in a mixed-use development -- 3 THE COURT REPORTER: Excuse me. 4 BOARD SECRETARY: Sir, you're going 5 faster. 6 MR. FERRIERO: Frankly, if you 7 summarize what you wrote rather than reading it, I 8 tend to read what I wrote very, very quickly. I 9 think if you summarized it, it would probably be -- 10 THE WITNESS: Well, I'm trying to do 11 that too because it's difficult to -- you know, I 12 was understanding I could pretty much testify in 13 detail, and I didn't find that out until right 14 before the meeting started. 15 Paragraph C-1 of NJAC 5:21-1.5 which is 16 entitled scope and applicability states that, where 17 both residential and commercial developments are 18 planned in a mixed-use development, these rules 19 shall apply to the residential part or parts of such 20 development where such residential part or parts are 21 discreet and separate from planned commercial parts. 22 Okay. We're now getting into detail. 23 I understood paragraph G of this does not limit the 24 powers of the borough to address improvements, shade 25 trees, landscaping and areas of public use.</p> |

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| <p style="text-align: right;">Page 61</p> <p>1 NJAC 5:21-3.1 should be reviewed for 2 exceptions. 3 Okay. According to the plans report, 4 the residential site improvement standards. 5 MS. BUSHMAN: Excuse me. Could you 6 just back off of the microphone? 7 THE WITNESS: I'm trying. I'm trying. 8 I know people are having trouble hearing. 9 MS. BUSHMAN: You're on top of it. 10 It's blurring your speech for the public. 11 THE WITNESS: Okay. I'm trying. 12 MS. BUSHMAN: Okay. I know. We 13 appreciate. 14 A. Residential -- the residential site 15 improvement standards govern the residential aspects 16 of the development. It is noted that the applicants 17 propose 116 parking spaces for residences fall 18 significantly short of both the RSIS and 150 spaces 19 required by the borough ordinance which could result 20 in an overflow risk into the parking center's 21 parking, the shopping center's parking areas. 22 The application should comply with 23 section 2:15-67 which indicates that on parking in 24 the HO zone shall utilize RSIS standards including 25 minimum parking equal to two parking spaces per</p> | <p style="text-align: right;">Page 62</p> <p>1 dwelling unit or as determined by the RSIS. 2 The limited size sparking of 9-by-18, 3 also parking spaces are -- that are proposed are 4 smaller than the borough's 10-by-20 standard which 5 should be utilized based on the recent increases in 6 numbers of larger vehicles, especially SUVs and 7 pickup trucks. 8 Barrier-free parking spaces are to be 9 distributed throughout the development and at the 10 ratio required by NJAC 5:23-7.10, and the minimum 11 drive parking aisle width shall be 24 feet where a 12 split entrance driveway or private street is 13 proposed, and each one-way lane should be a minimum 14 of 14 feet wide. 15 Okay. The traffic impact study. 16 BOARD SECRETARY: Excuse me one second. 17 THE WITNESS: Sure. 18 Traffic impact study does not include 19 pedestrian data or consider safety impacts for 20 school children and pedestrians nearby. Although 21 the traffic engineer has stated there are no 22 pedestrian studies recognized in the industry, the 23 2020 master plan re-examination report adopted on 24 April 13, 2020, under it's circulation plan element 25 required a traffic study in pedestrian planning for</p> |
| <p style="text-align: right;">Page 63</p> <p>1 any redevelopment of the Main Street and Kings 2 shopping center. 3 Additionally, proposed increase in 4 vehicular traffic during peak hours does not account 5 for emergency vehicle access during those periods. 6 Here's some -- get into now some 7 summary based on what was presented already. 8 Parking deficiency. The applicant requires a C-2 9 variance to reduce the number of required parking, 10 number of parking spaces which may not accommodate 11 both the proposed parking complex and the exotic car 12 operation. 13 Traffic and safety concerns. The 14 exotic car dealership will add significant traffic 15 and safety challenges to an already congested area. 16 The proposed parking variance will exacerbate these 17 issues affecting residences and nearby businesses, 18 and the traffic impacts study failed to include an 19 analysis of the pedestrian and bicycle safety 20 analysis, and then parking variance violations, 21 under N.J.S.A. 40:55D-70C2, a C-2 variance must 22 demonstrate a public benefit outweighing any 23 detriments. 24 It appears the applicant fails to meet 25 this burden as reduced parking will personally</p> | <p style="text-align: right;">Page 64</p> <p>1 affect the safety and functionality of the site and 2 increase environmental risks to the sensitive 3 watershed area. 4 BOARD ATTORNEY: I just want to 5 question that. 6 BOARD SECRETARY: Tom, up to your 7 microphone please. 8 BOARD ATTORNEY: That sounds to me like 9 a planning opinion. 10 THE WITNESS: It may be. Planning and 11 traffic can overlap a little bit. You're talking 12 about parking spaces and parking is a traffic issue. 13 BOARD ATTORNEY: You're talking about 14 the standards to C-2 variance. That's pure 15 planning. 16 THE WITNESS: I'm referencing that it's 17 in planning, but the problem here is that the 18 parking itself that is proposed is significantly 19 less than what is supposed to be provided. 20 BOARD ATTORNEY: Try to stick to your 21 discipline. Okay. 22 THE WITNESS: That's fine. Whatever. 23 AUDIENCE MEMBER: Why? 24 BOARD ATTORNEY: Why? Because he's 25 only qualified in that discipline.</p> |

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| <p style="text-align: right;">Page 65</p> <p>1 THE WITNESS: I understand. 2 So I'm going to go through some 3 comments that were specifically offered in the 4 specifically traffic-related documents that were 5 prepared by Stonefield Engineering. 6 First off, there was a December 12, 7 '24, technical memorandum about the growth rate 8 factor analysis. Their calculations indicate a 9 decrease in volumes comparing 2024 counts from 10 previous ones from 2019 with trip generation 11 increased. Trip generation might need to be looked 12 at since it appears there are more trips generated 13 without the club at Mendham from what was contained 14 in the V-Fee traffic expert cross-examination 15 questions. 16 Stonefield predicted only an additional 17 30 trips would be made with the new businesses and 18 residence. So they need to make sure that wasn't an 19 underestimation, and then we'll get into the next 20 thing is the traffic, October 2, '22, traffic impact 21 study which we'll call a TIS from here forward, and 22 I'm going to give my comments indexed on the page to 23 that report, and it does not appear that 24 Stonefield's September '19 response to Boswell's 25 July 26, '24, review fully addressed these issues.</p> | <p style="text-align: right;">Page 66</p> <p>1 Page 3, traffic counts were conducted 2 in 2019 and grown to 2022 which is now dated 3 information. If more recent traffic counts were 4 performed, which it sounds like there were, these 5 should have been incorporated into the TIS. The TIS 6 should have determined if the residential traffic 7 multiple daily trips by residents results in more of 8 an overlap with peak hour than health and racquet 9 club which may -- may have fewer visits -- had fewer 10 visits at that those times. 11 Additionally, traffic -- the TIS does 12 not include pedestrian data or consider safety 13 impacts of the school children and pedestrians 14 nearby. The 2020 master plan re-examination report 15 requires a traffic study which I mentioned, but the 16 TIS failed to provide information on pedestrian 17 volumes and projections. 18 There are concerns about having a 19 primary access to the proposed residential units 20 pass through the existing retail area where a 21 significant number of pedestrian movements between 22 stores and parked cars -- 23 THE COURT REPORTER: I'm sorry. I 24 can't -- where a significant number of pedestrian 25 movements.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 AUDIENCE MEMBER: Slow down. Slow 2 down. 3 THE WITNESS: Okay. There are concerns 4 about having the primary access of the proposed 5 residential units pass through the existing retail 6 area where a significant number of pedestrian 7 movements between stores and parked cars would be 8 anticipated. The TIS should have accounted for the 9 potential increase in school-related traffic, 10 vehicles and possibly school children during peak, 11 morning and afternoon hours. 12 CHAIRMAN SMITH: Please let him 13 continue. 14 THE WITNESS: The introduction of 75 15 residential units, particularly family housing, will 16 increase the demand for local infrastructure 17 including schools and emergency services, and that 18 should have been factored into the analysis of the 19 TIS. 20 Per NJDOT's annual traffic growth rate 21 table, an urban minor arterial just such as East 22 Main Street should have a 2.25 percent per year 23 growth factor, not 1.0 percent as utilized in the 24 TIS. Also, the off-site traffic should be escalated 25 to the new design year which is no longer 2024.</p> | <p style="text-align: right;">Page 68</p> <p>1 Under trip assignment and distribution, 2 it's stated that trips generated by the proposed 3 development were distributed according to the 4 existing travel pattern along East Main Street and 5 the access management plan of the site. However, a 6 copy of this access management plan was not included 7 in the TIS nor included in any of these documents 8 made available and should be provided. 9 At the central site driveway, table 8 10 of the TIS indicates that, during weekday evening 11 peak hour, southbound traffic, left turn to East 12 Main Street eastbound functions at a level service E 13 condition in the 2022 existing, 2024 no build and 14 2024 build conditions. However, the TIS fails to 15 address -- fails to mention the 2022 existing and 16 the 2024 no-build conditions are based on an 17 existing single shared left and right-turn lane 18 while the 2024 build would be based on the proposed 19 separate left and right turn lanes, two lane 20 approach. Based on highway capacity manual analysis 21 printouts including the TIS, the shared lane would 22 have vehicles -- 23 AUDIENCE MEMBER: Slow down. 24 THE WITNESS: Okay. Would have a 25 vehicle 95th percentile queue of 2.6 vehicles under</p> |

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| <p style="text-align: right;">Page 69</p> <p>1 '22 existing and 2.7 vehicles on the 2024 no-build 2 conditions and then 2.8 vehicle queue under the 3 build conditions.</p> <p>4 Page 8, it is stated that the center 5 driveway has been redesigned to provide separate 6 left and right turn lanes. The existing driveway 7 apparently has only one shared left and right turn 8 lane. However, on recent applications elsewhere 9 I've been involved with, safety concerns have been 10 raised regarding providing separate right and left 11 turn lanes at driveway exits because these could 12 result in left turning vehicles blocking the vision 13 for -- the site distance for right turning vehicles.</p> <p>14 Okay. Also, the TIS fails to mention 15 that, per site plans, the same driveway is being 16 relocated about a hundred feet to the west with the 17 westerly internal north/south driveway now 18 aligned -- now connecting straight back to the 19 proposed residential development in the rear of the 20 site. The TIS also does not mention that all 21 internal parking is being reconfigured nor provide 22 any discussion for the potential for excessive speed 23 under the proposed design for the westerly drive 24 aisle going back, straight back from this main aisle 25 back to the back part of the proposed property</p> | <p style="text-align: right;">Page 70</p> <p>1 and/or methods to mitigate for this such as speed 2 humps, speed tables, raised intersections or 3 four-way stops on the east/west drive aisles.</p> <p>4 The total parking requirement for the 5 overall site is listed as 428 spaces while 457 6 spaces are provided on the site plans. However, as 7 previously noted, there are only 116 8 spaces available for residences which does not meet 9 the borough's requirements or RSIS.</p> <p>10 In early documents that the applicant 11 mentioned that, after COVID '19, more people work 12 from home. It's unclear if this is accounted for in 13 overflow of residents that work from home but park 14 in the shopping center because of the overflow in 15 the parking garage because the overflow in the 16 garage says only for residents. There are concerns 17 that the parking center could be overwhelmed by the 18 lack of parking.</p> <p>19 As previously noted, there are concerns 20 that the 9-by-18 size of proposed parking spaces is 21 too small based on current trends for larger 22 vehicles. Additionally, the TIS lists 15 percent of 23 parking spaces as required for EV charging and an 24 additional 5 percent for ADA, and this would further 25 decrease parking availability for others if the</p> |
| <p style="text-align: right;">Page 71</p> <p>1 number of vehicles used in those spaces is less.</p> <p>2 Based on the issues detailed, it is 3 requested that a copy of all information submitted 4 to Morris County along with the approvals be 5 provided including a detailed -- including the 6 described reconfiguration of central driveway. It 7 needs to be confirmed that the traffic counts 8 submitted to the JLUB were the same as submitted to 9 the county and whether there has been any discussion 10 of the appropriate number of vehicle movements in 11 and out of the shopping center.</p> <p>12 Next comments are on the site plans 13 which were originally done July 2, and then three 14 sheets were updated on December 12.</p> <p>15 First, internal circulation, navigation 16 and maneuvers by emergency vehicles, trash trucks 17 and delivery vehicles must be provided for all 18 portions where these vehicles will operate within 19 the site beyond what is depicted on sheet C-26 to 20 C-28 for WB-67 and fire trucks.</p> <p>21 Additionally, due to the constrained 22 conditions within the drive aisle immediately 23 north -- north of the automotive, sales service 24 area, which is the 90-degree turns which have no 25 radii, and the parking spaces adjacent to walls such</p> | <p style="text-align: right;">Page 72</p> <p>1 as surrounding the lobby, especially within the 2 proposed parking garage, maneuvers for cars should 3 also need to be investigated in those areas since no 4 backup areas are provided.</p> <p>5 Additionally, the WB-67 maneuvers 6 depicted on sheets C-27 behind Kings Supermarket is 7 difficult to understand and need to be --</p> <p>8 AUDIENCE MEMBER: Slow down. 9 BOARD SECRETARY: Sir, if we give him 10 an extra 5 minutes if he slows down, would that be 11 okay?</p> <p>12 CHAIRMAN SMITH: Yes. 13 AUDIENCE MEMBER: It's so important. 14 You're racing through it. 15 BOARD SECRETARY: Relax. 16 THE WITNESS: Additionally, the WB-67 17 maneuvers depicted on sheet C-27 behind the Kings 18 Supermarket were difficult to understand and need to 19 be explained.</p> <p>20 It is understood that the fire 21 department raised concerns about fire truck 22 maneuvers including dumpsters and delivery vehicles 23 obstructing the eastern driveway and recommended 24 that the eastern driveway on the east side of the 25 building and the south side of the building be</p> |

