

1 PLANNING BOARD  
 2 BOROUGH OF MONTVALE  
 COUNTY OF BERGEN  
 3 BLOCK 3201, LOT 4 :  
 4 RIDGECREST REALTY ASSOCIATES, INC.:  
 21 PHILIPS PARKWAY :  
 5 Application for Conditional Use :  
 and Variance Approval, Major Soil :  
 6 Moving Permit, Bulk, EIS Approval :  
 And Site Plan Waiver :  
 -----X  
 Tuesday, March 5, 2019  
 Council Chambers  
 12 Mercedes Drive  
 Montvale, New Jersey  
 Commencing 9:28 p.m.  
 9 B E F O R E:  
 JOHN DePINTO, CHAIRMAN  
 10 FRANK STEFANELLI, VICE CHAIRMAN, absent  
 ROSE CURRY, COUNCIL PRESIDENT  
 11 JIMMY D'AGOSTINO, absent  
 JOHN CULHANE  
 12 MICHAEL GHASSALI, MAYOR, absent  
 WILLIAM LINTNER, absent  
 13 MAGGIE O'NEILL  
 ROBERT ZITELLI  
 14  
 ROBERT REGAN, BOARD ATTORNEY  
 15 ANDREW HIPOLIT, BOROUGH ENGINEER  
 LORRAINE HUTTER, BOARD SECRETARY  
 16 JEFFREY FETTE, CONSTRUCTION CODE OFFICIAL  
 DARLENE GREEN, PLANNER  
 17  
 A P P E A R A N C E S:  
 18 BEATTIE PADOVANO  
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 Computerized Transcription Services

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1                   CHAIRMAN DePINTO:   Ridgecrest 21 Philips  
2   Parkway, application for conditional use of a variance  
3   approval, major soil moving permit approval, bulk  
4   variance approval, EIS approval and site plan waiver.

5                   MR. DEL VECCHIO:   Good evening, Mr.  
6   Chairman, Andy Del Vecchio, member of the firm of  
7   Beattie, Padovano on behalf of the applicant  
8   Ridgecrest Realty.

9                   We are here on continued public hearing.   And,  
10   as a preliminary matter I would like to address, I  
11   guess, what has been voiced as an on-going concern by  
12   our neighbors at the Bears Nest.   We have been in  
13   communication with them since the last hearing and  
14   that dialogue has continued.   It has, I am pleased to  
15   report, resulted in an agreement being reached with  
16   the Bears Nest folks that will call for us to in fact  
17   proceed with the landscaping that is shown on our side  
18   of the plans but also, in addition, we agreed to  
19   provide more landscaping, irrigation, tree removal,  
20   installation of a berm or the elevation of some trees  
21   that was designed by their landscape consultant, Edge  
22   Landscaping on their side of the property so it  
23   doesn't effect the application before this Board.  
24   But, we have made arrangements to make those happen  
25   for them.

1           And based on that, it is my understanding that  
2   they will be withdrawing their objection and are  
3   supporting the application.

4           CHAIRMAN DePINTO:   Okay.   Thank you.

5           Good evening, gentlemen.   Please identify  
6   yourselves.

7           MR. WISS:   Good evening.   Tim Wiss, Wiss &  
8   Bouregy, P.C., on behalf of Bears Nest Condominium  
9   Association.

10          And that's correct, that's our understanding and  
11   we would just ask that any approval to the Board is  
12   conditioned on those things.

13          And with that said, we will withdraw our  
14   objection.

15          CHAIRMAN DePINTO:   And the gentlman with  
16   you?

17          MR. TINTLE:   David Tintle, 49 Whitney Hill  
18   over at the Bears Nest and I'm on the committee that's  
19   been here all along, since this started last summer.

20          CHAIRMAN DePINTO:   Okay.   Very good.

21          And you agree that the Board, by some vote has  
22   withdrawn their objections to the proposed?

23          MR. TINTLE:   Absolutely.

24          MR. REGAN:   You are a member of the Board?

25          MR. WISS:   Just to clarify, this came at



1 basically an, I'll call it, 11th hour settlement this  
2 evening. This just took place this afternoon.

3 We still don't have anything formal in writing  
4 yet so the attorneys are going to be working that out.  
5 We just wanted to get the substantive terms on the  
6 record before the Board. Those will be ratified, I  
7 assume, by the Board and the individual parties once  
8 the attorneys are able to work out something a little  
9 more formal but the concept has been placed before the  
10 Board.

11 CHAIRMAN DePINTO: Does it understand,  
12 based upon what Mr. Del Vecchio has stated that the  
13 proposed improvements are limited to the area that's  
14 under the control of the Bears Nest Association.

15 Is that correct?

16 MR. WISS: That's correct.

17 CHAIRMAN DePINTO: And that it has no  
18 impact other than the esthetics of the rear yard of  
19 the proposed development.

20 Is that also correct?

21 MR. WISS: That's correct. That's  
22 correct.

23 CHAIRMAN DePINTO: And, as far as you  
24 know, no impact on the drainage or runoff or anything  
25 of that nature or has not, that proposed settlement

1 agreement, been reviewed by any engineers?

2 MR. WISS: It has not been reviewed by any  
3 engineers but our understanding, given what we're  
4 talking about with landscaping, it's really a  
5 buffering concern. We're trying the best we can, the  
6 closer we get to Bears Nest with the trees obviously  
7 that will block out more of the building.

8 CHAIRMAN DePINTO: Are you berming as part  
9 of that settlement or are you proposing to have lands  
10 bermed.

11 MR. TINTLE: We're looking into it. The  
12 berming is not 100 percent. We moved very quickly  
13 over the past few days but there is a plan that, if it  
14 happens, could go before the Park Ridge board to  
15 remove a berm that's out on Spring Valley Road and  
16 utilize that top soil with this.

17 CHAIRMAN DePINTO: My only concern is that  
18 if you're proposing to do berming on the Bears Nest  
19 property directly behind the proposed development and  
20 there is surface water runoff as a result of that  
21 berming that that surface water runoff, although it  
22 maybe not very significant, should be included in the  
23 calculations relative to drainage of the subject  
24 property.

25 Because the proposed plan, I presume, analyzed

1    what runoff, if anything, currently flows from the  
2    Bears Nest to the subject.

3           What effect would a possible berm have on that?  
4    I don't know.

5           MR. WISS:   And we haven't and I'll  
6    certainly bring that back to the committee.   We  
7    haven't got that far.

8           I mean this was, again, the subject, I think at  
9    2:00 or 3:00, of continued negotiations trying to get  
10   as much landscape coverage.

11          The point of the berm would just be to elevate  
12   the trees but I understand the concern so I'm not sure  
13   that that's a necessary component to this.   But we'll  
14   figure that out.

15          MR. HIPOLIT:   It's on your side of the  
16   property.

17          MR. WISS:    It's on our side.

18          MR. HIPOLIT:   It's not in Montvale.

19          MR. WISS:    It's not in Montvale.

20          MR. HIPOLIT:   So the property drains from,  
21   I guess it would really be the south side along the  
22   sanitary sewer easement heading north.   They, they  
23   would have to, even if they built it right up to the  
24   property line, it would still continue to run back in  
25   an area not being disturbed by this applicant so it

1 wouldn't effect the detention or anything on site.

2           What's on our side, it's different than what's  
3 here. We'll need to look at it.

4           Remember, there's an area that's 25 feet between  
5 the property line and their project they can't touch.  
6 It's an existing sanitary sewer easement.

7           MR. DEL VECCHIO: Let's be clear. There  
8 are no changes proposed on the subject application's  
9 property that isn't already shown on the plans that  
10 were submitted and reviewed by your office.

11           MR. HIPOLIT: From their perspective, on  
12 their property, that's their border. It doesn't  
13 effect this.

14           CHAIRMAN DePINTO: Maybe I'm  
15 misunderstanding. You said that you reached an  
16 agreement this afternoon.

17           MR. WISS: Yes.

18           CHAIRMAN DePINTO: And that was between  
19 what parties?

20           MR. WISS: The Bears Nest Condominium  
21 Association and the applicant.

22           CHAIRMAN DePINTO: Okay. And if there's  
23 no impact on the applicant's property, why is there an  
24 agreement?

25           MR. WISS: In order to effectuate the best

1 coverage for everybody, and we're talking about  
2 buffering concerns, the goal was to bring those back  
3 into the Bears Nest property because the height of the  
4 treat, obviously if those trees are closer to the  
5 Bears Nest, they're able to block out some more. So  
6 as an accommodation understanding, I think the  
7 logistics that there are some trees that have been  
8 updated throughout the course of this project, a new  
9 landscaping plan that was put in by the applicant.  
10 Those weren't enough to satisfy the concerns so  
11 logistically the developer and the Association have  
12 agreed.

13 CHAIRMAN DePINTO: I just don't want it  
14 reflected on the record that the Board is in agreement  
15 with Bears Nest Association. Altering the grading  
16 plan and landscaping on lands in Park Ridge because,  
17 obviously, we have no control over it.

18 MR. WISS: Understood.

19 CHAIRMAN DePINTO: And if those  
20 improvements are proposed and properly approved by  
21 Park Ridge authorities, our only concern would be what  
22 impact, if any, would it have on the proposed  
23 development.

24 MR. WISS: Correct.

25 CHAIRMAN DePINTO: And if in fact you

1 provide the Board with something that clearly states  
2 that there will be no impact on the Montvale  
3 properties, then, as far as the Montvale Planning  
4 Board is concerned, I'm sure we'll be satisfied with  
5 that. And we will take that in consideration but it  
6 really doesn't have much bearing at this point.

7 I'm not looking at a plan of what the  
8 association is proposing to do.

9 You know, we, based -- we can't alter a  
10 landscape plan based upon your representation. I  
11 don't want to say, well, because they're doing a berm  
12 and they're going to put evergreens on top of the berm  
13 they don't have to plant this much in Montvale.

