



TOWNSHIP OF HOWELL

DEPARTMENT OF COMMUNITY DEVELOPMENT & LAND USE

4567 Route 9 North,
2nd Floor
Howell, NJ 07731

Phone: (732) 938-450 x2300
Fax: (732) 414-3243
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TOWNSHIP OF HOWELL ZONING BOARD MEETING MINUTES 12/16/2024 REGULAR MEETING

Vice Chairman Richard Mertens called the meeting to order and the Administrative Officer read the opening statement.

ROLL CALL

Members:

Richard Mertens	Present	Jose Orozco	Present
Matthew Hughes	Present	William Stahnten	Excused
Nicholas Borrillo	Excused	Michael Ryan (alt. 1)	Excused
Glenn Cantor	Present	Annemarie Scottson (alt. 2)	Present

Board Professionals:

Andy Bayer, Esq. Board Attorney	Present	Charles Cunliffe, P.E., P.P., CME Board Engineer	Present
Jennifer Beahm Board Planner	Present	Shari Spero, LTE Licensed Tree Expert	Present
Eileen Cusa Board Secretary	Present	John Aguiar Code Enforcement Official	Present

PLEDGE OF ALLEGIANCE:

SWEARING IN OF ZONING BOARD PROFESSIONALS:

Mr. Cunliffe, Ms. Beahm, Ms. Spero, and Mr. Aguiar were sworn in.

APPROVAL OF MINUTES:

November 4, 2024

- Motion to Approve: Cantor
- Second: Hughes

Richard Mertens	Yes	Jose Orozco	Yes
Matthew Hughes	Yes	William Stahnten	Excused
Nicholas Borrillo	Excused	Michael Ryan (alt. 1)	Excused
Glenn Cantor	Yes	Annemarie Scottson (alt. 2)	Yes

November 25, 2024

- Motion to Approve: Hughes
- Second: Scottson

Richard Mertens	Yes	Jose Orozco	N/A
Matthew Hughes	Yes	William Stahnten	Excused
Nicholas Borrillo	Excused	Michael Ryan (alt. 1)	Excused
Glenn Cantor	N/A	Annemarie Scottson (alt. 2)	Yes

VOUCHERS:

There were no vouchers to approve.

CORRESPONDENCE:

*BA23-04 Omnicon Realty, LLC has been rescheduled to March 10, 2025 with an extension granted to the Board through April 1, 2025 with notice.

*BA22-11 Aaron Peker/ Yehuda Braun application will be withdrawn from the Zoning Board at this current time. Mr. Pape will be sending an official letter to the Board Secretary.

RESOLUTIONS:**Case No. BA23-18 Cranberry Road Holdings, LLC**

Motion: Hughes

Second: Orozco

Richard Mertens	Yes	Jose Orozco	Yes
Matthew Hughes	Yes	William Stahnten	Excused
Nicholas Borrillo	Excused	Michael Ryan (alt. 1)	Excused
Glenn Cantor	Yes	Annemarie Scottson (alt. 2)	Yes

Case No. BA24-07 1805 US 9 LLC

Motion: Cantor

Second: Orozco

Richard Mertens	Yes	Jose Orozco	Yes
Matthew Hughes	Yes	William Stahnten	Excused
Nicholas Borrillo	Excused	Michael Ryan (alt. 1)	Excused
Glenn Cantor	Yes	Annemarie Scottson (alt. 2)	Yes

APPLICATIONS:

BA20-118 / Fort Plains Partners, LLC

Block (s): 137 Lot(s): 6.01, 15.03 & 15.04

Address: Fort Plains Road

See attached transcript

Adjournment -10:00 p.m.

Motion: Scottson

Second: Cantor

All in favor: None opposed.

Eileen Cusa, Recording Secretary

TOWNSHIP OF HOWELL ZONING BOARD OF ADJUSTMENT

COUNTY OF MONMOUTH - STATE OF NEW JERSEY

- - - - -

REGULAR MEETING FOR:

FORT PLAINS PARTNERS, LLC
BLOCK 137, LOTS 6.01, 15.03 & 15.04
FORT PLAINS ROAD

~USE VARIANCE APPROVAL

APPLICATION NO. BA20-118

- - - - -

HOWELL TOWNSHIP MUNICIPAL BUILDING
MAIN MEETING ROOM - 2ND FLOOR
4567 ROUTE 9 NORTH
HOWELL, NEW JERSEY 07731-3382

- - -

MONDAY, DECEMBER 16, 2024

7:00 P.M.

- - -

TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING
- CONTINUED -

AB COURT REPORTING, LLC
Certified Court Reporters
26 Algonquin Terrace
Millstone Township, New Jersey 08535
Tel: (732)882-3590
angelabuonocsr@gmail.com

BOARD MEMBERS PRESENT:

RICHARD MERTENS, Vice-Chairman

GLENN CANTOR

MATTHEW HUGHES, III

JOSE OROZCO

ANNEMARIE SCOTTSON

BOARD PROFESSIONALS & STAFF PRESENT:

ANDREW BAYER, ESQUIRE, Board Attorney
Pashman Stein Walder Hayden, P.C.

CHARLES CUNLIFFE, P.E., Board Engineer
T&M Associates

JENNIFER BEAHM, P.P., AICP, Board Planner
Leon S. Avakian, Inc.

SHARI SPERO, LTE, Licensed Tree Expert
CME Associates

JOHN AGUILAR, Code Enforcement Officer
Township of Howell

EILEEN CUSA, Assistant Land Use Administrator
Township of Howell

STENOGRAPHICALLY REPORTED BY:

ANGELA BUONANTUONO, CCR, RPR
License No. 30XI00233100

A P P E A R A N C E S:

HEILBRUNN PAPE, LLC

BY: KENNETH L. PAPE, ESQUIRE

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Millstone Township, New Jersey 08535

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--Counsel for the Applicant

GASIOROWSKI & HOLOBINKO

BY: RONALD GASIOROWSKI, ESQUIRE

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--Counsel for the TFE Properties

I N D E X

WITNESSESPAGE

LOUIS ZUEGNER, P.E. MidAtlantic Engineering Partners, LLC	20
IRWIN KIZEL, AIA Jarmel Kizel Architect & Engineers, Inc.	57
NICHOLAS VERDERESE, P.E. Dynamic Traffic, LLC	73
CHRISTINE COFONE, P.P., AICP Cofone Consulting Group, LLC	95

PUBLIC QUESTIONS OR COMMENTS:

<u>NAME</u>	<u>ADDRESS</u>	<u>PAGE</u>
Antonello Bianco	59 Arrowwood Court	125
Jason Hughes	30 Brachen Court	132
Paul Dorato	27 Firestone Drive	135
Aquanetta Smith	57 Arrowwood Court	138
Marc Parisi	2 Castle Court	139

APPLICANT EXHIBITS

<u>No.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A-28	A-28 Sanitary Sewer Calculations dated 9/4/2024	*
A-29	Site Rendering dated 10/3/2024	*
A-30	Site Layout Plan last revised 10/2/2024	*
A-31	Supplemental Traffic Assessment prepared by Nick Verderese of Dynamic Traffic dated 10/9/2024	*

(*) Exhibits were premarked prior to commencement.

BOARDS EXHIBITS

<u>No.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B-39	B-39 Monmouth County Board of Health Comment dated 10/18/2024	*
B-40	Fire Bureau Review dated 10/24/2024	*
B-41	Environmental Review dated 11/13/2024	*
B-42	Shade Tree Review dated 11/20/2024	*
B-43	Farmers Advisory review dated 11/21/2024	*

(*) Exhibits were premarked prior to commencement.

1 VICE-CHAIRMAN MERTENS: Good evening,
2 everybody. Eileen, could you open up with the
3 opening statement.

4 ADMINISTRATOR CUSA: Township of
5 Howell, Zoning Board of Adjustment, Monday, December
6 16, 2024, Regular Meeting.

7 I hereby declare this meeting of the
8 Howell Township Zoning Board to be open. Adequate
9 notice having been given pursuant to the New Jersey
10 Open Public Meetings Act in the following manner:

11 First, on December 11th, 2023, a copy
12 of said notice was mailed to the Asbury Park Press
13 and The Star-Ledger;

14 Second, on December 11th, 2023, a copy
15 of said notice was hand-delivered to the clerk of
16 the Township of Howell;

17 Third, on December 11, 2023, said
18 notice was posted in the office of the zoning board,
19 and on the bulletin board in the Howell Township
20 Municipal Building, 4567 Route 9, Howell Township,
21 New Jersey.

22 In accordance with the Fire Prevention
23 Code and for your safety, please be advised that
24 this facility is designed with two emergency exits
25 at the front and the rear of the meeting room.

1 Furthermore, smoking is not permitted in the
2 municipal building.

3 Please take note that this meeting is
4 being videotaped for possible future broadcast on
5 Howell Township TV-77.

6 This meeting is a judicial proceeding.
7 Any questions or comments must be limited to the
8 issues of what the board may legally consider in
9 reaching a decision, and a decorum appropriate to a
10 judicial hearing must be maintained at all time.

11 Thank you.

12 VICE-CHAIRMAN MERTENS: Thank you.
13 Could we have a roll call, please.

14 ADMINISTRATOR CUSA: Mr. Borrillo is
15 excused. Mr. Cantor?

16 MEMBER CANTOR: Here.

17 SECRETARY CUSA: Mr. Hughes?

18 MEMBER HUGHES: Here.

19 SECRETARY CUSA: Mr. Orozco?

20 MEMBER OROZCO: Here.

21 SECRETARY CUSA: Mr. Stahnten is
22 excused. Mr. Ryan is excused.

23 Ms. Scottson?

24 MEMBER SCOTTSON: Here.

25 ADMINISTRATOR CUSA: And Mr. Mertens?

1 VICE-CHAIRMAN MERTENS: Here.

2 ADMINISTRATOR CUSA: You have a
3 quorum.

4 VICE-CHAIRMAN MERTENS: Could I ask
5 everybody to please stand for the Pledge of
6 Allegiance.

7 [Pledge of Allegiance.]

8 VICE-CHAIRMAN MERTENS: Okay, the next
9 order of business, Andy, could you swear in our
10 professionals.

11 ATTORNEY BAYER: Do you swear the
12 testimony you will give will be the truth, the whole
13 truth, and nothing but the truth, so help you God.

14 ENGINEER CUNLIFFE: I do.

15 ATTORNEY BAYER: Please state your
16 names for the record.

17 ENGINEER CUNLIFFE: Charles Cunliffe.

18 PLANNER BEAHM: Jennifer Beahm.

19 TREE EXPERT SPERO: Shari Spero.

20 ATTORNEY BAYER: Your professionals
21 are sworn, Mr. Chair.

22 VICE-CHAIRMAN MERTENS: Thanks, Andy.

23 - - -

24 (Whereupon, the board continues with
25 the agenda as posted.)

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1 Expiration is December 31st, 2024.

2 ATTORNEY GASIOROWSKI: Mr. Chairman,
3 if I may?

4 VICE-CHAIRMAN MERTENS: Yes, go ahead.

5 ATTORNEY GASIOROWSKI: My name is Ron
6 Gasiorowski. I'm an attorney. I represent TFE
7 Properties, and I'm appearing on behalf of my client
8 as an objector's attorney in this case.

9 VICE-CHAIRMAN MERTENS: Okay.

10 ATTORNEY GASIOROWSKI: I have a
11 comment to make, or rather perhaps in the form of a
12 motion. I've read the transcripts. It's my
13 position that I recognize that the applicant has a
14 right to bifurcate this case, whereas, you hear
15 first the use variance, which is why we're here this
16 evening, then at a later point in time there is a
17 site plan hearing.

18 It's my position that this, in fact, is
19 one of those exceptions of that rule because it is,
20 in fact, a complicated case, there are numerous
21 issues with regard to parking, setbacks, and the
22 like. And I would make my argument to the board
23 that this is a case that should not be bifurcated;
24 the site plan and the use variance should be heard
25 together and in one hearing.

1 That's my position.

2 VICE-CHAIRMAN MERTENS: Okay. Andy,
3 could you chime in on this?

4 ATTORNEY BAYER: Yes, Mr. Chairman, my
5 suggestion is -- Mr. Gasiorowski called me this
6 afternoon to let me know his position -- is that he
7 confirms his position in writing, articulating the
8 cases he's relying on. And then my recommendation
9 is the hearing go forward and then, you know, I'll
10 make a legal recommendation.

11 I don't know if we're finishing
12 tonight. I don't think -- I tend to not think so,
13 at least not vote but, so I would...

14 VICE-CHAIRMAN MERTENS: Well, I'm
15 going to confer with everybody on the board.

16 MEMBER CANTOR: Just curious, who does
17 he represent?

18 ATTORNEY BAYER: Yeah,
19 Mr. Gasiorowski, who is your client? You said TF
20 something.

21 ATTORNEY GASIOROWSKI: TFE Properties.

22 ATTORNEY BAYER: TFE Properties. And
23 where are they located vis-a-vis the subject
24 property, if you know.

25 ATTORNEY GASIOROWSKI: TFE Properties

1 is in Howell Township.

2 VICE-CHAIRMAN MERTENS: But are they
3 on Fort Plains, or do they just own properties in
4 Howell?

5 ATTORNEY GASIOROWSKI: They own
6 properties in Howell Township.

7 VICE-CHAIRMAN MERTENS: Okay.

8 ATTORNEY GASIOROWSKI: So I appreciate
9 your comment. Do you want to set up a time schedule
10 for that?

11 ATTORNEY BAYER: Well, again, let's
12 see how the evening goes.

13 ATTORNEY GASIOROWSKI: Pardon?

14 ATTORNEY BAYER: I said let's see how
15 the evening goes.

16 ATTORNEY GASIOROWSKI: My understanding
17 is my colleague, and my friend, is not going to
18 conclude this evening.

19 ATTORNEY BAYER: Right. So I don't
20 know when the board is going to hear this next is my
21 point, though. Right?

22 VICE-CHAIRMAN MERTENS: Yeah.

23 ATTORNEY BAYER: If we don't finish
24 tonight I'm not sure when it's going to get
25 scheduled.

1 VICE-CHAIRMAN MERTENS: Yeah, we only
2 have five members tonight. And the most important
3 thing is I would like to get testimony on because we
4 have a lot of backlog with cases coming up, and I
5 don't see any reason why we can't at least get the
6 testimony on.

7 ATTORNEY GASIOROWSKI: I understand
8 that and I appreciate it.

9 I know that I'm getting into the game
10 late. I only have one request, I take one vacation
11 a year, that's from December the 26th until January
12 the 5th.

13 ATTORNEY BAYER: Well that won't be an
14 issue, Mr. Gasiorowski.

15 ATTORNEY GASIOROWSKI: Pardon me?

16 ATTORNEY BAYER: Our next meeting, the
17 reorganization meeting is not until after
18 January 5th.

19 ATTORNEY GASIOROWSKI: Okay.

20 ATTORNEY BAYER: So you will be fine.

21 ATTORNEY GASIOROWSKI: All right.

22 Thank you for the courtesies.

23 ATTORNEY BAYER: And I'll get back to
24 you.

25 ATTORNEY GASIOROWSKI: Okay. Thank

1 you for the courtesies of hearing me.

2 VICE-CHAIRMAN MERTENS: Okay.

3 ATTORNEY GASIOROWSKI: Thank you.

4 VICE-CHAIRMAN MERTENS: You're welcome.

5 ATTORNEY PAPE: Before Mr. Gasiorowski
6 leaves, we had the opportunity to speak beforehand.
7 We do have four witnesses that we're presenting this
8 evening, and I'm optimistic that we'll be able to
9 present all four witnesses to the board, with the
10 understanding that cross-examination of those
11 witnesses would occur after the fourth witness
12 testifies.

13 I have assured Mr. Gasiorowski that if
14 he chose to leave early that we will be back with
15 our team when you reschedule us and a
16 cross-examination opportunity will be made available
17 to him at a future meeting. We will not shut down
18 our hearing without that.

19 ATTORNEY GASIOROWSKI: See, that's the
20 one advantage of being an old man, everybody feels
21 sorry for you. Thank you.

22 ATTORNEY PAPE: Thank you. Not
23 feeling sorry.

24 VICE-CHAIRMAN MERTENS: No, I do want
25 to get everybody on testifying tonight.

1 ATTORNEY PAPE: Mr. Chair, I have one
2 further. I personally believe that this application
3 is the poster child of what should be a bifurcated
4 application.

5 When we present a bifurcate application
6 to you we continuously are responsive to your board
7 members and your professionals' requests for any
8 supplemental application, and we have been working
9 on this application for, believe it or not, seven
10 years.

11 We have been working with the board for
12 approximately two; we have had three hearings. The
13 number of times that we have met with your staff to
14 update drainage or landscaping or lighting so that
15 the use variance application is meaningful, we've
16 done it many, many times.

17 So if there's an opportunity given by
18 your counselor to Mr. Gasiorowski to do a brief on
19 his position, I would welcome the opportunity to do
20 the same. I would like to provide you with what I
21 believe is the applicable law.

22 And I do appreciate that Mr. Bayer has
23 ruled that we can proceed this evening.

24 VICE-CHAIRMAN MERTENS: Yes. Okay.

25 ATTORNEY PAPE: With all that as the

1 preamble.

2 VICE-CHAIRMAN MERTENS: Now, do you
3 have any new professionals testifying tonight that
4 we haven't sworn in?

5 ATTORNEY PAPE: Christine Cofone, I
6 believe, was here when you swore in some time ago.

7 CHRISTINE COFONE: I don't remember.

8 ATTORNEY PAPE: But to be safe, if you
9 would like... I know that Nick Verderese was. I
10 know that Louis Zuegner was.

11 VICE-CHAIRMAN MERTENS: Yeah, I know
12 he was, yeah. We can wait until she comes up to
13 testify and do it then.

14 ATTORNEY PAPE: Okay. This is not a
15 summation; a summation isn't going to happen until
16 all the witnesses have testified and all the
17 examination has been placed before the board, but by
18 way of just a little summary of where we are.

19 This is our third hearing before the
20 board. We are asking the board for a use variance
21 to permit two uses on the property: A self-storage
22 building, which actually is a permitted use, but
23 it's not permitted if it's on a property with
24 another use; and then a flex building which in
25 itself is a use variance. We are asking for this

1 board to consider variance relief for those two
2 uses.

3 We have initially presented the plan
4 to the board. The board and the board professionals
5 in August had a number of comments. We made certain
6 revisions to the plans.

7 At the September meeting there were
8 considerable comments about the size of the modules,
9 the number of doors. And there was a significant
10 request from the board to redesign the site so that
11 both uses functioned independently, so that the
12 traffic associated with self-storage and the traffic
13 associated with the flex building were separated
14 from each other, and we've done that.

15 Before we came before the board our
16 clients did two things that were fairly
17 extraordinary. One, they directed that the design
18 of their project would have no access to
19 Fort Plains Road.

20 Fort Plains Road we have hundreds of
21 feet of access and there's no restriction and
22 there's no sight distance issues, but we have --
23 they have told us, and we have incorporated into the
24 plan, a complete closure of Fort Plains Road.

25 Not only is there no access, there is a

1 fireman's access. Chief Prochnow asked that we have
2 one emergency access, but no general access. And
3 the entire perimeter is bermed and landscaped. And
4 that was a fairly extraordinary offer.

5 The second thing is our clients
6 negotiated and successfully purchased from the
7 owners of the KFC properties a right-of-way, so that
8 they could build a road from their property out to
9 Route 9. These were two, I think, extraordinary
10 things that were done early on before we came before
11 the board.

