

**SPARTA TOWNSHIP
PLANNING BOARD
MINUTES OF JUNE 1, 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. Skei, Mr. Murphy, Councilman Hertzberg, Mr. Sylvester, Dr. Parker, Mr. Toscano, Mr. Gall and Chairman Reina

Members Absent: Councilwoman Quinn

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

APPROVAL OF MINUTES – March 16, 2022

Dr. Parker made a motion to approve the minutes of March 16, 2022; Councilman Hertzberg seconded the motion and the roll was as follows:

Mr. Sylvester	Yes	Dr. Parker	Yes
Mr. Skei	Yes	Mr. Gall	Yes
Mr. Kollar	Yes	Chairman Reina	Yes

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 May 4, 2022

PLEASE SEE THE ATTACHED TRANSCRIPT FOR THE ABOVE APPLICATION

With no further business, Mr. Sylvester made a motion to adjourn the meeting at 10:14 p.m., Mr. Skei seconded the motion; all present in favor by unanimous voice.

Respectfully submitted,

Diana Katzenstein
Board Secretary

COPY

Sparta Township New Jersey Planning Board Meeting

June 1, 2022

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1 CHAIRMAN ANDREW REINA: All right.
 2 Let's try this again. Good evening, everybody.
 3 Thank you for coming. It's wonderful to see
 4 everybody here. Today is June 1st, 2022, and the
 5 Township of Sparta Planning Board is in session.
 6 All notices have been satisfied, as per
 7 the Open Meetings Act. We will start with a
 8 quick roll call, if we could, Diana, to make sure
 9 we've got all members present.
 10 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 11 Kollar?
 12 BOARD MEMBER JOHN KOLLAR: Here.
 13 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 14 Skei?
 15 BOARD MEMBER PETER SKEI: Here.
 16 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 17 Murphy?
 18 BOARD MEMBER JERRY MURPHY: Here.
 19 BOARD SECRETARY DIANA KATZENSTEIN:
 20 Councilman (indiscernible).
 21 COUNCILMAN: Here.
 22 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 23 Sylvester?
 24 BOARD MEMBER MIKE SYLVESTER: Here.
 25 BOARD SECRETARY DIANA KATZENSTEIN: Dr.

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1 Parker?
 2 BOARD MEMBER GEORGE PARKER: Here.
 3 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 4 Toscano?
 5 BOARD MEMBER JOE TOSCANO: Here.
 6 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 7 Gall?
 8 BOARD MEMBER THEODORE GALL: Here.
 9 BOARD SECRETARY DIANA KATZENSTEIN: And
 10 Chairman Reina?
 11 CHAIRMAN ANDREW REINA: Here. And as
 12 is customary, we'll do a salute to the flag.
 13 [PLEDGE OF ALLEGIANCE]
 14 CHAIRMAN ANDREW REINA: All right. Our
 15 first order of business is approval of minutes
 16 from March 16th, 2022. If I can get a motion to
 17 approve?
 18 MAN 1: So, moved.
 19 CHAIRMAN ANDREW REINA: Can I get a
 20 second?
 21 MAN 2: Second.
 22 CHAIRMAN ANDREW REINA: Diana, roll
 23 call please?
 24 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 25 Sylvester?

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1 BOARD MEMBER MIKE SYLVESTER: Yes.
 2 BOARD SECRETARY DIANA KATZENSTEIN: Dr.
 3 Parker?
 4 BOARD MEMBER GEORGE PARKER: Yes.
 5 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 6 Skei?
 7 BOARD MEMBER PETER SKEI: Yes.
 8 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 9 Gall?
 10 BOARD MEMBER THEODORE GALL: Yes.
 11 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 12 Kollar?
 13 BOARD MEMBER JOHN KOLLAR: Yes.
 14 BOARD SECRETARY DIANA KATZENSTEIN: And
 15 Chairman Reina?
 16 CHAIRMAN ANDREW REINA: Yes.
 17 All right. So, order of business
 18 tonight is Diamond Chip Realty. This is a
 19 continuation from last month's meeting. This is
 20 for 33 Demarest Road, its Preliminary Major Site
 21 Plan. Again, continued hearing from May 4th,
 22 2022.
 23 This evening's plan, we did not have an
 24 opportunity to speak with Mr. Ford on the last
 25 meeting that we had in place. So, I think the

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1 remaining items are any remaining questions and
 2 cross-examination of Mr. Ford. Tom, please keep
 3 me honest on that.
 4 MR. COLLINS: That's correct.
 5 CHAIRMAN ANDREW REINA: And then, once
 6 we conclude that, we'll move on to environmental.
 7 Sound good?
 8 As usual, I'd ask everybody please be
 9 respectful. You know, we understand this is a
 10 large project. If you've got questions -- I
 11 don't suspect this evening we'll have a cross-
 12 examination component of Mr. Ford. We will then
 13 move into the applicant presenting their
 14 testimony as it relates to environmental.
 15 Depending on the speed at which we get
 16 through that, the Board will ask questions.
 17 That's -- at that point, any of the attorneys
 18 that are representing anybody will have an
 19 opportunity to address any cross-examination.
 20 And then we would open it up for any public
 21 comments that haven't already been addressed by
 22 the attorneys or in the due course of the
 23 testimony that we've heard so far.
 24 MR. COLLINS: Public questions.
 25 CHAIRMAN ANDREW REINA: Public

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1 questions. Correct. Thank you, Tom.
 2 So, with that, do we need to -- Tom, we
 3 don't need to re-swear in Mr. Ford, correct?
 4 MR. COLLINS: No. Mr. Ford is still
 5 under oath, and I believe the attorneys should
 6 know -- Mr. Cohen and Mr. Dash and Mr. Clark
 7 should go ahead and cross-examine Mr. Ford.
 8 CHAIRMAN ANDREW REINA: Okay. So, Mr.
 9 Dash, Mr. Cohen, Mr. Clark, any preference on who
 10 goes first?
 11 MR. COHEN: I think (indiscernible).
 12 CHAIRMAN ANDREW REINA: All right.
 13 MR. COHEN: Thank you, Mr. Chairman.
 14 Just for the record --
 15 MAN 3: (indiscernible) microphone.
 16 CHAIRMAN ANDREW REINA: Yeah, if you
 17 step into the microphone for us, Mr. Cohen, we'd
 18 be grateful.
 19 MR. COHEN: Can you hear me now?
 20 CHAIRMAN ANDREW REINA: We can.
 21 MAN 4: No.
 22 CHAIRMAN ANDREW REINA: Oh.
 23 MAN 5: Is it on?
 24 MAN 6: It's still not on.
 25 MR. COHEN: Now you can hear me

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1 perfect.
 2 CHAIRMAN ANDREW REINA: There we go.
 3 MR. COHEN: Thank you. For the record,
 4 Lawrence Cohen. I'm representing Michael Burns
 5 and his mother, who own adjacent property. And I
 6 know Mr. Ford is here.
 7 Mr. Ford, I wanted to ask you, you had
 8 indicated --
 9 MAN 7: Speak up.
 10 MR. COHEN: I'm sorry?
 11 MAN 8: Speak up.
 12 MR. COHEN: Hopefully, you can hear me.
 13 Mr. Ford, I wanted to ask you, you had
 14 previously indicated you've been in the
 15 warehousing business. How long have you been in
 16 that business, Mr. Ford?
 17 MR. FORD: I grew up in the
 18 transportation business, my whole family, but
 19 I've professional been involved with it for
 20 almost 30 years now.
 21 MR. COHEN: And what is your training
 22 with reference to that profession?
 23 MR. FORD: I began working on the truck
 24 docks as a young person in college. And beyond
 25 that, I've been developing warehouse-type real

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1 estate just like this for almost 30 years.
 2 MR. COHEN: Okay. Other than work
 3 experience, do you have any formal training in
 4 that discipline?
 5 MR. FORD: In which discipline?
 6 MR. COHEN: In warehousing
 7 transportation analysis, drawing plans for that,
 8 et cetera, as you just described.
 9 MR. FORD: In the form of working in
 10 the logistic business, I did that early in my
 11 career, correct.
 12 MR. COHEN: I'm sorry. My question is,
 13 in addition to the experience you've advised us,
 14 do you have any formal training? In other words,
 15 college courses, subsequent to college any
 16 training courses, things of that nature?
 17 MR. FORD: No.
 18 MR. COHEN: Have you ever driven a
 19 tractor-trailer?
 20 MR. FORD: Yes, I have.
 21 MR. COHEN: Do you have a license to
 22 drive a tractor-trailer?
 23 MR. FORD: I do not now.
 24 MR. COHEN: You did at one time?
 25 MR. FORD: I drove them in controlled

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1 environments in the yard, that kind of stuff.
 2 But no, I did not drive them over the road.
 3 MR. COHEN: And what is your position
 4 with Diamond Chip Realty? Do you have an
 5 ownership interest? Are you employed by them?
 6 An independent contractor? What's your position?
 7 MR. FORD: We have an operating
 8 agreement in the form of a partnership for the
 9 project.
 10 MR. COHEN: I'm sorry. Partnership --
 11 do you have an ownership interest in the entity?
 12 MR. FORD: We have a formal operating
 13 agreement with co-ownership in the overall land
 14 development; not the operating company that
 15 exists on the property, but in the form of the
 16 land.
 17 MR. COHEN: Okay. Can you clarify
 18 that? In other words, there is an entity, a
 19 separate entity, other than Diamond Chip Realty
 20 that in fact is formed to do the land use process
 21 and to build the project?
 22 MR. FORD: Yes. I am a member of
 23 Diamond Chip Realty LLC.
 24 MR. COHEN: Oh, okay. That's what I
 25 asked you. Diamond Chip Realty LLC owns the

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1 property. Is that correct?
 2 MR. FORD: That is correct.
 3 MR. COHEN: They are the applicant
 4 making the application to build this project,
 5 correct?
 6 MR. FORD: That is correct.
 7 MR. COHEN: And you have an ownership
 8 interest in that entity?
 9 MR. FORD: I am a -- yes.
 10 MR. COHEN: Okay. And how did Diamond
 11 Chip -- or how did Diamond Chip first become
 12 interested in this project, in other words, in
 13 building a warehouse and a property that
 14 previously exists for a sand and gravel
 15 operation?
 16 MR. GOUIN: I'm going to go ahead and
 17 object at that point, Mr. Cohen. I mean, that's
 18 not really relevant to our application. Can we -
 19 - we've established a lot of background, but can
 20 we ask questions about the application that we
 21 have before us? At what point they became
 22 interested in this project is really not relevant
 23 to the site plan application.
 24 WOMAN 1: Everything is relevant.
 25 MR. COHEN: It certainly has. We've

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1 had all kinds of testimony as to how they found
 2 this site, with reference to the railroad, and
 3 why the site is a good site for this proposed
 4 facility, et cetera. Certainly, these are not
 5 out of bound questions.
 6 MR. GOUIN: Well, in that case, I would
 7 suggest that the questions have already been
 8 asked and answered. I think we've gone over that
 9 in some detail in Mr. Ford's testimony. I don't
 10 think we need to revisit it now.
 11 MR. COHEN: Well, since -- his direct
 12 testimony. That's what cross-examination is all
 13 about, to cross-examine him on the --
 14 MR. GOUIN: Understood --
 15 MR. COHEN: -- on the testimony he
 16 have.
 17 MR. GOUIN: I understand that, Mr.
 18 Cohen, but we have talked about the nature of the
 19 application, why the site was chosen. We've gone
 20 over that in Mr. Ford's direct testimony already.
 21 MR. COHEN: That's right. And I'm
 22 cross-examining him on those very subjects.
 23 MR. GOUIN: Well, my objection stands.
 24 I don't think it's relevant.
 25 MR. COHEN: Okay. I'll ask for --

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1 MR. GOUIN: I would ask you to keep
 2 your questions to the site plan.
 3 MR. COHEN: -- a ruling from the Board,
 4 please.
 5 CHAIRMAN ANDREW REINA: Tom?
 6 MR. COLLINS: It's appropriate to ask
 7 questions in cross that are related to direct
 8 testimony.
 9 CHAIRMAN ANDREW REINA: Can you speak
 10 up just a little bit --
 11 MR. COLLINS: Yes.
 12 CHAIRMAN ANDREW REINA: -- Tom, we're
 13 having a hard --
 14 MR. COLLINS: It's appropriate to ask
 15 these questions because they're related to direct
 16 testimony. But the Chair can sort of help direct
 17 a questioner to stay in the relevant areas.
 18 CHAIRMAN ANDREW REINA: Okay.
 19 MR. COLLINS: Thank you.
 20 CHAIRMAN ANDREW REINA: So, if you
 21 would please address the question? And please
 22 just try to keep this in bounds, and let's keep
 23 this moving. So, if you could please address --
 24 if the applicant could please answer the
 25 question?

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1 MR. COHEN: Do you recall the question,
 2 Mr. Ford?
 3 MR. FORD: Your last question was?
 4 MR. COHEN: How did the company become
 5 interested in this project for this site,
 6 replacing what is now existing as a sand and
 7 gravel operation?
 8 MR. FORD: The property's been a ED and
 9 Warehouse zoning well before I formed a
 10 partnership with the other owners well before.
 11 Dozens of years. So, they've been, you know,
 12 operating as a Redi-Mix and sand and gravel
 13 operation for frank -- over a dozen years. And
 14 knowing over 15 years, and it was -- predecessor
 15 before that, was in the same type of operation.
 16 In fact, they quarried it, they mined it, to my
 17 understanding.
 18 The zoning being in place for well over
 19 a dozen years, 20-some years, under the ED,
 20 according to the ordinance, has been there for a
 21 long time. One of my specialties that I deal
 22 with in the warehouse business is the transfer
 23 from consumer goods in bulk in a warehouse
 24 setting from rail to truck. That is in high
 25 demand. And through my extensive years of

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1 developing in the rail and trucking industry, and
 2 knowing the CSX, which is a major freight
 3 railroad, as well as the Norfolk Southern
 4 Railroad, which is a major freight railroad, they
 5 are partners and owners in what, as we know here
 6 locally as the NYS&W, the New York Susquehanna &
 7 Western Railroad.
 8 Through relations that I have with
 9 those railroads and logistics partners and
 10 tenants that I have, I was introduced in mid-2020
 11 to Frank Hunkele, my partner sitting behind us,
 12 and his partners, in discussion about their
 13 property and what they had attempted to do for
 14 many years and continue to do in the form of
 15 using the rail as a benefit of transfer of goods
 16 from rail to truck.
 17 MR. COHEN: Is it fair to say you were
 18 first brought to the attention of this property
 19 by the railroad, you approached the owner, and
 20 suggested to them that this might be a good
 21 location for warehouse development, since they
 22 had railroad there, and it was zoned for that?
 23 Am I correct?
 24 MR. FORD: Yes. But be clear -- I'm
 25 just about being fair and clear, is that I was

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1 not introduced to them by the railroad. I was
 2 introduced to them by a mutual acquaintance,
 3 person, in the logistics business that actually
 4 manages these types of warehouses from rail to
 5 truck.
 6 I have other years of experience in the
 7 past in Northern New Jersey, predominantly down
 8 in the Edison area, which is another short line
 9 that operates down there. And the owner of that
 10 short line is somewhat of a well-known person in
 11 the rail industry in Northern New Jersey, and
 12 that's where my relationships began years back.
 13 I can't tell you exactly how many -- it's well
 14 over a dozen -- to be introduced to this region
 15 as a potential for rail opportunity and
 16 warehousing.
 17 MR. COHEN: All right. So, this -- you
 18 look at the site as having a good potential for a
 19 warehouse development and made arrangements with
 20 the existing property owners to move forward with
 21 that type of development, correct?
 22 MR. FORD: Yes.
 23 MR. COHEN: Now, even though it was
 24 zoned for Warehouse and Economic Development
 25 Zone, there were changes that your company, the

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1 entity, requested of the Township from the
 2 existing ordinance. Is that correct?
 3 MR. GOUIN: Again, I'm going to have to
 4 object to this entire line of questioning too. I
 5 mean, whether -- however the ordinance was
 6 amended, you know, whatever the standards were at
 7 the time that Mr. Ford approached the owners of
 8 the property, none of this is really relevant to
 9 the site plan application that we have before
 10 you.
 11 The fact of the matter is there was an
 12 ordinance, it was amended, we made an application
 13 under the amended ordinance, and now we're here
 14 to talk about the site plan that we've presented.
 15 But I think to Mr. Collins' point a
 16 minute ago, we're starting to veer into aspect
 17 Ford's -- this is not direct testimony that Mr.
 18 Ford presented. So, now we're just asking
 19 questions of Mr. Ford that were not part of his
 20 direct testimony. I'd ask to object to this
 21 entire line of questioning.
 22 MR. COHEN: It certainly is, and it
 23 doesn't have to be --
 24 MAN 7: Mr. Chairman --
 25 MR. COHEN: -- specifically as to

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1 direct testimony. The point is this. We have an
 2 ordinance that existed. We have an ordinance
 3 that changed. There were changes made in the
 4 particular ordinance. I understand that. All
 5 I'm asking for is the process that what they, in
 6 fact, had requested with reference to the changes
 7 in the ordinance, and how we got here today. And
 8 you know, quite frankly, this is only going to
 9 take a few minutes. It's not going to be hours
 10 here talking about an ordinance. By the time we
 11 argue about it, I could be moving on.
 12 MR. GOUIN: Well, I understand that.
 13 But the process by which the ordinance was
 14 introduced, approved, is a matter for the
 15 Township Committee, not for the Planning Board.
 16 And I don't think it's relevant to this portion
 17 of our application, and I object to it.
 18 MR. COHEN: I'm not asking how it was -
 19 -
 20 CHAIRMAN ANDREW REINA: Objection
 21 noted. I would like to understand if there were
 22 prior conversations that impacted the ordinance.
 23 So, I would ask you to proceed with your
 24 question.
 25 MR. COHEN: Thank you, Mr. Chairman.

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1 Mr. Ford, all right, there were changes made in
 2 the ordinance. You're aware of that? In fact,
 3 the ordinance was adopted in January of '21,
 4 correct? The amended ordinance?
 5 MR. FORD: That's my understanding,
 6 when the ordinance was amended, correct.
 7 MR. COHEN: Okay.
 8 MR. FORD: But I was not involved in
 9 that process.
 10 MR. COHEN: Okay. Do you know if
 11 anyone from Diamond Chip Realty or anyone on
 12 their behalf, whether it be a professional, an
 13 attorney, or whoever it might be, made any
 14 request of the Township to amend the ordinance to
 15 be able to accommodate the type of project that
 16 you're seeking for this Board to approve?
 17 MR. FORD: My understanding, the
 18 amendment of the ordinance was for bringing the
 19 height of the building up to 2022 standards,
 20 which is a typical 40-foot clear inside the
 21 building, which the ordinance dated back over 15
 22 years, 20 years, which allowed for a lower
 23 warehouse building, which was typical at that
 24 time. But it brought it up to a height standard,
 25 as well as a lot coverage standard. And the lot

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1 coverage standard, actually, to my understanding,
 2 is not much different than what is approved and
 3 in front of this Planning Board presently.
 4 MR. COHEN: Well, let me ask you this.
 5 The Township made changes. Part of the changes
 6 was the height of the building, the other was in
 7 lot coverage, and the other was impervious
 8 surface, as I recall. Correct?
 9 MR. FORD: That's my understanding,
 10 yes.
 11 MR. COHEN: And is it just coincidental
 12 that the Township decided to make those changes,
 13 or was that as a result, to your knowledge, of
 14 anybody on behalf of Diamond Chip, or any of the
 15 organizations that are involved in this project,
 16 a request to the Township to make those changes
 17 to accommodate the project?
 18 MR. GOUIN: Yeah, I'm going to object
 19 to the form of that question, Mr. Cohen.
 20 [LAUGHTER]
 21 MR. GOUIN: Well, he's asking whether
 22 or not it's incidental. I mean, the record of
 23 how the ordinance was adopted is very clear.
 24 This Planning Board's planner made a
 25 recommendation to the Council. There was an

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1 ordinance prepared; the Council adopted it.
 2 Whether or not Mr. Ford thinks it's coincidental,
 3 is not really germane to whether or not the
 4 ordinance was adopted.
 5 And frankly, if we're going to go down
 6 the road of trying to challenge the ordinance
 7 that we applied under, the time to appeal that
 8 has long since expired, and it's not the subject
 9 of this application. So, again, I'm objecting to
 10 this entire line of questioning.
 11 MR. COHEN: Again, we're in the same
 12 area, Mr. Chairman. I want to find out, you
 13 know, did suddenly the Township a few months
 14 before they decided to turn this into a warehouse
 15 project have an epiphany and saying, hey,
 16 somebody may use this as a warehouse? Or were
 17 they in direct contact and make requests
 18 concerning this? That's all.
 19 Again, we can move through this very
 20 quickly. You know, I don't understand why they
 21 don't want to answer this question. I think it's
 22 relevant, because it deals with the type of
 23 project that's before you, which is a relatively
 24 large project, obviously; maybe one of the
 25 largest ever in Sparta.

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1 But in any event, it's certainly
 2 relevant, along with the lines, Mr. Chairman,
 3 that you -- comments you made on the last
 4 question that was objected to.
 5 MR. GOUIN: I disagree. Same
 6 objection, Mr. Chairman.
 7 CHAIRMAN ANDREW REINA: Acknowledged.
 8 I think the heart of the question still stands,
 9 though. At what point and was there any direct
 10 involvement from Blue Chip Realty prior to any
 11 ordinance change. I think that's an easy
 12 question to answer.
 13 MR. COHEN: Mr. Ford, could you answer
 14 the question, please? Do you wish me to repeat
 15 it?
 16 MR. FORD: I had no operating
 17 agreement or partnership with my present
 18 partners, who have been the owners of the land
 19 for a long time, or otherwise, pre, or even
 20 nearly after, necessarily, or close to after the
 21 ordinance was amended.
 22 CHAIRMAN ANDREW REINA: Okay.
 23 MR. FORD: So, I was not involved in
 24 that whatsoever.
 25 MR. COHEN: Okay.

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1 CHAIRMAN ANDREW REINA: So --
 2 MR. COHEN: Well, let me ask you the
 3 question again. I didn't ask you whether you
 4 were involved in it. I asked you, to your
 5 knowledge did anyone on behalf of the entity,
 6 whether it be a member of the entity, whether it
 7 be a professional, whether it be anyone else,
 8 have any interaction with the Township to make a
 9 request for a change in this ordinance to
 10 accommodate what you are proposing before this
 11 Board? Very simple question. If you say I have
 12 no idea, then tell us that.
 13 MR. FORD: I have no idea --
 14 MR. COHEN: You have no idea?
 15 MR. FORD: The exact details of how it
 16 got done, the ordinance got amended, I have no
 17 idea. It happened before my direct involvement.
 18 My first --
 19 MR. COHEN: I thought your direct
 20 involvement was in the mid-2020s, you just told
 21 me. Mid-2020, a few minutes ago, you said you
 22 got involved in this project.
 23 MR. FORD: No, I said that's when --
 24 MR. COHEN: The ordinance was adopted
 25 in January of '21.

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1 MR. FORD: Larry, that's when I said I
 2 first met my partners, now my present partners in
 3 this project. It was correct. It was mid-2020.
 4 I am aware when the ordinance was amended. I
 5 believe it was '21, correct?
 6 MR. COHEN: It was January of '21.
 7 That's a matter of record.
 8 MR. FORD: Right.
 9 MR. COHEN: Were you even aware that
 10 the ordinance was amended in January of '21?
 11 MR. FORD: Yes. Yes.
 12 MR. COHEN: How did you become aware?
 13 MAN 8: February.
 14 MR. FORD: It became public record.
 15 MR. COHEN: February. I'm sorry. It
 16 was introduced in January. It was adopted in
 17 February. I stand corrected. How did you even
 18 become aware? I know that you're physically
 19 located in Florida most of the time. That's
 20 where your home and office is. Is that right,
 21 Mr. Ford?
 22 MR. FORD: Yes.
 23 MR. COHEN: Okay. How did you become
 24 aware that the Sparta Township, in January and
 25 February, they adopted amendments to this

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1 ordinance?
 2 MR. FORD: It is my partners' property.
 3 It's part of the -- part of their -- part of the
 4 (indiscernible) zone, and they indicated to me
 5 that it was the height and the FAR on the
 6 property, and the lot coverage was amended to
 7 come up to 2022 standards.
 8 MR. COHEN: Mr. Ford --
 9 MR. FORD: Let me correct myself. 2021
 10 at the time standards.
 11 MR. COHEN: Mr. Ford, are you telling
 12 us that you were unaware that there was even any
 13 request for a change --
 14 MR. FORD: Oh, no, I --
 15 MR. COHEN: -- in this ordinance -- let
 16 me finish the --
 17 MR. FORD: Yes.
 18 MR. COHEN: -- question, please.
 19 MR. FORD: Yes.
 20 MR. COHEN: Let me finish the question
 21 please, Mr. Ford. I'll start over again, and
 22 please wait until I'm done. Do you have any
 23 knowledge as to whether or not any representative
 24 of this development made any request to the
 25 Township for a change in the ordinance?

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1 MR. FORD: I guess, yes.
 2 MR. COHEN: You do?
 3 MR. FORD: I --
 4 MR. COHEN: Then who was it? How do
 5 you -- who handled the interaction with the
 6 Township Council and it's representatives in
 7 order to make the request for the change in the
 8 ordinance. Can you tell us that?
 9 MR. FORD: My partners.
 10 MR. COHEN: And would you give us their
 11 names, please?
 12 MR. FORD: Sure. Frank Hunkele and
 13 Peter Barba --
 14 MR. COHEN: All right.
 15 MR. FORD: -- and John Shortino.
 16 MR. COHEN: And did they tell you what
 17 they were requesting, or was it completely -- you
 18 were completely oblivious to what they were
 19 requesting?
 20 MR. FORD: Requesting, as I've stated
 21 before, that the height of the building, because
 22 of what a warehouse standard is in 2020, 2021,
 23 would need to be higher. And it was amended to
 24 allow for a higher building, a higher cubic
 25 capacity building in the interior of the

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1 building, as well as a lot coverage that was
 2 higher than the existing ordinance, read under
 3 the Warehousing ED District.
 4 MR. COHEN: Did they receive that
 5 information from you, you being what I'll call a
 6 professional in the warehousing industry, tell
 7 them, look, I suggest that there be a floor area
 8 ratio of X; I suggest there be an impervious
 9 surface of Y, and a height of Z, whatever it is?
 10 MR. FORD: No. That was the engineers
 11 involved, Kimley-Horn --
 12 MR. COHEN: Did you have any input into
 13 those dynamics, into those issues at all with
 14 your partners or with the engineering company?
 15 Did they talk to you about it at all?
 16 MR. FORD: Honestly, it could have come
 17 up in conversation. I don't know the exact
 18 detail of how that came about.
 19 MR. COHEN: Well, let me ask you this -
 20 -
 21 MR. FORD: But that's a very typical
 22 standard of any warehouse nowadays. It's either
 23 typically 36 --
 24 MR. COHEN: That's not my question.
 25 MR. FORD: -- or 40-foot clear for

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1 warehouse operations (indiscernible).
 2 MR. COHEN: It's not -- that's not my
 3 question, all right? What my question deals with
 4 -- let me ask you this. Isn't it a fact, to your
 5 knowledge, that the requests made by
 6 representatives of Diamond Chip to the Township
 7 Council, or into the Township Council, requesting
 8 changes to allow you to develop the property with
 9 the standards that you're proposing and asking
 10 this Planning Board to approve without variances
 11 or waivers? Isn't that a fact?
 12 MR. FORD: No.
 13 MR. COHEN: It isn't?
 14 MR. FORD: No.
 15 MR. COHEN: Well, after they changed it
 16 --
 17 MR. FORD: Because I was not -- I had -
 18 - counselor, I had zero interaction with anybody
 19 on this Planning Board, any of the Town staff,
 20 any of the Town consultants, literally, until, as
 21 Ms. Dericks put in writing -- it was fact -- we
 22 had a meeting with Stan, okay, the engineer, and
 23 I was on Zoom down in Florida, as you said, where
 24 I live, that was the first time I ever had any
 25 interactions.

