

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING**

Tuesday, August 20, 2024 7:30PM
MOUNTAIN VIEW MIDDLE SCHOOL CAFETERIA
100 DEAN ROAD, Mendham, NJ

CALL TO ORDER/FLAG SALUTE

The regular meeting of the Mendham Borough Joint Land Use Board was called to order at 7:30 p.m. and the open public meeting statement was read into the record.

Mr. D’Urso stated that Mr. Barker has resigned from the Board.

ROLL CALL

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

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

APPROVAL OF MINUTES

Motion by Mr. Egerter, seconded by Mr. Smith and unanimously carried by voice vote to adopt the minutes of the July 16, 2024, Joint Land Use Board Regular Meeting, as written.

Roll Call:

In Favor: Ms. Bushman, Councilman Sullivan, Mr. Smith, Mr. Sprandel, Mr. D’Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay, and Mr. Pace.

Opposed:

Abstain: Mayor Glassner .

Motion Carried

PUBLIC COMMENT

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

COURTESY REVIEW

12-24 Mountain View Middle School
100 Dean Rd
Blk 703 Lot 16
Present:
Mr. Gianforcaro, AIA, PE-District Architect/Engineer

Mr. Pepe, Esq- Attorney

Mr. Pepe stated that they are in front of the Board for a courtesy review. Mr. Pepe explained that this application is covered under state regulations. Mr. Gianforcaro noted that any application over 5,000 sq ft needs to be brought to the Board for a courtesy review. Mr. Gianforcaro noted that they have made application with the state and one of the requirements is to have Board review. Mr. Gianforcaro stated that they are proposing an auditorium addition. Mr. Gianforcaro noted that the addition being proposed will be to the east side of the existing building with 389 seats, a stage, lobby, bathrooms and an additional classroom for performing arts. Mr. Gianforcaro stated that a parking lot in front of the building is also being proposed. Mr. Gianforcaro explained that sheet number A2 shows the elevation of the building which will be 28' tall at its highest point. Mr. Gianforcaro noted that the proposed auditorium will be used by the district and available to the public. Mr. Gianforcaro explained that the proposed addition will be approximately 12-14,000 sq ft.

Mr. Ferriero noted that an application for stormwater control would need to be submitted to the Borough and this application would be considered a major development and would be reviewed under those standards. Mr. Kay asked if the project would be started during the school year or during the summer. Mr. Gianforcaro stated that if the referendum goes through, the project will start late fall and go throughout the school year. Mr. Gianforcaro noted all safety precautions will be taken. Mayor Glassner noted that the pathway is used by the public and asked if a new pathway will be constructed. Mr. Gianforcaro stated that they will construct a new pathway. Councilman Sullivan asked if this would be a burden on the taxpayers or is it part of the Board of Education budget. Mr. Gianforcaro stated that the project is going out to referendum and sell bonds. Ms. Traut asked what the plan for faculty parking during the project would be. Mr. Gianforcaro stated that they may build the new parking lot first as an option or they may build a temporary parking. Ms. Traut asked if they were considering on street parking. Mr. Gianforcaro stated they were not considering on street parking and would try to keep as much parking on the property as possible. Ms. Garbacz asked how long the project will take. Mr. Gianforcaro stated it would be 14-16 months.

Chairman D'Urso opened the meeting to the public for questions and comments.

Mr. Ritger, 14 Gunther St. asked if it was considered moving the project. Mr. Gianforcaro stated that they are creating a corridor so that they can be connected in the future. Mr. Gianforcaro noted that if the project is approved and the auditorium is being used, the doors to the main building can be locked so that people can't access the main building. Mr. Ritger asked if there is any plan for solar. Mr. Gianforcaro stated they will look into it.

Ms. Lathrop, 12 Sterling Ave. noted that her property abuts to the area of the project and asked if any of the trees on the buffer zone will be removed. Mr. Gianforcaro stated that they will save as many trees as possible.

Mr. Barth, 99 Dean Rd. stated that it was said that the stage lighting will be similar to what is existing but the existing is not enough. Mr. Gianforcaro noted that the stage lighting will be asked if the stage lighting will be similar but more elaborate. Mr. Gianforcaro stated that the existing is not adequate for the productions and the proposed are more elaborate.

Ms. Barth, 99 Dean Rd. noted that there will be more traffic and asked what is next.

There being no further questions, Chairman D'Urso closed public comment.

Mr. Pepe thanked the Board for it's time and asked for a letter of recommendation.

RESOLUTION

05-24 Black Horse Tavern & Pub
 1 West Main Street
 Blk 301 Lot 1

Mr. Germinario summarized the Black Horse Tavern & Pub application, and the conditions outlined in the resolution. Mr. Molnar made a motion to memorialize the resolution and Mr. Smith seconded.

Roll Call:

In Favor: Ms. Bushman, Councilman Sullivan, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay, and Mr. Pace.

Opposed:

Abstain:, Mayor Glassner

Motion Carried**The resolution follows.**

**JOINT LAND USE BOARD
 BOROUGH OF MENDHAM
 MORRIS COUNTY, NEW JERSEY
 CASE NO.: 05-24
 PREMISES: BLOCK 301, LOT 1
 1 WEST MAIN STREET, MENDHAM BOROUGH, NEW JERSEY
 APPLICANTS: BLACK HORSE TAVERN AND PUB, LLC/1 WEST MAIN STREET, LLC**

WHEREAS, Black Horse Tavern and Pub, LLC/1 West Main Street, LLC have made application to the Joint Land Use Board of the Borough of Mendham for site plan approval for the construction of enclosed stairs and the relocation of the trash enclosure at the Black Horse Inn located at 1 West Main Street, Mendham Borough, New Jersey; and

WHEREAS, the within matter was heard and considered at the regular open public meeting of the Joint Land Use Board of Mendham Borough on Tuesday, July 16, 2024; and

WHEREAS, the applicants submitted a proper and complete Affidavit of Service of notice of the instant proceeding upon all property owners within 200 feet of the subject property; and

WHEREAS, the applicants submitted a proper and complete Affidavit of Publication; and

WHEREAS, the aforesaid open public meeting was noticed, advertised and held in accordance with the Open Public Meetings Act; and

WHEREAS, this matter was opened to the public for both the questioning of witnesses and comments; and

WHEREAS, the Joint Land Use Board considered the following:

1. Land Development Application, dated March 12, 2024, prepared by Lawrence Calli, Esq.
2. Property Owner's Consent, dated March 12, 2024, prepared by Lawrence Calli, Esq.
3. Site Inspection form, dated March 12, 2024, prepared by Lawrence Calli, Esq.
4. Ownership Disclosure Statement, dated March 12, 2024, prepared by Lawrence Calli, Esq.
5. Checklist.
6. Historic Preservation Commission approval, dated April 4, 2023.
7. Site Plans, consisting of three sheets revised through May 20, 2024, prepared by Robert J. Mueller, PLS and Michael J. Hubschman, PE.
8. Architectural Plans, consisting of two sheets revised through January 8, 2024, prepared by George A. Nader, PE.
9. Report from Paul W. Ferriero, P.E., Borough Engineer, dated June 28, 2024.

WHEREAS, the Joint Land Use Board does hereby make the following findings of fact:

1. Based upon the recommendation of the Borough Engineer, the application was deemed complete.

2. The applicant was represented by Lawrence Calli, Esq.. Testimony was offered by Michael J. Hubschman, P.E. and Kevin Felice, an operations manager employed by the applicant.

3. The property in question is depicted on the tax map as Block 301, Lot 1, with a street address of 1 West Main Street. The lot is approximately 1.01 acres in size and is located in the Historic Business Zone.

4. The applicant proposes the construction of an enclosed staircase at the rear of the structure, intended for use by the staff and in conjunction with restaurant operations, the relocation of the refuse enclosure area and HVAC equipment, site lighting and an increase in the total number of off street parking spaces. The application as originally submitted also sought variance relief pursuant to N.J.S.A 40:55D-70(c) for an increase in improved coverage from 82.93% to 82.95%.

5. The applicant's engineer, Michael J. Hubschman, P.E., testified that the proposed rear stairway will be enclosed and is to be used exclusively by staff in conjunction with restaurant operations. The stairway will have a footprint of 178 square feet. In conjunction with this proposed improvement the applicant will also relocate HVAC equipment. These proposed improvements comply with all bulk standards in the Historic Business Zone.

6. The applicant also seeks approval to relocate the existing trash/recycling dumpsters. Currently the dumpsters used for trash and recycling are not enclosed and sit in the existing parking area to the rear of the restaurant. The applicant proposes relocating these dumpsters to the westerly side of the lot to a trash enclosure. As originally designed the trash enclosure was to consist of chain link fence with slats. Based upon the recommendation of the Borough Engineer the applicant agreed to modify this structure and utilize concrete block that will be finished, which will be aesthetically pleasing and more durable. This design change shall be subject to the review and approval of the Borough Engineer.

7. The restaurant's operations manager, Kevin Felice, testified that the trash dumpster relocation will result in its removal from the patron parking area, which is desirable. This change will also result in the trash dumpster being enclosed and screened from public view. Although closer to the adjoining property owner to the west, the area behind the dumpster will be screened and is a significant distance from the deli and apartment located on the adjoining lot to the west. Mr. Felice also testified that trash pick ups will continue when the restaurant is operating four to five times per week and at the same hours. The frequency of pick ups appears to be more than adequate to address public health and safety concerns associated with odor and animal attraction.

8. As a result of the trash enclosure relocation, two parking stalls will be added to the site, increasing the number from 53 parking stalls to 55 parking stalls. This will also cause an area of pavement to be generally inaccessible south of the trash enclosure and west of the modified parking stalls. The applicant agreed to remove pavement in this area and install landscaping/turf to reduce impervious/lot coverage. The removal of this pavement will result in no net increase in impervious/lot coverage, thereby eliminating the need for variance relief in this regard. These improvements also shall be subject to the review and approval of the Borough Engineer.

8. The Borough Engineer's report indicates that the architectural plans are inconsistent with the engineering plan and that the engineering plan should govern. The applicant stipulated that the architectural plans will be modified to make them consistent with the engineering plan.

9. Three members of the public testified in conjunction with this application. The first Bob Rütger, expressed concern about the proposed location of the dumpster enclosure and the size of the parking stalls. The applicant's engineer responded by stating the stall size was not being altered, two stalls were being added and that the stall size was adequate for the use.

10. Sheila Fredericks testified that the dumpsters will be in a better location where proposed, but expressed concern about access by animals to the trash enclosure. As designed the enclosure thwarts such access. Enclosing the trash dumpster will only serve to improve existing conditions.

11. Richard Vacchiano, whose family owns the building to the west, expressed concern about relocating the dumpster enclosure closer to the family property. In this regard the Board finds that although the dumpster enclosure will be closer to the Vacchiano property, its location will comply with side yard setback requirements and is distant from the building located on the Vacchiano property. On balance, relocating the trash enclosure not only complies with ordinance requirements, it will be more aesthetically pleasing and from an operations standpoint makes the most sense. It also will result in a net increase in the number of parking stalls, will be adequately screened and finally will result in no net increase in impervious/lot coverage.

12. At the conclusion of the public meeting the Board voted to approve the application with conditions.

NOW THEREFORE BE IT RESOLVED by the Joint Land Use Board of the Borough of Mendham, State of New Jersey, that Application Number 5-24 of the Black Horse Tavern and Pub, LLC/1 West Main Street, LLC be and is hereby approved subject to the following:

1. The applicant shall modify the design of the trash enclosure and utilize finished concrete block. These improvements shall be subject to the review and approval of the Borough Engineer.

2. The applicant shall remove the pavement to the south of the trash enclosure and west of the modified parking stalls and install landscaping/turf to reduce the extent of excessive cover on the lot. These improvements also shall be subject to the review and approval of the Borough Engineer.

3. The applicant shall modify the architectural plans to make them consistent with the engineering plan.

4. All application, escrow and inspection fees shall be paid in full and current at the time of issuance of zoning permits and construction permits. Engineering inspection fees will be paid out of the Applicant's escrow account, and the Applicant will replenish said account to the extent required to pay for said inspection fees.

5. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

6. This approval is subject to the payment in full of all taxes and assessments due and owing to the Borough of Mendham and/or any agency thereof.

CERTIFICATION

I, Lisa Smith, do hereby certify the above to be a true correct copy of a Resolution regularly and duly adopted by the Board of Adjustment of the Borough of Mendham at a duly called meeting of the Joint Land Use Board held on July 16, 2024.

Coordinator

Lisa Smith, Land Use

HEARING

07-24 Thomas Veman
465 Cherry Lane
Blk 2401 Lot 28
Present: Mr. Hefele – Attorney

Mr. D'Urso stated that this application is being carried to the October 15, 2024 meeting with no further notice required.

V-Fee Consent Order- Whispering Woods
Present: Mr. Orth – Attorney

Mr. D'Urso, Mayor Glassner, and Councilman Sullivan recused themselves.

Refer to attached transcript

Note: The portions that where Mr. Sposaro is mentioned it is actually Mr. Germinario

Mr. Sprandel made a motion to approve with conditions as outlined in the Resolution and was seconded by Mr. Egerter.

Roll Call:

In Favor: Ms. Bushman, Mr. Smith, Mr. Sprandel, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, and Mr. Kay, and Mr. Pace.

Opposed:

Abstain: Mayor Glassner and Councilman Sullivan.

Motion Carried

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

Refer to attached transcript

Note: The portions that where Mr. Sposaro is mentioned it is actually Mr. Germinario

This application was carried to the Special Meeting scheduled for August 21, 2024, without further notice needed.

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Mr. Kay, and seconded by Ms. Traut. On a voice vote, all were in favor. Vice Chair Smith adjourned the meeting at 10:00PM.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator

In The Matter Of:

IN RE: 23-22 V-Fee Mendham Apartments

Transcript Of Proceeding

August 20, 2024

Audio Transcription



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Audio Transcription

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2 JOINT LAND USE BOARD
3 REGULAR MEETING
4 AUGUST 20, 2024

5 IN THE MATTER OF
6 23-22 V-FEE MENDHAM APARTMENTS, LLC
7 84-86-88 EAST MAIN STREET
8 BLOCK 801, LOT 20

9

10 PARTICIPANTS:

- 11 JOSEPH D'URSO, CHAIR
- 12 CHRISTINE SERRANO GLASSNER, MAYOR
- 13 JOUCE BUSHMAN, BOROUGH ADMINISTRATOR
- 14 NEIL SULLIVAN, COUNCILMAN
- 15 RICHARD SMITH, MEMBER
- 16 DAVE SPRANDEL, MEMBER
- 17 JOHN EGERTER, MEMBER
- 18 MARIE ROSE GARBACZ, MEMBER
- 19 JAMES MOLNAR, MEMBER
- 20 ALEXANDRA HENRY TRAUT, ALTERNATE 1 MEMBER
- 21 KEITH KAY, ALTERNATE 2 MEMBER
- 22 RICHARD PACE, ALTERNATE 4 MEMBER

23 ALSO PRESENT:

- 24 PAUL FERRIERO, BOARD ENGINEER
- 25 ANTHONY J. SPOSARO, BOARD ATTORNEY

Audio Transcription

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1 (Recording begins at 7:30 p.m.)