12 By way of summary, that's where we are.
13 Those are the -- we made the revisions that were
14 requested at the September meeting. We carried
15 forward all the commitments that we've made to date.

16 And with your permission, Mr. Chair,
17 Mr. Zuegner is ready to begin. His presentation
18 will be the physical changes to the site that were
19 done in response to the comments by the board and
20 professionals.

21 His testimony will be followed by our
22 architect's testimony, who will testify to the
23 changes that he made to the buildings.

24 And then the next fact witness is Nick
25 Verderese, who is our traffic expert, who will

1 review with the board the revised circulation.

2 Optimistically, Mr. Chair, we'll get
3 to Christine Cofone and have all four witnesses
4 testify this evening.

5 VICE-CHAIRMAN MERTENS: Okay, good.
6 That's good to hear.

7 ATTORNEY PAPE: Ready to begin?

8 VICE-CHAIRMAN MERTENS: Yes. Let's
9 go.

10 ATTORNEY PAPE: Thank you.

11 Mr. Zuegner, I remind you that you're
12 under oath. And I remind the board that his
13 qualifications have been made part of the record as
14 a professional engineer.

15

16 L O U I S Z U E G N E R, P.E., previously sworn,
17 continued testifying as follows:

18 - - -

19 E X A M I N A T I O N

20 - - -

21 ATTORNEY PAPE: If you could let the
22 board IT officer know what exhibits you would like
23 to use for your testimony and then I'm going to ask,
24 in a narrative, what revisions you have made to your
25 plan.

1 THE WITNESS: Sure. If I could, I
2 believe it's Exhibit A-29, it's a revised colored
3 rendering. That's it.

4 This is an exhibit it's labeled "Site
5 Rendering." It's an updated version of what we have
6 been working with at prior hearings, it's like a
7 colored version of the site plan for clarity.

8 And what I thought maybe I would do is
9 talk about what has changed and then sort of go
10 through sort of what hasn't changed.

11 Some of the key revisions in this plan,
12 and one of the big elements that was requested of us
13 was to separate out the uses. If you recall the two
14 buildings to the left, those are the flex space
15 buildings. The building to the right on this plan
16 towards Route 9, the lines going up and down on the
17 right-hand edge of this plan, that's the
18 self-storage building. We talked about those
19 before.

20 The buildings themselves in terms of
21 footprint, and there will be discussion on what has
22 changed in them, but that location, those buildings
23 are in the same spot, essentially the same spot. We
24 created a separation between them.

25 And you can see in a darker green there

1 there is the stormwater basin. There had always
2 been a stormwater basin in that location. We
3 shifted it a little bit in order to create two
4 separate access pieces, one around the self-storage
5 building on the right, and then one on the left.
6 Those were linked in prior plans. So they're now
7 separated by the stormwater basin. There's an
8 ability to landscape and create a new revision
9 there.

10 A little bit hard to see in that darker
11 line below that stormwater basin is an emergency
12 access. Similar to what we had given as access to
13 the fire chief to Fort Plains Road, it would give
14 emergency access between the two sites. It seemed
15 like a logical addition.

16 VICE-CHAIRMAN MERTENS: Is that going
17 to be gated and they'll just have a key to get in?

18 ATTORNEY PAPE: Knox.

19 VICE-CHAIRMAN MERTENS: Okay.

20 THE WITNESS: On the flex space side
21 to the left there will be some discussion on how the
22 building interior was modified.

23 One of the key elements that we're
24 showing on the plan now and was discussed
25 previously, was that each unit would have simply one

1 loading door per unit. And that's identified, it
2 would probably be hard to see clearly here in this
3 edition of the plan, but it's in the revised plans.

4 Also in this, if you recall, there was
5 some discussion on how potential contractors in the
6 units would use the yard and where they would have
7 equipment, say a landscape contractor.

8 In a prior edition there was a bigger
9 turnaround area above towards Route 9 of those
10 buildings. We've modified that space to show both
11 vehicle-size spaces and oversize spaces.

12 And I know it was a condition that was
13 discussed, and I believe -- I'm sure it continues,
14 but there will be no outdoor storage. But the board
15 members had wanted clearly to have some defined and
16 designated spaces; say a contractor had a truck and
17 trailer, or say a plumber had a fleet of three
18 pickup trucks, there was space to park those. So
19 we've created that.

20 VICE-CHAIRMAN MERTENS: Okay.

21 THE WITNESS: On the self-storage
22 building, this is very much a similar loop around
23 the building, it's still one way. And this plan
24 would be below it at the back of the building. That
25 one way loop continues around.

1 We've created additional vehicle
2 parking space around that loop. So while we met
3 parking before that was as one overall site. So now
4 with two separate sites, and I'll go through the
5 numbers in a moment, but we had worked to make sure
6 each individual parcel had the appropriate and
7 requisite number of parking spaces for vehicles, and
8 each does.

9 In that, the prior plan, if we look at
10 the flex space building where it sort of has an
11 angled side to it, middle of the property just above
12 it. There had been vehicle spaces there. They were
13 eliminated. There is shown now an offloading area
14 for a truck or a trailer. Those vehicle spaces,
15 though, have been more than made up for with the
16 addition on each side, the reconfiguration.

17 Again, probably easier just to describe
18 here. This was talked about previously. At each
19 entrance to Route 9 there would be a proposed
20 monument sign identifying each individual use and
21 that use alone. There would be two monument signs
22 along Route 9. And they would not be campus wide;
23 they would be for the individual uses.

24 Lastly is an element that has changed
25 here. There was discussion on fencing and we had

1 added previously a fence towards Fort Plains along
2 the back of our parking lot as an extra barrier
3 beyond the buffer line. And it had ended, if you
4 recall, where we had the emergency access.

5 We have revised that so it continues
6 past the emergency access gate and then actually
7 runs up on the plan to a point where it would hit a
8 retaining wall.

9 So that whole parcel is fully
10 encapsulated. It was a good comment by one of the
11 board members, that it ended too early and we have
12 revised that.

13 VICE-CHAIRMAN MERTENS: What type of
14 fence is that?

15 THE WITNESS: That would be a vinyl
16 privacy fence.

17 ENGINEER CUNLIFFE: You said vinyl.
18 And six-foot-high?

19 THE WITNESS: Correct, six foot.

20 ATTORNEY PAPE: That's what we said,
21 yes.

22 THE WITNESS: So a couple of key
23 elements that maybe I would say remain the same in
24 terms of what we have seen and talked about before.

25 We've talked a fair amount about the

1 effort we had gone through for stormwater
2 management, and stormwater management effectively
3 remains the same. One basin we have now created
4 space between the two buildings. Actually it gets
5 slightly larger; we have more space for it there.
6 Essentially the stormwater management stays the
7 same.

8 The fact of how circulation operates on
9 each side, while we've separated them and we'll have
10 the traffic engineer talk about it, but in my
11 opinion it's still good and it's safe circulation.
12 We have the two emergency access points. We talked
13 about that previously.

14 Mr. Pape had talked in his opening
15 statement about our separation of Fort Plains Road.
16 That remains unchanged, other than the emergency
17 access. There's no connection.

18 And if you recall we had looked at a
19 couple of different aspects of this and what you can
20 see in this rendering, I'll call it on the right
21 half, those are mature existing trees that we
22 propose to reserve.

23 And then where there were some lower,
24 newer trees starting to grow in we were going to
25 construct on the left side a berm and then landscape

1 that berm. We'll work with Ms. Shari -- Shari Spero
2 with concepts for that.

3 Footprint of development, so we know we
4 talked before, it's a 34-acre parcel; approximately
5 what we're looking at here is 14 of those 34 acres.
6 And that footprint within which we are working has
7 not changed.

8 ATTORNEY PAPE: You let me know when
9 you're ready for me.

10 THE WITNESS: Sure. I was just going
11 to go through some of the actual specific numbers on
12 the parking, because that sort of changed.

13 ATTORNEY PAPE: I think that would be
14 appropriate.

15 THE WITNESS: So to run through some
16 numbers on the parking, on the flex space side we
17 have parking approximate to office space in the flex
18 building below those buildings. That's 82 car
19 spaces. That remains the same.

20 I talked about the addition of we call
21 them sort of fleet spaces for pickup trucks.
22 There's 25 of those added to the plan. And 14
23 oversized spaces, those were 12 feet wide and deeper
24 to accommodate say a landscape truck. And then we
25 have 15. Number of spaces we eliminated, which I

1 had referenced earlier.

2 On the flex space side there is a
3 requirement of 75 spaces. We certainly see that not
4 even including the what I'll call the fleet spaces,
5 we have 82 office spaces. Meets that requirement.

6 The self-storage side, there always
7 were to remain five we call them dedicated loading
8 spaces. These are car spaces. Three were under the
9 building and one was at the end. Those remain for
10 people to come in and unload from their car.

11 There's 15 vehicle spaces right along
12 Route 9. Those remain the same.

13 And then throughout the loop there are
14 18 added vehicle spaces. And this gets us exactly
15 to the required number of 33. So that complies as
16 it stands on its own.

17 And those were the parking numbers. I
18 didn't know if there was anything else you wanted
19 to...

20 ATTORNEY PAPE: There were a couple of
21 points I think that we should revisit.

22 Along the way, in August and September,
23 there were some questions from the board staff about
24 sanitary sewer service, and also about potable water
25 and water pressure.

1 And we previously provided to the board
2 that there is a private sewer line that runs through
3 the property. It is privately owned. We have been
4 in contact with them. That you had reviewed the
5 size of the line and had advised the board that you
6 found that the size of the line was more than
7 adequate to handle the anticipated flows.

8 If you could just restate that for the
9 board?

10 THE WITNESS: So for our site there is
11 more than adequate capacity for what we're
12 proposing.

13 Then we had also looked at the easement
14 on the property. There's an eight-inch sewer line
15 out to Route 9 that has capacity. We had done a
16 little bit of an estimate on that eight-inch line.
17 We know what's connected to it. We're sort of
18 guessing what might connect to it in the future, but
19 as a framework over 420 single-family homes could be
20 connected to that line.

21 So there is sufficient significant
22 capacity available if people in the future along
23 Route 9, other properties, wish to connect to that
24 line.

25 ATTORNEY PAPE: There was also some

1 concern about the water supply that is available and
2 whether the pressure in that line would be adequate
3 for the purposes that we're asking this board to
4 consider. And the board will be reminded that the
5 buildings are suppressed with a fire suppression
6 system.

7 So if you could let the board know what
8 you did in that regard with the New Jersey American
9 Water Company.

10 THE WITNESS: Sure. And I will start
11 to remind the board, and this came up recently, Fort
12 Plains Road was recently repaved. But the applicant
13 had worked with actually both of these utility
14 companies to ensure that stubs were brought to the
15 property line prior to paving. So if something were
16 to move forward there's no need to cut the new
17 pavement.

18 There's actually a 16-inch waterline,
19 which is pretty significant, in Fort Plains Road.
20 And New Jersey American was able to provide us
21 actual pressure and flow data.

22 So, essentially, you go through a test
23 process where you look at the current pressure, and
24 then run the water out of it to a fire hydrant. And
25 when it's operating its sort of high flow simulates

1 fire usage, where does that pressure drop to.

2 So my guess for a 16-inch line has a
3 very significant flow and pressure. And we have the
4 numbers from them, but it was significant.

5 ATTORNEY PAPE: And that was -- you
6 initiated that, correct; you reached out to New
7 Jersey American Water and asked that they run that
8 flow test?

9 THE WITNESS: We did, yes.

10 ATTORNEY PAPE: So that was a request
11 that was made by the board of the applicant
12 previously.

13 One other aspect, when we were looking
14 at the two flex buildings there's a separation
15 between the two buildings. And I know that there
16 was a concern that if we left that as pavement it
17 would possibly get misused.

18 So if you could describe to the board
19 what you have done with the area between the two
20 flex buildings.

21 THE WITNESS: So and even a little bit
22 more in detail, I think we talked previously, we
23 created -- had a separation between those. We had
24 pushed back the 25 feet at the request of the fire
25 chief, but in that previous plan that was shown as

1 being paved. And I think we've committed to this at
2 the prior hearing, it's now shown more, as you could
3 see, in terms of an island at each end of the curb.
4 And it would be a grass or a landscaped area.

5 ATTORNEY PAPE: Supplementing the
6 testimony of Mr. Zuegner with regard to parking, at
7 the last meeting the applicant stated on the record
8 and made a commitment that there would be no outdoor
9 storage at all, and that all of the parking stalls
10 that are on-site would be dedicated to specific
11 tenants, each -- we'd give a specific number of
12 parking stalls dedicated to the tenant in its lease,
13 and those would be the only parking stalls that that
14 tenant would be permitted to use. And that would be
15 the way that we would control the use of the parking
16 stalls on the site.

17 Those commitments were made at the last
18 meeting and are restated this evening.

19 ATTORNEY PAPE: I have nothing further
20 of Mr. Zuegner, other than to ask if he had the
21 opportunity to review the most-recent report that
22 came from Mr. Cunliffe, and are you comfortable
23 that, as you have in the past, can you confirm that
24 you can and you will address the technical
25 requirements of Mr. Cunliffe in the event that we

1 could move forward with the site plan?

2 THE WITNESS: I was able to read the
3 most recent letter and I'm confident if this were to
4 move forward we could satisfy all of his concerns.

5 ATTORNEY PAPE: And if it's not
6 inappropriate, if I could ask if Mr. Cunliffe could
7 comment if that is adequate, or if there's anything
8 specifically that he wishes Louis to address.

9 VICE-CHAIRMAN MERTENS: Let's do that
10 now. Charlie?

11 ENGINEER CUNLIFFE: Yeah, so I just
12 want to ask some more clarifying questions with some
13 of the representations that were made on the record.

14 So there is 14 oversized vehicles.
15 They're 10 foot by 30, or you said they're 12 foot
16 by 30?

17 THE WITNESS: I believe they're
18 12 foot by 30.

19 ENGINEER CUNLIFFE: The dimension that
20 I have shown on the plan says 10 foot.

21 THE WITNESS: Then I would stand
22 corrected.

23 ENGINEER CUNLIFFE: Okay. So we're
24 saying that a contractor, like a landscaper, like a
25 pickup truck with a trailer, opened or closed

1 trailer? Are box trucks going to be parked there?

2 What is really contemplated?

3 THE WITNESS: So the way I had
4 envisioned it, and again, I was trying to be
5 responsive to the board raised this concern, which
6 makes sense, was to create longer spaces, not with
7 necessarily a specific end-user, but imagine just
8 what you talked about, a landscaper who has a pickup
9 truck with a trailer, they could park a trailer
10 there. Or someone had a, you know, sort of an open
11 -- the landscapers often have the smaller-size dump
12 trucks where they move landscape materials around in
13 the back, but those are a longer vehicle, so this
14 would be a parking space for that.

15 ENGINEER CUNLIFFE: And then there's
16 to the north of that sixteen 9-by-19 spaces, and
17 then to the south of that nine 9-by-19 spaces;
18 that's what we're saying are for fleet vehicles?

19 THE WITNESS: Correct.

20 ENGINEER CUNLIFFE: So this wouldn't
21 be like if, say like an A.J. Perri or someone wanted
22 to come operate from the site, those wouldn't
23 accommodate like a large utility van or truck
24 or what -- you know, that's really like a passenger
25 vehicle, 9-by-19?

1 THE WITNESS: There's a dimension just
2 like a regular car space, so in my sort of
3 consideration for that I imagine that being like a
4 plumber's use or a carpenter's use, a pickup truck,
5 a van.

6 ENGINEER CUNLIFFE: Okay. And we
7 discussed I think at the last hearing per the fire
8 bureau's request or recommendation, all circulation
9 drive aisle will be striped as fire lanes?

10 THE WITNESS: Correct, yes.

11 ENGINEER CUNLIFFE: So they would have
12 the ability to come on and enforce if someone is
13 parking in a fire lane.

14 Now, I don't know if you touched on
15 this too; you did make revisions or the architect
16 did make revisions to the flex building to the
17 number of loading doors, right?

18 So previously we had a comment in our
19 letter about the applicant exceeding the one per
20 7,500 loading areas per gross floor area. Can you
21 talk about that, what has been changed, or is the
22 architect going to talk about that?

23 ATTORNEY PAPE: Both.

24 THE WITNESS: Well, yeah, I'll let the
25 architect talk about the building in terms of the

1 interior and setup of the building, but there were a
2 few units that had multiple doors previously, and
3 that has been changed.

4 So each unit, individual unit there is
5 simply one overhead door for large vehicles.

6 ENGINEER CUNLIFFE: And kind of along
7 the lines of that, too, I had some questions
8 regarding the site plan layout for the self-storage
9 building.

10 I think the architectural renderings
11 that have been provided show a fewer number of
12 roll-up doors for that building, whereas the site
13 plan seem to show more. The architect will provide
14 testimony.

15 I guess it's a representation that the
16 architectural plans are what is going to govern as
17 far as entryways to the building?

18 THE WITNESS: Yes.

19 ENGINEER CUNLIFFE: Okay. And then
20 flex space end, so that's on the southeast corner of
21 the Building A-2. So there's no roll-up door to
22 that, but there's a loading zone on the east side of
23 the 30-foot drive aisle.

24 So scroll up, John. Go to the left.

25 So what is the intended type of vehicle

1 that's going to be utilizing that, and what are the
2 daily activities anticipated for that?

3 Because there's no rolling door, no
4 loading door to flex space end. So is that
5 envisioned for flex space end, that rolling area?

6 THE WITNESS: I'm not sure I'm
7 following exactly where you're -- oh, it's at the
8 end? That space has a door at the end of the
9 building towards the self-storage.

10 ENGINEER CUNLIFFE: Okay. So what is
11 that loading zone for, then?

12 THE WITNESS: The idea was, the
13 thought process was, that these units would actually
14 have smaller vehicles gain access to these overhead
15 doors, right. So you have a contractor, a plumber,
16 or someone operating. We wanted a space that if
17 they were to get a delivery from a tractor-trailer,
18 say, you know, a load of pipe for a plumber or if
19 something came in, that there was a space.

20 We created space at each end of the
21 site so that a tractor-trailer would have a
22 designated loading space. And then it would be
23 offloaded by a forklift and taken into individual
24 units.

25 ENGINEER CUNLIFFE: So there's not

1 going to be any loading activities within fire lanes
2 or anything like that, or parking of
3 tractor-trailers within fire lanes; that loading
4 zone is reserved for that purpose?

5 THE WITNESS: That's correct, stopping
6 the truck from just stopping in the lane to be
7 unloaded, giving it a designated space.

8 MEMBER HUGHES: Charlie, real quick
9 I'd like to jump in.

10 I'm just trying to keep aesthetics in
11 my head here what we're talking about; what is the
12 technical front of this building?

13 ATTORNEY PAPE: I think that, from the
14 staff reports, the front has been created as the
15 portion of the building that faces Fort Plains,
16 notwithstanding that it's bermed out.

17 PLANNER BEAHM: If their property
18 fronts or hits a right-of-way, like Fort Plains and
19 Route 9, those are fronts regardless of whether
20 they're being treated like a front or not;
21 technically they're fronts.

22 MEMBER HUGHES: They're so far from
23 Route 9, I was just trying to...

24 PLANNER BEAHM: But it would run right
25 along Fort Plains Road there. I mean I know they're

1 not connecting to Fort Plains Road, but that's
2 technically a frontage.