14 MR. WISS: Right.

15 CHAIRMAN DePINTO: That would not be  
16 right.

17 Nor can we say they should plant more. We're  
18 kind of dealing with an unknown.

19 When would you expect to have a plan and  
20 something from an engineer stating that any proposed  
21 landscaping will not negatively impact Montvale  
22 properties.

23 MR. HIPOLIT: Right. And, you can jump  
24 in. The plans that I have are what you have here.

25 You're saying you're not proposing any changes

1 in Montvale.

2 MR. DEL VECCHIO: That is correct.

3 MR. HIPOLIT: What you're saying is you  
4 have a separate agreement with them for work to be  
5 done in Park Ridge which is not in Montvale?

6 MR. DEL VECCHIO: Correct.

7 MR. HIPOLIT: That involves landscaping  
8 and berming, whatever is involved and we don't approve  
9 that.

10 MR. DEL VECCHIO: Correct. We're not  
11 asking for the Board's approval on Park Ridge  
12 property.

13 CHAIRMAN DePINTO: I understand. I just  
14 want the record to be clear because, in the future,  
15 things change.

16 MR. HIPOLIT: Right,

17 CHAIRMAN DePINTO: And all of a sudden we  
18 have a water condition on this property.

19 I don't want someone pointing at Montvale saying  
20 but you agreed to this or you agreed to that.

21 MR. HIPOLIT: I agree.

22 CHAIRMAN DePINTO: Now we agree to rely  
23 upon representations that were made to us by  
24 professionals who are licensed to say that it will not  
25 impact Montvale. Once we have that documentation,

1 correct, me if I'm wrong --

2 MR. REGAN: I agree, Mr. Chairman.

3 I question whether the Board could even  
4 condition work being done in Park Ridge.

5 CHAIRMAN DePINTO: I agree.

6 MR. DEL VECCHIO: We're not asking for  
7 that to be the case.

8 MR. REGAN: No but Mr. Wiss indicated  
9 something about a condition.

10 MR. DEL VECCHIO: I think his, I think his  
11 reference was a condition that we do the landscaping  
12 that is proposed on the current drawings before the  
13 Board in Montvale.

14 MR. REGAN: That's fine.

15 MR. HIPOLIT: It has to be.

16 MR. WISS: I should have been more  
17 specific. There was a set of -- there are two stages  
18 that happened here during the negotiations, a set of  
19 original landscaping plans and then there was a set of  
20 second landscaping plans. I don't know if you have  
21 the number of those. Those are already of record.

22 MR. DEL VECCHIO: Yes.

23 MR. WISS: And those have been proposed by  
24 the applicant which, which are in Montvale along the  
25 boundary line. Separate and apart from that, today's



1 resolution did include the Park Ridge component to  
2 this.

3 MR. REGAN: That's a separate agreement.

4 MR. HIPOLIT: Those, those plans are dated  
5 2/20/19.

6 MR. WISS: Correct.

7 MR. HIPOLIT: That's the set.

8 Mr. Chairman, I would be uncomfortable reviewing  
9 what's in Park Ridge. It's irrelevant.

10 MR. REGAN: Yeah. I agree.

11 MR. WISS: I don't think that was the  
12 intention.

13 MR. ZITELLI: Should we have a part being  
14 involved in this?

15 CHAIRMAN DePINTO: I just don't want a  
16 future or potential future misconception that the  
17 Board authorized plantings in Park Ridge.

18 MR. HIPOLIT: Right.

19 CHAIRMAN DePINTO: That negatively effect  
20 this property or any other property in Montvale.

21 A., we don't have jurisdiction. We have no  
22 basis of anything.

23 MR. REGAN: Right.

24 CHAIRMAN DePINTO: The only thing --

25 MR. ZITELLI: This is just an agreement

1 between these two parties. We have nothing to do with  
2 it.

3 MR. REGAN: Yeah. They have an agreement.  
4 That's fine.

5 MR. ZITELLI: And the applicant has to go  
6 and --

7 CHAIRMAN DePINTO: Just let the record be  
8 clear and the resolution that ultimately will be acted  
9 upon clearly states what we understand.

10 MR. HIPOLIT: I agree. I think the  
11 resolution should specifically say that, I know I have  
12 said this more than once, there is a sanitary sewer  
13 easement back there. It goes from the property line,  
14 I think it's 25 or 20 feet, 20 feet into the property.  
15 There can be no disturbance in that area, none, not by  
16 the Bears Nest in Park Ridge or by this applicant, by  
17 any party.

18 MR. HIPOLIT: So when the job, if it is  
19 approved and we're out there, we're going to go out  
20 and make sure this plan, Sheet CO-7, revised 2/20/19,  
21 they have to comply with that.

22 CHAIRMAN DePINTO: Okay. Got you.

23 MR. WISS: Do you need -- with that being  
24 said, do you need anything from us at this point?

25 CHAIRMAN DePINTO: Well, I think the

1 record is going to be clear because you do have a  
2 stenographer here and it will be included in any  
3 resolution of any action that this Board may take.  
4 But, but --

5 MR. REGAN: It would reference the  
6 representation for the settlement but --

7 CHAIRMAN DePINTO: It's very typical, just  
8 like the last hearing. We have recollections of  
9 something that happened 10, 12 years ago. And then  
10 most of the people that sit here didn't sit on the  
11 Board back then. So we have to rely on the memory of  
12 a couple of old-timers. And that's not a good thing  
13 to do.

14 I would like to see it memorialized in some way,  
15 some how so that future generations could determine  
16 how poorly we handled things.

17 Okay. Anything else?

18 MR. WISS: Thank you. I appreciate it.

19 CHAIRMAN DePINTO: You're quite welcome.  
20 Thank you.

21 MR. DEL VECCHIO: All right. Mr.  
22 Chairman, since we last appeared we have a couple of  
23 additional documents we need to mark.

24 I would propose as A-22 the updated site plan  
25 set prepared by L2A consisting of 16 sheets bearing a

1 last revision date of February 20, 2019.

2 A-23 is the written embodiment or report of Mr.  
3 Preiss's prior testimony. That document being dated  
4 February 20, 2019 as well.

5 And then, finally, as A-24, is the updated storm  
6 water report prepared by L2A bearing the date of  
7 February 20, 2019.

8 Now just by way of overview, we have made and we  
9 have resubmitted the site plan set. We have submitted  
10 the entire set to address some open comments so I'm  
11 going to recall Mr. Dipple just to overview what the  
12 summary of those changes are.

13 I have asked Mr. Englebaugh to come back. There  
14 were two items he needed to address. One was  
15 providing the exhibit of the roof hatch that we did  
16 not pre-submit and also to identify the location of  
17 the affordable beds within the project which is  
18 something this Board requested that we do as opposed  
19 to allowing them to float.

20 And then, finally, I have asked Mr. Preiss to  
21 return, as I indicated while we're marking the exhibit  
22 he did complete his testimony last time. I asked him  
23 to return in case there were any further questions  
24 either of his testimony or the embodiment of his  
25 opinion in the report that was now submitted.

1           So in that order, I'm going to start with Mr.  
2   Dipple.

3                   MR. REGAN: He remains under oath. Thank  
4   you.

5                   MR. DEL VECCHIO: I recall Mr. Dipple,  
6   remind him he was previously qualified and is still  
7   under oath.

8   REDIRECT EXAMINATION BY MR. DEL VECCHIO:

9           Q       Mr. Dipple, the drawings and reports that  
10   were attributed to L2A which I marked this evening  
11   were either prepared by you or under your supervision?

12          A       They were. Yes.

13                   MR. DEL VECCHIO: We just need it turned  
14   on.

15          Q       So those were prepared by you or under  
16   your supervision?

17          A       Yes.

18          Q       And can you provide the Board with a  
19   general summary or overview of what the changes were  
20   to the drawings since the last addition was submitted?

21          A       Yes. Referring to Sheet CO-4 and, I think  
22   it's going to come up on the TV monitor soon, the  
23   layout is really nearly identical to what we presented  
24   last time.

25                   I think one of the most notable changes occurs

1 in the detention basin in the front of the property  
2 where, as Mr. Hipolit requested and we concur, that we  
3 really, it would be better served, the emergency  
4 spillway should this basin fail, be redirected toward  
5 the driveway where then it has an opportunity to flow  
6 through a number of inlets before it really causes any  
7 problem or it goes across the sidewalk.

8 So that is, that is noted on CO-4 and it carries  
9 throughout the project set.

10 We revised the plans to address the comments of  
11 the various professionals so the comments are not  
12 always, you know, obvious to the, by just reviewing  
13 the plans but they are incorporated.

14 We did send them back with a response letter  
15 which generated some new comment letters.

16 I do feel very satisfied with the responses that  
17 we received recently from engineering, planning and  
18 what not.

19 A couple other minor changes.

20 MR. HIPOLIT: Stop there. Shouldn't we  
21 mark your response letter?

22 THE WITNESS: Yes. I don't have a copy in  
23 front of me.

24 MR. REGAN: Dated February 20th, A-25.

25 THE WITNESS: And that response letter was

1 prepared by me and my staff.

2           A           So looking at Sheet CO-5, you will notice  
3 the changes to the storm water management system. The  
4 basin kind of crept in a little bit, got a little bit  
5 smaller. We ended up expanding the little underground  
6 portion of the basin which lies beneath the, the  
7 parking area in the front of the site. That was  
8 always there. It got expanded slightly because we had  
9 to accommodate the emergency spillway off to the  
10 driveway which changed the grading a little bit and  
11 the basin is in the same location. It didn't encroach  
12 any further on the neighboring property or Philips  
13 Parkway, just through the calculations it just had to  
14 tighten up a little bit which resulted in some  
15 underground detention in that area.

16           One of the other notable changes was a variance  
17 that was requested or noted by your planner for the  
18 size of the retaining wall which surrounds the four  
19 parking spaces in the southeast corner of the  
20 property -- some grading, I think we were just unaware  
21 of that until the letter was produced and some grading  
22 was revised in order to eliminate that variance.

23           So looking at the retaining wall I believe they  
24 all, the wall is within that 6 foot limit, within that  
25 area and that eliminated that, the request for that

1 variance in that area.

