

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
SPECIAL MEETING
TUESDAY DECEMBER 3, 2024
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

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

Elliot Turrini- 10 Babbit Rd.- stated that he wanted to put on the record that he feels that the building is deficient in size and wanted the meeting to be adjourned until a bigger space was found.

Mayor Glassner explained that the schools were not available while in session and that the only other thing to do would be to look for a venue out of town. Mr. Turrini suggested St. Joes and Mayor Glassner stated that St. Joes turned down the request and asked what other space was he suggesting.

Susan McCloud - 20 Galway Dr.- noted that she contacted Lisa on the 17th and 18th regarding the inadequate space and that they are taxpayers and why can’t the meetings be held at the schools. Mr. Ferriero noted that the Borough does not own the schools and that they are owned by the Board of Education. Mayor Glassner stated that she spoke with Ms. McCloud previously on the phone and explained that there is also a timing issue with finding other locations for meetings.

Bob Ritger – 14 Gunther – Asked if this if the St. John’s the Baptist project would count towards the affordable housing number. Mayor Glassner that it would count towards round 4.

Mr. Gaglione -20 Galway Dr. – noted that there is a large wood sign at the tennis court that is a safety issue and should be taken down. Mayor Glassner stated that it will be brought to the attention of the code enforcer.

There being no further comments, 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

This application is being carried to the Joint Land Use Board Meeting scheduled for December 17, 2024, without further notice needed.

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Mr. Egerter and seconded by Mr. Molnar. On a voice vote, all were in favor. Mr. Smith adjourned the meeting at 10:20PM.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator

In The Matter Of:

IN RE: 23-22 V-Fee Mendham Apartments

Transcript Of Proceedings

December 3, 2024



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<p>1 BOROUGH OF MENDHAM 2 JOINT LAND USE BOARD 3 Tuesday, December 3, 2024 4 Commencing at 7:15 p.m.</p> <p>5 ----- 6 IN THE MATTER OF: 7 23-22 V-FEE MENDHAM 8 APARTMENTS Transcript of 9 84-86-88 EAST MAIN Proceedings 10 STREET 11 BLOCK 801 LOT 20 12 -----</p> <p>13 B E F O R E: 14 BOROUGH OF MENDHAM JOINT LAND USE BOARD 15 THERE BEING PRESENT: 16 RICHARD SMITH, Chairman 17 CHRISTINE GLASSNER, Mayor 18 NEIL SULLIVAN, Councilman 19 JAMES MOLNAR, MEMBER 20 DAVE SPRANDEL, MEMBER 21 JOHN EGERTER, MEMBER 22 MARRIE ROSE GARBACZ, MEMBER 23 ALEXANDRA HENRY TRAUT, ALTERNATE 1 MEMBER 24 RICHARD PACE, ALTERNATE 4 MEMBER</p> <p>25 By: DIANE M. HOLMES, CCR</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</p> <p>5 INGLESINO TAYLOR 6 Attorneys for Applicant 7 600 Parsippany Road 8 Parsippany, New Jersey 07054 9 973.947.7111 10 BY: DEREK W. ORTH, ESQ.</p> <p>11 ALSO PRESENT: 12 JESSICA CALDWELL, Borough Planner 13 PAUL FERRIERO, Engineer 14 LISA SMITH, Board Secretary</p>
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<p>1 I N D E X 2 3 EXAMINATION PAGE 4 MATTHEW SECKLER 5 EXAMINATION BY MR. ORTH 7 6 MICHAEL FISCHER 7 EXAMINATION BY MR. ORTH 36 8 PHILIP ABRAMSON 9 EXAMINATION BY MR. ORTH 65</p>	<p>1 CHAIRMAN SMITH: Okay. I think we're 2 going to open this up to the hearing's portion of 3 this meeting. 4 MR. ORTH: Thank you, Mr. Chairman. 5 Good evening, Mr. Chairman, members of the public, 6 members of the board. Mayor, good to see you again. 7 It's a pleasure to appear before you again this 8 evening. Again, for the record, I know we all know 9 each other, but my name is Derek Orth from the law 10 firm of Inglesino Taylor, and I'm here on behalf of 11 the applicant V-Fee Mendham Apartments. 12 We last appeared before the board on 13 November 12, 2024, and at that meeting we presented 14 the continued testimony of our traffic consultant 15 Matthew Seckler of Stonefield Engineering. He's 16 here again this evening as well as our project 17 architect Mr. Bruce Stieve of Marchetto Higgins 18 Stieve. Both of these witnesses fielded questions 19 from the board, the board's professionals and the 20 public on their testimony. 21 Mr. Seckler presented the traffic 22 testimony on the application as well as the designs 23 for site ingress and egress, loading and unloading 24 and so and so forth. 25 Mr. Stieve presented the architectural</p>

<p style="text-align: right;">Page 5</p> <p>1 design for the project as well as the proposed 2 signage package. 3 At the close of that hearing, both 4 witnesses had completed their affirmative testimony 5 and been subject to cross-examination from the board 6 and the public. 7 Now, with regard to the architectural 8 testimony, there was some discussion regarding 9 building elevations. The applicant has revised its 10 plans, and on or about November 21st or 22nd, 2024, 11 we submitted revised elevations to the board which 12 we'll refer to as A-7 through A-10. 13 As noted in the letter which 14 accompanied this submission, the building height is 15 fully conforming to the building height standards in 16 Mendham code founded section 215-74B. 17 However, while the building heights are 18 conformity, we continue to offer the board two 19 options in this regard with respect to the 20 architectural look of the building. 21 One is to retain the cupola as an 22 architectural feature of interest which falls within 23 the permitted exceptions to building height as a 24 rooftop feature, or, two, to simply eliminate the 25 cupola from the project. So, in other words, if the</p>	<p style="text-align: right;">Page 6</p> <p>1 board likes the cupola, we will keep it. If the 2 board does not like it, we will eliminate it. 3 We don't intend to present affirmative 4 testimony on this topic. We simply suggest that the 5 board can poll internally and simply vote at the 6 close of the application whether it prefers the 7 cupola or not. 8 Second, the applicant also took to 9 heart the discussion regarding the eastern alleyway, 10 and I'm talking plan east looking at the site from 11 Main Street and reviewed its options in this regard. 12 We do have a modified design which we will present 13 this evening. 14 While our ability to widen the entirety 15 of that eastern alleyway is constrained by virtue of 16 the utility easements and poles that exist in that 17 space, We are able to widen significant portions of 18 it without interfering with the utility's right of 19 way, and for that purpose, I am going to recall Mr. 20 Seckler on a limited basis to testify and present 21 that modified design to the board this evening. 22 So, in short, our run of show for 23 tonight is, number one, I will recall Mr. Seckler 24 solely to testify regarding the proposed revisions 25 to the eastern alleyway.</p>
<p style="text-align: right;">Page 7</p> <p>1 Second, I will call for the first time 2 my RF consultant Michael Fischer. Michael Fischer 3 is filling in for Mr. Andrew Peterson. He has 4 reviewed his report. He is qualified to testify as 5 to his report. He has reviewed the report of the 6 board's RF consultant Dr. Eisenstein, and we will 7 put all of his qualifications on the record in that 8 regard, and then, finally, I have my project planner 9 Philip Abramson of Topology who will provide the 10 planning proofs in support of this application, and 11 if we get that far, we're also prepared to field 12 public comment on the application, of course, 13 following the public questions, board questions on 14 the various witnesses. 15 CHAIRMAN SMITH: Okay. Thank you. 16 MR. ORTH: Thank you, Mr. Chairman. So 17 Mr. Seckler has already been sworn in. 18 MATTHEW SECKLER, having been 19 previously sworn, resumes and testifies 20 as follows: 21 EXAMINATION BY MR. ORTH: 22 Q. Matt, I'll just remind you that you 23 remain under oath this morning. 24 MR. ORTH: He's been accepted as an 25 expert in the field of traffic consulting, and if we</p>	<p style="text-align: right;">Page 8</p> <p>1 just give him a few moments to hook up his computer, 2 he'll take the board through the modified alleyway 3 design. Thank you. 4 Q. Okay. Matt, go ahead. Why don't you 5 first identify if this is a new exhibit, an old 6 exhibit. If it needs to be marked, please identify 7 it for the record, and Lisa will tell us what 8 exhibit number we're at. 9 A. I'm just waiting for this to turn on. 10 So this is exhibit I believe A-10. 11 Q. Just identify yourself for the record. 12 A. Matt Seckler from Stonefield 13 Engineering for the record. It is entitled on-site 14 improvement exhibit prepared by Stonefield 15 Engineering Design. The date prepared is 12/3/2024. 16 What we -- coming out of the last 17 hearing, there was a lot of discussion. I think 18 some members of the public and members of the board 19 had requested that the easterly drive aisle behind 20 the -- what we call the alleyway behind the retail 21 building, if there was any way to widen it. 22 As previously testified, the width from 23 curb to the narrowest point behind the building was 24 about 23.5 feet. What we have done is we've looked 25 at widening that area. As counsel mentioned, there</p>

1 are three utility poles that exist behind the retail
2 building that just don't serve our property but is
3 in an easement because it serves Mendham Auto Body
4 as well as Mendham Plywood. So that is protected.
5 It's an easement. We don't control the right to
6 remove those poles.

7 So what we have sought to do is we
8 sought to widen from the area basically behind where
9 the staircase is as you enter the site, basically,
10 all around the utility poles. So at the utility
11 poles, there will be about 30 feet of width that is
12 at its current width and then all other areas we
13 have widened to a total of 28 feet wide along that
14 alley.

15 So we've widened it from 23.5 to 28
16 feet wide in that eastern alley. About 75 percent
17 of the distance behind that retail building will be
18 28 feet wide with the remaining 25 percent either
19 being 23 and a half or that transition as we kind of
20 go from 28-foot wide to 23 and a half feet wide
21 which is the existing condition.

22 **CHAIRMAN SMITH:** Now, how does that
23 relate to a walking path for the store personnel to
24 walk through there as far -- you're talking about
25 not a straight line, a zigzag type of pattern which,

1 to me, seems very confusing for somebody driving
2 through there.

3 **THE WITNESS:** Well, again, the straight
4 line path is on the building side. So, again, along
5 the building side, you have the ability to walk
6 which may be in those little alcoves in the building
7 which is 4 feet wide, and that is not included
8 within that driving distance, and then you would
9 have, you know, areas where you'd be able to have
10 ability to, you know, walk behind the building in
11 the widened areas.

12 Now, again, this is utilized, and we're
13 allowing for this, for basically garbage disposal
14 for someone to walk to the rear of the building. So
15 this is not a walking path that's widely used by
16 customers or multiple, you know, frequent travelers.
17 This is really a back alley which would only be used
18 maybe once a day, twice a day to bring garbage
19 through there.

20 **CHAIRMAN SMITH:** Yes, I agree. It's an
21 employee type of pathway, but still, nevertheless,
22 you know, there's people walking there. That's my
23 point.

24 **THE WITNESS:** Correct.

25 Q. I think, Matt, the chairman is asking

1 are the areas that we have widened -- are they with
2 regard to the pedestrian line that we have already
3 created or is it with regard to the other side of
4 the alleyway?

5 It's the other side, correct?

6 **A.** It's the other side.

7 **CHAIRMAN SMITH:** It's the other side.
8 Yes. Yes.

9 **A.** So the idea is that, if is someone
10 would be driving up that area and he failed to pull
11 over for either an oncoming car or there would be
12 more than enough room if they were, you know -- if
13 there was only a pedestrian walking and them driving
14 north or south into the site.

15 **CHAIRMAN SMITH:** Now, is it -- the
16 location of these areas that it gets wider on the
17 utility pole side, is that directly opposite where
18 these bump-outs are on the building --

19 **THE WITNESS:** No, they're not.

20 **CHAIRMAN SMITH:** -- to allow for
21 continuous width going down?

22 **THE WITNESS:** Exactly. What we've
23 shown here -- and there are three utility poles. So
24 I can kind of highlight them. So I'm going to zoom
25 in.

1 This is the first utility pole. We can
2 see that the wide -- we are back to
3 28-and-a-half-feet wide in the area opposite the
4 bump-out. The bump-out from the left utility pole
5 is a big gray circle. The new curb line would be
6 this darker line around the pole.

7 The next utility pole into the site is
8 right after one of the bump-outs. So the bump-out
9 is in a 28-and-a-half foot region, and then the last
10 utility pole there's no bump-outs anywhere near
11 here.

12 **CHAIRMAN SMITH:** And there's absolutely
13 no way to move those utility lines. Is that what
14 you're saying?

15 **THE WITNESS:** Well, we would be happy
16 to proceed and look into the ability to move them in
17 terms of what legal avenues we have, but the utility
18 companies have an easement through the property
19 because we do have those landlocked properties.
20 When I say landlocked buildings, the plywood
21 building and the auto body that need to be served by
22 utilities.

23 In addition -- and, again, we could,
24 you know, investigate this with the utility company,
25 but there are a number of utilities which are in the

<p style="text-align: right;">Page 13</p> <p>1 ground themselves. There's a gas line. There's 2 sanitary line all running through that area. So 3 just going underground isn't necessarily an easy 4 option either here. 5 CHAIRMAN SMITH: I think it would be 6 worth investigating. 7 MR. ORTH: We can request -- Mr. 8 Chairman, I'll proffer this to the board. We can 9 certainly request as a condition of approval should 10 the board vote favorably on this application to 11 request that the utility companies modify the 12 location of the light poles. 13 I certainly can't guaranty nor do I 14 have any confidence that they will move those poles, 15 but we're happy to make that request and see where 16 it takes us. 17 CHAIRMAN SMITH: Either move them or 18 try to locate underground utilities. 19 MR. ORTH: We can certainly make that 20 request. 21 CHAIRMAN SMITH: Okay. Thank you. 22 Well, continue you go ahead. 23 THE WITNESS: That was my testimony was 24 really limited. 25 CHAIRMAN SMITH: That was his</p>	<p style="text-align: right;">Page 14</p> <p>1 testimony. Okay. 2 Then is there anybody from the board -- 3 MS. TRAUT: Yeah. I have a question 4 for the professional really the testimony from last 5 meeting. I was not present, but I can certify that 6 I listened to the recording. 7 Is this an appropriate time to ask it? 8 CHAIRMAN SMITH: Yes. Yes, by all 9 means. 10 MS. TRAUT: Okay. Thank you. 11 So I know there's been a lot of 12 comments from both the public and the board on the 13 inherent unsafetiness of some of the proposed 14 parking plans. So it was brought up by a resident 15 last meeting about the request to resubmit the 16 traffic impact study with revised growth numbers. I 17 believe that's correct, right? 18 THE WITNESS: I believe there was a 19 request. Yes. 20 MS. TRAUT: Okay. Great. I thought 21 this would be a good time to bring that up before 22 that was resubmitted. 23 So it caused me to go back and relook 24 at the traffic report. So I was reading through it. 25 Some of the background information on background</p>
<p style="text-align: right;">Page 15</p> <p>1 growth and the study states, and I'm going to 2 paraphrase, to evaluate the future traffic 3 conditions, it's important to consider the potential 4 site generated traffic of other projects that could 5 influence the traffic volume at the studied 6 intersections. Based on consultations with the 7 zoning director of the Borough of Mendham, there are 8 no planned development projects within the area of 9 the subject site. As such, the application of the 10 background growth rate would be adequate to account 11 for background traffic growth. 12 So my questions are does the annual 13 background growth rate table take into account 14 future growth based on the recent affordable housing 15 legislation and the numbers that the DCA has 16 released for fourth round obligations and potential 17 future round obligations? 18 If not, do you still feel that that is 19 an adequate way to account for background traffic 20 growth? 21 And just for some additional context, 22 it does state at the area of the subject site, and 23 while there's nothing currently planned for the 24 subject site, based on what we know and what we 25 don't know about future affordable housing</p>	<p style="text-align: right;">Page 16</p> <p>1 obligations, my concern is that we're going to see 2 greater than usual increases in populations not only 3 in the borough but the township, the Chesters, Long 4 Valley, Bernardsville which will ultimately increase 5 traffic not only on County Road 24 but traffic 6 coming to the shopping center. 7 THE WITNESS: So I'll answer I think 8 one of those questions quickly and the other one may 9 take a little longer. 10 The annual growth rate calculation is 11 based on data provided by the NJDOT. I don't have 12 the information how they project this. I think, 13 typically, they are constantly monitoring roadway 14 volumes, and then, basically, they look at what the 15 trends are kind of showing on the roads and they 16 project that forward. 17 So I don't believe that they look 18 specifically at, you know, potential affordable 19 housing, things like that, but, again, that's the 20 NJDOT standard value. That is based on their count 21 of Mendham roadways. It's usually every two years, 22 and that's provided to us. That's the industry 23 standard. 24 Q. And, Matt, let me just interrupt you 25 for a second. How long in your recollection has the</p>

<p style="text-align: right;">Page 17</p> <p>1 DOT been releasing the background growth rates?</p> <p>2 A. As well as I've been working in the</p> <p>3 state which is over 20 years.</p> <p>4 Q. So there's been multiple Mount Laurel</p> <p>5 rounds which have occurred over that 20-year period.</p> <p>6 So we have -- the DOT has experienced, certainly,</p> <p>7 Mount Laurel 3. We're approaching Mount Laurel 4.</p> <p>8 I'm not -- I don't know if the DOT specifically took</p> <p>9 into account the Mount Laurel doctrine, but what</p> <p>10 they did do, from what Mr. Seckler has said, is view</p> <p>11 growth rates which have occurred during affordable</p> <p>12 housing compliance rounds.</p> <p>13 MS. TRAUT: Sure.</p> <p>14 So an application of this scale is</p> <p>15 maybe one of the first or most recent in the</p> <p>16 borough. So I just -- I want to feel confident that</p> <p>17 it's being considered and not just within the area</p> <p>18 of the subject area, but, you know, the surrounding</p> <p>19 communities as well.</p> <p>20 Q. An it's looked at on a statewide level</p> <p>21 correct, Matt?</p> <p>22 A. Correct, but with data specifically to</p> <p>23 county and roadway type. So we would go, okay,</p> <p>24 we're in Morris County and we're on an arterial</p> <p>25 roadway has this value. If we were in Essex County</p>	<p style="text-align: right;">Page 18</p> <p>1 on a collector roadway, it would have a different</p> <p>2 value. All of that is provided by the DOT.</p> <p>3 The other thing I want to discuss is</p> <p>4 that the growth rate factor can and typical traffic</p> <p>5 studies for development, they usually look two years</p> <p>6 into the future for kind of assessing traffic</p> <p>7 performance. I imagine seeing how, you know, and</p> <p>8 listening to the mayor's comments earlier, that a</p> <p>9 lot of this fourth round development is likely going</p> <p>10 to the outside of the two-year window for when this</p> <p>11 study was prepared.</p> <p>12 So, again, there are other planning</p> <p>13 documents that looks at population and things like</p> <p>14 that at more of a 30-year window, but traffic</p> <p>15 studies we're typically looking at a two-year window</p> <p>16 which I think would be outside of that fourth round.</p> <p>17 MS. TRAUT: Could we include some of</p> <p>18 those additional planning doctrines in these</p> <p>19 numbers?</p> <p>20 I mean I would feel remiss in not</p> <p>21 knowing what -- what we're looking at for the next</p> <p>22 10 years and then the next 10 years after that.</p> <p>23 Like this is a state mandated obligation. We're</p> <p>24 going to have to fulfill these not only in the</p> <p>25 borough but surrounding communities. So I think</p>
<p style="text-align: right;">Page 19</p> <p>1 it's going to be important to consider as well.</p> <p>2 THE WITNESS: And, again, just from</p> <p>3 experience and looking at when you do capital</p> <p>4 improvement projects, when you're doing a new</p> <p>5 highway in New Jersey, you'd look at the 20, 30 year</p> <p>6 down the line volumes.</p> <p>7 Typically, what you get is something</p> <p>8 that is less an annual basis than what we have here</p> <p>9 on the background road. So you may be looking at a</p> <p>10 .3 or .4 percent annual growth over 30 years versus</p> <p>11 here we're looking at -- you know, I think we're</p> <p>12 looking at one percent compounded annually over a</p> <p>13 two-year time period.</p> <p>14 This is actually likely a sharper</p> <p>15 increase in traffic that we're measuring here than</p> <p>16 when you look at things on a larger, more 30-year</p> <p>17 window that the DOT would for a capital project.</p> <p>18 MS. TRAUT: Okay.</p> <p>19 CHAIRMAN SMITH: Does that answer your</p> <p>20 question?</p> <p>21 MS. TRAUT: Yes.</p> <p>22 MR. FERRIERO: If I could just</p> <p>23 follow-up on that, in the letter from Marco Navarro</p> <p>24 from my office, he made the commentary that the DOT</p> <p>25 has changed that one percent to the two and a half</p>	<p style="text-align: right;">Page 20</p> <p>1 percent. Have you revised your calculations to</p> <p>2 address that?</p> <p>3 THE WITNESS: Yes, we have, and I also</p> <p>4 stated that at the last hearing we had done</p> <p>5 counts -- these counts actually were originally</p> <p>6 2019. We've done counts this fall in front of the</p> <p>7 site. The volumes were actually less than what they</p> <p>8 were in 2019.</p> <p>9 So if we were to use the new counts and</p> <p>10 the higher growth rate, we actually would be</p> <p>11 basically where we're at in this report, but we have</p> <p>12 run new analysis, and we can provide that to you</p> <p>13 with the higher growth rate factor.</p> <p>14 MR. FERRIERO: Okay. Does it change</p> <p>15 anything in your conclusions, levels of service?</p> <p>16 THE WITNESS: Levels of service, the</p> <p>17 delay changes, about half a second plus or minus</p> <p>18 depending on the movement. So it's basically a de</p> <p>19 minimis change if we use the higher growth rate</p> <p>20 factor.</p> <p>21 MR. FERRIERO: Higher growth rate on</p> <p>22 the 2019 numbers.</p> <p>23 THE WITNESS: If we use the higher</p> <p>24 growth rate factor on the 2023 numbers, on these</p> <p>25 numbers, it probable increases by about 1 to 2</p>