3 And it's a good thing you bring that up
4 because your fence that you're proposing requires
5 relief.

6 ATTORNEY PAPE: So the fence was in
7 response to comments of the board members.

8 PLANNER BEAHM: I don't take exception
9 to the fence, Ken. I am just saying that you're in
10 the front yard, it's 6-foot high, and it's not
11 50 percent open.

12 So you would just need to have
13 Christine touch on that when she gets up to do her
14 testimony.

15 MEMBER HUGHES: I'm sorry to interrupt
16 you, Charlie.

17 ENGINEER CUNLIFFE: No, that's fine.
18 And just to clarify Jen's point, right, so the fence
19 they're proposing, that was as a request of the
20 board I think, or to address some comments from the
21 public.

22 It complies with the 50-foot buffer
23 requirement, but it's still a technical front yard
24 Fort Plains there. Because of the right-of-way
25 dedication it's a 60-foot front yard setback, so

1 technically in the front yard setback area.

2 PLANNER BEAHM: Can you dimension for
3 us the building now, if you have that right-of-way
4 dedication on Fort Plains how far -- what the
5 setback is?

6 Because 50 feet looks very close to the
7 building.

8 THE WITNESS: The building is 110 feet
9 from the proposed right-of-way line.

10 PLANNER BEAHM: Then there's something
11 wrong with the dimensions. Right?

12 ENGINEER CUNLIFFE: No, they have a
13 50-foot residential buffer and then they have the
14 building 110 feet from the right-of-way dedication.

15 PLANNER BEAHM: Because you're just
16 taking the setback from the buffer line, correct?

17 THE WITNESS: Yes.

18 PLANNER BEAHM: So technically it's in
19 the front yard even though you're hundreds of feet
20 back from the road.

21 THE WITNESS: Right.

22 PLANNER BEAHM: Because the setback is
23 measured from the buffer line.

24 ATTORNEY PAPE: Agreed.

25 ENGINEER CUNLIFFE: So you talked also

1 about the self-storage space. You made some
2 modifications to the parking layout, and now you
3 have parallel parking around the 20-foot wide,
4 one-way drive aisle.

5 So technically our ordinance for
6 parking spaces requires a nine-foot minimum. You
7 know, I'm not going to dispute that eight-foot wide
8 is not a common acceptable width, you know,
9 eight-and-a-half for parking ordinances, but would
10 the applicant be able to make that nine-foot wide to
11 eliminate any relief for that?

12 THE WITNESS: You're talking about for
13 the parallel spaces?

14 ENGINEER CUNLIFFE: Correct. Correct.

15 THE WITNESS: We could make them -- I
16 mean the answer is yes, we could make them nine
17 feet.

18 ENGINEER CUNLIFFE: And we're talking
19 about a half a foot on each parking stall so...

20 THE WITNESS: Right.

21 ENGINEER CUNLIFFE: And then the last
22 comment that I think I have is obviously the
23 stormwater layout. You know, we provided comments
24 based off what we saw previously. There wasn't any
25 new stormwater management report submitted with this

1 new layout.

2 Based on that it looks like it's a
3 certainly larger footprint than I think what was
4 previously circulated, but we would reserve the
5 right, if this ultimately gets to site plan, to
6 review that stormwater report in detail to make sure
7 that everything is still on the up and up in
8 compliance with our stormwater regulations, you
9 know, prior to any future approval should the board
10 act favorably on the use variance.

11 That's all I have for Mr. Zuegner --
12 actually, sorry, one last point.

13 So you talked about the sewer. They
14 did provide calculations. They provided as-built
15 drawings from Crest Engineering for the sewer line
16 that runs along the northern side of their proposed
17 development, and then I think it heads north, it
18 runs back behind CME and Chapter House.

19 So you said there's capacity for
20 400-plus single-family homes?

21 THE WITNESS: That was when -- we came
22 up with numbers that we shared with you, but that
23 was my reference point to give a sort of size, not
24 just a number.

25 ENGINEER CUNLIFFE: Obviously that's

1 HD zoning along Route 9.

2 Did you look at any commercial-type
3 uses and what that would allow for commercial-type
4 uses to tie into that?

5 ATTORNEY PAPE: It's a private line.
6 It services three entities currently; it services
7 the CME building, KFC and the Chapter House. They
8 are the ones that own the line.

9 A number of people have over the years
10 -- I was involved in that being created some
11 20 years ago. A number of property owners have
12 tried to get into it. No one has been successful in
13 getting into it because of the topography in the
14 area. So we don't anticipate that there's anybody
15 else that is coming in but...

16 PLANNER BEAHM: Well, I mean, in
17 fairness, there are properties that run along that
18 corridor between your frontage on Route 9 and the
19 KFC property that cannot access sewer because
20 they're in New Jersey American Water's franchised
21 area and the infrastructure is off of Fort Plains,
22 and they don't go all the way back to Fort Plains.

23 And the township, not so much the
24 board, but the township has been advised by several
25 property owners that they cannot redevelop their

1 property because they can't get access to the sewer.

2 So there are those that will tie in.

3 ATTORNEY PAPE: None of those have
4 asked to tie into the private sewer line to date.
5 So it's just currently there's just the three users.
6 And the private line was built and owned privately
7 by the people who -- CME --

8 PLANNER BEAHM: Am I misunderstanding
9 this; wasn't there a representation that you were
10 going to facilitate these individuals to tie in?

11 I mean, that was testimony two meetings
12 ago.

13 ENGINEER CUNLIFFE: Yes, it was.

14 ATTORNEY PAPE: We indicated that
15 there would be no objection to them tying in. No
16 one has asked to tie in.

17 PLANNER BEAHM: Well, I don't think
18 they know yet. I mean, obviously we have to wait to
19 see the disposition of this application, right, on
20 whether or not --

21 ATTORNEY PAPE: Well, the sewer line
22 is there.

23 PLANNER BEAHM: Right. But your
24 applicant, or you on behalf of your applicant put
25 testimony on the record that you would help

1 facilitate accessing that easement that you have --
2 are running with respect to the sewer.

3 And, quite frankly, it started with we
4 will help them tie in, and then it was it's
5 available if they want to tie in, which is a
6 different scenario than you facilitating the
7 physical tie in. But now you're like, oh, they're
8 there now.

9 So like that's a -- this is why this
10 issue came up the second meeting because I feel like
11 -- I feel like you're going to use that as kind of
12 some positive criteria to justify the relief, but
13 yet I'm not 100 percent sure of exactly what is
14 happening with that sewer and it's important.

15 THE WITNESS: I think to go back to
16 where Mr. Cunliffe was, we know the capacity in that
17 pipe. And my example was residentially, even though
18 it's not really a residential zone -- because that's
19 sort of easy to visualize and also easy to run the
20 scenario -- and I could try and come up with
21 scenarios for commercial, but every commercial use
22 sort of has a different flow. So it's sort of like
23 an endless puzzle to figure out how many different
24 sizes of different commercial uses could fit into
25 it.

1 There's significant capacity in the
2 eight-inch pipe for people to connect to it.

3 ENGINEER CUNLIFFE: Yeah, I mean, I
4 think it would just be important for the board's
5 reference.

6 I know there was a property owner at
7 one of the prior hearings, I think it was Skillners
8 that said, you know, we would love to tie into some
9 sewer if it was available, and there was
10 representation about a main being available for
11 people to connect.

12 So when you say it's private, so the
13 applicant has no ownership stake?

14 ATTORNEY PAPE: The applicant -- so
15 when it was done, the easement was acquired over the
16 applicant's property. It was before the applicant
17 owned it.

18 But the way that the sewer group was
19 created, in exchange for granting the easement
20 across the applicant's property so that the
21 properties on Route 9 could reach the Fort Plains
22 sewer line, that the property that we're presenting
23 to you is a member and is allowed to tie into that
24 line. That was part of the private agreement.

25 So the three businesses out on the road

1 actually funded putting the line in. The then
2 property owner, a gentleman named Mark Engle, gave
3 the easement to them. In exchange for that his
4 property was allowed to tie into the private line.

5 ENGINEER CUNLIFFE: So it's your
6 representation that the applicant has the ability
7 and the rights to tie into the sewer main?

8 ATTORNEY PAPE: Absolutely.

9 ENGINEER CUNLIFFE: But you're saying
10 they are not an owner of the private or have
11 ownership responsibility or share in the sewer main?

12 ATTORNEY PAPE: I provided the
13 agreement and I will mail the agreement with an
14 explanation to your attorney and to each of you so
15 that you could see the way that it's written. They
16 have the absolute right to tie into --

17 ENGINEER CUNLIFFE: No, I think kind
18 of what Jen was getting to is, you know, if we're
19 saying that the sewer is there and other people have
20 the ability to connect into it, is different if this
21 current applicant doesn't actually have any
22 ownership stake in the main, because then it's
23 someone else's main and they're required to maintain
24 it and they own it, and this applicant doesn't own
25 it.

1 So I think that's just an important
2 context for the board's reference on the
3 application.

4 ATTORNEY PAPE: I will send that
5 agreement in again, but this time with an
6 explanation.

7 PLANNER BEAHM: I can't emphasize
8 enough, though, that I feel like this was not how it
9 was presented to us at a prior meeting. And I feel
10 like it was presented to us, of course we can
11 provide access to that sewer.

12 I mean, am I misremembering that?

13 VICE-CHAIRMAN MERTENS: Yeah, no.

14 MEMBER SCOTTSON: No.

15 VICE-CHAIRMAN MERTENS: I agree with
16 you 100 percent.

17 PLANNER BEAHM: Now it's we can tie
18 in, but it's private, so no one else can tie in.

19 I really, quite frankly, feel like this
20 is a key issue regarding this application because
21 that was something that, I think, the board thought
22 was a positive thing that this application brings to
23 the table, and now it's not quite as clear whether
24 that benefit is actually going to be available
25 through this application, which is how it was

1 presented.

2 ATTORNEY PAPE: I think that I can
3 clarify to everybody's satisfaction. I'll do it
4 with a document and then a writing.

5 Mr. Cunliffe, is there anything
6 further?

7 ENGINEER CUNLIFFE: That's all I have
8 for Mr. Zuegner at this time.

9 ATTORNEY PAPE: Okay. If I might, I
10 would point out that with regard to the stormwater
11 there has been considerable exchange between
12 Mr. Cunliffe's office and Mr. Zuegner's office to
13 make certain, to the extent that you can make
14 certain, that this property can manage this
15 stormwater system that is shown.

16 It's not just that there's a simple
17 sketch, there has been mounding and water table and
18 soil studies, all generated by Mr. Zuegner and
19 delivered to Mr. Cunliffe.

20 And if, Mr. Cunliffe, might -- if you
21 could confirm that there has been that in-depth
22 review?

23 ENGINEER CUNLIFFE: You know, I think
24 as talked about at the prior hearing, obviously, we
25 reviewed that documentation. We still have some

1 technical comments that should this get to site
2 plan, obviously, need to be addressed.

3 You know, the comments from our prior
4 iteration of letters still remain in place. I think
5 the only new comment regarding stormwater management
6 was, obviously, that the layout change now based on
7 that is a little different in footprint now that the
8 two sites are -- I wouldn't say two sites, but the
9 self-storage and the flex space are kind of
10 separated.

11 You know, we would obviously want to
12 see, if this gets further to site plan, that
13 included in a final stormwater management design and
14 we would reserve the right to make comments on that.

15 THE WITNESS: I think that's exactly
16 what I would imagine would happen.

17 MEMBER CANTOR: Could I...

18 VICE-CHAIRMAN MERTENS: Yeah, go
19 ahead, Glenn.

20 MEMBER CANTOR: Maybe I'm throwing a
21 monkey wrench into this, but in regard to the sewer
22 line, the sewer line as you're proposing it would
23 attach to the self-storage warehouse at the southern
24 part of the property, correct; they would be able to
25 use that sewer line?

1 THE WITNESS: All of our buildings
2 would be connected to the sewer.

3 MEMBER CANTOR: Okay. So then the
4 one, two -- the approximately eight properties that
5 are on Route 9, would then be invited to tie into
6 that? What are we going to offer those eight
7 properties in order to access that sewer line?

8 I mean you're, obviously, going to
9 build something to get to that self-storage
10 building.

11 ATTORNEY PAPE: Mr. Cantor, I really
12 need to digest the document and send you the digest.
13 The rights of the -- it is a private line. The
14 private line contemplates that people will make
15 contributions and tie into it.

16 Let me present it to you in its
17 entirety, with a digest.

18 MEMBER CANTOR: Thank you.

19 ENGINEER CUNLIFFE: So just to follow
20 up and kind of clarify I think Mr. Cantor's
21 question, right, so there's this sewer line that
22 we're talking about, it runs along the north side of
23 the subject development and then it turns down the
24 KFC driveway, and then it goes north behind the KFC,
25 the Chapter House, and CME, right.

1 For your, the applicant's subject site,
2 you're running your own private sewer service on
3 your site that is going to service the flex space
4 and the self-storage. That's on your property.
5 It's not like there's going to be an easement or
6 anything like that to so...

7 THE WITNESS: And we also have access
8 because it was, like I said, the connection was made
9 before the paving; we have access to the line in the
10 easement and to the line at Fort Plains directly.

11 So we have, for our site we have access
12 to the sewer at a number of locations.

13 MEMBER CANTOR: I understand. That
14 makes sense.

15 ENGINEER CUNLIFFE: So for the eight
16 properties you're talking about I think that are
17 south of the KFC, between the KFC and, you know, the
18 driveway to the self-storage, there is no, to my
19 knowledge, I don't believe there's any sanitary main
20 that runs along the rear or anything like that to
21 those properties.

22 MEMBER CANTOR: Okay.

23 ENGINEER CUNLIFFE: It goes KFC, makes
24 a left and heads north, and then runs behind KFC,
25 CME and the Chapter House.

1 VICE-CHAIRMAN MERTENS: So it goes to
2 Fort Plains, not Route 9?

3 PLANNER BEAHM: Correct.

4 ATTORNEY PAPE: That's correct.

5 MEMBER CANTOR: I understand. Yeah,
6 okay. Thank you.

7 VICE-CHAIRMAN MERTENS: Jennifer, do
8 you have anything? I had a couple of questions, but
9 I'll...

10 PLANNER BEAHM: Go ahead.

11 VICE-CHAIRMAN MERTENS: The buffer
12 that we had talked about at the last meeting was on
13 the HD. Even though it's HD zone, I believe there
14 was a couple of residentials.

15 Now, Shari, there is on this plan,
16 there is existing vegetation; is that going to be
17 sufficient? Because there was a little question
18 about that.

19 TREE EXPERT SPERO: During site plan
20 we'll have that area just spotted in, but overall
21 that's significant vegetation. That's why that's
22 left there.

23 VICE-CHAIRMAN MERTENS: Okay.

24 TREE EXPERT SPERO: Yeah.

25 VICE-CHAIRMAN MERTENS: And then we

1 would just add some four-seasons plants?

2 TREE EXPERT SPERO: Yeah, but overall
3 it's probably not going to be too much, especially
4 with the fence going in right next to it.

5 So if there's any little gaps, yeah, we
6 would fill that in.

7 VICE-CHAIRMAN MERTENS: Now, I'm
8 looking at the southern portion of Building -- I
9 believe it's A-2. There's some big units there but
10 I don't really -- the only thing I see as far as
11 parking is on the west side, which is basically what
12 we're considering the front of the building.

13 What exactly is being -- what would you
14 think is going to be using those warehouses?
15 Because they are a little bit bigger than some of
16 the others, but there's no parking in the rear, just
17 loading.

18 ATTORNEY PAPE: I think, though, after
19 the architect testifies you will find that all of
20 the modules have been reduced in size. We no longer
21 have a large 24,000-square-foot tenant. Perhaps...

22 VICE-CHAIRMAN MERTENS: Okay, we'll
23 wait for that testimony. I can understand that will
24 be a lot better.

25 And then the only thing that I'm

1 looking at too, because it's kind of in my line of
2 work, is the landscape trailers. 10 feet, trying to
3 pull into a 10-foot spot with a landscape truck and
4 a trailer, that's -- even with the little adequate
5 room, width that you have there, that is going to be
6 tight.

7 Now I'm wondering are you speculating
8 there could be a landscaper there? Because if there
9 is I'm not happy with the 10-foot width.

10 THE WITNESS: We could revisit that
11 and see if those spaces could get to 12 feet.

12 VICE-CHAIRMAN MERTENS: Yeah, I'm not
13 saying all of them have to be 12 feet, but if you
14 are having a business such as that where you have
15 trailers backing in --

16 THE WITNESS: Certainly we have the
17 flexibility to...

18 VICE-CHAIRMAN MERTENS: -- yeah, the 10
19 feet, I'm telling you, is not going to be enough.

20 THE WITNESS: Okay. That's a good
21 point.

22 ATTORNEY PAPE: Noted.

23 VICE-CHAIRMAN MERTENS: Anybody else
24 from the board have any questions?

25 Jennifer?

1 PLANNER BEAHM: No, I'm good.

2 VICE-CHAIRMAN MERTENS: Okay.

3 ATTORNEY PAPE: Thank you.

4 Mr. Zuegner will remain with us.

5 We are now ready for our architect to
6 join us.

7 Irwin, could you come up?

8 VICE-CHAIRMAN MERTENS: And it is my
9 understanding that everybody will be here when we
10 open the public, where they could answer questions?

11 ATTORNEY PAPE: Yes, we'll work with
12 you to make sure.

13 VICE-CHAIRMAN MERTENS: Okay.

14 ATTORNEY PAPE: When that date is
15 identified, we'll work with you.

16 VICE-CHAIRMAN MERTENS: Okay, thank
17 you.

18 ATTORNEY PAPE: Good evening.

19 IRWIN KIZEL: Good evening, everyone.

20 ATTORNEY PAPE: I remind you that you
21 are under oath.

22 I remind the board that Mr. Kizel's
23 testimony, as a professional architect, his
24 credentials are part of the record.

25 - - -

1 E X A M I N A T I O N

2 - - -

3 ATTORNEY PAPE: I know that you have
4 made revisions to the plans. I'm going to ask if
5 you could let the IT officer know the plans that you
6 intend to rely upon.

7 And then I'll ask if you could take us
8 through a narrative of the revisions that you have
9 made.

10 THE WITNESS: Certainly. I will rely
11 on what we're labeling Sheet A1 through A4 with a
12 flex building. And A5 through A6 for the
13 self-storage.

14 And in addition to that we have added
15 two renderings.

16 PLANNER BEAHM: Ken, could you -- you
17 have to speak up because we can't hear you right
18 here, so I'm very confident that the people in the
19 back of the room cannot hear you.

20 THE WITNESS: I'm sorry.

21 So I indicated the drawings that we are
22 using tonight. And I also stated that we have two
23 three-dimensional color renderings that we're
24 introducing tonight.

25 ATTORNEY PAPE: So Sheets A1 through

1 A4 will be used to present the flex building. A5
2 and A6 for the self-storage building. And the two
3 three-dimensional colored renderings.

4 THE WITNESS: Right. Correction,
5 please add A7.

6 ATTORNEY PAPE: A5, A6 and A7.

7 ADMINISTRATOR CUSA: What are the
8 dates on these plans? Because they're not on the...

9 THE WITNESS: These were previously
10 submitted, 10/15/24. And the issue block, the last
11 day of the issue block is 10/15/24.