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1 Secondly, then the next time was at the
 2 Zoom call, the March, you know, interaction with
 3 us. Otherwise, you can ask anybody in this room,
 4 whether consultant are not, I had zero
 5 interaction whatsoever with anybody, in
 6 consultation or otherwise, to give any guidance
 7 whatsoever on what the ordinance was updated to
 8 and amended, when it was amended, as you said,
 9 back in February of '21. Zero.
 10 MR. COHEN: Mr. Ford, if you would try
 11 to restrict your answers to my questions, it
 12 would help. You've already told us you had no
 13 contact, that it was your three partners, and you
 14 named them, who you understood had contact with
 15 Township representatives to request the changes
 16 in the ordinance. So, let's move on.
 17 Do you understand, Mr. Ford, as a
 18 result of the changes that were adopted to this
 19 ordinance, the Economic Development Zone, and
 20 what you are proposing, which in fact -- let me
 21 withdraw that for a moment. In fact, what you're
 22 proposing meets all of the standards, in other
 23 words, to the extent of the height, the
 24 impervious surface coverage, the floor area
 25 ratio, it goes almost right up to the limits that

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1 is permitted in the ordinance. Is that correct?
 2 In the amended ordinance?
 3 MR. FORD: They're below the permitted
 4 limits.
 5 MR. COHEN: All right. Well, let's
 6 just talk about floor area ratio, the
 7 approximately 900,000 square feet. If you went
 8 to the max, how many square feet could you have
 9 on this proposed project?
 10 MR. COLLINS: Mr. Chairman and Mr.
 11 Cohen, that question is inconsistent with the
 12 facts. The ordinance doesn't have a floor area
 13 ratio standard. You might be thinking of some
 14 other standard, maybe coverage, but there is no
 15 floor area ratio.
 16 MR. COHEN: Oh, I'll stand corrected,
 17 Mr. Collins. Let's talk about impervious
 18 surface. Do you know how much impervious surface
 19 is permitted and what's proposed here?
 20 MR. FORD: The impervious coverage, if
 21 rail dependent, coverage is up to 75 percent of
 22 the total lot area.
 23 MR. COHEN: And how much is proposed?
 24 MR. FORD: What is our total proposed
 25 percentage?

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1 CHAIRMAN ANDREW REINA: Mr. Cohen, is
 2 there a specific question regarding the lot that
 3 should be more specific to the engineer, or is
 4 this a question for Mr. Ford?
 5 MR. COHEN: It's a question -- if Mr.
 6 Ford tells me he doesn't know, just indicate he
 7 doesn't know, and I'll move on.
 8 MR. FORD: I know it's lower than 65
 9 percent --
 10 CHAIRMAN ANDREW REINA: He hasn't
 11 testified to it.
 12 MR. COHEN: Okay. I'll move on.
 13 MR. FORD: Hold on. We have an answer.
 14 MR. COHEN: (indiscernible) --
 15 MR. FORD: 54 percent is what we're
 16 proposing.
 17 MR. COHEN: Okay.
 18 MR. FORD: Well below 65.
 19 MR. COHEN: Mr. Ford, you had indicated
 20 on your direct examination that one of the uses
 21 for the -- and by the way, you made a distinction
 22 and I marked it down -- the distribution for
 23 consumer products as opposed to a commercial
 24 warehouse. Can you indicate to us what the
 25 distinction is?

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1 MR. FORD: I don't believe I ever made
 2 a distinction between consumer goods and a
 3 commercial warehouse. A commercial warehouse can
 4 be a commercial warehouse in either one of those.
 5 Our target audience for tenancy is consumer
 6 goods.
 7 MR. COHEN: Just expand upon that a
 8 little bit. What you mean by consumer goods? In
 9 other words --
 10 MR. FORD: Everyday durables.
 11 Consumables, food, paper, you know, anything that
 12 we typically consume every day.
 13 MR. COHEN: Let me pick a product. For
 14 instance, let's say Tide detergent. All right?
 15 Tide detergent ships into your warehouse, all
 16 right? A number of supermarket chains detergent
 17 obviously sell Tide detergent, so that you might
 18 have stop and shop, you might have Acme, whatever
 19 it is, all the big stores, Walmart, et cetera.
 20 They would then pick up the Tide detergent and be
 21 delivered to their warehouse, for instance
 22 Walmart's warehouses or whatever it might be,
 23 stop and shop warehouses, or directly to the
 24 stores. How would it operate?
 25 MR. FORD: That's -- I mean, that is

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1 one scenario. One scenario, but until according
 2 to the ordinance, when the operating plan would
 3 be proposed to this Board, before C of O, that's
 4 exact detail of how that operates would occur.
 5 But yes, counselor, that is a good example, where
 6 this warehouse would feed a future, a farther out
 7 distribution point for a stop and shop, or
 8 whatever it might be, and they would then
 9 distribute to their store levels, or wherever
 10 it's going.
 11 MR. COHEN: And the idea would be you'd
 12 be able to be able to bring in larger quantities
 13 because of the train site? In other word, the
 14 train -- one of the things that attracted you to
 15 the site was the fact that you had a railroad
 16 access, right?
 17 MR. FORD: Absolutely, yes.
 18 MR. COHEN: And the advantage of that,
 19 I presume, is bringing in a larger quantity of
 20 goods on a railroad instead of X number of trucks
 21 that might be -- you know, might be used in place
 22 of however many cars you can get on this rail
 23 site?
 24 MR. FORD: Yeah. It would be bringing
 25 in inbound consumables.

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1 MR. COHEN: Okay.
 2 MR. FORD: Tide is a good example, yes,
 3 to be outbound trucked to the distribution points
 4 in which the supply chain demands it.
 5 MR. COHEN: Now, you had also indicated
 6 that this may -- and a good example was serving
 7 the food industry. In other words, with goods,
 8 maybe refrigerated goods. Is that correct?
 9 MR. FORD: It's theoretically a
 10 possibility, but we are not in the application
 11 process here assuming that the buildings would be
 12 temperature controlled, either cooler or freezer.
 13 That is a possibility, though --
 14 MR. COHEN: All right.
 15 MR. FORD: -- that we may come back at
 16 a future date for.
 17 MR. COHEN: Assuming portions of this
 18 building are used for refrigerated goods, all
 19 right, or frozen goods --
 20 MR. FORD: Mm hmm.
 21 MR. COHEN: -- when the trucks come in,
 22 obviously they're refrigerated trucks. When they
 23 are loading and unloading, how is that
 24 refrigeration on a truck? I'm sure you know
 25 this. Does that truck have to keep running? Is

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1 it electrically plugged in? How's it do -- how's
 2 that operate?
 3 MR. GOUIN: Again, I'm going to object
 4 to this, Mr. Cohen, because the application
 5 before you is not for a refrigerated building.
 6 So, this is all hypothetical. If we had to come
 7 back --
 8 MAN 9: Yeah, there's no relevance.
 9 MR. GOUIN: -- for amended approval for
 10 a refrigerated building, you know, then we would
 11 deal with it at that time. But this is not a
 12 refrigerated building. We've said that a number
 13 of times.
 14 CHAIRMAN ANDREW REINA: Yeah, Mr.
 15 Cohen, I think this --
 16 MR. COHEN: This is a hypothetical --
 17 CHAIRMAN ANDREW REINA: -- this
 18 question has been addressed.
 19 MR. COHEN: This is a hypothetical
 20 building.
 21 MR. GOUIN: And if there was --
 22 CHAIRMAN ANDREW REINA: Gentlemen --
 23 MR. GOUIN: And Mr. Cohen, if there was
 24 a hypothetical application and a year from now,
 25 we came back for final approval for a

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1 refrigerated building, we would talk about it
 2 then. But that's not this application. So,
 3 let's stick to the application.
 4 MR. COHEN: I understand --
 5 CHAIRMAN ANDREW REINA: Agreed.
 6 MR. COHEN: -- from Mr. Ford's
 7 testimony --
 8 CHAIRMAN ANDREW REINA: I would --
 9 MR. COHEN: -- that it could be --
 10 CHAIRMAN ANDREW REINA: I would ask --
 11 Mr. Cohen, please. I think we've addressed the
 12 refrigeration component in prior discussions. I
 13 think we've talked about -- again, there could be
 14 a number of hypotheticals in terms of what we've
 15 got. Mr. Gouin is right. The questioning should
 16 be specific to the application and prior
 17 testimony that Mr. Ford has presented, so if you
 18 can please stick to that.
 19 MR. COHEN: Sure.
 20 CHAIRMAN ANDREW REINA: I think we've
 21 already answered and addressed the refrigeration
 22 component.
 23 MR. COHEN: Well, I have a right to
 24 cross-examine him. As a matter of fact, there
 25 was direct testimony --

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1 CHAIRMAN ANDREW REINA: I'm not
 2 questioning your right to cross-examine him.
 3 MR. COHEN: Okay. I'll move on, Mr.
 4 Chairman. Will there be any rules with reference
 5 to truck idling on the site?
 6 MR. FORD: The operating plan overall
 7 is addressed in the ordinance under H, where it
 8 says, prior to the issuance of certificate of
 9 occupancy, C of O, each new tenant or change in
 10 tenancy in the Economic Development Zone shall be
 11 required to receive tenant approval from this
 12 Planning Board to ensure compliance with the
 13 provision of this section.
 14 So, it's clearly identified in the
 15 ordinance, and I've said this every time that
 16 I've been asked about it, from the Zoom call to
 17 my last answering the questions that the public
 18 had, is clearly that at the point before C of O,
 19 there will be a manual that's brought in front of
 20 the Planning Board, with the tenant identified,
 21 exactly how they're going to operate, their hours
 22 of operation, everything about their operation.
 23 And at that point, all of those detailed
 24 questions will be answered.
 25 Anything from this point right now is

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1 theoretical.
 2 MR. COHEN: Well, let me ask you --
 3 MR. FORD: I can't live in the
 4 theoretical world for this application.
 5 MR. COHEN: I don't understand why
 6 truck idling is theoretical but let me answer.
 7 Have you ever -- in your professional history --
 8 MR. FORD: Yes.
 9 MR. COHEN: -- have you prepared such a
 10 plan as you just described to the Board?
 11 MR. FORD: Yes.
 12 MR. COHEN: All right. And does that
 13 plan normally have a regulation on truck idling?
 14 MR. FORD: A regulation on truck
 15 idling? You mean --
 16 MR. COHEN: In other words, so they --
 17 MR. FORD: -- the Federal truck
 18 standards.
 19 MR. COHEN: -- allowed to idle only for
 20 certain periods of time? Are they allowed to
 21 idle all the time that they're sitting there?
 22 You know, what are the standards for that?
 23 MR. FORD: At this point of a pre-
 24 application for a site plan approval, it's no. I
 25 mean, there's ordinances that are in place for

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1 sound. That's a sound issue, okay? And you
 2 could say, you know, in environmental form or
 3 fashion, those trucks have to adhere to the
 4 environmental standards. And idling, you know,
 5 is a relation to sound or whatever it might be,
 6 we've already agreed upon, per Mr. Simmons'
 7 request, that a sound study be done before final
 8 approval.
 9 MR. COHEN: Well, a sound study should
 10 be done, a preliminary, but that's another issue.
 11 So, let me just go back. I don't understand why
 12 you have to know the tenants to indicate if
 13 there's any restriction on truck idling. So, can
 14 trucks idle -- or let's assume a truck is there
 15 for four hours. Is it allowed to idle for four
 16 hours or not?
 17 MR. FORD: Truck idling would be part
 18 of an operations plan, so it would be --
 19 MR. COHEN: Well, that's what I'm
 20 asking you.
 21 MR. FORD: Right. It'd be identified
 22 in the operating plan. Correct.
 23 [OVERLAPPING SPEAKERS]
 24 MR. COHEN: You prepare those plans.
 25 What is the normal --

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1 CHAIRMAN ANDREW REINA: Mr. Cohen?
 2 MR. COHEN: -- if you can tell us?
 3 CHAIRMAN ANDREW REINA: If I can --
 4 MR. FORD: I don't prepare them.
 5 CHAIRMAN ANDREW REINA: -- interject
 6 just for a moment. I think, you know, what we've
 7 heard, the testimony so far is that any and all
 8 related activities on the property are going to
 9 have to ultimately be approved by the Board
 10 regardless. I think in terms of idle truck time,
 11 while I understand what you're trying to get at,
 12 an understanding of how long these trucks may be
 13 sitting there and what the potential impacts of
 14 that may be, I think anything that they do,
 15 provided it was in the ordinance, is what we have
 16 control over.
 17 So, there is no -- I guess in terms of
 18 questions as it relates to what could the idle
 19 times be, I think we've addressed the fact that
 20 anything will have to be under the standards of
 21 the ordinance, regardless.
 22 MR. COHEN: I'm not aware that the
 23 ordinance requires any type of idling of trucks
 24 or restricts it in any manner. So, all I'm
 25 asking for is an operation manual.

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1 I represent clients that live right
 2 next to the site. Truck idling, obviously, has
 3 something to do with air quality, it has
 4 something to do with sound, and it -- you have --
 5 what do we have, a potential of 190 trucks
 6 sitting there, plus 50? Well, 190 trucks. What
 7 are they idling? Are they allowed to idle all
 8 the time they're there and spew out fumes? I
 9 think we ought to know. My client ought to know,
 10 the public ought to know. You know, what the
 11 tenants are, appear to me, makes no difference in
 12 how long a truck must idle.
 13 BOARD MEMBER MIKE SYLVESTER: That may
 14 fall under the environmental testimony we may
 15 hear --
 16 MR. COHEN: Okay.
 17 BOARD MEMBER MIKE SYLVESTER: -- about
 18 air permitting, idling requests, regulatory
 19 requests from other agencies or other engineering
 20 --
 21 MR. GOUIN: I agree with that, Mr.
 22 Sylvester. Suffice it to say, I don't think Mr.
 23 Ford has any more to say on the topic. So, maybe
 24 we can move on to something else.
 25 MR. COHEN: Well, Mr. Ford's the guy

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1 that's going to be preparing this operating
 2 manual and --
 3 MR. FORD: No. As I said, the tenant
 4 will be, counselor.
 5 MR. GOUIN: That's not correct. That's
 6 not correct, Mr. Cohen. Mr. Ford's testimony is
 7 that the tenant of this building will prepare an
 8 operations plan to comply with the ordinance.
 9 The tenants' operations plan will have to -- as
 10 you well know, Mr. Cohen, will have to comply
 11 with local, state, and federal standards relative
 12 to noise, air pollution, and anything else.
 13 That's all going to be addressed in the
 14 operations manual. We're two steps away from
 15 that now.
 16 So, to continue to ask questions on an
 17 application that could be years away is really
 18 not helpful, and we're trying to move this along.
 19 So, let's move on to a new topic.
 20 MR. COHEN: If we have 40 tenants,
 21 we're going to have 40 operation manuals?
 22 MR. GOUIN: We never testified that
 23 there would be 40 tenants, and that's a
 24 ridiculous conjecture. I don't know that --
 25 MR. COLLINS: Oh, 10 tenants.

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1 MR. GOUIN: -- we've testified to more
 2 than one.
 3 MR. COHEN: In 900,000 square feet --
 4 CHAIRMAN ANDREW REINA: Mr. Cohen --
 5 MR. COHEN: -- we're going to have 10
 6 operating manuals?
 7 MR. GOUIN: (indiscernible) now we're
 8 just --
 9 MR. FORD: Never said --
 10 CHAIRMAN ANDREW REINA: Mr. Cohen, can
 11 we reset, please --
 12 MR. COHEN: Sure.
 13 CHAIRMAN ANDREW REINA: -- and move on
 14 to your next question? It's been about 40
 15 minutes, and I want to give the other attorneys
 16 an opportunity to ask questions.
 17 MR. COHEN: Mr. Ford, you testified in
 18 your direct examination that you anticipate --
 19 and I don't want to put words in your mouth -- no
 20 more than 20 trucks a day. Now, that's 20 in, 20
 21 out; that's 40 trips a day. Do you recall that
 22 testimony?
 23 MR. FORD: I said in the instance of my
 24 past history in 30-plus years, that buildings
 25 that I've developed of this size have had as low

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1 as 20 trucks in and out daily. That's exactly
 2 what I said.
 3 MR. COHEN: Okay.
 4 MR. FORD: What we will get to, we will
 5 get to in our traffic study for the site, will be
 6 a detailed description of what could potentially
 7 be expected for this development as it comes to
 8 truck traffic, inbound and outbound.
 9 MR. COHEN: In your experience, there's
 10 a minimum of 20 trucks per day. What's the
 11 maximum in a facility of this approximate size,
 12 that you're aware of?
 13 MR. FORD: It'll be addressed in our
 14 traffic impact section.
 15 MR. COHEN: Well, I read your traffic
 16 study, your traffic report, and other than
 17 indicating peak hours, I didn't see anything --
 18 and it talks about traffic level of service at
 19 certain intersections. It didn't talk about the
 20 number of trucks per day that would be in and
 21 out. Talked about the two peak hours, which
 22 according to your traffic expert and his report
 23 were 44 trips per day in the peak morning hour
 24 and the peak evening hour. So, that's 44, just
 25 during two hours of the day.

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1 MR. GOUIN: Mr. Chairman, I think these
 2 are excellent questions for our traffic
 3 consultant, but not for Mr. Ford.
 4 CHAIRMAN ANDREW REINA: Agreed.
 5 MR. GOUIN: So, I object.
 6 MR. COHEN: Mr. Ford testified to this.
 7 It's his testimony, that he said that it's a
 8 minimum of --
 9 MR. FORD: I didn't --
 10 [OVERLAPPING SPEAKERS]
 11 MR. COHEN: (indiscernible) the maximum
 12 -- what is the maximum in a facility this size?
 13 MR. GOUIN: And now you're -- no --
 14 MR. COHEN: He's the expert.
 15 MR. GOUIN: Now you're
 16 mischaracterizing his testimony. So, I'm not
 17 going to (indiscernible) --
 18 MR. COHEN: Well, am I hearing
 19 something different? Did he not just testify
 20 that in his experience, a facility of this size
 21 can have a minimum of 20 trucks per day, but
 22 there could be more.
 23 MR. GOUIN: That is exactly what he
 24 said.
 25 MR. COHEN: (indiscernible) what he

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1 said. I'm asking --
 2 MR. GOUIN: In his testimony, he said
 3 in his experience it can have a minimum of 20.
 4 He's not saying this development is going to.
 5 Okay?
 6 MR. COHEN: I --
 7 MR. GOUIN: We have a traffic --
 8 MR. COHEN: I acknowledge that.
 9 MR. GOUIN: We have a traffic --
 10 MR. COHEN: I acknowledge that, Mr.
 11 Gouin.
 12 MR. GOUIN: Again -- well, you know
 13 what? We're wasting time on this. I'm going to
 14 object --
 15 MR. COHEN: We're not wasting time.
 16 You know what? Maybe we shouldn't waste time and
 17 we'll -- all the public will walk out, not ask
 18 any questions; the Board will just approve it.
 19 Then it wouldn't be a waste of time. This is a -
 20 - you know that this is a public right. We have
 21 a right to cross-examine this witness. That's
 22 his direct testimony.
 23 All I'm asking him is to comment on his
 24 direct testimony. It's certainly proper cross-
 25 examination. If he testified it's a minimum of

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1 20 trucks per day in a facility this size, in his
 2 30 years of experience, what's his understanding
 3 -- what's his experience in the maximum number of
 4 trucks of a facility of the size? Very simple
 5 question.
 6 Now, if you tell me that's an
 7 irrelevant question, I can't ask him --
 8 MR. GOUIN: No, no, you know what?
 9 MR. COHEN: -- I'll have to move on.
 10 MR. GOUIN: Objection withdrawn. Mr.
 11 Ford can answer.
 12 WOMAN 2: Have some respect. Where'd
 13 the 44 come from?
 14 CHAIRMAN ANDREW REINA: Please let the
 15 applicant answer.
 16 MR. FORD: The maximum is dependent on
 17 -- once again, there's a traffic impact study,
 18 which will be presented to you, correct? And
 19 it's hopefully soon, by a near meeting, that will
 20 identify the division between auto and truck
 21 traffic for this size of warehouse. It doesn't
 22 take an impact that study of parking spots,
 23 trailer spots, any of that kind of stuff. It is
 24 a national standard that the DOT has put forward,
 25 in this case, NJDOT, New Jersey DOT, and the

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1 federal standards that will identify that.
 2 MR. COHEN: Mr. Ford --
 3 MR. FORD: Until --
 4 MR. COHEN: -- I'm asking you, in your
 5 opinion, based upon your experience -- not what
 6 the federal standards are. You told us that
 7 there's -- in your experience, you could have a
 8 minimum of 20 trucks per day --
 9 MR. FORD: Right.
 10 MR. COHEN: -- in a facility this size.
 11 MR. FORD: Right.
 12 MR. COHEN: In your 30 years of
 13 experience, what's the maximum that you've
 14 experienced of the number of trucks per day in a
 15 facility of this size?
 16 MR. FORD: Purely theoretical. So,
 17 there's no point in answering.
 18 MR. COHEN: Well, 20 is theoretical, is
 19 it not?
 20 MR. FORD: The traffic impact study --
 21 MR. COHEN: If you tell us, you have no
 22 idea as to what the maximum's going to be, even
 23 though you know a minimum, then just tell us
 24 that.
 25 MR. FORD: I don't know right now.

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1 MR. COHEN: Okay.
 2 MAN 10: 30 years' experience
 3 (indiscernible).
 4 MR. FORD: I don't know.
 5 CHAIRMAN ANDREW REINA: Okay. Mr.
 6 Cohen, you have another question? I think it's
 7 been --
 8 MR. COHEN: Sure.
 9 CHAIRMAN ANDREW REINA: -- asked and --
 10 MR. COHEN: I have a few more
 11 questions. Mr. Ford, the application -- you had
 12 indicated, and I marked this down, that safety
 13 was paramount. Do you remember that comment you
 14 made in direct exam?
 15 MR. FORD: I sure do. Yes.
 16 MR. COHEN: Okay.
 17 MR. FORD: Yes.
 18 MR. COHEN: Tell us -- and by the way,
 19 your engineers testified that Demarest Road is
 20 anywhere from 20 to 22 feet wide. Your access
 21 drive, I think, is 30 feet wide. Tell us, Mr.
 22 Ford, how you believe that this operation can
 23 operate safely, exiting, coming in, ingress and
 24 egress, on a road 22 feet or 20 feet wide with
 25 this type of traffic that we're talking about,

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1 with tractor trailers day in and day out? How,
 2 in your opinion, can that operate safely without
 3 any improvements to at least Demarest?
 4 MR. FORD: Once again, that's a
 5 technical question that will be identified in our
 6 traffic impact analysis.
 7 MR. COHEN: Well, let me ask you this.
 8 When you picked out this site and decided that
 9 this is a good site for this proposed
 10 development, you obviously knew the only access
 11 was Demarest Road. Is that correct?
 12 MR. FORD: I eventually learned that.
 13 Correct.
 14 MR. COHEN: What do you mean, you
 15 eventually learn that?
 16 MR. FORD: I --
 17 MR. COHEN: Didn't you learn -- did you
 18 go out -- when you first found out about this
 19 site, did you go out and inspect the site?
 20 MR. FORD: Yes.
 21 MR. COHEN: And did you see the roadway
 22 that fronts this site?
 23 MR. FORD: Yes.
 24 MR. COHEN: And did you identify it as
 25 Demarest Road at some point?