<p style="text-align: right;">Page 21</p> <p>1 seconds.</p> <p>2 MR. FERRIERO: Okay. I think we'd like</p> <p>3 to see all that information and understand it, and</p> <p>4 we got to look at it obviously before the board can</p> <p>5 come to a conclusion. So we need to see that</p> <p>6 document sooner rather than later.</p> <p>7 THE WITNESS: Yes.</p> <p>8 MS. TRAUT: Thank you.</p> <p>9 CHAIRMAN SMITH: Any other board</p> <p>10 members?</p> <p>11 MR. MOLNAR: I have some questions</p> <p>12 revisiting the eastern alleyway there. Is there a</p> <p>13 standard width for a two-lane ingress and egress on</p> <p>14 that so far as to say can that serve as the ingress</p> <p>15 and egress for that new development in the back as</p> <p>16 opposed to going right through the mall?</p> <p>17 THE WITNESS: Can it physically?</p> <p>18 MR. MOLNAR: Yeah, with even widening</p> <p>19 the areas and stuff like that.</p> <p>20 THE WITNESS: So if you were designing</p> <p>21 a residential development just from scratch, New</p> <p>22 Jersey RSIS, which is the residential site</p> <p>23 improvement standards, they have different roadway</p> <p>24 design types based on the volume of traffic on the</p> <p>25 road.</p>	<p style="text-align: right;">Page 22</p> <p>1 So, for example, a road that carries</p> <p>2 3500 cars a day which is far exceeding what we'd be</p> <p>3 generating in the back of the site, that can be</p> <p>4 supported by a 22-foot wide, two-lane roadway. So</p> <p>5 New Jersey RSIS would say 22 feet two-way traffic or</p> <p>6 residential traffic, residential development is</p> <p>7 acceptable up to 3500 cars per today.</p> <p>8 This is obviously at 23 and a half.</p> <p>9 Before we widened, 28. With the widening can</p> <p>10 support it. Again, is it -- I would say it's is he</p> <p>11 another argument from a planning perspective if you</p> <p>12 want residents driving behind the rear of the</p> <p>13 building to get to their home in back, but it is</p> <p>14 feasible.</p> <p>15 MR. MOLNAR: Okay. And that 23, 23 and</p> <p>16 a half is beyond the 4-foot corridor you're saying</p> <p>17 for walking?</p> <p>18 THE WITNESS: Yeah. Twenty-three and a</p> <p>19 half is, basically, if you went from where the</p> <p>20 bump-out is to the existing curb line. So we will</p> <p>21 be making that now 28.</p> <p>22 Where you have the utility pole, it's</p> <p>23 basically 23 and a half to where that sidewalk is.</p> <p>24 MR. MOLNAR: Okay. So, feasibly, it</p> <p>25 could serve as an ingress and egress.</p>
<p style="text-align: right;">Page 23</p> <p>1 THE WITNESS: Again --</p> <p>2 MR. MOLNAR: It's not the prettiest</p> <p>3 thing.</p> <p>4 THE WITNESS: From a traffic</p> <p>5 engineering perspective, that's wide enough to serve</p> <p>6 two-way traffic residential.</p> <p>7 MS. TRAUT: I have an additional</p> <p>8 question in follow-up to Mr. Molnar.</p> <p>9 The main entrance for residential</p> <p>10 vehicular traffic will be the entrance located on</p> <p>11 the western side of the building. Is that correct?</p> <p>12 THE WITNESS: The building or the site?</p> <p>13 MR. ORTH: The residential building in</p> <p>14 the rear. She's talking about the boulevard access.</p> <p>15 MS. TRAUT: We've reconfigured the</p> <p>16 shopping center parking lot to allow a straight shot</p> <p>17 from the main road to the building, right?</p> <p>18 THE WITNESS: Correct.</p> <p>19 MS. TRAUT: And that's going down that</p> <p>20 more the western side of the site. Is that intended</p> <p>21 to be the main entrance, the main for residential</p> <p>22 vehicular traffic?</p> <p>23 THE WITNESS: Yes.</p> <p>24 MS. TRAUT: Will they be required to</p> <p>25 enter the building that way or could they optionally</p>	<p style="text-align: right;">Page 24</p> <p>1 take the easterly drive and go to the back of the</p> <p>2 building?</p> <p>3 THE WITNESS: There is nothing that</p> <p>4 would prohibit them from using the easterly drive.</p> <p>5 MS. TRAUT: Correct me if I'm wrong.</p> <p>6 I'm looking at the plans. The entrance to both the</p> <p>7 residential garage and the accessory automobile</p> <p>8 service building are on the eastern side?</p> <p>9 MR. ORTH: We call it the middle, but</p> <p>10 it's a little bit more to the west.</p> <p>11 Q. Matt, go to the left. Where the main</p> <p>12 boulevard entrance is, Matt, go down to the front of</p> <p>13 the site and then take the cursor all the way down</p> <p>14 to where it leads to Main Street.</p> <p>15 THE WITNESS: Right. This is the path</p> <p>16 we expect to travel. You're asking, once they get</p> <p>17 there, how would they get to the parking lot, right?</p> <p>18 MS. TRAUT: Just into the garage or the</p> <p>19 accessory building, right. Those entrances are on</p> <p>20 the right side of the sheet, correct?</p> <p>21 THE WITNESS: Correct. This is the</p> <p>22 entrance to the accessory building. Correct.</p> <p>23 MS. TRAUT: In theory, it would be more</p> <p>24 direct for them to go down that easterly alleyway</p> <p>25 and into the garage.</p>

<p style="text-align: right;">Page 25</p> <p>1 THE WITNESS: Into this location, yes.</p> <p>2 MS. TRAUT: Yet, we've reconfigured the</p> <p>3 whole parking lot to allow them to go straight shot</p> <p>4 from Route 24?</p> <p>5 THE WITNESS: Correct.</p> <p>6 MS. TRAUT: Okay. Thank you.</p> <p>7 MR. PACE: Is the reconfiguration of</p> <p>8 the entire front of the parking lot to add parking</p> <p>9 or to facility flow.</p> <p>10 THE WITNESS: Both.</p> <p>11 MR. PACE: Primarily, what's the</p> <p>12 reason?</p> <p>13 THE WITNESS: We initially designed it</p> <p>14 to improve the flow to the back of the building --</p> <p>15 back of the site. Then we changed the parking to</p> <p>16 the perpendicular design to increase the spaces up</p> <p>17 front to facilitate the demand for the retail that</p> <p>18 currently exists.</p> <p>19 MS. TRAUT: In theory, could you</p> <p>20 leverage the accessory building and the garage and</p> <p>21 contain all resident parking within that area in</p> <p>22 theory?</p> <p>23 THE WITNESS: The additional parking</p> <p>24 was serving the retail.</p> <p>25 MS. TRAUT: Correct, but if you took</p>	<p style="text-align: right;">Page 26</p> <p>1 away the automobile service business aspect of it,</p> <p>2 and I believe it was testified last meeting that</p> <p>3 that building could hold up to 80 vehicles with</p> <p>4 stacked parking. So between those 80 spaces and I</p> <p>5 think it's 100 -- is it 106, 110 in the garage?</p> <p>6 That's enough -- that would be enough parking to</p> <p>7 contain all residential parking to those two</p> <p>8 buildings in theory?</p> <p>9 THE WITNESS: Correct. In theory, yes.</p> <p>10 MS. TRAUT: Okay. Thank you.</p> <p>11 MAYOR GLASSNER: I have a question</p> <p>12 about speed.</p> <p>13 So, normally, in a parking lot, you're</p> <p>14 not going to see speed limits, but this is -- for</p> <p>15 those residents in the back, this is sort of their</p> <p>16 main thoroughfare, and my concern is it's not</p> <p>17 unusual for people to be running late for work to be</p> <p>18 driving too fast, and, yet, this is still a parking</p> <p>19 lot.</p> <p>20 What -- what is your recommendation for</p> <p>21 controlling speeding of the residents who live back</p> <p>22 there?</p> <p>23 THE WITNESS: So we do have the two</p> <p>24 speed tables proposed along that main thoroughfare</p> <p>25 on the main boulevard. I would also note that I</p>
<p style="text-align: right;">Page 27</p> <p>1 believe the borough's ordinance that is for this</p> <p>2 development does have a 15-mile-an-hour speed limit</p> <p>3 for this actual center, but we do have the two speed</p> <p>4 tables that we believe were located in ideal</p> <p>5 locations to prevent speeding.</p> <p>6 Obviously, if there's a request, we can</p> <p>7 probably add another one kind of when you get past</p> <p>8 the Kings as well along that boulevard.</p> <p>9 CHAIRMAN SMITH: Anyone else?</p> <p>10 Professionals?</p> <p>11 MR. FERRIERO: No, not at this point.</p> <p>12 MR. EGERTER: I have a question about</p> <p>13 cart collection, and you may have already said</p> <p>14 something about this.</p> <p>15 BOARD SECRETARY: John, can you move</p> <p>16 the microphone closer?</p> <p>17 MR. EGERTER: I'm sorry. Is that</p> <p>18 better?</p> <p>19 BOARD SECRETARY: Thank you.</p> <p>20 MR. EGERTER: Thanks.</p> <p>21 About cart collections in front of the</p> <p>22 Kings, you got about 125 to 150 spaces there, and it</p> <p>23 seems that there are two areas for cart -- to</p> <p>24 collect carts.</p> <p>25 THE WITNESS: Correct.</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. EGERTER: How many carts in each</p> <p>2 receptacle or whatever and what type of receptacle</p> <p>3 is it?</p> <p>4 I was at a Walmart the other day and it</p> <p>5 was like a metal cage. Is this just something on</p> <p>6 the ground or --</p> <p>7 THE WITNESS: We've just designed a</p> <p>8 reserved area for it. We have not designed, I</p> <p>9 guess, the structure of it, but we just wanted to</p> <p>10 leave an area where that could be designed and left.</p> <p>11 MR. EGERTER: Okay. And there's two of</p> <p>12 them, right?</p> <p>13 THE WITNESS: Correct, and I'm showing</p> <p>14 on A-10 it's these two hatched areas. They</p> <p>15 basically both occupy basically two parking spaces</p> <p>16 each. So a little less than 400 square feet of</p> <p>17 space.</p> <p>18 MR. EGERTER: Approximately how many</p> <p>19 carts do they hold?</p> <p>20 THE WITNESS: I think that's outside my</p> <p>21 specialty, but, again, it's about 400 square feet</p> <p>22 each.</p> <p>23 MR. EGERTER: Okay. Thank you.</p> <p>24 CHAIRMAN SMITH: Anyone else?</p> <p>25 I do have a question going back to Mr.</p>

<p style="text-align: right;">Page 29</p> <p>1 Molnar's comment about making the eastern drive 2 aisle more of a main thorough-way for the 3 residents -- residential building in the back, and 4 pretty much that would -- you wouldn't have to have 5 that main drive through to the western side, and 6 that would accommodate, you know, a greater number 7 of parking places. 8 I mean we have a tried and true parking 9 situation there now. We have -- it seems very safe. 10 Whether, you know, there's -- you know, maybe a 11 little tweaking here or there, you know, that can 12 make it better, but it's been tried and true for 13 many years since the '60s. Okay. 14 So to change that when we have an 15 alternative to make a drive aisle to the eastern 16 side, specifically for the residential area, I don't 17 see the point in trying to do that. 18 THE WITNESS: And, again, I was just 19 speaking from a traffic perspective. The width of 20 the easterly aisle is acceptable for traffic flow. 21 I can't speak from a planning 22 perspective of being behind retail with whatever is 23 left behind the building. We're trying to organize 24 that if that's the ideal path. 25 From a traffic perspective, again, I</p>	<p style="text-align: right;">Page 30</p> <p>1 would have no issue with moving that to make that 2 the main thoroughfare for the residential, but I 3 don't know if that meets certain planning. 4 CHAIRMAN SMITH: I think that would be 5 open up a lot more opportunity for parking places or 6 at least keep it similar to what it is now. 7 THE WITNESS: And, again, I would 8 remind you that what we're showing on this plan in 9 the front of the buildings is more parking than 10 what's out there today with the current design. 11 So, again, it did open up more parking 12 spaces but understanding, you know, you have a tried 13 and true, you know, design circulation pattern there 14 today. 15 CHAIRMAN SMITH: Yeah. There's more 16 sidewalk. There's more area for carts. You know, 17 it gives a safer path to walk across the parking 18 lot, safer walking from Main Street down, you know, 19 across the parking lot. 20 I haven't done studies as to how many 21 people actually walk that, but it has been working 22 very well for many years. I'm just curious as to 23 why we have to change all of that in the front. 24 MR. ORTH: Well, thank you for that, 25 Mr. Chairman. It's a good point to raise. I think</p>
<p style="text-align: right;">Page 31</p> <p>1 there's a number of reasons why this was modified. 2 Q. Mr. Seckler, did you take this proposal 3 to the county? You did, correct? 4 A. Correct. 5 Q. And what was the county's reaction to 6 it? 7 A. Again, they've approved our, you know, 8 design of the driveways along East Main Street as 9 part of the submission package we made to them. 10 MR. FERRIERO: But you didn't submit a 11 package where the main access drive was on the east 12 obviously. 13 THE WITNESS: Correct. Correct, and I 14 also didn't submit the existing condition either to 15 get feedback on if they liked the current design. 16 CHAIRMAN SMITH: Because there's a 17 twofold to that also, because the retail that's on 18 the western side, you're going to have those 19 perpendicular parking places and people will be 20 backing out into let's say a main thoroughfare to go 21 to the back, and that could be precarious for some 22 people to be backing out of there and that would 23 eliminate that possible hazard. 24 THE WITNESS: Again, you know, we have 25 designed that aisle to actually be wider than</p>	<p style="text-align: right;">Page 32</p> <p>1 standard. 2 CHAIRMAN SMITH: I appreciate that, and 3 I understand that, but it just -- it eliminates that 4 extra flow of traffic going through there. 5 THE WITNESS: And I would note again, 6 as mentioned by the board engineer, we did not 7 submit a traffic study to the county indicating the 8 residential traffic utilizing the driveway on I 9 would say the easterly side. 10 That driveway is in violation in its 11 current condition in terms of its separation to the 12 driveway on the adjoining lot. So, again, I can't 13 opine if the county would have concerns if we all of 14 a sudden add a lot more volume to that. 15 Again, it's an existing condition. 16 It's been there for years. You can see on this plan 17 here that driveway lines up almost right next to the 18 driveway on the adjoining lot side-by-side. 19 CHAIRMAN SMITH: I am aware of that. I 20 think it has to be, what, 20 feet from the -- 21 THE WITNESS: Correct, and it's 22 probably three. 23 CHAIRMAN SMITH: It is very close, but 24 it's been there for, you know, 60 years. 25 THE WITNESS: A hundred percent. I</p>

<p style="text-align: right;">Page 33</p> <p>1 can't speak to the county would have concerns if we 2 take the volume from this development and move it to 3 that driveway exclusively and primarily. 4 CHAIRMAN SMITH: I mean there would 5 still be a main entrance to the Kings' lot where 6 they can, you know, go through the parking lot and 7 get to the back. 8 THE WITNESS: Correct. 9 CHAIRMAN SMITH: But have the more 10 direct route on the easterly side. 11 I'm not saying eliminate it from the 12 other entrance. So you'd have -- you'd have, you 13 know, double the entrance and exit. 14 THE WITNESS: Understood. 15 MR. ORTH: Mr. Chairman, we appreciate 16 the comment. We'll take it back, and Mr. Seckler is 17 going to be submitting the updated traffic report. 18 We'll include a remark with the comments as of 19 today. 20 CHAIRMAN SMITH: Thank you, Derek. 21 Okay. So I'd like to open it up to the 22 public. 23 BOARD ATTORNEY: No. No. No. Not 24 yet. 25 MR. ORTH: He's not going anywhere.</p>	<p style="text-align: right;">Page 34</p> <p>1 He's going to stay. 2 CHAIRMAN SMITH: You're going to stay. 3 Just a note to the public, at let's say 4 9:15 I'm going to open it up to the public, and we 5 will orderly take everybody's questions. 6 AUDIENCE MEMBER: That's not what the 7 agenda says. The agenda says, after each expert 8 testifies, the public gets to ask their questions. 9 MR. ORTH: My next witness is Michael 10 Fischer, our RX consultant. 11 AUDIENCE MEMBER: Oh, wait a minute. 12 Time out. This is why I get upset when I get up 13 here. 14 Last time, last meeting you had two 15 people testify and we had to wait to the end to ask 16 our questions. Because of that, I couldn't get a 17 follow-up question from the traffic engineer because 18 we were asking questions of the architect at the 19 same time. 20 The agenda says testify, question, move 21 on to the next expert. If you do this and you wait 22 until 9:15, we're going run out of time again and 23 wind up going to another meeting where we can't even 24 ask the questions because at that point the 25 architect is not here.</p>
<p style="text-align: right;">Page 35</p> <p>1 BOARD ATTORNEY: Sir, number one, 2 you're out of order, and, two, we announced at that 3 last -- let me speak. 4 We announced at the last hearing this 5 procedure. We're going to follow this procedure 6 again. I'm sorry that it's contrary to what's on 7 the agenda, but we did announce last time that this 8 is the procedure we're following, and it worked 9 quite well. We got through all the questions. 10 You're out of order. Please sit down. 11 MR. PIENCIAK: I'll give you my name. 12 Tom Pienchak, P-I-E-N-C-I-A-K, 16 Garabrant Street. 13 I've been at every one of these meetings. They 14 started it out pretty reasonable. 15 CHAIRMAN SMITH: You're out of order. 16 You have two warnings. This is the third one. 17 You're out. 18 AUDIENCE MEMBER: Let him speak. Let 19 him speak. What are you afraid of? 20 AUDIENCE MEMBER: Yeah. 21 AUDIENCE MEMBER: So you're not 22 following what you wrote down? 23 MR. PIENCIAK: The published agenda. 24 (Whereupon, the witness was excused.) 25 CHAIRMAN SMITH: Proceed, Derek.</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. ORTH: Okay. Thank you, Mr. 2 Chairman. This is Michael Fischer. He's our RF 3 consultant. He has not testified yet. He would 4 need to be sworn in this evening. 5 BOARD ATTORNEY: Can I have that name 6 again? 7 MR. ORTH: Michael Fischer. 8 MR. FISCHER: F-I-S-C-H-E-R. 9 BOARD ATTORNEY: Will you swear that 10 your testimony will be the truth, the whole truth 11 and nothing but the truth? 12 MR. FISCHER: I do. 13 CHAIRMAN SMITH: Qualify him. 14 MR. ORTH: Yes. 15 M I C H A E L F I S C H E R, having been first 16 duly sworn, testifies as follows: 17 EXAMINATION BY MR. ORTH: 18 Q. Mr. Fischer, thank you for being here 19 tonight. 20 Would you please provide the board with 21 an overview your professional qualifications, any 22 applicable licenses confirming they're in good 23 standing and effect in the State of New Jersey? 24 A. Sure. I have a bachelor of science in 25 electrical engineering from Widener University I'm a</p>

1 licensed professional engineer in the State of New
 2 Jersey as well as 14 other states.
 3 I have worked as a radiofrequency
 4 engineer focused primarily in RF compliance and
 5 other regulatory matters for the past 21 years.
 6 I've evaluated thousands of wireless
 7 telecommunications facilities similar to the
 8 existing facility at the subject property over the
 9 last 21 years, and I have been accepted as an expert
 10 witness by over a hundred land use boards similar to
 11 this board over the past 21 years.
 12 MR. ORTH: I proffer Mr. Fischer as an
 13 expert in the field of RF reports.
 14 CHAIRMAN SMITH: Okay.
 15 MR. ORTH: I don't know if that's the
 16 right description. He's a radiofrequency expert,
 17 Mr. Chairman.
 18 CHAIRMAN SMITH: We accept him.
 19 MR. ORTH: Thank you.
 20 Q. So, Mr. Fischer, thanks for coming here
 21 tonight.
 22 Just to get a few housekeeping matters
 23 out of the way, you did not prepare the reports that
 24 were submitted in connection with this application,
 25 correct?

