

SPARTA TOWNSHIP
PLANNING BOARD
MINUTES OF MAY 4, 2022

The Planning Board Meeting of Sparta Township was held at the Sparta Township Municipal Building located at 65 Main St. Sparta, NJ. 07871 and was called to order by Chairman Reina at 7:00 p.m. with announcement that adequate notice of this meeting was given to the public and the press under provisions of the “Open Public Meeting Act”, N.J.S.A. 10:4-1 et seq.

Members Present: Mr. Kollar, Mr. Murphy, Mr. Skei, Councilman Hertzberg, Mr. Sylvester, Councilwoman Quinn, Mr. Toscano, Mr. Gall, Dr. Parker and Chairman Reina

Members Absent: None

Others Present: Thomas Collins, Esq. Board Attorney
David Simmons, Board Engineer
Katherine Sarmad, Township Planner
Diana Katzenstein, Board Secretary

PUBLIC HEARING:

DIAMOND CHIP REALTY, LLC # 689

33 Demarest Road

Block 12008 Lot 23

Preliminary Major Site Plan

Continued hearing from the PB meeting held on April 6, 2022

PLEASE SEE THE ATTACHED TRANSCRIPT FOR THE ABOVE APPLICATION

The meeting was adjourned at 10:12 PM. All present in favor by unanimous voice.

Respectfully submitted,

Diana Katzenstein
Board Secretary

TOWNSHIP OF SPARTA
PLANNING BOARD

ORIGINAL

IN THE MATTER OF THE

APPLICATION OF : TRANSCRIPT OF
DIAMOND CHIP REALTY, LLC: : PROCEEDINGS
NUMBER 689

_____X

Wednesday, May 4, 2022
65 Main Street
Sparta, New Jersey 07871
Commencing at 7:01 p.m.

BOARD MEMBERS PRESENT:

- ANDREW REINA, Chairman
- CHRISTINE QUINN, Councilwoman
- DR. GEORGE T. PARKER
- JOSHUA HERTZBERG, Councilman
- MICHAEL SYLVESTER
- PETER SKEI
- DANIEL HEALY
- JOHN KOLLAR
- THEODORE GALL
- JOE TOSCANO
- JERRY MURPHY

ALSO PRESENT:

- DAVID SIMMONS, Township Engineer
- KATHERINE SERMAD, Township Planner
- DIANA KATZENSTEIN, Board Secretary
- JOSEPH KALYOUSSEF, IT Specialist

LINDA A. BOTTONNE-MORANO
CERTIFIED COURT REPORTER

DEPOLINK COURT REPORTING & LITIGATION
SUPPORT SERVICES

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East Hanover, New Jersey 07936
973-353-9880

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2

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12 Counsel for the Applicant

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19

20 ANAND DASH, ESQ.
21 120 Mountain View Boulevard
22 Basking Ridge, New Jersey
23 908-848-6300
24 Counsel for Sparta Responsible Development

23

24

25

1 ALSO PRESENT:

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3 RICHARD PROCANIK,
Civil Engineer

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5 RICHARD SUNDERSON,
Architect

6 MICHAEL GREENE,
Environmental Specialist

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I N D E X

DIRECT VOIR DIRE CROSS

WITNESSES:

RICHARD PROCANIK

By Mr. Gouin	22		
By Mr. Cohen	72	27	
By Mr. Dash		28	
By Mr. Clark	101		
By Mr. Dash	103		

RICHARD SUNDERSON

By Mr. Cohen	112		
By Mr. Dash	113		

MICHAEL GREENE

By Mr. Gouin	136		
By Mr. Cohen		138	
By Mr. Clark		142	
By Mr. Dash		154	

1 FROM THE PUBLIC:

2 1. Ron Dey..... Page 29

3 2. Sam and Roxanne Miller Page 31

4 3. Dean Blumetti..... Page 45

5 4. Joseph Wade Page 59

6 5. Mayor Kevin O'Leary .. Page 62

7 6. Marilyn Chapman..... Page 64

8 7. Sally Larson..... Page 67

9 8. Adrian Meerman..... Page 116

10

11

12

13 E X H I B I T S

14

15

Number	Description	Page
--------	-------------	------

16

A-2	Site plan (previously marked)	72
-----	-------------------------------	----

A-3	Sheet A-100 of A-3 (previously marked)	123
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CHAIRMAN REINA: Good evening,
everybody. Welcome to the Sparta Planning Board.
This is May 4, 2022, and I'm calling the Sparta
Planning Board into session.

I would like to thank everybody for coming out
tonight. I appreciate your ability to get out here
and join us this evening.

This evening's focus, this evening's
discussion, is going to be around Diamond Chip
Realty. This is a continuation from our May 4th or
May 6th meeting, correct me if I'm wrong, Diana.
My apologies. April.

So this evening we're going to be discussing
Diamond Chip Realty. We have a couple of carry-overs
from our last meeting, so there were several
questions that we were looking to address from the
participants that were in the audience that we have
not addressed yet, so we're going to concentrate on
those first.

After that we're going to move from cross
examination from any attorneys that are either
representing groups or themselves that are in the
audience for cross examination for any of the
testimony that's been conducted so far, and from

1 there we're going to move on to probably a ten-minute
2 break, and then we will move on to the environmental
3 portion of the project. Sound good?

4 So with that I would like to do a quick roll
5 call, if we could, Diana.

6 SECRETARY KATZENSTEIN: Mr. Kollar?

7 MR. KOLLAR: Here.

8 SECRETARY KATZENSTEIN: Mr. Murphy.

9 MR. MURPHY: Here.

10 SECRETARY KATZENSTEIN: Councilman
11 Hertzberg.

12 COUNCILMAN HERTZBERG: Here.

13 SECRETARY KATZENSTEIN: Mr. Sylvester.

14 MR. SYLVESTER: Here.

15 SECRETARY KATZENSTEIN: Councilwoman
16 Quinn.

17 COUNCILWOMAN QUINN: Here.

18 SECRETARY KATZENSTEIN: Dr. Parker.

19 DR. PARKER: Here.

20 SECRETARY KATZENSTEIN: Chairman Reina.

21 CHAIRMAN REINA: Here.

22 CHAIRMAN REINA: With that, I would like
23 to do a salute to the flag.

24 (Flag salute.)

25 MR. DASH: Mr. Chairman, before we begin

1 --

2 CHAIRMAN REINA: Hold on a couple of
3 moments, please, Mr. Dash.

4 MR. DASH: Sure.

5 CHAIRMAN REINA: Thank you.

6 So before we get started tonight, I want to
7 remind everybody again, the purpose of this meeting,
8 it's a judicial-based setting so, I'd ask, please, to
9 be courteous.

10 We understand this is a hot topic within
11 the Town. There's a lot of opinion around it, so
12 please just keep your comments courteous and concise.

13 We're going to first open it up to the
14 public for existing questions that we didn't get to
15 complete during our last Planning Board meeting. I
16 would ask you again to please be conscious. You
17 know, this is a time to ask questions specifically of
18 the Applicant for any testimony that's been given.

19 My understanding is, Mr. Ford is not able to
20 join us this evening, so we're somewhat limited to I
21 guess --

22 VOICES IN UNISON: That's right,
23 correct!

24 MR. GOUIN: Again, Steve Gouin with
25 Giordano, Halleran & Ciesla for the Applicant.

1 Mr. Chairman, just to explain that when we left
2 off at the last hearing we had anticipated that at
3 this hearing we were going to present our traffic
4 consultant and that that was going to be the next
5 portion of our application.

6 My understanding is that the Township Committee
7 authorized the Planning Board to retain its own
8 traffic consultant, so we are not going to put any
9 traffic testimony on tonight until the Board has a
10 chance to have its own consultant review our study,
11 and then we'll put our traffic testimony on while
12 the Board has the benefit of having its own traffic
13 consultant.

14 We do want to be cooperative in that regard.
15 We do want to use the time since we had the meeting
16 scheduled, so Mr. Ford couldn't be here, but we have
17 Richard Sunderson who is our architect who did
18 testify.

19 We have Rich Procanik from Kimley-Horn who is
20 one of the project engineers who can help address
21 some of the questions from the public, and we also
22 have Mike Greene who is our environmental specialist,
23 and we'll get through his testimony tonight.

24 CHAIRMAN REINA: Thank you. I'm
25 disappointed Mr. Ford is not able to join us this

1 evening. I do feel as though that's an important
2 component of tonight's testimony.

3 MR. GOUIN: Understood.

4 CHAIRMAN REINA: I certainly am
5 disappointed. I appreciate you pointing out the fact
6 the Board has initiated a separate and third-party
7 independent traffic study, so that was based on the
8 traffic reports that we've reviewed.

9 All the documentation that this Board has gone
10 through, we deemed it appropriate to take a look at a
11 separate and third-party independent both traffic
12 report and an economic analysis report, so for those
13 in the audience that are curious, that is going to
14 the Council. They need to adopt a resolution.
15 That's all moving forward, so we expect that to be
16 initiated. I believe RFP is already out, and that
17 should be conducted or start being conducted over the
18 next couple of weeks. We look forward to getting
19 that report for everybody and sharing it with the
20 audience as well.

21 MR. GOUIN: Mr. Chairman, if I might, we
22 sort of anticipated that Mr. Ford is going to take
23 maybe his own meeting --

24 CHAIRMAN REINA: Yes --

25 MR. GOUIN: -- for cross examination and

1 public questions in addition to the people that we
2 have here tonight. If the Board would entertain a
3 special meeting for that, we would do that. Whatever
4 your pleasure, but we think probably the next meeting
5 we have, to give the Board a chance to review the
6 traffic impact study with their professional, and we
7 would probably bring Mr. Ford back, and that would
8 likely be the only witness we would have that evening
9 for a full evening of cross examination and questions
10 for him.

11 CHAIRMAN REINA: Yes. I suspect that
12 would be one meeting at least.

13 MR. GOUIN: Yup.

14 CHAIRMAN REINA: By the time we get
15 through your separate, your traffic analysis, the
16 Town's feedback on that, in addition to the secondary
17 or third-party one that we've got.

18 MR. GOUIN: Agreed.

19 CHAIRMAN REINA: I appreciate that.

20 With that said, I guess, Chris --

21 COUNCILWOMAN QUINN: Sure.

22 CHAIRMAN REINA: Do you want to go
23 through -- I do want to start with -- we'll take
24 thirty minutes to address the questions that were
25 raised or that we started to raise from the public.

1 If you recall from our last meeting, we had an
2 opportunity to go through, collect a list of the
3 individuals that had specific questions that they
4 would like the Applicant to address for any of the
5 testimony, so Christine, if you wouldn't mind calling
6 off the first name, I would allot 30 minutes for
7 that, and we'll address any of the attorneys' cross
8 examination or questions that you have.

9 A VOICE: I have a jurisdictional point.

10 MR. COHEN: Yeah. We have an issue.

11 The cross examination of the public that was taking
12 place last time was of Mr. Ford who had his direct
13 testimony. Everybody announced that we will return
14 and continue with the cross examination of Mr. Ford.

15 I don't know what cross examination we can have
16 if the witness that was supposed to be cross examined
17 is not here tonight.

18 Now, I spoke with Mr. Gouin as late as
19 yesterday afternoon. Although I didn't ask him if
20 Mr. Ford is going to be here because I just presumed
21 in fact he was, and I'm amazed that Mr. Gouin, I
22 presume he knew yesterday afternoon, he did not tell
23 me that Mr. Ford was not going to be present.

24 My client pays for me to be here tonight. I
25 obviously prepared to cross examine Mr. Ford on a

1 number of questions. I'm sure that members of the
2 public have done the same thing, and we learned for
3 the first time that Mr. Ford is not here, so I don't
4 know what kind of cross examination we're going to do
5 for 30 minutes if there's no witness to cross
6 examine. You know, that's an issue, obviously. I'm
7 upset by the fact that we didn't know Mr. Ford is not
8 going to be here.

9 MS. SERMAD: We didn't know either.

10 CHAIRMAN REINA: Yeah. I share your
11 frustration.

12 MR. COHEN: We were then told that the
13 traffic expert was the next witness, so you prepare,
14 you know, you look up, you read the traffic report
15 and so forth in order to prepare for this particular
16 thing.

17 Obviously the traffic -- and I understand
18 there's good reason not to have the traffic expert
19 testify because the Board is retaining its own
20 traffic expert. I don't understand that going to the
21 Council. I think the Board has the right to retain
22 its own expert, but I leave that to the Board and Mr.
23 Collins, and I presume -- has anybody been chosen as
24 the traffic expert?

25 CHAIRMAN REINA: I believe they have. I

1 would defer to Mr. Collins in terms of --

2 MR. COHEN: May we have the name of the
3 expert?

4 CHAIRMAN REINA: My understanding is,
5 multiple RFPs have been sent out. That is typically
6 done by conduct of the Town Manager who will go
7 through and finalize determination of who it is, so I
8 know that multiple RFPs have been sent out. I spoke
9 with the Town Manager today to confirm.

10 I don't think he has selected a final company
11 for that, but I know he's in receipt of multiple
12 RFPs.

13 MR. COHEN: Obviously, that's the
14 procedure in Sparta. I believe under the Land Use
15 Act the Planning Board has the right to retain its
16 own expert, but that's obviously between you and the
17 Administration of the Township, so I'm not going to
18 get into that particular question.

19 COUNCILWOMAN QUINN: We requested it.

20 CHAIRMAN REINA: We did request it.

21 MR. COHEN: We're glad to see that the
22 Township --

23 CHAIRMAN REINA: It came through this
24 Board as a request to the Town Manager and to our
25 professionals and our attorneys to request it, both

1 that and the economic impact.

2 MR. COHEN: Understood. So when you say
3 open for cross examination, I don't know what
4 cross examination we can do.

5 MR. COLLINS: Mr. Cohen, you can cross
6 examine any witness who has testified so far. Mr.
7 Ford is not here. This is unfortunate. Neither you
8 nor I knew that he wouldn't be here.

9 Mr. Gouin could have told you that if he knew
10 he wouldn't be here, but this case is continuing and
11 it is not going to end tonight, as we can clearly
12 tell, since there's going to be additional witnesses
13 retained by the Township to review expert reports, so
14 you, after the public, will have the right to cross
15 examine the other two witnesses, Mr. Deegan, and it
16 sounds like there's a replacement for Mr. Deegan, and
17 Mr. Sunderson, and they are here.

18 Time should be used to cross examine those
19 witnesses, and Mr. Ford will be back. Otherwise,
20 this case cannot go forward. It's not necessary for
21 an applicant to present every witness every night,
22 and if Mr. Ford had a reason not to be here, that's
23 within the discretion of the Applicant.

24 Courtesy would be good between the attorneys,
25 and if the four attorneys would communicate with one

1 another, that might be helpful.

2 I notice some people are not copying one
3 another; namely Mr. Clark and Mr. Dash. They should
4 copy Mr. Gouin.

5 MR. DASH: Well, respectfully --

6 CHAIRMAN REINA: Mr. Gouin should copy
7 Mr. Dash and Mr. Clark and Mr. Cohen, and Mr. Cohen
8 should copy the other three as well. You all know
9 the proper courtesy on this. Please follow it.

10 Thank you.

11 MR. DASH: A-n-a-n-d D-a-s-h.

12 To the last point, Mr. Chairman, our
13 application that was provided to Ms. Katzenstein a
14 month ago was provided to Mr. Gouin's office by
15 subsequent communication. We provided both
16 communications with the Zoning Board as well as to
17 the Planning Board to Mr. Gouin.

18 CHAIRMAN REINA: Was that the request
19 for interpretation?

20 MR. DASH: Yes, both the request for
21 interpretation and the initial objection to the
22 jurisdiction. That's number 1.

23 Number 2 --

24 MR. COLLINS: Mr. Dash, did not copy him
25 on the actual email to the Board.

1 MR. DASH: That's correct. I just
2 explained --

3 MR. COLLINS: You copied him
4 subsequently, so please --

5 MR DASH: That's correct. Notice was
6 provided.

7 MR. COLLINS: So please copy him when
8 you communicate with either board.

9 MR. DASH: It's a distinction without a
10 difference, respectfully?

11 MR. COLLINS: No, it is not a
12 distinction without a difference.

13 MR. DASH: It is. He was provided
14 notice of the application.

15 MR. COLLINS: You know better, Mr. Dash.

16 MR. DASH: Secondly, Mr. Collins, you
17 know better that this Board doesn't have the
18 jurisdiction to be hearing this application.

19 MR. COLLINS: No. We have determined
20 that we do, Mr. Dash, and we are going to go forward.

21 MR. DASH: Why are you interrupting me
22 when I speak?

23 CHAIRMAN REINA: Gentlemen, please!

24 MR. DASH: One person can speak at a
25 time. I'm speaking now.

1 MR. COLLINS: Mr. Dash, we had
2 discussed on two prior occasions --

3 CHAIRMAN REINA: Mr. Dash, is there a
4 question that you have or a point that you would like
5 to make?

6 MR. DASH: Yes. This Board, Number 2,
7 this Board doesn't have the jurisdiction.

8 CHAIRMAN REINA: We have addressed that
9 on the last one. It's gone to the Zoning Board. We
10 made the determination that we're going to continue
11 to move forward with at least the public hearing.

12 MR. DASH: That's fine. We're just
13 putting the objection on the record so if there's any
14 question --

15 CHAIRMAN REINA: So noted. Thank you.

16 MR. DASH: Number 3, there was the
17 understanding that Mr. Ford would be here, and it's
18 not just a matter of not a courtesy. Okay. This is
19 not how a procedure should work, and now there's no
20 consequences for it. We have prepared for this for
21 tonight for Mr. Ford. That's disrespectful to the
22 Board and to us, respectfully.

23 CHAIRMAN REINA: I don't disagree with
24 you, Mr. Dash.

25 MR. DASH: Okay.

1 CHAIRMAN REINA: I am equally as puzzled
2 as to why Mr. Ford would not be in attendance this
3 evening, and I am equally frustrated that we weren't
4 notified properly that he wouldn't because --

5 MR. DASH: Okay.

6 CHAIRMAN REINA: -- similar to you, as
7 the rest of this Board has looked at this, this
8 evening, as, you know, this is the portion of the
9 evening that we're doing examination and addressing
10 public concern and questions specifically over the
11 testimony that's been provided, so I share your
12 concern.

13 MR. DASH: Okay. Thank you.

14 CHAIRMAN REINA: I would certainly hope
15 that the Applicant's attorney would share that
16 frustration that this Board has that Mr. Ford did not
17 have the decency to show up this evening or give us
18 advanced notice.

19 MR. DASH: Okay. Good. We appreciate
20 that then. Thank you.

21 CHAIRMAN REINA: So with that said, to
22 those that are in the public, we did have a number
23 of individuals that we would like to at least
24 recognize and represent if there are questions,
25 recognizing Mr. Ford is not here, and that they will

1 need to be addressed.

2 If these are specific questions that are
3 addressed for either architecture or the civil
4 engineer, we're happy to address any questions that
5 may be from those portions of the testimony so far.

6 So, Chris, we're just going to call out names
7 to see if those individuals are present this evening.
8 I don't know if they are or they aren't, so, Chris,
9 do you want to call the first name?

10 COUNCILWOMAN QUINN: Yes. So we're
11 going in order from where we left off during our last
12 meeting, so I took the names in order. I wrote them
13 down in order. We'll go through them.

14 If your question -- and, again, these are
15 questions to the previous testimony. If there's no
16 way that they can be answered, then I will mark next
17 to your name, and you will go in the first couple of
18 ones next time, so if your question cannot be
19 answered tonight because Mr. Ford is not here, you
20 will not lose your space in the list.

21 Okay. I'm going to start calling. Ron Dey.
22 Is Ron Dey here?

23 MR. DEY: Yes. I --

24 CHAIRMAN REINA: You have to --

25 MS. QUINN: I'm sorry. You need to come

1 up to the microphone and give your name and address.

2 CHAIRMAN REINA: Please.

3 MR. GOUIN: Mr. Chairman, before we
4 start, we need to swear in Mr. Procanik in this case
5 as a witness. He's not been sworn yet. He's
6 replacing Tony Degan (phonetic) as the project
7 engineer for tonight.

8 CHAIRMAN REINA: Tom, do you want to
9 swear him in?

10 MR. COLLINS: Mr. Procanik, please raise
11 your right hand.

12

13 R I C H A R D P R O C A N I K,
14 c/o Kimley-Horn, Civil Engineers,
15 301 Carnegie Center, Suite 202,
16 Princeton, New Jersey,

17 is duly sworn according to law by Mr. Collins.

18

19 MR. COLLINS: State your name, spell
20 your last name, and give us an address.

21 MR. PROCANIK: Rich Procanik,
22 P-r-o-c-a-n-i-k. Business address is 301 Carnegie
23 Center, Suite 202, Princeton, New Jersey.

24 VOICES: We can't hear you.

25 CHAIRMAN REINA: Excuse me. Can you

1 please speak up? I know this is difficult. We have
2 a full house tonight. I didn't see anybody coming
3 in, and we may have others outside. Please speak up
4 to extent you can just so that everybody can hear
5 you.

6 MR. PROCANIK: Certainly. My name is
7 Richard Procanik, P-r-o-c-a-n-i-k. I'm employed by
8 Kimley-Horn. The address is 301 Carnegie Center,
9 Suite 202 in Princeton, New Jersey.

10 MR. GOUIN: Rich, I apologize for
11 butchering your last name.

12 Before we get to any questions, I want to make
13 sure we qualify Rich as an expert as a professional
14 engineer.

15

16 DIRECT EXAMINATION OF MR. PROCANIK BY MR. GOUIN:

17

18 Q. Rich, can you talk to them about your
19 qualifications, please?

20 MR. COHEN: Mr. Chairman --

21 CHAIRMAN REINA: Please let him finish
22 swearing him in.

23 MR. COHEN: Okay. Thank you.

24 A. I have a Bachelor's of Science from NJIT. I'm
25 a licensed engineer in the State of New Jersey and

1 several other states. I have not appeared in front
2 of this board, but I appeared in front of many other
3 boards throughout the State of New Jersey.

4 Q. You are a Licensed Professional Engineer
5 and your license is current?

6 A. Yes.

7 Q. And you are a member of the firm Kimley-
8 Horn, and you are familiar with the plans that were
9 prepared for this application, correct?

10 A. Yes.

11 MR. GOUIN: I would ask that the Board
12 accept Mr. Procanik as a Professional Engineer.

13 MR. COLLINS: Mr. Chairman, we have a
14 contested case, so we will allow the three attorneys
15 to ask voir dire questions. That means questions
16 about qualifications only, if they have any.

17 Gentlemen, go ahead, please.

18 CHAIRMAN REINA: Tom, can you speak up?
19 I'm having a hard time hearing you as well.

20 MR. COLLINS: I'm sorry. Voir dire only
21 by the three attorneys of the Professional Engineer
22 and his qualifications. Please go ahead, the three
23 attorneys.

24 CHAIRMAN REINA: Mr. Cohen?

25 MR. COHEN: I don't have any questions

1 concerning his qualifications.

2 MR. COLLINS: Thank you. Mr. Cohen,
3 that's enough now.

4 MR. COHEN: I would like to be heard,
5 Mr. Collins, because now I just find out that not
6 only do we not have Mr. Ford, we're told you can
7 cross examine the engineer, but this isn't the
8 engineer who testified. Now we're supposed to cross
9 examine a witness that we have no testimony or no
10 evidence from.

11 MR. DASH: Same objection.

12 MR. COHEN: I mean we're supposed to
13 cross examine Mr. Ford. Okay. Mr. Ford isn't here,
14 so Mr. Collins says that you can cross examine the
15 engineer and the architect. We just find out the
16 engineer who testified who we rely upon to ask
17 questions is not here.

18 MR. COLLINS: Technically, Mr. Cohen,
19 you finished your cross examination of Mr. Degan and
20 so did Mr. Dash.

21 MR. COHEN: I did.

22 MR. DASH: Correct.

23 MR. COLLINS: The Applicant is
24 volunteering to have another engineer here to
25 continue to address any additional questions that the

1 public has and apparently that you would have of this
2 member of the firm, so to object to that is to object
3 to them presenting their case. They have the right
4 to present their case, Mr. Cohen. You have the right
5 to cross examine every witness who appears before
6 this Board --

7 MR. COHEN: Agreed.

8 MR. COLLINS: -- but you will be given
9 that right, but you will be given that right in the
10 sequence that is presented by the Applicant during
11 the course of their testimony.

12 So first objection, you already cross examined
13 Mr. Degan. So did Mr. Dash. So did Mr. Clark.

14 This person is being offered to answer 29
15 additional questions. Yes, Mr. Degan will be back.
16 He will have to be. Mr. Ford will have to be back.

17 This case is not ending tonight, as you can
18 well see, so please go forward with your voir dire
19 only now of this engineer, and Mr. Dash and Mr.
20 Clark, your voir dire only. You know how that works.

21 If you have questions, ask them now. If you
22 don't have any --

23 MR. COHEN: I do have --

24 MR. COLLINS: You said you don't have
25 any.

1 MR. COHEN: I do have questions on voir
2 dire.

3 MR. COLLINS: So go ahead.

4 COUNCILWOMAN QUINN: Before the public?

5 MR. COLLINS: Yes.

6 MR. DEY: I thought I --

7 COUNCILWOMAN QUINN: I'm sorry, Mr. Dey.

8 MR. COLLINS: We don't know if this
9 witness is being accepted for qualifications. It's a
10 contested case. Apparently Mr. Cohen contests this
11 engineer's qualifications. Let's hear him out.

12 CHAIRMAN REINA: Mr. Cohen, are you
13 contesting the qualifications or --

14 MR. COHEN: That should be corrected.
15 I'm not contesting his qualifications. I'm asking
16 him questions, and I'll advise you then if I have any
17 objection. I have a right, as Mr. Collins said, to
18 voir dire, to ask questions, to determine whether or
19 not we want to object to his qualifications.

20 CHAIRMAN REINA: Okay.

21 MR. COHEN: Thank you.

22 I'm sorry. Your name again, sir?

23 MR. PROCANIK: Rich Procanik.

24

25

1 VOIR DIRE EXAMINATION OF MR. PROCANIK BY MR. COHEN:

2

3 Q. Mr. Procanik, I know you are from the
4 same engineering firm who designed this.

5 What was your involvement in the design of
6 these specific plans, if any?

7 A. I was involved with the design. I did help
8 with layout, grading, and the stormwater design with
9 the younger engineering staff.

10 Q. And did you have any involvement other
11 than the stormwater, the actual physical layout of
12 the proposed development?

13 A. I did, yes.

14 Q. And the other attorney (sic) who
15 testified, were you working under him? How was the
16 division of duties set in your firm?

17 A. The other "engineer" I believe you mean. You
18 said "attorney."

19 Q. I meant engineer. I'm sorry.

20 A. Of course. I worked alongside Mr. Degan.

21 Q. I'm sorry?

22 A. Alongside of Mr. Degen.

23 Q. Okay. So you and Mr. Degen -- and Mr.
24 Degen signed the plans though?

25 A. Yeah. He was the EOR.

1 Q. And you worked along with him. Were
2 there any other engineers from your firm that worked
3 on this design and Site Plan?

4 A. Not licensed engineers, no.

5 Q. Okay. Draftsmen, people of that nature?

6 A. Yes. Technical staff.

7 Q. Okay.

8 MR. COHEN: I do not have any objections
9 to the qualifications.

10 CHAIRMAN REINA: Thank you.

11 MR. DASH: Sir, I just have two
12 questions for you.

13

14 VOIR DIRE EXAMINATION OF MR. PROCANIK BY MR. DASH:

15

16 Q. Have you visited this site, the subject
17 site?

18 A. I drove past it on my way here.

19 Q. Did you get down from your vehicle?

20 A. Yeah, yeah. On my way here I stopped over.

21 Q. Sorry. Can you clarify for the Board?
22 You did step down from your vehicle and examine the
23 site, or you did not?

24 A. I did. Not the entire site. I didn't have
25 access to the site. I stopped, pulled over, walked

1 around the frontage and then came here for the
2 hearing.

3 MR. DASH: I have no further questions.

4 CHAIRMAN REINA: Thank you, Mr. Dash.

5 All right. So at this point I would like to
6 finish with our original.

7 Mr. Dey?

8 COUNCILWOMAN QUINN: Mr. Dey.

9 CHAIRMAN REINA: Mr. Dey, I know you had
10 a question. You wish to be heard.

11 MR. DEY: Thank you.

12

13 R O N D E Y,

14 22 Fox Hollow Road, Sparta, New Jersey,

15 after having been duly sworn by Mr. Collins,

16 testifies as follows:

17

18 MR. COLLINS: State your name and

19 address.

20 MR. DEY: Ron Dey, 22 Fox Hollow Road,
21 Sparta, New Jersey.

22 MR. COLLINS: Please go ahead, Mr. Dey.

23 MR. DEY: My first question was related
24 to the timing of the last traffic study, but I think
25 the fact there's a new traffic study, that's going to

1 take care of those issues, so thank you for that.

2 The only other question I have is, when I
3 looked at the study, it didn't seem to include the
4 intersections of North Village Boulevard and
5 Lafayette Road or where Route 15 and Lafayette merge.
6 Both are traffic lights, so the question is, was
7 there a reason for that, and will the new study
8 incorporate the data from there?

9 CHAIRMAN REINA: I would need to speak
10 to the Town Manager to find out exactly what was the,
11 I would say the projected scope, in terms of how far
12 they went out.

13 I think one of the key points, and that was one
14 of the key issues that we had as a board, was to make
15 sure that we looked at a far enough range that
16 included 15 and the surrounding areas.

17 To your point, with regards to the timeframe,
18 actually I think a lot of that will be addressed
19 during the traffic portion of the study as well as
20 the third-party analysis that we've asked for.

21 MR. DEY: I thank you. Again, I'll ask,
22 especially the North Village traffic and the building
23 that's going to go on there, the traffic is going to
24 come out into Lafayette. That is going to have a
25 major impact. I think it's really important that

1 that data is included in any study.

2 CHAIRMAN REINA: Thank you, Mr. Dey.

3 COUNCILWOMAN QUINN: Thank you.

4 Next, Sam Miller.

5 MR. MILLER: Yes. And this is my wife
6 Roxanne.

7

8 S A M and R O X A N N E M I L L E R,
9 198 White Lake Road, Sparta, New Jersey,
10 after having been duly sworn by Mr. Collins, testify
11 as follows:

12

13 MR. COLLINS: Please state your names,
14 spell your last name and state your address.

15 MS. MILLER: Roxanne Miller,
16 M-i-l-l-e-r, 198 White Lake Road, Sparta.

17 MR. MILLER: Sam Miller, M-i-l-l-e-r,
18 198 White Lake Road, Sparta, New Jersey.

19 My question revolves around the idea between
20 the warehouse and the trucking terminal, and I'm not
21 trying to beat a dead horse there. I just don't
22 exactly understand what the difference between the
23 two --

24 MR. COLLINS: You have to ask a witness
25 a question, so try to focus your question to the

1 witness.

2 MR. MILLER: Sorry about that.

3 What would the difference be between a
4 warehouse and a trucking terminal that makes you feel
5 that this application is solely a warehouse?

6 MR. GOUIN: Well, Rich, if you want to
7 take a crack at that, you can I suppose, but I think
8 that's really a question for the Board's Planner.

9 I mean we have submitted an application, and
10 we've represented several times that this is going to
11 be a warehouse within the definition of the
12 Township's ordinance, and I think we went over that
13 in great detail at the last hearing, so I'm not sure
14 that we have more to say about it tonight.

15 MR. MILLER: So that's a great point. I
16 looked up what your definition is under the
17 Management Code, and the trucking terminal means a
18 premise which is used for a temporary parking of
19 motor freight vehicles between trips and for the
20 transfer of freight between trucks or between trucks
21 and rail facilities for shipment elsewhere and where
22 the storage of freight or cargo is only temporary.

23 So based on the testimony from last month,
24 the big component was, "Hey, these trucks aren't
25 saying here."

1 MR. COLLINS: Sir, you now are
2 testifying, which you will be able to do in the
3 course of this hearing but not tonight.

4 If you are done with questions of any
5 witness -- well, you can continue questions, but
6 that's testifying.

7 MR. MILLER: I'm not a lawyer, so I'm
8 sorry.

9 MR. COLLINS: I understand.

10 CHAIRMAN REINA: So, Mr. Miller, I
11 think, so the question you are asking is, what is the
12 definition or how we treat the definition between a
13 trucking -- or trucking terminal and a warehouse,
14 correct?

15 MR. MILLER: Yes.

16 CHAIRMAN REINA: Okay. So I guess I
17 would ask Katherine Sermad, who is our Planner, and I
18 would preface that with the fact that this is what I
19 know Mr. Dash and Mr. Neill objected to. That is
20 going to the Zoning Board as well, which my
21 understanding is that that meeting is occurring
22 within the next week or two with regards to the
23 determination, but Katherine, if you have other
24 thoughts or I guess just in terms of a municipal
25 interpretation, or I don't know if that's the right

1 term or not.

2 MR. COLLINS: Katherine, before you
3 testify some more, we'll swear you in in this
4 hearing. You have been sworn in the past, but let's
5 do it for this hearing, too.

6 Katherine Sermad, do you swear that your
7 testimony will be the whole truth?

8 MS. SERMAD: Yes, I do.

9 MR. COLLINS: And do you swear that the
10 statements given at the last hearing or the prior
11 hearings on this matter are the truth?

12 MS. SERMAD: Yes, I do.

13 MR. COLLINS: Thank you.

14 Please go ahead.

15 MS. SERMAD: I appreciate the question.
16 I had given a bit of an overview at the first hearing
17 that was via ZOOM. It was virtual, and it didn't
18 come up as a question like this. It kind of happened
19 in the course of discussion, but I appreciate that
20 you looked through the Town Code. That's great you
21 are looking through it. That's my job really when we
22 review this application, but one thing you are
23 missing is, there's also a definition for
24 "warehouse." I think it's very important.

25 MR. MILLER: I have it.

1 MS. SERMAD: I made this comment at the
2 initial hearing as well.

3 The definitions are one component of the Land
4 Use Ordinance, and sometimes, you know, you have to
5 rely on looking at the code more generally or the
6 specific sections in which those definitions are
7 found in order to make a comprehensive
8 interpretation.

9 So warehousing, I'll put this on the record as
10 well, since you've already given the definition for
11 a trucking terminal, but a warehouse shall mean a
12 building used for the temporary storage of goods,
13 materials, or merchandise for later or subsequent
14 distribution or delivery elsewhere for purposes of
15 processing or sale.

16 That doesn't give the same definition as a
17 trucking terminal, and I think from even my own
18 perspective there's not a very strong distinction
19 between the two because generally there is overlap in
20 these kind of uses, but I think what we need to
21 consider, and what I brought up at the last meeting
22 or the first meeting which was virtual, was that
23 trucking terminals are included under conditional
24 uses within this zone.

25 When you look at the actual conditions that

1 are applied to a trucking terminal, conditional use
2 means you have to meet certain conditions in order to
3 be permitted in the zone, and those conditions are
4 somewhat telling about the use.

5 So one of the conditions under "trucking
6 terminal" that differentiates it, I believe, from
7 warehousing is under Section 18-4.7.7 Item E which
8 requires that paved area shall not exceed 10 times
9 the ground floor of all buildings.

10 This is important because when you look outside
11 of the code and you look at typical warehouse type
12 buildings, and there's different kinds of warehouses
13 and different uses of warehouses such as cold
14 storage, high cube, distribution centers, fulfillment
15 centers, standard warehouses.

16 Trucking terminals are also known as cross
17 stock warehousing. All of those have different
18 distinctions and are not found in the Code, but in
19 the real world have differentiations, and that
20 provision under the conditions is very important
21 because trucking terminals and cross docking
22 warehousing, I'm using those terms interchangeably,
23 are characterized as having a much smaller building
24 footprint.

25 They're usually a narrow building between 150

1 to 300 feet wide, which the buildings proposed here
2 are wider than that.

3 They generally have dock doors, truck tail
4 board doors on both sides of the building, and the
5 purpose of the building is really just a small
6 building area so that these trucks can act as an
7 extension of the building. They line up. They keep
8 their goods on the truck until they get transported
9 to the other one.

10 That's why they have a narrow building.
11 They're really intended to just move the goods on the
12 truck and get them on another truck, and that truck
13 may sit there for a while as an extension of the
14 building, so that requirement for paved areas will
15 not exceed 10 times the area of the building, it's
16 really saying you can't have a huge parking lot
17 around this small building, and that is the
18 characterization and the differentiation that a truck
19 terminal would have.

20 Is it as direct as just reading a definition?
21 No, but as I said before, the Land Use Ordinance is
22 very importantly a comprehensive ordinance that
23 requires you to look not only at the definitions but
24 also at the sections where those definitions are
25 applicable in certain zones or the zone requirements

1 like this conditional use.

2 I apologize if that was a very long-winded
3 answer.

4 MR. MILLER: No. That was great.

5 MS. SERMAD: I hope it helped.

6 MR. MILLER: It did. Thank you very
7 much.

8 You guys mentioned -- I'm sorry for saying
9 "you guys." That's not a professional way of saying
10 it.

11 You guys had mentioned that these trailers are
12 just going to be sitting there, so trailers, there's
13 going to be multiple trailers on the property at all
14 times.

15 Obviously, you said there are going to be no
16 trucks there. The trucks will come and go, but the
17 trailers are going to stay; is that correct in what
18 you said?

19 MR. GOUIN: Well, I think that's really
20 a question unfortunately, and I understand the
21 Board's frustration, it should be directed at Mr.
22 Ford, but I do think he spoke to that at the last
23 hearing.

24 There is an area on the site for trailer
25 parking. The intention is not for the trailers to

1 sit there for any extended period of time, but rather
2 they are going to be utilized in the shipping
3 operation.

4 I'm pretty sure I'm characterizing Mr. Ford's
5 testimony correctly.

6 MR. MILLER: So temporary parking?

7 MR. GOUIN: Correct. It would be
8 temporary parking of trailers but not for any
9 material length of time because I think what Mr. Ford
10 said at the last hearing was, the longer the trailers
11 sit there, the less money that whoever is running
12 those trailers is going to make shipping the goods,
13 so the idea is to be used to be shipping and not
14 sitting.

15 MR. MILLER: So a large component of the
16 definition, Katherine, that you were talking about
17 between the trucking terminal and the warehouse is,
18 the parking of motor freight vehicles between trips,
19 temporary parking. That's a big component between
20 the two, so a trailer is a motor vehicle by
21 definition.

22 If you look at the federal regulations, I could
23 give you the Title 1049 --

24 MR. COLLINS: Sir, you are testifying.

25 Try to shape it in the form of --

1 MR. MILLER: What I'm saying is, a
2 trailer is still a motor vehicle and is temporarily
3 going to be parked there, so that is a huge component
4 of a terminal.

5 CHAIRMAN REINA: Mr. Miller, again, I
6 appreciate --

7 (Applause from audience.)

8 CHAIRMAN REINA: The interpretation of
9 warehouse versus trucking has been raised, that
10 question --

11 MR. MILLER: I understand.

12 CHAIRMAN REINA: -- and it is being
13 addressed I think both at the Zoning Board as well as
14 the testimony that Ms. Sermad gave as well. I truly
15 am grateful for both of you standing up here and
16 raising your questions.

17 If there's any other questions that you have, I
18 think at this point it's hard for us -- I mean from a
19 board perspective we have no author -- it's really up
20 to -- again, I know it's been raised or the objection
21 was raised by Mr. Dash.

22 It's going to the Zoning Board in terms of
23 interpretation. I think our experts internally have
24 a different perspective with regards to what is the
25 definition of trucking versus a warehouse.

1 COUNCILWOMAN QUINN: That conversation
2 at the Zoning Board is happening next week. I
3 encourage you, if you have anything to add or public
4 questions, go to that Zoning Board meeting also share
5 because that's when they'll be meeting it, next week.

6 MR. MILLER: The date and time for the
7 Zoning Board?

8 COUNCILWOMAN QUINN: Next Wednesday
9 night.

10 CHAIRMAN REINA: 6:00.

11 DR. PARKER: 6:00.

12 MR. MILLER: One last question to do
13 with the traffic study.

14 CHAIRMAN REINA: My intention is not to
15 cut you off. We haven't heard testimony from the
16 traffic study yet, and we've ordered a secondary
17 assessment or a third-party analysis of the traffic
18 study.

19 I'm happy to address any question you have. It
20 would just be premature at this point because we
21 haven't heard any testimony and we have not received
22 any analysis from the third party.

23 MR. MILLER: I understand. My question
24 would be very quick. Are you guys going to take into
25 consideration or have your, the agency you use, taken

1 into consideration the hours of service that every
2 driver will have, meaning that every driver is only
3 allowed -- a commercial driver is only allowed to
4 drive 11 hours so in there, there is 14 hours or 13
5 hours of downtime that are going to be required, so
6 is this going to be something that's going to be
7 considered with this, meaning is Route 15 going to be
8 littered with tractors waiting to get to their
9 facility or on the side of 15 --

10 COUNCILWOMAN QUINN: Our ordinances --

11 MR. MILLER: -- or would there --

12 COUNCILWOMAN QUINN: Our ordinances
13 don't allow that.

14 MR. MILLER: But that traffic study is
15 going to have to count -- yeah, it's going to have to
16 count for that because that's a real thing. I mean
17 any commercial driver knows that you have 11 hours
18 you can drive, and after that you have to, by federal
19 law, shut down and sleep on the side of the road.