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| <p style="text-align: right;">Page 73</p> <p>1 designated as a fire lane with an unobstructed width 2 of not less than 20 feet.</p> <p>3 BOARD SECRETARY: You're speeding up 4 again. Relax.</p> <p>5 THE WITNESS: Section 503.2.1 of the 6 2015 International Fire Code New Jersey addition 7 mandates that fire apparatus access roads must have 8 an unobstructed width of not less than 20 feet. An 9 analysis should have been conducted to determine 10 whether deliveries and emergency access can co-exist 11 without causing delays for emergency responders. If 12 there is insufficient clear emergency access, the 13 safety of residents and the effectiveness of 14 emergency response could be compromised in the event 15 of a fire or other emergencies.</p> <p>16 It has been indicated that delivery and 17 other trucks will continue to utilize the 18 23-and-a-half-foot-wide alley on the east side of 19 the easterly building. To provide 20 foot fire 20 access along the eastern alley, a new dumpster 21 enclosure will need to be provided in compliance 22 with county and local regulations concerning the 23 source separation of recycling materials, et cetera.</p> <p>24 There's presently 11 businesses that 25 utilize the eastern lane. It needs to be determined</p> | <p style="text-align: right;">Page 74</p> <p>1 what the board will require to contain this material 2 and the traffic parking implications for the 3 dumpsters I'm talking about. If no relocated 4 dumpsters were shown on the site plan, the traffic 5 study could be deemed incomplete since that's part 6 of it.</p> <p>7 It is understood that no solid waste or 8 recycling plan has been provided for the existing 9 dumpster enclosures or proposed facilities nor any 10 comments or requests for information provided by the 11 borough's recycling coordinator, and requests have 12 been made to modify the site plan to allow for the 13 required truck movements to access the western 14 dumpster enclosure.</p> <p>15 AUDIENCE MEMBER: Please slow down. 16 Please.</p> <p>17 THE WITNESS: Okay. Existing and 18 proposed CVS deliveries on the east side of the 19 easterly building are via large tractor trailer 20 trucks which were assumed to be up to WB-67 class 21 vehicles which utilize a loading dock located at the 22 northeast portion of the building. The loading dock 23 currently has about 42 feet of room before it 24 reaches existing parking spaces. When these trucks 25 are present, trash trucks cannot access the area.</p> |
| <p style="text-align: right;">Page 75</p> <p>1 It needs to be determined if there are 2 enough ADA parking spaces and where the 28 visitor 3 parking spots will be located. It is understood 4 that the applicant's engineer offered to locate the 5 ADA parking spaces throughout the project as 6 requested by the borough.</p> <p>7 On sheet C-5, parking may be too close 8 to a door based on ordinances. All areas of the 9 site which provide inadequate maneuvering for trucks 10 such as the previously described automotive sales/ 11 service area should be posted with no truck signs.</p> <p>12 Vertical clearance of building over 13 drive aisles needs to be considered. Any portion of 14 proposed building that overhand drive aisles shall 15 provide a minimum of 14-foot vertical clearance for 16 compliance with AASHTO which is American Society of 17 Highway Engineers book entitled Policy on Geometric 18 Design Highway and Streets. Even if this area is 19 signed no trucks, errant truck entry under a 20 building with inadequate vertical clearance could 21 cause structural damage.</p> <p>22 Stop bars need to be provided at 23 locations where stop signs are proposed. 24 Additionally, stop signs and no left turn signs 25 should be provided for the stop bar on the westerly</p> | <p style="text-align: right;">Page 76</p> <p>1 end of the east/west drive closest to East Main 2 Street where it intersects with the one-way westerly 3 ingress drive with a no -- do not enter sign 4 depicted as a stop bar removed and one-way signs 5 placed.</p> <p>6 Crosswalks on the east/west drive aisle 7 and sidewalks connecting to East Main Street should 8 be relocated from their currently depicted mid-block 9 location just after nearby stop bars that way 10 ensuring that vehicles have stopped before they get 11 to the crosswalk, and pedestrian -- pedestrian 12 crossing signs should be provided at the drive aisle 13 approaches to the depicted mid-block pedestrian 14 crossings.</p> <p>15 That's basically what I have.</p> <p>16 Q. I have a few follow-up questions.</p> <p>17 A. Sure.</p> <p>18 Q. Is it okay if I call you Bernie?</p> <p>19 A. That's fine.</p> <p>20 Q. You went through a lot of information 21 there. I just want to sort of follow-up to clarify 22 a few things --</p> <p>23 A. Sure.</p> <p>24 Q. -- that I may have been confused on and 25 maybe the board.</p> |

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| <p style="text-align: right;">Page 77</p> <p>1 I believe you mentioned, and correct me 2 if I'm wrong, you discussed parking deficiencies 3 where there was a proposed 116 parking spaces for 4 residential use that fell short of some 150 space 5 requirements. What's the issue of that? 6 A. Well, if you -- 7 Q. Could you explain it? 8 A. Sure. If you have a parking 9 deficiency, you know, the standards are -- both the 10 residential site improvement standards and the 11 borough's standards require two spaces per unit. 12 There are 75 proposed units. That would be 150 13 parking spaces. 14 So you basically have a 36 -- 30 -- 15 what is it, 116 spaces. You have a 34 parking space 16 shortfall. What happens? Those people will 17 probably -- if there isn't enough parking, they will 18 probably park in the shopping center. 19 BOARD ATTORNEY: Before we go too much 20 further on this, this part of his testimony 21 contradicts our planner's report. So I think we 22 might as well clear up this issue before we go too 23 far down the rabbit hole. 24 Do you want to just address this, 25 Jessica?</p> | <p style="text-align: right;">Page 78</p> <p>1 MS. CALDWELL: Yeah. So there are a 2 couple different issues there. 3 On the retail, there's an excess of 4 parking. So where they're required 283, they have 5 341. So 15 of those spaces were designated for -- 6 they called them shared spaces, but they're 7 essentially designated to the residential. 8 You also within RSIS can break down 9 further by bedrooms. So they did when you know what 10 the bedrooms are. So they know they have one 11 bedrooms. So the actual requirement is 143.7, but 12 then they also have a reduction because of the EV 13 statute for providing for EVs. So that reduces the 14 parking spaces down to 131 total required, and 15 they're providing 133 for the residential with the 16 spaces designated in the retail area. So there's 17 actually an excess of parking on the site. 18 BOARD ATTORNEY: Well, this is the 19 professional planner of which this witness is not, 20 and the board would have to give more weight to this 21 unless you point out some deficiency of what my 22 planner has just said. 23 Q. In your opinion as a traffic engineer, 24 and we all recognize you're not a professional 25 planner, and we're not giving that testimony, do you</p> |
| <p style="text-align: right;">Page 79</p> <p>1 perceive any traffic-related issues or traffic 2 engineering issues with the requirements -- the 3 residences to utilize the commercial spaces? 4 A. Well, you're going outside of the 5 residential area. You're going into the shopping 6 center portion of the site to park your vehicle. 7 You're not staying within your residential area, and 8 you know, I understand, you know, where you're 9 coming from and it may make sense. 10 It was just a point just going by the 11 simplified version that it does come up short. The 12 EV spaces would be -- that are included in that 130 13 some odd, right. So that would be if you don't 14 have -- 15 BOARD ATTORNEY: There's a credit. 16 MS. CALDWELL: They get credit, two for 17 one credits for EV spaces. That's state law. 18 THE WITNESS: It's just a point. I'm 19 not saying what's right or what's wrong. I'm just 20 making the point. 21 MR. FERRIERO: Well, I think the issue 22 is you said there's a C variance, but there isn't. 23 There's no variance required, and I want to ensure 24 the public understands that there is no variance 25 required for parking.</p> | <p style="text-align: right;">Page 80</p> <p>1 THE WITNESS: I'm just going with my 2 interpretation of it. I could be wrong. 3 MR. SINKEVICH: I don't want to 4 testify, but it was my understanding there is a C-2 5 variance applied for the parking stall width. 6 MR. FERRIERO: Yes, but as far as the 7 number of parking stalls is concerned, there is no 8 variance required, and his testimony has been about 9 the number of parking stalls being deficient, and 10 that simply is not the case. 11 THE WITNESS: I'm just going by what I 12 see and my understanding of the rules, and, believe 13 me, there could be other things that -- 14 MS. CALDWELL: In our RSIS, there's a 15 default to two bedrooms is only if you don't know 16 what the bedroom count is going to be. We know what 17 the bedroom count it. So it's not a default to two 18 spaces per unit. 19 Q. Without belaboring the point, 20 regardless of whether a C-2 variance for the amount 21 of parking spaces is required, do you see an issue 22 in the way that this parking layout from a traffic 23 perspective is set? 24 A. I do have concerns with requiring a 25 certain number of the apartment dwellers to park in</p> |

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| <p style="text-align: right;">Page 81</p> <p>1 the shopping center which is basically what will 2 happen here, because if I understand correctly, 3 you're saying that there's a surplus of parkin in 4 your view so then that can absorb a certain amount 5 of residents parking. 6 MR. FERRIERO: No. Those are not 7 resident parking stalls. Under RSIS, there's a 8 certain allowance for visitor parking. It's the 9 visitor parking that is in the row of parking 10 immediately adjacent to the swimming pool associated 11 with the development. 12 THE WITNESS: Okay. So that the number 13 of parking spaces that have been provided within the 14 apartment area is sufficient in your view. Okay. 15 That's fine. 16 Q. I want to briefly talk about emergency 17 access. You mentioned it when you did your 18 scenarios. 19 Do you have any other specific things 20 to talk about with regard to maybe problems or 21 issues, I don't want to speak for you, with fire 22 access and things of that nature? 23 A. Well, I -- and I have been to the site 24 and I went on that easterly aisle. There's a lot of 25 stuff behind there to put it -- put it -- okay. And</p> | <p style="text-align: right;">Page 82</p> <p>1 I could see there being problems with a fire vehicle 2 getting back there at certain times. It needs to be 3 confirmed that, under all conditions, they have this 4 minimum requirement width of, what is it, 20 and a 5 half feet, but that's being provided there 6 because -- 7 CHAIRMAN SMITH: That has been in 8 testimony that all of that is going to be cleared 9 up. That drive aisle will be widened to the best of 10 its ability. There will no longer be dumpsters and 11 debris along that way that's there right now. 12 So to answer your question, that is -- 13 that has been the testimony. That will be taken 14 care of in the planning. 15 THE WITNESS: I'm not sure. Was it 16 just dumpsters? It seems there was other things 17 behind -- a lot of stuff behind there. 18 CHAIRMAN SMITH: There were dumpsters 19 there. There were some bump-outs, but the drive 20 aisle will be widened to -- 21 THE WITNESS: To the standard. 22 CHAIRMAN SMITH: -- the furthest to the 23 property line as it can be. 24 BOARD ATTORNEY: I believe 22 and a 25 half feet.</p> |
| <p style="text-align: right;">Page 83</p> <p>1 BOARD SECRETARY: You guys have to be 2 quiet because she can't hear what he's saying. 3 Please. 4 BOARD ATTORNEY: A minimum of 23 and a 5 half feet, the drive aisle. 6 CHAIRMAN SMITH: To make sure that 7 emergency vehicles can ingress and egress through 8 there. 9 THE WITNESS: Okay. 10 AUDIENCE MEMBER: What about snow? 11 BOARD ATTORNEY: So does that change 12 your opinion about the safety of that? 13 THE WITNESS: If you're complying with 14 these standards for fire truck in the final 15 condition, then yes. 16 BOARD ATTORNEY: Twenty-three and a 17 half feet. 18 THE WITNESS: Right. If that's being 19 provided, 23 and a half feet clear without -- 20 BOARD ATTORNEY: That changes your 21 testimony? 22 THE WITNESS: Well, the one thing that 23 I am concerned about is you have deliveries along 24 there. So if a delivery truck is parked there, a 25 fire truck comes down there, they may or may not get</p> | <p style="text-align: right;">Page 84</p> <p>1 through. I don't know, but I don't know that that's 2 really covered specifically under the standards. So 3 as far as if there's no obstructions, 23 and a half 4 foot, that should be fine. 5 Q. You mentioned something in your 6 testimony about vertical clearance of the buildings. 7 I just want to understand what it is. 8 A. Well, I didn't -- I didn't see -- and 9 perhaps it's in there. I didn't see anything 10 covering the design of the building and how high it 11 is over the road and whether -- what kind of 12 clearance is provided, and I have seen applications 13 where that wasn't taken into account and that causes 14 problems. 15 So you want to -- you need to make sure 16 that that clearance -- you know, even if trucks are 17 not allowed back there, it's a good idea if it's 18 made tall enough that, if a truck somehow went back 19 there, it isn't going to hit the side -- you know, 20 the underside of the building. So I was just making 21 that point that that needs to be -- should be 22 provided, and it shouldn't be a big deal to provide 23 14-foot clearance over the drive aisle. 24 MR. FERRIERO: You're talking about the 25 drive aisle. You're not talking about the parking</p> |

1 under the building.

2 **THE WITNESS:** No. The parking under
3 the building -- yeah, because a truck couldn't get
4 back there anyhow because of the very tight
5 maneuvering that's required.

6 **MR. FERRIERO:** You think the trucks
7 will drive into the parking garage under the
8 building?

9 **THE WITNESS:** They could. I mean I've
10 seen -- you know, they shouldn't hit bridges and
11 they do.

12 **MR. FERRIERO:** I will tell you I have
13 seen dozens of these applications. None of them
14 have 14-foot clearance into the garage.

15 **THE WITNESS:** I was just raking a
16 concern.

17 **MR. FERRIERO:** It's just not done that
18 way.

19 **THE WITNESS:** If you want to have less,
20 that's fine. I was just raising it as a potential
21 concern.

22 **MR. FERRIERO:** It is not that we want
23 to have less. It is the standard.

24 **THE WITNESS:** Okay. I just mentioned.
25 Certainly, if you're not going to have trucks back

1 **CHAIRMAN SMITH:** There will be signage
2 along that area as well stop signs.

3 **THE WITNESS:** Now, getting into the
4 site itself, when you go up there and then there's a
5 hard right turn and then you have that little small
6 parking area there, what I saw on the site plan, and
7 maybe it's just that they haven't been fully
8 developed, was 90-degree corners with no radii and
9 very tight conditions that I had -- that's why I
10 raised the question.

11 I think that assuming that's just cars
12 that are allowed into that area, it should be
13 investigated for at least car maneuvers to make sure
14 that that is adequate that they can get through
15 there, they're not going to be making a hard right
16 turn and a vehicle come the other way and pull right
17 in front of their path because it's so tight back
18 there.

19 Also, the parking stalls --

20 **BOARD ATTORNEY:** Mr. Tetreault, could
21 we wrap up because we're out of time.