2 MR. D'URSO: Notice of this meeting was
3 published in The Star-Ledger and Daily Record and was
4 posted in the Bowers Building in accordance with the
5 Open Public Record Meetings Act and was furnished to
6 all those who have requested individual notice and are
7 paying the required fees. We'll start with a roll
8 call. But I want to make an announcement that James
9 Barker has resigned from the board.

10 MS. SMITH: Correct. Can everybody hear out
11 in the audience? Okay. You got to put your mouth
12 right up to the microphone.

13 MR. D'URSO: All right.

14 MS. SMITH: There we go. All right. We'll
15 do roll call now.

16 MR. D'URSO: Roll call now.

17 MS. SMITH: Mayor Glassman.

18 MS. GLASSMAN: Here.

19 MS. SMITH: Ms. Bushman.

20 MS. BUSHMAN: Here.

21 MS. SMITH: Councilman Sullivan.

22 MR. SULLIVAN: Here.

23 MS. SMITH: Mr. Smith.

24 MR. SMITH: Here.

25 MS. SMITH: Mr. Sprandel.

Audio Transcription

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1 MR. SPRANDEL: Here.

2 MS. SMITH: Mr. D'Urso.

3 MR. D'URSO: Here.

4 MS. SMITH: Mr. Egerter.

5 MR. EGERTER: Here.

6 MS. SMITH: Ms. Garbacz.

7 MS. GARBACZ: Here.

8 MS. SMITH: Mr. Molnar.

9 MR. MOLNAR: Here.

10 MS. SMITH: Ms. Traut.

11 MS. TRAUT: Here.

12 MS. SMITH: Mr. Kay.

13 MR. KAY: Here.

14 MS. SMITH: Mr. Pace.

15 MR. PACE: Here.

16 MR. D'URSO: Okay. We're going to review the

17 minutes of the July 16th meeting. Has everyone had a

18 chance? Are there any comments about those meetings?

19 Okay. Then, can I have a motion to accept?

20 Okay. Mr. Agder.

21 MS. SMITH: Motion by Mr. Agder.

22 MR. SMITH: I'll second.

23 MS. SMITH: Second by Mr. Smith.

24 Ms. Bushman.

25 MS. BUSHMAN: Yes.

Audio Transcription

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1 MS. SMITH: Councilman Sullivan.
2 MR. SULLIVAN: Yes.
3 MS. SMITH: Mr. Smith.
4 MR. SMITH: Yes.
5 MS. SMITH: Mr. Sprandel.
6 MR. SPRANDEL: Yes.
7 MS. SMITH: Mr. Egerter.
8 MR. EGERTER: Yes.
9 MS. SMITH: Ms. Garbacz.
10 MS. GARBACZ: Yes.
11 MS. SMITH: Mr. Molnar.
12 MR. MOLNAR: Yes.
13 MS. SMITH: Ms. Traut.
14 MS. TRAUT: Yes.
15 MS. SMITH: Mr. Kay.
16 MR. KAY: Yes.
17 MS. SMITH: And Mr. Pace.
18 MR. PACE: Yes.
19 MS. SMITH: Okay.
20 MR. D'URSO: And if you haven't had a chance,
21 the copies of the agenda, and the consent order, and
22 the public meeting minutes are on the front table there
23 if you want copies. We're going to open now for public
24 comment. And this is an opportunity for the public to
25 make comments about items that are not on the agenda or

1 not referring to a application that's on the agenda.

2 If you want to make a comment, we'll
3 recognize you to come to the table, bring -- mention
4 your name and your street address. You don't have to
5 name -- put your address if you're protected under
6 David's Law. Is there anyone in the public who would
7 like to make a comment? There being none, I'm going to
8 close it for public comment.

9 The next item on the agenda is a courtesy
10 review of the Mountain View Middle School. Who's
11 speaking for the school?

12 MS. SMITH: Please push the red button on the
13 microphone until you see it come on, and then hold it
14 up. You'll see it at the bottom.

15 MR. PEPE: At the bottom.

16 MS. SMITH: Yeah. See it's red. And then
17 you can hold the microphone and speak.

18 MR. PEPE: Is it on?

19 MS. SMITH: There you go.

20 MR. PEPE: So good evening. My name is
21 Donald Pepe. I'm an attorney with the law firm of
22 Scarinci Hollenbeck, and we represent the Board of
23 Education. We're their counsel.

24 We're here tonight for what's called a
25 Section 31 Review. That reference is to the statutory

1 section, which is here, Section 31. What that means
2 is, it's a courtesy review, and unlike the other cases
3 that you are probably more accustomed to seeing, it's
4 more of a concept review. (Indiscernible) before you.
5 It's a little bit more removed from that.

6 But most importantly, we're not asking you to
7 vote tonight. Your duty with respect to a Section 31
8 Review is to provide comments as to how the application
9 can get better conforming for the municipality master
10 plan. All of the normal bulk requirements that you've
11 seen in the site plan app, things like parking accounts
12 and things like, you know, stormwater provisions,
13 they're all covered by state regulations or state
14 statutes. So we actually have to go through and review
15 the plans with the State. This is a first step in that
16 process. I have our architect here tonight to tell you
17 quickly about what's being proposed.

18 It's a very unusual circumstance that I've
19 never encountered before in 25 years. We are talking
20 about this particular building, this particular school,
21 right here that were all in now. So with no further
22 ado, I'd like to introduce the project manager.

23 MR. JONESBUROUGH: Hi, my name is Anthony
24 Jonesborough, I am a partner (indiscernible) with me.
25 Tonight we're going to be short and sweet. Anytime the

1 department -- anytime that you propose any addition to
2 a school for over 5,000 square feet, you have to appear
3 before the local planning board. And that's why we're
4 here tonight. We've made an application to the State,
5 and this is one of the requirements that we have to do.

6 And as part of this proposal, we are
7 proposing an auditorium addition at this school. That
8 would be -- you have the plans in front of you. It's
9 in an auditorium addition, off to the east side of the
10 existing building. We have 389 seats proposed, a
11 stage, a lobby, bathrooms off the lobby, and one
12 additional classroom that can be used for performing
13 arts.

14 We are also going to put a parking lot in
15 front of the building. There's one on the east side of
16 the property now that we're going to be building over
17 the top of. The building will be about 80 feet from
18 the property line. We're proposing --

19 MS. SMITH: Can you turn (indiscernible)?

20 MR. JONESBUROUGH: Sure.

21 MS. SMITH: Do all the board members have a
22 copy of what he's looking at?

23 UNIDENTIFIED: Yeah.

24 UNIDENTIFIED: Yes.

25 MS. SMITH: Okay. You can face it totally to

1 the public. Just refer to what sheet number you're
2 talking about.

3 MR. JONESBUROUGH: The first there is A1, the
4 next sheet is A2, which lists the elevation of the
5 building. The building will be approximately 28 feet
6 tall at the highest point, which will be over there by
7 the auditorium. The other rooms will be a little lower
8 than that and probably in the neighborhood of 20 feet
9 tall.

10 At one time, the District had an auditorium
11 (indiscernible) renovated back in 2000, and the
12 auditorium was eliminated. So that's one of the
13 reasons that the District is now coming back around and
14 proposing an auditorium.

15 It will be used by the District, obviously.
16 It will be also available to the community for
17 community use. And that's what is proposed here
18 tonight.

19 Again, short and sweet. It's an auditorium.
20 The entire addition, I think, is right around 12 to
21 14,000 square feet. At this point, I'm just going to
22 open -- I mean it will be blocked construction -- block
23 with reconstruction. (Indiscernible). We'll have
24 theater lighting, similar to what you have here. A
25 little more elaborate.

1 At this point, I guess, I'll just open it up
2 for comments.

3 UNIDENTIFIED: Mr. Chairman, the only comment
4 that I would have is that under the Borough Stormwater
5 Control Ordinance, you have to make an application for
6 stormwater control to the Borough. This will be a
7 major development and will be reviewed under those
8 standards.

9 MR. JONESBUROUGH: That's -- we certainly
10 will abide by that. And we'll discuss the different
11 stormwater options. We're looking probably before
12 paving the parking lot.

13 UNIDENTIFIED: We can deal with that all
14 offline. But yes, I just wanted to put that on the
15 record that you got to do that.

16 MR. JONESBUROUGH: Absolutely.

17 MR. D'URSO: This is really just preliminary,
18 but does anyone have questions?

19 MR. KAY: Yeah. Just a general question on
20 timing, will this be done during the school year?

21 MS. SMITH: Mr. Kay, please speak into the
22 microphone because they all can't hear you.

23 MR. KAY: I just have one question about
24 timing. Will this be done if all goes to according to
25 plan during the school year or start next summer?

1 MR. JONESBUROUGH: Well, if -- if -- the
2 referendum should go through, it will -- construction
3 will probably start late fall. And it will go
4 throughout the school year. We just simply cannot
5 build this much addition in two months -- in the summer
6 months.

7 Obviously, all safety precautions will be
8 taken. The site will be closed with fencing. There
9 will be emergency exits out of those end classrooms.
10 We'll actually have to put in temporary doors to exit
11 so that there will be no fire issues with someone
12 exiting the building in case of a fire. So yes, all
13 that would be taken into consideration.

14 The plans, once approved by the Department of
15 Education, have to go to local code official. All
16 building codes will be reviewed. And, you know, that
17 from -- from fire to electric to plumbing, the whole
18 (indiscernible).

19 MR. D'URSO: Thank you. Other than the
20 formal coming here as a preliminary, you don't envision
21 coming to this board for variance or anything else,
22 correct?

23 MR. JONESBUROUGH: No. We don't.

24 MR. D'URSO: Okay.

25 UNIDENTIFIED: Taking the community into

1 consideration, so the community uses this existing
2 pathway for, you know, a lot of the folks in the
3 neighborhoods to get up to the park. Will you consider
4 that and create now a new pathway that will go around
5 this building so the community can still pass through?

6 MR. JONESBUROUGH: We certainly will.
7 Absolutely. Absolutely. I know a lot of people walk
8 from the circle behind the school, down through the
9 school property. Yes. Absolutely.

10 UNIDENTIFIED: Will there be a financial
11 burden to the taxpayers, or is this in the Board of
12 Education budget?

13 MR. JONESBUROUGH: They -- they will be going
14 out to the referendum for something like this. They
15 will be asking for, you know, to sell bonds as part of
16 this. That is part of the whole process that we'll be
17 rolling out sometime in the next, you know, several
18 months.

19 UNIDENTIFIED: Okay.

20 UNIDENTIFIED: Given that construction is
21 planned for during the school year, I believe that
22 parking lot is used for faculty. What's the plan to
23 relocate faculty parking during the school year?

24 MR. JONESBUROUGH: Well, there's a couple of
25 things we can do. The first thing would be to build it

1 in phases -- build the parking lot first. That's one
2 option. I mean the other option would be to build
3 something temporary, but more than likely we -- we
4 would build in phases. We'd give the faculty part of
5 that lot.

6 UNIDENTIFIED: And you wouldn't consider
7 street parking during the school year, correct?

8 MR. JONESBUROUGH: Well, we certainly prefer
9 not to.

10 UNIDENTIFIED: Sure.

11 MR. JONESBUROUGH: I mean, nobody likes
12 that. Obviously, the residents don't like that, the --
13 the people have to walk, you know, down the street to
14 the school on a rainy day, I'm sure they don't like
15 that either. So we would try to keep as much parking
16 on the property as possible.

17 UNIDENTIFIED: Thank you.

18 UNIDENTIFIED: You mentioned that the project
19 will start in fall. How long?

20 MR. JONESBUROUGH: Something like this we
21 would probably give about 14 months to construct -- 14
22 to 16 months.

23 MR. D'URSO: Anyone else? Okay. There is an
24 opportunity. Anyone from the public would like to make
25 a comment?

1 UNIDENTIFIED: (Indiscernible). Was it
2 considered to move the auditorium attached to the
3 other -- the other property (indiscernible)?

4 MR. JONESBUROUGH: There was a consideration.
5 I think it's --

6 MS. SMITH: You need to use the microphone,
7 please. Thank you.

8 MR. JONESBUROUGH: As you can see, one of the
9 things we're doing is creating a corridor. We intend,
10 at some point in the future -- I shouldn't say that.
11 We want to leave it open so that we can connect to
12 other buildings in the future. Okay. So that's why
13 it's -- it's situated -- that's why we did this.

14 The other -- the other reason for the way the
15 plan has been developed is these doors could be locked.
16 Okay. Between the existing building and this and
17 because of this we don't have a dead-end corridor.
18 And, therefore, there's no fire issues with it.

19 So -- so if the District were to have an
20 event, whether it's a play, a concert, whatever it may
21 be, in any event, if the community where to use this,
22 they could simply lock these doors, and no one would be
23 able to traffic through the existing building. They
24 would be contained to the -- the addition and there'd
25 be no fire issues.

1 UNIDENTIFIED: (Indiscernible). My next
2 question, is there any plan for solar? It looks like
3 we have an opportunity.

4 MR. JONESBUROUGH: It's something that we can
5 look into.

6 MS. SMITH: Please use the microphone. Thank
7 you.

8 MR. JONESBUROUGH: It's something we can
9 certainly look into. We're certainly, I mean, there's
10 going to be a rooftop unit, but even that, yes, it's
11 something that we should consider. We have to do a
12 shading study, obviously, because this is -- the
13 auditorium is higher than these adjacent spaces, and we
14 have to make sure we don't shade it in. Yes. It
15 certainly is something that we will consider.

16 UNIDENTIFIED: Would you consider moving
17 these two bathroom doors into the hallway so that it's
18 -- the people in the lobby wouldn't see into the
19 bathrooms? It's disturbing.

20 MR. JONESBUROUGH: I'll certainly consider
21 that. I like that idea.

22 MR. D'URSO: Thank you. Anyone else from the
23 public?

24 MR. JONESBUROUGH: (Indiscernible).

25 UNIDENTIFIED: How much of the wooded --

1 MR. D'URSO: I'm sorry. Can you identify
2 your name and address please.

3 UNIDENTIFIED: Excuse me. My name is Vicky
4 (indiscernible). I live on 12 Sterling Avenue. And my
5 property abuts the school through -- through the wooded
6 area. So in looking at the plans, I want to know how
7 much of the wooded area you intend to approach. That
8 wooded buffer zone, how much of that would be removed
9 in your plan?

10 MR. JONESBROUGH: Well, right now you can
11 see we're right up to the tree line. We're going to
12 save as many trees as we possibly can. I don't have
13 any intention of starting to cut trees down that we
14 don't have to. We are going to be about 80 feet from
15 the property.