20 MR. MURPHY: Mr. Chairman, if I may
21 clarify, 50 extra spaces are for trailers. Only the
22 tractor trailers will be disconnected. It's not
23 allowed to stay on the same area.

24 MR. MILLER: But that doesn't change the
25 -- the tractors still have to shut down. Their hours

1 are --

2 MR. COLLINS: Not allowed to shut down.

3 MR. MURPHY: They're not allowed to shut
4 down or stay there on any highway or any access road.

5 MR. MILLER: Federal law. You can't
6 change that.

7 COUNCILWOMAN QUINN: Our ordinance --

8 MR. MILLER: Respectfully, sir, you have
9 11 hours of drive time, and you have to shut down.

10 MR. GALL: We asked specifically that
11 question of Mr. Ford at the last meeting, and he said
12 that they would not be sitting on the property. It's
13 illegal for them to park on 15.

14 I'm assuming that they are bright enough to
15 know before they take the turn onto 15 not to come up
16 if they only have 10 minutes left on the clock
17 because Sparta PD or the Jefferson or Lafayette PD
18 will take care of it; okay?

19 We have no desire to see a parked truck on the
20 side of 15, and we will use every weapon we can to
21 deal with it if one shows up. That was very clear at
22 the last meeting.

23 MR. GOUIN: Thank you, Commissioner.

24 For everybody's edification, we are happy to
25 stipulate that we and our drivers and drivers at the

1 facility are going to comply with every local
2 Township ordinance, state law, federal law. Whatever
3 has to be done, it is certainly -- we're going to
4 comply with those. It's not our intention to propose
5 something our drivers are not complying with every
6 applicable law.

7 MR. MILLER: Thank you.

8 MRS. MILLER: Thank you very much.

9 CHAIRMAN REINA: Mr. and Mrs. Miller,
10 thank you so much.

11 MR. GOUIN: By the way, Mr. Chairman,
12 there was a lot of questions on the warehouse versus
13 the truck terminal use. As part of our presentation,
14 and I apologize for the disjointed nature of it, and
15 it caught me a little off guard, the order of
16 testimony you had proposed at the beginning of the
17 hearing.

18 We do have a Professional Planner who is going
19 to speak to those issues, since it was raised as a
20 jurisdictional issue who would probably testify last
21 after Mr. Ford's cross examination and after our
22 traffic expert.

23 Our last witness would be a Professional
24 Planner speaking directly to those issues, and he
25 would be the appropriate person really to be cross

1 examined other than the Board's own planner.

2 A VOICE: I just hope he shows up.

3 A VOICE: Would you speak into
4 microphone, please?

5 MR. MILLER: Thank you.

6 CHAIRMAN REINA: Any other questions,
7 Mr. Miller?

8 MR. MILLER: No. Thank you, sir.

9 (Applause from audience.)

10 COUNCILWOMAN QUINN: Bill Emery? Is
11 Bill Emery here this evening? No? No Bill Emery.

12 Next is Dean Blumetti. Dean?

13 Again, just to reiterate, these are questions
14 based on the testimony from the last session, so we
15 don't want to get ahead of ourselves, and we have,
16 let the record reflect that we have 20 minutes left.

17 MR. COLLINS: Mr. Blumetti, please raise
18 your right hand.

19

20 D E A N B L U M E T T I,

21 10 Waters Street, Sparta, New Jersey,

22 after having been duly sworn by Mr. Collins,

23 testifies as follows.

24 MR. COLLINS: Mr. Blumetti, state your
25 name, address, and spell your last name.

1 MR. BLUMETTI: Dean Blumetti, 10 Waters
2 Street, Sparta.

3 Thank you, Mr. Chairman and Planning
4 Board Members for your service to our community. I'm
5 speaking tonight as a private resident, not on behalf
6 of any commission or entity or other organization.
7 I'm representing myself, my family, my friends my and
8 neighbors.

9 I'll hold my questions involving environmental
10 issues and traffic issues until later on in the
11 hearing. I reserve my right to speak again.

12 My first question is for the Applicant. Can
13 you describe any plans you have to pre-install the
14 capability for electric vehicle charging stations in
15 the parking spaces?

16 MR. GOUIN: That's a fair question. I'm
17 not sure that I know the answer to that. Can we
18 speak off the record?

19 (There is a discussion held off the record.)

20 MR. GOUIN: So I guess the answer to
21 that would be, we do plan on doing it, on having some
22 electric vehicle charging station capabilities.
23 We're just not sure how many spaces we would need at
24 this time.

25 I would say as part of our submission for final

1 approval it would include the exact number of EV
2 charging stations and those capabilities.

3 MR. COLLINS: There's a state ordinance
4 that is applicable, and it does apply to this
5 application, and they will have to comply with that
6 state ordinance.

7 MR. BLUMETTI: Does it need to be in the
8 application at this point?

9 MR. COLLINS: Not specifically. They
10 said they would comply with the state ordinance.

11 MR. BLUMETTI: Okay.

12 MR. COLLINS: If you have a question
13 that somehow is focused on the EV, you could ask it.
14 I mean the engineer probably knows about EV charging
15 stations.

16 MR. BLUMETTI: If you could describe it
17 briefly. I didn't see it anywhere in the
18 application. It was 400-something pages. There was
19 no mention at all of the statute. EV charging
20 stations, make-ready parking spaces, so I didn't see
21 it in there. Deficiencies in terms of meeting New
22 Jersey law as officially formally submitted the first
23 time.

24 MR. PROCANIK: We will comply with the
25 state legislation requiring EV charging station.

1 It's based on a percentage of the overall parking.

2 A VOICE: We can't hear you. Can you
3 speak louder?

4 MR. PROCANIK: Certainly. We will
5 comply with the state requirements for EV charging.
6 It's based on a percentage of the overall passenger
7 vehicle parking. It can be make-ready or fully
8 installed charging stations. We will comply with the
9 ordinance.

10 MR. BLUMETTI: Thank you. Okay.

11 My next question is based on what we heard so
12 far about the the Site Plan Review in the previous
13 part of the hearing. It appears that the Applicant
14 is -- YOU are planning to do three things, and I
15 mentioned these now because they were already in the
16 testimony.

17 The first one, to build the rail extension in
18 existing wetlands, and that's on Page 407 in the
19 application.

20 The second one is to build the rail extension
21 through part of a restricted 150-foot wetlands
22 transition buffer and through a restricted 300-foot
23 riparian zone area. That's in multiple pages in the
24 application.

25 The third is to replace half of the

1 bio-retention basin within a restricted 150 wetlands
2 transition buffer. That's on Page 408. I know
3 they're environmental sounding, but they're already
4 mentioned in terms of the Site Plan review pages that
5 we went over on the previous, I believe the first
6 hearing, the ZOOM hearing.

7 MR. PROCANIK: Understood. We are aware
8 of those issues. We will address them. We have an
9 environmental scientist here. He can go into a
10 little bit more detail about those, and he can
11 discuss those with you.

12 MR. BLUMETTI: I'm concerned about
13 structural concerns with all three of those points,
14 and also obviously negative impacts to the
15 environment.

16 MR. GOUIN: Yes, and Mike Greene is
17 prepared to testify to those things. I would point
18 out to the extent, anything we're proposing to do on
19 our Site Plan requires impacting wetlands, flood
20 hazard area, any environmentally sensitive areas,
21 we're going to need DEP approval for those. We're
22 going to have to get any DEP approval, any DEP
23 permits that are required because of our Site Plan.

24 One of the reasons, and I mentioned this at the
25 first hearing and potentially the last hearing, one

1 of the reasons why we came to this Board asking for
2 preliminary approval only at this time was so that we
3 could get preliminary Site Plan approval which
4 carries with it a three-year period of protection
5 against zoning changes, and the rationale for that
6 is, we do have a lot of outside agency approvals that
7 we need to get, including some from NJDEP, so the
8 intention is, we get our preliminary Site Plan
9 approvals so that we have a plan that we could finish
10 up with our permitting applications with the NJDEP,
11 and we wouldn't return to this board until we have
12 all NJDEP permits and other outside agency approvals
13 in hand.

14 That's a part of the application for final
15 approval, so again to the extent we are impacting any
16 of those regulated areas, we certainly would have to
17 address that with the DEP and obtain permits, and we
18 will comply with whatever state statutes are
19 applicable.

20 MR. BLUMETTI: Okay. Great segue.
21 Thank you.

22 As of yesterday, May 3rd, when I checked with
23 the DEP, the Land Use authorization that I found has
24 a stopped status for a deficiency for Diamond Chip
25 Realty for that property stopped back on August 4th

1 of 2021.

2 There has not been any resolution or any
3 response to that deficiency that was noted by DEP.

4 Can you tell us? I'm not sure if there was a
5 subsequent one that supersedes that. If not, what is
6 the deficiency for, and what is the current status of
7 that permit?

8 MR. GOUIN: Well -- Rich, do you want to
9 take that? I'll take it.

10 The deficiency just relates to the information
11 that the DEP is requiring in order to process that
12 permit, and what it's required the Applicant to do is
13 to go out and collect additional data from the
14 property, so until we have all that additional data,
15 we can't move the DEP application forward, and that's
16 why it's in stopped status.

17 Again, that's why we're going through the
18 procedure of getting preliminary approval rather than
19 final approval because we have all these outside
20 agency approvals to get before we can come to final
21 approval.

22 If something in our DEP approval were to change
23 the Site Plan, modify our design or something like
24 that, obviously then we'd have to incorporate that
25 when we come for final approval to this Board, so we

1 are working with the DEP to address those
2 deficiencies, but as you can imagine, doing that work
3 takes time, and we are where we are with them.

4 CHAIRMAN REINA: So, Mr. Gouin, those
5 are just I guess informational deficiencies?

6 MR. GOUIN: Yes. I mean basically the
7 DEP, when you submit an application, they require you
8 to submit certain information based on the site
9 conditions, and sometimes, believe it or not, the
10 applicants disagree with the methodology that the DEP
11 is using in order to judge the application, so we've
12 been going back and forth with the DEP for some time,
13 and we're resolving those issues, and ultimately the
14 permits will be processed and moved forward, but it's
15 part of the DEP application process just like this
16 application process.

17 CHAIRMAN REINA: Okay.

18 MR. BLUMETTI: Can you very briefly just
19 tell us where the main data gaps are that you have to
20 go back and look for?

21 MR. GOUIN: I would rather not because
22 I'm not the engineer on those DEP applications, and
23 frankly, I'm not the attorney who is handling them.

24 CHAIRMAN REINA: I would hold those, Mr.
25 Blumetti, for the environmental testimony. I

1 understand where you are going.

2 MR. BLUMETTI: Okay.

3 CHAIRMAN REINA: I want to be sensitive.
4 We do still have a number of individuals to get
5 through, and we want to start the environmental
6 testimony.

7 MR. BLUMETTI: Okay. In the previous
8 meeting, Mr. Ford mentioned was talking about
9 operations. He mentioned that the use of rail could
10 take some tractor-trailer trucks off of our local
11 roads here. I think he said one rail car equals four
12 trucks.

13 Well, wouldn't you agree that that's irrelevant
14 if all those tractor-trailer trucks aren't put here
15 in the first place for a complex like this?

16 MR. GOUIN: I'm not sure -- I'm not
17 going to -- that's not really a question for me to
18 answer. I think that's a question for Mr. Ford when
19 he comes back. We can surely answer that. It's more
20 a matter of opinion rather than a question.

21 MR. BLUMETTI: Okay. Well, it's not
22 actually, but okay.

23 In the first hearing on ZOOM, Mr. Ford proposed
24 a few benefits. He talked about local supply of
25 consumer products. He talked about increased tax

1 revenue, and he also stated clearly though there were
2 not -- we shouldn't count on much job creation.

3 So the first one I would like input on is
4 local supply of goods.

5 How much do you expect that benefits us? I was
6 disappointed Mr. Ford presumably under oath played
7 the COVID card with us. He repeatedly talked about
8 how we all faced shortages of products during this
9 historical pandemic.

10 I heard that a key selling point of this mega
11 complex was to alleviate issues like that for us.
12 This grossly ignores the fact that the shortages we
13 all faced during the pandemic and were not local.
14 They weren't even regional in terms of distribution.
15 They were caused by production shortages way up the
16 supply chain globally.

17 (Applause from audience.)

18 CHAIRMAN REINA: Mr. Blumetti, the
19 economic assessment, so we've asked for a separate
20 economic assessment. I think every single person on
21 the board shares the concern, what is the cost
22 benefit analysis. What does this look like for the
23 Town?

24 MR. BLUMETTI: Okay.

25 CHAIRMAN REINA: I think what you're

1 asking is probably geared more towards, again, as we
2 look at that, if it's a direct question for Mr. Ford,
3 he's not here to be able to answer, unfortunately and
4 frustratingly, but to that end I would ask if there's
5 a specific question? I don't want to see you have to
6 go down testimonial components or opinion components.
7 I do want to make sure we have time for other
8 participants to be able to ask questions.

9 MR. BLUMETTI: Oh, okay.

10 One last question on location. The selection,
11 we kind of heard why you selected Sparta, why that
12 spot.

13 Now I would like your opinion on this and see
14 if you agree. Constructing a new mega facility this
15 far removed from where the freight's final
16 destinations are going to be may not be the smartest
17 strategy.

18 This is true, especially when you consider all
19 the old industrial sites in New Jersey, Newark, New
20 Jersey, all the abandoned malls, all the vacant
21 office buildings, which are much more suitable for
22 re-purposing.

23 Can you share your opinion on that?

24 (Applause from audience.)

25 CHAIRMAN REINA: Is it a question, Mr.

1 Blumetti, or it is an opinion question?

2 MR. BLUMETTI: I'm asking their opinion,
3 what the rationale was, if they considered those
4 instead of picking this site.

5 MR. GOUIN: I think Mr. Ford answered
6 that question at the last hearing. I don't think we
7 have another opinion to share at this point, but we
8 recognize yours.

9 MR. BLUMETTI: Okay. Thank you. I
10 would leave with one final statement. Just thinking
11 about the history of Sparta and what it represented
12 for all these years.

13 CHAIRMAN REINA: No statements, please,
14 Mr. Blumetti. Questions.

15 MR. BLUMETTI: Okay. I have a question
16 at the end of this.

17 If you need a reminder, go look at the photos
18 in our Historical Society. Sparta represented
19 recreation, vacation, relaxation, peace, tranquility.

20 Now, we have gotten a few inconveniences over
21 the years, but this is still our core of life.

22 My question is, why would we destroy this
23 forever?

24 (Applause from audience.)

25 MR. BLUMETTI: Thank you.

1 COUNCILWOMAN QUINN: Okay. Joseph Wade?

2 We have seven minutes left, so Mr. Wade.

3 MR. COLLINS: Please raise your right
4 hand and be sworn.

5 MR. WADE: My right hand is there.

6 MR. COLLINS: Do you swear to tell the
7 truth, the whole truth, and nothing but the truth, so
8 help you God?

9 MR. WADE: I swear to tell the truth,
10 the whole truth, nothing but the truth, so help me
11 God.

12 CHAIRMAN REINA: Sir --

13 MR. WADE: I'm trying to follow his
14 instructions.

15 CHAIRMAN REINA: You are being
16 sarcastic.

17 MR. WADE: He was being belligerent
18 towards the lawyers.

19 COUNCILWOMAN QUINN: No.

20 CHAIRMAN REINA: I've seen you in the
21 back corner with your thumb up. I've seen you
22 several times.

23 MR. WADE: Does that bother you? Does
24 that bother you?

25 CHAIRMAN REINA: If you have a question,

1 please just address what your question is. He is
2 simply asking you to raise your right hand and state
3 your name and address.

4 MR. WADE: I'm trying to get through it.

5 MR. COLLINS: It's yes or no. Answer
6 yes, you agree to tell the truth, or --

7 MR. WADE: Correct. I just did.

8 MR. COLLINS: No, you didn't.

9 MR. WADE: You heard me.

10 MR. COLLINS: This is very important.
11 This is a judicial hearing.

12 A VOICE: Just say "yes."

13 MR. WADE: Yes.

14 MR. COLLINS: You agree to tell the
15 truth. Please state your name, spell your last name,
16 and give us your address.

17 MR. WADE: My name is Joseph,
18 J-o-s-e-p-h, last name Wade, W-a-d-e. I'm from 44
19 Sagamore Trail, Sparta, New Jersey, 07871.

20 MR. COLLINS: Thank you, Mr. Wade.

21 MR. WADE: Now, when I ask this
22 question, who is going to interrupt me? Who is going
23 to be belligerent?

24 CHAIRMAN REINA: Apparently you are.

25 MR. WADE: I'm returning fire.

1 A VOICE: What?

2 CHAIRMAN REINA: Now, as far as you go,
3 I want to know why you're here. Someone that never
4 set foot on the property or barely have. Maybe you
5 got out of your car. What I want to know is, how can
6 you even give testimony as to what is going on here?
7 Can you tell me that?

8 CHAIRMAN REINA: Mr. Wade, we're not
9 going to tolerate you being belligerent in
10 addressing your questions like this to anybody.

11 MR. WADE: It's a fair question. I
12 think that's a very fair question. I want to know.

13 CHAIRMAN REINA: As to why he got out of
14 his car?

15 MR. WADE: No. My fair question was
16 already stated. That's not what I said. You should
17 listen.

18 CHAIRMAN REINA: You're trying my
19 patience, Mr. Wade.

20 MR. GOUIN: We can answer it. We can
21 answer it, Mr. Chairman.

22 CHAIRMAN REINA: Please go ahead.

23 MR. WADE: I can go ahead?

24 CHAIRMAN REINA: I was referring to --

25 MR. WADE: Yeah, so --

1 MR. COLLINS: The witness is going --
2 Mr. Wade, the witness is going to answer.

3 MR. WADE: We heard the question. You
4 interrupted and you said you didn't hear the
5 question.

6 MR. COLLINS: Mr. Wade, stop.

7 CHAIRMAN REINA: You were going to
8 answer the question.

9 MR. PROCANIK: As a Professional
10 Engineer, we were hired to design the site. I did
11 visit the site. My colleagues visited the site, and
12 we did obtain existing condition information which we
13 base our design off of.

14 MR. WADE: I couldn't understand it.
15 Would you repeat it?

16 MR. PROCANIK: Was it the volume or was
17 it the terminology? --

18 MR. COLLINS: Just speak louder into the
19 microphone.

20 MR. PROCANIK: The stuttering?

21 MR. WADE: I don't know if it was
22 stuttering or just mumbling. Just speak into the
23 microphone.

24 MR. PROCANIK: Yes. As I just stated,
25 there were other colleagues in my firm who visited

1 the site regularly. I visited the site before the
2 hearing today.

3 MR. WADE: You did. You visited the
4 site before the hearing today?

5 MR. PROCANIK: Yes.

6 MR. WADE: Okay. Good. We're going to
7 check cameras.

8 MR. PROCANIK: Beyond that we obtained
9 existing condition information through a licensed
10 surveyor that depicts the accurate condition of the
11 site at the time of the survey. From there we were
12 hired as an engineer to design the proposed
13 development of the site.

14 MR. WADE: This really doesn't
15 answer my question. I consider myself done. Thanks.

16 COUNCILWOMAN QUINN: Cheryl Drake? Is
17 Cheryl Drake here this evening?

18 (There is no response.)

19 COUNCILWOMAN QUINN: Kevin O'Leary? Is
20 Kevin O'Leary here tonight?

21 MR. COLLINS: Kevin, please raise your
22 right hand and be sworn.

23

24

25

1 M A Y O R K E V I N O ' L E A R Y ,
2 is duly sworn according to law by Mr. Collins and
3 testifies as follows.

4

5 MR. O'LEARY: My name is Kevin O'Leary.
6 13 Brandywine Court of Lafayette.

7 I want to disclose that I am the mayor of
8 Lafayette and also a long-time member of the Land Use
9 Board.

10 Some of the interaction between the concepts
11 between your Board of Adjustment and your Planning
12 Board, when you question the traffic engineers, I
13 think you should make a distinction between the
14 modeling or any of the analysis that is done because
15 you are talking about a warehouse but it may change
16 when you actually are talking about a trucking
17 terminal and trip tips and anything else. People
18 should do that. I'm more interested in hearing what
19 he has to say, and I have one quick comment.

20 You talked about truckers, you know, complying
21 with all the ordinances and statutes and not standing
22 on the side of the road.

23 We don't have a police force. We have a
24 serious problem with quarry trucks already. I'm the
25 one issuing the tickets against all the quarry trucks

1 standing outside all these quarries.

2 I'm going to Municipal Court constantly on it,
3 so it's an issue for Lafayette. I've been contacted.

4 We had three people show up at our meeting last
5 night very concerned about this project, and
6 Lafayette is going to have a serious traffic problem
7 if there is in fact going to be an enhancement of the
8 traffic coming out of this facility, especially going
9 north, so I'm going to preserve my right to ask
10 questions.

11 I was ready to ask questions of Mr. Ford and
12 the traffic engineer, but I just wanted to get up and
13 saying something about it to you.

14 (Applause by audience.)

15 CHAIRMAN REINA: Thank you, Mr. O'Leary,
16 and thank you for your service to Lafayette.

17 MAYOR O'LEARY: Thank you.

18 MR. KOLLAR: Tom, are we allowed to ask
19 a question of the Mayor?

20 MR. COLLINS: Not now, no. That's a
21 time of cross examination on testimony. That was not
22 testimony.

23 MR. KOLLAR: Okay. Thank you.

24 COUNCILWOMAN QUINN: Joseph Hurdle? No?

25 (There is no response.)

1 COUNCILWOMAN QUINN: Marilyn Chapman?

2 MR. COLLINS: Marilyn, please raise your
3 right hand.

4

5 M A R I L Y N C H A P M A N,

6 after having been duly sworn by Mr. Collins,
7 testifies as follows:

8

9 MR. COLLINS: Please state your name,
10 spell your last name, and give us your address.

11 MS. CHAPMAN: You are asking for my last
12 name?

13 MR. COLLINS: Yes. Please state it and
14 please spell it.

15 MS. CHAPMAN: Mr. Collins, we can't hear
16 any of the men speaking. They're directing their
17 voices up front. It's a mystery to know what is
18 going on here.

19 MR. COLLINS: It's best for you to just
20 state your name.

21 MS. CHAPMAN: My name is Marilyn
22 Chapman. I live at 66 Hunters Lane, Sparta.

23 MR. COLLINS: Thank you. Make your
24 statement or question for everyone.

25 MS. CHAPMAN: Pardon?

1 MR. COLLINS: Speak right into the
2 microphone, and I will try to speak directly to you
3 so you can see my voice, my face. The people will
4 try to speak up, but go ahead and ask questions of
5 the witnesses.

6 MS. CHAPMAN: I'm going to ask the same
7 question I've been asking. I went to the Lafayette
8 Town Council meeting last night, and everyone had
9 their names in black and white background so we could
10 read it. Most of the time I can't read your names.
11 I don't know what the names are.

12 I would like to request, is it reasonable to
13 ask you to introduce yourselves when you come so we
14 know who is speaking?

15 My other question is, how soon are we going to
16 get an improved and decent sound system? We can't
17 really tell what is happening here. We want to be
18 involved citizens. We want to be part of the
19 process. We want to be informed, but we can't hear
20 you. We haven't got a chance. I'm sorry.

21 (Applause from audience.)

22 CHAIRMAN REINA: I did actually, Mrs.
23 Chapman, have a conversation with the Town Manager
24 and asked him with regards to enhancements for this
25 specific venue.

1 My understanding is that they are working on an
2 audio -- because this has been a question that's been
3 raised, I know, both with the Council as well. I do
4 encourage everybody to try to speak up to the extent
5 they can so that everyone can hear us, but I know the
6 Town Manager did say that they are looking at
7 additional audio and visual capabilities for this
8 specific venue, so I'm with you, and I hope it should
9 improve.

10 MS. CHAPMAN: They did say that, but it
11 sounds like it's going to be a very long process,
12 depending on getting a grant.

13 CHAIRMAN REINA: I hope not.

14 COUNCILWOMAN QUINN: I believe it's on
15 order.

16 MS. CHAPMAN: I'm a senior citizen who
17 still wishes to be involved in government. There are
18 others. We have no chance. We asked for a hybrid
19 meeting. We have not been successful in getting it.
20 That's all I have. Thank you.

21 CHAIRMAN REINA: Thank you, Ms. Chapman.

22 I believe we have time for one more.

23 COUNCILWOMAN QUINN: Chuck McGinty?

24 Chuck McGinty? No.

25 MR. COHEN: How many are on the list?

1 COUNCILWOMAN QUINN: There's only one
2 more.

3 Sally Larson? Sally Larson?

4 MR. COLLINS: Raise your right hand.

5

6 S A L L Y L A R S O N,
7 after having been duly sworn by Mr. Collins,
8 testifies as follows.

9

10 MR. COLLINS: State your name, address,
11 and spell your last name.

12 MS. LARSON: Sally Larson, L-a-r-s-o-n,
13 56 Mountain Spring Drive, Sparta.

14 MR. COLLINS: Thank you. Please go
15 ahead.

16 MS. LARSON: Okay. First, I want to
17 make a comment. My dad was for many years the
18 Chairman of the Planning Board in a small suburban
19 New York State town. I totally appreciate the time
20 and effort that it takes, and sometimes it's very
21 difficult, so thank you for that.

22 Second, I would like to ask a procedural
23 question like Ms. Chapman did. Why can't we have a
24 hybrid meeting? There were people who wanted to come
25 that are handicapped. It's difficult to get in here.

1 It's very crowded. We have COVID, so there's no
2 distancing. If you have a sore throat, you are not
3 going to come to the meetings. There are single
4 parents. We have the longest commutes in the state
5 in this county.

6 I never used to -- I'm retired now, but when I
7 worked, I would never get home before 6:30. I would
8 be able to do a ZOOM meeting. It would be very
9 difficult to get here for a meeting with a family, so
10 I would respectfully request you consider hybrid
11 meetings. I believe it's really, really important
12 that we be able to communicate with as many people as
13 possible.

14 CHAIRMAN REINA: Yeah, so --

15 MS. LARSON: We can do it from the
16 library. I take French.

17 CHAIRMAN REINA: I appreciate that. I
18 know when we started this meeting it was under ZOOM,
19 and there was a lot of frustration with the
20 participants when it was ZOOM and not in person, so
21 we made a decision to go back in person. This
22 specific facility does not have the capabilities to
23 be able to do a ZOOM-based meeting or a hybrid-based
24 meeting.

25 Again, I know I shared -- I don't mean this to

1 sound redundant in any way, shape, or form, but in my
2 conversation with the Town Manager today I
3 specifically asked, like do we have, for example,
4 streaming capability. At least other participants
5 can listen to what we're doing, even though they
6 can't fully participate, and I was told we don't have
7 streaming capabilities.

8 That's when he indicated that they have ordered
9 an upgraded system, and they are working on it. That
10 really is a question for the Town Manager and for the
11 Council. We have no control or authority over the
12 audio systems or the ability to do that, and until we
13 have an opportunity to be able to do that where we
14 can do a hybrid right now, that's why we're in
15 person.

16 MS. LARSON: Okay. I just wanted to
17 raise the issue. I think it's important that we work
18 on it.

19 CHAIRMAN REINA: It's a great --
20 certainly it's a fair point, and I think I've heard
21 from several people, and we are trying to address
22 that, but that was the main reason we came back in
23 person because there was so much frustration that we
24 were in ZOOM and not in person, and we were trying to
25 accommodate as many people as we possibly can.

1 MS. LARSON: Okay. Thank you.

2 COUNCILWOMAN QUINN: Last name on the
3 list that we collected was Sharon McCormack. Is
4 Sharon McCormack here this evening?

5 (There is no response.)

6 COUNCILWOMAN QUINN: So, Mr. Chairman,
7 since she is not here tonight, that concludes the
8 list that we gathered in the last meeting.

9 CHAIRMAN REINA: All right.

10 With that, it is now 8:03. I would recommend
11 we take a quick 10-minute break. Let anybody that
12 needs to use the facilities, use the facilities, and
13 we'll come back.

14 Mr. Gouin, if you are ready to go, we'll dive
15 into the environmental testimony, if that works.

16 MR. GOUIN: Good.

17 MR. COHEN: Mr. Chairman, I understood
18 the procedure is, now we're going to have the
19 attorneys ask questions. Now, I understood the
20 process that was laid out at the beginning of the
21 meeting.

22 MR. COLLINS: Mr. Chairman, we should
23 hear every attorney's questions of this witness and
24 Mr. Sunderson.

25 CHAIRMAN REINA: Okay. You have

1 specific questions for this witness, Mr. Cohen?

2 MR. COHEN: I do.

3 CHAIRMAN REINA: Once we come back from
4 the break, we will address those, and anything that
5 you have, Mr. Dash, Mr. Clark, any specific questions
6 that you have, we'll address those, and then we'll
7 move into the environmental portion.

8 MR. CLARK: If we have a procedural
9 question for the Board, when you would like us to
10 entertain that, sir?

11 CHAIRMAN REINA: Mr. Collins, any --.

12 MR. COLLINS: At the end of the evening
13 is fine.

14 CHAIRMAN REINA: At the end of the
15 evening.

16 MR. CLARK: I want to make sure we don't
17 adjourn until we've had a chance to ask a procedural
18 question of the Board. Thank you.

19 CHAIRMAN REINA: Certainly. Thank you.
20 We'll take a quick ten-minute break.

21 (A brief recess is taken.)

22 CHAIRMAN REINA: Welcome back,
23 everybody. It's 8:15. Thank you.

24 We're going to move, at this point we're going
25 to move over to the questions from the attorneys for

1 any cross examination.

2 Again, the attorneys, please, this is related
3 to specific questions for previous testimony, so, Mr.
4 Cohen, would you like to begin?

5 MR. COHEN: Yes. Thank you. Just for
6 the record, Lawrence Cohen. I represent Mr. Burns
7 and Georgiana Burns who own property adjacent to the
8 site, as I previously indicated.

9 My first question is for Mr. Procanik who is
10 the engineer that's being produced tonight.

11 CHAIRMAN REINA: All right.

12

13 DIRECT EXAMINATION OF MR. PROCANIK BY MR. COHEN:

14

15 Q. Mr. Procanik, was there a specific
16 portion of the plan that you worked on, or was it the
17 general plan that you worked on with reference to
18 this Site Plan?

19 A. The general plan.

20 Q. Okay. May we have the Site Plan put up
21 on the board, please, and turn so that the Board and
22 the public can at least try and get a view of it?

23 MR. GOUIN: Sure. That is Exhibit, for
24 the record, A-2, that was marked at the first
25 hearing, the rendered Site Plan.

1 MR. COHEN: I don't know where we are
2 going to put it.

3 CHAIRMAN REINA: Mr. Cohen, do you want
4 that tilted toward you and the audience or the Board?

5 MR. COHEN: Well, can we do both?
6 Obviously, the Board has to see it if I'm asking
7 questions.

8 Can it be put up there? It would be great if
9 we could put it up there

10 COUNCILWOMAN QUINN: You can put it on
11 the screen.

12 MR. COLLINS: We can see it.

13 COUNCILWOMAN QUINN: You can move it
14 over.

15 MR. COHEN: I don't know if you can see
16 it from there. Also the members of the public.

17 Q. Mr. Procanik, my client owns the
18 property immediately to the north. I believe that's
19 north up there on the left of this property and
20 adjoins the subject property, and I asked you during
21 the break if you can tell us approximately how much
22 frontage along Demarest Road is the property?

23 A. It's approximately 1,000 feet.

24 Q. As the road travels, right? Not in a
25 straight line?

1 A. Correct.

2 Q. There are two accessways onto the site.

3 MR. GOUIN: Mr. Collins, I just want to
4 point out that Mr. Procanik's testimony was very
5 limited.

6 So, Mr. Cohen, I understand where you're
7 going to go with this, but to the extent that you're
8 going to start asking questions about the overall
9 Site Plan and go through that again, we did that at
10 the first hearing for about an hour and a half with
11 Mr. Degen, so I'd ask that the questions be limited
12 to any of the answers that Mr. Procanik gave.

13 That being said, we're happy to listen to the
14 questions, and we'll answer them the best we can, but
15 the questions should be limited to the testimony that
16 was given tonight.

17 CHAIRMAN REINA: Mr. Gouin, we would
18 have been grateful if Mr. Degen was here tonight to
19 be able to address these questions.

20 MR. COHEN: Unless I missed it, Mr.
21 Procanik was here to be able to address these
22 questions.

23 MR. GOUIN: Mr. Degen is unavailable.
24 He has a personal issue. He can't attend. He's out
25 on some sort of leave, so Mr. Procanik is filling in

1 for him.

2 MR. COHEN: Fine, but my understanding

3 --

4 CHAIRMAN REINA: Go ahead and ask your
5 question, Mr. Cohen, please.

6 MR. COHEN: I frankly don't
7 understand the question because there was no
8 testimony from Mr. Procanik. In any event, let me
9 proceed.

10 Q. Mr. Procanik, there's two accessways
11 from the property onto Demarest; is that correct?

12 A. Are you speaking under proposed conditions?

13 Q. No. I'm talking about the Site Plan
14 that was marked A-2. How many accessways from the
15 property onto Demarest?

16 A. Under proposed conditions, there are two.

17 Q. I don't know what you mean by "under
18 proposed conditions."

19 A. Referring to existing conditions of the site,
20 what we are proposing.

21 Q. My questions now, please, Mr. Procanik,
22 deal with the proposed Site Plan. I'm not asking
23 about existing conditions.

24 A. Understood.

25 Q. All right. So the proposed Site Plan is

1 showing how many accessways?

2 A. Two.

3 Q. And they are both ingress and egress; is
4 that correct?

5 A. Yes.

6 Q. Okay. I just want to let you know that
7 the accessway on the northern side of the property is
8 almost immediately adjacent to my client's property.
9 I asked you to measure that in the beginning of the
10 evening, and you told me that's approximately 40 feet
11 from that accessway to the property line; is that
12 correct?

13 A. It was 50 feet.

14 Q. 50 feet. I'm sorry. Okay. 50 feet.

15 If you go out there and look, I know you were
16 out there this evening, I'm sure you didn't focus on
17 my client's property next door. His front door is
18 only not too far, maybe 40, 50 feet from his property
19 line.

20 In any event, was any consideration given to
21 the fact that a main access point to this development
22 is going to be adjacent to a residential home?

23 A. We are compliant with the required setbacks for
24 the driveways.

25 Q. Okay. Let me ask you this.

1 MR. GOUIN: Again, all these questions,
2 Mr. Cohen, should have been raised to Mr. Degen
3 during your first chance to cross examine our
4 engineer which you already had, and Mr. Degen
5 finished his cross examination and finished his
6 testimony during the first hearing, so he's not being
7 cross examined tonight because he was already cross
8 examined.

9 Mr. Procanik provided some answers to questions
10 from the public, which should be subject to cross
11 examination, but we're not going to go through and
12 cross examine our engineer on the Site Plan again.
13 We already did that.

14 MR. COHEN: Mr. Chairman, I understood
15 that --

16 CHAIRMAN REINA: Can you please speak
17 up, Mr. Cohen?

18 MR. COHEN: Yes. Mr. Collins had
19 indicated that they're producing an engineer tonight
20 to answer engineering questions. He's an engineer.
21 He's not just a stranger engineer. He worked on the
22 project; all right?

23 The fact I'm now foreclosed from asking these
24 questions of an engineer that worked on the project
25 simply on his answers given by members of the public

1 that asked questions. I think I have a right to
2 examine him with reference to the Site Plan which he
3 testified he participated in preparing.

4 CHAIRMAN REINA: Agreed.

5 (Applause from audience.)

6 MR. COHEN: So I would appreciate it,
7 Mr. Gouin, if I could proceed without any further
8 objections.

9 Q. Mr. Procanik, was any consideration
10 given to the fact that this was within 40 feet of my
11 client's or 50 feet of my client's property line and
12 that that should be moved to a more -- a better
13 location to shield my client from the traffic that's
14 going to be emanating from this development from the
15 noise, air pollution, et cetera?

16 A. We understand your concern and can take it back
17 to the client, but as I previously stated, we are
18 compliant with the requirements of the Site Plan.

19 Q. I didn't ask you if you were compliant
20 with the ordinance requirements. I asked if any
21 consideration was given to relocating that accessway
22 away from my client's property.

23 A. As I stated, we will take it back to the client
24 for further consideration.

25 Q. I presume the answer to the question is

1 "no" then, or was consideration given, or don't you
2 know?

3 COUNCILWOMAN QUINN: He just said.

4 A. Consideration was given.

5 Q. Okay.

6 A. We will take this back to the client for
7 further consideration now that it has been brought to
8 our attention through you that it is a concern of the
9 neighbor.

10 Q. If this accessway was moved further
11 south, you have almost a thousand feet on Demarest is
12 my understanding or approximately a thousand feet;
13 how would that change -- would that inhibit the
14 development in any manner if let's say it was moved
15 200, 250 feet to the south?

16 A. That was something that we did not specifically
17 study, so for me to give you a technical response
18 would be inappropriate at this time.

19 Q. Okay. I'm not asking for a technical
20 response. Let's say we move that 250 feet to the
21 south; do you envision, and looking at it now, do you
22 see that any problems with reference to the
23 development? Would the development have to be
24 changed other than that accessway location and
25 buildings, parking areas, et cetera?

1 A. Potentially, my role here as an engineer is to
2 give technical responses, not my opinion. I think
3 it's premature to provide an answer without further
4 studying it. As I mentioned, we'll discuss it with
5 the client and see if we can be accommodating to your
6 client.

7 Q. As a project engineer, you, or assistant
8 project engineer, you can't tell us if moving this
9 accessway further south will inhibit the development
10 or not? You don't have an opinion on that?

11 A. I don't have an opinion.

12 Q. Thank you.

13 What thought, if any, in the development of
14 this was given to noise abatement? In other words,
15 within 50 feet as trucks come up there, you have
16 tractor-trailer trucks. You have -- there are diesel
17 motor obviously today, the noise of the trucks
18 themselves as they accelerate, as they stop to go
19 onto Demarest Road and let's say make a right or a
20 left.

21 CHAIRMAN REINA: Mr. Cohen, would you
22 describe that as traffic component or an
23 environmental component to your question?

24 MR. COHEN: Traffic -- this is an
25 engineering -- let me finish the question, if I may,

1 Mr. Chairman; okay?

2 Q. The noise and so forth that came up,
3 this is not traffic. I'm not talking about the
4 number of trucks. I'm not talking --

5 CHAIRMAN REINA: The noise generated
6 from it.

7 MR. COHEN: Noise generation, which is
8 an engineering issue usually; okay?

9 CHAIRMAN REINA: From this.

10 Q. The noise that's going to be generated,
11 Jake Brakes, things of that nature; was any
12 consideration given to any acoustical enhancement to
13 reduce noise on adjoining properties?

14 A. That is a good point, and it was also raised by
15 the engineer in his review letter. We will be
16 providing a sound study to substantiate the sound
17 levels.

18 Q. Was any study done? At the time of
19 design, that was obviously not considered, right?

20 A. We did not do a sound study, and it's not part
21 of the requirements for preliminary Site Plan
22 approval.

23 Q. Well, it may not be the requirement, but
24 obviously it's an issue for this Board to consider
25 in Site Plan; is it not? If a Site Plan is going to

1 generate noise and is going to generate noise onto
2 adjoining property, do you not understand this? And
3 I understand you testified before many planning
4 boards --

5 A. Uh-huh.

6 Q. -- that it's the job of the planning
7 board to ameliorate that noise to the extent possible
8 and to prevent intrusion onto neighboring properties.
9 Isn't that part of the Site Plan process as you
10 understand?

11 A. We are navigating that process, and as that
12 concern was raised, we will perform a sound study.

13 Q. Was any consideration given to air
14 quality with reference to -- you have, for instance,
15 and let's not -- well, air quality both at the
16 warehouses because you are having I think potentially
17 190 trucks parked there plus 50 trailers, but 190
18 trucks, and let's presume they're not all going to be
19 parked at one time.

20 Let's presume there's going to be an average of
21 100 trucks that are starting, maybe running during a
22 period of time, maybe idling. Was any consideration
23 given to the air quality and what effect that may
24 have on the air quality of the area, especially to my
25 client who is the closest residential property to the

1 development? Was any consideration given to that?

2 A. We understand your concern, but I believe the
3 emissions of vehicles was previously testified to.
4 This is handled at the state and federal levels for
5 all vehicles.

6 Q. So I take it that no consideration was
7 given to air quality, is that a fair statement, by
8 your firm?

9 A. We have to comply with all local, state and
10 federal regulations, and as such a consideration was
11 given.

12 Q. And what are those standards, and what
13 consideration was given? Let me ask you that
14 question first. Can you answer that?

15 A. Can you repeat that question?

16 Q. Sure. What consideration was given and
17 what effects were determined that were needed or not
18 needed?

19 A. That operationally all vehicles entering the
20 site meet the required emission, whether it's state,
21 federal, or other.

22 Q. You have nothing to do with that as an
23 engineer, on motor vehicles and the emissions from
24 motor vehicles? That's not your field, correct?

25 A. It's not.

1 Q. What I'm asking, in designing this site,
2 and knowing that there are uses around the site, and
3 particularly a residence, which is the closest
4 property to the site, did you give any consideration
5 to the air quality that may be affected as a result
6 of whatever it is, 190 or less trucks running on this
7 property?