1 You agree with the conclusions in Mr. Peterson's
 2 report?
 3 A. That's correct.
 4 Q. And you analyzed them independently
 5 with your own independent discretion, correct?
 6 A. I did.
 7 Q. Why don't you tell us what those
 8 reports said and walk us through?
 9 A. Sure. So as you're aware, there is an
 10 existing 142-foot telecommunications facility
 11 Stealth flag pole with the antennas inside hidden
 12 from view on the subject property. Mr. Peterson, as
 13 part of the application, was brought in to provide
 14 an independent analysis to determine that the
 15 facility is compliant with the Federal Communication
 16 Commission exposure limits for the general public as
 17 part of the development going on the property.
 18 Mr. Peterson obtained documents
 19 detailing the existing equipment at the existing
 20 telecommunications facility. Inside the Stealth
 21 flag pole there are four antenna arrays of the four
 22 major wireless carriers with Dish mounted at the top
 23 location followed by T-Mobile underneath Dish and
 24 then Verizon and then AT&T is the lowest carrier on
 25 the pole with AT&T's lowest antennas mounted at

1 A. That's correct.
 2 Q. But you did review them. You're
 3 familiar with them. Is that correct?
 4 A. That's correct.
 5 Q. And so in that connection, you reviewed
 6 the reports prepared by Mr. Andy Peterson, correct?
 7 A. That's correct.
 8 Q. And you also received the reports from
 9 Dr. Bruce Eisenstein, correct?
 10 A. That's correct.
 11 Q. And there was an initial review of
 12 September 5, 2024, from Dr. Eisenstein. Did you
 13 receive that?
 14 A. Correct.
 15 Q. And you also received the report of
 16 November 8th of 2024 of Dr. Eisenstein, correct?
 17 A. Correct.
 18 Q. And so you are familiar with all of the
 19 conclusions, recommendations and findings in both
 20 Mr. Peterson's report and also the concurring
 21 recommendations in Dr. Eisenstein's report, correct?
 22 A. I am. Yes.
 23 Q. Okay. Why don't you take the board
 24 through the findings in Mr. Peterson's report.
 25 By the way, let's just take a note.

1 approximately 93 feet above ground level. There is
 2 an additional public safety antenna mounted
 3 approximately 60 feet above ground level.
 4 Mr. Peterson obtained the equipment
 5 that is primarily installed at the facility which is
 6 owned by Phoenix Towers. Using FCC prescribed
 7 methodologies, Mr. Peterson performed calculations
 8 using software -- industry approved software to
 9 determine what the upper limit exposure limits would
 10 be in a very conservative manner with all equipment
 11 operating at its maximum capability.
 12 He provided this report dated August 12
 13 to the board consultant, Dr. Bruce Eisenstein. Dr.
 14 Eisenstein reviewed the report, and while he agreed
 15 with its findings, he asked for some additional
 16 information, additional calculations from Mr.
 17 Peterson.
 18 Mr. Peterson provided an amended report
 19 dated October 4 providing everything that Dr.
 20 Eisenstein had requested, and Dr. Eisenstein
 21 reviewed the final report and concurred with its
 22 findings, and as I mentioned previously, I also
 23 concur with his findings. Even with all upper limit
 24 parameters which are, again, extremely conservative
 25 in nature, these radios do not operate at maximum

<p style="text-align: right;">Page 41</p> <p>1 power 24/7, and they don't all direct their energy 2 in the same exact location. 3 However, performing an analysis in that 4 manner, it was determined that the facility will 5 comply with the FCC's allowable exposure limits by a 6 substantial margin. 7 Q. And are the FCC guidelines -- are they 8 conservative guidelines? Are they aggressive 9 guidelines? What are they? 10 A. Yes. There's a significant safety 11 margin built into the FCC general public limits. 12 Q. And so when you say they meet FCC 13 guidelines, what does that mean in laymen's terms 14 with regard to the safety of the multi-family 15 building on the rear of the site? 16 A. So the FCC has adopted, again, very 17 conservative guidelines. As a subset, there is a 18 significant safety margin that the carriers have to 19 comply with, and they adopt them in such a manner 20 that the scientific community states that, if you 21 comply with these limits, it's considered a very 22 safe margin for the general public. 23 Q. So using the upper limit assumptions, 24 correct, that the FCC utilizes, there is -- the 25 building is safe, the public is safe from the</p>	<p style="text-align: right;">Page 42</p> <p>1 radiofrequencies which are generated by the tower, 2 correct? 3 A. Correct. Yeah, they're compliant by a 4 substantial margin. 5 Q. And what's the percentages that -- I 6 guess the percentages of compliance? 7 I'm not familiar with this. So walk me 8 through it in a little more detail. 9 A. Sure. So if the FCC allows in publicly 10 accessible areas -- so there's two levels that the 11 FCC has, one for the general public and then one for 12 occupational workers who may work -- who may climb 13 towers or who may work on rooftops around, in close 14 proximity to these antennas. 15 So in a residential building or walking 16 down the street or in supermarket, the carrier has 17 to comply with that more conservative general public 18 standard. Per Mr. Peterson's findings, the maximum 19 level that -- on the residential building adjacent 20 or 150 feet, I guess, to the north of the existing 21 facility, the maximum calculations using his 22 conservative parameters was approximately 8 percent 23 of the FCC limit. 24 The FCC allows you to be up to a 25 hundred percent of that limit. So even with these</p>
<p style="text-align: right;">Page 43</p> <p>1 very conservative parameters, the facility is within 2 the flag pole are compliant by a substantial margin. 3 Q. And so by compliant, are you saying the 4 FCC has determined, because of the compliance with 5 its figures, that even at a hundred percent exposure 6 at 8.5 percent continuous, it is safe for the 7 public, for the people that live there, for the 8 surrounding community? Is that correct? 9 A. That's correct. 10 Q. And the FCC, are their guidelines 11 binding on a federal level as far as you know? 12 A. Yes. The carriers are all FCC 13 licensees. So they must comply with the regulations 14 set forth by the Federal Communications Commission. 15 Q. And the -- the exposure limits from the 16 federal government as implemented by the FCC, those 17 are also binding on states and municipalities, 18 correct? 19 A. That's correct. 20 I would add New Jersey, as you're 21 probably familiar, does have their own or they have 22 adopted their own guidelines for exposure. Those 23 guidelines fall in line with the FCC's occupational 24 limits. 25 So they're actually less conservative</p>	<p style="text-align: right;">Page 44</p> <p>1 than the FCC general public limit. So by complying 2 with the general public limit, you're also by 3 default complying with New Jersey's less 4 conservative level. 5 Q. So do you have any concerns whatsoever 6 with regard to the location of the tower in 7 comparison to the proposed multi-family building? 8 A. I do. 9 Q. And do you have any concern with regard 10 to the location of the tower to, for instance, the 11 shopping center that is already there? 12 A. I do not. 13 Q. And did Dr. Eisenstein in his report 14 have any concerns after he reviewed the amended 15 information that you provided? 16 A. No. Per his report, he agreed with the 17 findings and concurred that it would be in 18 compliance by a substantial margin. 19 Q. And, in fact, Dr. Eisenstein requests 20 that you do you a more conservative analysis, 21 correct? 22 A. That's correct. 23 Q. And that was undertaken, correct? 24 A. That is correct. 25 Q. And the findings still came out the</p>

<p style="text-align: right;">Page 45</p> <p>1 same. Is that correct?</p> <p>2 A. Yes. Correct.</p> <p>3 MR. ORTH: I have no further questions</p> <p>4 for this witness on direct, Mr. Chairman.</p> <p>5 CHAIRMAN SMITH: Okay. Members of the</p> <p>6 board, professionals.</p> <p>7 MR. SPRANDEL: I got a question.</p> <p>8 Reading through the document, it's a</p> <p>9 beautiful document and it displays the exposure</p> <p>10 levels really nicely and everything, but the only</p> <p>11 word I can find in there that this whole thing was</p> <p>12 based on was, quote, calculations which you have</p> <p>13 said are industry standards and so on, and I'm</p> <p>14 just -- it just occurred to me, well, did anybody</p> <p>15 ever take a meter out there and actually measure</p> <p>16 what the numbers were that were coming out to see</p> <p>17 that they agreed with these very fine calculations.</p> <p>18 THE WITNESS: Yes. Good question, and</p> <p>19 I evaluated probably over 10,000 of these similar</p> <p>20 facilities, and I've done calculations and I've done</p> <p>21 physical measurements using a calibrated instrument.</p> <p>22 The calculations, again, are so</p> <p>23 conservative that when you measure with an</p> <p>24 instrument you never see the levels that you see</p> <p>25 with calculations. So when we're saying the</p>	<p style="text-align: right;">Page 46</p> <p>1 calculations show that, you know, they could be at 8</p> <p>2 percent or just over 8 percent of the federal limit,</p> <p>3 if you were to go out there with a meter,</p> <p>4 particularly inside the building, you know, you're</p> <p>5 probably going to see levels that are a fraction of</p> <p>6 one percent, and that's what I've seen throughout my</p> <p>7 career.</p> <p>8 I've measured a lot of facilities,</p> <p>9 residential buildings, condominium buildings where</p> <p>10 they put sled-mounted antennas on the rooftop, and</p> <p>11 the person who owns the apartment or the condominium</p> <p>12 right below and they have concerns or an office</p> <p>13 building you would probably see these types of</p> <p>14 facilities, and I've measured inside -- inside the</p> <p>15 building just below the antennas, and the</p> <p>16 measurements are routinely less than one percent of</p> <p>17 the limit when they could be up to a hundred percent</p> <p>18 and still be compliant and they're less than one</p> <p>19 percent.</p> <p>20 So, yes, to answer your question, I've</p> <p>21 done that many times.</p> <p>22 MS. SPRANDEL: And I can believe you</p> <p>23 about that. I just wish we could have had a few</p> <p>24 data points in here that said these are the actual</p> <p>25 calculations because, you know, the public is very</p>
<p style="text-align: right;">Page 47</p> <p>1 skeptical about the influence of RF radiation on</p> <p>2 brains and kids and everything else, and there are</p> <p>3 going to be kids in this building.</p> <p>4 If you just had a meter that you took</p> <p>5 at the end of the pole and put it up 3 feet in the</p> <p>6 air or something and said, yeah, this is what we</p> <p>7 got, only one percent.</p> <p>8 THE WITNESS: The only thing I would</p> <p>9 say is that those towers have been around for</p> <p>10 approximately 40 years, and I personally can attest</p> <p>11 to measuring, you know, in much closer proximity</p> <p>12 than this tower will be to that residential</p> <p>13 building.</p> <p>14 I've measured, you know, 30 feet. I</p> <p>15 mean I've walked apartments and measured them on</p> <p>16 rooftops to, you know, perform the occupational</p> <p>17 evaluations, but in more general public sense where</p> <p>18 the general public or residents have concerns and</p> <p>19 have asked me to come measure, you know, I've</p> <p>20 measured a lot. I can't count how many, but, you</p> <p>21 know, enough to know that, typically, inside</p> <p>22 buildings, you know, building materials generate RF</p> <p>23 energy. That's the reason you don't see much RF</p> <p>24 energy from rooftop-mounted antennas, and on top of</p> <p>25 that, the antennas are -- you know, they're still</p>	<p style="text-align: right;">Page 48</p> <p>1 mounted, you know, above the building, you know.</p> <p>2 RF energy dissipates very rapidly as</p> <p>3 you move away from antennas. While you might see,</p> <p>4 you know, elevated readings 2 feet from an antenna,</p> <p>5 once you get 20, 30 feet away, they disappear pretty</p> <p>6 rapidly, you know.</p> <p>7 MR. SPRANDEL: Okay.</p> <p>8 MR. EGERTER: Can it be measured? Can</p> <p>9 it be measured?</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. EGERTER: Why wasn't it measured?</p> <p>12 THE WITNESS: What do you mean?</p> <p>13 MR. EGERTER: You know, the question</p> <p>14 was, you know, the calculations, but it was never --</p> <p>15 I took it from your answer that it was never</p> <p>16 measured.</p> <p>17 THE WITNESS: I'm unaware.</p> <p>18 MR. EGERTER: Maybe we can do that.</p> <p>19 MR. ORTH: I hear exactly what you're</p> <p>20 saying. The direction we gave to the RF consultant</p> <p>21 was to prepare a report based upon the calculations</p> <p>22 from the FCC which is going to be very conservative</p> <p>23 to what is there today, but if there's, you know, a</p> <p>24 consensus that there should be a measurement, I can</p> <p>25 take it back to the client and report to the board</p>

<p style="text-align: right;">Page 49</p> <p>1 on that.</p> <p>2 CHAIRMAN SMITH: That might be --</p> <p>3 THE WITNESS: I would tell you that,</p> <p>4 within Mr. Peterson's report, he does overlay the</p> <p>5 proposed residential building into the calculations.</p> <p>6 It shows, you know, that's where we're getting that</p> <p>7 4 percent.</p> <p>8 CHAIRMAN SMITH: Yeah. If that could</p> <p>9 be done, I think that would, you know, ease a lot of</p> <p>10 people's minds, and it would confirm your assumption</p> <p>11 that or your experience that the levels are much</p> <p>12 less.</p> <p>13 MR. SPRANDEL: And I don't think you</p> <p>14 need as many data points as you have in your</p> <p>15 displays -- your graphs there either.</p> <p>16 I think a half a dozen or 10 would be</p> <p>17 adequate to say, yeah, these are all much lower than</p> <p>18 what we hoped for or would expect in a worst case or</p> <p>19 something and relieve a lot of fear that people are</p> <p>20 going to have about being close to that cell tower.</p> <p>21 THE WITNESS: Yeah. The only thing I</p> <p>22 would say is, from my professional opinion and from</p> <p>23 my experience doing the measurements, I can kind of</p> <p>24 tell you what the results are going to be.</p> <p>25 MR. SPRANDEL: I believe you. You're</p>	<p style="text-align: right;">Page 50</p> <p>1 not doing it for me. You're are doing it for all</p> <p>2 these people out here.</p> <p>3 MR. ORTH: The board has made a</p> <p>4 practical suggestion. When we reach a break, we'll</p> <p>5 consult with the client if we can reach him, and</p> <p>6 I'll report back to the board on that issue.</p> <p>7 Q. I will say his report was done in full</p> <p>8 compliance with FCC guidelines and requirements,</p> <p>9 correct, Mr. Fischer?</p> <p>10 A. That's correct. Yes.</p> <p>11 MR. ORTH: Okay. But I understand the</p> <p>12 question, and I appreciate the question, and I'll</p> <p>13 get back to you on it.</p> <p>14 CHAIRMAN SMITH: And, also, I believe</p> <p>15 is there something in the ordinance that once a year</p> <p>16 we can request that it be re-evaluated as far as the</p> <p>17 RF propagation or --</p> <p>18 BOARD ATTORNEY: There is an ordinance</p> <p>19 provision that the cell tower operator annually</p> <p>20 certify that the FCC limits are being observed.</p> <p>21 CHAIRMAN SMITH: Okay.</p> <p>22 BOARD ATTORNEY: But I have to admit I</p> <p>23 don't think that that -- Paul, are you aware of any?</p> <p>24 MR. FERRIERO: I have not seen that</p> <p>25 certification.</p>
<p style="text-align: right;">Page 51</p> <p>1 BOARD ATTORNEY: They have not</p> <p>2 submitted that.</p> <p>3 MR. ORTH: Understood. And just to be</p> <p>4 clear, we are not the operator. Obviously, that's</p> <p>5 Phoenix.</p> <p>6 CHAIRMAN SMITH: That's true. Yes.</p> <p>7 Okay. Fair point.</p> <p>8 MAYOR GLASSNER: That's a good</p> <p>9 question. So who would be responsible for making</p> <p>10 sure that the operator submits that certification</p> <p>11 every year?</p> <p>12 MR. ORTH: I'm going out on a limb</p> <p>13 here, but if they failed to comply with a municipal</p> <p>14 ordinance, I'm sure your ordinance has some sort of</p> <p>15 enforcement or notice of violation.</p> <p>16 MR. FERRIERO: It's part of the zoning</p> <p>17 ordinance. It would be the zoning officer who would</p> <p>18 have the responsibility to reach out. I can talk to</p> <p>19 him tomorrow when I see him.</p> <p>20 MR. PACE: I just got a question. The</p> <p>21 whole issue around RF and electromagnetic fields and</p> <p>22 all these kind of things, it goes back and forth</p> <p>23 about how severe an issue it is almost year by year.</p> <p>24 So I guess my concern is, you know, we</p> <p>25 look at some of these reports and there's a chart in</p>	<p style="text-align: right;">Page 52</p> <p>1 one of these which would indicate the fourth floor</p> <p>2 of this thing, while at a low level, is pretty much</p> <p>3 covered by some sort of frequencies from these</p> <p>4 poles.</p> <p>5 The fourth floor is pretty much</p> <p>6 covered, and, again, given the fact that this kind</p> <p>7 of science tends to fluctuate, I'd be concerned</p> <p>8 about whether or not the fourth floor of this thing</p> <p>9 is appropriate.</p> <p>10 THE WITNESS: Yeah. Keep in mind, Dr.</p> <p>11 Eisenstein, I believe, requested that there was</p> <p>12 additional gradient in the plots that were provided</p> <p>13 in Mr. Peterson's report. So there's -- you know,</p> <p>14 you have your hundred percent or greater color, and</p> <p>15 then less than that he asked for a number of</p> <p>16 different colors to kind of show how it dissipates.</p> <p>17 The FCC I mean -- in reality, you can</p> <p>18 only show the hundred percent color, and that will</p> <p>19 show you what's compliant, what's not compliant.</p> <p>20 The levels that are shown on that fourth floor, once</p> <p>21 you get -- once you're 150, 200 feet away from the</p> <p>22 tower, you know, this might show that it's, you</p> <p>23 know, 1, 2, 3 percent.</p> <p>24 As I said, that's extremely low. At</p> <p>25 that point, you're looking at background levels of</p>