2 And that, that was the site plan.

3 Looking at the landscape plan I think you would  
4 see probably the most notable difference on the  
5 landscape plan, I think that's been discussed a little  
6 bit before I came up here in that we've added quite a  
7 bit of landscaping. We improved the area --

8 MR. DIPPLE: Bless you.

9 MR. HIPOLIT: Thank you.

10 A In the back of the site we beefed it up  
11 so-to-speak, around the back of the property, still  
12 maintaining a good distance away from the curb line  
13 for the snow removal and I think we just kind of did a  
14 better job throughout. We made sure, to the best of  
15 our ability that our, our planting schedule matches  
16 our plans. I think we did a decent job. Maybe we  
17 missed one or two.

18 But, that that was also improved upon and I  
19 think, other than some other incidental changes, I  
20 think that's really the most notable unless, of  
21 course, throughout the testimony or my response to  
22 your professionals anything else wants to be heard.

23 Q Just a couple questions.

24 I think one of the review letters indicated that  
25 on one of the drawings there appeared to be an



1 encroachment of the fence around the detention area  
2 and to Philips Parkway and there is a question as to  
3 whether that was graphically correct or there was an  
4 issue there, the basin beyond the fence edge along  
5 Philips Parkway and the driveway on Sheet CO-4.

6 A Yeah. I think that was graphically  
7 incorrect. And I think that, that just needs to be  
8 adjusted. I have one of my engineers here who worked  
9 on the plan. He noted that he thinks that was just a  
10 mistake in our plan in our haste to get it back in.

11 But that will be corrected to the satisfaction  
12 of the planner and the engineer.

13 Q I think there was another question raised  
14 about the proper height calculation for the building,  
15 your drawing showing it at 45.29 feet and I believe  
16 that Mr. Preiss's planning report initially noted it  
17 as 45.67.

18 I believe, and correct me if I'm wrong, the  
19 building height calculation was corrected based on  
20 grading. Mr. Preiss's report was a summary of his  
21 prior testimony with the old numbers, yours has the  
22 updated number.

23 But if I'm incorrect, could you please correct  
24 me?

25 A No, I agree. As this thing is a moving

1 document. Things change with the grading which then  
2 impacts the height calculation and perhaps then  
3 resulted in the discrepancy but the maximum height is  
4 50 feet. Our plan shows 45.29. His may show  
5 something slightly different but it would comply with  
6 the 50 foot height requirement.

7 MR. DEL VECCHIO: I don't have any  
8 additional direct comments of Mr. Dipple.

9 Obviously, there is a report from your engineer.  
10 I had not asked him to go through that in detail but  
11 subject to the Board's wishes, we can.

12 CHAIRMAN DePINTO: Okay. And we will in a  
13 moment.

14 However, why don't we mark into evidence some  
15 Board exhibits and have Mr. Dipple address them before  
16 we enter into evidence Mr. Hipolit's technical review.

17 So let's start with the Montvale Police  
18 Department dated March 4, addressed to Lorraine  
19 Hutter.

20 MR. REGAN: That will be B-8.

21 CHAIRMAN DePINTO: This is B-8.

22 And, Mr. Del Vecchio, do you have a copy of that  
23 review letter?

24 MR. DEL VECCHIO: I received it late  
25 today, yes.

1                   CHAIRMAN DePINTO: It states after  
2 reviewing this application the Montvale Police  
3 Department has a few concerns.

4               No. 1, the building needs more parking stalls  
5 for vehicles.

6               No. 2, the Police Department would like to have  
7 the ability to enforce 39, Title 39.

8               And, No. 3, the Police Department would like to  
9 see a camera system recording vehicles entering and  
10 exiting the parking lot onto Philips Parkway.

11              MR. DEL VECCHIO: I have had an  
12 opportunity, Mr. Chairman, to review that with my  
13 client. He is amenable to Items 2 and 3 requested by  
14 the Police Department. And we believe the parking  
15 issue was the subject of the testimony, extensively in  
16 these hearings, that the, obviously the Police  
17 Department were not privy to. And we believe the  
18 project is properly parked.

19              CHAIRMAN DePINTO: Okay. Let's move on to  
20 Montvale Fire Department, dated March 5th.

21              MR. REGAN: B-9.

22              CHAIRMAN DePINTO: And we'll mark this  
23 B-9.

24              And it reads, the latest plans submitted by the  
25 applicant still failed to address the Fire

1 Department's recommendations regarding water supply.

2 In our first review dated July 3, 2018 we  
3 requested a hydrant on the inner curb in the vicinity  
4 of the proposed water main as well as one adjacent to  
5 the Fire Department connection which we assume would  
6 have to be at the rear of the building since the water  
7 utility, fire sprinkler and fire pump rooms would be  
8 in the basement at the far end of the building.

9 As this layout would require the service line  
10 run the length of the building to reach the basement  
11 level connection point. We expect subsequent plans be  
12 changed to correct the fact that running a water main  
13 underneath the floor of the length of the building  
14 would be foolish.

15 In the interim, since our initial review, the  
16 water utility has started requiring all large domestic  
17 water lines as well as fire service and hydrant  
18 service lines be run through a hot box near the curb  
19 to contain the meters and back flow preventers for all  
20 service lines. Since the current plans do not show  
21 this arrangement, we consider this plan to be  
22 incomplete.

23 When reviewing plans for facilities such as  
24 this, the Fire Department has to take into  
25 consideration the fact that if there is an emergency

1 at the site, access the numerous ambulances is a  
2 primary consideration.

3 With the current site plan not providing any  
4 on-site hydrants, in fact the plans do not show the  
5 hydrants on Philips Parkway. The first responding  
6 fire apparatus would have to drop a 5 inch supply line  
7 at the first hydrant on Philips and into the site  
8 thereby denying access to and exit from the site to  
9 all but fire apparatus. This is not an acceptable  
10 situation.

11 In addition, we maintain our position that the  
12 number of parking spaces is inadequate and in fact  
13 vehicles will end up being parked in the fire lanes on  
14 a regular basis will occur. This will only hamper  
15 maneuverability on the site.

16 Okay. Well, dealing first with the water supply  
17 question, and Mr. Hipolit, can you elaborate on what  
18 the Fire Department's concerns are relative to water  
19 supply?

20 MR. HIPOLIT: So SUEZ is requiring a hot  
21 box. It's an above-ground structure. It's small  
22 where your backflow and the meter go through before  
23 you come on to the site because they don't want any  
24 responsibility for what passes that point.

25 They kind of detached themselves from there.

1 Plus the building will have fire protection, a  
2 separate line for fire.

3 CHAIRMAN DePINTO: Had the Fire Department  
4 previously requested the installation of hot boxes?

5 MR. HIPOLIT: It's not the Fire  
6 Department, it's Suez. The Fire Department would  
7 rather not have it but they can't get around it. Suez  
8 requires it.

9 CHAIRMAN DePINTO: And, Mr. Dipple, do you  
10 have difficulty in supplying that?

11 THE WITNESS: No. I can add to that  
12 because I'm very familiar with Suez's request.

13 The distance that they like to see is 125 feet.  
14 If you can't provide 125 feet in the near curb line to  
15 where your meter is then you do need a hot box. They  
16 don't want that water line extending too far into the  
17 property because then there could be connections or  
18 unmetered water and it could create difficulties in  
19 getting the data from the meter. So they're 125 feet,  
20 pretty cut and dry with that. I have maybe seen 130,  
21 you know.

22 We have 96 feet to the building. So, speaking  
23 to the architect, we have a stairway in that area and  
24 we think that that's where the initial meter could go  
25 and the back flow preventer. We haven't gotten that

1 far with the architectural drawings but there's a  
2 possibility there.

3       So, as it stands right now, we're 96 feet, we  
4 wouldn't need a hot box. I think the Fire  
5 Department's comment was that we usually see or he  
6 said typically I don't, I don't know if it says  
7 typically but I'm very familiar with the process. I  
8 don't think we need a hot box. If we did, it would be  
9 a box, as Mr. Hipolit correctly said. It would sit  
10 above-ground. It would be heated. And that's where  
11 the meter and the back flow preventer would be and you  
12 can hide it with some landscaping.

13               MR. HIPOLIT: It's hard for them to be  
14 fair to the applicant. It's hard for them to do that  
15 now because until they actually design the building,  
16 do the hydrant flow testing, they don't know that.  
17 They have a water report going to Mr. Fette's office.  
18 Depending on the complexity of it, your plumbing  
19 subcode official, they may ask us to review it. We  
20 don't know yet.

21       I wouldn't get too far into that. I think the  
22 hydrants is more important.

23               MR. DEL VECCHIO: We'll put hydrants  
24 anywhere the Fire Department wants. We don't have an  
25 issue with them.

1                   MR. HIPOLIT: They want at least one or  
2 two hydrants on the site. That can be problematic,  
3 again with Suez because Suez doesn't want to own the  
4 hydrants on a private site. So there's going to have  
5 to be coordination between the applicant, the Borough  
6 and Suez.

7                   It may just require the hydrants go in the  
8 Borough right-of-way on either side of the site or at  
9 least one side near the road because Suez won't allow  
10 a hydrant in the rear of the site. You could have a  
11 fire hydrant. They don't take responsibility. Again,  
12 it's another SUEZ issue.

13                  If the applicant would agree to put a hydrant in  
14 front of the site and one off their system in the back  
15 of the site.

16                  THE WITNESS: I concur with Mr. Hipolit  
17 that, like we've seen on other properties, projects  
18 that I have designed, we have had difficulties with  
19 the public hydrant versus the private hydrant. And, I  
20 think that is a viable solution that we can look at as  
21 to pulling a private hydrant off the back and making  
22 sure.

23                  And, I apologize if I missed a comment or I  
24 upset the fire official in any way. It was not the  
25 intent. But we're making sure that this is protected,



1 it is not only in our best interests but our  
2 applicant, of course, also.