8 CHAIRMAN REINA: This would be covered
9 under environmental; no?

10 MR. COHEN: No. I'm asking this
11 engineer as an engineer. If they gave no
12 consideration, just answer the question, "We didn't
13 give a consideration to it."

14 Q. Mr. Procanik, is that a difficult
15 question to understand that you now are consulting
16 with counsel on it? I mean it's a very simple
17 question. Did you give any consideration to air
18 quality?

19 A. We are relying on the local and federal
20 regulations of emissions.

21 Q. What are the federal regulations of
22 emissions?

23 CHAIRMAN REINA: Asked and answered, Mr.
24 Cohen. Where are we going with this?

25 MR. COHEN: Where we're going is that we

1 believe, all right, we have a right to know what is
2 the effect of air quality of 190 trucks.

3 CHAIRMAN REINA: Agreed, which would be
4 covered under the environmental component. You are
5 asking if there was consideration during --

6 MR. COHEN: All I'm asking for is if the
7 engineer --

8 CHAIRMAN REINA: -- Site Plan
9 development.

10 MR. COHEN: I'm asking if the engineer
11 gave any consideration. If he said, "We gave no
12 consideration to it," I'll move on. I'll be happy to
13 move on, but he can't answer the question either they
14 did or didn't.

15 COUNCILWOMAN QUINN: He's not the
16 environmental expert.

17 A. As I stated before, consideration was given
18 through the current regulations.

19 Q. We'll move on, Mr. Procanik. Thank you
20 for the answer.

21 A. You're welcome.

22 Q. Mr. Procanik, in the layout of the
23 design, I presume you took into consideration the
24 tractor-trailer trucks that would be entering and
25 leaving this site and the turn radii that they would

1 have to maneuver when they left the site; is that
2 correct?

3 A. Correct.

4 Q. Is that part of your design criteria
5 when you design this, to make sure that there are
6 proper turning maneuvers to allow a truck of -- how
7 many feet is the normal tractor trailer?

8 A. Yes.

9 Q. How many feet is a normal tractor
10 trailer?

11 A. I'm sorry.

12 Q. How many feet in length is a normal
13 tractor trailer that you used in your engineering
14 work to determine that?

15 A. So what we do, in order to study the
16 maneuverability of a vehicle through a site is done
17 through Auto Turn and the design rate -- this is for
18 the curbs -- are used through that program to ensure
19 a vehicle can navigate appropriately through the
20 site.

21 Q. Okay. So I asked you very simply, what
22 is the length of the vehicle that is used?

23 A. WB 67.

24 Q. That's 67-foot length?

25 A. Between the wheel cases, yes. It's 75 bumper

1 to bumper.

2 Q. Okay. So that's the type of vehicle.

3 Now, when you went out there this evening -- by
4 the way, approximately how long were you out at the
5 site?

6 A. About 15 minutes tonight. As I mentioned
7 before, other members of my firm --

8 Q. I asked you a very simple question, and
9 you answered it; okay, Mr. Procanik?

10 A. Sure.

11 Q. You were there for approximately
12 15 minutes tonight. Did you note Demarest Road? Did
13 you ride along Demarest Road when you were out there
14 tonight for approximately 15 minutes?

15 A. Yes.

16 Q. Did you notice the width of Demarest?
17 By the way, the previous engineer testified and I
18 marked that Demarest Road in width varies between 20
19 and 22 feet. Are you aware of that?

20 A. Yes.

21 Q. Okay. Tell me -- and by the way, in
22 reading the traffic report, the way I read the
23 traffic report, there were 44 trips during the two
24 peak hours, one in the morning, one in the evening.

25 CHAIRMAN REINA: Mr. Cohen,

1 respectfully, let's address the traffic piece during
2 the traffic segment.

3 MR. COHEN: I'm not addressing --

4 MR. SYLVESTER: You are referencing the
5 traffic study.

6 MR. COHEN: It's a prelude to a
7 question. Okay. It's very simple, that their
8 traffic expert said there's going to be 44, a
9 combination of 44 trips during the peak hour and the
10 peak evening, so my question is this.

11 Q. Mr. Procanik, are you aware of the fact
12 that when a truck, and let's talk about coming out of
13 that accessway next to my client's property and
14 making a right-hand turn; are you aware of whether or
15 not a vehicle, the WB 67 vehicle, whatever it was,
16 can make that turn without crossing over to the other
17 lane of traffic?

18 A. It's anticipated that tractor trailers will not
19 be making a right out of the site. They'll make a
20 left to go towards Route 15.

21 Q. Okay. So they will not make -- is it
22 going to be -- do you have traffic control signs here
23 that say "no right-hand turn"?

24 A. Is that something the Board wants to ask as a
25 condition of approval?

1 Q. No. I'm asking you if you designed this
2 with traffic control signs saying "no right-hand
3 turn" at that accessway.

4 CHAIRMAN REINA: Mr. Cohen, I do not
5 wish to address traffic-related components until we
6 have the traffic testimony.

7 MR. COHEN: The man is an engineer. He
8 designed the site.

9 CHAIRMAN REINA: I understand the man is
10 an engineer. He's answered the question several
11 times.

12 MR. COHEN: I'm not asking about
13 traffic. This is a very appropriate question.

14 CHAIRMAN REINA: You continue to zero in
15 on traffic-related questions.

16 MR. COHEN: They are not
17 traffic-related.

18 CHAIRMAN REINA: Please! Let them do
19 the traffic analysis. Let us hear the traffic
20 testimony. I understand your concerns. They just
21 under oath said they are not anticipating making a
22 right-hand turn towards your client's property.

23 "Can we just hear the traffic component in the
24 analysis before we go down this path" is my question.

25 MR. COHEN: They designed to make sure

1 that -- they designed this, this Site Plan, so that
2 there can be proper turning. That was their job. He
3 testified that's what they did.

4 I'm trying to find out what they did and
5 whether or not a vehicle, if it's not going to make a
6 right turn, let's talk about making a left turn; all
7 right?

8 Q. Can they make a left turn out of that
9 access?

10 A. Yes.

11 Q. When they make a left turn, are they
12 going to cross over into the other traffic lane?

13 CHAIRMAN REINA: They would have to; no?

14 MR. COHEN: Making the left over there.
15 I'm sorry.

16 Q. Let's move down to the other. Are they
17 going to make a right turn out of the other
18 accessway?

19 A. The passenger vehicles only. Truck traffic has
20 no business making a right-hand. It's going left to
21 get to 15.

22 MR. SYLVESTER: Mr. Cohen, it's almost
23 like filibustering at this point. Please, just --
24 this is traffic-related questions. I really think we
25 are trying to get to environmental testimony here.

1 MR. COHEN: I'm just understanding
2 because I'm understanding this for the first time,
3 that there's no right-hand turn at the northerly. I
4 want to know if there's a right-hand turn at the
5 southerly access permitted.

6 MR. KOLLAR: Mr. Chairman, if I may ask
7 Mr. Collins a quick question?

8 Tom, I believe during the last meeting Mr. Ford
9 testified that they are not allowed to make a right
10 out of either entrance going up, and Mr. Ford did
11 that without any prompting that that would then be a
12 requirement of the approval, written into the
13 application, not allowed to make a right at either,
14 at either thing. I'm not saying it's our
15 requirement, but Mr. Ford said -- I believe he said
16 that.

17 MR. GOUIN: Agreed. I didn't want to
18 interrupt you, but I was going to have our engineer
19 make that point about the right turns out.

20 Why don't you make a point of distinction
21 between passengers and tractor trailers?

22 MR. PROCANIK: Certainly, and this will
23 be further explained by our traffic engineer because
24 it involves traffic engineering, but I can touch on
25 this as a precursor to his testimony at the next

1 hearing or subsequent hearings.

2 So the WB 67s, the big 18-wheel trucks or
3 delivery trucks, however you want to quantify that,
4 will not be making a right out of the sites at either
5 driveway.

6 Passenger vehicles can. The WB 67s, the
7 18-wheelers, the larger trucks, must make a left and
8 go back toward Route 15.

9 Q. Mr. Procanik, how would a truck know
10 that? Is there going to be traffic control signs on
11 the Site Plan?

12 A. Absolutely.

13 Q. Are they shown on the Site Plan?

14 A. I know consideration was given to them. I
15 don't know if they're on there. I see R-1. No stop
16 sign, but we will add it.

17 Q. Pardon?

18 A. No, but we will add it.

19 Q. Oh. So, Mr. Procanik, was that a
20 decision made at the time of the development of the
21 Site Plan, or was that a decision made recently?

22 A. Mr. Cohen, it's irrelevant at this point. We
23 are agreeing no right turn for WB 67s can be made.

24 Q. Well, can you answer the question
25 whether that was decided at the time the Site Plan

1 was drafted, or was it decided at a subsequent time?

2 A. It was decided at the time of the Site Plan
3 application.

4 Q. Okay.

5 A. The sign isn't on the Site Plans. We will
6 accommodate your concern and provide a sign that says
7 "no right turn."

8 Q. Let's talk about sight distance. Even
9 though only making a left turn, obviously they need
10 sight distance both left and right; is that correct?

11 A. Correct.

12 Q. And what, considering the speed of this
13 and the speed design of this road, what is the sight
14 distance that would be required for a WB 67 truck?

15 A. This was previously testified to by Mr. Degen.

16 Q. Were you here when Mr. Degen testified?

17 A. No. I watched the YouTube video.

18 Q. You watched it by video?

19 MR. COLLINS: Mr. Cohen, this was --

20 MR. COHEN: I'm asking --

21 MR. COLLINS: Mr. Cohen, you did ask
22 this question of Mr. Degen. It was answered. I
23 think you should move on.

24 MR. COHEN: I'm asking this witness who
25 is produced. Am I being prevented from asking that

1 question?

2 MR. COLLINS: Yes.

3 MR. COHEN: About sight distance?

4 MR. COLLINS: Yes, because you already
5 asked it. You got an answer.

6 MR. COHEN: Quite frankly, I don't
7 remember me asking it.

8 MR. COLLINS: I believe you forgot, but
9 if you read the transcript or listen to the tape, you
10 will see that you asked that question. Mr. Degen
11 answered it, and you have received an answer.

12 MR. COHEN: Mr. Chairman, am I being
13 prevented from asking this question --

14 MR. COLLINS: Yes.

15 MR. COHEN: -- of a project engineer?

16 MR. COLLINS: Yes. You must move on,
17 Mr. Cohen.

18 MR. COHEN: Respectfully, Mr. Collins,
19 you don't make that decision. You give advice to the
20 Board, but it's the Board's decision.

21 MR. COLLINS: The Chairman can decide
22 whether you asked and answered that question, and I
23 think he's saying the same thing.

24 CHAIRMAN REINA: Mr. Cohen, I would ask
25 that you move on. It has been asked. It has been

1 answered.

2 MR. COHEN: By the way, do you remember
3 the answer, Mr. Chairman, because I don't, quite
4 frankly?

5 MR. KOLLAR: 445 feet for 40 miles per
6 hour.

7 MR. COHEN: How much?

8 KOLLAR: 445 feet, according to
9 Sheet C-400.

10 Q. Mr. Procanik, what is the speed of
11 Demarest Road in this area? Do you know?

12 MR. TOSCANO: It's posted.

13 A. It's 35. Design is 40.

14 Q. Design is 40. Okay. And it's 400 and
15 some feet. Do you know --

16 A. 445 is --

17 Q. How much?

18 A. 445. I just want to make it clear.

19 Q. 445 for WB 67 vehicles sight distance?

20 A. Yes.

21 Q. In either direction, correct?

22 A. Yes.

23 Q. Pretty simple. In any event, okay, do
24 you know, looking to the right, as you are coming
25 out of the northbound lane, whether or not that

1 445 feet exists?

2 A. It does.

3 Q. It does. Are you aware of a dip in the
4 road which when I went out there and measured with my
5 client, it was approximately, I thought began about
6 250 feet from the property line?

7 A. Yes.

8 Q. And that dip is beyond the 445 feet or
9 -- 445 feet? I'm sorry.

10 A. I think it's within, but the sight distance is
11 still there.

12 Q. Do you envision any problem in the
13 number of trucks that are going to be --

14 CHAIRMAN REINA: Mr. Cohen, I do not
15 want to address any more of the traffic-related
16 component. We're wasting precious time here
17 reviewing and asking questions around traffic when we
18 have heard zero testimony for it and have not
19 received any of the third-party analysis for it, so I
20 respectfully ask if you have questions specific to
21 the --

22 MR. COHEN: Respectfully, let me ask the
23 question.

24 CHAIRMAN REINA: Ask specifically
25 specific to the prior testimony that does not include

1 the environmental or traffic. I would encourage you
2 to ask those.

3 Q. My question was going to be, do you
4 envision any problems with Demarest Road, not on the
5 amount of traffic, but on the fact that this is a
6 road that is only 20 to 22 feet wide and
7 accommodating these trucks, from an engineering
8 standpoint?

9 A. No.

10 Q. Have you proposed any improvements to
11 Demarest Road?

12 A. No.

13 CHAIRMAN REINA: Mr. Cohen, are there
14 any other questions that you have?

15 MR. COHEN: No. I have more.

16 CHAIRMAN REINA: Mr. Cohen?

17 MR. COHEN: Give me one moment, please.
18 I may be done.

19 (There is a brief pause.)

20 Q. By the way, are you aware that there's
21 an application pending to amend The Township Board
22 Management Plan to connect this development to the
23 sewer system of the Town?

24 A. I'm not aware of that at this point.

25 Q. Pardon?

1 A. I'm not aware of that, no.

2 Q. Will you have anything to do with the
3 design of the septic system that is proposed right
4 now for the site?

5 MR. GOUIN: I just want to clarify one
6 thing, Mr. Cohen. Are you talking about the
7 application for the water allocation for the town
8 because that would be different than extending sewer
9 service to the property?

10 The water allocation permit application for the
11 Township is pending, and we did make application for
12 this project to be included in it, but to our
13 knowledge there's no applications or any plans to
14 connect this property to sewer, which is why we've
15 designed it with septic.

16 MR. COHEN: I didn't ask, Mr. Gouin, any
17 questions. I don't know why -- I just asked the
18 engineer who I'm supposed to be cross examining.

19 MR. GOUIN: I know. I'm just trying to
20 clarify the question. I don't think he understood
21 what you asked.

22 MR. COHEN: Maybe Mr. Collins ought to
23 swear you in, Mr. Gouin.

24 MR. COLLINS: Mr. Cohen, you don't have
25 to get sarcastic on this.

1 MR. COHEN: Well --

2 MR. COLLINS: You heard the answers. I
3 think you might have forgotten this. I'm not
4 criticizing you. I'm just trying to help.

5 Q. Okay.

6 MR. COLLINS: The applicant, Mr. Degen,
7 and the engineer explained that the applicant has a
8 septic system approval for 2,000 gallons for a septic
9 system.

10 MR. COHEN: I understand that. I just
11 --

12 MR. COLLINS: Mr. Degen also explained
13 that the applicant is going to seek a wastewater
14 treatment plan for discharge to the groundwater for
15 up to 10,000 gallons and that a wastewater management
16 plan amendment had started to be processed. That is
17 not a connection to a Township sewer system as you
18 stated in your question, which I think you just
19 misunderstood. Maybe that helps you.

20 If you would like to go on to this, you have to
21 establish a foundation of what you're -- that is in
22 fact a fact, and there is no sewer system that is in
23 that area that would be connected to, so do you want
24 to change your question to something about the
25 on-site sewer treatment?

1 MR. COHEN: All I asked was whether or
2 not the engineer was aware of it. He could have said
3 yes or no. That was the answer. I didn't ask for
4 the full explanation, quite frankly, and Mr. Gouin
5 volunteered the full explanation.

6 I don't know why you asked for amendments to
7 the wastewater management plan if you are in fact not
8 hoping that at some time you can connect to the
9 sewerage system, but that's for another issue.

10 MR. COLLINS: Because they're seeking to
11 build an on-site sewerage treatment plant for up to
12 10,000 gallons per day. That's why, and they
13 explained that at the last hearing at the hearing
14 with Mr. Degen.

15 Now, if you want to go further on that, please
16 go ahead, but with the actual facts.

17 MR. COHEN: I don't want to go further,
18 Mr. Collins. It's more information than I asked for.
19 I realize there was an explanation. I didn't realize
20 at the time, quite frankly, and maybe I forgot, that
21 there was an amendment or that you seek an amendment
22 to the wastewater management plan.

23 Thank you. I have no further questions.

24 (Applause from audience.)

25 COUNCILWOMAN QUINN: Can I ask a process

1 question?

2 CHAIRMAN REINA: Are there any
3 questions, Mr. Neill or Mr. Dash?

4 MR. CLARK: Just a brief question. I'm
5 Neill Clark, one of the objectors here.

6

7 EXAMINATION OF MR. PROCANIK BY MR. CLARK:

8

9 Q. Mr. Procanik, this relates to your
10 testimony earlier today about the preparation that
11 you did with the Site Plan; okay?

12 Now, in preparing the Site Plan, did you go out
13 to the economic development zone where you intend to
14 build this and look to see whether there were other
15 so-called warehouses in that economic development
16 zone?

17 A. I personally did not but other representatives
18 from my firm did.

19 Q. Okay. Do you know what warehouses or
20 so-called warehouses they examined?

21 A. I do not.

22 Q. So if I told you that there was a
23 warehouse within the economic development zone, 133
24 Demarest, would that have been one of the warehouses
25 that someone from your firm looked at?

1 A. Potentially, but I can't confirm nor deny that.
2 I don't know that information offhand.

3 Q. Okay. So if I told you that the
4 warehouse at 133 Demarest is 25,600 square feet,
5 which is 34 times smaller than the so-called
6 warehouses that you're proposing, you would have no
7 basis to disagree with me; is that right?

8 A. I -- no basis.

9 Q. Okay. And if I also said that that same
10 property at 133 Demarest has eight truck bays, which
11 is 23 times less than the number of truck bays that
12 you are proposing, you have no basis to disagree with
13 me, right?

14 A. No basis.

15 Q. Okay. What was the reasoning behind
16 going to look at other warehouses in the economic
17 development zone?

18 A. I did not.

19 Q. Well, you said that other people from
20 your firm did.

21 A. Could have, yes.

22 Q. What would be the reasons and ideas of
23 doing that?

24 A. I can't confirm or deny that we actually did do
25 that process.

1 Q. Okay. I misunderstood your testimony.
2 So you can't say yes or no whether anyone from your
3 firm, in preparing the Site Plan, went out and looked
4 at other warehouses in the economic development zone;
5 is that right?

6 A. I can't speak to the level of investigation
7 that my colleagues did to the surrounding area.

8 Q. So you just don't know; is that right?

9 A. It's correct.

10 Q. Okay.

11 MR. CLARK: I would just put on the
12 record, Mr. Gouin, if you could produce a witness
13 that could speak to the investigation that they did
14 to examine other warehouses in the economic zone, I
15 think that would help proceed and help inform the
16 Planning Board.

17 That's all I have. Thank you.

18 (Applause from audience.)

19 MR. DASH: Sir, I have a question.

20

21 EXAMINATION OF MR. PROCANIK BY MR. DASH:

22

23 Q. The Site Plan that's on the board, is
24 that the Site Plan prepared by Control Point
25 Associates?

1 A. No.

2 Q. Who prepared the Control Point

3 Associates survey? The Control Points?

4 A. Yes. Control Point prepared the survey.

5 Kimley-Horn prepared the Site Plan.

6 Q. Okay. Note 5 on Page 1 of 7, and this
7 goes to an engineering question, speaks to that
8 survey which requires a title report be provided to
9 disclose any covenants and restrictions or easements
10 which is an express requirement of the Site Plan
11 ordinance checklist 15-B.

12 My question to you, sir, is, has a title report
13 been provided as part of this application?

14 A. Yes.

15 Q. And where is that title report?

16 A. With the Township.

17 Q. Has it been submitted as part of the
18 materials? I didn't see it as part of the
19 application.

20 A. Yes.

21 Q. Okay.

22 MR. DASH: I'm going to respectfully
23 just note that -- well, can I ask the Board Engineer?

24 Mr. Simmons, have you seen a title report?

25 MR. SIMMONS: Not that I recall.

1 MR. DASH: Okay. I have not seen a
2 title report. I do not believe one has been
3 provided, and I'm going to submit respectfully that
4 checklist 15-B requires as part of completeness in
5 the Site Plan ordinance that all easements and
6 rights-of-way be provided on the Site Plan ordinance.

7 Without a title report, the applicant has
8 admitted that there are no -- there's no way to
9 determine whether the covenants, restrictions, or
10 easements have been provided.

11 As such, this application is not complete
12 unless somebody can show me a title report which I
13 have not seen in the 400-page application.

14 A. Sir, I would respectfully disagree with the
15 assessment. The title report was obtained, and it is
16 depicted graphically on the survey that Control Point
17 prepared.

18 The question of whether or not the physical
19 title report was provided to the Township is one
20 question, but the title report was prepared, and it
21 was incorporated into the survey.

22 Q. Okay. I just note that Note 5 indicates
23 that a title report must be provided on the survey
24 itself, but the title report is not part of the
25 application materials.

1 A. The title report on the survey is the graphical
2 depiction of the easement and covenants from the
3 title report.

4 Q. Where is that title report?

5 A. Depicted on the survey.

6 Q. No. Do you understand what a title
7 report is?

8 A. Very much so, yes.

9 Q. What is a title report?

10 CHAIRMAN REINA: Mr. Dash --

11 MR. DASH: No. I'm serious.

12 A VOICE: What is it?

13 MR. DASH: Wait.

14 MR. PROCANIK: Is that a legitimate
15 question?

16 MR. DASH: It absolutely is.

17 "A title report is prepared by a title
18 insurance company in connection with a property that
19 sets forth the deed's restrictions and covenants.
20 The surveyor has indicated that a title report must
21 be provided in order to disclose restrictions,
22 covenants, and easements." Note 5 of Page 1 of 7,
23 this is an engineering checklist.

24 The Town Engineer has already -- excuse me.

25 The Planning Board Engineer has indicated that there

1 has not been one provided, so I haven't seen it. All
2 I'm asking for is, where is the title report?

3 MR. GOUIN: We can certainly provide it.
4 If you want to see it, Mr. Dash, we can certainly
5 provide it, but this application, if it's a question
6 of completeness, this application's been complete.
7 This is our third hearing.

8 MR. DASH: It's not a question of
9 whether it's complete. There's a missing item on
10 checklist 15-B. It hasn't been provided. It's not a
11 complete application.

12 Can I have Mr. Simmons testify, please?

13 CHAIRMAN REINA: David, can you comment
14 on this?

15 MR. COLLINS: The Applicant should
16 provide the title report and provide a copy to the
17 Board and to Mr. Dash, Mr. Cohen, and Mr. Clark.

18 MR. DASH: So it's not been provided;
19 the application is not complete.

20 MR. COLLINS: I don't know that it has
21 or it hasn't. All I'm saying is, he should provide
22 it. The case is still -- the case has been deemed
23 complete and it's a pending hearing. I don't think
24 Mr. Dash is contending that the hearing can't
25 continue.

1 If he is, then he knows already that that time
2 has passed. The case has started. The hearing has
3 started. The title report may be useful. It should
4 be provided, and it should be provided to the Board,
5 Mr. Dash, and Mr. Cohen and Mr. Clark.

6 That being said, if there's something on the
7 title search that Mr. Dash is concerned about, he'll
8 be able to raise that during the course of the
9 hearings.

10 MR. DASH: Mr. Chairman, I just
11 respectfully submit, the requirement of this fully
12 conforming Site Plan -- I'm not making argument --
13 checklist 15-B requires easements and rights-of-way
14 be disclosed. The Control Point Associates' own note
15 says that the title report must be provided. It
16 hasn't been provided. The idea that it can be
17 provided, of course, it can be provided, but it
18 hasn't, and so until it's provided, the application
19 is not complete. It's not conforming. The idea that
20 it can be, respectfully, is not sufficient.

21 (Applause from audience.)

22 CHAIRMAN REINA: Mr. Simmons, is the
23 fact that it's depicted on the survey, I guess for an
24 application perspective --

25 MR. SIMMONS: I would say this, Mr.

1 Chairman, that in the Planning Board report that I
2 did dated February 9th of 2022, I did point out that
3 there was a boundary survey provided. I also
4 provided a comment that there were some apparent gore
5 areas and some apparent overlap areas, and that the
6 Applicant should address those.

7 If they provide the formal written title
8 report, those will probably be exceptions, and those
9 are issues for the Applicant to address to ameliorate
10 them either through deeding some rights-of-ways or
11 deeding some property over and getting some deeds,
12 whatever the appropriate method would be, but I did
13 bring that up in my report --

14 MR. DASH: Thank you.

15 MR. SIMMONS: -- and the title search
16 would be helpful information to help rectify those
17 items that I brought up.

18 MR. DASH: Thank you.

19 CHAIRMAN REINA: Wonderful. Thank you,
20 Mr. Simmons.

21 MR. SIMMONS: Yes.

22 MR. DASH: I have nothing further other
23 than that it's not complete. The checklist requires
24 it. It's not a complete Site Plan until that's been
25 provided. It has not been provided. I think the

1 Board should take that under advisement.

2 CHAIRMAN REINA: Thank you, Mr. Dash.

3 (Applause from audience.)

4 CHAIRMAN REINA: Mr. Gouin, can we
5 formally request just for the record that we receive
6 a copy of that?

7 MR. GOUIN: Absolutely. No problem, to
8 the extent you haven't already.

9 I would hope that we would have submitted it.
10 If we didn't, we will provide it ASAP, and we'll
11 provide a copy to all Counsel who are present.

12 CHAIRMAN REINA: Appreciate it.

13 So at this point, if there are no other
14 attorney questions, I would like to move the
15 procedure over to the environmental testimony.

16 MR. GOUIN: Mr. Chairman, really quick,
17 I do want to confirm that we do have Mr. Sunderson
18 who is our architect, and he never was cross
19 examined, so to the extent there's questions for the
20 architect, I don't know if there are any, but I
21 suggest we do it now, if we can.

22 CHAIRMAN REINA: I'm happy to.

23 Is there, Mr. Dash, Mr. Clark, Mr. Cohen, any
24 specific questions as it relates to the architect
25 from a cross examination perspective?

1 MR. DASH: Did he provide direct? I'm
2 sorry.

3 MR. GOUIN: He testified at the first
4 hearing.

5 CHAIRMAN REINA: He did at the first
6 hearing.

7 I want to make sure there's no other
8 questions, or we'll move on to environmental.

9 MR. COHEN: I have one very quick
10 question of the architect.

11 Mr. Sunderson, as a result of Mr. Ford's
12 testimony that they intend or at least they were
13 going to hopefully attract food warehouses with
14 perishable food, was any consideration given to
15 refrigeration of the warehouses in the architectural
16 plans?

17 CHAIRMAN REINA: Tom, does he need to be
18 sworn in?

19 MR. COLLINS: Mr. Sunderson is still
20 under oath.

21

22 R I C H A R D S U N D E R S O N,
23 previously sworn, testifies as follows:

24

25

1 EXAMINATION OF MR. SUNDERSON BY MR. COHEN:

2

3 A. At this time, no. The buildings are designed
4 generically as warehouses, not designed as
5 refrigeration buildings.

6 Q. What happens if Mr. Ford obtains tenants
7 that are storing food in a warehouse that are
8 perishable and need to be refrigerated? I presume
9 refrigerated units are going to have to be put in a
10 warehouse.

11 A. They could be put alongside the building or
12 could be put on top of the building, that's correct.
13 There's a number of ways to provide the outside
14 discharge of heat.

15 Q. So that they would be through either the
16 sides of the building? The sides are -- well, except
17 for the ends. The sides are pretty much taken up
18 with parking or loading docks, right?

19 A. That's correct, but, again, it's not designed
20 currently for a refrigeration use.

21 Q. But if it was to be used, they would
22 have to be roof units? Would that be a fair
23 statement?

24 A. I wouldn't say there have to be roof units.
25 There would be some sort of point of discharge of

1 heat for the refrigeration units. It could be on the
2 roof. It could be alongside the building or it could
3 be within the building at the perimeter.

4 Q. And would that generate more noise?

5 A. It would generate some noise, correct.

6 MR. COHEN: Thank you. No further
7 questions.

8 MR. DASH: I have a few questions.

9
10 EXAMINATION OF MR. SUNDERSON BY MR. DASH:

11

12 Q. Sir, did you design the height of the
13 building? Is that a requirement that was provided to
14 you by the client?

15 CHAIRMAN REINA: I think we asked --

16 A. Yeah, I think we gave some prior testimony on
17 this. Just to answer the question quickly --

18 Q. Please.

19 A. It is designed to be a 40-foot minimum interior
20 clear height, and the reason is that it's a storage
21 warehouse.

22 Q. Okay. And just can you explain the
23 maximum height of the building, how much is that?

24 A. I'm trying to understand the question.

25 Q. How tall is the building, maximum

1 height?

2 A. The tallest point is approximately 48 feet.

3 Q. What is just the pendency between the
4 height and the real use? Can you explain that?

5 A. I think that's --

6 MR. GOUIN: Actually, I think that is
7 really more of a question for our planner. Our
8 planner can address that question. That's more a
9 zoning question than an architectural question.

10 MR. DASH: That's fine. I don't have --

11 Q. Well, do you have an answer for that,
12 sir?

13 A. No.

14 MR. DASH: All right. Thank you.

15 MR. SUNDERSON: Thank you.

16 MR. MEERMAN: Is the public allowed to
17 ask questions of the architect or the engineer at
18 this point?

19 CHAIRMAN REINA: No, not at this point.

20 MR. MEERMAN: New testimony provided by
21 the engineer tonight?

22 CHAIRMAN REINA: Not this evening. What
23 we're going to do this evening is, we're going to be
24 moving into the environmental component, and we're
25 going to continue through the testimony so we can get

1 through the testimony.

2 MR. MEERMAN: I understand. I have a
3 question. Would there be cross examination?

4 CHAIRMAN REINA: Sir, please come up to
5 the microphone.

6 MR. MEERMAN: I need to be sworn in?

7 MR. COLLINS: Yes, you do, if the Chair
8 even recognizes you. Do you want to be heard?

9 MR. MEERMAN: Sorry. Yes, I do. It was
10 a procedural question. If the answer was no, it's
11 no, sir.

12 MR. COLLINS: Sir, you have to raise
13 your right hand. Were you recently sworn in?

14 MR. MEERMAN: I was previously but not
15 in this setting. My name is Adrian Meerman,
16 M-e-e-r-m-a-n.

17

18 A D R I A N M E E R M A N,
19 12 Brook Drive, Sparta, New Jersey, after having been
20 duly sworn, testifies as follows:

21

22 MR. COLLINS: State your first name and
23 spell your last name and give us your address.

24 MR. MEERMAN: Adrian Meerman,
25 M-e-e-r-m-a-n, 12 Brook Drive here in Sparta, Sparta

1 Township.

2 My question is procedural, I think, and that
3 is, is the public allowed to ask questions of the
4 engineers or architect --

5 THE WITNESS: Yes.

6 MR. MEERMAN: -- since both provided
7 testimony tonight?

8 CHAIRMAN REINA: Yes. Once we have the
9 open public portion of the meeting, they will be able
10 to ask any questions or any other questions that have
11 not been addressed.

12 MR. COLLINS: No. Mr. Chairman, I think
13 what he means is, based on tonight, earlier tonight,
14 when people were asking questions, they asked of the
15 engineer or architect.

16 Were you on the list of people asking
17 questions?

18 MR. MEERMAN: No, I was not on that
19 list.

20 MR. COLLINS: So why don't -- if you
21 remember what people asked before, why don't you go
22 ahead now and ask any questions you would like of the
23 architect who just talked and the engineer who talked
24 tonight and just focus on questions, not statements.

25 MR. MEERMAN: Okay. Yes.

1 In answer to a question by Mr. Dash about the
2 refrigeration units that may or may not be placed
3 around the building and also in relation to a
4 question about possible EV charging points around the
5 building, I would like to refer to what Mr. Ford
6 mentioned I believe at the last meeting, and that is
7 that he expects all the forklifts to be electric
8 powered, so that presupposes, I think, a good
9 electrical system. Refrigeration units would require
10 something very similar.

11 I'm also aware in our part of the state we have
12 had --

13 MR. COLLINS: Sir, you need to ask a
14 question.

15 MR. MEERMAN: I'm asking the question.

16 MR. COLLINS: That was a statement.

17 MR. MEERMAN: Please, please, please.
18 I'm framing the question.

19 A VOICE: He's laying the foundation for
20 the question.

21 MR. MEERMAN: Given that in our part of
22 the state we have had long-term power outages
23 sometimes lasting days, sometimes lasting weeks.
24 What is your engineering solution to any backup power
25 for that project if we face another major power

1 outage as we do practically every year?

2 CHAIRMAN REINA: Please correct me if
3 I'm wrong, is the question, "Is there a backup
4 generation," or "Is there an alternate means of" --

5 MR. MEERMAN: What is the backup system?

6 CHAIRMAN REINA: -- "of powering the
7 facility"?

8 MR. MEERMAN: Correct. What is the
9 backup power generation provided in the application?

10 MR. SUNDERSON: So I will try to address
11 your question. The answer is that for the storage
12 warehouses use --

13 A VOICE: Use the microphone, please.

14 MR. SUNDERSON: For the storage
15 warehouse use there's no code requirement for
16 emergency or standby power, and I would like to just
17 say again that this is currently designed to be an
18 ambient warehouse, not a cold storage building.

19 CHAIRMAN REINA: So as of right now, no
20 generators or any other backup electrical systems
21 under the current build structuring is not required
22 for the warehouse use?

23 MR. SUNDERSON: Correct.

24 CHAIRMAN REINA: If it were
25 refrigeration or something down the road, that would

1 be a requirement, I presume?

2 MR. SUNDERSON: That would be a
3 different building design.

4 MR. MEERMAN: So is it fair to summarize
5 your answer that since it is not required to have
6 anything beyond the minimum, that this building has
7 no backup power that we expect, say, in the 21st
8 Century?

9 MR. SUNDERSON: Again, it's not required
10 for this use per se. I mean there may be a tenant
11 requirement down the line. You know, Tenant A or
12 Tenant B may want that for their own use, and, again,
13 that would be addressed when that requirement came
14 up.

15 MR. MEERMAN: I have a question about
16 the height of the buildings. I don't know if that is
17 an appropriate question or not. The minimum
18 currently is 44 feet, and currently the maximum is
19 47 feet, you mentioned, but I believe --

20 MR. SUNDERSON: The ordinance is --

21 A VOICE: 48 feet.

22 MR. SUNDERSON: Approximately 47.10,
23 something like that.

24 MR. MEERMAN: According to the
25 ordinances, the building may go up, I believe, up to

1 55; is that correct?

2 MR. SUNDERSON: The building can go
3 higher than what is designed.

4 COUNCILWOMAN QUINN: Yes.

5 CHAIRMAN REINA: 56, I believe.

6 COUNCILWOMAN QUINN: They're not even
7 going that high.

8 MR. MEERMAN: When I look at the tallest
9 building I know in this area that resembles a
10 warehouse, it would be the Home Depot in Newton, and
11 I don't know if you're familiar with the height of
12 the building, but that is 27 feet, 8 inches. Home
13 Depots are 27 feet, 8 inches high.

14 When I go inside and I judge the height just
15 visually, that's very, very high. Your building will
16 be about double the height.

17 What do you plan to do with the space that
18 high up? How will it be serviced? How will the
19 goods be loaded, unloaded? Using forklifts, because
20 that's the only means of loading that we have heard
21 from Mr. Ford.

22 CHAIRMAN REINA: I want to clarify your
23 question, sir. So I know there was a statement with
24 regards to the height and comparison with Home Depot.

25 Is the question, "What are the procedures for

1 loading and unloading?" because that's been asked and
2 addressed in previous testimony.

3 MR. KOLLAR: Mr. Chairman, we went into
4 this at the last meeting. The pallet racking is
5 designed to a certain height to accommodate the
6 pallets, fully-loaded pallets, plus the additional
7 space for a sprinkler system, so that question has
8 been asked and answered.

9 CHAIRMAN REINA: I guess that is my
10 follow-up question to you, sir. Is there another
11 specific question related to -- that has not been
12 addressed previously?

13 MR. MEERMAN: Yes. I believe it has not
14 been addressed, and that is in the warehouse of your
15 design. When we look at the right-most warehouse,
16 the one that is parking trucks, that has a truck
17 portion to it, what percentage of floor space have
18 you designed for optimal use of the warehouse? What
19 percentage do you need for a fully optimal operation?
20 What part will be storage? What part will be to move
21 cargo or merchandise around?

22 MR. SUNDERSON: Well, the specific
23 layout will be tenant specific. Typically, the
24 outside bays, the first bay in this case 60 feet on
25 both the truck dockside and the rail dockside would

1 be considered what we call speed bays, and that's the
2 main circulation for loading and loading and getting
3 to the storage areas of the warehouse.

4 CHAIRMAN REINA: Can you confirm the
5 total square footage of that?

6 MR. SUNDERSON: I believe it's 350,000
7 square feet roughly.

8 CHAIRMAN REINA: That would include
9 offices, correct?

10 MR. SUNDERSON: And that would be the
11 entire building on the north side.

12 MR. MEERMAN: So do I understand
13 correctly that maybe the first two or three bays
14 closest to us, for example, are used for active
15 loading and unloading, and the rest is more passive?

16 MR. SUNDERSON: That is correct. The
17 first bay, the very single first bay in this case,
18 60 feet would be the speed bay or the circulation
19 bay.

20 MR. MEERMAN: And will the other bays be
21 used at all for loading and unloading? They have a
22 train of 16 cars. What will be an efficient way to
23 unload it?

24 MR. SUNDERSON: Again, the outside bay
25 on both sides of the building, the first bay would be

1 considered the speed bay.

2 On the rail side, there's an exterior dock and
3 then there's an interior speed bay.

4 THE MEERMAN: Okay.

5 MR. COLLINS: Mr. Sunderson, why don't
6 you get out your architectural drawing?

7 MR. SUNDERSON: Yes. Sure. We can show
8 you. Absolutely.

9 MR. COLLINS: Point to or explain what
10 you are saying.

11 MR. GOUIN: Just for the record, so all
12 of the architectural drawings were submitted at the
13 first hearing. All were marked A-3, so this is going
14 to be another plan in Exhibit A-3. We'll reference
15 it by plan number when he pulls it out.

16 So this is Sheet A-100 of the exhibit A-3.

17 MR. SUNDERSON: So to point out the
18 circulation which you are asking about, the first bay
19 on the truck dockside and the first bay on the rail
20 side would be for the main circulation.

21 The middle bays, in this case four bays, four
22 bays would be for what we call high-pile storage,
23 which would be either racking or some other form of
24 storage for the actual merchandise.

25 MR. COLLINS: When you pointed to bays,

1 you weren't talking about the door? You were talking
2 about the space inside the door?

3 MR. SUNDERSON: That is correct. The
4 first structural bay.

5 MR. COLLINS: So why don't you show the
6 gentleman how many bays there are on each side of the
7 building? You don't have to do the number. Show him
8 with your hand all those interior bays.

9 MR. SUNDERSON: These bays here, these
10 bays will be primarily for circulation. The center
11 bays, in this case four, would be for what we call
12 dwell storage or long-term warehousing storage.

13 MR. MEERMAN: Okay. And for the larger
14 building, you have a similar setup where the outside
15 is for logistic operation?

16 MR. SUNDERSON: Correct.

17 MR. MEERMAN: And somehow there are I
18 guess cross corridors --

19 MR. SUNDERSON: Correct.

20 MR. MEERMAN: -- to each of those, so
21 what percentage would you say is storage and what
22 percentage is devoted to the logistical floor space?

23 MR. SUNDERSON: I think that's hard to
24 say until you have a specific tenant. Typically the
25 aisles would be 8 feet in a typical warehouse. The

1 actual storage, that will vary greatly, depending on
2 what they're storing.

3 In other words, you may have 60 feet, 50 feet,
4 between aisles, depending upon how many pallets or
5 how many pieces of merchandise they are storing.

6 MR. MEERMAN: All right. And with that
7 it seems to me that forklifts might get in each
8 other's way.

9 What do you think is the average turnover to
10 make a building like this profitable where cargo or
11 merchandise comes in and leaves again?

12 MR. SUNDERSON: Right. I don't think
13 that's an architectural question. This again, that
14 would vary greatly on the tenant.

15 MR. MEERMAN: Would that be an
16 engineering question?

17 MR. SUNDERSON: I think it's an
18 operations question.

19 CHAIRMAN REINA: I take it you are asking
20 about profitability components. I would suggest that
21 probably that's a question for Mr. Ford.

22 MR. MEERMAN: Right. The profitability
23 is a result of optimal operation, so I'm really
24 asking about optimal.

25 CHAIRMAN REINA: So as an operations

1 question, I would recommend directing that to Mr.
2 Ford.

3 MR. MEERMAN: The layout. Okay. So
4 will that be able to be asked at the next hearing?

5 CHAIRMAN REINA: Yes. We are expecting
6 Mr. Ford to attend the next one, so we can wrap up
7 some secondary questions.

8 MR. MEERMAN: One question for the
9 engineer. I don't want to leave him alone. That has
10 to do with testimony you gave that the use of train,
11 two trucks, whether it results in a savings of truck
12 traffic on the road or not, that that is a matter of
13 opinion.