22 **THE WITNESS:** Parking stalls -- I'll
23 just tell you the one last thing. Parking stalls
24 are up against the wall. Usually, you have a backup
25 area. These are flush against the wall. So it's

1 there, it needs to be well signed.

2 **MR. FERRIERO:** Yes.

3 **AUDIENCE MEMBER:** What about moving
4 trucks trying to get people in and out?

5 Q. One last question I have unless you
6 have anything further to add. With regard to the
7 internal circulation, I think you mentioned some
8 concerns about I believe it was speed through the
9 center drive aisle, things like that, radii issue.

10 **A. Yeah, there's a couple things.**

11 **Relocating the main entrance driveway. It's now a
12 straight shot back to the new residential area.**

13 **There's really no encumbrance for any vehicles going
14 back and forth there to slow them down. Meanwhile,
15 you have a shopping center on one side and parking
16 on the other. So kind of a concern. I mean there
17 are mitigation measures that could be implemented,
18 speed humps.**

19 **CHAIRMAN SMITH:** There are speed humps
20 in the design plan.

21 **THE WITNESS:** Okay. Yeah, and perhaps,
22 you know, I may have missed them. Okay. I was just
23 concerned that geometrically it was a straight shot.
24 It wasn't like a meandering path where it will slow
25 traffic.

1 going to be very difficult for the cars to get in
2 and out of those stalls. That's it.

3 **CHAIRMAN SMITH:** Thank you.

4 **MR. ORTH:** Thanks for that testimony.

5 **CROSS-EXAMINATION BY MR. ORTH:**

6 Q. I just have a couple of comments.

7 What did you review in preparation for
8 your testimony this evening?

9 **A. I reviewed -- well, I can tell you I
10 reviewed the site plans. I reviewed the traffic
11 report. I reviewed the V-Fee cross-examination
12 dated October 10. I reviewed the -- there was
13 minutes of the -- of Stonefield's testimony that I
14 reviewed.**

15 Q. Did you listen to the testimony
16 presented by my traffic consultant during the course
17 of this application?

18 **A. I did not. I listened to the written
19 version of that.**

20 Q. Did you review a transcript?

21 **A. That was what I believe I reviewed,
22 yeah. It was a transcript of the -- I'm just trying
23 to think. It was minutes of their testimony from
24 December 12.**

25 Q. How many times did my traffic

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| <p style="text-align: right;">Page 89</p> <p>1 consultant appear before this board and testify?</p> <p>2 A. I don't know off the top of my head.</p> <p>3 Q. Do you know the name of my traffic</p> <p>4 consultant?</p> <p>5 A. Yes, Stonefield Engineering.</p> <p>6 Q. And who was it? Who was it at</p> <p>7 Stonefield Engineering that testified four times in</p> <p>8 front of this board?</p> <p>9 A. I don't have his name in front of me,</p> <p>10 sir. Does it matter?</p> <p>11 Q. I would think if you would have</p> <p>12 listened to the testimony you would know that.</p> <p>13 AUDIENCE MEMBER: You're being</p> <p>14 condescending again.</p> <p>15 CHAIRMAN SMITH: Please keep it down.</p> <p>16 MR. SINKEVICH: I have no further</p> <p>17 questions. Does the board have any questions?</p> <p>18 BOARD ATTORNEY: Any questions from the</p> <p>19 board?</p> <p>20 MR. PACE: I have one question on the</p> <p>21 fire lane. I may have misunderstood you, but I</p> <p>22 thought you indicated that the borough fire</p> <p>23 department had an issue. Was that not the case or</p> <p>24 was it a general concern?</p> <p>25 THE WITNESS: From what I saw, it was</p> | <p style="text-align: right;">Page 90</p> <p>1 an issue from the borough fire department. I don't</p> <p>2 know if that's been addressed. I didn't see the</p> <p>3 follow-up on that. So you know --</p> <p>4 MR. FERRIERO: The fire department has</p> <p>5 not issued a report from my understanding. The fire</p> <p>6 official issued a report. He had some comments, and</p> <p>7 the applicant has indicated that they would address</p> <p>8 them if any approval would be subject to satisfying</p> <p>9 the fire official if the board were to grant it.</p> <p>10 CHAIRMAN SMITH: Anyone else from the</p> <p>11 board?</p> <p>12 MR. EGERTER: The east lane is wider --</p> <p>13 is going to be wider than it currently is, correct?</p> <p>14 CHAIRMAN SMITH: Correct. It will be a</p> <p>15 minimum of 23 feet in width.</p> <p>16 MR. EGERTER: Does anybody know how</p> <p>17 wide it is right now?</p> <p>18 AUDIENCE MEMBER: It measures 22 feet</p> <p>19 10.</p> <p>20 CHAIRMAN SMITH: So it's going to</p> <p>21 increase. There are utility poles there. So to the</p> <p>22 best of their ability, they're willing to increase</p> <p>23 it as far as they can.</p> <p>24 MR. SINKEVICH: I think we'd like to</p> <p>25 give the court reporter a break if that's</p> |
| <p style="text-align: right;">Page 91</p> <p>1 acceptable.</p> <p>2 CHAIRMAN SMITH: Yes.</p> <p>3 MR. SINKEVICH: Well, one second</p> <p>4 before we do that. Before we move on, I'd like to</p> <p>5 move that report into Evidence as O I guess it's</p> <p>6 into the record.</p> <p>7 BOARD ATTORNEY: That would be O-3. Do</p> <p>8 you have any objection to that, Mr. Orth?</p> <p>9 MR. ORTH: I'm just going to note for</p> <p>10 the record the report was provided, I guess,</p> <p>11 yesterday to me. The testimony was given today.</p> <p>12 There's obviously planning -- inappropriate planning</p> <p>13 testimony that was attempted to be provided in the</p> <p>14 report and it's riddled with inaccuracies as is</p> <p>15 demonstrated. So I'm objecting to the report on</p> <p>16 that basis.</p> <p>17 BOARD ATTORNEY: Well, that will</p> <p>18 certainly go to the weight which the board accords</p> <p>19 this report, Mr. Orth, but I think, unless the</p> <p>20 chairman disagrees with me, subject to that, we will</p> <p>21 allow it into the record.</p> <p>22 CHAIRMAN SMITH: Yeah, I think we</p> <p>23 should allow it into the record.</p> <p>24 BOARD SECRETARY: So before we do that,</p> <p>25 it's O-3. Let me distribute it.</p> | <p style="text-align: right;">Page 92</p> <p>1 BOARD ATTORNEY: That includes his C.V.</p> <p>2 as well, Mr. Sinkevich.</p> <p>3 MR. SINKEVICH: That is correct. His</p> <p>4 C.V. is in the back.</p> <p>5 CHAIRMAN SMITH: When we take a break,</p> <p>6 it will be approximately 10 minutes. Not yet. Not</p> <p>7 yet. We're still on the record.</p> <p>8 We're still recording. Please keep it</p> <p>9 down. Please keep the volume down. We're still</p> <p>10 recording.</p> <p>11 Okay. We're going to take a break</p> <p>12 right now. Ten minutes.</p> <p>13 (Whereupon, the witness was excused.)</p> <p>14 (Whereupon, a recess was taken.)</p> <p>15 BOARD SECRETARY: We are on the record.</p> <p>16 CHAIRMAN SMITH: Okay. Go ahead.</p> <p>17 Continue.</p> <p>18 MR. SINKEVICH: Thank you, board.</p> <p>19 Again, Mike Sinkevich on behalf of the Mendham</p> <p>20 Alliance for Preservation and Conservation.</p> <p>21 We do just have one last lay witness.</p> <p>22 It is the president of our organization, Frank --</p> <p>23 I'm sorry.</p> <p>24 MR. ZAMMATARO: Zammataro.</p> <p>25 MR. SINKEVICH: I'm going to butcher</p> |

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| <p style="text-align: right;">Page 93</p> <p>1 this. Zammataro.</p> <p>2 MR. ZAMMATARO: Good enough.</p> <p>3 MR. SINKEVICH: Please come up.</p> <p>4 MR. ZAMMATARO: Thank you.</p> <p>5 MR. SINKEVICH: Please state your name</p> <p>6 for the record and explain who you are within the</p> <p>7 organization.</p> <p>8 MR. ZAMMATARO: My name is Frank</p> <p>9 Zammataro, Z-A-M-M-A-T-A-R-O. I live at 41 Corey</p> <p>10 Lane in Mendham Township, and I am one of the</p> <p>11 founders and current serving president of the</p> <p>12 Mendham Alliance for Preservation and Conservation.</p> <p>13 BOARD ATTORNEY: Mr. Zammataro, do you</p> <p>14 swear that your testimony this evening will be the</p> <p>15 truth, the whole truth and nothing but the truth.</p> <p>16 MR. ZAMMATARO: Yes, sir.</p> <p>17 BOARD ATTORNEY: Okay. Continue.</p> <p>18 F R A N K Z A M M A T A R O, having been first</p> <p>19 duly sworn, testifies as follows:</p> <p>20 DIRECT EXAMINATION BY MR. SINKEVICH:</p> <p>21 Q. Mr. Zammataro, I presume that you have</p> <p>22 been at all of the meetings on this application. Is</p> <p>23 that correct?</p> <p>24 A. Starting from late August.</p> <p>25 BOARD SECRETARY: You have to talk into</p> | <p style="text-align: right;">Page 94</p> <p>1 the microphone. Is the button on? There you go.</p> <p>2 A. Yeah. Starting from late August. I</p> <p>3 believe it was the 24th.</p> <p>4 Q. And following your attendance at these</p> <p>5 meetings, have you -- do you have something you'd</p> <p>6 like to say to the board regarding the application?</p> <p>7 A. I do. I have a short statement. I</p> <p>8 won't take the half hour that was allotted. It will</p> <p>9 be a very short statement that I would like to make</p> <p>10 in total if you will allow it.</p> <p>11 CHAIRMAN SMITH: Yes, please.</p> <p>12 A. Okay. Thank you. So good evening,</p> <p>13 members of this board, and thank you for allowing me</p> <p>14 to speak to say my peace, and I want to thank you</p> <p>15 for your time and your dedication. I mean I don't</p> <p>16 know how you guys do this for a living. It's</p> <p>17 amazing.</p> <p>18 The work you do here is very vital to</p> <p>19 this application and it's pivotal for the future of</p> <p>20 Mendham Borough. Your decision that you make to</p> <p>21 night will leave an indelible mark on the character,</p> <p>22 the environment and the history of this town.</p> <p>23 This application, if approved, will be</p> <p>24 transformative, potentially altering Mendham Borough</p> <p>25 forever. It is not just about the construction of a</p> |
| <p style="text-align: right;">Page 95</p> <p>1 five-story, 75-unit complex. It is about the</p> <p>2 stewardship of this community choosing to balance</p> <p>3 progress with preservation.</p> <p>4 This is not a small matter. It is</p> <p>5 about what is left behind for future generations.</p> <p>6 Mendham's predecessors built this community on a</p> <p>7 foundation of protecting the environment, honoring</p> <p>8 historic charm and embracing the rural essence that</p> <p>9 makes Mendham unique. Leaders of the past</p> <p>10 prioritized balance and integrity when making land</p> <p>11 use decisions.</p> <p>12 Tonight the joint land use board is</p> <p>13 called upon to do the same. It's no secret that</p> <p>14 Mendham Borough, like many other small</p> <p>15 municipalities, have been caught in the web of</p> <p>16 affordable housing laws. Builders have exploited</p> <p>17 loopholes using lawsuits as leverage to impose</p> <p>18 developments that often fail to align with local</p> <p>19 needs and values.</p> <p>20 While the Mount Laurel doctrine</p> <p>21 mandates the provision of affordable housing, it</p> <p>22 also affirms the right to balance projects,</p> <p>23 especially when critical environmental elements are</p> <p>24 at stake. The application as presented has</p> <p>25 significant challenges. The New Jersey DEP permits</p> | <p style="text-align: right;">Page 96</p> <p>1 granted for this project are based on submissions</p> <p>2 that contain notable omissions and deficiencies.</p> <p>3 For example, the applicant has failed</p> <p>4 to adequately address the impact of this development</p> <p>5 on the headwaters of the North Branch of the Raritan</p> <p>6 River, a vital source of drinking water for millions</p> <p>7 of people in the State of New Jersey. The applicant</p> <p>8 lacks a thorough evaluation of the high water table</p> <p>9 and the weight and scale of this building and how it</p> <p>10 can impact the surrounding groundwater systems.</p> <p>11 Erosion, stormwater runoff and dispersible of</p> <p>12 pollutants into the fragile wetlands remains an</p> <p>13 unresolved issue. These gaps must be revisited.</p> <p>14 The issuance of permits does not equate</p> <p>15 to infallibility, and as new evidence and expertise</p> <p>16 comes to light like it has tonight, we must demand</p> <p>17 accountability and a reassessment of these</p> <p>18 approvals. This project sits at the intersection of</p> <p>19 law, morality and ethics. The law provides</p> <p>20 guidance, but morality and ethics require us to do</p> <p>21 what is right. Mendham Borough deserves a</p> <p>22 thoughtful, balanced project, one that respects the</p> <p>23 environment, integrates with infrastructure and</p> <p>24 honors the character of the town. I'm almost done.</p> <p>25 I want to be clear. No single entity</p> |