3 MR. HIPOLIT: I guess the last comment on  
4 the parking, the applicant is consenting to Title 39  
5 on the property so if people were parking in the fire  
6 lanes the police would ticket them and tow them.

7 MR. DEL VECCHIO: Since we're across the  
8 street from the Police Department I'm sure it's not a  
9 problem to enforce.

10 MR. HIPOLIT: That's that part.

11 CHAIRMAN DePINTO: The fourth paragraph of  
12 the Fire Department letter where they speak to  
13 emergency vehicles on the site and the need for access  
14 for numerous ambulances is a primary consideration.

15 Well, what's your opinion on that, Mr. Dipple?

16 THE WITNESS: Well, I think, as we said,  
17 we would have private ambulance service. We have  
18 already established that.

19 I don't -- we've been through, in parking  
20 testimony, we are providing 43 spaces. Your ordinance  
21 requires 38. But we also looked at other facilities  
22 in the area and we think that we're kind of right  
23 there in the middle of the number of spaces that are  
24 provided for like facilities in the area. And our  
25 client, the applicant, has provided testimony of that

1 operation.

2 I don't know if a situation where multiple  
3 ambulances would be here and be any way restricted  
4 from circulating throughout the site. We have no  
5 parking fire lane and that can be enforced, of course,  
6 especially with Title 39. Now you have another level  
7 of enforcement on the property if I'm not correct or  
8 if I'm incorrect.

9 But, I don't, I don't know if I really, because  
10 I received that today, if I really formulated a, a  
11 solid response to that other than I just don't see  
12 multiple ambulances being crowded on the site in any  
13 way. I just don't see that, that possibility.

14 CHAIRMAN DePINTO: Okay. Mr. Hipolit,  
15 your most recent review letter, I guess, is dated  
16 February 28th?

17 MR. HIPOLIT: Yes. We should mark it.  
18 Right?

19 CHAIRMAN DePINTO: Yes.

20 MR. REGAN: B-10.

21 CHAIRMAN DePINTO: B-10.

22 MR. DEL VECCHIO: I'm sorry. What was  
23 B-9?

24 MR. HIPOLIT: The Fire Department.

25 MR. DEL VECCHIO: And what was B-8 then?

1 MR. HIPOLIT: Police.

2 MR. REGAN: Police.

3 MR. DEL VECCHIO: I'm sorry. I'm going  
4 back but B-7, because I, I started at B-7 and not B-8  
5 this evening. That's my only concern.

6 MR. REGAN: Maybe it wasn't marked. Look  
7 at the transcript. Oh, B-7 has something to do with  
8 comment from Mr. Dipple regarding shift change  
9 parking. I think it was in connection with Mr. Wiss's  
10 cross-examination.

11 MR. DEL VECCHIO: Okay.

12 MR. REGAN: That's what my notes reflect.

13 MS. GREEN: I have B-7 something from the  
14 Fire Department dated 7/31/18.

15 MR. DEL VECCHIO: I hate to say it but I  
16 have it as B-6.

17 Let's leave the marking as is. I'll confirm it  
18 with the transcript back to Mr. Regan.

19 MR. REGAN: Okay.

20 MR. DEL VECCHIO: We'll just use the  
21 transcript.

22 MR. REGAN: If we don't have a B-7 we'll  
23 say intentionally omitted.

24 MR. DEL VECCHIO: Perfect.

25 CHAIRMAN DePINTO: Mr. Hipolit, with

1    respect to your technical review of February 28 marked  
2    into evidence as Board Exhibit 10, could you please  
3    summarize this?

4                   MR. HIPOLIT:  I don't need to bore you  
5    with the whole review because a lot of it continues  
6    from the first review.

7                   If you advance to Page 17.  So when you go to  
8    Page 17 you're going to get, start to get what we call  
9    new comments where, I believe, the applicant really  
10   addresses those comments.  We talk about Title 39 and  
11   we talk about some documents that they have to  
12   provide.  Damage to the roadway.  We talk about the  
13   Fire Department issues.

14                   So I think, at this point, if you were to  
15   approve it, this would be the letter for approval so  
16   if you were to approve the application you would  
17   attach the February 28th letter to it.

18                   I think Mr. Dipple's response or as we mark  
19   A-25, is somewhat of a supplement to it because it  
20   answers a lot of it but it doesn't have to be part of  
21   it, the resolution, if you were to approve it.

22                   CHAIRMAN DePINTO:  Say that again.  I'm  
23   sorry.

24                   MR. HIPOLIT:  So I think Mr. Dipple's  
25   response, A-25, is somewhat a response to our letter

1 of February 28th which is B-10. They have pretty  
2 much, as far as we're concerned, answered all and  
3 everything we wanted so I don't think it's necessary  
4 to go through it.

5 CHAIRMAN DePINTO: Is that correct, Mr.  
6 Del Vecchio, your client has agreed to all of our  
7 requirements as forth in Mr. Hipolit's review marked  
8 into evidence as B-10?

9 MR. DEL VECCHIO: I believe that's  
10 correct, Mr. Chairman.

11 MR. HIPOLIT: With the supplement of the  
12 things we just discussed, the Fire Department, Police  
13 Department issues.

14 CHAIRMAN DePINTO: Let's, let's get from  
15 Board Members questions starting with Mr. Culhane.

16 Any questions of Mr. Dipple or Mr. Hipolit?

17 MR. CULHANE: The one concern I have in  
18 the way is there is no independent living units on  
19 this application so it's basically assisted living.

20 The concern I have is what if these occupants  
21 decide to have a car, park it on the site. I don't  
22 know of any penalty arrangement. We can't make a  
23 penalty arrangement.

24 So to cover that, I would think the Mayor and  
25 Council would have to pass an ordinance covering that

1 kind of a situation.

2 CHAIRMAN DePINTO: Well, I think the first  
3 question would be in the agreement, be it a lease  
4 agreement or service agreement between a tenant or  
5 patient, I don't know how you would refer to them,  
6 with ownership or management, whether or not they  
7 would be permitted to keep their vehicle on-site.

8 And, Mr. Del Vecchio, what is your client's  
9 position on that?

10 MR. DEL VECCHIO: I think the testimony  
11 was very early on in the process we had the intended  
12 operator speak to their experience about the  
13 likelihood of somebody having a car on-site. And I  
14 think the testimony was that they very rarely do.  
15 It's usually, at most, one or two per project but even  
16 that is more of an anomaly than a normal situation.

17 We don't envision that to be a problem or a  
18 concern but if the Board thinks otherwise, we can  
19 address it.

20 MR. CULHANE: My concern is, unfortunately  
21 there are people who always break the rules.

22 CHAIRMAN DePINTO: So, Bob, would you  
23 recommend a stipulation that no one be permitted to  
24 park on-site, a tenant or patient or whatever?

25 MR. REGAN: I think any, any resident

1 would not be able to have a car, to park the vehicle  
2 on the premises.

3 Would you consent to that as a condition?

4 MR. DEL VECCHIO: Yes, Mr. Chairman.

5 CHAIRMAN DePINTO: Mr. Culhane, does that  
6 satisfy you?

7 MR. CULHANE: Well, we get people who like  
8 to break rules.

9 What happens if somebody does park, who is going  
10 to correct the action?

11 Is it going to be the applicant or the operator  
12 or would it have to be deferred to the police?

13 CHAIRMAN DePINTO: Well, I guess it would  
14 be a zoning violation.

15 MR. REGAN: Yeah. It would be a violation  
16 of the condition of approval. Chances are the Borough  
17 would not even know about it.

18 CHAIRMAN DePINTO: Right.

19 MR. CULHANE: I know but...

20 MR. DEL VECCHIO: Mr. Fette's, fifth and  
21 sixth --

22 MR. HIPOLIT: Well, we would know. It  
23 would kind of be like somebody parking a truck on  
24 their site and they're not supposed to. We would know  
25 if the car was there at the time. It's pretty obvious

1 because we pass by there everyday.

2 CHAIRMAN DePINTO: Okay. Mr. Culhane.

3 MR. CULHANE: No other comments.

4 MR. HIPOLIT: That's how you fix that.

5 CHAIRMAN DePINTO: Thank you.

6 Mr. Fette.

7 MR. FETTE: Nothing at this time.

8 CHAIRMAN DePINTO: Thank you.

9 Ms. O'Neill.

10 MS. O'NEILL: I have no questions.

11 CHAIRMAN DePINTO: Thank you.

12 Mr. Zitelli.

13 MR. ZITELLI: Let me follow-up on that  
14 question about the parking.

15 So the parking spaces, I think we said there was  
16 38 required and you're providing 43.

17 THE WITNESS: That's correct.

18 MR. ZITELLI: So the 38 required, does  
19 that include potentially tenants, residents?

20 How is that calculation done?

21 THE WITNESS: Well, there was, there was  
22 testimony early in the process about the staff and the  
23 change and shift and how that would work. And, and  
24 not only does your ordinance require us to have the  
25 space but also Residential Site Improvements require



1 half a space per, per dwelling unit. We also did that  
2 little study of it and found that that's pretty much  
3 how the industry goes. So, I think it would be really  
4 parking.

5 I think what the testimony is and I don't want  
6 to speak for, because I didn't give the testimony but  
7 I think the way it's going is that the staff would  
8 have the spaces primarily in the rear and visitation  
9 would occupy some of the other spaces. And then you  
10 have the, the physician that might come in or another  
11 representative who might come in. We have a loading  
12 space for deliveries so that really wouldn't take up a  
13 space. But if someone wants to deliver flowers, they  
14 would occupy the other spaces.

15 So that's the makeup of the spaces.

16 MR. ZITELLI: Just going back to the 38  
17 that's required, I mean is that, does that assume that  
18 we need a half a space per resident?

19 MR. DEL VECCHIO: That includes all  
20 parking demand generated from the use whether it be  
21 from a resident, delivery person, a doctor, a guest, a  
22 visitor.

23 MR. ZITELLI: I got that. So Mr.  
24 Culhane's -- so if a couple residents did park cars  
25 there are we going to run out of spaces?