14 I thought it was a matter of the facts of
15 physics that when you bring in cargo by rail and the
16 vehicle with which the cargo is brought leaves the
17 site, that you need to bring in a different vehicle
18 to offload that same cargo, and I don't think it's a
19 matter of opinion whether that results in a savings
20 of truck traffic around Sparta.

21 I think that's plutonium physics, so when you
22 testified or when you answered I believe Mr. Cohen
23 that you deal with facts as an engineer, not with
24 opinions, how do you -- what facts underlie your
25 assessment that plutonium physics is an opinion?

1 CHAIRMAN REINA: Is that a question?

2 MR. MEERMAN: It's not a legal question.

3 A VOICE: Mr. Ford already testified and
4 answered --

5 MR. GOUIN: That particular question, I
6 get what he's asking. It's a clever question. It's
7 not really related to anything he's testified to.

8 MR. MEERMAN: Oh, no, sir. It's not a
9 clever question.

10 MR. GOUIN: Please. It is. It was
11 something he's testified to --

12 MR. MEERMAN: Please. No, no.

13 MR. GOUIN: It's a clever question.
14 It's something we testified to.

15 MR. MEERMAN: Nothing clever.

16 MR. GOUIN: But the answer --

17 MR. MEERMAN: Basic physics. That's not
18 clever. That's the foundation of who we are.

19 MR. GOUIN: The answer to the traffic
20 question that you were asking is going to be
21 addressed by our traffic consultant when he
22 testifies.

23 MR. MEERMAN: The question I asked of
24 the engineer is, how is this physics question a
25 matter of opinion? That was testimony provided under

1 oath.

2 MR. GOUIN: You can answer.

3 MR. POCANIK: Thank you for the
4 question. It's a very well thought-out question. I
5 didn't provide any testimony to that. That was
6 previously testified by Mr. Ford. I have no
7 technical basis to answer that question as a site
8 civil engineer.

9 As our attorney indicated, our traffic engineer
10 would be better apt to try to answer that question
11 for you. I'm just not the appropriate professional.

12 MR. MEERMAN: I would like to just state
13 for the record that you make a statement in response
14 to a question by the gentleman to my right that when
15 he brought up the volume of truck traffic, you
16 answered, very cleverly I might say, that it was a
17 matter of opinion. It is not a matter of opinion in
18 my -- in the world that we live in.

19 CHAIRMAN REINA: Is there a specific
20 question that we have here so we can --

21 MR. MEERMAN: Yes, yes. The question
22 is, what facts does the engineer have underlying his
23 assessment that the volume that is generated by this
24 building is a matter of opinion? The volume of truck
25 traffic is a matter of -- it's about the opinion.

1 It's about his assessment that it's an opinion that
2 the verdict is out that you could have, say, two
3 physical objects in the same physical space, which we
4 know is impossible.

5 He says it's a matter of opinion.

6 I'm asking what facts underlie his
7 opinion because this is something that has been
8 brought up again and again. In Council meetings. In
9 these meetings. You have said it. Other members
10 have said it, that there's a savings in truck
11 traffic.

12 CHAIRMAN REINA: We've said what
13 specifically, just so I'm clear?

14 MR. COLLINS: I think we have to move
15 on, Mr. Meerman. Why don't you --

16 MR. MEERMAN: Thank you for your
17 concern. It's a question that has not been answered.

18 MR. COLLINS: You are getting an answer.

19 MR. MEERMAN: The answer is --

20 MR. COLLINS: Sir --

21 MR. MEERMAN: -- that he has no
22 professional opinion about a statement that he made.
23 The statement was false or incorrect. It needs to be
24 retracted, but if it needs to be retracted, I want to
25 know on what basis does it need to be retracted.

1 MR. COLLINS: Sir, try to slow down.

2 MR. MEERMAN: Those are fair and good
3 questions.

4 MR. COLLINS: Sir, try to slow down and
5 just ask --

6 MR. MEERMAN: I should think you would
7 appreciate that I am so precise in my questioning.

8 CHAIRMAN REINA: Sir, please. Go ahead
9 and ask.

10 MR. MEERMAN: Sir --

11 MR. COLLINS: Ask the engineer the
12 question.

13 MR. MEERMAN: This gentleman is
14 interrupting me constantly.

15 MR. MURPHY: Ask your question.

16 MR. MEERMAN: I want my question
17 answered.

18 MR. MURPHY: Ask the question.

19 CHAIRMAN REINA: I think we're
20 struggling to understand exactly --

21 MR. MEERMAN: What facts underlie, what
22 facts underlie the fact that a law of physics is a
23 matter of opinion?

24 MR. MURPHY: Mr. Chairman, in all
25 fairness to everybody here, I think you could Google

1 what the cubic capacity of a railcar is versus what
2 the cubic capacity of a trailer is and figure this
3 out for yourself.

4 MR. MEERMAN: Oh, okay, sure. We'll do
5 it. Sworn testimony --

6 MR. COLLINS: Sir, you are --

7 MR. MEERMAN: No, no.

8 MR. GOUIN: Wait.

9 MR. MEERMAN: I've been given a
10 suggestion. There's sworn testimony --

11 CHAIRMAN REINA: I don't know where this
12 is going.

13 MR. COLLINS: Sir, you are not here to
14 testify.

15 MR. MEERMAN: -- sworn testimony stating
16 that each car, each car -- sorry?

17 MR. GOUIN: This is going to be part of
18 our traffic testimony. I tried to explain that
19 before.

20 MR. MEERMAN: The sworn testimony --

21 MR. GOUIN: You keep asking what facts do
22 we have that a fact is an opinion or you're asking a
23 theoretical question. We're not going to answer
24 that. It's not part of our site Plan presentation.

25 MR. MEERMAN: Sir --

1 MR. GOUIN: No.

2 MR. MEERMAN: -- sir, you're a lawyer.

3 You deal with --

4 MR. GOUIN: The questions you are
5 asking --

6 CHAIRMAN REINA: I want to call this to
7 order.

8 Gentlemen, at this point you've asked your
9 question around what facts underlie his opinion.
10 He's testified that he's not qualified to answer that
11 question. The remaining portion of it is to be
12 addressed, as Counsel has suggested, by the traffic
13 study, through the traffic testimony.

14 A VOICE: Ask it again.

15 CHAIRMAN REINA: Either I'm not fully
16 understanding exactly what your question is or
17 perhaps this Board, but I think we've -- I don't know
18 how else to address your question if they're not able
19 to answer it.

20 MR. GOUIN: Our engineer is going to
21 respond.

22 MR. MEERMAN: I will not repeat the
23 question, but I will reframe it.

24 MR. PROCANIK: Sir, just to clarify,
25 that statement you had made about opinion, that

1 statement did not come from me. That was from our
2 attorney recapping Mr. Ford's testimony from the last
3 hearing.

4 Your questions you are asking are very valid.
5 Our traffic engineer will be here in the upcoming
6 hearing. He is the most apt to answer that question
7 based on facts and physics to your point.

8 MR. MEERMAN: Okay. Being that the
9 voices sound quite similar, and you are all sitting
10 very close together, I could not distinguish that the
11 lawyer quickly gave an answer on your behalf.

12 MR. PROCANIK: It wasn't on my behalf.
13 It was recapping.

14 MR. MEERMAN: I thought it was cute.
15 Let me just frame the question without repeating it,
16 and that is that this body and the Council and
17 various professionals have operated under the
18 assumption that the train component results in a
19 reduction of truck traffic around Sparta. That
20 sounds something that is --

21 MR. COLLINS: Now you are testifying,
22 and that testimony --

23 MR. MEERMAN: No. I'm framing my
24 question.

25 MR. COLLINS: No.

1 CHAIRMAN REINA: Sir, with all due
2 respect, that was a statement made by Mr. Ford. You
3 are drawing a conclusion that this Board has somehow
4 taken that as fact, which is not the case. That was
5 a statement by Mr. Ford.

6 MR. MEERMAN: Okay. Then we can go back
7 to the record --

8 MR. COLLINS: No. Sir, what we're going
9 to do now --

10 MR. MEERMAN: -- and hear positive
11 statements by several members of this Board to that
12 same effect.

13 MR. COLLINS: Mr. Chairman --

14 MR. MEERMAN: To that same effect.

15 MR. COLLINS: We should move on. This
16 is not a question.

17 CHAIRMAN REINA: Are there any other
18 questions that you have, sir?

19 MR. MEERMAN: A concern. How much this
20 warehouse will put a strain on the electric grid in
21 our area. Even as a passive warehouse, it will draw
22 a lot of electric power.

23 What engineering underlie the proper operation
24 of a building like this, especially the electrical
25 vehicle component?

1 MR. PROCANIK: We understand your
2 concern, and that will be coordinated directly with
3 the utility company through our electrical engineer.

4 MR. MEERMAN: All right. Will that come
5 up in a future hearing?

6 MR. PROCANIK: Not likely. Electrical
7 engineering is not part of the Site Plan. It will be
8 reviewed at the Building Department.

9 MR. GOUIN: Utility will serve letter
10 from the utility demonstrating the utility can
11 provide service certainly is going to be a component
12 of this project, but it's something that gets
13 reviewed at the time of Building Department review.

14 Obviously, the utility has to be able to serve
15 the project. Otherwise, we don't have electric
16 service, so that's just another outside agency
17 approval we have to get, and we're agreeing that we
18 will get it as a condition of approval.

19 MR. MEERMAN: Okay. No further
20 questions.

21 I thank Mr. Murphy, I believe, for suggesting
22 that I Google the answer to my question. Once I know
23 the answer, I will come back with it.

24 (Appause from audience.)

25 MR. GOUIN: Now we can move forward with

1 Mr. Greene. We're changing exhibits now.

2 MR. COLLINS: Mr. Greene, were you
3 previously sworn?

4 MR. GREENE: I was not.

5 MR. COLLINS: Please raise your right
6 hand.

7
8 M I C H A E L G R E E N E,
9 after having been duly sworn by Mr. Collins,
10 testifies as follows:

11

12 MR. COLLINS: State your name and
13 address and spell your last name.

14 MR. GREENE: My name is Michael Greene,
15 G-r-e-e-n-e, 1330 Laurel Avenue in Sea Girt, 08750.

16

17 DIRECT EXAMINATION OF MR. GREENE BY MR. GOUIN:

18

19 Q. Mr. Greene, before we get into any
20 testimony, can you give the Board your educational
21 qualifications and involvement with this application?

22 A. Sure.

23 VOICES: We can't hear you.

24 MR. GOUIN: Sorry. I said before we
25 begin any testimony, if Mr. Greene could provide his

1 professional qualifications and his role with this
2 application.

3 A. I'm the Director of Land Use for Envirotactics,
4 which is a full service environmental company out of
5 Sea Girt.

6 I graduated with a Bachelor's degree from
7 Richard Stockton College of New Jersey. I have been
8 completing wetlands delineations, NJDEP permitting,
9 threatened endangered species studies, environmental
10 impact statements in all phases of land use for over
11 20 years.

12 Q. And obviously you did prepare the
13 environmental impact assessment for this application;
14 is that correct?

15 A. That is correct.

16 MR. GOUIN: I would ask if the Board
17 accept Mr. Greene as an expert in the field of
18 environmental science, so if we want to do the voir
19 dire now, we could do that.

20 MR. COLLINS: Yes. For the attorneys,
21 any voir dire for the witness?

22 MR. COHEN: Yes. Lawrence Cohen.

23

24

25

1 VOIR DIRE EXAMINATION OF MR. GREENE BY MR. COHEN:

2

3 Q. Mr. Greene, as part of your -- by the
4 way, I read your environmental impact statement, and
5 as part of your analysis for this type of development
6 --

7 VOICES: Cannot hear you.

8 MR. COHEN: Can you hear me now? Thank
9 you. I was criticizing other people, and now nobody
10 heard me.

11 Q. Mr. Greene, did you do an assessment of
12 noise, potential noise impact, of this particular
13 use?

14 CHAIRMAN REINA: He hasn't testified
15 yet. Is this specific to his qualifications?

16 MR. COHEN: Well, I want to know whether
17 or not -- well, let me withdraw that and rephrase it.

18 Q. What is your training with reference to
19 noise impact with reference to impact on a
20 development such as this?

21 A. I'm not testifying as a noise expert.

22 Q. Okay. Now I'll go to the question I
23 asked you before. I read in your environmental
24 impact statement that you did comment with reference
25 to any impact on noise; is that correct?

1 A. That is correct.

2 Q. What are your qualifications for making
3 that statement which I believe you said would not
4 have a negative impact; it would not exceed any
5 lawful limitations?

6 A. That is correct.

7 Q. No. What is your training to come to
8 that conclusion?

9 A. We're going to -- what we're stating is that
10 we're going to comply with local laws.

11 Q. I'm not asking that. You made a
12 statement. You said you did not fill out this report
13 or be testifying as a noise expert. You made that
14 statement in your impact statement, and I wanted to
15 know what your training is, if any, in making that
16 determination. I'm not asking whether or not there's
17 an impact right now. I'm just asking your training.

18 A. As I said, I'm not an expert in noise. I'm not
19 testifying as an expert in noise. However, there are
20 noise requirements. There's discussions. There's
21 information that we receive from the engineers, and
22 there's local requirements that we are going to
23 comply with based on the usage.

24 Q. So my understanding is that because you
25 are not qualified as a noise expert, you are not

1 really going to be testifying as to what noise impact
2 this may have on surrounding properties? Is that a
3 fair statement?

4 A. Nothing further than what is in the
5 environmental impact statement, correct.

6 Q. Okay. And I'll also ask you the same
7 questions about air quality. Your training with
8 reference to a determination of the effect, if any,
9 of air quality as a result of this development.

10 A. I'm also not an air quality expert. However,
11 once again, in New Jersey if we are required to
12 comply with air quality requirements, there's state
13 permitting, there's requirements for that, that would
14 be complied with.

15 Q. Well, I'm aware of certain requirements.
16 That's not my question. My question is, you did
17 comment on air quality in the report as I read it;
18 is that correct?

19 A. That's correct, yes.

20 Q. What are your qualifications, and if you
21 have none, just tell us you don't have 'em.

22 A. As I said, I'm not qualified for air quality.
23 However, once again, we did confer with the engineers
24 for that information.

25 Q. And specifically what is your training

1 with reference to the subject of this environmental
2 impact statement? What training do you have
3 specifically? I understand you have degrees. What
4 is your specific training?

5 A. Sure. My specific training relates to really
6 anything related to land use, so wetlands, wetlands
7 delineations, threatened endangered specie studies,
8 permitting. We handle all phases of permitting,
9 whether it's flood hazard, fresh water wetlands,
10 CAPRA, highlands, tidelands, all.

11 Q. So is it fair to say that your
12 environmental statement and your testimony tonight
13 will be in fact related to the impacts on the land
14 and The surrounding land of this development and not
15 on the impacts of the development, the operation of
16 the development? Is that a fair statement?

17 A. Yes, that's fair.

18 MR. COHEN: Thank you. I have no
19 further questions. I have no objection to his
20 qualifications based upon the limitation that he had
21 indicated and based upon, I reserve the right to
22 object to other types that he may testify to based
23 upon his qualifications. Thank you.

24 CHAIRMAN REINA: Thank you, Mr. Cohen.

25 Mr. Clark?

1

2

MR. CLARK: I have a few questions.

3

4

VOIR DIRE EXAMINATION OF MR. GREENE BY MR. CLARK:

5

6

Q. Sir, you said you have a B.A.; is that

7

right?

8

A. No. Bachelor of Science.

9

Q. Do you have any post-baccalaureate

10

training?

11

A. So there's no -- for Environmental Science

12

there's no P.E. degree, but I do have continuing

13

education training that we complete for threatened

14

endangered species, plant identification, wetlands

15

delineations, all sorts of continuing education.

16

Q. Okay, but there are people who have

17

post-baccalaureate, like a Ph.D. in Environmental

18

Science; is that right?

19

A. Correct.

20

Q. And you don't have that?

21

A. I do not, no.

22

Q. Okay. Have you ever provided expert

23

testimony in front of a state court or a federal

24

court?

25

A. In front of state court I have.

1 Q. Okay, you have?

2 A. Yes.

3 Q. Has any of the testimony that you
4 provided or an expert report ever been excluded
5 either in a motion in limine or excluded by the
6 Court? Are you aware of that?

7 A. Not that I'm aware of.

8 Q. Now, are you a hydrologist?

9 A. I am not, but I do have training in hydrology.

10 Q. What's your training, sir?

11 A Many of the courses that I completed in
12 college, as well as it's a major component of every
13 flood hazard application.

14 Q. And does your expert report that you
15 submitted in this case, does that address water
16 issues?

17 A. Such as?

18 Q. Like stormwater management?

19 A. Well, stormwater management is going to be --
20 you know, as you're aware, will be required at the
21 state level through permitting, and that's much more
22 of an engineering requirement.

23 Q. So the engineer is going to provide
24 that? You are not providing it?

25 A. I believe that's already been addressed.

1 Q. I'm trying to understand. Are you
2 providing testimony today about --

3 A. No.

4 Q. -- water quality?

5 A. Not on stormwater, no.

6 Q. And is there going to be another expert
7 who is going to provide testimony on that issue?

8 A. I believe that's already been addressed by the
9 site engineer, Tony Degen.

10 Q. So your expert on water quality and
11 stormwater is an engineer; is that right?

12 A. Correct.

13 Q. Are you aware of whether he or she has
14 training in water quality?

15 A. I do not, no.

16 Q. You don't know, all right, but the
17 engineer is not a hydrologist; am I right?

18 A. I don't know.

19 Q. Okay. Are you aware or do you plan to
20 submit or based on what you know of any expert
21 testimony by someone who is trained and credentialed
22 as a hydrologist?

23 A. No.

24 Q. Okay. Just so I'm clear, I'm sorry if
25 I'm repeating myself. I want to make sure you are

1 not testifying tonight about the impact that the
2 development will have on water quality in this area;
3 am I right about that?

4 A. There's some -- I have some -- really the
5 information that's contained within the environmental
6 impact statement. I have a little clarification on
7 that, but that's -- it's touched upon.

8 Q. Okay. And your training for that part
9 of your testimony is based on classes that you took
10 as an undergrad at Richard Stockton College; am I
11 right?

12 A. And it's based on the work that we continue to
13 do. It's based on what we do, you know, day in and
14 day out. These issues. These issues, whether it's
15 stormwater, whether it's flood hazard, whether it's
16 water quality by, you know, through wetlands impacts.
17 It's part of what we address on a daily basis.

18 Q. Okay. And focus on the wetlands. What
19 training do you have to testify about the impact that
20 this development will have on the wetlands?

21 A. There's two components to that question.
22 Realistically, that comes down to its state
23 permitting, so the state is going to -- we comply,
24 and all of our applications will be required to
25 comply with the state requirements.

1 Q. Okay, but I'm saying for purposes of the
2 preliminary Site Plan, are you providing testimony
3 about the impact that this development will have on
4 the wetlands, and if so, what is your training to
5 opine on that particular issue?

6 A. My training is, I complete wetlands
7 delineations and wetlands permitting on a daily
8 basis.

9 Q. Okay. And just so the people
10 understand, what do you mean when you say "wetlands
11 delineations"?

12 A. That involves going out and doing soil borings,
13 looking at vegetation and determining where the
14 limits of a wetlands fall on a property.

15 Q. Now, this is a similar question. So you
16 said that you've also provided as part of the
17 permitting process at the environmental agency. Have
18 you provided testimony or submitted a report as part
19 of that permitting process?

20 A. Absolutely. Every application requires a
21 submission of complete documentation, including a
22 report.

23 Q. Now, in those reports that you've
24 submitted, has the environmental department ever
25 asked you to amend what you submitted or to do it

1 again?

2 A. Yes. They ask for clarifying information or
3 modifications. Sometimes they disagree on flag
4 placement, et cetera, when we're delineating
5 wetlands.

6 Q. Have they told you that the report that
7 you submitted is missing or deficient in any way?

8 A. In regards to the current applications or are
9 you --

10 Q. No. I'm trying to get at your training
11 in whether, as part of the permitting process, you
12 submitted something as part of the permitting process
13 where the DEP has said, "Do it again" or "Add
14 additional information," because the information
15 provided is either incomplete or insufficient?

16 A. As you can imagine, during the application
17 process, in 20 years of doing applications there's
18 absolutely times where they ask for clarifying
19 information or different information, and depending
20 on the circumstances we don't always agree upfront on
21 certain things, just like this process, so, yes, we
22 have been asked for clarifying information, and we
23 provide that in whatever we deem sufficient at the
24 time.

25 Q. And so you would agree with me then that

1 you've submitted information to the DEP that they
2 found inadequate; am I right about that?

3 A. I would state that there's not an application
4 that goes to the DEP that that doesn't occur with.

5 Q. Okay. And it's happened to you how many
6 times?

7 A. More than I -- I don't know. It's not
8 something I keep track of.

9 Q. Okay. Are you aware of whether, as part
10 of the DEP process that you will engage in, whether
11 you will submit a separate report for a hydrologist?

12 A. Not that I'm aware of.

13 Q. Okay. And also as part of your training
14 have you done the impact on say an aquifer?

15 A. Yes, I have done training on impacts to
16 aquifers.

17 Q. What is that training?

18 A. Once again, hydrology classes that I've taken
19 both in college and post college.

20 Q. Okay. So you took some continuing
21 education classes on hydrology, on the impact of
22 development on an aquifer; is that right?

23 A. It's not so specific to impact a development.
24 It's one of the things that's sort of addressed and
25 looked at, but a lot of it is, you know, specifically

1 in when we're dealing with hydrology, there's a
2 common sense component to what is happening, "Where
3 is the drawdown? Where is the water flowing?"

4 Q. I see, but the training that you've had
5 as focused on the impact that it would have on an
6 aquifer, this is training you've had both in college
7 and in continuing education; is that right?

8 A. Yes.

9 Q. Okay. Have you ever recommended to a
10 developer, "Do not develop here" because of the
11 result that it would have on an aquifer?

12 A. I don't know if that -- I don't know.

13 Q. You can't recall?

14 A. I can't recall.

15 Q. Okay. Got you. Also assessing the
16 stormwater runoff for this, is that something that
17 you have training in?

18 A. I'm sorry. Can I go just back to the previous
19 question just to clarify?

20 Q. Sure.

21 A. Are you asking, have I ever provided that
22 information to a client when we're within a regulated
23 area, or are we talking about just in general on this
24 site?

25 Q. You can break it up into two.

1 A. Yes. Absolutely. When we're in regulated
2 areas or they're proposing to do something that we
3 cannot get permitting for, I've absolutely
4 recommended that they don't proceed in that
5 direction.

6 Q. In areas where you could not get
7 permitting, what was the basis for that? That was on
8 the aquifer?

9 A. No. That would typically be, so the aquifer
10 requirements or their -- you know, the circumstances
11 for aquifer requirements would be separate than the
12 land use, so there's not specific aquifer permitting
13 where wetlands or flood hazard areas are regulated
14 and there's permitting required.

15 Q. Okay. Do you have anything further to
16 add about -- I think you amended your answer. Do you
17 have anything else you wanted to add?

18 A. No.

19 Q. Now, the question was about stormwater
20 management. Are you testifying today about
21 stormwater runoff on this particular Site Plan
22 application?

23 A. I do discuss just briefly just a little bit
24 about some stormwater components, but once again the
25 stormwater system will be designed in accordance with

1 the NJDEP requirements.

2 Q. And so tell me about the training that
3 you've had on stormwater management.

4 A. My training is, once again, courses that I've
5 had continuing education, but primarily it's in
6 day-to-day application.

7 Q. Got you. Now, are there other degrees
8 that one could get to get actual specialization in
9 stormwater management?

10 A. Typically that would be a P.E.

11 Q. I'm sorry. A P.E.?

12 A. Professional Engineer, yes.

13 Q. Okay, so there are a Professional
14 Engineer in stormwater management?

15 A. Yes, and I'm not going to testify that I
16 completed the stormwater design on the project.

17 Q. But you're not the P.E. You don't have
18 that particular --

19 A. No, I do not. -

20 Q. -- but yet tonight you are going to
21 testify about stormwater management; is that right?

22 A. Not stormwater management. Just sort of how it
23 applies on the site and what the permitting
24 requirements and what we're -- how it's being
25 addressed.

1 Q. What about the calculation of how much
2 runoff?

3 A. No.

4 Q. Is someone going to do that?

5 A. Once again, I would say it's going to comply
6 with -- any of the stormwater requirements onsite are
7 going to comply with the state permitting
8 requirements.

9 Q. I understand that's your opinion, but
10 I'm trying to find out who is it.

11 A. No, that's not -- that's not my --

12 Q. The question is, is that going to be you
13 or someone else? We're trying to get at your
14 training. If you're the one that's going to do it,
15 we need to kind of understand what your training is
16 to make that --

17 MR. GOUIN: Let me just clarify. Mr.
18 Greene is not testifying tonight as a Professional
19 Engineer who designed the stormwater management
20 system for the project. The Professional Engineer
21 who designed that system was Mr. Degen who already
22 testified.

23 What we explained is that the stormwater
24 management system is going to have to comply with the
25 new DEP stormwater regulations that were adopted last

1 year, so the stormwater design is going to have to be
2 reviewed and approved by DEP.

3 Whether or not we provide testimony to this
4 Board as to the specific stormwater design is
5 something that we haven't determined yet.

6 If the Board would like that testimony, we can
7 provide it, but the reality is, the regulation of
8 that and the design of the system is going to be
9 reviewed and approved in connection with our DEP
10 applications, so the answer to the question is, it's
11 not for this witness to talk about stormwater.

12 Whether the Board wants us to talk about it,
13 we hadn't anticipated it, but it's something we can
14 consider. Does that make sense?

15 MR. CLARK: Okay. I will raise my
16 objection for the record. I don't think this witness
17 is qualified on the scope of the testimony that he's
18 planning to offer. He says he's not a hydrologist;
19 that someone else is going to do the stormwater
20 management, and also the impact to the wetlands.

21 I think there are more appropriate and more
22 trained and credentialed witnesses that can provide
23 that testimony, so I'll just raise that for the
24 record, and that's for the Board to decide whether
25 they want to take his testimony into consideration.

1 Thank you.

2 MR. GOUIN: Well, in that respect, I
3 think Mr. Clark raised a lot of objections to a lot
4 of different areas of civil design that this engineer
5 is not being asked to testify to, so, Mike, why don't
6 you just explain for the Board exactly what you are
7 testifying to again, and the Board can make its
8 determination whether to accept you.

9 MR. GREENE: Yes. So I'm going to be
10 testifying in regards to the environmental impact
11 statement, some of the questions that were raised,
12 and some general information regarding the DEP
13 permitting which we did prepare and submit.

14 MR. COLLINS: Mr. Dash, did you have any
15 questions on qualifications?

16 MR. DASH: Yes. Thank you.

17

18 VOIR DIRE EXAMINATION OF MR. GREENE BY MR. DASH:

19

20 Q. Mr. Greene, you just stated you are
21 going to testify to the environmental impact
22 statement. Are you aware that the Sparta Township
23 Environmental Commission has issued an environmental
24 impact report?

25 A. I did not see an environmental impact report.

1 MR. GOUIN: We are aware that the Sparta
2 Environmental Commission issued a review letter, yes.
3 We have a copy of it.

4 Q. Sir, have you reviewed that?

5 A. The review letter, yes, I have.

6 Q. Did you read its conclusions?

7 A. Did I read its conclusions? Yes, I did.

8 Q. Do you agree with them?

9 A. I do not.

10 MR. GOUIN: Are we still talking about
11 qualifications or --

12 MR. DASH: Yes, we are.

13 MR. GOUIN: -- or is this cross
14 examination?

15 Q. Can you just explain to the Board how
16 many times you visited the site as part of your
17 review?

18 A. I've been to the site at least three or four
19 times.

20 Q. Over how long?

21 A. Since we've been working on the project, since
22 2020.

23 Q. You've been there personally?

24 A. Yes.

25 MR. DASH: Nothing else.

1 CHAIRMAN REINA: Mr. Dash, any other
2 questions with regard to the witness' qualifications?

3 MR. DASH: Nothing further at this time.

4 MR. COLLINS: Mr. Chairman, I recommend
5 that you can accept Mr. Greene's qualifications as an
6 environmental consultant.

7 MR. SYLVESTER: Mr. Collins, if I may.

8 Mr. Greene, do you carry any other professional
9 certification or licenses?

10 MR. GREENE: I do not.

11 MR. SYLVESTER: Thank you.

12 MR. COHEN: May I just ask a question of
13 the Board?

14 Since there was a statement made by Counsel,
15 are we to understand that he's not going to testify
16 on everything that's in the impact statement which he
17 submitted to the Board because I understand his
18 testimony is very limited?

19 CHAIRMAN REINA: So my understanding,
20 and please correct me if I'm wrong, is, you have the
21 ability and you'll be testifying on the environmental
22 impact statement in DEP permitting only?

23 MR. GOUIN: Correct.

24 MR. COHEN: So he's going to be
25 testifying about everything that's in this. Not

1 every single word obviously but his conclusions that
2 are reached in this report; am I to understand that?

3 MR. GOUIN: Yes.

4 MR. COHEN: Okay. Very good. I thought
5 I misunderstood. Thank you.

6 MR. SYLVESTER: We would like to request
7 stormwater testimony, whether -- obviously not from
8 Mr. Greene but from one of your other professionals.

9 MR. GOUIN: Fair enough. So obviously
10 that's come up. It's something we will have to
11 address with a different professional. It's
12 probably the subject of a different -- obviously
13 we're not going to have time to do it tonight, and
14 we're not prepared to do it tonight.

15 We'll talk about scheduling it when we get to
16 the end of the hearing, but, yes, we'll bring back a
17 separate professional. I think there were some
18 comments in the engineer's review letter relative to
19 stormwater management.

20 Obviously, I said originally that we were going
21 to comply with all of the recommendations of the
22 Planning Board's engineer, and we will, but if the
23 Board wants to hear that testimony, it will be a
24 separate witness. We'll bring somebody back for
25 that.

1 MR. SYLVESTER: That makes sense because
2 it references -- a lot of the testimony we're about
3 to hear does relate and would be revolving around
4 stormwater and stormwater management.

5 MR. GOUIN: If it makes sense to the
6 Board, I mean it's 9:45. I mean we just went through
7 qualifications for Mr. Greene, so he's qualified now,
8 and he can come back, but do you want us to come up
9 and do stormwater design first and then do
10 environmental impact assessment so you have that
11 information first because we could do that as well.

12 CHAIRMAN REINA: So I guess my question
13 is with regards to the environmental impact
14 statement. So you developed the statement. You were
15 responsible for developing --

16 VOICES: We can't hear you.

17 CHAIRMAN REINA: Sorry. My apologies.

18 So you were responsible for developing the
19 impact statement?

20 MR. GREENE: Correct, with input from
21 the engineer.

22 CHAIRMAN REINA: With input from the
23 engineer. I guess my question would be, how much of
24 that input was their involvement versus yours? What
25 I'm getting at bluntly is, you're testifying to

1 environmental impact, environmental components.
2 We're talking about stormwater management. We're
3 talking about a variety, hydrology, soil samples, and
4 what I'm gathering from this is, you are not
5 qualified to testify to it the extent beyond, "This
6 is what is included in the impact statement."

7 MR. GOUIN: Fair point. So maybe the
8 thing to do is because really the environmental
9 impact statement is sort of a composite of a bunch of
10 different professions. It may make sense to bring
11 back the full team. If the Board wants to do it this
12 way, we'll bring back the full team and do the
13 environmental impact statement with stormwater
14 design, hydrology.

15 VOICES: We can't hear you.

16 MR. GOUIN: I'm sorry. We'll do the
17 environmental impact statement rather than just Mr.
18 Greene who prepared it. Hydrology, wastewater design
19 or -- I'm sorry -- stormwater design, and we'll do it
20 as a panel, but then everybody would be available to
21 answer questions.

22 MR. SYLVESTER: I think that makes more
23 sense.

24 CHAIRMAN REINA: Mr. Greene is going to
25 be at a disadvantage and not be able to answer.

1 MR. GOUIN: Fair enough. I'm looking at
2 the hour. We're going to get through 12 minutes as
3 it is.

4 MR. SYLVESTER: Mr. Greene, did your
5 company or did you conduct any soil sampling and
6 analysis?

7 MR. GREENE: No, we did not.

8 MR. SYLVESTER: Or did that get
9 conducted by another firm? There was previous
10 testimony that there were some soil samples taken
11 along certain areas of the property.

12 MR. GOUIN: Yes, there were, but that's
13 a different firm altogether, different subcontractor
14 to a different firm altogether.

15 MR. SYLVESTER: The professional or
16 representative from that firm, was he operating under
17 the guidance of the engineering company?

18 MR. GOUIN. The engineer, correct.

19 MR. SYLVESTER: And the engineer can
20 testify to --

21 MR. GOUIN: Yes.

22 MR. SYLVESTER: -- the logic and the
23 purpose of the tests.

24 MR. GOUIN: If we're going to do it this
25 way, we should do it with all the experts available

1 at once to talk about each component rather than just
2 jump to the conclusions, so why don't we plan do it
3 it that way?

4 MR. MURPHY: Mr. Chairman, if I can add
5 onto my statement that --

6 CHAIRMAN REINA: Jerry, one second,
7 please.

8 COUNCILWOMAN QUINN: Hold on.

9 DR. PARKER: Sir, I asked a question in
10 the very first meeting, and you said eventually you
11 were going to give me the answer. I want to make
12 sure that since we are going into this new panel that
13 this does not get put off.

14 VOICES: Can't hear you.

15 DR. PARKER: I asked a question at the
16 very first meeting, and I want to make sure that the
17 next panel, that you have an answer for me.

18 The question was, with all the digging and
19 everything out there, how far above the aquifer is
20 this project? At that time you did not have the
21 answer, but you said you would get back to me, so I
22 want to make sure that you put that in your barrel of
23 questions when you go into your system; okay?

24 MR. GOUIN: Frankly -- and fair enough.
25 We will get you that answer. Might I ask if it would

1 be efficient for, if we're going to have
2 environmental as an entire topic, maybe if Mr.
3 Simmons can put together a list of the specific
4 environmental questions, a supplement to the
5 engineering letter or something like that so we make
6 sure we have everybody we need to go through that. I
7 mean we can be guided by our environmental impact
8 statement, but to the extent there's questions like
9 that --

10 MR. SYLVESTER: This environmental
11 impact statement is a component of a larger --

12 MR. GOUIN: It's a broader topic.

13 MR. SYLVESTER: -- environmental
14 discussion.

15 MR. GOUIN: Correct, correct.

16 MR. SYLVESTER: And I don't know if Mr.
17 Simmons could frame out questions that we have in
18 front of us, but additional questions that may be
19 raised during testimony --

20 MR. GOUIN: Sure.

21 MR. SYLVESTER: -- are still going to
22 need to be addressed.

23 MR. GOUIN: However the Board wants to
24 handle it. I'm just trying to be most efficient for
25 the next time we're here, but it seems like the way

1 to do it is --

2 MR. SYLVESTER: I think your team, your
3 approach of bringing your team --

4 MR. GOUIN: I think that's the way to do
5 it. It seems like we won't be efficient tonight
6 doing it this way.

7 CHAIRMAN REINA: At this point, we
8 accept, obviously, the qualifications of Mr.
9 Greene --

10 MR. GOUIN: Good.

11 CHAIRMAN REINA: -- with the
12 understanding he can testify to at least the
13 development of the impact statement and any of the
14 DEP permitting --

15 MR. GOUIN: Yes.

16 CHAIRMAN REINA: -- but I agree with the
17 Board's consensus with regard to let's make sure that
18 we've got the appropriate folks here that can dig
19 into hydraulic soil sample, environmental components,
20 and any specifics of the -- I guess what the buildup
21 and the basis for that impact statement.

22 MR. MURPHY: Mr. Chairman, if I could
23 also add to Dr. Parker's request, that if there are,
24 in addition to soil samples, any core sampling that
25 may have been done and to what depth.

1 MR. SYLVESTER: Now you are getting into
2 geotechnical.

3 MR. MURPHY: Well, they're going to put
4 together a team, aren't they?

5 MR. GOUIN: We have a big team.

6 COUNCILWOMAN QUINN: You should bring
7 them all.

8 MR. SYLVESTER: Geotechnical is going to
9 go parallel to environmental but not necessarily.

10 MR. GOUIN: Understood.

11 MR. MURPHY: I think in regard to the
12 aquifer, that would be a critical component.

13 MR. SYLVESTER: No argument.

14 MR. MURPHY: Thank you.

15 MR. DASH: Mr. Chairman, before we leave
16 tonight, can we get an order? There's a lot of
17 confusion as to who is going to be testifying at the
18 next meeting. We should spend time before the next
19 meeting. It's not clear to me who is going to be
20 appearing first.

21 Mr. Ford initially, but I think it's
22 important for everybody to have a clear understanding
23 of the order of the witnesses next time.

24 MR. CLARK: And for efficiency purposes,
25 it would be helpful if Mr. Gouin could identify who

1 he intends to bring on that panel and what the scope
2 of their testimony will be because if people want to
3 bring their own experts to rebut whatever the panel
4 is going to do, it will be helpful to know who is on
5 the panel and what is the scope of their testimony,
6 so I'm just saying that would be helpful. Thank you.

7 (Applause from audience.)

8 CHAIRMAN REINA: Mr. Gouin, are you
9 prepared this evening to be able to identify who you
10 would bring?

11 MR. GOUIN: No. Why don't I -- I'll
12 submit a letter to the Board after this hearing, and
13 we'll give all --

14 COUNCILWOMAN QUINN: I assume we will get
15 that anyway, that that would be protocol.

16 MR. GOUIN: Yes.

17 MR. DASH: Do we have a representation
18 about Mr. Ford?

19 COUNCILWOMAN QUINN: We need to know who
20 is going to be there and who is not going to be
21 there.

22 MR. GOUIN: Can we take a minute to talk
23 about scheduling, when the next dates are going to
24 be?

25 CHAIRMAN REINA: So this meeting would

1 carry forward. We have two additional applications
2 that are pending hearing for May 18th, so this would
3 carry forward till -- and, Diana, keep me honest on
4 this -- June 1st?

5 SECRETARY KATZENSTEIN: Uh-huh.

6 CHAIRMAN REINA: So June 1st. Based on
7 the current scheduling, June 1st will be the next
8 conveyance of this specific meeting on Diamond Chip
9 Realty.

10 MR. GOUIN: Any interest in the Board
11 doing special meetings to move this along? We're now
12 talking about having several more hearings on this.

13 CHAIRMAN REINA: I think we're open to
14 suggestions. I think we're trying to balance the
15 other applicant flow that's coming in through the
16 Town, but, yeah, based on if you have suggestions or
17 recommendations, we're happy to accommodate where we
18 can.

19 MR. GOUIN: So when I send in my letter
20 following this hearing just recapping the little
21 discussion we just had, I'm going to request a
22 special meeting, and if we can get a consensus on a
23 night or a couple of nights and we can move this
24 along, we would appreciate that, and obviously if
25 there's any fee, we'll pay it, but if you see that

1 request coming in, it will be coming in that letter.

2 CHAIRMAN REINA: Okay

3 MR. DASH: Mr. Chairman --

4 CHAIRMAN REINA: Going back to the
5 original question with regards to the next meeting,
6 Mr. Grouin, you'll provide the Town a breakdown of
7 those experts that you would be having participate.
8 Again, this is the environmental component. I assume
9 you'll have the engineer, I assume you'll have
10 experts in hydrology, wetlands, stormwater
11 management.

12 Are there other areas that you feel we need or
13 that the Board feels that --

14 MR. GOUIN: Yes. I think that covers
15 it. We will have appropriate experts for that. I
16 don't know. Does the Board want to do that on
17 June 1st, or do we want to bring Mr. Ford back for
18 June 1st and handle his testimony because we're going
19 to need a meeting for him? I'm mindful that we have
20 to schedule the experts; right?

21 CHAIRMAN REINA: I'm happy if we make
22 the next meeting focused on Mr. Ford and the
23 following meeting based on the environmental
24 component where it gives you more time and latitude
25 to pull together the team.

1 MR. GOUIN: What we would probably
2 request is to do a special meeting to consider the
3 traffic after you have a chance to do the traffic
4 report.

5 CHAIRMAN REINA: Yes. For sure.

6 MR. GOUIN: Okay.

7 MR. COHEN: I also wanted to know. You
8 asked the list of whether environmental experts.

9 A VOICE: Use the microphone.

10 MR. COHEN: The witness has testified
11 that he's not qualified to talk about noise impact or
12 air quality impact, and I want to know, are they
13 intending to produce witnesses with reference to
14 those items, since they're required in the
15 environmental impact, and they're certainly very
16 important to this application.

17 MR. GOUIN: Yes.

18 MR. SYLVESTER: I think they've
19 identified. They're going to bring their team of
20 professionals.

21 MR. COHEN: Well, when he just went
22 through the list, he didn't mention that. That's why
23 I'm raising that.

24 MR. GOUIN: I think Mr. Sylvester went
25 through the list. Sure. We have to address the

1 components of the environmental impact assessment.
2 We will bring the appropriate professionals to
3 address all of the components.

