

**HOWELL TOWNSHIP PLANNING BOARD  
SPECIAL MEETING**

**1  
JANUARY 31, 2022**

The meeting was called to order by Chairman Huszar and the opening statement was read by the Administrative Officer.

**ROLL CALL:** Showed the following members were present: Paul Boisvert, Joseph Cristiano, Paul Dorato, Brian Greenfield, Robert Nicastro, Councilwoman Evelyn O'Donnell, Robert Seaman and Nicholas Huszar. Chairman Brian Tannenhau was excused.

Also in attendance were Ron Cucchiaro, Board Attorney, Laura Neumann, Board Engineer, Jennifer Beahm, Board Planner, Shari Spero, Board Licensed Tree Expert and the Board Secretary, Eileen Rubano

**PLEDGE OF ALLEGIANCE:**

**CORRESPONDENCE:**

**APPLICATIONS BEFORE THE BOARD:**

- a. **Case No. SD-2990 / FP HOWELL, LLC (Views at Monmouth Manor)**

**SEE TRANSCRIPT OF HEARING ATTACHED**

Since there was no other business, Mr. Seaman made a motion to adjourn. Motion was seconded by Councilwoman O'Donnell and carried. Meeting adjourned at 8:46 p.m.

Respectfully submitted,



**Eileen Rubano  
Recording Secretary**

**NOTE: A CD or DVD of this meeting is available on request.**

## TOWNSHIP OF HOWELL PLANNING BOARD

COUNTY OF MONMOUTH - STATE OF NEW JERSEY

## SPECIAL MEETING FOR:

FP HOWELL, LLC  
BLOCK 110, LOTS 166, 181, 182  
FORT PLAINS ROAD AND SUNNYSIDE ROAD

CASE NO. SD-2990

MONDAY, JANUARY 31, 2022  
COMMENCING AT 7:00 P.M.

TRANSCRIPT OF PROCEEDINGS  
CONTINUED VIRTUAL PUBLIC HEARING

BOARD MEMBERS PRESENT:

NICHOLAS HUSZAR, Vice-Chairman  
PAUL BOISVERT  
JOSEPH CRISTIANO  
PAUL DORATO  
BRIAN GREENFIELD  
ROBERT NICASTRO  
EVELYN O'DONNELL, Councilwoman  
ROBERT SEAMAN

ALSO PRESENT:

RONALD CUCCHIARO, ESQUIRE, Board Attorney  
LAURA NEUMANN, P.E., Board Engineer  
JENNIFER BEAHM, P.P., Board Planner  
SHARI SPERO, Board Licensed Tree Expert  
EILEEN RUBANO, Zoning Board Secretary

STENOGRAPHICALLY REPORTED BY:

ANGELA BUONANTUONO, CCR, RPR, License No. 30XI00233100

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1     A P P E A R A N C E S: (Via Video Conference)

2

HEILBRUNN PAPE

3     BY:   KENNETH L. PAPE, ESQUIRE

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9

--Counsel for the Applicant

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## I N D E X

## WITNESSES

PAGE

Stuart Challoner, P.E.

297

## PUBLIC COMMENT:

NAME

ADDRESS

PAGE

None.

## E X H I B I T S

## FOR THE APPLICANT:

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A-36	Landscape Presentation consisting of one sheet prepared by Challoner & Associates, LLC, dated 10-5-21	*
A-37	Parking Memo prepared by Dynamic Traffic, LLC, dated 10/18/21	*
A-38	Stormwater Management report, prepared by Challoner & Associates, LLC, dated 4/28/20, last revised 11/10/21	*
A-39	Landscape Plans, consisting of seven sheets, prepared by Bryce M. Bennett, NJLLA/ASLA, dated 3/13/20, last revised 11/10/21	*
A-40	Preliminary Major Subdivision and Preliminary and Final Major Site Plans, consisting of 48 sheets, prepared by Challoner & Associates, LLC, dated 3/13/20, last revised 11/10/21	*
A-41	Preliminary Environmental Impact Report for Preliminary Major Subdivision, prepared by Junetta N. Dix Consulting, Inc., dated June 27, 2017, last revised September 12, 2017	*
A-42	Stormwater Management report, prepared by Challoner & Associates, LLC, dated 4/28/20, last revised 12/15/21	*
A-43	Woodland Management Plan, consisting of one sheet, prepared by Challoner & Associates, LLC, dated 10/5/20, last revised 12/14/21	*
A-44	Preliminary Major Subdivision and Preliminary and Final Major Site Plans, consisting of 48 sheets, prepared by Challoner & Associates, LLC, dated 3/13/20, last revised 12/14/21	*

(Continued)

# E X H I B I T S

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A-45	Final Plat, consisting of four sheets, prepared by Challoner & Associates, LLC, dated 7/13/21, last revised 12/5/21 (plan notes 12/50/21)	*
A-46	Landscape Plans, consisting of 7 sheets, prepared by Bryce M. Bennett, NJLLA/ASLA, dated 3/13/20, last revised 12/15/21	*
A-47	Circulation Plan, consisting of 1 sheet, prepared by Challoner & Associates, LLC, dated 12/13/21	*
A-48	Phasing Plan, consisting of one sheet, prepared by Challoner & Associates, LLC, dated 12/13/21	*

FOR THE BOARD:

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B-36	Board Engineer's review letter, dated 9/28/21	*
B-37	Monmouth County Board of Health email, dated 10/01/21	*
B-38	Director of Public Works email concerning the roads, dated 9/22/21	*
B-39	Fire Bureau site plan review, dated 10/18/21	*
B-40	Environmental Commission site plan review, dated 10/13/21	*
B-41	Shade Tree Commission site plan review, dated 10/20/21	*

(CONTINUED)

E X H I B I T S

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B-42	Farmers Advisory Committee site plan review, dated 9/23/21	*
B-43	Environmental Commission site plan review, dated 11/10/21	*
B-44	Shade Tree Commission site plan review, dated 11/17/21	*
B-45	Board Engineer's review letter, dated 12/6/21	*
B-46	Farmers Advisory Committee site plan review, dated 10/28/21	*
B-47	Farmers Advisory Committee site plan review, dated 11/18/21	*
B-48	Environmental Commission site plan review, dated 12/8/21	*
B-49	Monmouth County Board of Health review, dated 12/6/21	*
B-50	Fire Bureau site plan review, dated 12/6/21	*
B-51	Fire Bureau site plan review, dated 12/29/21	*
B-52	Monmouth County Board of Health review, dated 1/4/22	*
B-53	Board Engineer's review letter, dated 1/6/22	*
B-54	Environmental Commission site plan review, dated 1/12/22	*

(\*)Exhibits were pre-marked prior to commencement.

1                   ATTORNEY CUCCHIARO: Just before Mr.  
2 Pape enters his appearance, I know we had several  
3 members that had to become eligible.

4                   Eileen, do we have a list of all the  
5 eligible members tonight?

6                   THE INTERPRETER: Yes. Mr. Dorato,  
7 Mr. Nicastro, Mr. Seaman and Chairman Huszar are all  
8 eligible. And Mr. Boisvert, Mr. Cristiano, Mr.  
9 Greenfield and Councilwoman O'Donnell all certified.  
10 So everyone here tonight --

11                  VICE-CHAIRMAN HUSZAR: So they're  
12 all --

13                  THE INTERPRETER: -- they're all  
14 eligible.

15                  ATTORNEY CUCCHIARO: So everyone is  
16 eligible?

17                  THE INTERPRETER: Yes.

18                  ATTORNEY CUCCHIARO: Great. And how  
19 many just total members do we have?

20                  PLANNING BOARD SECRETARY: Eight.

21                  ATTORNEY CUCCHIARO: Eight? Okay.

22                  THE INTERPRETER: Because Mr.  
23 Tannenhaus is not here. He would have been the  
24 ninth person.

25                  ATTORNEY CUCCHIARO: That's fine.



1     Okay, so, that's fine. We do have a -- the reason I  
2     ask is under the law, if you are not eligible to  
3     vote you don't get counted towards the quorum. So  
4     everyone is eligible, so we do have the quorum.

5             Okay, go ahead, Mr. Chairman.

6             VICE-CHAIRMAN HUSZAR: Very good.

7             Mr. Pape, the floor is yours.

8             ATTORNEY PAPE: Thank you. Good  
9     evening all. Good evening, Mr. Chairman, board  
10    members and board professionals. Kenneth Pape of  
11    the firm Heilbrunn Pape on behalf of your applicant,  
12    FP Howell, LLC.

13            This is an application for Preliminary  
14    and Final Site Plan of a residential development  
15    that is variance-free that is an element of Howell  
16    Township's affordable housing court settlement.  
17    This is, I believe, the third public hearing. We  
18    began the presentation to the planning board on  
19    August 31st. We continued the presentation on  
20    October 7th. And we were continued administratively  
21    to a couple of dates without hearing. And we  
22    appreciate that the board is convening with a  
23    special meeting this evening.

24            When we made our presentation to the  
25    board previously we spent some time, at the request

1 of the chair and counsel, going over how we came  
2 before the planning board and pointed out that this  
3 was a process that had been going on for a number of  
4 years, I think approximately four years, involving  
5 FP Howell entering into a settlement agreement, FP  
6 Howell participating in the court settlement that  
7 resulted in an order establishing the Township of  
8 Howell's affordable housing obligation. Then the  
9 applicant entered into a developer's agreement and  
10 ultimately the township passed ordinances that  
11 controlled the development of this property.

12 And we pointed out that all of that is  
13 before us. It happened before we came to the  
14 planning board. And that we have an obligation now  
15 to the planning board to follow the requirements of  
16 the ordinance, to follow the requirements of the  
17 settlement agreement that we had entered into and  
18 the Developer's Agreement. And it is and continues  
19 to be FP Howell's intention to do so.

20 When we presented the application to  
21 the board in August and October, there was testimony  
22 presented to the board and examination of the  
23 witnesses who testified. This evening we are  
24 returning to what we hope to complete the  
25 application and to make an affirmative presentation

1 through the Stuart Challoner, the design engineer,  
2 on a couple of items that were not complete when we  
3 ran out of time on October 7th. The October 7th  
4 meeting, somewhere after 10 o'clock, there was  
5 actually a comment made that if we had another 15 to  
6 30 minutes we probably could have concluded, but we  
7 had used all the time that was available.

8           The presentation this evening will be  
9 by Stuart Challoner. He has been qualified as a  
10 professional engineer and a professional planner on  
11 the record and his credentials are part of the  
12 record and he is under oath. Before he begins his  
13 testimony I will remind him that he was placed under  
14 oath and continues to be under oath.

15           The points that we wish to make with  
16 the board this evening are those that you wish for  
17 us to address, but will include a presentation on  
18 the stormwater system. You may recall that in  
19 October, the last staff report that had been issued  
20 by Laura Neumann in September had close to 60  
21 comments on stormwater. The current plan -- the  
22 current report has one. And that's the result of  
23 Mr. Challoner, I believe is one, working with Ms.  
24 Neumann and her staff to address all of the  
25 outstanding requirements. And Stuart will testify

1 to that.

2 We also will spend a little bit more  
3 time on the woodlands management and the landscape  
4 plan. I'm not sure if we had brought to the board's  
5 attention that Ms. Spero had walked the site with  
6 the applicant and the applicant's professionals,  
7 physically examined the woodland perimeter of the  
8 site, and then we worked with Ms. Spero to create a  
9 landscape plan.

10 You will hear from Mr. Challoner later  
11 this evening that we have a 102-acre parcel. We are  
12 clearing just under three acres. We are removing a  
13 total of 203 trees. And we are planting 350 trees.  
14 Mr. Challoner will present that testimony to you.

15 And we also intend to go through with  
16 you the status of all the outstanding approvals and  
17 permits. And also just spend some time with the  
18 board on the applicant's contribution of cash to the  
19 township for road improvements.

20 With your permission, Mr. Chair, we'll  
21 go right to Mr. Challoner. And I will do my best to  
22 follow that outline and be responsive to comments  
23 from the Board.

24 And I do -- I wanted to thank every  
25 board member for qualifying. I very much appreciate

1 that you took the time to review the transcripts or  
2 listened to qualify so that all eight persons who  
3 are here are qualified to vote on the application.

4 STUART CHALLONER, previously sworn,  
5 continues testifying as follows:  
6

7 E X A M I N A T I O N  
8

9 DIRECT BY ATTORNEY PAPE:

10 Q. So, Mr. Challoner, I'm going to ask --  
11 I remind you that you're under oath. I'm going to  
12 ask if you could begin perhaps with a, just a brief  
13 summary of revisions that you made to the plan since  
14 we were before the board on October 7th.

15 A. Good evening. Sure.

16 The plans were mainly revised to change  
17 the road improvements on Fort Plains Road. There  
18 was originally a 15-foot half-width along the length  
19 of Fort Plains Road fronting our property. There  
20 was a comment in the review letter that the  
21 half-width be extended to a 20-foot new half-width.  
22 So the applicant extended an additional five feet  
23 for road width improvements along Fort Plains Road.

24 The landscaping was updated.  
25 Additional buffer trees were planted around the

1 perimeter. We added additional buffer trees between  
2 the rear of the residential in the condo projects --  
3 or the condo buildings that are backing up to Fort  
4 Plains Road. We added sporadic locations of buffer  
5 trees along those areas.

6 And then there were some other  
7 landscaping that Ms. Spero asked us to update and  
8 change tree types throughout the project and that  
9 has been performed.

10 And then obviously the drainage  
11 comments, all the drainage comments, dot the I's,  
12 cross the T's. There was a lot of corrections with  
13 pipe slopes, profile -- just matching plan to  
14 profiles. It's a large project so there was a lot  
15 of small corrections, and those corrections were  
16 made.

17 Q. Stuart, if you could also point out the  
18 shortening of the one road to eliminate any  
19 potential encroachment into the riparian buffer; if  
20 you could just identify that as a revision that you  
21 made.

22 A. Yes. I think that was a prior  
23 revision of our last submission. But, correct, the  
24 one roadway, we changed the building count to allow  
25 us to shorten the road so there was no encroachment

1 of the buildings in the 300-foot riparian buffer.

2 Q. So could you explain to the board and  
3 please not an engineer to an engineer's explanation,  
4 but explain to the board the stormwater system  
5 revisions that you made. And if you could place on  
6 the record your testimony that the stormwater system  
7 is designed to be consistent with the Best  
8 Management Practices that were established in March  
9 of 2021 by the DEP and adopted by the township?

10 A. That is correct. The plans didn't  
11 have any major revisions. All the drainage  
12 revisions were primarily, again, just cleaning up  
13 the plans. The scope of the plan -- or the scope of  
14 the drainage is still the same.

15 We are proposing a lined stormwater  
16 basin in the middle of the project that will drain  
17 towards the wetlands in the back. We are picking up  
18 runoff from Fort Plains Road and directing it  
19 towards -- towards that newly constructed basin. So  
20 all the revisions were made to correct the plans to  
21 address the comments in the review letter.

22 And again this project is being  
23 reviewed by not only the town, the county; the state  
24 is also reviewing it to make sure that the drainage  
25 system has been designed in accordance with the new

1 stormwater management regulations known as the BMP,  
2 Best Management Practices.

3 Q. Mr. Challoner, this was a revision that  
4 was done back before the August meeting, but I think  
5 that it's important enough to make it part of the  
6 record this evening; you were asked or directed  
7 during the summer reviews to remove any stormwater  
8 systems from buffers and to make certain that the  
9 buffers were free of stormwater management systems.

10 Did that revision that you made, that's  
11 continued; your stormwater systems are all outside  
12 of the buffers?

13 A. That's correct. The two proposed  
14 basins that were adjoining Fort Plains Road fell  
15 within the buffer. So the applicant removed those  
16 basins, redesigned the wet basin in the back to  
17 accept that runoff. And it's all being directed to  
18 the one large basin.

19 Q. I'm going to ask if we could go to the  
20 landscaping. You have indicated to the board that,  
21 in some detail, revisions that were made to the plan  
22 after meeting with Ms. Spero and in response to  
23 comments from Ms. Spero.

24 I'm going to ask if you could just do a  
25 summary of that. And then if you would quantify



1 trees -- quantify the area that is being cleared,  
2 quantity the trees that are being removed and  
3 quantity the trees that are being proposed?

4 A. Okay. Do you want it just as verbal  
5 or do you want any exhibits? How would you like me  
6 to...

7 Q. If we could do it with screen sharing  
8 so that you have a landscape plan before the board I  
9 think that would be ideal.

10 ATTORNEY CUCCHIARO: Is this something  
11 that was previously provided to the board?

12 THE WITNESS: Yes.

13 ATTORNEY PAPE: Yes.

14 ATTORNEY CUCCHIARO: Okay. Do you  
15 have, Mr. Pape or Mr. Challoner, the list of  
16 exhibits?

17 THE WITNESS: Yes.

18 ATTORNEY PAPE: I do.

19 ATTORNEY CUCCHIARO: Okay. So when  
20 you put up whatever you're putting up, if you could  
21 just reference the exhibit number; can you do that?

22 THE WITNESS: I have my list. I'm  
23 sorry, Ron, I think I have my list.

24 Maybe, Ken, do you have a list?

25 ATTORNEY PAPE: I'm scampering looking

1 for the list.

2 PLANNING BOARD SECRETARY: I could  
3 send you one real quick, if you want.

4 THE WITNESS: Oh sure, yeah.

5 ATTORNEY PAPE: That would be great.

6 THE WITNESS: You are going to have to  
7 send to it, like, a different email address.

8 THE INTERPRETER: Okay.

9 ATTORNEY CUCCHIARO: Well, I mean, if  
10 you don't want to give the email address, we have  
11 Mr. Pape's email address and he can forward it to  
12 you.

13 THE WITNESS: My email address if  
14 fine. It's just US1132@aol.com.

15 BY ATTORNEY PAPE:

16 Q. And the plan that you are going to  
17 present is part of the package of plans that was  
18 previously filed and the landscape plan, the overall  
19 landscape plan for the project, Stuart?

20 A. Yes.

21 Q. Since it was filed, if you wanted to  
22 screen share --

23 PLANNING BOARD SECRETARY: Can you  
24 hold on one second because Mr. Nicastro got knocked  
25 off. One second.

1 VICE-CHAIRMAN HUSZAR: Of course.

2 ATTORNEY PAPE: Very fine.

3 PLANNING BOARD SECRETARY: And Stu, I  
4 might need you to unshare that for a moment so I can  
5 bring him back in.

6 THE WITNESS: You got it.

7 THE INTERPRETER: Thank you.

8 VICE-CHAIRMAN HUSZAR: Eileen, it  
9 appears Evelyn is off too.

10 PLANNING BOARD SECRETARY: All right.  
11 I will have to call her.

12 ATTORNEY CUCCHIARO: Just while we're  
13 waiting, is this A-46, the landscape plan dated --  
14 or last revised 12/15/21?

15 THE WITNESS: Well I was going to  
16 bring up the colored -- we prepared a new colored  
17 rendering that was submitted last week.

18 PLANNING BOARD SECRETARY: That's  
19 A-49.

20 THE WITNESS: A-49, great.

21 I'm sorry, I didn't mean to click on  
22 that.

23 THE INTERPRETER: Hold on one second.

24 ATTORNEY CUCCHIARO: Mr. Chair, I  
25 don't know, maybe if you want to take a five-minute

1 recess while we try to get the board members back?

2 VICE-CHAIRMAN HUSZAR: Yes, let's do  
3 that.

4 PLANNING BOARD SECRETARY: The board  
5 is going to take a five-minute recess.

6 (A recess is taken at 7:21 p.m.)

7 - - -

8 (The record resumes at 7:27 p.m.)

9 BOARD SECRETARY: The planning board  
10 will now reconvene.

11 ATTORNEY CUCCHIARO: Eileen, I think I  
12 heard Councilwoman O'Donnell say that she could  
13 hear, and obviously she could speak but she couldn't  
14 see; is that still the case?

15 COUNCILWOMAN O'DONNELL: I can see  
16 now. I'm in.

17 THE INTERPRETER: She's fine.

18 COUNCILWOMAN O'DONNELL: I'm good.

19 ATTORNEY CUCCHIARO: Okay, great.

20 ATTORNEY CUCCHIARO: Mr. Pape, I think  
21 we're good to go.

22 ATTORNEY PAPE: Thank you. So we were  
23 --

24 COUNCILWOMAN O'DONNELL: My apologies.

25 ATTORNEY PAPE: No -- we were about to

1 begin discussion on landscaping. Mr. Challoner was  
2 about to introduce what has been marked as A-49, the  
3 colored rendering of the landscape plan previously  
4 filed with the township.

5 With permission, Mr. Challoner will  
6 screen share and put that screen -- that exhibit up  
7 on the screen.

8 BY ATTORNEY PAPE:

9 Q. And the question that was posed to you,  
10 Mr. Challoner, was to identify the landscaping that  
11 you -- the changes that you made in response to  
12 comments from Ms. Spero and written comments that  
13 you received. And then if you would -- I outlined,  
14 but if you would testify to the quantity of trees  
15 removed and the quantity of trees proposed?

16 A. Okay. So the exhibit that is in front  
17 of -- is on the board; is that visible?

18 Q. Yes.

19 A. Okay. A-49. It's a colored  
20 rendering. It has been updated to show the  
21 improvements on Fort Plains Road. We've also added  
22 some additional buffer trees. There is a pretty  
23 substantial buffer tree to the north of the  
24 property.

25 There's a hedgerow. We added

1 additional buffer -- trees in the 50-foot buffer  
2 area. We also added trees along -- all along,  
3 buffer trees along Fort Plains, behind the proposed  
4 buildings, along that entire length of roadway.

5 The street trees were already there.  
6 The type of street trees were changed. There was a  
7 suggestion that they would rather see a large  
8 grouping of the same types of trees. So that has  
9 been amended to the plan. And then the species of  
10 trees have been updated per the recommendations of  
11 your professionals.

12 So that generally is the changes to the  
13 landscaping plan. There is -- this is a 102-acre  
14 site. On-site there is approximately two acres of  
15 clearing on the property. And there is an  
16 additional acre of clearing for the construction of  
17 the force main through, through the trail that will  
18 run through the back of the property and tie into  
19 the -- the sewer system will tie into the sewer on  
20 Fifth Street, just to the northeast of our property.  
21 So there's an additional one acre, so it's  
22 approximately 3 and a half acres of trees total that  
23 would be removed.

24 We did a count on-site. The woodlands  
25 management plan identifies the trees, the majority

1 of the trees that are being removed. On-site we  
2 counted the 102 trees. And then we allowed for the  
3 one acre of clearing off-site for the force main,  
4 additional 100 trees. So we're anticipating that  
5 there will be approximately 200 -- 202 trees removed  
6 for this project.

7                   There is a total of new trees being  
8 planted of 599 trees total, not including the  
9 foundation plantings for the condos. Of those 590  
10 trees we would anticipate 200 -- approximately 249  
11 of them will be street trees. So that will leave  
12 approximately 350 trees, new shade trees, buffer  
13 trees being planted throughout the property.

14                   BOARD PLANNER: So can I just jump in?

15                   THE WITNESS: Sure.

16                   BOARD PLANNER: This plan is not  
17 impressive, in my opinion. It looks anorexic in the  
18 landscaping. I know you want to go for the number  
19 but -- but the buffer plantings are not impressive,  
20 in my opinion. Like, it's really unimpressive. I  
21 mean, I don't even know what to say about it.

22                   Like, if you look at the area that is  
23 up against that cul-de-sac that is to the left side  
24 of the screen, it's like dot, dot, dot, dot, dot.  
25 That's not impressive to me. And then down on the

1 lower part of the -- like, I just -- I don't know  
2 what it is going to take to impress upon you guys  
3 that this is important. It's not -- I'm not  
4 impressed.

5 So, obviously, the board is going to do  
6 what they're going to do and that is up to them but  
7 I am literally not impressed.

8 ATTORNEY PAPE: So if I may, I  
9 appreciate the comment and I would like an  
10 opportunity to hear some further direction.

11 This landscaping plan was created over  
12 the past four months responding to comments that we  
13 had received from Ms. Spero. And we, based on  
14 recent reports, we believed that we had achieved  
15 that which was required.