12 ADMINISTRATOR CUSA: Are these the
13 correct plans on the screen?

14 THE WITNESS: Let me just look at the
15 date.

16 VICE-CHAIRMAN MERTENS: Real quick,
17 Andy, do any of these have to be marked, the ones
18 that we're seeing?

19 ADMINISTRATOR CUSA: Yes.

20 ATTORNEY BAYER: Yes. I am just a
21 little confused because I do see some exhibits with
22 markings that are colored renderings, but I'm not
23 sure if it's the same as the witness is referring
24 to.

25 THE WITNESS: So the date on the plans

1 that are on the screen are also 10/15/24.

2 ENGINEER CUNLIFFE: Yeah, so it's your
3 architectural drawings that were submitted,
4 consisting of eight sheets, last revised 10/15/2024?

5 THE WITNESS: Correct.

6 ENGINEER CUNLIFFE: Okay.

7 ATTORNEY BAYER: And what exhibit is
8 that?

9 PLANNER BEAHM: We just pulled it off
10 the document distribution.

11 ADMINISTRATOR CUSA: It's A-26 on the
12 list.

13 THE WITNESS: Please let me know when
14 you're ready for me to proceed.

15 VICE-CHAIRMAN MERTENS: Okay, go
16 ahead.

17 THE WITNESS: Okay. So first I'm
18 referring to -- I will be referring to Sheet A1, and
19 that is the flex building, labeled A1. And what
20 we've refined on this drawing is we have seven units
21 and we have seven loading doors.

22 So the units are relatively small, I
23 mean, you know, 8,000 square feet to 9,000 square
24 feet. And basically the configuration hasn't
25 changed, except we equalized the floors and we have

1 minimized the loading doors to one loading door per
2 unit.

3 I would refer to Sheet A2. That is the
4 flex building, A-2. Similarly this building has
5 been revised to indicate smaller units than what we
6 had before. Basically, you know, they're in the
7 8,000-square-foot range to 9,000- to
8 11,000-square-foot range.

9 So specifically we have one unit that
10 is 8,224, one unit 8,116, one that is 8,170, then
11 9,763, 11,500. And then there are two units that
12 are oriented in the side direction and those units
13 are 9,523 and 10,000 respectively.

14 So each unit -- and this building also
15 has only one loading door. And in terms of the
16 square footage per loading dock, they exceed each --
17 the ratio is exceeding 9,000 square feet. So there
18 was conversation about, you know, 700 --
19 7,500 square feet, we have our -- we have doors that
20 are almost 9,000 square feet per unit.

21 So we don't have -- we have reduced the
22 quantity of loading doors, and they're well over
23 7,500 square feet per unit.

24 ENGINEER CUNLIFFE: Mr. Kizel, before
25 you move off from that. So flex space L and M, M

1 looks like it has its own office and bathroom kind
2 of component, but L does not.

3 Are those going to be used as one unit
4 or is it just...

5 THE WITNESS: No, they will not be
6 used as one unit per -- it's intended that they're
7 used individually and...

8 ENGINEER CUNLIFFE: So L just doesn't
9 have a bathroom or anything?

10 THE WITNESS: No, you can't have a
11 unit without a bathroom, so a bathroom and stair
12 will be added to that unit.

13 ENGINEER CUNLIFFE: Okay.

14 THE WITNESS: As we move forward.

15 ENGINEER CUNLIFFE: Thank you.

16 MEMBER HUGHES: Could I ask a quick
17 one before you move from this too.

18 There's the top triangle and the one
19 rectangle, it looks like the wall just kind of stops
20 there. Is that one unit or is that just...

21 THE WITNESS: That should go to the
22 exterior wall. I apologize for the drafting error.

23 MEMBER HUGHES: Okay. I was just
24 clarifying.

25 THE WITNESS: I pointed that out to my

1 drafter earlier on.

2 So the subsequent sheets, A3 and A4,
3 depict the mezzanine spaces. There are office
4 spaces associated with each unit. They, except for
5 the tenant separation wall movement, the concept and
6 square footage of those storage units, those flex
7 storage units have not changed.

8 Next is Sheet A5.

9 PLANNER BEAHM: Can we go back to the
10 stairs for a minute?

11 THE WITNESS: Sure.

12 PLANNER BEAHM: So two units side by
13 side are using the same stair?

14 THE WITNESS: No.

15 PLANNER BEAHM: Because when I'm
16 looking at Sheet A3 --

17 THE WITNESS: I apologize for that.
18 Each unit will have its own stair.

19 PLANNER BEAHM: So the plans, if the
20 board were to act in the affirmative, would have to
21 be updated to make sure that every unit has, like
22 you just said, a bathroom plus a stair up to the
23 mezzanine?

24 THE WITNESS: Correct. Correct.

25 PLANNER BEAHM: Okay.

1 THE WITNESS: So Sheet A5 are the
2 elevations of the building. There is no -- the only
3 changes to these elevations are associated with the
4 reconfiguration of the loading doors and any people
5 entrances to the building as required by the
6 movement of the proposed tenant separation walls.
7 So other than that the units -- the elevations have
8 not changed.

9 Now it has been brought to my attention
10 that the proposed height of the building exceeds
11 what is allowed by ordinance.

12 PLANNER BEAHM: Well, can I just
13 interrupt for one second?

14 THE WITNESS: Sure.

15 PLANNER BEAHM: So I'm not 100 percent
16 sure that that's true.

17 I think that we have, as you guys know
18 in our ordinance, we have specific provisions for
19 flex space. However, they're not what they consider
20 conditional-use standards. So non-compliance would
21 not result in a "D" variance. However, you know,
22 that's kind of the goal that the town has put
23 forward how they want these buildings size-wise to
24 be.

25 So I don't think that a variance is

1 required because this use at this location is not
2 permitted, so those standards are not applicable to
3 this particular location.

4 But I think where you were going with
5 this is that in those conditions, or in those
6 standards, the height, the max height of flex
7 building is 32 feet. And you're at 37 and a half
8 and 38 and a half, I think, respectfully?

9 THE WITNESS: Right.

10 PLANNER BEAHM: I would request, if
11 possible, if you could comply with the 32 feet in
12 order to at least maintain the character of what the
13 town envisions for flex, especially given the fact
14 that, you know, the town also basically says that
15 the maximum size of a flex space building can be
16 75,000 square feet, which is why they have two
17 buildings, right. Because we're almost there, we're
18 almost at the 150; we're a little shy of 150 total
19 between the two buildings.

20 But given that I would, if possible,
21 that I think would be preferred.

22 THE WITNESS: And we would be happy to
23 limit ourselves to 32 feet.

24 PLANNER BEAHM: Perfect.

25 ATTORNEY PAPE: Okay.

1 PLANNER BEAHM: And then, I'm not
2 sure, are you done with this building? Because I
3 just want to talk about the facade for a minute.

4 THE WITNESS: Please.

5 PLANNER BEAHM: So in our letter of
6 August 16th, we had, you know, the town has specific
7 -- I know Ken has been through this ringer with me
8 multiple times about the architecture.

9 There is specific provisions in the
10 ordinance that regulates how these buildings would
11 look, and it applies to all four facades. And so a
12 lot of it is, you know, you can't have uninterrupted
13 walls. And I understand that there's scoring and
14 things on this building, but there's also required
15 to be these bump-outs if the facades are long.

16 I would just ask, Mr. Pape, if the
17 board were to act in the affirmative on the
18 application, would you commit to your team working
19 with my office to -- to come up with something that
20 is a little bit more compliant with the ordinance?

21 You can take a look at them. I'm not
22 suggesting for these types of buildings that we have --
23 as you know, Ken, we have been around this rodeo
24 multiple times -- 100 percent compliance with like
25 the recesses and things like that, but come up with

1 some design that is in keeping with the intention of
2 it, if the boards, acts in the affirmative on the
3 application.

4 ATTORNEY PAPE: Mr. Chairman, the last
5 time that we were here, Ms. Beahm indicated that the
6 architecture needed a lot of work. It could be
7 addressed at a site plan, but we would -- we want to
8 make absolutely certain. We know the buildings need
9 a lot of work. This gives further opportunity.

10 Irwin and I have talked about it. We
11 know that securing first Ms. Beahm's approval of the
12 architecture, and then this board's approval of the
13 architecture is critical, so the answer is yes.

14 PLANNER BEAHM: Thank you.

15 VICE-CHAIRMAN MERTENS: Okay, thank
16 you.

17 THE WITNESS: So that's the extent of
18 my testimony on the flex buildings.

19 Now I would like to move to the
20 self-storage buildings. Those would be Sheets A6
21 and A7.

22 With respect to this building, the
23 changes have been made to the facade of the building
24 rather than the interior layouts of the building.
25 Basically it hasn't changed. It's a total of four

1 stories and 153,960 feet. There is no change there.

2 But what we did in the elevation
3 designs of the building is we made an effort to give
4 the impression that the building is lower than it is
5 by adding a mansard to the top story of the building
6 and then incorporating the dormers around the
7 perimeter of the building.

8 In addition to that we have scaled the
9 area below the mansard, kind of over-scaled it so it
10 reads as a three-story building rather than a
11 four-story building. At least that was our goal and
12 the intent of the design, adding a mansard, adding
13 dormers and just scaling the building in a way that
14 it reads three stories.

15 Other than that there are no changes to
16 the plans. But these are significant, you know,
17 changes based on what we heard at our last meeting.

18 ATTORNEY PAPE: Which sheet would you
19 want to have up for the board to see the
20 modifications to the elevations?

21 THE WITNESS: Sheet A7. And in
22 addition, another sheet, the other drawing that
23 would reflect the changes would be the renderings
24 that we've added today. And there are two
25 renderings but the sheet that we added today, which

1 is A9, is the 3-D rendering of the self-storage
2 building.

3 It depicts in color the proposed
4 dormers and the -- and the mansard that extends most
5 of the way around the building on the four sides.

6 ATTORNEY PAPE: Irwin, did you deliver
7 this electronically to Ms. Cusa?

8 THE WITNESS: Yes.

9 ATTORNEY PAPE: Can we bring up Sheet
10 A9, the colored rendering.

11 THE WITNESS: That is A8. If you could
12 go to A9, please. That is the sheet I was referring
13 to.

14 So there is kind of three color,
15 horizontal color variations around the building. We
16 have the dark gray and the lighter gray on the first
17 floor. We have the light color material in the
18 middle. And then we have the mansard with the
19 dormers on top.

20 So we use these horizontal color
21 techniques and architectural elements to give the
22 feeling that this building is a three-story rather
23 than a four-story structure.

24 MEMBER CANTOR: Can I ask?

25 VICE-CHAIRMAN MERTENS: Go ahead.

1 MEMBER CANTOR: So the intention of
2 putting up the -- I just had to look up what
3 mansard is, but looking up, in looking up to see
4 what the mansard and the dormers are --

5 PLANNER BEAHM: Mr. Cantor, the only
6 reason that we're giggling is because she literally
7 just asked me the same question.

8 MEMBER CANTOR: Well, so your
9 intention is to make us think that that's only three
10 stories when it's actually four stories?

11 MEMBER SCOTTSON: Exactly.

12 MEMBER CANTOR: Come on.

13 THE WITNESS: We're not trying to fool
14 anyone, we're just trying to give the appearance of
15 a lower building than a higher building.

16 MEMBER CANTOR: Well, maybe I
17 shouldn't opine on this, but it's not my opinion
18 that it looks three stories.

19 MEMBER SCOTTSON: And I grew up in a
20 mansard colonial so I am very familiar with it.

21 THE WITNESS: So a mansard is a sloped
22 portion of the building with a roof on it.

23 MEMBER CANTOR: I have one on my
24 house. I had to look that up.

25 THE WITNESS: Sorry. We could take

1 the criticism.

2 ATTORNEY PAPE: The building's height
3 is 45 feet; that's right, Irwin?

4 THE WITNESS: Yes.

5 ATTORNEY PAPE: And the height of the
6 building is not a variance; it's the concern that
7 was brought to our attention previously, it's not
8 that the building is too high, but that there's --
9 there's four stories. And I don't think that's a
10 violation of anything.

11 THE WITNESS: And our position would
12 be that if it's a straight wall, it tends to look
13 taller than a wall that looks like this.

14 MEMBER CANTOR: Yeah, you're right
15 there.

16 THE WITNESS: That's all. I mean
17 we're not trying to pull the wool over anyone's
18 eyes. There are some buildings that use that along
19 the Route 9 corridor, we're attempting to do the
20 same.

21 MEMBER CANTOR: I understand.

22 THE WITNESS: And that I didn't
23 mention the A8 rendering, but that's a new 3-D
24 rendering of what the project looks like now, with
25 Route 9 going diagonally across the sheet, north

1 being on the left, south being on the right -- or
2 vice-versa.

3 ENGINEER CUNLIFFE: Mr. Chair, could I
4 just ask a clarifying question about the mansard
5 roof.

6 So are you actually losing any
7 footprint of the units on the four story, or is the
8 exterior wall essentially still staying the same?

9 Because you have the floor plan for
10 Floors 2 through 4 and it shows them all as the same
11 footprint.

12 THE WITNESS: I would say it's a small
13 difference.

14 ENGINEER CUNLIFFE: The eaves, you're
15 making it up with the eave overhang?

16 THE WITNESS: Well, to a certain
17 extent, yes. So we're not suggesting that it's
18 less. There may be some evidence of the dormers on
19 the interior of the building, but I would say it's
20 not -- the difference in square footage is nominal.
21 It's a small difference.

22 ENGINEER CUNLIFFE: So the mansard,
23 it's a pretty steep pitch and, you know, they're not
24 really losing much of a four-story floor area, it's
25 just they're going out with an eave and then they're

1 coming up sharply, so it gives the appearance of a
2 roof but, you know, largely the four stories, it's
3 the same gross floor area as the second and the
4 third.

5 THE WITNESS: Correct, yes.

6 ENGINEER CUNLIFFE: Just wanted you to
7 clarify that.

8 VICE-CHAIRMAN MERTENS: Anything else
9 from the professionals with this witness?

10 Any questions from the board?

11 Okay, Eileen, we're going to take a
12 five-minute break.

13 ADMINISTRATOR CUSA: The board will
14 now take a five-minute break and reconvene at
15 8:35 p.m.

16 - - -

17 (WHEREUPON, a recess is taken.

18 - - -

19 ADMINISTRATOR CUSA: The meeting will
20 now reconvene.

21 VICE-CHAIRMAN MERTENS: Yeah, we
22 thought you left but I just checked the time clock
23 and we were like...

24 ATTORNEY PAPE: Very sorry.

25 VICE-CHAIRMAN MERTENS: Okay,

1 Mr. Pape, where are we now, traffic?

2 ATTORNEY PAPE: We're about to go to
3 our traffic engineer, who has already testified.
4 He's already been placed under oath and his
5 credentials are part of the record.

6 VICE-CHAIRMAN MERTENS: Okay.

7

8 N I C H O L A S V E R D E R E S E, P.E.,
9 previously sworn, testifies as follows:

10 - - -

11 E X A M I N A T I O N

12 - - -

13 ATTORNEY PAPE: If you could just take
14 a moment to re-introduce yourself and confirm that
15 you are under oath.

16 THE WITNESS: Yes, Nicholas Verderese,
17 Dynamic Traffic.

18 ATTORNEY PAPE: And you're under oath.

19 THE WITNESS: Yes.

20 ATTORNEY PAPE: So there has been
21 revisions to the plans. The plan revisions have
22 been testified by both the engineer and the
23 architect. And those revisions to the plans affect
24 the on-site circulation.

25 What I would ask that you do this

1 evening is identify the on-site circulation for the
2 two separate uses and share your professional
3 opinion as to the safety and the adequacy of the
4 circulation.

5 PLANNER BEAHM: You guys are going to
6 have to talk up, like we cannot hear you at all.

7 ATTORNEY BAYER: Don't be shy.

8 ATTORNEY PAPE: Thank you.

9 THE WITNESS: A-29.

10 ATTORNEY PAPE: A-29, please.

11 THE WITNESS: Thank you.

12 So my office prepared a supplement to
13 the traffic assessment to address the current plan
14 as was testified, it's dated 10/9/24. Submitted to
15 the board.

16 In there we discuss a few things. One
17 is during my testimony last time there were a number
18 of discussions on the interaction of the two uses,
19 one being more industrial in nature, one being kind
20 of a light commercial, lighter use. And the
21 differences between the types of traffic that come
22 in and out and the interaction of that.

23 So what we were able to do in this new
24 plan was to separate those two uses. So essentially
25 you have the very low-traffic generator standing on

1 its own with its own access to Route 9. That's the
2 self-storage facility, Building B. And the higher
3 of the two uses, still a light traffic-generating
4 use, is the flex space.

5 Other things that changed, you heard
6 about the parking spaces. Of importance to get this
7 to be more like what I would normally see for a flex
8 building, as the board suggested and the new plan
9 proposes, smaller flex units, less loading, really
10 circulation more geared to single unit box trucks,
11 vans, pickup trucks. And that's what this new plan
12 is really showing.

13 So this is really your true flex, I
14 think what your ordinance discusses in a flex
15 building, with some warehouse space, a small
16 percentage of office space, and only roll-up doors.
17 That's important.

18 The previous plan had a number of
19 essentially tractor-trailer doors that
20 tractor-trailers could back into. Those have all
21 been eliminated here.

22 And as you see, and was testified by
23 our engineer, there is just the one space in case a
24 tractor-trailer does come on the site. It's off to
25 the side of the building. And as he noted, they

1 would either dolly or forklift anything from that
2 into the building.

3 Based on the size of these I don't
4 anticipate much activity in that loading zone, but
5 we wanted to have something off of the road so
6 they're not, as we heard before, they're not parked
7 in the fire lanes. So not blocking any vehicles
8 that are circulating the site.

9 30-foot aisles all the way around.
10 Some places it widens out. So that's adequate for
11 that largest vehicle, as well as the fire apparatus.

12 As you've heard there's two separate
13 fire connections emergency services only; one is
14 between the two buildings and one is off of
15 Fort Plains Road.

16 As far as parking, on the new plan on
17 both sites essentially has slightly increased the
18 number of parking stalls. So Building B can stand
19 on its own; it meets the ordinance. I think 33
20 spaces is probably more than it needs, but that's
21 what the ordinance requirement is.

22 And there's also the ability on the
23 inside, so along the building there's a 10-foot-wide
24 loading zone. That would likely be where the
25 overhead door tenants would, you know, park in a

1 pickup truck or an SUV or whatever they're either
2 taking or dropping off at the site.

3 As far as the use, I testified to this
4 last meeting. I just wanted to get it on the record
5 again. This is HD-1 Zone so there are a lot of
6 different commercial uses.

7 Just to our south is The Home Depot
8 center. On The Home Depot center is one small pad
9 for Dunkin' Donuts. A Dunkin' Donuts essentially of
10 that size there generates as much or more traffic
11 than this whole entire 300,000-ish square feet. So
12 that 2,000-square-foot Dunkin' Donuts generates more
13 traffic than this whole entire project.

14 At a maximum we generate 96 peak hour
15 trips. The DOT considers 100 trips to be
16 significant. So we don't even rise to that level,
17 and we're developing 14 acres of property here
18 versus that little half-acre Dunkin' Donuts as our
19 neighbor.

20 So this use replacing an HD use, there
21 aren't that many HD uses that generate less traffic
22 than these proposed uses.

23 So lastly, the size of those parking
24 stalls I tend to agree on the larger 10-by-30s that
25 we have, we could probably go to, say, 12-by-30s and

1 reduce by maybe two parking stalls. I don't think
2 it's a problem. We just had the room for it, it
3 would work nice. We could end up with, you know, 10
4 or 11 spaces in that location, so I don't have an
5 issue there.