4 MR. COHEN: Are we going to see the
5 reports from any of the professionals that have not
6 submitted reports so far? New professionals, are we
7 going to see those reports at least 10 days before
8 the actual date of any meeting?

9 MR. GOUIN: I don't anticipate that
10 we're going to be submitting any new reports. If
11 they do, we will certainly submit them 10 days in
12 advance of the hearing.

13 MR. COHEN: So we're going to get --
14 for instance, experts are going to testify about
15 environmental impact, and they're not going to issue
16 any reports about it, right?

17 MR. GOUIN: Well, we have already issued
18 an environmental impact assessment. That's what
19 we're talking about testifying about. The Board has
20 requested that we provide certain additional
21 information in order to inform their consideration of
22 it. That's what we're going to do.

23 MR. COHEN: Okay. And I presume the
24 names, so that someone can check their
25 qualifications, et cetera, will be submitted to the

1 Board and part of the public record so the public can
2 look at it, and they'll know who is being produced,
3 and they can certainly do research on that person.

4 MR. GOUIN: We don't have a problem
5 doing that.

6 MR. COHEN: Are you planning to start
7 this testimony tonight or not?

8 MR. GOUIN: No, no.

9 CHAIRMAN REINA: No.

10 MR. COHEN: We understand that the first
11 witness next time, assuming that he shows up, we
12 don't know that until the last minute, I guess, is
13 Mr. Ford; is that correct?

14 MR. GOUIN: Correct.

15 MR. COHEN: And then you are going to go
16 into your environmental expert after that?

17 MR. GOUIN: Really what we're going to
18 do hopefully, is we're going to have a supplemental
19 meeting or special meeting after Mr. Ford testifies
20 to go through traffic with Adam Gibson and the
21 Board's traffic consultant.

22 I think we probably would want to get through
23 those two issues and we can revisit all the
24 environmental after we get through those.

25 MR. COHEN: Thank you.

1 CHAIRMAN REINA: So, Mr. Gouin, I want
2 to be clear. So we indicated earlier we're going to
3 hear Mr. Ford and then go into environmental. Are
4 you suggesting --

5 MR. GOUIN: I was hoping we could have a
6 meeting in between. If we can't, we can't.

7 CHAIRMAN REINA: So in between do you
8 want to -- I guess my question is, are you proposing
9 that we start discussing the traffic component in
10 that special meeting?

11 MR. GOUIN: That's what I was hoping
12 for, to have a special meeting to address just
13 traffic.

14 CHAIRMAN REINA: In between Mr. Ford and
15 the environmental?

16 MR. SYLVESTER: You are bringing back
17 Mr. Ford, and you are going to get questions. Most
18 questions are related to traffic.

19 MR. GOUIN: Right.

20 MR. SYLVESTER: Mr. Ford is relying on
21 your studies to answer that without any traffic
22 testimony heard to date, so --

23 MR. GOUIN: I think everybody wants to
24 cross examine Mr. Ford, which is why we're trying to
25 accommodate that, but I don't disagree with you.

1 MR. COHEN: I have a lot of questions
2 for Mr. Ford not dealing with traffic.

3 A VOICE: It does make more sense.

4 MR. SYLVESTER: As long as you're not
5 sitting here and ask 500 questions about traffic when
6 we're trying to move this forward.

7 MR. COHEN: I agree. I think there was
8 some general testimony with Mr. Ford. He's not a
9 traffic expert, nor was he offered. At least I
10 understand that; all right?

11 And everybody should understand that the volume
12 of traffic is not the issue before this Board because
13 my understanding of the law, and I'll defer to Mr.
14 Collins, because this is a permitted use no matter
15 how many trucks are generated as a result of this
16 use. You can't prevent the particular use because of
17 the volume of traffic.

18 We can certainly talk about onsite traffic. We
19 can talk about potential improvements to the
20 roadways, but the traffic still ultimately isn't
21 within your control or realm. It's a permitted use.

22 If they meet the permitted use, if it happens
23 to produce a lot of traffic, so be it. I don't want
24 to get into that discussion tonight. If everybody
25 understands that, it might make it easier, but I

1 wanted to understand the order, as far as your
2 traffic expert is concerned based upon the procedure
3 that the Town is now going through, and obviously
4 that traffic expert needs time to go out there and
5 perhaps study the traffic in the area, review their
6 traffic report and maybe do his or her own traffic
7 counts. That's going to take time.

8 CHAIRMAN REINA: Yes. I suspect that
9 will be 30 days to 45 days.

10 MR. COHEN: Oh, at least that, until
11 they are up to speed with reference to what the
12 traffic situation is out there and how this proposed
13 use is going to impact.

14 Until that person does that study, having their
15 traffic expert and the presence of your traffic
16 expert is not going to be sufficient. We're going to
17 have to wait.

18 CHAIRMAN REINA: And, Mr. Gouin, that's
19 where my confusion was a little bit in terms of, I
20 know we're going to have Mr. Ford at the next
21 meeting. The following meeting we're going to start
22 getting into environmental.

23 I'm happy to schedule any special meetings that
24 we can. I just want to make sure that we've got -- I
25 can't schedule that until I have confidence in when

1 we'll get that reporting back from that third party.

2 MR. KOLLAR: Mr. Chairman, would it make
3 sense to do environmental, traffic, and then Mr.
4 Ford?

5 MR. COHEN: I think that Mr. Ford, you
6 know, we expected Mr. Ford. Now we're delayed
7 another month. If you wait four or five months for
8 Mr. Ford, everybody is going to forget what Mr. Ford
9 said, and I think so far, at least to me and a lot of
10 people here, Mr. Ford may have been the most
11 important witness so far to date, and we haven't had
12 the opportunity to fully cross examine him.

13 MR. SYLVESTER: Understood.

14 MR. COHEN: Thank you.

15 CHAIRMAN REINA: I would like to stick
16 with the original --

17 MR. GOUIN: Fair enough.

18 CHAIRMAN REINA: -- if that's okay.

19 MR. GOUIN: That's fine.

20 MR. COLLINS: Mr. Chairman, why don't
21 you stick with the original? Mr. Ford for June 1st
22 at 7:00 p.m. No additional notices. And why don't
23 you then on June 1st decide when the traffic engineer
24 testimony will be based upon your knowledge of who
25 our traffic engineer is and what his recommendations

1 or her recommendations are as to timing.

2 You know, I think it's going to be hard to do a
3 special because July is the next month. July I think
4 the 7th. July 6th is the first Wednesday in July.
5 That's the likely date when you would be back for
6 this case, and that's probably just about enough time
7 for the traffic engineer to do his work and get back
8 to the Board and be at our meeting with their traffic
9 engineer, so maybe just for now just schedule Mr.
10 Ford for June 1st and be thinking that it's probably
11 likely to be July 6th. Okay. It's hard to --

12 CHAIRMAN REINA: July 6th for traffic,
13 you're saying, Tom?

14 MR. COLLINS: For traffic, assuming it
15 works out. It's hard to do specials in the summer
16 because of schedule availability and meeting room
17 availability, but you can discuss that on June 1st,
18 too, and that being said, I would like to have Mr.
19 Gouin confirm on the record that the time deadline
20 for action on this Site Plan application is at least
21 extended let's say to maybe the end of June for now.

22 MR. GOUIN: Yes. Confirmed. June 30th.

23 MR. DASH: Mr. Chairman, the procedural
24 issue that we raised in the beginning of all of this
25 discussion is subsumed by the fact that next

1 Wednesday, May 11th, is the Zoning Board hearing.
2 Should there be a determination at the Zoning Board
3 that this is not a permitted use but a conditional
4 use, both I assume the Zoning Board or the Applicant
5 ourselves will report to this Board as to their
6 conclusion, and that should be taken into
7 consideration as to whether this application is
8 proceeding before this Board.

9 CHAIRMAN REINA: Correct.

10 MR. DASH: Okay. Thank you.

11 MR. COHEN: One other thing, Mr.
12 Chairman. If for any reason Mr. Ford cannot appear
13 at the next meeting, we should receive some
14 preliminary notice of that.

15 CHAIRMAN REINA: Absolutely.

16 MR. COHEN: Barring an emergency such as
17 somebody is ill or something of that nature, at least
18 10 days before that meeting it should be confirmed
19 that Mr. Ford will be here. It's unfair to the
20 attorneys. It's unfair to the public to prepare
21 cross examination and find out the witness doesn't
22 appear on the night you show up.

23 CHAIRMAN REINA: I completely agree, and
24 we were not notified either.

25 MR. COHEN: I know. I understand that,

1 and we don't know the reason Mr. Ford isn't
2 appearing. It's kind of late now, but we should
3 definitely know that, and obviously Counsel should
4 advise Mr. Ford that the public and the Board were
5 not happy that they were not notified he would not be
6 appearing.

7 Thank you.

8 CHAIRMAN REINA: Thank you, Mr. Cohen,
9 and I do suspect that Counsel will pass that message
10 on.

11 MR. CLARK: Before we adjourn, I was
12 going to raise a procedural issue, if I may do so
13 now, if that's okay.

14 Just one question. I'm sorry. I don't mean to
15 tell you how to do your job. Just having done a lot
16 of litigation, I think one that way that may be
17 helpful, if we could get again who the witnesses are
18 and then the order of testimony, meaning who is going
19 to go on a specific day because if we do want to
20 bring in, you know, an objector to rebut that, we
21 have to do our own scheduling with that witness, so
22 it would be helpful when you make it available on the
23 website that we're going to hear the testimony of the
24 developer's expert on environment, and we then we'll
25 know to bring our environmental expert, and just that

1 would be helpful if you could do that.

2 CHAIRMAN REINA: Yes. We're happy to
3 accommodate and make sure that you have ample notice
4 to make sure if there are any other experts, but I
5 think the cadence of the experts, once we get it from
6 the Applicant, Diana, I think that would be easy to
7 post it on the website under the Planning Board
8 section so we can post the listing of what we --
9 based again on what the Applicant provides, we'll
10 follow the order that you provide.

11 So, Mr. Grouin, when you send that, please
12 keep that in mind. That's the order that we'll try
13 to maintain.

14 COUNCILWOMAN QUINN: We need that for
15 our professionals, too.

16 CHAIRMAN REINA: Yes. Everybody. We
17 will all need that. We will post that for the public
18 so you all have an opportunity to review it.

19 MR. CLARK: Just on that point, thank
20 you, Mrs. Quinn. That was the question I did have.
21 I understand that the Board is going to get its own
22 traffic expert.

23 Does the Board intend to get its own expert for
24 the other areas of testimony that the developer is
25 bringing? For example, stormwater, environmental

1 impact?

2 CHAIRMAN REINA: I think at least as of
3 right now, Mr. Clark, I think we're believing and
4 relying on our professionals that we've got right
5 now. If for some reason there are secondary
6 objections that are raised or things that come out of
7 testimony that we feel we need to get more granular
8 in, I think we would look at that as necessary, but
9 as of right now there's no plan to.

10 MR. CLARK: Okay. Thank you. And if
11 you would just -- I'm sorry. You wanted to speak,
12 Ms. Quinn?

13 COUNCILWOMAN QUINN: I was going to say, we
14 have reports as well from professionals already, so
15 obviously, to his plan, if there's something else we
16 need, just like these other reports that we are
17 asking for, we reserve the right to get them.

18 MR. CLARK: Yes, because I think Mr.
19 Gouin said they're going to have specific experts on
20 specific categories, for example, stormwater,
21 hydrology, et cetera, and the Board may want to
22 consider going out and getting its own hydrology
23 expert, its own stormwater expert.

24 I'm just raising that, and if you do, would you
25 let the public know because otherwise we may be able

1 to rely on the Town's expert as opposed to having to
2 hire a separate --

3 CHAIRMAN REINA: Having to bring
4 another. Certainly.

5 MR. CLARK: So we don't have to go to
6 that expense.

7 CHAIRMAN REINA: Fully understand, Mr.
8 Clark.

9 COUNCILWOMAN QUINN: Ultimately it's the
10 DEP.

11 CHAIRMAN REINA: Yes. Ultimately any of
12 this is to the DEP.

13 The question is, if we are going to engage
14 somebody, notify so we don't have duplication of
15 expertise?

16 MR. CLARK: Exactly, and if the Board at
17 its own expense is going to get its own hydrology
18 expert, stormwater expert, et cetera, to let the
19 public know. Otherwise, then the objector is going
20 to have to dig into its own pocket and do that, but
21 if you're going to do that, that would obviously
22 affect our calculus about whether we do that or not.

23 CHAIRMAN REINA: As of right now,
24 there's no plan for that.

25 MR. CLARK: Okay.

1 CHAIRMAN REINA: I leave it at that.

2 MR. CLARK: Thank you. Also I
3 understand there's a transcript of this proceeding
4 and the prior proceeding. If that's made available
5 to you, we would appreciate it if you would also make
6 it available to the public; otherwise, we'll just
7 have to purchase it from the court reporter.

8 CHAIRMAN REINA: Tom, how does that work
9 for these proceedings? I know Diana keeps minutes,
10 but in terms of the stenography --

11 MR. COLLINS: If it is supplied to us,
12 if it's supplied to us, it's a public record. I
13 don't believe we have any transcripts from the
14 previous stenographer.

15 COUNCILWOMAN QUINN: So will be getting
16 those? Would they be added as exhibits or --

17 MR. COLLINS: I don't think you are
18 getting them. I don't know if they're being made.
19 He seems to know more than I know about it.

20 CHAIRMAN REINA: Ask the stenographer or
21 --

22 MR. CLARK: It's something you can ask
23 Mr. Gouin, the Applicant's attorney.

24 MR. GOUIN: Right. So the first
25 hearing, we don't have a transcript made on the first

1 hearing yet, and we're waiting on the transcript of
2 the second hearing. First hearing was via ZOOM, so
3 it's a whole process.

4 CHAIRMAN REINA: Yes. That one is, I
5 believe, already out and open to everybody.

6 MR. GOUIN: And obviously we're going to
7 have this transcript, but once we have all the
8 transcripts of all the hearings, we will file them
9 with the Board, and they will be public records,
10 so --

11 COUNCILWOMAN QUINN: Thank you.

12 CHAIRMAN REINA: Okay. Maybe we can
13 consider, I mean just in light of this, I know we've
14 got a stenographer, but maybe it's something we can
15 talk about as a board as well with regards to whether
16 or not we do or don't have access I guess to the
17 stenographer reports.

18 COUNCILWOMAN QUINN: We have the
19 recordings that are recorded, audio.

20 MR. CLARK: Just for the record, if Mr.
21 Gouin does make those transcripts available and then
22 they become a public record, we specifically put on
23 the record now that we would ask for a copy of those.

24 Thank you.

25 CHAIRMAN REINA: I would go back to Mr.

1 Collins' statement ---

2 MR. COLLINS: What I said before, if
3 people -- attorneys know this. If you copy something
4 to the Board, say, for example, the transcripts,
5 please copy the other three attorneys on that copy.
6 When you copy it. Please! And if you copy me --

7 CHAIRMAN REINA: I was going to say the
8 same exact thing, Tom.

9 MR. COLLINS: That would make it a lot
10 easier for everybody.

11 CHAIRMAN REINA: Copy all of the
12 attorneys.

13 MR. COLLINS: Right.

14 COUNCILWOMAN QUINN: And it will be
15 posted if it's made available. That's what I had
16 said to you the other day, that we would ask about
17 that.

18 MR. CLARK: Right, and I understand it.

19 Mr. Gouin, you correct me if I'm wrong, you do
20 intend to provide a transcript to this Board when
21 it's available; is that right?

22 MR. GOUIN: Yes. The ZOOM transcript of
23 the first hearing is taking a while to get done, but,
24 yeah, we will provide them and whenever we get this
25 one as well.

1 MR. CLARK: Thank you, sir.

2 CHAIRMAN REINA: Thank you.

3 MR. CLARK: And thank you, Board.

4 MR. COHEN: Just following up with that,
5 are there audio transcripts available, or are there
6 also video transcripts?

7 COUNCILWOMAN QUINN: Audio.

8 CHAIRMAN REINA: Audio. We don't have
9 video capability here.

10 MR. COHEN: You have audio recordings?

11 CHAIRMAN REINA: Audio within this
12 facility.

13 MR. COHEN: Which can be purchased by
14 any member of the public.

15 MR. COLLINS: A digital audio recording
16 is available by asking through an OPRA request
17 through the Town Clerk. The ZOOM video is probably
18 available. I believe it was --

19 MR. DASH: It's online.

20 COUNCILWOMAN QUINN: It's online.

21 MR. COLLINS: So I don't know what the
22 issue is with that.

23 MR. COHEN: Very good. Thank you.

24 A VOICE: We're asking for a written --

25 MR. CLARK: The issue with that is, in a

1 court proceeding the transcript becomes part of the
2 record.

3 COUNCILWOMAN QUINN: We do minutes.

4 MR. GOUIN: Like I said, we're having --

5 COUNCILWOMAN QUINN: That's what I said
6 to Mr. Clark.

7 MR. GOUIN: But we are having a
8 transcript of that ZOOM hearing made. It's taking a
9 while to get it, but we are having that done.

10 COUNCILWOMAN QUINN: If anybody would
11 like to listen to the audio, you can get an OPRA
12 request form and get a copy of it.

13 CHAIRMAN REINA: Motion to adjourn?

14 MR. COLLINS: Before you do that, the
15 hearing on Diamond Chip is carried without additional
16 notices to June 1st at 7:00 p.m. here at the
17 Municipal Building. There will be no further
18 notices.

19 Now Mr. Chairman.

20 MR. SYLVESTER: I make a motion to
21 adjourn.

22 MR. KOLLAR: Second.

23 CHAIRMAN REINA: Meeting adjourned.

24 Thank you, everybody.

25 (Proceedings conclude at 10:12 p.m.)

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C E R T I F I C A T E

I, LINDA BOTTONE-MORANO, A Notary Public and Certified Court Reporter of the State of New Jersey, do hereby certify that the foregoing is an accurate and true transcription of my stenographic notes as taken at the aforementioned place, date, and time.

I FURTHER CERTIFY that the witnesses were duly sworn according to law by Mr. Collins prior to testifying.

I FURTHER CERTIFY that I am neither attorney for nor counsel to any of the parties; that I am not related to nor employed by any of the parties or any of the attorneys in this action; and that I am not financially interested in this action.

Linda Bottone-Morano

LINDA BOTTONE-MORANO,
CERTIFIED COURT REPORTER
CERTIFICATE NUMBER XI00733

A		
A-100	accurate	81:13 82:2
5:18 123:16	61:10 186:7	adjoins
A-2	acoustical	73:20
5:17 72:24 75:14	81:12	adjourn
A-3	act	71:17 177:11 185:13,21
5:18,18 123:13,14,16	14:15 37:6	adjourned
A-n-a-n-d	action	185:23
16:11	175:20 186:16,17	Adjustment
abandoned	active	62:11
55:20	122:14	Administration
abatement	actual	14:17
80:14	16:25 27:11 35:25 100:16	admitted
ability	123:24 125:1 151:8 169:8	105:8
6:7 69:12 156:21	Adam	adopt
able	170:20	10:14
8:19 9:25 33:2 55:3,8 68:8,12	add	adopted
68:23 69:13 74:19,21 108:8	41:3 92:16,18 147:13 150:16	152:25
116:9 126:4 132:18 135:14	150:17 161:4 163:23	Adrian
159:25 165:9 179:25	added	5:9 115:15,24
ABROMITIS	181:16	advance
2:15	addition	169:12
absolutely	11:1,16 163:24	advanced
92:12 106:16 110:7 123:8	additional	19:18
146:20 147:18 150:1,3	15:12 24:25 25:15 51:13,14	advice
176:15	66:7 121:6 147:14 162:18	94:19
accelerate	166:1 169:20 174:22 185:15	advise
80:18	address	26:16 177:4
accept	6:17 9:20 11:24 12:4,7 20:4	advisement
23:12 137:17 154:8 156:5	21:1,20,22 22:8 24:25 29:19	110:1
163:8	31:14 41:19 45:25 49:8	affect
accepted	50:17 52:1 58:1,3,16 64:10	180:22
26:9	67:10 69:21 71:4,6 74:19,21	aforementioned
access	88:1 89:5 96:15 109:6,9	186:8
28:25 43:4 76:21 90:9 91:5	114:8 115:23 118:10 132:18	afternoon
182:16	136:13 143:15 145:17	12:19,22
accessway	157:11 168:25 169:3 171:12	agency
76:7,11 78:21 79:10,24 80:9	addressed	41:25 50:6,12 51:20 135:16
88:13 89:3 90:18	6:19 18:8 20:1,3 30:18 40:13	146:17
accessways	116:11 119:13 121:2,12,14	ago
74:2 75:10,14 76:1	127:21 132:12 143:25 144:8	16:14
accommodate	148:24 151:25 162:22	agree
69:25 93:6 121:5 166:17	addressing	53:13 55:14 58:6,14 147:20
171:25 178:3	19:9 59:10 88:3	147:25 155:8 163:16 172:7
accommodating	adjacent	176:23
80:5 97:7	72:7 76:8,22	Agreed
	adjoining	11:18 25:7 78:4 85:3 91:17

<p>agreeing 92:23 135:17</p> <p>ahead 23:17,22 26:3 29:22 34:14 45:15 59:22,23 65:4 67:15 75:4 100:16 116:22 130:8</p> <p>air 78:15 82:13,15,23,24 83:7 84:5,17 85:2 140:7,9,10,12 140:17,22 168:12</p> <p>aisles 124:25 125:4</p> <p>alleviate 54:11</p> <p>allocation 98:7,10</p> <p>allot 12:6</p> <p>allow 23:14 42:13 86:6</p> <p>allowed 42:3,3,23 43:2,3 63:18 91:9 91:13 114:16 116:3</p> <p>alongside 27:20,22 112:11 113:2</p> <p>alternate 118:4</p> <p>altogether 160:13,14</p> <p>amazed 12:21</p> <p>ambient 118:18</p> <p>ameliorate 82:7 109:9</p> <p>amend 97:21 146:25</p> <p>amended 150:16</p> <p>amendment 99:16 100:21,21</p> <p>amendments 100:6</p> <p>amount 97:5</p> <p>ample</p>	<p>178:3</p> <p>analysis 10:12 11:15 30:20 41:17,22 54:22 62:14 89:19,24 96:19 138:5 160:6</p> <p>ANAND 2:20</p> <p>ANDREW 1:10</p> <p>announced 12:13</p> <p>answer 25:14 38:3 46:17,20 53:18,19 55:3 58:5 59:20,21 60:2,8 61:15 74:14 77:20 78:25 80:3 83:14 84:12 85:13,20 92:24 94:5,11 95:3 100:3 113:17 114:11 115:10 117:1 118:11 119:5 127:16,19 128:2,7,10 129:18,19 131:23 132:10,19 133:6,11 135:22 135:23 150:16 153:10 159:21,25 161:11,17,21,25 171:21</p> <p>answered 20:16,19 56:5 84:23 87:9 89:10 93:22 94:11,22 95:1 121:8 126:22 127:4 128:16 129:17 130:17</p> <p>answers 74:12 77:9,25 99:2</p> <p>anticipate 169:9</p> <p>anticipated 9:2 10:22 88:18 153:13</p> <p>anticipating 89:21</p> <p>anybody 13:23 22:2 59:10 70:11 185:10</p> <p>anyway 165:15</p> <p>apologies 6:13 158:17</p> <p>apologize 22:10 38:2 44:14</p>	<p>apparent 109:4,5</p> <p>apparently 25:1 26:10 58:24</p> <p>appear 176:12,22</p> <p>appeared 23:1,2</p> <p>appearing 164:20 177:2,6</p> <p>appears 25:5 48:13</p> <p>Applause 40:7 45:9 54:17 55:24 56:24 63:14 65:21 78:5 100:24 103:18 108:21 110:3 135:24 165:7</p> <p>applicable 37:25 44:6 47:4 50:19</p> <p>applicant 2:9 8:18,25 12:4 15:21,23 24:23 25:10 46:12 48:13 51:12 99:6,7,13 105:7 107:15 109:6,9 166:15 176:4 178:6,9</p> <p>Applicant's 19:15 181:23</p> <p>applicants 52:10</p> <p>application 1:3 9:5 16:13 17:14,18 23:9 32:5,9 34:22 47:5,8,18 48:19 48:24 50:14 51:15 52:7,11 52:15,16 91:13 93:3 97:21 98:7,10,11 104:13,19 105:11 105:13,25 107:5,11,19 108:18,24 118:9 136:21 137:2,13 143:13 146:20 147:16 148:3 150:22 151:6 168:16 175:20 176:7</p> <p>application's 107:6</p> <p>applications 50:10 52:22 98:13 145:24 147:8,17 153:10 166:1</p> <p>applied</p>
--	--	---

<p>36:1 applies 151:23 apply 47:4 appreciate 6:7 10:5 11:19 19:19 34:15,19 40:6 67:19 68:17 78:6 110:12 130:7 166:24 181:5 approach 163:3 appropriate 10:10 44:25 89:13 109:12 119:17 128:11 153:21 163:18 167:15 169:2 appropriately 86:19 approval 47:1 49:21,22 50:2,3,15 51:18 51:19,21,22,25 81:22 88:25 91:12 99:8 135:17,18 approvals 50:6,9,12 51:20 approved 153:2,9 approximately 73:21,23 76:10 79:12 87:4,11 87:14 96:5 114:2 119:22 April 6:13 apt 128:10 133:6 aquifer 148:14,22 149:6,11 150:8,9 150:11,12 161:19 164:12 aquifers 148:16 architect 3:5 9:17 24:15 110:18,20,24 111:10 114:17 116:4,15,23 architectural 111:15 114:9 123:6,12 125:13 architecture 20:3 area 36:8 37:6,15 38:24 42:23</p>	<p>48:23 49:20 82:24 95:11 99:23 103:7 120:9 134:21 145:2 149:23 173:5 areas 30:16 37:14 49:20 50:16 79:25 109:5,5 122:3 150:2,6 150:13 154:4 160:11 167:12 178:24 argument 108:12 164:13 ASAP 110:10 asked 30:20 43:10 54:19 65:24 66:18 69:3 73:20 76:9 78:1 78:20 84:23 86:21 87:8 94:5 94:10,22,25 98:17,21 100:1 100:6,18 113:15 116:14,21 121:1,8 126:4 127:23 132:8 138:23 146:25 147:22 154:5 161:9,15 168:8 asking 26:15 33:11 50:1 55:1 56:2 58:2 64:11 65:7 73:6 74:8 75:22 77:23 79:19 84:1,10 85:5,6,10 89:1,12 93:20,24 93:25 94:7,13 96:17 107:2 116:14,16 117:15 123:18 125:19,24 127:6,20 129:6 131:21,22 132:5 133:4 139:11,16,17 149:21 179:17 184:16,24 assessing 149:15 assessment 41:17 54:19,20 105:15 126:25 128:23 129:1 137:13 138:11 158:10 169:1,18 assistant 80:7 Associates 103:25 104:3 Associates' 108:14 assume 165:14 167:8,9 176:4</p>	<p>assuming 43:14 170:11 175:14 assumption 133:18 attend 74:24 126:6 attendance 19:2 attention 79:8 attorney 19:15 27:14,18 52:23 110:14 128:9 133:2 181:23 186:14 attorney's 70:23 attorneys 6:22 14:25 15:24,25 23:14,21 23:23 70:19 71:25 72:2 137:20 176:20 183:3,5,12 186:16 attorneys' 12:7 attract 111:13 audience 6:18,24 10:13,20 40:7 45:9 54:17 55:24 56:24 63:14 65:21 73:4 78:5 100:24 103:18 108:21 110:3 135:24 165:7 audio 66:2,7 69:12 182:19 184:5,7,8 184:10,11,15 185:11 August 50:25 author 40:19 authority 69:11 authorization 50:23 authorized 9:7 Auto 86:17 availability</p>
---	---	---

<p>175:16,17 available 159:20 160:25 177:22 181:4,6 182:21 183:15,21 184:5,16 184:18 Avenue 1:23 136:15 average 82:20 125:9 aware 49:7 87:19 88:11,14 96:3 97:20,24 98:1 100:2 117:11 140:15 143:6,7,20 144:13,19 148:9,12 154:22 155:1</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 5:13 45:20 119:12 B.A 142:6 Bachelor 142:8 Bachelor's 22:24 137:6 back 11:7 15:19 25:15,16 50:25 52:12,20 53:19 57:21 68:21 69:22 70:13 71:3,22 78:16 78:23 79:6 92:8 134:6 135:23 149:18 157:16,24 158:8 159:11,12 161:21 167:4,17 171:16 174:1 175:5 175:7 182:25 background 65:9 backup 117:24 118:3,5,9,20 119:7 balance 166:14 Bank 2:8 barely 59:4 barrel 161:22 Barring</p>	<p>176:16 base 60:13 based 10:7 32:23 45:14 48:1,6,11 52:8 116:13 133:7 139:23 141:20,21,22 144:20 145:9 145:12,13 166:6,16 167:23 173:2 174:24 178:9 Basic 127:17 basically 52:6 basin 49:1 basis 102:7,8,12,14 128:7 129:25 145:17 146:8 150:7 163:21 Basking 2:21 bay 121:24 122:17,17,18,19,24,25 123:1,3,18,19 124:4 bays 102:10,11 121:24 122:1,13,20 123:21,21,22,25 124:6,8,9 124:10,11 beat 31:21 began 96:5 beginning 44:16 70:20 76:9 175:24 behalf 46:5 133:11,12 believe 10:16 13:25 14:14 27:17 36:6 49:5 52:9 66:14,22 68:11 73:18 83:2 85:1 91:8,15 94:8 105:2 117:6 119:19,25 120:5 121:13 122:6 126:22 135:21 139:3 143:25 144:8 181:13 182:5 184:18 believing 179:3 belligerent</p>	<p>57:17 58:23 59:9 benefit 9:12 54:22 benefits 53:24 54:5 best 64:19 74:14 better 17:15,17 78:12 128:10 beyond 61:8 96:8 119:6 159:5 big 32:24 39:19 92:2 164:5 Bill 45:10,11,11 bio-retention 49:1 bit 34:16 49:10 150:23 173:19 black 65:9 Blumetti 5:4 45:12,17,24 46:1,1 47:7 47:11,16 48:10 49:12 50:20 52:18,25 53:2,7,21 54:18,24 55:9 56:1,2,9,14,15,25 bluntly 158:25 board 1:1,9,19 2:5 6:3,5 8:15 9:7,9 9:12 10:6,9 11:2,5 13:19,21 13:22 14:15,24 16:16,17,25 17:8,17 18:6,7,9,22 19:7,16 23:2,11 25:6 28:21 30:14 33:20 37:4 40:13,19,22 41:2 41:4,7 46:4 50:1,11 51:25 54:21 62:9,11,12 67:18 71:9 71:18 72:21,21 73:4,6 81:24 82:7 88:24 94:20 97:21 103:16,23 104:23 106:25 107:17 108:4 109:1 110:1 132:17 134:3,11 136:20 137:16 153:4,6,12,24 154:6 154:7 155:15 156:13,17 157:23 158:6 159:11 162:23 165:12 166:10 167:13,16</p>
---	---	---

<p>169:19 170:1 172:12 175:8 176:1,2,4,5,8 177:4 178:7,21 178:23 179:21 180:16 182:9 182:15 183:4,20 184:3</p> <p>Board's 32:8 38:21 45:1 94:20 157:22 163:17 170:21</p> <p>boards 23:3 82:4</p> <p>body 133:16</p> <p>borings 146:12</p> <p>bother 57:23,24</p> <p>BOTTONE-MORANO 1:20 186:4,20</p> <p>Boulevard 2:12,20 30:4</p> <p>boundary 109:3</p> <p>Brakes 81:11</p> <p>Brandywine 62:6</p> <p>break 7:2 70:11 71:4,20 73:21 149:25</p> <p>breakdown 167:6</p> <p>brief 71:21 97:19 101:4</p> <p>briefly 47:17 52:18 150:23</p> <p>bright 43:14</p> <p>bring 11:7 109:13 126:15,17 157:16 157:24 159:10,12 164:6 165:1,3,10 167:17 168:19 169:2 177:20,25 180:3</p> <p>bringing 163:3 171:16 178:25</p> <p>broader 162:12</p> <p>Brook</p>	<p>115:19,25</p> <p>brought 35:21 79:7 109:17 126:16 128:15 129:8</p> <p>buffer 48:22 49:2</p> <p>build 48:17,20 100:11 101:14 118:21</p> <p>building 30:22 35:12 36:23,25 37:4,5,6 37:7,10,14,15,17 112:11,12 112:16 113:2,3,13,23,25 117:3,5 118:18 119:3,6,25 120:2,9,12,15 122:11,25 124:7,14 125:10 128:24 134:24 135:8,13 185:17</p> <p>buildings 36:9,12 37:1 55:21 79:25 112:3,5 119:16</p> <p>buildup 163:20</p> <p>bumper 86:25 87:1</p> <p>bunch 159:9</p> <p>Burns 2:18 72:6,7</p> <p>business 21:22 90:20</p> <p>butchering 22:11</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C 2:1 21:13,13 64:5 111:22 136:8 186:2,2</p> <p>C-400 95:9</p> <p>c/o 21:14</p> <p>cadence 178:5</p> <p>calculation 152:1</p> <p>calculus</p>	<p>180:22</p> <p>call 7:5 20:6,9 122:1 123:22 124:11 132:6</p> <p>calling 6:4 12:5 20:21</p> <p>cameras 61:7</p> <p>Campus 2:12</p> <p>capabilities 46:22 47:2 66:7 68:22 69:7</p> <p>capability 46:14 69:4 184:9</p> <p>capacity 131:1,2</p> <p>CAPRA 141:10</p> <p>car 53:11 59:5,14 131:16,16</p> <p>card 54:7</p> <p>care 30:1 43:18</p> <p>cargo 32:22 121:21 125:10 126:15 126:16,18</p> <p>Carnegie 21:15,22 22:8</p> <p>carried 185:15</p> <p>carries 50:4</p> <p>carry 156:8 166:1,3</p> <p>carry-overs 6:15</p> <p>cars 122:22</p> <p>case 15:10,20 21:4 23:14 25:3,4,17 26:10 107:22,22 108:2 121:24 122:17 123:21 124:11 134:4 143:15 175:6</p> <p>cases 86:25</p>
---	--	---

<p>categories 179:20</p> <p>caught 44:15</p> <p>caused 54:15</p> <p>center 21:15,23 22:8 124:10</p> <p>centers 36:14,15</p> <p>Century 119:8</p> <p>certain 36:2 37:25 52:8 121:5 140:15 147:21 160:11 169:20</p> <p>certainly 10:4 19:14 22:6 44:3 48:4 50:16 69:20 71:19 91:22 107:3,4 135:11 168:15 169:11 170:3 172:18 180:4</p> <p>CERTIFICATE 186:21</p> <p>certification 156:9</p> <p>Certified 1:21 186:5,20</p> <p>certify 186:6,10,13</p> <p>cetera 78:15 79:25 147:4 169:25 179:21 180:18</p> <p>chain 54:16</p> <p>Chair 115:7</p> <p>Chairman 1:10 6:2 7:20,21,22,25 8:2,5 9:1,24 10:4,21,24 11:11,14 11:19,22 13:10,25 14:4,20 14:23 16:6,12,18 17:23 18:3 18:8,15,23 19:1,6,14,21 20:24 21:2,3,8,25 22:20,21 23:13,18,24 26:12,20 28:10 29:4,9 30:9 31:2 33:10,16 40:5,8,12 41:10,14 42:20 44:9,11 45:6 46:3 52:4,17,24</p>	<p>53:3 54:18,25 55:25 56:13 57:12,15,20,25 58:24 59:2,8 59:13,18,21,22,24 60:7 63:15 65:22 66:13,21 67:18 68:14,17 69:19 70:6,9,17,22 70:25 71:3,11,14,19,22 72:11 73:3 74:17 75:4 77:14 77:16 78:4 80:21 81:1,5,9 84:8,23 85:3,8 87:25 89:4,9 89:14,18 90:13 91:6 94:12 94:21,24 95:3 96:14,24 97:13,16 101:2 106:10 107:13 108:10,22 109:1,19 110:2,4,12,16,22 111:5,17 113:15 114:19,22 115:4 116:8,12 118:2,6,19,24 120:5,22 121:3,9 122:4,8 125:19,25 126:5 127:1 128:19 129:12 130:8,19,24 131:11 132:6,15 134:1,13,17 138:14 141:24 156:1,4,19 158:12,17,22 159:24 161:4,6 163:7,11,16,22 164:15 165:8 165:25 166:6,13 167:2,3,4 167:21 168:5 170:9 171:1,7 171:14 173:8,18 174:2,15,18 174:20 175:12,23 176:9,12 176:15,23 177:8 178:2,16 179:2 180:3,7,11,23 181:1,8 181:20 182:4,12,25 183:7,11 184:2,8,11 185:13,19,23</p> <p>CHAIR 2:3</p> <p>chance 9:10 11:5 65:20 66:18 71:17 77:3 168:3</p> <p>change 42:24 43:6 51:22 62:15 79:13 99:24</p> <p>changed 79:24</p> <p>changes 50:5</p> <p>changing 136:1</p> <p>Chapman</p>	<p>5:7 64:1,11,15,21,22,25 65:6 65:23 66:10,16,21 67:23</p> <p>characterization 37:18</p> <p>characterized 36:23</p> <p>characterizing 39:4</p> <p>charging 46:14,22 47:2,14,19,25 48:5,8 117:4</p> <p>check 61:7 169:24</p> <p>checked 50:22</p> <p>checklist 104:11 105:4 106:23 107:10 108:13 109:23</p> <p>Cheryl 61:16,17</p> <p>Chip 1:4 6:10,15 50:24 166:8 185:15</p> <p>chosen 13:23</p> <p>Chris 11:20 20:6,8</p> <p>Christine 1:11 12:5</p> <p>Chuck 66:23,24</p> <p>Ciesla 2:7 8:25</p> <p>circulation 122:2,18 123:18,20 124:10</p> <p>circumstances 147:20 150:10</p> <p>citizen 66:16</p> <p>citizens 65:18</p> <p>civil 3:3 20:3 21:14 128:8 154:4</p> <p>clarification 145:6</p> <p>clarify</p>
--	--	---

<p>28:21 42:21 98:5,20 120:22 132:24 149:19 152:17</p> <p>clarifying 147:2,18,22</p> <p>Clark 2:11,11 4:9,19 16:3,7 25:13 25:20 71:5,8,16 101:4,5,7 103:11 107:17 108:5 110:23 141:25 142:2,4 153:15 154:3 164:24 177:11 178:19 179:3 179:10,18 180:5,8,16,25 181:2,22 182:20 183:18 184:1,3,25 185:6</p> <p>classes 145:9 148:18,21</p> <p>clear 43:21 95:18 113:20 129:13 144:24 164:19,22 171:2</p> <p>clearly 15:11 54:1</p> <p>Clerk 184:17</p> <p>clever 127:6,9,13,15,18</p> <p>cleverly 128:16</p> <p>client 12:24 73:17 78:13,17,23 79:6 80:5,6 82:25 96:5 113:14 149:22</p> <p>client's 76:8,17 78:11,11,22 88:13 89:22</p> <p>clock 43:16</p> <p>close 133:10</p> <p>closest 82:25 84:3 122:14</p> <p>code 32:17 34:20 35:5 36:11,18 118:15</p> <p>Cohen 2:15,16 4:7,13,18 12:10 13:12 14:2,13,21 15:2,5 16:7,7 22:20,23 23:24,25 24:2,4,12</p>	<p>24:18,21 25:4,7,23 26:1,10 26:12,14,21 27:1 28:8 66:25 70:17 71:1,2 72:4,5,6,13 73:1,3,5,15 74:6,20 75:2,5,6 77:2,14,17,18 78:6 80:21,24 81:7 84:10,24,25 85:6,10 87:25 88:3,6 89:4,7,12,16,25 90:14,22 91:1 92:22 93:19 93:20,21,24 94:3,6,12,15,17 94:18,24 95:2,7 96:14,22 97:13,15,16,17 98:6,16,22 98:24 99:1,10 100:1,17 107:17 108:5 110:23 111:9 112:1 113:6 126:22 137:22 137:22 138:1,8,16 141:18,24 156:12,24 157:4 168:7,10,21 169:4,13,23 170:6,10,15,25 172:1,7 173:10 174:5,14 176:11,16,25 177:8 184:4,10 184:13,23</p> <p>cold 36:13 118:18</p> <p>colleagues 60:11,25 103:7</p> <p>collect 12:2 51:13</p> <p>collected 70:3</p> <p>college 137:7 143:12 145:10 148:19 148:19 149:6</p> <p>Collins 2:3,3 13:23 14:1 15:5 16:24 17:3,7,11,15,16,19 18:1 21:10,17,19 23:13,20 24:2,5 24:14,18,23 25:8,24 26:3,5,8 26:17 29:15,18,22 31:10,13 31:24 33:1,9 34:2,9,13 39:24 43:2 45:17,22,24 47:3,9,12 57:3,6 58:5,8,10,14,20 60:1 60:6,18 61:21 62:2 63:20 64:2,6,9,13,15,19,23 65:1 67:4,7,10,14 70:22 71:11,12 73:12 74:3 77:18 91:7 93:19 93:21 94:2,4,8,14,16,18,21 98:22,24 99:2,6,12 100:10</p>	<p>100:18 107:15,20 111:19 115:7,12,22 116:12,20 117:13,16 123:5,9,25 124:5 129:14,18,20 130:1,4,11 131:6,13 133:21,25 134:8,13 134:15 136:2,5,9,12 137:20 154:14 156:4,7 172:14 174:20 175:14 181:11,17 183:2,9,13 184:15,21 185:14 186:11</p> <p>Collins' 183:1</p> <p>combination 88:9</p> <p>come 20:25 30:24 34:18 38:16 43:15 51:20,25 65:13 67:24 68:3 70:13 71:3 80:15 115:4 133:1 135:4,23 139:7 157:10 158:8,8 179:6</p> <p>comes 53:19 125:11 145:22</p> <p>coming 6:6 22:2 63:8 88:12 95:24 166:15 167:1,1</p> <p>Commencing 1:8</p> <p>comment 35:1 62:19 67:17 107:13 109:4 138:24 140:17</p> <p>comments 8:12 157:18</p> <p>commercial 42:3,17</p> <p>commission 46:6 154:23 155:2</p> <p>Commissioner 43:23</p> <p>Committee 9:6</p> <p>common 149:2</p> <p>communicate 15:25 17:8 68:12</p> <p>communication 16:15</p>
---	--	--