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1 MR. FORD: Yes, I did.
 2 MR. COHEN: And does your engineer
 3 indicate -- is it correct that it varies anywhere
 4 from 20 to 22 feet in width?
 5 MR. FORD: Yes.
 6 MR. COHEN: Okay. So, tell me, since
 7 safety is paramount, how you think that this type
 8 of truck traffic, and the traffic from passenger
 9 vehicles that's going to be using this site, can
 10 operate safely on this type of roadway without
 11 any proposed improvements?
 12 MR. FORD: Once again, that's by DOT
 13 standard and that is an engineering question,
 14 which will be answered in the near future in our
 15 report.
 16 CHAIRMAN ANDREW REINA: Mr. Cohen,
 17 let's hit that -- you're on the traffic portion.
 18 If you're questioning the size of the road for
 19 the development?
 20 MR. COHEN: It's his testimony.
 21 MR. GOUIN: We'll (indiscernible) that
 22 later on.
 23 MR. COHEN: Okay. Then if the Board
 24 wants to tell me to sit down and don't ask any
 25 more questions --

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1 CHAIRMAN ANDREW REINA: Nobody is --
 2 MAN 11: We're not saying that -- we're
 3 not saying that.
 4 CHAIRMAN ANDREW REINA: Nobody is --
 5 MR. COHEN: All right.
 6 CHAIRMAN ANDREW REINA: Nobody has
 7 indicated that, Mr. Cohen.
 8 MR. GOUIN: We're just trying to keep -
 9 -
 10 MR. COHEN: But every question is --
 11 this is his testimony. His testimony is safety
 12 is paramount. We're on road 20 feet wide with
 13 God knows how many trailers per day; 44 just
 14 during two hours, according to their traffic
 15 expert. All right? Go out -- obviously, you
 16 know Demarest Road a lot better than I do. Go
 17 out and look at it. They're not proposing any
 18 improvements at Demarest.
 19 CHAIRMAN ANDREW REINA: Which is
 20 something that the Board may address once -- at
 21 the conclusion of testimony.
 22 MR. COHEN: Well, I'm asking him --
 23 CHAIRMAN ANDREW REINA: As you would be
 24 familiar with.
 25 MR. COHEN: -- why the applicant has

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1 not proposed any amendments to the road, and he
 2 may say, well, because we think it's safe. I
 3 don't know. That's what I understood.
 4 MR. FORD: No, because our traffic
 5 impact study indicates that by DOT standards,
 6 which is the standards that everybody has to
 7 abide by --
 8 MR. COHEN: Yes.
 9 MR. FORD: -- whether it's county or
 10 state, that it is not warranted.
 11 MR. COHEN: Tell me what DOT standard
 12 that is, Mr. Ford, that you understand.
 13 MR. GOUIN: No. Again, objection.
 14 That's not a question for Mr. Ford --
 15 CHAIRMAN ANDREW REINA: (indiscernible)
 16 come on.
 17 MR. GOUIN: He's not required to --
 18 MR. COHEN: He said it's a DOT
 19 standard. I want to know what standard it is.
 20 MR. GOUIN: He's not required to know
 21 the DOT standard.
 22 MR. COHEN: Well, then why is he
 23 testifying that it's compliance with the DOT
 24 standard. If he doesn't understand what the
 25 standard is, how can he under sworn testimony

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1 before this Board say it meets DOT standards?
 2 But I can't ask him what the DOT standard is?
 3 MR. GOUIN: He is -- Mr. Ford is
 4 reciting the conclusions in our traffic impact
 5 report. He is not a traffic engineer. You know
 6 that. He's reciting the conclusions of our
 7 traffic report, which this Board has not had a
 8 chance to review yet under testimony.
 9 MR. COHEN: Mr. Ford testified that
 10 this is in compliance -- Demarest Road is in
 11 compliance with the DOT standard. First of all,
 12 Demers Road is not a state highway, but that's
 13 beside the point. I'm asking him, based upon his
 14 testimony, what's the DOT standard? That's his
 15 testimony as an expert in this warehouse thing,
 16 indicating that safety is paramount. A very --
 17 that is an absolute proper question. And the
 18 Board says I can't answer that, I'll move on.
 19 MAN 12: Move on.
 20 CHAIRMAN ANDREW REINA: Are you aware
 21 of the actual DOT standard?
 22 MR. FORD: It's our engineers --
 23 CHAIRMAN ANDREW REINA: Understanding
 24 your engineers --
 25 MR. FORD: -- which we -- which are

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1 part of our team.
 2 CHAIRMAN ANDREW REINA: You
 3 specifically, Mr. Ford.
 4 MR. FORD: Yes.
 5 MR. COHEN: Well, I'll ask the
 6 engineer, what's the DOT standard that applies to
 7 Demarest Road. I'll reserve for that. Thank
 8 you, Mr. Ford.
 9 MR. COHEN: Mr. Ford, you have -- you
 10 show an access point which is approximately 100
 11 feet from my clients' property on -- I think
 12 that's the westbound side. All right? And we
 13 found out at the last meeting that there will be
 14 no right-hand turns, at least for truck traffic
 15 coming out of that entranceway. All right?
 16 Did you take into consideration when
 17 that was designed the noise impact of -- the air
 18 quality impact that may have on my clients'
 19 property, which is within approximately 100 feet
 20 of this driveway, when you designed it this way?
 21 MR. FORD: Now that you've addressed
 22 that topic, I understand the concerns, yes.
 23 MR. COHEN: Pardon?
 24 MR. FORD: Now that you've addressed
 25 the topic with your client, I understand your

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1 clients' concerns.
 2 MR. COHEN: Okay. All right. Let me
 3 ask you this. Are you willing to consider the
 4 removal of that accessway for trucks and
 5 passenger vehicles?
 6 MR. FORD: Once -- so, my biggest
 7 concern would be life safety, meaning is that --
 8 it's not up to me, and I don't think it's up to
 9 the Planning Board either -- that if the fire
 10 department, per their review, because they have
 11 to do a future review of everything and the plan,
 12 life safety, all this concern about that, would
 13 be addressed.
 14 But as to being sensitive to our
 15 neighbor and your clients' wishes and concerns, I
 16 would consider that northern driveway as we
 17 depict it right now to be a controlled access
 18 point for life safety, fire, police, whatever it
 19 might be, and that the main form of
 20 ingress/egress in and out of the development
 21 would be the southern driveway depicted here.
 22 MR. COHEN: All right.
 23 MR. FORD: Because once again,
 24 especially the trucks coming in and out of the
 25 site, either have to check in with a guard gate,

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1 which will be clearly spelled out in the
 2 operating plan, or at the office area there where
 3 they can be seen and visible. Because every
 4 truck that comes in and out of the site is going
 5 to be on a schedule. I mean, it's a typical way
 6 of logistics nowadays where they're on an
 7 appointment-type schedule. So, they can't just
 8 freely come in and out of the site because they
 9 have no control of the site, as well as control
 10 of the delivery or unloading or loading of that
 11 trailer.
 12 So, that being said, Mr. Cohen and his
 13 client, we met with before and whom we agreed, if
 14 that's a concern of them, we would gladly -- but
 15 it's got to be a directive from the Township and
 16 the safety concern -- the officials involved with
 17 life safety and that type of stuff, to only use
 18 that northern access as a secondary for life
 19 safety concern.
 20 MR. COHEN: I understand your concern
 21 about that could be an emergency accessway.
 22 There's nothing in the ordinance that require two
 23 accessways onto this property. Am I correct, to
 24 your knowledge?
 25 MR. FORD: Not to my knowledge. No.

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1 MR. COHEN: Okay. Now, Mr. Ford, I
 2 know that this is going to be serviced by a
 3 septic system, which I think you have a state
 4 permit for 2,000 gallons per day. Is that
 5 correct?
 6 MR. FORD: That is correct.
 7 MR. COHEN: Okay. And that would
 8 permit a maximum of 100 employees in this
 9 facility at any one shift. Is that correct?
 10 MR. FORD: That is correct.
 11 MR. COHEN: Okay. So, we're not going
 12 to have more than 100 employees at any one --
 13 MR. COLLINS: Mr. Cohen, the actual
 14 record shows that the testimony was, on my cross-
 15 examination, that they have not a state septic
 16 permit, but a Sussex County Health Department
 17 permit, and the number of employees was in the 80
 18 range, plus some transient --
 19 MR. FORD: Transient.
 20 MR. COLLINS: -- visitors. And that
 21 was clarified in the cross-examination of Mr.
 22 Ford. So, the fact that you stated in the
 23 question is inconsistent with the record. So,
 24 you might want to go forward with that knowledge.
 25 MR. COHEN: Mr. Collins, I did look up

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1 some standards with reference to gallonage, and
 2 in fact, I discussed --
 3 MR. COLLINS: I'm not questioning that,
 4 Mr. Cohen. I'm just saying, it's not 100,
 5 because that was -- he did initially say that,
 6 but on cross, he confirmed the permit itself and
 7 what it said in the permit itself and that it was
 8 --
 9 MR. COHEN: It only permits a maximum
 10 of 80? Is that correct?
 11 MR. FORD: 80-something, I believe.
 12 MR. COHEN: 80-something? Okay.
 13 MR. FORD: Plus, the transient use of
 14 the bathroom by the truckers.
 15 MR. COHEN: I'll move on. And I just
 16 have one other area and I'll be finished. Mr.
 17 Ford, you had indicated on your direct
 18 examination, at least that's my recollection,
 19 that you didn't want this facility operating 24
 20 hours a day, in other words, three shifts per
 21 day. Is that correct?
 22 MR. FORD: Yes. If he had our
 23 druthers, that is correct. But at this point, we
 24 have -- until the tenant is identified before C
 25 of O, we have no knowledge of what that request

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1 would be. So, there is a possibility that this
 2 could be a 24-hour operation.
 3 MR. COHEN: So, this could be -- you're
 4 not -- you indicate that this could be a 24-hour
 5 operation -- in other words, it'd be probably
 6 three shifts, am I right, if it was 24 hours?
 7 MR. FORD: That would be theoretically
 8 three shifts. Correct.
 9 MR. COHEN: Yeah. And there would be
 10 loading and unloading 24 hours a day, both trains
 11 and trucks. Is that correct?
 12 MR. FORD: Well, as I said, the NYS&W,
 13 the serving railroad here in town for everybody,
 14 whether it's the propane guy or anybody else,
 15 they do switching, local jobs, as they call it,
 16 from 5:00 p.m. until 5:00 a.m., as I earlier
 17 testified.
 18 MR. COHEN: But the unloading could be
 19 at any time after the railroad cars come in if
 20 it's a 24-hour operation. Correct?
 21 MR. FORD: Yes, in theory.
 22 MR. COHEN: Okay. So -- and there's
 23 nothing in the ordinance that restricts the hours
 24 of operations of one of these warehouse
 25 facilities. Am I correct?

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1 MR. FORD: Not to my knowledge.
 2 MR. COHEN: Okay. So, everyone should
 3 understand, and this Planning Board should
 4 understand when they give you this approval, it
 5 may be a 24-hour operation with however many
 6 trips that generates, since we don't know. Am I
 7 correct?
 8 MR. FORD: Was that -- sounds like
 9 that's a question of the Planning Board.
 10 MR. COHEN: No, it's a question of you,
 11 Mr. Ford.
 12 MR. FORD: Yes.
 13 MR. COHEN: Okay. Thank you, Mr. Ford.
 14 I have no further questions at this time, Mr.
 15 Chairman.
 16 MR. FORD: Thank you, counselor.
 17 [APPLAUSE]
 18 MR. CLARK: Good evening, Mr. Ford. My
 19 name is Neill Clark. I'm representing myself in
 20 this matter. I just have a couple questions for
 21 you. Before we begin, just some things that I
 22 want to go over with you. Do you understand
 23 you're still under oath, sir?
 24 MR. FORD: Yes, sir.
 25 MR. CLARK: Okay. And you also

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1 understand this is an official proceeding for
 2 which New Jersey's perjury statute applies?
 3 MR. FORD: Yes, I do.
 4 MR. CLARK: Okay. And you understand
 5 any violation of that can carry up to three to
 6 five years in prison, along with a \$15,000 fine?
 7 MR. FORD: Yes, I do.
 8 MR. CLARK: Okay. Now, am I right,
 9 it's your position, sir, that the building of an
 10 880,480 square-foot warehouse with 185 truck bays
 11 is a permitted use in the ED Zone? Is that
 12 right?
 13 MR. FORD: Correct.
 14 MR. CLARK: Yeah. And one of the
 15 reasons why you believe that, sir, is that you
 16 asked, or those acting on your behalf asked a
 17 change to the ordinance so you could build this
 18 development. Is that right?
 19 MR. FORD: I did not ask for it.
 20 MR. CLARK: But people acting under
 21 your direction, sir, professional engineers?
 22 MR. FORD: Not under my direction. No.
 23 As I said, my partners, which I first came to
 24 know because of this property, because of the
 25 zoning, because of what it was with the rail

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1 capabilities, were under -- you know, it's their
 2 property. They've been operating it as this
 3 Redi-Mix plant for years, and it was under their,
 4 you know, privy -- what's the word -- you know,
 5 that the amendment to the zoning was brought
 6 through.
 7 MR. CLARK: Okay. Now you recall, sir,
 8 you gave an interview with a local paper in March
 9 of 2022. Do you recall that, sir?
 10 MR. FORD: With Ms. Dericks?
 11 MR. CLARK: Yes.
 12 MR. FORD: Yes.
 13 MR. CLARK: And one of the things that
 14 you said is that -- and I'll quote you -- "We
 15 asked for an amendment to go vertical. That's
 16 all we're asking for. All these uses were
 17 allowed on this site. They amended it to go
 18 taller and more impervious space. That's all the
 19 amendment was." Do you recall giving that to Ms.
 20 Dericks?
 21 MR. FORD: I do not recall giving those
 22 exact words to Ms. Dericks.
 23 MR. CLARK: Okay.
 24 MR. FORD: I don't recall giving those
 25 exact words.

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1 MR. CLARK: Do you have any reason to
 2 disagree with me that you said those words?
 3 MR. FORD: No.
 4 MR. CLARK: Okay. And so, the fact
 5 that you knew that -- you knew you wanted more
 6 height and more impervious coverage, am I right,
 7 at the time that people were asking for this
 8 amendment, you had an idea of the size of what
 9 you wanted to be built in the Economic
 10 Development Zone. Is that correct?
 11 MR. FORD: Yes. I mean, from a height
 12 and from a coverage standpoint, yes.
 13 MR. CLARK: And so, they -- the people
 14 who were asking, whether that was you or someone
 15 else, they knew they had plans for an 880,000
 16 square-foot warehouse with 185 truck bays at the
 17 time they were requesting a change to the
 18 ordinance. Is that correct, sir?
 19 MR. FORD: Well, I don't think the
 20 exact details were ever formulated at that point.
 21 MR. CLARK: At what point was it
 22 formulated, the precise size that you've now
 23 submitted an application for? At what point did
 24 you know that you were going to ask for 185 truck
 25 bays and 880,000 square-foot warehouse?

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1 MR. FORD: When was --
 2 MAN 13: Summer of '21.
 3 MR. FORD: Yeah, when was my Zoom call
 4 with Stan?
 5 MAN 13: It was July/August '21.
 6 MR. FORD: Counselor, it was somewhere
 7 right before the preliminary meeting with Town
 8 staff to identify at that point that we'd be
 9 asking for this application.
 10 MR. CLARK: Okay. But that was -- do
 11 you recall in 2021 when that was, sir?
 12 MR. FORD: When I was in the Zoom call
 13 and there was a meeting with Town staff?
 14 MR. CLARK: Yes, sir.
 15 MR. FORD: It was in, I think, early
 16 May.
 17 MR. CLARK: May of 2021?
 18 MR. FORD: Yes.
 19 MR. CLARK: Okay. Got it. Now, are
 20 you aware -- is there somebody working for
 21 Kimley-Horn by the name of, I think it's Mr.
 22 Diggan, D-I-G-G-A-N?
 23 MR. FORD: Yes. And he's present.
 24 MR. CLARK: And who is that?
 25 MR. FORD: He's here with his present.

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1 MR. CLARK: Okay. And what's his
 2 position, sir?
 3 MR. FORD: He's a civil engineer. He's
 4 a PE licensed in the state of New Jersey.
 5 MR. CLARK: Okay. And what was his
 6 purpose? Is he an engineer that you've hired to
 7 assist with this site application?
 8 MR. FORD: Yes.
 9 MR. CLARK: Okay. And were you aware,
 10 sir, that Mr. Diggan met with -- first let me --
 11 strike that. Do you know who a Bill Simmons is?
 12 MR. FORD: A Bill Simmons? I don't
 13 know.
 14 MR. CLARK: Okay. So, you don't know -
 15 - were you aware that Mr. Diggan and Mr. Simmons
 16 met in October of 2020 to inspect the property?
 17 Were you aware of that, sir?
 18 MR. FORD: I am not.
 19 MR. CLARK: Okay. And what involvement
 20 did you have with the people at Kimley-Horn prior
 21 to the ordinance change? Did you have any
 22 meetings with them to discuss meetings that they
 23 would have Township officials?
 24 MR. FORD: I did not.
 25 MR. CLARK: Okay.

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1 MR. FORD: And for the record,
 2 counselor, just so I'm clear, is that I've used
 3 Kimley-Horn as an engineering firm. I'm using
 4 them in other parts of the country right now
 5 presently. They specialize in this type of
 6 development and engineering. And I use them in
 7 Florida on a project I'm working on there. I've
 8 used them in Chicago for years and other parts of
 9 the country. So, I have a familiarity with
 10 Kimley-Horn.
 11 MR. CLARK: Okay. Well, while we're on
 12 that topic about your familiarity with, have you
 13 ever, outside of this application --
 14 MR. FORD: Mm hmm.
 15 MR. CLARK: -- have you or anyone in
 16 your ownership interest, Mr. Shortino and the
 17 other gentleman's name escapes me -- Hunkele --
 18 sorry. Have they used CP Engineers for any
 19 development project at any point?
 20 MR. FORD: I'm not aware of it, no.
 21 MR. CLARK: Okay. What about Harbor
 22 Consultants? Did you or any of your owners have
 23 any prior business relationship with Harbor
 24 Consultants prior to the site application?
 25 MR. FORD: I have not. I know

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1 obviously they're involved now in, what is it,
 2 (indiscernible) management, that kind of stuff.
 3 But no, I've never used them, never had any
 4 experience with them in the past?
 5 MR. CLARK: Okay. So, you didn't know
 6 who Stan Puszcz was prior to your filing the site
 7 application?
 8 MR. FORD: I did not.
 9 MR. CLARK: And you didn't know who
 10 Katherine Sarmad was prior to the site
 11 application?
 12 MR. FORD: I did not.
 13 MR. CLARK: Okay. All right. Let's go
 14 to a little bit about your company. It's called
 15 TRES III. Is that right?
 16 MR. FORD: That is correct.
 17 MR. CLARK: And you are CEO of that?
 18 MR. FORD: I'm the principal of TRES
 19 III.
 20 MR. CLARK: What is TRES III?
 21 MR. FORD: TRES III?
 22 MR. CLARK: Yeah.
 23 MR. FORD: It's an LLC set up for
 24 development of warehouses type of development.
 25 MR. CLARK: Okay. And taking a look at

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1 your website, one of the things that you promote
 2 is design and master planning. Is that right?
 3 MR. FORD: That is correct.
 4 MR. CLARK: Okay. And what is
 5 encompassed in design and master planning? What
 6 do you mean by that?
 7 MR. FORD: Coming up with conceptual
 8 plans for land that is permitted or looking to be
 9 permitted for many types of warehouse and
 10 distribution uses.
 11 MR. CLARK: Okay. And I want to show
 12 you something from your website, just get you to
 13 comment on it, because I don't quite understand
 14 it. If I may approach the witness? Thank you.
 15 This is from your website. I'm not giving you
 16 the entire printout --
 17 MR. FORD: Sure.
 18 MR. GOUIN: Hey, just real quick --
 19 CHAIRMAN ANDREW REINA: Tom, does that
 20 need --
 21 MR. GOUIN: -- Mr. Collins, do we need
 22 to --
 23 CHAIRMAN ANDREW REINA: Does that need
 24 to be entered as an exhibit --
 25 MR. GOUIN: Do we need to mark this,

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1 Tom?
 2 CHAIRMAN ANDREW REINA: -- or anything,
 3 Tom?
 4 MR. COLLINS: Yes. So, it'll be 01,
 5 and first he has to ask his question, if he can
 6 identify it. If he can't identify it, then maybe
 7 some more questions about why he can't identify
 8 it. But basically, it's not going to go into
 9 evidence if it can't be identified.
 10 MR. FORD: No. This is on my website.
 11 MR. CLARK: That's not your website?
 12 MR. FORD: No, this is on my website.
 13 MR. CLARK: It is on? I'm sorry. I
 14 didn't hear you.
 15 MR. GOUIN: It is on your website.
 16 MR. FORD: Yes.
 17 MR. CLARK: Okay. So, looking at --
 18 it's the second sentence that starts with, our
 19 team understands. I'll just read it. "Our team
 20 understands how to quickly work through these
 21 issues, such as infrastructure, road development,
 22 permitting, zoning and other requirements needed
 23 to fast track a wide variety of industrial
 24 transportation bills."
 25 My question is, what do you mean here

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1 by fast track?
 2 MR. FORD: Manage through the process
 3 with the engineers and the architects, the
 4 planners, whatever. It takes a team effort.
 5 It's a collaborative effort to manage this, and
 6 that's been some of my successes in the past is
 7 to collaborate with attorneys, with master
 8 planners, with engineers, whatever. It takes a
 9 team effort with stormwater management, with
 10 traffic, whatever it might be for these types of
 11 developments.
 12 MR. CLARK: Okay. And so, since this
 13 is one of your developments, meaning the site
 14 application, you agree with me, sir, that you
 15 were also attempting to fast track this
 16 particular application. Is that right?
 17 MR. FORD: There's rules and
 18 regulations that need to be met, whatever that
 19 consists of. In this case, this is a pre-
 20 application hearing for the site plan.
 21 MR. CLARK: Would you agree with me,
 22 one of the ways that you can fast-track an
 23 application is to make sure the application falls
 24 within a permitted use under the particular
 25 town's land use ordinances? Is that one of the

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1 ways that you can fast track in a development?
 2 MR. FORD: Well, I've taken land from
 3 annexation. I'm doing one right now in Florida,
 4 a project right now in Florida that's literally
 5 taking annexation, writing the comprehensive
 6 plan, a POD, at the same time, and getting site
 7 plan approval, all at the same time. All at the
 8 same time. That's Daytona Beach, Florida. Much
 9 larger community than here. All three
 10 applications are happening at the same time. And
 11 that's annexation too.
 12 MR. CLARK: But are those under a
 13 permitted use or a conditional use under the
 14 Florida --
 15 MR. FORD: It's agricultural land right
 16 now. We are asking for it to be zoned and we're
 17 writing the comprehensive plan with our attorneys
 18 and consultants. We're taking it from zero. One
 19 of the attractive things -- as I always said, in
 20 this property it was in a Warehouse ED District
 21 that has been here for years.
 22 MR. CLARK: Okay. We'll get to that.
 23 So, now let's talk about the use that you're
 24 applying under. Sir, what's your understanding
 25 of the logistics park?

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1 MR. FORD: I've developed and actually
 2 own multiple logistics parks.
 3 MR. CLARK: Okay. What are they? I
 4 mean, if you could describe for us, what do you
 5 mean by logistics park?
 6 MR. FORD: It could be a vast variety
 7 of types of property that encompass logistics.
 8 It could be outside rail to truck transfer,
 9 without even a building of concern, or maybe a
 10 dome where it's just track and there's a pumping
 11 system, as an example, that's unloading a tanker
 12 into a truck direct. That could be in a
 13 logistics park.
 14 It could be large bulk warehouses,
 15 dwell warehouses, like we're proposing here and
 16 warehouse setting; that could be a logistics
 17 park.
 18 It could be a intermodal based function
 19 that is a lot like port to rail, where containers
 20 are lifted on or off a rail car, a double stack
 21 car, that's typically performed with class motor
 22 railroads in this case in the Northeast, like the
 23 CSX and Norfolk Southern.
 24 A logistics park, in my opinion, could
 25 be adjacent to a port facility. It could be, in

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1 this case, you know, a rail-served operation is a
 2 logistics park. Logistics is a very broad term
 3 when it comes to definition
 4 MR. CLARK: So, you would agree there's
 5 a lot of facets that go into a logistics park,
 6 not so there's the means of transportation,
 7 right, the rail or the means by which the goods
 8 that are going to be used in logistics, that's
 9 one of the components. Is that right?
 10 MR. FORD: Yeah. Yes.
 11 MR. CLARK: Okay. And then there could
 12 be buildings that could be used. That's another
 13 part of the logistics facility. Is that correct?
 14 MR. FORD: In a logistic park, yes.
 15 MR. CLARK: Okay. Now, in your actual
 16 application -- in fact, it's on the very first
 17 page of the cover letter, dated November 15th,
 18 2021 -- it actually says, preliminary site plan
 19 application, Diamond Chip Logistics Park. Do you
 20 agree with that?
 21 MR. FORD: Yes.
 22 MR. CLARK: All right.
 23 MR. FORD: Yes.
 24 MR. CLARK: And you also, in your
 25 application -- in fact, I think on Page 6, I

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1 believe, you have a -- and I can show it to the
 2 witness, but it's probably right up there on the
 3 actual architect plans for the building -- it
 4 refers it to manufacturing/logistics. Is that
 5 correct?
 6 MR. GOUIN: I'm just going to jump in
 7 because I think we addressed that at the very
 8 first hearing, that that was an error on the
 9 architectural plans. And we spoke about that.
 10 That was just a typographical error and we had
 11 fixed that. I think we've gone over that before.
 12 CHAIRMAN ANDREW REINA: So, would you -
 13 -
 14 MR. CLARK: What was the intention?
 15 What -- I don't know what -- you corrected it.
 16 What was it corrected to? I'm sorry.
 17 MR. GOUIN: Well, that one, Mr. Ford
 18 can answer.
 19 MR. FORD: Well, what's the question?
 20 I mean, our proposed use here is a warehouse.
 21 But under the Planned Economic Development,
 22 Number 6, and permitted uses is also process of
 23 manufacturing, fabrication, assembly, treatment,
 24 or packaging and conversion of products. That is
 25 approved use under this ordinance.

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1 MR. CLARK: Okay. The question was
 2 what you corrected it to. And I don't think I
 3 got an answer to that.
 4 MR. FORD: Just straight warehouse.
 5 MR. CLARK: Okay. So, it's been
 6 amended to call it a warehouse on Page 6. Also,
 7 in your application on -- I think it's in
 8 probably the stormwater management report, which
 9 is -- on the PDF version, it's probably Page 173.
 10 I can show you an excerpt from that if it would
 11 help you. It's described as, "Diamond Chip
 12 Realty seeks approval for construction of a
 13 multimodal industrial park." Do you agree with
 14 that statement?
 15 MR. FORD: Yes.
 16 MR. CLARK: Okay. So, what do you mean
 17 by a multimodal industrial park? And how is that
 18 different from a logistics park?
 19 MR. FORD: It's really not. But multi
 20 is more than one, obviously, and modal is the
 21 form of movement of transportation and goods. As
 22 I said in my thought when I originally sought --
 23 expressed interest in this project with my now
 24 partners, was the fact that we had rail and truck
 25 capabilities within the ordinance. That's

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1 multimodal.
 2 MR. CLARK: Okay. So, what's the
 3 difference between a multimodal industrial park
 4 and a warehouse? Is a warehouse just one
 5 component of the multimodal industrial park, or
 6 are the interchangeable?
 7 MR. FORD: A warehouse -- the physical
 8 structure of the warehouse, housing wares, it
 9 falls within a -- you know, within the overall
 10 site plan. It's just one portion of it. But
 11 multimodal is the fact that you have rail and
 12 truck capabilities of transferring goods.
 13 MR. CLARK: So, the warehouse though,
 14 is just then one use that you're having of this
 15 multimodal industrial park? Is that right?
 16 MR. FORD: It's these, for consumer
 17 goods to dwell here for a period of time until
 18 it's needed at distribution points for retailers,
 19 whatever it may be.
 20 MR. CLARK: But I thought the warehouse
 21 was just simply a component of the industrial
 22 park, not -- there's other things that go into a
 23 logistics park, other than the warehouse, right?
 24 MR. FORD: Right. And so, if we now go
 25 back to the ordinance, clearly, okay, accessory

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1 uses, all things customarily incident to the
 2 above uses. Storage buildings, parking lots, et
 3 cetera. You can use farm stands, agricultural
 4 products, which we don't plan on it, but it's
 5 approved use, accessory use. Rail serve to
 6 support permitted uses and accessory use. EV
 7 charging stations is an accessory use.
 8 So, all of those functions beyond just
 9 the physical aspect of the four walls, in this
 10 case, eight walls of a warehouse falls within the
 11 parameters of the ordinance.
 12 MR. CLARK: But you haven't applied for
 13 an accessory use. Is that right, sir?
 14 MR. FORD: No.
 15 MR. CLARK: Okay. And also, while
 16 you're looking at the ordinance, there's nothing
 17 on there that has a use for intermodal logistics
 18 park. Is that right?
 19 MR. FORD: I'm sorry?
 20 MR. CLARK: There's nothing in that
 21 ordinance, sir, that says one of the uses that's
 22 permitted in this zone is an intermodal
 23 industrial park. Is that right?
 24 MR. FORD: Did I ever see intermodal?
 25 No.

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1 MR. CLARK: Sir, why don't you look at
 2 the ordinance? Take a look at the ordinance.
 3 MR. FORD: I am.
 4 MR. CLARK: Okay. Do you see anywhere
 5 on their under permitted use or conditional use
 6 that says intermodal industrial park?
 7 CHAIRMAN ANDREW REINA: Is this
 8 definitional, Mr. Clark?
 9 MR. FORD: You're trying -- right.
 10 MR. GOUIN: I'm just going to -- hold
 11 on. I'm going to object.
 12 MR. CLARK: Because you can answer the
 13 question unless the Planning Board member or
 14 counsel instructs you not to answer. Otherwise,
 15 you can answer the question.
 16 MR. GOUIN: Well, I'm going to object.
 17 I'm going to object to this question and I'm
 18 going to object to this -- you know, this series
 19 of questions, because we have gone -- if there's
 20 one thing we have established, and we've gone
 21 over it a lot before this Board, and before the
 22 Zoning Board as well, is that we're applying for
 23 a warehouse. So, I don't know that we need to
 24 have any further testimony on what we're applying
 25 for.