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| <p style="text-align: right;">Page 97</p> <p>1 is the blame. This project is a symptom of a broken 2 land use system, one that often pits municipalities 3 against developers in ways that fragment 4 decision-making and silo critical consideration, but 5 this is precisely why we must approach this project 6 with the holistic lens. 7 I urge the board to take a step back. 8 Please revisit the configuration and the impact of 9 that proposed development. Let's use this moment to 10 engage all stakeholders, residents, the experts and 11 the developer in crafting a solution that reflects 12 the values of Mendham Borough. A re-imaged project 13 could meet affordable housing requirements while 14 preserving the environment and protecting the 15 history and rural identity of this community. 16 Tonight you have the opportunity to 17 make a decision that will define Mendham Borough's 18 future. I trust you will weigh these considerations 19 with the gravity they deserve and make a choice that 20 balances progress with preservation, law, morality 21 and development with sustainability. 22 Again, I want to thank you for your 23 time, your service and thoughtful deliberation. 24 Together let's ensure the legacy of Mendham Borough 25 remains one of integrity, balance and respect for</p> | <p style="text-align: right;">Page 98</p> <p>1 what makes this town so special. 2 Thank you. 3 CHAIRMAN SMITH: Thank you. Thank you, 4 Frank. That was very good. 5 MR. SINKEVICH: I don't have any other 6 questions. Does anyone from the board? 7 CHAIRMAN SMITH: Anyone from the board 8 have any of questions of Frank? 9 MR. ZAMMATARO: Thank you again. 10 (Whereupon, the witness was excused.) 11 MR. SINKEVICH: Thank you, Frank. 12 That concludes our presentation. 13 Although, I would like to make a brief closing 14 statement. 15 BOARD ATTORNEY: Well, we will defer 16 your closing statements for the end of the comment 17 period. 18 MR. SINKEVICH: Thank you. That's what 19 I was going to ask. Thank you so much. 20 BOARD ATTORNEY: So now will be the 21 opportunity for the expert from Raritan Headwaters 22 Association. Is that woman available tonight? 23 Okay. You want to come forward and 24 we'll give you 15 minutes to summarize your 25 findings. Okay.</p> |
| <p style="text-align: right;">Page 99</p> <p>1 MS. MAC DONALD: Okay. Thank you. 2 BOARD SECRETARY: If you could state 3 your name and spell it. 4 BOARD ATTORNEY: Before you begin, let 5 me ask you to swear that your testimony this evening 6 will be the truth, the whole truth and nothing but 7 the truth? 8 MS. MAC DONALD: I swear. 9 BOARD ATTORNEY: And would you state 10 your full name for the record please? 11 MS. MAC DONALD: Yes, I'm Kristi Mac 12 Donald. I'm the director of science for Raritan 13 Headwaters Association. 14 BOARD SECRETARY: Can you spell your 15 last name. 16 MS. MAC DONALD: M-A-C-D-O-N-A-L-D. 17 BOARD SECRETARY: Thank you. 18 BOARD ATTORNEY: Director of what 19 again? 20 MS. MAC DONALD: Science. 21 BOARD ATTORNEY: For the Raritan 22 Headwaters Association. 23 MS. MAC DONALD: Yes. 24 BOARD ATTORNEY: Since you don't have 25 an attorney here to qualify you, I'll ask you to</p> | <p style="text-align: right;">Page 100</p> <p>1 give your qualifications as an expert. 2 MS. MAC DONALD: Sure. I have a Ph.D. 3 in ecology and evolution from Rutgers University. 4 I'm also a wildlife ecologist with a master's degree 5 from the University of Florida in Gainesville. I 6 have over 30 years of experience in the conservation 7 field as a scientist and also a conservation 8 practitioner. I have been working at Raritan 9 Headwaters as the science director for 10 years. We 10 oversee a large monitoring program of surface water 11 quality in the upper Raritan. That's the North and 12 South Branch Raritan River watershed region or WMA-8 13 in New Jersey. 14 The data that we collect are used by 15 the DEP to designate category one upgrades to 16 designate impaired waterways in the region that are 17 in need of restoration, and we do a lot of projects 18 to restore riparian zones, plant, you know, riparian 19 buffers and dam removals as well as encourage the 20 restoration of areas that are urbanized and have a 21 lot of impervious cover with green infrastructure. 22 BOARD ATTORNEY: Okay. That's enough. 23 Any questions from the board on the 24 qualifications of this witness or from the objector 25 or the applicant?</p> |

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| <p style="text-align: right;">Page 101</p> <p>1 MR. ORTH: No questions. Thank you.</p> <p>2 MR. SINKEVICH: I have no questions.</p> <p>3 BOARD ATTORNEY: Seeing none, you're</p> <p>4 accepted as an expert, and I take it that you were</p> <p>5 the author of this report dated January 28 directed</p> <p>6 to the chairman of the joint land use board, and you</p> <p>7 want to speak a little bit about that.</p> <p>8 MS. MAC DONALD: Yes. I have copies as</p> <p>9 well. I was asked to bring 17 copies of the letter</p> <p>10 to the meeting that I could distribute if I'm</p> <p>11 allowed to do that at the end of my talk.</p> <p>12 BOARD ATTORNEY: Exactly. At the end</p> <p>13 of this, we'll determine whether we find this to be</p> <p>14 admissible, and if so, you can distribute it. Okay.</p> <p>15 MS. MAC DONALD: Okay. Thank you.</p> <p>16 I plan to just read the letter if you</p> <p>17 don't mind.</p> <p>18 BOARD ATTORNEY: Go ahead.</p> <p>19 THE COURT REPORTER: Slowly.</p> <p>20 MR. FERRIERO: Yeah, I was going to say</p> <p>21 slowly.</p> <p>22 MS. MAC DONALD: Dear Mr. D'Urso and</p> <p>23 Mr. Smith, the co-chairs of the Mendham Borough</p> <p>24 Joint Land Use Board.</p> <p>25 BOARD ATTORNEY: Actually, the chair</p> | <p style="text-align: right;">Page 102</p> <p>1 and the vice chair.</p> <p>2 MS. MAC DONALD: Oh, chair and vice</p> <p>3 chair. Sorry about that.</p> <p>4 Please accept these comments to the</p> <p>5 Mendham Borough JLUB regarding environmental</p> <p>6 concerns related to the redevelopment project cited</p> <p>7 above; that is, the V-Fee Mendham Apartments, LLC,</p> <p>8 development in Mendham Borough. Accept these</p> <p>9 comments on behalf of Raritan Headwaters Association</p> <p>10 or RHA.</p> <p>11 We are a 501C3 nonprofit environmental</p> <p>12 group that works to protect and restore water</p> <p>13 quality and quantity and healthy ecosystems in the</p> <p>14 470-square mile North and South Branch Raritan River</p> <p>15 watershed region of New Jersey.</p> <p>16 Immediately adjacent to the proposed</p> <p>17 redevelopment property, a large spring-fed wetland</p> <p>18 complex forms the headwaters of the North Branch</p> <p>19 Raritan River, a category one trout production</p> <p>20 stream with functioning vernal pool habitats</p> <p>21 supporting protected wildlife species just</p> <p>22 downstream.</p> <p>23 The regulations require streams of this</p> <p>24 high ecological value have 300-foot vegetated</p> <p>25 buffers to protect them from the impacts of land</p> |
| <p style="text-align: right;">Page 103</p> <p>1 use. C-1 streams also have an anti-degradation</p> <p>2 standard under the Clean Water Act requiring that</p> <p>3 water quality and stream habitat must not degrade</p> <p>4 from the time the C-1 designation is put in place.</p> <p>5 Wetlands are afforded a 300-foot</p> <p>6 buffer. There should be no activity or disturbance</p> <p>7 within this area and we -- we feel no</p> <p>8 transition area variances should be granted.</p> <p>9 Disturbance to soils within the transition area has</p> <p>10 the potential to degrade water quality within the</p> <p>11 headwaters wetlands area and in the North Branch</p> <p>12 Raritan River.</p> <p>13 Vernal pools in the New Jersey</p> <p>14 Highlands are given a 1000-foot buffer. Three</p> <p>15 vernal pools exist along the North Branch Raritan</p> <p>16 tributary just downstream of the property, and one</p> <p>17 is located within 1,000 feet of the proposed</p> <p>18 development. Observations in spring of 2024 by</p> <p>19 myself and a team of local representatives including</p> <p>20 members of the Mendham Borough Environmental</p> <p>21 Commission documented obligate vernal pool species</p> <p>22 of amphibians using the ponds as breeding habitats.</p> <p>23 The data have been shared with the DEP endangered</p> <p>24 and nongame species program.</p> <p>25 Stormwater discharges into the North</p> | <p style="text-align: right;">Page 104</p> <p>1 Branch Raritan tributaries from the proposed</p> <p>2 development would have a negative impact on an</p> <p>3 already stressed stream ecosystem. The forested</p> <p>4 open space north and west of the property is</p> <p>5 receiving abundant stormwater inputs from</p> <p>6 development in the surrounding area including the</p> <p>7 Kings shopping center and mainly those areas north</p> <p>8 of East Main Street that are, you know, housing</p> <p>9 developments where stormwater is being discharged</p> <p>10 into the open space and into -- and eventually into</p> <p>11 the river. Some of the observations we've made are</p> <p>12 damage to the streams when there's high rainfall</p> <p>13 events which we're seeing much more frequently in</p> <p>14 New Jersey with climate change, and there's severe</p> <p>15 bank undercutting and erosion evident. Additional</p> <p>16 development may result in flooding of residential</p> <p>17 properties and roads downstream if this continues.</p> <p>18 There is an opportunity here and also a</p> <p>19 requirement under MS-4 municipal stormwater permits</p> <p>20 to capture stormwater on-site preferably using green</p> <p>21 infrastructure such as rain gardens and bioswales.</p> <p>22 In this case, it appears the developer</p> <p>23 has presented stormwater management measures for the</p> <p>24 development that are mainly relying on porous</p> <p>25 pavement and some conversion of impervious surfaces</p> |

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| <p style="text-align: right;">Page 105</p> <p>1 to vegetated areas. However, we noticed that there 2 is not a description of the maintenance of some of 3 this porous pavement areas which tend to fill up 4 with sediment as rainfall washes over it and 5 percolates through the porous pavement. You need to 6 maintain that in order for it to function, and I 7 noted that there is a Mendham Borough stormwater 8 ordinance that does require a maintenance plan to be 9 submitted with the -- with a development proposal. 10 Also, on the vegetated areas in the 11 site plans that are being designed to capture 12 stormwater should be using some of the green 13 infrastructure guidelines including the one in the 14 Rutgers Rain Garden Manual or Green Infrastructure 15 Manual, and I cite that in the letter as a 16 reference. 17 So I note that, in addition, allowing 18 the site plan landscaping to proceed without 19 requiring the use of native trees and shrubs is not 20 in line with the most up-to-date practices for 21 maximizing stormwater management, water conservation 22 and wildlife values. Each of these shortfalls in 23 the proposed redevelopment plan should be required 24 by the members of the Mendham Borough JLUB before 25 approving this development.</p> | <p style="text-align: right;">Page 106</p> <p>1 I just want to say that we at Raritan 2 Headwaters Association support redevelopment 3 projects, especially in downtown areas, that will 4 result in improvements to stormwater management, 5 wastewater treatment and other environmental 6 benefits in the region. 7 In this case, past land use decisions 8 allowed for the initial poorly planned development 9 meaning that the development was put there would not 10 have been permitted today given wetlands protection 11 rules and riparian protections, but now the 12 municipality has the obligation and opportunity to 13 require redevelopment that will mitigate impacts on 14 the area from stormwater runoff and improve 15 protection of the headwaters through responsible 16 development practices. 17 We hope that Mendham Borough will do 18 the right thing and ensure that the redevelopment 19 project is only approved if it will be a major 20 environmental improvement and greatly lessen the 21 impacts of the existing development to the 22 headwaters of the North Branch Raritan River. 23 Sincerely, Kristi Mac Donald. 24 CHAIRMAN SMITH: Thank you. 25 BOARD ATTORNEY: Any questions, Mr.</p> |
| <p style="text-align: right;">Page 107</p> <p>1 Orth? 2 MR. ORTH: No questions. 3 CHAIRMAN SMITH: Any questions? 4 MR. SINKEVICH: I do not have any 5 questions. 6 CHAIRMAN SMITH: Do you have a concern 7 about that report being submitted? 8 MR. ORTH: No. 9 CHAIRMAN SMITH: Okay. You want to 10 mark this as what, O -- 11 BOARD SECRETARY: O-4. 12 BOARD ATTORNEY: Well, it's not an 13 objector exhibit. So we'll call it a board exhibit. 14 We'll call it board, B-1. 15 BOARD SECRETARY: B-1. Okay. 16 BOARD ATTORNEY: And did your C.V. go 17 with that Kristi? 18 MS. MAC DONALD: No. I did not know 19 that I needed to bring it. 20 BOARD ATTORNEY: You don't need it. 21 MS. MAC DONALD: But I can submit it. 22 BOARD ATTORNEY: You testified at great 23 length to your qualifications. So that's fine. We 24 don't need that. 25 MS. MAC DONALD: Okay. Thank you.</p> | <p style="text-align: right;">Page 108</p> <p>1 Thanks for this opportunity. 2 BOARD ATTORNEY: Okay. So at this 3 point we're going to open to the general public for 4 fact testimony. So let me again so we don't get in 5 any arguments what the rules are. 6 You're not going to be able to pose 7 questions to the board or other witnesses. You may 8 not state opinions. You're restricted to facts 9 personally known to you. You must -- the facts must 10 be relevant to the issues of this application, and 11 they must not be repetitive of prior testimony. 12 So with that being said, we're going to 13 allow 3 minutes initially for your testimony. If we 14 run out of people who want to testify, we'll provide 15 an opportunity for those who want to come back and 16 give some additional testimony if we have time. 17 Okay. So -- 18 MR. SINKEVICH: May I make one quick 19 statement quickly? 20 BOARD ATTORNEY: You want to make an 21 objection on the record? 22 MR. SINKEVICH: I would like to, yeah. 23 I want to make an objection I believe limiting 24 public comment to just factual testimony and 25 limiting it to that short of time goes against the</p> |