<p style="text-align: right;">Page 53</p> <p>1 electromagnetic exposure that you would get from, 2 you know, your WiFi router or, you know, your cell 3 phone. You're getting low background levels at that 4 point that are hundreds of times below what are 5 considered, you know, quote/unquote, unsafe levels 6 of RF exposure. 7 People tend to look at cell towers as 8 the only contributor to RF exposure in the 9 environment when, in reality, we're surrounded by 10 countless levels of exposure in our daily lives. 11 Q. Such as from what? 12 A. Radio stations, you know, your cell 13 phone, baby monitors, smart TVs, WiFi routers, 14 gaming systems. You know, anything that's, you 15 know, transmitting or, you know, electric currents. 16 Things that are providing levels -- varying levels 17 of energy in the environment. 18 Q. So the cell phone that I have up to my 19 ear four hours a day is admitting RF? 20 A. That's correct. 21 Q. The ear pods I have in my ears, even 22 when I don't have my cell phone, is doing the same 23 thing, correct? 24 A. Yeah. They're all providing low levels 25 of energy into the environment.</p>	<p style="text-align: right;">Page 54</p> <p>1 MS. TRAUT: Sorry. Just to make sure 2 I'm understanding, what you're saying is the 3 radiofrequency that's shown as reaching the 4 residential portion of the development is equivalent 5 to everyday, I guess, electronics that we use, 6 right, the WiFi, the baby monitor. Is that what 7 you're telling us? 8 THE WITNESS: Correct. From my 9 experience, at the distance this tower is from the 10 residential building, from my experience, you could, 11 in theory, turn the antennas off and turn them back 12 on and the measurements that you're performing 13 wouldn't really change all that much. 14 MS. TRAUT: Sure, and it looks like 15 the -- I'm just curious, the accessory building 16 that's going to be in front of the residential, does 17 not intercept any of those radiofrequencies? 18 THE WITNESS: No. That building is 19 only -- 20 MS. TRAUT: Based on the diagrams 21 provided in the packet. 22 THE WITNESS: Yeah. No. That building 23 is -- I believe it's only about 30 feet high. 24 Regardless, there's nothing in that building or on 25 top of that building that would.</p>
<p style="text-align: right;">Page 55</p> <p>1 MS. TRAUT: Yeah. So it's less about 2 proximity to the base of the tower and more about, I 3 guess, proximity to the height of the satellites 4 that are emitting the radiofrequency. 5 THE WITNESS: Correct, and keep in 6 mind, the vast majority of the energy from these 7 type of antennas are directional antennas. 8 They project the very energy onto the 9 horizon so it gets over all the clutter of the 10 trees, the building, and then there's an antenna 11 pattern that projects much less energy down into 12 where the mobile devices are. 13 Q. I guess, just to clarify, the diagrams 14 towards the latter end of the report, Dr. Eisenstein 15 requested that we model the RF as if it was directly 16 directed at the building at various locations, 17 correct? 18 A. He added that he wanted Mr. Peterson 19 to include, I think, 15 degrees of down tilt from 20 the patterns towards the building. So, again, when 21 we say it's a very conservative estimation, that 22 much down tilt is not going to be a realistic amount 23 of down tilt for this RF energy. It's really going 24 to be projected onto the horizon with much less 25 energy going down towards the building.</p>	<p style="text-align: right;">Page 56</p> <p>1 So, again, the calculations -- when I 2 say they're very conservative, they'd be 3 conservative without that, and Dr. Eisenstein 4 requested that they are more conservative -- that 5 they be more conservative to try to ease everyone's 6 concerns, and that's why you see that kind of 7 downward projection in the report. 8 In reality, the antennas would be 9 projected more onto the horizon with much less 10 energy being pointed downward. 11 CHAIRMAN SMITH: Do we know exactly 12 direction they're at now, whether they're 15, 10, 5 13 degrees down? Do you have that information? 14 THE WITNESS: Typically, for a flag 15 pole installation, there's not much room to 16 physically down tilt antennas, and they don't really 17 physically down tilt antennas much anymore. There 18 is some electrical down tilt that can happen within 19 the -- 20 CHAIRMAN SMITH: We don't know exactly 21 what the azimuth is. 22 THE WITNESS: No, but I wouldn't expect 23 there to be 15, 30. That's a pretty drastic amount 24 of down tilt. That would seem sort of unnecessary. 25 You know, maybe in dense environments where you have</p>

<p style="text-align: right;">Page 57</p> <p>1 to kind of contain the signal into a small area, but 2 for an area like this, I wouldn't expect that, and, 3 again, even if -- even if you were to assume that 4 every antenna, you know, facing the building was 5 pointed in the same direction operating in maximum 6 capability and pointing 15 degrees down, you know, 7 it's still compliant.</p> <p>8 MAYOR GLASSNER: The height of this 9 antenna increased this past year. How do we know 10 what that will do if they increase the height again? 11 How do we know if that's going to increase the RFs?</p> <p>12 THE WITNESS: I don't know that -- I 13 won't speak to the -- if the tower can be extended 14 again, but if you -- in theory, if a fifth carrier 15 were to come on and say, you know, a fifth carrier 16 started -- there's really only four carriers in this 17 area now, but if a fifth one were to come along and 18 they were to extend the tower, again, even with 19 another carrier, it wouldn't really significantly 20 change any of the results particularly if it was 21 above -- above Dish, you know, 145 feet above 22 ground. It's not going to significantly change 23 anything.</p> <p>24 BOARD ATTORNEY: Are there 5G antennas 25 on this tower now?</p>	<p style="text-align: right;">Page 58</p> <p>1 THE WITNESS: So 5G, I mean it gets 2 thrown around as kind of like a negative term, but 3 it's really just the next generation of -- and we've 4 all lived all through all the generations at this 5 point, at least most of us have. There's 5G 6 technology. There's newer technology for 5G that is 7 primarily used, like new frequencies that are used 8 primarily in an urban environment because they don't 9 really operate well out here in the suburbs or more 10 rural environments. They don't travel very far.</p> <p>11 So there's -- there's 5G equipment, but 12 when I say 5G equipment, it's just repurposing 13 previously used frequencies for the next, you know, 14 technology to process the data faster. We went from 15 2G or primarily using voice calls, and 3G you got a 16 little bit of data, and then 4G you kind of -- you 17 know, that's when we started to see streaming and 18 mobile broadband.</p> <p>19 5G is just really the next step in that 20 where it allows for much faster data processing. So 21 as the carriers improve equipment, you know, they 22 can repurpose their 850 megahertz technology from 4G 23 to 5G.</p> <p>24 So, yes, there's probably some 5G 25 equipment, but in terms of the calculations that we</p>
<p style="text-align: right;">Page 59</p> <p>1 do, you know, the physics of the frequencies don't 2 change when you call it 4G or 5G.</p> <p>3 BOARD ATTORNEY: They're the same 4 frequency range that -- 5G is an R frequency? I was 5 under the impression it was.</p> <p>6 THE WITNESS: There's 5G frequencies 7 that are being using by T-Mobile and 2.5 gigahertz 8 and then Verizon and AT&T use 3.7 gigahertz.</p> <p>9 The newer 5G antennas that the carriers 10 use on typical towers and typical rooftops, you 11 can't really install them inside flag poles for 12 ventilation reasons. It's a radio and antenna kind 13 of in one, and they can't really put them inside a 14 contained environment like a flag pole.</p> <p>15 So as far as I know, there's no -- 16 those newer antennas aren't in there, but even with 17 those newer antennas, I wouldn't have concerns. If 18 they were, hypothetically, to be installed, you 19 know, I wouldn't have concerns, and if -- you know, 20 every time any of the carriers update equipment, 21 update their -- you know, add a frequency, they have 22 to perform an evaluation to affirm that they're 23 compliant with the FCC limits.</p> <p>24 So if any of the carriers were to look 25 to add 5G or 6G or 7G equipment down the line, they</p>	<p style="text-align: right;">Page 60</p> <p>1 perform an evaluation every time those sites are 2 touched, and they may not provide it to the board, 3 but they provide an evaluation to their internal 4 regulatory group and have it on file for the FCC.</p> <p>5 BOARD ATTORNEY: For the FCC, if they 6 were to upgrade to a lot of 5G arrays with a higher 7 frequency range, the FCC would have to approve that?</p> <p>8 THE WITNESS: They don't have to 9 approve. They're not approving every site that the 10 carriers touch, but the carriers, you know, have to 11 hire someone like myself or someone like Mr. 12 Peterson or another vendor to perform a study to 13 certify that, okay, we are adding these new 14 antennas, you know, are we compliant at the 15 residential building and all the surrounding 16 structures that surround this building.</p> <p>17 So every time they touch a site, you 18 know, they add radios or they increase power or they 19 change technologies, they're doing an evaluation to 20 look at that facility to ensure that remains 21 compliant because the FCC at any time can come to 22 them and say, look, we feel that this site is not 23 compliant for whatever reason, and, you know, Dish 24 would have to say, well, here's our study. You 25 know, we confirmed that the exposure levels are</p>

<p style="text-align: right;">Page 61</p> <p>1 compliant with your limits. 2 BOARD ATTORNEY: So going back to the 3 question we had earlier about these annual 4 certifications that are in our ordinance and seem 5 not to have been observed up to this point in time, 6 they would be generating that documentation anyway 7 based on what you're telling me, right? 8 THE WITNESS: Not necessarily. Not if 9 they're not touching the equipment. 10 I mean, if what was installed in, you 11 know, 2017 was still there in 2021 and still there 12 in 2024, I mean you're just doing the same 13 calculations over and over if they're not changing 14 anything. That's unlikely, because, you know, as we 15 progress, there's always improved technology and 16 improved equipment. So over time you're going to 17 have, you know, new radios or new antennas. 18 So some things typically will change 19 over time, but, again, you know, in a flag pole 20 installation, you're a little restricted on what you 21 can do. Some sometimes with something like this, 22 you know, they may not change equipment as often as 23 they would on a standard tower, but I would say 24 that, if you haven't received an updated report, I 25 wouldn't be concerned by that because nothing is</p>	<p style="text-align: right;">Page 62</p> <p>1 really going to drastically change from tower 2 installation over time. 3 BOARD ATTORNEY: Okay. Thanks. 4 MR. MOLNAR: I just have a curious 5 question. Can these carriers amp up and down on 6 these RFs going out? Do they have that capability? 7 THE WITNESS: So the FCC approves all 8 the equipment that they can use. So they're 9 limited, and based on what kind of market, if it's a 10 rural market or, you know, urban market, you know, 11 they're restricted on how much license spectrum they 12 have. 13 They're restricted on how much power 14 they can transmit, and the equipment is also 15 limited. You know, they can't just crank up -- 16 crank up the radios to whatever they want. The 17 radios are tested and approved, and they can only 18 transmit it at the capability that they're deployed 19 at. 20 CHAIRMAN SMITH: So you're saying that, 21 when these propagation, you know, tests were done, 22 that it was at a consistent level and there is 23 really no way to increase or decrease their levels. 24 Is that correct? 25 THE WITNESS: Right. You know, if</p>
<p style="text-align: right;">Page 63</p> <p>1 T-Mobile operates at 160 watts for, you know, their 2 600 and 700 megahertz band, they can't just decide 3 tomorrow, you know, we're going to operate at 300 4 watts. The equipment doesn't allow that, and it 5 would not be, you know, an FCC approved piece of 6 equipment if it was basically rigged to, you know, 7 change the power settings. 8 CHAIRMAN SMITH: All right. Thank you. 9 MR. ORTH: It's not like Spinal Tap. 10 You can't turn it up to 11. 11 CHAIRMAN SMITH: These are all 12 questions. We're all learning. 13 MR. PACE: Who's got the authority to 14 put or not put something different on the top of 15 that cell tower? 16 I'm saying 10 years from now this 17 building is there, and right now it's okay. The 18 technology is such 15, 20 years from now that's 19 something more -- 20 MR. FERRIERO: I can give you a little 21 bit of an idea on the approval process for that. 22 The laws have been passed that co-location of a 23 tower permits the height to be increased by 10 24 percent really one time. 25 MR. PACE: The height?</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. FERRIERO: The height, and the 10 2 percent usually brings on an additional carrier. 3 That's what Dish network did. They've got 10 4 percent higher. It's actually slightly less than 10 5 percent. You can't go again and say, all right, I'm 6 going get another 10 percent. 7 If they were to do that, it would 8 require an application to the land use board to be 9 able to do that, but the law was established that 10 you can do a one time 10 percent increase. 11 MR. PACE: I'm not talking about 12 height. I'm talking about the technology that the 13 equipment -- 14 MR. FERRIERO: The equipment can be 15 swapped out with a construction permit. 16 MR. PACE: So who approves that permit? 17 MR. FERRIERO: The construction 18 official. 19 CHAIRMAN SMITH: And that would be 20 something good for these annual reviews, you know. 21 MR. FERRIERO: Correct. 22 CHAIRMAN SMITH: If something came up 23 like that, then we could request that review. 24 MR. FERRIERO: And I've already emailed 25 the zoning officer and requested that information.</p>

1 **CHAIRMAN SMITH:** Thank you.
 2 Anyone else?
 3 (Whereupon, the witness was excused.)
 4 **MR. ORTH:** I'm looking at my -- is this
 5 a good time for a break?
 6 **CHAIRMAN SMITH:** Yeah. Let's take 10
 7 minutes, and we'll resume in 10.
 8 (Whereupon, a recess was taken.)
 9 **CHAIRMAN SMITH:** Everyone please have a
 10 seat.
 11 **MR. ORTH:** All right. Thank you, Mr.
 12 Chairman, members of the board. My next witness is
 13 Philip Abramson. He's our project planner from
 14 Topology. He has not yet testified. He'll have to
 15 be sworn in.
 16 **BOARD ATTORNEY:** Mr. Abramson, will you
 17 swear that your testimony will be the truth, the
 18 whole truth and nothing but the truth?
 19 **MR. ABRAMSON:** Yes. That's right.
 20 PHILIP ABRAMSON, having been first
 21 duly sworn, testifies as follows:
 22 **EXAMINATION BY MR. ORTH:**
 23 Q. Phil, why don't you walk the board
 24 through your professional qualifications and
 25 licenses confirming they're in good state and effect

1 **A. Yes, and once before on the property**
 2 **next to Robinson Drugstore.**
 3 **MR. ORTH:** Okay. I proffer Mr.
 4 Abramson as an expert in the field of planning.
 5 **CHAIRMAN SMITH:** All right. Very good.
 6 **A. I also used to be a produce clerk at**
 7 **the Kings Supermarket that is located on the site.**
 8 Q. He's a Morris County guy. All right.
 9 Phil, thanks for being here tonight.
 10 Why don't you take us through your
 11 involvement in the project with the design team and
 12 talk us through the planning proofs on this
 13 application.
 14 **A. Sure. I don't remember the exact year**
 15 **that I began working on this, but it was quite some**
 16 **time ago. I worked with Mr. Orth and the client**
 17 **team during settlement negotiations drafting of the**
 18 **ordinance. So that was prior to 2019.**
 19 **I worked with the design team to craft**
 20 **division and ultimately the layout. Since then,**
 21 **I've reviewed the master plan re-examination, the**
 22 **housing element. I'm familiar with the plans that**
 23 **were produced, the revised plans that were produced,**
 24 **the professional reports produced by Mr. Ferriero**
 25 **and Ms. Caldwell. I attended all the hearings. I**

1 in the State of New Jersey as it concerns the field
 2 of planning.
 3 **A. Yes, sir. I'm a three-time graduate of**
 4 **Rutgers University. I have a bachelor's of science**
 5 **in Criminal Justice, actually not a planning degree,**
 6 **but that was in 2004, and a master's in city**
 7 **regional planning.**
 8 **I hold a New Jersey professional**
 9 **planner's license which was awarded in 2009, and a**
 10 **national accreditation in the American Institute of**
 11 **Certified Planners which was also awarded in 2009.**
 12 Q. In terms of your work experience, have
 13 you testified and been qualified as a professional
 14 planner, an expert in front of any boards in the
 15 State of New Jersey?
 16 **A. Yes. I also serve as a planner**
 17 **regularly at two boards in my firm which I have**
 18 **founded. I serve as a planner in another five**
 19 **boards which I do cover from time to time. I have**
 20 **been accepted as an expert witness.**
 21 Q. And that would be Morristown, correct?
 22 **A. Yes.**
 23 Q. Summit, Caldwell, Nutley and actually
 24 in front of this joint land use board on the
 25 interpretation application, correct?

1 **was not at the last hearing.**
 2 Q. But you did get the transcript of the
 3 last hearing, correct?
 4 **A. I did review it. Correct.**
 5 Q. So take us through your high level
 6 project description and as it concerns the planning
 7 proofs.
 8 Why don't we start off with just kind
 9 of identify for the board the variances that are
 10 required for this application from the outset and
 11 then take us through the project.
 12 **A. Sure. I guess I'll start with the**
 13 **variances.**
 14 Q. Yeah. Go ahead. Just tell us what
 15 they are that we're seeking, identify them and then
 16 we'll go from there.
 17 **A. So the variances are two kind of**
 18 **categories of variances. The first category is what**
 19 **I'll call dimensional variances for parking spaces.**
 20 **There's residential spaces within the garage that**
 21 **are 9-by-18, and there's one compact space there**
 22 **that's 18 by -- yeah, 18-by-8 where 9-by-20 is**
 23 **required under the overlay ordinance, and then under**
 24 **the regular code design standards for commercial**
 25 **parking, we're proposing 9-by-18 where 10-by-20 is**

1 required.

2 The next category of variances or
3 variance relief that we're seeking all has to do
4 with the replacement of the existing signs. There's
5 two free-standing signs now. We want to replace
6 that -- we want to replace those two free-standing
7 signs where only one is permitted for frontage.
8 Basically, there's a 50-foot, free-standing sign,
9 free-standing sign where 25 feet is permitted.
10 That's only one of the signs is oversized of the
11 two.

12 We seek to replace the existing wall
13 signs, light or lights in terms of size, a higher
14 quality material, a carved wood sign with gooseneck
15 lighting, and, again, all these signs are existing.
16 They're being updated. Hopefully, you agree they're
17 more attractive in design.

18 Q. Okay. So those are the variances we're
19 seeking. I just wanted to identify them up front,
20 and then, Phil, you can go back to your description
21 of the project and start building the proofs for the
22 variances.

23 A. So kind of taking a step back -- did I
24 just get turned off?

25 BOARD ATTORNEY: No.

1 We have a veterans preference on the
2 affordable units as part of the settlement
3 agreement. That's one component of the project
4 we're very proud of with the veterans preference
5 here. Go ahead.

6 A. Yes. Thank you for reminding us.

7 These are the first real sizable units
8 under Mendham's third round compliance to come to
9 fruition. This project has been contemplated within
10 several documents adopted by the planning board and
11 the governing body. I'll describe these in a
12 moment.

13 The only new commercial development
14 that's going to be happening as part of this
15 proposal is, basically, the barn structure which is
16 proposed for a mix of premium parking and boutique
17 auto sales and service. In my view, this structure
18 is critical to the overall design strategy because
19 it really blocks that service access of the Kings,
20 and as being as familiar with that Kings as I am,
21 it's not a place where you'd want to live next to
22 necessarily or have open views. So this does
23 create -- that barn structure is important in terms
24 of framing and creating community for the
25 residential units.

1 A. I like to hear the sound of my own
2 voice. I don't know what happened.

3 BOARD SECRETARY: Did the batteries
4 die?

5 MR. ORTH: We need a new battery.

6 A. We'll try this for now.

7 BOARD SECRETARY: Is it working?

8 Q. Go ahead, Phil.

9 A. So, again, taking a step back, I know
10 that we've been here six or seven hearings. We know
11 a lot about this project, but just to kind of create
12 a record from a planning perspective, the chairman
13 talked about this is a 1960s. I have a 1970s
14 project. We're close enough there, but it's really
15 the redevelopment and modernization of a 1960s or
16 '70s strip shopping center into a mixed-use
17 community modernizing the retail component into a
18 more neighborhood layout.

19 We'll be removing the now vacant
20 Mendham Racquet Club, and the mixed-use program, the
21 residential component, includes 75 total residential
22 units, 15 of which or 20 percent will be dedicated
23 to affordable housing.

24 Q. And we do have a veterans preference on
25 the affordable unit, correct?

1 It addresses many long-standing issues
2 associated with the shopping center, things that
3 we've heard from members of the public in terms of
4 light, in terms of drainage, in terms of landscape
5 buffers. The project, as proposed, has received
6 numerous permits from New Jersey Department of
7 Environmental Protection and from Morris County
8 DOT/engineering.

9 So, my testimony, I'm going to give you
10 like a little brief overview of the process we've
11 been through to date. I'll talk about the variance
12 relief and then I'll be open to questions.

13 So just kind of looking at the timeline
14 here, really, the first mention of this project was
15 in the settlement agreement that was approved by a
16 governing body resolution in September 25, 2019. It
17 contemplated this property as really one of the main
18 bases of the settlement for fair share housing
19 center, and the borough significantly reduced its
20 exposure under -- by going into the settlement that
21 was, you know, three digit amount of units that it
22 would have had to produce. By agreeing to this
23 project, it was significantly reduced by that by
24 going to a settlement there.

25 Then from there, the borough updated

1 its master plan re-examination which was adopted by
2 this board or the planning board April 16, 2020, and
3 recommended that the borough adopt the overlay zone
4 for the Kings shopping center.

5 In May 11, 2020, the housing element
6 was adopted, an amended housing element. It went
7 into great detail which I'm not going to read
8 word-for-word about this project. That was
9 ultimately endorsed by the council on July 15, 2020,
10 and then on August 11, 2020, an ordinance was
11 adopted. It's the AHO, affordable housing overlay -
12 east business, EB, overlay ordinance which permits
13 75 units on this site and a maximum of a 60-foot
14 tall building. It includes various all standards
15 associated with the envision of the redevelopment of
16 this site.