1 MR. DEL VECCHIO: We don't believe so.

2 Our ideal situation, if we had our druthers,  
3 would be to limit it to no more than two residents  
4 having on-site vehicles. We think that still leaves  
5 us a surplus and still counts for the one off who  
6 might want a car temporarily.

7 Our goal is to provide enough service where they  
8 find the car to be a burden and not a convenience and  
9 they want to get rid of it anyway.

10 So we would like the flexibility to have up to  
11 two but if the Board sees otherwise, we'll consent.

12 MR. ZITELLI: Okay. I don't think I have  
13 any other questions at this time, Mr. Chairman.

14 CHAIRMAN DePINTO: Thank you.

15 Mr. Teagno.

16 MR. TEAGNO: Yes, I have a couple.  
17 Referring to Ms. Green's February 28th letter.

18 CHAIRMAN DePINTO: Has that been marked?  
19 We didn't mark that.

20 MR. REGAN: We didn't mark that.

21 CHAIRMAN DePINTO: Why don't we mark it?

22 MR. REGAN: That will be B-11.

23 MR. TEAGNO: Page 4 has variances, D  
24 Variances that go over to Page 5. And on Page 5 there  
25 are the C Variances. I'm counting six, maybe five D

1 Variances and three C Variances.

2       The two D Variances are, I would like to focus  
3 in on are the impervious coverage, 50, the limit is 50  
4 percent and you've got 52.77 which is not a great  
5 variance but it's still a variance.

6       The second one is for the floor area ratio which  
7 should be .35 and it's .52 along your proposal.

8       And there have been comments from both the  
9 police and the Fire Department about parking spaces  
10 and not enough of them even though your study shows  
11 that it's in keeping with other facilities, I guess.

12       It seems to me that one way to address the D  
13 Variances and the parking issue would be to reduce the  
14 number of units that you have on the site. A simple  
15 way to do that might be on the northern wing to take  
16 off, take out units -- it's three floors so you've got  
17 three floors of units. I don't know how many units  
18 face the north. But if you took off some of the real  
19 estate on the north end and on the east end it would  
20 reduce the number of units, reduce the number of the  
21 square footage of the building and thereby positively  
22 effect the floor area ratio and the impervious  
23 coverage.

24       I wondered if those thoughts had crossed your  
25 mind in how to address those areas.

1 MR. DEL VECCHIO: Those are really  
2 questions for Mr. Preiss. I'm happy to recall him and  
3 ask him to answer them. If the Board wants me to do  
4 it now or do it later, it's your discretion.

5 CHAIRMAN DePINTO: Why don't we carry that  
6 until we hear testimony from Mr. Preiss.

7 MR. DEL VECCHIO: Okay.

8 CHAIRMAN DePINTO: Any other engineering  
9 questions?

10 MR. TEAGNO: No.

11 CHAIRMAN DePINTO: Okay. Thank you.

12 Mr. Wiss, do you have any questions of the  
13 witness at this point.

14 MR. WISS: I do not. Thank you.

15 CHAIRMAN DePINTO: Okay. Thank you.

16 Ms. Green.

17 MS. GREEN: I have one engineering  
18 question.

19 Mr. Dipple you noted at the beginning of your  
20 presentation that you eliminated the retaining wall?

21 THE WITNESS: No. No. We eliminated the  
22 one wall.

23 MS. GREEN: It's still on the one wall  
24 around the seven parking spaces.

25 THE WITNESS: And, and, you know, as long

1 as that's a C Variance and if I can give this  
2 justification that is where some of the parking is,  
3 the wall does kind of screen that a little bit more.  
4 The grade is steep and we're trying to save some trees  
5 there.

6 From an engineering perspective, that's how I  
7 justified the request.

8 MS. GREEN: I understand now. I  
9 misunderstood in the beginning that you eliminated it  
10 entirely.

11 THE WITNESS: No, I didn't mean to.

12 MS. GREEN: No. No. Thank you. That  
13 answers it.

14 CHAIRMAN DePINTO: Let's open the meeting  
15 to the public for questions.

16 The Chair will entertain a motion.

17 MS. O'NEILL: So move.

18 MR. CULHANE: Second.

19 CHAIRMAN DePINTO: Ms. O'Neill, seconded  
20 Mr. Culhane.

21 All in favor?

22 (Aye)

23 Does anyone from the public have any questions  
24 of either Mr. Dipple or Mr. Hipolit? No.

25 The Chair will entertain motion to close the

1 meeting to the public.

2 MR. CULHANE: So move.

3 CHAIRMAN DePINTO: Mr. Culhane.

4 MS. O'NEILL: Second.

5 CHAIRMAN DePINTO: Ms. O'Neill.

6 All in favor?

7 (Aye)

8 Okay. Mr. Del Vecchio, I guess -- who is your  
9 next witness, Mr. Preiss, and we'll go into planning  
10 or do you want --

11 MR. DEL VECCHIO: I was going to call Mr.  
12 Englebaugh back real quick. I don't think his  
13 testimony will take us more than two or three minutes.

14 CHAIRMAN DePINTO: Okay. Why don't we do  
15 that.

16 REDIRECT EXAMINATION BY MR. DEL VECCHIO:

17 Q Bruce, as you come forward, you were  
18 previously sworn, qualified and remain under oath this  
19 evening.

20 A Yes.

21 Q Okay. You were asked to come back  
22 essentially by me for three items and I'm going to  
23 address them in this order.

24 One is to provide the hatch exhibit and  
25 actually, I actually turned that in this evening.

1 We'll incorporate it formally in our submission.

2 Two is to identify where the affordable beds are  
3 to be located within the building.

4 And, three was to offer testimony on the porte  
5 cochere.

6 Correct?

7 A Correct.

8 Q So in that order, if we can, you have  
9 brought with you this evening at least a handout that  
10 we can turn in with the roof hatch as depicted when  
11 you last appeared here and testified on the larger  
12 exhibit?

13 A Yes.

14 Q If you would be kind enough to, I'm going  
15 to ask -- I'll take them. How's that?

16 MR. REGAN: That would be A-26.

17 MR. DEL VECCHIO: That sounds about right.  
18 I'll check when I get back to my pad.

19 Q Mr. Englebaugh, as I hand this out, A-26  
20 is meant to represent what?

21 A Well, if it's Sheet A6 they're looking at,  
22 that would be the roof hatch.

23 Q And that roof hatch has remained in the  
24 same location that you testified to when you appeared  
25 here last?

1           A       Correct.

2           Q       And that roof hatch provides access to the  
3 roof as it indicates so that the units and mechanicals  
4 can be tended to?

5           A       Correct.

6           So we're looking at Sheet A6 right now.

7                   CHAIRMAN DePINTO: Hold on one second.

8 Let's see if we can project that on to the monitor.

9                   MR. DEL VECCHIO: He doesn't have it on  
10 his electronic pad.

11                  CHAIRMAN DePINTO: The camera.

12                  MS. HUTTER: It's not working.

13                  CHAIRMAN DePINTO: It's not working?

14                  MS. HUTTER: No.

15                  MR. DEL VECCHIO: We're going to take a  
16 picture of it with the iPad and try to project it that  
17 way.

18           A       Okay. The sheet we're looking at now  
19 shown up on the screen, it's probably not the first  
20 sheet in your set. Turn to sheet No. A6. The date on  
21 that is January 2nd, 2019.

22           And if we look at the roof plan over on the  
23 right-hand side, you'll see at the end of each wing is  
24 shown a roof hatch.

25           The circles that you see, one on each end, those



1 are what I drew during the last presentation. And  
2 where those are located are in each stairwell so those  
3 are the fire exit stairs. Where you get to the very  
4 top, there will be a ladder that goes up the wall and  
5 a roof hatch, that will take you out to the roof deck.

6 Q Okay. The second item that I asked you to  
7 address is where the affordable beds would be deed  
8 restricted to it as requested by the Borough.

9 A Correct. So the sheet that we're looking  
10 at now is labeled Sheet A2. It's dated today, March  
11 5th, 2019.

12 And if you look at the third floor over on the  
13 -- it's the plan on the left hand side, you'll see a  
14 red cloud around those units. There are one, two,  
15 three, four, five, six, seven two-bedroom units and  
16 one-bedroom unit. So if you total those up you get 15  
17 beds.

18 So those would be the affordable units. They're  
19 on the third floor.

20 Q And last but not least, the porte cochere,  
21 you have revisited that topic with the applicant?

22 A Yes. We worked with the civil engineer on  
23 that. They actually have contacted the Fire  
24 Department to get the height of the highest truck  
25 which is the ladder truck. That's 11 feet 9 inches.

1           So what we're proposing here, the clearance  
2 height on porte cochere to be 13 feet. So that should  
3 be adequate for the ladder truck to get through.

4           Q       And the applicant would agree to post a  
5 height bar indicating that height dimension to avoid  
6 anything larger coming under that porte cochere.

7           Correct?

8           A       Correct. Yes.

9           MR. HIPOLIT: Either a height bar or sign  
10 it.

11          MR. DEL VECCHIO: We could use either one.

12          THE WITNESS: Typically we put a sign.

13          MR. HIPOLIT: I wouldn't put a height bar,  
14 a sign on both sides and at the lowest point on the  
15 porte cochere.

16          THE WITNESS: Typically that's what we do.  
17 Many times I have seen it lower than that so I don't  
18 expect any problem with a 13 foot height limit.

19          MR. DEL VECCHIO: I don't have any further  
20 questions of Mr. Englebaugh and make him available to  
21 the Board and its professionals.

22          CHAIRMAN DePINTO: Okay. Thank you.

23          Questions starting with Mr. Fette.

24          MR. FETTE: No questions.

25          CHAIRMAN DePINTO: Okay. Thank you.

1 Ms. O'Neill.

2 MS. O'NEILL: I have no questions.

3 CHAIRMAN DePINTO: Thank you.

4 Mr. Zitelli.

5 MR. ZITELLI: No, no questions, Mr.

6 Chairman.

7 CHAIRMAN DePINTO: Thank you.

8 Mr. Teagno.

9 MR. TEAGNO: No questions.

10 CHAIRMAN DePINTO: Thank you.

11 Mr. Culhane.

12 MR. CULHANE: No questions, Mr. Chairman.

13 CHAIRMAN DePINTO: Please continue.

14 MR. REGAN: Mr. Del Vecchio, we did get to  
15 the bottom of that exhibit. P-7 was the report of the  
16 Fire Department.