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| <p style="text-align: right;">Page 109</p> <p>1 MLUL and case law that has defined what public 2 comment should be.</p> <p>3 I also think the public should have an 4 opportunity as is allowed and required under the 5 Municipal Land Use Law to question any witnesses 6 that have been offered whether they be the 7 applicant's witnesses, which I know is not an issue 8 now, but my witnesses as well.</p> <p>9 So I would just like to lodge that for 10 the record, and I understand the board's position.</p> <p>11 BOARD ATTORNEY: Okay. That being 12 said, people who want to come forward, come up, 13 please do so.</p> <p>14 MR. ORTH: Mr. Germinario, before we 15 get started, can we just clarify for the public 16 where we're at in the application process?</p> <p>17 This is the public comment on this 18 application. That's correct. And then after public 19 comment is concluded, I will have an opportunity to 20 make my closing statement, Mr. Sinkevich will as 21 well, and then the board will enter into 22 deliberations. Is that correct?</p> <p>23 CHAIRMAN SMITH: That is correct. Yes.</p> <p>24 And as you come forward, state your 25 name for the record and your address please.</p> | <p style="text-align: right;">Page 110</p> <p>1 MR. RITGER: My name is Bob Ritger. 2 I'm at 14 Gunther Street, Mendham Borough.</p> <p>3 BOARD SECRETARY: Please spell your 4 last name.</p> <p>5 MR. RITGER: R-I-T-G-E-R. 6 Tom, I believe we're allowed to 7 question the witnesses.</p> <p>8 CHAIRMAN SMITH: The question portion 9 of these hearings --</p> <p>10 MR. RITGER: The witnesses that just 11 spoke, we're allowed as the public to question them. 12 What is going on here? This has never been and 13 issue before.</p> <p>14 BOARD ATTORNEY: What questions --</p> <p>15 MR. RITGER: I have several questions 16 for the witnesses.</p> <p>17 BOARD ATTORNEY: If I had allowed that 18 questioning, I would allow you to question everyone 19 who comes up here because that was no more than a 20 part of the public testimony.</p> <p>21 So if I'm going to allow you to 22 question that testimony, then anyone who comes up 23 afterwards would be able to question you and so on 24 and so forth and we'll be here till the next 25 century. So no.</p> |
| <p style="text-align: right;">Page 111</p> <p>1 AUDIENCE MEMBER: Those were experts. 2 We're allowed --</p> <p>3 BOARD ATTORNEY: So no. Okay. 4 Now proceed with your testimony.</p> <p>5 MR. RITGER: All right. For whatever's 6 it worth, I was chairman of this board back when 7 this application came to this board in 2023. At 8 that time, I learned that our mayor and counsel were 9 in the 2020 negotiations which preceded the adoption 10 of the overlay district on the subject property 11 failed to discuss the fact that there was a cell 12 tower on the site.</p> <p>13 By ordinance, the cell tower required a 14 setback of 250 feet to any residential unit, because 15 of this issue, because it wasn't mentioned, the 16 overlay -- the proximity to the tower, because it 17 wasn't mentioned, this case went to court because 18 this application we determined was incomplete. We 19 said that a D-3 variance was required.</p> <p>20 The applicant decided that they'd 21 rather fight us in court and effectively won on an 22 appeal and caused our counsel to recapitulate and 23 write effectively a consent degree effectively 24 throwing in the towel on this issue and saying that, 25 basically, this case can really be denied if it</p> | <p style="text-align: right;">Page 112</p> <p>1 violates things like public safety, and that's where 2 I'm going.</p> <p>3 Here we now have a plan that is only 4 slightly modified after several safety issues have 5 been brought up during these hearings. The eastern 6 drive behind the Mendham bagel shop, Piatino's is 7 on that side, has been widened at various points, 8 but there are still three points where there's a 9 pinch point, and I believe that that's going to 10 cause a major safety issue when we talk about 11 emergency vehicles and access to the back of that 12 property and emergency --</p> <p>13 (Whereupon, a dog was barking.)</p> <p>14 BOARD ATTORNEY: That's part of the 15 public testimony. Get that on the record please.</p> <p>16 MR. RITGER: Bark, B-A-R-K. 17 I believe that the proposed fix of 18 these pinch points is less safe than the existing 19 condition as it stands. The planned realigned main 20 entrance no longer has the originally proposed 21 raised median. If you remember that, that was how 22 it was proposed to begin with, but it still has 23 perpendicular parking where a car backing out will 24 actually stop exiting traffic. This two-way traffic 25 planned on the drive aisle adjacent to Wells Fargo</p> |

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| <p style="text-align: right;">Page 113</p> <p>1 will obviate their drive-through transaction window 2 which, quite frankly, they were never alerted that 3 this was going to go away, and the applicant never 4 bothered to tell them because I guess they're 5 tenants and they're not actually property owners. 6 So, in their mind, they've solved that. 7 In the main parking area in front of 8 Kings, there is a planned 4-foot-wide painted 9 walkway. It will barely allow two people to pass, 10 and God forbid one of them has a shopping cart or 11 they both do, because they'll never get past each 12 other, and if I remember correctly, there are no 13 wheel stops preventing any car from bumping into a 14 pedestrian walking by a person with children or 15 hitting into another car. So that walkway is 16 absolutely unsafe. 17 The planned permeable pavers which we 18 heard about tonight, I mentioned that the issue 19 there is that those things are never maintained. 20 I'm an architect. I'm working right now on two 21 major multi-family developments that are three and 22 four times larger than this one, and the developers 23 there never go with permeable pavers because the 24 applicant and the person who maintains the property 25 doesn't maintain those pavers. I wanted to ask</p> | <p style="text-align: right;">Page 114</p> <p>1 why -- 2 BOARD ATTORNEY: Bob, can I interrupt? 3 That will be a condition of this approval, the 4 requirement to maintain those if there is an 5 approval. 6 MR. RITGER: Tom, weren't they required 7 to send in reports on the cell tower on an annual 8 basis? 9 BOARD ATTORNEY: Well, you're not 10 allowed to ask me any questions. Go ahead. 11 MR. RITGER: Then I'll just state that 12 the -- 13 AUDIENCE MEMBER: Who pays your salary? 14 MR. RITGER: The track record of this 15 applicant with regard to maintenance and providing 16 reports is dismal. As a matter of fact, if you 17 recall, the parking lot wasn't paved for several 18 years. Everybody here probably remembers a few 19 potholes that they hit. The wonderful parapet 20 decorations, the railing that was up on top, that 21 fell off during one of the historic storms we had, 22 and that wasn't repaired for years. So maintenance 23 and maintaining the property is not a priority of 24 this applicant. 25 Currently, just to give you another</p> |
| <p style="text-align: right;">Page 115</p> <p>1 example, the steel columns that support the roof 2 over the walkway all around that shopping center are 3 all rusting away. So maintenance again. Not an 4 issue. 5 Safety is where this project fails, and 6 this is why I believe the board needs to vote no on 7 this application. The eastern drive behind 8 Piattino's, as I mentioned, is going to become a 9 main drag for people that live in the back, and that 10 will be the shortest way in and out of the property 11 for anybody going east towards Morristown. 12 CHAIRMAN SMITH: Bob, can you wrap it 13 up please? 14 MR. RITGER: Sure. 15 CHAIRMAN SMITH: I'll give you a little 16 bit of time latitude, but let's get to the points. 17 AUDIENCE MEMBER: These are the points. 18 AUDIENCE MEMBER: Please more time. 19 AUDIENCE MEMBER: I donate my three 20 minutes. 21 CHAIRMAN SMITH: You can't do that, 22 Jenny. 23 MR. RITGER: I mentioned previously in 24 my previous questioning and testimony, if you will, 25 that the drive aisle behind Piattino's exits onto</p> | <p style="text-align: right;">Page 116</p> <p>1 Route 24 and is only 5 feet away from the driveway 2 on this property to the driveway at Chase and the 3 auto body repair shop behind there. That is going 4 to cause people to hit each other. It needs to be 5 20 feet away, a variance is required, and I think 6 that's a safety concern as well. 7 Now, that drive aisle also is where all 8 the businesses along that side have to now transport 9 their garbage and recyclables hundreds of feet to a 10 dumpster at the north end of the building outside of 11 CVS. To be honest, none of them were notified that 12 this was going to be something they'd have to do, 13 but just imagine what's going to happen when there's 14 a vehicle or an emergency in any of those properties 15 and people rush out the back of this establishment. 16 They're running out of the bagel shop because 17 there's a fire in the front. Well, they're going to 18 run out into traffic and people are going to get hit 19 by cars. 20 I think this is a safety concern, and 21 I'm worried that this project going forward is going 22 to cost lives in Mendham, New Jersey. 23 Now, last thing I wanted to say is 24 that, as an architect, and the architect's not here, 25 he's bound by --</p> |

1 **BOARD ATTORNEY:** Bob, you can come back
2 if we run out of --

3 **AUDIENCE MEMBER:** No.

4 **BOARD ATTORNEY:** You folks are not
5 running the meeting. The board is. So please, Bob,
6 we can continue with you later.

7 **CHAIRMAN SMITH:** We can give you time
8 at the end, Bob.

9 **AUDIENCE MEMBER:** No. Keep talking.

10 **MR. RITGER:** I'll say one last
11 statement if that's all right. As an architect, you
12 are bound -- and I'm going to read this statement
13 verbatim.

14 An architect shall at all times
15 recognize the primary obligation to protect the
16 health, safety and welfare of the public in the
17 performance of professional duties. I don't believe
18 that that's happened here. I believe you should
19 vote no on this application.

20 **CHAIRMAN SMITH:** Thank you, Bob.
21 State your name and spell your last
22 name please.

23 **MR. GAGLIONE:** It's Gary Gaglione, 20
24 Galway Drive, Mendham Borough.

25 **BOARD SECRETARY:** Spell your last name

1 it's been updated by a technical memo as of December
2 2024, but the original traffic volume data used in
3 the report was from 2019, six years ago, and I
4 quote, grown or forecasted to a baseline year of
5 2026 using a general growth rate of 1 percent.

6 The other thing about this report was
7 the crash history was limited to only 150 feet from
8 the east and west driveway which is not considered
9 impact the additional traffic flowing onto Main
10 Street may have on crashes beyond 150 distance. I
11 would like to provide the board with an example of
12 the reality we face today regarding the significant
13 traffic congestion that occurs on Main Street during
14 rush hours.

15 I am a member of the Mendham Borough
16 First Aid Squad. As you know, the squad is made up
17 of volunteers. I wish to be clear. I am here
18 representing myself as a Mendham citizen. I am not
19 representing the squad. As a volunteer, we respond
20 to 911 calls. We're expected to get to the station
21 within 5 minutes to form a crew and dispatch an
22 ambulance to the scene. Reaching the victim on a
23 timely basis is critical, particularly in cases of
24 bleeding, heart attacks or strokes.

25 On Monday, January 6, 2025, at 7:26

1 please.

2 **MR. GAGLIONE:** G-A-G-L-I-O-N-E.

3 Thank you. I want to first thank the
4 board the opportunity to comment on this
5 application. I also want to thank the members for
6 the hard work they have performed in reviewing this
7 application. All of you have patiently sat through
8 hours of presentation. I believe 40 hours or so.
9 You have also taken the time to read through a
10 multitude of documents containing hundreds of pages
11 of data attempting to justify this project.

12 Data is a powerful tool that can
13 provide valuable insight and informed
14 decision-making. However, it can also be used,
15 whether intentionally or unintentionally, to support
16 misleading or incorrect conclusions. Examples of
17 this could be use of data that's not current,
18 statistical methods or forecasting methods that are
19 not appropriate, cherry-picking data to support a
20 desired conclusion while ignoring data that
21 contradicts it, or using small and unrepresentative
22 samples that lead to incorrect conclusions.

23 I would like to point out that the
24 original traffic impact study in this application is
25 dated October 20, 2022, over two years old. I know

1 a.m. in the morning, I received a dispatch regarding
2 an elderly person who believed she was having a
3 stroke. I volunteered for duty and immediately
4 tried to head to the station. I left my home in the
5 Commons, made a right-hand turn onto Cold Hill Road
6 and then another right onto Main Street. As I
7 reached the Kings shopping center right before Tempe
8 Wick Road and Main Street intersection, traffic came
9 to standstill. I had to decide whether I was going
10 to make a dangerous U-turn and backtrack down Cold
11 Hill Road and take Mountainside Road to the station
12 or stay in route and hopefully reach Dean Road which
13 is only a hundred yards in front of me which was --
14 and take the back roads from there. The bottom line
15 was I never reached the station. Luckily, a crew
16 was assembled of volunteers that lived in the
17 development behind the station. So they didn't have
18 to deal with the traffic congestion on Main Street.

19 The point of my story is that data does
20 not show the reality we're facing right now. The
21 reality is that we have a severe traffic problem
22 during rush hours on weekdays on 24 Main Street.
23 The addition of a multi-family residence will
24 potentially add 130 cars to our traffic situation.
25 Our current infrastructure must be fixed first

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| <p style="text-align: right;">Page 121</p> <p>1 before you approved this project and add more 2 traffic to what really is a dangerous situation. 3 The board should first consider the 4 recommendations which some still have not been 5 implemented in the borough's master plan to improve 6 traffic flow before approving this project. 7 In closing, I want to leave the board 8 with another dose of reality. In case you think the 9 current traffic situation is not a problem, on 10 January 11, 2025, which is about five days after the 11 other incident at 5:21 p.m., which was evening rush 12 hour, I received a 911 dispatch. It stated at 1 13 West Main Street a motor vehicle accident occurred. 14 Two pedestrians were struck. The data that you have 15 been shown does not reflect the dangerous reality of 16 our current traffic situation. We already have an 17 infrastructure problem relating to traffic. 18 Building a 75-unit, multi-family development in the 19 most congested area of Mendham will only worsen the 20 problem. 21 Thank you for your time. 22 BOARD SECRETARY: Can you leave your 23 pet back there? She's allergic to pet hair. 24 MS. LAGUERRE: It's a poodle. I'm 25 allergic to cats and dogs also, but that's why I</p> | <p style="text-align: right;">Page 122</p> <p>1 have a poodle. So I appreciate it if you could 2 understand that. 3 BOARD SECRETARY: It's not me. She -- 4 MS. LAGUERRE: Lauren Laguerre, 14 5 Bound Brook Drive. 6 BOARD SECRETARY: Spell your last name 7 please. 8 MS. LAGUERRE: L-A-G-U-E-R-R-E. 9 Good evening, members of the joint land 10 use board. I'm here today as a deeply concerned 11 Mendham resident. I believe the proposed 12 five-story, 75-unit apartment complex at the Mendham 13 Village Shopping Center will bring serious negative 14 consequences for public safety and infrastructure. 15 The Mendham Borough Fire Department has 16 already raised valid concerns about obstructions in 17 the eastern driveway such as delivery vehicles and 18 dumpsters. The single primary access point is 19 expected to serve residents, visitors and emergency 20 vehicles, and, yet, it appears woefully inadequate. 21 Fire trucks struggling to navigate congested or 22 blocked pathways would delay emergency responses, 23 and as we all know, every second counts in such 24 situations. 25 This issue hits particularly close to</p> |
| <p style="text-align: right;">Page 123</p> <p>1 home for me. A friend's daughter recently endured a 2 horrific fire incident suffering severe burns. Her 3 pain brought into sharp focus the importance of 4 swift and unimpeded access for first responders. 5 For a multi-story development in such a congested 6 location as proposed, I fear this access could be 7 dangerously compromised. 8 The increased traffic resulting from 9 this development will exacerbate these concerns. 10 The builder's traffic study underestimates the 11 cumulative impact of additional vehicles, 12 particularly during peak hours. Already nearby 13 businesses like the newly added Starbucks have 14 significantly increased congestion. 15 In fact, I nearly collided with an 16 electric scooter in this area, but by the grace of 17 God, a horrific tragedy was avoided, and just 18 imagine the addition of school buses and bussing, 19 deliveries to the 75-unit apartment complex by 20 FedEx, UPS, Amazon, United States Postal Service, 21 grocery, meal and water service deliveries, 22 landscape, building, pool maintenance and repair, 23 cleaning services, appliance and furniture 24 deliveries and on and on and on. 25 This development also sits atop the</p> | <p style="text-align: right;">Page 124</p> <p>1 headwaters of the Raritan River, a critical drinking 2 water source for millions. The environmental impact 3 coupled with significant safety concerns makes it 4 clear that the scale and scope of this project are 5 not right for Mendham. 6 I respectfully urge this board to 7 request a reconfiguration of the proposal, reducing 8 its scale and ensuring it addresses the myriad of 9 legitimate safety concerns. Let's work together to 10 protect our residents and visitors and preserve what 11 makes Mendham such a special place to call home. 12 Thank you. 13 CHAIRMAN SMITH: Please state and spell 14 your last name please. 15 MS. MC LEOD: Yes. Susan Mc Leod. I 16 live at 20 Galway Drive here in Mendham Borough. 17 CHAIRMAN SMITH: Spell your last name. 18 MS. MC LEOD: M-C-L-E-O-D. 19 Good evening, members of the joint land 20 use board. My name is Susan Mc Leod, and I'm 21 speaking for the Mendham affordable housing units 22 here in Mendham known as MASH. Thank you for the 23 opportunity to share our concerns about the proposed 24 five-story apartment complex at the Mendham Village 25 Shopping Center.</p> |