<p>communications 16:16</p> <p>community 46:4</p> <p>commutes 68:4</p> <p>company 14:10 106:18 135:3 137:4 160:5,17</p> <p>comparison 120:24</p> <p>complete 8:15 105:11 107:6,9,11,19,23 108:19 109:23,24 142:13 146:6,21</p> <p>completed 143:11 151:16</p> <p>completely 176:23</p> <p>completeness 105:4 107:6</p> <p>completing 137:8</p> <p>complex 53:15 54:11</p> <p>compliant 76:23 78:18,19</p> <p>complied 140:14</p> <p>comply 44:1,4 47:5,10,24 48:5,8 50:18 83:9 139:10,23 140:12 145:23,25 152:5,7,24 157:21</p> <p>complying 44:5 62:20</p> <p>component 10:2 32:24 35:3 39:15,19 40:3 80:22,23 85:4 89:23 96:16 114:24 133:18 134:25 135:11 143:12 149:2 161:1 162:11 164:12 167:8,24 171:9</p> <p>components 55:6,6 89:5 125:20 145:21 150:24 159:1 163:19 169:1,3</p> <p>composite</p>	<p>159:9</p> <p>comprehensive 35:7 37:22</p> <p>concentrate 6:19</p> <p>concepts 62:10</p> <p>concern 19:10,12 54:21 78:16 79:8 82:12 83:2 93:6 129:17 134:19 135:2</p> <p>concerned 49:12 63:5 108:7 173:2</p> <p>concerning 24:1</p> <p>concerns 49:13 89:20</p> <p>concise 8:12</p> <p>conclude 185:25</p> <p>concludes 70:7</p> <p>conclusion 134:3 139:8 176:6</p> <p>conclusions 155:6,7 157:1 161:2</p> <p>condition 60:12 61:9,10 88:25 135:18</p> <p>conditional 35:23 36:1 38:1 176:3</p> <p>conditions 35:25 36:2,3,5,20 52:9 75:12 75:16,18,19,23</p> <p>conduct 14:6 160:5</p> <p>conducted 6:25 10:17,17 160:9</p> <p>confer 140:23</p> <p>confidence 173:25</p> <p>confirm 14:9 102:1,24 110:17 122:4 175:19</p> <p>confirmed</p>	<p>175:22 176:18</p> <p>conforming 108:12,19</p> <p>confusion 164:17 173:19</p> <p>connect 97:22 98:14 100:8</p> <p>connected 99:23</p> <p>connection 99:17 106:18 153:9</p> <p>conscious 8:16</p> <p>consensus 163:17 166:22</p> <p>consequences 18:20</p> <p>consider 35:21 55:18 61:15 68:10 81:24 153:14 168:2 179:22 182:13</p> <p>consideration 41:25 42:1 76:20 78:9,21,24 79:1,4,7 81:12 82:13,22 83:1 83:6,10,13,16 84:4,12,13,17 85:5,11,12,17,23 92:14 111:14 153:25 169:21 176:7</p> <p>considered 42:7 56:3 81:19 122:1 123:1</p> <p>considering 93:12</p> <p>constantly 63:2 130:14</p> <p>Constructing 55:14</p> <p>consultant 9:4,8,10,13 127:21 156:6 170:21</p> <p>consulting 84:15</p> <p>consumer 53:25</p> <p>contacted 63:3</p> <p>contained 145:5</p>
---	---	---

<p>contending 107:24</p> <p>contested 23:14 26:10</p> <p>contesting 26:13,15</p> <p>contests 26:10</p> <p>continuation 6:11</p> <p>continue 12:14 18:10 24:25 33:5 89:14 107:25 114:25 145:12</p> <p>continuing 15:10 142:12,15 148:20 149:7 151:5</p> <p>control 69:11 88:22 89:2 92:10 103:24 104:2,3,4 105:16 108:14 172:21</p> <p>conversation 41:1 65:23 69:2</p> <p>conveyance 166:8</p> <p>cooperative 9:14</p> <p>coordinated 135:2</p> <p>copied 17:3</p> <p>copy 16:4,6,8,24 17:7 107:16 110:6 110:11 155:3 182:23 183:3,5 183:5,6,6,11 185:12</p> <p>copying 16:2</p> <p>core 56:21 163:24</p> <p>corner 57:21</p> <p>correct 6:12 8:23 17:1,5 23:9 24:22 33:14 38:17 39:7 58:7 74:1 75:11 76:4,12 83:24 86:2,3 93:10,11 95:21 103:9 112:12 112:19 113:5 118:2,8,23</p>	<p>120:1 122:9,16 124:3,16,19 137:14,15 138:25 139:1,6 140:5,18,19 142:19 144:12 156:20,23 158:20 160:18 162:15,15 170:13,14 176:9 183:19</p> <p>corrected 26:14</p> <p>correctly 39:5 122:13</p> <p>corridors 124:18</p> <p>cost 54:21</p> <p>Council 10:14 13:21 65:8 66:3 69:11 129:8 133:16</p> <p>Councilman 1:12 7:10,12</p> <p>Councilwoman 1:11 7:15,17 11:21 14:19 20:10 26:4,7 29:8 31:3 41:1 41:8 42:10,12 43:7 45:10 57:1,19 61:16,19 63:24 64:1 66:14,23 67:1 70:2,6 73:10 73:13 79:3 85:15 100:25 120:4,6 161:8 164:6 165:14 165:19 178:14 179:13 180:9 181:15 182:11,18 183:14 184:7,20 185:3,5,10</p> <p>counsel 2:5,9,14,18,22 84:16 110:11 132:12 156:14 177:3,9 186:14</p> <p>count 42:15,16 54:2</p> <p>counts 173:7</p> <p>county 68:5</p> <p>couple 6:15 8:2 10:18 20:17 166:23</p> <p>course 25:11 27:20 33:3 34:19 108:8 108:17</p> <p>courses</p>	<p>143:11 151:4</p> <p>court 1:21,22 62:6 63:2 142:23,24 142:25 143:6 181:7 185:1 186:5,20</p> <p>courteous 8:9,12</p> <p>courtesy 15:24 16:9 18:18</p> <p>covenants 104:9 105:9 106:2,19,22</p> <p>covered 84:8 85:4</p> <p>covers 167:14</p> <p>COVID 54:7 68:1</p> <p>crack 32:7</p> <p>creation 54:2</p> <p>credentialed 144:21 153:22</p> <p>criteria 86:4</p> <p>critical 164:12</p> <p>criticizing 99:4 138:9</p> <p>cross 4:2 6:21,24 10:25 11:9 12:7 12:11,14,15,16,25 13:4,5 15:3,4,5,14,18 24:7,8,13,14 24:19 25:5,12 36:16,21 44:21,25 63:21 72:1 77:3,5,7 77:7,10,12 90:12 98:18 110:18,25 115:3 124:18 155:13 171:24 174:12 176:21</p> <p>crossing 88:16</p> <p>crowded 68:1</p> <p>cube 36:14</p> <p>cubic</p>
--	--	---

<p>131:1,2 curbs 86:18 curious 10:13 current 23:5 51:6 85:18 118:21 147:8 166:7 currently 112:20 118:17 119:18,18 cut 41:15 cute 133:14</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 4:1 21:13 29:13 45:20 111:22 111:22 115:18 D-a-s-h 16:11 dad 67:17 daily 145:17 146:7 DANIEL 1:13 Dash 2:20 4:8,10,14,20 7:25 8:3,4 16:3,5,7,11,20,24 17:1,5,9 17:13,15,16,20,21,24 18:1,3 18:6,12,16,24,25 19:5,13,19 24:11,20,22 25:13,19 28:11 28:14 29:3,4 33:19 40:21 71:5 101:3 103:19,21 104:22 105:1 106:10,11,13,16 107:4 107:8,17,18,24 108:5,7,10 109:14,18,22 110:2,23 111:1 113:8,10 114:10,14 117:1 154:14,16,18 155:12,25 156:1,3 164:15 165:17 167:3 175:23 176:10 184:19 data 30:8 31:1 51:13,14 52:19 date 41:6 169:8 171:22 174:11</p>	<p>175:5 186:8 dated 109:2 dates 165:23 David 1:18 107:13 day 100:12 145:13,14 177:19 183:16 day-to-day 151:6 days 117:23 169:7,11 173:9,9 176:18 dead 31:21 deadline 175:19 deal 43:21 75:22 126:23 132:3 dealing 149:1 172:2 Dean 5:4 45:12,12 46:1 decency 19:17 decent 65:16 decide 94:21 153:24 174:23 decided 92:25 93:1,2 decision 68:21 92:20,21 94:19,20 deed's 106:19 deeding 109:10,11 deeds 109:11 Deegan 15:15,16 deem 147:23 deemed</p>	<p>10:10 107:22 defer 14:1 172:13 deficiencies 47:21 52:2,5 deficiency 50:24 51:3,6,10 deficient 147:7 definitely 177:3 definition 32:11,16 33:12,12 34:23 35:10,16 37:20 39:16,21 40:25 definitions 35:3,6 37:23,24 Degan 21:6 24:19 25:13,15 27:20 Degen 27:22,23,24 74:11,18,23 77:2 77:4 93:15,16,22 94:10 99:6 99:12 100:14 144:9 152:21 degree 137:6 142:12 degrees 141:3 151:7 delayed 174:6 delineating 147:4 delineations 137:8 141:7 142:15 146:7,11 delivery 35:14 92:3 Demarest 73:22 75:11,15 79:11 80:19 87:12,13,16,18 95:11 97:4 97:11 101:24 102:4,10 demonstrating 135:10 deny 102:1,24 DEP 49:21,22,22 50:17,23 51:3,11 51:15,22 52:1,7,10,12,15,22</p>
--	--	--

147:13 148:1,4,10 152:25 153:2,9 154:12 156:22 163:14 180:10,12 department 135:8,13 146:24 depending 66:12 125:1,4 147:19 depicted 105:16 106:5 108:23 depiction 106:2 depicts 61:10 DEPOLINK 1:22 Depot 120:10,24 Depots 120:13 depth 163:25 describe 46:13 47:16 80:22 Description 5:15 design 27:5,7,8 28:3 51:23 60:10,13 61:12 81:19 85:23 86:4,5,17 93:13 95:13,14 98:3 113:12 119:3 121:15 151:16 153:1,4 153:8 154:4 158:9 159:14,18 159:19 designed 27:4 89:1,8,25 90:1 98:15 112:3,4,19 113:19 118:17 120:3 121:5,18 150:25 152:19,21 designing 84:1 desire 43:19 destinations 55:16 destroy 56:22 detail	32:13 49:10 determination 14:7 18:10 33:23 139:16 140:8 154:8 176:2 determine 26:18 86:14 105:9 determined 17:19 83:17 153:5 determining 146:13 develop 149:10 developed 158:14 developer 149:10 178:24 developer's 177:24 developing 158:15,18 development 2:14,22 27:12 61:13 76:21 78:14 79:14,23,23 80:9,13 83:1 85:9 92:20 97:22 101:13,15,23 102:17 103:4 138:5,20 140:9 141:14,15,16 145:2,20 146:3 148:22,23 163:13 devoted 124:22 Dey 5:2 20:21,22,23 26:6,7 29:7,8 29:9,11,20,20,22,23 30:21 31:2 Diamond 1:4 6:10,15 50:24 166:8 185:15 Diana 1:19 6:12 7:5 166:3 178:6 181:9 diesel 80:16 difference 17:10,12 31:22 32:3 different 36:12,13,17 40:24 98:8 119:3	126:17 147:19 154:4 157:11 157:12 159:10 160:13,13,14 differentiates 36:6 differentiation 37:18 differentiations 36:19 difficult 22:1 67:21,25 68:9 84:14 dig 163:18 180:20 digging 161:18 digital 184:15 dip 96:3,8 dire 4:2 23:15,20 25:18,20 26:2,18 27:1 28:14 137:19,21 138:1 142:4 154:18 direct 4:2 12:12 22:16 37:20 55:2 72:13 111:1 136:17 directed 38:21 directing 64:16 126:1 direction 95:21 150:5 directly 44:24 65:2 135:2 Director 137:3 disadvantage 159:25 disagree 18:23 52:10 102:7,12 105:14 147:3 171:25 disappointed 9:25 10:5 54:6 discharge 99:14 112:14,25 disclose 62:7 104:9 106:21
--	---	--

disclosed 108:14	10:9 146:21	21:17 29:15 31:10 45:22 62:2 64:6 67:7 115:20 136:9 186:11
disconnected 42:22	doing 19:9 46:21 52:2 69:5 102:23 146:12 147:17 163:6 166:11 170:5	duplication 180:14
discretion 15:23	door 76:17,17 124:1,2	duties 27:16
discuss 49:11 80:4 150:23 175:17	doors 37:3,4	dwell 124:12
discussed 18:2	double 120:16	<hr/> E <hr/>
discussing 6:14 171:9	downtime 42:5	E 2:1,1 4:1 5:13 29:13 31:8,8 36:7 45:20,20 62:1,1 111:22 115:18,18 136:8,8,8,8 186:2 186:2
discussion 6:10 34:19 46:19 162:14 166:21 172:24 175:25	Dr 1:11 7:18,19 41:11 161:9,15 163:23	Eagle 1:23
discussions 139:20	drafted 93:1	earlier 101:10 116:13 171:2
disjointed 44:14	Draftsmen 28:5	easement 106:2
disrespectful 18:21	Drake 61:16,17	easements 104:9 105:5,10 106:22 108:13
distance 93:8,10,14 94:3 95:19 96:10	draw 134:21	easier 172:25 183:10
distancing 68:2	drawdown 149:3	East 1:24
distinction 17:9,12 35:18 62:13 91:20	drawing 123:6 134:3	easy 178:6
distinctions 36:18	drawings 123:12	economic 10:12 15:1 54:19,20 101:13 101:15,23 102:16 103:4,14
distinguish 133:10	drive 2:4 42:4,18 43:9 67:13 115:19 115:25	edification 43:24
distribution 35:14 36:14 54:14	driver 42:2,2,3,17	education 142:13,15 148:21 149:7 151:5
dive 70:14	drivers 43:25,25 44:5	educational 136:20
division 27:16	driveway 92:5	effect 82:23 85:2 134:12,14 140:8
dock 37:3 123:2	driveways 76:24	effects 83:17
docking 36:21	drove 28:18	efficiency 164:24
docks 112:18	due 134:1	efficient
dockside 121:25,25 123:19	duly	
documentation		

<p>122:22 162:1,24 163:5</p> <p>effort 67:20</p> <p>egress 76:3</p> <p>eight 102:10</p> <p>either 6:22 13:9 17:8 20:3 85:13 91:10,13,14 92:4 95:21 109:10 112:15 123:23 132:15 143:5 147:15 176:24</p> <p>electric 46:14,22 117:7 134:20,22 135:15</p> <p>electrical 117:9 118:20 134:24 135:3,6</p> <p>em 140:21</p> <p>email 16:25</p> <p>emanating 78:14</p> <p>emergency 118:16 176:16</p> <p>Emery 45:10,11,11</p> <p>emission 83:20</p> <p>emissions 83:3,23 84:20,22</p> <p>employed 22:7 186:15</p> <p>encourage 41:3 66:4 97:1</p> <p>endangered 137:9 141:7 142:14</p> <p>ends 112:17</p> <p>engage 148:10 180:13</p> <p>engineer 1:18 3:3 20:4 21:7 22:14,25 23:4,12,21 24:7,8,15,16,24 25:19 27:17,19 47:14 52:22 60:10 61:12 63:12 72:10</p>	<p>77:4,12,19,20,21,24 80:1,7,8 81:15 83:23 84:11,11 85:7 85:10 87:17 89:7,10 91:18 91:23 94:15 98:18 99:7 100:2 104:23 106:24,25 114:17,21 116:15,23 126:9 126:23 127:24 128:8,9,22 130:11 132:20 133:5 135:3 143:23 144:9,11,17 151:12 151:14 152:19,20 154:4 157:22 158:21,23 160:18,19 167:9 174:23,25 175:7,9</p> <p>engineer's 26:11 157:18</p> <p>engineering 27:4,9 77:20 80:25 81:8 86:13 91:24 97:7 104:7 106:23 117:24 125:16 134:23 135:7 143:22 160:17 162:5</p> <p>engineers 9:20 21:14 28:2,4 62:12 116:4 139:21 140:23</p> <p>enhancement 63:7 81:12</p> <p>enhancements 65:24</p> <p>ensure 86:18</p> <p>entering 83:19 85:24</p> <p>entertain 11:2 71:10</p> <p>entire 28:24 122:11 162:2</p> <p>entity 46:6</p> <p>entrance 91:10</p> <p>environment 49:15 177:24</p> <p>environmental 3:6 7:2 9:22 46:9 49:3,9 52:25 53:5 70:15 71:7 80:23 84:9 85:4,16 90:25 97:1 110:15 111:8 114:24 137:4,9,13,18 138:4,23 140:5 141:1,12</p>	<p>142:11,17 145:5 146:17,24 154:10,21,23,23,25 155:2 156:6,21 158:10,13 159:1,1 159:8,13,17 162:2,4,7,10,13 163:19 164:9 167:8,23 168:8 168:15 169:1,15,18 170:16 170:24 171:3,15 173:22 174:3 177:25 178:25</p> <p>environmentally 49:20</p> <p>Envirotactics 137:3</p> <p>envision 79:21 96:12 97:4</p> <p>EOR 27:25</p> <p>equally 19:1,3</p> <p>equals 53:11</p> <p>especially 30:22 55:18 63:8 82:24 134:24</p> <p>ESQ 2:3,7,11,16,20</p> <p>ESQS 2:3</p> <p>establish 99:21</p> <p>et 78:15 79:25 147:4 169:25 179:21 180:18</p> <p>EV 47:1,13,14,19,25 48:5 117:4</p> <p>evening 6:2,8,14 8:20 10:1 11:8,9 19:3 19:8,9,17 20:7 45:11 61:17 70:4 71:12,15 76:10,16 87:3 87:24 88:10 114:22,23 165:9</p> <p>evening's 6:9,9</p> <p>event 75:8 76:20 95:23</p> <p>eventually 161:10</p> <p>everybody</p>
--	---	--

6:3,6 8:7 10:19 12:13 22:4 66:4 71:23 130:25 159:20 162:6 164:22 171:23 172:11 172:24 174:8 178:16 182:5 183:10 185:24	existing 8:14 48:18 60:12 61:9 75:19 75:23	extent 22:4 49:18 50:15 66:4 74:7 82:7 110:8,19 159:5 162:8
everybody's 43:24	exists 96:1	exterior 123:2
evidence 24:10	expect 10:15 54:5 119:7	extra 42:21
exact 47:1 183:8	expected 174:6	<hr/> F <hr/>
exactly 30:10 31:22 130:20 132:16 154:6 180:16	expecting 126:5	F 2:3 186:2
examination 6:22,24 10:25 11:9 12:8,11,14 12:15 13:4 15:3,4 19:9 22:16 24:19 27:1 28:14 44:21 63:21 72:1,13 77:5,11 101:7 103:21 110:25 112:1 113:10 115:3 136:17 138:1 142:4 154:18 155:14 176:21	expects 117:7	face 65:3 117:25
examine 12:25 13:6 15:6,15,18 24:7,9 24:13,14 25:5 28:22 77:3,12 78:2 103:14 171:24 174:12	expense 180:6,17	faced 54:8,13
examined 12:16 25:12 45:1 77:7,8 101:20 110:19	expert 13:13,18,20,22,24 14:3,16 15:13 22:13 44:22 85:16 88:8 137:17 138:21 139:13 139:18,19,25 140:10 142:22 143:4,14 144:6,10,20 170:16 172:9 173:2,4,15,16 177:24 177:25 178:22,23 179:23,23 180:1,18,18	facilities 32:21 70:12,12
examining 98:18	expertise 180:15	facility 42:9 44:1 55:14 63:8 68:22 118:7 184:12
example 69:3 122:14 178:25 179:20 183:4	experts 40:23 160:25 165:3 167:7,10 167:15,20 168:8 169:14 178:4,5 179:19	fact 10:5 12:21 13:7 29:25 33:18 54:12 63:7 76:21 77:23 78:10 88:11 97:5 99:22,22 100:7 108:23 130:22 131:22 134:4 141:13 175:25
exceed 36:8 37:15 139:4	explain 9:1 113:22 114:4 123:9 131:18 154:6 155:15	facts 100:16 126:14,23,24 128:22 129:6 130:21,22 131:21 132:9 133:7
exceptions 109:8	explained 17:2 91:23 99:7,12 100:13 152:23	fair 46:16 59:11,12,15 69:20 83:7 112:22 119:4 130:2 140:3 141:11,16,17 157:9 159:7 160:1 161:24 174:17
excluded 143:4,5	explanation 100:4,5,19	fairness 130:25
excuse 21:25 106:24	express 104:10	fall 146:14
exhibit 72:23 123:14,16	extended 39:1 175:21	false 129:23
exhibits 136:1 181:16	extending 98:8	familiar 23:8 120:11
	extension 37:7,13 48:17,20	family 46:7 68:9
		far

6:25 15:6 20:5 30:11,15 48:12 55:15 59:2 76:18 161:19 169:6 173:1 174:9,11	fine 18:12 71:13 75:2 114:10 174:19	16:9 57:13 178:10
February 109:2	finish 22:21 29:6 50:9 80:25	follow-up 121:10
federal 39:22 42:18 43:5 44:2 83:4,10 83:21 84:19,21 142:23	finished 24:19 77:5,5	following 166:20 167:23 173:21 184:4
fee 166:25	fire 58:25	follows 29:16 31:11 45:23 62:3 64:7 67:8 111:23 115:20 136:10
feedback 11:16	firm 2:11 23:7 25:2 27:4,16 28:2 60:25 83:8 87:7 101:18,25 102:20 103:3 160:9,13,14,16	food 111:13,14 112:7
feel 10:1 32:4 167:12 179:7	first 6:20 8:13 12:6 13:3 20:9,17 25:12 29:23 34:16 35:22 46:12 47:22 48:17 49:5,25 53:15,23 54:3 67:16 72:9,24 74:10 77:3,6 83:14 91:2 111:3,5 115:22 121:24 122:13,17,17,25 123:13,18 123:19 124:4 158:9,11 161:10,16 164:20 170:10 175:4 181:24,25 182:2 183:23	foot 59:4
feels 167:13		footage 122:5
feet 37:1 73:23 76:10,13,14,14,18 78:10,11 79:11,12,15,20 80:15 86:7,9,12 87:19 95:5,8 95:15 96:1,6,8,9 97:6 102:4 114:2 119:18,19,21 120:12 120:13 121:24 122:7,18 124:25 125:3,3		footprint 36:24
field 83:24 137:17	five 174:7	force 62:23
figure 131:2	flag 7:23,24 147:3	Ford 8:19 9:16,25 10:22 11:7 12:12 12:14,20,23,25 13:3,7 15:7 15:19,22 18:17,21 19:2,16 19:25 20:19 24:6,13,13 25:16 38:22 39:9 43:11 53:8 53:18,23 54:6 55:2 56:5 63:11 91:8,10,15 112:6 117:5 120:21 125:21 126:2,6 127:3 128:6 134:2,5 164:21 165:18 167:17,22 170:13,19 171:3,14,17,20,24 172:2,8 173:20 174:4,5,6,8,8,10,21 175:10 176:12,19 177:1,4
file 182:8	flood 49:19 141:9 143:13 145:15 150:13	Ford's 39:4 44:21 111:11 133:2
filibustering 90:23	floor 36:9 121:17 124:22	foreclosed 77:23
fill 139:12	flow 166:15	foregoing 186:6
filling 74:25	flowing 149:3	forever 56:23
final 14:10 46:25 50:14 51:19,20 51:25 55:15 56:10	focus 6:9 31:25 76:16 116:24 145:18	forget 174:8
finalize 14:7	focused 47:13 149:5 167:22	forgot 94:8 100:20
financially 186:17	folks 163:18	forgotten 99:3
find 24:5,15 30:10 90:4 152:10 176:21	follow	

<p>forklifts 117:7 120:19 125:7</p> <p>form 39:25 69:1 123:23 185:12</p> <p>formal 109:7</p> <p>formally 47:22 110:5</p> <p>forth 13:15 52:12 81:2 106:19</p> <p>forward 10:15,18 15:20 17:20 18:11 25:18 51:15 52:14 135:25 166:1,3 172:6</p> <p>found 35:7 36:18 50:23 148:2</p> <p>foundation 99:21 117:19 127:18</p> <p>four 15:25 53:11 123:21,21 124:11 155:18 174:7</p> <p>Fox 29:14,20</p> <p>frame 133:15 162:17</p> <p>framing 117:18 133:23</p> <p>frankly 52:23 75:6 94:6 95:4 100:4,20 161:24</p> <p>freight 32:19,20,22 39:18</p> <p>freight's 55:15</p> <p>French 68:16</p> <p>fresh 141:9</p> <p>friends 46:7</p> <p>front 23:1,2 64:17 76:17 142:23,25 162:18</p> <p>frontage 29:1 73:22</p> <p>frustrated</p>	<p>19:3</p> <p>frustratingly 55:4</p> <p>frustration 13:11 19:16 38:21 68:19 69:23</p> <p>fulfillment 36:14</p> <p>full 11:9 22:2 100:4,5 137:4 159:11,12</p> <p>fully 48:7 69:6 108:11 121:19 132:15 174:12 180:7</p> <p>fully-loaded 121:6</p> <p>further 29:3 78:7,24 79:7,10 80:3,9 91:23 100:15,17,23 109:22 113:6 135:19 140:4 141:19 150:15 156:3 185:17 186:10 186:13</p> <p>future 135:5</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 136:8</p> <p>G-r-e-e-n-e 136:15</p> <p>GALL 1:14 43:10</p> <p>gallons 99:8,15 100:12</p> <p>gaps 52:19</p> <p>gathered 70:8</p> <p>gathering 159:4</p> <p>geared 55:1</p> <p>general 72:17,19 149:23 154:12 172:8</p> <p>generally 35:5,19 37:3</p>	<p>generate 82:1,1 113:4,5</p> <p>generated 81:5,10 128:23 172:15</p> <p>generation 81:7 118:4,9</p> <p>generators 118:20</p> <p>generically 112:4</p> <p>gentleman 124:6 128:14 130:13</p> <p>Gentlemen 17:23 23:17 132:8</p> <p>GEORGE 1:11</p> <p>Georgiana 72:7</p> <p>geotechnical 164:2,8</p> <p>getting 10:18 51:18 66:12,19 109:11 122:2 129:18 158:25 164:1 173:22 179:22 181:15,18</p> <p>Gibson 170:20</p> <p>Giordano 2:7 8:25</p> <p>Girt 136:15 137:5</p> <p>give 11:5 19:17 21:1,20 35:16 39:23 58:16 59:6 64:10 79:17 80:2 84:4,13,17 94:19 97:17 115:23 136:20 161:11 165:13</p> <p>given 8:18 25:8,9 34:10,16 35:10 74:16 76:20 77:25 78:10,21 79:1,4 80:14 81:12 82:13,23 83:1,7,11,13,16 85:17 92:14 111:14 117:21 131:9</p> <p>gives 167:24</p> <p>glad 14:21</p>
--	--	--

<p>globally 54:16</p> <p>go 11:22 12:2 14:6 15:20 17:20 20:13,17 23:17,22 25:18 26:3 29:22 30:23 34:14 38:16 41:4 49:9 51:13 52:20 55:6 56:17 59:2,22,23 65:4 67:14 68:21 70:14 74:7,9 75:4 76:15 77:11 80:18 88:20 89:24 92:8 99:20 100:15,16,17 101:12 116:21 119:25 120:2,14 130:8 134:6 138:22 149:18 161:23 162:6 164:9 170:15,20 171:3 173:4 177:19 180:5 182:25</p> <p>God 57:8,11</p> <p>goes 104:7 148:4</p> <p>going 6:10,14,19,21 7:1 8:13 9:3,4,8 10:13,22 12:20,23 13:4,8,20 14:17 15:11,12 17:20 18:10 20:6,11,21 29:25 30:23,23 30:24 32:10 33:20 38:12,13 38:15,17 39:2,12 40:3,22 41:24 42:5,6,7,15,15 44:1 44:3,18 49:21,22 51:17 52:12 53:1,17 55:16 58:22 58:22 59:6,9 60:1,2,7 61:6 63:2,6,7,8,9 64:18 65:6,15 66:11 68:3 70:18 71:24,24 73:2 74:7,8 76:22 77:11 78:14 81:10,25 82:1,18,20 84:24,25 88:8,22 90:5,12,17 90:20 91:10,18 92:10 96:13 97:3 99:13 102:16 104:22 105:3 111:13 112:9 114:23 114:23,25 120:7 123:13 127:20 131:12,17,23 132:20 134:8 135:11 139:9,10,22 140:1 143:19,23 144:6,7 145:23 146:12 151:15,20 152:4,5,7,12,14,24 153:1,8 153:19 154:9,21 156:15,24</p>	<p>157:13,20 159:24 160:2,24 161:11,12 162:1,21 164:3,8 164:17,19 165:4,20,20,23 166:21 167:4,18 168:19 169:4,7,10,13,14,15,22 170:15,17,18 171:2,17 173:3 173:7,13,16,16,20,21 174:8 175:2 177:12,18,23 178:21 179:13,19,22 180:13,17,19 180:21 182:6 183:7</p> <p>good 6:2 7:3 13:18 15:24 19:19 61:6 70:16 81:14 117:8 130:2 157:4 163:10 184:23</p> <p>goods 35:12 37:8,11 39:12 54:4 120:19</p> <p>Google 130:25 135:22</p> <p>gore 109:4</p> <p>gotten 56:20</p> <p>Gouin 2:7 4:6,17 8:24,24 10:3,21,25 11:13,18 12:18,21 15:9 16:4 16:6,17 21:3 22:10,16 23:11 32:6 38:19 39:7 43:23 44:11 46:16,20 49:16 51:8 52:4,6 52:21 53:16 56:5 59:20 70:14,16 72:23 74:3,17,23 77:1 78:7 91:17 98:5,16,19 98:23 100:4 103:12 107:3 110:4,7,16 111:3 114:6 123:11 127:5,10,13,16,19 128:2 131:8,17,21 132:1,4 132:20 135:9,25 136:17,24 137:16 152:17 154:2 155:1 155:10,13 156:23 157:3,9 158:5 159:7,16 160:1,12,18 160:21,24 161:24 162:12,15 162:20,23 163:4,10,15 164:5 164:10,25 165:8,11,16,22 166:10,19 167:14 168:1,6,17 168:24 169:9,17 170:4,8,14 170:17 171:1,5,11,19,23</p>	<p>173:18 174:17,19 175:19,22 179:19 181:23,24 182:6,21 183:19,22 185:4,7</p> <p>Gouin's 16:14</p> <p>government 66:17</p> <p>grading 27:8</p> <p>graduated 137:6</p> <p>grant 66:12</p> <p>granular 179:7</p> <p>graphical 106:1</p> <p>graphically 105:16</p> <p>grateful 40:15 74:18</p> <p>great 32:13,15 34:20 38:4 50:20 69:19 73:8</p> <p>greatly 125:1,14</p> <p>Greene 3:6 4:16 9:22 49:16 136:1,2,4 136:14,14,17,19,25 137:17 138:1,3,11 142:4 152:18 154:9,18,20 156:8,10 157:8 158:7,20 159:18,24 160:4,7 163:9</p> <p>Greene's 156:5</p> <p>grid 134:20</p> <p>grossly 54:12</p> <p>Grouin 167:6 178:11</p> <p>ground 36:9</p> <p>groundwater 99:14</p> <p>groups</p>
--	--	---

6:23	110:22 166:17 167:21	help
guard	173:23 177:5 178:2	9:20 27:7 57:8,10 99:4 103:15
44:15	hard	103:15 109:16
guess	23:19 40:18 124:23 175:2,11	helped
8:21 11:20 33:16,24 46:20	175:15	38:5
52:5 108:23 121:9 124:18	hazard	helpful
158:12,23 163:20 170:12	49:20 141:9 143:13 145:15	16:1 109:16 164:25 165:4,6
171:8 182:16	150:13	177:17,22 178:1
guidance	he'll	helps
160:17	108:7	99:19
guided	HEALY	Hertzberg
162:7	1:13	1:12 7:11,12
guys	hear	Hey
38:8,9,11 41:24	21:24 22:4 26:11 48:2 60:4	32:24
<hr/> H <hr/>	64:15 65:19 66:5 70:23	high
H	89:19,23 134:10 136:23	36:14 120:7,13,15,18
5:13 21:13 64:5 111:22 136:8	138:7,8 157:23 158:3,16	high-pile
Hackettstown	159:15 161:14 171:3 177:23	123:22
2:17	heard	higher
half	24:4 29:10 41:15,21 48:11	120:3
2:8 48:25 74:10	54:10 55:11 58:9 60:3 69:20	highlands
Halleran	96:18 99:2 115:8 120:20	141:10
2:7 8:25	138:10 171:22	highway
hand	hearing	43:4
21:11 45:18 50:13 57:4,5 58:2	9:2,3 17:18 18:11 23:19 29:2	hire
61:22 64:3 67:4 115:13	32:13 33:3 34:4,5,10,16 35:2	180:2
124:8 136:6	38:23 39:10 44:17 46:11	hired
handicapped	48:13 49:6,6,25,25 53:23	60:10 61:12
67:25	56:6 58:11 61:2,4 62:18	historical
handle	72:25 74:10 77:6 92:1	54:9 56:18
141:8 162:24 167:18	100:13,13 107:7,23,24 108:2	history
handled	111:4,6 123:13 126:4 133:3	56:11
83:4	133:6 135:5 157:16 165:12	hold
handling	166:2,20 169:12 176:1	8:2 46:9 52:24 161:8
52:23	181:25 182:1,2,2 183:23	Hollow
Hanover	185:8,15	29:14,20
1:24	hearings	home
happened	34:11 92:1 108:9 166:12	68:7 76:22 120:10,12,24
34:18 148:5	182:8	honest
happening	heat	166:3
41:2 65:17 149:2	112:14 113:1	hope
happens	height	19:14 38:5 45:2 66:8,13 110:9
112:6 172:22	113:12,20,23 114:1,4 119:16	hopefully
happy	120:11,14,16,24 121:5	111:13 170:18
20:4 41:19 43:24 74:13 85:12	held	hoping
	46:19	100:8 171:5,11

<p>Horn 23:8</p> <p>horse 31:21</p> <p>hot 8:10</p> <p>hour 74:10 88:9 95:6 160:2</p> <p>hours 42:1,4,4,5,17,25 43:9 87:24</p> <p>house 22:2</p> <p>huge 37:16 40:3</p> <p>Hunters 64:22</p> <p>Hurdle 63:24</p> <p>hybrid 66:18 67:24 68:10 69:14</p> <p>hybrid-based 68:23</p> <p>hydraulic 163:19</p> <p>hydrologist 143:8 144:17,22 148:11 153:18</p> <p>hydrology 143:9 148:18,21 149:1 159:3 159:14,18 167:10 179:21,22 180:17</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 31:19 39:13 108:16,19</p> <p>ideas 102:22</p> <p>identification 142:14</p> <p>identified 168:19</p> <p>identify 164:25 165:9</p> <p>idling 82:22</p> <p>ignores</p>	<p>54:12</p> <p>ill 176:17</p> <p>illegal 43:13</p> <p>imagine 52:2 147:16</p> <p>immediately 73:18 76:8</p> <p>impact 11:6 15:1 30:25 137:10,13 138:4,12,19,19,24,25 139:4 139:14,17 140:1,5 141:2 145:1,6,19 146:3 148:14,21 148:23 149:5 153:20 154:10 154:21,24,25 156:16,22 158:10,13,19 159:1,6,9,13 159:17 162:7,11 163:13,21 168:11,12,15 169:1,15,18 173:13 179:1</p> <p>impacting 49:19 50:15</p> <p>impacts 49:14 141:13,15 145:16 148:15</p> <p>important 10:1 30:25 34:24 36:10,20 58:10 68:11 69:17 164:22 168:16 174:11</p> <p>importantly 37:22</p> <p>impossible 129:4</p> <p>improve 66:9</p> <p>improved 65:16</p> <p>improvements 97:10 172:19</p> <p>inadequate 148:2</p> <p>inappropriate 79:18</p> <p>inches 120:12,13</p> <p>include</p>	<p>30:3 47:1 96:25 122:8</p> <p>included 30:16 31:1 35:23 98:12 159:6</p> <p>including 50:7 146:21</p> <p>incomplete 147:15</p> <p>inconveniences 56:20</p> <p>incorporate 30:8 51:24</p> <p>incorporated 105:21</p> <p>incorrect 129:23</p> <p>increased 53:25</p> <p>independent 10:7,11</p> <p>indicated 69:8 72:8 77:19 106:20,25 128:9 141:21 171:2</p> <p>indicates 105:22</p> <p>individuals 12:3 19:23 20:7 53:4</p> <p>industrial 55:19</p> <p>inform 103:15 169:21</p> <p>information 51:10 52:8 60:12 61:9 100:18 102:2 109:16 139:21 140:24 145:5 147:2,14,14,19,19,22 148:1 149:22 154:12 158:11 169:21</p> <p>informational 52:5</p> <p>informed 65:19</p> <p>ingress 76:3</p> <p>inhibit 79:13 80:9</p> <p>initial 16:21 35:2</p>
---	---	--

<p>initially 164:21</p> <p>initiated 10:6,16</p> <p>input 54:3 158:20,22,24</p> <p>inside 120:14 124:2</p> <p>installed 48:8</p> <p>instance 82:14 169:14</p> <p>instructions 57:14</p> <p>insufficient 147:15</p> <p>insurance 106:18</p> <p>intend 101:13 111:12 178:23 183:20</p> <p>intended 37:11</p> <p>intending 168:13</p> <p>intends 165:1</p> <p>intention 38:25 41:14 44:4 50:8</p> <p>interaction 62:10</p> <p>interchangeably 36:22</p> <p>interest 166:10</p> <p>interested 62:18 186:17</p> <p>interior 113:19 123:3 124:8</p> <p>internally 40:23</p> <p>interpretation 16:19,21 33:25 35:8 40:8,23</p> <p>interrupt 58:22 91:18</p> <p>interrupted 60:4</p>	<p>interrupting 17:21 130:14</p> <p>intersections 30:4</p> <p>introduce 65:13</p> <p>intrusion 82:8</p> <p>investigation 103:6,13</p> <p>involved 27:7 65:18 66:17</p> <p>involvement 27:5,10 136:21 158:24</p> <p>involves 91:24 146:12</p> <p>involving 46:9</p> <p>irrelevant 53:13 92:22</p> <p>issue 12:10 13:6 44:20 63:3 69:17 74:24 81:8,24 100:9 144:7 146:5 169:15 172:12 175:24 177:12 184:22,25</p> <p>issued 154:23 155:2 169:17</p> <p>issues 30:1,14 44:19,24 46:10,10 49:8 52:13 54:11 109:9 143:16 145:14,14 170:23</p> <p>issuing 62:25</p> <p>item 36:7 107:9</p> <p>items 109:17 168:14</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>J-o-s-e-p-h 58:18</p> <p>Jake 81:11</p> <p>Jefferson 43:17</p> <p>Jerry</p>	<p>1:15 161:6</p> <p>Jersey 1:8,24 2:4,8,17,21 21:16,23 22:9,25 23:3 29:14,21 31:9 31:18 45:21 47:22 55:19,20 58:19 115:19 137:7 140:11 186:6</p> <p>job 34:21 54:2 82:6 90:2 177:15</p> <p>JOE 1:15</p> <p>JOHN 1:14</p> <p>join 6:8 8:20 9:25</p> <p>Joseph 1:19 5:5 57:1 58:17 63:24</p> <p>JOSHUA 1:12</p> <p>JR 2:3</p> <p>judge 52:11 120:14</p> <p>judicial 58:11</p> <p>judicial-based 8:8</p> <p>July 175:3,3,4,4,11,12</p> <p>jump 161:2</p> <p>June 166:4,6,7 167:17,18 174:21 174:23 175:10,17,21,22 185:16</p> <p>jurisdiction 16:22 17:18 18:7</p> <p>jurisdictional 12:9 44:20</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>K 21:13 62:1</p> <p>KALYOUSSEF 1:19</p> <p>Katherine</p>
---	--	--