16 Do you have suggestions of where  
17 additional landscaping would be beneficial? We  
18 would be most interested in knowing and having an  
19 opportunity to respond.

20 BOARD PLANNER: I mean, if you look at  
21 the area up against that cul-de-sac that is to the  
22 left side of the screen, in the lower portion, I'm  
23 not understanding what -- how you think -- I get  
24 that there is landscaping on the adjacent property,  
25 but I don't care about that. So I'm not



1 understanding how dot, dot, dot, dot, dot, dot, dot,  
2 seperated and apart is going to do anything.

3 ATTORNEY PAPE: Okay.

4 BOARD PLANNER: I'm not impressed. I  
5 mean, I have to say I'm not impressed.

6 ATTORNEY PAPE: The goal is -- the  
7 goal is to have a plan that is satisfactory.

8 We had done the field inspection. We  
9 had flown drones around the site to get accurate  
10 descriptions of the perimeter plantings. And then  
11 we had used the field inspection and that drone  
12 report to create the plan.

13 If there's additional landscaping  
14 required it's not something that was brought to our  
15 attention previously. It is a valid comment. If it  
16 is a sincere comment, we would like an opportunity  
17 to work with you to address it.

18 BOARD PLANNER: I mean, I'm going to  
19 defer to the board and defer to Shari, but I'm  
20 not -- I'm not thrilled, honestly.

21 MEMBER NICASTRO: Mr. Chairman? Mr.  
22 Chairman, may I?

23 VICE-CHAIRMAN HUSZAR: Sure, Rob.

24 MEMBER NICASTRO: Is Shari on? Is  
25 Shari on? Because I only see the map up.

1 VICE-CHAIRMAN HUSZAR: Rob, we can't  
2 see you.

3 MEMBER NICASTRO: How come?

4 THE WITNESS: If you want me to stop  
5 screen sharing, I can.

6 MEMBER NICASTRO: Yeah, because your  
7 screen sharing -- so I don't...

8 THE INTERPRETER: There's Shari.

9 MEMBER NICASTRO: Shari, are you on?

10 BOARD TREE EXPERT: Hi. I'm on.

11 MEMBER NICASTRO: Shari, not to  
12 belabor this. You heard the comments from Jennifer.  
13 You had conversations with them. I, personally,  
14 don't think this plan is acceptable either. They're  
15 saying these comments are from you. I don't want to  
16 throw anybody under the bus but, you know, it's  
17 7:35, we're beginning up landscaping again.

18 So can you opine?

19 BOARD TREE EXPERT: Yeah. I mean I  
20 certainly could ask for more. There is room for  
21 more. That back area where Jen is talking about  
22 there is an existing, mature, full white pine buffer  
23 over there. So that area isn't as densely treed  
24 just because it's -- you can't see through it, you  
25 know, even in the winter.

1                   So we added additional trees because I  
2     didn't -- originally they wanted no trees there due  
3     to the existing buffer. So, you know, I had them  
4     space them out farther just to allow these trees.  
5     And they're also spruces, not Green Giants, that  
6     will get, you know, much greater in size, really  
7     just to take the place of the pines as they  
8     eventually, you know, since they're -- I don't know  
9     how old, but older than these trees will be, so once  
10    they go out we'll have a new buffer here that is  
11    planted.

12                   It's also right now, I mean the plan  
13    shows this pretty much clear, but it is vegetated  
14    with sweet gum saplings. I don't know if you are  
15    familiar with how they grow, but they grow so close  
16    together you can't walk through them.

17                   So they're small now but that area can  
18    be left and allow those sweet gum trees to just fill  
19    in along with the spruce trees.

20                   MEMBER NICASTRO: So the spruces  
21    they're planting are what size? Because they take a  
22    while to mature and to fill in. Are they three  
23    footers? Four footers?

24                   BOARD TREE EXPERT: No. Let me zoom  
25    in. I want to say they're maybe ten.

1                   BOARD PLANNER: The concern is, is  
2     that is it on our site, is it on this site, or is it  
3     on the neighbor's site? Because if it's on the  
4     neighbor's site, like, we can't rely upon that. So  
5     if we're relying upon what's there off our property,  
6     off this property, we cannot. They have to provide  
7     the buffer on the site, period, regardless of what's  
8     off-site.

9                   So, you know, we have to make sure that  
10    what is on-site is going to be providing an adequate  
11    buffer. And if they have to enhance it, we should  
12    push it. You know, because what happens if  
13    something happens off-site and all those trees go  
14    away? Like we can't depend upon those.

15                  BOARD TREE EXPERT: Right.

16                  ATTORNEY PAPE: I think that we are  
17    relying on trees that we are planting and we are  
18    acknowledging those trees on others, but we're  
19    relying for purposes of our landscape plan and what  
20    Mr. Challoner testified to, that's the landscaping  
21    that we propose.

22                  BOARD PLANNER: Right. But what he  
23    showed us in that exhibit was like dot, dot, dot,  
24    dot, dot, dot. It was not a great landscaping  
25    exhibit to show.

1                   ATTORNEY PAPE:    Okay.

2                   BOARD ENGINEER:   If I could also just  
3   ask a question because I want to make sure we have  
4   this information?

5                   Shari, there was a lot of discussion  
6   about acreage being removed, total number of trees  
7   being removed and number of trees being replanted.  
8   But, correct me if I'm wrong, we still have a  
9   comment that we wanted that information to be  
10  documented; is that correct?

11                  BOARD TREE EXPERT:   Right.   The  
12  numbers that Mr. Challoner just went over I hadn't  
13  had yet.   That was part of our report, like you  
14  said, asking for those specific numbers.

15                  BOARD ENGINEER:    Thank you.

16                  COUNCILWOMAN O'DONNELL:   Mr. Chair, if  
17  I might?   In terms of the north side, perhaps just  
18  the way things are planted, in a staggering fashion,  
19  you know, like a triangle-type thing; so -- as Jen  
20  said you can't rely on the neighbor, you know, this  
21  application stands on its own merit.   So perhaps the  
22  way it is planted would also be an asset.

23                  ATTORNEY PAPE:    If I may, we thought  
24  that we had followed all the guidance that had been  
25  provided to us.   We were not in any way looking to

1 skimp on the landscaping or in any way have an  
2 inappropriate landscape plan.

3 In fact, to the contrary. There was,  
4 as I indicated, there were field inspections, the  
5 zooms -- the drones so that we could get a true  
6 picture, and then we worked on the plan. If the  
7 plan is -- if there's additional plantings  
8 recommended by either Ms. Beahm or Ms. Spero, Ms.  
9 Neumann or the board, we are comfortable adding  
10 landscaping.

11 But it's our goal to be compliant with  
12 your requirements and your requests. We thought we  
13 were. So how you would like to move forward on that  
14 point, I would defer to the board. We want to  
15 be -- we want to deliver a plan that you're pleased  
16 with and we thought we did.

17 ATTORNEY CUCCHIARO: Mr. Pape?

18 ATTORNEY PAPE: Yes.

19 ATTORNEY CUCCHIARO: It's certainly up  
20 to the board, but, you know, perhaps Mr. Challoner  
21 finishing, you know, describing all of the changes  
22 that have been made gives the board a little more  
23 opportunity to contemplate how they would wish to  
24 move forward, and we can come back to it after Mr.  
25 Challoner is finished with his direct.

1                   ATTORNEY PAPE:   Terrific.   Okay, thank  
2   you.   And perhaps it may be appropriate to have a  
3   recess for us to regroup too, but not at this time.

4                   I also wanted to talk to the board  
5   about lighting.   As written in the reports of Ms.  
6   Neumann, there are no variances associated with this  
7   plan.   There is a single waiver.   And the waiver is  
8   a conundrum that, I think, this board has had to  
9   deal with in the past.   And that is you have  
10   lighting standards that create an almost impossible  
11   condition to meet.

12                  Your roadways are to be illuminated at  
13   .3 foot-candles.   Your parking areas are to be  
14   illuminated at .5 foot-candles.   And where we have  
15   parking areas in roadways, we are illuminating to .5  
16   even though they're part of the roads where they are  
17   to be .3.   And what happens is our overall average  
18   lighting is slightly above that which is permitted.  
19   And it's our goal to create safe lighting throughout  
20   all of the parking areas.

21                  So we do -- we have a request for a  
22   waiver for that condition.   And that's my outline of  
23   the situation.

24   BY ATTORNEY PAPE:

25                  Q.       Mr. Challoner, as the engineer, I'm

1 going to ask if you would testify to the request for  
2 the waiver, please?

3 A. Correct. So the lighting plan was,  
4 again, was one of the revisions that the board  
5 asked. All the light fixtures were changed to  
6 cobra-style light fixtures per the discussion. And  
7 the applicant increased the light coverage within  
8 the parking areas that are located on the roadways.  
9 So we increased the lighting in the parking areas.  
10 And then we had an average foot-candle for the  
11 roadways at .46 foot-candles, which is over I  
12 believe the .4 requirement. So the applicant is  
13 seeking a waiver for that slight increase.

14 ATTORNEY PAPE: And that is the only  
15 variance -- there are zero variances and that is the  
16 only waiver that we request of this board.

17 ATTORNEY CUCCHIARO: Mr. Pape?

18 ATTORNEY PAPE: Yes.

19 ATTORNEY CUCCHIARO: Just a question.  
20 Our Board Chairman, you know, as he stated when you  
21 requested the special meeting earlier in the month,  
22 is not here tonight. I know the Board Chairman  
23 usually asks the question about -- and Shari, you  
24 may need to help me -- what is the standard that the  
25 Board Chairman usually refers to; what is the name



1 of it?

2 BOARD TREE EXPERT: I'm sorry?

3 BOARD ENGINEER: IES standard. Yes, I  
4 think it's the IES standards, Ron.

5 ATTORNEY CUCCHIARO: Yes, IES.

6 So I'm sure he will ask and I will do  
7 this in his absence, although there's a request for  
8 a design waiver relief from the strict application  
9 of our ordinance, does the design satisfy the IES  
10 requirements?

11 BOARD TREE EXPERT: Yeah, I mean  
12 they --

13 ATTORNEY CUCCHIARO: Oh, no, no. I  
14 was just asking about IES. I'm asking Mr. Challoner  
15 whether it satisfies it.

16 THE WITNESS: Yes.

17 ATTORNEY CUCCHIARO: All right. So  
18 IES has been satisfied?

19 BOARD TREE EXPERT: Yes.

20 ATTORNEY CUCCHIARO: Okay.

21 ATTORNEY PAPE: And the reasoning  
22 behind the request is your applicant's goal was to  
23 create safe lighting throughout all parking areas  
24 and to have the minimum parking, minimum lighting  
25 that your ordinance permits in those areas and this

1 is the result.

2 I also wanted to talk about the  
3 contribution that our clients are obligated to make  
4 to the Township of Howell. In the developer's  
5 agreement there is language that requires our  
6 clients to expend \$800,000. 220,000 is earmarked  
7 for purposes of purchasing Lots 181 and 182, Block  
8 110. And the balance of \$580,000 was earmarked for  
9 road improvements.

10 The original language recommended that  
11 that money be used for intersection of Sunnyside  
12 Road and Fort Plains Road improvements, but we do  
13 not have any vested interest in where those funds  
14 are allocated. To the extent that the township has  
15 better use for those funds, for road improvements or  
16 traffic control improvements, we have no objection  
17 at all to the monies being so allocated.

18 That \$580,000 will be generated by the  
19 applicant. The first 58 CO -- the first 58 CO's  
20 will require a delivery of a \$10,000 check to the  
21 township. And it can go into such road improvement  
22 programs as the township directs.

23 I know that that was --

24 MEMBER NICASTRO: Chairman, if I may?  
25 Ken? Ken, with all due respect, that's a great

1 lawyer's answer, but at the last meeting I  
2 specifically asked --

3 ATTORNEY PAPE: Who's speaking?

4 MEMBER NICASTRO: -- that in your --  
5 it's Rob Nicastro. Ken, it's Nicastro. Sorry.

6 ATTORNEY PAPE: Yes, sir.

7 MEMBER NICASTRO: So I asked in the  
8 last report where in your report you had mentioned  
9 that the applicant was willing to contribute to the  
10 traffic light on West Farms and Sunnyside. The  
11 \$800,000 that the town negotiated, not the planning  
12 board, is spoken for. It's for the extra property  
13 and the widening of the width.

14 So to say that you have no objection to  
15 where the money goes, that money is spoken for. So  
16 my question is plain and simple; you had originally  
17 said in your report that the applicant was willing  
18 to make a fair share off-site improvement  
19 contribution to the traffic light.

20 So I'm going to ask it again; is that  
21 going to be something that your applicant is willing  
22 to do?

23 ATTORNEY PAPE: It's my understanding  
24 that the only cash contributions are those that are  
25 embodied in the developer's agreement. And that,

1 for road improvements, is limited to the \$800,000.

2 So, Mr. Nicastro, if the funds cannot  
3 be so allocated, then that's the extent that the  
4 funds can be made. There are no additional funds.

5 Amongst the requirements of the  
6 settlement, both in the court and in the document,  
7 is any and all costs in creating ordinances are to  
8 be -- that all of the costs enhancing elements of  
9 the town's ordinances do not apply to this project.

10 So the \$800,000 is the sole  
11 contribution.

12 MEMBER NICASTRO: So, Ron --

13 ATTORNEY CUCCHIARO: Mr. Chair --

14 MEMBER NICASTRO: -- my question to you  
15 is is this --

16 VICE-CHAIRMAN HUSZAR: Rob, you're  
17 cutting in and out. Rob.

18 MEMBER NICASTRO: -- this agreement  
19 was made between the township. Had nothing to do  
20 with the planning board. Okay.

21 Can you hear me now?

22 VICE-CHAIRMAN HUSZAR: Yeah. You're  
23 going in and out a little bit.

24 MEMBER NICASTRO: I'll speak slow.

25 Ron, there was an agreement made -- I don't know

1     why.

2                     Can you hear me now?

3                     VICE-CHAIRMAN HUSZAR:   Yes.

4                     ATTORNEY CUCCHIARO:   Clearly.   Yes.

5                     VICE-CHAIRMAN HUSZAR:   Not now.

6                     MEMBER NICASTRO:    Ron --

7                     ATTORNEY CUCCHIARO:   Yes.

8                     MEMBER NICASTRO:    Thank you.   Ron --

9                     ATTORNEY CUCCHIARO:   I think I know  
10    what the question is.

11                    MEMBER NICASTRO:   -- there was an  
12    agreement made with the township and not the  
13    planning board.

14                    ATTORNEY CUCCHIARO:   So here's --

15                    MEMBER NICASTRO:   We weren't privy to  
16    that --

17                    MEMBER NICASTRO:   Go ahead.   You know  
18    the question.

19                    ATTORNEY CUCCHIARO:   Yeah.   So a  
20    couple of different principles of law that come into  
21    play.   What binds a Land Use Board, and the case law  
22    with regard to site plans for planning boards  
23    specifically, is that we are bound by the township's  
24    ordinances.   We're governed by the township's  
25    ordinances.   The courts refer to it as jurisdiction

1     that is -- they call it tightly circumscribed. And  
2     what that means is our job -- not just our job, any  
3     planning board's job -- is principally to review a  
4     plan and determine whether it is consistent with the  
5     land use ordinance or whether it is not consistent.  
6     And where it is not consistent, whether the  
7     applicant has satisfied proofs to be granted relief.

8                 Where it is consistent, approvals are  
9     required. However, those approvals are subject to  
10    reasonable conditions. And reasonable, amongst the  
11    conditions that have been deemed reasonable by the  
12    courts pursuant to the Municipal Land Use Law, are  
13    pro rata contributions to things like traffic  
14    lights. You can't necessarily compel an applicant  
15    to foot the entire bill for a traffic light, but you  
16    can condition an approval on a pro rata  
17    contribution.

18                Now you have to overlay that general  
19    law that is applicable to site plan review with the  
20    fact that this is an affordable housing development.  
21    There is a separate body of law that meshes with the  
22    site plan laws. And what that says is that you  
23    can't impose what they call unnecessarily  
24    cost-generative elements into the approval process  
25    for an affordable housing project.

1                   Now this particular project has made  
2     its way through the legislative process at least  
3     twice that I'm aware of; one was, you know, the  
4     initial adoption of the ordinance and the ordinance  
5     that was adopted specifically to permit this project  
6     at this location. And there was a subsequent  
7     amendment to that ordinance which modified some of  
8     the design criteria.

9                   Neither of those times did the  
10    governing body provide in the ordinance an exemption  
11    from making a pro rata contribution. Things like  
12    that are often specifically referenced in an  
13    ordinance. Not simply just in a developers's  
14    agreement but in an ordinance. That was not the  
15    case here. Still, because it's affordable housing,  
16    you do have to refrain from imposing unnecessarily  
17    cost-generative elements.

18                  Now, what is unnecessarily cost  
19    generative? That is the key question. And  
20    unnecessarily cost generative generally means, you  
21    know, something that is imposed on an applicant that  
22    makes it more difficult to construct the affordable  
23    housing.

24                  So here, you know, I have not seen case  
25    law that talks about a pro rata contribution to

1 address traffic specifically generated by the  
2 project being deemed to be unnecessarily cost  
3 generative. You know, I'll give you an example. In  
4 some instances applicants have been required to  
5 extend utilities so that others can hookup into it.  
6 That's unnecessarily cost generative because it has  
7 nothing to do with creating affordable housing and  
8 it's a cost that makes it more difficult.

9           So, you know, that's where -- that's  
10 where you are. It is a -- it is a condition that,  
11 you know, the case law is clear, it's reasonable in  
12 the market-rate context. And in the unnecessarily  
13 cost-generative context there was a decision, you  
14 know -- or even an oversight, I don't know but like  
15 I said, it went through twice -- you know, that it  
16 was not included in the ordinance. And I have not  
17 heard testimony, and certainly there's an  
18 opportunity for testimony to be provided, as to why  
19 that pro rata contribution would be in some  
20 way -- in some way impair the creation of affordable  
21 housing.

22           So I don't know if that fully answers  
23 the question, Mr. Nicastro, but that's my  
24 understanding of how the law would apply to that  
25 kind of contribution in this context.



1                   MEMBER NICASTRO: It does. And I just  
2 want to put it on the record that we were not part  
3 of the agreement, because there are always those out  
4 there that like to criticize.

5                   So I want to make sure that we did ask  
6 for the traffic light, for a portion to be  
7 contributed, and now it's on the record.

8                   Thank you.

9                   ATTORNEY PAPE: If I may ask, is  
10 there, Mr. Cucchiaro or Mr. Nicastro, is there an  
11 ordinance on the books that establishes a  
12 transportation contribution? Is this -- is there an  
13 improvement, a traffic signal improvement that we're  
14 in that district? Just looking for some further  
15 guidance as to whether there's -- there is  
16 controlling ordinances that we need to -- need to  
17 speak to.

18                   I did not know -- I did not know of  
19 any.

20                   ATTORNEY CUCCHIARO: I can just tell  
21 you that the township has accepted -- and I don't  
22 know what fund they put it into; we don't get into  
23 it at that level, nor do we determine, you know, the  
24 dollar amounts -- but I don't have that at my  
25 fingertips at the moment, but certainly something --

1     it's a legitimate question. It can be discussed.

2                   ATTORNEY PAPE: Yeah. Often, if you  
3     have a transportation district and a transportation  
4     -- and there's identified improvements that are in  
5     your ordinance, the applicant comes to the property  
6     knowing what improvements are being asked. And also  
7     there's an ability to figure out the numerator and  
8     the denominator --

9                   MEMBER NICASTRO: Ken, I'm not going  
10    to play lawyer. Ken, I'm not going to play lawyer.

11                   VICE-CHAIRMAN HUSZAR: Rob, you're  
12    having some technical difficulties.

13                   MEMBER NICASTRO: Can you hear me?

14                   Nick, can I be heard?

15                   VICE-CHAIRMAN HUSZAR: In and out.  
16    Yeah, you're going in and out, Rob.

17                   MEMBER NICASTRO: If you can hear me --

18                   VICE-CHAIRMAN HUSZAR: Mr. Pape, we'll  
19    just see if Rob can re-connect there for a little  
20    bit.

21                   ATTORNEY PAPE: Surely.

22                   MEMBER DORATO: Nick, can I ask a  
23    quick question?

24                   VICE-CHAIRMAN HUSZAR: Yeah, go ahead,  
25    Paul.

1                   MEMBER DORATO:   What intersection are  
2   we talking about for a light; are we talking at Fort  
3   Plains and Sunnyside or are we talking Fort Plains  
4   and West Farms Road?

5                   MEMBER NICASTRO:   In their traffic  
6   report -- can you hear me now?

7                   VICE-CHAIRMAN HUSZAR:   Yes.

8                   MEMBER NICASTRO:   In their traffic  
9   report they recognized West Farms and Fort Plains.

10                   It was your engineer -- it was your  
11   traffic expert, Ken, that in the report that I read  
12   said that they would be contributing to traffic and  
13   that the applicant was willing to make a  
14   contribution.   Not our report, your report.

15                   So if you're making that claim, I'm not  
16   a lawyer, I just don't understand why you're not  
17   living up to that claim.

18                   ATTORNEY PAPE:   I'm not familiar with  
19   our traffic engineer making a statement that we are  
20   making contributions to a --

21                   MEMBER NICASTRO:   Well, let's go to  
22   the report, because I'm not a liar.   Let's go to the  
23   report.

24                   BOARD ENGINEER:   This was also  
25   discussed at length, I believe, at the October

1 hearing when your traffic engineer was present. He  
2 was specifically questioned as to why this was  
3 indicated in the report and then subsequently  
4 removed from the report. We spent a decent amount  
5 of time on it. I don't believe your traffic  
6 engineer was able to even quantify or answer the  
7 question as to why they noted that -- if we would  
8 make a fair share contribution towards a signal, if  
9 one was warranted. And then the same language was  
10 removed in a revised report.

11 ATTORNEY PAPE: My recollection of  
12 that is not the same as yours, but perhaps we'll get  
13 to a point where I can take a break and go over this  
14 with my client. I would like to get it resolved  
15 with you this evening.

16 VICE-CHAIRMAN HUSZAR: Mr. Pape, do  
17 you want that right now? Would you like --

18 ATTORNEY PAPE: I have one other topic  
19 that I wanted to address. And with your permission  
20 I would like to do that now and then we'll ask for  
21 that break, Mr. Chair, and that is just to share  
22 with you what other approvals and permits the  
23 applicant requires and what the applicant has done  
24 to date.

25 I will begin with the County Planning

1 Board. We do have a preliminary approval. We will  
2 be returning to the county when these plans are  
3 approved to request final approval.

4 We have our Freehold Soil Conservation  
5 certification. There's also a subcategory in  
6 Freehold Soil called a 5G3 permit, and we have that.

7 We have been working on the wastewater  
8 amendment. The township signed that application for  
9 us some time ago and we have been proceeding through  
10 all the governmental agencies; the county agency,  
11 Manasquan River Regional Sewage Authority and the  
12 state. And we are just about at the end of that  
13 process. When that wastewater management permit is  
14 issued we'll then promptly go down to the state for  
15 the Treatment Works Approval for the sewer line.

16 The water is provided by a private -- a  
17 private company, New Jersey American Water. It's  
18 not a permitting process. There's an application  
19 made and then we'll enter into a contract with them  
20 to bring water to the site.

21 We have made all the necessary  
22 applications to the New Jersey Department of  
23 Environmental Protection for our flood hazard and  
24 wetland permits. They're all pending.

25 We made application to the -- to the

1 health department. The health department inspected  
2 the removal of the septic system and well from the  
3 main property and that certification is in the  
4 town's possession.

5 We have the obligation to remove the  
6 septic system and well from the small residence that  
7 we will be purchasing later this spring. And when  
8 we are the owners of that property we'll do the same  
9 septic and well removal.

10 BY ATTORNEY PAPE:

11 Q. Mr. Challoner, I believe that I went  
12 through all of the approvals and permits that this  
13 applicant requires and shared with the board the  
14 status on all.

15 Is that correct?

16 A. That is correct, yes.

17 Q. And I think that it's a very accurate  
18 statement to say that your applicant has diligently  
19 identified and worked on all of the applications as  
20 well as working on this application with the  
21 township?