17 So fast forward basically four years
18 almost exactly. The first hearing was on 8/20 which
19 was that Whispering Woods hearing to effectuate the
20 settlement. On 8/21, August 21 of this year, we had
21 site civil testimony. September 17th of this year
22 site civil testimony. September 24th of this year
23 traffic testimony. November 12, traffic and
24 architecture, and that brings us to today, December
25 2.

1 225 affordable units under the third round. It's
2 consistent with current infrastructure. The site is
3 served and it's uniquely, I think, served by
4 existing sewer and water, public sewer and public
5 water infrastructure.

6 It removes a vacant underused, unused
7 structure that places a significant new investment
8 that will complement the existing shopping center.
9 The existing structure being the Mendham Racquet
10 Club, this is a large building, an open span
11 building. It could be used for a number of uses in
12 zoning. Under the use business or the permitted use
13 under that business zone are broad, anything from
14 car dealerships to -- there's the lumberyard there.
15 So there could be a number of uses that that
16 building could have become.

17 Some that I would say, although we
18 don't have testimony on it, are more intense than
19 residential, but it's being -- it's being
20 redeveloped with the residential. So it does create
21 some finality and some predictability for this
22 community in terms of what happens in that vacant
23 area behind Kings shopping -- behind the Kings
24 Supermarket.

25 This does include not just a

1 The applicant undertook significant
2 modifications of the plans during and throughout
3 this hearing process which you all are well aware of
4 and Mr. Orth could ultimately summarize during his
5 closing.

6 So going back to variances now.
7 Actually, I wanted to -- so I talked about the
8 variances, and I wanted to talk about public
9 benefits. That's one thing that came up, and
10 members of the public are saying why are we doing
11 this? What's the public benefits? Why is this good
12 for the community?

13 And I came up with some reasons in
14 reflection -- in reflection there. So, number one,
15 it's consistent with borough policies. The borough
16 adopted numerous master plans. It adopted numerous
17 zoning -- zoning ordinance to do this. The New
18 Jersey law and New Jersey courts see that as
19 something that's significant that, when a community
20 sets out and uses the legislative process and uses
21 the planning process to come up with certain
22 recommendations, when those recommendations are
23 implemented, that is seen as a good thing.

24 It advances the settlement agreement
25 that really protected this borough from almost up to

1 multi-family. It is part of affordable housing
2 settlement, but there is a major upgrade, major
3 reinvestment in the shopping center that will be
4 happening as part of this, and this is an important
5 piece of the community. You know, it's a convenient
6 supermarket to go to to meet your daily needs.
7 There's restaurants. There's dry cleaners. It's an
8 amenity.

9 You know, I was thinking about shopping
10 centers as an amenity, but it is for this community,
11 and the -- and I'm going to talk about why, but
12 this, in my view, is really an upgrading of this
13 site that what you all have in this project and this
14 plan as proposed is implemented is a much greener
15 facility than what you have there today.

16 The recently granted NJDEP permits
17 include significant upgrades for environmental
18 protection and flood resilience. Just to name a few
19 things that Ms. Savitz had talked about, 3,200 new
20 plantings throughout the site, 34,000 square foot
21 decrease in impervious coverage on this site.
22 That's basically two hockey rinks of new green space
23 on this property. It replaces 29,000 square feet of
24 existing macadam blacktop with pervious pavers,
25 60,000 square feet of new conservation easements

1 that will perpetually protect the wetlands
2 transition area, 49,000 of conservation easements to
3 protect the flood hazard and riparian area.

4 The incorporation of DEP required best
5 management practices for water quality. Right now,
6 as you've heard from Ms. Savitz, the water drains
7 off that parking lot just runs right into the
8 wetlands. So whatever is on there in terms of salt
9 oil, cleaning materials, just goes right into the
10 environment. That will not happen under this plan
11 where you have new water quality features installed
12 here.

13 The flow of drainage is much more
14 controlled under the proposed configuration. The
15 northwest corner will see a flow rate reduction of
16 20 to 50 percent while the northeast corner will see
17 a flow reduction of almost 10 percent. This helps
18 with erosion. We heard flow rate. We heard
19 testimony on flow rates in terms of the velocity,
20 and when that rain event happens that either it
21 happens at all once or the water can get detained
22 and retained on-site and can get released back
23 slowly into the surrounding environs. So you have a
24 much more engineered control now that will be
25 happening.

1 hardship variance where, because of the way a
2 property is, we have no other choice but to get the
3 variance. This variance is the more flexible one
4 where we say, given the alternatives that exist,
5 this is the best alternative, you know, under my
6 opinion, and, hopefully, under your opinion as well
7 as board members.

8 So when we are evaluating C-2
9 variances, the standard is that the deviation from
10 the zoning ordinance needs to substantially outweigh
11 any detriments, and that I should note that there is
12 one piece of case law that allows us as a board and
13 during this process to think more broadly about the
14 deviations. The Appellate Division in a case called
15 Pullen v. South Plainfield Planning Board tells us
16 that the board is not restricted from only
17 considering the benefits of the deviation because --
18 but we can consider the benefits of the entire
19 project.

20 So I will be speaking, and when I talk
21 about the benefits about the entire project, I am
22 really -- there's good reason for that because these
23 deviations are so interrelated with the overall
24 design of the project, especially when we're talking
25 about these parking spaces because of the way that

1 And then, finally, the applicant is
2 proposing to replace all the exterior lighting
3 fixtures with dark sky compliant fixtures. This is
4 a public benefit. We heard from members of the
5 public that there's light spill happening now every
6 day and then there's glare mapping every day which,
7 you know, impedes quality life on the surrounding
8 properties. So that's another quality benefit of
9 life.

10 Okay. So I'm going to move into the
11 variance testimony. So you have all heard this
12 before. I'll say it for some members of the public.
13 Under New Jersey, we're regulated, this board, this
14 whole process is regulated under a body of law
15 called the New Jersey Municipal Land Use Law, and
16 that gives us -- that with the way the judges have
17 interpreted it in the past guidelines in terms of
18 how -- when do we grant a variance, when don't we
19 grant a variance, and this is a variance that would
20 be granted under a section of that state statute
21 N.J.S.A. 4055D-70C2, right. That's what we call
22 them, C-2 variances. These are called the flexible
23 C variance or the better planning alternative
24 variance.

25 A C-1 variance, by contrast, is a

1 they're certain fixed dimensions on this site, and
2 that in order to kind of make everything work
3 together, the decision was made to propose to you to
4 have these reduced depth parking spaces to balance
5 all the different things.

6 So I'm going to be speaking about
7 this -- this project in somewhat broader terms when
8 I talk about the positive aspects. So, again, the
9 C-2 variance is a balancing, a weighing of the
10 positives verse the detriments. I have to prove --
11 we have to prove that the benefits outweigh the
12 detriments.

13 So going for that -- in terms of
14 benefits for you to consider under that positive
15 criteria for the -- so the way that we do that is we
16 look at the -- under that Municipal Land Use Law,
17 that state statute, there's a series of purposes
18 laid out in that statute. They're called purposes
19 of zoning, and we are -- the purposes of the MLUL,
20 Municipal Land Use Law, and we have to demonstrate
21 to you that this project advances those purposes of
22 zoning as they're codified. So I'm going to go
23 through those now.

24 Under that, it goes A, B, C, D, E.
25 That's how they're enumerated. So purpose E is to

<p style="text-align: right;">Page 81</p> <p>1 promote the establishment of appropriate population 2 densities and concentrations that will contribute to 3 the well being of persons, neighborhoods, 4 communities and regions and the preservations of the 5 environment.</p> <p>6 So the reason why this is advanced by 7 this project is that this is a location in the 8 borough which has been decided to be suitable for a 9 mixed-use development, particularly one that 10 contains inclusionary affordable housing or 11 multi-family housing. It is located on a regional 12 corridor NJ 124 and has served for decades since the 13 '60s or '70s probably one of the most intensely used 14 piece of commercial property in Mendham Borough.</p> <p>15 Purpose H, to encourage the location 16 and design of transportation routes which will 17 promote the free flow of traffic while discouraging 18 location of such facilities and routes which would 19 result in congestion or delay, and proposed here is 20 the central boulevard. We have a discussion to have 21 about that, obviously, which connects the commercial 22 and residential components of the site and connects 23 the proposed multi-family more efficiently to Main 24 Street or NJ 124.</p> <p>25 Purpose I, to promote a desirable</p>	<p style="text-align: right;">Page 82</p> <p>1 visual environment through creative development 2 technique and good civic design and arrangement. In 3 my view, this entire proposal represents a creative 4 re-use and upgrade to the existing shopping center 5 replacing what is currently a vacant racquet club 6 into a vibrant multi-family community. The design 7 approach has creatively solved a lot of problems and 8 a lot of challenges that would have otherwise been 9 faced in terms of integrating housing effectively 10 into a site like this into an existing kind of 11 retail site.</p> <p>12 So now we have to talk about the 13 detriments, and it says the variances can only be 14 granted without substantial detriment to the public 15 good and will not substantially impair the intended 16 purpose of the zone plan or your zoning ordinance. 17 So I'm going to review the negative criteria for 18 each of these.</p> <p>19 So, again, parking space dimensions. 20 The residential spaces within the garage, I've 21 already said those are 9-by-18 plus the one compact 22 space where 9-by-20 is allowed, and then the 23 commercial parking are 9-by-18 where 10-by-20 is 24 required. I would say that these are all like 25 relatively technical variances or de minimis -- de</p>
<p style="text-align: right;">Page 83</p> <p>1 minimis variances, and they really reflect the 2 design constraints and physical realities associated 3 with reconfiguration of the parking in that front -- 4 in that front lot or really throughout because all 5 the spaces -- all the surface spaces are 9-by-18 6 that are proposed.</p> <p>7 There's certain fixed dimensions that 8 we have to work with the buildings, you know, that 9 building to building. You have the two east 10 buildings and the west building where the retail 11 shops are. Those are -- those give us our kind of 12 fixed dimensions that we need to work within. 13 Within there, we also have incorporated certain 14 other features, hardscape areas in between the 15 parking lanes to allow for, you know, pedestrians to 16 walk through in between the vehicles. There's the 17 boulevard layout which has kind of a median area to 18 distinguish vehicles running -- is that north to 19 south? Right. So these are things that all have 20 kind of come together to create certain constraints.</p> <p>21 So -- but despite the conditions, the 22 detriments, in my view, are minimal. We've heard 23 testimony from our traffic engineer that motorists 24 will be able to circulate and park on the site in a 25 safe and efficient manner. The requested relief</p>	<p style="text-align: right;">Page 84</p> <p>1 creates a better design alternative with regard to 2 on-site circulation and will ultimately increase the 3 overall parking supply for commercial uses than what 4 currently exists. It is consistent with industry 5 standards and other similar facilities within this 6 borough and the condition actually improves in some 7 cases upon the existing layout with regard to 8 parking dimensions.</p> <p>9 The proposed parking spaces are 10 consistent with the residential site improvement 11 standards where 9-by-18 is the accepted statewide 12 standard for residential parking. The current site 13 does include several undersized stalls, particularly 14 near Kings and particularly with regard to ADA 15 spaces. The redesign rectifies this to meet 16 industry standards albeit not borough ordinance 17 standards.</p> <p>18 We know that the existing angled spaces 19 in front of the Kings do measure less than 20 feet 20 in depth. There are similar 9-by-18 configurations 21 throughout the borough. We haven't measured every 22 single parking space, but we've measured some. The 23 recently constructed Dunkin' Donuts is 9-by-18, 24 Simple Coffee is 10-by-18, and the Lakewood Bank is 25 9-by-20. So a little bit all over the board, but</p>

1 there are other undersized parking that is
2 functioning safely in the borough.

3 We also -- I think another thing to
4 consider with regard to negative impacts is the fact
5 that this -- this minor deviation allows us to have
6 more parking spaces than we otherwise would have
7 with a compliant plan. Having more parking does
8 create an improved circulation condition where, if
9 you have people waiting and cueing for parking in a
10 commercial environment, that is I would say and Mr.
11 Seckler, I've spoken to him about it, and we agreed
12 is more negative than, you know, any kind of
13 detriment that would be had by a reduced parking
14 dimension.

15 The undersized parking in the
16 residential, the detriment of that is also further
17 reduced by the fact that these are going to be
18 people that are very familiar parking there.
19 They're living there on a daily basis and have a
20 good feel for the way that that garage -- you know,
21 how they can maneuver in that garage. Again, the
22 site does exceed parking supply, and that's it.

23 So I think the other -- the other part
24 of the negative impacts is to just kind of state for
25 the record that we don't make any -- that we

1 requires that only one free-standing sign is allowed
2 per property. We are proposing two free-standing
3 signs, a new retail sign to indicate Mendham village
4 Shopping Center and then also basically repurposing
5 the sign that somebody talked has to be removed for
6 the racquet club and to repurpose that into a sign
7 to indicate that there's a residential apartment
8 building in the back of the site. So because we
9 have more than one sign, it technically requires a
10 variance.

11 There's the next provision right
12 underneath that in the code section 215-8D1B states
13 that the maximum size of any free-standing sign is
14 25 feet. We propose to -- and then the existing
15 Kings and Wells Fargo sign is about 48 to 50 square
16 feet as we've measured it, and, you know, we had a
17 little differences in the way that Ms. Caldwell and
18 we measured the sign. It's the same sign however we
19 measure it. We believe that it's basically
20 light-for-light in terms of overall planning area,
21 and we'd like to replace that sign with a sign of --
22 you know, as an upgraded -- aesthetically upgraded
23 sign that kind of meets the updated visual themes of
24 the shopping center. The Enclave residential sign
25 would be compliant with the 25 square feet as

1 don't -- these parking deviations don't create an
2 impairment to the zone plan which is the master plan
3 for your ordinance and that these are not the type
4 of dimensional -- these types of dimensional
5 ordinances do not rise to the level where they're
6 kind of implicating municipal policy or land
7 policy -- land planning policy into this community.
8 These are relatively minor in nature and don't get
9 to offend the master plan or the policies therein.

10 In my view, these balance -- these
11 considerations reflect an effort to balance
12 ordinance compliance, industry practices and site
13 specific needs to minimize adverse affects while
14 enhancing overall functionality. The deviations
15 here, in my view, again, substantially outweigh any
16 detriments.

17 So I'm almost done. I promise.

18 The next part is about signage. So we
19 have a number of signs on the property that are
20 existing, nonconforming that we would like to see
21 removed, proposed to replace. The architect, Mr.
22 Stieve, showed you images of those signs at the last
23 hearing. So right now I'm just going to kind of
24 read through to kind of get them on the record.

25 Your ordinance section 215-8D1A

1 measuring in our view only 22.5 square feet.

2 The maximum height of the sign in
3 section 215-8D1C, the existing height of the
4 shopping center sign is about 15 feet, and we would
5 seek to maintain that in the replaced sign.

6 Building mounted signs, we seek, again,
7 to -- this is section 215-8D2A which basically says
8 that each -- that the maximum of any wall sign is 5
9 percent of the overall frontage that they're on. We
10 didn't perform that calculation, but, basically,
11 what we want to do is replace the existing signs
12 with another -- they're like a vinyl -- I would say
13 like a vinyl applique to the facades. I think at
14 one point they may have been backlit. Now, we're
15 just proposing to do a much higher quality like
16 carved wood.

17 CHAIRMAN SMITH: Could you wrap this up
18 because we do want to have the board members ask
19 questions and then so the public then can have their
20 opportunity to speak.

21 A. Okay. Thank you.

22 We want to replace the existing signs
23 bottom line. So, again, the purposes of zoning here
24 promoted desirable visual environment, signage
25 beautification replacing with higher quality signs.

1 The free-standing sign under purpose M to encourage
2 coordination of various practices and activities
3 shaping land development, lessening the cost and
4 more efficient use of land.

5 The second free-standing sign is
6 necessary in order to notify drivers that the
7 location in the back is for multi-family housing.
8 It's not going to be readily apparent to Main
9 Street. It allows the mix of uses to co-exist on
10 the site.

11 Purpose H, to the encourage location
12 and design of transportation routes to avoid -- you
13 know, to promote free flow of traffic. Adequate
14 signage is necessary in this case for drivers to
15 safely navigate to the site and to circulate through
16 the site. So those are the reasons -- the positive
17 reasons that you would do this.

18 On the negative side, I see no
19 substantial detriment particularly given the fact
20 that these signs lawfully exist today. No sign is
21 getting larger. The number of signs will remain the
22 same. The aesthetics will improve. It will not
23 impact the zone and the zoning ordinance. These are
24 dimensional type regulations that don't go to the
25 level of policy that we would be concerned about.

1 there's about 2 feet for that boulevard. There's
2 that median which has 2 feet to separate north and
3 westbound traffic. There's another 2-foot
4 separation with pavers in between each of those
5 layouts.

6 So, you know, the point that I was
7 making, if those were taken away and this was just a
8 flat blacktop with no -- none of those design
9 elements, we could meet the requirement of 20 feet.

10 **MS. CALDWELL:** Okay. For the signage
11 where two signs are not permitted, you have two
12 signs existing on the property, but what is the
13 benefit of having the two signs versus the one?

14 **THE WITNESS:** Yeah. It's a good
15 question.

16 I think it's important -- so the retail
17 sign is obviously important for people that are, you
18 know, trying to navigate to a shopping center so
19 they could get to the shopping center.

20 The reason it's important to have
21 another separate sign is because people will be
22 navigating to this property to, you know, go to the
23 apartment for the first time, to visit relatives or
24 what have you. Being able to notice that when
25 you're on Main Street, if you're not really, you

1 So just, in conclusion, for the reasons
2 stated, it's my opinion that the board would be
3 lawfully entitled or permitted to grant the
4 requested variance relief. It would be in your
5 bounds to do so. The benefits of this project and
6 deviations are substantially outweighed.

7 **CHAIRMAN SMITH:** Thank you.

8 **THE WITNESS:** Thank you for your time.

9 **CHAIRMAN SMITH:** I'd like to ask if any
10 board members or professionals have any questions.

11 **MS. CALDWELL:** I have a few questions.

12 **CHAIRMAN SMITH:** Okay. Yes.

13 **MS. CALDWELL:** Hi, Phil.

14 What is the nexus between the parking
15 space variance and the boulevard layout? Is that
16 really required to create the boulevard layout or is
17 it related or not related?

18 **THE WITNESS:** So, in some respects,
19 that entire layout is interrelated dimensionally
20 from -- you know, it's really width that we're
21 dealing with here because it's the depth of those
22 spaces that were really requesting the primary
23 variance from.

24 We could put up the drawing, but if you
25 look at the way that those layouts are happening,

1 know, turning your head to look to the left, you
2 know, down into the depth of that site, you might
3 not notice where that is.

4 So if you know the name of the
5 facility, you would be able to notice with that. I
6 think if you were to consolidate these into one
7 sign, it might come across like that the apartment
8 building name is like a retail store because it
9 would read like Kings, Wells Fargo, apartment
10 building. So I think it avoids confusion.

11 **MS. CALDWELL:** And there are some
12 concern expressed about the location of the existing
13 signs. You're proposing to move both of the signs
14 and that they both be compliant. So they're not
15 going to be blocking vision or anything like that.

16 **THE WITNESS:** Yeah. Thanks for
17 bringing that up.

18 The signs were relocated as I believe
19 that they are compliant with standards with regard
20 to site distance triangles. So, yes, these should
21 function better in terms of the some of the things
22 you heard about earlier.