16 So I think that, like I said to the city, we
17 overlaid it on an aerial. And you can see we're right
18 at the edge, you know, we may take a few down just so
19 we have a little bit of space between the building and
20 the tree. We don't want to kill the trees obviously by
21 just building the building there, but we're going to
22 take down as few as possible.

23 UNIDENTIFIED: (Indiscernible).

24 MR. JONESBROUGH: All right. You're
25 welcome.

1 MR. D'URSO: Is there anyone else?

2 UNIDENTIFIED: I am (indiscernible) Road. I
3 just have one question. When you mentioned the
4 lighting, you used the phrase "as we have here." Was
5 there -- it's been determined that what we have here
6 for the population of this school is not enough.

7 MR. JONESBUROUGH: As far as the stage
8 lighting, it would -- I said it would be similar but
9 more elaborate.

10 UNIDENTIFIED: That's not -- I'm referring to
11 the room we're in. You just happen to use the phrase
12 "as we have here," so this is an auditorium. I'm just
13 asking, has it been determined that where we're sitting
14 is not enough for the students of this school. That's
15 my question I asked.

16 MR. JONESBUROUGH: Yes. It has been
17 determined that this space is -- is really not adequate
18 for the productions they've been putting on and the --
19 the concerts and the events they have been having.

20 UNIDENTIFIED: Natalya Brozman (phonetic)
21 (indiscernible) Road. Question about increase in
22 parking spots, which means now we have a new building
23 like addition, right, and then we're going to have
24 another building by Kings, then something else. So it
25 creates more and more traffic. More and more traffic.

1 It's no longer -- it will become no longer a quiet
2 town. It's just -- it's there is more let's build
3 this, let's build that. Where's the quiet town? Like
4 when will it stop? Then what's coming next? A second
5 storage? A second store. Like, where does it end?
6 There's just more -- more apartments, bigger school.

7 MR. D'URSO: Okay.

8 UNIDENTIFIED: As it is already
9 (indiscernible) an event at the school because there's
10 so many cars that park, so on top of this it creates
11 more.

12 MR. D'URSO: Okay. I'm sorry. What's --
13 anyone else from the public? If there are no other
14 comment, I'm going to close that part.

15 MR. JONESBOROUGH: Thank you, all, for your
16 valuable time this evening. So again, what we're
17 looking for is a letter of recommendation of the ways
18 in which this (indiscernible). There's no vote on
19 this. If you want to have a calm meeting and discuss
20 any possibility of recommendations, feel free to do
21 so. But that is -- (indiscernible).

22 MR. D'URSO: Thank you.

23 MR. JONESBOROUGH: Thank you very much.

24 MR. D'URSO: There are no items on the agenda
25 for completeness, so we're going to move to the next

1 item, which is hearings.

2 MS. SMITH: Do the resolution. The Black
3 Horse.

4 MR. D'URSO: I'm sorry.

5 MS. SMITH: That's okay.

6 MR. D'URSO: We do have a resolution to be
7 read on the Black Horse. Okay.

8 UNIDENTIFIED: Well, I'll do my best to
9 explain this, although I was not present for this
10 hearing, as you might remember. So this is a site plan
11 approval for Black Horse Tavern & Pub, West Main
12 Street, LLC. They were looking and were approved for
13 construction of an enclosed staircase at the rear of
14 the structure and intended for staff in connection with
15 restaurant operations and relocation of a refuse
16 enclosure and HVAC equipment.

17 So the relocation of the trash enclosure from
18 the parking area, as I understand it, freed up a couple
19 of more parking stalls allowing an increase from 53 to
20 54 -- 55 stalls. And it also allowed removal of some
21 pavement so that there was a net reduction of
22 impervious coverage, which otherwise in the original
23 application, they were looking for a variance for that.

24 So the Board approved this with conditions.
25 The three conditions that were required were that they

1 modify the design of the trash enclosure to utilize
2 concrete block, subject to review of the borough
3 engineer. They removed the pavement south of the trash
4 enclosure so as to reduce the impervious coverage, also
5 subject to review of the borough engineer. And the
6 modification of the architectural plans to make them
7 consistent with the engineering plans and the rest are
8 standard conditions.

9 MR. D'URSO: So as read by Tom can we get a
10 motion to accept? Mr. Molnar.

11 MS. SMITH: Mr. Molnar was first.

12 MR. D'URSO: Was first.

13 MS. SMITH: Okay.

14 MR. D'URSO: And second?

15 MR. SMITH: I'll second.

16 MS. SMITH: Mr. Smith was second.

17 Ms. Bushman.

18 MS. BUSHMAN: Yes.

19 MS. SMITH: Councilman Sullivan.

20 MR. SULLIVAN: Yes.

21 MS. SMITH: Mr. Smith.

22 MR. SMITH: Yes.

23 MS. SMITH: Mr. Sprandel.

24 MR. SPRANDEL: Yes.

25 MS. SMITH: Mr. D'Urso.

1 MR. D'URSO: Yes.

2 MS. SMITH: Mr. Egerter.

3 MR. EGERTER: Yes.

4 MS. SMITH: Ms. Garbacz.

5 MS. GARBACZ: Yes.

6 MS. SMITH: Mr. Molnar.

7 MR. MOLNAR: Yes.

8 MS. SMITH: Ms. Traut.

9 MS. TRAUT: Yes.

10 MS. SMITH: Mr. Kay.

11 MR. KAY: Yes.

12 MS. SMITH: Mr. Pace.

13 MR. PACE: Yes.

14 MR. D'URSO: Now, with there being no
15 applications for completeness, we'll pass on to
16 hearings. I will mention that during the hearing
17 portion, there will be the opportunity for the public
18 to raise comments during each time that a professional
19 is up. There will be a three-minute opportunity to
20 talk -- questions to that professional, one time per
21 person. And then again at the end, when all of the
22 professionals have been read, to make comments.

23 We have the first of the items is 465 Cherry
24 Lane has been delayed. That will be carried to the
25 October 15th meeting. So with the only two meeting

1 items will be the V-Fee consent order and the V-Fee
2 Apartments.

3 MS. SMITH: Chairman, just mention that no
4 further notice is required.

5 MR. D'URSO: And no further notice will be
6 made of those two applications. The only further
7 notice is that I must recuse myself. And so, Vice
8 Chair Smith will be taking over the rest of the
9 meeting.

10 MR. SPOSARO: Yes. And also, since the
11 consideration of the consent order will be undertaken
12 by this Board in its mode of a zoning board of
13 adjustment, we will have the Mayor Glassner and
14 Councilman Sullivan will step down at this time.

15 Okay. So we are going to undertake right now
16 something called a Whispering Woods hearing. So that's
17 a strange sounding name. We're not going to be
18 whispering. We're going to be speaking so you could
19 hear this hopefully. But it goes to the name of a case
20 that was decided back in 1987, I believe, Whispering
21 Woods v. Middleton Township, which it said that when an
22 application is brought and it results in litigation and
23 there is a settlement to the litigation, before the
24 Board goes back into the resolution of that
25 application, it must allow the public to hear about the

1 proposed settlement and have input, comments,
2 questions, et cetera, on that proposed settlement.

3 So in this case, we have a draft consent
4 order. If those of you have not availed yourself, I
5 think there are still copies of that consent order at
6 that front table. You might want to look at it because
7 as we go through it, I'll be referring to it.

8 So this resulted from litigation that had
9 happened in connection with the initial completeness
10 review of this application. Now the application --
11 just in a very brief sense, some of you will probably
12 already familiar with it, is for affordable housing and
13 some other commercial development on the Kings Shopping
14 Plaza site. The affordable housing component has 65
15 proposed units -- I'm sorry, 75 proposed units, of
16 which 15 are affordable units. That application was
17 made in November of 2022, and at the first completeness
18 hearing, which was in March of the following year, the
19 Board determined that there was a requirement for what
20 we call a D(3) variance.

21 So let me explain what that is. Some uses
22 are conditionally allowed in that zone, and in other
23 zones, they're subject to conditions on their use.
24 There is an existing cell tower, as most of you
25 probably know, on that site that was approved back in

1 2017. This proposed development of the residential
2 units would be within 250 feet of that cell tower. And
3 there is a conditional requirement on -- in with --
4 with respect to cell towers that they shall not be any
5 closer than 250 feet to a residential use.

6 So the Board made a determination at that
7 time that that was -- that created what was called
8 a D(3) variance and ruled the application, this
9 application, incomplete because the applicant had not
10 applied for that variance.

11 The applicant initiated a litigation
12 challenge -- well, I'm skipping a step. I'm sorry I
13 have to go back. The applicant then requested an
14 interpretation of the ordinance by this Board in its
15 capacity as a zoning board of adjustment. And that
16 request was made in April of last year and a hearing
17 was held in May of last year. Some of you may have
18 attended that hearing in which the applicant argued his
19 case that that particular provision, in terms of the
20 setback from a cell tower, was applicable only to new
21 cell towers and they weren't proposing a cell tower.
22 So it should not be construed as applying to them.

23 The Board, at the end of that hearing,
24 determined that we did, in fact require that variance.
25 And subsequently, the applicant undertook litigation to

1 challenge that determination. So we have been before
2 Judge Gaus in Sussex County. I think it initially,
3 before Judge Minkowitz signed an order to dismiss. And
4 then the case went up to Judge Gaus in Sussex County.

5 In the hearings on this and in the -- in the
6 case management conferences that we've had with Judge
7 Gaus, he has taken the view that this -- the conflict
8 between this setback provision and the settlement
9 agreement that was entered into in 2019, that allowed
10 for this affordable housing and that was subsequently
11 enacted into an ordinance zoning -- ordinance --
12 rezoning ordinance for the that site in the following
13 year, that no one at the time on either
14 the borough side or on the applicant side, really
15 looked at this conflict and realized the consequence of
16 it. So in the judge's thinking, this sort of falls
17 into a mutual mistake, an oversight.

18 And after discussions, we made the suggestion
19 -- actually, I made the suggestion initially, that
20 whether we call this a D variance or not, the main
21 concern here was clearly the health impact on the
22 residents of this new proposed housing and whether it
23 would be safe to be in such close proximity to this
24 cell tower.

25 So what has been worked out in this consent

1 order is that, despite the fact that we will no longer
2 call this a use variance, a D(3) variance, the
3 applicant will provide a what we call a compliance
4 report that will certify that this exposure that would
5 result from the proximity of the tower to the residents
6 does not exceed the health standards -- the maximum
7 exposure standards that are set on -- set under
8 regulations by the Federal Communication Commission and
9 the New Jersey DEP.

10 The Board, in turn, will have, and has
11 already appointed, an independent expert in this field
12 who will review that report once it's submitted and may
13 give a report to the Board as to whether that report is
14 sufficient and adequate to ensure the safety and health
15 of the new residents in that housing project.

16 Now I will mention that before we got to this
17 hearing, there was one of the members of the public
18 made a -- an open -- Open Public Records Act, OPRA,
19 request for that FCC compliance report. So that report
20 would only be submitted if, in fact, the Board approves
21 this consent order. And then that will go back into
22 the mode of the planning board and the applicant will
23 fulfill their obligation to submit that report or
24 undergo review by the Board's expert. So we don't --
25 the Board is not currently in possession of that report

1 nor am I sure, in fact, that the applicant has
2 completed its preparation. We did give that particular
3 requester a copy of the original report that was
4 issued, I believe, back in 2008, in connection with the
5 cell tower application. And, I think, that he followed
6 up by saying, well, this is not what is being proposed
7 now and we acknowledge that. But that explains what --
8 what ensued with respect to that OPRA request in case
9 we get into a discussion of it later on.

10 So all that being said, let me just take you
11 through the draft consent order. If you have it in
12 front of you, you can follow along with me. It begins
13 with various whereas provisions, which give basically
14 the history that I've just gone through in terms of the
15 litigation, how that litigation arose, and the issues
16 that were involved with it. And it mentions the fact
17 that we have reached this tentative agreement to
18 dispense with the D(3) variance relief so that we could
19 try and make this process compatible with the
20 background on the set of the affordable housing
21 settlement agreement and the zoning.

22 So the conditions that we would be enacting,
23 they begin -- they're numbered, and they begin on Page
24 3. The first one being that the applicant does not
25 require a D(3) variance in connection with the

1 preexisting cell tower on the site.

2 Number 2, that they will agree to prevent --
3 present competent documentary proof that the cell
4 tower's operation would be in compliance with the FCC
5 and NJDEP radio frequency limits with respect to future
6 occupants of the residential -- proposed residential
7 buildings. And the Board will retain, and has
8 retained, its own consultant to review and opine on the
9 report as submitted by V-Fee's consultant.

10 Excuse me a second. My voice is not totally
11 come back to from the cold that I had that kept me away
12 from the last hearing so --

13 Okay. The third provision says that ŷ it
14 refers to a section of the ordinance in which this --
15 the Board -- not the Board, but the Borough may require
16 the operator of the cell tower to submit annual
17 certifications that they are continuing to comply with
18 the exposure -- maximum exposure limits and this
19 condition refers to that provision.

20 The fourth condition says that the
21 completeness determination that took place in March
22 21st, in which we found them incomplete, that we --
23 they will now be considered to have been complete as of
24 that date, so that their completeness determination, it
25 goes back to March 21st of last year. But that does

1 not control the statutory time period in the municipal
2 landings law. There's a statutory time period under
3 which the Board must act on the application, and it
4 provides that that begins with the first hearing before
5 the Board, which I guess is tonight.

6 The fifth provision -- and this is where the
7 initial draft was modified so let me just explain how
8 that modification took place. In the initial draft, it
9 had said that the Borough and the Board stipulate that
10 the application is consistent with the settlement
11 agreement -- the affordable housing settlement
12 agreement -- between the Borough and the Township. And
13 I'm sorry, between the Borough and the applicant. We
14 modified that to say that that consistency is not an
15 issue to be addressed by the Board's review of the site
16 plan application. That's an issue for the Borough and
17 the applicant to deal with, and I believe they have
18 dealt with that already.

19 And Condition 6 is that the Board agrees to
20 undertake good faith efforts to expedite this
21 application once we're past the Whispering Woods
22 hearing, subject to the availability of board members'
23 scheduled special hearings as needed at V-Fee's
24 request.

25 And Item 7 -- is just a formality that this

1 is -- consent order is served via filing with the court
2 and all attorneys of this case.

3 So that's it. It's pretty simple. But the
4 essential points are that the imposition of the three
5 various -- use variance requirement has been withdrawn,
6 and in its place there are the obligations of the
7 applicant with respect to proving -- or submitting
8 proof that there would be no adverse health or safety
9 impacts of the proximity of the proposed residents to
10 the existing cell tower.

11 And that pretty much summarizes things. Does
12 the Board have any questions of what I've gone through?

13 MR. SMITH: I'd like to open this up to the
14 public. If the public has any questions on what our
15 counsel has just recited?