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1 Now, in terms of accessory uses, there
 2 are a number of accessory uses shown on our site
 3 plan, which is typical of any site plan.
 4 Parking, landscaping, lighting, things that are
 5 accessory to the primary use. They're all shown
 6 on our site plan. So, I don't think we need to
 7 go down this whole road of establishing what
 8 other uses we are proposing, because we've been
 9 very clear, and Mr. Ford has been very clear a
 10 number of times, we are proposing a warehouse use
 11 and whatever accessory uses are permitted.
 12 MR. CLARK: It is the ambit of this
 13 Planning Board, and it was told by Mr. Collins,
 14 to determine what the use is, not to interpret
 15 the ordinance, determine what the use is. This
 16 is what this line of questioning is about. I
 17 understand counsel's position to want to avoid
 18 it, but I think it would be best for everyone
 19 here to get the most information.
 20 So, my question stands. Is intermodal
 21 logistics park a permitted use under the
 22 ordinance?
 23 MR. FORD: You just inserted the word
 24 intermodal. You never asked me about that. I've
 25 never brought it in the past.

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1 MR. CLARK: Okay.
 2 MR. FORD: That's a different
 3 definition.
 4 MR. CLARK: (indiscernible). Let's
 5 call it what you called it in your application,
 6 sir.
 7 MR. FORD: Right.
 8 MR. CLARK: Do you see multimodal
 9 industrial park as a permitted use in the
 10 ordinance?
 11 MR. FORD: I see the transfer between
 12 rail and truck as a permitted use, yes.
 13 MR. CLARK: No. The question, sir, was
 14 do you see as a permitted use multimodal
 15 industrial park? Is that a permitted use in the
 16 ordinance that you've been reading to me?
 17 MR. FORD: How did I define multimodal
 18 there? Multimodal is a movement between multiple
 19 forms of transportation. And I was very clear to
 20 say between rail and truck. That is a permitted
 21 use.
 22 MS. SARMAD: Chairman Reina? May I
 23 interject?
 24 CHAIRMAN ANDREW REINA: Yes, please,
 25 Katherine.

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1 MS. SARMAD: I just want to direct Mr.
 2 Clark to the top of the ordinance, which is the
 3 purpose of the zone, to give some clarity to the
 4 line of questioning. The purpose of the ED
 5 District is to allow for the location of office,
 6 research, and industrial uses in a campus-like
 7 setting with good access to Route 15 and the
 8 railroad, and properly buffered from residential
 9 uses. I just want to -- maybe that will clarify
 10 your questions, so you better understand.
 11 MR. CLARK: No, I think the question
 12 was clear. And I think the question was whether
 13 multimodal industrial park is listed as a
 14 permitted use, whether it fits within the
 15 purpose. I appreciate you making that argument
 16 for the developer, but I --
 17 MS. SARMAD: No, I'm actually --
 18 MR. CLARK: -- but I think that --
 19 [APPLAUSE AND LAUGHTER]
 20 MS. SARMAD: Mr. Clark, I don't
 21 appreciate --
 22 [APPLAUSE]
 23 MS. SARMAD: Mr. Clark, I --
 24 MR. CLARK: I think my question still
 25 stands --

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1 CHAIRMAN ANDREW REINA: Mr. Clark --
 2 MS. SARMA: Mr. Clark --
 3 MR. CLARK: He can answer the question
 4 unless he's instructed not to, and I haven't
 5 heard an instruction not to answer, so I would
 6 appreciate an answer to my question.
 7 MR. FORD: Well, I already answered
 8 your question.
 9 CHAIRMAN ANDREW REINA: I think he's
 10 addressed the question.
 11 MR. COLLINS: He did answer your
 12 question, Mr. Clark, so you should move on and --
 13 MR. CLARK: Well, I will -- let the
 14 record -- said that multimodal industrial is not
 15 listed as a permitted use.
 16 MR. COLLINS: It doesn't have to be,
 17 Mr. Clark, and --
 18 MR. CLARK: Okay. That's a legal
 19 position.
 20 MR. COLLINS: That's why -- your legal
 21 position is very weak on that subject, so --
 22 MR. CLARK: Okay.
 23 MR. COLLINS: So, you might as well
 24 keep going and get on to the next question.
 25 MR. CLARK: Okay.

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1 MR. COLLINS: And by the way, someone
 2 does not have to apply for a separate accessory
 3 use in conjunction with a site plan for a
 4 principal use. That is customary to review
 5 multiple accessory uses on a site plan. The
 6 parking lot is an accessory use. If they had
 7 lighting, that's accessory. If they have other
 8 things, those are accessory. They don't have to
 9 separately list them in their application, Mr.
 10 Clark. So, please move on with some focus on
 11 what's relevant to the case.
 12 MR. CLARK: Okay. I'm sure, again, the
 13 developer appreciates your clarification --
 14 MR. COLLINS: No more speeches, Mr.
 15 Clark. You don't really seem to want to focus on
 16 --
 17 CHAIRMAN ANDREW REINA: Yeah. Mr.
 18 Clark, please move on to your next question.
 19 MR. CLARK: Sure. Now, it's your view,
 20 sir -- I'm trying to get this issue about
 21 dependency between the rail and other modes of
 22 transport here. Do you have any percentage
 23 breakdown between how much percentage of this use
 24 will be used by the rail and then used by other
 25 modes? Do you have any estimation at this point?

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1 MR. FORD: That will be addressed, just
 2 as the ordinance clearly denotes, in the
 3 operating plan before C of O.
 4 MR. CLARK: So, at this point, you have
 5 no idea. Is that right?
 6 MR. FORD: No factual idea, no.
 7 MR. CLARK: Okay. So, you have no idea
 8 of whether -- how much it will be rail dependent
 9 and how much it will be truck dependent at this
 10 time. Is that right?
 11 CHAIRMAN ANDREW REINA: I think he's
 12 just answered that --
 13 MR. FORD: No, the ordinance is very
 14 clear that the project needs to be rail
 15 dependent. That is a fact.
 16 MR. CLARK: Well, what I'm trying to
 17 get at is, when we're talking about how dependent
 18 it is, we don't have a breakdown right now. You
 19 don't know. Is that right?
 20 MR. FORD: The ordinance clearly states
 21 that before C of O, that needs to be identified
 22 in an operating plan. So, I don't know, have
 23 exact breakdown of percentage of rail, inbound,
 24 truck outbound, vice-versa.
 25 MR. CLARK: Okay. And your position is

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1 that you don't need to know that right now. That
 2 will come up in a later --
 3 MR. FORD: Approval.
 4 MR. CLARK: -- approval. Okay. Sir,
 5 before you submitted the site plan application,
 6 did you actually take a look at other warehouses
 7 that were in this ED Zone?
 8 MR. FORD: I looked at other
 9 properties, but I did not look at other
 10 warehouses in this ED Zone.
 11 MR. CLARK: Did you -- so you had no
 12 idea of the size of other warehouses in the ED
 13 Zone prior to filing your application. Is that
 14 right, sir?
 15 MR. FORD: No.
 16 MR. CLARK: Okay. So, would it
 17 surprise you to learn that as of, I think, March
 18 of 2020 the average square footage of a warehouse
 19 in the ED Zone was between 10,000 and 30,000
 20 square feet? Would that surprise you, sir?
 21 MR. FORD: No, it wouldn't surprise me.
 22 MR. CLARK: Okay. And you're asking
 23 for nearly 30 times that amount of square
 24 footage. Is that right, give or take?
 25 CHAIRMAN ANDREW REINA: Mr. Clark, is

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1 that --

2 MR. FORD: Yes, but it's approved.

3 CHAIRMAN ANDREW REINA: Is there a

4 question in there as it relates to the

5 application?

6 MR. CLARK: Yeah. That's -- he's

7 asking for a use that's nearly 30 times the

8 existing uses that are in the ED Zone.

9 CHAIRMAN ANDREW REINA: But permitted.

10 MR. FORD: It --

11 MR. CLARK: And the Planning Board

12 should be aware of that. It's a legal position

13 whether -- fine, we don't have to get into that

14 argument. I think it's a relevant fact that he's

15 asking for 30 times the size of a warehouse that

16 currently exists in that zone.

17 I also want to talk about, you say

18 there's going -- the way this is supposed to work

19 is there will be goods delivered by train first.

20 Is that right?

21 MR. FORD: That's one scenario.

22 MR. CLARK: Oh, so there will be --

23 things can come in the truck too. Is that

24 correct?

25 MR. FORD: It sure could, yeah.

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1 MR. CLARK: And you don't have that

2 breakdown force right now?

3 MR. FORD: No.

4 MR. CLARK: Okay. And then the goods

5 that come in by train, how are they going to make

6 their way from the rail line into the warehouse?

7 Who's going to -- how is that going to happen?

8 CHAIRMAN ANDREW REINA: I think we've

9 covered this portion of it. Is there --

10 MR. CLARK: Well, rephrase.

11 CHAIRMAN ANDREW REINA: -- a question,

12 Mr. Clark?

13 MR. CLARK: Will additional trucks be

14 needed to take goods from the train line into the

15 warehouse?

16 MR. FORD: No. It's a direct transfer

17 from the rail car to the warehouse. There's an

18 outdoor platform in design that they would unload

19 with forklifts or any other type of equipment, or

20 handpicked. Could be lightweight products that

21 would be brought to the outdoor platform, moved

22 into the warehouse when it's determined by the

23 operators where that product will go, if in the

24 warehouse, for it to dwell before it's to be

25 shipped on, typically via truck, outbound.

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1 MR. CLARK: Okay. So, let's focus on

2 that point, about where -- when it goes from your

3 warehouse to its ultimate destination. Do you

4 know how much of those goods percentagewise will

5 get to their ultimate destination via truck and

6 how many via train?

7 MR. FORD: At this point, no.

8 MR. CLARK: Will the predominate means

9 of transportation from the warehouse to its

10 ultimate destination, will that be truck, sir?

11 MR. FORD: Would be truck, is what you

12 said?

13 MR. CLARK: Yeah, will it be trucks?

14 MR. FORD: It exactly depends on the

15 time.

16 MR. CLARK: And if I'm right, you are

17 not at liberty to discuss any tenants that you

18 are currently having negotiations with? Is that

19 right?

20 MR. FORD: No. In the world we're in

21 today, in the logistics and this type of

22 business, no tenant will get serious until we

23 have steps like this, like the preapproval

24 process done. We still have to get through DEP

25 processes, we're all aware, which manages

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1 everything, stormwater, environmental, that kind

2 of stuff, and those processes, and preliminary

3 approvals need to be done before hand. So, as of

4 now, no, we have no tenants that are identified

5 for the project.

6 MR. CLARK: And are you willing to put

7 now a numerical limit on the amount of trucks

8 that you would allow to leave the facility on a

9 24-hour basis at this point?

10 MR. FORD: No.

11 MR. CLARK: Okay. And would you be --

12 is that something that would come up in a later

13 approval process in front of this Planning Board?

14 MR. FORD: It would come up in the

15 operating plan, as we identify a tenant --

16 MR. CLARK: Okay.

17 MR. FORD: -- or tenants.

18 MR. CLARK: All right. So, if at the

19 point of you presenting the operating plan,

20 that's going to identify what -- your best guess

21 as to how many truck trips there will be on the

22 24-hour basis. Is that right?

23 MR. FORD: That is correct. Yes.

24 MR. CLARK: Okay. And then it would be

25 then up to the Planning Board to determine

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1 whether that's too many or, you know, lower
 2 (indiscernible)? Is that right?
 3 MR. FORD: That's a Planning Board
 4 question, I guess.
 5 MR. CLARK: Okay. So, it's up to them
 6 at that stage if they want to limit the amount of
 7 trucks that's in there, as you understand it,
 8 their discretion to do so at the time that you
 9 present the operating plan?
 10 MR. FORD: That's my understanding of
 11 how the ordinance is written. Correct.
 12 MR. CLARK: And how will you -- I know
 13 one of the things you talked about is that how
 14 can you set the schedule for these trucks to make
 15 sure that they arrive at a certain time, that
 16 they're not all backed up on Demarest Road. How
 17 -- is that another operating plan thing?
 18 MR. FORD: Yes, it's an operating plan.
 19 MR. CLARK: Okay. And so, again, that
 20 something that will be in the operating plan that
 21 the Planning Board will need to consider then
 22 whether you've appropriately scheduled trucks so
 23 that they're not all lined up along Demarest
 24 Road?
 25 MR. FORD: Tenant specific, yes,

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1 operation.
 2 MR. CLARK: Got it. Now, have you ever
 3 in your experience -- you presented an operating
 4 plan, there's been approval, and then the
 5 business starts to operate, and now it's at
 6 variance to the operating plan that you gave to
 7 the Planning Board. Has that ever happened, sir?
 8 MR. FORD: Well, it's -- once again, I
 9 would be the owner of the real estate. The
 10 tenant needs to come in -- they're an unknown
 11 entity right now -- would have to come in front
 12 of this Board and talk about their operating
 13 plan. They've got to get a business license and
 14 approval. So, if they're not operating within
 15 the confines or agreements that they had with
 16 this Planning Board, that's up to the Planning
 17 Board, and of course, the police and life safety,
 18 all those things, to correct that.
 19 MR. CLARK: For a particular tenant
 20 that you've had, has that ever come up where
 21 their operating plan, they got permission to do
 22 something, and then they were operating in
 23 contravention to that operating plan, and then
 24 someone had to step in, Planning Board or
 25 authorities? Do you recall that ever happening?

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1 MR. FORD: No, not in my experience.
 2 MR. CLARK: Okay. Finally, I want to
 3 talk about some of the economics behind this,
 4 just so we understand. Sir, would you consider
 5 Amazon a leader in logistics and warehouse
 6 building?
 7 MR. FORD: That has nothing to do with
 8 --
 9 CHAIRMAN ANDREW REINA: Mr. Clark --
 10 MR. CLARK: I don't know -- I'm going
 11 to...
 12 BOARD MEMBER THEODORE GALL: Mr. Clark,
 13 I just want to clarify that in previous
 14 testimony, Mr. Ford has, under oath --
 15 MR. CLARK: It doesn't -- yeah, it
 16 doesn't have to do whether there will be a
 17 tenant. It has to do with whether there's an
 18 economic liability for this particular use. So,
 19 I'm --
 20 CHAIRMAN ANDREW REINA: I don't --
 21 MR. GOUIN: Then I'm going to --
 22 CHAIRMAN ANDREW REINA: Unfortunately,
 23 I don't think --
 24 MR. GOUIN: Then I'm going to object.
 25 CHAIRMAN ANDREW REINA: This Board does

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1 not have the authority to determine economic
 2 viability.
 3 MR. GOUIN: Yeah. Whether or not
 4 there's an economic viability is completely
 5 irrelevant to our site plan application.
 6 MR. CLARK: No, I mean, if you want --
 7 CHAIRMAN ANDREW REINA: I understand
 8 where you're going, Mr. Clark.
 9 MR. CLARK: Yeah.
 10 CHAIRMAN ANDREW REINA: But the
 11 Planning Board doesn't have discretion or
 12 authority over the economic merits of a
 13 particular project. We have authority over the
 14 land use, the ability for it to be conforming, in
 15 this case, again, as presented, whether it's
 16 conforming permitted use, and you know, looking
 17 at the different and variable components of the
 18 witness testimony.
 19 I know this Board has asked if we could
 20 see, or if there is economic components, because
 21 I think it's a valid question that we all have.
 22 My understanding is -- and Tom, please correct me
 23 from a jurisdiction perspective -- that is not
 24 our jurisdiction to determine economic components
 25 --

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1 MR. COLLINS: That's correct.
 2 CHAIRMAN ANDREW REINA: -- of --
 3 MR. COLLINS: You do not have
 4 jurisdiction to --
 5 CHAIRMAN ANDREW REINA: -- an
 6 application?
 7 MR. COLLINS: You do not have
 8 jurisdiction to determine the economic viability
 9 of any applications.
 10 CHAIRMAN ANDREW REINA: So, please keep
 11 that in mind, Mr. Clark. Again, I can understand
 12 and appreciate --
 13 MR. CLARK: Yes.
 14 CHAIRMAN ANDREW REINA: -- where you're
 15 going with this line of questioning. We just
 16 don't have jurisdiction over it.
 17 MR. CLARK: Okay.
 18 CHAIRMAN ANDREW REINA: So, I think
 19 that would be a question or a line of questioning
 20 that may be better geared toward Town Counsel or
 21 the Town Manager, because they would have access
 22 to the economic components.
 23 MR. COLLINS: Not really, no. I mean,
 24 private economic business is the private business
 25 of that business.

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1 MR. CLARK: Well, it actually goes to
 2 the use, sir, because if -- my question is very
 3 simple. As Amazon just announced they are
 4 pulling out 10 million square feet of warehouse.
 5 And so, my question is, why do you think this is
 6 economically viable in light of the changing
 7 economics? Because the last thing we want here
 8 is an empty warehouse that we can't use.
 9 MAN 14: That's speculation
 10 (indiscernible).
 11 MR. FORD: Would you like me to answer
 12 his question?
 13 MAN 15: For the sake of the Board, can
 14 you please repeat the question?
 15 MR. CLARK: Sure.
 16 MAN 15: Our apologies.
 17 MR. CLARK: Yeah. No problem. The
 18 question is, Amazon recently announced that they
 19 are getting rid of 10 million square feet of
 20 warehouse space because of a decline in market,
 21 and in that space includes New Jersey. My
 22 question to Mr. Ford is why, in light of that,
 23 does he still consider e-commerce warehouse
 24 stores a viable business?
 25 MR. FORD: Well, you keep throwing in

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1 terminologies, you're trying to catch -- I don't
 2 know -- whatever. This is not e-com. Clearly
 3 not e-com.
 4 MR. CLARK: It's a warehouse, though,
 5 right?
 6 MR. FORD: It's not e-commerce.
 7 MR. CLARK: But it's warehouse storage.
 8 Am I right, sir?
 9 MR. FORD: It is -- counselor, we've
 10 been through this before, but I wanted clear for
 11 everybody in the room to understand. This is not
 12 e-commerce. Okay? Number one, in my
 13 professional opinion and my knowledge in knowing
 14 how Amazon operates, you want to be specific
 15 about Amazon, 10 million square feet is a
 16 rounding error, a rounding error in their overall
 17 need for space. They overestimated. Because
 18 when we were all unfortunately sitting at home
 19 during COVID, we ordered online. And they
 20 overestimated their need. 10 million square feet
 21 is a very, very -- less than five percent of
 22 their overall operation. It means nothing.
 23 So, if you're trying to correlate it in
 24 any form or fashion, there is a huge demand for
 25 what we do in this type of warehouse space, not

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1 e-com, warehouse space, for consumer goods to get
 2 to us every day to live.
 3 MR. CLARK: Now, a question about --
 4 this goes to the turnover that you're going to
 5 have, which also affects how many trucks will
 6 come in and out. For the tenant that's going to
 7 be there, are they renting -- are they renting
 8 space or are they paying you on a kind of per
 9 pallet basis?
 10 MR. FORD: No. Our typical structure
 11 is a conventional lease, that you're familiar
 12 with, counselor, like a triple net lease --
 13 MR. CLARK: Mm hmm.
 14 MR. FORD: -- operation. It's not a
 15 per pallet or cubic. We're not a general
 16 warehouse. I'm not an operator. I'm an owner
 17 of real estate.
 18 MR. CLARK: So, they will simply lease
 19 space from you, sir, and based on how much square
 20 footage they lease, that's what they pay,
 21 essentially?
 22 MR. FORD: That's correct.
 23 MR. CLARK: Got it. Okay. And going
 24 to your -- I think you had testified about, you
 25 know, at most there would be about 20 trucks is

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1 what you've predicted. And my question is, if
 2 there are only going to be 20 --
 3 MR. FORD: Counsel, let's clarify --
 4 MAN 16: Hold on, yeah, wait --
 5 CHAIRMAN ANDREW REINA: Mr. Clark --
 6 MR. FORD: I did not say that.
 7 CHAIRMAN ANDREW REINA: Mr. Clark, he's
 8 --
 9 MR. FORD: We're going over it again.
 10 CHAIRMAN ANDREW REINA: He's on record.
 11 Mr. Ford, just one moment, please.
 12 MR. FORD: Thank you.
 13 CHAIRMAN ANDREW REINA: Mr. Clark, on
 14 record he said it was a hypothetical. It could
 15 be as low as 20. He could not estimate how large
 16 it could be. That was the testimony that he
 17 provided previously this evening.
 18 MR. CLARK: And so -- and that's why
 19 you have 191 truck bays, is because that's, I
 20 guess, the maximum amount that you're foreseeing
 21 on one given moment, 191 trucks?
 22 MR. FORD: For this size of warehouse
 23 operation, that 191 total positions -- total
 24 positions for dock locations would be the typical
 25 design of this type of space. I also did

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1 indicate on the Zoom call -- so the original
 2 March meeting, correct? -- I did indicate that
 3 until we identify a tenant, in my design what I
 4 would propose is only putting in half of those,
 5 because it's not my belief that this type of
 6 warehouse dwell -- let's focus on that -- this is
 7 not a truck terminal; this is a dwell warehouse,
 8 where consumer goods come in one side, preferably
 9 via rail, per the ordinance, and when it's
 10 needed. It could be for months, theoretically.
 11 It could be for, you know, for a long time.
 12 And in my opinion and in my history, as
 13 I talk about potentially the low end of the
 14 amount of truck traffic that may come in and out
 15 of here daily, it's the same thing with the dock
 16 positions. I would only put in half of them up
 17 front. If a tenant came along and wanted to come
 18 in front of the Planning Board and propose a
 19 different type of operation, then that would
 20 happen at that time.
 21 MR. CLARK: And you're not -- so, for
 22 example, if one of the consumer goods is actually
 23 perishable food items, that's not something that
 24 you're going to preclude from being stored in
 25 this facility. Is that right?

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1 MR. FORD: So, once again, we defined
 2 earlier this is not a freezer/cooler building.
 3 Perishable implies a need for freezer/cooler. We
 4 are not applying, nor -- we call it an ambient
 5 building. It's a dry good facility, so --
 6 MR. CLARK: But dried goods can perish.
 7 So, for example, bread, would you consider that
 8 requiring refrigeration, sir?
 9 MR. FORD: Not necessarily, no. But
 10 it's going to --
 11 MR. CLARK: And you would agree with me
 12 that bread does perish. Is that correct?
 13 CHAIRMAN ANDREW REINA: Mr. Clark, can
 14 we -- is there a specific question as it relates
 15 to the application, as opposed to whether or not
 16 bread is perishable?
 17 MR. CLARK: Well, you would agree with
 18 me that perishable items can't dwell in a
 19 warehouse for over a year?
 20 CHAIRMAN ANDREW REINA: Is the question
 21 around refrigeration, Mr. Clark, or is the --
 22 MR. FORD: No. The question has to do
 23 with turnover, right? More perishable items have
 24 to get in and they have to get out.
 25 CHAIRMAN ANDREW REINA: Which I think

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1 Mr. --
 2 MR. CLARK: All right? So, that goes
 3 to the --
 4 MAN 17: He testified that he --
 5 MR. CLARK: -- nature of the use, and
 6 how much truck traffic there's going to be. If
 7 there's more perishable items, they're going to
 8 be --
 9 BOARD MEMBER MIKE SYLVESTER: This is a
 10 hypothetical question. Mr. Ford testified that
 11 he does not know the tenant use. And there's no
 12 current nor any testimony stating there's going
 13 to be a need for refrigeration to support any --
 14 where are you going with this whole question?
 15 MR. CLARK: I think you're
 16 misunderstanding, Mr. Sylvester.
 17 BOARD MEMBER MIKE SYLVESTER: Well,
 18 then I think you need to clarify, because you
 19 just spent 10 minutes and we can't get to the
 20 question.
 21 MR. CLARK: The question is there's
 22 items that do not require refrigeration that are
 23 perishable.
 24 MAN 18: That's correct.
 25 MR. CLARK: Would you agree with that,

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1 sir?

2 MAN 19: But any question about a

3 specific item, again, runs into the we need to

4 know the client, and until we get through this,

5 we can't find out who the clients are. So, we

6 can't know if the product is going to be a slab

7 of concrete that will sit there for 50,000 years,

8 or something that will perish in one year. We

9 can't know that at this point.

10 MR. CLARK: And so -- but you plan on

11 submitting a traffic study that doesn't envision

12 a particular tenant, correct? Because you don't

13 know that.

14 MR. COLLINS: Mr. Chairman, this is

15 really for the traffic witness now. So, Mr.

16 Clark, stay within the scope of what is the

17 testimony of Mr. Ford, and let's try to finish up

18 --

19 MR. CLARK: Well, the testimony is

20 about certain uses that he's going to have for

21 this facility, and whether -- how much of it does

22 he know now, and how much is it tenant-dependent?

23 And we're going to do a traffic study before --

24 CHAIRMAN ANDREW REINA: There is a

25 traffic study --

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1 MR. CLARK: -- before we even know who

2 the tenant is.

3 CHAIRMAN ANDREW REINA: They've already

4 done a traffic study. He explained that to you.

5 But my point is, why don't you ask that witness

6 those questions at that time. The Township has

7 also hired a traffic expert to do its own study,

8 so you'll be able to ask that witness those

9 questions. So, if there's anything further for

10 Mr. Ford, that would be the focus.

11 MR. CLARK: My final question is that

12 you had, in kind of talking about one of the

13 benefits of this facility is that for every rail

14 car, it takes four trucks off the road. Do you

15 recall talking about that?

16 MR. FORD: I do.

17 MR. CLARK: Okay. What's the

18 methodology underlying that position?

19 MR. FORD: The methodology?

20 MR. CLARK: Yeah. How did you come up

21 with one freight car gets rid of four trucks?

22 What's your methodology? What's your basis for

23 that?

24 MR. FORD: It's a well-known cubic

25 capacity in the amount of freight that can fit

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1 within a standard boxcar, railcar, of what it

2 would take to fit in a conventional, standard,

3 11-foot-6, 53-foot tractor-trailer -- sorry --

4 trailer, over-the-road trailer.

5 MR. CLARK: But that particular

6 calculation, methodology, is not considering the

7 trucks that are needed to take the goods out of

8 the warehouse and distribute them elsewhere.

9 Right?

10 MR. FORD: I don't understand what your

11 question is.

12 MR. CLARK: Okay. I'll rephrase it.

13 The four trucks get taken off the road for every

14 freight car, right? That's your position. That

15 calculation does not factor in that those goods

16 that were delivered by freight car, if they leave

17 by truck, you're no putting four additional

18 trucks on the road, right? It doesn't factor in

19 that, does it?

20 MR. FORD: There's so many variables

21 involved with that, the weight --

22 [LAUGHTER]

23 MR. FORD: Can I answer the question?

24 The weight, the configuration of the freight, the

25 way it's palletized, the height of the pallet.

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1 It's all cubic capacity how much fits in there.

2 So, in theory --

3 CHAIRMAN ANDREW REINA: So, is --

4 MR. FORD: -- there could be -- you

5 know, in theory, there could be --

6 CHAIRMAN ANDREW REINA: Is the bottom

7 line, we're not -- I mean, the idea or the notion

8 of taking four off -- I understand there may be

9 some standard and logistics that are applied to

10 it -- but in reality, we don't know. And if I'm

11 understanding correctly, it's more the question,

12 or the line of questioning, is centered around

13 how much do we know will come out of the

14 building, which again, we're not going to know

15 until we understand the tenant use of it?