17 Ms. Green was correct, it's dated July 3rd.

18 MR. DEL VECCHIO: Okay. Mr. Englebaugh  
19 wants to offer one other item in response to the Fire  
20 Department memo.

21 REDIRECT EXAMINATION BY MR. DEL VECCHIO:

22 Q Mr. Englebaugh.

23 A Okay. When we originally designed the  
24 building, you may remember the basement was in the  
25 back. Okay. That would be to the south where those

1 angled parking spaces are. At one point we flipped  
2 that with these diagonal access so what would happen  
3 is all of the mechanical equipment, service equipment  
4 as well as the basement over on this side so now the  
5 basement is actually up front here. So it's going to  
6 be much easier for the water lines to get into the  
7 building with all that metering and things like that.

8           So I just want to make it clear that that letter  
9 was written when the basement was in the back. The  
10 building has been flipped and now the basement is in  
11 the front so it would be easier to handle all of that.

12           MR. DEL VECCHIO: Thank you, Mr.  
13 Englebaugh.

14           CHAIRMAN DePINTO: Thank you.

15           Okay. We'll hold off opening to the public  
16 again.

17           Why don't you introduce your next witness, Mr.  
18 Del Vecchio.

19           MR. DEL VECCHIO: Yes. I recall Mr.  
20 Preiss. Mr. Preiss was previously sworn, qualified  
21 and remains under oath.

22           THE WITNESS: Yes.

23           MR. DEL VECCHIO: If the Board recalls,  
24 Mr. Preiss offered extensive planning testimony when  
25 he last appeared. The Board requested that he

1 memorialize that testimony in a written report which  
2 was submitted and marked this evening.

3 REDIRECT EXAMINATION BY MR. DEL VECCHIO:

4 Q Mr. Preiss, that report was prepared by  
5 you and under your supervision?

6 A It was.

7 Q And while you've already testified and I  
8 don't wish you to go through that testimony again, if  
9 you could respond to the Board Member's question that  
10 you were present and heard earlier this evening.

11 Correct?

12 A Yes.

13 So, Mr. Teagno, I recall you were at the  
14 previous hearing where I testified extensively in  
15 relationship to this issue. I think the first point  
16 is the reason why we have an extensive number of D  
17 Variances is because the Board adopted assisted living  
18 facilities as a conditional use and had a whole series  
19 of not only use restrictions but restrictions relating  
20 to bulk and design standards which were not met. So  
21 all of the D Variances are as a result of that.

22 Moreover, the density variances are really a  
23 result of rounding to the fourth decimal point. We're  
24 very, very, very close to 25 units to the acre.

25 The only -- after going through my extensive

1 testimony, the only D Variance that I thought was  
2 substantive was the FAR variance. And, essentially  
3 what that relates to is the fact that if you do a  
4 standalone assisted living facility most of them are  
5 started in the 70 to 75 unit range and we go up from  
6 there.

7 In this particular project, we have 75 units  
8 which is really the lower end. And given the quality  
9 of the facility and, moreover, the need to provide  
10 extensive common facilities and services those have to  
11 be shared by the number of units that you have in the  
12 facility. So we're at the very, in my opinion, based  
13 on numerous assisted living facilities that I've been  
14 involved in, we're at the very lowest threshold which  
15 makes it economically feasible.

16 So at 75 units or 98 beds you can look on Page  
17 19, I have a table there which looks at this in the  
18 context of six other assisted living facilities and  
19 use that as the basis to compare the density. But if  
20 you look at the number of beds, we're at 98 beds. The  
21 next smallest one is 115 which is the Sunrise facility  
22 which goes up to 160. So I think that's proof  
23 positive of what I just indicated.

24 Moreover, if you look at the variance in the  
25 context of the fact that this is an inherently

1 beneficial use and the fact that the, none of the  
2 variances -- it's not a use variance. It's not a D-1  
3 variance. So it's not a question of whether this site  
4 is particularly suitable. It's a question of whether  
5 the site can accommodate the problems by not meeting,  
6 for example, the FAR coverage and so forth.

7       And if you look at the assisted living facility,  
8 the way that it's been designed and laid out, it  
9 really doesn't create any problems in terms of the  
10 impacts on the surrounding uses from a traffic point  
11 of view or parking point of view, in terms of the  
12 amount of open space, the storm water that's  
13 generated.

14       The most sensitive land use is Bears Nest and,  
15 as you heard this evening, they're satisfied that with  
16 the additional landscaping, they're protected.

17       So when you look at the, the variances in  
18 context, first you have to weigh the fact that as an  
19 inherently beneficial use that we're entirely on the  
20 scale of entirely beneficial uses. This Board would  
21 have to find that there are substantial negative  
22 impacts which can't be ameliorated in order to deny  
23 them. And, I think that's clearly not the case here.

24       And because you simply can't, you know, take a  
25 floor off or reduce the number the units because it

1 will be below that economic threshold on the one hand,  
2 on the other hand doing that doesn't really reduce the  
3 impacts because there are no substantial impacts that  
4 are created by virtue of those variances.

5         So I would say to the Board that the 75 units,  
6 the 98 beds, the FAR that's proposed, the site plan  
7 that's proposed does not create any kinds of problems  
8 which can't be accommodated by the design itself and,  
9 therefore, I see no basis and no reason why the  
10 applicant should reduce the FAR, the number of units  
11 for the size of the structure.

12         Q         Mr. Preiss, just a question if I may.  
13 Let's say a portion of each wing of the building is  
14 sliced off and whatever number of units are produced,  
15 would that provide for any meaningful improvement of  
16 the site, the site layout or lessen the impact to the  
17 neighbors other than complying with the numbers in the  
18 bulk table?

19         A         I think it would only satisfy one in terms  
20 of numeric counting of the variances. So, in my  
21 opinion, substantively it doesn't really make a  
22 difference.

23                 MR. DEL VECCHIO: I have no further  
24 questions of Mr. Preiss. He remains available to the  
25 Board.



1                   CHAIRMAN DePINTO:   Thank you.

2                   Mr. Teagno.

3                   MR. TEAGNO:   Thank you, Mr. Preiss.

4                   I understand what you're saying but from my  
5   perspective I would like to try and get every  
6   application down to zero variances.   It would make all  
7   of our jobs very easy.

8                   THE WITNESS:   As would I.

9                   MR. TEAGNO:   We do have a zoning ordinance  
10   with specifications that we expect to be met and the  
11   fewer exceptions we can make to those ordinance  
12   requirements I think the closer we are to what the  
13   town of Montvale would like to have.

14                  Now I see the fact that you're doing this on a  
15   three acre site where 10 acres is minimum required is  
16   the root of the problem.

17                  THE WITNESS:   Yeah.   Let me just address  
18   that.

19                  The, the genesis of this particular regulation  
20   was based on the availability of another site where  
21   TSI Pike assisted living facility wasn't a standalone  
22   but assisted living and senior facility was going in.  
23   So I think that the, that the minimum track size and  
24   many of the requirements that are in the ordinance  
25   were predicated on that, in that particular situation

1 in that particular condition. And, I certainly  
2 understand that.

3 When you look at this particular application in,  
4 in that light, in my opinion from a planning point of  
5 view, it's reasonable and very standard with respect  
6 to assisted living facilities that have been developed  
7 and approved elsewhere in the community.

8 So I think that that particular situation. And  
9 we don't have just a standalone assisted living  
10 facility, you also have independent units, is really  
11 not a standard in which you can kind of review this to  
12 determine whether it's reasonable.

13 So the fact that we are on a three acre site, in  
14 my opinion, does not mean that the site is not suited  
15 or this property is overly dense.

16 And if you look at the other projects that are  
17 approved in this area, most of them are in the 3 1/2  
18 to 4 acre range. I know of several assisted living  
19 facilities that are, that are on-site substantially  
20 smaller than that. So to me the 3 acre site in and of  
21 itself is not a, is, is not an unusual situation and  
22 is not a situation, in this instance, that would cause  
23 me any, any pause.

24 Moreover, in this particular situation we have  
25 substantially less units and less beds. And, our

1 density is right in the middle of the density range of  
2 those other projects. So the fact that we have 3  
3 acres we have accommodated that issue by lowering the  
4 number of units and lowering the number of beds and  
5 we're right in the middle range of those assisted  
6 living facilities.

7 And, in each of test cases I was familiar with  
8 all of them and I was the planner on one of them.

9 And, in those situations, they had nothing but a  
10 positive impact on the surrounding area. Some of them  
11 are adjacent to single family residential areas that  
12 have not been effected by one iota by the fact that  
13 these projects are existing in that part of the  
14 community.

15 So I don't think the fact that this one is on 3  
16 acres where your ordinance calls for 10 acres is  
17 really a cause for concern in this situation.

18 MR. TEAGNO: I agree, it's an inherently  
19 beneficial use.

20 THE WITNESS: Yes.

21 MR. TEAGNO: I'm glad to see it come to  
22 Montvale. I would like every application to possibly  
23 come into conformance.

24 THE WITNESS: I would agree and I think  
25 the applicant has done all it can within this

1 particular context to reduce the number of waivers and  
2 to, you know, reduce the extent of variances.

3         Unfortunately, because we're dealing with, you  
4 know, with this particular site that has become  
5 available which I think is highly suitable to be an  
6 assisted living facility it does, it does run afoul of  
7 your ordinance. And, unfortunately, we can't reduce  
8 the number of variances beyond what we requested here.