16 UNIDENTIFIED: Richard (indiscernible)
17 Street. I just wanted to make one clarification.
18 Because you mentioned that the cell tower was approved
19 and I'm pretty sure everybody in public knows, nobody
20 on the zoning board at the time or in this town
21 approved the cell tower. They had to go to court, they
22 had a mandate to build it. Just wanted to make sure.

23 MR. SPOSARO: That's correct. Yeah. It's
24 duly noted. What technically did happen, Bob, is that
25 we, the Board, rejected it on the basis of denying a

1 variance that was necessary. And it went up and we
2 were sustained in trial court, in the lower division.
3 It went up to the appellate division, and we were
4 reversed and said we had to approve that variance and
5 then it did come back to the Board in 2017, just for
6 the technicality of issuing the site plan approval.
7 But the variance issue had already been dictated by the
8 court.

9 MR. SPOSARO: Very good. Thanks.

10 MR. SMITH: Anyone else in the public?
11 Please state your name and address, please.

12 MS. BECK: My name is Priscilla Beck
13 (phonetic) (indiscernible).

14 MS. SMITH: Can you talk to -- just pull the
15 microphone up.

16 MR. SMITH: Just put that down a little bit
17 more.

18 MS. SMITH: What was your address?

19 MS. BECK: 16 (indiscernible). I just took a
20 few minutes --

21 MR. SMITH: Hold that up to -- the microphone
22 up to your mouth more.

23 MS. BECK: I took a few minutes yesterday, to
24 look at some plans, and I was concerned about the
25 distances and -- between the cell tower and the

1 building. And I know that this variance -- variance
2 would take care of these distance issues. But the
3 consent order really talks about the exposures and not
4 about the distance that these (indiscernible), and I
5 can envision a time when we had a bad storm and a pole
6 -- it was not likely, but it could happen. And it
7 would fall right on the residential building. The
8 number of feet, 250 may be excessive. But I was
9 looking at the plans and on Page A2 -- Page A2 of the
10 plans, I noticed that the distance between the cell
11 tower demarcation on the plan and the, I guess, it
12 would be the most southeastern building was within 150
13 feet. And the cell tower that's there currently -- I'm
14 not sure. Can somebody tell me how tall it is by
15 comparing the (indiscernible)?

16 MR. SMITH: Yes.

17 MS. BECK: Obviously, it's a greater
18 difference.

19 MR. SMITH: It was approved by the Board in
20 2017, at the height of 130. But I believe our
21 engineers informed me that it's now a little bit higher
22 than that.

23 MR. FERRIERO: Yes. There is an extension of
24 on the -- on the order of 10 or 11 feet, so it's just
25 over 141 feet.

1 MS. BECK: And it's pretty scary to see the
2 guys out there working on that tower, because there was
3 one there two weeks ago. And I'm praying that he was
4 gone. I don't know. I wasn't -- I wouldn't feel very
5 secure that it was going to hold up (indiscernible)
6 poles. But I'm concerned about that and then we get to
7 --

8 MS. SMITH: You need to speak into the
9 microphone.

10 MS. BECK: Then you get to -- I'm sorry.

11 MS. SMITH: Because the people back there
12 need to hear you. We can hear you.

13 MS. BECK: And then you get to Item Number 5
14 in the consent, and you've answered my question about
15 what the application refers to the in the agreement.
16 You're telling -- saying it's a settlement agreement --

17 MR. SMITH: Yes, I --

18 MS. BECK: -- that it's referring to, but it
19 also talks about a concept plan that was appended to
20 same, where is that concept plan?

21 MR. SPOSARO: It was an appendix to the
22 original settlement agreement of 2019, and it showed in
23 conceptual form where this affordable housing
24 development would go on the site.

25 MS. BECK: And does that conform with the

1 plans that have been on display?

2 MR. SPOSARO: That -- they -- the current
3 proposal does not exactly conform to that area that was
4 indicated in the in the concept plan. No. But that
5 issue has -- is not one for the Board. That's what
6 that Condition 5 refers to. That's not an issue for
7 this Board to determine. That is an issue between the
8 parties to the settlement agreement, which is the
9 Borough and the -- and the applicant. And I believe in
10 the Borough's side of this litigation, that that has
11 already been addressed.

12 MS. BECK: Because it says there it cannot
13 later be argued to the contrary, and that is very
14 concerning.

15 MR. SPOSARO: Well, I think you're looking at
16 the unmodified version of this.

17 MS. BECK: Well, this is what I got --

18 MR. SPOSARO: Yeah. So the way that record
19 now reads is that the Board stipulates that the
20 consistency of the application as submitted with the --
21 as submitted with the agreement and the concept plan
22 appended to same is not an issue to be addressed in the
23 Board's review and disposition of this application. So
24 we're not stipulating that it's consistent or not
25 consistent. It's not part of what we're going to

1 determine here.

2 MS. BECK: Okay. (Indiscernible). Okay.
3 But it's -- it's concerning that we're going back to
4 plans that were developed two-plus years ago. And what
5 is available now is different. So that's a concern.

6 MR. SPOSARO: Well, it's -- ma'am, it's
7 actually, I think, the opposite of that. They -- we're
8 not going back to that concept plan exactly. I mean,
9 in a general sense, is it in this same general area of
10 the site? Yeah. But we're not going back to that.
11 These plans are developed beyond that point. That was
12 a concept plan -- I think the Board of Education guy
13 explained it before. It's just generalities. So now
14 we have fully engineered plans and they're more exact,
15 and there is a slight change in where the location of
16 some of the buildings are.

17 MS. BECK: Well, certainly, plans can be
18 modified quite well, and I was thinking that you're
19 giving -- you're kind of giving away the candy store by
20 saying in essence you don't need a variance.

21 MR. SPOSARO: Well --

22 MS. BECK: And therefore they could build,
23 you know, 10 feet from the cell tower, they could build
24 20 feet from the cell tower.

25 MR. SPOSARO: Well, let me just clarify that

1 because when we had the interpretation hearing, the
2 interpretation that the Board adopted of this provision
3 was that it was for the purpose of health and safety.
4 And it was directed toward protecting residents from
5 exposure to radiofrequency radiation. We could not
6 determine that it was for an aesthetic reason, and we
7 did not determine that there was a significant threat
8 of a collapse of the cell tower causing danger to these
9 residents. It was, from my reading of the context of,
10 that provision and the Board's determination in the
11 interpretation hearing, is that it was strictly
12 directed toward the issue of radiofrequency exposure,
13 and that's why we have settled this or proposed to
14 settle this by substituting for the D(3) variance a
15 determination -- scientific determination with adequate
16 evidence that that safety issue is not one that would
17 be not supported in the public interest.

18 So I think what we've tried to do is achieve
19 the same goal as what the intent of the ordinance
20 provision was, but still not cause an inconsistency
21 with the Borough's commitment for affordable housing at
22 that site.

23 And I just want to say your time is gone over
24 what we're allotting, and a lot of these questions that
25 you're asking, the applicant engineer will gladly

1 answer any of those questions when the time comes as
2 far as safety of falling and so forth like that.

3 MS. BECK: Well, it seems to me that for the
4 protection of future residents, myself possibly being
5 one of them, I'd like to think that I don't have to
6 worry about the monopole --

7 MR. SPOSARO: Yeah. I understand.

8 MS. BECK: -- collapsing and -- and hitting a
9 building where -- where -- where at the final point
10 it's possible for the Board, I would think, to go in
11 with the stipulation of a certain number of feet is the
12 minimum because 115 feet is --

13 MR. SPOSARO: Well, we can't change the rules
14 midstream like this.

15 MS. BECK: Well, that's a concern. And when
16 they come to actually put -- you get a plan and you're
17 supposed to yay or nay in that you don't require a
18 variance.

19 MR. SPOSARO: I can assure you that when the
20 monopole was designed at those hearings, the engineers
21 were stating that these poles will fold in on top of
22 themselves. They're certain -- they're designed that
23 way. So they will not just topple like a tree. And
24 these are all good questions that you can ask the
25 engineer for the applicant when the time comes.

1 MS. BECK: But if the answer is concerning, I
2 would like you all to have the ability to make changes
3 for everyone (indiscernible).

4 MR. SPOSARO: Thank you.

5 MS. SMITH: You could just lay it down.

6 MR. SMITH: State your name and address
7 please.

8 MS. GOCHAY: Dani Gochay (phonetic)
9 (indiscernible). My question also has to do with the
10 code, obviously, but actually the health concerns. So
11 I don't know why 250 feet is --I don't know if that's
12 the standard. If that is from -- whatever department
13 determines that, scientifically. (Indiscernible) if we
14 had it. But if it is, as Priscilla just said, 115 feet
15 from the building, that is a lot less than 250 feet.
16 That's a lot. It's -- it's more than (indiscernible).

17 So should they be able to get a judge to say
18 no, no, its fine, or find a scientist to say no, no,
19 it's fine because we know we can (indiscernible) to say
20 it's fine. In the future, should residents become
21 impacted in their home from that proximity to the
22 tower, who bears that responsibility?

23 MS. SPOSARO: Well, I mean, I think you're
24 asking the Board for a judgment that's outside of its -
25 - outside of its purview.

1 MS. GOCHAY: It's a theorial [sic] question -
2 -

3 MR. SPOSARO: It's a rhetorical question on
4 your --

5 MS. GOCHAY: It's somewhat but not really.

6 MR. SPOSARO: We're going to try to --

7 MS. GOCHAY: It's something that I would like
8 the Board to consider and have something in place that
9 says the builder bears responsibility. Complete and
10 total responsibility for those residents.

11 MR. SPOSARO: Okay. So we're getting ahead
12 of where we should be. I mean that -- you could bring
13 that issue up when we get to the merits of this
14 application.

15 But one thing I will say, and it's
16 interesting what you say about the 250 feet. I,
17 personally, as an attorney and also as an engineer,
18 which I am, I no idea where they came up with the 250
19 feet because the exposure to the radio frequency is
20 going to depend upon the particulars of the tower, how
21 tall it is, how many arrays they have, what the power
22 of those arrays are. It's also going to depend on the
23 height of the residential structures and their exposure
24 to window space and so on.

25 All of these things go into the mix so it

1 really has to done -- looked at on a case-by-case basis
2 and that's why sort of this thing of okay, you're less
3 than 250 feet, therefore we have to trigger this
4 special scrutiny. I mean, it makes sense in the in the
5 fact that okay, when you're within a certain proximity,
6 there are possibilities of adverse effects. And it
7 should be looked into.

8 MS. GOCHAY: If the Borough, when the cell
9 tower went up, they made a rule that said 250 feet.

10 MR. SMITH: No. They didn't. It was part of
11 it -- it was part of an ordinance that was passed for
12 the siting of cell towers, even before that cell tower
13 was built.

14 MS. GOCHAY: Okay. So if you can't be within
15 -- if it's a safety consideration to not be within 250
16 feet, it's still a safety consideration. And why isn't
17 it the same?

18 MR. SPOSARO: Well, if it were done as a
19 variance, it wouldn't be -- okay if you're less than
20 250 feet, therefore you can't do it. It would require
21 them to prove in the variance that there is no health
22 effects of doing that. But they're going to have to do
23 that anyway. So even though we're not calling
24 it a variance, as far as the proofs are concerned, it's
25 going to be -- amount to the same thing. And that's

1 why we've structured the consent order this way. So we
2 avoid that whole issue because if you say it's a D
3 variance, the applicant's position and to some degree
4 the judge has agreed with this, it's sort of
5 inconsistent with the initial agreement in 2019 that
6 yeah, this site is suitable because when you have a use
7 (indiscernible) they want prima facie on the face of
8 it, it's not suitable.

9 So to try and make the settlement agreement
10 and the consequent zoning fit in with this scheme of
11 trying to protect the health based on exposure to RF,
12 we just took that obstacle out of the way. But we're,
13 in substance, we're doing the same thing. Thank you.

14 MR. SMITH: Anyone else from the public?

15 Hearing and seeing none, I'm going to close the public
16 session. Now we need to take a vote on this?

17 MR. SPOSARO: Yes, you do. So your vote would
18 be to approve the consent order in the form as --
19 before us. And by the way, this consent order should
20 be considered that we've been referring to as part of
21 the record of this Whispering Woods hearing and would
22 be appended to any resolution determining the Board's
23 position on this. But a motion could be made to
24 approve the consent order and authorize myself as board
25 attorney to execute it on behalf of the Board.

1 This, of course, it being consent order, the
2 way it works is it would go back to Judge Gaus for his
3 review and approval, and he would sign it. I would
4 sign off on it, and Mr. Orth, on behalf of the
5 applicant, would also sign off it. So you're approving
6 it on behalf of the Board if you -- should you choose
7 to do so and authorizing me to execute it on behalf of
8 the Board.

9 MR. SMITH: Can I have a motion?

10 MR. SPRANDEL: I'll move it.

11 MS. SMITH: Mr. Sprandel's the motion.

12 MR. D'URSO: Can I have a second?

13 MR. EGERTER: I'll second.

14 MS. SMITH: Oh, Mr. Egerter, I got you.

15 Mr. Egerter is the second. All right. Ms. Bushman.

16 MS. BUSHMAN: Yes.

17 MS. SMITH: Mr. Smith?

18 MR. SMITH: Yes.

19 MS. SMITH: Mr. Sprandel.

20 MR. SPRANDEL: Yes.

21 MS. SMITH: Mr. Egerter:

22 MR. EGERTER: Yes.

23 MS. SMITH: Ms. Garbacz.

24 MS. GARBACZ: Yes.

25 MS. SMITH: Mr. Molnar.

1 MR. MOLNAR: Yes.

2 MS. SMITH: Ms. Traut.

3 MS. TRAUT: Yes.

4 MS. SMITH: Mr. Kay.

5 MR. KAY: Yes.

6 MS. SMITH: Mr. Pace.

7 MR. PACE: Yes.

8 MR. SPOSARO: Okay. So that being done, this
9 matter now gets shifted -- the jurisdiction of this
10 matter now gets shifted from the -- our standing as a
11 zoning board of adjustment back to our operation as a
12 planning board because the variance -- the D variance
13 is gone. And we can have the Councilman Sullivan and
14 Mayor Glassner rejoin us.

15 And now, I will yield the floor to Mr. Orth
16 to begin presentation of this application.

17 MR. ORTH: Thank you, Mr. (indiscernible),
18 and thank you, members of the Board for allowing me to
19 be here before you this evening. We were actually
20 about to ask for a five-minute break to see if we could
21 set up a screen for the projection of our exhibits.
22 I'm not sure we'll be able to do that, but we'd like a
23 few minutes just to see if we can get technologically
24 achieve that. So if we may, take a few minutes' break
25 to try to set that up and come back in about five.