22 A. Yes.

23 ATTORNEY PAPE: Mr. Chair, at this  
24 point Mr. Challoner is available for any further  
25 examination, if the board wishes.

1                   If not, I would ask if we could take a  
2     ten-minute recess where I can discuss matters with  
3     my client.

4                   VICE-CHAIRMAN HUSZAR: Thank you, Mr.  
5     Pape. Just before you do, if anybody on the board  
6     has any questions for the testimony that was  
7     discussed by Mr. Challoner thus far, I think now  
8     would be a good time to chime in.

9                   MEMBER CRISTIANO: I do have one  
10    question.

11                  VICE-CHAIRMAN HUSZAR: Sure, Joe.

12                  MEMBER CRISTIANO: 1/15/2021, Dynamic  
13    Traffic performed a traffic study. I just wanted to  
14    ask if, since then, has there been any projects or  
15    significant impacts that have changed with Dynamic's  
16    study?

17                  ATTORNEY PAPE: Is that, Mr.  
18    Cristiano, is that the question?

19                  MEMBER CRISTIANO: Yes.

20                  ATTORNEY PAPE: Are there any new  
21    developments along the routes?

22                  MEMBER CRISTIANO: Yes. I would like  
23    to ask, maybe the engineers would know this.

24                  ATTORNEY PAPE: I think that, I would  
25    want to defer, but we do not know of any. I would

1 look to your professionals who might have a more  
2 complete knowledge of the projects that are working  
3 their way through the process. But we do not know  
4 any changes in the development along the routes that  
5 our traffic would travel.

6 BOARD ENGINEER: I would concur with  
7 that, Mr. Cristiano. And the other thing that they  
8 do in these reports is they put a build analysis in,  
9 so they do take into account some level of growth.

10 So no, they haven't done updated  
11 counts. A lot of the projects that we have seen in  
12 that area were already approved, so they were  
13 already included within the traffic study. And what  
14 they do is they put a growth rate in to capture  
15 projected future growth in the traffic report.

16 I'm not sure that totally answers your  
17 question, but it's the best I can do.

18 MEMBER CRISTIANO: Thank you very  
19 much.

20 VICE-CHAIRMAN HUSZAR: I just had one  
21 question. Do any of the proposed buildings have  
22 basements?

23 ATTORNEY PAPE: Do any of the --

24 VICE-CHAIRMAN HUSZAR: Proposed  
25 buildings have basements?



1                   THE WITNESS: Only the single-family,  
2 none of the condos. All the condos are slab  
3 construction.

4                   VICE-CHAIRMAN HUSZAR: I was just a  
5 little curious, I think it was Laura's comment  
6 letter, about the additional soil borings to the  
7 seasonal high water table across the site?

8                   THE WITNESS: Yes. We submitted, I  
9 think, six or seven sporadic borings throughout the  
10 single-family. And we agree that we will do  
11 additional borings, but we're not anticipating any  
12 changes. It was a good representation of that area.

13                   We held steadfast that the -- I think,  
14 the lowest basements was at Elevation 110 or 109,  
15 something like that, which is above the 100-year  
16 flood elevation of the pond. Most of the areas that  
17 are being developed where the condos are is in a  
18 fill condition. So none of them -- there won't be  
19 any excavation other than for sewer and water below  
20 the existing grade. All of that will be above  
21 existing grade. So again, no issue with water table  
22 on that side of the project either.

23                   And then the pond itself is a wet pond  
24 with a liner. So the seasonal high water table  
25 really doesn't have an effect either plus or minus

1 because it's going to act like a swimming pool; it's  
2 going to have a vinyl liner to keep all the water --  
3 to maintain the water level in that pond. So again,  
4 the seasonal high would not be indicative of how the  
5 wet pond is going to function.

6 MEMBER DORATO: I had a quick question  
7 on the pond as well.

8 THE WITNESS: Sure.

9 MEMBER DORATO: Prior testimony you  
10 said you're not going to have an aeration system in  
11 the pond, right?

12 THE WITNESS: That was our testimony,  
13 but we have since caved in and it has an aeration  
14 system.

15 MEMBER DORATO: What about the plan  
16 for when it has to be dredged?

17 THE WITNESS: Dredged? You mean if it  
18 has to be -- if it gets silted up?

19 MEMBER DORATO: Yes.

20 THE WITNESS: The applicant will be  
21 required to drain it and they'll muck it out.

22 BOARD ENGINEER: Even beyond that, Mr.  
23 Dorato, one, it's a privately-owned facility so they  
24 are responsible for the ongoing maintenance.  
25 However, the state has pretty strict guidelines as

1 to inspection requirements that are required to make  
2 sure that the basins are functioning. There's  
3 reporting that needs to be maintained, even when  
4 they're private facilities, to record that that's  
5 done.

6 But it would be on the, I am assuming,  
7 the association to maintain the basin.

8 THE WITNESS: That's correct.

9 MEMBER DORATO: And that's one of my  
10 concerns, just because I have some experience with  
11 that. We had to set aside a few hundred thousand  
12 dollars for that as a set aside from the beginning  
13 and we had one HOA here. This one has two, I  
14 believe, one that is going to be supported by the  
15 affordable housing element.

16 So I get a little concerned because if  
17 that is such a big expense. If that's not done, if  
18 there's an issue with the HOA, then that falls on  
19 the responsibility of the town.

20 BOARD PLANNER: No, it doesn't.

21 ATTORNEY PAPE: No.

22 MEMBER DORATO: No?

23 BOARD PLANNER: No, it does not.

24 Just because this is an affordable  
25 housing project in our plan doesn't mean the town is

1 obligated to do anything beyond zone for it and  
2 provide the opportunity. They're obligated to  
3 maintain and deal with whatever issues occur.

4 ATTORNEY PAPE: Yeah. So if I may  
5 speak to it, there is a homeowners association and a  
6 condominium owners association, and they will both  
7 be responsible for contributing to the basin. All  
8 of the -- all of the residential units will be  
9 contributing. The affordable are for-sale units.  
10 They'll be contributing.

11 And the association has the primary  
12 responsibility; they have an obligation to the town.  
13 They also have the obligation to the state. It's  
14 memorialized in the homeowners association  
15 documents. In the very unlikely event that there's  
16 ever an expense that the township incurs for basin  
17 maintenance, if they did an emergency repair, they  
18 have the legal right to create a tax that is then  
19 the obligation of the association members.

20 So it never goes to the town.

21 In years past, I remember doing  
22 associations in the '80s and the '90s and all of  
23 these elements were not present and the state's  
24 monitoring of basins was not present. But it's all  
25 there today.

1 MEMBER DORATO: Okay. Thank you.

2 ATTORNEY PAPE: Thank you for the  
3 opportunity.

4 MEMBER BOISVERT: All right, one last  
5 thing before you boogie, are we going to address Ms.  
6 Beahm's concern, and some of the other board  
7 members' concern about the buffer; are we going to  
8 see it a little more dense, I think? Right?

9 BOARD PLANNER: I would like that. I  
10 would like that, yes.

11 ATTORNEY PAPE: I will discuss it  
12 during our recess.

13 MEMBER BOISVERT: Yeah, a denser  
14 buffer would probably, most likely, be a much better  
15 way to go.

16 ATTORNEY PAPE: Understood. It was  
17 and remains our -- it remains our goal to do that  
18 which is satisfactory. We thought we had. Clearly,  
19 there's some -- there's other opinions.

20 MEMBER BOISVERT: Thank you.

21 ATTORNEY PAPE: Surely.

22 VICE-CHAIRMAN HUSZAR: Any other  
23 questions? Jen, Shari, Laura, do you guys have  
24 anything?

25 BOARD PLANNER: None from me.

1                   MEMBER CRISTIANO: Nick, I might have  
2 one for you, actually --

3                   VICE-CHAIRMAN HUSZAR: Go ahead.

4                   MEMBER CRISTIANO: -- as the  
5 environmental liaison. In the exhibits document  
6 that was supplied to us I noticed a couple of  
7 comments from the Environmental Commission. I just  
8 want to see if you guys got answers.

9                   One was that you wanted a full species  
10 report, not a partial. And also you were asking  
11 about woodlands management report be provided.

12                  VICE-CHAIRMAN HUSZAR: Yeah, I think  
13 the woodlands management kind of is what is going to  
14 be discussed with Mr. Pape and his team.

15                  The endangered species report I'm  
16 assuming -- we got a partial one, Ken.

17                  ATTORNEY PAPE: We gave you the whole  
18 thing.

19                  VICE-CHAIRMAN HUSZAR: Yeah, I mean we  
20 didn't have the whole thing, which I'm sure you have  
21 somewhere.

22                  ATTORNEY PAPE: Sure.

23                  VICE-CHAIRMAN HUSZAR: You know, we  
24 didn't get that.

25                  ATTORNEY PAPE: Mr. Chairman, today I

1 saw the January 12th comment. As you're aware, I  
2 think I went to the Environmental Commission on this  
3 project three times. And the last time I was there,  
4 in the fall, there was a letter issued indicating  
5 there were no further comments.

6 VICE-CHAIRMAN HUSZAR: Right.

7 ATTORNEY PAPE: So this one, there's  
8 no issue providing you with --

9 VICE-CHAIRMAN HUSZAR: Yeah, that's  
10 fine.

11 ATTORNEY PAPE: There is a woodlands  
12 plan; we provide them. It's our goal. We thought  
13 we had.

14 VICE-CHAIRMAN HUSZAR: Okay. If no  
15 further comments or questions --

16 ATTORNEY PAPE: If we could, it's --  
17 my wife says it's nine after eight -- perhaps come  
18 back at 8:20, give us an opportunity to have a chat?

19 VICE-CHAIRMAN HUSZAR: Sounds good.

20 ATTORNEY PAPE: Okay. Thank you very  
21 much. We'll be back shortly.

22 VICE-CHAIRMAN HUSZAR: Eileen, we're  
23 going to come back at 8:20.

24 PLANNING BOARD SECRETARY: Okay. The  
25 board will take a short recess. They'll be back at

1 8:20.

2 Thank you.

3 (A brief recess is taken at 8:08 p.m.)

4 - - -

5 (The record resumes at 8:20 p.m.)

6 PLANNING BOARD SECRETARY: The planning  
7 board will now reconvene.

8 VICE-CHAIRMAN HUSZAR: Just going to  
9 wait for Ron. He's there, cool. We'll wait for  
10 Laura and Paul to get back on and we'll start back  
11 up, Mr. Pape.

12 Okay, Mr. Pape.

13 ATTORNEY PAPE: Thank you, Mr. Chair,  
14 board members and board professionals. And thank  
15 you for the opportunity to go on break. I have two  
16 separate and distinct responses on the two points,  
17 the traffic signal request and the landscaping  
18 request.

19 The landscaping request -- and before  
20 advising that our client is prepared to increase the  
21 landscaping to the satisfaction of your  
22 professionals, both Shari Spero and Jennifer  
23 Beahm -- I did want to point out that the plantings,  
24 although they show up as green dots, as Ms. Beahm  
25 indicated, those are 6 to 8-foot blue spruces.



1 They're substantial trees that are going in.

2 But our client has indicated to me, and  
3 I can place on the record, we would be pleased to  
4 work with Jennifer Beahm and Shari Spero along those  
5 buffers to get them to a point where they are  
6 comfortable that they are serving the purposes that  
7 they are supposed to be serving. And we defer,  
8 working with Ms. Beahm and Ms. Spero many times in  
9 the past, I'm very comfortable that their  
10 requirements will be appropriate and reasonable and  
11 accordingly we would agree to it.

12 With regard to the traffic signal there  
13 was, as Mr. Nicastro pointed out -- and I had the  
14 benefit of a few moments to go through my files --  
15 there was a 2017 traffic report that was generated  
16 for this project. That 2017 traffic report did  
17 indicate that there would be -- there would be a  
18 contribution to the traffic signal.

19 In 2019, the town and the applicant,  
20 two years after that report was drafted, entered  
21 into an agreement. And the agreement included  
22 specific language about road improvements and  
23 off-site road improvements. The language is pretty  
24 complete. It appears in the Developer's Agreement,  
25 dated September 5th, 2019, under the category

1 "Off-site Contribution." And it indicates that the  
2 \$800,000 contribution is the total contribution for  
3 road improvements that is required of this  
4 applicant.

5 And for that reason we are not willing  
6 to make any further contributions. That  
7 contribution is a very substantial one and does  
8 provide for considerable funds for road  
9 improvements, as well as land for road improvements  
10 that our client is purchasing.

11 So understand the request. See that in  
12 the 2017 report. Before we entered into the 2019  
13 Developer's Agreement it was discussed. But because  
14 of the 2019 agreement and the substantial cash  
15 contribution, no further cash contribution is  
16 offered.

17 I hope that those -- I don't know if  
18 those were the answers people want to --

19 MEMBER NICASTRO: Ken, can you hear?

20 Can you put on the record who you dealt  
21 with in the town?

22 ATTORNEY PAPE: I was not involved  
23 in --

24 MEMBER NICASTRO: Chairman, can we get  
25 on the record --

1                   ATTORNEY PAPE: I can tell you who  
2 signed the agreement. I was not the negotiator of  
3 the agreement, Mr. Nicastro.

4                   MEMBER NICASTRO: -- who in the town  
5 negotiated it?

6                   ATTORNEY PAPE: I do not know who  
7 negotiated it, Mr. Nicastro. And I wasn't part of  
8 the negotiations. And Scott Caruso's brother, John,  
9 who is deceased, was the person who signed on behalf  
10 of FP Howell. And the township manager, Brian --  
11 help me pronounce -- Geoghegan --

12                  THE INTERPRETER: Geoghegan.

13                  ATTORNEY PAPE: -- oh, Geoghegan --  
14 signed on behalf of the town. And Mr. Andy Bayer,  
15 Esquire, was the attorney, who was the negotiator on  
16 behalf of the town.

17                  And that's the only information that I  
18 have, Mr. Nicastro.

19                  COUNCILWOMAN O'DONNELL: I have a  
20 question. Would we have knowledge of the 2017  
21 agreement, the money, how much was allocated for  
22 road improvements? What was the sum at that point  
23 in time?

24                  ATTORNEY PAPE: In 2017 there was no  
25 quantification. There was a report.

1                   And then there was -- and after the  
2                   -- it was a report that was generated by our client  
3                   prior to the application being filed with the  
4                   planning board. We entered into the agreement with  
5                   the town, the Developer's Agreement, that quantified  
6                   the \$800,000 on September 5th, 2019. And this  
7                   application that is before you followed.

8                   COUNCILWOMAN O'DONNELL: I understand.

9                   I'm relatively certain that another  
10                  builder's agreement in the future for any  
11                  application will be looked at with very strict eyes,  
12                  because it's disappointing that we don't have -- we  
13                  don't have anything directly allocated toward a  
14                  traffic light. So it is a disappointment to me.

15                 ATTORNEY PAPE: Understood.

16                 From the applicant's perspective  
17                 \$800,000 is a very substantial check to write for  
18                 road improvements that are off-tract.

19                 My experience with traffic signals --  
20                 and I'm just an attorney, I don't design them -- is  
21                 somewhere between 250 and \$300,000 --

22                 MEMBER NICASTRO: The projects that we  
23                 not --

24                 ATTORNEY PAPE: I'm sorry?

25                 COUNCILWOMAN O'DONNELL: Mr. Pape, I

1 understand your position solely and I am sure you  
2 can appreciate mine.

3 ATTORNEY PAPE: Yes, we do.

4 Negotiated in very good faith. Large numbers  
5 contributed. In fact --

6 MEMBER NICASTRO: Chair, with all due  
7 respect --

8 VICE-CHAIRMAN HUSZAR: Rob, again,  
9 you're going in and out. Rob -- we can't hear a  
10 word you're saying, Rob. It must be difficult  
11 deciphering that as the court reporter.

12 Rob, I don't know if you want to try  
13 and call in? It might be a little easier, so we can  
14 hear you clearly. Make sure you text him the number  
15 or email him.

16 Bear with us, folks.

17 ATTORNEY PAPE: Yeah, of course.

18 VICE-CHAIRMAN HUSZAR: Well, in the  
19 meantime I guess I have a question.

20 Ron, I guess it's directed to you  
21 because it seems like we had this issue at the last  
22 planning board meeting where I think we ended up  
23 deciding that it was going to be on the board  
24 professionals to come up with the final review of a  
25 plan. So, you know, is this going to get to a

1 point, if we do move forward with this application,  
2 that a revised landscaping plan is going to be on  
3 the board professionals and that the board itself  
4 will not have a chance to review it?

5 ATTORNEY CUCCHIARO: Well, first of  
6 all that's up to the board. But what I would say is  
7 that in reading the CME report, the comment in the  
8 woodland management plan section says that they  
9 could not come to a conclusion whether relief was  
10 required or not. The testimony tonight says that  
11 it's compliant but I would not recommend a  
12 conditional approval where the reports, you know,  
13 cannot determine whether relief is required and the  
14 testimony of your own professionals was that they  
15 didn't have an opportunity to receive that  
16 information.

17 So I think I would not recommend  
18 granting a preliminary and final, certainly. And I  
19 think that the board should determine whether it has  
20 enough interest to see that and have a level of  
21 comfort, or to express its discomfort with, with  
22 what is being shown.

23 So it's that portion as to whether you  
24 want to be in a position where if you determine to  
25 grant preliminary approval, you know, leave that to

1 something with the professionals and then it comes  
2 back on final, or whether you want to see it before  
3 you grant any approvals or denials. I think that's  
4 something for the board and its comfort.

5 But I certainly wouldn't recommend a  
6 final without, you know, a clear testimony and  
7 reports from your professionals that it's compliant  
8 with the ordinance.

9 VICE-CHAIRMAN HUSZAR: Thank you.

10 And then Shari, just to -- not to put  
11 you on the spot, but I'm going to put you on the  
12 spot. This is the first time you're hearing these  
13 numbers tonight?

14 BOARD TREE EXPERT: Right. We didn't  
15 have the exact numbers. We had asked for specifics.

16 ATTORNEY PAPE: Our request -- Mr.  
17 Cucchiaro's point taken. Ms. Spero's point taken.  
18 The testimony is on the record. The applicant has  
19 testified and quantified the numbers, so Mr.  
20 Challoner's veracity and professional license has  
21 been shared with you and his statements are on the  
22 record.

23 At a minimum we would ask that the  
24 board consider this application for preliminary, and  
25 prior to final we would work the landscape plan out

1 with your professionals and then present it to you  
2 for your consideration.

3 But the quantification of the trees  
4 are -- is on the record tonight.

5 VICE-CHAIRMAN HUSZAR: Thank you.

6 Well, at this point, any members of the  
7 board have any further questions?

8 MEMBER NICASTRO: Nick, can you hear  
9 me?

10 VICE-CHAIRMAN HUSZAR: Yeah, I got  
11 you, Rob.

12 MEMBER NICASTRO: Sorry about this. I  
13 don't know why the technical issues.

14 ATTORNEY PAPE: You have to turn one  
15 of them off.

16 MEMBER NICASTRO: Okay. So I just  
17 want to put on the record, Ken, that your  
18 application was not originally accepted in the plan  
19 by the council. We were assured, after speaking  
20 with other council members and the Mayor, that when  
21 we decided to add your application into the Fair  
22 Share, that your applicant was going to cooperate  
23 and assist in stuff that we recognized then that was  
24 going to be a problem, such as the traffic light.

25 So I could respect that your applicant



1 wants to only stick to the agreement that was made  
2 with the town. I'm disappointed that the Caruso  
3 brothers are not living up to their word when they  
4 spoke to the Mayor and said that they would  
5 cooperate and do what was needed. And the planning  
6 board never got a chance to negotiate that traffic  
7 contribution.

8 Let's just put that on the record.

9 ATTORNEY PAPE: And, Mr. Nicastro, I  
10 don't know the perspective that you -- I do not know  
11 the perspective that you have. And I'm certain, as  
12 a councilperson, your knowledge and perspective was  
13 different than that which the applicant had.

14 The applicant made a pledge to  
15 cooperate. And when requested to buy land and to  
16 make a contribution, accepted the numbers that were  
17 placed before him without negotiation. And that's  
18 the agreement that we have entered into.

19 So similar to the landscaping, we  
20 thought that we had done that which was requested of  
21 us. The landscaping, we're going further.

22 And the road improvements, your client  
23 did what he believed was asked of him. It is very  
24 substantial. It's a very substantial part of the  
25 expense. He'll stand by it, just not looking to

1 reopen it.

2 Appreciate your perspective.

3 VICE-CHAIRMAN HUSZAR: Any other  
4 questions?

5 COUNCILWOMAN O'DONNELL: Yes.

6 VICE-CHAIRMAN HUSZAR: Yeah, go ahead.

7 COUNCILWOMAN O'DONNELL: Mr. Pape, are  
8 you suggesting that this could be reopen for  
9 negotiation?

10 ATTORNEY PAPE: No. No, councilwoman.  
11 No.

12 VICE-CHAIRMAN HUSZAR: Jen, Laura,  
13 Shari, anything?

14 BOARD ENGINEER: Nothing from me.

15 BOARD TREE EXPERT: Nothing on my end.

16 VICE-CHAIRMAN SPEENEY: Mr. Pape, any  
17 further...

18 ATTORNEY PAPE: Before this evening  
19 concludes, Mr. Chair, the applicant would appreciate  
20 the opportunity to sum. And that is the applicant's  
21 direct presentation. The presentation made to the  
22 board on August 31st, October 7th and this evening  
23 represents the applicant's full direct presentation  
24 to the board.

25 VICE-CHAIRMAN HUSZAR: Thank you.

1                   ATTORNEY PAPE:   Thank you.

2                   ATTORNEY CUCCHIARO:   So, Mr. Pape,  
3   just to -- and I apologize --

4                   ATTORNEY PAPE:   Go ahead.

5                   ATTORNEY CUCCHIARO:   -- I was trying  
6   to multi-task and do legal research on the traffic  
7   issue and try to listen, and I didn't do either of  
8   them as well as I wanted to.

9                   Were you saying with regard to the -- I  
10   heard you say that the applicant wished to work with  
11   the board's professionals, and I answered the  
12   question with regard to how that could happen.

13                   What is the -- the applicant, I mean  
14   I'm sure the applicant would prefer a vote tonight,  
15   but was that just one of the ways that the applicant  
16   wished to proceed?   Was the applicant open to  
17   meeting with the board's professionals and coming  
18   back to a subsequent meeting that we could, you  
19   know, schedule whatever time frame you think is  
20   necessary to work that out?

21                   ATTORNEY PAPE:   The applicant's  
22   request is that the board consider the application  
23   preliminarily this evening.

24                   We did on the record quantify the tree  
25   removal and tree replacement.   That was the

1 information that Ms. Spero had asked that she wanted  
2 to have before her. We'll follow up with it in  
3 writing.

4 We certainly are prepared to meet with  
5 Ms. Spero and Ms. Beahm and others, if there are  
6 others who wish to meet with us, to discuss the  
7 landscaping plan. We did indicate that the  
8 reasonable and -- the professional and reasonable  
9 positions of Shari Spero and Jennifer Beahm with  
10 regard to landscaping are something that we are  
11 comfortable with, so we gave a blanket statement  
12 that we will comply with their requests. But we are  
13 asking the board to consider the application this  
14 evening for preliminary subdivision and site plan  
15 approval.

16 ATTORNEY CUCCHIARO: So for board  
17 members, I would leave it to you. You did  
18 accommodate the applicant, as Mr. Pape expressed  
19 gratitude for at the beginning, to hold the special  
20 hearing tonight. And I think it's up to the board  
21 as to whether you would like to see the landscaping  
22 resolved before any vote.

23 And certainly, you know, there's still  
24 a public portion that we have to hear either way.  
25 But it would -- if you held off for one meeting you

1 would have essentially what would probably be the  
2 final plan. The public would have an opportunity to  
3 comment on that level of detail, and the board could  
4 take a vote on preliminary and final probably at  
5 that time.