16 MR. FORD: Correct. That's very fair.

17 MR. FORD: But unless those goods that

18 were delivered by freight then leave by freight,

19 you've now added four additional trucks, because

20 now that freight car --

21 CHAIRMAN ANDREW REINA: By freight, do

22 you mean --

23 MR. CLARK: -- has to now take four

24 trucks to get it out of the warehouse, right?

25 MR. CLARK: -- by rail, Mr. Clark, for

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1 clarity?
 2 MR. GOUIN: I'm going to object because
 3 this is going to be -- this is traffic related
 4 and it's going to be covered by a traffic expert,
 5 and I just don't think that Mr. Ford is the
 6 appropriate witness for any more of these
 7 questions.
 8 MR. CLARK: Well, just -- I think he
 9 admitted that his calculation does not include
 10 trucks having to take the goods out of the
 11 warehouse and deliver them to their ultimate
 12 destination. He's only talking about going from
 13 freight car to warehouse.
 14 CHAIRMAN ANDREW REINA: And I don't
 15 think we can determine that at this point, Mr.
 16 Clark.
 17 MR. CLARK: Okay.
 18 CHAIRMAN ANDREW REINA: So, if you have
 19 another specific question --
 20 MR. GOUIN: And just the record, I
 21 disagree that that was his testimony.
 22 CHAIRMAN ANDREW REINA: So, Mr. Clark,
 23 is there --
 24 MR. CLARK: Yeah, I'm done. We can
 25 turn it over to my colleague, Mr. Dash.

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1 CHAIRMAN ANDREW REINA: Okay.
 2 [APPLAUSE]
 3 MAN 20: Here's some additional -- Mr.
 4 Clark, here's some additional papers that fell.
 5 MR. CLARK: I think I got -- oh, that
 6 right here. Thank you.
 7 MR. DASH: Mr. Ford, thank you for
 8 your time today. Most of my questions have been
 9 covered by my colleague, so I'll try to keep it
 10 brief. Thank you for your patience.
 11 MR. FORD: Thank you, counselor.
 12 MR. DASH: In your direct testimony --
 13 MAN 21: Excuse me. Hold on.
 14 CHAIRMAN ANDREW REINA: Hold on one --
 15 MR. DASH: I was going to ask -- one of
 16 your members walked out. Do you want to take a
 17 minute, or --
 18 MAN 22: We should wait until the
 19 member comes back. Declare a recess.
 20 MAN 23: Okay. Let's take a five-
 21 minute break. Declare a recess.
 22 CHAIRMAN ANDREW REINA: All right.
 23 We'll declare a recess for five minutes.
 24 (Recess)
 25 CHAIRMAN ANDREW REINA: All right.

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1 We're going to call the Planning Board back to
 2 session. We recognize Mr. Dash. Please
 3 introduce yourself.
 4 MR. DASH: Thank you, Mr. Chairman.
 5 Mr. Ford, so, as you know, my name is Anand Dash.
 6 And if you recall, at the March hearing before
 7 this Planning Board, you were discussing the site
 8 suitability. And I think you had mentioned, from
 9 the transcript, that the appropriateness of the
 10 site related -- you had made an analogy to two
 11 other projects that had -- your words were, had
 12 similar attributes to this project. And I
 13 believe one you had mentioned was in Illinois,
 14 Chicago, and the other, you said in Florida. Do
 15 you recall that testimony?
 16 MR. FORD: I do in general, yes.
 17 MR. DASH: Okay. And just so I'm
 18 clear, the Illinois project, are you referring to
 19 the project that's in the stockyards, the Marina
 20 Crossings in Chicago?
 21 MR. FORD: Yes.
 22 MR. DASH: Okay. And are you the
 23 million with the attributes of that property
 24 generally?
 25 MR. FORD: Yes, I am.

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1 MR. DASH: Okay. For example, do you
 2 know what the population of the Township of
 3 Sparta is, approximately?
 4 MR. FORD: Just under 20,000.
 5 MR. DASH: Okay. And do you have an
 6 idea of what it is in Chicago?
 7 MR. FORD: That has nothing to do with
 8 this ordinance.
 9 CHAIRMAN ANDREW REINA: How is -- Mr.
 10 Dash, is there --
 11 MR. FORD: Nothing.
 12 CHAIRMAN ANDREW REINA: -- a question
 13 as it relates to the actual application
 14 MR. DASH: Yeah, just trying to
 15 understand this, the relationship tween that
 16 project and the project here. So, just let me
 17 proffer the --
 18 CHAIRMAN ANDREW REINA: To fairness,
 19 you're comparing Chicago to Sparta, and if the
 20 intent is to show scale and scope for population,
 21 I would just ask that you please direct questions
 22 specific to the application, or to Mr. Ford's
 23 testimony.
 24 MR. GOUIN: Or even, Mr. Chairman, you
 25 know, we could talk about the specifics of the

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1 actual site. So, if there's something about that
 2 actual site in Chicago that would be similar to
 3 this, for example, if it was also served by rail,
 4 that might be relevant. But comparing
 5 populations of the two towns, I mean everybody on
 6 the Board knows that Chicago is bigger than
 7 Sparta. I think we don't need to spend a lot of
 8 time on that.
 9 MR. DASH: Okay. The direct testimony
 10 was that this has a similar attribute. So, how
 11 about the companies that are surrounding the
 12 Chicago site? Are you familiar that Pepsi,
 13 Vienna Beef, Vantage, and OSI Group are part of
 14 that Marina Crossings area?
 15 MR. FORD: They're miles away, but yes,
 16 they're in the vicinity.
 17 MR. DASH: And so, speaking about this
 18 site, are you aware of any similar companies in
 19 Sparta that would support this warehouse, now or
 20 in the future?
 21 MR. FORD: That presently are in
 22 Sparta?
 23 MR. DASH: Yes.
 24 MR. FORD: So, like getting a tenant
 25 from Sparta, to get them to go into this

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1 Florida besides the attributes, just like it is
 2 here of the rail --
 3 MR. DASH: Mm hmm.
 4 MR. FORD: -- being a big attribute in
 5 my world of logistics and warehousing.
 6 MR. DASH: So, another attribute for
 7 that project as well as for this one, that is off
 8 a major interstate, I-55. Are you aware of that
 9 fact?
 10 MR. FORD: It's miles away.
 11 MR. DASH: Well, it's not. It's
 12 advertised as just off I-55.
 13 MR. FORD: That's marketing. It means
 14 nothing to me. It's over two miles away.
 15 MR. DASH: Okay. Are you aware of any
 16 interstate that this project is off of?
 17 MR. FORD: There's two of them.
 18 MR. DASH: Which ones?
 19 MR. FORD: Well, you've got 80 to the
 20 South.
 21 MR. DASH: Is it just off 80?
 22 MR. FORD: What does that have to do
 23 with the ordinance?
 24 MR. DASH: Well, we're just trying to
 25 think about the site suitability. I'm just

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1 building; is that which are implying?
 2 MR. DASH: No. Any companies of
 3 similar stature that are similar to the ones in
 4 the Marina Crossing in Chicago, in Sparta.
 5 MR. FORD: For rail dependency? For
 6 which?
 7 MR. DASH: Yes. Sure.
 8 MR. FORD: Well, yeah. The propane guy
 9 right behind us. I mean, anybody who's dependent
 10 on rails, is the movement of rail goods.
 11 MR. DASH: Okay.
 12 MR. FORD: That's by the way -- my
 13 Marina Crossing project has Norfolk Southern
 14 Railroad track running right next to it. It was
 15 not needed in the ordinance or directed that it
 16 had to be rail served, but we marketed it, we did
 17 not end up with a tenant who was rail serve. We
 18 ended up with a can -- a company that
 19 manufactures aluminum cans. And that's my
 20 perfect example where, as I said, that is a
 21 633,000 square-foot building and we have minimal
 22 truck traffic in and out. So, until the tenant
 23 is identified, I can't, you know, speak of that.
 24 But I don't understand what your correlation or
 25 questioning is for anything that I'm doing in

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1 asking you a question. Is it off Route 80 or
 2 not?
 3 CHAIRMAN ANDREW REINA: Mr. Dash, we
 4 know --
 5 MR. GOUIN: I'm going to object --
 6 CHAIRMAN ANDREW REINA: -- it's not off
 7 of Route 80.
 8 MR. GOUIN: We don't need to -- no --
 9 CHAIRMAN ANDREW REINA: Please.
 10 MR. GOUIN: Let me object, because we
 11 don't need to prove site suitability here. Mr.
 12 Ford was talking about how this site may share
 13 similar attributes to other sites that he's
 14 worked on, which we were talking about rail
 15 dependency.
 16 CHAIRMAN ANDREW REINA: There's no need
 17 --
 18 MR. GOUIN: We don't need to prove site
 19 suitability.
 20 CHAIRMAN ANDREW REINA: -- to object,
 21 Mr. Gouin. I agree with you. Mr. Dash, if you
 22 have -- if you're trying to seek relevancy or
 23 something specific to the application, please
 24 move on to that line of questioning.
 25 MR. DASH: Okay. Just picking up, then

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1 with the site in Florida, the same questions. If
 2 you could --
 3 CHAIRMAN ANDREW REINA: If they're the
 4 same questions, please don't repeat them.
 5 MR. DASH: It's related. Just trying
 6 to understand, that site has access to major
 7 interstate and major airports. Does this site
 8 have major access to airports and interstate?
 9 MR. FORD: There's no relevance --
 10 CHAIRMAN ANDREW REINA: Mr. Dash --
 11 MR. GOUIN: Object. Same objections.
 12 CHAIRMAN ANDREW REINA: -- we're going
 13 in circles here.
 14 MR. DASH: Okay. Well, I'll move on.
 15 I'll just note for the record that we've
 16 established that there's no similarities,
 17 although there was --
 18 MR. GOUIN: You haven't --
 19 MR. DASH: -- he indicated that there
 20 was.
 21 MR. GOUIN: No, you haven't established
 22 anything for the record. You've asked questions,
 23 we've objected, and I believe the Board has ruled
 24 in favor of my objection. So, for the record,
 25 you haven't established that.

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1 And also, for the record, we don't need
 2 to prove site suitability. Site suitability is
 3 proven because there's an ordinance that permits
 4 this use --
 5 MR. FORD: You can object all you want,
 6 Mr. Gouin, but the record reflects itself.
 7 CHAIRMAN ANDREW REINA: Next question,
 8 please.
 9 MAN 24: Excuse me. Mr. Dash, are you
 10 familiar with what grounds we're allowed to rule
 11 on for the Planning Board, based on the New
 12 Jersey Supreme Court ruling of Pizzo Mantin v.
 13 Randolph Township?
 14 MR. DASH: Pizzo Mantin case does not
 15 stand for the propositions that we're discussing
 16 in this case. I'm quite familiar with that case.
 17 Do you know what the facts of that case were? It
 18 doesn't deal with the fully conforming site
 19 plans. Okay. So, please, before you suggest a
 20 case, you should understand the case. So, just -
 21 -
 22 MAN 24: I do understand the case. I'm
 23 not clear that you do.
 24 MR. DASH: Okay. I am familiar with
 25 the standards, yes.

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1 CHAIRMAN ANDREW REINA: Next question,
 2 Mr. Dash, please?
 3 MR. DASH: Okay. Mr. Ford --
 4 MAN 24: (indiscernible) --
 5 MR. DASH: -- just try to understand,
 6 with the rest of your projects, as was asked by
 7 my colleague, Mr. Clark, you have on your TRES
 8 website eight or nine projects, all of which you
 9 describe as intermodal logistics facilities or
 10 inter- --
 11 MR. FORD: No, I did not.
 12 MR. DASH: Well, let's --
 13 MR. FORD: No, I did not.
 14 MR. DASH: Okay, let's --
 15 MR. FORD: It's not by my marketing
 16 people described as everyone is an intermodal
 17 facility. If you want to talk factuality --
 18 CHAIRMAN ANDREW REINA: Mr. Dash, I
 19 think we've already established --
 20 MR. FORD: -- of operation --
 21 CHAIRMAN ANDREW REINA: -- that the
 22 interpretation or definition of it -- again, it's
 23 not --
 24 MR. FORD: Thank you.
 25 CHAIRMAN ANDREW REINA: We've already

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1 addressed this in the previous commentary with
 2 Mr. Cohen.
 3 MR. DASH: Okay. Just again, looking
 4 at the website, each of the facilities, not a
 5 single one of them references warehousing. In
 6 fact, the word warehouse is never even used on
 7 your website.
 8 MR. FORD: That's not true. You talked
 9 about Marina Cartage. It's a warehouse.
 10 MR. DASH: Okay. But I'm just saying
 11 that on your website, that you have Central Photo
 12 Logistics Center, Union Pacific Global Intermodal
 13 Facility, Kansas City Southern Intermodal Center.
 14 You have Home Depot Distribution Center, RC2 Toys
 15 Build-to-Suite, Potlatch Paper Facility, Frito-
 16 Lay Facilities. There's not a single reference
 17 to warehousing in --
 18 CHAIRMAN ANDREW REINA: Mr. Dash --
 19 MR. DASH: -- in your website.
 20 MR. GOUIN: And not a single one of
 21 those is subject to this application. So, again
 22 --
 23 CHAIRMAN ANDREW REINA: Mr. Dash --
 24 MR. GOUIN: -- can we stick to this
 25 application, please?

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1 CHAIRMAN ANDREW REINA: If the question
 2 is whether or not this is interpreted as a
 3 warehouse, irrelevant to what Mr. Ford's website
 4 says or does not say about other projects, this
 5 specific project is for a warehouse, or at least
 6 that is what has been submitted before this
 7 Board.
 8 So, if you could --
 9 MR. DASH: Okay.
 10 CHAIRMAN ANDREW REINA: If we could
 11 move past that component, and if you have Pacific
 12 questions of Mr. Ford's existing testimony and/or
 13 something that is specific to the application,
 14 we'd like to stay on focus and ultimately get to
 15 our next segment.
 16 MR. DASH: Okay. So, just a follow-up
 17 question from the prior questioning. Just can
 18 you explain what prevents this from being an e-
 19 commerce facility, Mr. Ford?
 20 CHAIRMAN ANDREW REINA: The ordinance -
 21 -
 22 MR. FORD: Because before I bring a
 23 prospective tenant to this Board for them to
 24 discuss them as a potential, it's my choice and
 25 my investor's choice to decide. Right, exactly.

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1 It's within the zoning as a warehouse. E-com, as
 2 you keep deferring to, is a totally different
 3 zoning. It's a totally different use. It's not
 4 what we're doing here.
 5 MR. DASH: So, you have control over
 6 what the tenant may come in to propose?
 7 CHAIRMAN ANDREW REINA: It would not be
 8 a permitted use within the zone --
 9 MR. FORD: Absolutely.
 10 CHAIRMAN ANDREW REINA: Therefore, the
 11 Board would have authority as to whether or not
 12 that's a permitted use or not a permitted use. I
 13 think what we've heard on record previously has
 14 been that this is -- and we've heard multiple
 15 times, I think, at this point -- there will be no
 16 shipment direct to consumers.
 17 MR. DASH: Yeah. But the question was
 18 to Mr. Ford. Where are referring --
 19 MAN 25: He's already testified to.
 20 MR. DASH: Excuse me?
 21 MAN 25: We've already heard that.
 22 MR. DASH: No. My question is where is
 23 it being prohibited in the ordinance?
 24 MR. COLLINS: The ordinance lists the
 25 use that the applicant is pursuing, which is

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1 storage buildings, warehouse, and wholesale
 2 distribution facilities. It does not permit
 3 anywhere in the ED Zone retail distribution
 4 facilities, meaning distribution directly to the
 5 customer in a home or business. It's not that
 6 kind of a -- it's not e-commerce. It's not
 7 Amazon. Pictures of this being an Amazon are
 8 incorrect. There's no proposal for an Amazon.
 9 There's no proposal for a distribution facility
 10 like Amazon. And the ordinance does not allow
 11 retail distribution facilities.
 12 MR. DASH: Okay.
 13 MR. COLLINS: That was stated on the
 14 record, I believe, two meetings ago. I think the
 15 Councilmember explained that.
 16 MR. DASH: So, Mr. Ford, this next
 17 question is not for you. This is a point of
 18 order, here.
 19 MR. FORD: Okay.
 20 MR. DASH: Mr. Gouin, at the last
 21 meeting, you had represented to the Planning
 22 Board that this application was complete and that
 23 you were going to be providing us with a data
 24 report. Where is that data report?
 25 MR. GOUIN: We provided it to the Board

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1 Secretary today.
 2 MR. DASH: Today?
 3 CHAIRMAN ANDREW REINA: Diana, can you
 4 confirm that?
 5 BOARD SECRETARY DIANA KATZENSTEIN:
 6 Yes. (indiscernible).
 7 MR. DASH: That was just provided
 8 today? Can I ask just for a copy of that,
 9 please?
 10 MR. GOUIN: It's public record, but
 11 sure, we can get you a copy.
 12 MR. DASH: Okay. Mr. Simmons, have you
 13 seen a copy of that? Have you seen a copy of the
 14 data report?
 15 MR. SIMMONS: Yes, I have.
 16 MR. DASH: You have? Okay.
 17 MR. SIMMONS: I received it today.
 18 MR. DASH: All right. Nothing further
 19 at this point. I think we can open it up to the
 20 public.
 21 [APPLAUSE]
 22 MR. COHEN: Mr. Chairman, I don't have
 23 any additional questions --
 24 CHAIRMAN ANDREW REINA: Just one
 25 moment.

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1 MR. COHEN: -- at the moment, but I
 2 just wanted to indicate there was an issue with
 3 reference to the -- Mr. Collins brought up about
 4 the permitted uses in the zone and e-commerce.
 5 Permitted uses are storage buildings, warehouses,
 6 and (indiscernible) wholesale distribution
 7 centers. So, the way I read this, and I don't
 8 know how Mr. Collins or the Board reads it the
 9 same way -- it's a warehouse. There's nothing
 10 that restricts a retail warehouse, such as an e-
 11 commerce warehouse, as I read it. Unless I'm
 12 reading something wrong --
 13 MR. COLLINS: Yeah, you're reading it
 14 incorrectly, Mr. Cohen. That is the decision of
 15 the Township Attorney, the Planning Board
 16 Attorney, the Planner, that the list of uses in
 17 that list, and all of the other uses, does not
 18 list anywhere retail distribution facilities.
 19 And then --
 20 MR. COHEN: I would --
 21 MR. COLLINS: -- further down in the
 22 list it says all other uses not specifically
 23 permitted are prohibited.
 24 MR. COHEN: I would agree --
 25 MR. COLLINS: So, retail distribution

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1 is not allowed --
 2 MR. COHEN: I would agree with you --
 3 MR. COLLINS: -- and is not --
 4 MR. COHEN: -- wholeheartedly.
 5 MR. COLLINS: -- and is not permitted
 6 and is prohibited. And moreover, the applicant
 7 has committed that this will not be a retail
 8 distribution facility in the record two meetings
 9 ago. So, please move on.
 10 MR. COHEN: Retail distribution center
 11 --
 12 MR. COLLINS: Mr. Cohen, it's not time
 13 for speeches. When you want to give a speech --
 14 MR. COHEN: I think this is an
 15 important point before this Board and the public
 16 should have a right with reference to you
 17 rendering an opinion. I would agree with you
 18 that retail distribution centers are not
 19 permitted. Retail distribution centers is that I
 20 can drive up there and buy my box of Tide and put
 21 it in my car.
 22 MR. COLLINS: No, no, no, no.
 23 MR. COHEN: That's a retail
 24 distribution center.
 25 MR. COLLINS: No, it's not. Retail --

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1 MR. COHEN: What this says is
 2 warehouses. And the Board should be aware of
 3 that, that it says warehouses and the wholesale
 4 distribution centers. Also --
 5 MR. COLLINS: Mr. Cohen --
 6 MR. COHEN: -- there is an issue --
 7 MR. COLLINS: It really --
 8 MR. COHEN: You know, I don't want to
 9 argue the point --
 10 MR. COLLINS: Yeah, I don't think you
 11 want to have --
 12 MR. COHEN: -- I don't want to argue --
 13 MR. COLLINS: I don't think you
 14 disagree, and I think you'd better not disagree,
 15 but actually, it hurts your clients' interests.
 16 So, to the extent that the ruling has been made,
 17 it's over. It's over. It's not going to be --
 18 MR. COHEN: I understand --
 19 MR. COLLINS: If you want to debate
 20 that it is allowed for them to have Amazon, go
 21 ahead and debate that, but I'm not debating that.
 22 I don't think they're allowed to have Amazon. I
 23 don't think they're proposing to have Amazon --
 24 MR. COHEN: Mr. Collins, you rendered
 25 your opinion --

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1 MR. COLLINS: -- and I don't think
 2 they're proposing any retail distribution
 3 facility. So, that's the opinion of both me and
 4 the Township Attorney. If you disagree with
 5 that, that's fine.
 6 MR. COHEN: Mr. Collins, you've
 7 rendered your opinion. The Board should accept
 8 its attorney's opinion. I understand that. I'm
 9 not here arguing about it. I'm just --
 10 MR. COLLINS: It sure sounds like you
 11 are --
 12 CHAIRMAN ANDREW REINA: Then let's --
 13 MR. COLLINS: -- because you're the one
 14 arguing about it.
 15 CHAIRMAN ANDREW REINA: -- move on,
 16 gentlemen.
 17 MR. GOUIN: Should I move on? Because
 18 we have more testimony, so --
 19 CHAIRMAN ANDREW REINA: Yeah, so, I
 20 mean, at this point that concludes the cross-
 21 examination for Mr. Ford. I appreciate Mr. Ford
 22 coming to today's meeting. I was not so pleased
 23 last time, Mr. Ford. So, I appreciate you coming
 24 up and allowing the team to cross-examine and the
 25 other attorneys to cross-examine.

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1 I think at this point we would like to
 2 move on to the environmental component, and if
 3 you'd like to present your witness?
 4 MR. GOUIN: Thank you, Chairman.
 5 MAN 26: Mr. Chairman --
 6 CHAIRMAN ANDREW REINA: Hold on. Hold
 7 on one --
 8 MR. COHEN: I'd like to ask Mr. Ford a
 9 question, just real quick.
 10 MR. COLLINS: Sure.
 11 MR. PARKER: Just put it on the record,
 12 okay? We've been talking about this unit because
 13 of the height and impervious coverage, and the
 14 other big part of it was rail. And that's where
 15 the interpretation -- where we changed for these
 16 certain little pieces of land because they had to
 17 be within so many feet of the railyard. What is
 18 the commitment you have from the railroad that
 19 they're going to put a spur in?
 20 MR. FORD: The spur's already --
 21 there's already a switch, a spur, in the
 22 property. It's already there.
 23 MR. PARKER: It's already there?
 24 MR. FORD: It's been there for years.
 25 It's been used as onloading for rail for years.

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1 MR. PARKER: Okay.
 2 MR. FORD: That's what the ordinance
 3 says. The rail aspect of that, you know, has
 4 been in the ordinance for years, to my
 5 understanding of reading the past ordinance.
 6 MR. PARKER: That existing spur that
 7 goes into the site is in your current design as
 8 is?
 9 MR. FORD: It's got to be upgraded,
 10 it's got to be extended, it's got to be, you know,
 11 built off, you know --
 12 CHAIRMAN ANDREW REINA: I think that's
 13 what Mr. Parker is alluding to --
 14 MR. COLLINS: I think that's what Mr.
 15 Parker's question is.
 16 MR. FORD: Yes.
 17 MR. PARKER: Yeah, okay. Now when is
 18 the railroad -- who's going to do that? You or
 19 the railroad?
 20 MR. FORD: The physical building of it?
 21 MR. PARKER: Building of it. Yes.
 22 MR. FORD: We would. We would fund and
 23 build it --
 24 MR. PARKER: Okay.
 25 MR. FORD: -- by the railroad state

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1 standards and specs.
 2 MR. PARKER: Okay. And then when do
 3 you get approval to move a train along that?
 4 MR. FORD: From the railroad?
 5 MR. PARKER: Yes.
 6 MR. FORD: Once it's instructed and
 7 built and their engineers come out and physically
 8 inspected for safety, then their operating people
 9 are allowing --
 10 MR. PARKER: Okay. Are you going to
 11 build the railroad before the building, or the
 12 building before the railroad?
 13 MR. FORD: Simultaneously.
 14 MR. PARKER: Simultaneously?
 15 MR. FORD: Yes.
 16 MR. PARKER: I think we should have a
 17 condition on that that the railroad has to be
 18 operational before (indiscernible). Okay?
 19 CHAIRMAN ANDREW REINA: Noted.
 20 MR. FORD: No problem. No problem at
 21 all.
 22 MR. DASH: Federal law preempts local
 23 planning boards to condition railroads. It's
 24 governed by Federal law. You don't have the
 25 right to do that.

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1 MR. PARKER: I wasn't conditioning the
 2 railroad. I was conditioning the application.
 3 MR. DASH: Yeah, you cannot condition -
 4 - any interaction with the railroad is governed
 5 by Federal law.
 6 MR. GOUIN: Well, we could certainly
 7 agree to it as a condition, and we just did.
 8 MR. COLLINS: Yeah, the applicant has
 9 (indiscernible) --
 10 MR. GOUIN: I mean --
 11 MR. COLLINS: -- a condition.
 12 MR. GOUIN: We can certainly --
 13 MR. DASH: Okay, it's a good point to
 14 know that Federal law governs the railroad. You
 15 don't -- local planning boards don't have rights
 16 to condition any aspect of the railroad with the
 17 developer --
 18 [OVERLAPPING SPEAKERS]
 19 MR. FORD: We had the right of
 20 condition before --
 21 MR. GOUIN: Unless the applicant agrees
 22 to it --
 23 MR. FORD: -- a C of O.
 24 MR. GOUIN: -- which we have agreed.
 25 MAN 27: To follow up with that

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1 question, has there been any discussions with the
 2 existing railroad to -- are you into discussions
 3 with the railroad currently?
 4 MR. FORD: Yes. I've had discussions
 5 with the railroads, to be specific, because they
 6 would need to approve the design, number one, by
 7 their standards, because they need to operate;
 8 they need to switch the cars. Now, we could also
 9 -- these type of developments also could be
 10 switched privately, which means you could have
 11 your private operator.
 12 But in this case, because of -- it's
 13 not -- it doesn't make any sense to not have the
 14 NYS&W Railroad operate this as well, switch the
 15 cars in and out. And because of that, they need
 16 to approve the engineering design for safety.
 17 They need to approve the operating plan which
 18 they operate. So, they need to be involved in
 19 the process from the beginning.
 20 But it's been very preliminary.
 21 There's no -- besides theoretical, a couple, you
 22 know, theoretical tracks on the plan, there's
 23 been no definitive design. But they have design
 24 standards that we need to adhere to.
 25 MR. COHEN: Do you have a signed

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1 contract with this railroad to do this?
 2 MR. FORD: No. Not yet.
 3 MR. COHEN: That could be a condition.
 4 We have to find -- you have to -- put the
 5 railroad in. We want to know how it's going to
 6 go in.
 7 MR. FORD: Oh, yeah. They have what a
 8 standard form of agreement called an industry
 9 track agreement.
 10 MR. COHEN: Okay.
 11 MR. FORD: And we would have to, as the
 12 owner, sign the industry track agreement and
 13 adhere to all of their design standards before,
 14 pay them fee. There's process, just like
 15 anything.
 16 MR. COHEN: Well, I'm just saying, but
 17 you haven't done that yet --
 18 MR. FORD: No.
 19 MR. COHEN: -- but it can be done?
 20 MR. FORD: It can be done.
 21 MR. COHEN: And it can be given --
 22 MR. FORD: It has to be done.
 23 MR. COHEN: -- to this Board before --
 24 MR. COLLINS: Before the C of O is
 25 issued.