1 MR. SMITH: Okay.

2 MR. ORTH: Thank you.

3 MR. SMITH: Thank you.

4 (Pause)

5 MR. ORTH: Thank you. And good evening
6 members of the Boards and the public (indiscernible).

7 My name is Derek Orth from the law firm of Inglesino
8 Taylor. And it's a pleasure to be here with all of you
9 this evening.

10 First of all, I am here on behalf of V-Fee
11 Mendham Apartments, who was the applicant that Mr.
12 Ferriero and the Board just referenced in the prior
13 Whispering Woods hearing regarding the consent order.
14 I thank, Mr. (indiscernible), and of course the
15 professionals of the Board for authorizing us to
16 proceed this evening with this application. We do look
17 forward to presenting it to you. We know the Board,
18 the Board's professionals, and members of the public
19 are going to have quite a few questions on this
20 application, and we look forward to answering them with
21 all of our professionals as we roll through the course
22 of the hearings.

23 In terms of professionals that we do have
24 here, we have our engineer. That's who we'll be
25 starting with this evening. We're not going to get

1 through her testimony tonight. Her name is Afton
2 Savitz. She is (indiscernible) engineer. Afton, raise
3 your hand right there? She's right there.

4 We also have our architect, Bruce
5 (indiscernible) please raise your hand. He's right
6 there. Bruce actually testified during the
7 interpretation application. He presented at the time,
8 over a year and a half ago, the renderings of the
9 project and where everything was located.

10 We also have Stonefield Engineering,
11 again, for our traffic consultant. We anticipate, if
12 we get so lucky with the testimony today, he will
13 be testifying tomorrow, again, on traffic, ingress and
14 egress to the site. We also do have an order
15 consultant. That's Anthony Peterson (phonetic), who
16 has prepared our report which I will be submitting to
17 Ms. Smith as referenced in the consent order tomorrow
18 morning. I would promise it tonight, but I will likely
19 not get home too early tonight, so we'll do it tomorrow
20 morning first thing.

21 We also have Phil Abramson, who is our
22 planner. Phil, raise your hand. Phil, is our planner.

23 We do have a couple of minor variances associated with
24 site of various parking stalls located throughout this
25 project.

1 And, again, my name is Derek Orth. I am the
2 attorney for the applicant, of Inglesino Taylor. The
3 applicant is V-Fee Mendham Apartments, the subject
4 property as identified on both the notice and the
5 consent order, which was already described by
6 Mr. Germinaro (phonetic), is block 801, lot 20 on
7 Mendham Borough's official tax map. This site was the
8 subject of a (indiscernible) settlement agreement
9 between the Borough and V-Fee Mendham Apartments, which
10 provided for the rezoning of the subject property.

11 We are proposing 75 apartments in the rear of
12 the site, 15 of which will be affordable to low- and
13 moderate-income households in the state of New Jersey,
14 and in particular, this region.

15 We do have a veteran's preference. One thing
16 we are very proud of this project, we are providing a
17 veteran's preference for the affordable units in this
18 building. That was part of the settlement agreement.
19 That was something that Mendham wanted to see. That is
20 something that we are proud to provide.

21 The variance associated with this application
22 and, again, here seeking preliminary and final major
23 site plan approval, is for the size and width of
24 various parking stalls. Only a handful of which, I
25 think, the number is approximately 20, which our

1 engineer will describe in greater detail as we get
2 rolling through the application.

3 We do have a handful of preexisting
4 nonconformities associated with the site of the
5 setback, which the engineer will identify on the
6 project rendering and the rendering of the overall site
7 plan as we get through.

8 For this evening's purposes, I would like to
9 just commence with the civil testimony. I don't
10 anticipate that we are going to get very far this
11 evening, but we do want to get started as we are coming
12 back here tomorrow night, and we will continue the
13 application at that time.

14 So for my first witness, Mr. Demario
15 (phonetic), I would like to call -- and Mr. Chairman, I
16 would like to call Afton Savitz, from Stonefield
17 Engineering. She is a licensed civil engineer, and I
18 respectfully request that she be sworn in.

19 MR. SMITH: Please state your full name for
20 the record.

21 MS. SAVITZ: My first name, Afton, A-F-T-O-N.
22 Last name, Savitz, S-A-V, as in violin, I-T-Z.

23 MR. SMITH: I-T-Z?

24 MS. SAVITZ: Yes.

25 MR. SMITH: Ms. Savitz, do you swear your

1 testimony this evening will be the truth, the whole
2 truth, and nothing but the truth?

3 MS. SAVITZ: I do. Yes.

4 MR. ORTH: And I, at times, may not ask her
5 to pass the mic back to me from a foot away and just
6 instead speak very loudly.

7 So Ms. Savitz, would you please describe to
8 the Board the benefit of your professional
9 qualifications, confirming that your licenses are in
10 good standing and in effect in the State of New Jersey,
11 very briefly. And also, the previous places that you
12 have testified. Thank you.

13 MS. SAVITZ: Sure. I earned a Bachelor of
14 Science in Civil Engineering from Bucknell University.
15 I've been practicing (indiscernible) development and
16 civil engineer for over ten years. My license is in
17 good standing in the State of New Jersey. Recently, I
18 was in front of the Morristown zoning board last month
19 also with (indiscernible) zoning board. I've been in
20 front of numerous (indiscernible).

21 MR. ORTH: And so, Mr. Chairman, we proffer
22 her as an expert in the field of civil engineering.

23 UNIDENTIFIED: You got to use the mic.

24 MR. ORTH: Okay. We'll have to get another
25 mic for tomorrow, please.

1 We proffer her as an expert in the field of
2 civil engineering, Mr. Chairman, and ask that she be
3 accepted as such.

4 MR. SMITH: I have no concerns. I accept.

5 MR. ORTH: Thank you, Mr. Chairman.

6 Okay. Afton, why don't you please take us
7 through your testimony this evening starting with
8 existing conditions? Locate us. Where is this project
9 located? Where are we going? What are we doing with
10 it?

11 MR. SMITH: Thank you, Lisa. This is great.

12 MS. SAVITZ: I can certainly do that. I also
13 have enough -- (indiscernible) so I do notice a lot of
14 board members standing. Given the -- the multiple
15 visually, we do have 11-by-17s of the new material
16 that -- that would be marked as exhibits, that we're
17 happy to distribute if that does help you to see
18 (indiscernible).

19 MR. ORTH: So Afton, as we go through the
20 hearing, when each exhibit is marked, once it is marked
21 by the Board, I'll ask that you hand out the 11-by-17s
22 that we have and then just mark on the physical exhibit
23 what exhibit number we are at.

24 So why don't you -- you've been accepted by
25 the Board as an expert in the field of civil

1 engineering, why don't you start with your first
2 exhibit. Describe the property and take us through
3 existing conditions.

4 MS. SAVITZ: Sure. This will be Exhibit
5 marked A1?

6 MR. SMITH: A1, yes.

7 MS. SAVITZ: Okay. And it's entitled Aerial
8 Exhibit and it was prepared by my office, and it's
9 dated June 24th, 2024.

10 MR. SMITH: Go ahead.

11 MR. ORTH: And she has 11-by-17s she's going
12 to pass up to Lisa, and they can be distributed to the
13 Board.

14 Go ahead.

15 MS. SAVITZ: So what you're seeing on the
16 aerial (indiscernible) in that northwest and southeast
17 direction. Subject property is block 801, lot 20.

18 It's mentioned (indiscernible).

19 MR. ORTH: I think this other microphone will
20 help her a little bit.

21 MS. SAVITZ: Can you hear me? That sounds
22 much better. Yes. So the subject property this
23 evening, as mentioned, the lot acreage is 13.27
24 overall. That's inclusive of everything on the subject
25 property that you'll see is naturally a longitudinal

1 lot or that of a lot that is deeper than it is wide.
2 Rezoning district, as mentioned, there is the overlay
3 associated with the affordable housing that you heard
4 the history on as a predecessor to this. The general
5 location and surroundings, I think most of us are
6 familiar with where it's located and noting that it is
7 directly east of where we are right now. From the
8 north and northwest bordering side or where that is,
9 the top of the page. And that left-hand side of the
10 page that's in that quarter acre residential district.
11 Immediately west of the property is the undeveloped
12 area. I'll talk a little bit later as it relates to
13 environmental sensitivity.

14 It's undeveloped in between that border
15 between the subject property and then that of the
16 residences to the west. To the southeast or the bottom
17 of the page, there is frontage on East Main Street,
18 which is under county jurisdiction -- County Route 510.
19 The frontage is approximately 508.6 feet per survey.
20 And that's directly across, as we know it, from the
21 post office. Bank use to the east or the right side of
22 the page. There is also, in the same district, there's
23 a series of -- there's a bank, a Chase Bank, in the
24 front. And as you work your way north or into the
25 properties, there's also the auto -- auto body and

1 Mendham Plywood. To the west and the southwest, that
2 is the same district as that of the western location.
3 A quarter acre residential, noting that it is
4 undeveloped. There's that wooded area that surrounds
5 the property. Again looking at the exhibit, that is
6 the top hand, where you see the cursor, and then we
7 move around the top of the page.

8 From an environmental standpoint, you'll
9 notice that I noted the wooded area, I've noted the
10 wash vegetation that you'll see, the green on your
11 screen. There are environmental components associated
12 with this project, which include that of a regulated
13 water body and that of freshwater wetlands, both of
14 which have -- which have buffers associated with them.

15 The application has been before -- has been
16 submitted to that of the State or the Department of
17 Environmental Protection whoever has jurisdiction over
18 those -- those water body -- that water body and that
19 of the wetlands. The approval has been obtained as it
20 relates to the proposed development and proximity to
21 those features.

22 What you will notice is I -- I -- I don't
23 want to go ahead -- too far ahead, but as I submit to
24 the next exhibit, there will be a -- a very noticeable
25 difference between what's out there today and what is

1 being proposed, especially in this region.

2 So at the top of the page or in the northern
3 location where you see, that is the -- the former
4 Mendham Racquet Club. Now, no longer in use. It -- it
5 had an exterior pool. It had a lot of enclosed racquet
6 clubs, a playground extending north, one -- one story,
7 naturally.

8 And then retail on the property will remain.
9 Under existing conditions, there are three retail
10 buildings near, two longitudinal buildings that are
11 neared on that of the Kings supermarket. In total, the
12 retail is 8,472 square feet, which will remain
13 unchanged.

14 The environmental construction, I touched on,
15 again, the proposed development has been reviewed and
16 approved by the state as it relates to those -- those
17 environmental factors.

18 MR. ORTH: And after this, what type of
19 approval did we obtain from the State? What was the
20 permit that was issued and what does that mean for the
21 project?

22 MS. SAVITZ: Sure. So there were two
23 approvals issued, the first of which is called y there
24 are many acronyms, so I will do my best to explain
25 them. Please don't object if I don't. A freshwater

1 wetlands, LOI, or a limit of interpretation. It's a
2 line verification that is establishing the boundary of
3 the wetlands, as they exist today.

4 The second permit, more recently obtained, it
5 is in regards to that of both the -- the regulated
6 water body, more specifically, that encompasses an
7 individual permit for the flood hazard area, the
8 FHAIP. It also includes that of transitional waiver
9 in relation to the freshwater -- freshwater wetlands.
10 That of a discharge permit or GP permit associated
11 with the stormwater discharge location and then the
12 stormwater associated with it as well.

13 MR. ORTH: And then just before you go on so
14 you can identify for the Board, the wetlands permits
15 were generally in the planned northwest portion of the
16 property, correct? Where I'm pointing.

17 MS. SAVITZ: That's correct. The green area
18 and further up into the wood, so the wetland area does
19 hug the wooded line, as we've seen from previously
20 submitted documents. And then the regulated water
21 body, which is a tributary to North Raritan, is
22 somewhat diagonal in nature, almost following the same
23 as the north arrow in this -- on this sheet, which
24 coincides or bisects the northwest corner of the
25 property.

1 MR. ORTH: And then, finally, before we get
2 the proposed condition, I think, I would just like to
3 confirm we did obtain one other (indiscernible)
4 approval already, correct, which is from the county
5 with regard to the East Main Street ingress and egress,
6 correct?

7 MS. SAVITZ: Yes. So to touch on the outside
8 agency approvals, we did obtain the application -- or
9 the applicant has obtained approval from Morris County
10 that is in relation to that -- the access points along
11 East Main Street. And, in addition, also obtains soil
12 conversation district approval. That certification is
13 required for disturbance exceeding 5,000 square feet in
14 -- of acres -- of square feet of disturbance rather.

15 (Indiscernible), as you see, and I'm sure you
16 know it very well, along East Main Street, there are
17 three access points that exist. I use the cursor to
18 identify them moving from east to west. The
19 easternmost access point will remain unchanged. That
20 is a full access driveway that is entering the
21 property. Under existing conditions, there is a
22 monument sign in that location, indicative of the
23 former racquet club that is circling -- that I'm
24 circling here with my cursor. As you move to the west,
25 there is a central divided ingress/egress driveway to

1 the property. It's -- it's centered on that of the
2 retail in the front or almost the Kings building, and
3 then you do have a third driveway all the way to the
4 west under existing conditions.

5 Some other features as it relates to the
6 project, again, the depth of the project as you see it
7 to the -- immediately to the east, where multiple
8 businesses are located further into the property.

9 There are existing nonconformities. We are in receipt
10 of the Board planner's letter that does note them. For
11 example, there's an existing -- which will remain, the
12 side yard setback. Specific in relation to these
13 bottom retail buildings that I'm highlighting with my
14 cursor. On the eastern side, the more restrictive of
15 the two is 28 feet from the building to the property
16 line. Building right on the western side, while it is
17 not the most restrictive in nature, it still is an
18 existing nonconformity with that of approximately 32
19 feet.

20 In addition, under the existing conditions,
21 you'll probably notice, if you're to drive into the
22 Kings, the -- the roadway actually sits a little bit
23 higher than that of the parking lot or that of the
24 subject property, meaning that from a stormwater
25 standpoint, all stormwater is headed in the northern

1 direction as it exists today. And we'll get into it a
2 little bit more detail, but it does drain to two
3 locations. If you think about the racquet club
4 building to the north, it actually splits in
5 two locations headed in that direction under existing
6 conditions.

7 I mentioned signage, the architect will get
8 into signage. I know to date no signage package has
9 been proposed. There are two monument signs along the
10 frontage. The applicant's intent is to maintain
11 signage of the same scale. There is proposed -- some
12 proposed relocation as it relates to better identifying
13 the uses and the adjustment to the -- to the driveway.

14 I'm going to transition to mark a second
15 exhibit and pass it out to the Board as well. This
16 will be a color. So this exhibit, we mark it A2, is
17 titled Site Plan Rendering Exhibit overall.

18 MR. ORTH: (Indiscernible) this is A2,
19 colored-rendered site plans.

20 MR. SMITH: I heard a different description.

21 MR. ORTH: Oh, I'm sorry. Go ahead.

22 MS. SAVITZ: Sure. Site plan rendering
23 exhibit in parentheses overall. And this was prepared
24 by our office. It's dated July 12th, 2024. Yes.
25 Yes. I will zoom in now that the day and the marking

1 has been established.