6 A lot might be tenant-driven and we
7 might not even know, you know, now. Especially
8 we're really early, we're only looking for the use
9 portion. When we get further to site plan, then if
10 we have any specific tenants when we get to that
11 point.

12 And that's all I have.

13 ATTORNEY PAPE: And are you
14 comfortable that the design that the board is
15 reviewing can safely and adequately handle all of
16 the anticipated traffic -- all of the anticipated
17 traffic movements, the trash removal, the emergency
18 vehicle, the smaller truck and the articulated
19 tractor-trailer?

20 THE WITNESS: Yes, I am.

21 ATTORNEY PAPE: And are you
22 comfortable that the driveways that are being
23 proposed connecting to Route 9 similarly can
24 adequately and safely handle all of the traffic
25 movements that would be associated with these uses?

1 THE WITNESS: Yes.

2 ATTORNEY PAPE: Mr. Chair, I have
3 nothing further of Mr. Verderese.

4 VICE-CHAIRMAN MERTENS: Again, you
5 were kind of vague with the largest vehicles,
6 tractor-trailers. I mean, you're not saying they're
7 not going to be in the equation at some time?

8 Because we need to have something more
9 specific on tractor-trailers, because I think all of
10 us here are more concerned about that.

11 THE WITNESS: There's a chance. It
12 has been designed to accommodate the wheelbase 62,
13 maybe even a 67 wheelbase tractor-trailer to
14 circulate the site. So we're comfortable.

15 VICE-CHAIRMAN MERTENS: Okay. And one
16 of the board members from our previous meeting had
17 mentioned the issue if they miss the main entrance
18 to the -- if they go down, are they going to be able
19 to -- if they make the mistake of going into the
20 self-storage, are they going to be able to get
21 around? Or do we need to put signs out there to
22 keep them out of there? Because...

23 THE WITNESS: So they would just make
24 U-turns on Route 9.

25 VICE-CHAIRMAN MERTENS: Okay. But, I

1 mean, how are they going to know that without having
2 some kind of signage?

3 THE WITNESS: Well I would assume, I
4 guess it's some kind of variance to get a sign, but
5 we're going to need some kind of sign at the end of
6 the easement.

7 ATTORNEY PAPE: Mr. Chair, are you
8 suggesting a sign that says "No Tractor-Trailers" or
9 "No Connection"?

10 VICE-CHAIRMAN MERTENS: Well, I'm
11 going to leave that up to Charlie.

12 ENGINEER CUNLIFFE: I don't want to
13 put words in your mouth, but I think the question
14 from the chairman is how do people know how to get
15 to this site and where the destination is. And I
16 think you put testimony on the record that there
17 would be a monument sign proposed within the KFC
18 easement at the Route 9 frontage, indicating that
19 this is the site.

20 And, you know, some people --
21 tractor-trailers know, or whatever, box trucks and
22 the like know that this is the site and how to get
23 to the flex space, right?

24 Because before it was the sites were,
25 you know, the two locations were combined and you

1 could miss the first and then go to the self-storage
2 and then come back. But there is going to be some
3 monument sign through the access easement and on the
4 Route 9 frontage to indicate where the site is,
5 right?

6 ATTORNEY PAPE: Each driveway has a
7 monument sign proposed. If adding -- so one sign
8 will be for flex and one for self-storage. If
9 adding to the self-storage sign "No Access to Flex
10 Building," or something along those lines, was
11 appropriate and addressed the board's concern, we
12 could do that.

13 But I think you also wanted to know if
14 a tractor-trailer went into that site, can it
15 circulate around the building and then leave? Was
16 that...

17 VICE-CHAIRMAN MERTENS: Yeah, that's
18 an important question, because sometimes the truck
19 drivers aren't going to be paying attention to the
20 signs.

21 THE WITNESS: These are two separate
22 and distinct properties, so I don't see why a
23 tractor-trailer would turn into a self-storage
24 facility --

25 MEMBER SCOTTSON: They're going to

1 miss it. It's that simple, they're going to miss
2 it.

3 THE WITNESS: If they just miss it and
4 they make a U-turn, like they would at any other
5 mid-block property on Route 9.

6 VICE-CHAIRMAN MERTENS: But if they
7 did go into this, now that they can't go through,
8 can they get around this building safely if they
9 did?

10 PLANNER BEAHM: Can they circulate
11 around the self-storage building -- can the
12 tractor-trailer circulate around this self-storage
13 building?

14 THE WITNESS: I don't know. I haven't
15 seen a plan that showed a tractor-trailer.

16 PLANNER BEAHM: All right. So I think
17 that's your concern, right?

18 VICE-CHAIRMAN MERTENS: Yes.

19 PLANNER BEAHM: You're worried that --
20 I understand there's going to be a sign at the KFC
21 that says whatever industrial building, whatever,
22 but if somebody doesn't know.

23 Now, keep in mind, most often flex
24 space users, you know, they're going there to work
25 so they know where they're going.

1 I get like we're going to have
2 deliveries but, by and large, when you're dealing
3 with, like, a contractor, they're not having the
4 deliveries made to the flex space; they're having
5 the deliveries made directly to the job site.

6 But it is a good point. You are going
7 to have people miss the turn.

8 I don't necessarily -- I don't agree
9 that somebody who misses that driveway is going to
10 navigate the U-turns on Route 9. They're going to
11 make a right on West Farms, they're going to make a
12 right on Fort Plains, they're going to make a right
13 down on Bergerville, and they're going to come out
14 and they're going to head south on Route 9 again.

15 That is by far the faster way to do it,
16 especially at certain hours of the day when that
17 light is a lot.

18 VICE-CHAIRMAN MERTENS: Agreed.

19 ENGINEER CUNLIFFE: Mr. Chair, if I
20 could just ask a couple more clarifying questions.

21 So I think, Mr. Verderese, you said
22 that the stated loading area, that's for
23 tractor-trailers. And then so there's a concrete
24 apron for all the loading doors facing the east side
25 of the building. That's 50-foot-wide.

1 So that's for SU-40-type box trucks;
2 we're not going to have tractor-trailers backing
3 into that area?

4 THE WITNESS: No, there's no need
5 because there's no loading docks anymore. So when
6 there were loading docks it was a different animal
7 then. We have eliminated that at this point, yeah.

8 ENGINEER CUNLIFFE: Ken, would the
9 applicant agree to a condition of that, that no
10 tractor-trailer loading backing into the concrete
11 apron in front of all those flex spaces?

12 ATTORNEY PAPE: Yes.

13 ENGINEER CUNLIFFE: Okay.

14 And then the second question that I had
15 following up that too, obviously the loading door
16 itself is pretty, you know, say 12-foot-wide. And
17 then you have, you know, another just approximately
18 I'm going to say 30 feet of the building facade
19 where there's an apron in front of that.

20 Are we going to be expecting box trucks
21 to be parked there overnight?

22 What is the anticipated use of that
23 apron other than in front of the roll-up door for
24 loading purposes?

25 THE WITNESS: I'm assuming it's to get

1 to the roll-up doors. That's, I think, why we put
2 some oversize, so they weren't all just sitting in
3 front of the building.

4 ENGINEER CUNLIFFE: Okay.

5 So, Ken, would the applicant agree to
6 no parking of box trucks within the concrete apron
7 loading area, no overnight parking?

8 ATTORNEY PAPE: I thought that the
9 last time we talked about that, that would be a good
10 idea.

11 ENGINEER CUNLIFFE: Did we?

12 ATTORNEY PAPE: To put concrete aprons
13 in front of the building so that if there was an
14 overnight vehicle.

15 ENGINEER CUNLIFFE: Yeah, I don't
16 recall that. I guess whatever is being proposed, I
17 just want to make it clear for the board what is
18 being -- what that is being utilized for.

19 So you're saying there can be parking
20 of SU-40 box trucks so they're not parked throughout
21 the site?

22 ATTORNEY PAPE: We anticipated that
23 the area in front of the loading dock which now has
24 a concrete apron, would be an area that the tenant
25 would be permitted to park his vehicle, including a

1 box truck overnight.

2 ENGINEER CUNLIFFE: Okay.

3 All right, you can go, Jen.

4 PLANNER BEAHM: I'm sorry, I thought
5 there was a conversation that like these type of
6 vehicles were going to be stored inside the
7 building.

8 MEMBER SCOTTSON: Exactly. You took
9 the words out of my mouth.

10 PLANNER BEAHM: So I don't remember
11 the parking on the concrete. I think we talked
12 about -- especially, right, it was inside the
13 building. And especially if there is material in
14 those trucks, that has been determined it can be
15 considered outdoor storage.

16 So there was testimony about that at a
17 prior hearing.

18 VICE-CHAIRMAN MERTENS: Yes.

19 ATTORNEY PAPE: There was also a
20 request for concrete aprons to be installed so that
21 vehicles could be parked in front.

22 But if it's the direction of the board
23 that there's no overnight parking on the apron, then
24 that's an acceptable condition.

25 VICE-CHAIRMAN MERTENS: How do we feel

1 about that?

2 MEMBER CANTOR: It doesn't bother me
3 if the trucks are parked in front of the building.

4 PLANNER BEAHM: I think the concern
5 was if you get like an A.J. Perri, or you get a
6 landscaping contractor that has a lot of equipment,
7 most often they're just haphazardly put all over the
8 place, which makes circulation through these parking
9 areas cumbersome.

10 And we also don't allow outdoor
11 storage. So I think that it's coupled between the
12 two.

13 MEMBER SCOTTSON: And also theft,
14 potentially.

15 VICE-CHAIRMAN MERTENS: You guys?
16 Well, we're going to have to address that because, I
17 mean...

18 MEMBER CANTOR: If I'm a lessee
19 renting a space and there's space in front of my,
20 whatever, my location --

21 PLANNER BEAHM: Unit.

22 MEMBER CANTOR: -- I would want to be
23 able to park my truck there.

24 VICE-CHAIRMAN MERTENS: Can we put
25 stipulations on it, if it is outside that they have

1 to be compliant to what we put down in the
2 resolution?

3 ATTORNEY PAPE: We do intend to
4 control all those parking spaces through the lease.
5 Every space would be identified in a lease and
6 dedicated to a specific tenant.

7 PLANNER BEAHM: I mean, it's up to you
8 guys.

9 MEMBER CANTOR: To me if you're
10 loading your truck in the morning you can do it
11 right there instead of having to go get it.

12 VICE-CHAIRMAN MERTENS: Yeah, I'm kind
13 of leaning that way too, but I would like to see --
14 make sure we have everything very much, you know,
15 black and white as far as, you know, how we're going
16 to deal with regulating that.

17 MEMBER HUGHES: There's also a
18 difference between trucks and equipment, outdoor
19 storage.

20 ATTORNEY PAPE: No equipment.

21 MEMBER HUGHES: No equipment?

22 ATTORNEY PAPE: Yeah, no equipment. No
23 materials. No equipment.

24 That was stated.

25 PLANNER BEAHM: Keep in mind if

1 there's materials in the truck, that counts as
2 outdoor storage.

3 We went down that -- that was actually
4 litigated. So like that was in a planning board
5 application, that exact issue was litigated and was
6 determined to be outdoor storage.

7 ATTORNEY PAPE: As we put the black
8 and white together I'll make sure that one of the
9 lines is that any truck that is outside has to be
10 emptied, can't have material.

11 PLANNER BEAHM: How do we enforce
12 that?

13 VICE-CHAIRMAN MERTENS: Yeah,
14 that's...

15 PLANNER BEAHM: I mean, it's all well
16 and good to put it on paper, but we're not sending
17 people to open up private vehicles to see whether
18 there's material in it.

19 Like, it's an unenforceable condition.

20 MEMBER HUGHES: Wouldn't like outdoor
21 storage kind of be if someone parked a truck and
22 just left it there, versus we have stuff in it
23 overnight to go --

24 PLANNER BEAHM: Nope.

25 MEMBER HUGHES: Okay.

1 PLANNER BEAHM: In that particular
2 instance it was tractor-trailers, and the trailers
3 were being proposed to be left in the parking lot
4 fully stocked. That was determined to be outdoor
5 storage.

6 So that was, I think, part of the
7 reason why we talked about the vehicles moving into
8 the building, so that there wouldn't be outdoor
9 storage. Because that was also something that was
10 initially stipulated tonight, no outdoor storage.

11 VICE-CHAIRMAN MERTENS: Yeah, I have
12 taken a second look at this. I mean with trying to
13 enforce that, I can see being an issue. So I kind
14 of -- I can see that's a valid point so...

15 PLANNER BEAHM: I mean I don't think
16 it's something, Ken, we have to get to the bottom of
17 today because we're clearly not going to vote
18 tonight, but it's definitely something that warrants
19 consideration.

20 VICE-CHAIRMAN MERTENS: Yes.

21 ATTORNEY PAPE: Got it.

22 ENGINEER CUNLIFFE: So, Mr. Chair, the
23 last thing is, I believe there was testimony and
24 discussion the last time Mr. Verderese was here
25 about the applicant being amenable to making the

1 contribution towards a future traffic signal at
2 West Farms and Fort Plains Road.

3 You know, I think for the board's
4 consideration we need to know what exactly that
5 contribution is because that goes towards positive
6 and negative criteria. So that will need to be
7 presented to the board so we know, you know, what
8 we're considering as part of the application before
9 we get to a vote so.

10 VICE-CHAIRMAN MERTENS: Mr. Pape?

11 ATTORNEY PAPE: Yes, I thought the
12 applicant did agree to make a contribution for that
13 signal. And I thought that we had said that it
14 would be -- we would look for -- we would look for a
15 participation ratio from the municipality.

16 If you want, we can sit down and...

17 ENGINEER CUNLIFFE: Yeah, I think we
18 want to know what that amount is, you know, and...

19 ATTORNEY PAPE: Would I do that with
20 you, or do I go to Mr. Yost; where would I go to
21 discuss that?

22 PLANNER BEAHM: I would start with
23 Justin because I do know that they have been working
24 on a signal design and probably would know, roughly,
25 the cost from which you could calculate your pro

1 rata percentage.

2 ATTORNEY PAPE: Got it.

3 VICE-CHAIRMAN MERTENS: Okay.

4 Anything further?

5 PLANNER BEAHM: I just have one other
6 question.

7 VICE-CHAIRMAN MERTENS: Yeah, Jen, go
8 ahead.

9 And I'm not sure, Nick, if this is for
10 you, and I probably should have discussed its with
11 the architect, but, Ken, you could probably
12 stipulate to that.

13 One of the other provisions that we
14 have regarding flex space is that no more than
15 60 percent of an individual building could be
16 occupied by one tenant; is that something you would
17 be willing to stipulate to?

18 ATTORNEY PAPE: Yes.

19 PLANNER BEAHM: All right, thank you.

20 ATTORNEY PAPE: Yes.

21 VICE-CHAIRMAN MERTENS: Okay. So
22 further questions for this witness?

23 ATTORNEY PAPE: I have no further
24 direct.

25 VICE-CHAIRMAN MERTENS: Okay. So

1 let's go to Christine.

2 ATTORNEY PAPE: We are ready.

3 There are a couple of factual issues
4 that remain open, that I owe commitments to the
5 board and the board professionals. I think that
6 they're sufficiently identified, and Ms. Cofone can
7 testify this evening.

8 There is the possibility after we
9 provide, and I have four that I wrote down, after we
10 provide those additional facts to you, that there
11 might be supplemental testimony.

12 VICE-CHAIRMAN MERTENS: No, I agree,
13 yeah. That's understood.

14 ATTORNEY PAPE: But I think the
15 opportunity is here this evening, and we're all
16 here, that Ms. Cofone's testimony is -- we're ready
17 for it.

18 VICE-CHAIRMAN MERTENS: Okay.

19 CHRISTINE COFONE: Thank you.

20 I wasn't here the first evening, so
21 I'm sure I wasn't sworn.

22 ATTORNEY BAYER: Christine, do you
23 swear the testimony you give will be the truth, the
24 whole truth, and nothing but the truth, so help you
25 God?

1 CHRISTINE COFONE: Yes.

2 ATTORNEY BAYER: Please state your
3 name for the record, spell your last.

4 CHRISTINE COFONE: It's Christine
5 Nazzaro, N-A-Z-Z-A-R-O, Cofone, C-O-F-O-N-E.
6 Business address is 52 Reckless Place, Red Bank, New
7 Jersey 07701.

8 I'm testifying this evening as a
9 licensed professional planner. I have testified
10 here in Howell on many occasions, as well as
11 hundreds of other planning and zoning boards
12 throughout the state.

13 My licenses are current and valid.

14 VICE-CHAIRMAN MERTENS: Okay,
15 that's...

16 CHRISTINE COFONE: That's enough?

17 VICE-CHAIRMAN MERTENS: Yes. So you're
18 good, Christine.

19 CHRISTINE COFONE: Thank you.

20 ATTORNEY PAPE: The last is,
21 Mr. Chair, does the board accept Ms. Cofone as a
22 professional planner and allow her to testify as an
23 expert this evening?

24 VICE-CHAIRMAN MERTENS: Yes, we do.

25 ATTORNEY PAPE: Thank you.

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E X A M I N A T I O N

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ATTORNEY PAPE: Ms. Cofone, I know that you have been actively involved in this application, that you're familiar with the facts as they have been presented to the board, and that you have made yourself familiar with the application and applicable ordinances and the Master Plan here in town.

If you could give the board a brief description of what you do to be prepared to testify, and then take us in a narrative through the proofs that we owe this board. And if you would then present the proofs that we have generated before this board.

THE WITNESS: Sure. Good evening, Chairman, and members of the board. For the record, again, Christine Cofone.

What I did with this application is no different than what we do on all the other applications: We review all the filed plans that we and other team members submit. And we participate in a multiplicity of Zooms and conference calls that our team has. I visit the subject property. I

1 review the professional review letters that your
2 board professionals prepare to identify the
3 variances or issues with the application. Again
4 visit the site a couple of times. And then, you
5 know, come to the board prepared to testify.

6 So the reason we're here before the
7 Zoning Board of Adjustment, while the subject
8 property sits entirely within the HD-1 zone which I
9 would consider to be a fairly permissive zone --
10 there are some 20, you know, commercial permitted
11 uses that range from offices, financial
12 institutions, healthcare facilities and medical
13 centers, hospitals, restaurants without
14 drive-through or takeout, restaurants with
15 drive-through or takeout, entertainment uses, retail
16 sales, retail services, home improvement centers,
17 tattoo and body piercing, adult day care, health
18 clubs and fitness centers, indoor recreation,
19 microbreweries, schools, commercial schools, craft
20 distilleries, assisted-living facilities, and
21 self-storage facilities, all permitted.

22 Now when this application was filed,
23 self-storage facilities were not permitted in the
24 HD-1 zone. That came in March of '23, they were
25 allowed to be permitted uses.

1 The reason we're here before the Zoning
2 Board of Adjustment is because the flex space is not
3 a permitted use in the HD-1 zone. You heard some
4 dialogue before about, you know, the height of those
5 flex spaces. And because we're not permitted in the
6 zone we're not governed by them, but with reduction
7 of the height to 32 feet we do meet all of the bulk
8 criteria if we were in a zone where flex were
9 allowed. So I think the board could certainly take
10 notice of that.

11 The other reason we're seeking a d(1)
12 variance is because we have multiple permitted uses
13 on the property. So the d(1) is related to the
14 non-permitted flex space and the multiple uses, and
15 perhaps the intent of the self-storage was not
16 permitted when the application was deemed complete.