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1 MR. COHEN: -- before the C of O?
 2 MR. FORD: Yes.
 3 MR. COHEN: Okay.
 4 MR. FORD: Yes.
 5 MR. GOUIN: We would treat it just like
 6 any other outside agency approval.
 7 MR. COHEN: Thank you.
 8 MR. GOUIN: Yes.
 9 MR. DASH: All right. Thank you, Mr.
 10 Chairman.
 11 CHAIRMAN ANDREW REINA: Thank you, Mr.
 12 Dash.
 13 MR. COLLINS: It's a question from the
 14 audience?
 15 MAN 28: Oh, let's go to the other
 16 thing.
 17 MR. GOUIN: All right. Thanks very
 18 much.
 19 CHAIRMAN ANDREW REINA: One moment. If
 20 you can just -- we need to get you on and swear
 21 you in.
 22 MR. COLLINS: Mr. Chairman, I thought
 23 we were going to go right to the environmental
 24 consultant?
 25 MAN 28: Yes.

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1 MR. COLLINS: We've also done cross-
 2 examination of
 3 MAN 28: We did.
 4 MR. COLLINS: -- Mr. Ford by members of
 5 the public.
 6 CHAIRMAN ANDREW REINA: Okay.
 7 MR. COLLINS: And we already have
 8 finished --
 9 MR. WRIGHT: I'm actually a journalist
 10 for the "Washington Post" and I'm writing an
 11 investigation about this process.
 12 MR. COLLINS: Sir, we're not here to
 13 take statements. We're not here to --
 14 MR. WRIGHT: I wanted to ask Mr. Ford
 15 and his attorney --
 16 MR. COLLINS: No.
 17 MR. WRIGHT: -- a question.
 18 MR. COLLINS: That has actually passed.
 19 CHAIRMAN ANDREW REINA: We have already
 20 addressed, actually, questions through previous
 21 testimony --
 22 MR. WRIGHT: But you said at the start
 23 of the meeting that there was going to be Q and A
 24 for the public.
 25 MAN 29: Mr. Collins, would he be able

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1 to ask his question after the environmental
 2 testimony?
 3 MR. WRIGHT: Sure.
 4 MR. COLLINS: Well, it's up to the
 5 Chair. You actually did complete the cross-
 6 examination of Mr. Ford.
 7 MR. WRIGHT: You also did say there'll
 8 be time for public to ask questions.
 9 CHAIRMAN ANDREW REINA: And there
 10 always will be.
 11 [APPLAUSE]
 12 CHAIRMAN ANDREW REINA: And nobody's
 13 denying your ability to ask any questions. I
 14 think at this point though, we've addressed not
 15 only the public component. Mr. Ford is --
 16 MR. WRIGHT: I'm a part of the public
 17 and I'm being asked -- I'm asking to ask a
 18 question and you're telling me that I can't. So,
 19 that's what's happening right here. Can I ask my
 20 question?
 21 [APPLAUSE]
 22 MR. WRIGHT: Okay. I'm going to ask my
 23 question. So, I'm a local resident --
 24 MAN 30: Mr. Collins, point of
 25 question. When Mr. Ford was before this body

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1 during his prior testimony, wasn't the floor open
 2 to the public at that time?
 3 MR. WRIGHT: Mr. Ford didn't even come
 4 to one of the (indiscernible) --
 5 [OVERLAPPING SPEAKERS]
 6 MR. COLLINS: Sir, sir --
 7 CHAIRMAN ANDREW REINA: Sir --
 8 MR. COLLINS: You do not have the
 9 floor.
 10 [APPLAUSE]
 11 CHAIRMAN ANDREW REINA: -- I did not
 12 ask you the question. Mr. Collins, please
 13 answer.
 14 MR. COLLINS: The answer to the Board
 15 Member's question is that, yes, when Mr. Ford was
 16 here before --
 17 MR. WRIGHT: My question would have
 18 been finished --
 19 CHAIRMAN ANDREW REINA: Could you
 20 please let the attorney finish?
 21 MR. COLLINS: When Mr. Ford was here
 22 before -- sir, you have to be quiet. I'm sorry.
 23 When Mr. Ford was here before, he gave his direct
 24 testimony. He also answered all the questions
 25 that had been listed from the prior Zoom meeting.

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1 And he was also offered for questions from the
 2 public, and those questions were asked and
 3 answered.
 4 If the Board wants to, the Board could
 5 bring -- keep Mr. Ford here for after the
 6 environmental witness. But technically, you are
 7 -- have completed the cross-examination of Mr.
 8 Ford.
 9 MR. WRIGHT: And I'm not trying to
 10 cross-examine him. I'm a member of the public --
 11 MR. COLLINS: Well, then you --
 12 MR. WRIGHT: -- asking him a question.
 13 I want to ask his lawyer a question as well --
 14 MR. COLLINS: No. We don't --
 15 MR. WRIGHT: -- and we haven't had the
 16 opportunity.
 17 MR. COLLINS: -- don't do that here.
 18 This is a hearing. It's a judicial proceeding,
 19 or a quasi-judicial proceeding --
 20 MR. WRIGHT: Well, what did you mean at
 21 the start of the meeting when you said you'd be
 22 taking questions from the public? What did that
 23 mean?
 24 MR. COLLINS: Okay. For the next
 25 witness, which we would like to get to now, which

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1 is the environmental consultant. And it's the
 2 applicant's case, sir. So, when the applicant
 3 has done its case, after all their case is done,
 4 then all of the public will have the opportunity
 5 to testify, as you are now doing but should not
 6 be doing.
 7 And so, when that happens -- that will
 8 not be tonight -- there will be a full
 9 opportunity to testify. You'll be sworn. You
 10 can testify at that time.
 11 [OVERLAPPING SPEAKERS]
 12 MR. WRIGHT: And you guys --
 13 MAN: 31: We're just procedurally
 14 (indiscernible) --
 15 MR. WRIGHT: -- think that's a suitable
 16 response.
 17 MAN 32: -- the ability to open it up
 18 for questioning right now. But you will have a
 19 chance to question.
 20 MR. WRIGHT: I will have a chance.
 21 MR. COLLINS: Yes.
 22 MR. WRIGHT: That's all you needed to
 23 say, and I would have sat down.
 24 MR. COLLINS: Okay. Thank you.
 25 MR. WRIGHT: Thank you very much.

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1 MAN 33: But not tonight.
 2 MAN 34: If we could get testimony, we
 3 may have time. But let's just --
 4 MR. WRIGHT: My question, to be clear,
 5 will take less than 30 seconds.
 6 MR. COLLINS: I'm sorry, sir, but you
 7 have already been told -- after the testimony.
 8 MR. DASH: Mr. Chairman, he is a
 9 journalist from the "Washington Post". He
 10 doesn't live locally. Can we give him one
 11 question at least, please?
 12 [OVERLAPPING SPEAKERS]
 13 MAN 35: No, he doesn't live locally?
 14 [APPLAUSE]
 15 WOMAN 3: Yes.
 16 MR. WRIGHT: I have a home in Sparta
 17 and a home in New York City.
 18 [OVERLAPPING SPEAKERS]
 19 MR. COLLINS: It's up to the Chair.
 20 CHAIRMAN ANDREW REINA: I'm sorry. Can
 21 you state your name again for the record, and
 22 your address?
 23 MR. WRIGHT: Thank you very much. And
 24 I'm sorry that that was acrimonious.
 25 MR. COLLINS: Sir, please raise your

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1 right hand. Do you swear or affirm -- Mr.
 2 Chairman, can you please hit the gavel?
 3 Sir, do you swear or affirm to tell the
 4 truth, the whole truth, and nothing but the
 5 truth, so help you God?
 6 MR. WRIGHT: I do.
 7 MR. COLLINS: Please state your name
 8 and address.
 9 MR. WRIGHT: My name is Jack Wright. I
 10 live at 4 Maple Parkway in Sparta, New Jersey.
 11 MR. COLLINS: Spell your last name,
 12 please, sir?
 13 MR. WRIGHT: W-R-I-G-H-T.
 14 CHAIRMAN ANDREW REINA: And Mr. Wright,
 15 for clarity, I'm allowing an exception --
 16 MR. WRIGHT: Thank you.
 17 CHAIRMAN ANDREW REINA: -- of this,
 18 okay, against some of the other Board Members. I
 19 would ask you be very directed and pointed. This
 20 is not a time for --
 21 MR. WRIGHT: Certainly.
 22 CHAIRMAN ANDREW REINA: -- as we've
 23 heard, statements.
 24 MR. WRIGHT: One question.
 25 CHAIRMAN ANDREW REINA: One question,

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1 so we can move on --
 2 MR. WRIGHT: Sure.
 3 CHAIRMAN ANDREW REINA: -- to the
 4 environmental component. You will have
 5 additional opportunities to ask questions during
 6 this process.
 7 MR. WRIGHT: Thank you very much, and I
 8 appreciate the leniency. My question's for Mr.
 9 Gouin and Mr. Ford. Mr. Gouin's in March 2021,
 10 you said in one of these proceedings, on record -
 11 - and I've got the recording -- that -- of the
 12 ordinance changes, that was the reason for
 13 adopting the ordinance amendment, to permit this
 14 project. Mr. Ford, you said today -- and I'll
 15 quote you directly as well -- the ordinance
 16 changes were to bring the standards in line with
 17 2021.
 18 Now, Mr. Gouin, by all of the relevant
 19 and applicable legal standards that apply to you
 20 as a lawyer, your precluding from lying in this
 21 forum. And Mr. Ford, you're under oath. So, my
 22 question is to both of you. Which one of you has
 23 just perjured yourself?
 24 [APPLAUSE]
 25 CHAIRMAN ANDREW REINA: Withdrawn. And

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1 Mr. Wright, I appreciate you making a mockery of
 2 these hearings. So, please, feel free to have a
 3 seat, and let's proceed over to the environmental
 4 component. So, if you would like --
 5 [OVERLAPPING SPEAKERS]
 6 MR. CLARK: (indiscernible) point of
 7 clarification (indiscernible) environmental,
 8 because I think it actually goes to process. My
 9 understanding of the environmental testimony, I
 10 think, based on Mr. Gouin's letter, is only with
 11 respect to -- and I'll read -- "In the context of
 12 reviewing (indiscernible) engineering review
 13 letter." This isn't going to be -- there will be
 14 further testimony on environmental issues after
 15 today. Is that right? This is just in the
 16 context of Mr. Simmons' letter? Is that right?
 17 CHAIRMAN ANDREW REINA: My
 18 understanding would be it would be anything
 19 applicable to the environmental component in the
 20 support that's been submitted.
 21 MR. CLARK: So, all environmental
 22 issues outside the context of Mr. Simmons' letter
 23 is also going to be tonight. Is that right?
 24 CHAIRMAN ANDREW REINA: We are going to
 25 start the environmental proceedings right now, so

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1 we're going to have the applicant and their
 2 engineer -- I'm sorry -- their environmental
 3 engineer begin testimony over what their initial
 4 findings were. We would then shift over to Mr.
 5 Simmons in terms of what he has identified, or
 6 questions that he's got as it relates to the
 7 application. It would then come to the Board and
 8 then it would go to the attorneys and the public.
 9 MR. CLARK: Okay. Because there may --
 10 the issue has to do with there's probably going
 11 to be other environmental experts that possibly
 12 objectors may bring. And we want to make sure
 13 there's a forum, an opportunity for those experts
 14 to be heard. We weren't anticipating that
 15 tonight was going to be the night of all the
 16 environmental issues. But it sounds like we're
 17 not going to get done with environmental tonight,
 18 we're just going to start it. Is that your
 19 understanding?
 20 CHAIRMAN ANDREW REINA: I would suspect
 21 we're not going to get through with
 22 environmental, but this is also consistent with
 23 what we shared at the last meeting in terms of
 24 wanting to start the engagement of the
 25 environmental component this evening.

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1 MR. CLARK: Okay.
 2 CHAIRMAN ANDREW REINA: So, I'll
 3 disagree that there wasn't notification. Maybe
 4 it's confusion on depth that we're not sure. I
 5 mean, the application that was submitted includes
 6 an environmental component, and that
 7 environmental component was then reviewed by the
 8 Town engineers and professionals. So, that's the
 9 portion of this segment --
 10 MR. CLARK: Okay.
 11 CHAIRMAN ANDREW REINA: -- of the
 12 environmental --
 13 MR. CLARK: Yeah, I just want --
 14 because the email was unclear. It said it in the
 15 context of Mr. Simmons' letter, which then raises
 16 the issue -- there's environmental issues outside
 17 the context of Mr. Simmons' letter.
 18 MR. GOUIN: Mr. Chairman --
 19 MR. CLARK: But that will be addressed
 20 at some point.
 21 MR. GOUIN: -- can we please start our
 22 presentation? I mean, if you just let us start
 23 the presentation, I think it'll be clear, if
 24 you'd let me explain what we're going to do? If
 25 we argue about the process for another half an

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1 hour, we're not going to get through any of it.
 2 CHAIRMAN ANDREW REINA: Agreed.
 3 MR. CLARK: We're just trying to
 4 ensure, as I'm sure the Planning Board wants, a
 5 fair and full evaluation of the developer's site
 6 plan. And so, we just want to make sure there's
 7 opportunity for all the environmental issues to
 8 be addressed, not just those in the context of
 9 Mr. Simmons, but all of them.
 10 MR. GOUIN: I don't think anybody is
 11 denying you'll have that opportunity. So, can
 12 we --
 13 MR. CLARK: Okay. Thank you.
 14 MR. GOUIN: Can we get started?
 15 MR. CLARK: That's all you needed to
 16 say. Thank you.
 17 MR. GOUIN: Anyway.
 18 CHAIRMAN ANDREW REINA: All right. So,
 19 can we please move on to the environmental?
 20 MR. GOUIN: Yes. So, what we're going
 21 to do, and the reason I brought up Mr. Simmons'
 22 letter is that I think in terms of an outline of
 23 how we want to go through these environmental,
 24 it provides a pretty good outline for us to
 25 address some of these things.

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1 So, I'm going to call back Mr. Tony
 2 Diggan, who is still under oath. He's the
 3 professional engineer on the project, testified
 4 at the first hearing. And what we're going to do
 5 is we're going to take it through Mr. Simmons'
 6 letter. And then I also have two other witnesses
 7 with me here, Bob Valorio, who will need to be
 8 sworn in at one point, but when we get to his
 9 portion, if we get there; and then Mike Green,
 10 who you heard from last time, who was qualified
 11 last time, our environmental specialist, once we
 12 get to the environmental impact section of Mr.
 13 Simmons' letter.
 14 So, I'm just going to start going, and
 15 Mr. Simmons, feel free to stop me at any point
 16 you want to. But I think the first two sections
 17 we can probably skip over that deal with just the
 18 plans and the zoning table.
 19 MAN 36: And just for the record, I
 20 believe you're referring to the February 9th,
 21 2022 report?
 22 MR. GOUIN: That's correct. Yeah,
 23 February 9th, 2022. So, we're just going to
 24 start on Section 3, which is site plan comments.
 25 And Tony, I'm just going to -- we're going to go

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1 point by point. So, I'll give a summary of the
 2 comment, and then if you could just respond with
 3 the answer, and we'll work our way through this.
 4 Some of these bear more on site design
 5 issues. I'm going to try to skip over things
 6 like architectural traffic that we're going to
 7 get to with other witnesses, but a fair amount of
 8 them do bear on the type of environmental issues
 9 that we were talking about at the last hearing.
 10 So, I think this is a more efficient way to do
 11 it.
 12 So, 3(a), Tony. At the intersection of
 13 Demarest Road and Prices Lane, we're going to
 14 need a site triangle over the westerly corner of
 15 the subject property. Correct?
 16 MR. DIGGAN: Potentially. We're going
 17 to ask the surveyor to review the right-of-way
 18 mapping and determine whether or not that site
 19 distance exists.
 20 MR. GOUIN: Okay. And then same
 21 comment on the corner of -- a site triangle is on
 22 3(b). A site triangle is shown on Demarest Road.
 23 And Mr. Simmons' comment is that the applicant
 24 will need to obtain an easement from the owner of
 25 the adjoining property for that site triangle.

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1 MR. DIGGAN: Again, potentially the
 2 surveyor will review the right-of-way mapping and
 3 will that determination then.
 4 MR. GOUIN: So, here we go -- here's a
 5 question on 3(c). We've got a note that says it
 6 refers to standard-duty and heavy-duty asphalt
 7 pavement in various areas. Just want to confirm
 8 that we're going to address that comment.
 9 MR. DIGGAN: We will. Geotechnical
 10 Engineers designed the pavement sections and will
 11 provide those on the (indiscernible) site plan.
 12 MR. SIMMONS: (indiscernible) --
 13 CHAIRMAN ANDREW REINA: You've got to
 14 speak into the mic.
 15 MR. GOUIN: Yeah, you've got to speak
 16 into the mic.
 17 MR. SIMMONS: (indiscernible) --
 18 MR. GOUIN: Yes. We will comply with
 19 that request.
 20 MR. SIMMONS: That's (indiscernible).
 21 MR. GOUIN: 3(d) has to do with
 22 directional arrows on traffic flows around two
 23 proposed buildings. Can you just comment on
 24 that?
 25 MR. DIGGAN: Sure. Distant traffic

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1 control and weigh-finding signs will be added to
 2 the final site plan.
 3 MR. GOUIN: On 3(e), structural
 4 calculations by New Jersey Licensed Professional
 5 Engineer for the proposed retaining wall on the
 6 southerly end of the site to be provided. Can
 7 you show the Board on -- I think A-2, Exhibit A-
 8 2, what we're talking about there? If you want
 9 to carry this over to answer.
 10 MR. DIGGAN: Yeah, this is Exhibit A-2
 11 from our earlier hearing. There's a retaining
 12 wall along the southerly edge that will exceed
 13 four feet in height. It is in compliance with
 14 the ordinance requirements, and if -- the
 15 structural engineer will submit signed and sealed
 16 structural drawings and calculations.
 17 MR. GOUIN: So, the next question on
 18 3(f) does have this section, environmental issue,
 19 and that is that we've got a portion of the
 20 proposed fire access lane, which is crossing
 21 through what's an existing conservation easement
 22 on the property. I would note that that
 23 conservation easement was part of the title work
 24 that I provided earlier today.
 25 So, Tony, can you just explain how

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1 that's going to work, where we have fire access
 2 lane crossing through the conservation easement?
 3 MR. DIGGAN: The fire lane does not
 4 actually cross through the conservation easement.
 5 It crosses through a previously disturbed
 6 transition area, which will be permitted with
 7 NJDEP.
 8 MR. GOUIN: And what type of permit is
 9 that?
 10 MR. DIGGAN: A freshwater wetlands
 11 permit, general permit.
 12 MAN 37: Can you restate that
 13 (indiscernible)?
 14 MR. DIGGAN: A freshwater wetlands
 15 general permit.
 16 MR. GOUIN: Next comment on 3(g) is
 17 that the proposed fire access lane crosses over
 18 the proposed railroad spur extension. Any
 19 signing or safeguards required by the railroad
 20 should be provided. How are we going to address
 21 that?
 22 MR. DIGGAN: We will comply with that
 23 request. There will be additional signage.
 24 MR. GOUIN: And I have a note covering
 25 up my 3(a), so it's talking about the retaining

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1 wall height, but can you just address that? And
 2 again, if you could refer to A-2 and just point
 3 out where that retaining wall is?
 4 MR. DIGGAN: Sure. Well, A-2 is the
 5 same location when I was up there before. It's
 6 along the southerly access drive. In the
 7 ordinance, I believe the review engineer
 8 referenced a section that appears to be referring
 9 to landscape walls and residential setting.
 10 There's also a subsequent section of the
 11 ordinance that speaks to the larger structural
 12 walls, such as this one. And our location and
 13 height meet that ordinance requirement.
 14 MR. SIMMONS: Mr. Chairman, I should
 15 say we probably should double check that, because
 16 again, the wall that Mr. Diggan is referring to
 17 is about 21 feet high. It's right next to the
 18 stormwater facility, part of it that they're
 19 doing, and I would want to check that just to
 20 make sure there is or isn't a waiver or variance
 21 involved.
 22 CHAIRMAN ANDREW REINA: Okay.
 23 MR. GOUIN: 3(i) just relates to a plan
 24 -- that's a typographical change, correct?
 25 Changing Independence Drive to Constitution

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1 Avenue. So, we'll make that?
 2 MR. DIGGAN: Correct.
 3 MR. GOUIN: So, here's two issues that
 4 have to do with the survey. So, this is 3(j) and
 5 3(k). And this has to do with basically two
 6 areas on the survey. It's shown as either
 7 questionable title or gores. Can you just talk
 8 to the Board how we're going to deal with those
 9 issues?
 10 MR. DIGGAN: Yeah. The surveyor is
 11 going to review the title report with the owner
 12 and applicant and the Township, the result of the
 13 gore areas.
 14 MR. GOUIN: And one of the
 15 recommendations in Mr. Simmons' letter is that
 16 the applicant quit-claim deed over the gore areas
 17 to Sparta Township, which could be one potential
 18 solution. We may need to do a boundary line
 19 adjustment or something like that, whatever the
 20 appropriate process is. But we would agree to
 21 comply with that condition or comply with that
 22 recommendation as a condition of preliminary
 23 approval. So, we would address that, whatever
 24 that fix is for their application for final site
 25 plan approval.

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1 Section 4 has to do with --
 2 MR. SIMMONS: Mr. Chairman, if I may --
 3 CHAIRMAN ANDREW REINA: Sure.
 4 MR. SIMMONS: -- just so it's clear for
 5 the record too, the title report that I did get a
 6 copy of today did mention the overlap in it. So,
 7 I just wanted the Board to know that as well.
 8 MR. GOUIN: Yeah. So, we will agree to
 9 work with Mr. Simmons to correct that issue,
 10 whatever the appropriate fix is, whether it's
 11 boundary line adjustment, or whatever. Whatever
 12 would satisfy the title company in order to
 13 correct that.
 14 MAN 38: Mr. Chairman, could we ask Mr.
 15 Simmons to speak into the microphone, please?
 16 MR. SIMMONS: Yes. Sorry.
 17 MR. GOUIN: So, Mr. Simmons, really has
 18 to do with parking, Section 4. And I think most
 19 of this is commentary, just reviewing how many
 20 plans -- or how many parking spaces are proposed.
 21 So, I'm just going to skip over that for purposes
 22 of timing, and get to Section 5, which has to do
 23 with stormwater management. And I know that this
 24 was a concern of the Board at the last hearing.
 25 So, Tony, why don't you just for the

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1 moment, if you could, referring to A-2, just talk
 2 to the Board in general about the stormwater
 3 management system that we've got proposed, and
 4 then we'll walk through these questions.
 5 MR. DIGGAN: Sure. So, in general, per
 6 7:8, we're required to meet the quantity,
 7 quality, and recharge requirements. The existing
 8 site has approximately 30 acres of motor vehicle
 9 surface. We're proposing 15. So, there's a net
 10 reduction of motor vehicle surface, which means
 11 that we're not subject to the water quality
 12 requirement, though we are providing water
 13 quality through our recharge and bio retention
 14 basins at the bottom of the site.
 15 So, in general, rainfall events, fall
 16 on the buildings, fall on the parking lots. The
 17 buildings -- the rainwater from the buildings are
 18 directed to cisterns in the truck court to meet
 19 our recharge requirement. And the rest of the
 20 rainfall is conveyed through inlets and pipes to
 21 the -- by retention basins at the bottom. We're
 22 required to meet the quantity reductions for the
 23 2, 10 and 100-year storm.
 24 In general, the site does flow now from
 25 the northeast to the southwest, and that drainage

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1 pattern is maintained.
 2 MR. GOUIN: And just in response to Mr.
 3 Simmons' note 5(a), we can confirm two things.
 4 Number one, this project does have to meet the
 5 NJDEP stormwater requirements, which were
 6 effective March 2nd, 2021. Is that correct?
 7 MR. DIGGAN: That's correct.
 8 MR. GOUIN: Then number two, this
 9 project has to meet the requirements of the
 10 Sparta Township Stormwater Ordinance. Is that
 11 correct?
 12 MR. DIGGAN: Correct.
 13 MR. GOUIN: And this project will meet
 14 the requirements of both the Sparta Township
 15 ordinance and the NJDEP stormwater requirements?
 16 MR. DIGGAN: Correct.
 17 MR. GOUIN: Down to Section 5(b), which
 18 addresses water quantity. So, there's a few
 19 items here that say that they have to be
 20 addressed, and the first one is, it is unclear
 21 where the 450-foot-long weir at elevation 590.65
 22 is and how it should operate. Can you provide a
 23 clarification?
 24 MR. DIGGAN: Yes. We discussed this
 25 with the review engineer, and we provided an

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1 updated plan on March 25th.
 2 MR. GOUIN: Okay. So, that comment has
 3 already been addressed by a revised plan that was
 4 submitted?
 5 MR. DIGGAN: Yes.
 6 MR. GOUIN: I skipped over the
 7 beginning of 5(b). I apologize. So, basically,
 8 the question, Mr. Diggan, is that the proposed by
 9 retention basin requires DEP certification and
 10 approval. Is that your understanding?
 11 MR. DIGGAN: Actually, my understanding
 12 is for a Class 4 dam. It's a local approval and
 13 it ends up being a permit by rule, provided the
 14 conditions are met of that permit by rule. So,
 15 that will not require a separate NJDEP
 16 application.
 17 MR. GOUIN: And that permit by rule
 18 would be something that would be hired -- would
 19 be handled at the time of construction?
 20 MR. DIGGAN: Yes.
 21 MR. SIMMONS: I believe that would have
 22 to be taken care of as part of preliminary before
 23 construction.
 24 MR. GOUIN: I'm sorry. We should --
 25 fair enough. So, as a permit by rule, we should

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1 just provide confirmation of that as a condition
 2 of preliminary prior to our submission for final
 3 site plan. Is that fair?
 4 MR. DIGGAN: Agreed.
 5 MR. GOUIN: Mr. Simmons, is that what
 6 you're getting at?
 7 MR. SIMMONS: Yes.
 8 MR. GOUIN: Okay. I agree with that.
 9 I apologize. On Section 5(b)(ii), so this has to
 10 do with the testing of permeability rates, and
 11 then second question has to do with the distance
 12 between the bottom layer of the proposed
 13 bioretention basins and the seasonal high-water
 14 table. And I think both of those questions
 15 should be addressed by Mr. Valorio. So, why
 16 don't we call Mr. Valorio up, we'll get him sworn
 17 in, and then we'll have Tony back to finish up
 18 the rest of these questions?
 19 MR. COLLINS: Sir, please raise your
 20 right hand. Do you swear or affirm to tell the
 21 truth, the whole truth, and nothing but the
 22 truth, so help you God?
 23 MR. VALORIO: I do.
 24 MR. COLLINS: Will you please state
 25 your first and last name and spell your last

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1 name?
 2 MR. VALORIO: First name Robert; last
 3 name Valorio, it's V as in Victor, A-L-O-R-I-O.
 4 MR. COLLINS: Thank you. And please
 5 give us an address.
 6 MR. VALORIO: 6093 Oley Turnpike Road,
 7 Oley, PA.
 8 MR. COLLINS: Thank you. Please --
 9 MR. GOUIN: Make sure you're speaking
 10 into the mic too when you answer. Mr. Valorio,
 11 can you give the Board your professional
 12 qualifications and explain your role with this
 13 project?
 14 MR. VALORIO: Sure. I'm a geotechnical
 15 engineer, practicing nearly 30 years. I've been
 16 licensed in the state of New Jersey since 2004,
 17 and practiced my entire career in New Jersey, PA,
 18 Delaware, surround area.
 19 MR. GOUIN: So, I'm basically asking
 20 that the Board except his qualifications as a
 21 geotechnical engineer for the purposes of these
 22 two questions. I understand that we've had voir
 23 dire of witnesses, Mr. Collins, so if we want to
 24 do that now, that would be appropriate.
 25 MR. COLLINS: Sure. Do the three

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1 attorneys have any voir dire for the geotechnical
 2 engineer?
 3 MR. CLARK: Just for the clarification,
 4 what are the scope of your testimony? What do
 5 you intend to testify about today?
 6 MR. GOUIN: Well, we have -- right now,
 7 we're going to talk about two particular
 8 questions that are outlined in Mr. Simmons'
 9 letter. It's 5B(ii) and (iii). It has to deal
 10 with permeability rates for drywell locations and
 11 the separation distance between the bioretention
 12 basins and seasonable high-water table.
 13 MR. CLARK: Okay. Will any of your --
 14 will you be opining tonight on groundwater
 15 recharge at all? Is that the scope of your
 16 testimony tonight?
 17 MR. VALORIO: As far as I'm aware, I
 18 focused on the current questions at hand that we
 19 just stated.
 20 MR. CLARK: Okay. Just your focus on
 21 that. And what is it about your experience that
 22 you believe enables you to answer those questions
 23 to a reasonable degree of professional certainty?
 24 MR. VALORIO: Once again, my practice
 25 has been focused in this area and focused on

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1 ground engineering my entire career. I perform
 2 these sorts of studies routinely each and every
 3 year, each, and every month, each, and every
 4 week.
 5 MR. CLARK: Okay. Assuming we only
 6 stay within the confines of those two questions,
 7 if he goes outside the scope of those, we may
 8 have to get into separate voir dire to make sure
 9 his credentialed and qualified to testify on
 10 those topics. But for those two, at least I
 11 accept him as a witness --on those two topics
 12 only. I'm not speaking to his other areas of
 13 testimony that may be offered later on. And we'd
 14 hope the Board would give us an opportunity to
 15 voir dire if he goes outside of those two
 16 questions at a later date. Thank you.
 17 MR. COLLINS: All right. I don't see
 18 any other questions from attorneys. So, Mr.
 19 Chairman --
 20 CHAIRMAN ANDREW REINA: Sure.
 21 MR. COLLINS: -- I --
 22 CHAIRMAN ANDREW REINA: Oh, I'm sorry,
 23 Mr. Collins.
 24 MR. COLLINS: -- recommend that they
 25 proceed with the witness.