2 MR. SMITH: Okay. So that's Exhibit A2 in
3 the records. Got it.

4 MS. SAVITZ: Great. So I am zooming in ever
5 so slightly. Again, if I were to turn it sideways, and
6 we all rotated it might fit the screen better just
7 based on the lot geometry. But what you see here is a
8 compilation of the site plan sheet that was previously
9 submitted to the Board in conjunction with an aerial
10 background. And then that of any proposed landscaping
11 improvements. What the exhibit is doing is it's
12 showing -- it's adding a layer of definition as to the
13 proposed finished materials, not to mention the
14 improvements on the site overall.

15 We note -- I note that the three retail
16 buildings, again, that in the southern or the front
17 we'll call it the bottom of the page. That location of
18 the plan will remain as they exist today. The -- the
19 overall goal as the proposed buildings to the north get
20 incorporated, is that of a centralized access
21 location. You'll see as I use my cursor, and I will
22 zoom in and out as slowly as makes sense. The big
23 driveway access has shifted west slightly for that
24 vertical connectivity to balance or almost coexist, to
25 add cohesive nature to that of the new buildings to the

1 north, while also providing access to the retail.

2 MR. ORTH: And I know we can all see it.
3 Just identify the roadway to the south is East Main
4 Street, correct?

5 MS. SAVITZ: That is correct. East Main
6 Street is directly to the south.

7 So the proposed application within (indiscernible) is
8 for the subject property. I am going to zoom into the
9 northern location of the site. Just for the
10 introduction of the newer buildings, I will zoom out
11 beyond them, but that is focusing on the proposed
12 structures in addition to those that exist today.
13 There are two buildings being proposed, one is a
14 proposed multifamily residential building. That of the
15 70 -- the proposed 75 units and then separately there
16 is what we'll note as the car barn, which will have a
17 separate use that I'll explain in more detail.

18 From the bulk zoning standpoint when we think
19 about the subject lot, I mentioned the side yards to
20 denote them on this particular exhibit. The light gray
21 longitudinal structures or boxes are that of the
22 existing retail tenants that are parallel to the side
23 property lines. The 28-foot side yard setback as it
24 exists and will remain I'm circling with my cursor is
25 immediately east, that front of the building. And then

1 similarly, the other existing side yard setback, to
2 clarify for the record, it's 32.3 feet in the front of
3 the building on the western side.

4 In viewing that, you will notice the main --
5 one of the main things that you'll notice in addition
6 to the new buildings, and to the new finish material
7 that I'll get into in just a moment, is that of the
8 landscaping to the north. So, as part of this
9 application there will be enhanced landscaping as it
10 relates to both the borough ordinance, not to mention
11 state requirements. And that is why I am circling
12 here. Again, we've noted previously the wetlands
13 transition line hugs that of the existing wooded area
14 predominantly, and then this is that of an extension.

15 And immediately south of that is that new
16 (indiscernible) building. It would be the five-story
17 building, four stories of residential over an enclosed
18 (indiscernible) parking garage. And for sizes I
19 mentioned 75 units -- 75 units being proposed. The
20 building size is 44,670 square feet, and the height is
21 59.6 feet. We do note the planner -- I believe it was
22 the planner's review (indiscernible) that noted the
23 discrepancy between that, the architecture plan and the
24 site plan. The -- when taken from the average grade,
25 or the average grade surrounding the building at the

1 building face, the 59.6 is that of the adjusted
2 precision.

3 The second building, as proposed, is the
4 premium parking and auto service building. We heard
5 testimony previously as it related to the use itself.
6 Noting the interior of the rear building, and I will
7 zoom in because this is the rectangular building that
8 almost acts as a transition between out of the front
9 and the back, is right here, the auto sales, as
10 mentioned, will be for automotive -- automotive sales
11 and service. The building size is 20,700 square feet.
12 There are two stories. We'll hear additional testimony
13 from the architect as it relates to the interior of the
14 building, but there will be divided space, a portion of
15 it that is pertaining to that of the sales where the
16 remainder is ancillary to that of the residential
17 development for a climate-controlled parking
18 opportunity.

19 We're looking -- we're zooming out just for
20 context of the proposed development. As mentioned,
21 there is centralized access point with that main
22 driveway that is going from the south to the north, or
23 to the top of the page, identifying the entrance point
24 for residents to access the property. As I zoom in,
25 you'll note that there's -- there's some varying

1 colors. Green is typically the grass and then there
2 are a series of pavers being proposed. It's worth
3 clarifying for the record that this -- this linear long
4 swath between the two drive aisles as noted on the site
5 plan was a raised -- a raised decorative island. The
6 intent is for that island to be flush. It will be
7 decorative in nature, but there will not be any
8 vertical elevation to that. (Indiscernible) traffic,
9 especially that of a 90-degree parking located next to
10 it can certainly traverse.

11 And in this area, by shifting that
12 centralized location, again, for cohesiveness or
13 connectivity to that of the proposed development. The
14 parking immediately to the east of it has also been
15 reconfigured. That of the (indiscernible) spaces that
16 are out there today, just within a slightly revised
17 configuration.

18 You'll note in blue the ADA spaces as they
19 exist today with the exception of the left-hand side --
20 or the western side. We are in receipt of the review
21 letter as it relates to ADA access. You'll note some
22 of these locations where there's a striped access
23 aisle, are not compliant with ADA requirements under
24 existing conditions. So the applicant, as part of this
25 application, will work with the borough engineer with

1 the Board to ensure that the adequate ADA spaces are
2 provided, and that the access aisles are in compliance.

3 For specificity as to where those are
4 anticipated to go, we do anticipate that they'll go to
5 the perimeter to ensure that pedestrians have a safe
6 and compliant path of travel -- travel rather.

7 MR. ORTH: And just before you move on from -
8 - I just want to go back to this access drive right
9 here. Do you have the width of this?

10 MS. SAVITZ: Yes.

11 MR. ORTH: Can you provide that?

12 MS. SAVITZ: So each aisle should be 12 feet
13 with the decorative paver.

14 MR. ORTH: And if it's for the testimony of
15 the traffic consultant, we can just say that and we'll
16 just move on. Because he is coming, correct?

17 MS. SAVITZ: Correct. Yes. He will address
18 circulation. I know the minimum is 24. I believe that
19 each aisle is 12 foot in nature and the decorative band
20 is not dimensioned, but I will get you that dimension.

21 MR. ORTH: Okay. We'll come back to that.
22 Thank you. Please go ahead.

23 MS. SAVITZ: Sure. So while staying in the
24 southern portion of the program, as it relates to
25 improvements, the connectivity, again, immediately east

1 of this existing retail building windows, there are
2 these rectangular planter beds. The overall
3 initiative, that I'm sure the architect will do it
4 justice and with the eloquence it's described was
5 (indiscernible) connected plaza. You'll have these
6 areas immediately in front of a building where there's
7 more -- there's more space for the pedestrians not only
8 to access the retail, but then to circulate the site.

9 In addition, as we -- as we move up the page,
10 you'll note that there is reconfigured parking
11 immediately to that of the west of the Kings parking
12 space, and then as we move, again, further to the
13 north, you'll note that there is interior parking as
14 mentioned on the ground floor of the multifamily
15 building and then also in -- in the car barn.

16 From a parking standpoint, overall, there are
17 proposed 459 spaces, which includes two spaces in
18 the car barn, accessory to them the auto
19 (indiscernible). For proposed -- for the proposed
20 building, specifically, the residential building
21 requires 144 spaces. That is broken down
22 per RSIS based on the (indiscernible) distribution of
23 the unit matrix and then the auto -- automobile service
24 station one per employee, which would be two. We note
25 that there are additional parking spaces into the

1 building that can be elected for the use of residents.
2 Those are not included in the parking supply as
3 provided.

4 So (indiscernible) total of required parking
5 independent of any EV was 136 spaces. That was again
6 specific to the new buildings or the new uses and the
7 total supply is that of 106 spaces that are interior to
8 the building itself or that northern multifamily
9 building. And I'll zoom in. There are a series of
10 small circles with numbers in them, indicative of the
11 same. There are ten spaces exterior immediately south
12 of the building. So it's 116 immediately servicing the
13 multifamily. There are two spaces that were not
14 denoted as the two for employees. So two spaces
15 inclusive -- included in that.

16 And then there, as mentioned, there are 28
17 visitor spaces as supplied on the property or as shown
18 on submitted documentation, 15 of which will be
19 identified. So when you think about the shared parking
20 or the visitors west of the city, I'm circling with my
21 cursor it is that immediately south horizontal row of
22 parking that is being proposed.

23 Speaking to the overall site, under existing
24 conditions, when you think about the retail supply or
25 as you think about the proposed retail supply, knowing

1 that they have been reconfigurations to the parking in
2 different locations, when we exclude that of a shared
3 parking, there are 30 additional spaces from a retail
4 standpoint. Overall, the proposed parking supply is
5 that of 459. Again, it's broken down. They are in
6 different locations on the property, but in comparison
7 to what exists today, there are 336 total, but bringing
8 it back to the retail specific there are 296.

9 As indicated on the plans submitted, the
10 architect will certainly testify the location into to
11 the building, but there are EV parking spaces being
12 supplied to meet the 15 percent of the proposed
13 residential spaces that are required, 17 as indicated
14 on the plans. We do note that per state ordinance,
15 five percent of that or -- five percent of that, or one
16 parking space, will have to be ADA compliant, which
17 we'll certainly agree to incorporate.

18 From a parking and site design, you will hear
19 subsequent testimony as it relates to all of the drive
20 aisles as it relates to the vehicular circulation
21 throughout the site. From a parking size standpoint,
22 the proposed parking spaces on the site are 9 by 18. I
23 will note from an angled standpoint, that's the usable
24 area. So when -- if you were to measure along the
25 diagonal line of an angled space, it would be 10 feet,

1 I believe. Knowing that if I were to draw a line, just
2 basing how your car wheels could extend into the space,
3 it could not occupy that space just based on the
4 parallelogram-like nature, but per industry standards,
5 the standard parking space size, 9 by 18, that is
6 proposed (indiscernible) associated with that in
7 relation to the ordinance. But just for -- for clear
8 reasons, the angled spaces as you measure them was head
9 on, knowing that if you were to again just draw a line
10 in front of where your wheels can physically stop, it
11 would be 9 by 18, length and width.

12 MR. ORTH: And just for a point of reference,
13 if this were strictly a residential project without the
14 preexisting shopping center, we would be governed by
15 our RSIS, which has a parking standard of 9 by 18,
16 correct?

17 MS. SAVITZ: That's correct.

18 MR. ORTH: Okay. But since this is a mixed-
19 use, we are not subject to RSIS for that component and
20 we are subject to borough ordinance, correct?

21 MS. SAVITZ: That's correct.

22 MR. ORTH: And that's why we have a variance
23 instead of a RSIS deviation, correct?

24 MS. SAVITZ: Correct.

25 MR. ORTH: Okay. Thank you. And that's only

1 with respect to the parking stall in front of the
2 shopping center, correct?

3 MS. SAVITZ: That's correct. The access
4 aisles and, again, you'll hear testimony as it relates
5 to circulation, but a minimum for 90-degree parking,
6 they are 24 feet. And then similarly for 60-degree
7 parking, they are 18 feet.

8 From an access standpoint, you'll note that
9 there remain three access points. As mentioned, there
10 is an existing driveway to the east. The side road
11 setback will remain as will that of the proximity to
12 the nearest driveway. While the applicant is proposing
13 improvements to that of the curbing or that of the
14 frontage and we'll work closely with the borough
15 engineer to ensure all of that is coordinated. The
16 physical driveway location in this area will remain
17 unchanged.

18 We move over to the -- to the access along
19 East Main Street, and Counsel noted that we have been
20 working with the County. The County has reviewed the
21 application and approved the adjustment to that at the
22 access point. This is the main entrance, again,
23 providing that vehicular -- vertical connectivity
24 throughout the property where under existing
25 conditions, you have perimeter connectivity. But not

1 that interior. And then, to the west, we do have an
2 ingress-only aisle, which has been converted from that
3 an egress-only aisle. You'll hear testimony tomorrow
4 night as it relates to the traffic side of that, but
5 this access point, the physical geometry of it, will
6 remain unchanged.

7 MR. ORTH: Let's just go through it one last
8 time. (Indiscernible) on the right side of the page,
9 we have ingress and egress, correct?

10 MS. SAVITZ: That's correct.

11 MR. ORTH: Okay. And in the middle, we have
12 a separate ingress aisle, correct?

13 MS. SAVITZ: Yes. Divided from that of
14 egress.

15 MR. ORTH: And is that a raised island or is
16 that just a stripe feature differentiating the aisles?

17 MS. SAVITZ: It won't obstruct sight
18 distance, but it will be -- it will be raised with
19 plantings for the purpose of division.

20 MR. ORTH: Okay. We have a left out, right
21 out, correct?

22 MS. SAVITZ: Mm-hmm.

23 MR. ORTH: And then on the left aisle, we
24 have an ingress-only point as well, correct?

25 MS. SAVITZ: Yes.

1 MS. SMITH: Excuse me. We have a question
2 over here.

3 MS. SAVITZ: Sure.

4 MS. BUSHMAN: So the question is, we're
5 spending an awful lot of time on reconfiguration of
6 this parking, but it doesn't seem to have anything to
7 do with residential and affordable housing, the
8 application itself.

9 MS. SAVITZ: So the -- the application
10 itself, the reason I'm describing all the site plan
11 elements as it relates to the application is -- I agree
12 with you. There is an affordable component, there's a
13 residential component, and how you get there and how it
14 is positioned on the -- on the property is important.
15 So I'm explaining based on --

16 MS. BUSHMAN: We understand what you're
17 explaining. So, the retail portion has nothing to do
18 with the residential portion yet to provide residential
19 parking for the affordable housing. But you are
20 reconfiguring, from what I understood, you're --

21 MS. SMITH: Joyce, you need to talk into the
22 microphone.

23 MS. BUSHMAN: What we're not understanding is
24 you're -- we understand the need for the residential
25 parking for the affordable housing portion of this

1 project. What is unclear is why we're retouching the
2 retail parking. Are you reconfiguring it or reducing
3 it because that, it was -- I don't see how that has any
4 relationship to the affordable housing project. That
5 was our concern.

6 MS. SAVITZ: Yes. So that is --

7 MS. BUSHMAN: Yes, what?

8 MS. SAVITZ: -- it is being reconfigured as a result of
9 the access to the residential building.

10 MS. BUSHMAN: So in order to achieve the
11 access that, you want you have to reconfigure the
12 commercial retail spaces.