23 **MS. CALDWELL:** So with respect to the
24 free-standing sign, I guess we have some differences
25 about how it's measured. You think you could comply

<p style="text-align: right;">Page 93</p> <p>1 with the sign area or are you asking for a variance 2 for the sign area on that one, the 25 square feet. 3 THE WITNESS: I think I would have to 4 maybe go back and look at exactly how you had 5 measured it. I know that -- I think that you were 6 still calling out variances on at least the one 7 free-standing sign. 8 MS. CALDWELL: Just the one free 9 standing, not the other one. 10 THE WITNESS: So the other one would 11 comply, and I think the -- 12 MS. CALDWELL: Potentially you could 13 make it comply I guess. If it's that close, 14 potentially you could. 15 THE WITNESS: Yeah. Could you maybe 16 remind me? 17 MS. CALDWELL: I think we had it 31.2 18 square feet and 25 square feet is permitted. 19 THE WITNESS: So it's about 6 feet. We 20 could. It's not my call. 21 MS. CALDWELL: Okay. 22 MR. ORTH: I don't think it will be a 23 problem. 24 MS. CALDWELL: Okay. And then as far 25 as the signs on the buildings, are they going to be</p>	<p style="text-align: right;">Page 94</p> <p>1 the exact same size as the existing signs? It's 2 just swapping the newer look? 3 THE WITNESS: We had a conversation 4 about that over the past couple days in preparation 5 for this evening. What -- what you have -- the 6 exhibits that you may -- have been provided to you 7 may not reflect that, but I think our testimony on 8 the record this evening and what we're willing to 9 do, given the fact that the ordinance is not an 10 absolute, so it's like it will require -- would 11 otherwise require us to measure the entire facade 12 and come up percentages thereof. 13 To just say that we're happy to replace 14 the signage as it is currently, there's like a green 15 with gold on that. So to not be any larger than 16 what we have. 17 MS. CALDWELL: You can replace the 18 existing signage to eliminate the need for the 19 facade areas. 20 THE WITNESS: Yes. That's correct. 21 MS. CALDWELL: Okay. Thank you. 22 MAYOR GLASSNER: Quick question. Since 23 this property is in the historic zone, HPC approval 24 for signs is usually required. Have you gone to the 25 HPC yet, Historic Preservation Committee --</p>
<p style="text-align: right;">Page 95</p> <p>1 Commission? 2 MR. ORTH: No, we have not. Not for 3 the signage, no. I'm not sure if it's applicable in 4 the context of preliminary final major. I'll look 5 into that. 6 MR. FERRIERO: Mr. Chairman, I did have 7 two questions if I could please. 8 The first is on the sign, and I may 9 have missed it in your testimony. The one 10 free-standing sign has a horse mounted on top. Did 11 you consider that in the overall sign height? 12 THE WITNESS: No, we did not. 13 MS. CALDWELL: I considered it in my 14 review, and one -- I think -- one was over height. 15 The larger one is over height. 16 THE WITNESS: Yeah. The way your 17 signage ordinance reads, it's really the letters of 18 the sign, and the supporting structures are not to 19 be counted at least in terms of square area. 20 MR. FERRIERO: I'm not talking about 21 area. I'm talking about height. You got a thing 22 that sticks out on top, a horse that's a couple of 23 feet tall. 24 MS. CALDWELL: It says to the top of 25 the sign. So I didn't really see an exclusion for</p>	<p style="text-align: right;">Page 96</p> <p>1 the decorative horses. 2 MR. FERRIERO: It's something I would 3 consider carefully. 4 The second thing is it's kind of a 5 technical item, but the one parking stall in the 6 residential building that is noncompliant, in my 7 opinion, I think that requires a de minimis 8 exception from RSIS versus a variance, and the 9 justifications are slightly different. 10 Have you considered that and can you 11 justify it under the RSIS? 12 THE WITNESS: Yeah. I think we're in a 13 position where we could make that one a foot larger 14 and make it compliant. 15 MR. FERRIERO: All right. Then you 16 don't have to go down that path. Thank you. 17 THE WITNESS: Thank you, sir. 18 MS. TRAUT: Going back to the signage, 19 so you'll have the larger sign kind of front and 20 center of the property, and then on the eastern side 21 where the existing Mendham racquetball club is will 22 be replaced with the Enclave sign, correct? 23 THE WITNESS: So there's a relocation. 24 They're both going to be closer to the community 25 cluster.</p>

1 **MS. TRAUT:** Okay. Thank you for that.
 2 **CHAIRMAN SMITH:** Anyone else?
 3 **MAYOR GLASSNER:** Just one quick comment
 4 really mostly for my fellow board members. It seems
 5 to me that, if you're reducing the size of the
 6 parking spaces to 9 feet instead of 10, there's a
 7 higher likelihood for cars to be damaged by people
 8 opening their doors, and I think if we were to
 9 determine and give them this variance that it would
 10 be logical that people should be able to, you know,
 11 be recouped for any damage to their vehicles. Just
 12 something to take into consideration.
 13 **MR. ORTH:** I understand the comment.
 14 Thank you.
 15 **CHAIRMAN SMITH:** And maybe piggybacking
 16 on that comment from the mayor, I believe that, in
 17 the shopping area of the Kings where you have
 18 shopping carts coming out of the store, you really
 19 should have the extra width of 10 feet.
 20 I mean other grocery stores have 10
 21 foot widths. I've measured them, and, you know,
 22 you're going to be pushing carts in between the
 23 cars. There's less chance of damage. You know, the
 24 20-foot depth isn't such a big consideration because
 25 cars are getting smaller now, shorter, more compact,

1 in that, Paul?
 2 **MR. FERRIERO:** I'll have to look. Is
 3 that to the --
 4 **CHAIRMAN SMITH:** To the east side of
 5 the building.
 6 **THE WITNESS:** Of the racquet club
 7 building.
 8 **MR. FERRIERO:** Of the racquet club
 9 building.
 10 **CHAIRMAN SMITH:** Yes.
 11 **MR. FERRIERO:** But this is not going
 12 over that far. That's being abated by taking that
 13 building down.
 14 **CHAIRMAN SMITH:** All right. And
 15 another variance, you're on the west side you're
 16 proposing parking places right up against the
 17 property line just about where the ordinance says
 18 that you need to have 20 feet between the property
 19 line and the parking places.
 20 **THE WITNESS:** We did -- I had a
 21 conversation with Ms. Caldwell about that today. I
 22 examined the ordinance. I couldn't find that
 23 provision. I know Mr. Ritger spoke about that
 24 publicly earlier.
 25 I reviewed the transcript. So I don't

1 but the width as far as opening the car doors,
 2 pushing shopping carts in between there, I think
 3 it's a better plan for the shopping center area of
 4 Kings in front and then maybe in the back portion
 5 where people would park and then walk up to retail
 6 stores and they're not pushing a shopping cart,
 7 maybe those can accommodate a 9-foot width.
 8 That's just my comment.
 9 **THE WITNESS:** That's good feedback.
 10 We've looked at this. What I'd like to do is come
 11 back to you and let you know because you're going to
 12 lose a few spaces.
 13 **CHAIRMAN SMITH:** Of course, yes.
 14 **THE WITNESS:** I think we would be able
 15 to come back to you and tell you what that would be.
 16 **CHAIRMAN SMITH:** All right. And going
 17 to the variances now, you didn't mention there's a
 18 pre-existing nonconforming side yard setback of 28
 19 feet where a requirement is 50 feet. So is that --
 20 do we need a variance for that in your opinion?
 21 **THE WITNESS:** These are for the
 22 shopping center.
 23 **CHAIRMAN SMITH:** No. These are for the
 24 apartments in the back. I believe that there's a
 25 pre-existing, nonconforming 28 feet. Am I correct

1 have that provision. If I did, I'd be happy to
 2 provide testimony in that regard. I could -- yes.
 3 **CHAIRMAN SMITH:** Okay. Thank you.
 4 Anybody else?
 5 **MR. SPRANDEL:** On the west side, the
 6 parking in the existing shopping -- shops on the
 7 west side there in the front of the shopping center
 8 are 90 degrees to the path that cars will be
 9 traveling. Is there some reason why those aren't
 10 angled somewhat?
 11 I mean it almost looks to me like you
 12 could angle those a little bit, but I don't know.
 13 **THE WITNESS:** Yeah. I would have to
 14 defer that back to Mr. Seckler in terms of parking.
 15 **MR. SPRANDEL:** All right.
 16 **CHAIRMAN SMITH:** And do you have the
 17 exact -- now, this car barn dealership, whatever --
 18 whatever he wants to call it, okay, what -- is that
 19 going to be strictly used vehicle, you know,
 20 dedicated to that? Is it going to be new vehicle
 21 sales?
 22 I'd like to know what the purpose of
 23 that building actually is.
 24 **THE WITNESS:** Yeah. I think my
 25 understanding is that it wouldn't be for new vehicle

1 sales. To call them used I think comes with a
2 certain connotation that these are not.

3 **CHAIRMAN SMITH:** Well, used meaning not
4 associated with a factory type of where you would
5 have signage. You would have a minimum inventory.
6 You would have parts requirements, certain personnel
7 there --

8 **THE WITNESS:** Yes.

9 **CHAIRMAN SMITH:** -- you know, to
10 exacerbate this area.

11 **THE WITNESS:** Yeah. So, A, my
12 understanding is that these would be and what we put
13 into our planning report that these would be for
14 antique and exotic automobiles. They would be, you
15 know, one off collectible item type sales.

16 We would confer -- we would comply
17 completely with everything that's written in the
18 code and meet the definition of auto sales and
19 service as it's written. So that's kind of what we
20 know at this point about that.

21 **CHAIRMAN SMITH:** If it was associated
22 with a particular factory, then the factory is going
23 to require, you know, inventory. They're going to
24 require, you know, parking. They're going to
25 require certain parts inventory, things like that,

1 familiar with the racquet club. Many of us had been
2 members there. It was a great value to the
3 community. I do know that.

4 I believe the -- I believe it was the
5 architect last meeting gave testimony that the
6 automobile service is going to be low volume. I
7 think he mentioned it's exclusive. You can only get
8 your service -- your car serviced there if you
9 bought it there. I'm struggling to see the value
10 that particular business brings to the community.

11 I do understand it's zoned for it, but
12 given all of the parking variances you're seeking
13 relief for and all the reconfigurations due to
14 parking and flow, it just feels like that space
15 could be better leveraged to reduce the scale of the
16 project.

17 **THE WITNESS:** So I understand your
18 point. I understand your points you were making
19 earlier prior to my testimony.

20 You know, one thing I will say about
21 that building is that we do think that building is
22 important in terms of the viability and livability
23 of the apartments. It's important that the
24 courtyard was -- no. You have to allow me to
25 finish.

1 and all these things are going to all add up, and I
2 just don't want us to fall into, you know, a blanket
3 category of, oh, it's a dealership.

4 **THE WITNESS:** Right. Yeah. The little
5 bit that I do know about the automotive industry,
6 this is nowhere near big enough to accommodate.

7 **CHAIRMAN SMITH:** Exactly. I've been in
8 the automotive industry for 45 years. So I kind of
9 know what's involved.

10 **MR. FERRIERO:** I think the requirement
11 be that it's not a branded franchise.

12 **CHAIRMAN SMITH:** Correct. That's the
13 point I'm trying to make.

14 **THE WITNESS:** That's not our intention.
15 We can agree to that.

16 **MAYOR GLASSNER:** These are the type of
17 cars that somebody might have in their personal
18 collection to understand.

19 **CHAIRMAN SMITH:** They're technically
20 used -- technically used cars, but you don't have to
21 call it used car lot, but it's technically not
22 associated with a franchise.

23 **MS. TRAUT:** You spoke to some of the
24 benefits of the plan and it being mixed use and
25 community based, and I think we are all very

1 **CHAIRMAN SMITH:** Please.

2 **THE WITNESS:** Right now without that
3 building what you would be looking at -- and you can
4 go out there. It's out in the open. It's a massive
5 trash compactor for a supermarket. It's so the
6 trucks can come in and out to deliver and the
7 loading docks and loading berths back there.

8 It's important that when this
9 multi-family housing goes back there that it be
10 successful, that it be livable, that it be viable.

11 **MAYOR GLASSNER:** So it sounds like what
12 you're saying it's not really an ideal location for
13 residential behind a supermarket.

14 **THE WITNESS:** I think without these
15 design interventions and without the creativity of
16 this team, that would be the case, but I do think
17 that this design is a very elegant solution to a
18 challenging site.

19 **MR. EGERTER:** I had a question. On the
20 west side of the property, you back up to people's
21 backyards over there, and the leaves are down now on
22 the trees, and when we started this whole thing,
23 people talked about there's dense forest and stuff
24 like that. Has there been any thought of putting
25 anything to sort of separate the -- your property

1 from the people whose backyards are like right
2 there?

3 **THE WITNESS:** Yeah.

4 **MR. ORTH:** There was prior testimony,
5 and I can't recall, I believe it was our civil
6 engineer. There is fencing going back there.
7 There's also additional plantings on the westerly
8 side of the site.

9 **MR. EGERTER:** How tall would be the
10 plantings?

11 **MR. ORTH:** I don't know off the top of
12 my head.

13 **MR. EGERTER:** For next time maybe.

14 **MR. ORTH:** We can -- I don't remember
15 what we testified to. I'll take a look and we'll
16 report back.

17 **MR. EGERTER:** Okay. Thank you.

18 **CHAIRMAN SMITH:** Any other board
19 members?

20 Okay. At this point, I'd like to open
21 it up to the public, and we're going to limit it to
22 3 minutes if we can.

23 **MS. DULCE:** Hi. Debbie Dulce, 46
24 Essex.

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

1 **MAYOR GLASSNER:** When people are
2 publicly posting things, it's public information.

3 **MS. DULCE:** They can read them. You do
4 not need to address that. Unless you would like to
5 have a conversation about it, that's fine. That's
6 really fine. You could just call me on the phone
7 and address that. You could respond on the post to
8 address that.

9 **BOARD ATTORNEY:** You are out of order.

10 **MS. DULCE:** You know what. Calling me
11 out of publicly was also out of order. I'm so
12 sorry.

13 **BOARD ATTORNEY:** You can ask a question
14 or sit down.

15 **MS. DULCE:** Why did you do it?

16 **BOARD ATTORNEY:** You're not asking
17 questions of the mayor. You have to ask questions
18 of these witnesses.

19 **MS. DULCE:** Why do you think she did
20 it? That's my question, because if I go to a
21 council meeting and address it, I'm not allowed to
22 ask a question.

23 **BOARD ATTORNEY:** Well, ask the
24 question. What is your question?

25 **MS. DULCE:** Why do you think she did

1 please.

2 **MS. DULCE:** D-U-L-C-E.

3 At the start of this meeting, the mayor
4 decided to take some of the time from this meeting
5 to call residents out publicly for stating opinions
6 on Facebook and to quote them.

7 **MAYOR GLASSNER:** Is this a question?

8 **MS. DULCE:** Yes. I have a question for
9 you actually because you decided to take time from
10 this meeting to call my name out publicly. So I am
11 going to have a conversation with you.

12 I'm sorry. You get to say whatever
13 doesn't pertain to this when it -- but I don't. No.

14 No.

15 **BOARD ATTORNEY:** You have to ask a
16 question.

17 **MS. DULCE:** Oh, I will. I will get to
18 that question.

19 **MAYOR GLASSNER:** Of the people that are
20 here.

21 **MS. DULCE:** Yes, Mayor. I'm a resident
22 of this town, and what you did was an attempt to
23 intimidate residents from coming forward with their
24 opinions by saying that you would at every meeting
25 quote residents and their opinions.

1 it?

2 **THE WITNESS:** So my answers will be
3 limited only to my testimony.

4 **MS. DULCE:** Well, there you go, folks.

5 You get what you vote for.

6 **MR. ZAMMATARO:** Good evening. I'm
7 Frank Zammataro, Z-A-M-M-A-T-A-R-O, representing the
8 Mendham Alliance for Preservation & Conservation, 41
9 Corey, C-O-R-E-Y, Lane.

10 **BOARD ATTORNEY:** Before you start, and
11 this is not -- we'll reset the clock. This won't
12 count against you.

13 **MR. ZAMMATARO:** Thank you.

14 **BOARD ATTORNEY:** Could you tell me how
15 many members you have in this organization?

16 **MR. ZAMMATARO:** We have seven
17 directors.

18 **BOARD MEMBERS:** I said members. How
19 many members?

20 **MR. ZAMMATARO:** Seven directors.

21 That's it. We just have seven directors.

22 **BOARD ATTORNEY:** And how many people
23 have contributed to your organization?

24 **MR. ZAMMATARO:** Oh, don't have the
25 exact number, but, I don't know, 50.

1 **BOARD ATTORNEY:** And why are those
2 people not considered members?
3 **MR. ZAMMATARO:** It's a not-for-profit
4 501C3, and people donate to support our effort to
5 conserve and preserve both Mendham Borough as well
6 as Mendham Township, and we've only been in
7 operation since 2022, and it started with an up
8 zoning on the township that actually happened
9 coincidentally during COVID similar to the overlay
10 zoning with this particular situation.
11 **BOARD ATTORNEY:** I don't mean to
12 interrupt you, but if a person wants to become a
13 member, there's no membership.
14 **MR. ZAMMATARO:** There's no membership.
15 It's just making donations to our efforts, and all
16 of our efforts and projects are all viewable on our
17 website, and you'll see that this is now our number
18 one project.
19 **BOARD ATTORNEY:** Okay. All right.
20 Begin your questioning.
21 **MR. ZAMMATARO:** Thank you.
22 So, Chairman, thank you for the
23 opportunity to speak tonight. I actually have six
24 questions for the RF person, and I have six
25 questions for the planner, but they are all yes/no

1 **MR. ZAMMATARO:** Thank you.
2 Isn't it true that the studies have
3 suggested that potential health risks from long-term
4 nonthermal exposure to RF radiation were omitted
5 from the report findings?
6 **MR. FISCHER:** Not that I'm aware.
7 **MR. ZAMMATARO:** Isn't it true that the
8 report calculates RF exposure at less than .5
9 percent of the FCC standard but does not consider
10 cumulative exposure over time for residents living
11 near the tower?
12 **MR. FISCHER:** I believe Mr. Peterson's
13 initial report referenced a .5 percent at ground
14 level calculation.
15 **MR. ZAMMATARO:** But not cumulative
16 exposure. Is that correct?
17 **MR. FISCHER:** Radio frequencies are
18 considered nonionizing. So the science states that
19 there's no long-term cumulative effects.
20 **MR. ZAMMATARO:** Isn't it true that
21 long-term exposure even at low levels could pose
22 health risks particularly to children, pregnant
23 women or elderly?
24 **MR. FISCHER:** I'm an engineer. I can't
25 speak to that.

1 questions, and I think it would be very efficient if
2 I went through them all so that I wouldn't have to
3 sit down, get up again or ask some other folks to
4 ask my questions.
5 So I'm asking if you would permit that,
6 and these were put together by our group. So
7 they're thoughtful questions.
8 **CHAIRMAN SMITH:** It sounds to me like
9 you're going to be as efficient as you can, and
10 please proceed.
11 **MR. ZAMMATARO:** Thank you very, very
12 much, and I appreciate that.
13 So this is for the RF specialist.
14 Isn't it true that the FCC standards referenced in
15 the reports were first established in 1985 and then
16 revised in 1996?
17 **MR. FISCHER:** They were recently in
18 review in 2021 in the latest order.
19 **MR. ZAMMATARO:** Okay. Isn't it true
20 that the guidelines primarily addressed thermal
21 effects and not nonthermal effects such as
22 biological impacts, neurological impacts, DNA, which
23 are still under investigation by the scientific
24 community?
25 **MR. FISCHER:** As far as I'm aware, yes.

1 **MR. ZAMMATARO:** And, finally, isn't it
2 true that the Roof Master software used in the
3 analysis does not fully account for the
4 environmental clusters such as buildings, trees,
5 roadways which would enhance local RF exposure
6 through reflection and interference and create a
7 margin of error?
8 **MR. FISCHER:** No. You can include
9 reflection.
10 **MR. ZAMMATARO:** But it was not part of
11 the Roof Master software. Are you aware that that
12 was not part of the Roof Master software?
13 **MR. FISCHER:** I mean if your question
14 is can you build buildings and add reflection to
15 this -- I'm not --
16 **MR. ZAMMATARO:** I'm questioning
17 specifically about the Roof Master software which
18 was used in the analysis.
19 **MR. FISCHER:** In Roof Master, you can
20 include a reflection factor.
21 **MR. ZAMMATARO:** Okay. And with your
22 review of the report, was reflection and
23 interference included in the analysis?
24 **MR. FISCHER:** I believe it was, yes,
25 per Dr. Eisenstein's report.