17 We are, I would point out to the board,
18 eliminating a non-conforming use in the zone; there
19 are a number of residential cottages on the property
20 currently, which are in the process of being phased
21 out.

22 As I just read to you, and what I was
23 just listing off was not just a recitation of uses
24 that I was dreaming up or thinking. Those uses that
25 I just read from come right out of your zoning

1 ordinance, Section 188-77, and are listed through.
2 So nowhere in that list that I read were identified
3 in the code as residential uses.

4 So as such we have an obligation to
5 demonstrate to you that the site is particularly
6 suitable. Now, it doesn't have to be uniquely
7 suitable; we don't have to demonstrate that this is
8 the only use that can go here. And we certainly
9 don't have to demonstrate that we ruled out every
10 other site. There just has to be something about
11 this property that is particularly suitable for this
12 use.

13 So I think when you look at the size
14 and shape of this property, it is a long, skinny,
15 environmentally constrained property. So when I say
16 it's long and skinny, to put some color on those
17 dimensions, right, our property, the developed
18 portion of it is about 500 feet in width. It goes
19 back and the linear property is about 1,600 linear
20 feet. And then we bought about 285 feet of frontage
21 on Route 9.

22 So to go over those dimensions again,
23 we have about 285 feet of frontage on Route 9. If
24 you want to zoom that out it may be easier to see
25 that. But then you will see the property has a

1 depth of over 1,600 feet, 1,600 linear feet in the
2 developed area. And then a width of 500.

3 So as you can see the geometry, or the
4 shape of the property, certainly -- there we go,
5 that's the whole site. So, again, going to the
6 bottom of the plan you see we have got the frontage
7 on Route 9. And then when I say the 16 feet in the
8 developed portion, I'm referring to the linear
9 portion of the property where the development is
10 occurring. And at our widest part we're about
11 500 feet.

12 So those dimensions, in my opinion, set
13 up beautifully for a program of uses that do not
14 front, thrive on, or require any type of pass-by
15 traffic or visibility to be successful.

16 When you look at the stated purpose of
17 the HD zone, it is in Section 188-77, again the
18 purpose of the HD-1 Zone is to provide for
19 highway-oriented development in the Route 9 corridor
20 on larger lots than permitted in the HD zone.

21 So while that may be the stated purpose
22 of the zone that this property is in, I am not sure
23 how much of a workhorse this property can be to
24 contribute to the purpose of that zone given the
25 geometry of the property.

1 So I do think that, you know, as far as
2 the reconciliation, the omission of these uses, I
3 think that this is a unique piece of property that
4 is very, very suitable for the development, and
5 particularly suitable for the development program
6 that is being proposed.

7 In one of our prep calls, one of the
8 things that the team discusses, when you separate
9 the mice and the elephants. So when we separated
10 the two uses, I think you heard testimony about how
11 that will function. And I think the site is
12 certainly large enough to allow for the separation
13 of those uses.

14 And when you look at impervious
15 coverage and the critical mass of intensity that's
16 going on the site, in the HD-1 Zone you are allowed
17 to have 70 percent impervious coverage. This site
18 is under 25 percent. So that gives you some
19 perspective as to the percentage of the site that
20 we're actually developing. Pretty telling.

21 So that's the positive for the
22 particular suitability, as well as the Medici
23 reconciliation for the HD-1 zone.

24 So we still have an obligation to
25 demonstrate to you that the positive criteria are

1 satisfied. And the positive criteria are really the
2 purposes of the Municipal Land Use Law. They are at
3 Section 40:55D-2 of the Municipal Land Use Law. And
4 they are not unique to Howell, they are purposes
5 that are identified by letter and not number.

6 Statutorily, if we advance one of them,
7 we can be found to meet our burden of proof of this
8 positive criteria. I think the board can rely on
9 three.

10 Criteria G talks about sufficient space
11 in appropriate locations for a variety of uses. I
12 think that given the size and the configuration of
13 this property there is sufficient space for the
14 applicant, while we're not at the site plan phase,
15 we have given you ample information to come to the
16 conclusion that there is sufficient space to
17 accommodate the development program as proposed by
18 the applicant.

19 Criteria H talks about the free flow of
20 traffic. It is very important when we work as a
21 team that we all have a synergistic relationship
22 with each other, and I think when you listen to the
23 testimony to Mr. Verderese, specifically his
24 testimony that the Dunkin' Donuts alone that is
25 adjacent to this site would develop -- would

1 generate more traffic than the entirety of the
2 development program on this site.

3 Self-storage is a notoriously low
4 traffic generator, and flex space is certainly going
5 to have a lot less of a traffic impact than some of
6 these other uses permitted in the zone.

7 So I think that that's compelling when
8 you have, you know, testimony from our traffic
9 engineer that a building that is a fraction of this
10 size is going to have much more traffic associated
11 with it than that's being proposed by the applicant.
12 I think Criteria H is appropriate.

13 And then I think Criteria M, which
14 talks about an efficient use of the land. When you
15 last reexamined your Master Plan here in Howell one
16 of the things that you did was to call for the
17 evaluation of vacant and underutilized properties
18 and for the economic rehabilitation and development
19 of those properties.

20 So I do think that that Criteria M, an
21 efficient use of the land, this applicant has done a
22 very, in my opinion, a very solid job of trying to
23 efficiently use this property. And to balance the
24 development of the property right in the HD-1 zone
25 the township put this in a commercial -- a

1 commercial district; "The purpose of our commercial
2 goals are to create commercial ratables to stabilize
3 our tax base."

4 So I think that, you know, we've done a
5 great job of doing that to balance the impacts,
6 right. And when you have a development there are
7 going to be impacts associated with it. And that's
8 what gets us into the prong of our proofs called the
9 negative criteria.

10 And the negative criteria does not ask
11 you to hold the applicant to a standard that there
12 be no detriment, just that the benefits of the grant
13 of the variance outweigh any detriments. And I
14 think the negative criteria has two prongs to it
15 really, the impact on the public good and the impact
16 on the zone plan.

17 One of the most compelling benefits of
18 this application in my opinion, is that this
19 applicant, through considerable expense, has
20 facilitated access for all of this commercial
21 traffic out to Route 9. So the only traffic
22 associated with this development that would have
23 access to Fort Plains Road would be emergency
24 vehicles.

25 We are dumping not a single commercial

1 vehicle onto Fort Plains Road. And that is a
2 benefit. That's an absolute benefit because it
3 funnels the traffic to a major state arterial and
4 puts no traffic onto Fort Plains Road.

5 There is also a substantial berm. The
6 applicant has gone through great care to develop a
7 substantial berm to make sure that we have a proper
8 transition to those residences beyond the subject
9 property on Fort Plains Road.

10 So I think when you look at those
11 things the board can certainly come to the
12 conclusion that there will be no substantial
13 detriment to the public good.

14 As far as the impact on the zone plan,
15 the self-storage is permissible here. In fact,
16 there was action by the governing body in March
17 of 2023 to allow the self-storage use as-of-right
18 here.

19 And I think with the modifications made
20 to the application -- including having all loading
21 docks oriented not facing towards the adjoining
22 residential development; having the oversized
23 parking not on the residential side, there are only
24 passenger vehicles or space for passenger vehicles
25 on the Fort Plains side of the project; the very low

1 impervious coverage; the fact that we're such a low
2 traffic generator -- I think the board can take
3 notice of all of these things and come to the
4 conclusion that there will be neither a substantial
5 detriment to the zone plan or to the public good.

6 I know that there have been a number of
7 operational things that the applicant has agreed to
8 as far as the number of trucks, the limitations on
9 outdoor storage.

10 And I think the board can certainly
11 incorporate those into any finding, if the board
12 were to move favorably on this, to ensure that the
13 applicant continues to meet its burden of proof with
14 respect to the negative criteria.

15 And the last thing I'll comment on is
16 that I find that the Master Plan is advanced. One
17 of the goals in the Master Plan is to evaluate the
18 potential for economic and rehabilitation plan and
19 to encourage sound land use development that can
20 provide economic development opportunities.

21 So this is an economic development
22 opportunity. Again, this is an HD-1 zone. The
23 entirety of this property is located in the HD-1
24 zone. So that is, you know, based on my read of
25 Section 188-77, that's a fairly permissive and

1 intensive commercial zoning district.

2 So I can come to the conclusion that
3 despite the fact that we need some relief here, I
4 think that the board can grant the relief without
5 any substantial detriment to the public good and the
6 zone plan.

7 So when I reviewed this application in
8 totality, which the Pullen case tells us to do,
9 right, it doesn't ask us to pick apart each
10 individual variance and unpack that one, it asks us
11 to look at it in totality. When I look at this in
12 totality I find this to be an application that, you
13 know, through the plan modifications made through
14 this process, it is a strong application that
15 certainly meets its burden of proof with respect to
16 the positive and negative criteria, as well as the
17 particular suitability and the Medici reconciliation
18 for a d(1) Variance.

19 ATTORNEY PAPE: Thank you. I just
20 want to make one point.

21 The property is in HD-1 zone. And you
22 took a few moments to share with all of us your
23 reading of all the permitted uses that are in 188 --
24 is it 188-77?

25 THE WITNESS: Yes, 188-77.

1 ATTORNEY PAPE: Quite a list of uses,
2 and including The Home Depot could be constructed on
3 this piece of property and it would be a permitted
4 use.

5 By the applicant agreeing that -- the
6 frontage that the applicant owns and enjoys on
7 Fort Plains Road comes with no restrictions; there's
8 no restrictions in the ordinance that says thou
9 shalt not access Fort Plains Road or any uses on
10 your property.

11 Is that correct?

12 THE WITNESS: That's correct.

13 ATTORNEY PAPE: So by the applicant
14 voluntarily giving up all of that access they are
15 voluntarily reducing what could be a very
16 substantial traffic generator onto Fort Plains Road?

17 THE WITNESS: Well it could be and
18 would be. It would absolutely generate a
19 significant amount of traffic. The traffic has to
20 go somewhere, right? This is a 30-acre site. This
21 is not a small piece of property. This is a very
22 large, commercially zoned property.

23 So it is certainly reasonable and
24 customary with a large commercially zoned property
25 there is going to be an associated level of traffic.

1 And, again, we are putting our traffic not on
2 Fort Plains Road, and the applicant went through a
3 great expense to make that happen.

4 ATTORNEY PAPE: We've been looking at
5 the plan for some time, and when we look at the plan
6 we see that there's a driveway that goes out to
7 Route 9 through the KFC property. That driveway
8 wasn't there. That was through the efforts of the
9 property owner to negotiate and purchase those
10 rights out to Route 9.

11 I wanted to make that point, that
12 there's frontage on Fort Plains that your applicant
13 is giving up. And the applicant took the time,
14 effort and expense to create an alternative for
15 sending all of this traffic out to Highway 9.

16 I have nothing further of Ms. Cofone.
17 Do you have anything further?

18 THE WITNESS: I do. The only thing I
19 think I should probably touch on is the fence in the
20 front yard.

21 We have a variance because there is a
22 six-foot vinyl fence. I don't know if we have this
23 marked as an exhibit, but referring to the exhibit
24 that is shown on the screen, there is a six-foot
25 vinyl fence that is technically in our front yard,

1 because while we are not seeking access to
2 Fort Plains Road we do have frontage on
3 Fort Plains Road. So it certainly is a property
4 frontage and we are asking for a six-foot vinyl
5 fence.

6 So that fence would need to be I believe
7 50 percent open and perhaps only four feet in your
8 front yard. But I think the board can certainly
9 look at that under the c(2) criteria. So that's a
10 bulk variance. And I think the c(1) is a hardship
11 criteria, c(2) is the "flexible c."

12 I think you could look at that as a
13 better zoning alternative. It provides a nice,
14 attractive screening feature there. So I think
15 despite the fact it is a front yard, it's not going
16 to really function like a front yard because we
17 don't have access, commercial access there.

18 So I think the board can certainly
19 grant the c(2) relief for the fence in the front
20 yard.

21 ATTORNEY PAPE: Thank you.

22 Mr. Chair, I have nothing further on
23 direct of Ms. Cofone.

24 VICE-CHAIRMAN MERTENS: Okay,
25 Jennifer?

1 PLANNER BEAHM: So I'm going to
2 preface this comment by saying I really need to
3 understand what they're doing with the sewer, as
4 well as this outdoor storage of vehicles before I
5 could give you my final opinion on the impacts, you
6 know, the positive versus negative. But I wanted to
7 -- I do you want to give the board a couple of
8 things.

9 As you know, this board is not shy
10 about re-looking at their Master Plan when major
11 things come across us or comes across Town Hall
12 staff. They are very quick to say, you know what,
13 we really need to re-look at our Master Plan. And
14 that's why we have a Master Plan Subcommittee
15 meeting on our schedule.

16 As you know, we did the latest land use
17 element of the Master Plan in 2022, and a lot of
18 recommendations were made as a result of that
19 initiative. One of which is where self-storage
20 became a permitted use in the zone.

21 Flex space also wasn't defined prior to
22 that recommendation in the Master Plan, but it is
23 important to know that it took a very long time to
24 get through that process because the town took the
25 time to look at where each use is appropriately

1 allowed and made a definitive determination that the
2 HD-1 zone was not appropriate for flex.

3 So while I get the language in there
4 that encourages economic development, which is
5 absolutely correct, I just want the board to be well
6 aware that this is not a forgotten use; it actually
7 was included as a permitted use in the HD-4, and
8 some SED zones, so the town -- and the HD-1S, right,
9 Charlie -- which is basically Route 9 South of Lanes
10 Mill Road.

11 So there definitely was care taken to
12 look at where these types of industrial uses are
13 most appropriate, and it was determined that this
14 was not it. Obviously, that's why they're here for
15 a use variance. But it would give me pause to agree
16 that this is, like, an appropriate use of land at
17 this location.

18 But again, I want to preface this on,
19 you know, the sewer issue is a huge issue, as is the
20 storage issue, which is identified in my mind as,
21 you know, allowing for sewer obviously is a positive
22 thing, but if it's not really going to be allowed,
23 like that positive attribute of this is not coming
24 to fruition.

25 Secondly, you know, I would have the

1 same opinion with regard to the zone plan. We took
2 a look at it and the governing body was actually
3 relatively quick in acting. Sometimes we have those
4 documents out there for years and years and the
5 governing body takes a while to act. These are
6 things that the town was very concerned about and
7 acted on them.

8 And we actually have seen, not so much
9 here because it's not permitted, but flex space in
10 our industrial areas, like up along 33, Okerson
11 Road. Those types of locations which is where the
12 town felt they were more appropriate.

13 That being said, I am not 100 percent
14 convinced that I agree with the particular
15 suitability argument.

16 Also, I feel like there was some kind
17 of, like, this project as proposed is a benefit
18 because it generates no traffic, but then we don't
19 access Fort Plains Road because we're worried about
20 all this traffic. So is it traffic or is it not
21 traffic?

22 And I don't disagree with
23 Mr. Verderese's testimony that Dunkin' Donuts and
24 those types of uses definitely will generate a
25 tremendous more amount of more traffic than the

1 self-storage for sure.

2 The flex, I'm not -- you know, I mean,
3 he's the expert and I have known him for a very long
4 time and he's never been anything but less than
5 professional so -- I mean, you have never been less
6 than professional. Sorry.

7 NICHOLAS VERDERESE: Thank you.

8 PLANNER BEAHM: Sorry.

9 So I don't disagree with what he's
10 saying, but without the benefit of tenants it's hard
11 to know exactly what the implications of that is
12 going to be.

13 VICE-CHAIRMAN MERTENS: Yeah.

14 MEMBER SCOTTSON: Yeah, that's...

15 PLANNER BEAHM: But that being said,
16 that's kind of like my 10,000-foot view of this.
17 But, again, I would like to, you know, get that
18 additional information before I finalize my opinion,
19 but generally I'm not 100 percent in agreement.

20 VICE-CHAIRMAN MERTENS: No, I agree
21 with you in the aspect that we really do need to
22 have everything set as far as the sewer use. And
23 then I think we need to all think about what
24 Jennifer just said.

25 So that being said, Matt, you had a

1 question?

2 MEMBER HUGHES: Yeah, I have notes
3 here and just something that I don't think it was
4 reconciled. And if it was, I would like people to
5 catch me up.

6 I know we had talked on the 9th of
7 September about the four stories. Did we ever, you
8 know, come to a conclusion on that? Because that's
9 also a variance.

10 PLANNER BEAHM: It's not a variance.
11 So that's the issue, so in the HD-1 zone height is
12 measured just by feet, and the requirement is
13 45 feet.

14 In residential zones we see like two
15 and a half stories, 35 feet, but here it's just
16 45 feet. And the architect has testified that the
17 building in its four-story capacity is at that
18 45 feet.

19 That's correct, right, Christine, it's
20 at that 45 feet in height?

21 THE WITNESS: Yes, 45.

22 PLANNER BEAHM: So they are compliant,
23 however, with the straight HD-1 zoning.

24 And if they were here just for a
25 self-storage facility and the box, you know, the

1 cube met all of our requirements, it would be one
2 thing. But they're also here adding an additional
3 use to the property, multiple principal uses on the
4 same lot.

5 So, you know, the intensification of
6 the development or the massing of everything, I
7 think, should be factored into your decision.

8 They don't need relief for it, but it
9 does go towards the impact associated with the
10 development.

11 MEMBER HUGHES: Right. Okay, thank
12 you for the clarification.

13 VICE-CHAIRMAN MERTENS: Glenn?
14 Annmarie? Jose?

15 MEMBER SCOTTSON: Yeah, just Jen --
16 Jennifer, I agree with you on the -- I struggle with
17 the traffic piece of it.

18 I would agree that, because I go there,
19 I would agree that the Dunkin' Donuts piece, you
20 know, there is traffic. Would I match it up to --
21 I'm not an expert at this, so I guess my question
22 should be do we have a worst-case scenario -- and
23 forgive me, because I did have everything, I had
24 little bit of an emergency before I got here so I
25 didn't bring everything with me --but do we have a

1 worst-case scenario case study on traffic for the
2 flex space?

3 Because I just can't wrap my head
4 around the fact that it would be less traffic or
5 less of a traffic impact considering -- and also
6 pertaining to that road with regard to accidents and
7 the increased activity that is already there with
8 all of the development that is taking place over
9 there on Route 9.

10 MEMBER HUGHES: And alongside of that,
11 Annmarie, the type of traffic.

12 MEMBER SCOTTSON: Yes.

13 MEMBER HUGHES: The cars going into a
14 drive-through for Dunkin' Donuts versus...

15 VICE-CHAIRMAN MERTENS: Yes. You're
16 not comparing apples to apples.

17 MEMBER SCOTTSON: You're not comparing
18 apples to apples at all, and that's the part I'm
19 really struggling with.

20 MEMBER CANTOR: And the cars going
21 into Dunkin' Donuts would be going right.

22 MEMBER SCOTTSON: Exactly, yes.

23 ATTORNEY PAPE: I've asked
24 Mr. Verderese to return. He did a traffic report.
25 He did analyze traffic from the flex and it's set

1 forth in his report.

2 So was that the question?

3 MEMBER SCOTTSON: Yeah. I had all of
4 that information. Like I said, unfortunately, I
5 don't have it with me right now, so I just wanted
6 clarification on that, if you could.

7 ATTORNEY PAPE: I'm going to just,
8 before Nick testifies, I want to share with you the
9 list that I have made of what we owe you. And I
10 think some of this is what Jennifer is looking for.