13 MS. SAVITZ: In order to -- based on the
14 proposed centralized access.

15 MS. BUSHMAN: All right. I mean, we're
16 spending an awful lot of time on this. This is not
17 what the town approved. What we approved was a
18 residential affordable housing project.

19 MR. ORTH: So we're establishing stage
20 ingress and egress to the site, but we're happy to just
21 move forward with the next portion, which is more
22 directly applicable to the building of the rear. So we
23 can just move forward. But we wanted to establish
24 ingress and egress on-site. It's one subject lot. You
25 have to come through here to get through to the

1 residential in the rear, and we thought it was
2 important to do that. It was an outside agency
3 approval that we obtained as part of this
4 applications. We just wanted to explain it to the
5 Board. That's all.

6 Go ahead, Afton.

7 MS. SAVITZ: Sure. So I'll zoom back into
8 the (indiscernible) portion of the property. Again,
9 this is where the multifamily building is. And as you
10 get to the rear property, the way that you'll enter it
11 is under the porte-cochère. There's a gate here that
12 invites you to that of the plaza area. It's a -- it's
13 the residential supportive area where anyone can walk
14 to, where they enter the building, and the access out
15 of the courtyard. The main entrance to the building is
16 immediately north in line with that access point.

17 In addition, there is the parking garage.
18 It's outgrade with residential above it. There's a
19 landing that you can see from the roof standpoint of
20 the pool. The architect will get into more detail as
21 it relates to the building design specifically, but
22 this is where you are accessing that building.
23 Additionally, this is also where you're accessing that
24 of the auto sales, not to mention the parking area.
25 There's a gate that is located on the -- hovering

1 underneath it with my cursor. You'll note that the
2 borough engineer commented on that of moving it to the
3 eastern side of this area and a gate similar to that
4 with the proposal, the eastern side to move it to
5 ensure -- to ensure security.

6 So for comment as it relates from an engineer
7 standpoint in terms of pressuring, you might -- might
8 not be clear where the (indiscernible) traffic travels
9 in relation to that of the pedestrian. The decorative
10 pavers here are delineating that of the vehicular
11 travel where the concrete immediately adjacent to the
12 long sides of the rectangle is for pedestrian use. The
13 borough engineer commented on that of the delineation
14 which we -- where you draw that line, so we are happy
15 to work with them to introduce a curb or some rigid
16 condition of the (indiscernible) that help to further
17 distinguish between those two locations.

18 MR. SMITH: So a point of clarification.
19 You've been referred to -- you've been referring to the
20 -- that barn building as auto service is it -- is there
21 an auto sales component going on in there also -- as
22 well?

23 MS. SAVITZ: Yes. That -- there was a
24 planning report submitted as it relates to the
25 building. The car barn is proposed to include

1 automobile sales operation and accessories uses,
2 inclusive of parking to the residential.

3 MR. ORTH: And we will provide operational
4 testimony on that particular use. Not from this
5 witness, though.

6 MS. BUSHMAN: Well, I would like you to fix
7 this plan then, because it's misleading. Your title,
8 it's auto sales.

9 MS. SMITH: Joyce, you need to talk into the
10 microphone.

11 MS. BUSHMAN: I can't help that. I don't
12 have a mic. I think if it's auto sales, you need to
13 fix the statement on the plan document because it's
14 misleading to the public. It's a different
15 interpretation of auto services versus auto sales.

16 MR. ORTH: We can certainly adjust this
17 exhibit. That's no problem.

18 All right. Afton, let's keep it moving with
19 the building.

20 MS. SAVITZ: Sure. From a building
21 standpoint, where the cursor is noted, that is where
22 trash collection will be picked up by a private
23 hauler. Trash is collected internal of the building,
24 there is a compactor that the architects can explain.
25 The internal -y on the exterior side, you'll note the

1 striped area that is immediately east of the building.

2 The private hauler will come in, it will pick -- it
3 will come to the northern portion of the program, it
4 will pick up the trash, it will leave, and it will exit
5 through that main driveway back out to East Main
6 Street.

7 In addition, from the grader standpoint,
8 there are wells as it relates to edge conditions both
9 in this area of the trash pickup and then in the area
10 immediately west of the parking. There was comments
11 received from the engineer as it relates to fault
12 protection (indiscernible) that we're on the high side,
13 so we're certainly available to work with him to ensure
14 that that is established.

15 (Indiscernible) on this back area, again,
16 from a ADA accessibility standpoint, ADA access will be
17 provided, that will be additional spot shots or
18 information as requested by the borough engineer
19 would certainly be indicated on the plan.

20 From a stormwater standpoint -- now as I move
21 through the design of this portion of the program, I'd
22 be remiss not to talk about the overall lot just
23 because they are interconnected independent when you
24 propose a building independent of where they're
25 located. We're looking at stormwater management. Just

1 knowing the size of the property, the disturbance alone
2 is what is triggering that of a major development. So
3 the subject property is required to comply with state -
4 - state standards. Again, as triggered by the
5 (indiscernible) and that of the new motor vehicle
6 service.

7 In terms of where the drainage goes, so as
8 mentioned, East Main Street is high. It flows into
9 that retail in the existing conditions. And then
10 there's a conveyance system or a pipe system that helps
11 make the water -- or helps the water travel in that
12 northern direction, ultimately discharging into the
13 wetland areas. That will remain. The drainage pattern
14 will remain as it exists, with improvements based on
15 the proposed development.

16 MR. ORTH: And just to say it very bluntly,
17 we are reducing impervious with this project, correct?

18 MS. SAVITZ: We are certainly. The reduction
19 in impervious coverage is approximately 33,000 square
20 feet.

21 MR. ORTH: 33,000 square feet and we are now
22 providing stormwater management in an area of the site
23 where none exist currently, correct?

24 MS. SAVITZ: That's correct.

25 MR. ORTH: Thank you.

1 MS. SAVITZ: And in doing that, the proposed
2 stormwater system is inclusive of that of
3 previous pavers, the existing site condition where the
4 subsurface soils are not favorable to infiltration. So
5 while the pavers provide that of treatment, not to
6 mention that of storage, it is slowing down that runoff
7 in advance of where it's ultimately going today.

8 From a lighting standpoint, again focusing on
9 this area specifically, there will be exterior light
10 poles noted while the ordinance max mounting height is
11 16 feet, the proposed poles are mounted at 15 feet.
12 And then there will be proposed lights on the exterior
13 of the building, mounted just above 9 feet in nature.
14 All lighting will be downward facing, will be LED. And
15 along the property line, there will be (indiscernible).

16 I know that we've turned the lights down in
17 here, but previously the foot-candle or the unit of
18 measure for lighting was extremely high. You can tell
19 based on that of the white color and to approximate it,
20 the lighting that we -- or perhaps, I guess, part of
21 the room is experiencing is that similar of a gas
22 station or even I'd argue a football field. Just to
23 put some -- some numbers to that in terms of typical
24 gas station, we're dealing with 30 foot-candles, a
25 football field over 100 foot-candles. The requirements

1 in terms of safe pedestrian exterior walkability, range
2 between .5 foot-candles and four -- three- or four
3 foot-candles per industry standards. The ordinance
4 requirement does encourage that and promote light
5 trespass. Overall, the proposed development does not
6 have any light trespass as it relates to the
7 neighboring properties.

8 Again, focusing that of the (indiscernible)
9 portion of the program, from a landscaping standpoint,
10 you'll note the green on the -- the screen. The
11 proposed landscaping design is going to have native
12 species immediately to the north of the page. That is
13 where you have your -- your wetland transition area,
14 not to mention your riparian zone. Those all are
15 proposed native species according to the state
16 requirements.

17 And in addition to that, as you move
18 throughout the site, we're proposing the shade trees,
19 as being proposed, will be that of deciduous nature
20 with bushes and shrubs offsetting. (Indiscernible)
21 some comments as it relates to the species on the
22 property noting that there are, I believe, three
23 varieties of deciduous trees. With the Board's
24 interest in adding another, we're happy to do that as
25 well.

1 From a buffering standpoint, the ordinance
2 does require relative to the affordable housing
3 overlay, that of a buffer of 30 feet where you're
4 abutting a residential district. If you'll note that
5 the wooded edge of the wetland line (indiscernible)
6 relate to it. But under existing conditions, as you
7 look at the property line, specifically to the north --
8 to the northeast to -- to the west as you wrap around,
9 you'll see the -- the -- the shaded almost faded wooded
10 area that exists today. The applicant is supplementing
11 that based on plantings immediately adjacent to the
12 building, noting that there are a couple areas where
13 the buffer does vary in this vicinity.

14 Again, it's not indicated on the plan, but
15 for your reference, there is a fence just to zoom out
16 slightly. This light glow is a fence area that's still
17 needing access around the building where it transitions
18 to that of the planting zone. The planting zone is
19 required per State, and it will be part of the
20 environment easement that gets adopted in accordance
21 with the requirements. To measure those locations, the
22 southwest buffer \hat{y} as I zoom out. In this -- in this
23 vicinity, you'll note the dimension of 83.2. That is
24 of the building. The width of the paths surrounding
25 the building is 10 feet, so it would be 74.2 feet from

1 the property line to that of the fence. Zooming out,
2 (indiscernible) to the other side where the trash area
3 is, again, this dimension is not indicated, but it is
4 26.73 feet from the wall -- from the property line to
5 that loading area. Noting that -- that portion that I
6 mentioned or the 26.73, is that of the -- the wooded
7 vegetation here.

8 And as you circle the building, what you will
9 note is that the width of the buffer varies -- it
10 varies tremendously. There are a couple of pinch
11 points as it relates to the corners. And then, in this
12 area, as we relate to the -- directly to the north,
13 there is 133.7 feet. That's just measuring from the
14 neighboring property line to the fence itself, which is
15 also an increased from those setbacks as part of the
16 application.

17 In addition, the shade trees was mentioned
18 that are throughout the property, there's also
19 foundation plantings that will help supplement and
20 soften that aesthetic. Ornamental plantings are
21 proposed that they'll accentuate the decorative statue
22 and the waterfall features.

23 MS. SMITH: I'm sorry. Could you speak up,
24 please? We're having a hard time understanding what
25 you're saying.

1 MS. SAVITZ: Sure. Can you hear me?

2 MR. SMITH: Maybe you could speak a little
3 more slowly. Sometimes you're going -- speaking.

4 MS. SMITH: You're -- you're kind of
5 mumbling.

6 MS. SAVITZ: Sure. I will -- I will try to
7 articulate better. So from the proposed landscaping
8 standpoint, there are shade trees throughout the
9 property. You'll note them as the -- the green circles
10 that you're seeing on the plan. There are four here
11 and then there are -- not to travel too far from this
12 location to property, but there are also shared trees
13 elsewhere on the property. And the total planting
14 count, as it relates to what's being proposed, and this
15 is going to be independent of the large area north of
16 the building, there are over 2,500 -- 2,767 total
17 plants, and that doesn't include the DEP area. So from
18 a deciduous tree standpoint, there are 74 trees being
19 proposed, evergreens and -- and trees, and shrubs,
20 again, 919 shrubs. (Indiscernible) over 1,700. This
21 is a robust landscaping plan, especially in the area of
22 affordable housing, which I do believe is following the
23 attempt to -- to buffer. Not only that of the existing
24 site features, but that of the supplemental site
25 features.

1 all local utility providers will be required. We don't
2 have -- we haven't obtained (indiscernible) of the
3 providers to date inclusive of that of the water
4 service. Of course, as the project moves forward,
5 should the Board act favorably on it, plumbing engineer
6 gets involved, those applications will further be
7 advanced, and any correspondence associated with them
8 provided to the Board.

9 Overall, from the civil engineering
10 standpoint, again, I know I focused on the northern
11 portion of the program, specific to that of affordable
12 housing, and that of the mixed -- mixed -- multifamily
13 building, and that of the car barn or that of the auto
14 service and sales building, from a civil engineering
15 standpoint, I don't -- there's no anticipated negative
16 impact based on this. I'm happy to answer questions
17 because I do know we focused specifically on this
18 northern area. But that does -- that does conclude my
19 direct testimony.

20 MR. ORTH: Thank you, Afton. I have nothing
21 further on direct. Handing her over to the Board. Mr.
22 Chairman, does the Board have questions?

23 MR. SMITH: I've got a quick question -- or
24 actually two. You talked before, and I think the Mayor
25 asked you about this, about parking in front of the

1 Kings. Are you proposing making the spaces smaller?

2 MS. SAVITZ: The -- and I do ý- should I mark
3 the exhibit? Just showing the overlay?

4 MR. ORTH: Just answer the question and if we
5 need the exhibit for tomorrow, we'll introduce it then.

6 MS. SAVITZ: Sure. So the parking area is
7 sliding over and it is being condensed. Yes.

8 MR. SMITH: Okay. So that's one. Okay. And
9 then also, in the back of the northern area, where the
10 pool is, I'm looking at the two -ý the two drawings
11 here and the existing tennis club seems to be
12 approximately the same size as the proposed multiuse
13 building, correct? Am I -- approximately?

14 MS. SAVITZ: Approximately. The existing
15 tennis club footprint is just shy of 54,000 square
16 feet.

17 MR. SMITH: Okay. There -- there's a black
18 line on the left there. And actually, the black line
19 goes all the way around the building. Is that the
20 property line? And I was wondering how far you are from
21 people's property lines there on Dean Road.

22 MS. SAVITZ: Sure. And you're referring to
23 this dark black line with a double dash through it?

24 MR. D'URSO: Yes.

25 MS. SAVITZ: Yeah. So this is indicative of

1 the property line. And the distance is -- the closest
2 proximity to a residence as you measure that in the
3 northwest direction.

4 MR. SMITH: Yes.

5 MS. SAVITZ: Is approximately 200 -- let me
6 just grab the exact dimension for you. Please bear
7 with me. My recollection is it's a little over 200
8 feet to the nearest and then if you were to follow the
9 property line to the south to that to be parallel
10 across the wooded area, it's closer to 500 feet.

11 MR. SMITH: Okay. Is there anything proposed
12 to go in there to sort of separate the five-story
13 building from the people's backyards?

14 MS. SAVITZ: So the proposed -- the proposal
15 before you tonight does include that of the buffering.
16 So I -- I'm going to toggle quickly back to the
17 previous exhibit just to show. Let me see if I can --

18 MR. SMITH: Because I see a lot in the back.
19 I don't see much on the side there. And I've stood
20 there, where the existing building is, and, you know,
21 you're right in somebody's backyard almost.

22 MS. SAVITZ: Yes. So there is -- to look at
23 the existing versus the proposed condition, there are
24 improvements under existing conditions today that
25 extend in further to the property line.

1 So where this painted area is, there is a
2 playground, there are a couple of sheds, there is a
3 (indiscernible) previously maintained lawn that existed
4 back there where this is being landscaped.

5 As it relates to the building amenities, the
6 architect will speak to those that are within the
7 building footprint. But any area that is green or any
8 area that is planted, not to mention that of the
9 concrete sidewalks surrounding, supports that of the
10 proposed multifamily building.