<p style="text-align: right;">Page 113</p> <p>1 MR. ZAMMATARO: Thank you. Okay. I'm 2 going to continue with my planner questions if 3 that's okay. 4 CHAIRMAN SMITH: Yeah. Go ahead. 5 MR. ZAMMATARO: Thank you. I 6 appreciate it. So I only have six, and I just have 7 to scroll. So thank you again. Great -- great 8 presentation. 9 Isn't it true that Mendham Borough's 10 master plan's vision statement and its elements 11 related to land use, historic preservation and 12 community facilities emphasize preserving the 13 borough's small town character? 14 MR. ABRAMSON: I would read the master 15 plan specific for this property. 16 MR. ZAMMATARO: And isn't it true that 17 it does emphasize preserving the borough's small 18 town character? 19 MR. ABRAMSON: I don't know. 20 MR. ZAMMATARO: Thank you. 21 Isn't it true that no shadow or visual 22 impact studies were included to assess the effect of 23 this five-story structure on adjacent single-family 24 homes? 25 MR. ABRAMSON: What do you mean by</p>	<p style="text-align: right;">Page 114</p> <p>1 visual impact statement? 2 MR. ZAMMATARO: The ability to -- 3 looking at this, there was no visual impact review 4 of this five-story structure and how it would impact 5 adjacent single-family homes. 6 MR. ABRAMSON: I don't know that we 7 included renderings from any adjacent -- 8 MR. ZAMMATARO: Understood. So there 9 was no visual impact study prepared or no shadow 10 impact study prepared. Is that correct? 11 MR. ABRAMSON: I'm not aware of any. 12 No. 13 MR. ZAMMATARO: Thank you. 14 Isn't it true that the density of the 15 proposed development is the largest in Mendham 16 Borough's history. 17 MR. ABRAMSON: I do not have that 18 information. 19 MR. ZAMMATARO: Okay. Thank you. 20 Three more questions. 21 Isn't it true that the site is located 22 entirely within the Highlands planning area which 23 does impose additional protections for water quality 24 and riparian buffer? 25 MR. ABRAMSON: I know that we complied</p>
<p style="text-align: right;">Page 115</p> <p>1 with every -- all the DEP standards we received. I 2 do not know if we received DEP permits or not. 3 MR. ZAMMATARO: Understood. 4 Are you familiar with the Highland 5 planning area protections? 6 MR. ABRAMSON: Not in particular with 7 regards to this site. 8 MR. ZAMMATARO: That's fine. Thank you 9 very much. 10 Isn't it true that the ecological 11 impact statement which you may have reviewed, if you 12 did, does not specifically identify at least two 13 headwater springs located on the property? 14 MR. ABRAMSON: I've heard you say that 15 in the past. I'm not familiar. 16 MR. ZAMMATARO: Thank you. 17 And last question. Thank you very much 18 for the time. Isn't it true that the stormwater 19 management plan relies heavily on permeable pavers 20 which may not perform adequately in this particular 21 location because of the high water table condition? 22 MR. ABRAMSON: It's more a civil 23 engineering question. 24 MR. ZAMMATARO: Okay. Thank you. 25 MR. MASTORIS: My name is Phil</p>	<p style="text-align: right;">Page 116</p> <p>1 Mastoris. Last name is spelled M-A-S-T-O-R-I-S, and 2 I live at 19 Galway, Galway is G-A-L-W-A-Y, Drive in 3 Mendham. 4 So, to start, just a point of 5 clarification for the board. In yesterday's Daily 6 Record, they ran -- they published an article, and 7 it said more New Jersey towns sued to block 8 affordable housing mandates, and Mendham was listed 9 as one of the parties. I'm just confirming was 10 Mendham Borough one of those parties? 11 MAYOR GLASSNER: Yes. 12 MR. MASTORIS: Okay. If successful, 13 how does that change the application before you now? 14 MAYOR GLASSNER: So that has to do with 15 the new legislation that was passed earlier this 16 year. 17 MR. MASTORIS: Okay. So maybe a point 18 of clarification because I can guaranty you there's 19 a lot of people out here who don't -- 20 MAYOR GLASSNER: This application is 21 from round three, and the new legislation that was 22 passed the beginning of this year -- sorry. Thanks. 23 So this application is from round 24 three. The new legislation that was passed at the 25 beginning of this year impacts round four.</p>

<p style="text-align: right;">Page 117</p> <p>1 MR. MASTORIS: Okay. All right. So, 2 you know, my question for the petitioner is really a 3 pretty simple one, and I would suggest, and this is 4 a question my wife asked during the last meeting, 5 many of these projects come together very, very 6 quickly with a collaborative effort, and my 7 suggestion is and my question is why don't we have 8 the petitioner and all the experts show up in a town 9 hall meeting where it's just devoted to questions 10 from the public and maybe where we can have an 11 exchange as opposed to having to go through two and 12 a half hours, all right, of one question after 13 another or just be for the public. 14 BOARD SECRETARY: They can't hear you 15 because there's background. You have to speak right 16 into the mic. 17 MR. MASTORIS: Okay. Apologies. 18 I think it would help expedite 19 everything. Would you be willing to do that? This 20 is a question for the petitioner. I think it goes 21 to you, Counselor. 22 MR. ORTH: We presented our witnesses 23 tonight. We're following the procedures of the 24 Municipal Land Use Law, and we're going to continue 25 that down that course.</p>	<p style="text-align: right;">Page 118</p> <p>1 MR. MASTORIS: I will take that as a 2 no. That's disappointing. 3 I do have a lot of other questions, but 4 I know that the rest of the group has quite a few 5 questions, but I would certainly like the right to 6 come back and ask additional questions. 7 MS. MEYERS: Barbara Meyers. 8 BOARD SECRETARY: Speak in the 9 microphone. 10 MS. MEYERS: Barbara Meyers, 54 11 Aberdeen Drive, Mendham Borough. 12 I've been a resident of both Mendhams 13 for over 50 years, and I've seen both towns 14 transform tremendously. Although I appreciate the 15 testimony here tonight, I don't need anybody to tell 16 me what the traffic looks like in our town. Over 17 the years we had a house on Deerfield -- 18 BOARD ATTORNEY: Excuse me. Are you 19 going to ask your question? 20 MS. MEYERS: I am going to ask a 21 question. 22 BOARD ATTORNEY: Please get to the 23 question. 24 MS. MEYERS: Okay. The gentleman 25 from -- are you aware that in California in certain</p>
<p style="text-align: right;">Page 119</p> <p>1 school districts they do not allow cell towers on 2 the property? 3 MR. FISCHER: No, ma'am. 4 MS. MEYERS: Okay. Well, everybody 5 should be made aware that in Maryland, Oregon and in 6 California and more -- other additional states they 7 prohibit cell tower contracts on the property 8 because of fear of what can happen to children with 9 overexposure to cell towers. 10 There's also many studies and doctors 11 who would refute the Dr. Eisen -- 12 MR. FISCHER: Eisenstein. 13 MS. MEYERS: Eisenstein. 14 I could provide you with studies that 15 are ongoing from Sloan Kettering, the American 16 Cancer Society. I could point you to communities on 17 Long Island that have cancer clusters, breast 18 cancer, colon cancer, all different things that may 19 or may not be attribute to these cell towers. 20 I'm a former attorney. Health and 21 wellness coach now, and I can tell you that parents 22 are more concerned than ever with children with cell 23 phones and -- 24 BOARD ATTORNEY: These are all things 25 that you will have an opportunity to testify to once</p>	<p style="text-align: right;">Page 120</p> <p>1 we get past this question and answer part. 2 MS. MEYERS: Okay. I just wanted to 3 make you aware. All right. Thank you. 4 MS. JAMES: Patricia James, 67 Galway. 5 BOARD SECRETARY: Spell your last name 6 please. 7 MS. JAMES: J-A-M-E-S. 8 My question is for the traffic study 9 person. When you did the traffic study back in 10 2023, did you take into consideration a pedestrian 11 traffic study as well? 12 MR. SECKLER: We looked at pedestrian 13 accessibility within the shopping center itself. 14 The connections between the residential portion of 15 the retail portion of the site. We did not do any 16 studies along Main Street as it related to 17 pedestrian traffic. 18 MS. JAMES: I would kindly ask that you 19 maybe consider doing that. I consider Mendham a 20 walking town, and we have a lot of young students 21 from the high school and the various communities 22 walking, riding their bikes. This seems to be a big 23 thing now. A lot of youngsters riding their bikes 24 because they're electric bikes, and that was my 25 question.</p>

<p style="text-align: right;">Page 121</p> <p>1 My second question is, with regard to 2 the parking spots, how many parking spots have been 3 allocated for workers that work in the shopping 4 center? 5 MR. SECKLER: They would be part of the 6 general retail parking. Again, we've increased the 7 amount of retail parking spaces. You know, whether 8 they park on the sides of the building, the rear of 9 the building or in the front, we've increased that 10 supply. So that's been accounted for in the design. 11 MS. JAMES: Number please. 12 MR. SECKLER: Again, it's part of the 13 400 -- 341 spaces for the retail development I 14 believe. 15 MS. JAMES: I really think that the 16 number of workers have to be accommodated. 17 MR. SECKLER: That's included with the 18 ordinance requirement for the amount of parking 19 spaces for retail development. That's baked into 20 the numbers. 21 MS. JAMES: Because it seems to me 22 that, when we went through this drill with Dunkin' 23 Donuts, they have this humongous parking lot, and 24 every time I go to Kings now it's crowded. I can't 25 find a parking spot.</p>	<p style="text-align: right;">Page 122</p> <p>1 And my last question is -- it's 2 actually to the person who said this would benefit 3 our community. 4 MR. ABRAMSON: That's me. 5 MS. JAMES: It's more of a statement 6 that I really feel that it's an insult that we're 7 going through all of this for affordable housing and 8 we're talking about putting a boutique car 9 dealership there. I just do not feel that that 10 belongs with the character of our community. 11 Thank you for your time. 12 CHAIRMAN SMITH: Thank you. 13 MR. BLOOD: Hello. Rick Blood, 32 14 Tingley Road. That's Blood, B-L-O-O-D. 15 I guess this is for the planner. In 16 the design of the residential structure -- 17 BOARD SECRETARY: Can you all hear back 18 there. 19 AUDIENCE MEMBER: Yes. 20 MR. BLOOD: In the design of the 21 residential structure, were all of the residents' 22 cars meant to fit under the building, and if not, 23 how many do not fit within the footprint of the 24 building? 25 MR. SECKLER: We're required to have --</p>
<p style="text-align: right;">Page 123</p> <p>1 provide for -- the majority of the spaces would be 2 within the building itself. There's a few spaces 3 that would be on the outside. We're required to 4 have a total of -- 5 MR. BLOOD: I mean I see the 6 calculation you have is 145 spaces required based on 7 the RSIS standards. 8 MR. SECKLER: Yes. 9 MR. BLOOD: And you get a credit for 10 creating some EV spaces. So that brings it down a 11 bit. 12 MR. SECKLER: Yes. There's a row of 13 parking at the end of the retail portion. Again, 14 this is in the rear of the Kings building. That 15 would be outside parking most likely for visitors 16 supporting the residential development. 17 MR. BLOOD: So when it came time to 18 assigning parking spaces for the residents, how 19 would you determine who gets what spot? 20 MR. SECKLER: That would be part of the 21 policing operations. Again, the outside spaces are 22 primarily for visitor. 23 As part of the RSIS, they recommend 24 having a half space per unit for visitor parking. 25 So they want at least 35 spaces accessible</p>	<p style="text-align: right;">Page 124</p> <p>1 potentially outside the building for visitor 2 parking. 3 So the residents would have the parking 4 in the garage, and the visitors would have the 5 parking outside. 6 MR. BLOOD: Okay. The structure that 7 you claim was going to become the buffer, the 8 boutique garage, you only assigned two employee 9 spaces for the garage. 10 The standard that's in the zoning rules 11 for the borough states you must have four spaces for 12 each bay of repair. So right now you're planning on 13 a wash bay and a repair bay plus the two people 14 working there. So that's 10 spaces rather than the 15 two that you've included in your count. 16 MR. SECKLER: Again, the -- you know, I 17 think the repair bay is something we need to discuss 18 with the operator to understand how that would be 19 utilized and whether that's an outside repair 20 facility which would require that additional 21 parking. 22 MR. BLOOD: Do you expect the residents 23 to use this premier parking facility as a necessity 24 or is this just a luxury? 25 MR. SECKLER: As a luxury.</p>

1 **MR. BLOOD:** So in no way does it manage
2 any overflow from the building now or in the future?

3 **MR. SECKLER:** It potentially can serve
4 the residents, but it's not a part of our
5 calculations to be utilized by the residents.

6 **MR. BLOOD:** Okay. On the RF engineer,
7 you've got -- I've looked at your -- the visual
8 diagram that you had. If need be, it looks like the
9 building could be closer to the cell tower than is
10 being proposed by the applicant.

11 **MR. FISCHER:** Are you saying based on
12 where the compliance --

13 **MR. BLOOD:** Based on the RF, the nice
14 color picture that was included in the report, a lot
15 of the radio waves go over the top. Really, the
16 blue zone is overlooking at it if we're talking
17 colors here, the hundred percent border.

18 So I guess, if they needed to, they
19 could crowd the cell tower a little bit more than
20 they have in their original design?

21 **MR. FISCHER:** I can't speak to the
22 movement of the building on the property. I can say
23 that there's -- I think, if I recall, from looking
24 at the cumulative diagram from that Figure 10 in the
25 last report, the area in the calculations was about

1 even be considered? You talk about a sign.

2 **MR. FERRIERO:** Just to be clear, the
3 site is not in the historic district. It's in the
4 Main Street corridor. So the HPC does not have
5 direct jurisdiction over it.

6 **MAYOR GLASSNER:** That was my error.

7 **MR. MEYERS:** Okay. All right. That
8 was my question. So thanks for answering.

9 **MR. MARINO:** Robert Marino,
10 M-A-R-I-N-O, 27 Florie Farm Road.

11 My questions are continuing with Mr.
12 Seckler. We had a discussion last week. In our
13 conversation, we talked about the dual purpose road
14 which I think is euphemistically being referred to
15 as the boulevard. It is both an exitway and an
16 entranceway for the residential property and also
17 really a commercial parking lot. It heads right
18 through the center of it.

19 In our conversation, you had indicated,
20 I believe on behalf of the applicant, that you were
21 willing to place a stop sign at the Kings junction.
22 Is that correct?

23 **MR. SECKLER:** Correct.

24 **MR. MARINO:** Has that been incorporated
25 in the plans yet?

1 50 feet from the tower elevated that antenna a
2 little bit.

3 **BOARD ATTORNEY:** Rick, you're out of
4 time.

5 **MR. BLOOD:** All right. Well, let the
6 record show I have more questions. I'll come back
7 if there's time.

8 **BOARD ATTORNEY:** If we get to everyone
9 else, you can come back.

10 **MR. BLOOD:** Okay.

11 **MR. MEYERS:** David Meyers, 54 Aberdeen
12 in Mendham.

13 **BOARD SECRETARY:** Spell your last name
14 please.

15 **MR. MEYERS:** Meyers, M-E-Y-E-R-S. My
16 better half was up here a few minutes ago.

17 I have a question, but I'm not too sure
18 who to ask. We spent a lot of time in the meeting
19 talking about signs, and I think the mayor brought
20 up that a sign has to be approved by the historic
21 preservation which I'm not familiar with that
22 organization but it sounds important.

23 This is a massive project. What else
24 needs to be approved by the Historical Preservation
25 Society in order for this project to move forward to

1 **MR. SECKLER:** We have not done a full
2 release submission package, but we could testify
3 that we would install a stop sign at that location.

4 **MR. MARINO:** Thank you. There's a
5 second intersection closer to 24. Would you also be
6 willing to put a stop sign there on the residential
7 exit portion just so we have control of the flow of
8 the traffic as it meets with the commercial traffic?

9 **MR. SECKLER:** You're referring to
10 closest to 24 where the island is kind in front of
11 the bank would be?

12 **MR. MARINO:** Correct.

13 **MR. SECKLER:** Yes. We could install
14 it. I would not install it coming from 24. That
15 traffic needs to flow in, but we can install one the
16 direction going out of the boulevard.

17 **MR. MARINO:** Thank you.

18 In the traffic surveys you performed,
19 can you tell me the times that they were performed
20 again?

21 **MR. SECKLER:** The time is -- usually,
22 it was 7 in the morning to 9 in the morning, 4 to 7
23 p.m. in the evening, and Saturday I can give you the
24 exact time.

25 **MR. MARINO:** That's actually okay

1 because I was looking at the -- for me, I was
 2 looking at the week time, the weekday times.
 3 So you did not conduct a traffic survey
 4 from say 2:35 daytime to about 3 p.m.?
 5 **MR. SECKLER:** The school dismissal
 6 you're referring to?
 7 **MR. MARINO:** Correct.
 8 **MR. SECKLER:** So, overall, the roadway
 9 volumes on our basis is higher in the evening peak
 10 hour than during the school hour. The school has a
 11 strong --
 12 **MR. MARINO:** I've got very limited
 13 time. So your answer is you did not perform a
 14 survey during that time?
 15 **MR. SECKLER:** We had looked at counts
 16 that DOT has along this stretch. The largest hour
 17 is in the evening peak hour. Yes, there are high
 18 peaks, you know, 20-minute peaks when school is
 19 letting out in this area, but the overall hour
 20 volumes are highest between 4 and 7.
 21 **MR. MARINO:** Are you aware that, during
 22 the school discharge, traffic actually backs up all
 23 the way from the subject property to Mountainside
 24 Road?
 25 **MR. SECKLER:** Again, that observation,

1 sidewalk in that area.
 2 **MR. RITGER:** Okay. Then I have these
 3 questions with regard to variances. Are you going
 4 to be applying for the additional variances required
 5 for the driveway which, as I pointed out last time,
 6 it actually measures 22 foot 10, not twenty-three
 7 six and no other variation, 22 foot 10. The town
 8 ordinance is 24-feet wide. So will you be applying
 9 for a variance for that alleyway?
 10 **MR. SECKLER:** Well, again, I think that
 11 alleyway is a pre-existing condition.
 12 **MR. RITGER:** Well, it's not when you
 13 start moving that kind of curb on that side.
 14 **MR. SECKLER:** That would be eliminating
 15 a portion of that -- of that extent of the variance.
 16 Yes, it would still be a choke point that
 17 pre-exists. If we're moving it, making it larger,
 18 then that wouldn't be a variance because we'd be
 19 exceeding that width you're referring to.
 20 **MR. RITGER:** Well, as soon as you make
 21 a change to it, you're now opening yourself up to
 22 that variance.
 23 Also, the fact that you're close to the
 24 driveway of the neighboring property, as soon as you
 25 move that curb, your pre-existing condition there,

1 I don't know how far it backs up, but I'll take your
 2 word for it.
 3 **MR. MARINO:** Okay. And, also, during
 4 that time, traffic backs up all the way along the 24
 5 corridor. I would recommend that you reconsider
 6 making a survey during that period to find out
 7 information that's particularly relevant to this
 8 site and not general information.
 9 I thought I heard my time go off.
 10 Thank you.
 11 **CHAIRMAN SMITH:** Thank you.
 12 **MR. RITGER:** I'm Bob Ritger. 14
 13 Gunther Street, and it's Ritger, R-I-T-G-E-R.
 14 Previously I'd asked and I didn't get
 15 an answer on this one. I pointed out that you had
 16 on drawing C-5 a concrete sidewalk along the eastern
 17 portion of the building, and I wanted to find out if
 18 that is, indeed, planned to be poured as an
 19 additional sidewalk?
 20 **MR. SECKLER:** You're talking about the
 21 eastern alley?
 22 **MR. RITGER:** Yes.
 23 **MR. SECKLER:** That is the existing area
 24 that is between the -- again, in the cutouts of the
 25 structure. We're not anticipating pouring new

1 you're within 20 feet of that driveway. You'll need
 2 a variance for that. Are you going to be applying
 3 for that?
 4 **MR. SECKLER:** Again, I would defer to
 5 the planner in terms of -- and the council on what
 6 variances we're applying for and your own board's
 7 professionals.
 8 Again, we were making changes to that
 9 alleyway at the request of the board. So, again, I
 10 think the C-2 justification would be discussed at
 11 that point.
 12 **MR. RITGER:** I would suggest you get
 13 them to update the survey to indicate the location
 14 of that Belgian block curb because I don't believe
 15 they've presented true facts of the dimensions that
 16 we're talking about. I think it's a lot closer than
 17 what they are showing on their drawings.
 18 **MR. FERRIERO:** Are you saying that the
 19 survey is in error?
 20 **MR. RITGER:** No. I'm saying the survey
 21 does not have a dimension, that dimensions of the
 22 Belgian block curb that's along that side of the
 23 property. They've indicated the dimension from the
 24 property line to the building itself but not to the
 25 curb, and, therefore, we don't really know the width