6           If you vote on preliminary, certainly  
7 you are required to open it up to public tonight.  
8 The public wouldn't have an opportunity to see the  
9 landscaping or -- I think the landscaping may be the  
10 only thing that changes, but any changes -- until  
11 the applicant comes back for final approval,  
12 whenever that may be. There's no requirement as to  
13 -- as to when they come back. So if there's a  
14 desire to engage the public in a more substantive  
15 and more complete way earlier on, then that would be  
16 to carry the meeting and have basically, you know,  
17 that last element resolved.

18           Again, you could do the preliminary but  
19 the public will not have an opportunity to see that,  
20 nor the board, the changes until final. And then  
21 there would be a -- you know, there would have to be  
22 a discussion at final as to whether it's appropriate  
23 or not.

24           So I leave that to the board. Either  
25 way, you know, is legally recognizable.

1                   VICE-CHAIRMAN HUSZAR: I mean, I'll  
2 give my two cents, for what it's worth.

3                   I would certainly like Jen and Shari to  
4 meet with the applicant. And I think it's only fair  
5 that the public see a full application, for what  
6 it's worth, so they can see it and we can see it as  
7 well. Like you mentioned, I understand that Mr.  
8 Challoner put his numbers on the record. However,  
9 you know, I would personally like to see it.

10                  That's where I'm going. And I think  
11 the public should see it, as well.

12                  COUNCILWOMAN O'DONNELL: I would  
13 concur, Mr. Chair. I think my comfort level would  
14 be satisfied if we postponed this for another  
15 meeting.

16                  VICE-CHAIRMAN HUSZAR: Any other  
17 members?

18                  MEMBER DORATO: Yeah, I agree with  
19 you, Nick.

20                  MEMBER GREENFIELD: I agree.

21                  VICE-CHAIRMAN HUSZAR: Ron, you're on  
22 mute.

23                  ATTORNEY CUCCHIARO: My question would  
24 be to our board's professionals and to Mr. Challoner  
25 as to what kind of time do you think is required to

1 get together, confer, submit whatever needs to be  
2 submitted.

3 THE WITNESS: I can meet with your  
4 professionals any time that they're available. And  
5 then I would say it would take me a week to add the  
6 additional trees so we could get prints made and get  
7 it back into the board. So we can be back on the  
8 first -- you know, I guess a meeting available near  
9 the end of February.

10 ATTORNEY CUCCHIARO: So our first  
11 regular meeting of February is Thursday. So it  
12 would be the third Thursday in February, correct,  
13 Eileen?

14 PLANNING BOARD SECRETARY: Yes. And  
15 there's three applications already carried to that  
16 night.

17 ATTORNEY CUCCHIARO: Well this is  
18 affordable housing application --

19 THE INTERPRETER: Okay.

20 ATTORNEY CUCCHIARO: -- so it takes  
21 precedence.

22 BOARD PLANNER: And it's one -- it's  
23 one minor issue. So if we could get that resolved  
24 it should be pretty quick, right?

25 ATTORNEY CUCCHIARO: Well, no. I mean

1 it depends upon how many interested parties are  
2 there.

3 BOARD PLANNER: True. I mean from our  
4 end. That's what I'm saying.

5 ATTORNEY CUCCHIARO: I don't like to  
6 jinx anything, but I suspect that could be the case.

7 So what is that date, Eileen; is that  
8 the 17th?

9 VICE-CHAIRMAN HUSZAR: 17th.

10 PLANNING BOARD SECRETARY:  
11 February 17th.

12 VICE-CHAIRMAN HUSZAR: Mr. Pape, is  
13 that -- is that okay for you?

14 And since we're opening it to the  
15 public all professionals that have testified would  
16 need to be available because they would need to have  
17 an opportunity, if they wish, to cross-examine.

18 ATTORNEY PAPE: I thought that we had  
19 concluded the cross-examination of the other  
20 witnesses.

21 ATTORNEY CUCCHIARO: Did we? All  
22 right.

23 ATTORNEY PAPE: Yeah.

24 ATTORNEY CUCCHIARO: I don't have that  
25 recollection, but if we did, that's fine.



1 ATTORNEY PAPE: Yeah.

2 Mr. Challoner, does the 17th work for  
3 you?

4 BOARD ENGINEER: Well, let's just --  
5 let's work backwards with the dates. Tomorrow is  
6 the 1st. I have to have the plans how many days in  
7 advance?

8 PLANNING BOARD SECRETARY: Ten.

9 THE WITNESS: Ten. So I have to have  
10 it in by the 7th.

11 ATTORNEY PAPE: Monday.

12 BOARD SECRETARY: Which is next  
13 Monday.

14 ATTORNEY CUCCHIARO: Which means that,  
15 you know, Shari and Jen --

16 ATTORNEY PAPE: Tomorrow.

17 ATTORNEY CUCCHIARO: -- if that is  
18 okay --

19 BOARD PLANNER: I'm available.

20 ATTORNEY CUCCHIARO: Okay.

21 THE WITNESS: Okay. All right, I'll  
22 make that work.

23 BOARD TREE EXPERT: Yeah, I can do that  
24 too.

25 ATTORNEY CUCCHIARO: Okay.

1 THE WITNESS: I'll make that work, no  
2 problem.

3 ATTORNEY PAPE: So the 17th we'll  
4 return. Immediately, Stu, Jennifer Beahm and Shari  
5 Spero will convene. Will that be a Zoom?

6 ATTORNEY CUCCHIARO: Yes.

7 ATTORNEY PAPE: So convene.

8 Ms. Neumann, do you wish to participate  
9 in that discussion?

10 BOARD ENGINEER: I don't think my  
11 presence is necessary. I defer to you. I can  
12 certainly make myself available.

13 ATTORNEY PAPE: Okay. Then we'll --  
14 Stuart, Ms. Beahm and Ms. Spero will make prompt  
15 arrangements in the next 24 hours to convene. We'll  
16 make a commitment to have the revised landscape  
17 plans filed by Monday the 7th, and we'll return to  
18 this board on the 17th.

19 I don't know where we're going to break  
20 here, Mr. Chair, but before we do, any other topics  
21 that any members of the board want to hear further  
22 from the applicant, please share with us this  
23 evening.

24 From our notes we believe we have  
25 addressed all of the concerns that were brought to

1     our attention.

2                   PLANNING BOARD SECRETARY:   Mr. Pape,  
3     before we go any further, I will also need an  
4     extension of time on the application.

5                   ATTORNEY PAPE:   With our client's  
6     authorization on the record, the extension is  
7     granted until the end of February.   And I will  
8     follow it with a letter tomorrow.

9                   PLANNING BOARD SECRETARY:   Thank you.

10                  ATTORNEY PAPE:   Thank you.

11                  ATTORNEY CUCCHIARO:   Okay, so let me  
12     just make the announcement.

13                  The application of FP Howell, LLC, The  
14     Views at Monmouth Manor, Case Number -- is that an  
15     "SD", Eileen?

16                  PLANNING BOARD SECRETARY:   Yes.  
17     SD-2990.

18                  ATTORNEY CUCCHIARO:   Right -- SD-2990  
19     will be carried to the board's February 17, 2022,  
20     meeting.   That meeting will be a virtual meeting  
21     that begins at 7:00 o'clock.

22                  The instructions on how to access the  
23     virtual meeting will be available on the township's  
24     website at least ten days prior.

25                  All documents associated with the

1 application are also available on the township's  
2 website and can be viewed and printed out and  
3 inspected by members of the public.

4 If there are any members of the public  
5 here who had received a personal notice, you will  
6 not receive another personal notice in the mail.  
7 This is your personal notice.

8 Again, no further notice to property  
9 owners. Meeting carried to February 17, 2022.

10 ATTORNEY PAPE: So I'm looking to you,  
11 Mr. Chair, does that conclude this evening's  
12 presentation to the board?

13 VICE-CHAIRMAN HUSZAR: I think that --

14 BOARD PLANNER: Ron, there's someone  
15 in the public that has their hand raised. I don't  
16 know if you want to open it.

17 ATTORNEY CUCCHIARO: The public is not  
18 open at this time.

19 PLANNING BOARD SECRETARY: That's the  
20 court reporter.

21 Oh, there is somebody else now but  
22 they're not opening it to the public.

23 ATTORNEY CUCCHIARO: We will have the  
24 final plan on the 17th. The meeting will be open to  
25 the public.

1                   Everyone who wants to have an  
2                   opportunity to speak, to ask questions, if they want  
3                   to present their own professionals, everyone is  
4                   going to have an opportunity to do that. I just  
5                   want to be clear that no one will be limited or  
6                   prohibited to any participation that is relevant to  
7                   the proceedings.

8                   ATTORNEY PAPE: To our court reporter,  
9                   who I know can hear me, please consider this to be a  
10                  request to prepare the transcript on an expedited  
11                  basis so we can get it to Mr. Chairman -- Mr.  
12                  Tannenhause, who was not able to be here this  
13                  evening, please. Thank you...

14                  And to Mr. Chair, board members and  
15                  board professionals, thank you all. We'll follow  
16                  the outline that we placed on the record and we'll  
17                  see you again on the 17th.

18                  VICE-CHAIRMAN HUSZAR: Thank you, Mr.  
19                  Pape.

20                  ATTORNEY PAPE: Thank you. Good  
21                  night, all.

22                  VICE-CHAIRMAN HUSZAR: Good night.

23

24                  (Application adjourned at 8:46 p.m.)

25

## C E R T I F I C A T E

I, ANGELA C. BUONANTUONO, a Notary Public and Certified Court Reporter of the State of New Jersey and Registered Professional Reporter, do hereby certify that prior to the commencement, the witness was duly sworn to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceeding as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

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



---

Angela C. Buonantuono, CCR, RPR, CLR  
NJ State Board of Court Reporting  
License No. 30XI00233100

Dated: February 5, 2022

<b>\$</b>	<b>12/6/21</b> [3] - 291:9, 291:15, 291:16 <b>12/8/21</b> [1] - 291:13 <b>12th</b> [1] - 339:1 <b>15</b> [1] - 295:5 <b>15-foot</b> [1] - 297:18 <b>166</b> [1] - 286:5 <b>17</b> [2] - 359:19, 360:9 <b>17th</b> [8] - 356:8, 356:9, 356:11, 357:2, 358:3, 358:18, 360:24, 361:17 <b>181</b> [2] - 286:5, 318:7 <b>182</b> [2] - 286:5, 318:7 <b>1st</b> [1] - 357:6	<b>4</b>	<b>A</b>	308:17, 309:13, 311:1, 314:7, 320:4, 333:6, 333:11, 355:6 <b>address</b> [11] - 295:17, 295:24, 299:21, 302:7, 302:10, 302:11, 302:13, 309:17, 324:1, 328:19, 337:5 <b>ADDRESS</b> [1] - 288:13 <b>addressed</b> [1] - 358:25 <b>adequate</b> [1] - 312:10 <b>adjacent</b> [1] - 308:24 <b>adjoining</b> [1] - 300:14 <b>adjourned</b> [1] - 361:24 <b>administratively</b> [1] - 293:20 <b>adopted</b> [2] - 299:9, 323:5 <b>adoption</b> [1] - 323:4 <b>advance</b> [1] - 357:7 <b>advising</b> [1] - 340:20 <b>Advisory</b> [3] - 291:4, 291:10, 291:11 <b>aeration</b> [2] - 334:10, 334:13 <b>affordable</b> [12] - 293:16, 294:8, 322:20, 322:25, 323:15, 323:22, 324:7, 324:20, 335:15, 335:24, 336:9, 355:18 <b>agencies</b> [1] - 329:10 <b>agency</b> [1] - 329:10 <b>ago</b> [1] - 329:9 <b>agree</b> [4] - 333:10, 341:11, 354:18, 354:20 <b>agreement</b> [20] - 294:5, 294:9, 294:17, 318:5, 319:25, 320:18, 320:25, 321:12, 323:14, 325:3, 341:21, 342:14, 343:2, 343:3, 343:21, 344:4, 344:10, 349:1, 349:18 <b>Agreement</b> [4] - 294:18, 341:24, 342:13, 344:5 <b>ahead</b> [6] - 293:5, 321:17, 326:24, 338:3, 350:6, 351:4 <b>Algonquin</b> [1] - 286:24 <b>allocated</b> [5] - 318:14,
<b>'80s</b> [1] - 336:22 <b>'90s</b> [1] - 336:22	<b>2</b>	<b>5</b>	<b>A-36</b> [1] - 289:4 <b>A-37</b> [1] - 289:6 <b>A-38</b> [1] - 289:8 <b>A-39</b> [1] - 289:10 <b>A-40</b> [1] - 289:12 <b>A-41</b> [1] - 289:15 <b>A-42</b> [1] - 289:18 <b>A-43</b> [1] - 289:20 <b>A-44</b> [1] - 289:23 <b>A-45</b> [1] - 290:4 <b>A-46</b> [2] - 290:6, 303:13 <b>A-47</b> [1] - 290:9 <b>A-48</b> [1] - 290:11 <b>A-49</b> [4] - 303:19, 303:20, 305:2, 305:19 <b>AB</b> [1] - 286:23 <b>ability</b> [1] - 326:7 <b>able</b> [2] - 328:6, 361:12 <b>absence</b> [1] - 317:7 <b>accept</b> [1] - 300:17 <b>acceptable</b> [1] - 310:14 <b>accepted</b> [3] - 325:21, 348:18, 349:16 <b>access</b> [1] - 359:22 <b>accommodate</b> [1] - 352:18 <b>accordance</b> [1] - 299:25 <b>accordingly</b> [1] - 341:11 <b>account</b> [1] - 332:9 <b>accurate</b> [3] - 309:9, 330:17, 362:10 <b>achieved</b> [1] - 308:14 <b>acknowledging</b> [1] - 312:18 <b>acre</b> [3] - 306:16, 306:21, 307:3 <b>acreage</b> [1] - 313:6 <b>acres</b> [3] - 296:12, 306:14, 306:22 <b>act</b> [1] - 334:1 <b>action</b> [2] - 362:15, 362:18 <b>add</b> [2] - 348:21, 355:5 <b>added</b> [6] - 298:1, 298:4, 305:21, 305:25, 306:2, 311:1 <b>adding</b> [1] - 314:9 <b>additional</b> [16] - 297:22, 297:25, 298:1, 305:22, 306:1, 306:16, 306:21, 307:4,	
<b>0</b>	<b>20-foot</b> [1] - 297:21 <b>200</b> [2] - 307:5, 307:10 <b>2017</b> [7] - 289:17, 341:15, 341:16, 342:12, 343:20, 343:24 <b>2019</b> [5] - 341:19, 341:25, 342:12, 342:14, 344:6 <b>202</b> [1] - 307:5 <b>2021</b> [1] - 299:9 <b>2022</b> [4] - 286:8, 359:19, 360:9, 362:25 <b>203</b> [1] - 296:13 <b>220,000</b> [1] - 318:6 <b>24</b> [1] - 358:15 <b>249</b> [1] - 307:10 <b>250</b> [1] - 344:21 <b>26</b> [1] - 286:24 <b>27</b> [1] - 289:17	<b>6</b>	<b>6</b> [1] - 340:25 <b>60</b> [1] - 295:20	
<b>1</b>	<b>3</b>	<b>7</b>	<b>7</b> [1] - 290:6 <b>7/13/21</b> [1] - 290:5 <b>732-679-6554</b> [1] - 287:5 <b>732-679-8844</b> [1] - 287:4 <b>732)882-3590</b> [1] - 286:25 <b>7:00</b> [2] - 286:9, 359:21 <b>7:21</b> [1] - 304:6 <b>7:27</b> [1] - 304:8 <b>7:35</b> [1] - 310:17 <b>7th</b> [7] - 293:20, 295:3, 297:14, 350:22, 357:10, 358:17	
<b>1</b> [1] - 290:9 <b>1/12/22</b> [1] - 291:22 <b>1/15/2021</b> [1] - 331:12 <b>1/4/22</b> [1] - 291:19 <b>1/6/22</b> [1] - 291:21 <b>10</b> [1] - 295:4 <b>10-5-21</b> [1] - 289:5 <b>10/01/21</b> [1] - 290:19 <b>10/13/21</b> [1] - 290:24 <b>10/18/21</b> [2] - 289:7, 290:22 <b>10/20/21</b> [1] - 290:25 <b>10/28/21</b> [1] - 291:10 <b>10/5/20</b> [1] - 289:21 <b>100</b> [1] - 307:4 <b>100-year</b> [1] - 333:15 <b>102</b> [1] - 307:2 <b>102-acre</b> [2] - 296:11, 306:13 <b>109</b> [1] - 333:14 <b>11/10/21</b> [4] - 289:9, 289:11, 289:15, 291:6 <b>11/17/21</b> [1] - 291:7 <b>11/18/21</b> [1] - 291:12 <b>110</b> [3] - 286:5, 318:8, 333:14 <b>12</b> [1] - 289:17 <b>12/13/21</b> [2] - 290:10, 290:12 <b>12/14/21</b> [2] - 289:22, 289:25 <b>12/15/21</b> [3] - 289:19, 290:8, 303:14 <b>12/29/21</b> [1] - 291:18 <b>12/5/21</b> [1] - 290:5 <b>12/50/21</b> [1] - 290:5	<b>300-foot</b> [1] - 299:1 <b>30XI00233100</b> [2] - 286:21, 362:24 <b>31</b> [1] - 286:8 <b>31st</b> [2] - 293:19, 350:22 <b>33</b> [1] - 287:3 <b>350</b> [2] - 296:13, 307:12	<b>8</b>	<b>8-foot</b> [1] - 340:25 <b>8:08</b> [1] - 340:3 <b>8:20</b> [4] - 339:18, 339:23, 340:1, 340:5 <b>8:46</b> [1] - 361:24	
		<b>9</b>	<b>9/22/21</b> [1] - 290:21 <b>9/23/21</b> [1] - 291:4 <b>9/28/21</b> [1] - 290:18	

<p>318:17, 320:3, 343:21, 344:13 <b>allow</b> [3] - 298:24, 311:4, 311:18 <b>allowed</b> [1] - 307:2 <b>almost</b> [1] - 315:10 <b>ALSO</b> [1] - 286:17 <b>amended</b> [1] - 306:9 <b>amendment</b> [2] - 323:7, 329:8 <b>American</b> [1] - 329:17 <b>amount</b> [1] - 328:4 <b>amounts</b> [1] - 325:24 <b>analysis</b> [1] - 332:8 <b>AND</b> [1] - 286:6 <b>Andy</b> [1] - 343:14 <b>angela</b> [1] - 362:23 <b>ANGELA</b> [2] - 286:21, 362:3 <b>angelabuonocsr@ gmail.com</b> [1] - 286:25 <b>announcement</b> [1] - 359:12 <b>anorexic</b> [1] - 307:17 <b>answer</b> [2] - 319:1, 328:6 <b>answered</b> [1] - 351:11 <b>answers</b> [4] - 324:22, 332:16, 338:8, 342:18 <b>anticipate</b> [1] - 307:10 <b>anticipating</b> [2] - 307:4, 333:11 <b>apart</b> [1] - 309:2 <b>apologies</b> [1] - 304:24 <b>apologize</b> [1] - 351:3 <b>appearance</b> [1] - 292:2 <b>applicable</b> [1] - 322:19 <b>Applicant</b> [1] - 287:6 <b>APPLICANT</b> [1] - 289:2 <b>applicant</b> [38] - 293:11, 294:9, 296:6, 297:22, 300:15, 316:7, 316:12, 318:19, 319:9, 319:17, 319:21, 322:7, 322:14, 323:21, 326:5, 327:13, 328:23, 330:13, 330:18, 334:20, 341:19, 342:4, 347:18, 348:22, 348:25, 349:13, 349:14, 350:19, 351:10, 351:13,</p>	<p>351:14, 351:15, 351:16, 352:18, 353:11, 354:4, 358:22 <b>applicant's</b> [7] - 296:6, 296:18, 317:22, 344:16, 350:20, 350:23, 351:21 <b>applicants</b> [1] - 324:4 <b>application</b> [24] - 293:13, 294:20, 294:25, 297:3, 313:21, 317:8, 329:8, 329:18, 329:25, 330:20, 344:3, 344:7, 344:11, 346:1, 347:24, 348:18, 348:21, 351:22, 352:13, 354:5, 355:18, 359:4, 359:13, 360:1 <b>Application</b> [1] - 361:24 <b>applications</b> [3] - 329:22, 330:19, 355:15 <b>apply</b> [2] - 320:9, 324:24 <b>appreciate</b> [6] - 293:22, 296:25, 308:9, 345:2, 350:2, 350:19 <b>appropriate</b> [3] - 315:2, 341:10, 353:22 <b>approval</b> [8] - 322:16, 322:24, 329:1, 329:3, 346:12, 346:25, 352:15, 353:11 <b>Approval</b> [1] - 329:15 <b>approvals</b> [6] - 296:16, 322:8, 322:9, 328:22, 330:12, 347:3 <b>approved</b> [2] - 329:3, 332:12 <b>area</b> [9] - 301:1, 306:2, 307:22, 308:21, 310:21, 310:23, 311:17, 332:12, 333:12 <b>areas</b> [9] - 298:5, 315:13, 315:15, 315:20, 316:8, 316:9, 317:23, 317:25, 333:16 <b>arrangements</b> [1] -</p>	<p>358:15 <b>aside</b> [2] - 335:11, 335:12 <b>asset</b> [1] - 313:22 <b>assist</b> [1] - 348:23 <b>associated</b> [2] - 315:6, 359:25 <b>Associates</b> [9] - 289:5, 289:8, 289:14, 289:19, 289:21, 289:24, 290:4, 290:10, 290:12 <b>association</b> [6] - 335:7, 336:5, 336:6, 336:11, 336:14, 336:19 <b>associations</b> [1] - 336:22 <b>assuming</b> [2] - 335:6, 338:16 <b>assured</b> [1] - 348:19 <b>AT</b> [1] - 286:9 <b>attention</b> [3] - 296:5, 309:15, 359:1 <b>ATTORNEY</b> [132] - 292:1, 292:15, 292:18, 292:21, 292:25, 293:8, 297:9, 301:10, 301:13, 301:14, 301:18, 301:19, 301:25, 302:5, 302:9, 302:15, 303:2, 303:12, 303:24, 304:11, 304:19, 304:20, 304:22, 304:25, 305:8, 308:8, 309:3, 309:6, 312:16, 313:1, 313:23, 314:17, 314:18, 314:19, 315:1, 315:24, 316:14, 316:17, 316:18, 316:19, 317:5, 317:13, 317:17, 317:20, 317:21, 319:3, 319:6, 319:23, 320:13, 321:4, 321:7, 321:9, 321:14, 321:19, 325:9, 325:20, 326:2, 326:21, 327:18, 328:11, 328:18, 330:10, 330:23, 331:17, 331:20, 331:24, 332:23, 335:21, 336:4, 337:2,</p>	<p>337:11, 337:16, 337:21, 338:17, 338:22, 338:25, 339:7, 339:11, 339:16, 339:20, 340:13, 342:22, 343:1, 343:6, 343:13, 343:24, 344:15, 344:24, 345:3, 345:17, 346:5, 347:16, 348:14, 349:9, 350:10, 350:18, 351:1, 351:2, 351:4, 351:5, 351:21, 352:16, 354:23, 355:10, 355:17, 355:20, 355:25, 356:5, 356:18, 356:21, 356:23, 356:24, 357:1, 357:11, 357:14, 357:16, 357:17, 357:20, 357:25, 358:3, 358:6, 358:7, 358:13, 359:5, 359:10, 359:11, 359:18, 360:10, 360:17, 360:23, 361:8, 361:20 <b>attorney</b> [4] - 343:15, 344:20, 362:14, 362:16 <b>Attorney</b> [1] - 286:18 <b>August</b> [4] - 293:19, 294:21, 300:4, 350:22 <b>Authority</b> [1] - 329:11 <b>authorization</b> [1] - 359:6 <b>available</b> [9] - 295:7, 330:24, 355:4, 355:8, 356:16, 357:19, 358:12, 359:23, 360:1 <b>average</b> [2] - 315:17, 316:10 <b>aware</b> [2] - 323:3, 339:1</p>	<p><b>B-44</b> [1] - 291:7 <b>B-45</b> [1] - 291:8 <b>B-46</b> [1] - 291:10 <b>B-47</b> [1] - 291:11 <b>B-48</b> [1] - 291:13 <b>B-49</b> [1] - 291:14 <b>B-50</b> [1] - 291:16 <b>B-51</b> [1] - 291:17 <b>B-52</b> [1] - 291:19 <b>B-53</b> [1] - 291:20 <b>B-54</b> [1] - 291:22 <b>backing</b> [1] - 298:3 <b>backwards</b> [1] - 357:5 <b>balance</b> [1] - 318:8 <b>based</b> [1] - 308:13 <b>basements</b> [3] - 332:22, 332:25, 333:14 <b>basin</b> [7] - 299:16, 299:19, 300:16, 300:18, 335:7, 336:7, 336:16 <b>basins</b> [4] - 300:14, 300:16, 335:2, 336:24 <b>basis</b> [1] - 361:11 <b>Bayer</b> [1] - 343:14 <b>BEAHM</b> [1] - 286:19 <b>Beahm</b> [9] - 314:8, 340:23, 340:24, 341:4, 341:8, 352:5, 352:9, 358:4, 358:14 <b>Beahm's</b> [1] - 337:6 <b>Bear</b> [1] - 345:16 <b>become</b> [1] - 292:3 <b>began</b> [1] - 293:18 <b>begin</b> [3] - 297:12, 305:1, 328:25 <b>beginning</b> [3] - 310:17, 335:12, 352:19 <b>begins</b> [2] - 295:12, 359:21 <b>behalf</b> [4] - 293:11, 343:9, 343:14, 343:16 <b>behind</b> [2] - 306:3, 317:22 <b>belabor</b> [1] - 310:12 <b>below</b> [1] - 333:19 <b>beneficial</b> [1] - 308:17 <b>benefit</b> [1] - 341:14 <b>Bennett</b> [2] - 289:10, 290:7 <b>Best</b> [2] - 299:7, 300:2 <b>best</b> [2] - 296:21, 332:17 <b>better</b> [2] - 318:15, 337:14</p>
<b>B</b>				
<p><b>B-36</b> [1] - 290:17 <b>B-37</b> [1] - 290:19 <b>B-38</b> [1] - 290:20 <b>B-39</b> [1] - 290:22 <b>B-40</b> [1] - 290:23 <b>B-41</b> [1] - 290:25 <b>B-42</b> [1] - 291:4 <b>B-43</b> [1] - 291:5</p>				