11 But I'll begin by saying I'm going to
12 provide you with you a brief addressing
13 Mr. Gasiorowski's statement about this board
14 shouldn't be entertaining the bifurcated
15 application.

16 The second is that we're going to
17 respond, we're going to come up with something very
18 crystal clear in black and white about vehicle
19 storage or not. And that will be placed before the
20 board with specificity.

21 The next is that I'm going to be
22 delivering the sewer agreement, the sewer easement,
23 and to give you a digest of that.

24 The next is that our architect is going
25 to update his plans to have the stairs, elevators

1 and bathrooms shown in all the places that were
2 supposed to.

3 And the last one that I have here was
4 that I am going to reach out to Mr. Justin Yost, the
5 township engineer, to explore with him what the
6 anticipated cost of the driveway signal is, and to
7 come up with a formula for participation by this
8 applicant. So all of that we owe you before we ask
9 that this matter be voted on.

10 With that, Mr. Verderese, could you
11 respond to Ms. Scottson's concern; did you do a
12 traffic analysis of the flex space as part of your
13 report?

14 MEMBER SCOTTSON: I mean, specifically
15 worst-case scenario. I know there was one done, I
16 just wanted clarification on it in general.

17 But then also with regard to any high
18 traffic, because like she said, Dunkin' Donuts you
19 can't compare apples to apples. So I'm trying to
20 assume full capacity, larger businesses using the
21 flex space with numerous equipment, deliveries,
22 et cetera.

23 NICHOLAS VERDERESE: Yeah, so what we
24 do it's a mix of flex space is essentially a mix of
25 warehouse space and office space.

1 MEMBER SCOTTSON: Yeah.

2 NICK VERDERESE: I don't have the
3 specific square footages, but we used all the square
4 footage of office and generated that separate from
5 warehouse.

6 Now, normally when we -- if it was a
7 straight warehouse you assume there's office in
8 there. So we're conservatively adding the office on
9 top of the warehouse.

10 So we utilized the Institute of
11 Transportation Engineers, which we use for if I was
12 doing the HD-1 uses, restaurants, any general
13 retail, I'm assuming supermarket-type uses, those
14 type of uses that all kind of go in here.

15 And I talked about it before, the
16 reason I compared it to the Dunkin' because it is
17 next door and it is really small, right, it occupies
18 about a half an acre. A Dunkin' Donuts generally is
19 between 100 and 200 peak-hour trips. The whole
20 entire flex space in the peak hour generates less
21 than 100.

22 So if this was developed with, say,
23 something similar to next door, a Home-Depot-type
24 use, which could likely fit on the bigger side so
25 the north site, and then maybe a couple of

1 restaurants down at the bottom, you're looking at
2 generating probably 5 to 600 peak-hour trips if that
3 use was here.

4 I think the reason that use isn't here
5 is because this site doesn't have a lot of highway
6 frontage, so it really isn't suited well.

7 And there was questions as to missing
8 the driveway. That is why there's likely not an
9 HD-1 use on this property, because it's been zoned
10 this for a long time is what I understand.

11 Without visibility to the highway this
12 property is limited in the types of uses because
13 those uses are relying on people driving up and down
14 the highway, seeing it and coming in. This is more
15 of your destination, where people know they're
16 coming to this site.

17 So when we talk about missing the
18 driveway, if this was HD-1 uses I would say that was
19 very likely because it doesn't have a lot of
20 visibility, where The Home Depot all of their
21 frontage is on roadways, so you can see the uses as
22 you're driving by every single day. You know Duncan
23 is there. You now Checkers is there. Home Depot.

24 So this is, when you compare HD-1 to
25 this, straight up this is a much lower,

1 significantly lower traffic generator. It's pretty
2 simple.

3 ENGINEER CUNLIFFE: To follow up then,
4 so in the traffic report you're saying you did the
5 office and then the warehouse for the ITE.

6 Is there any other for this type of
7 use? Does the ITE have a designation or a land use
8 code for flex?

9 NICK VERDERESE: No.

10 ENGINEER CUNLIFFE: Do they have
11 something more akin, like industrial park or
12 something like that?

13 NICK VERDERESE: They have industrial
14 uses. I could look at those and give you the
15 numbers for the next meeting.

16 But they're still not rising to the
17 level of, you know, retail commercial-type uses.

18 ENGINEER CUNLIFFE: Yeah, I think that
19 would be, you know, to Ms. Scottson's point, would
20 be helpful information for their consideration.

21 MEMBER SCOTTSON: Exactly.

22 NICK VERDERESE: I can tell you just
23 from, you know, doing this for 34, 35 years almost
24 now, it's not that dissimilar. I think the numbers
25 are going to be very similar, but I'll come back

1 with the numbers.

2 VICE-CHAIRMAN MERTENS: Okay.

3 ATTORNEY PAPE: So your offer is to go
4 into the national manual and find the different
5 types of industrial uses, whether it's light
6 industrial, assembly, repackaging, and provide those
7 additional numbers for the board?

8 NICK VERDERESE: Yes.

9 ATTORNEY PAPE: Got it.

10 ENGINEER CUNLIFFE: Yeah, to
11 Ms. Scottson's point, I think she's just looking for a
12 worst case.

13 And I don't disagree that, you know,
14 we have -- we have seen warehouse or other flex type
15 give traffic reports broken up as warehouse and
16 office, right, but there are other land use
17 designations. And I know we don't know who the
18 tenant is and things like that but, you know, maybe
19 picking the worst case out of possible type tenant
20 use, might give the board some additional context.

21 ATTORNEY PAPE: Yes.

22 MEMBER SCOTTSON: Exactly.

23 ATTORNEY PAPE: So we add that to the
24 list of commitments that we have to this board.

25 VICE-CHAIRMAN MERTENS: Okay. Before

1 we go to public, John, do you have anything to
2 address regarding the bungalows, just to maybe save
3 a few questions from the public?

4 ENFORCEMENT OFFICER AGUILAR: Sure.
5 And I thank you for bringing that up because what
6 you're seeing on the screen is just a small sliver
7 of the property. Everybody seems to have forgotten
8 the bungalows that are just north of here.

9 So as of the letter that I received on
10 December 11th from Larry Loitman[ph], who is an
11 attorney for the applicant, there are still 13
12 families residing on the property which puts them in
13 direct violation of an agreement that we had by
14 which everybody should have been vacated by December
15 1st.

16 So as of today they are subject to
17 more summonses for those 13 families living there in
18 deplorable conditions, to be quite honest. So you
19 know, once this meeting is over -- I mean, I would
20 like to hear either from the applicant or from
21 Mr. Pape to see what the plan is, where they are
22 just for clarification, but they should have been
23 out already.

24 And I would stress that you should
25 consider that when making decisions, because they

1 haven't come into compliance with that and so that
2 should be number one.

3 VICE-CHAIRMAN MERTENS: Okay.

4 Shari, I didn't want to forget about
5 you. Anything you wanted to add before we go to the
6 public?

7 TREE EXPERT SPERO: No, I'm all right.

8 VICE-CHAIRMAN MERTENS: Okay.

9 ATTORNEY PAPE: Mr. Chairman, if I may
10 briefly. John did tell me of his concern with
11 regard to the status of the bungalows. There were
12 34. There are 13 families that have not yet left.
13 There are 21 since August that we have been able to
14 get to leave. We are working with them.

15 We are trying to be humane. And if
16 they have not voluntarily agreed to vacate -- as
17 indicated, Mr. Loitman is the attorney responsible
18 for the eviction. If they are not out in January he
19 will start the lawsuits. He has tried to do it
20 without lawsuits, but these last 13 are still there.

21 VICE-CHAIRMAN MERTENS: Okay.

22 ATTORNEY PAPE: But it's not -- it's
23 not being ignored, just trying to be humane about
24 the termination.

25 VICE-CHAIRMAN MERTENS: Okay. So

1 everybody good to go to public?

2 MEMBER HUGHES: Motion to go to public.

3 MEMBER CANTOR: I'll second.

4 VICE-CHAIRMAN MERTENS: All in favor?

5 BOARD MEMBERS IN UNISON: Aye.

6 VICE-CHAIRMAN MERTENS: Eileen.

7 SECRETARY CUSA: The board will now be

8 open to the public. If you would like to come up,

9 please state your name and your address.

10 VICE-CHAIRMAN MERTENS: I just want to
11 remind the public that we don't have like a time
12 clock, but just be respectful of the people also
13 that want to speak tonight, so try to get everybody
14 in.

15 ANTONELLO BIANCO: Hello. My name is
16 Antonello Bianco. Oh, I'm sorry.

17 ATTORNEY BAYER: Do you swear the
18 testimony you give will be the truth, the whole
19 truth, and nothing but the truth, so help you God?

20 ANTONELLO BIANCO: So help me God, I
21 do.

22 ATTORNEY BAYER: State your name and
23 spell your last.

24 ANTONELLO BIANCO: Antonello Bianco,
25 B-I-A-N-C-O. 59 Arrowwood Court, Howell, New Jersey.

1 Toscana community.

2 I'm here on behalf of the Toscana
3 community representing our folks in the neighborhood
4 that we're opposed to this project. And I and
5 others walked around the neighborhood and collected
6 signatures that we would like to present as, for the
7 record, evidence. Approximately 175 signatures.

8 Just for reference we have
9 approximately 186 dwellings in our community. So
10 this represents a good portion of folks who are
11 against this development.

12 We have several reasons why. I can
13 state them but basically a lot of that went over --
14 we went over it tonight, essentially the zoning
15 issue. We're all against this being built on an
16 HD-1 based on the criteria that has been since set
17 forth.

18 Traffic we have heard quite a bit about
19 traffic. We know that there's going to be a lot of
20 traffic and safety related issues.

21 The whole water flow and retention
22 business, we think that will have impact especially
23 during inclement weather.

24 The aesthetic impact, that's perhaps
25 the primary reason that we're against this thing.

1 It's just going to be obtrusive. And, frankly, what
2 we would like to see, which I haven't seen, an
3 elevation on the Fort Plains side view.

4 You have a lot of wonderful drawings,
5 everything representing Route 9, but what are we
6 going to see?

7 PLANNER BEAHM: All of the elevations
8 have been presenting.

9 ANTONELLO BIANCO: Not a good clear
10 one. So if we could do something better because...

11 PLANNER BEAHM: So before you move
12 forward --

13 ANTONELLO BIANCO: Go ahead.

14 PLANNER BEAHM: -- I would just
15 represent the objections of you.

16 ANTONELLO BIANCO: The objections of me
17 as well as everyone else.

18 PLANNER BEAHM: Well, no, that's what
19 I mean.

20 ATTORNEY BAYER: Jen, I got it.

21 So, Mr. Bianco, I have a question.

22 ANTONELLO BIANCO: Yes.

23 ATTORNEY BAYER: These other
24 homeowners, do you have a homeowners association?

25 ANTONELLO BIANCO: Yes, we do.

1 ATTORNEY BAYER: And are you
2 attempting to speak on behalf of the homeowners
3 association?

4 ANTONELLO BIANCO: Right, yes. And
5 the community.

6 ATTORNEY BAYER: Do you have a --
7 okay, so that's a corporate entity, so that would
8 need to be represented by an attorney, the HOA.

9 ANTONELLO BIANCO: Understood. Okay.

10 ATTORNEY BAYER: And do you have a
11 position in the HOA?

12 ANTONELLO BIANCO: I do not.

13 ATTORNEY BAYER: So, as Ms. Beahm has
14 noted, I think you should keep your comments to your
15 view as opposed to others who aren't here before the
16 board and then can't be asked questions as well.

17 ANTONELLO BIANCO: I will, okay.

18 ATTORNEY BAYER: But you can certainly
19 provide your personal opinion.

20 ANTONELLO BIANCO: Yeah, and I have a
21 few personal questions.

22 ATTORNEY PAPE: I need to add to that.
23 Mr. Bianco can speak for himself and only for
24 himself, cannot speak for his neighbors, and you
25 cannot submit a petition that is signed by people

1 who are not here.

2 All evidence is provided to this board.
3 Anyone who is expressing that they're not in support
4 of this application must be here so that we can
5 cross-examine them.

6 I have no issue at all with the
7 testimony of Mr. Bianco on his own behalf, period.

8 VICE-CHAIRMAN MERTENS: I concur.

9 ATTORNEY BAYER: I think we're saying
10 the same thing, Mr. Pape.

11 ATTORNEY PAPE: Very good.

12 ANTONELLO BIANCO: So I can't present
13 this?

14 ATTORNEY BAYER: No, that can't be
15 submitted.

16 ANTONELLO BIANCO: At this time,
17 understood.

18 ATTORNEY BAYER: Because we would
19 be...

20 ANTONELLO BIANCO: Understood. We'll
21 hold this. I mean, I don't think there will be a
22 problem for such.

23 ATTORNEY BAYER: Again, if there's a
24 homeowners association --

25 ANTONELLO BIANCO: We'll make sure

1 they're represented.

2 ATTORNEY BAYER: -- if you are
3 represented in that association, through your
4 attorney, could then present the view of the
5 association.

6 ANTONELLO BIANCO: Okay.

7 VICE-CHAIRMAN MERTENS: But I would
8 like to hear your personal reasons.

9 ANTONELLO BIANCO: Well, some of my
10 other personal reasons, again, just the aesthetic
11 impact. And because of such that's, obviously,
12 going to have a property value impact in our view --
13 in my opinion, excuse me.

14 Noise pollution, I think it's going to
15 be noisy. I know you said perhaps 100 vehicles per
16 day, whatever it was, but there will be noise. And
17 just the fact that this thing is so close to my
18 home, I know I'm going to hear all that traffic.

19 And just community integrity. I think
20 it's just going to negatively impact the look and
21 feel, the quality of life that we've since -- I have
22 since come to enjoy at Toscana.

23 And to be honest with you, lack of
24 notification. I haven't heard about this -- and you
25 say this has been in development seven years --

1 until two, three months ago. And really just on a
2 whim.

3 And in my personal view, and asking my
4 community, my neighbors, I'm just guessing here but
5 I would say 80 percent have not heard about this, so
6 I don't think proper notification...

7 ATTORNEY BAYER: I would just leave
8 your comments to what you know, your personal
9 information.

10 ANTONELLO BIANCO: Yes, sir, okay.

11 I do have a question, though. I mean
12 we talked about economics of this thing. It's going
13 to generate revenue, great, for the owners. But
14 what kind of jobs would this create?

15 ATTORNEY BAYER: So for a land use
16 board, the board doesn't take, you know...

17 ANTONELLO BIANCO: But, I mean, that
18 should be considered too, right? I mean, if this
19 thing goes through...

20 PLANNER BEAHM: We can't consider it.
21 We're not allowed.

22 VICE-CHAIRMAN MERTENS: No, we cannot.

23 ATTORNEY BAYER: Not economics. It's
24 really land use considerations.

25 VICE-CHAIRMAN MERTENS: Unfortunately

1 that's, you know, we can't do that.

2 ANTONELLO BIANCO: Okay.

3 I'm sorry, I was just looking through
4 my notes to see if there's anything.

5 Very well, we'll be back. Thank you
6 for your time. Appreciate it.

7 VICE-CHAIRMAN MERTENS: Okay, thank
8 you.

9 ATTORNEY BAYER: Do you swear or
10 affirm the testimony you give will be the truth, the
11 whole truth, and nothing but the truth?

12 JASON HUGHES: I do.

13 ATTORNEY BAYER: State your name,
14 spell your last, and your address, please.

15 JASON HUGHES: My name is Jason
16 Hughes, last name H-U-G-H-E-S, address is 30 Bracken
17 Court, Howell.

18 I heard earlier that there is a limit
19 on the square footage for a flex use space, and it's
20 of my opinion that this attempt is to circumvent
21 that by having two buildings separated by only
22 25 feet. It appears, when you look out, that it
23 would have normally been one building, and that is
24 an attempt to circumvent that one rule.

25 I also typically with a one-story

1 building don't picture a 32-foot building as
2 one-story. So this does become, in my opinion, a
3 great eyesore for those folks that you can see at
4 the bottom of the photo that are probably
5 approximately 300 feet from that building, so maybe,
6 you know, three times the length of this room.

7 While this may generate less traffic
8 than a Dunkin' Donuts, it is a significantly
9 different type of traffic. These are construction
10 vehicles that we will deal with for however long it
11 takes to build it. Followed by commercial vehicles,
12 all or many of which will be beeping when you back
13 up into these loading bays of buildings.

14 The berm itself is eight feet followed
15 by either a 4-foot or 6-foot fence, so approximately
16 15, 16 feet. That will not cover, you know, the
17 visibility of the building.

18 Any trees that are going to be planted
19 on the left portion of the photo will take many,
20 many years to mature to even make this somewhat not
21 visible to those residents that are sitting in their
22 backyards enjoying the time in their pools, and now
23 will also additionally have to deal with the
24 increased noise that's going to come from whatever
25 tenants go into these areas, which we don't know at

1 this time.

2 Is there any limit to what could go
3 into these from manufacturing or, you know, sheet
4 metal type businesses?

5 Is there any noise restrictions of the
6 tenants that go into these types of buildings?

7 ATTORNEY PAPE: The applicant
8 indicated that there would be no activity outside of
9 the buildings. So that was part of the applicant's
10 representations.

11 JASON HUGHES: So I could put a
12 fabrication shop in there that has noise from
13 6:00 a.m. to 10:00 p.m. -- I guess that was the
14 hours that I've heard -- is that correct?

15 ATTORNEY PAPE: The noise in this
16 building and anywhere in the Township of Howell,
17 anywhere in the state, it must meet the state noise
18 standard.

19 JASON HUGHES: Which is what?

20 ATTORNEY PAPE: There is different
21 decibels at different times of the day. I'm not an
22 expert in it, only that I know that all uses,
23 commercial or industrial uses, must meet the state
24 noise statute, which is also embodied in the
25 township's ordinances.

1 JASON HUGHES: So I would further
2 submit that there is the potential for not only the
3 noise from the traffic, from the vehicles backing up
4 but the increased potential noise of what goes on
5 inside these buildings that really cannot be
6 controlled.

7 And I think that's all that I have for
8 right now. Thank you.

9 MEMBER SCOTTSON: Thank you.

10 VICE-CHAIRMAN MERTENS: Thank you.

11 Do you swear or affirm that the
12 testimony you give will be the truth, the whole
13 truth, and nothing but the truth?

14 PAUL DORATO: I do.

15 ATTORNEY BAYER: State your name,
16 spell your last, and address, please.

17 PAUL DORATO: Paul Dorato, 27
18 Firestone Drive. D-O-R-A-T-O. I'm actually on the
19 HOA, but I'm not speaking for the development; I
20 just wanted to say that for you.

21 ATTORNEY PAPE: I didn't hear the
22 address, I'm sorry.

23 PAUL DORATO: 27 Firestone Drive.

24 ATTORNEY PAPE: Thank you, sir.

25 PAUL DORATO: I appreciate the

1 testimony that we heard specifically on the traffic,
2 that you are not going to filter it out to Fort
3 Plains.

4 However, the traffic going out on
5 Route 9 because this is going to be a flex space,
6 I'm going to assume that we are going to have at
7 some 53-foot trucks, possibly smaller vehicles. But
8 regardless, because you can't go out northbound on
9 9, you're going to have to make a right out on
10 Route 9.

11 If there's a freight carrier that wants
12 to go north back on 9 rather than going 195, they're
13 going to have to proceed to the West Farms
14 jughandle, make that turn -- you guys said it was a
15 U-turn, it's not actually a U-turn, it's going
16 around the jughandle, onto a road that is congested
17 all the time to go back out and to go northbound out
18 on 9.