11 MR. SMITH: Yeah. But there's nothing to
12 sort of separate the people's backyards from the
13 building. It's a 50-foot building. You know,
14 (indiscernible) I don't think it's going do the trick.

15 MS. SAVITZ: And that was in regards to the
16 existing condition. My apologies. I will clarify.

17 MR. SMITH: Okay. I just see one, you know,
18 I see one little area there where you seem to be
19 planting some trees and all the way in the back into
20 the wetlands, you know, there's a lot of stuff, but --
21 but there doesn't seem to be a heck of a lot going on
22 separating the 50-story building from the people's
23 backyards there. Is that just something that hasn't
24 progressed?

25 MS. SAVITZ: It is well wooded. I know it's

1 not in the bright green color, but the wooded -- or the
2 dense vegetation as it relates to the property line in
3 that area, that will all remain as part of this
4 application.

5 MR. SMITH: So there's nothing planned.

6 MS. SAVITZ: There is proposed planting along
7 the perimeter of the building, in addition to the
8 walkway, but then the wooded area will remain as it
9 exists.

10 MR. SMITH: Okay.

11 MS. BUSHMAN: Mr. Chairman?

12 MR. SMITH: Yes.

13 MS. BUSHMAN: This was a wonderful
14 presentation and a great overview, but there's a lot of
15 components that just kind of like run together.

16 MS. SMITH: You need to speak into the
17 microphone.

18 MS. BUSHMAN: This is a fine presentation,
19 but -- and it's a wonderful overview for the sake of us
20 just getting an overview. And I understand you're
21 entering -- they're ending their testimony, but, for
22 all practical purposes, I think we need to look at the
23 large sheets here and go through these like we would on
24 a normal project.

25 MR. SMITH: I agree.

1 MS. BUSHMAN: And it's only to be fair to the
2 public because you can't tell the lighting plan from
3 what's up there. You can't tell the landscaping plan.
4 You can't tell the demolition plan. I think there are
5 specific plan document layouts here that we need to be
6 looking at in these larger plans. Okay. So this is a
7 great overview, but that's my recommendation so there's
8 a lot more clarity here.

9 MR. SMITH: And the question I have too is,
10 these sheets that you're handing out, Exhibit A1 and
11 A2, these are different from the sheets that -- the
12 blueprints and plans that we had before us that we were
13 submitted prior to this hearing?

14 MS. SAVITZ: They are new exhibits.

15 MR. SMITH: They're new exhibits.

16 MS. SAVITZ: The aerial exhibit enlarges that
17 of the aerial on the cover sheet, or the C1 document
18 and then the colorized site plan is the site plan as
19 submitted. And then it takes away the zoning tables
20 and it -- it adds on the landscaping. So it is new.

21 It is not new information. Just consolidated relative
22 to the plan set.

23 MR. SMITH: So the -- any variation y there's
24 no different variations from --

25 MS. SMITH: Chairman --

1 MR. SMITH: So there's no changes, perhaps,
2 of the design? This is just a different perspective.

3 UNIDENTIFIED: (Indiscernible).

4 MS. SAVITZ: Correct. It colorizes it for
5 the purpose of presentation. Yes.

6 MR. SMITH: Okay. Am I to understand then,
7 that this after this overview you're going to go into
8 the actual full-scale plans or at least send sheets of
9 the plans to describe -- to explain those?

10 MS. SAVITZ: If the Board would like me to, I
11 can.

12 MR. SMITH: Well, I think that's what you're
13 hearing from the Board. Yeah.

14 MS. BUSHMAN: That's what we do with all
15 projects.

16 UNIDENTIFIED: Yeah.

17 MR. SMITH: Yeah. We, I mean, this is an
18 overview, but we would typically expect more detail in
19 terms of, for example, the lighting plan, the Isolux,
20 or you know, getting into the heart of the full-scale
21 plans that you submitted.

22 MS. SAVITZ: Sure. I can certainly do that.
23 Are there any questions in advance of doing that?

24 UNIDENTIFIED: I do have one. I have one
25 question of clarity. I may not have heard correctly

1 before, but when you were talking about the
2 reorganization of the retail parking, I'm not sure, did
3 the attorney say that there was an agency that approved
4 that, or did I hear that wrong?

5 MR. ORTH: There was an approval for ingress
6 and egress to the site for Morris County off the county
7 road.

8 UNIDENTIFIED: Okay. So they -- I thought
9 what you were saying is that they approved the changes
10 to that parking lot. So that's not -- okay. Thank
11 you.

12 MR. ORTH: No.

13 MR. SMITH: Is that, Derek, is that new
14 access that you proposed to create, is that serving the
15 car sales and service as well as the residential?

16 MR. ORTH: Yes. It does.

17 UNIDENTIFIED: It also serves the existing
18 retail as well.

19 MR. ORTH: Yes, sir.

20 MR. SMITH: And it's fair to say that it's
21 redesigned that way so there's a straight shot back to
22 the apartments and the car sales and service, correct?
23 So that's there --

24 MS. SAVITZ: Yes.

25 MR. SMITH: -- more of a direct line going to

1 the back lot -- back of the lot, as well as supplying
2 the front retail as well, correct?

3 MS. SAVITZ: Exactly.

4 MR. SMITH: So will there be signage that
5 directs the public that this is the driveway you use to
6 get to car -- auto sales and the affordable housing --
7 and the housing?

8 MS. SAVITZ: There will be proposed signage
9 or amendments to the signage that exists today that the
10 architect will cover in his testimony.

11 MS. SMITH: Okay. So there will be -- at the
12 access point, there will be direct (indiscernible)
13 signage?

14 MS. SAVITZ: Correct. And that is the intent
15 of the application that not only would that shift in
16 the driveway to add cohesion between the front and the
17 back of the property, but also to -- to properly sign
18 it.

19 UNIDENTIFIED: I think it's more than just
20 the signage for the site. I think the question is
21 wayfinding signage within the site.

22 MS. SAVITZ: Yes. There will all --

23 UNIDENTIFIED: Because there's going to be a
24 lot going on here and I think it's important that, as
25 part of the traffic circulation plan, that there be

1 some signage to show where you're supposed to go for
2 the different uses.

3 MS. SAVITZ: Certainly.

4 UNIDENTIFIED: Question. Can you pinpoint on
5 your map where the tower is for the public?

6 MR. ORTH: Sure.

7 MS. SAVITZ: And that is in this transitional
8 point. So the cursor is behind the Kings -- to zoom
9 out for context. This is the Kings retail space. As
10 you zoom in, this rectangular area is the enclosure for
11 the tower that exists.

12 MR. SMITH: Any other questions from the
13 Board?

14 MS. BUSHMAN: Well, what are we on? Are we
15 on the whole plan or are we on the parking? Are we on
16 the landscaping? Are we on the light? I'm just trying
17 to --

18 MR. SMITH: I -- I think we're just on a -- I
19 just -- I just think we're just on an overview.

20 MS. BUSHMAN: Okay.

21 MR. SMITH: Just a synopsis of what -- what
22 they're proposing.

23 MS. BUSHMAN: Yes.

24 MR. SMITH: And we'll have to get into the
25 details as each professional comes before the Board.

1 MR. ORTH: I think what the Board is looking
2 for is really a page turn through the various drawings
3 to see --

4 MS. BUSHMAN: Correct.

5 MR. ORTH: -- if this is kind of the overview
6 and its questions on the overview. And then, I think
7 the next step is to go on the individual plan sheets.
8 Some is more to talk about than others. But I think,
9 though, that -- that's what, if I understand, what the
10 Board -- that's what you're looking for?

11 MS. BUSHMAN: Right. Because otherwise we're
12 just jumping around on what we picked up from this
13 overview. And I think the questions have to be
14 specific to the plan sheet.

15 MR. ORTH: I agree.

16 MS. BUSHMAN: I just have one question. I
17 understand the access and what you're trying to achieve
18 there. The question is, I understand the access and
19 what you're trying to achieve there. I just want to
20 understand, are we losing parking spaces and how many
21 are we? And those are those being reshuffled over to
22 the center? I just want to understand how the parking
23 is moving around.

24 MS. SAVITZ: Good question. So the parking
25 is shuffling to a point in terms of the retail supply,

1 specifically, or that of the front area, you know,
2 anywhere you would park if you were to come to visit
3 Kings, or you would come to visit the -- the retail
4 center. The overall parking supply is increasing by 30
5 spaces.

6 MS. BUSHMAN: Where is that increasing?

7 MS. SAVITZ: it might be helpful to go
8 through, you know, as we go through the plans to show
9 you. But where there are site improvements underlaid -
10 - I mean from a civil site standpoint, they are
11 certainly related as access is revised on the property,
12 but not necessarily in the northern area of the site.
13 We'll set for the plans that show where those changes
14 are.

15 MS. BUSHMAN: How many --

16 UNIDENTIFIED: -- extra did you say?

17 MS. SAVITZ: What was that?

18 UNIDENTIFIED: How many extra parking spaces?

19 MS. SAVITZ: There would be 30.

20 UNIDENTIFIED: 30.

21 MS. BUSHMAN: Thirty in the retail section.

22 MS. SAVITZ: Correct.

23 MS. BUSHMAN: How many parking spaces are
24 required for the residential?

25 MS. SAVITZ: So the proposal is set to code.

1 So for residential use specifically, there's 144 spaces
2 required for the 75 unit breakdown.

3 MS. BUSHMAN: And then how many spaces did
4 you say we're back in the residential area for those
5 144 spaces?

6 MS. SAVITZ: So there are 106 parking spaces
7 anterior to the building, on the ground floor parking,
8 underneath the four stories of residential. There are
9 ten spaces to the front of the building, in this
10 location. And then --

11 MS. BUSHMAN: And that's for residents?

12 MS. SAVITZ: That's correct. And then there
13 are, in addition to that, there are visitor shared
14 parking, 28 in total, 15 of which are signed and those
15 exist over here, in this one single row of 15 parking
16 spaces.

17 UNIDENTIFIED: I have a question. How many
18 spaces are being offered for each unit?

19 MS. SAVITZ: I believe that's a better -- a
20 better question for the traffic engineer and the
21 architect.

22 UNIDENTIFIED: Okay. Yeah. We can table
23 that question.

24 MR. SMITH: And I -- I do want to note that
25 the time that we have this evening is going to be

1 coming to an end. We need to vacate this building in
2 about ten minutes. So we want to wrap up what we're
3 doing now, and maybe not get into all the details of
4 the large drawings at this point. Save that for
5 tomorrow.

6 And this was a great overview for the public,
7 but for us as a board, I think we need to rely on full-
8 sized plans and go through each sheet as it comes. And
9 display -- we're seeing exactly what's being proposed
10 and not on a small sheet. And not getting a whole lot
11 of, you know, things thrown at us.

12 MS. SAVITZ: We can certainly do that.

13 MR. SMITH: Okay.

14 MS. SAVITZ: And there have not been any
15 changes.

16 MR. SMITH: So we want to systematically go
17 through it with the plans out, and we can continue that
18 tomorrow.

19 MS. SAVITZ: Certainly. And for the Board's
20 reference, everything submitted has not changed. So
21 the full-sized copies that you have, everything that
22 was submitted previously. Again, that happens to be a
23 color version, but we will go through the plan set as
24 submitted tomorrow.

25 MR. SMITH: All right. That would be great.

1 MR. ORTH: Thank you, Mr. Chairman and
2 members of the Board. We appreciate that. I think we
3 are picking up what the Board is putting down.
4 Tomorrow we will recall Ms. Savitz. We will go through
5 a page-by-page turn to the full set.

6 Does everybody have a copy of the sets that
7 were previously submitted? We'll be happy to do that.
8 We will do that. We're looking forward to doing that.
9 And I think if there's any kind of questions the Board
10 wants us to prepare for tomorrow, other than the page
11 turn, we're happy to hear that now, otherwise, if the
12 Board's so (indiscernible) tomorrow night.

13 MR. SMITH: Just for the benefit of the
14 public, you will have the opportunity after -- at
15 tomorrow's hearing when this -- when this concludes, to
16 ask questions of this witness. Unfortunately, we can't
17 conclude her testimony tonight, but if you return
18 tomorrow, you will have that opportunity.

19 MR. ORTH: And then, Mr. Chairman, I would
20 just ask before we conclude if you would just kindly,
21 or if Mr. (indiscernible) carry us through tomorrow
22 night without further need for public notice. I
23 believe we're here tomorrow, right, 7:30?

24 MR. SMITH: Correct. Yes. Yeah. So yeah,
25 so that is correct, that this is carried to tomorrow

1 night. There will be no further notice. And that we
2 will continue the hearing at that time.

3 MR. ORTH: One last question, did the Board
4 find this set effective? Do we ditch it for tomorrow?

5 MR. SMITH: I think it's very convoluted for
6 us as a board to be --

7 MR. ORTH: Okay. So is the plan -- we don't
8 need to bring this for tomorrow?

9 UNIDENTIFIED: Right. I think, Mr. Chairman
10 is asking do you want to have the screen?

11 MR. ORTH: Right.

12 MR. SMITH: The screen?

13 UNIDENTIFIED: How long to receive your plan
14 sheets?

15 MR. D'URSO: I think the screen is beneficial
16 for the --

17 UNIDENTIFIED: because then you can zoom in
18 much better.

19 MR. SMITH: -- and as long as we're referring
20 to the full-size plans that if we need to look closely,
21 we have it in front of us. But as far as the public's
22 concerned, I think that's a great idea.

23 MR. ORTH: So can we leave this here tonight?
24 I don't know if we can just close this out
25 (indiscernible).

1 MR. SMITH: I think we will make it easier
2 for us to follow along.

3 MS. SMITH: We might be able to turn it a
4 little differently or something tomorrow.

5 MR. ORTH: We'll come a little early
6 tomorrow. Do a more effective or beneficial setup.

7 MS. BUSHMAN: I'd like to recommend, if you
8 could, please bring two or three sets of these plans so
9 they can be out there for the audience if they want to
10 look at the plans.

11 MR. ORTH: Yes.

12 MS. BUSHMAN: I think it would only be fair
13 for them to be able to see them.

14 MR. ORTH: Sure.

15 MS. BUSHMAN: Okay. Thank you.

16 UNIDENTIFIED: Oh yeah. That's better.

17 (Unrelated conversation)

18 MR. ORTH: Okay. I'm going to turn off my
19 microphone.

20 MR. SMITH: Okay.

21 (Unrelated conversation)

22 MS. SMITH: Before we do anything, we need to
23 adjourn.

24 MR. SMITH: I'd like to have a motion to
25 adjourn. Second? All in favor?

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UNIDENTIFIED: Aye.

(Recording ends at 2:06:54)

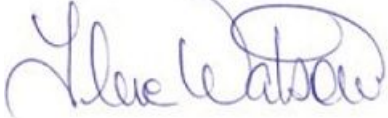
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