**between** [3] - 298:1, 320:19, 344:21  
**beyond** [2] - 334:22, 336:1  
**big** [1] - 335:17  
**bill** [1] - 322:15  
**binds** [1] - 321:21  
**bit** [3] - 296:2, 320:23, 326:20  
**blanket** [1] - 352:11  
**BLOCK** [1] - 286:5  
**Block** [1] - 318:7  
**blue** [1] - 340:25  
**BMP** [1] - 300:1  
**board** [70] - 293:9, 293:10, 293:18, 293:22, 293:25, 294:2, 294:14, 294:15, 294:21, 294:22, 295:16, 296:18, 296:25, 297:14, 299:2, 299:4, 300:20, 301:8, 301:11, 304:1, 304:4, 304:9, 305:17, 308:5, 309:19, 314:9, 314:14, 314:20, 314:22, 315:4, 315:8, 316:4, 316:16, 319:12, 320:20, 321:13, 330:13, 330:25, 331:5, 337:6, 339:25, 340:7, 340:14, 344:4, 345:22, 345:23, 346:3, 346:6, 346:19, 347:4, 347:24, 348:7, 349:6, 350:22, 350:24, 351:22, 352:13, 352:16, 352:20, 353:3, 353:20, 353:24, 355:7, 358:18, 358:21, 360:12, 361:14, 361:15  
**BOARD** [56] - 286:1, 286:12, 290:15, 292:20, 302:2, 302:23, 303:3, 303:10, 303:18, 304:4, 304:9, 307:14, 307:16, 308:20, 309:4, 309:18, 310:10, 310:19, 311:24, 312:1, 312:15, 312:22, 313:2,

313:11, 313:15, 317:2, 317:3, 317:11, 317:19, 327:24, 332:6, 334:22, 335:20, 335:23, 337:9, 337:25, 339:24, 340:6, 347:14, 350:14, 350:15, 355:14, 355:22, 356:3, 356:10, 357:4, 357:8, 357:12, 357:19, 357:23, 358:10, 359:2, 359:9, 359:16, 360:14, 360:19  
**Board** [18] - 286:18, 286:18, 286:19, 286:19, 286:20, 290:17, 290:19, 291:8, 291:14, 291:19, 291:20, 296:23, 316:20, 316:22, 316:25, 321:21, 329:1, 362:23  
**board's** [6] - 296:4, 322:3, 351:11, 351:17, 354:24, 359:19  
**boards** [1] - 321:22  
**body** [2] - 322:21, 323:10  
**BOISVERT** [4] - 286:13, 337:4, 337:13, 337:20  
**Boisvert** [1] - 292:8  
**boogie** [1] - 337:5  
**books** [1] - 325:11  
**borings** [3] - 333:6, 333:9, 333:11  
**bound** [1] - 321:23  
**break** [4] - 328:13, 328:21, 340:15, 358:19  
**BRIAN** [1] - 286:14  
**Brian** [1] - 343:10  
**brief** [2] - 297:12, 340:3  
**bring** [3] - 303:5, 303:16, 329:20  
**brother** [1] - 343:8  
**brothers** [1] - 349:3  
**brought** [3] - 296:4, 309:14, 358:25  
**Bryce** [2] - 289:10, 290:7  
**buffer** [20] - 297:25, 298:1, 298:4,

298:19, 299:1, 300:15, 305:22, 305:23, 306:1, 306:3, 307:12, 307:19, 310:22, 311:3, 311:10, 312:7, 312:11, 337:7, 337:14  
**buffers** [4] - 300:8, 300:9, 300:12, 341:5  
**build** [1] - 332:8  
**builder's** [1] - 344:10  
**building** [1] - 298:24  
**buildings** [5] - 298:3, 299:1, 306:4, 332:21, 332:25  
**Buonantuono** [1] - 362:23  
**BUONANTUONO** [2] - 286:21, 362:3  
**Bureau** [3] - 290:22, 291:16, 291:17  
**bus** [1] - 310:16  
**buy** [1] - 349:15  
**BY** [7] - 286:21, 287:3, 297:9, 302:15, 305:8, 315:24, 330:10

## C

**candle** [1] - 316:10  
**candles** [3] - 315:13, 315:14, 316:11  
**cannot** [3] - 312:6, 320:2, 346:13  
**capture** [1] - 332:14  
**care** [1] - 308:25  
**carried** [3] - 355:15, 359:19, 360:9  
**carry** [1] - 353:16  
**Caruso** [1] - 349:2  
**Caruso's** [1] - 343:8  
**CASE** [1] - 286:7  
**case** [6] - 304:14, 321:21, 323:15, 323:24, 324:11, 356:6  
**Case** [1] - 359:14  
**cash** [4] - 296:18, 319:24, 342:14, 342:15  
**category** [1] - 341:25  
**caved** [1] - 334:13  
**CCR** [2] - 286:21, 362:23  
**cents** [1] - 354:2  
**certain** [3] - 300:8, 344:9, 349:11  
**certainly** [11] - 310:20,

314:19, 324:17, 325:25, 346:18, 347:5, 352:4, 352:23, 353:6, 354:3, 358:12  
**certification** [2] - 329:5, 330:3  
**certified** [2] - 286:23, 292:9  
**Certified** [1] - 362:4  
**certify** [1] - 362:6  
**CERTIFY** [2] - 362:9, 362:13  
**Chair** [12] - 296:20, 303:24, 313:16, 320:13, 328:21, 330:23, 340:13, 350:19, 354:13, 358:20, 360:11, 361:14  
**chair** [2] - 294:1, 345:6  
**CHAIRMAN** [51] - 292:11, 293:6, 303:1, 303:8, 304:2, 309:23, 310:1, 320:16, 320:22, 321:3, 321:5, 326:11, 326:15, 326:18, 326:24, 327:7, 328:16, 331:4, 331:11, 332:20, 332:24, 333:4, 337:22, 338:3, 338:12, 338:19, 338:23, 339:6, 339:9, 339:14, 339:19, 339:22, 340:8, 345:8, 345:18, 347:9, 348:5, 348:10, 350:3, 350:6, 350:12, 350:16, 350:25, 354:1, 354:16, 354:21, 356:9, 356:12, 360:13, 361:18, 361:22  
**Chairman** [13] - 286:12, 292:7, 293:5, 293:9, 309:21, 309:22, 316:20, 316:22, 316:25, 318:24, 338:25, 342:24, 361:11  
**Challoner** [34] - 288:4, 289:5, 289:8, 289:14, 289:19, 289:21, 289:24,

290:4, 290:9, 290:11, 295:1, 295:9, 295:23, 296:10, 296:14, 296:21, 297:10, 300:3, 301:15, 305:1, 305:5, 305:10, 312:20, 313:12, 314:20, 314:25, 315:25, 317:14, 330:11, 330:24, 331:7, 354:8, 354:24, 357:2  
**CHALLONER** [1] - 297:4  
**Challoner's** [1] - 347:20  
**chance** [2] - 346:4, 349:6  
**change** [2] - 297:16, 298:8  
**changed** [4] - 298:24, 306:6, 316:5, 331:15  
**changes** [8] - 305:11, 306:12, 314:21, 332:4, 333:12, 353:10, 353:20  
**chat** [1] - 339:18  
**check** [2] - 318:20, 344:17  
**chime** [1] - 331:8  
**Circulation** [1] - 290:9  
**circumscribed** [1] - 322:1  
**claim** [2] - 327:15, 327:17  
**cleaning** [1] - 299:12  
**clear** [4] - 311:13, 324:11, 347:6, 361:5  
**cleared** [1] - 301:1  
**clearing** [4] - 296:12, 306:15, 306:16, 307:3  
**clearly** [3] - 321:4, 337:18, 345:14  
**click** [1] - 303:21  
**client** [7] - 328:14, 331:3, 340:20, 341:2, 342:10, 344:2, 349:22  
**client's** [1] - 359:5  
**clients** [2] - 318:3, 318:6  
**close** [2] - 295:20, 311:15  
**CLR** [1] - 362:23  
**CME** [1] - 346:7  
**CO** [1] - 318:19  
**CO's** [1] - 318:19  
**cobra** [1] - 316:6



<p><b>Dated</b> [1] - 362:25  <b>dates</b> [2] - 293:21, 357:5  <b>days</b> [2] - 357:6, 359:24  <b>de</b> [2] - 307:23, 308:21  <b>deal</b> [2] - 315:9, 336:3  <b>dealt</b> [1] - 342:20  <b>deceased</b> [1] - 343:9  <b>decent</b> [1] - 328:4  <b>decided</b> [1] - 348:21  <b>deciding</b> [1] - 345:23  <b>deciphering</b> [1] - 345:11  <b>decision</b> [1] - 324:13  <b>deemed</b> [2] - 322:11, 324:2  <b>defer</b> [6] - 309:19, 314:14, 331:25, 341:7, 358:11  <b>deliver</b> [1] - 314:15  <b>delivery</b> [1] - 318:20  <b>denials</b> [1] - 347:3  <b>denominator</b> [1] - 326:8  <b>dense</b> [1] - 337:8  <b>densely</b> [1] - 310:23  <b>denser</b> [1] - 337:13  <b>DEP</b> [1] - 299:9  <b>Department</b> [1] - 329:22  <b>department</b> [2] - 330:1  <b>describing</b> [1] - 314:21  <b>DESCRIPTION</b> [4] - 289:3, 290:3, 290:16, 291:3  <b>descriptions</b> [1] - 309:10  <b>design</b> [5] - 295:1, 317:8, 317:9, 323:8, 344:20  <b>designed</b> [2] - 299:7, 299:25  <b>desire</b> [1] - 353:14  <b>detail</b> [2] - 300:21, 353:3  <b>determine</b> [5] - 322:4, 325:23, 346:13, 346:19, 346:24  <b>developed</b> [1] - 333:17  <b>Developer's</b> [4] - 294:18, 341:24, 342:13, 344:5  <b>developer's</b> [3] - 294:9, 318:4, 319:25  <b>developers's</b> [1] - 323:13  <b>development</b> [4] -</p>	<p>293:14, 294:11, 322:20, 332:4  <b>developments</b> [1] - 331:21  <b>different</b> [3] - 302:7, 321:20, 349:13  <b>difficult</b> [3] - 323:22, 324:8, 345:10  <b>difficulties</b> [1] - 326:12  <b>diligently</b> [1] - 330:18  <b>DIRECT</b> [1] - 297:9  <b>direct</b> [3] - 314:25, 350:21, 350:23  <b>directed</b> [3] - 300:6, 300:17, 345:20  <b>directing</b> [1] - 299:18  <b>direction</b> [1] - 308:10  <b>directly</b> [1] - 344:13  <b>Director</b> [1] - 290:20  <b>directs</b> [1] - 318:22  <b>disappointed</b> [1] - 349:2  <b>disappointing</b> [1] - 344:12  <b>disappointment</b> [1] - 344:14  <b>discomfort</b> [1] - 346:21  <b>discuss</b> [3] - 331:2, 337:11, 352:6  <b>discussed</b> [5] - 326:1, 327:25, 331:7, 338:14, 342:13  <b>discussion</b> [5] - 305:1, 313:5, 316:6, 353:22, 358:9  <b>distinct</b> [1] - 340:16  <b>district</b> [2] - 325:14, 326:3  <b>Dix</b> [1] - 289:17  <b>DO</b> [2] - 362:9, 362:13  <b>document</b> [2] - 320:6, 338:5  <b>documented</b> [1] - 313:10  <b>documents</b> [2] - 336:15, 359:25  <b>dollar</b> [1] - 325:24  <b>dollars</b> [1] - 335:12  <b>don't..</b> [1] - 310:7  <b>done</b> [7] - 300:4, 309:8, 328:23, 332:10, 335:5, 335:17, 349:20  <b>Dorato</b> [2] - 292:6, 334:23  <b>DORATO</b> [11] - 286:14, 326:22, 327:1, 334:6, 334:9,</p>	<p>334:15, 334:19, 335:9, 335:22, 337:1, 354:18  <b>dot</b> [19] - 298:11, 307:24, 309:1, 312:23, 312:24  <b>dots</b> [1] - 340:24  <b>down</b> [2] - 307:25, 329:14  <b>drafted</b> [1] - 341:20  <b>drain</b> [2] - 299:16, 334:21  <b>drainage</b> [5] - 298:10, 298:11, 299:11, 299:14, 299:24  <b>dredged</b> [2] - 334:16, 334:17  <b>drone</b> [1] - 309:11  <b>drones</b> [2] - 309:9, 314:5  <b>due</b> [3] - 311:2, 318:25, 345:6  <b>duly</b> [1] - 362:7  <b>during</b> [2] - 300:7, 337:12  <b>Dynamic</b> [2] - 289:6, 331:12  <b>Dynamic's</b> [1] - 331:15</p>	<p><b>email</b> [7] - 290:19, 290:20, 302:7, 302:10, 302:11, 302:13, 345:15  <b>Email</b> [1] - 287:5  <b>embodied</b> [1] - 319:25  <b>emergency</b> [1] - 336:17  <b>employee</b> [2] - 362:14, 362:16  <b>encroachment</b> [2] - 298:19, 298:25  <b>end</b> [5] - 329:12, 350:15, 355:9, 356:4, 359:7  <b>endangered</b> [1] - 338:15  <b>ended</b> [1] - 345:22  <b>engage</b> [1] - 353:14  <b>ENGINEER</b> [9] - 313:2, 313:15, 317:3, 327:24, 332:6, 334:22, 350:14, 357:4, 358:10  <b>engineer</b> [8] - 295:1, 295:10, 299:3, 315:25, 327:10, 327:19, 328:1, 328:6  <b>Engineer</b> [1] - 286:18  <b>engineer's</b> [1] - 299:3  <b>Engineer's</b> [3] - 290:17, 291:8, 291:20  <b>engineers</b> [1] - 331:23  <b>enhance</b> [1] - 312:11  <b>enhancing</b> [1] - 320:8  <b>enter</b> [1] - 329:19  <b>entered</b> [6] - 294:9, 294:17, 341:20, 342:12, 344:4, 349:18  <b>entering</b> [1] - 294:5  <b>enters</b> [1] - 292:2  <b>entire</b> [2] - 306:4, 322:15  <b>Environmental</b> [8] - 289:15, 290:23, 291:5, 291:13, 291:22, 329:23, 338:7, 339:2  <b>environmental</b> [1] - 338:5  <b>ESQUIRE</b> [2] - 286:18, 287:3  <b>Esquire</b> [1] - 343:15  <b>essentially</b> [1] - 353:1  <b>established</b> [1] - 299:8  <b>establishes</b> [1] -</p>	<p>325:11  <b>establishing</b> [1] - 294:7  <b>EVELYN</b> [1] - 286:15  <b>Evelyn</b> [1] - 303:9  <b>evening</b> [16] - 293:9, 293:23, 294:23, 295:8, 295:16, 296:11, 297:15, 300:6, 328:15, 350:18, 350:22, 351:23, 352:14, 358:23, 361:13  <b>evening's</b> [1] - 360:11  <b>event</b> [1] - 336:15  <b>eventually</b> [1] - 311:8  <b>exact</b> [1] - 347:15  <b>examination</b> [3] - 294:22, 330:25, 356:19  <b>examine</b> [1] - 356:17  <b>examined</b> [1] - 296:7  <b>example</b> [1] - 324:3  <b>excavation</b> [1] - 333:19  <b>exemption</b> [1] - 323:10  <b>EXHIBIT</b> [4] - 289:3, 290:3, 290:16, 291:3  <b>exhibit</b> [5] - 301:21, 305:6, 305:16, 312:23, 312:25  <b>Exhibits</b> [1] - 291:25  <b>exhibits</b> [3] - 301:5, 301:16, 338:5  <b>existing</b> [4] - 310:22, 311:3, 333:20, 333:21  <b>expedited</b> [1] - 361:10  <b>expend</b> [1] - 318:6  <b>expense</b> [3] - 335:17, 336:16, 349:25  <b>experience</b> [2] - 335:10, 344:19  <b>EXPERT</b> [11] - 310:10, 310:19, 311:24, 312:15, 313:11, 317:2, 317:11, 317:19, 347:14, 350:15, 357:23  <b>expert</b> [1] - 327:11  <b>Expert</b> [1] - 286:19  <b>explain</b> [2] - 299:2, 299:4  <b>explanation</b> [1] - 299:3  <b>express</b> [1] - 346:21  <b>expressed</b> [1] - 352:18  <b>extend</b> [1] - 324:5</p>
--	---	--	---	--

## E

**earmarked** [2] - 318:6, 318:8  
**easier** [1] - 345:13  
**effect** [1] - 333:25  
**eight** [3] - 292:20, 297:2, 339:17  
**Eight** [1] - 292:21  
**EILEEN** [1] - 286:20  
**Eileen** [7] - 292:4, 303:8, 304:11, 339:22, 355:13, 356:7, 359:15  
**either** [7] - 310:14, 314:8, 333:22, 333:25, 351:7, 352:24, 353:24  
**element** [3] - 293:15, 335:15, 353:17  
**elements** [4] - 320:8, 322:24, 323:17, 336:23  
**Elevation** [1] - 333:14  
**elevation** [1] - 333:16  
**eligible** [7] - 292:3, 292:5, 292:8, 292:14, 292:16, 293:2, 293:4  
**eliminate** [1] - 298:18