<p style="text-align: right;">Page 133</p> <p>1 of that alleyway. 2 They're claiming they're pitch points. 3 I'm claiming they're 22-foot-10. They claim the 4 worst is 23-foot-6. I challenge that. 5 MR. FERRIERO: Okay. 6 MR. RITGER: The other question I have 7 and I pointed out, it's actually on your C-5 8 drawing. It's the item about the 16 spaces that are 9 along the residential side over by MASH and on that 10 side. It's actually right there. It's 195-45-B.3. 11 Those spaces are too close to residential. 12 So that one, will you be applying for a 13 variance for those spaces or will you be eliminating 14 them? 15 MR. ABRAMSON: The intention right now 16 is not to eliminate them. I'll be happy to work 17 with Ms. Caldwell, Mr. Germinario to confirm 18 whatever relief is necessary, and if I have to come 19 back to supplement my testimony, I will do so. 20 BOARD ATTORNEY: Time's up, Bob. 21 MR. RITGER: I have one more question, 22 Tom. I appreciate it. It's a very quick one. 23 The residents of MASH were concerned 24 that they have two access points, two paths that 25 lead from MASH to that actual alleyway on the</p>	<p style="text-align: right;">Page 134</p> <p>1 western side. Will you be closing those off or in 2 any way blocking their way through those two 3 locations? 4 In other words, is there a fence there 5 or is there any reason that you're going to be 6 blocking those off? 7 MR. SECKLER: Assuming that they want 8 to be kept, we obviously are proposing a fence line 9 to help prevent any light spillage and headlight 10 glare in that area, but, obviously, we could work 11 with in terms of finding a location for an access 12 point to be maintained as long as it's not in the 13 way of the fence, and it sounds like some of the 14 residents would want along that line. 15 MR. RITGER: Yeah. It changes their 16 commute time, if you will, to the shopping center 17 drastically. 18 Okay. Thank you. 19 MR. MASTORIS: Bill Mastoris again. 20 So you spent some time talking about 21 some of the detriments on a public policy front. I 22 didn't hear anything about the incremental costs you 23 would have maybe on the schools. All right. I 24 didn't hear anything about the infrastructure 25 incremental costs. I didn't hear anything about the</p>
<p style="text-align: right;">Page 135</p> <p>1 additional traffic, traffic lights, maybe stresses 2 on sewer, water which became a very big deal 3 particularly late summer, early fall, and then, 4 finally, on the power, I mean we do have power 5 outages here, and, certainly, that would be stressed 6 a little bit further. So I think there is a few 7 more that you may want to address, and if you're 8 prepared, great. 9 MR. ABRAMSON: Yeah. No. I'm going to 10 speak a little bit of the framework on how things 11 work in the Municipal Land Use Law. So I understand 12 all the points you were making if I were -- I think 13 they're totally reasonable to raise, right. 14 Under the C-2 variance test and the 15 kind of procedure that this -- that's for this 16 board, we have to speak to the detriments associated 17 specifically with the deviations that we're 18 requesting, the parking spaces and the signage. 19 The types of things that you're talking 20 about would be implicated if this weren't a 21 permitted use, and if we were here talking about 22 building something that we're not permitted under 23 the ordinance, that's when we have to start talking 24 about the impacts of the use, per se. Things like 25 infrastructure. Things like fiscal impact. Things</p>	<p style="text-align: right;">Page 136</p> <p>1 like -- you know, these much larger macro level type 2 municipal issues. 3 MR. MASTORIS: Because they really are 4 significant. I mean the cost to send one student to 5 a Mendham school is \$23,000 for the borough, and so 6 if you assume let's say a hundred students would 7 come out of that 75-unit complex, 2.3 million. 8 They're there grades one through 12, 28 million. 9 That's not chump change. Maybe not to the 10 petitioner, but it certainly is, I think, to most of 11 us in this room. It's really quite substantial. 12 That's one really small item, and I can't say I have 13 sufficient data to be able to use the calculations 14 for all the other subjects I brought up, but I'd be 15 certainly very happy if you could direct me to 16 somebody, anybody in the borough who has that type 17 of information that could give me that unit data 18 because I'd love to do those calculations. Can you? 19 MR. FERRIERO: I'm not sure if I 20 understand what data you're talking about. 21 MR. MASTORIS: Well, for instance, 22 let's take water usage, you know, X number of 23 gallons per person. 24 MR. FERRIERO: That's all part of their 25 DEP permit that's required for the water service to</p>

<p style="text-align: right;">Page 137</p> <p>1 the building, and that looks at the water 2 availability from the water utility provider, and 3 that is accounted for when they do that analysis to 4 make sure there's not only sufficient capacity for 5 the structure, but there are multiple factors that 6 are used. 7 For example, when you have a building 8 like this, you don't apply for the amount of gallons 9 you need. You apply for three times that. 10 MR. MASTORIS: I understand that. 11 MR. FERRIERO: That's a permit that's 12 not issued by the borough. 13 MR. MASTORIS: Okay. Yeah. I would 14 just like to make -- 15 MR. FERRIERO: The sewer is a 16 reservation that exists and -- 17 MR. MASTORIS: I understand these are 18 very difficult to measure, but, certainly, any help, 19 all right, that you want to provide just in terms of 20 unit usage for any one of the items that I just 21 mentioned. 22 MR. FERRIERO: The design standards are 23 in the DEP regulations. 24 MR. MASTORIS: All right. So we have 25 water crossed off. How about --</p>	<p style="text-align: right;">Page 138</p> <p>1 MR. FERRIERO: Sewer is the same way. 2 MR. MASTORIS: Power? 3 MR. FERRIERO: Power is -- again, it's 4 the utility. They -- before the applicant completes 5 his process and can build the building, he needs to 6 obtain a will serve letter from the utility that 7 has -- that demonstrates they have adequate power to 8 serve the facility. 9 MR. MASTORIS: Okay. But we all 10 know -- 11 BOARD ATTORNEY: Sorry to cut you off, 12 but time's up. 13 I mean the planner answered your 14 question that this is a permitted use. So all these 15 factors that you're talking about are covered by 16 what he explained to you. 17 If it's not a permitted use, then we 18 have to delve into the issues you're describing 19 here, but it is in our zoning as a suitable use for 20 this site, and that is -- and we can only go by what 21 the zoning says. We don't create the zoning. We 22 enforce the zoning. Okay. 23 MR. MASTORIS: So incremental costs to 24 the community are kind of ignored, pushed aside? 25 I'm just confirming this.</p>
<p style="text-align: right;">Page 139</p> <p>1 BOARD ATTORNEY: I think you're up. 2 This is your second time up here. Let's see if 3 anybody else has questions. 4 CHAIRMAN SMITH: I think there's other 5 people who would like to come up. 6 MR. MASTORIS: Yeah. Maybe we can have 7 a private conversation about this. 8 MAYOR GLASSNER: I'd be happy to talk 9 to you afterwards. 10 MR. MASTORIS: Okay. Great. I 11 appreciate it. Thank you very much. 12 MS. MC LEOD: Hi. Susan Mc Leod, 20 13 Galway Drive, Mendham Commons. 14 BOARD SECRETARY: Last name spelling. 15 MS. MC LEOD: M-C-L-E-O-D. 16 Can you answer why the agenda was not 17 followed so that after the first presentation we had 18 plenty of time to ask questions? As you can see, 19 almost half these people have left. It's 20 exhausting. 21 BOARD ATTORNEY: We may -- as a matter 22 of fact, I will recommend that we do if the board 23 agrees with me -- 24 MS. MC LEOD: But it was the agenda. 25 Why did you --</p>	<p style="text-align: right;">Page 140</p> <p>1 BOARD ATTORNEY. Excuse me. Let me 2 finish. 3 MS. MC LEOD: Okay. I'm sorry. 4 BOARD ATTORNEY: Provide some 5 additional time at the beginning of the next 6 hearing, but if we don't get through enough time, 7 because we did sort of go over into the time period 8 we wanted to allocate tonight for questioning. So 9 we will determine a period of time in the next 10 meeting to continue the questioning. 11 That being said, you're not here to 12 question me or the mayor. Ask a question of the 13 witnesses. That's what you're allowed to do. 14 MS. MC LEOD: Well, it kind of does all 15 come together, because after the first presentation 16 while it was fresh in everyone's mind and they had 17 all their thoughts, they should have been allotted 18 the time to ask the appropriate questions, not 19 waiting to the end when people had to leave. 20 It's exhausting standing for two hours, 21 and it was on your agenda. Excuse me. It was on 22 your agenda. Why did you deflect from your agenda? 23 You're not answering the question. 24 BOARD ATTORNEY: You're out of order. 25 Ask a question of the witnesses or sit down.</p>

1 **MS. MC LEOD:** Okay. My other question,
2 how are we going to remedy having adequate space for
3 our next meeting so that the community does not have
4 to stand for two hours before they're allowed to ask
5 questions? And I think that's only appropriate.

6 **BOARD ATTORNEY:** Okay.

7 **MS. MC LEOD:** Maybe Lisa Smith could
8 answer that.

9 **BOARD ATTORNEY:** No.

10 **MS. MC LEOD:** No. What is no?

11 **MAYOR GLASSNER:** We answered it before.
12 We're going to try to find another location. It
13 will probably have to be outside of Mendham.

14 **MS. MC LEOD:** But why? Why does it
15 have to be outside of Mendham?

16 **MAYOR GLASSNER:** Susan, you and I had a
17 phone conversation and there were emails, and you
18 said, as you said, we communicated back on the 17th
19 that you, yourself, wanted to go out and look for
20 locations.

21 **MS. MC LEOD:** Well, you said that the
22 schools are not allowing it, and I asked earlier
23 could you please direct me to who I could contact.

24 **MAYOR GLASSNER:** Call the school
25 boards. There's two different school boards. They

1 many parking spaces, how many ba, ba, ba, how much
2 wide this. I think the easiest solution is a
3 smaller building.

4 I believe -- I believe last week you
5 were asked by someone about the foundation elements
6 of the building. Do you remember what your reply
7 was?

8 **MR. STIEVE:** The foundation has not
9 been designed.

10 **MR. HARTMANN:** I spent four years in
11 structural design.

12 **BOARD SECRETARY:** If you're talking to
13 the engineer, you need the microphone.

14 **CHAIRMAN SMITH:** He didn't testify
15 today, but we are continuing testimony because time
16 runs out at the end of the evening. So give him an
17 opportunity to ask.

18 **MR. HARTMANN:** So you're telling us you
19 want to have a five-story, steel frame building and
20 you haven't thought about the foundation? Is
21 that -- I mean come on. I've been in design for 40
22 years. I was on a planning board for several years.
23 You build things from the bottom up, not the top
24 down. Okay. And in this area, and I can testify
25 from being in the Commons which partly were done on

1 control the space.

2 **MS. MC LEOD:** Okay.

3 **CHAIRMAN SMITH:** Thank you.

4 **MR. PIENCIAK:** Tom Pieniak,
5 P-I-E-N-C-I-A-K, 16 Garabrant Street.

6 Question for the traffic engineer. Is
7 there any regulation or ordinance that requires the
8 Kings parking lot to be redesigned and that requires
9 the Main Street access point to be relocated or,
10 stated differently, is there a regulation or
11 ordinance that requires the boulevard access to the
12 back of the property?

13 **MR. SECKLER:** No.

14 **MR. PIENCIAK:** Perfect. Thanks.

15 **BOARD ATTORNEY:** Bob, just let me see
16 if there are other people because this is your
17 second round.

18 Is there anyone else who hasn't had the
19 opportunity to ask a question that would like to ask
20 a question? Please come forward.

21 **MR. HARTMANN:** People want to lower it.
22 I have to raise it. Rick Hartmann, H-A-R-T-M-A-N-N,
23 23 Galway Drive.

24 My question is for the architect more
25 than anyone. We put so much time tonight into how

1 wetlands, I believe, that there were a number of
2 two-story wood frame homes that sank, and you're
3 telling me you want to build a five-story, steel
4 frame building on the same kind of land and you have
5 no idea what the foundation is going to be.

6 You could potentially have to put sheet
7 piling around that whole site. You could
8 potentially have hundreds of tons of soil that have
9 to be removed. You could potentially then have
10 hundreds of tons of soil that now have to be
11 replaced and compacted, and I know you're aware of
12 what that means. How can you justify a five-story
13 building when you don't even know what you're going
14 have on the first floor?

15 **MR. STIEVE:** Again, at this point in
16 the project, we are in the approvals or seeking
17 approvals. We're seeking the permissions to build a
18 building like this.

19 Once we have the permissions, we'll
20 investigate and do all of the required testing,
21 soils investigations and structural analysis for the
22 building.

23 **MR. HARTMANN:** So you want us to say
24 okay before we really know what this is going to
25 entail. Is that what you're saying?

<p style="text-align: right;">Page 145</p> <p>1 MR. STIEVE: Again, the relief that 2 we're seeking has nothing to do with the size, the 3 bulk -- 4 MR. HARTMANN: Of course, it does. Of 5 course, it does. 6 MR. STIEVE: It's within the permitted 7 zoning. 8 BOARD ATTORNEY: Sir, your time is up. 9 MR. HARTMANN: One more minute. I'd 10 just like to explain because this involves the 11 board. 12 MR. FERRIERO: If I could, just let me 13 make a statement about the foundation because this 14 has come up multiple times. I've been to between -- 15 and you said you've been on a planning board. I've 16 been between two and three thousand planning board 17 hearings in my career. Never once has a foundation 18 design been presented. I see tens of thousands of 19 applications. 20 MR. HARTMANN: But does that make it 21 right? 22 MR. FERRIERO: It means it is not part 23 of an application at this point, and I'm not trying 24 to make a point for the applicant. 25 I'm just telling you that, in this</p>	<p style="text-align: right;">Page 146</p> <p>1 process, a foundation design is never presented. 2 MR. HARTMANN: I just have one 3 statement from a planning board establishment. The 4 planning board should be aware of potential 5 foundation issues prior to any conditional building 6 approval. These issues can impact safety, health 7 and ongoing repairs and may require additional 8 conditions or decisions beyond standard conditional 9 use permit. So maybe 3,000 times they were wrong. 10 MR. FERRIERO: Well, this is not a -- 11 again, I don't want to argue, but this is not a 12 conditional use application. So your statement that 13 this is related to a conditional use. 14 MR. HARTMANN: Not yet. We're working 15 towards that, aren't we? 16 MR. FERRIERO: No. It is not a 17 conditional use application. Just to be a hundred 18 percent clear, it's not a conditional use 19 application. 20 MR. HARTMANN: But can you deny it's 21 important to know what's going to be in there and 22 how they're going to do it before we go way too far? 23 MR. FERRIERO: This board has zero 24 jurisdiction over the design of the footing. That 25 is a construction department issue at the time</p>
<p style="text-align: right;">Page 147</p> <p>1 permits are being applied for. 2 MR. HARTMANN: Right, but the board 3 does have the ability to refuse if those foundations 4 are not proper or involve hundreds of trucks in and 5 out. The board does have the ability to approve 6 that or disapprove that. 7 MR. FERRIERO: I'll leave that to Mr. 8 Germinario, but I've never heard that. 9 MR. HARTMANN: Okay. Thank you. 10 MR. GAGLIONE: Gary Gaglione. 11 BOARD SECRETARY: Spell your last name. 12 MR. GAGLIONE: G-A-G-L-I-O-N-E. 13 BOARD SECRETARY: And your address. 14 MR. GAGLIONE: 20 Galway Drive, New 15 Jersey. 16 Yeah. I have a follow-up question. 17 How does -- how are you able to get the 18 environmental approvals if you don't know the effect 19 of the foundation? Can anybody answer that? 20 BOARD ATTORNEY: Who are you directing 21 this question to, sir? 22 MR. GAGLIONE: I'm sorry? 23 BOARD ATTORNEY: Who are you direct 24 that question to? 25 MR. GAGLIONE: I don't know who it's</p>	<p style="text-align: right;">Page 148</p> <p>1 directed to. I guess someone talked about they got 2 all these approvals from environmental agencies. 3 How do you get an approval without 4 knowing what type of foundation is going in because 5 it could affect the water system there, right, 6 depending how deep you have to go? I'm trying to 7 understand that. 8 BOARD ATTORNEY: Well, that's not a 9 question for this board. The board is not -- 10 MR. GAGLIONE: It's not a question for 11 the board. 12 BOARD ATTORNEY: Let me just finish my 13 statement. The board is not able to second guess 14 the other regulatory agency. If the DEP or whatever 15 issues permits, we have to take that at face value. 16 We don't get to delve into that and say why didn't 17 they grant that permit or why did they not. That's 18 not our job. 19 MR. GAGLIONE: I have an easier 20 question too. The signage, if I understand, the 21 racquetball sign is going to be replaced, correct? 22 MR. ABRAMSON: Yes, sir. 23 MR. GAGLIONE: And that's going to be 24 the signage for the residential units, correct? 25 MR. ABRAMSON: Yes, sir.</p>

1 **MR. GAGLIONE:** Is that going to be on
2 the east or west side?
3 **MR. ABRAMSON:** It will be at the
4 central entrance, the new entrance.
5 **MR. GAGLIONE:** The new which would be
6 the west?
7 **MR. ABRAMSON:** It's more to the west
8 than to the east.
9 **MR. GAGLIONE:** Okay. Thank you.
10 **CHAIRMAN SMITH:** Bob. Bob, we'll take
11 you, and then what we're going to do is, at the
12 beginning of the next meeting, we will continue with
13 any questions anybody might have for a period of
14 time, and then we'll go into testimony at our next
15 meeting. So go ahead, Bob.
16 **MR. RITGER:** Okay. Bob Ritger, 14
17 Gunther Street. It's R-I-T-G-E-R.
18 Just one basic question, but I will say
19 this. As he was the structural engineer for 40
20 years, I've been an architect for 40 years, and,
21 currently, I'm working on projects that are very
22 similar but larger than this multi-family project,
23 five stories tall with parking garages, and I ask
24 this because I've talked to several developers who
25 all claim the same thing. Are you aware that

1 going to close the public session, and then, like I
2 said, at the next meeting, we will open up with the
3 public session again to have any questions for the
4 professionals, and what I would like to note is on
5 the agenda it is stated that our next meeting --
6 **BOARD SECRETARY:** I can't hear the
7 recording with the noise. You might want to wait
8 for them to leave or ask them to be quiet.
9 **CHAIRMAN SMITH:** Our next meeting will
10 be Tuesday, December 17, right here unless we have a
11 different location, but for right now it's scheduled
12 for right here.
13 **MR. ORTH:** Sorry. Before you just
14 close, I also go through a standard statement I
15 would ask you to make. The application is carried
16 without further need for public notice to December
17 17 here, 7 p.m. at the church unless another
18 location is announced which would then be published
19 on the borough's website.
20 **CHAIRMAN SMITH:** That's correct, Derek.
21 **MR. ORTH:** Thank you.
22 **CHAIRMAN SMITH:** All right. I'd like
23 somebody make a motion to adjourn.
24 **MR. EGERTER:** Yes.
25 **MR. MOLNAR:** Second.

1 pervious pavers always fail?
2 **MR. SECKLER:** They are NJDEP best
3 management practice, and with proper maintenance and
4 schedule which is filed, they were proper.
5 **MR. RITGER:** Exactly. And are you
6 aware of any project where somebody has actually
7 maintained those pavers, because as they say, every
8 developer that I know of, and I've worked on
9 projects similar, have never found anybody to
10 maintain those properly and they fail.
11 **MR. SECKLER:** I know professionals that
12 are responsible maintenance as well as upkeep of
13 those type of facilities, and, again, they are DEP
14 best management practice. They are right out of the
15 book to be utilized for sites like this.
16 **MR. RITGER:** If they were -- let's say
17 you could put something else there, what else --
18 what other options do you have for paving those
19 areas and for draining off things like salt and
20 other chemicals that might go into the wetlands?
21 **MR. SECKLER:** Potentially manufactured
22 treatment devices would be another option.
23 **MR. RITGER:** I think you ought to
24 consider it. Thank you.
25 **CHAIRMAN SMITH:** At this point, I'm

1 **BOARD SECRETARY:** Mr. Egerter was the
2 first.
3 I can't hear. Excuse me. The meeting
4 is still going on.
5 Mr. Egerter was first.
6 **CHAIRMAN SMITH:** Yes.
7 **BOARD SECRETARY:** And who was second?
8 Mr. Molnar was second.
9 **CHAIRMAN SMITH:** All in favor.
10 (All respond aye.)
11 **CHAIRMAN SMITH:** Adjourned.
12 (Proceedings conclude at 10:19 p.m.)
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CERTIFICATE OF OFFICER

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

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney or counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the act:

Diane M Holmes

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

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