<p>1:18 33:17,23 34:2,6 39:16 Katzenstein 1:19 7:6,8,10,13,15,18,20 16:13 166:5 keep 8:12 37:7 131:21 148:8 166:3 178:12 keeps 181:9 Kevin 5:6 61:19,20,21 62:5 key 30:13,14 54:10 Kimley- 23:7 Kimley-Horn 9:19 21:14 22:8 104:5 kind 13:4 34:18 35:20 55:11 152:15 177:2 kinds 36:12 knew 12:22 15:8,9 know 8:17 12:15 13:4,6,7,9,14 14:8 14:11 15:3 16:8 17:15,17 19:8 20:8 22:1 25:20 26:8 27:3 29:9 33:19,25 35:4 40:20 43:15 46:17 49:2 59:3 59:5,12 60:21 62:20 64:17 65:11,14 66:3,5 68:18,25 73:1,15 75:17 76:6,15 79:2 85:1 91:4 92:9,14,15 95:11 95:15,24 98:17,19 100:6 101:19 102:2 103:8 107:20 110:20 119:11,16 120:9,11 120:23 129:4,25 131:11 132:17 135:22 138:16 139:15 143:20 144:16,18,20 145:13,16 148:7,25 149:12 149:12 150:10 162:16 165:4 165:19 167:16 168:7,12 170:2,12 173:20 174:6 175:2 176:25 177:1,3,20,25 179:25 180:19 181:9,18,19,19</p>	<p>182:13 183:3 184:21 knowing 84:2 knowledge 98:13 174:24 known 36:16 knows 42:17 47:14 108:1 Kollar 1:14 7:6,7 63:18,23 91:6 95:5 95:8 121:3 174:2 185:22</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L 31:8,8 45:20 62:1 64:5 67:6,6 67:6 136:8 L-a-r-s-o-n 67:12 Lafayette 30:5,5,24 43:17 62:6,8 63:3,6 63:16 65:7 laid 70:20 Lake 31:9,16,18 land 14:14 35:3 37:21 50:23 62:8 137:3,10 141:6,13,14 150:12 lane 64:22 88:17 90:12 95:25 large 39:15 larger 92:7 124:13 162:11 Larson 5:8 67:3,3,12,12,16 68:15 69:16 70:1 lasting 117:23,23 late 12:18 177:2 latitude 167:24 Laurel 136:15</p>	<p>LAVERY 2:15 law 2:11 21:17 42:19 43:5 44:2,2 44:6 47:22 62:2 130:22 172:13 186:11 lawful 139:5 Lawrence 2:16 72:6 137:22 laws 139:10 lawyer 33:7 132:2 133:11 lawyers 57:18 laying 117:19 layout 27:8,11 85:22 121:23 126:3 lcohen@lsaclaw.com 2:18 learned 13:2 leave 13:22 56:10 74:25 126:9 164:15 181:1 leaves 125:11 126:16 leaving 85:25 left 9:1 20:11 43:16 45:16 57:2 73:19 80:20 86:1 88:20 90:6 90:8,11,14,20 92:7 93:9,10 legal 127:2 legislation 47:25 legitimate 106:14 length 39:9 86:12,22,24 let's 26:11 34:4 79:14,20 80:19 82:15,18,20 88:1,12 90:6,16</p>
--	---	---

<p>93:8 163:17 175:21</p> <p>letter</p> <p>81:15 135:9 155:2,5 157:18 162:5 165:12 166:19 167:1</p> <p>level</p> <p>103:6 143:21</p> <p>levels</p> <p>81:17 83:4</p> <p>library</p> <p>68:16</p> <p>license</p> <p>23:5</p> <p>licensed</p> <p>22:25 23:4 28:4 61:9</p> <p>licenses</p> <p>156:9</p> <p>life</p> <p>56:21</p> <p>light</p> <p>182:13</p> <p>lights</p> <p>30:6</p> <p>limine</p> <p>143:5</p> <p>limitation</p> <p>141:20</p> <p>limitations</p> <p>139:5</p> <p>limited</p> <p>8:20 74:5,11,15 156:18</p> <p>limits</p> <p>146:14</p> <p>LINDA</p> <p>1:20 186:4,20</p> <p>Lindsley</p> <p>2:4</p> <p>line</p> <p>37:7 73:25 76:11,19 78:11 96:6 119:11</p> <p>list</p> <p>12:2 20:20 66:25 70:3,8 116:16,19 162:3 168:8,22,25</p> <p>listen</p> <p>59:17 69:5 74:13 94:9 185:11</p> <p>listing</p> <p>178:8</p>	<p>litigation</p> <p>1:22 177:16</p> <p>littered</p> <p>42:8</p> <p>little</p> <p>44:15 49:10 145:6 150:23 166:20 173:19</p> <p>live</p> <p>64:22 128:18</p> <p>LLC</p> <p>1:4</p> <p>loaded</p> <p>120:19</p> <p>loading</p> <p>112:18 120:20 121:1 122:2,2 122:15,21</p> <p>local</p> <p>44:1 53:10,24 54:4,13 83:9 84:19 139:10,22</p> <p>location</p> <p>55:10 78:13 79:24</p> <p>logic</p> <p>160:22</p> <p>logistic</p> <p>124:15</p> <p>logistical</p> <p>124:22</p> <p>long</p> <p>66:11 87:4 155:20 172:4</p> <p>long-term</p> <p>117:22 124:12</p> <p>long-time</p> <p>62:8</p> <p>long-winded</p> <p>38:2</p> <p>longer</p> <p>39:10</p> <p>longest</p> <p>68:4</p> <p>look</p> <p>10:10,18 13:14 35:25 36:10 36:11 37:23 39:22 52:20 54:22 55:2 56:17 76:15 101:14 102:16 120:8 121:15 170:2 179:8</p> <p>looked</p>	<p>19:7 30:3,15 32:16 34:20 101:25 103:3 148:25</p> <p>looking</p> <p>6:17 34:21 35:5 66:6 79:21 95:24 146:13 160:1</p> <p>lose</p> <p>20:20</p> <p>lot</p> <p>8:11 30:18 37:16 44:12 50:6 68:19 134:22 148:25 154:3,3 158:2 164:16 172:1,23 174:9 177:15 183:9</p> <p>louder</p> <p>48:3 60:18</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>M</p> <p>31:8,8 45:20 62:1 64:5,5 115:18,18 136:8</p> <p>M-e-e-r-m-a-n</p> <p>115:16,25</p> <p>M-i-l-l-e-r</p> <p>31:16,17</p> <p>main</p> <p>1:7 52:19 69:22 76:21 122:2 123:20</p> <p>maintain</p> <p>178:13</p> <p>major</p> <p>30:25 117:25 143:12</p> <p>make-ready</p> <p>47:20 48:7</p> <p>making</p> <p>88:14,19 89:21 90:6,14,20 92:4 93:9 108:12 139:2,15</p> <p>malls</p> <p>55:20</p> <p>man</p> <p>89:7,9</p> <p>management</p> <p>32:17 97:22 99:15 100:7,22 143:18,19 150:20 151:3,9,14 151:21,22 152:19,24 153:20 157:19 158:4 159:2 167:11</p> <p>Manager</p> <p>14:6,9,24 30:10 65:23 66:6</p>
--	--	---

69:2,10 maneuver 86:1 maneuverability 86:16 maneuvers 86:6 manner 79:14 Marilyn 5:7 64:1,2,21 mark 20:16 marked 5:17,18 72:24 75:14 87:18 123:13 material 39:9 materials 35:13 104:18 105:25 matter 1:2 18:18 34:11 53:20 126:12 126:14,19 127:25 128:17,17 128:24,25 129:5 130:23 172:14 maximum 113:23,25 119:18 mayor 5:6 62:7 63:17,19 McCormack 70:3,4 McGinty 66:23,24 mean 24:12 27:17 32:9 35:11 40:18 42:16 47:14 52:6 68:25 75:17 84:16 119:10 146:10 158:6,6 162:7 177:14 182:13 meaning 42:2,7 177:18 means 23:15 32:17 36:2 116:13 118:4 120:20 meant 27:19 measure	76:9 measured 96:4 Meerman 5:9 114:16,20 115:2,6,9,14,15 115:24,24 116:6,18,25 117:15,17,21 118:5,8 119:4 119:15,24 120:8 121:13 122:12,20 123:4 124:13,17 124:20 125:6,15,22 126:3,8 127:2,8,12,15,17,23 128:12 128:21 129:15,16,19,21 130:2,6,10,13,16,21 131:4,7 131:9,15,20,25 132:2,22 133:8,14,23 134:6,10,14,19 135:4,19 meet 36:2 83:20 172:22 meeting 6:12,16 8:7,15 9:15 10:23 11:3,4,12 12:1 20:12 33:21 35:21,22 41:4,5 43:11,22 47:21 53:8 63:4 65:8 66:19 67:24 68:8,9,18,23,24 70:8 70:21 91:8 116:9 117:6 121:4 161:10,16 164:18,19 165:25 166:8,22 167:5,19,22 167:23 168:2 169:8 170:19 170:19 171:6,10,12 173:21 173:21 175:8,16 176:13,18 185:23 meetings 68:3,11 129:8,9 166:11 173:23 mega 54:10 55:14 member 23:7 25:2 62:8 184:14 members 1:9 13:1 46:4 73:16 77:25 87:7 129:9 134:11 men 64:16 mention 47:19 168:22 mentioned	38:8,11 48:15 49:4,24 53:8,9 80:4 87:6 117:6 119:19 merchandise 35:13 121:21 123:24 125:5,11 merge 30:5 message 177:9 method 109:12 methodology 52:10 Michael 1:12 3:6 4:16 136:14 microphone 21:1 45:4 60:19,23 65:2 115:5 118:13 168:9 middle 123:21 Mike 9:22 49:16 154:5 Mile 2:8 miles 95:5 Miller 5:3 31:4,5,15,15,17,17 32:2 32:15 33:7,10,15 34:25 38:4 38:6 39:6,15 40:1,5,11 41:6 41:12,23 42:11,14,24 43:5,8 44:7,8,9 45:5,7,8 mind 12:5 178:12 mindful 167:19 minimum 113:19 119:6,17 minute 165:22 170:12 minutes 11:24 12:6 13:5 43:16 45:16 57:2 87:6,12,14 160:2 181:9 185:3 missed 74:20 missing
--	--	---

<p>34:23 107:9 147:7 misunderstood 99:19 103:1 157:5 modeling 62:14 modifications 147:3 modify 51:23 moment 97:17 moments 8:3 money 39:11 month 16:14 32:23 174:7 175:3 months 174:7 morning 87:24 Morristown 2:4 motion 143:5 185:13,20 motor 32:19 39:18,20 40:2 80:17 83:23,24 Mountain 2:20 67:13 move 6:21 7:1,2 18:11 37:11 51:15 71:7,24,25 73:13 79:20 85:12,13,19 90:16 93:23 94:16,25 110:14 111:8 121:20 129:14 134:15 135:25 166:11,23 172:6 moved 52:14 78:12 79:10,14 moving 10:15 80:8 114:24 multiple 14:5,8,11 38:13 48:23 mumbling 60:22 municipal</p>	<p>33:24 63:2 185:17 Murphy 1:15 7:8,9 42:20 43:3 130:15 130:18,24 135:21 161:4 163:22 164:3,11,14 mystery 64:17</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N 2:1,11 4:1 21:13 29:13 31:8,8 45:20 62:1 64:5,5 67:6 111:22,22 115:18,18 136:8 name 12:6 14:2 20:9,17 21:1,19,20 22:6,11 26:22 29:18 31:14 45:25,25 58:3,15,15,17,18 62:5 64:9,10,12,20,21 67:10 67:11 70:2 115:15,22,23 136:12,13,14 names 20:6,12 31:13 65:9,10,11 169:24 narrow 36:25 37:10 nature 28:5 44:14 81:11 176:17 navigate 86:19 navigating 82:11 nckark@nwclarklaw.com 2:13 necessarily 164:9 necessary 15:20 179:8 need 10:14 20:1,25 21:4 30:9 35:20 46:23 47:7 49:21 50:7 56:17 93:9 111:17 112:8 115:6 117:13 121:19 126:17 129:25 152:15 162:6,22 165:19 167:12,19 178:14,17 179:7,16 needed</p>	<p>83:17,18 needs 70:12 129:23,24 173:4 negative 49:14 139:4 neighbor 79:9 neighboring 82:8 neighbors 46:8 Neill 2:11 33:19 101:3,5 neither 15:7 186:13 never 59:3 68:6,7 110:18 new 1:8,24 2:4,8,17,21 21:16,23 22:9,25 23:3 29:14,21,25 30:7 31:9,18 45:21 47:21 55:14,19,19 58:19 67:19 114:20 115:19 137:7 140:11 152:25 161:12 169:6,10 186:5 Newark 55:19 Newton 120:10 Newtown 2:12 night 15:21 41:9 63:5 65:8 166:23 176:22 nights 166:23 NJDEP 50:7,10,12 137:8 151:1 NJIT 22:24 noise 78:15 80:14,17 81:2,5,7,10,13 82:1,1,7 113:4,5 138:12,12 138:19,21,25 139:13,18,19 139:20,25 140:1 168:11 normal</p>
---	--	---

<p>86:7,9,12 north 30:4,22 63:9 73:18,19 122:11 northbound 95:25 northerly 91:3 northern 76:7 Notary 186:4 note 87:12 104:6,23 105:22,22 106:22 108:14 noted 18:15 51:3 notes 186:8 notice 16:2 17:5,14 19:18 87:16 176:14 178:3 notices 174:22 185:16,18 notified 19:4 176:24 177:5 notify 180:14 number 1:5 5:15 13:1 16:22,23 18:6 18:16 19:22 47:1 53:4 81:4 96:13 102:11 112:13 123:15 124:7 186:21</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O 21:13 29:13 31:8 62:1,1 67:6 111:22 O'Leary 5:6 61:19,20 62:5,5 63:15,17 oath 54:6 89:21 111:20 128:1 object 25:2,2 26:19 141:22 objected 33:19 objection</p>	<p>16:21 18:13 24:11 25:12 26:17 40:20 141:19 153:16 objections 28:8 78:8 154:3 179:6 objector 177:20 180:19 objectors 101:5 objects 129:3 obtain 50:17 60:12 obtained 61:8 105:15 obtains 112:6 obviously 12:25 13:6,17 14:13,16 38:15 49:14 51:24 73:6 80:17 81:19,24 93:9 135:14 137:12 157:1,7,9,12,20 163:8 166:24 173:3 177:3 179:15 180:21 182:6 occasions 18:2 occur 148:4 occurring 33:21 offer 153:18 offered 25:14 172:9 offhand 102:2 office 16:14 55:21 offices 122:9 officially 47:22 offload 126:18 Oh 55:9 92:19 127:8 131:4 173:10</p>	<p>okay 18:18,25 19:5,13,19 20:21 22:23 24:13 26:20 27:23 28:5,7 33:16 43:18 47:11 48:10 50:20 52:17 53:2,7,21 53:22 54:24 55:9 56:9,15 57:1 61:6 63:23 67:16 69:16 70:1,25 72:20 76:6,14,25 79:5,19 81:1,8 86:21 87:2,9 87:21 88:7,21 93:4 95:14,23 99:5 101:11,19 102:3,9,15 103:1,10 104:6,21 105:1,22 113:22 116:25 123:4 124:13 126:3 131:4 133:8 134:6 135:19 138:22 140:6 142:16 142:22 143:1 144:19,24 145:8,18 146:1,9 148:5,9,13 148:20 149:9,15 150:15 151:13 153:15 157:4 161:23 167:2 168:6 169:23 174:18 175:11 176:10 177:13 179:10 180:25 182:12 old 55:19 on-site 99:25 100:11 once 71:3 116:8 135:22 140:11,23 148:18 150:24 151:4 152:5 161:1 178:5 182:7 ones 20:18 online 184:19,20 onsite 152:6 172:18 open 8:13 15:3 116:9 166:13 182:5 operated 133:17 operating 160:16 operation 39:3 121:19 124:15 125:23 134:23 141:15 operationally</p>
--	---	--

<p>operationally 83:19</p> <p>operations 53:9 125:18,25</p> <p>opine 146:5</p> <p>opinion 8:11 53:20 55:6,13,23 56:1,2 56:7 80:2,10,11 126:13,19 126:25 127:25 128:17,17,24 128:25 129:1,5,7,22 130:23 131:22 132:9,25 152:9</p> <p>opinions 126:24</p> <p>opportunity 12:2 69:13 174:12 178:18</p> <p>opposed 180:1</p> <p>OPRA 184:16 185:11</p> <p>optimal 121:18,19 125:23,24</p> <p>order 13:15 20:11,12,13 35:7 36:2 44:15 51:11 52:11 66:15 86:15 106:21 132:7 164:16 164:23 169:21 173:1 177:18 178:10,12</p> <p>ordered 41:16 69:8</p> <p>ordinance 32:12 35:4 37:21,22 43:7 44:2 47:3,6,10 48:9 78:20 104:11 105:5,6 119:20</p> <p>ordinances 42:10,12 62:21 119:25</p> <p>organization 46:6</p> <p>original 29:6 167:5 174:16,21</p> <p>originally 157:20</p> <p>other's 125:8</p> <p>ought 98:22</p>	<p>outage 118:1</p> <p>outages 117:22</p> <p>outside 22:3 36:10 50:6,12 51:19 63:1 112:13 121:24 122:24 124:14 135:16</p> <p>overall 48:1,6 74:8</p> <p>overlap 35:19 109:5</p> <p>overview 34:16</p> <p>owns 73:17</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 2:1,1,7,16 21:13 64:5</p> <p>P-r-o-c-a-n-i-k 21:22 22:7</p> <p>P.C 2:7,15</p> <p>P.E 142:12 151:10,11,17</p> <p>p.m 1:8 174:22 185:16,25</p> <p>Page 5:2,3,4,5,6,7,8,9,15 48:18 49:2 104:6 106:22</p> <p>pages 47:18 48:23 49:4</p> <p>pallet 121:4</p> <p>pallets 121:6,6 125:4</p> <p>pandemic 54:9,13</p> <p>panel 159:20 161:12,17 165:1,3,5</p> <p>parallel 164:9</p> <p>Pardon 64:25 92:17 97:25</p> <p>parents</p>	<p>68:4</p> <p>park 43:13</p> <p>parked 40:3 43:19 82:17,19</p> <p>Parker 1:11 7:18,19 41:11 161:9,15</p> <p>Parker's 163:23</p> <p>parking 32:18 37:16 38:25 39:6,8,18 39:19 46:15 47:20 48:1,7 79:25 112:18 121:16</p> <p>part 44:13 46:25 48:13,21 50:14 52:15 65:18 81:20 82:9 86:4 104:13,17,18 105:4,24 117:11,21 121:20,20 131:17 131:24 135:7 138:3,5 145:8 145:17 146:16,18 147:11,12 148:9,13 155:16 170:1 185:1</p> <p>participants 6:18 55:8 68:20 69:4</p> <p>participate 69:6 167:7</p> <p>participated 78:3</p> <p>particular 13:15 14:18 127:5 138:12 146:5 150:21 151:18 172:16</p> <p>particularly 84:3</p> <p>parties 186:14,16</p> <p>party 41:22 174:1</p> <p>pass 177:9</p> <p>passed 108:2</p> <p>passenger 48:6 90:19 92:6</p> <p>passengers 91:21</p> <p>passive 122:15 134:21</p>
--	---	---

<p>path 89:24</p> <p>patience 59:19</p> <p>pause 97:19</p> <p>paved 36:8 37:14</p> <p>pay 166:25</p> <p>pays 12:24</p> <p>PD 43:17,17</p> <p>peace 56:19</p> <p>peak 87:24 88:9,10</p> <p>pendency 114:3</p> <p>pending 97:21 98:11 107:23 166:2</p> <p>Pennsylvania 2:12</p> <p>people 11:1 16:2 28:5 62:17 63:4 65:3 67:24 68:12 69:21,25 102:19 116:14,16,21 138:9 142:16 146:9 165:2 174:10 183:3</p> <p>percentage 48:1,6 121:17,19 124:21,22</p> <p>perform 82:12</p> <p>perimeter 113:3</p> <p>period 39:1 50:4 82:22</p> <p>perishable 111:14 112:8</p> <p>permit 51:7,12 98:10</p> <p>permits 49:23 50:12,17 52:14</p> <p>permitted 36:3 91:5 172:14,21,22 176:3</p>	<p>permitting 50:10 137:8 140:13 141:8,8 143:21 145:23 146:7,17,19 147:11,12 150:3,7,12,14 151:23 152:7 154:13 156:22 163:14</p> <p>person 17:24 25:14 44:25 54:20 68:20,21 69:15,23,24 170:3 173:14</p> <p>personal 74:24</p> <p>personally 101:17 155:23</p> <p>perspective 35:18 40:19,24 108:24 110:25</p> <p>PETER 1:13</p> <p>Ph.D 142:17</p> <p>phases 137:10 141:8</p> <p>phonetic 21:6</p> <p>photos 56:17</p> <p>physical 27:11 105:18 129:3,3</p> <p>physics 126:15,21,25 127:17,24 130:22 133:7</p> <p>picking 56:4</p> <p>piece 88:1</p> <p>pieces 125:5</p> <p>place 12:12 53:15 186:8</p> <p>placed 117:2</p> <p>placement 147:4</p> <p>plan 5:17 28:3 46:21 48:12 49:4,19 49:23 50:3,8,9 51:23 72:16</p>	<p>72:17,18,19,20,25 74:9 75:13,22,25 77:12 78:2,18 81:21,25,25 82:9 85:8 90:1 92:11,13,21,25 93:2 97:22 99:14,16 100:7,22 101:11,12 103:3,23,24 104:5,10 105:5 105:6 108:12 109:24 120:17 123:14,15 131:24 135:7 144:19 146:2 150:21 161:2 175:20 179:9,15 180:24</p> <p>planner 1:18 32:8 33:17 44:18,24 45:1 114:7,8</p> <p>planning 1:1 6:3,5 8:15 9:7 14:15 16:17 46:3 48:14 62:11 67:18 82:3 82:6 103:16 106:25 109:1 153:18 157:22 170:6 178:7</p> <p>plans 23:8 27:6,24 46:13 93:5 98:13 111:16</p> <p>plant 100:11 142:14</p> <p>played 54:6</p> <p>please 8:3,8,12,16 16:9 17:4,7,23 21:2,10 22:1,3,19,21 23:17 23:22 25:18 29:22 31:13 34:14 45:4,17 56:13 57:3 58:1,15 59:22 61:21 64:2,9 64:13,14 67:14 72:2,21 75:5 75:21 77:16 89:18 90:23 97:17 100:15 107:12 113:18 115:4 117:17,17,17 118:2,13 127:10,12 130:8 136:5 156:20 161:7 178:11 183:5,6</p> <p>pleasure 11:4</p> <p>plus 82:17 121:6</p> <p>plutonium 126:21,25</p> <p>POCANIK 128:3</p> <p>pocket</p>
--	---	--

<p>180:20 point 12:9 16:12 18:4 29:5 30:17 32:15 40:18 41:20 47:8 49:17 54:10 56:7 69:20 71:24 74:4 76:21 81:14 90:23 91:19,20 92:22 97:24 103:24 104:2,4 105:16 108:14 109:2 110:13 112:25 114:2,18,19 123:9,17 132:8 133:7 159:7 163:7 178:19 pointed 123:25 pointing 10:5 points 30:13 49:13 104:3 117:4 police 62:23 pollution 78:15 portion 7:3 9:5 19:8 30:19 71:7 72:16 116:9 121:17 132:11 portions 20:5 positive 134:10 possible 68:13 82:7 117:4 possibly 69:25 post 148:19 178:7,8,17 post-baccalaureate 142:9,17 posted 95:12 183:15 potential 138:12 172:19 potentially 49:25 80:1 82:16 102:1 power 117:22,24,25 118:9,16 119:7 134:22 powered</p>	<p>117:8 powering 118:6 practically 118:1 pre-install 46:13 precious 96:16 precise 130:7 preclude 88:6 precursor 91:25 preface 33:18 preliminary 50:2,3,8 51:18 81:21 146:2 176:14 premature 41:20 80:3 premise 32:18 preparation 101:10 prepare 13:13,15 137:12 154:13 176:20 prepared 12:25 18:20 23:9 49:17 103:24 104:2,4,5 105:17,20 106:17 157:14 159:18 165:9 preparing 78:3 101:12 103:3 presence 173:15 present 1:9,17 3:1 9:3 12:23 15:21 20:7 25:4 110:11 presentation 44:13 131:24 presented 25:10 presenting 25:3</p>	<p>preserve 63:9 presumably 54:6 presume 12:22 13:23 78:25 82:18,20 85:23 112:8 119:1 169:23 presumed 12:20 presupposes 117:8 pretty 39:4 95:23 112:17 prevent 82:8 172:16 prevented 93:25 94:13 previous 20:15 48:12 49:5 53:7 72:3 87:17 121:2 149:18 160:9 181:14 previously 5:17,18 72:8 78:17 83:3 93:15 111:23 115:14 121:12 128:6 136:3 primarily 124:10 151:5 Princeton 21:16,23 22:9 prior 18:2 34:10 96:25 113:16 181:4 186:11 private 46:5 probably 7:1 11:4,7 44:20 47:14 55:1 109:8 125:21 157:12 168:1 170:22 175:6,10 184:17 problem 62:24 63:6 96:12 110:7 170:4 problems 79:22 97:4 Procanik 3:3 4:4 9:19 21:4,10,21,21 22:6,7,16 23:12 26:23,23 27:1,3 28:14 47:24 48:4 49:7</p>
---	---	---

<p>60:9,16,20,24 61:5,8 72:9,13 72:15 73:17 74:12,21,25 75:8,10,21 77:9 78:9 84:14 85:19,22 87:9 88:11 91:22 92:9,19 95:10 101:7,9 103:21 106:14 132:24 133:12 135:1,6</p> <p>Procanik's 74:4</p> <p>procedural 67:22 71:8,17 115:10 116:2 175:23 177:12</p> <p>procedure 14:14 18:19 51:18 70:18 110:15 173:2</p> <p>procedures 120:25</p> <p>proceed 75:9 78:7 103:15 150:4</p> <p>proceeding 176:8 181:3,4 185:1</p> <p>proceedings 1:4 181:9 185:25</p> <p>process 51:11 52:15,16 65:19 66:11 70:20 82:9,11 100:25 102:25 146:17,19 147:11,12,17,21 148:10 182:3</p> <p>processed 52:14 99:16</p> <p>processing 35:15</p> <p>produce 103:12 168:13 172:23</p> <p>produced 72:10 93:25 170:2</p> <p>producing 77:19</p> <p>production 54:15</p> <p>products 53:25 54:8</p> <p>professional 11:6 22:13 23:4,12,21 38:9 44:18,23 60:9 128:11 129:22 137:1 151:12,13 152:18,20</p>	<p>156:8 157:11,17 160:15</p> <p>professionals 14:25 133:17 157:8 168:20 169:2,5,6 178:15 179:4,14</p> <p>professions 159:10</p> <p>profitability 125:20,22</p> <p>profitable 125:10</p> <p>program 86:18</p> <p>project 7:3 9:20 21:6 63:5 77:22,24 80:7,8 94:15 98:12 117:25 135:12,15 151:16 152:20 155:21 161:20</p> <p>projected 30:11</p> <p>prompting 91:11</p> <p>proper 16:9 86:6 90:2 134:23</p> <p>properly 19:4</p> <p>properties 81:13 82:8 140:2</p> <p>property 38:13 43:12 50:25 51:14 59:4 72:7 73:18,19,20,22 75:11 75:15 76:7,8,11,17,18 78:11 78:22 82:2,25 84:4,7 88:13 89:22 96:6 98:9,14 102:10 106:18 109:11 146:14 160:11</p> <p>propose 44:4</p> <p>proposed 27:12 37:1 44:16 53:23 61:12 75:12,16,18,22,25 97:10 98:3 173:12</p> <p>proposing 49:18 75:20 102:6,12 150:2 171:8</p> <p>protection 50:4</p>	<p>protocol 165:15</p> <p>provide 80:3 93:6 107:3,5,16,16,21 109:7 110:10,11 111:1 112:13 128:5 135:11 136:25 143:23 144:7 147:23 153:3,7 153:22 167:6 169:20 178:10 183:20,24</p> <p>provided 16:13,14,15 17:6,13 19:11 77:9 104:8,13 105:3,6,10,19 105:23 106:21 107:1,10,18 108:4,4,15,16,17,17,18 109:3,4,25,25 113:13 114:20 116:6 118:9 127:25 142:22 143:4 146:16,18 147:15 149:21</p> <p>provides 178:9</p> <p>providing 81:16 143:24 144:2 146:2</p> <p>provision 36:20</p> <p>public 5:1 8:14 9:21 11:1,25 12:11 13:2 15:14 18:11 19:10,22 25:1 26:4 41:3 72:22 73:16 77:10,25 114:16 116:3,9 170:1,1 176:20 177:4 178:17 179:25 180:19 181:6,12 182:9,22 184:14 186:4</p> <p>pull 167:25</p> <p>pulled 28:25</p> <p>pulls 123:15</p> <p>purchase 181:7</p> <p>purchased 184:13</p> <p>purpose 8:7 37:5 160:23</p> <p>purposes 35:14 146:1 164:24</p>
--	--	---

put
9:8,11 35:9 53:14 72:20 73:2
73:8,9,10 103:11 112:9,11
112:12 134:20 161:13,22
162:3 164:3 182:22

putting

18:13

puzzled

19:1

Q

qualifications

22:19 23:16,22 24:1 26:9,11
26:13,15,19 28:9 136:21
137:1 138:15 139:2 140:20
141:20,23 154:15 155:11
156:2,5 158:7 163:8 169:25

qualified

132:10 139:25 140:22 153:17
158:7 159:5 168:11

qualify

22:13

quality

82:14,15,23,24 83:7 84:5,18
85:2 140:7,9,10,12,17,22
144:4,10,14 145:2,16 168:12

quantify

92:3

quarries

63:1

quarry

62:24,25

question

14:18 18:4,14 20:14,18 29:10
29:23 30:2,6 31:19,25,25
32:8 33:11 34:15,18 38:20
40:10 41:12,19,23 43:11
46:12,16 47:12 48:11 53:17
53:18,20 55:2,5,10,25 56:1,6
56:15,22 57:25 58:1,22
59:11,12,15 60:3,5,8 61:15
62:12 63:19 64:24 65:7,15
66:2 67:23 69:10 71:9,18
72:9 75:5,7 78:25 80:23,25
83:14,15 84:12,15,17 85:13
87:8 88:7,10 89:10,13,24

91:7 92:24 93:22 94:1,10,13
94:22 96:23 97:3 98:20
99:18,24 101:1,4 103:19
104:7,12 105:18,20 106:15
107:5,8 111:10 113:17,24
114:7,8,9,9 115:3,10 116:2
117:1,4,14,15,18,20 118:3
118:11 119:15,17 120:23,25
121:7,10,11 125:13,16,18,21
126:1,8 127:1,2,5,6,9,13,20
127:23,24 128:4,4,7,10,14
128:20,21 129:17 130:12,15
130:16,18 131:23 132:9,11
132:16,18,23 133:6,15,24
134:16 135:22 138:22
140:16,16 145:21 146:15
149:19 150:19 152:12
153:10 156:12 158:12,23
161:9,15,18 167:5 171:8
177:14 178:20 180:13

questioning

130:7

questions

6:17 8:14,17 9:21 11:1,9,24
12:3,8 13:1 19:10,24 20:2,4
20:15 22:12 23:15,15,25
24:17,25 25:15,21 26:1,16
26:18 28:12 29:3 33:4,5
40:16,17 41:4 44:12 45:6,13
46:9 55:8 56:14 59:10 63:10
63:11 65:4 70:19,23 71:1,5
71:25 72:3 73:7 74:8,11,14
74:15,19,22 75:21 77:1,9,20
77:24 78:1 89:15 90:24
96:17,20 97:14 98:17 100:23
101:3 110:14,19,24 111:8
113:7,8 114:17 116:3,10,10
116:14,17,22,24 126:7 130:3
132:4 133:4 134:18 135:20
140:7 141:19 142:2 154:11
154:15 156:2 159:21 161:23
162:4,8,17,18 171:17,18
172:1,5

quick

7:4 41:24 62:19 70:11 71:20
91:7 110:16 111:9

quickly

113:17 133:11

Quinn

1:11 7:16,17 11:21 14:19
20:10,25 26:4,7 29:8 31:3
41:1,8 42:10,12 43:7 45:10
57:1,19 61:16,19 63:24 64:1
66:14,23 67:1 70:2,6 73:10
73:13 79:3 85:15 100:25
120:4,6 161:8 164:6 165:14
165:19 178:14,20 179:12,13
180:9 181:15 182:11,18
183:14 184:7,20 185:3,5,10

quite

94:6 95:3 100:4,20 133:9

R

R

2:1 21:13,13,13 29:13 31:8,8
62:1,1 64:5 67:6 111:22,22
111:22 115:18,18 136:8
186:2

R-1

92:15

racking

121:4 123:23

radii

85:25

rail

32:21 48:17,20 53:9,11
121:25 123:2,19 126:15

railcar

131:1

raise

11:25 21:10 45:17 57:3 58:2
61:21 64:2 67:4 69:17 108:8
115:12 136:5 153:15,23
177:12

raised

11:25 40:9,20,21 44:19 66:3
77:2 81:14 82:12 154:3,11
162:19 175:24 179:6

raising

40:16 168:23 179:24

range

30:15

<p>rate 86:17</p> <p>rationale 50:5 56:3</p> <p>re-purposing 55:22</p> <p>reached 157:2</p> <p>read 13:14 65:10,10 87:22 94:9 138:4,23 140:17 155:6,7</p> <p>reading 37:20 87:22</p> <p>ready 63:11 70:14</p> <p>real 36:19 42:16 114:4</p> <p>Realistically 145:22</p> <p>reality 153:7</p> <p>realize 100:19,19</p> <p>really 30:25 32:8 34:21 37:5,11,16 38:19 40:19 44:25 53:17 61:14 65:17 68:11,11 69:10 90:24 110:16 114:7 125:23 127:7 140:1 141:5 145:4 159:8 170:17</p> <p>realm 172:21</p> <p>Realty 1:4 6:11,15 50:25 166:9</p> <p>reason 13:18 15:22 30:7 69:22 113:20 176:12 177:1 179:5</p> <p>reasonable 65:12</p> <p>reasoning 102:15</p> <p>reasons 49:24 50:1 102:22</p> <p>rebut 165:3 177:20</p> <p>recall</p>	<p>12:1 104:25 149:13,14</p> <p>recapping 133:2,13 166:20</p> <p>receipt 14:11</p> <p>receive 110:5 139:21 176:13</p> <p>received 41:21 94:11 96:19</p> <p>recess 71:21</p> <p>recognize 19:24 56:8</p> <p>recognizes 115:8</p> <p>recognizing 19:25</p> <p>recommend 70:10 126:1 156:4</p> <p>recommendations 157:21 166:17 174:25 175:1</p> <p>recommended 149:9 150:4</p> <p>record 18:13 35:9 45:16 46:18,19 72:6,24 103:12 110:5 123:11 128:13 134:7 153:16,24 170:1 175:19 181:12 182:20 182:22,23 185:2</p> <p>recorded 182:19</p> <p>recording 184:15</p> <p>recordings 182:19 184:10</p> <p>records 182:9</p> <p>recreation 56:19</p> <p>rectify 109:16</p> <p>Red 2:8</p> <p>reduce 81:13</p> <p>reduction</p>	<p>133:19</p> <p>redundant 69:1</p> <p>refer 117:5</p> <p>reference 72:17 78:2 79:22 82:14 123:14 138:18,19,24 140:8 141:1 168:13 173:11</p> <p>references 158:2</p> <p>referencing 88:4</p> <p>referring 59:24 75:19</p> <p>reflect 45:16</p> <p>reframe 132:23</p> <p>refrigerated 112:8,9</p> <p>refrigeration 111:15 112:5,20 113:1 117:2 117:9 118:25</p> <p>regard 9:14 156:2 163:17 164:11</p> <p>regarding 154:12</p> <p>regards 30:17 33:22 40:24 65:24 120:24 147:8 154:10 158:13 167:5 182:15</p> <p>regional 54:14</p> <p>regularly 61:1</p> <p>regulated 50:16 149:22 150:1,13</p> <p>regulation 153:7</p> <p>regulations 39:22 83:10 84:20,21 85:18 152:25</p> <p>Reina 1:10 6:2 7:20,21,22 8:2,5 9:24 10:4,24 11:11,14,19,22</p>
---	---	--

<p>13:10,25 14:4,20,23 16:6,18 17:23 18:3,8,15,23 19:1,6,14 19:21 20:24 21:2,8,25 22:21 23:18,24 26:12,20 28:10 29:4,9 30:9 31:2 33:10,16 40:5,8,12 41:10,14 44:9 45:6 52:4,17,24 53:3 54:18,25 55:25 56:13 57:12,15,20,25 58:24 59:2,8,13,18,22,24 60:7 63:15 65:22 66:13,21 68:14,17 69:19 70:9,25 71:3 71:11,14,19,22 72:11 73:3 74:17 75:4 77:16 78:4 80:21 81:5,9 84:8,23 85:3,8 87:25 89:4,9,14,18 90:13 94:24 96:14,24 97:13,16 101:2 106:10 107:13 108:22 109:19 110:2,4,12,22 111:5 111:17 113:15 114:19,22 115:4 116:8 118:2,6,19,24 120:5,22 121:9 122:4,8 125:19,25 126:5 127:1 128:19 129:12 130:8,19 131:11 132:6,15 134:1,17 138:14 141:24 156:1,19 158:12,17,22 159:24 161:6 163:7,11,16 165:8,25 166:6 166:13 167:2,4,21 168:5 170:9 171:1,7,14 173:8,18 174:15,18 175:12 176:9,15 176:23 177:8 178:2,16 179:2 180:3,7,11,23 181:1,8,20 182:4,12,25 183:7,11 184:2 184:8,11 185:13,23</p> <p>reiterate 45:13</p> <p>relate 158:3</p> <p>related 29:23 72:2 121:11 127:7 141:6,13 171:18 186:15</p> <p>relates 51:10 101:9 110:24 141:5</p> <p>relation 117:3</p> <p>relative</p>	<p>157:18</p> <p>relaxation 56:19</p> <p>relocating 78:21</p> <p>rely 24:16 35:5 180:1</p> <p>relying 84:19 171:20 179:4</p> <p>remaining 132:11</p> <p>remember 94:7 95:2 116:21</p> <p>remind 8:7</p> <p>reminder 56:17</p> <p>removed 55:15</p> <p>rendered 72:25</p> <p>repeat 60:15 83:15 132:22</p> <p>repeatedly 54:7</p> <p>repeating 133:15 144:25</p> <p>rephrase 138:17</p> <p>replace 48:25</p> <p>replacement 15:16</p> <p>replacing 21:6</p> <p>report 10:12,12,19 13:14 87:22,23 104:8,12,15,24 105:2,7,12 105:15,19,20,23,24 106:1,3 106:4,7,9,17,20 107:2,16 108:3,15 109:1,8,13 139:12 140:17 143:4,14 146:18,22 147:6 148:11 154:24,25 157:2 168:4 173:6 176:5</p> <p>reporter 1:21 181:7 186:5,20</p>	<p>reporting 1:22 174:1</p> <p>reports 10:8 15:13 146:23 169:5,6,7 169:10,16 179:14,16 182:17</p> <p>represent 19:24 72:6</p> <p>representation 165:17</p> <p>representative 160:16</p> <p>representatives 101:17</p> <p>represented 32:10 56:11,18</p> <p>representing 6:23 46:7</p> <p>request 14:20,24,25 16:18,20 65:12 68:10 110:5 157:6 163:23 166:21 167:1 168:2 184:16 185:12</p> <p>requested 14:19 169:20</p> <p>require 52:7 117:9</p> <p>required 42:5 49:23 51:12 76:23 83:20 93:14 118:21 119:5,9 140:11 143:20 145:24 150:14 168:14</p> <p>requirement 37:14 81:23 91:12,15 104:10 108:11 113:13 118:15 119:1 119:11,13 143:22</p> <p>requirements 37:25 48:5 78:18,20 81:21 139:20,22 140:12,13,15 145:25 150:10,11 151:1,24 152:6,8</p> <p>requires 36:8 37:23 49:19 104:8 105:4 108:13 109:23 146:20</p> <p>requiring 47:25 51:11</p> <p>research</p>
--	--	---