9         And, I think that the, the task again is not the  
10 number of variances but, you know, in the context of  
11 the Coventry standard and the SI CA standard to  
12 determine whether the site can accommodate any  
13 provenance by example of the fact that it is on 3  
14 acres versus 10 acres and the FAR is substantially  
15 above what is permitted. And, I think, in all of  
16 these cases I think we have proved there aren't  
17 problems which are going to occur on the neighboring  
18 properties or on this property.

19                 MR. TEAGNO: Thank you for comment and  
20 we'll see how it turns out.

21                 THE WITNESS: Thank you.

22                 CHAIRMAN DePINTO: Okay. Thank you.

23                 Mr. Del Vecchio.

24                 MR. DEL VECCHIO: We have no further  
25 witnesses and the project team remains available for

1 any other questions from either the Board  
2 professionals or members.

3 CHAIRMAN DePINTO: I think we have a new  
4 planning report.

5 Is that correct, Ms. Green?

6 MS. GREEN: Yes.

7 MR. REGAN: B-11, we previously marked it,  
8 dated February 28th.

9 CHAIRMAN DePINTO: Do we have an updated  
10 planning report?

11 MR. REGAN: Yes.

12 MS. GREEN: That is the new one.

13 CHAIRMAN DePINTO: Ms. Green, No. 1, do  
14 you have any questions or comments with respect to the  
15 testimony, the additional testimony you have heard  
16 this evening from Mr. Preiss?

17 MS. GREEN: With regard to the additional  
18 testimony, no but I did not get to comment or question  
19 on the previous testimony.

20 CHAIRMAN DePINTO: Okay. So is that  
21 incorporated in your February 28 technical review or  
22 do we have to go over both review letters?

23 MS. GREEN: I did not incorporate my  
24 comments and questions on the testimony into the  
25 review letter. I have handwritten and if you want me

1 to give them --

2 CHAIRMAN DePINTO: Why don't you address  
3 both your notes and your review letter.

4 MS. GREEN: Sure. We'll start with the  
5 easier one which is the review letter and I'm just  
6 quickly going over it. I think they have answered,  
7 they have answered all of my questions.

8 I actually have one issue for the Board and that  
9 is it starts at the bottom of Page 14 and it includes  
10 Page 15.

11 So there's been this issue with how we calculate  
12 the sign area. And I went back in my notes  
13 specifically for the TSL Pike application to see how  
14 we calculated their sign area. However, their sign,  
15 in its construction, is different than the proposed  
16 sign in front of the Board this evening. And so, and  
17 I'm not sure that we've seen a sign constructed like  
18 this since I've sat on the Board so I was not sure,  
19 because your ordinance reads that the frame counts in  
20 the calculation of sign area. And the question is  
21 whether or not you would count the stone that is on  
22 either the left or the right side of the sign as part  
23 of the sign area.

24 Depending on whether or not the Board includes  
25 that as the sign frame would then trigger a D3

1 Conditional Use Variance for the sign area.

2 MR. CULHANE: Well said.

3 CHAIRMAN DePINTO: Mr. Fette, how does  
4 your office typically interpret the Code as it relates  
5 to Ms. Green's question?

6 MR. FETTE: We would generally not include  
7 the supporting.

8 CHAIRMAN DePINTO: Not include the  
9 supporting?

10 MR. FETTE: Not consider it, correct.

11 MR. REGAN: I think that might be  
12 consistent with the provision in the ordinance  
13 Paragraph A, the area of sign. I'll read it.

14 The area of the sign shall be computed by  
15 drawing a square or rectangle to encompass the extreme  
16 limits of the writing, representation, emblem or other  
17 display together with the sign frame and any material,  
18 the integral part of the display used to differentiate  
19 the sign from the backdrop or structure against which  
20 it is placed.

21 I think, when you look at that, I think Jeff's  
22 interpretation is correct.

23 CHAIRMAN DePINTO: Is correct. I believe  
24 it is, too.

25 MS. GREEN: So then they don't need a sign

1 variance so, therefore, we've eliminated one D3  
2 conditional use variance. So that was the only thing  
3 in my review letter.

4 If you like, Mr. Chairman, I can go over my  
5 notes because I had to go back and read over the  
6 transcript. I'm sure you're all aware it was very  
7 long and extensive planning testimony so I needed to  
8 refresh my testimony. So if you're okay, I can go  
9 over this.

10 CHAIRMAN DePINTO: Please.

11 MS. GREEN: So, as I was saying, back in  
12 January Mr. Preiss gave us very extensive testimony  
13 covering the D3 variances, the D4 variances, the D5  
14 density variances, the fact that it was an inherently  
15 beneficial use and then the C Variances.

16 Since the last hearing they have submitted  
17 amended plans as they testified to tonight which has  
18 actually eliminated one other D3 variance for the  
19 buffer.

20 And then I went back and looked at the Code and  
21 I agree with Mr. Preiss's testimony in that the C  
22 Variance that we were previously noting for the van  
23 parking space --

24 MR. REGAN: Has been eliminated.

25 MS. GREEN: Yes, it has been eliminated



1 because they are parking behind the building so it is  
2 screened from the public view. And we just agree that  
3 the D3 Variance for sign area has been removed.

4 So in reviewing both the transcript and I tried  
5 to follow along with Mr. Preiss's planning report so  
6 it sort of coordinated.

7 So the SICA test was used for the D Variances  
8 and that's a four part test.

9 And the first part that was testified to was  
10 the, what is the public interest at stake. And Mr.  
11 Preiss noted that they are proposing 15 affordable  
12 beds which is a 20 percent set-aside. Tonight they  
13 agreed, they actually showed us where those beds are  
14 going to be located. So that eliminates a concern  
15 that Mr. Regan and I had about these affordable beds  
16 potentially floating.

17 I still am slightly concerned because on the  
18 affordable housing rules, in order to receive the 15  
19 credits, the operator wants to ensure that the  
20 occupants of a two-bedroom are unrelated. If they are  
21 related the Borough would only get one credit for the  
22 unit at opposed to two.

23 So there are 7 two-bedroom units and if they are  
24 not monitored and occupied correctly, instead of  
25 getting 15 credits the Borough might only receive

1 eight credits. It's something that we would have to  
2 be cognizant of in the monitoring of any facility.

3 In the testimony Mr. Preiss provided that, he  
4 noted that this site would help the Borough meet its  
5 affordable housing obligation. And I would note that  
6 the site is not in the settlement agreement or the  
7 housing plan. So it is not necessary to satisfy our  
8 existing three part obligation. However, if there  
9 were credits created from the site it could be applied  
10 to any fourth round obligation that the Borough has.

11 The next part of the test was Part 2 which  
12 questions what are the detrimental impacts. And Mr.  
13 Preiss's testimony talked about access, lot area and  
14 coverage, FAR and density, share the intent to create  
15 an efficient compact and accessible development. And  
16 if you go and rewind all the way back to 2016 when you  
17 were sitting here, we adopted a Master Plan  
18 reexamination specifically addressing bulk standards  
19 in the O.R.3 and the O.R.4 zone and permitting  
20 assisted living facilities as a conditional use. The  
21 intent of allowing those assisted living facilities  
22 was to create a residential stepping stone, if you  
23 will, for the seniors in town who maybe can't stay in  
24 their home but want to stay in Montvale and they need  
25 some assistance. So we thought this would be a great

1 use to be introduced into the zoning code so residents  
2 could stay if they wanted to stay and, as a positive  
3 side effect, create some affordable housing credits.

4 The intent was not necessarily a compact  
5 development but the opposite, was purposely creating a  
6 minimum lot size to accommodate the building, the  
7 parking and the amenities associated with these types  
8 of facilities.

9 The application requires a D3 conditional use  
10 variance for a County, access from a County road. And  
11 the testimony that the Board was given focused on  
12 traffic, traffic generation and that on a normal day  
13 there aren't significant trips.

14 And, I am not a traffic expert. However, the  
15 requirement for a County road is actually in the  
16 Master Plan reexamination, specifically Page 38. And,  
17 I brought an exhibit which one has not been marked.

18 MR. REGAN: B-12.

19 MS. GREEN: And this is a copy of the  
20 Master Plan re-examination. I did reduce the less  
21 important, what I thought was the less important pages  
22 so it's not to kill the entire forest.

23 MR. REGAN: B-12.

24 MS. GREEN: Okay. So in B-12 on Page 38  
25 you would note that the purpose of requiring access

1 from a County road was to ensure suitable emergency  
2 ingress and egress. Traffic was not, traffic  
3 generation from the use was not the concern because we  
4 knew we were going to be locating concentration of, of  
5 residents who are more prone to have health conditions  
6 and we want to ensure that we had good access for  
7 emergency vehicles.

8 The testimony that was provided said that there  
9 was no County roads proximate to the site. But if you  
10 look at an aerial you will notice that the Empire  
11 Holdings site which is next door at 25 Philips Parkway  
12 has frontage on West Grand Avenue.

13 Moving on to the D3 testimony for the lot size,  
14 I would agree that the lot size is just shy of 3  
15 acres. The testimony was that you can't change the  
16 lot location or the lot size.

17 One thing that I am curious to know is that the  
18 applicant tried to purchase additional land from  
19 property owners on either side. That could  
20 potentially not only -- it may not have reached a  
21 total of 10 acres but by potentially purchasing 25  
22 Philips Parkway you could have increased the acreage  
23 and then had the frontage on West Grand Avenue. We  
24 didn't hear any testimony regarding that.

25 There was testimony that when you looked at the

1 development we fully and appropriately accommodated on  
2 this lot. I have to agree with this because the  
3 application does not comply with density, FAR coverage  
4 and which are connected in varying degrees to the lot  
5 size which I think is where Mr. Teagno was going with  
6 his questions.

7         Then the testimony moved on to the FAR variance.  
8 The testimony that we heard was that the FAR, an FAR  
9 is a less simple means of controlling density because  
10 the use is benign. However, when we wrote the 2016  
11 Master Plan re-exam we incorporated the FAR .35  
12 because that was the new ratio that was being  
13 recommended for all four of our O.R.4 zones.  
14 Previously you had a .25 FAR ratio, an FAR standard I  
15 should say.