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| <p style="text-align: right;">Page 125</p> <p>1 MASH provides housing for 40 senior 2 residents. Many of whom are on a fixed income and 3 rely on the peaceful, quiet environment of our 4 community. This proposal jeopardizes the quality of 5 life they have come to depend on and threatens to 6 disrupt the harmony of this neighborhood. 7 The scale of the proposed development 8 is alarming. A five-story building of this 9 magnitude is completely out of character with the 10 surrounding area. For our residents at MASH, the 11 proximity of such a structure poses a significant 12 challenge. The height and bulk of the building 13 would dominate the skyline casting shadows and 14 contributing to light pollution that will impact our 15 residents ability to enjoy the natural surroundings. 16 The glow of the lights from 75 units which many will 17 remain on late into the night will disrupt the 18 tranquility that makes Mendham such a special place. 19 Moreover, the increased traffic and 20 congestion resulting from 75 new units will strain 21 the already limited infrastructure. Access to local 22 amenities including Kings supermarket and nearby 23 parks will become more difficult and unsafe for our 24 senior residents who often walk or rely on limited 25 transportation options.</p> | <p style="text-align: right;">Page 126</p> <p>1 We are also concerned about the risks 2 of flooding and stormwater runoff as this area 3 contains wetlands and is near the headwaters of the 4 North Branch of the Raritan River. Our property is 5 valuable to these impacts and the proposed 6 development would have severe consequences to our 7 residents. The project presents a stark departure 8 from Mendham's historic and rural character. 9 While MASH supports thoughtful 10 development that aligns with the community's needs, 11 the proposal is overscaled and incompatible with the 12 surrounding area. We urge as the board to carefully 13 reconsider the scale, height and especially 14 environmental impact of this project to ensure it 15 does not disrupt the lives of the Mendham residents 16 and, particularly, those most vulnerable at the MASH 17 facility. 18 Thank you. 19 CHAIRMAN SMITH: Anyone else? 20 MS. PADOS-BEUTNAGEL: Hi. I'm Jenny 21 Pados-Beutnagel, if you don't know me, which I bet a 22 lot of you do. P-A-D-O-S is my legal last name, 23 Beutnagel handsome man I married 42 years ago. 24 THE COURT REPORTER: Please spell that 25 name.</p> |
| <p style="text-align: right;">Page 127</p> <p>1 MS. PADOS-BEUTNAGEL: 2 B-E-U-T-N-A-G-E-L. 3 BOARD SECRETARY: And your address. 4 MS. PADOS-BEUTNAGEL: 18 Mountain 5 Avenue, Mendham, New Jersey. 6 I'm here as comic relief probably at 7 this point, but I have to say something. I wasn't 8 going to. I have to. 9 Back where we used to live many years 10 ago was High Bridge and I served on the council 11 there. That is my credentials for this besides 12 Cornell degree, blah, blah, blah. 13 I just want to state something really 14 important here, and it has happened over and over in 15 places like this. This scale is off. We're hearing 16 story after story, and what happens is that people 17 get tired. You get tired of committees. You get 18 tired of hearing this. You get tired of everything 19 else. So what you do is that you go, you know what, 20 we have to do something. We might as well do this, 21 and that is the mistake people make because it will 22 hit each of our budgets as we go in and try to sue 23 for something that didn't work right. We don't want 24 to sue issue. 25 Hi, Mr. Lawyer, who's name I forgot.</p> | <p style="text-align: right;">Page 128</p> <p>1 That is not our purpose. That isn't our community. 2 Our community works well together. We try to 3 include people. We try to include we need more 4 housing. Yes. Do we need 75 units? I need you to 5 think about that because I get it money, money, 6 money, money, money, but there's a point where money 7 is actually going to cost you more because of the 8 impacts on water, on sewage, on snow removal, on 9 maintenance, on everybody complaining and nobody 10 having a good time here. 11 This is a community that steps up and 12 helps each other. This is a community that goes to 13 the next door neighbor without even having Meals on 14 Wheels and gives them meals the second somebody has 15 a problem in the community. This is a community 16 that comes up and says, Jenny, you're good friend 17 died. Let me help you. That is our community. 18 It's volunteer fire. Volunteer. Volunteer first 19 aid. Volunteer helping each other with kids, and 20 that is what you need to buy into, and if you bring 21 this back to your developers, and, trust me, I will 22 help work with them. I will give my time alone, 23 all -- whatever you need, but we need a community, 24 and this is oversized, overscaled. Don't be too 25 tired. Don't be too tired to vote no.</p> |

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| <p style="text-align: right;">Page 129</p> <p>1 Thank you.</p> <p>2 CHAIRMAN SMITH: Thank you, Jenny.</p> <p>3 MR. VAN DEN HENDE: Good evening. Mark</p> <p>4 Van Den Hende, 11 Coventry Road, Mendham, and the</p> <p>5 last name is V-A-N space D-E-N space H-E-N-D-E. Can</p> <p>6 you hear me now?</p> <p>7 AUDIENCE MEMBER: No.</p> <p>8 MR. VAN DEN HENDE: Do we have to dial</p> <p>9 it up. There. That's better.</p> <p>10 There's many things I could say about</p> <p>11 this project. So my credentials are I'm a lead</p> <p>12 project engineering manager for Mitsubishi Power. I</p> <p>13 do hundred-million-dollar contracts. I do projects</p> <p>14 much bigger than what this developer is doing, and</p> <p>15 in the questioning of the developer and the</p> <p>16 architect and all their experts, when you go and ask</p> <p>17 for something specific, they don't provide it to</p> <p>18 you.</p> <p>19 One of the things that we have never</p> <p>20 heard about is the foundation for this unit. If I</p> <p>21 am doing a project of this size, the foundation is a</p> <p>22 major cost factor. I need an estimate for it. I</p> <p>23 need somebody to say about how big it is going to be</p> <p>24 and what it's going to take to do that.</p> <p>25 The developer or the architect</p> | <p style="text-align: right;">Page 130</p> <p>1 testified that they had not designed the foundation</p> <p>2 yet, and they did not size it yet, and they didn't</p> <p>3 know what it was going to be. That foundation is</p> <p>4 going to have such a major impact on the wetlands,</p> <p>5 on the environment, on the size of this project,</p> <p>6 because I'm sure they don't want to have a leaning</p> <p>7 tower of Mendham here. Right. It's on a soft</p> <p>8 substrate. So that has never been addressed, and</p> <p>9 that is going to affect the groundwater</p> <p>10 substantially.</p> <p>11 The second thing that I have as</p> <p>12 credentials is that I've been a commercial manager</p> <p>13 also for 10 years. I've done contracts. I've done</p> <p>14 negotiations. I've seen the pitfalls of contracts.</p> <p>15 This development includes forcing the</p> <p>16 borough to accept a project within 250 feet of the</p> <p>17 cell phone tower. The exposure has been reported as</p> <p>18 to be below the permissible values and the</p> <p>19 requirements of the -- government requirements, but</p> <p>20 all measurements will remain at grade. When asked</p> <p>21 about what would happen in the future if people said</p> <p>22 they were exposed to radiation and harmed and the</p> <p>23 borough counsel asked to the developer will you</p> <p>24 indemnify us, you will go back and check his</p> <p>25 testimony. He did not say yes. He did not say no.</p> |
| <p style="text-align: right;">Page 131</p> <p>1 He did not answer.</p> <p>2 If -- if I was the developer and I</p> <p>3 wrote a lease, I would make sure that I had a clause</p> <p>4 in there that had no -- a disclaimer for liability</p> <p>5 and make sure that I wasn't liable which places the</p> <p>6 onus back on the borough. You have 75 units. One</p> <p>7 hundred thirty-three people in there every year for</p> <p>8 the next 50, 60 years. Anybody that says that they</p> <p>9 were harmed by this radiation can sue the</p> <p>10 developer -- no. It's going to go back to the</p> <p>11 borough. You're taking on the risk of the</p> <p>12 developer, and I don't understand why you're going</p> <p>13 to do that. You're going to expose all of us to</p> <p>14 lawsuits. Why? So I think that -- think that</p> <p>15 carefully. Think carefully what they're doing.</p> <p>16 That's it.</p> <p>17 CHAIRMAN SMITH: Anyone else?</p> <p>18 MR. LUPO: Frank Lupo, L-U-P-O.</p> <p>19 BOARD SECRETARY: Address. Your</p> <p>20 address.</p> <p>21 MR. LUPO: 17 Dean Road.</p> <p>22 BOARD SECRETARY: Okay. Thank you.</p> <p>23 MR. LUPO: December 28, 2016, does</p> <p>24 anybody know what makes that date very special for</p> <p>25 that V-Fee property?</p> | <p style="text-align: right;">Page 132</p> <p>1 AUDIENCE MEMBER: You can't ask</p> <p>2 questions.</p> <p>3 MR. LUPO: There was an explosion at</p> <p>4 that property, and why is that very important to me,</p> <p>5 because I felt that at 6 o'clock in the morning. I</p> <p>6 didn't know what it was. I looked out the back</p> <p>7 door. I said that's kind of interesting. There's</p> <p>8 big sets of flames back there. Take a walk through</p> <p>9 MASH. Fire trucks are called in. They could not</p> <p>10 access that truck. How did they attack that fire?</p> <p>11 They had to get a ladder truck and go over the</p> <p>12 building.</p> <p>13 Now, let's count how many trucks were</p> <p>14 there as I looked at this photograph of December 28,</p> <p>15 2016, when there was an explosion on that property</p> <p>16 and a fire. It wasn't one fire truck. It wasn't</p> <p>17 two. It wasn't three. It appears there were eight.</p> <p>18 There was a pumper, a ladder, multiple utility or</p> <p>19 apparatus trucks.</p> <p>20 So we've been sitting here talking</p> <p>21 about, oh, how does one truck get here, how does two</p> <p>22 trucks get here. We have 75 apartments. We have a</p> <p>23 five-story location. We have practically no</p> <p>24 movement when the entire parking lot is going to be</p> <p>25 filled with cars. So let's not forget that property</p> |

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| <p style="text-align: right;">Page 133</p> <p>1 is a danger. That property is overutilized. 2 I thought it was going to stop when the 3 cell tower was implemented on the overusage. Now we 4 moved to, sure, we need to develop the rear of this 5 property. I get that, but does it need to be five 6 stories? Does it need to be 75 units? For what? 7 What does the town get out of it? A half a dozen 8 low-income housing. We get nothing. 9 If -- if we really were a community 10 here and the V-Fee was working with this, maybe they 11 would open up the pool to the public and make 12 something useful for us as opposed to closing it 13 off, but, no, this is all about just building as 14 much as you can. When are we going to come back? 15 Are we going to build a second story over the entire 16 rusted out first front building? Is there going to 17 be something put in the memorialization that he's 18 not going to come back and put a second story on 19 that first building for plan A? I think it was 20 mentioned there's a plan A or plan B, but we came up 21 with some story. 22 So I just want to remember. Just 23 remember that fires are real. Emergencies are real. 24 Thank you. 25 MR. BLOOD: Hello. Rick Blood,</p> | <p style="text-align: right;">Page 134</p> <p>1 B-L-O-O-D, 32 Tingley Road, Brookside. 2 I want to thank the board. I know this 3 has been a long process. I kind of hope it's not 4 over, but it probably is over. I wanted to -- let 5 me get my beginning here. Okay. Sorry. 6 During my time coming to the meetings 7 here, I've realized that the site design was 8 probably determined by a small group of elected 9 officials and their professionals some years ago, 10 2020, 2021, maybe 2022, obviously before the master 11 plan change came for this overlay zone, because 12 during the application process, there were really no 13 major design changes to the facility. You had -- 14 you changed some parking stalls and the alley on the 15 east side, maybe some colors, the height of the 16 building snuck in being a little taller. They 17 brought it down a little bit, but there was really 18 no major changes or design work -- design challenges 19 to the facility. 20 I think that this -- that the 21 modifications, you know, weren't -- you know, you 22 didn't come to the table with challenges to the 23 applicant. Now, maybe because of the consent 24 decree, that tied your hands, and I can understand 25 that there's pressures here, legal pressures and</p> |
| <p style="text-align: right;">Page 135</p> <p>1 otherwise to get this done, but I think that the 2 site is really going to be overutilized, and I think 3 the -- yes, the decree calls for the 75 including 4 the 15 low to moderate income units, but it doesn't 5 call for an exotic car dealership and storage 6 facility. 7 I think some of the things that were 8 pointed out here today with stormwater, rain 9 gardens, detention basins, total suspended solids 10 removal, I think the board should consider that that 11 auto dealership be removed from the project and 12 something else be put in its place. Something to 13 assist with the stormwater, maybe the parking if 14 there's a little bit there, but I think there's 15 enough space there to create a natural barrier to 16 the apartment building and the backside of Kings, 17 and I think that would reduce the -- reduce slightly 18 the overutilization of the property. 19 We know it's going to be -- you're 20 going to have a lot of traffic in there with the 21 additional units, but I think that that is going 22 to -- would help a lot to change this. So I 23 would -- I would request that the board consider its 24 approval with the understanding that they would come 25 back and redesign that front building to be</p> | <p style="text-align: right;">Page 136</p> <p>1 something less impactful to the site and an 2 improvement to the whole property itself. 3 Thank you. 4 MS. MAC ASKILL: Hello. I'm Fiona Mac 5 Askill, 20 Cold Hill Road. M-A-C capital 6 A-S-K-I-L-L, and seeing as I can't ask any 7 questions, I just want to reiterate some comments 8 that residents have had. 9 Regarding the fire truck that Mr. 10 Gaglione was talking about in terms of being able 11 to -- I think it was Mr. Gaglione. It was someone 12 maybe. We had an electrical fire in our basement a 13 number of years ago, and I called 911. We got 14 everyone out of the house, and we had probably -- 15 that was Mr. Lupo, eight fire trucks in my driveway, 16 and my house is pushed back from the road. So they 17 were all over my front yard. They were in my 18 driveway. I was very thankful for them. Don't get 19 me wrong, but just to point out that, when our 20 volunteers respond to the need of the citizens of 21 Mendham, everyone comes running to help, and I do 22 believe that that is the nature of Mendham, 23 certainly Mendham Borough. 24 Regarding the culture and the history 25 and the setting of this development, and I'll put</p> |