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1 MR. GOUIN: Okay. So, Mr. Valorio, the
 2 two questions -- and I think this addresses
 3 something that the Board had asked about at the
 4 last hearing; maybe a couple of times the Board
 5 has asked us -- seasonal high-water table and the
 6 aquifer as well.
 7 So, for 5(b)(ii), the question is, the
 8 testing of permeability rates for all drywell
 9 locations must be consistent with the procedures
 10 as outlined in Chapter 12, Soil Testing Criteria
 11 of the NJDEP BMP manuals. Is it your
 12 understanding that that would be the case?
 13 MR. VALORIO: That is correct. And we
 14 have been performing a long-time study at the
 15 site now in accordance with the BMP manual.
 16 MR. GOUIN: And part of the reason for
 17 going through that lengthy study that you're
 18 talking about is the NJDEP permitting process
 19 that we are currently going through, correct?
 20 MR. VALORIO: That's correct.
 21 MR. GOUIN: And so, whatever is being
 22 designed relative to the drywell locations is
 23 going to end up having to be approved by the
 24 NJDEP?
 25 MR. VALORIO: That is correct.

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1 MR. GOUIN: Now, the other question on
 2 5(b)(iii) is an analysis of the separation
 3 distance between the bottom layer of the
 4 bioretention basin and seasonal high-water table
 5 to be submitted for review. Is that something
 6 that we could provide?
 7 MR. VALORIO: We're currently still in
 8 the process of doing the study, but the study
 9 should be wrapping up shortly.
 10 MR. GOUIN: So, is that a study that we
 11 are going to need to complete in order to get our
 12 NJDEP FHA permits?
 13 MR. VALORIO: Absolutely.
 14 MR. GOUIN: So, assuming that we obtain
 15 preliminary approval from the Planning Board, is
 16 that a study that we could submit as a condition
 17 of preliminary approval at such time as we also
 18 obtain our FHA permits?
 19 MR. VALORIO: Yes.
 20 MR. GOUIN: That's really all I have on
 21 those two questions for Mr. Valorio. But if the
 22 Board has further questions on those issues, by
 23 all means, if you want additional clarification.
 24 MAN 39: I do. I have some questions.
 25 CHAIRMAN ANDREW REINA: Diana, can you

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1 do a roll call, and we'll go down for each Board
 2 Member for specific questions on these two items?
 3 BOARD SECRETARY DIANA KATZENSTEIN:
 4 Certainly. Mr. Kollar?
 5 MR. KOLLAR: Not at this moment.
 6 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 7 Skei?
 8 MR. SKEI: No, not at this point.
 9 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 10 Murphy?
 11 MR. MURPHY: No questions at this time.
 12 BOARD SECRETARY DIANA KATZENSTEIN:
 13 Councilman (indiscernible).
 14 COUNCILMAN: None at this time.
 15 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 16 Sylvester?
 17 BOARD MEMBER MIKE SYLVESTER: Yeah, I
 18 have a few. Thank you. Yeah, I did request that
 19 at the last meeting. So, just to be clear, we're
 20 talking about the bioretention basin and the
 21 drywells, correct? And the bioretention basin,
 22 will they be 100 percent self-containment? And
 23 if so, what type of barrier will be using, a
 24 natural or aligned barrier in that basin in your
 25 design?

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1 MR. VALORIO: Ultimately, the design of
 2 the stormwater that's up to Kimley-Horn. I am
 3 involved with the actual testing of the soil
 4 conditions and determinations.
 5 BOARD MEMBER MIKE SYLVESTER: And if
 6 that is a question for your engineer, that's fine
 7 too. I know you're doing the testing, and then
 8 based on that testing, it will modify and affect
 9 the type of design --
 10 MR. VALORIO: Right.
 11 BOARD MEMBER MIKE SYLVESTER: -- that
 12 will be required.
 13 MR. GOUIN: Well, let's have Mr. Diggan
 14 --
 15 BOARD MEMBER MIKE SYLVESTER: That's
 16 why this is where this kind of --
 17 MR. GOUIN: Yeah. Let's --
 18 BOARD MEMBER MIKE SYLVESTER: --
 19 comingles.
 20 MR. GOUIN: -- have Mr. Diggan come
 21 back and address it and we'll have both of them
 22 up here side by side.
 23 Could you slide over? Move your chair.
 24 MR. SYLVESTER: Just move it out.
 25 MR. PARKER: It might be easier just to

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1 move the hand mic over.
 2 MR. GOUIN: So, Mr. Diggan, you heard
 3 the question. Can you provide your answer,
 4 please?
 5 MR. DIGGAN: Yes. The bioretention
 6 basins at the bottom will actually have a layer
 7 of filter media to provide settling out of total
 8 suspended solids. But there will be an
 9 underdrain at the bottom of those. So, they
 10 actually need to be aligned because right now we
 11 feel the material down there is not going to
 12 infiltrate below that, so --
 13 MR. SYLVESTER: So, it's not a self-
 14 contained system where you're going to do --
 15 collect the stormwater into that retention and
 16 put it through a treatment facility? At that
 17 point, you'd just be discharging through that
 18 fabric.
 19 MR. DIGGAN: The primary intent is for
 20 a rate reduction. Yes.
 21 BOARD MEMBER MIKE SYLVESTER: Okay.
 22 And that will be permitted, obviously, under --
 23 MR. DIGGAN: 7:8.
 24 BOARD MEMBER MIKE SYLVESTER: Under
 25 what?

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1 MR. DIGGAN: 7:8.
 2 BOARD MEMBER MIKE SYLVESTER: And it
 3 would be a general -- a permit by rule or general
 4 permit?
 5 MR. DIGGAN: No, it would be approved
 6 by review of the NJDEP during their review of the
 7 FHA permit and the freshwater wetlands permit.
 8 They do a stormwater review. And the Township
 9 professional will review the stormwater design as
 10 well.
 11 BOARD MEMBER MIKE SYLVESTER: And then
 12 related to the drywells, are they permitted by
 13 the DEP once you do your testing and you get the
 14 test results at which the design will be then
 15 based on?
 16 MR. DIGGAN: Yes.
 17 BOARD MEMBER MIKE SYLVESTER: Will they
 18 be ongoing and regulated and/or permitted by DEP,
 19 or is it a one-time upfront approval and that's
 20 it?
 21 MR. DIGGAN: So, yeah, they're an
 22 accepted BMP. They will be -- the maintenance of
 23 those will be included in the O&M manual that's
 24 submitted.
 25 BOARD MEMBER MIKE SYLVESTER: They

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1 would be included in and overall O&M program for
 2 the entire stormwater management system and a
 3 permit?
 4 MR. DIGGAN: Correct.
 5 BOARD MEMBER MIKE SYLVESTER: Okay.
 6 You said you were doing some testing and some
 7 studies. Have you done a hydrogeologic study to
 8 see if groundwater and it's connection to the
 9 deeper rock or aquifer itself? Have you been
 10 studying the deeper portion of the aquifer?
 11 MR. VALORIO: So, with regards to the
 12 effects on the aquifer, the DEP require
 13 separations and that would come into play with
 14 stormwater. There's different regulations around
 15 septic. And as far as the hydrogeological study
 16 going on, there is another consultant involved
 17 who is modeling, and we are conferring back and
 18 forth with the predictive data on that.
 19 But there's -- you know, in general,
 20 with Germany Flats and the aquifer system, there
 21 is well-documented studies all throughout the
 22 area, actually, a pretty famous one from a former
 23 official of the district. So, I mean, it's not
 24 an unusual topic, and certainly the former
 25 massive quarry out on Limecrest was the biggest

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1 contributor and influencer to the valley-fill
 2 aquifer --
 3 BOARD MEMBER MIKE SYLVESTER: Right.
 4 MR. VALORIO: -- as well as the shallow
 5 rock aquifer.
 6 BOARD MEMBER MIKE SYLVESTER: But you
 7 will be -- outside of just doing conceptual
 8 models, will you doing any testing to support the
 9 model, or is it just going to be based on --
 10 MR. VALORIO: Testing has been --
 11 BOARD MEMBER MIKE SYLVESTER: --
 12 hydrogeologic that data?
 13 MR. VALORIO: No. Testing has been
 14 done to actually calibrate the model.
 15 BOARD MEMBER MIKE SYLVESTER: And
 16 that'll be in response to that Question 5,
 17 Section 5?
 18 MR. SIMMONS: Correct.
 19 BOARD MEMBER MIKE SYLVESTER: Okay.
 20 And then there was a comment made about -- you're
 21 studying the seasonal water table?
 22 MR. VALORIO: Yep.
 23 BOARD MEMBER MIKE SYLVESTER: Based on
 24 -- and you'll argue that. I mean, the way the
 25 weather's been, I mean, you've got to comply with

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1 certain parameters or thresholds per DEP's
 2 seasonal trends, right?
 3 MR. VALORIO: Correct.
 4 BOARD MEMBER MIKE SYLVESTER: Have you
 5 seen any variations or fluctuation based on kind
 6 of what we see historically in these evaluations
 7 versus the current conditions?
 8 MR. VALORIO: Well, as far as the DEP
 9 defines it, there's a distinct period where they
 10 require monitoring --
 11 BOARD MEMBER MIKE SYLVESTER: Mm hmm.
 12 MR. VALORIO: -- in the state of
 13 January through April, and we have been
 14 monitoring a large portion along that. And of
 15 course, the site is all -- had been previously
 16 mined. It's all disturbed soil. So, the
 17 behavior of the soils is quite a bit different,
 18 which is why there's a complete network of wells
 19 out there monitoring levels at this time.
 20 So, you do see variations that are
 21 completely attributable to storm events, but
 22 they're settling down at a pretty consistent
 23 trend as far as that goes. And that will be
 24 ultimately presented in that seasonal high water
 25 table determination.

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1 BOARD MEMBER MIKE SYLVESTER: Okay.
 2 And you're referring to this as a bio basin.
 3 What makes it a bio basin? Where is the benefit,
 4 the eco benefit to the bio portion of it?
 5 MR. VALORIO: Sure. So, the media,
 6 that 18-24 inches of media that takes out that
 7 total suspended solids before it hits the under
 8 drain, that's the bioretention part.
 9 BOARD MEMBER MIKE SYLVESTER: And what
 10 does it do when it catches the solids? What --
 11 is there a maintenance program to recapture and -
 12 -
 13 MR. VALORIO: Yes.
 14 BOARD MEMBER MIKE SYLVESTER: -- clean
 15 them?
 16 MR. VALORIO: Yeah. So, there is a
 17 maintenance section in there for the bioretention
 18 basin and how that's maintained.
 19 BOARD MEMBER MIKE SYLVESTER: Okay.
 20 And when you -- I mean, the answer, would you be
 21 supplying based on your results, your test --
 22 supplying any type of conceptual designs and/or
 23 considerations or scenarios, you know, whether
 24 it's one you have currently in mind to meet the
 25 bare minimums, or could we put that as part of we

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1 see those before, or have those as part of the
 2 approval process, preapproval process?
 3 Let me just say it this way. What I
 4 think one of the bigger concerns is the impact to
 5 our aquifer. All right? And a lot of these
 6 facilities now are self-contained, captured --
 7 when I hear bio swell, bio basins, the border's
 8 recaptured, either treated and reused on site, to
 9 water the grass areas, and to recycle to supply
 10 some additional water supply for possible
 11 tenants, et cetera. Or it has an impact where
 12 you're discussing your design where by the time
 13 it will be discharged, it'll be equal to or
 14 better than the quality of the water that's there
 15 currently. So, it wouldn't have a negative or
 16 adverse impact.
 17 So, I think what we're really concerned
 18 about is self-containment. I mean, you have the
 19 one -- you have the drains coming down the center
 20 on all your paved areas, all going into your
 21 collection basins and then discharging into that
 22 basin. Right? Then you have -- that, I guess,
 23 would be contained, but everything at your
 24 discharge points, the basin, and that's your
 25 collection point, correct? And at that point, is

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1 that discharging to a storm drain system, a
 2 storage system and/or back into the ground?
 3 MR. DIGGAN: Yeah. So, it's
 4 discharging into an already established
 5 conveyance system under the rail, then proceeds
 6 south into a detention basin that's constructed
 7 by NJDOT.
 8 BOARD MEMBER MIKE SYLVESTER: All
 9 right. So, you will be making a connection from
 10 that basin and discharging it? All right. And
 11 is there any requirements that you're going to
 12 need to meet per DEP -- and I'm just asking a
 13 question; you may not know it. Will you be
 14 having any obligations to test the stormwater
 15 semi-annually or annually as part of maintaining
 16 your stormwater permit?
 17 MR. DIGGAN: There's not typically
 18 annual testing. There's some provisions in the
 19 O&M manual that speak to that.
 20 BOARD MEMBER MIKE SYLVESTER: If you
 21 get an individual permit, it's my understanding
 22 you have to do some periodic or seasonal testing
 23 with auto samplers, and they may have changed --
 24 I don't want to speak to your line, but I know
 25 the type of permit would require sampling or not.

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1 We're just concerned the discharge of the quality
 2 of the water coming from that site, whether it's
 3 going into the bio basin and/or it's being
 4 discharged to a connection and being discharged
 5 to another natural area, down gradient offsite,
 6 we're worried and concerned about the quality of
 7 that water being discharged.
 8 MR. DIGGAN: Yeah. We'll work with
 9 Dave Simmons to make sure that's addressed in the
 10 O&M manual to the satisfaction of the Town.
 11 BOARD MEMBER MIKE SYLVESTER: Okay.
 12 MR. GOUIN: Right. So, the idea would
 13 be -- the idea would be, as a condition of any
 14 approval, we're going to have to record an O&M
 15 manual for the basins and for the stormwater
 16 management system for the entire site. So, that
 17 type of concern would be something that we would
 18 agree as a condition of approval, work out with
 19 the Board's Engineer, so we have a satisfactory
 20 operations and maintenance manual before it gets
 21 approved.
 22 BOARD MEMBER MIKE SYLVESTER: Okay.
 23 And my last question for now is just when you're
 24 designing that basin and those collection areas
 25 with the seasonal fluctuations in high water

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1 table, making sure it doesn't breach the design
 2 and/or if you have any type of -- in the event
 3 water table goes and breaches, is there any type
 4 of alarm systems that will be part of your design
 5 to make sure if there's a breach in the system?
 6 MR. DIGGAN: Yeah. So, there's not
 7 typically an alarm, but there's definitely
 8 separation requirement in the BMP manual, and
 9 we'll have to observe those separations.
 10 BOARD MEMBER MIKE SYLVESTER: And
 11 that'll be written into the document as well?
 12 MR. DIGGAN: Yes.
 13 BOARD MEMBER MIKE SYLVESTER: Okay. No
 14 further questions from my end. Thank you.
 15 MAN 40: Mr. Chairman, I just had a
 16 question. It's a concrete plan -- or was. Do
 17 they have the wrong well?
 18 MR. DIGGAN: Yes.
 19 MR. COLLINS: Is that well going to be
 20 capped, or it will be utilized for the potential
 21 development?
 22 MR. DIGGAN: I don't think that we've
 23 determined that at this point whether or not we
 24 need that well for the potential development for
 25 any reason. There's an existing DEP permit to

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1 allow for that well. It's a water allocation
 2 permit. But potentially, if it's not necessary
 3 for the proposed development, it could. We
 4 haven't made that determination yet. That would
 5 be something that we would determine probably
 6 prior to the tenant review period, tenant review
 7 approval, as to whether or not it's even
 8 required.

9 BOARD MEMBER MIKE SYLVESTER: Well, if
 10 that's a cessation of operations and that well is
 11 used for the current operations as part of the
 12 process, I mean, Mr. Collins, that would need to
 13 be addressed as part of that closure of that
 14 existing business.

15 MR. COLLINS: Mr. Chairman and Board
 16 Members, one thing I'd suggest about that is that
 17 I know there's been ongoing discussions and it's
 18 shown on the plan that the applicant is proposing
 19 to extend the Township's water system into the
 20 facility and use the Township's water.

21 This is a question, I think, for Mr.
 22 Spaldi and the Water Department to opine on. But
 23 one concern I would have -- and I'm not saying
 24 this applicant is doing it -- when you have a
 25 water system like the Township's and you have to

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1 go under all the testing protocols, et cetera,
 2 and if there's a potential for cross-
 3 contamination between an existing well that's out
 4 of service and some piping from someplace else,
 5 my belief is -- and it's subject to Mr. Spaldi
 6 speaking for himself -- is that he'd probably
 7 want that properly sealed by a licensed well
 8 driller and completely on the Township's system.
 9 That way, if there was testing done on the
 10 Township's water and there was an issue, it's not
 11 a question, well, did it come from the Township's
 12 system or did it come from this abandoned well.

13 BOARD MEMBER MIKE SYLVESTER: And then
 14 factoring into that, you're doing your studies
 15 now, based on that production well-being active,
 16 you're going to get different draw rates if it's
 17 shut down. Are you taking into your calculations
 18 those considerations?

19 MR. DIGGAN: The majority of our study
 20 period has actually been with the well inactive.

21 BOARD MEMBER MIKE SYLVESTER: Inactive?
 22 MR. DIGGAN: Yeah.

23 BOARD MEMBER MIKE SYLVESTER: All
 24 right. And then it sounds like, based on the
 25 need for the water coming in from the township,

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1 that -- I don't know, Tom, if DEP requires it,
 2 but we would probably obviously want that well
 3 sealed.

4 MR. COLLINS: I think -- what the
 5 ordinance requires is that they must connect to
 6 the water system of the Town.

7 BOARD MEMBER MIKE SYLVESTER: Okay.

8 MR. COLLINS: And at that time, that
 9 subject would be addressed by the Water Utility -
 10 -

11 BOARD MEMBER MIKE SYLVESTER: That's
 12 good.

13 MR. COLLINS: -- and by the Township
 14 Engineer. It's customary to properly close and
 15 seal all wells. Sounds like there's other wells
 16 as well, and they would have to be properly
 17 sealed and closed. But that is the customary
 18 procedure. If there's some exception to that,
 19 they could tell us about it, but I'm not hearing
 20 any great exceptions.

21 BOARD MEMBER MIKE SYLVESTER: And then
 22 Mr. Collins brings up another good point. In
 23 your investigation period right now, are you
 24 installing temporary well points or current
 25 monitoring wells to conduct these studies?

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1 MR. DIGGAN: All wells that have been
 2 installed have been done so under DEP permit.

3 BOARD MEMBER MIKE SYLVESTER: And it
 4 will be sealed upon -- whether it was your due
 5 diligence and/or your hydrogeologic studies
 6 you're conducting now; you will close those out?

7 MR. DIGGAN: Yeah. They'll be properly
 8 abandoned.

9 BOARD MEMBER MIKE SYLVESTER: Okay.
 10 Thank you.

11 MAN 40: Thank you. That was my next
 12 question. I have no further questions, Mr.
 13 Chairman.

14 BOARD SECRETARY DIANA KATZENSTEIN: Dr.
 15 Parker?

16 BOARD MEMBER GEORGE PARKER: Okay. I
 17 want to go back to the original question and keep
 18 it in simple language. How many feet from the
 19 top of the project to the aquifer?

20 MR. GOVIN: It's not a black and white
 21 answer because it's an unconfined aquifer. So, I
 22 -- it has no aquiclude layer above it. So, water
 23 ultimately infiltrates to the aquifer system.

24 BOARD MEMBER GEORGE PARKER: I asked
 25 how many feet is it to the aquifer system?

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1 MR. COLLINS: What's your shallow
 2 groundwater --
 3 MR. DIGGAN: So, yeah, right now, I was
 4 going to say, you know, if you're going to
 5 ballpark it, we could say it's about 12 feet.
 6 MR. COLLINS: And how deep is your
 7 current production well?
 8 MR. DIGGAN: That I don't know.
 9 MR. COLLINS: (indiscernible) --
 10 BOARD MEMBER GEORGE PARKER: Mr.
 11 Collins? Wait a second. Wait until you finish
 12 writing.
 13 MR. COLLINS: What I was trying to help
 14 you with, and he answered it, is the approximate
 15 separation. You were using the word aquifer, but
 16 he probably uses the word --
 17 MAN 41: Shallow.
 18 MR. COLLINS: Well, the shallow
 19 groundwater or the elevation of that first
 20 groundwater.
 21 MR. DIGGAN: Yeah. The water table.
 22 MR. COLLINS: The elevation vis-à-vis a
 23 benchmark like sea level. So, maybe he could
 24 explain to you what this property is like, what
 25 he was explaining --

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1 BOARD MEMBER GEORGE PARKER: Well, his
 2 statement was it was about 12 feet.
 3 MAN 41: That's right.
 4 MAN 42: Well, let me ask if I can help
 5 support. Are you hitting bedrock? At what
 6 depths are you hitting bedrock?
 7 MR. DIGGAN: No, we have -- we
 8 installed wells as part of a study up to 30 feet
 9 and we're still not hitting bedrock. We're down
 10 in the till because it is partly in the valley's
 11 hill, which is obviously why that site was mined.
 12 MAN 42: So, from zero to 30 you're in
 13 till, unconsolidated kind of --
 14 MR. DIGGAN: Correct. Correct.
 15 MAN 42: You're not into rock at that
 16 point?
 17 MR. DIGGAN: Correct.
 18 MAN 43: For the public's edification,
 19 you mean glacial till?
 20 MR. DIGGAN: Correct.
 21 BOARD MEMBER GEORGE PARKER: Mr.
 22 Collins, when we did the new determinations
 23 there, especially on the piece above the Grinnell
 24 when we were working on that, didn't we come up
 25 with a certain height from the top of the land to

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1 the aquifer? In fact, if my memory serves, it
 2 was 25 feet.
 3 MR. COLLINS: Dr. Parker, was that for
 4 Grinnell or (indiscernible).
 5 BOARD MEMBER GEORGE PARKER: The one
 6 just above Grinnell.
 7 MR. COLLINS: That's the one above. I
 8 would have to check, Mr. Chairman. They might
 9 remember.
 10 MAN 43: Do you have groundwater flow
 11 determined at the site?
 12 MR. DIGGAN: The hydro-geo does have a
 13 model for it with the flow directions and to that
 14 point and the question line here, as far as the
 15 aquifer system goes here, it's quite complex.
 16 There is not a set level plain. It is
 17 interactive. If they start pumping from the
 18 Limecrest Quarry again at 6.5 million gallons a
 19 day, it draws down -- it'll draw down in the
 20 quarry. That's what the study showed. That's
 21 the level of interaction we have.
 22 And the glacial tills are not clean
 23 glacial tills. They're an assemblage of sands,
 24 gravels, clays, and silts. And clays and silts
 25 all have lower infiltration rates. So, you have

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1 perching conditions that complex it as well.
 2 MAN 43: And you're pulling that data
 3 into your study?
 4 MR. DIGGAN: Yes. He's pulled it in
 5 and he's tried the model on the -- in the site
 6 boundaries, because that's ultimately what -- you
 7 know, as far as the permitting goes, the DEP is
 8 really about, but he does have to have an
 9 influence of trying to the contributory area
 10 around it, and the particular modeler, he has
 11 experience in a neighboring development. So, he
 12 has that level of information as well. So, it is
 13 being taken into account.
 14 And there's certainly different
 15 corrections in the wells across the site for the
 16 same reason. Again, if you look at historical
 17 aerials, the entirety of the site has been
 18 previously mined and then refilled. And that
 19 refilling has been different through the years,
 20 and you see it in the borings and the test pits
 21 and everything that's been conducted. There's a
 22 lot of variability.
 23 MAN 43: I mean, a type of development
 24 like this is really an engineering control to
 25 protect the groundwater and the aquifer if you do

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1 not have a production use associated with it.
 2 And that's, I think, where a series of these
 3 questions are all deriving from, is based on the
 4 type of designs, the systems, the collection,
 5 especially with the types of vehicles and trucks
 6 that are coming onto the site, the potential for
 7 spills, how do we prevent that from getting into
 8 the environment groundwater?
 9 MR. SIMMONS: Just for your own
 10 edification, I think the quarry has a discharge
 11 permit of 9 million gallons per day.
 12 MR. DIGGAN: Yeah, it does have a
 13 substantial permit, when we did the check.
 14 MR. SIMMONS: And it's substantially
 15 more -- you know, if they start drawing that
 16 down, you can see a lot of things
 17 (indiscernible).
 18 MR. DIGGAN: Right, right. And as far
 19 as I know, there's absolutely no restrictions.
 20 The new owners, they can turn it back on and do
 21 whatever they please with that respect. But you
 22 know, locally here on the site, I mean, the site
 23 conditions have been this way for six decades.
 24 The infiltration circumstance have been what as -
 25 - it's been uncontrolled, it has been random, and