<p>170:3 resembles 120:9 reserve 46:11 141:21 179:17 residence 84:3 resident 46:5 residential 76:22 82:25 resolution 10:14 51:2 resolving 52:13 respect 134:2 154:2 respectfully 16:5 17:10 18:22 43:8 68:10 88:1 94:18 96:20,22 104:22 105:3,14 108:11,20 respond 132:21 response 51:3 61:18 63:25 70:5 79:17 79:20 128:13 responses 80:2 responsible 2:14,22 158:15,18 rest 19:7 122:15 restricted 48:21,22 49:1 restrictions 104:9 105:9 106:19,21 result 84:5 111:11 125:23 140:9 149:11 172:15 results 126:11,19 133:18 retain 9:7 13:21 14:15 retained 15:13 retaining</p>	<p>13:19 retired 68:6 retracted 129:24,24,25 return 12:13 50:11 returning 58:25 revenue 54:1 review 9:10 11:5 15:13 34:22 48:12 49:4 81:15 135:13 155:2,5 155:17 157:18 173:5 178:18 reviewed 10:8 135:8,13 153:2,9 155:4 reviewing 96:17 revisit 170:23 revolves 31:19 revolving 158:3 RFP 10:16 RFPs 14:5,8,12 Rich 9:19 21:21 22:10,13,18 26:23 32:6 51:8 Richard 3:3,4 4:4,12 9:17 22:7 137:7 145:10 ride 87:13 Ridge 2:21 right 8:22 13:21 14:15 15:14 21:11 25:3,4,9,9 26:17 29:5 33:25 45:18 46:11 57:3,5 58:2 61:22 63:9 64:3 65:1 67:4 69:14 70:9 72:11 73:24 75:25 77:22 78:1 80:19</p>	<p>81:19 85:1,1 88:19 90:6,7,17 91:9,13,19 92:4,23 93:7,10 95:24 98:3 102:7,13 103:5,8 112:18 114:14 115:13 118:19 125:6,12,22 128:14 135:4 136:5 139:17 141:21 142:7,18 144:11,16,17 145:3 145:11 148:2,22 149:7 151:21 167:20 169:16 171:19 172:10 179:3,4,9,17 180:23 181:24 183:13,18,21 right-hand 88:14,23 89:2,22 90:20 91:3,4 right-most 121:15 rights-of-way 105:6 108:13 rights-of-ways 109:10 riparian 48:23 road 2:8 29:14,20 30:5 31:9,16,18 42:19 43:4 62:22 73:22,24 80:19 87:12,13,18 93:13 95:11 96:4 97:4,6,11 118:25 126:12 roads 53:11 roadways 172:20 Rock 1:23 role 80:1 137:1 roll 7:4 Ron 5:2 20:21,22 29:20 roof 112:22,24 113:2 room 175:16 roughly 122:7 Route</p>
--	--	--

<p>2:16 30:5 42:7 88:20 92:8 Roxanne 5:3 31:6,15 running 39:11 82:21 84:6 runoff 149:16 150:21 152:2</p>	<p>2:3 science 22:24 137:18 142:8,11,18 scientist 49:9 scope 30:11 153:17 165:1,5 screen 73:11</p>	<p>selected 14:10 55:11 selection 55:10 selling 54:10 SELVAGGI 2:15 send 166:19 178:11 senior 66:16 sense 149:2 153:14 158:1,5 159:10 159:23 172:3 174:3 sensitive 49:20 53:3 sent 14:5,8 separate 10:6,11 11:15 54:19 148:11 150:11 157:17,24 180:2 septic 98:3,15 99:8,8 sequence 25:10 serious 62:24 63:6 106:11 Sermad 1:18 13:9 33:17 34:6,8,12,15 35:1 38:5 40:14 serve 135:9,14 service 42:1 46:4 63:16 98:9 135:11 135:16 137:4 serviced 120:18 SERVICES 1:23 session 6:5 45:14 set 27:16 59:4 setbacks 76:23</p>
<hr/> S <hr/>		
<p>S 2:1 5:13 31:8 67:6,6 111:22 111:22 Sagamore 58:19 sale 35:15 Sally 5:8 67:3,3,12 salute 7:23,24 Sam 5:3 31:4,17 sample 163:19 samples 159:3 160:10 163:24 sampling 160:5 163:24 sarcastic 57:16 98:25 savings 126:11,19 129:10 saying 32:25 37:16 38:8,9 40:1 63:13 89:2 91:14 94:23 107:21 123:10 146:1 165:6 175:13 says 24:14 93:6 108:15 129:5 153:18 schedule 167:20 173:23,25 175:9,16 scheduled 9:16 scheduling 157:15 165:23 166:7 177:21 SCHNEIDER</p>	<p>se 119:10 Sea 136:15 137:5 search 108:7 109:15 second 48:20 67:22 161:6 182:2 185:22 secondary 11:16 41:16 126:7 179:5 Secondly 17:16 Secretary 1:19 7:6,8,10,13,15,18,20 166:5 section 36:7 178:8 sections 35:6 37:24 see 14:21 20:7 22:2 25:18 43:19 47:17,20 55:5,13 65:3 73:6 73:12,15 79:22 80:5 92:15 94:10 101:14 104:18 107:4 149:4 154:25 166:25 169:4,7 seek 99:13 100:21 seeking 100:10 seen 57:20,21 104:24 105:1,13 107:1 segment 88:2 segue 50:20</p>	<p>selected 14:10 55:11 selection 55:10 selling 54:10 SELVAGGI 2:15 send 166:19 178:11 senior 66:16 sense 149:2 153:14 158:1,5 159:10 159:23 172:3 174:3 sensitive 49:20 53:3 sent 14:5,8 separate 10:6,11 11:15 54:19 148:11 150:11 157:17,24 180:2 septic 98:3,15 99:8,8 sequence 25:10 serious 62:24 63:6 106:11 Sermad 1:18 13:9 33:17 34:6,8,12,15 35:1 38:5 40:14 serve 135:9,14 service 42:1 46:4 63:16 98:9 135:11 135:16 137:4 serviced 120:18 SERVICES 1:23 session 6:5 45:14 set 27:16 59:4 setbacks 76:23</p>

<p>sets 106:19</p> <p>setting 8:8 115:15</p> <p>setup 124:14</p> <p>seven 57:2</p> <p>sewer 97:23 98:8,14 99:17,22,25</p> <p>sewerage 100:9,11</p> <p>shape 39:25 69:1</p> <p>share 13:10 19:11,15 41:4 55:23 56:7</p> <p>shared 68:25</p> <p>shares 54:21</p> <p>sharing 10:19</p> <p>Sharon 70:3,4</p> <p>Sheet 5:18 95:9 123:16</p> <p>shield 78:13</p> <p>shipment 32:21</p> <p>shipping 39:2,12,13</p> <p>shortages 54:8,12,15</p> <p>show 19:17 63:4 105:12 123:7 124:5,7 176:22</p> <p>showing 76:1</p> <p>shown 92:13</p> <p>shows 43:21 45:2 170:11</p> <p>shut 42:19,25 43:2,3,9</p>	<p>sic 27:14</p> <p>side 42:9,19 43:20 62:22 76:7 122:11 123:2,20 124:6</p> <p>sides 37:4 112:16,16,17 122:25</p> <p>sight 93:8,10,13 94:3 95:19 96:10</p> <p>sign 92:16 93:5,6</p> <p>signed 27:24</p> <p>signs 88:22 89:2 92:10</p> <p>similar 19:6 117:10 124:14 133:9 146:15</p> <p>Simmons 1:18 104:24,25 107:12 108:22 108:25 109:15,20,21 162:3 162:17</p> <p>simple 84:16 87:8 88:7 95:23</p> <p>simply 58:2 77:25 86:21</p> <p>single 54:20 68:3 122:17 157:1</p> <p>sir 26:22 28:11 33:1 39:24 43:8 45:8 57:12 71:10 103:19 104:12 105:14 113:12 114:12 115:4,11,12 117:13 120:23 121:10 127:8 129:20 130:1,4,8,10 131:6,13,25 132:2,24 134:1,8,18 142:6 143:10 155:4 161:9 184:1</p> <p>sit 37:13 39:1,11</p> <p>site 5:17 28:3,16,17,23,24,25 38:24 48:12 49:4,19,23 50:3 50:8 51:23 52:8 56:4 60:10 60:11,11 61:1,1,4,11,13 72:8 72:18,20,25 74:2,9 75:13,19 75:22,25 77:12 78:2,18</p>	<p>81:21,25,25 82:9 83:20 84:1 84:2,4 85:8,25 86:1,16,20 87:5 88:19 89:8 90:1 92:11 92:13,21,25 93:2,5 98:4 101:11,12 103:3,23,24 104:5 104:10 105:5,6 108:12 109:24 126:17 128:7 131:24 135:7 144:9 146:2 149:24 150:21 151:23 155:16,18 175:20</p> <p>sites 55:19 92:4</p> <p>sitting 38:12 39:14 43:12 133:9 172:5</p> <p>situation 173:12</p> <p>SKEI 1:13</p> <p>sleep 42:19</p> <p>slow 130:1,4</p> <p>small 37:5,17 67:18</p> <p>smaller 36:23 102:5</p> <p>smartest 55:16</p> <p>so-called 101:15,20 102:5</p> <p>Society 56:18</p> <p>soil 146:12 159:3 160:5,10 163:19 163:24</p> <p>solely 32:5</p> <p>solution 117:24</p> <p>somebody 105:12 157:24 176:17 180:14</p> <p>somewhat 8:20 36:4</p> <p>soon 65:15</p>
--	---	--

<p>sore 68:2</p> <p>sorry 20:25 23:20 26:7,22 27:19,21 28:21 32:2 33:8 38:8 65:20 76:14 86:11 90:15 96:9 111:2 115:9 131:16 136:24 144:24 149:18 151:11 158:17 159:16,19 177:14 179:11</p> <p>sort 10:22 74:25 112:25 148:24 151:22 159:9</p> <p>sorts 142:15</p> <p>sound 7:3 65:16 69:1 81:16,16,20 82:12 133:9</p> <p>sounding 49:3</p> <p>sounds 15:16 66:11 133:20</p> <p>south 79:11,15,21 80:9</p> <p>southerly 91:5</p> <p>space 20:20 120:17 121:7,17 124:2 124:22 129:3</p> <p>spaces 42:21 46:15,23 47:20</p> <p>Sparta 1:1,8 2:14,22 6:3,4 14:14 29:14,21 31:9,16,18 43:17 45:21 46:2 55:11 56:11,18 58:19 64:22 67:13 115:19,25 115:25 126:20 133:19 154:22 155:1</p> <p>speak 17:22,24 22:1,3 23:18 30:9 44:19 45:3 46:11,18 48:3 60:18,22 65:1,2,4 66:4 77:16 103:6,13 179:11</p> <p>speaking 17:25 44:24 46:5 64:16 65:14 75:12</p>	<p>speaks 104:7</p> <p>special 11:3 166:11,22 168:2 170:19 171:10,12 173:23 175:3</p> <p>specialist 1:19 3:6 9:22</p> <p>specialization 151:8</p> <p>specials 175:15</p> <p>specie 141:7</p> <p>species 137:9 142:14</p> <p>specific 12:3 20:2 27:6 35:6 55:5 65:25 66:8 68:22 71:1,5 72:3 72:15 96:20,25 110:24 121:11,22,23 124:24 128:19 138:15 141:4,5 148:23 150:12 153:4 162:3 166:8 177:19 179:19,20</p> <p>specifically 8:17 19:10 43:10 47:9 69:3 79:16 96:24 129:13 140:25 141:3 148:25 182:22</p> <p>specifics 163:20</p> <p>speed 93:12,13 95:10 122:1,18 123:1,3 173:11</p> <p>spell 21:19 31:14 45:25 58:15 64:10,14 67:11 115:23 136:13</p> <p>spend 164:18</p> <p>spoke 12:18 14:8 38:22</p> <p>spot 55:12</p> <p>Spring 67:13</p> <p>sprinkler 121:7</p>	<p>square 2:12 102:4 122:5,7</p> <p>staff 27:9 28:6</p> <p>standard 36:15</p> <p>standards 83:12</p> <p>standby 118:16</p> <p>standing 40:15 62:21 63:1</p> <p>standpoint 97:8</p> <p>start 10:17 11:23 20:21 21:4 53:5 74:8 170:6 171:9 173:21</p> <p>started 8:6 11:25 68:18 99:16 108:2,3</p> <p>starting 82:21</p> <p>state 21:19 22:25 23:3 29:18 31:13 31:14 44:2 45:24 47:3,6,10 47:25 48:5 50:18 58:2,15 64:9,13,20 67:10,19 68:4 83:4,9,20 115:22 117:11,22 128:12 136:12 140:12 142:23,25 143:21 145:22,23 145:25 148:3 152:7 186:5</p> <p>stated 54:1 59:16 60:24 78:17,23 85:17 99:18 154:20</p> <p>statement 56:10 64:24 83:7 112:23 117:16 120:23 128:13 129:22,23 132:25 133:1 134:2,5 138:4,24 139:3,12 139:14,14 140:3,5 141:2,12 141:16 145:6 154:11,22 156:14,16,22 158:14,14,19 159:6,9,13,17 161:5 162:8 162:11 163:13,21 183:1</p> <p>statements 34:10 56:13 116:24 134:11 137:10</p>
---	--	---

<p>states 23:1</p> <p>stating 131:15 139:9</p> <p>station 46:22 47:25</p> <p>stations 46:14 47:2,15,20 48:8</p> <p>status 50:24 51:6,16</p> <p>statute 47:19</p> <p>statutes 50:18 62:21</p> <p>stay 38:17 42:23 43:4</p> <p>stenographer 181:14,20 182:14,17</p> <p>stenographic 186:7</p> <p>stenography 181:10</p> <p>step 28:22</p> <p>Steve 8:24</p> <p>STEVEN 2:7</p> <p>stick 174:15,21</p> <p>stipulate 43:25</p> <p>stock 36:17</p> <p>Stockton 137:7 145:10</p> <p>stop 60:6 80:18 92:15</p> <p>stopped 28:20,25 50:24,25 51:16</p> <p>storage 32:22 35:12 36:14 113:20 118:11,14,18 121:20 122:3 123:22,24 124:12,12,21 125:1</p> <p>storing</p>	<p>112:7 125:2,5</p> <p>stormwater 27:8,11 143:18,19 144:5,11 145:15 149:16 150:19,21,24 150:25 151:3,9,14,16,21,22 152:6,19,23,25 153:1,4,11 153:19 157:7,19 158:4,4,9 159:2,13,19 167:10 178:25 179:20,23 180:18</p> <p>straight 73:25</p> <p>strain 134:20</p> <p>stranger 77:21</p> <p>strategy 55:17</p> <p>streaming 69:4,7</p> <p>Street 1:7 45:21 46:2</p> <p>strong 35:18</p> <p>structural 49:13 124:4</p> <p>structuring 118:21</p> <p>struggling 130:20</p> <p>studies 137:9 141:7 171:21</p> <p>study 9:10 10:7 11:6 29:24,25 30:3 30:7,19 31:1 41:13,16,18 42:14 79:17 81:16,18,20 82:12 86:15 88:5 132:13 173:5,14</p> <p>studying 80:4</p> <p>stuttering 60:20,22</p> <p>subcontractor 160:13</p> <p>subject 28:16 73:20 77:10 141:1 157:12</p>	<p>submission 46:25 146:21</p> <p>submit 52:7,8 105:3 108:11 144:20 148:11 154:13 165:12 169:11</p> <p>submitted 32:9 47:22 104:17 110:9 123:12 143:15 146:18,24,25 147:7,12 148:1 156:17 169:6 169:25</p> <p>submitting 169:10</p> <p>subsequent 16:15 35:13 51:5 92:1 93:1</p> <p>subsequently 17:4</p> <p>substantiate 81:16</p> <p>subsumed 175:25</p> <p>suburban 67:18</p> <p>successful 66:19</p> <p>sufficient 108:20 147:23 173:16</p> <p>suggest 110:21 125:20</p> <p>suggested 132:12</p> <p>suggesting 135:21 171:4</p> <p>suggestion 131:10</p> <p>suggestions 166:14,16</p> <p>suitable 55:21</p> <p>Suite 1:23 2:4,8,12 21:15,23 22:9</p> <p>summarize 119:4</p> <p>summer 175:15</p> <p>Sunderson</p>
---	--	--

3:4 4:12 9:17 15:17 70:24 110:17 111:11,19 112:1 113:10 114:15 118:10,14,23 119:2,9,20,22 120:2 121:22 122:6,10,16,24 123:5,7,17 124:3,9,16,19,23 125:12,17	22:22 sworn 21:5,17 29:15 31:10 34:4 45:22 57:4 61:22 62:2 64:6 67:7 111:18,23 115:6,13,20 131:5,10,15,20 136:3,9 186:11	39:16 53:8 62:15,16 75:13 81:3,4 98:6 124:1,1 149:23 155:10 159:2,3 166:12 169:19
supersedes 51:5	Sylvester 1:12 7:13,14 88:4 90:22 156:7 156:11 157:6 158:1 159:22 160:4,8,15,19,22 162:10,13 162:16,21 163:2 164:1,8,13 168:18,24 171:16,20 172:4 174:13 185:20	tall 113:25
supplement 162:4	system 65:16 69:9 97:23 98:3 99:8,9 99:17,22 100:9 117:9 118:5 121:7 150:25 152:20,21,24 153:8 161:23	tallest 114:2 120:8
supplemental 170:18	systems 69:12 118:20	tape 94:9
supplied 181:11,12		tax 53:25
supply 53:24 54:4,16	T	team 159:11,12 163:2,3 164:4,5 167:25 168:19
SUPPORT 1:23	T 1:11 5:13 45:20,20 186:2,2	technical 28:6 79:17,19 80:2 128:7
suppose 32:7	tail 37:3	Technically 24:18
supposed 12:16 24:8,12 98:18	take 10:10,22 11:23 30:1 32:7 41:24 43:15,18 51:9,9 53:10 68:16 70:11 71:20 78:16,23 79:6 83:6 110:1 125:19 153:25 165:22 173:7	tell 12:22 15:12 51:4 52:19 57:6,9 58:6,14 59:7 65:17 73:21 80:8 87:21 140:21 151:2 177:15
sure 8:4 11:21 13:1 22:13 30:15 32:13 39:4 46:17,23 51:4 53:16 55:7 71:16 72:23 76:16 83:16 86:5 87:10 89:25 111:7 123:7 131:4 136:22 141:5 144:25 149:20 161:12,16,22 162:6,20 163:17 168:5,25 173:24 178:3,4	taken 41:25 71:21 112:17 134:4 148:18 160:10 176:6 186:8	telling 36:4
surely 53:19	takes 52:3 67:20	temporarily 40:2
surrounding 30:16 103:7 140:2 141:14	talk 22:18 88:12 90:6 93:8 153:11 153:12 157:15 161:1 165:22 168:11 172:18,19 182:15	temporary 32:18,22 35:12 39:6,8,19
survey 61:11 104:3,4,8 105:16,21,23 106:1,5 108:23 109:3	talked 53:24,25 54:7 62:20 116:23 116:23	ten-minute 7:1 71:20
surveyor 61:10 106:20	talking	tenant 119:10,11,12 121:23 124:24 125:14
suspect 11:11 173:8 177:9		tenants 112:6
swear 21:4,9 34:3,6,9 57:6,9 98:23		term 34:1
swearing		terminal 31:20 32:4,17 33:13 35:11,17 36:1,6 37:19 39:17 40:4 44:13 62:17

60:17	160:10 162:19 165:2,5	109:25 113:15,16 114:5,6
terms	167:18 170:7 171:22 172:8	116:2,12 117:8 124:23 125:9
14:1 30:11 33:24 36:22 40:22	174:24 177:18,23 178:24	125:12,17 126:18,21 129:14
47:21 49:4 54:14 173:19	179:7	130:6,19,25 132:17 150:16
181:10	tests	153:16,21 154:3 157:17
testified	160:23	159:22 163:2,4 164:11,21
15:6 24:8,16 27:15 78:3 82:3	thank	166:13,14 167:14 168:18,24
83:3 87:17 90:3 91:9 93:15	6:6 8:5 9:24 16:10 18:15	170:22 171:23 172:7 174:5,9
93:16 111:3 126:22 127:3,7	19:13,20 22:23 24:2 26:21	175:2,3 177:16 178:5,6
127:11,14 128:6 132:10	28:10 29:4,11 30:1,21 31:2,3	179:2,3,8,18 181:17
138:14 152:22 168:10	34:13 38:6 43:23 44:7,8,10	thinking
testifies	45:5,8 46:3 48:10 50:21 56:9	56:10 175:10
29:16 45:23 62:3 64:7 67:8	56:25 58:20 63:15,16,17,23	third
111:23 115:20 127:22	64:23 66:20,21 67:14,21	41:22 48:25 107:7 174:1
136:10 170:19	70:1 71:18,19,23 72:5 80:12	third-party
testify	85:19 100:23 103:17 109:14	10:6,11 11:17 30:20 41:17
9:18 13:19 31:10 34:3 44:20	109:18,19 110:2 113:6	96:19
49:17 107:12 131:14 141:22	114:14,15 128:3 129:16	thirty
145:19 151:15,21 154:5,21	135:21 138:8 141:18,23,24	11:24
156:15 159:5 160:20 163:12	154:1,16 156:11 157:5	THOMAS
169:14	164:14 165:6 170:25 174:14	2:3
testifying	176:10 177:7,8 178:19	thought
33:2,6 39:24 133:21 138:21	179:10 181:2 182:11,24	26:6 80:13 96:5 126:14
139:13,19 140:1 145:1	184:1,2,3,23 185:24	133:14 157:4
150:20 152:18 154:7,10	Thanks	thought-out
156:21,25 158:25 164:17	61:15	128:4
169:19 186:12	THEODORE	thoughts
testimonial	1:14	33:24
55:6	theoretical	thousand
testimony	131:23	79:11,12
6:25 8:18 9:9,11,23 10:2 12:5	thing	threatened
12:13 19:11 20:5,15 24:9	13:2,16 34:22 42:16 91:14	137:9 141:7 142:13
25:11 32:23 34:7 39:5 40:14	94:23 98:6 159:8 176:11	three
41:15,21 44:16 45:14 48:16	183:8	16:8 23:14,21,22 48:14 49:13
52:25 53:6 59:6 63:21,22	things	63:4 122:13 155:18 183:5
70:15 72:3 74:4,15 75:8 77:6	48:14 49:17 81:11 147:21	three-year
89:6,20 90:25 91:25 96:18	148:24 179:6	50:4
96:25 101:10 103:1 110:15	think	throat
111:12 113:16 114:20,25	11:4 13:21 14:10 29:24 30:13	68:2
115:1 116:7 121:2 126:10	30:18,25 32:7,12 33:11	thumb
127:25 128:5 131:5,10,15,18	34:24 35:17,20 38:19,22	57:21
131:20 132:13 133:2,22	39:9 40:13,18,23 53:11,18	tickets
136:20,25 141:12 142:23	54:20,25 56:5,6 59:12 62:13	62:25
143:3 144:2,7,21 145:9	69:17,20 78:1 80:2 82:16	tidelands
146:2,18 153:3,6,17,23,25	90:24 93:23 94:23 96:10	141:10
156:18 157:7,23 158:2	98:20 99:3,18 103:15 107:23	till

166:3	70:7 72:10 74:16,18 77:7,19	11:15 13:13,14,17,18,20,24
tilted	87:6,12,14 114:21 116:7,13	29:24,25 30:6,19,22,23
73:4	116:13,24 141:12 145:1	41:13,16,17 42:14 44:22
time	151:20 152:18 157:13,14	46:10 62:12 63:6,8,12 78:13
8:17 9:15 11:14 12:12 13:3	163:5 164:16 170:7 172:24	80:22,24 81:3 87:22,23 88:1
15:18 17:25 20:18 23:19	tonight's	88:2,5,8,17,22 89:2,6,13,19
39:1,9 41:6 43:9 46:24 47:23	10:2	89:19,23 90:12,19 91:23,24
50:2 52:3,12 55:7 61:11	Tony	92:10 96:17 97:1,5 126:12
63:21 65:10 66:22 67:19	21:6 144:9	126:20 127:19,21 128:9,15
79:18 81:18 82:19,22 91:2	top	128:25 129:11 131:18
92:20,25 93:1,2 96:16 100:8	112:12	132:12,13 133:5,19 168:3,3
100:20 108:1 112:3 135:13	topic	170:20,21 171:9,13,18,21
147:24 156:3 157:13 161:20	8:10 162:2,12	172:2,5,9,12,17,18,20,23
162:25 164:18,23 167:24	TOSCANO	173:2,4,5,6,6,12,15,15 174:3
170:11 173:4,7 175:6,19	1:15 95:12	174:23,25 175:7,8,12,14
186:9	total	178:22
timeframe	122:5	traffic-related
30:17	totally	89:5,15,17 90:24 96:15
times	67:19	Trail
32:10 36:8 37:15 38:14 57:22	touch	58:19
89:11 102:5,11 147:18 148:6	91:24	trailer
155:16,19	touched	38:24 39:20 40:2 86:7,10,13
timing	145:7	131:2
29:24 175:1	town	trailers
tips	8:11 14:6,9,24 30:10 34:20	38:11,12,13,17,25 39:8,10,12
62:17	54:23 65:8,23 66:6 67:19	42:21,22 82:17 88:18 91:21
title	69:2,10 97:23 98:7 106:24	train
39:23 104:8,12,15,24 105:2,7	166:16 167:6 173:3 184:17	122:22 126:10 133:18
105:12,15,19,20,23,24 106:1	Town's	trained
106:3,4,6,9,17,17,20 107:2	11:16 180:1	144:21 153:22
107:16 108:3,7,15 109:7,15	Township	training
today	1:1,18,18 9:6 14:17,22 15:13	138:18 139:7,15,17 140:7,25
14:9 61:2,4 69:2 80:17 101:10	44:2 97:21 98:11 99:17	141:2,4,5 142:10,13 143:9
144:2 150:20	104:16 105:19 116:1 154:22	143:10 144:14 145:8,19
told	Township's	146:4,6 147:10 148:13,15,17
13:12 15:9 24:6 69:6 76:10	32:12	149:4,6,17 151:2,4 152:14
101:22 102:3 147:6	track	152:15
tolerate	148:8	tranquility
59:9	tractor	56:19
Tom	42:22 86:7,9,13 88:18 91:21	transcript
21:8 23:18 63:18 91:8 111:17	tractor-trailer	1:3 94:9 181:3,25 182:1,7
175:13 181:8 183:8	53:10,14 80:16 85:24	183:20,22 185:1,8
tonight	tractors	transcription
6:7 8:6 9:9,23 11:2 12:17,24	42:8,25	186:7
15:11 18:21 20:19 21:7 22:2	traffic	transcripts
25:17 32:14 33:3 46:5 61:20	9:3,8,9,11,12 10:7,8,11 11:6	181:13 182:8,21 183:4 184:5

184:6	118:10 128:10 130:1,4	126:24 129:6 130:21,22 132:9
transfer	178:12	134:23
32:20	trying	underlying
transition	31:21 57:13 58:4 59:18 69:21	128:22
48:22 49:2	69:24 90:4,25 98:19 99:4	understand
transported	113:24 144:1 147:10 152:10	8:10 13:17,20 31:22 33:9
37:8	152:13 162:24 166:14	38:20 40:11 41:23 53:1
travels	171:24 172:6	60:14 74:6 75:7 78:16 82:2,3
73:24	turn	82:10 83:2 84:15 89:9,20
treat	43:15 72:21 85:25 86:17	99:10 106:6 113:24 115:2
33:12	88:14,16,23 89:3,22 90:6,6,8	122:12 130:20 135:1 141:3
treatment	90:11,17 91:3,4 92:23 93:7,9	144:1 146:10 152:9,15
99:14,25 100:11	turning	156:15,17 157:2 170:10
tried	86:6 90:2	172:10,11 173:1 176:25
131:18	turnover	178:21 180:7 181:3 183:18
trip	125:9	understanding
62:17	turns	8:19 9:6 14:4 18:17 33:21
trips	91:19	66:1 75:2 79:12 91:1,2
32:19 39:18 87:23 88:9	two	132:16 139:24 156:19
truck	15:15 18:2 28:11 31:23 33:22	163:12 164:22 172:13
37:3,8,12,12,12,18 43:19	35:19 39:20 74:2 75:10,16	understands
44:13 86:6 88:12 90:19 92:9	76:2 87:23 122:13 126:11	172:25
93:14 102:10,11 121:16,25	129:2 145:21 149:25 166:1	understood
123:19 126:11,20 128:15,24	170:23	10:3 15:2 49:7 70:17,19 75:24
129:10 133:19	type	77:14 98:20 164:10 174:13
truckers	36:11 87:2 138:5	unfair
62:20	types	176:19,20
trucking	141:22	unfortunate
31:20 32:4,17 33:13,13 35:11	typical	15:7
35:17,23 36:1,5,16,21 39:17	36:11 124:25	unfortunately
40:9,25 62:16	typically	38:20 55:3
trucks	14:5 121:23 124:24 150:9	UNISON
32:20,20,24 37:6 38:16,16	151:10	8:22
53:10,12,14 62:24,25 80:15		units
80:16,17 81:4 82:17,18,21	<hr/> U <hr/>	112:9,22,24 113:1 117:2,9
84:6 85:2,24 92:2,3,7 96:13	U	unload
97:7 121:16 126:11 172:15	45:20 111:22	122:23
true	Uh-huh	unloaded
55:18 186:7	82:5 166:5	120:19
truly	ultimately	unloading
40:14	52:13 172:20 180:9,11	121:1 122:15,21
truth	unavailable	upcoming
34:7,11 57:7,7,7,9,10,10 58:6	74:23	133:5
58:15	undergrad	upfront
try	145:10	147:20
31:25 39:25 65:2,4 66:4 72:22	underlie	upgraded

<p>69:9 upset 13:7 usage 139:23 use 9:15 14:14 35:4 36:1,4 37:21 38:1 41:25 43:20 44:13 50:23 53:9 62:8 70:12,12 112:20 114:4 118:12,13,15 118:22 119:10,12 121:18 126:10 137:3,10 138:13 141:6 150:12 168:9 172:14 172:16,16,21,22 173:13 176:3,4 useful 108:3 uses 35:20,24 36:13 84:2 usually 36:25 81:8 utility 135:3,9,10,10,14 utilized 39:2</p>	<p>28:19,22 39:20 40:2 46:14,22 48:7 86:16,19,22 87:2 88:15 88:15 90:5 126:16,17 134:25 vehicles 32:19 39:18 83:3,5,19,23,24 90:19 92:6 95:19 venue 65:25 66:8 verdict 129:2 versus 40:9,25 44:12 131:1 158:24 video 93:17,18 184:6,9,17 view 2:20 72:22 Village 30:4,22 virtual 34:17 35:22 visit 60:11 visited 28:16 60:11,25 61:1,3 155:16 visual 66:7 visually 120:15 VOGEL 2:3 voice 12:9 45:2,3 48:2 58:12 59:1 65:3 106:12 117:19 118:13 119:21 127:3 132:14 168:9 172:3 184:24 voices 8:22 21:24 64:17 133:9 136:23 138:7 158:16 159:15 161:14 voir 4:2 23:15,20 25:18,20 26:1,18 27:1 28:14 137:18,21 138:1 142:4 154:18 volume 60:16 128:15,23,24 172:11,17 volunteered</p>	<p>100:5 volunteering 24:24</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>W 2:11,11 W-a-d-e 58:18 Wade 5:5 57:1,2,5,9,13,17,23 58:4,7 58:9,13,17,18,20,21,25 59:8 59:11,15,19,23,25 60:2,3,6 60:14,21 61:3,6,14 wait 106:13 131:8 173:17 174:7 waiting 42:8 182:1 walked 28:25 want 8:6 9:14,15 11:22,23 20:9 21:8 22:12 26:19 32:6 45:15 51:8 53:3,5 55:5,7 59:3,5,12 62:7 65:17,18,19 67:16 71:16 73:3 74:3 76:6 91:4,17 92:3 95:18 96:15 98:5 99:23 100:15,17 107:4 110:17 111:7 115:8 119:12 120:22 126:9 129:24 130:16 132:6 137:18 138:16 144:25 153:25 158:8 161:11,16,22 165:2 167:16 168:12 170:22 171:1,8 172:23 173:24 177:19 179:21 wanted 63:12 67:24 69:16 139:14 150:17 168:7 173:1 179:11 wants 88:24 153:12 157:23 159:11 162:23 171:23 warehouse 31:20 32:4,5,11 33:13 34:24 35:11 36:11 39:17 40:9,25 44:12 62:15 101:23 102:4 112:7,10 113:21 118:15,18</p>
--	--	---

<p>118:22 120:10 121:14,15,18 122:3 124:25 134:20,21</p> <p>warehouses 36:12,13,15 82:16 101:15,19 101:20,24 102:6,16 103:4,14 111:13,15 112:4 118:12</p> <p>warehousing 35:9 36:7,17,22 124:12</p> <p>wasn't 133:12</p> <p>wastewater 99:13,15 100:7,22 159:18</p> <p>wasting 96:16</p> <p>watched 93:17,18</p> <p>water 98:7,10 141:9 143:15 144:4 144:10,14 145:2,16 149:3</p> <p>Waters 45:21 46:1</p> <p>way 20:16 28:18,20 38:9 44:11 54:15 69:1 87:4,17,21,22 95:2 97:20 105:8 122:22 125:8 138:4 147:7 159:12 160:25 161:3 162:25 163:4,6 177:16</p> <p>ways 112:13</p> <p>WB 86:23 88:15 92:2,6,23 93:14 95:19</p> <p>we'll 9:11,23 11:23 12:7 20:13 34:3 70:13,14 71:6,6,20 74:14 80:4 85:19 110:10 111:8 123:14 131:4 157:15,16,24 159:12,16,19 165:13 166:25 174:1 177:24 178:9,12 181:6</p> <p>we're 6:14,19,21 7:1 8:13,20 13:4 14:21 18:10,12 19:9 20:4,6 20:10 24:6,8,12 44:3 46:23 49:18,21,21 51:17 52:13 59:8 61:6 69:5,14 70:18</p>	<p>71:24,24 74:13 77:11 84:25 96:16 114:23,23,24 130:19 131:23 134:8 135:17 136:1 139:9,9,10 147:4 149:1,22 150:1 151:24 152:13 157:13 157:14 158:2 159:2,2 160:2 160:24 162:1,25 166:11,13 166:14,17 167:18 169:10,13 169:19,22 170:17,18 171:2 171:24 172:6 173:16,20,21 174:6 177:23 178:2 179:3 182:1,6 184:24 185:4</p> <p>we've 10:8 11:17 30:20 32:10 41:16 52:11 54:19 71:17 98:14 129:12 132:17 155:21 163:18 173:24 179:4 182:13</p> <p>weapon 43:20</p> <p>website 177:23 178:7</p> <p>Wednesday 1:7 41:8 175:4 176:1</p> <p>week 33:22 41:2,5</p> <p>weeks 10:18 117:23</p> <p>welcome 6:3 71:22 85:21</p> <p>went 30:12 32:12 49:5 65:7 87:3 96:4 103:3 121:3 158:6 167:17 168:21,24</p> <p>weren't 19:3 54:14 124:1</p> <p>wetlands 48:18,21 49:1,19 137:8 141:6 141:6,9 142:14 145:16,18,20 146:4,6,7,10,14 147:5 150:13 153:20 167:10</p> <p>wheel 86:25</p> <p>white 31:9,16,18 65:9</p> <p>wide 37:1 97:6</p>	<p>wider 37:2</p> <p>width 87:16,18</p> <p>wife 31:5</p> <p>wish 29:10 89:5</p> <p>wishes 66:17</p> <p>withdraw 138:17</p> <p>witness 11:8 12:16 13:5,13 15:6,21 21:5 24:9 25:5 26:9 31:24 32:1 33:5 44:23 60:1,2 70:23 71:1 93:24 103:12 116:5 137:21 153:11,16 157:24 168:10 170:11 174:11 176:21 177:21</p> <p>witness' 156:2</p> <p>witnesses 4:3 15:12,15,19 65:5 153:22 164:23 168:13 177:17 186:10</p> <p>Wonderful 109:19</p> <p>word 157:1</p> <p>words 80:14 125:3</p> <p>work 18:19 52:2 69:17 86:14 145:12 175:7 181:8</p> <p>worked 27:20 28:1,2 68:7 72:16,17 77:21,24</p> <p>working 27:15 52:1 66:1 69:9 155:21</p> <p>works 25:20 70:15 175:15</p> <p>world 36:19 128:18</p> <p>wouldn't 12:5 15:8,10 19:4 50:11 53:13</p>
--	--	---

112:24	zoning	4:10
wrap	16:16 18:9 33:20 40:13,22	1049
126:6	41:2,4,7 50:5 114:9 176:1,2	39:23
written	176:4	11
91:12 109:7 184:24	ZOOM	42:4,17 43:9
wrong	34:17 49:6 53:23 68:8,18,20	112
6:12 118:3 156:20 183:19	69:24 182:2 183:22 184:17	4:13
wrote	185:8	113
20:12	ZOOM-based	4:14
	68:23	116
<hr/> X <hr/>		5:9
X	<hr/> 0 <hr/>	11th
1:6 4:1 5:13 31:8	07701	176:1
XI00733	2:8	12
186:21	07840	115:19,25 160:2
	2:17	120
<hr/> Y <hr/>	07871	2:20
Y	1:8 58:19	123
29:13 62:1,1 64:5 67:6	07936	5:18
yeah	1:24	125
12:10 13:10 27:25 28:20,20	07960	2:8
42:15 59:25 68:14 113:16	2:4	13
166:16 183:24	08750	42:4 62:6
year	136:15	133
118:1 153:1		101:23 102:4,10
years	<hr/> 1 <hr/>	1330
56:12,21 67:17 137:11 147:17	1	136:15
yesterday	5:2 16:22 104:6 106:22	136
12:19,22 50:22	1,000	4:17
York	73:23	138
67:19	10	4:18
younger	36:8 37:15 43:16 45:21 46:1	14
27:9	169:7,11 176:18	42:4
YouTube	10-minute	140
93:17	70:11	1:23
Yup	10,000	142
11:13	99:15 100:12	4:19
	10:12	15
<hr/> Z <hr/>	185:25	30:5,16 42:7,9 43:13,15,20
zero	100	87:6,12,14 88:20 90:21 92:8
89:14 96:18	1:23 2:12 82:21	15-B
zone	1001	104:11 105:4 107:10 108:13
35:24 36:3 37:25 48:23	2:16	150
101:13,16,23 102:17 103:4	101	36:25 49:1
103:14	4:9	150-foot
zones	103	48:21
37:25		

<p>154 4:20</p> <p>16 122:22</p> <p>18 2:12</p> <p>18-4.7.7 36:7</p> <p>18-wheel 92:2</p> <p>18-wheelers 92:7</p> <p>18th 166:2</p> <p>190 82:17,17 84:6 85:2</p> <p>19073 2:12</p> <p>198 31:9,16,18</p> <p>1st 166:4,6,7 167:17,18 174:21 174:23 175:10,17 185:16</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 5:3 16:23 18:6</p> <p>2,000 99:8</p> <p>20 45:16 87:18 97:6 137:11 147:17</p> <p>200 2:4 79:15</p> <p>202 21:15,23 22:9</p> <p>2020 155:22</p> <p>2021 51:1</p> <p>2022 1:7 6:4 109:2</p> <p>215-432-0164 2:13</p> <p>21st 119:7</p>	<p>22 4:6 29:14,20 87:19 97:6</p> <p>23 102:11</p> <p>25 2:4</p> <p>25,600 102:4</p> <p>250 79:15,20 96:6</p> <p>27 4:7 120:12,13</p> <p>28 4:8</p> <p>29 5:2 25:14</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 5:4 18:16</p> <p>30 12:6 13:5 173:9</p> <p>300 2:8 37:1</p> <p>300-foot 48:22</p> <p>301 21:15,22 22:8</p> <p>30th 175:22</p> <p>31 5:3</p> <p>34 102:5</p> <p>35 95:13</p> <p>350,000 122:6</p> <p>3rd 50:22</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 1:7 5:5 6:4</p> <p>40 76:10,18 78:10 95:5,13,14</p>	<p>40-foot 113:19</p> <p>400 95:14</p> <p>400-page 105:13</p> <p>400-something 47:18</p> <p>407 48:18</p> <p>408 49:2</p> <p>44 58:18 87:23 88:8,9 119:18</p> <p>445 95:5,8,16,18,19 96:1,8,9</p> <p>45 5:4 173:9</p> <p>47 119:19</p> <p>47.10 119:22</p> <p>48 114:2 119:21</p> <p>4th 6:11 50:25</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 5:6 104:6 105:22 106:22</p> <p>50 42:21 76:13,14,14,18 78:11 80:15 82:17 125:3</p> <p>500 172:5</p> <p>517 2:16</p> <p>55 120:1</p> <p>56 67:13 120:5</p> <p>59 5:5</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6</p>
--	--	--

5:7	70:10	
6:00	8:15	
41:10,11	71:23	
6:30		
68:7		
60	9:45	
121:24 122:18 125:3	158:6	
62	908-848-6300	
5:6	2:21	
64	908-852-2600	
5:7	2:17	
65	973-353-9880	
1:7	1:24	
66	973-538-3800	
64:22	2:5	
67	9th	
5:8 86:23 88:15 93:14 95:19	109:2	
67-feet		
86:24		
67s		
92:2,6,23		
689		
1:5		
6th		
6:12 175:4,11,12		
<hr/>		
7		
<hr/>		
7		
5:8 104:6 106:22		
7:00		
174:22 185:16		
7:01		
1:8		
72		
4:7 5:17		
732-741-3900		
2:9		
75		
86:25		
7th		
175:4		
<hr/>		
8		
<hr/>		
8		
5:9 120:12,13 124:25		
8:03		