19 The way freight works, they're going to
20 take the shortest distance otherwise they're going
21 to charge more money for delivering and this sort of
22 thing. So you're not going to have the carriers go
23 out to 195, go out to the turnpike and then go
24 north. So that area there is going to be really
25 congested.

1 You also have, on that corner, you also
2 have the memory care facilities that is going to go
3 on there that was approved. I was on the planning
4 board, that was approved over there.

5 So you have a heavy amount of traffic
6 on that thing for West Farms. So, obviously, it
7 being Route 9, it's a state thing. There is going
8 to have to be some kind of improvement because
9 you're going to have a traffic nightmare there.

10 You're also going to have traffic that
11 goes out to West Farms, maybe going towards Jackson,
12 at the light that your application for -- remember
13 when you did the Sunnyside development, you guys
14 didn't want to put that light there -- you got that
15 same thing with the light that they were just
16 talking about, the contribution.

17 See, you know, you actually helped
18 create this traffic mess that is here with some of
19 your other applications actually so.

20 But that's a big problem on that road
21 because that jughandle in the morning, it's crowded
22 every day. There's people that come in, it's only
23 two lanes, three lanes, then you have people coming
24 in, it's going to be an absolute nightmare. So I
25 think at some standpoint somebody has to contact the

1 state and figure it out.

2 I think that's about all I have. Thank
3 you.

4 VICE-CHAIRMAN MERTENS: Thanks, Paul.
5 Anybody else?

6 AQUANETTA SMITH: Hello, everyone.
7 Yes, I do.

8 ATTORNEY BAYER: Do you swear or
9 affirm --

10 AQUANETTA SMITH: Yes, I do. My name
11 is Aquanetta Smith. I live at 57 Arrowwood Court.

12 ATTORNEY BAYER: You need to spell
13 your last name for the record, please.

14 AQUANETTA SMITH: Smith, S-M-I-T-H.

15 ATTORNEY BAYER: Thank you.

16 AQUANETTA SMITH: I have been a
17 resident of Howell --

18 VICE-CHAIRMAN MERTENS: Excuse me, are
19 you making a comment? Because she would have to be
20 sworn in.

21 AQUANETTA SMITH: I did.

22 ATTORNEY BAYER: Do you swear or
23 affirm the testimony you give --

24 AQUANETTA SMITH: Yes, I do.

25 ATTORNEY BAYER: -- will be the truth,

1 the whole truth, nothing but the truth?

2 AQUANETTA SMITH: Yes.

3 ATTORNEY BAYER: Okay.

4 AQUANETTA SMITH: Thank you. Thank
5 you.

6 I have been a resident at 57 Arrowwood
7 Court for 22 years. I have raised my kids,
8 beautiful, you know, with intentions that I would
9 retire there.

10 This is a nightmare. You don't live
11 there, but I do. And, you know, something has to
12 be, you know, not to say that what you're doing
13 can't be done, but it just has to be thought out a
14 lot better than what is being proposed.

15 That's all I have to say. Yeah, that's
16 it. It's a nightmare.

17 VICE-CHAIRMAN MERTENS: Thank you.

18 MARC PARISI: Good evening. Marc
19 Parisi, 2 Castle Court.

20 ATTORNEY BAYER: Do you swear or
21 affirm the testimony you give will be --

22 MARC PARISI: How do you know that I'm
23 not just going to make a comment?

24 ATTORNEY BAYER: This is our process,
25 Mr. Parisi.

1 VICE-CHAIRMAN MERTENS: Come on, Marc.

2 ATTORNEY BAYER: As a former board
3 member I'm sure you're okay with it.

4 MARC PARISI: I appreciate that.

5 ATTORNEY BAYER: Do you swear or
6 affirm the testimony you give will be the truth, the
7 whole truth, and nothing but the truth?

8 MARC PARISI: Yes. Thank you.

9 ATTORNEY PAPE: Sorry, Mr. Parisi, I
10 didn't get your address. I'm sorry.

11 MARC PARISI: 2 Castle Court.

12 ATTORNEY PAPE: Thank you.

13 MARC PARISI: Good evening,
14 Mr. Mertens, Chairman Mertens. It's a pleasure to
15 say that. I had a couple of questions.

16 Obviously I was here at a planning
17 board meeting when we talked about this area in need
18 of redevelopment. Could someone from the
19 professionals explain what was the reason why this
20 particular piece of property was not included in the
21 area in need of redevelopment, considering that
22 there is some frontage along Route 9 that is like, I
23 think, immediately south of the area in need of
24 redevelopment?

25 PLANNER BEAHM: It does start

1 immediately south of that. We discussed the
2 parameters of that Redevelopment Study that was done
3 -- John, when was that done, a couple of years ago?
4 A year ago or so?

5 ENFORCEMENT OFFICER AGUILAR: Yeah.

6 PLANNER BEAHM: And it was determined
7 at this point that it was going to start with the
8 homes that are on, you know, just south of KFC and
9 run all the way to like the florist to the north on
10 this side of the street.

11 This site was not anticipated to be
12 included at any point. You know, like, I don't know
13 exactly the intention behind it. I do know that
14 when this study was undertaken Mr. Pape had a
15 development application pending before us. This
16 application was pending before us. It's been --

17 MARC PARISI: 2020, I believe.

18 PLANNER BEAHM: I think, yeah, I think
19 my file is 2020 or 2021.

20 But it was definitely not included --
21 it was not included in the governing body's
22 resolution to us to undertake the study, nor was it
23 included within the study.

24 MARC PARISI: Do you find that's
25 unusual that, like, you would have an application

1 pending for a Land Use Board for several years and
2 then they would do a study, you know, about a
3 redevelopment of literally every adjacent property
4 around it and not include it --

5 PLANNER BEAHM: No.

6 MARC PARISI: -- for one reason or
7 another?

8 PLANNER BEAHM: I don't. Because we
9 didn't include Home Depot either. So it's not like
10 it went all the way but one lot to the corner. We
11 basically evaluated the study area.

12 It's a large corridor to be studied all
13 at one time, quite honestly.

14 MARC PARISI: Right.

15 PLANNER BEAHM: So do I find it
16 unusual? No.

17 MARC PARISI: But Home Depot is
18 improved and there's like really nothing that can go
19 there. This is like largely an unimproved piece of
20 property.

21 ATTORNEY BAYER: So I'm just going to
22 say, I am not sure what this has to do with the
23 testimony before the board and the application
24 before it.

25 MARC PARISI: Right. I'm just --

1 ATTORNEY BAYER: These are more policy
2 questions that go to why the governing body asked to
3 do a study on a certain area along 9.

4 I understand that Jen sits in many
5 roles here, but I kind of think that's --

6 MARC PARISI: Yeah, no, I'm just
7 trying to understand a little bit better because to
8 me it seems unusual. I mean there certainly can be
9 a rational explanation as to why it wasn't included.

10 I guess what I was trying to get to is
11 that if it were -- if it had been included in the
12 area in need of redevelopment and we're talking
13 about the sewer and how that area in need of
14 redevelopment is going to allow for broader
15 infrastructure improvements to all of the properties
16 that are included --

17 PLANNER BEAHM: So, Marc, I'm just
18 going to interrupt you. That is absolutely not
19 true. Like we're not providing opportunities for
20 enhanced infrastructure to the redevelopment. We're
21 providing additional zoning alternatives, which is
22 what the redevelopment plan that is underway
23 currently is proposing.

24 The issue with this section of town and
25 why it hasn't redeveloped it's because the sewer is

1 on Fort Plains Road and some of those properties do
2 not extend to Fort Plains Road. So, therefore, they
3 don't have direct access, which is why we have been
4 talking about the sewer with regard to this project
5 from the beginning.

6 Is there -- does this provide
7 opportunities for those buildings that are
8 immediately in front of it on Route 9 to have
9 access? Yes, that's what we want to know because we
10 kind of have been dancing around it for three
11 meetings.

12 But that -- so, you know, the other
13 argument could be the site has access to the sewer
14 so it doesn't need the help.

15 MARC PARISI: Okay. I'm going to
16 pivot to something else.

17 I was looking at the traffic study. We
18 do know that there have been affordable housing
19 projects that have been approved in this specific
20 area, specifically the Zajac project which is just
21 north of the driveway.

22 PLANNER BEAHM: By the jughandle.

23 MARC PARISI: Yes, just north. I
24 guess it's Lots 24, 25 and 26.

25 BOARD PLANNER: Yeah, it's on the

1 other side of Mark-O-Lite, Ken. So at the
2 jughandle.

3 MARC PARISI: Right. So it's my
4 understanding that there is 360 units that are
5 garden-style apartments -- correct me if I'm wrong,
6 Jen.

7 PLANNER BEAHM: That's correct.

8 MARC PARISI: -- that are going to be
9 -- that were approved. I don't believe that they
10 have built anything or begun building on them yet.

11 PLANNER BEAHM: No. They haven't
12 started yet, no.

13 MARC PARISI: Right. So is there --
14 you know, I would expect that since that's located
15 on the southbound side of Route 9 that there will be
16 significant traffic coming from those apartments
17 because I don't believe that there's going to be any
18 access west onto Fort Plains. So it's going to be
19 all ingress/egress coming onto Route 9 right there I
20 guess maybe 500 feet north of the driveway, Jen, I
21 mean is that accurate, about?

22 PLANNER BEAHM: Maybe a little bit
23 more. Because it goes through -- you have KFC where
24 their driveway is, then you have an office building,
25 then you have Chapter House, then you have

1 Mark-O-Lite and then you get to this property.

2 MARC PARISI: Okay.

3 PLANNER BEAHM: So it could be more
4 than 500 feet, but not by a lot --

5 MARC PARISI: But less than 1,000?

6 PLANNER BEAHM: I would say probably.

7 MARC PARISI: Okay. So I don't
8 believe that that traffic was included in the
9 traffic study. Now, it's not -- I don't know what
10 impact that would have or not, but I think it's
11 important that this board considers, you know,
12 traffic impacts, that they also consider the
13 anticipated traffic from that, say, back apartment
14 complex that's 360 units that is going to be just
15 north of the KFC driveway.

16 VICE-CHAIRMAN MERTENS: Okay, we
17 touched on a good question. I mean, Mr. Pape, can
18 we have your traffic engineer actually respond to
19 that?

20 MEMBER SCOTTSON: And that was what I
21 was alluding to, I just didn't want to get into the
22 specifics because it's not built yet.

23 ATTORNEY PAPE: Mr. Verderese...

24 NICHOLAS VERDERESE: Yeah, so we
25 started this job in 2020, so that one wasn't

1 included. We included a couple of projects that are
2 actually constructed; Cornerstone which is down on
3 West Farms, and an office building on
4 Fort Plains Road.

5 The levels of service at our driveways
6 are a B. That is north of that jughandle, so likely
7 most of the traffic is going back to the north, so I
8 don't see an issue with, you know, 50/75 of their
9 vehicles are passing by our driveway. We have a B
10 level of service, worst case 14 seconds of delay.

11 So I could add that traffic in. It's
12 not going to show anything different than what I've
13 already...

14 PLANNER BEAHM: So, Marc, can I just
15 interject for one second?

16 So I don't know that I agree with your
17 trip distribution assertion. Have you reviewed the
18 traffic report from that application?

19 NICHOLAS VERDERESE: No.

20 PLANNER BEAHM: Okay.

21 So I don't -- I think you're right,
22 Marc, I think that a lot of the traffic from that
23 proposed development is going to go south, and is
24 going to pass this access, both access points on its
25 way south.

1 So I definitely agree that that traffic
2 would potentially -- I don't think all of it is
3 going north; I think a lot of it is going to go to
4 the south.

5 NICHOLAS VERDERESE: Either way you're
6 going to get all past our site. We have a B level
7 of service, and all it means is we're less percent
8 increasing the traffic volumes to the adjacent
9 roadways.

10 I'll get that information and provide
11 it to the board. But I can tell you right now, like
12 I said 35 years of this, the person speaking here
13 knows me, knows what I do for a living, and I'm very
14 comfortable that that traffic that's really a small
15 generator of traffic compared to all the commercial
16 uses on the town's highway.

17 ATTORNEY PAPE: But you'll do it?

18 NICHOLAS VERDERESE: I'll do it, for
19 sure.

20 VICE-CHAIRMAN MERTENS: Yeah, please.

21 MARC PARISI: Thanks, Nick.

22 NICHOLAS VERDERESE: You're welcome.

23 MARC PARISI: Just a general comment.
24 You know, I understand what Ms. Cofone is saying
25 about this particular property being like unique.

1 I would be curious when there's a
2 statement made about the impervious coverage on, you
3 know, the developable portion of the land, I would
4 like to know how much of this land is
5 environmentally constrained?

6 Because if there's, you know,
7 significant portion of this land that cannot be
8 developed, I'm curious as to what would be the
9 impervious coverage of the area of land that is
10 developable, not the overall amount of land on the
11 property.

12 If somebody can answer that question
13 for me?

14 MEMBER CANTOR: That was the reason
15 why the property -- why their development, correct
16 me if I'm wrong, but why their development wasn't
17 extended further north, there was --

18 MARC PARISI: That's my understanding,
19 too.

20 PLANNER BEAHM: We went over that,
21 yeah.

22 MEMBER CANTOR: There was testimony on
23 that the first time we heard it.

24 MARC PARISI: All right. So then I
25 guess my last comment would be, you know, I think

1 that the board should be cautious about granting any
2 use variances that involve more than one principal
3 use and setting that precedent.

4 Thank you.

5 MEMBER SCOTTSON: Thank you, Marc.

6 VICE-CHAIRMAN MERTENS: Thank you. So
7 we're about 12 minutes from ten.

8 Anybody else?

9 Can I have a motion to close?

10 MEMBER CANTOR: Seeing no one, I make
11 a motion to close the public.

12 MEMBER HUGHES: Is everybody good?

13 VICE-CHAIRMAN MERTENS: Yeah, we're
14 going to still have --

15 MEMBER HUGHES: More opportunity.

16 VICE-CHAIRMAN MERTENS: -- after we get
17 more testimony.

18 Okay, so --

19 UNIDENTIFIED SPEAKER: I got a
20 question. I have a question, so hold it. This
21 isn't over, right?

22 PLANNER BEAHM: No.

23 VICE-CHAIRMAN MERTENS: No, no.

24 UNIDENTIFIED SPEAKER: Okay.

25 VICE-CHAIRMAN MERTENS: That's what I'm

1 saying, is we're going to still have more testimony
2 and then the public can come back up at our next
3 meeting.

4 ATTORNEY BAYER: And you have
5 Mr. Gasiorowski as well.

6 VICE-CHAIRMAN MERTENS: Yes.

7 Okay, so all in favor of closing?

8 MEMBER CANTOR: John, did you have a
9 question?

10 ENFORCEMENT OFFICER AGUILAR: I do,
11 for Mr. Pape.

12 I know it's not site plan, but you have
13 a possibility of 14 different flex spaces which
14 equates to 14 tenants. I'm only seeing three
15 enclosures for garbage; one which is towards the
16 self-storage, and only two for the flex space, which
17 I would consider insufficient.

18 ATTORNEY PAPE: Duly noted.

19 ENGINEER CUNLIFFE: So just to add
20 onto John's sentiment. So we obviously had our
21 rules committee and this was a topic that came up,
22 and it's as a result of after things are built, a
23 couple of years down the line, the engineering
24 department is observing these issues with sites with
25 multiple users with multiple kind of components, you

1 know, I think we just want to see trash refuse
2 enclosures commensurate with the actual scale of the
3 use being proposed and the number of tenants being
4 proposed.

5 VICE-CHAIRMAN MERTENS: Duly noted?

6 ATTORNEY PAPE: Duly noted.

7 VICE-CHAIRMAN MERTENS: Okay. Because
8 I happen to agree with Charlie in that I'm looking
9 at it, too, and three is not going to cut it.

10 So, Eileen, I guess we have to schedule
11 the next meeting for this.

12 ADMINISTRATOR CUSA: Are we closed to
13 the public? I just want to...

14 VICE-CHAIRMAN MERTENS: Yes.

15 ATTORNEY BAYER: For tonight.

16 MEMBERS IN UNISON: Aye.

17 ADMINISTRATOR CUSA: For meeting dates
18 I have February 10th, I have two applications on.
19 February 24th I have one application on. And
20 March 10th I have one application on.

21 ATTORNEY PAPE: I'll start by asking
22 what was the first date?

23 ATTORNEY BAYER: February 10th, Ken.

24 ATTORNEY PAPE: And the next one was?

25 ADMINISTRATOR CUSA: February 24th.

1 ATTORNEY PAPE: To everyone on our
2 team, the 10th and 24th?

3 What are the applications that you
4 have on your agenda on the 10th; are they homeowners
5 or are they substantial?

6 SECRETARY CUSA: They're both use
7 variances.

8 ATTORNEY PAPE: Both use variances.
9 And what is on the 24th?

10 SECRETARY CUSA: I believe that's a use
11 variance as well.

12 ATTORNEY PAPE: And would we be behind
13 that or in front of that?

14 SECRETARY CUSA: On the 10th I have
15 one that is already being carried. And the 24th
16 it's a new application.

17 ATTORNEY PAPE: Mr. Mertens, would it
18 be possible to go to the 24th and that this is a
19 continued application?

20 VICE-CHAIRMAN MERTENS: I understand;
21 I just don't know with the objector if that's going
22 to make it a longer meeting.

23 I don't think on your end there is
24 going to be that much more that you have to put on
25 record.

1 ATTORNEY PAPE: I don't think so, but
2 I expect that Mr. Gasiorowski has a lot to talk
3 about.

4 VICE-CHAIRMAN MERTENS: Yeah, that's
5 why I was trying to...

6 But I think it is an ongoing
7 application and I think we should at least -- we'll
8 hear it first.

9 ATTORNEY PAPE: Then is everyone on
10 our team who is here good on the 24th?
11 February 24th does work for all of us.

12 If you would be so kind to announce a
13 continuation to that date, we would be most
14 appreciative.

15 VICE-CHAIRMAN MERTENS: Okay. And do
16 we have to get an extension of time as well?

17 ADMINISTRATOR CUSA: Yes.

18 ATTORNEY PAPE: Through March 30th,
19 2025, on the record, and I'll deliver the letter to
20 Ms. Cusa tomorrow.

21 VICE-CHAIRMAN MERTENS: Okay.
22 Therefore, to put it on the record, Case Number
23 BA20-118, Fort Plains Partners, LLC, will be carried
24 to February 24th.

25 ADMINISTRATOR CUSA: Correct.

1 VICE-CHAIRMAN MERTENS: Okay. With
2 notice to March 30th, extension of time.

3 ATTORNEY PAPE: And we appreciate the
4 offer to be at the top of the agenda that evening.

5 VICE-CHAIRMAN MERTENS: Okay. Thank
6 you, Mr. Pape.

7 ATTORNEY PAPE: Thank you. Good
8 night, all.

9 VICE-CHAIRMAN MERTENS: Is there any
10 further business of the board professionals?

11 PLANNER BEAHM: No, sir.

12 VICE-CHAIRMAN MERTENS: Okay, on
13 behalf of myself, I would like to extend a Merry
14 Christmas, Happy Hanukkah, and Happy New Year to all
15 of you. Thank you for a great year so far, and
16 we'll see you in 2025.

17 - - -

18 (Whereupon, the application was
19 adjourned at 9:05 p.m.)

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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 witnesses were 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.



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