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1 it's been modified just through the process of
 2 the sand and gravel operations, depending on
 3 where stockpiles are, where processing is
 4 occurring. So, it's been constantly changing.
 5 There is no, you know, baseline, if you will,
 6 that's been set historically.
 7 So, now, with the development, you're
 8 actually going to have a controlled feature. A
 9 controlled construction.
 10 MAN 44: In fact, your hooking up to
 11 the Town's water supply is a form of control.
 12 MR. DIGGAN: Exactly.
 13 MR. SIMMONS: Again, just to Dr.
 14 Parker's earlier comment of the depth to the
 15 first water level, with the cessation of
 16 operations, that production well, the other site
 17 that you're pulling into your studies, does that
 18 rate, the possibility with seasonal fluctuations,
 19 is that going to elevate that water level under
 20 the site --
 21 MR. DIGGAN: Yeah. Our technical term
 22 for it is rebound. And that's the whole part a
 23 modeler is in involved, in order to assess that
 24 rebound with the filling of the existing pits
 25 that are on site --

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1 MAN 44: And your study is doing that?
 2 MR. DIGGAN: Yes.
 3 MAN 44: You're taking all that --
 4 MR. DIGGAN: Yes. So, we're making a
 5 determination of seasonal high-water now, and
 6 then what the seasonal high-water is predicted to
 7 be with development.
 8 MR. SIMMONS: Okay.
 9 MR. SIMMONS: Mr. Chairman, if I could
 10 just comment a little bit. It think it's
 11 important. Now, I'm listening to what the
 12 applicant's professionals are saying and I'm
 13 agreeing with most of it. A few things. On the
 14 proposed drywells, they did do some borings on
 15 the site, and I agree, we saw the till and what
 16 have you that you mentioned in your testimony.
 17 One of the things with regards to the
 18 drywells, we'd reference that should be done
 19 under the requirements of the New Jersey DEP Best
 20 Management Practices Manual. Now, the reason
 21 that's significant is the proposed drywells are
 22 fairly large structures and they just don't have
 23 to do testing down to the bottom of the physical
 24 structure. My recollections of the checking is
 25 in the manual, they've got to go at least 10 feet

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1 below that level, as far as testing to see what
 2 the soils are, if there's any impermeable levels
 3 that they have to cut through, et cetera, et
 4 cetera, and if they run into seasonal high-water
 5 table.
 6 The other thing I just want to mention
 7 about that is from 7:8-5.2, Stormwater Management
 8 Measures for Major Development, this is Section
 9 H, and I'll just read the first couple sentences.
 10 "Whenever the stormwater management design
 11 includes one or more BMPs" -- in this case the
 12 drywells -- "that would infiltrate stormwater
 13 into subsoil" -- which is the drywells -- "the
 14 design engineer shall address the hydraulic
 15 impact on the groundwater table and design the
 16 site so as to avoid adverse hydraulic impacts" --
 17 in other words, a mounding study, just to make
 18 sure what we've been discussing tonight.
 19 So, that is in the DEP regulations and
 20 that's what one of our references is intended to
 21 show to everybody, that the applicant is going to
 22 have to address that.
 23 The other thing that I wanted to
 24 mention was, Mr. Diggan talked about the
 25 bioretention basin. There is a detail on the

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1 plans that shows the various levels of topsoil,
 2 of gravel and other components to help with the
 3 water infiltrating or water quality in that area.
 4 However, in the design that they've
 5 got, they also have an underdrain, and that
 6 underdrain is connected to the outlet structure,
 7 and when you put that underdrain is -- based on
 8 my discussions with the staff in our office --
 9 that will not let it count towards water quality
 10 then from this standpoint, because you've got
 11 that underdrain that's taking it out.
 12 So, that's the one thing I wanted to
 13 make sure the Board realized. They do have those
 14 layers, but they do have that underdrain that's
 15 not necessary, if they want to eliminate that.
 16 Plus, the underdrain and that outflow doesn't
 17 retain so many inches or feet of water in the
 18 basin to let it settle out. Basically, what
 19 that's doing is letting it come in, and as the
 20 routing goes through the basin, go out. It goes
 21 over into an adjacent spillover area and then,
 22 just so there's no confusion, it is not hard
 23 piped over to under the railroad.
 24 There's an existing pipe under the
 25 railroad. It flows through that pipe. It

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1 eventually flows, after going a short distance,
 2 under Demarest Road and then down the way, if you
 3 will. So, I didn't want there to be any
 4 confusion about that one as well.
 5 CHAIRMAN ANDREW REINA: Mr. Simmons,
 6 has that -- has the integrity of that existing
 7 pipe then inspected?
 8 MR. SIMMONS: Under the railroad?
 9 CHAIRMAN ANDREW REINA: Yeah.
 10 MR. SIMMONS: Not by our office. That
 11 would have to be checked by the applicant. They
 12 could verify that. They are --
 13 CHAIRMAN ANDREW REINA: If you are
 14 making a connection to that pipe, I think you
 15 should look at the integrity of where -- to the
 16 pipe you're connecting, as best you can --
 17 MR. GOUIN: Agreed.
 18 CHAIRMAN ANDREW REINA: (indiscernible)
 19 --
 20 MR. GOUIN: Yeah, we will take care of
 21 that as a condition of preliminary approval.
 22 CHAIRMAN ANDREW REINA: And then my
 23 last question, on the drywells, since Mr. Simmons
 24 kind of clarified that. What is the basic
 25 construction of that?

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1 MR. DIGGAN: Sorry, what was the?
 2 CHAIRMAN ANDREW REINA: : The
 3 construction of the drywells themselves. Are
 4 they concrete?
 5 MR. DIGGAN: Yeah.
 6 CHAIRMAN ANDREW REINA: (indiscernible)
 7 in collection areas, or?
 8 MR. DIGGAN: Yeah, they'd be open
 9 bottom concrete manholes, for lack of a better
 10 term.
 11 CHAIRMAN ANDREW REINA: Okay. Thank
 12 you.
 13 BOARD MEMBER GEORGE PARKER: Okay. I'm
 14 still a little confused, Mr. Simmons.
 15 MR. SIMMONS: Yes.
 16 BOARD MEMBER GEORGE PARKER: We're
 17 talking about stormwater here. I'm talking about
 18 economics spills or something. We should have a
 19 barrier between the top where spills are and the
 20 aquifer. Maybe I'm not putting it into technical
 21 terms, but the best I got here was 12 feet. I'm
 22 pretty sure that our ordinance or requirement in
 23 the same area just north of that was 25 feet.
 24 My concern is, if we have an
 25 environmental problem, how is it -- how far down

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1 is the aquifer, and how long down do we have
 2 before we can grab it? Because that is the Town
 3 water.
 4 MR. SIMMONS: Dr. Parker, I understand
 5 your question. I think that's something that the
 6 applicant's working on with their additional
 7 studies. Again, that's why I mentioned the
 8 groundwater mounding study under the drywells,
 9 because there's a couple things at play here.
 10 Number one, those drywells, just so
 11 everybody knows and understands, they are -- and
 12 the applicants can correct me if I'm misspeaking
 13 something -- they basically collect the "clean
 14 water" --
 15 MR. GOUIN: Yeah.
 16 MR. SIMMONS: -- and by clean water I
 17 mean they're connected to the roof leaders off
 18 the roof. It's relatively clean versus a parking
 19 lot, where it's getting salted and sanded and
 20 taken care of that way.
 21 So, as far as getting any kind of
 22 stormwater down into the aquifer through the
 23 drywells, that's why they have to do the
 24 additional testing at least 10 feet below the
 25 bottom of the proposed drywell, and that's why

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1 they're also set up to collect basically the
 2 clean water off the roof.
 3 Now, you will see piping on their plans
 4 from each of the drywells down to the
 5 bioretention basin. Correct me if I'm wrong, but
 6 basically that's for an emergency overflow. The
 7 intent is that each of those basins would be able
 8 to and of the flow that's coming to it and
 9 process it through infiltration through the
 10 drywell system. If for some reason something
 11 that clogged, or what have you, the overflow
 12 would take it down to the bioretention basin.
 13 Now, in the meantime, the others storm
 14 drainage on site, the parking lots, the access
 15 aisles, and what have you, those also go to the
 16 bioretention basin as far as an ultimate
 17 discharge point.
 18 And one thing, if you recall, that was
 19 done over on the Aaron Way development, the
 20 Township Engineer requested that basically a
 21 final basin before -- for stormwater before it
 22 goes into the basin be provided with a testing
 23 sump so that if there was something coming in
 24 from some spill, or what have you, it could be
 25 tested before it got into the basin. So, that's

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1 another alternative that applicant may be able to
 2 build into its design.
 3 MR. DIGGAN: Yes. Thank you for saying
 4 that. Yeah, so basically, the entirety of the
 5 motor vehicle service is connected to that
 6 bioretention basin. The underdrain serves two
 7 purposes. One, it does allow a deeper collection
 8 point to allow it to settle down through the
 9 media. But also, it allows you a pump point to
 10 pump down if you did have some sort of spill.
 11 And further, that discharge point at
 12 the west side of the basin goes into the flood
 13 storage area, which is going to be grass lined.
 14 So, there's also additional opportunity for more
 15 water quality. But then flows -- channel
 16 flow into that pipe, which will actually not be
 17 touching the pipe, but any permanence or
 18 inspection required, we will provide that.
 19 BOARD MEMBER GEORGE PARKER: Just
 20 explain to me again, if we had --
 21 MAN 45: Diesel, fuel oils.
 22 BOARD MEMBER GEORGE PARKER: A fuel oil
 23 spill or something, okay?
 24 MAN 45: How can you preclude that from
 25 getting into the (indiscernible) discharge?

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1 BOARD MEMBER GEORGE PARKER: And if it
 2 runs off into the grass or into the system, how
 3 far down is it going to go before it hits the
 4 aquifer?
 5 MR. DIGGAN: It can't run off into the
 6 grass, assuming that the vehicle's still in our
 7 motor vehicle area, within the curb line. So, we
 8 could do a couple things. One is you could put a
 9 hood on the most downstream inlets to have like a
 10 little bit of a separator there. But you're
 11 going to have like over a couple of acres of bio
 12 media that would capture that. It would have to
 13 be removed, of course, but it wouldn't then
 14 migrate downstream.
 15 BOARD MEMBER GEORGE PARKER: But how
 16 deep is it to get down to the aquifer? You said
 17 12 feet. I'm just using your words.
 18 MR. DIGGAN: The basins themselves
 19 wouldn't really be going down to the aquifer at
 20 all.
 21 MAN 45: No, but your bio media -- I
 22 think where Dr. Parker is going, you have a
 23 release, it somehow gets into your system; you
 24 say it's going to at least get down to that bio
 25 layer.

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1 MR. DIGGAN: Right.
 2 MAN 45: It's not contained. It's not
 3 lined. It's not engineered as a containment
 4 area.
 5 MR. GOUIN: We can put a liner in
 6 there.
 7 MAN 45: Excuse me?
 8 MR. DIGGAN: We can put a liner in
 9 there, if that pleases the Board.
 10 MAN 45: Well, I mean, that's something
 11 -- I think it comes back to Mr. Simmons for the
 12 design of -- you know, if we do have an oil spill
 13 or some type of spill from the surface and it
 14 does get into the system, even if it -- you know,
 15 you have the bio layer there, to remediate or
 16 contain that spill, you don't have any control of
 17 that. You're still then hoping that that's going
 18 to do its thing and/or discharge to a point where
 19 you may be able to catch it at one of your
 20 discharge points.
 21 But to remediate that or to get down
 22 there and mitigate or control that situation,
 23 you're not going to have any control for that
 24 spill. I think what we're looking for is, in the
 25 event you have a spill, what are the preventive

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1 measures and containment built into the design to
 2 prevent that from getting that far deep? If
 3 you're down 12, 15 feet already, you're into some
 4 -- you're into breaching some shallow groundwater
 5 or some water quality.
 6 MR. DIGGAN: We can work through that
 7 with the Township or the Board Engineer.
 8 MR. SIMMONS: And I would say on that
 9 particular subject, keep in mind that the
 10 proposed drywells, as I mentioned before, are to
 11 infiltrate the clean water. Now, I don't believe
 12 -- subject to checking -- but I don't believe in
 13 the bio retention basin that they took any credit
 14 for any infiltration in that area. Okay?
 15 So, that's a good thing as far as the
 16 liner that you're talking about, because that
 17 doesn't alter their design as far as making it
 18 substantially bigger. It basically would add an
 19 additional layer to the typical section of that
 20 basin. So, it's not like if you put an
 21 impermeable liner in that, that you were going
 22 against what they were trying to accomplish as
 23 far as infiltration. That basin is not
 24 infiltrating.
 25 I'm not saying it doesn't infiltrate,

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1 just the way they've got it right now. But if
 2 you took that away in their calculations, they
 3 did not assume any infiltration for that.
 4 MAN 45: Okay.
 5 MR. DIGGAN: He's correct.
 6 BOARD MEMBER GEORGE PARKER: Are you
 7 going to get back to us with how far up you are
 8 to the aquifer? I mean, obviously, you might not
 9 know it right now, but you should be able to --
 10 with all your testing, you should be able to
 11 tell.
 12 MR. GOUIN: Well, I --
 13 BOARD MEMBER GEORGE PARKER: Because
 14 when you go to put this in, instead of having
 15 that big hole that they've been digging for years
 16 and filling and refilling, you're going to go
 17 pretty flat. I'm assuming those buildings aren't
 18 going to go up and down. So, you're going to
 19 have a flat surface.
 20 MR. VALORIO: Right. So, that's --
 21 BOARD MEMBER GEORGE PARKER: Okay. So,
 22 you have a place to start. Where's the aquifer
 23 underneath that?
 24 MR. VALORIO: So, as the prior
 25 discussion was, there's a study being on the

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1 model of the rebound when the site is filled.
 2 The site obviously is not going to be built at
 3 its current elevation. There's pits in the
 4 undulations, as there are for the site. The site
 5 is going to be filled and leveled. As such,
 6 there is a rebounding effect of the water table.
 7 That's what's still ongoing and not finished
 8 determination yet. And then that will govern
 9 where that separation lies.
 10 MAN 46: Is it safe to say the
 11 production wells, whether on the other site or
 12 your site, is any current aquifers are drawing
 13 from the current aquifer?
 14 MR. VALORIO: Oh, yeah.
 15 MAN 46: All right. So, if we knew the
 16 depths of those production wells, whether on your
 17 site and/or the other one that you're including
 18 in your study, I think that's where Dr. Parker
 19 wants to know the depths of the water table.
 20 MR. COLLINS: Usually, on a production
 21 well like that -- and what I'm understanding is
 22 there is a water allocation permit for that?
 23 MAN 46: Correct.
 24 MR. COLLINS: Then usually there's
 25 requirements that, say, on a quarterly basis when

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1 they have to file the diversion with the DEP
 2 Bureau of Water Allocation. They usually have to
 3 provide the static level of that particular well.
 4 So, a lot of that data is probably available for
 5 the applicant to provide to the Board to give
 6 some additional information.
 7 MAN 46: If he could just get back to
 8 us with that information. I think your modeling
 9 is going to show that anyway, eventually when you
 10 do your modeling.
 11 MR. GOUIN: Yeah. A lot of that will
 12 come out in the modeling and on the other side --
 13 BOARD MEMBER GEORGE PARKER: Okay. I
 14 can wait for the answer, but Mr. Simmons can go
 15 over it. I just want to make sure we get the
 16 answer to it, that's all.
 17 MR. GOUIN: No, I mean, that answer is
 18 coming. It has to.
 19 BOARD MEMBER GEORGE PARKER: Okay.
 20 MR. GOUIN: It's a requirement of the
 21 DEP. There is no way around it. It is written,
 22 especially after the most recent revisions of the
 23 BMP. I mean, it's a very rigid process, period.
 24 BOARD MEMBER GEORGE PARKER: Thank you,
 25 Mr. Chairman. I don't have any other questions.

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1 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 2 Toscano?
 3 BOARD MEMBER JOE TOSCANO: Yeah, just
 4 one quick question. The bio layer, what's the
 5 depth of that when you install it? I know it's
 6 about 12-24 inches in thickness, right?
 7 MR. VALORIO: It depends on the type of
 8 the media, but at that bottom layer, the media
 9 would interface with the subbase.
 10 BOARD MEMBER JOE TOSCANO: Right.
 11 MR. VALORIO: So, you're probably
 12 looking at 18-24 inches.
 13 BOARD MEMBER JOE TOSCANO: Okay. Thank
 14 you. No more questions.
 15 BOARD SECRETARY DIANA KATZENSTEIN: Mr.
 16 (indiscernible).
 17 MAN 47: I missed your response to
 18 Question 3(h).
 19 MR. DIGGAN: Yeah, 3(h) was the
 20 retaining wall. The Board Engineer was going to
 21 look into the ordinance to make sure we didn't
 22 require a waiver. It was our position that there
 23 was another section of the ordinance that dealt
 24 with our type of structural wall, as opposed to
 25 the earlier section, which seemed to deal with

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1 low landscape walls.
 2 MAN 47: Okay.
 3 BOARD SECRETARY DIANA KATZENSTEIN:
 4 Chairman Reina?
 5 CHAIRMAN ANDREW REINA: I think for
 6 these sections, I think we're good. So, I think,
 7 you know, at this point we're at 10:06. So, in
 8 our next meeting what I'd like to do is carry
 9 this forward to the following month. I think
 10 what makes the most sense is at that point --
 11 MAN 48: (indiscernible) microphone
 12 please (indiscernible).
 13 CHAIRMAN ANDREW REINA: Sorry. I
 14 always forget to pull it back down.
 15 MAN 48: Thank you.
 16 CHAIRMAN ANDREW REINA: So, we'll carry
 17 the meeting forward to next meeting is June 6th,
 18 Diana, I believe?
 19 BOARD SECRETARY DIANA KATZENSTEIN:
 20 July.
 21 CHAIRMAN ANDREW REINA: Or I'm sorry,
 22 July 6th?
 23 BOARD SECRETARY DIANA KATZENSTEIN:
 24 Yes.
 25 CHAIRMAN ANDREW REINA: Okay. In which

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1 case, we'll take an environmental. So, we'll
 2 start again with the environmental component.
 3 And cross-examination and followed by public
 4 comment.
 5 MR. GOUIN: So, Mr. Chairman, thank
 6 you. And I think we'll, just for -- just so we
 7 all leave in the same place, we're going to pick
 8 up on 5(c), but we're going to come back -- we
 9 should have some more definite answers on that
 10 particular question when we come back next time.
 11 In fact, maybe even as soon as next week.
 12 Just -- we had sent in a request, Mr.
 13 Chairman, that we be given some time on June
 14 15th. Obviously, you know, we've been at this
 15 for a long time, and we've got a lot of testimony
 16 still to go. So, we would appreciate that, or if
 17 the Board were willing to entertain a special
 18 meeting so we can move this along.
 19 CHAIRMAN ANDREW REINA: Yeah, I think
 20 we're certainly happy to take a look. We'd have
 21 to coordinate with the Secretary and the Board
 22 with regards to their availability. I know right
 23 now is a hard time of year for everybody coming
 24 off, with their kids coming out of school and
 25 graduations and all that good stuff. But yeah,

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1 we'll work with Tom and the Board Secretary.
 2 It won't be in June. I can tell you
 3 that right now. You know, we're not going to be
 4 able to accommodate in June. Right now, we're
 5 dedicating an entire full session to this. So,
 6 usually -- but I do think we'd probably have more
 7 availability in the July timeframe.
 8 MR. COLLINS: Mr. Chairman --
 9 CHAIRMAN ANDREW REINA: July or August.
 10 MAN 49: One final housekeeping
 11 question. On your ownership disclosure form, you
 12 listed two, but no percentages. I understand
 13 that there's three? So, would you update that by
 14 the next meeting?
 15 MR. GOUIN: Sure.
 16 MR. COLLINS: So, Mr. Chairman, we
 17 should carry to the date certain, but also get an
 18 extension from Mr. Gouin to July 6th. Mr. Gouin
 19 do you extend to July -- let's say July 7th,
 20 2022?
 21 MR. GOUIN: Yes.
 22 MR. COLLINS: Okay. And we'll meet
 23 again at 7:00 p.m. for this hearing on July 6th
 24 in this meeting room, 7:00 p.m., no further
 25 notice.

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1 MR. GOVIN: Very good. Thank you,
 2 everybody.
 3 CHAIRMAN ANDREW REINA: Thank you
 4 everyone.
 5 MR. COHEN: Just a question, if I may,
 6 procedure. You indicated you're going to join
 7 some environmental. Are we going to finish this
 8 testimony going to Mr. Simmons' report --
 9 MR. GOVIN: Yes.
 10 CHAIRMAN ANDREW REINA: Yes.
 11 MR. GOVIN: Yes.
 12 MR. COHEN: Okay. Thank you.
 13 MS. DERICKS: Pardon me, I also have a
 14 question. (indiscernible) doesn't require that
 15 you have an open comment period for public? This
 16 is a statutory Board, required to have a comment
 17 period for public?
 18 MR. COLLINS: That is good to do. But
 19 we can't talk about this application in this open
 20 public comment period. So, --
 21 MS. DERICKS: I'm not understanding.
 22 I'm sorry, Mr. Collins.
 23 MR. COLLINS: So, yes, we should open
 24 to the public for matters that are not on this
 25 agenda, but you cannot talk about this matter in

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1 the open public comment. Do you understand that?
 2 MS. DERICKS: I do not understand the
 3 reason for it. I don't.
 4 MR. COLLINS: Because this is a hearing
 5 and we are in a hearing on application for a
 6 development, which can only be discussed, both
 7 questions and statements, in the hearing
 8 testimony, in the hearing record of that
 9 application. But we --
 10 MS. DERICKS: Okay. I have procedure -
 11 -
 12 MR. COLLINS: We will open to the
 13 public now for comments on matters that are not
 14 this item.
 15 MS. DERICKS: Would you entertain --
 16 MR. COLLINS: So, if you have something
 17 you'd like to say about something other than this
 18 matter, you can't even talk about this matter
 19 because this hearing is over. Even if it was
 20 continuing, we're not doing public comment right
 21 now on this application.
 22 MAN 50: I think the question is -- and
 23 it may help (indiscernible) (indiscernible) --
 24 MS. DERICKS: (indiscernible)
 25 MAN 50: -- is it your understanding

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1 that you don't have to open public comment for
 2 every single hearing.
 3 MR. COLLINS: Yes. It is not required
 4 under municipal land use law that you open up
 5 every meeting to every application. You actually
 6 are expected to go through the applicant's
 7 witnesses, get cross-examination done, then go to
 8 objector witnesses, get cross-examination done,
 9 and then the objector's witnesses, it could be
 10 anybody who wants to testify, not just ask
 11 questions.
 12 MS. DERICKS: Thank you for that
 13 clarification, Mr. Collins. I do have two
 14 questions that are simply going to procedure.
 15 Would you entertain a question about procedure?
 16 MR. COLLINS: No. Because the hearing
 17 tonight is over. We will be back again on July
 18 6th at 7:00 p.m. You're saying procedure about
 19 this application, right?
 20 MS. DERICKS: Procedure in general
 21 about --
 22 MR. COLLINS: Oh, okay. Procedure --
 23 MS. DERICKS: -- a Planning Board
 24 application. A Planning Board nebulous --
 25 MR. COLLINS: Yes --

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1 MS. DERICKS: Nobody attached.
 2 MR. COLLINS: Please ask the question.
 3 What is your name?
 4 MS. DERICKS: My name is Jennifer
 5 Dericks from TAPintoSparta.
 6 MR. COLLINS: Thank you, Jennifer. So,
 7 what are your questions?
 8 MS. DERICKS: The question is,
 9 procedurally, is it required that you give a
 10 preliminary approval with conditions, or can you
 11 --
 12 MR. COLLINS: Well, now, Jennifer now
 13 you're talking about this application. Sorry.
 14 MS. DERICKS: No, I'm not. I'm
 15 speaking in general.
 16 MAN 51: It's a general question.
 17 MS. DERICKS: It's a general question.
 18 MAN 51: Let her ask the question.
 19 MS. DERICKS: Is it possible --
 20 MR. COLLINS: There are no -- we don't
 21 -- actually, you can ask but there's no reason to
 22 be answering a question.
 23 MS. DERICKS: That's fine. You choose
 24 not to answer, that's up to you.
 25 MR. COLLINS: I'm not choosing. I'm

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1 not here to answer questions.
 2 MS. DERICKS: Really, I'm not looking
 3 for an argument. I'm just trying to get
 4 clarification. So, is it possible, is it within
 5 your purview, to give a -- to defer the
 6 preliminary approval, in other words, not allow a
 7 preliminary approval that's conditional upon
 8 approvals from other outside agencies? Can you
 9 say, you must come back to us with those
 10 approvals?
 11 CHAIRMAN ANDREW REINA: I would defer
 12 back to Tom, if --
 13 MR. COLLINS: Ms. Dericks --
 14 MS. DERICKS: I spoke with --
 15 MR. COLLINS: Ms. Derick, all
 16 conditional -- all preliminary site plan and
 17 subdivision approvals are conditioned upon
 18 obtaining all the other governmental approvals.
 19 And that must be done, generally speaking, before
 20 the final site plan or final subdivision
 21 approval, as granted. Sometimes it is not this.
 22 You can also grant final, subject to conditions.
 23 MS. DERICKS: Okay. I --
 24 MR. COLLINS: So, in general, the
 25 answer to your question is, yes, preliminary site

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1 plan approvals are always subject to all
 2 governmental approvals. You cannot refuse to
 3 hear a preliminary subdivision application or
 4 site plan application. Because other
 5 governmental approvals are needed, you actually
 6 must hear it and condition it upon obtaining
 7 those governmental approvals.
 8 MS. DERICKS: I'm not suggesting
 9 cutting off hearings. I did reach out to DCA
 10 with this question and their response was that is
 11 a municipal or a local question. So, I'm asking
 12 it locally. Thank you.
 13 MR. COLLINS: Locally, the Board always
 14 all preliminary approvals upon all other
 15 governmental approvals.
 16 MS. DERICKS: I'm saying that may be
 17 the tradition here.
 18 MR. COLLINS: No, not just the
 19 tradition. It is customary and necessary in all
 20 municipalities because the municipal land use law
 21 requires that, with very limited exceptions,
 22 which are not applicable here.
 23 So, no further discussion on this, Ms.
 24 Dericks, because this is really now about this
 25 application. So, focus -- you might want to just

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1 read facts on zoning and get your own --
 2 MS. DERICKS: Thank you. I reached out
 3 to DCA for their --
 4 MR. COLLINS: Yeah, well, DCA is not
 5 the expert for municipal --
 6 MAN: Yeah, that's for sure.
 7 MR. COLLINS: -- land use law.
 8 MS. DERICKS: (indiscernible) --
 9 [OVERLAPPING SPEAKERS]
 10 CHAIRMAN ANDREW REINA: Can I get a
 11 motion to adjourn?
 12 MAN 52: Motion.
 13 MAN 53: Second.
 14 MAN 54: I do have a question that has
 15 nothing to do with this application.
 16 CHAIRMAN ANDREW REINA: All in favor?
 17 ALL: Aye.
 18 CHAIRMAN ANDREW REINA: The meeting is
 19 --
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1 CERTIFICATION
 2
 3 I, Sonya Ledanski Hyde, certify that the
 4 foregoing transcript is a true and accurate
 5 record of the proceedings.
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 18 Date: June 27, 2022
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