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| <p style="text-align: right;">Page 137</p> <p>1 that in quotation marks, there was one comment made 2 a number of meetings ago that said this type of 3 scale of a development was very typical of those 4 towns that are served by trains and for commuters. 5 Well, we don't have that in Mendham, and so I agree 6 with many of my neighbors here who have said that 7 this scale of this project is far over the limit for 8 anything that would fit in with the nature of 9 Mendham, and I will tell you and share with you that 10 I did a project at my church that really showed the 11 history of Mendham. 12 We did a little history tour, and this 13 town is a microcosm of this country, and as such, 14 we're very colonial in nature. We are -- I think we 15 uphold American values tremendously, and this type 16 of structure does not. It's an overdevelopment for 17 what this town stands for and which it has been 18 recognized for in New Jersey Magazine quite a number 19 of years ago, and I believe that this type of a 20 structure, this type of a development completely 21 destroys that sense of community because it is 22 exclusive. Let's not forget there was another 23 comment made. This is not engaging of our 24 community. This is very separate. It is a 25 compound, if you will.</p> | <p style="text-align: right;">Page 138</p> <p>1 I don't think it is at all fitting for 2 us, and, lastly, this is to Mr. Gaglione's comments 3 about the traffic. The traffic in this town is 4 horrible from 7 -- 7:45 in the morning going towards 5 Chester as well as going to Morristown, and the same 6 is true at rush hour time in the evening. It's 7 terrible, and when you talk about the snow which has 8 come up a few times also, I was taking my children 9 to the high school sitting in traffic waiting to get 10 into the high school parking lot when someone came 11 out of Dean Road and hit black ice. This was after 12 that last snowstorm we had, and turned around 13 several times and then slid into a car, and so we 14 were all at a standstill which, of course, caused 15 panic for those high school students, but I just 16 want to point out we are not set out for increased 17 traffic which, of course, common sense tells us will 18 happen with this type of development. 19 So I do urge the board to please 20 consider everything that's been testified here by 21 the residents. This is an overdevelopment. That is 22 not something that we need in Mendham. I'd hate to 23 see us have those sprawling communities that you see 24 elsewhere. We're not necessarily a commuter 25 community. So we don't have trains here. We don't</p> |
| <p style="text-align: right;">Page 139</p> <p>1 have busses that would require this type of 2 development. This is oversized, and I really do 3 plead with you to somehow rather negotiate to scale 4 this down and make it much more fitting to our town. 5 Thanks. 6 CHAIRMAN SMITH: Anyone else from the 7 public? 8 AUDIENCE MEMBER: Everyone who claps 9 should go up there and have their say. Delay the 10 vote. 11 CHAIRMAN SMITH: Bob, if you want to 12 continue with what you were speaking about earlier, 13 I'll give you the opportunity to come back up. 14 MR. RITGER: I appreciate that, but 15 I'll decline. 16 CHAIRMAN SMITH: Okay. Hearing and 17 seeing no one else from the public, I'm going to 18 close the public comment session. 19 If you want to give your summation. 20 BOARD ATTORNEY: Well, let's have the 21 applicant's summation, and then we'll have the 22 objector's summation. Okay. 23 MR. ORTH: I would prefer to close out. 24 BOARD ATTORNEY: Okay. Take whatever 25 order you want.</p> | <p style="text-align: right;">Page 140</p> <p>1 CHAIRMAN SMITH: If you two discussed 2 that, that's fine. 3 BOARD ATTORNEY: Whatever. That's fine 4 with me. 5 MR. SINKEVICH: Thank you, board 6 members. There's no way that I can stand up here 7 and match the enthusiasm of the community and all 8 the comments you've heard. There's definitely no 9 way I can summarize the feelings of my client, the 10 Mendham Alliance for Preservation and Conservation 11 like Frank Zammataro did with his great testimony 12 earlier. 13 What I can do and what I want to do is 14 provide what I believe are black and white issues 15 that the board needs to consider. This application 16 is the result of a Mount Laurel affordable housing 17 litigation that settled to change the zoning 18 ordinance or set forth an overlay zone, and in this 19 settlement agreement, in this consent order and all 20 of these legal documents, you have a situation where 21 this property is zoned a certain way. That's true, 22 but what that -- the settlement doesn't say is that 23 the applicant cannot meet certain code requirements 24 and certain state laws and regulations. That's 25 still a requirement. Just because there's a</p> |

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| <p style="text-align: right;">Page 141</p> <p>1 settlement doesn't mean this application has to be 2 approved.</p> <p>3 We heard from our expert, Mary 4 Paist-Goldman, regarding stormwater environmental 5 issues. The stormwater management concerns which I 6 will just briefly summarize effectively are that the 7 applicant has failed to provide adequate information 8 to prove its compliance with the state stormwater 9 management regulations which are at NJAC 7:8 along 10 with your borough's own stormwater management code. 11 It is a requirement under the law. There's case law 12 on this issue including a case by the name of State 13 Hamilton Open Space versus the Township of Hamilton 14 that states that a planning board is required to 15 determine compliance with stormwater management, and 16 it's obvious why this is true, because it's the 17 municipality itself that has to deal with flooding 18 and has to do with the repercussions of a stormwater 19 management system that doesn't work.</p> <p>20 We have issues that were testified to 21 about an inadequate demonstration of whether there's 22 a required -- the required separation between the 23 bottom of the BMPs and the top of the seasonal high 24 water table. If that separation isn't there, not 25 only does it violate the regulations but also the</p> | <p style="text-align: right;">Page 142</p> <p>1 system won't work and there will be stormwater 2 problems. There was a lack of adequate number of 3 soil test pits and other soil sampling for all of 4 these BMPs, these stormwater mechanisms. That means 5 that we can't -- that the applicant tell you that. 6 They can say it, but they can't prove that the 7 stormwater system is compliant.</p> <p>8 There are other issues including, as we 9 heard about, with the regards to the reduction of 10 total suspended solids. Another requirement under 11 the regulations and a requirement under your 12 ordinance. This isn't being satisfied. There's 13 other concerns that Mary mentioned that I won't go 14 into with regards to the stormwater system, but the 15 fact is it's not compliant, and for that reason 16 alone, this application isn't approvable, but there 17 are other reasons.</p> <p>18 Ms. Paist-Goldman discussed the 19 environmental impact statement and discussed all the 20 deficiencies within that statement. Yes, it's a 21 report that is required to be filed, but it's not a 22 ministerial or checkmark document. I mean the 23 reason it is required is so that this board can have 24 all of the information in front of it, all of the 25 environmental details to -- whether it be make a</p> |
| <p style="text-align: right;">Page 143</p> <p>1 determination to approve or deny or just make a 2 determination to ensure that the project is not 3 detrimental to the community or as safe as humanly 4 possible.</p> <p>5 For a number of reasons that Ms. 6 Paist-Goldman identified during her testimony, the 7 EIS, the environmental impact statement, is 8 deficient. That's a code requirement of the 9 borough, and for that reason alone, this application 10 needs to be denied.</p> <p>11 There was discussion about the DEP 12 permits and about the -- as was testified to, 13 permits that were issued a few years ago that were 14 based on surveys and data that were updated in front 15 of this board but never updated in front of the DEP. 16 As the applicant's attorney will mention, the DEP 17 has sole jurisdiction for wetlands issues and flood 18 hazard areas. That's undisputed, but what's 19 important to note is, number one, that information 20 still needs to be in this environmental impact 21 statement so that the board can consider it. That's 22 first and foremost.</p> <p>23 Secondly, the DEP does make mistakes, 24 and it's important just to recognize the fact that 25 these have real life consequences as well, and this</p> | <p style="text-align: right;">Page 144</p> <p>1 borough recognized that when they filed an appeal of 2 the DEP's permit decision in 2023. So the 3 environmental issues alone require a denial of this 4 application.</p> <p>5 There was discussions about traffic. 6 I'm not going to go into every single issue that was 7 discussed with the traffic, and there's, again, an 8 overarching theme with the traffic concerns that we 9 were bringing on. You look at this property, I 10 drove by it on the way here today, and you can tell 11 that it is a project that's being fit in a location 12 that's already being utilized by commercial uses and 13 is already utilized I believe by high school 14 students at times, and there are certain parts of 15 this that just don't make sense including using the 16 eastern drive as an access route, how the safety and 17 emergency access is really going to be worked out or 18 dealt with. I know the applicant has said that 19 they're going to comply with whatever the fire 20 marshal says, but the reality is these are real life 21 concerns that need to be addressed and should be 22 addressed before this board now, not as a condition 23 of approval.</p> <p>24 The -- you know, there is a concern 25 whether a C-2 variance is required or not for the</p> |

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| <p style="text-align: right;">Page 145</p> <p>1 parking. There does seem to be a deficiency, a real 2 life deficiency whether it is or it is not a code 3 deficiency. There's a lack of any study on the 4 pedestrian safety that is required under the master 5 plan. There are, you know, just other traffic 6 management type issues that do also require denial 7 of this application, and then, finally, I wanted to 8 discuss a handful of procedural issues. 9 I recognize that this board was tasked 10 with a maybe impossible task of having, you know, a 11 group of very passionate people who love their town 12 wanting to be here for all of these applications, 13 but the reality is that the venue had limitations. 14 This great building couldn't always seat everyone 15 that wanted to be here. People had to leave. There 16 were overflow conditions. People were forced, you 17 know, to leave due to discomfort or inability to 18 hear. 19 There was restrictions put on 20 cross-examination put on both during the applicant's 21 presentation where the public was limited to a 22 certain amount of time, and today, for example, when 23 I had my own witness or my group had their own 24 witnesses put on and there was no -- no ability for 25 anyone in the community to ask them questions. I</p> | <p style="text-align: right;">Page 146</p> <p>1 believe that is a violation. I know that's a 2 violation of the Municipal Land Use Law at N.J.S.A. 3 40:50D-10 which requires both public hearings to be 4 conducted in a manner that provides an opportunity 5 for meaningful participation and requires that any 6 person that's interested in the application to have 7 the right to present evidence, ask questions and 8 cross-examine witnesses. Again, I know this was a 9 difficult task for this board, and I know you did 10 your best, but I believe that that procedural issue 11 was violated. 12 The Open Public Meetings Act at 13 N.J.S.A. 10:4-6 requires that there is reasonable 14 accommodations provided to access public meetings 15 including suitable venues for every interested party 16 to be able to attend. I believe that was also 17 violated in this situation, and just overall, you 18 know, sort of an inconsistent application of 19 procedural standards throughout this process which I 20 believe violates both the laws that I mentioned 21 before, the Municipal Land Use Law and the Open 22 Public Meetings Act. 23 So, in conclusion, while there's a lot 24 of passion for this project and there's a lot of 25 opinion and all of that opinion is very important</p> |
| <p style="text-align: right;">Page 147</p> <p>1 and it's something that the board should consider. 2 I do believe that there are these black and white 3 issues that I just outlined that require a denial of 4 this application by this board regardless of any 5 settlement or any pressure by the court to get this 6 done as quickly as possible or to approve a project. 7 We are -- you know, the applicant has a duty to meet 8 its requirements under the law, and, respectfully, I 9 believe they did not do so here. So I would request 10 that this board deny the application. 11 Thank you. 12 CHAIRMAN SMITH: All right, Derek. 13 MR. ORTH: Again, my name is Derek Orth 14 from Inglesino Taylor here on behalf of the 15 applicant this evening V-Fee Mendham Apartments. 16 I'm going to be brief, Mr. Chairman, 17 members of the board, as my expert witnesses have 18 presented a wealth of testimony in support of this 19 application. 20 First off, I want to thank you all for 21 being here, for listening to the testimony that has 22 been presented, for hearing the concerns expressed 23 by the public. Members of the board, you're all 24 volunteers, and we truly appreciate your time and 25 attention on this important issue, especially over</p> | <p style="text-align: right;">Page 148</p> <p>1 the last eight months. 2 Just at the outset, as a procedural 3 matter, there are several factors which we 4 respectfully submit, and we hope the board agrees, 5 weighs heavily in the applicant's favor and has 6 throughout the course of the application. This 7 zoning ordinance was adopted pursuant to a Mount 8 Laurel settlement agreement by and between V-Fee and 9 the Borough of Mendham and also pursuant to a 10 separate settlement agreement between the Fair Share 11 Housing Center and the Borough of Mendham. 12 This subject property was rezoned by 13 the borough. It was included in the borough's 14 housing element and fair share plan which is a 15 component of the master plan, and, thus, the 16 application that was brought this evening is in 17 furtherance of the borough's master plan, the 18 housing element and fair share plan and is 19 consistent with the zoning ordinance that was 20 adopted with respect to this particular property. 21 When the board's considering the 22 application, the board's primary role as testified 23 by my planner, Phil Abramson, who gave a very 24 lengthy, and I think excellent presentation and 25 overview of the proofs, the board's primary concern</p> |