<p><b>extended</b> [2] - 297:21, 297:22</p> <p><b>extension</b> [2] - 359:4, 359:6</p> <p><b>extent</b> [2] - 318:14, 320:3</p> <p><b>extra</b> [1] - 319:12</p> <p><b>eyes</b> [1] - 344:11</p>	<p><b>financially</b> [1] - 362:17</p> <p><b>fine</b> [7] - 292:25, 293:1, 302:14, 303:2, 304:17, 339:10, 356:25</p> <p><b>fingertips</b> [1] - 325:25</p> <p><b>finished</b> [1] - 314:25</p> <p><b>finishing</b> [1] - 314:21</p> <p><b>Fire</b> [3] - 290:22, 291:16, 291:17</p> <p><b>firm</b> [1] - 293:11</p> <p><b>first</b> [6] - 318:19, 346:5, 347:12, 355:8, 355:10</p> <p><b>five</b> [3] - 297:22, 303:25, 304:5</p> <p><b>five-minute</b> [2] - 303:25, 304:5</p> <p><b>fixtures</b> [2] - 316:5, 316:6</p> <p><b>flood</b> [2] - 329:23, 333:16</p> <p><b>floor</b> [1] - 293:7</p> <p><b>flown</b> [1] - 309:9</p> <p><b>folks</b> [1] - 345:16</p> <p><b>follow</b> [6] - 294:15, 294:16, 296:22, 352:2, 359:8, 361:15</p> <p><b>followed</b> [2] - 313:24, 344:7</p> <p><b>follows</b> [1] - 297:5</p> <p><b>foot</b> [5] - 315:13, 315:14, 316:10, 316:11, 322:15</p> <p><b>foot-candle</b> [1] - 316:10</p> <p><b>foot-candles</b> [3] - 315:13, 315:14, 316:11</p> <p><b>footers</b> [2] - 311:23</p> <p><b>FOR</b> [3] - 286:4, 289:2, 290:15</p> <p><b>for-sale</b> [1] - 336:9</p> <p><b>force</b> [2] - 306:17, 307:3</p> <p><b>foregoing</b> [1] - 362:9</p> <p><b>Fort</b> [12] - 297:17, 297:19, 297:23, 298:3, 299:18, 300:14, 305:21, 306:3, 318:12, 327:2, 327:3, 327:9</p> <p><b>FORT</b> [1] - 286:6</p> <p><b>forth</b> [1] - 362:12</p> <p><b>forward</b> [4] - 302:11, 314:13, 314:24, 346:1</p> <p><b>foundation</b> [1] - 307:9</p> <p><b>four</b> [3] - 290:4, 294:4, 308:12</p>	<p><b>Four</b> [1] - 311:23</p> <p><b>FP</b> [7] - 286:5, 293:12, 294:5, 294:19, 343:10, 359:13</p> <p><b>frame</b> [1] - 351:19</p> <p><b>free</b> [2] - 293:15, 300:9</p> <p><b>Freehold</b> [2] - 329:4, 329:6</p> <p><b>front</b> [1] - 305:16</p> <p><b>fronting</b> [1] - 297:19</p> <p><b>full</b> [4] - 310:22, 338:9, 350:23, 354:5</p> <p><b>fully</b> [1] - 324:22</p> <p><b>function</b> [1] - 334:5</p> <p><b>functioning</b> [1] - 335:2</p> <p><b>fund</b> [1] - 325:22</p> <p><b>funds</b> [6] - 318:13, 318:15, 320:2, 320:4, 342:8</p> <p><b>FURTHER</b> [2] - 362:9, 362:13</p> <p><b>further..</b> [1] - 350:17</p> <p><b>future</b> [2] - 332:15, 344:10</p>	<p>303:20, 304:19, 312:24, 318:25</p> <p><b>greater</b> [1] - 311:6</p> <p><b>green</b> [1] - 340:24</p> <p><b>Green</b> [1] - 311:5</p> <p><b>Greenfield</b> [1] - 292:9</p> <p><b>GREENFIELD</b> [2] - 286:14, 354:20</p> <p><b>grouping</b> [1] - 306:8</p> <p><b>grow</b> [2] - 311:15</p> <p><b>growth</b> [3] - 332:9, 332:14, 332:15</p> <p><b>guess</b> [3] - 345:19, 345:20, 355:8</p> <p><b>guidance</b> [2] - 313:24, 325:15</p> <p><b>guidelines</b> [1] - 334:25</p> <p><b>gum</b> [2] - 311:14, 311:18</p> <p><b>guys</b> [3] - 308:2, 337:23, 338:8</p>	<p><b>Hi</b> [1] - 310:10</p> <p><b>high</b> [3] - 333:7, 333:24, 334:4</p> <p><b>Highway</b> [1] - 287:3</p> <p><b>HOA</b> [2] - 335:13, 335:18</p> <p><b>hold</b> [2] - 302:24, 352:19</p> <p><b>Hold</b> [1] - 303:23</p> <p><b>homeowners</b> [2] - 336:5, 336:14</p> <p><b>honestly</b> [1] - 309:20</p> <p><b>hookup</b> [1] - 324:5</p> <p><b>hope</b> [2] - 294:24, 342:17</p> <p><b>hours</b> [1] - 358:15</p> <p><b>housing</b> [11] - 293:16, 294:8, 322:20, 322:25, 323:15, 323:23, 324:7, 324:21, 335:15, 335:25, 355:18</p> <p><b>HOWELL</b> [2] - 286:1, 286:5</p> <p><b>Howell</b> [7] - 293:12, 293:15, 294:5, 294:6, 318:4, 343:10, 359:13</p> <p><b>Howell's</b> [2] - 294:8, 294:19</p> <p><b>hundred</b> [1] - 335:11</p> <p><b>HUSZAR</b> [51] - 286:12, 292:11, 293:6, 303:1, 303:8, 304:2, 309:23, 310:1, 320:16, 320:22, 321:3, 321:5, 326:11, 326:15, 326:18, 326:24, 327:7, 328:16, 331:4, 331:11, 332:20, 332:24, 333:4, 337:22, 338:3, 338:12, 338:19, 338:23, 339:6, 339:9, 339:14, 339:19, 339:22, 340:8, 345:8, 345:18, 347:9, 348:5, 348:10, 350:3, 350:6, 350:12, 350:25, 354:1, 354:16, 354:21, 356:9, 356:12, 360:13, 361:18, 361:22</p> <p><b>Huszar</b> [1] - 292:7</p>
<p><b>F</b></p>				
<p><b>facilities</b> [1] - 335:4</p> <p><b>facility</b> [1] - 334:23</p> <p><b>fact</b> [3] - 314:3, 322:20, 345:5</p> <p><b>fair</b> [3] - 319:18, 328:8, 354:4</p> <p><b>Fair</b> [1] - 348:21</p> <p><b>faith</b> [1] - 345:4</p> <p><b>fall</b> [1] - 339:4</p> <p><b>falls</b> [1] - 335:18</p> <p><b>familiar</b> [2] - 311:15, 327:18</p> <p><b>family</b> [2] - 333:1, 333:10</p> <p><b>far</b> [1] - 331:7</p> <p><b>Farmers</b> [3] - 291:4, 291:10, 291:11</p> <p><b>Farms</b> [3] - 319:10, 327:4, 327:9</p> <p><b>fashion</b> [1] - 313:18</p> <p><b>February</b> [8] - 355:9, 355:11, 355:12, 356:11, 359:7, 359:19, 360:9, 362:25</p> <p><b>feet</b> [1] - 297:22</p> <p><b>fell</b> [1] - 300:14</p> <p><b>few</b> [2] - 335:11, 341:14</p> <p><b>field</b> [3] - 309:8, 309:11, 314:4</p> <p><b>Fifth</b> [1] - 306:20</p> <p><b>figure</b> [1] - 326:7</p> <p><b>filed</b> [5] - 302:18, 302:21, 305:4, 344:3, 358:17</p> <p><b>files</b> [1] - 341:14</p> <p><b>fill</b> [3] - 311:18, 311:22, 333:18</p> <p><b>final</b> [12] - 329:3, 345:24, 346:18, 347:2, 347:6, 347:25, 353:2, 353:4, 353:11, 353:20, 353:22, 360:24</p> <p><b>Final</b> [4] - 289:13, 289:23, 290:4, 293:14</p>				
	<p><b>G</b></p>			
	<p><b>general</b> [1] - 322:18</p> <p><b>generally</b> [2] - 306:12, 323:20</p> <p><b>generated</b> [4] - 318:18, 324:1, 341:15, 344:2</p> <p><b>generative</b> [7] - 322:24, 323:17, 323:19, 323:20, 324:3, 324:6, 324:13</p> <p><b>Geoghegan</b> [3] - 343:11, 343:12, 343:13</p> <p><b>Giants</b> [1] - 311:5</p> <p><b>goal</b> [7] - 309:6, 309:7, 314:11, 315:19, 317:22, 337:17, 339:12</p> <p><b>governed</b> [1] - 321:24</p> <p><b>governing</b> [1] - 323:10</p> <p><b>governmental</b> [1] - 329:10</p> <p><b>grade</b> [2] - 333:20, 333:21</p> <p><b>grant</b> [2] - 346:25, 347:3</p> <p><b>granted</b> [2] - 322:7, 359:7</p> <p><b>granting</b> [1] - 346:18</p> <p><b>gratitude</b> [1] - 352:19</p> <p><b>Great</b> [1] - 292:18</p> <p><b>great</b> [5] - 302:5,</p>			
		<p><b>H</b></p>		
		<p><b>half</b> [4] - 297:18, 297:21, 306:22</p> <p><b>half-width</b> [3] - 297:18, 297:21</p> <p><b>hand</b> [1] - 360:15</p> <p><b>hazard</b> [1] - 329:23</p> <p><b>Health</b> [3] - 290:19, 291:14, 291:19</p> <p><b>health</b> [2] - 330:1</p> <p><b>hear</b> [15] - 296:10, 304:13, 308:10, 320:21, 321:2, 326:13, 326:17, 327:6, 342:19, 345:9, 345:14, 348:8, 352:24, 358:21, 361:9</p> <p><b>heard</b> [5] - 304:12, 310:12, 324:17, 326:14, 351:10</p> <p><b>hearing</b> [5] - 293:17, 293:21, 328:1, 347:12, 352:20</p> <p><b>HEARING</b> [1] - 286:10</p> <p><b>hedgerow</b> [1] - 305:25</p> <p><b>HEILBRUNN</b> [1] - 287:2</p> <p><b>Heilbrunn</b> [1] - 293:11</p> <p><b>held</b> [2] - 333:13, 352:25</p> <p><b>help</b> [2] - 316:24, 343:11</p> <p><b>hereby</b> [1] - 362:6</p> <p><b>hereinbefore</b> [1] - 362:12</p>		