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| <p style="text-align: right;">Page 149</p> <p>1 is whether the development proposal is consistent 2 with the zoning ordinance and the applicable 3 provisions of the site plan ordinance in the 4 borough, and in this case, as we have presented over 5 the course of approximately 40 hours of testimony by 6 a civil engineer, an architect, an RF consultant, a 7 traffic consultant, a planner and these individuals 8 came back many times as you can recall, all of this 9 weighs in favor of the application. 10 The application, other than a handful 11 of very minor bulk variances having to do with the 12 size or the width of the parking stalls in front of 13 the shopping center as well as two minor bulk 14 variances for signage on the particular property, is 15 fully conforming with your zoning ordinances and all 16 applicable provisions of your code. 17 As my planner testified, the proposal 18 is consistent with your policy as evidence in your 19 master plan. It advances the settlement agreement 20 by and between the applicant and the borough. It's 21 consistent with your current infrastructure. The 22 subject property is served by public sewer and 23 water. It removes a vacant, unutilized structure, 24 replaces it with a new investment that will 25 compliment the existing shopping center.</p> | <p style="text-align: right;">Page 150</p> <p>1 With respect to the infrastructure 2 improvements, as my experts have testified, the 3 applicant is proposing approximately 3200 new 4 plantings throughout the site. There is an 5 approximate 3400 square foot decrease in impervious 6 coverage which is approximately in excess of an 7 acre. The project replaces impervious coverage with 8 approximately 29,000 square feet of pervious pavers. 9 There is 60,000 square feet in new conservation 10 easements for wetlands and transition areas. 11 There's approximately 49,000 square feet of 12 conservation easements for flood hazard and riparian 13 areas. The project incorporates NJDEP best 14 management practices, and, currently, it improves 15 significantly the runoff conditions which exist as 16 the site is today. 17 There's been several questions and 18 concerns with regard by the members of the public 19 with regard to ingress and egress to the site. The 20 police report the County of Morris has approved the 21 ingress and egress to the subject property nearly 22 three years ago. 23 There's also been a number of concerns 24 raised with regard to stormwater management. The 25 NJDEP has issued all approvals required for</p> |
| <p style="text-align: right;">Page 151</p> <p>1 development of this property, and those permits are 2 not subject to any appeals. They remain valid, and 3 the NJDEP is the sole entity with jurisdiction over 4 those issues as is the County of Morris with respect 5 to ingress and egress to the site. 6 We have also obtained approvals from 7 SED. All outside agencies, other than this board, 8 have approved all components of the development 9 which are required for the applicant to move forward 10 subject to your approval with the construction of 11 this project. 12 So at the end of the day, we thank you 13 for considering this application, for hearing the 14 applicant over the course of the last eight months, 15 for listening to the testimony carefully. We have 16 presented a wealth of information to you, all of 17 which is in furtherance of the zoning for this site, 18 and for all these reasons, subject to reasonable 19 conditions, which the applicant has stipulated to 20 throughout the course of this hearing and is 21 otherwise set forth in the board professionals' 22 reports, we respectfully request this board approve 23 this application this evening. 24 Thank you for your time. 25 CHAIRMAN SMITH: Thank you, Derek.</p> | <p style="text-align: right;">Page 152</p> <p>1 We're going to take a 10-minute break 2 at this point. 3 (Whereupon, a recess was taken.) 4 CHAIRMAN SMITH: Thank you, everyone, 5 for your patience. We're going to resume this 6 meeting. 7 BOARD ATTORNEY: So, at this point, the 8 board is going to enter into a period of discussion 9 of this application preliminary to taking a vote, 10 and before we do that, I'd like to have our planner 11 identify the variances that would be required if 12 this application were to be approved. 13 Jessica. 14 MS. CALDWELL: Okay. So it's 15 preliminary and final major site plan approval with 16 one primary variance for parking for 9-by-8 parking 17 spaces for the nonresidential spaces in the 18 development. 19 There are I think three sign variances, 20 but, Derek, you might have corrected one. So just 21 correct me if I'm wrong. There's one for more than 22 one free-standing sign. It's the second sign. It's 23 the enclave sign. There's two signs on the property 24 now, but because they're taking one down and moving 25 it, that retriggers that variance. There's one for</p> |

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| <p style="text-align: right;">Page 153</p> <p>1 the proposed height of that secondary enclave sign 2 where they're at 17. -- 17 feet 3 inches where the 3 max height is 15 feet, and then the sign area for 4 that free-standing sign where that 31.42 square feet 5 where 25 square feet is permitted. 6 The caveat for that is that they're 7 replacing in kind -- proposing to replace in kind 8 the wall signs on the shopping center, not changing 9 the size on those. So that eliminated potential 10 variances there, and no signs have been proposed for 11 the premium auto service business at this time. 12 There's also one design standard 13 waiver, and that's for the no off-street parking 14 area shall be located closer than 5 feet to any side 15 or rear lot line or closer than 25 feet to 16 residential zone. So on the eastern side, due to 17 the expansion of the driveway that we've been 18 speaking about, there's a design waiver triggered 19 there, and then, arguably, because of the 20 reconfiguration on the western side, some parking 21 spaces are moving closer to the residential zone 22 there. So that retriggers a design waiver even 23 though it's an existing condition of where that area 24 is located. So that's a design standard waiver 25 which is a little different than a variance, and I'm</p> | <p style="text-align: right;">Page 154</p> <p>1 not sure if their planner addressed it, but it's 2 really addressed through engineering and traffic 3 testimony, and the standard is that the request is 4 reasonable and makes sense, and that to not grant 5 it, would be a hardship to the application. 6 CHAIRMAN SMITH: Jessica, one other 7 thing about the parking stall size. You mentioned 8 the 9-by-18 for the non -- 9 MS. CALDWELL: Nonresidential spaces, 10 yes. 11 CHAIRMAN SMITH: Now, in front of the 12 Kings, I think we did 10-by-18. So I think -- 13 MR. FERRIERO: Yes. That was the 14 parking field directly in front of the supermarket. 15 CHAIRMAN SMITH: So would that require 16 a variance as well? 17 MS. CALDWELL: Yeah, it would still 18 because it was 10-by-20 or 9-by-20 depending on the 19 location. So some are 9-by-18. Some are 10-by-18. 20 That's still a variance, but it's a little bigger. 21 Okay. Thank you for that correction. 22 And then do you want me to go on with 23 the other items or wait? 24 BOARD ATTORNEY: Is that all the 25 variances?</p> |
| <p style="text-align: right;">Page 155</p> <p>1 MS. CALDWELL: Yes. 2 BOARD ATTORNEY: Yes. So the 3 conditions of approval will consist of those items 4 that were discussed and agreed to by the applicant 5 in the course of the hearings and the items in the 6 professional reports of Ms. Caldwell and Paul 7 Ferriero, and those will all be detailed in the 8 resolution that we will hopefully be adopting at our 9 next meeting if this application is approved. 10 Okay. With that being said, the board 11 can enter into its discussion. 12 CHAIRMAN SMITH: Do you have any 13 questions to Paul or Jessica or Tom or each other 14 about this application before we go into a vote? 15 MS. TRAUT: I'll go ahead and ask a 16 question. I just want to confirm. There was a lot 17 of talk about the DEP tonight. I want to confirm 18 the borough has used that One Water report to appeal 19 the DEP permitting, and the DEP has further denied 20 that appeal. Is that correct? 21 MR. FERRIERO: The DEP -- the borough 22 did appeal the permit with that One Water report, 23 and the DEP denied the appeal and the permit stood. 24 MS. TRAUT: Okay. 25 CHAIRMAN SMITH: Okay. Anyone else?</p> | <p style="text-align: right;">Page 156</p> <p>1 MR. PACE: Was there a study or report 2 that never found its way to the DEP? 3 BOARD SECRETARY: Is your microphone 4 on? 5 MR. PACE: Was there a study or a 6 report that just never found its way to the DEP 7 that -- 8 MR. FERRIERO: Not that I'm aware of. 9 CHAIRMAN SMITH: No more questions? 10 Okay. 11 BOARD ATTORNEY: Paul, regarding the 12 stormwater, there's a lot of detailed comments and 13 requirements in your report dealing with the 14 stormwater aspects of this project, correct? 15 MR. FERRIERO: Sure. There are a 16 couple comments made tonight relative to the 17 stormwater design. I can tell you that 18 unequivocally all those were already included in my 19 review. They were noted. They were things that I 20 identified that the applicant needs to address. 21 They have stipulated that they will address those. 22 If they fail to do that, then they 23 don't meet the conditions of their approval and they 24 don't have an approval. Frankly, it's as simple as 25 that. I will tell you that when the issue -- when</p> |

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| <p style="text-align: right;">Page 157</p> <p>1 the permits were issued by the DEP, there's a phrase 2 in there that says they have been reviewed and 3 determined to be in compliance with NJAC 7:8 which 4 is a stormwater requirement. 5 I don't take that for granted. I don't 6 accept that because I have a responsibility to the 7 borough to ensure that the project is in compliance 8 with the borough's stormwater ordinance. While they 9 are basically the same, I don't think the DEP always 10 looks at it the same way that they've told us to 11 look at it. We look at it in excruciating detail. 12 The three pages of comments might give you some 13 idea. So they have a lot of work to do on that. As 14 I said, if they don't make the cut, they don't make 15 the cut. 16 BOARD ATTORNEY: So all of that that's 17 in Paul's report, both for stormwater and other 18 issues, if this board votes to approve this 19 application would be conditions of approval, and as 20 Paul said, if they don't meet those conditions -- we 21 go through a very lengthy resolution compliance 22 process, if they don't meet those conditions, then 23 they do not have an approval. So it's a conditional 24 approval. 25 MR. FERRIERO: I'd like to say</p> | <p style="text-align: right;">Page 158</p> <p>1 something also about the maintenance of the 2 stormwater system because that is a requirement 3 under the ordinance. The applicant is required to 4 submit a stormwater operations and maintenance 5 manual which we will review and ultimately have to 6 approve. 7 We don't normally require that very 8 early in the process because almost always the 9 stormwater management systems change. So we want 10 them to write the report based on the final, and the 11 question of, well, maybe they were supposed to 12 submit something for the cell tower and it never got 13 submitted. So what happened? 14 Well, there's a very significant 15 difference because that was a requirement of an 16 approval that they needed to submit those things. 17 This, however, the requirement to submit reports 18 associated with the stormwater report, is explicitly 19 written in the stormwater -- the borough's 20 stormwater control ordinance and is something that 21 the borough -- that the DEP requires that the 22 borough report on every year. 23 I was meeting with the public works 24 director today setting up the framework for which we 25 will be identifying privately owned stormwater</p> |
| <p style="text-align: right;">Page 159</p> <p>1 system, sending notices to the owners, if they don't 2 get the maintenance report inspections done, and we 3 have the ability to fine them under the ordinance. 4 So that's a very different circumstance than the 5 cell tower. 6 CHAIRMAN SMITH: Thank you for that, 7 Paul. 8 BOARD ATTORNEY: I guess we're ready to 9 take a motion. 10 CHAIRMAN SMITH: Okay. I'll need a 11 motion to approve with the conditions set forth by 12 Jessica and Paul and Tom. 13 BOARD ATTORNEY: Or to deny. 14 CHAIRMAN SMITH: Or to deny, yes. 15 AUDIENCE MEMBER: Delay. Get the info. 16 Delay. 17 CHAIRMAN SMITH: We cannot delay. We 18 are at our 120-day mark. The applicant is not 19 giving us an extension. 20 AUDIENCE MEMBER: That's his problem. 21 CHAIRMAN SMITH: Well, then if we 22 default, then it's automatic approval. That's what 23 it comes down to. 24 AUDIENCE MEMBER: Then say no until he 25 provides what's needed.</p> | <p style="text-align: right;">Page 160</p> <p>1 AUDIENCE MEMBER: Do the right thing 2 already. 3 CHAIRMAN SMITH: This is not an open 4 discussion. 5 AUDIENCE MEMBER: We pay the attorney. 6 We pay these people. 7 BOARD ATTORNEY: Ma'am, you're out of 8 order. 9 AUDIENCE MEMBER: Thank you. No 10 kidding. 11 AUDIENCE MEMBER: This is our 12 community. Remember that. 13 CHAIRMAN SMITH: Can I get a motion for 14 approval or denial of this application from someone. 15 MR. SPRANDEL: Yeah, I'll move it. 16 BOARD SECRETARY: Mr. Sprandel is to 17 approve? 18 CHAIRMAN SMITH: Approve or deny. 19 MR. SPRANDEL: Approve. 20 BOARD SECRETARY: Okay. We need a 21 second. 22 MR. EGERTER: I'll second it. 23 BOARD SECRETARY: Mr. Egerter is 24 second. 25 BOARD ATTORNEY: Who's eligible to</p> |

1 vote?
2 **BOARD SECRETARY:** So Council Member
3 Traut.
4 **MS. TRAUT:** Yes.
5 **BOARD SECRETARY:** Mr. Smith.
6 **CHAIRMAN SMITH:** Yes.
7 **BOARD SECRETARY:** Mr. Sprandel.
8 **MR. SPRANDEL:** Yes.
9 **BOARD SECRETARY:** Mr. Egerter.
10 **MR. EGERTER:** Yes.
11 **BOARD SECRETARY:** Ms. Garbacz.
12 **MS. GARBACZ:** Yes.
13 **BOARD SECRETARY:** Mr. Molnar.
14 **MR. MOLNAR:** No.
15 **BOARD SECRETARY:** Mr. Molnar no.
16 Mr. Kaye.
17 **MR. KAYE:** No.
18 **BOARD SECRETARY:** No.
19 You have your four affirmatives.
20 **BOARD ATTORNEY:** We have four
21 affirmatives. The application is approved.
22 (Proceedings conclude at 10:42 p.m.)
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CERTIFICATE OF OFFICER

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4 I CERTIFY that the foregoing is a true
5 and accurate transcript of the testimony and
6 proceedings as reported stenographically by me at
7 the time, place and on the date as hereinbefore set
8 forth.

9 I DO FURTHER CERTIFY that I am neither
10 a relative nor employee nor attorney or counsel of
11 any of the parties to this action, and that I am
12 neither a relative nor employee of such attorney or
13 counsel, and that I am not financially interested in
14 the action.

Diane M. Holmes

DIANE M. HOLMES, C.C.R.
Certificate No. XI01660

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