<p><b>I</b></p> <p><b>I's</b> [1] - 298:11</p> <p><b>ideal</b> [1] - 301:9</p> <p><b>identified</b> [2] - 326:4, 330:19</p> <p><b>identifies</b> [1] - 306:25</p> <p><b>identify</b> [2] - 298:20, 305:10</p> <p><b>IES</b> [6] - 317:3, 317:4, 317:5, 317:9, 317:14, 317:18</p> <p><b>illuminated</b> [2] - 315:12, 315:14</p> <p><b>illuminating</b> [1] - 315:15</p> <p><b>immediately</b> [1] - 358:4</p> <p><b>Impact</b> [1] - 289:15</p> <p><b>impacts</b> [1] - 331:15</p> <p><b>impair</b> [1] - 324:20</p> <p><b>important</b> [2] - 300:5, 308:3</p> <p><b>impose</b> [1] - 322:23</p> <p><b>imposed</b> [1] - 323:21</p> <p><b>imposing</b> [1] - 323:16</p> <p><b>impossible</b> [1] - 315:10</p> <p><b>impress</b> [1] - 308:2</p> <p><b>impressed</b> [4] - 308:4, 308:7, 309:4, 309:5</p> <p><b>impressive</b> [3] - 307:17, 307:19, 307:25</p> <p><b>improvement</b> [4] - 318:21, 319:18, 325:13</p> <p><b>improvements</b> [19] - 296:19, 297:17, 297:23, 305:21, 318:9, 318:12, 318:15, 318:16, 320:1, 326:4, 326:6, 341:22, 341:23, 342:3, 342:9, 343:22, 344:18, 349:22</p> <p><b>inappropriate</b> [1] - 314:2</p> <p><b>Inc</b> [1] - 289:17</p> <p><b>include</b> [1] - 295:17</p> <p><b>included</b> [3] - 324:16, 332:13, 341:21</p> <p><b>including</b> [1] - 307:8</p> <p><b>increase</b> [2] - 316:13, 340:20</p> <p><b>increased</b> [2] - 316:7, 316:9</p> <p><b>incurs</b> [1] - 336:16</p> <p><b>indicate</b> [2] - 341:17,</p>	<p>352:7</p> <p><b>indicated</b> [5] - 300:20, 314:4, 328:3, 340:25, 341:2</p> <p><b>indicates</b> [1] - 342:1</p> <p><b>indicating</b> [1] - 339:4</p> <p><b>indicative</b> [1] - 334:4</p> <p><b>information</b> [5] - 313:4, 313:9, 343:17, 346:16, 352:1</p> <p><b>initial</b> [1] - 323:4</p> <p><b>inspected</b> [2] - 330:1, 360:3</p> <p><b>inspection</b> [3] - 309:8, 309:11, 335:1</p> <p><b>inspections</b> [1] - 314:4</p> <p><b>instances</b> [1] - 324:4</p> <p><b>instructions</b> [1] - 359:22</p> <p><b>intend</b> [1] - 296:15</p> <p><b>intention</b> [1] - 294:19</p> <p><b>interest</b> [2] - 318:13, 346:20</p> <p><b>interested</b> [3] - 308:18, 356:1, 362:17</p> <p><b>INTERPRETER</b> [11] - 292:6, 292:13, 292:17, 292:22, 302:8, 303:7, 303:23, 304:17, 310:8, 343:12, 355:19</p> <p><b>intersection</b> [2] - 318:11, 327:1</p> <p><b>introduce</b> [1] - 305:2</p> <p><b>involved</b> [1] - 342:22</p> <p><b>involving</b> [1] - 294:4</p> <p><b>issue</b> [6] - 333:21, 335:18, 339:8, 345:21, 351:7, 355:23</p> <p><b>issued</b> [3] - 295:19, 329:14, 339:4</p> <p><b>issues</b> [2] - 336:3, 348:13</p> <p><b>items</b> [1] - 295:2</p> <p><b>itself</b> [2] - 333:23, 346:3</p> <p><b>J</b></p> <p><b>JANUARY</b> [1] - 286:8</p> <p><b>January</b> [1] - 339:1</p> <p><b>Jen</b> [6] - 310:21, 313:19, 337:23, 350:12, 354:3, 357:15</p>	<p><b>JENNIFER</b> [1] - 286:19</p> <p><b>Jennifer</b> [5] - 310:12, 340:22, 341:4, 352:9, 358:4</p> <p><b>JERSEY</b> [1] - 286:2</p> <p><b>Jersey</b> [5] - 286:24, 287:4, 329:17, 329:22, 362:5</p> <p><b>jinx</b> [1] - 356:6</p> <p><b>job</b> [3] - 322:2, 322:3</p> <p><b>Joe</b> [1] - 331:11</p> <p><b>John</b> [1] - 343:8</p> <p><b>JOSEPH</b> [1] - 286:13</p> <p><b>jump</b> [1] - 307:14</p> <p><b>June</b> [1] - 289:17</p> <p><b>Junetta</b> [1] - 289:16</p> <p><b>jurisdiction</b> [1] - 321:25</p> <p><b>K</b></p> <p><b>keep</b> [1] - 334:2</p> <p><b>Ken</b> [10] - 301:24, 318:25, 319:5, 326:9, 326:10, 327:11, 338:16, 342:19, 348:17</p> <p><b>Kenneth</b> [1] - 293:10</p> <p><b>KENNETH</b> [1] - 287:3</p> <p><b>key</b> [1] - 323:19</p> <p><b>kind</b> [3] - 324:25, 338:13, 354:25</p> <p><b>knocked</b> [1] - 302:24</p> <p><b>knowing</b> [2] - 308:18, 326:6</p> <p><b>knowledge</b> [3] - 332:2, 343:20, 349:12</p> <p><b>known</b> [1] - 300:1</p> <p><b>kpape@hpnjlaw.com</b> [1] - 287:5</p> <p><b>L</b></p> <p><b>Land</b> [2] - 321:21, 322:12</p> <p><b>land</b> [3] - 322:5, 342:9, 349:15</p> <p><b>landscape</b> [11] - 296:3, 296:9, 301:8, 302:18, 302:19, 303:13, 305:3, 312:19, 314:2, 347:25, 358:16</p> <p><b>Landscape</b> [3] - 289:4, 289:10, 290:6</p> <p><b>landscaping</b> [27] - 297:24, 298:7, 300:20, 305:1,</p>	<p>305:10, 306:13, 307:18, 308:11, 308:17, 308:24, 309:13, 310:17, 312:20, 312:24, 314:1, 314:10, 340:17, 340:19, 340:21, 346:2, 349:19, 349:21, 352:7, 352:10, 352:21, 353:9</p> <p><b>language</b> [5] - 318:5, 318:10, 328:9, 341:22, 341:23</p> <p><b>large</b> [4] - 298:14, 300:18, 306:7, 345:4</p> <p><b>last</b> [19] - 289:9, 289:11, 289:14, 289:17, 289:19, 289:21, 289:25, 290:5, 290:7, 295:19, 298:23, 303:14, 303:17, 319:1, 319:8, 337:4, 339:3, 345:21, 353:17</p> <p><b>LAURA</b> [1] - 286:18</p> <p><b>Laura</b> [4] - 295:20, 337:23, 340:10, 350:12</p> <p><b>Laura's</b> [1] - 333:5</p> <p><b>Law</b> [1] - 322:12</p> <p><b>law</b> [8] - 293:2, 321:20, 321:21, 322:19, 322:21, 323:25, 324:11, 324:24</p> <p><b>laws</b> [1] - 322:22</p> <p><b>lawyer</b> [3] - 326:10, 327:16</p> <p><b>lawyer's</b> [1] - 319:1</p> <p><b>least</b> [2] - 323:2, 359:24</p> <p><b>leave</b> [4] - 307:11, 346:25, 352:17, 353:24</p> <p><b>left</b> [3] - 307:23, 308:22, 311:18</p> <p><b>legal</b> [2] - 336:18, 351:6</p> <p><b>legally</b> [1] - 353:25</p> <p><b>legislative</b> [1] - 323:2</p> <p><b>legitimate</b> [1] - 326:1</p> <p><b>length</b> [3] - 297:18, 306:4, 327:25</p> <p><b>letter</b> [8] - 290:17, 291:8, 291:20, 297:20, 299:21, 333:6, 339:4, 359:8</p> <p><b>level</b> [6] - 325:23,</p>	<p>332:9, 334:3, 346:20, 353:3, 354:13</p> <p><b>liaison</b> [1] - 338:5</p> <p><b>liar</b> [1] - 327:22</p> <p><b>license</b> [1] - 347:20</p> <p><b>License</b> [2] - 286:21, 362:24</p> <p><b>Licensed</b> [1] - 286:19</p> <p><b>light</b> [10] - 316:5, 316:6, 316:7, 319:10, 319:19, 322:15, 325:6, 327:2, 344:14, 348:24</p> <p><b>lighting</b> [8] - 315:5, 315:10, 315:18, 315:19, 316:3, 316:9, 317:23, 317:24</p> <p><b>lights</b> [1] - 322:14</p> <p><b>likely</b> [1] - 337:14</p> <p><b>limited</b> [2] - 320:1, 361:5</p> <p><b>line</b> [1] - 329:15</p> <p><b>lined</b> [1] - 299:15</p> <p><b>liner</b> [2] - 333:24, 334:2</p> <p><b>list</b> [6] - 292:4, 301:15, 301:22, 301:23, 301:24, 302:1</p> <p><b>listen</b> [1] - 351:7</p> <p><b>listened</b> [1] - 297:2</p> <p><b>literally</b> [1] - 308:7</p> <p><b>living</b> [2] - 327:17, 349:3</p> <p><b>LLC</b> [14] - 286:5, 286:23, 289:5, 289:7, 289:8, 289:14, 289:19, 289:21, 289:25, 290:5, 290:10, 290:12, 293:12, 359:13</p> <p><b>located</b> [1] - 316:8</p> <p><b>location</b> [1] - 323:6</p> <p><b>locations</b> [1] - 298:4</p> <p><b>look</b> [3] - 307:22, 308:20, 332:1</p> <p><b>looked</b> [1] - 344:11</p> <p><b>looking</b> [5] - 301:25, 313:25, 325:14, 349:25, 360:10</p> <p><b>looks</b> [1] - 307:17</p> <p><b>LOTS</b> [1] - 286:5</p> <p><b>lower</b> [2] - 308:1, 308:22</p> <p><b>lowest</b> [1] - 333:14</p>
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<p><b>M</b></p> <p><b>mail</b> <sup>[1]</sup> - 360:6</p> <p><b>main</b> <sup>[3]</sup> - 306:17, 307:3, 330:3</p> <p><b>maintain</b> <sup>[3]</sup> - 334:3, 335:7, 336:3</p> <p><b>maintained</b> <sup>[1]</sup> - 335:3</p> <p><b>maintenance</b> <sup>[2]</sup> - 334:24, 336:17</p> <p><b>major</b> <sup>[1]</sup> - 299:11</p> <p><b>Major</b> <sup>[5]</sup> - 289:12, 289:13, 289:16, 289:23, 289:23</p> <p><b>majority</b> <sup>[1]</sup> - 306:25</p> <p><b>management</b> <sup>[8]</sup> - 296:3, 300:1, 300:9, 306:25, 329:13, 338:11, 338:13, 346:8</p> <p><b>Management</b> <sup>[5]</sup> - 289:8, 289:18, 289:20, 299:8, 300:2</p> <p><b>manager</b> <sup>[1]</sup> - 343:10</p> <p><b>Manasquan</b> <sup>[1]</sup> - 329:11</p> <p><b>Manor</b> <sup>[1]</sup> - 359:14</p> <p><b>map</b> <sup>[1]</sup> - 309:25</p> <p><b>March</b> <sup>[1]</sup> - 299:8</p> <p><b>marked</b> <sup>[2]</sup> - 291:25, 305:2</p> <p><b>market</b> <sup>[1]</sup> - 324:12</p> <p><b>market-rate</b> <sup>[1]</sup> - 324:12</p> <p><b>matching</b> <sup>[1]</sup> - 298:13</p> <p><b>matters</b> <sup>[1]</sup> - 331:2</p> <p><b>mature</b> <sup>[2]</sup> - 310:22, 311:22</p> <p><b>Mayor</b> <sup>[2]</sup> - 348:20, 349:4</p> <p><b>mean</b> <sup>[16]</sup> - 302:9, 303:21, 307:21, 308:20, 309:5, 309:18, 310:19, 311:12, 317:11, 334:17, 335:25, 338:19, 351:13, 354:1, 355:25, 356:3</p> <p><b>means</b> <sup>[3]</sup> - 322:2, 323:20, 357:14</p> <p><b>meantime</b> <sup>[1]</sup> - 345:19</p> <p><b>meet</b> <sup>[5]</sup> - 315:11, 352:4, 352:6, 354:4, 355:3</p> <p><b>MEETING</b> <sup>[1]</sup> - 286:4</p> <p><b>meeting</b> <sup>[20]</sup> - 293:23, 295:4, 300:4, 300:22, 316:21, 319:1, 345:22, 351:17, 351:18,</p>	<p>352:25, 353:16, 354:15, 355:8, 355:11, 359:20, 359:23, 360:9, 360:24</p> <p><b>member</b> <sup>[1]</sup> - 296:25</p> <p><b>MEMBER</b> <sup>[55]</sup> - 309:21, 309:24, 310:3, 310:6, 310:9, 310:11, 311:20, 318:24, 319:4, 319:7, 320:12, 320:14, 320:18, 320:24, 321:6, 321:8, 321:11, 321:15, 321:17, 325:1, 326:9, 326:13, 326:17, 326:22, 327:1, 327:5, 327:8, 327:21, 331:9, 331:12, 331:19, 331:22, 332:18, 334:6, 334:9, 334:15, 334:19, 335:9, 335:22, 337:1, 337:4, 337:13, 337:20, 338:1, 338:4, 342:19, 342:24, 343:4, 344:22, 345:6, 348:8, 348:12, 348:16, 354:18, 354:20</p> <p><b>MEMBERS</b> <sup>[1]</sup> - 286:12</p> <p><b>members</b> <sup>[15]</sup> - 292:3, 292:5, 292:19, 293:10, 304:1, 336:19, 340:14, 348:6, 348:20, 352:17, 354:17, 358:21, 360:3, 360:4, 361:14</p> <p><b>members'</b> <sup>[1]</sup> - 337:7</p> <p><b>Memo</b> <sup>[1]</sup> - 289:6</p> <p><b>memorialized</b> <sup>[1]</sup> - 336:14</p> <p><b>mentioned</b> <sup>[2]</sup> - 319:8, 354:7</p> <p><b>merit</b> <sup>[1]</sup> - 313:21</p> <p><b>meshes</b> <sup>[1]</sup> - 322:21</p> <p><b>middle</b> <sup>[1]</sup> - 299:16</p> <p><b>might</b> <sup>[5]</sup> - 303:4, 313:17, 332:1, 338:1, 345:13</p> <p><b>Millstone</b> <sup>[2]</sup> - 286:24, 287:4</p> <p><b>mine</b> <sup>[1]</sup> - 345:2</p> <p><b>minimum</b> <sup>[3]</sup> - 317:24,</p>	<p>347:23</p> <p><b>minor</b> <sup>[1]</sup> - 355:23</p> <p><b>minus</b> <sup>[1]</sup> - 333:25</p> <p><b>minute</b> <sup>[3]</sup> - 303:25, 304:5, 331:2</p> <p><b>minutes</b> <sup>[1]</sup> - 295:6</p> <p><b>modified</b> <sup>[1]</sup> - 323:7</p> <p><b>moment</b> <sup>[2]</sup> - 303:4, 325:25</p> <p><b>moments</b> <sup>[1]</sup> - 341:14</p> <p><b>Monday</b> <sup>[3]</sup> - 357:11, 357:13, 358:17</p> <p><b>MONDAY</b> <sup>[1]</sup> - 286:8</p> <p><b>money</b> <sup>[4]</sup> - 318:11, 319:15, 343:21</p> <p><b>monies</b> <sup>[1]</sup> - 318:17</p> <p><b>monitoring</b> <sup>[1]</sup> - 336:24</p> <p><b>Monmouth</b> <sup>[4]</sup> - 290:19, 291:14, 291:19, 359:14</p> <p><b>MONMOUTH</b> <sup>[1]</sup> - 286:2</p> <p><b>month</b> <sup>[1]</sup> - 316:21</p> <p><b>months</b> <sup>[1]</sup> - 308:12</p> <p><b>most</b> <sup>[3]</sup> - 308:18, 333:16, 337:14</p> <p><b>move</b> <sup>[3]</sup> - 314:13, 314:24, 346:1</p> <p><b>muck</b> <sup>[1]</sup> - 334:21</p> <p><b>multi</b> <sup>[1]</sup> - 351:6</p> <p><b>multi-task</b> <sup>[1]</sup> - 351:6</p> <p><b>Municipal</b> <sup>[1]</sup> - 322:12</p> <p><b>must</b> <sup>[1]</sup> - 345:10</p> <p><b>mute</b> <sup>[1]</sup> - 354:22</p> <p><b>N</b></p> <p><b>NAME</b> <sup>[1]</sup> - 288:13</p> <p><b>name</b> <sup>[1]</sup> - 316:25</p> <p><b>near</b> <sup>[1]</sup> - 355:8</p> <p><b>necessarily</b> <sup>[1]</sup> - 322:14</p> <p><b>necessary</b> <sup>[3]</sup> - 329:21, 351:20, 358:11</p> <p><b>need</b> <sup>[7]</sup> - 303:4, 316:24, 325:16, 356:16, 359:3</p> <p><b>needed</b> <sup>[1]</sup> - 349:5</p> <p><b>needs</b> <sup>[2]</sup> - 335:3, 355:1</p> <p><b>negotiate</b> <sup>[1]</sup> - 349:6</p> <p><b>negotiated</b> <sup>[4]</sup> - 319:11, 343:5, 343:7, 345:4</p> <p><b>negotiation</b> <sup>[2]</sup> - 349:17, 350:9</p> <p><b>negotiations</b> <sup>[1]</sup> - 343:8</p>	<p><b>negotiator</b> <sup>[2]</sup> - 343:2, 343:15</p> <p><b>neighbor</b> <sup>[1]</sup> - 313:20</p> <p><b>neighbor's</b> <sup>[2]</sup> - 312:3, 312:4</p> <p><b>NEUMANN</b> <sup>[1]</sup> - 286:18</p> <p><b>Neumann</b> <sup>[5]</sup> - 295:20, 295:24, 314:9, 315:6, 358:8</p> <p><b>never</b> <sup>[2]</sup> - 336:20, 349:6</p> <p><b>new</b> <sup>[7]</sup> - 297:21, 299:25, 303:16, 307:7, 307:12, 311:10, 331:20</p> <p><b>New</b> <sup>[5]</sup> - 286:24, 287:4, 329:17, 329:22, 362:4</p> <p><b>NEW</b> <sup>[1]</sup> - 286:2</p> <p><b>newly</b> <sup>[1]</sup> - 299:19</p> <p><b>next</b> <sup>[2]</sup> - 357:12, 358:15</p> <p><b>Nicastro</b> <sup>[12]</sup> - 292:7, 302:24, 319:5, 320:2, 324:23, 325:10, 341:13, 343:3, 343:7, 343:18, 349:9</p> <p><b>NICASTRO</b> <sup>[35]</sup> - 286:15, 309:21, 309:24, 310:3, 310:6, 310:9, 310:11, 311:20, 318:24, 319:4, 319:7, 320:12, 320:14, 320:18, 320:24, 321:6, 321:8, 321:11, 321:15, 321:17, 325:1, 326:9, 326:13, 326:17, 327:5, 327:8, 327:21, 342:19, 342:24, 343:4, 344:22, 345:6, 348:8, 348:12, 348:16</p> <p><b>NICHOLAS</b> <sup>[1]</sup> - 286:12</p> <p><b>Nick</b> <sup>[5]</sup> - 326:14, 326:22, 338:1, 348:8, 354:19</p> <p><b>night</b> <sup>[3]</sup> - 355:16, 361:21, 361:22</p> <p><b>nine</b> <sup>[1]</sup> - 339:17</p> <p><b>ninth</b> <sup>[1]</sup> - 292:24</p> <p><b>NJ</b> <sup>[1]</sup> - 362:23</p> <p><b>NJLLA/ASLA</b> <sup>[2]</sup> - 289:11, 290:7</p>	<p><b>NO</b> <sup>[1]</sup> - 286:7</p> <p><b>None</b> <sup>[1]</sup> - 288:15</p> <p><b>none</b> <sup>[3]</sup> - 333:2, 333:18, 337:25</p> <p><b>north</b> <sup>[2]</sup> - 305:23, 313:17</p> <p><b>northeast</b> <sup>[1]</sup> - 306:20</p> <p><b>Notary</b> <sup>[1]</sup> - 362:3</p> <p><b>noted</b> <sup>[1]</sup> - 328:7</p> <p><b>notes</b> <sup>[2]</sup> - 290:5, 358:24</p> <p><b>nothing</b> <sup>[5]</sup> - 320:19, 324:7, 350:14, 350:15, 362:8</p> <p><b>notice</b> <sup>[4]</sup> - 360:5, 360:6, 360:7, 360:8</p> <p><b>noticed</b> <sup>[1]</sup> - 338:6</p> <p><b>number</b> <sup>[6]</sup> - 294:3, 301:21, 307:18, 313:6, 313:7, 345:14</p> <p><b>Number</b> <sup>[1]</sup> - 359:14</p> <p><b>numbers</b> <sup>[8]</sup> - 313:12, 313:14, 345:4, 347:13, 347:15, 347:19, 349:16, 354:8</p> <p><b>numerator</b> <sup>[1]</sup> - 326:7</p> <p><b>O</b></p> <p><b>o'clock</b> <sup>[2]</sup> - 295:4, 359:21</p> <p><b>O'Donnell</b> <sup>[2]</sup> - 292:9, 304:12</p> <p><b>O'DONNELL</b> <sup>[11]</sup> - 286:15, 304:15, 304:18, 304:24, 313:16, 343:19, 344:8, 344:25, 350:5, 350:7, 354:12</p> <p><b>oath</b> <sup>[4]</sup> - 295:12, 295:14, 297:11</p> <p><b>objection</b> <sup>[2]</sup> - 318:16, 319:14</p> <p><b>obligated</b> <sup>[3]</sup> - 318:3, 336:1, 336:2</p> <p><b>obligation</b> <sup>[6]</sup> - 294:8, 294:14, 330:5, 336:12, 336:13, 336:19</p> <p><b>obviously</b> <sup>[3]</sup> - 298:10, 304:13, 308:5</p> <p><b>occur</b> <sup>[1]</sup> - 336:3</p> <p><b>October</b> <sup>[8]</sup> - 293:20, 294:21, 295:3, 295:19, 297:14, 327:25, 350:22</p> <p><b>OF</b> <sup>[4]</sup> - 286:1, 286:2, 286:10</p>
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<p><b>Off-site</b> <sup>[1]</sup> - 342:1</p> <p><b>off-site</b> <sup>[5]</sup> - 307:3, 312:8, 312:13, 319:18, 341:23</p> <p><b>off-tract</b> <sup>[1]</sup> - 344:18</p> <p><b>offered</b> <sup>[1]</sup> - 342:16</p> <p><b>often</b> <sup>[2]</sup> - 323:12, 326:2</p> <p><b>old</b> <sup>[1]</sup> - 311:9</p> <p><b>older</b> <sup>[1]</sup> - 311:9</p> <p><b>on-site</b> <sup>[4]</sup> - 306:14, 306:24, 307:1, 312:10</p> <p><b>once</b> <sup>[1]</sup> - 311:9</p> <p><b>one</b> <sup>[37]</sup> - 289:5, 289:21, 290:11, 295:22, 295:23, 298:18, 298:24, 300:18, 302:3, 302:24, 302:25, 303:23, 306:21, 307:3, 316:4, 323:3, 328:9, 328:18, 331:9, 332:20, 334:23, 335:9, 335:13, 335:14, 337:4, 338:2, 338:9, 338:16, 339:7, 342:7, 348:14, 351:15, 352:25, 355:22, 355:23, 361:5</p> <p><b>ongoing</b> <sup>[1]</sup> - 334:24</p> <p><b>open</b> <sup>[5]</sup> - 351:16, 353:7, 360:16, 360:18, 360:24</p> <p><b>opening</b> <sup>[2]</sup> - 356:14, 360:22</p> <p><b>opine</b> <sup>[1]</sup> - 310:18</p> <p><b>opinion</b> <sup>[2]</sup> - 307:17, 307:20</p> <p><b>opinions</b> <sup>[1]</sup> - 337:19</p> <p><b>opportunity</b> <sup>[17]</sup> - 308:10, 308:19, 309:16, 314:23, 324:18, 336:2, 337:3, 339:18, 340:15, 346:15, 350:20, 353:2, 353:8, 353:19, 356:17, 361:2, 361:4</p> <p><b>order</b> <sup>[1]</sup> - 294:7</p> <p><b>ordinance</b> <sup>[14]</sup> - 294:16, 317:9, 317:25, 322:5, 323:4, 323:7, 323:10, 323:13, 323:14, 324:16, 325:11, 326:5, 347:8</p> <p><b>ordinances</b> <sup>[6]</sup> -</p>	<p>294:10, 320:7, 320:9, 321:24, 321:25, 325:16</p> <p><b>original</b> <sup>[1]</sup> - 318:10</p> <p><b>originally</b> <sup>[4]</sup> - 297:18, 311:2, 319:16, 348:18</p> <p><b>outline</b> <sup>[3]</sup> - 296:22, 315:22, 361:16</p> <p><b>outlined</b> <sup>[1]</sup> - 305:13</p> <p><b>outside</b> <sup>[1]</sup> - 300:11</p> <p><b>outstanding</b> <sup>[2]</sup> - 295:25, 296:16</p> <p><b>overall</b> <sup>[2]</sup> - 302:18, 315:17</p> <p><b>overlay</b> <sup>[1]</sup> - 322:18</p> <p><b>oversight</b> <sup>[1]</sup> - 324:14</p> <p><b>own</b> <sup>[3]</sup> - 313:21, 346:14, 361:3</p> <p><b>owned</b> <sup>[1]</sup> - 334:23</p> <p><b>owners</b> <sup>[3]</sup> - 330:8, 336:6, 360:9</p>	<p>326:2, 326:21, 327:18, 328:11, 328:18, 330:10, 330:23, 331:17, 331:20, 331:24, 332:23, 335:21, 336:4, 337:2, 337:11, 337:16, 337:21, 338:17, 338:22, 338:25, 339:7, 339:11, 339:16, 339:20, 340:13, 342:22, 343:1, 343:6, 343:13, 343:24, 344:15, 344:24, 345:3, 345:17, 347:16, 348:14, 349:9, 350:10, 350:18, 351:1, 351:4, 351:21, 356:18, 356:23, 357:1, 357:11, 357:16, 358:3, 358:7, 358:13, 359:5, 359:10, 360:10, 361:8, 361:20</p> <p><b>Pape's</b> <sup>[1]</sup> - 302:11</p> <p><b>parcel</b> <sup>[1]</sup> - 296:11</p> <p><b>parking</b> <sup>[7]</sup> - 315:13, 315:15, 315:20, 316:8, 316:9, 317:23, 317:24</p> <p><b>Parking</b> <sup>[1]</sup> - 289:6</p> <p><b>part</b> <sup>[9]</sup> - 295:11, 300:5, 302:17, 308:1, 313:13, 315:16, 325:2, 343:7, 349:24</p> <p><b>partial</b> <sup>[2]</sup> - 338:10, 338:16</p> <p><b>participate</b> <sup>[1]</sup> - 358:8</p> <p><b>participating</b> <sup>[1]</sup> - 294:6</p> <p><b>participation</b> <sup>[1]</sup> - 361:6</p> <p><b>particular</b> <sup>[1]</sup> - 323:1</p> <p><b>parties</b> <sup>[2]</sup> - 356:1, 362:15</p> <p><b>passed</b> <sup>[1]</sup> - 294:10</p> <p><b>past</b> <sup>[4]</sup> - 308:12, 315:9, 336:21, 341:9</p> <p><b>Paul</b> <sup>[2]</sup> - 326:25, 340:10</p> <p><b>PAUL</b> <sup>[2]</sup> - 286:13, 286:14</p> <p><b>pending</b> <sup>[1]</sup> - 329:24</p> <p><b>people</b> <sup>[1]</sup> - 342:18</p> <p><b>per</b> <sup>[2]</sup> - 306:10, 316:6</p>	<p><b>performed</b> <sup>[2]</sup> - 298:9, 331:13</p> <p><b>perhaps</b> <sup>[7]</sup> - 297:12, 313:17, 313:21, 314:20, 315:2, 328:12, 339:17</p> <p><b>perimeter</b> <sup>[3]</sup> - 296:7, 298:1, 309:10</p> <p><b>period</b> <sup>[1]</sup> - 312:7</p> <p><b>permission</b> <sup>[3]</sup> - 296:20, 305:5, 328:19</p> <p><b>permit</b> <sup>[3]</sup> - 323:5, 329:6, 329:13</p> <p><b>permits</b> <sup>[5]</sup> - 296:17, 317:25, 328:22, 329:24, 330:12</p> <p><b>permitted</b> <sup>[1]</sup> - 315:18</p> <p><b>permitting</b> <sup>[1]</sup> - 329:18</p> <p><b>person</b> <sup>[2]</sup> - 292:24, 343:9</p> <p><b>personal</b> <sup>[3]</sup> - 360:5, 360:6, 360:7</p> <p><b>personally</b> <sup>[2]</sup> - 310:13, 354:9</p> <p><b>persons</b> <sup>[1]</sup> - 297:2</p> <p><b>perspective</b> <sup>[5]</sup> - 344:16, 349:10, 349:11, 349:12, 350:2</p> <p><b>Phasing</b> <sup>[1]</sup> - 290:11</p> <p><b>physically</b> <sup>[1]</sup> - 296:7</p> <p><b>picking</b> <sup>[1]</sup> - 299:17</p> <p><b>picture</b> <sup>[1]</sup> - 314:6</p> <p><b>pine</b> <sup>[1]</sup> - 310:22</p> <p><b>pin</b> <sup>[1]</sup> - 311:7</p> <p><b>pipe</b> <sup>[1]</sup> - 298:13</p> <p><b>place</b> <sup>[4]</sup> - 299:5, 311:7, 341:3, 362:12</p> <p><b>placed</b> <sup>[3]</sup> - 295:13, 349:17, 361:16</p> <p><b>plain</b> <sup>[1]</sup> - 319:16</p> <p><b>PLAINS</b> <sup>[1]</sup> - 286:6</p> <p><b>Plains</b> <sup>[12]</sup> - 297:17, 297:19, 297:23, 298:4, 299:18, 300:14, 305:21, 306:3, 318:12, 327:3, 327:9</p> <p><b>Plan</b> <sup>[4]</sup> - 289:20, 290:9, 290:11, 293:14</p> <p><b>plan</b> <sup>[57]</sup> - 290:5, 290:22, 290:23, 290:25, 291:4, 291:5, 291:7, 291:10, 291:11, 291:13, 291:16, 291:17, 291:22,</p>	<p>295:21, 296:4, 296:9, 297:13, 298:13, 299:13, 300:21, 301:8, 302:16, 302:18, 302:19, 303:13, 305:3, 306:9, 306:13, 306:25, 307:16, 308:11, 309:7, 309:12, 310:14, 311:12, 312:19, 314:2, 314:6, 314:7, 314:15, 315:7, 316:3, 322:4, 322:19, 322:22, 334:15, 335:25, 339:12, 345:25, 346:2, 346:8, 347:25, 348:18, 352:7, 352:14, 353:2, 360:24</p> <p><b>PLANNER</b> <sup>[15]</sup> - 307:14, 307:16, 308:20, 309:4, 309:18, 312:1, 312:22, 335:20, 335:23, 337:9, 337:25, 355:22, 356:3, 357:19, 360:14</p> <p><b>planner</b> <sup>[1]</sup> - 295:10</p> <p><b>Planner</b> <sup>[1]</sup> - 286:19</p> <p><b>planning</b> <sup>[14]</sup> - 293:18, 294:2, 294:14, 294:15, 304:9, 319:11, 320:20, 321:13, 321:22, 322:3, 340:6, 344:4, 345:22, 349:5</p> <p><b>Planning</b> <sup>[1]</sup> - 328:25</p> <p><b>PLANNING</b> <sup>[17]</sup> - 286:1, 292:20, 302:2, 302:23, 303:3, 303:10, 303:18, 304:4, 339:24, 340:6, 355:14, 356:10, 357:8, 359:2, 359:9, 359:16, 360:19</p> <p><b>plans</b> <sup>[9]</sup> - 297:16, 299:10, 299:13, 299:20, 302:17, 321:22, 329:2, 357:6, 358:17</p> <p><b>Plans</b> <sup>[4]</sup> - 289:10, 289:13, 289:24, 290:6</p> <p><b>planted</b> <sup>[6]</sup> - 297:25,</p>
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<p>323:12  <b>refers</b> [1] - 316:25  <b>refrain</b> [1] - 323:16  <b>regard</b> [5] - 321:22,  341:12, 351:9,  351:12, 352:10  <b>regardless</b> [1] - 312:7  <b>Regional</b> [1] - 329:11  <b>Registered</b> [1] - 362:5  <b>regroup</b> [1] - 315:3  <b>regular</b> [1] - 355:11  <b>regulations</b> [1] - 300:21  <b>relative</b> [2] - 362:14,  362:16  <b>relatively</b> [1] - 344:9  <b>relevant</b> [1] - 361:6  <b>relief</b> [4] - 317:8,  322:7, 346:9, 346:13  <b>rely</b> [2] - 312:4, 313:20  <b>relying</b> [3] - 312:5,  312:17, 312:19  <b>remains</b> [2] - 337:17  <b>remember</b> [1] - 336:21  <b>remind</b> [2] - 295:13,  297:11  <b>removal</b> [3] - 330:2,  330:9, 351:25  <b>remove</b> [2] - 300:7,  330:5  <b>removed</b> [10] - 300:15,  301:2, 305:15,  306:23, 307:1,  307:5, 313:6, 313:7,  328:4, 328:10  <b>removing</b> [1] - 296:12  <b>rendering</b> [3] -  303:17, 305:3,  305:20  <b>reopen</b> [2] - 350:1,  350:8  <b>repair</b> [1] - 336:17  <b>replacement</b> [1] -  351:25  <b>replanted</b> [1] - 313:7  <b>report</b> [30] - 289:8,  289:18, 295:19,  295:22, 309:12,  313:13, 319:8,  319:17, 327:6,  327:9, 327:11,  327:14, 327:22,  327:23, 328:3,  328:4, 328:10,  332:15, 338:10,  338:11, 338:15,  341:15, 341:16,  341:20, 342:12,  343:25, 344:2, 346:7  <b>Report</b> [1] - 289:16  <b>REPORTED</b> [1] -</p>	<p>286:21  <b>Reporter</b> [2] - 362:4,  362:5  <b>reporter</b> [3] - 345:11,  360:20, 361:8  <b>Reporters</b> [1] - 286:23  <b>reporting</b> [1] - 335:3  <b>REPORTING</b> [1] -  286:23  <b>Reporting</b> [1] - 362:23  <b>reports</b> [5] - 308:14,  315:5, 332:8,  346:12, 347:7  <b>representation</b> [1] -  333:12  <b>represents</b> [1] -  350:23  <b>request</b> [14] - 293:25,  315:21, 316:1,  316:16, 317:7,  317:22, 329:3,  340:17, 340:18,  340:19, 342:11,  347:16, 351:22,  361:10  <b>requested</b> [3] -  316:21, 349:15,  349:20  <b>requests</b> [2] - 314:12,  352:12  <b>require</b> [1] - 318:20  <b>required</b> [11] - 308:15,  309:14, 322:9,  324:4, 334:21,  335:1, 342:3,  346:10, 346:13,  353:7, 354:25  <b>requirement</b> [2] -  316:12, 353:12  <b>requirements</b> [8] -  294:15, 294:16,  295:25, 314:12,  317:10, 320:5,  335:1, 341:10  <b>requires</b> [3] - 318:5,  328:23, 330:13  <b>research</b> [1] - 351:6  <b>residence</b> [1] - 330:6  <b>residential</b> [3] -  293:14, 298:2, 336:8  <b>resolved</b> [4] - 328:14,  352:22, 353:17,  355:23  <b>respect</b> [3] - 318:25,  345:7, 348:25  <b>respond</b> [1] - 308:19  <b>responding</b> [1] -  308:12  <b>response</b> [2] - 300:22,  305:11</p>	<p><b>responses</b> [1] -  340:16  <b>responsibility</b> [2] -  335:19, 336:12  <b>responsible</b> [2] -  334:24, 336:7  <b>responsive</b> [1] -  296:22  <b>result</b> [2] - 295:22,  318:1  <b>resulted</b> [1] - 294:7  <b>resumes</b> [2] - 304:8,  340:5  <b>return</b> [2] - 358:4,  358:17  <b>returning</b> [2] - 294:24,  329:2  <b>review</b> [24] - 290:17,  290:22, 290:24,  290:25, 291:4,  291:6, 291:7, 291:8,  291:10, 291:12,  291:13, 291:15,  291:16, 291:17,  291:19, 291:20,  291:22, 297:1,  297:20, 299:21,  322:3, 322:19,  345:24, 346:4  <b>reviewed</b> [1] - 299:23  <b>reviewing</b> [1] - 299:24  <b>reviews</b> [1] - 300:7  <b>revised</b> [14] - 289:9,  289:11, 289:14,  289:17, 289:19,  289:22, 289:25,  290:5, 290:8,  297:16, 303:14,  328:10, 346:2,  358:16  <b>revision</b> [4] - 298:20,  298:23, 300:3,  300:10  <b>revisions</b> [7] - 297:13,  299:5, 299:11,  299:12, 299:20,  300:21, 316:4  <b>riparian</b> [2] - 298:19,  299:1  <b>River</b> [1] - 329:11  <b>road</b> [17] - 296:19,  297:17, 297:23,  298:18, 298:25,  318:9, 318:15,  318:21, 320:1,  341:22, 341:23,  342:3, 342:8, 342:9,  343:22, 344:18,  349:22  <b>ROAD</b> [2] - 286:6</p>	<p><b>Road</b> [10] - 297:17,  297:19, 297:23,  298:4, 299:18,  300:14, 305:21,  318:12, 327:4  <b>roads</b> [2] - 290:21,  315:16  <b>roadway</b> [2] - 298:24,  306:4  <b>roadways</b> [4] - 315:12,  315:15, 316:8,  316:11  <b>rob</b> [4] - 320:16,  320:17, 326:11,  345:8  <b>Rob</b> [9] - 309:23,  310:1, 319:5,  326:16, 326:19,  345:9, 345:10,  345:12, 348:11  <b>ROBERT</b> [2] - 286:15,  286:16  <b>Ron</b> [10] - 301:23,  317:4, 320:12,  320:25, 321:6,  321:8, 340:9,  345:20, 354:21,  360:14  <b>RONALD</b> [1] - 286:18  <b>room</b> [1] - 310:20  <b>routes</b> [2] - 331:21,  332:4  <b>RPR</b> [2] - 286:21,  362:23  <b>RUBANO</b> [1] - 286:20  <b>run</b> [1] - 306:18  <b>runoff</b> [2] - 299:18,  300:17</p>	<p><b>Scott</b> [1] - 343:8  <b>screen</b> [9] - 301:7,  302:22, 305:6,  305:7, 307:24,  308:22, 310:5, 310:7  <b>SD</b> [1] - 359:15  <b>SD-2990</b> [3] - 286:7,  359:17, 359:18  <b>Seaman</b> [1] - 292:7  <b>SEAMAN</b> [1] - 286:16  <b>seasonal</b> [3] - 333:7,  333:24, 334:4  <b>second</b> [3] - 302:24,  302:25, 303:23  <b>Secretary</b> [1] - 286:20  <b>SECRETARY</b> [18] -  292:20, 302:2,  302:23, 303:3,  303:10, 303:18,  304:4, 304:9,  339:24, 340:6,  355:14, 356:10,  357:8, 357:12,  359:2, 359:9,  359:16, 360:19  <b>section</b> [1] - 346:8  <b>see</b> [21] - 304:14,  304:15, 306:7,  309:25, 310:2,  310:24, 326:19,  337:8, 338:8,  342:11, 346:20,  347:2, 352:21,  353:8, 353:19,  354:5, 354:6, 354:9,  354:11, 361:17  <b>seeking</b> [1] - 316:13  <b>send</b> [2] - 302:3, 302:7  <b>separate</b> [2] - 322:21,  340:16  <b>seperated</b> [1] - 309:2  <b>September</b> [4] -  289:17, 295:20,  341:25, 344:6  <b>septic</b> [3] - 330:2,  330:6, 330:9  <b>serving</b> [2] - 341:6,  341:7  <b>set</b> [3] - 335:11,  335:12, 362:12  <b>settlement</b> [5] -  293:16, 294:5,  294:6, 294:17, 320:6  <b>seven</b> [2] - 289:10,  333:9  <b>several</b> [1] - 292:2  <b>Sewage</b> [1] - 329:11  <b>sewer</b> [4] - 306:19,  329:15, 333:19  <b>Shade</b> [2] - 290:25,</p>
<b>S</b>				
<p><b>sac</b> [2] - 307:23,  308:21  <b>safe</b> [2] - 315:19,  317:23  <b>sale</b> [1] - 336:9  <b>saplings</b> [1] - 311:14  <b>satisfaction</b> [1] -  340:21  <b>satisfactory</b> [2] -  309:7, 337:18  <b>satisfied</b> [3] - 317:18,  322:7, 354:14  <b>satisfies</b> [1] - 317:15  <b>satisfy</b> [1] - 317:9  <b>saw</b> [1] - 339:1  <b>scampering</b> [1] -  301:25  <b>schedule</b> [1] - 351:19  <b>scope</b> [2] - 299:13</p>				

<p>291:7  <b>shade</b> [1] - 307:12  <b>Share</b> [1] - 348:22  <b>share</b> [6] - 302:22,  305:6, 319:18,  328:8, 328:21,  358:22  <b>shared</b> [2] - 330:13,  347:21  <b>Shari</b> [17] - 309:19,  309:24, 309:25,  310:8, 310:9,  310:11, 313:5,  316:23, 337:23,  340:22, 341:4,  347:10, 350:13,  352:9, 354:3,  357:15, 358:4  <b>SHARI</b> [1] - 286:19  <b>sharing</b> [3] - 301:7,  310:5, 310:7  <b>sheet</b> [4] - 289:5,  289:21, 290:9,  290:11  <b>sheets</b> [5] - 289:10,  289:13, 289:24,  290:4, 290:7  <b>short</b> [1] - 339:25  <b>shorten</b> [1] - 298:25  <b>shortening</b> [1] -  298:18  <b>shortly</b> [1] - 339:21  <b>show</b> [3] - 305:20,  312:25, 340:24  <b>showed</b> [1] - 312:23  <b>shown</b> [1] - 346:22  <b>shows</b> [1] - 311:13  <b>side</b> [4] - 307:23,  308:22, 313:17,  333:22  <b>signal</b> [5] - 325:13,  328:8, 340:17,  341:12, 341:18  <b>signals</b> [1] - 344:19  <b>signed</b> [4] - 329:8,  343:2, 343:9, 343:14  <b>significant</b> [1] -  331:15  <b>silted</b> [1] - 334:18  <b>similar</b> [1] - 349:19  <b>simple</b> [1] - 319:16  <b>simply</b> [1] - 323:13  <b>sincere</b> [1] - 309:16  <b>single</b> [3] - 315:7,  333:1, 333:10  <b>single-family</b> [2] -  333:1, 333:10  <b>site</b> [37] - 290:22,  290:23, 290:25,  291:4, 291:5, 291:7,</p>	<p>291:10, 291:11,  291:13, 291:16,  291:17, 291:22,  296:5, 296:8,  306:14, 306:24,  307:1, 307:3, 309:9,  312:2, 312:3, 312:4,  312:7, 312:8,  312:10, 312:13,  319:18, 321:22,  322:19, 322:22,  329:20, 333:7,  341:23, 342:1,  352:14  <b>Site</b> [3] - 289:13,  289:23, 293:14  <b>situation</b> [1] - 315:23  <b>six</b> [1] - 333:9  <b>size</b> [2] - 311:6,  311:21  <b>skimp</b> [1] - 314:1  <b>slab</b> [1] - 333:2  <b>slight</b> [1] - 316:13  <b>slightly</b> [1] - 315:18  <b>slopes</b> [1] - 298:13  <b>slow</b> [1] - 320:24  <b>small</b> [3] - 298:15,  311:17, 330:6  <b>Soil</b> [2] - 329:4, 329:6  <b>soil</b> [1] - 333:6  <b>sole</b> [1] - 320:10  <b>solely</b> [1] - 345:1  <b>someone</b> [1] - 360:14  <b>somewhere</b> [3] -  295:4, 338:21,  344:21  <b>sorry</b> [5] - 301:23,  303:21, 317:2,  344:24, 348:12  <b>Sorry</b> [1] - 319:5  <b>sounds</b> [1] - 339:19  <b>space</b> [1] - 311:4  <b>speaking</b> [2] - 319:3,  348:19  <b>SPECIAL</b> [1] - 286:4  <b>special</b> [3] - 293:23,  316:21, 352:19  <b>species</b> [3] - 306:9,  338:9, 338:15  <b>specific</b> [2] - 313:14,  341:22  <b>specifically</b> [6] -  319:2, 321:23,  323:5, 323:12,  324:1, 328:2  <b>specifics</b> [1] - 347:15  <b>SPEENEY</b> [1] - 350:16  <b>spend</b> [2] - 296:2,  296:17  <b>spent</b> [2] - 293:25,</p>	<p>328:4  <b>SPERO</b> [1] - 286:19  <b>Spero</b> [16] - 296:5,  296:8, 298:7,  300:22, 300:23,  305:12, 308:13,  314:8, 340:22,  341:4, 341:8, 352:1,  352:5, 352:9, 358:5,  358:14  <b>Spero's</b> [1] - 347:17  <b>spoken</b> [2] - 319:12,  319:15  <b>sporadic</b> [2] - 298:4,  333:9  <b>spot</b> [2] - 347:11,  347:12  <b>spring</b> [1] - 330:7  <b>spruce</b> [1] - 311:19  <b>spruces</b> [3] - 311:5,  311:20, 340:25  <b>staff</b> [2] - 295:19,  295:24  <b>staggering</b> [1] -  313:18  <b>stand</b> [1] - 349:25  <b>standard</b> [2] - 316:24,  317:3  <b>standards</b> [2] -  315:10, 317:4  <b>stands</b> [1] - 313:21  <b>start</b> [1] - 340:10  <b>state</b> [5] - 299:23,  329:12, 329:14,  334:25, 336:13  <b>State</b> [3] - 287:3,  362:4, 362:23  <b>STATE</b> [1] - 286:2  <b>state's</b> [1] - 336:23  <b>statement</b> [3] -  327:19, 330:18,  352:11  <b>statements</b> [1] -  347:21  <b>status</b> [2] - 296:16,  330:14  <b>steadfast</b> [1] - 333:13  <b>STENOGRAPHICAL</b>  <b>LY</b> [1] - 286:21  <b>stenographically</b> [1] -  362:11  <b>stick</b> [1] - 349:1  <b>still</b> [5] - 299:14,  304:14, 313:8,  323:15, 352:23  <b>stop</b> [1] - 310:4  <b>stormwater</b> [9] -  295:18, 295:21,  299:4, 299:6,  299:15, 300:1,</p>	<p>300:7, 300:9, 300:11  <b>Stormwater</b> [2] -  289:8, 289:18  <b>street</b> [3] - 306:5,  306:6, 307:11  <b>Street</b> [1] - 306:20  <b>strict</b> [3] - 317:8,  334:25, 344:11  <b>Stu</b> [2] - 303:3, 358:4  <b>Stuart</b> [7] - 288:4,  295:1, 295:9,  295:25, 298:17,  302:19, 358:14  <b>STUART</b> [1] - 297:4  <b>study</b> [3] - 331:13,  331:16, 332:13  <b>stuff</b> [1] - 348:23  <b>style</b> [1] - 316:6  <b>subcategory</b> [1] -  329:5  <b>subdivision</b> [1] -  352:14  <b>Subdivision</b> [3] -  289:12, 289:16,  289:23  <b>subject</b> [1] - 322:9  <b>submission</b> [1] -  298:23  <b>submit</b> [1] - 355:1  <b>submitted</b> [3] -  303:17, 333:8, 355:2  <b>subsequent</b> [2] -  323:6, 351:18  <b>subsequently</b> [1] -  328:3  <b>substantial</b> [7] -  305:23, 341:1,  342:7, 342:14,  344:17, 349:24  <b>substantive</b> [1] -  353:14  <b>suggesting</b> [1] - 350:8  <b>suggestion</b> [1] - 306:7  <b>suggestions</b> [1] -  308:16  <b>sum</b> [2] - 343:22,  350:20  <b>summary</b> [2] - 297:13,  300:25  <b>summer</b> [1] - 300:7  <b>SUNNYSIDE</b> [1] -  286:6  <b>Sunnyside</b> [3] -  318:11, 319:10,  327:3  <b>supplied</b> [1] - 338:6  <b>supported</b> [1] -  335:14  <b>supposed</b> [1] - 341:7  <b>surely</b> [2] - 326:21,</p>	<p>337:21  <b>suspect</b> [1] - 356:6  <b>sweet</b> [2] - 311:14,  311:18  <b>swimming</b> [1] - 334:1  <b>sworn</b> [2] - 297:4,  362:7  <b>system</b> [9] - 295:18,  299:4, 299:6,  299:25, 306:19,  330:2, 330:6,  334:10, 334:14  <b>systems</b> [3] - 300:8,  300:9, 300:11</p>
<b>T</b>				
<p><b>T's</b> [1] - 298:12  <b>table</b> [3] - 333:7,  333:21, 333:24  <b>talks</b> [1] - 323:25  <b>Tannenhau</b> [2] -  292:23, 361:12  <b>task</b> [1] - 351:6  <b>tax</b> [1] - 336:18  <b>team</b> [1] - 338:14  <b>technical</b> [2] - 326:12,  348:13  <b>Tel</b> [1] - 286:25  <b>Ten</b> [1] - 357:9  <b>ten</b> [4] - 311:25, 331:2,  357:8, 359:24  <b>ten-minute</b> [1] - 331:2  <b>terms</b> [1] - 313:17  <b>Terrace</b> [1] - 286:24  <b>terrific</b> [1] - 315:1  <b>testified</b> [4] - 294:23,  312:20, 347:19,  356:15  <b>testify</b> [4] - 295:25,  305:14, 316:1, 362:7  <b>testifying</b> [1] - 297:5  <b>testimony</b> [13] -  294:21, 295:13,  296:14, 299:6,  324:17, 324:18,  331:6, 334:9,  334:12, 346:10,  346:14, 347:6,  347:18  <b>text</b> [1] - 345:14  <b>THE</b> [36] - 289:2,  290:15, 292:6,  292:13, 292:17,  292:22, 301:12,  301:17, 301:22,  302:4, 302:6, 302:8,  302:13, 303:6,  303:7, 303:15,  303:20, 303:23,</p>				

304:17, 307:15, 310:4, 310:8, 317:16, 333:1, 333:8, 334:8, 334:12, 334:17, 334:20, 335:8, 343:12, 355:3, 355:19, 357:9, 357:21, 358:1 <b>third</b> [2] - 293:17, 355:12 <b>thousand</b> [1] - 335:11 <b>three</b> [4] - 296:12, 311:22, 339:3, 355:15 <b>thrilled</b> [1] - 309:20 <b>throughout</b> [5] - 298:8, 307:13, 315:19, 317:23, 333:9 <b>throw</b> [1] - 310:16 <b>Thursday</b> [2] - 355:11, 355:12 <b>tie</b> [2] - 306:18, 306:19 <b>tightly</b> [1] - 322:1 <b>to..</b> [1] - 301:6 <b>today</b> [2] - 336:25, 338:25 <b>together</b> [2] - 311:16, 355:1 <b>tomorrow</b> [3] - 357:5, 357:16, 359:8 <b>tonight</b> [9] - 292:5, 292:10, 316:22, 346:10, 347:13, 348:4, 351:14, 352:20, 353:7 <b>took</b> [1] - 297:1 <b>topic</b> [1] - 328:18 <b>topics</b> [1] - 358:20 <b>total</b> [7] - 292:19, 296:13, 306:22, 307:7, 307:8, 313:6, 342:2 <b>totally</b> [1] - 332:16 <b>toward</b> [1] - 344:13 <b>towards</b> [5] - 293:3, 299:17, 299:19, 328:8 <b>town</b> [13] - 299:23, 319:11, 335:19, 335:25, 336:12, 336:20, 341:19, 342:21, 343:4, 343:14, 343:16, 344:5, 349:2 <b>town's</b> [2] - 320:9, 330:4 <b>Township</b> [4] - 286:24, 287:4, 294:7, 318:4 <b>township</b> [14] - 294:10, 296:19, 299:9, 305:4, 318:14, 318:21, 318:22, 320:19, 321:12, 325:21, 329:8, 330:21, 336:16, 343:10 <b>TOWNSHIP</b> [1] - 286:1 <b>township's</b> [4] - 321:23, 321:24, 359:23, 360:1 <b>Township's</b> [1] - 293:16 <b>tract</b> [1] - 344:18 <b>Traffic</b> [2] - 289:7, 331:13 <b>traffic</b> [29] - 318:16, 319:10, 319:19, 322:13, 322:15, 324:1, 325:6, 325:13, 327:5, 327:8, 327:11, 327:12, 327:19, 328:1, 328:5, 331:13, 332:5, 332:13, 332:15, 340:17, 341:12, 341:15, 341:16, 341:18, 344:14, 344:19, 348:24, 349:6, 351:6 <b>trail</b> [1] - 306:17 <b>transcript</b> [2] - 361:10, 362:10 <b>TRANSCRIPT</b> [1] - 286:10 <b>transcripts</b> [1] - 297:1 <b>transportation</b> [3] - 325:12, 326:3 <b>travel</b> [1] - 332:5 <b>Treatment</b> [1] - 329:15 <b>Tree</b> [3] - 286:19, 290:25, 291:7 <b>tree</b> [4] - 298:8, 305:23, 351:24, 351:25 <b>TREE</b> [11] - 310:10, 310:19, 311:24, 312:15, 313:11, 317:2, 317:11, 317:19, 347:14, 350:15, 357:23 <b>treed</b> [1] - 310:23 <b>trees</b> [45] - 296:13, 297:25, 298:1, 298:5, 301:1, 301:2, 301:3, 305:14, 305:15, 305:22, 306:1, 306:2, 306:3, 306:5, 306:6, 306:8, 306:10, 306:22, 306:25, 307:1, 307:2, 307:4, 307:5, 307:7, 307:8, 307:10, 307:11, 307:12, 307:13, 311:1, 311:2, 311:4, 311:9, 311:18, 311:19, 312:13, 312:17, 312:18, 313:6, 313:7, 341:1, 348:3, 355:6 <b>triangle</b> [1] - 313:19 <b>triangle-type</b> [1] - 313:19 <b>True</b> [1] - 356:3 <b>true</b> [2] - 314:5, 362:10 <b>truth</b> [3] - 362:7, 362:8 <b>try</b> [3] - 304:1, 345:12, 351:7 <b>trying</b> [1] - 351:5 <b>turn</b> [1] - 348:14 <b>twice</b> [2] - 323:3, 324:15 <b>two</b> [7] - 300:13, 306:14, 335:13, 340:15, 340:16, 341:20, 354:2 <b>type</b> [2] - 306:6, 313:19 <b>types</b> [2] - 298:8, 306:8	294:7, 318:4 <b>township</b> [14] - 294:10, 296:19, 299:9, 305:4, 318:14, 318:21, 318:22, 320:19, 321:12, 325:21, 329:8, 330:21, 336:16, 343:10 <b>TOWNSHIP</b> [1] - 286:1 <b>township's</b> [4] - 321:23, 321:24, 359:23, 360:1 <b>Township's</b> [1] - 293:16 <b>tract</b> [1] - 344:18 <b>Traffic</b> [2] - 289:7, 331:13 <b>traffic</b> [29] - 318:16, 319:10, 319:19, 322:13, 322:15, 324:1, 325:6, 325:13, 327:5, 327:8, 327:11, 327:12, 327:19, 328:1, 328:5, 331:13, 332:5, 332:13, 332:15, 340:17, 341:12, 341:15, 341:16, 341:18, 344:14, 344:19, 348:24, 349:6, 351:6 <b>trail</b> [1] - 306:17 <b>transcript</b> [2] - 361:10, 362:10 <b>TRANSCRIPT</b> [1] - 286:10 <b>transcripts</b> [1] - 297:1 <b>transportation</b> [3] - 325:12, 326:3 <b>travel</b> [1] - 332:5 <b>Treatment</b> [1] - 329:15 <b>Tree</b> [3] - 286:19, 290:25, 291:7 <b>tree</b> [4] - 298:8, 305:23, 351:24, 351:25 <b>TREE</b> [11] - 310:10, 310:19, 311:24, 312:15, 313:11, 317:2, 317:11, 317:19, 347:14, 350:15, 357:23 <b>treed</b> [1] - 310:23 <b>trees</b> [45] - 296:13, 297:25, 298:1, 298:5, 301:1, 301:2, 301:3, 305:14, 305:15, 305:22, 306:1, 306:2, 306:3, 306:5, 306:6, 306:8, 306:10, 306:22, 306:25, 307:1, 307:2, 307:4, 307:5, 307:7, 307:8, 307:10, 307:11, 307:12, 307:13, 311:1, 311:2, 311:4, 311:9, 311:18, 311:19, 312:13, 312:17, 312:18, 313:6, 313:7, 341:1, 348:3, 355:6 <b>triangle</b> [1] - 313:19 <b>triangle-type</b> [1] - 313:19 <b>True</b> [1] - 356:3 <b>true</b> [2] - 314:5, 362:10 <b>truth</b> [3] - 362:7, 362:8 <b>try</b> [3] - 304:1, 345:12, 351:7 <b>trying</b> [1] - 351:5 <b>turn</b> [1] - 348:14 <b>twice</b> [2] - 323:3, 324:15 <b>two</b> [7] - 300:13, 306:14, 335:13, 340:15, 340:16, 341:20, 354:2 <b>type</b> [2] - 306:6, 313:19 <b>types</b> [2] - 298:8, 306:8	308:6, 308:21, 309:25, 310:17, 314:19, 327:17, 334:18, 340:11, 340:24, 345:22, 345:24, 346:6, 349:3, 352:2, 352:20, 353:7 <b>update</b> [1] - 298:7 <b>updated</b> [4] - 297:24, 305:20, 306:10, 332:10 <b>US1132@aol.com</b> [1] - 302:14 <b>utilities</b> [1] - 324:5  <b>V</b>  <b>valid</b> [1] - 309:15 <b>variance</b> [2] - 293:15, 316:15 <b>variance-free</b> [1] - 293:15 <b>variances</b> [2] - 315:6, 316:15 <b>vegetated</b> [1] - 311:13 <b>veracity</b> [1] - 347:20 <b>verbal</b> [1] - 301:4 <b>vested</b> [1] - 318:13 <b>Via</b> [1] - 287:1 <b>VICE</b> [51] - 292:11, 293:6, 303:1, 303:8, 304:2, 309:23, 310:1, 320:16, 320:22, 321:3, 321:5, 326:11, 326:15, 326:18, 326:24, 327:7, 328:16, 331:4, 331:11, 332:20, 332:24, 333:4, 337:22, 338:3, 338:12, 338:19, 338:23, 339:6, 339:9, 339:14, 339:19, 339:22, 340:8, 345:8, 345:18, 347:9, 348:5, 348:10, 350:3, 350:6, 350:12, 350:16, 350:25, 354:1, 354:16, 354:21, 356:9, 356:12, 360:13, 361:18, 361:22 <b>Vice</b> [1] - 286:12 <b>VICE-CHAIRMAN</b> [51] - 292:11, 293:6, 303:1, 303:8, 304:2, 309:23, 310:1, 320:16, 320:22, 321:3, 321:5, 326:11, 326:15, 326:18, 326:22, 327:7, 328:16, 331:4, 331:11, 332:20, 332:24, 333:4, 334:8, 334:12, 334:17, 334:20, 335:8, 335:12, 335:19, 336:12, 336:15, 336:18, 336:24, 337:7, 338:16, 338:19, 338:23, 339:6, 339:9, 339:14, 339:19, 339:22, 340:8, 345:8, 345:18, 347:9, 348:5, 348:10, 350:3, 350:6, 350:12, 350:16, 350:25, 354:1, 354:16, 354:21, 356:9, 356:12, 360:13, 361:18, 361:22 <b>Vice-Chairman</b> [1] - 286:12 <b>Video</b> [1] - 287:1 <b>viewed</b> [1] - 360:2 <b>Views</b> [1] - 359:14 <b>vinyl</b> [1] - 334:2 <b>VIRTUAL</b> [1] - 286:10 <b>virtual</b> [2] - 359:20, 359:23 <b>visible</b> [1] - 305:17 <b>vote</b> [6] - 293:3, 297:3, 351:14, 352:22, 353:4, 353:6	309:23, 310:1, 320:16, 320:22, 321:3, 321:5, 326:11, 326:15, 326:18, 326:24, 327:7, 328:16, 331:4, 331:11, 332:20, 332:24, 333:4, 337:22, 338:3, 338:12, 338:19, 338:23, 339:6, 339:9, 339:14, 339:19, 339:22, 340:8, 345:8, 345:18, 347:9, 348:5, 348:10, 350:3, 350:6, 350:12, 350:16, 350:25, 354:1, 354:16, 354:21, 356:9, 356:12, 360:13, 361:18, 361:22 <b>Vice-Chairman</b> [1] - 286:12 <b>Video</b> [1] - 287:1 <b>viewed</b> [1] - 360:2 <b>Views</b> [1] - 359:14 <b>vinyl</b> [1] - 334:2 <b>VIRTUAL</b> [1] - 286:10 <b>virtual</b> [2] - 359:20, 359:23 <b>visible</b> [1] - 305:17 <b>vote</b> [6] - 293:3, 297:3, 351:14, 352:22, 353:4, 353:6  <b>W</b>  <b>wait</b> [2] - 340:9 <b>waiting</b> [1] - 303:13 <b>waiver</b> [7] - 315:7, 315:22, 316:2, 316:13, 316:16, 317:8 <b>walk</b> [1] - 311:16 <b>walked</b> [1] - 296:5 <b>wants</b> [2] - 349:1, 361:1 <b>warranted</b> [1] - 328:9 <b>wastewater</b> [2] - 329:7, 329:13 <b>water</b> [8] - 329:16, 329:20, 333:7, 333:19, 333:21, 333:24, 334:2, 334:3 <b>Water</b> [1] - 329:17 <b>ways</b> [1] - 351:15 <b>website</b> [2] - 359:24, 360:2
---	--	--	---

<b>week</b> <sup>[2]</sup> - 303:17, 355:5 <b>West</b> <sup>[3]</sup> - 319:10, 327:4, 327:9 <b>wet</b> <sup>[3]</sup> - 300:16, 333:23, 334:5 <b>wetland</b> <sup>[1]</sup> - 329:24 <b>wetlands</b> <sup>[1]</sup> - 299:17 <b>white</b> <sup>[1]</sup> - 310:22 <b>whole</b> <sup>[3]</sup> - 338:17, 338:20, 362:8 <b>widening</b> <sup>[1]</sup> - 319:13 <b>width</b> <sup>[5]</sup> - 297:18, 297:21, 297:23, 319:13 <b>wife</b> <sup>[1]</sup> - 339:17 <b>willing</b> <sup>[5]</sup> - 319:9, 319:17, 319:21, 327:13, 342:5 <b>winter</b> <sup>[1]</sup> - 310:25 <b>wish</b> <sup>[6]</sup> - 295:15, 295:16, 314:23, 352:6, 356:17, 358:8 <b>wished</b> <sup>[2]</sup> - 351:10, 351:16 <b>wishes</b> <sup>[1]</sup> - 330:25 <b>WITNESS</b> <sup>[23]</sup> - 301:12, 301:17, 301:22, 302:4, 302:6, 302:13, 303:6, 303:15, 303:20, 307:15, 310:4, 317:16, 333:1, 333:8, 334:8, 334:12, 334:17, 334:20, 335:8, 355:3, 357:9, 357:21, 358:1 <b>witness</b> <sup>[1]</sup> - 362:7 <b>witnesses</b> <sup>[2]</sup> - 294:23, 356:20 <b>WITNESSES</b> <sup>[1]</sup> - 288:3 <b>Woodland</b> <sup>[1]</sup> - 289:20 <b>woodland</b> <sup>[2]</sup> - 296:7, 346:8 <b>woodlands</b> <sup>[5]</sup> - 296:3, 306:24, 338:11, 338:13, 339:11 <b>word</b> <sup>[2]</sup> - 345:10, 349:3 <b>Works</b> <sup>[2]</sup> - 290:20, 329:15 <b>worth</b> <sup>[2]</sup> - 354:2, 354:6 <b>write</b> <sup>[1]</sup> - 344:17 <b>writing</b> <sup>[1]</sup> - 352:3 <b>written</b> <sup>[2]</sup> - 305:12, 315:5	<b>Y</b>
	<b>years</b> <sup>[4]</sup> - 294:4, 336:21, 341:20 <b>you..</b> <sup>[1]</sup> - 361:13
	<b>Z</b>
	<b>zero</b> <sup>[1]</sup> - 316:15 <b>zone</b> <sup>[1]</sup> - 336:1 <b>Zoning</b> <sup>[1]</sup> - 286:20 <b>Zoom</b> <sup>[1]</sup> - 358:5 <b>zoom</b> <sup>[1]</sup> - 311:24 <b>zooms</b> <sup>[1]</sup> - 314:5