16         We wanted to control the bulk and the scale so  
17 as one drives through these O.R. zones we would  
18 preserve the landscaped campus nature that you have  
19 and blend the scale and the massing despite the use.  
20 So whether you were passing by an office development  
21 or research center or an assisted living facility the  
22 scale and the mass would stay consistent as you drive  
23 down the road in one of those O.R. zones.

24         Mr. Preiss also testified that an assisted  
25 living facility is larger because of the fact that

1 they require significant space for shared amenities.  
2 We knew this when crafting the ordinance and part of  
3 the reason for the minimum lot size was to ensure  
4 sufficient space for amenities whether those were  
5 inside or outside.

6 The planning report prepared by Mr. Preiss  
7 indicates that amenities are needed and standalone  
8 assisted living facilities common spaces may provide  
9 40 to 50 percent of the entire floor area. However, I  
10 do not recall the Board hearing any testimony about  
11 the percent of common area in this building. So that  
12 would be something that I would be curious to know  
13 whether or not it's providing that common 40 to 50  
14 percent common area which then would be partially  
15 driving the FAR.

16 I think if that's going to be relied upon as one  
17 of the justifications for the FAR variance the Board  
18 should be provided the square footages and percentages  
19 so that they have a better understanding.

20 The testimony also noted the provision of  
21 affordable -- excuse me. Actually, this is, this  
22 comment is now removed because we now know where the  
23 affordable housing units are going to be located.

24 Regarding D5, the density testimony, I do agree  
25 with Mr. Preiss that the .017 units that, that they

1 are over is de minimus in the grand scale of things.

2 Moving on to the negative criteria specifically  
3 regarding the zone plan and the zoning ordinance. Mr.  
4 Preiss notes in his report and in his testimony the  
5 application advances two goals from the 2008 Master  
6 Plan. However, the 2016 Master Plan reexamination  
7 which I handed out tonight amended the goals and  
8 actually removed prior goal No. 14 which was to  
9 diversify the housing stock. Therefore, the  
10 application actually only advances one Master Plan  
11 goal.

12 The planning report nor the testimony really  
13 dived deeply into the impacts of the Master Plan or  
14 the zoning ordinance.

15 If you start going through the 2016 Master Plan  
16 reexamination you will see that we did a detailed  
17 analysis of the O.R.3 and the O.R.4 zones. There are  
18 37 developed parcels. We looked at those 37 lots and  
19 based on information actually from Mr. Preiss's office  
20 when he was the Borough Planner, information from the  
21 Building Department, from the tax records we were able  
22 to prepare a table in the report.

23 And if you --

24 MR. REGAN: Page 34.

25 MS. HUTTER: Yep.

1 MS. GREEN: No. It would be -- it's the  
2 only foldout and unfortunately it's not numbered, the  
3 only foldout Excel table in the report. And this  
4 table shows all 37 lots and it provides information on  
5 their lot size, their coverage and the FAR.

6 What we found in looking at those 37 lots is  
7 that .181 is the average FAR and there were only three  
8 lots at that time with an FAR greater than .25 which  
9 was the then standard in the O.R.3 and the O.R.4 zone.  
10 Those three lots included 1 Glenview with .253, 10 Van  
11 Riper which is Lifetime Fitness at .255 and 160 Summit  
12 at .279. Nothing in 2016 exceeded .30 as an FAR. In  
13 fact, the highest FAR on Philips Parkway is, was at  
14 the time of 2016, China Shipping at .243. So the  
15 proposed FAR that the Board is reviewing tonight would  
16 be more than double of what exists currently -- I  
17 shouldn't say currently, what existed at the time the  
18 report was done in 2016.

19 After that extensive analysis, the Master Plan  
20 re-exam recommended increasing the FAR in all four  
21 O.R. zones from .25 to .35 to provide flexibility to  
22 property owners and an incentive to reinvest in the  
23 existing office buildings that were reaching, reaching  
24 an older part of their life span. The report also  
25 recommended increasing the lot coverage from 45



1 percent to 50 percent which was adopted.

2 The same re-exam that you have in front of you  
3 tonight recommended permitting assisted living  
4 facilities as conditional uses in the O.R.3 and O.R.4  
5 zones and specifically notes the parcels should be 10  
6 acres with County road access.

7 In reviewing the transcript from the January  
8 hearing, Mr. Preiss testified and he stated you do  
9 have a .35 as required as the maximum and we're at  
10 .52. So that clearly is a fairly large violation of  
11 that requirement.

12 However, by later in the testimony, and this is  
13 Page 131 of the transcript, the Board was told with  
14 regard to the FAR that the intensity of the site has  
15 been managed and does comply with the overall purpose  
16 and intent of your ordinance.

17 The 2016 re-exam and the resulting ordinances  
18 were purposely crafted to amend the O.R. zone bulk  
19 standards and offer small increases in the FAR and  
20 coverage to ensure the zones were being viable. The  
21 assisted living facility conditional use was  
22 intentionally crafted with the same FAR .35 and lot  
23 coverage at 50 percent to create cohesiveness with  
24 regard to the general esthetics in the O.R.3 and the  
25 O.R.4 zone, cohesiveness with regard to general

1 esthetics as well as scale and massing in those two  
2 zones.

3       So for Part 2 of the SICA test, I'm having  
4 difficulty accepting the testimony that the FAR  
5 violation began at the beginning of the testimony as a  
6 fairly large violation of the requirement but by the  
7 end of the presentation the Board was told that the  
8 deviation complies with the purpose and intent of the  
9 Master Plan and the ordinance.

10       Step 3 of the SICA test looks at what reasonable  
11 conditions could the Board impose. The testimony in  
12 the planning report that we received indicates that  
13 the project cannot have a 10 acre lot size because  
14 it's a 3 acre site.

15       Again, I would ask the question did the  
16 applicant try to acquire more land.

17       Regarding coverage violation, it was noted that  
18 the deviation is not substantial. The applicant has  
19 included pervious pavement to accommodate this,  
20 correlated to some degree to the density, lot size and  
21 FAR.

22       For example, and I would think Mr. Teagno is  
23 reading my notes, if the applicant is requesting less  
24 units, the parking would be required which would  
25 reduce the coverage. Some would suggest the coverage

1 variance is self-created.

2 Step 4 is the positive versus negative balancing  
3 test. And, this is where Mr. Preiss's planning report  
4 summarizes his testimony. The summary indicates that  
5 there's no substantial detriment that would ensue if  
6 the variances are granted but, once again, I think the  
7 Board has stated time and again throughout the course  
8 of hearing is that the most concerning variance is the  
9 FAR variance.

10 As I've noted, we conducted an extensive  
11 analysis of the 37 developed lots in the O.R.3 and  
12 O.R.4 zone and determined to increase the FAR from .25  
13 to .35.

14 The requested FAR significantly exceeds the  
15 newly adopted standards and would be double the FAR  
16 with the largest building on Philips Parkway today.

17 Let's see here. Then for Step 3 Mr. Preiss  
18 says, no additional reasonable conditions need to be  
19 imposed to eliminate impacts. And that's partially  
20 because there's no condition that the Board could  
21 stipulate as part of an approval to address the FAR  
22 issue.

23 Finally, looking at the balance test, the report  
24 summarizes that there is a high level of public  
25 interest against an absence of detrimental impacts.

1 Therefore, the D3, 4 and 5 variances can be granted  
2 because the positives outweigh the detriment.

3 And, I think where the testimony was lacking,  
4 again, goes back to the FAR issue and the fact that  
5 the 2016 reexamination report was so specific and  
6 purposeful in looking at the issues of FAR and  
7 coverage in these two zones where we have allowed  
8 assisted living facilities as conditional uses.

9 The planning report and the planning testimony  
10 essentially ended with a very brief description of the  
11 C Variances which I am not going to reiterate tonight.  
12 And, Mr. Chairman, that's really my synopsis of the  
13 planning testimony and the report. I'm happy to  
14 answer any questions of the Board.

15 MR. REGAN: Mr. Chairman, I think we  
16 neglected to mark the reexamination report.

17 MS. GREEN: You marked it as B-12.

18 MR. REGAN: We did. Okay.

19 CHAIRMAN DePINTO: Okay. Well, first  
20 let's go to Mr. Del Vecchio.

21 Mr. Del Vecchio and Mr. Preiss, you have heard  
22 or you have read Ms. Green's technical review. You've  
23 heard her many comments based on the notes.

24 Do you have a response to anything that she has  
25 stated on the record?

1                   MR. DEL VECCHIO: Relative to the  
2 technical review which we received in advance and had  
3 a chance to look at, I don't have any comments. I  
4 think relative to the comments offered tonight from or  
5 referred to her notes, I would like an opportunity to  
6 review the relied upon Master Plan examination report  
7 and those comments will reflect on them and we'd like  
8 to reserve the opportunity to cross-examine or ask  
9 questions on it at the next meeting.

10                  CHAIRMAN DePINTO: I'm going to open the  
11 meeting to the public.

12                  Obviously, this meeting is going to have to be  
13 carried.

14                  I believe that Ms. Green has paid particular  
15 attention and rightly so to the FAR. And the Board  
16 has had a concern with regards to the FAR proposed but  
17 this Board has had that concern for many, many years.

18                  And when we increased the FAR in that zone from  
19 .25 to .35, it was not with any degree of ease that  
20 that was accomplished. It was quite difficult.

21                  And, as most people know, the Planning Board of  
22 the Borough of Montvale held sacred for the most part  
23 FAR, at least for the 40 years that I have served.

24                  And, I was adamantly opposed initially going  
25 from .25 to .35 but agreed ultimately because I

1 recognize that by increasing the FAR, hopefully we  
2 would encourage development and redevelopment.

3 And assume that consistent with what this Board  
4 has done over the years, hold sacred that FAR when  
5 this application came in and I saw it, the 52 or  
6 whatever the number might be, I was a bit surprised.

7 I, for one, have no difficulty with the 3 acres,  
8 quite frankly.

9 I, for one, have no difficulty with respect to  
10 the proximity to a County road.

11 I, for one, very much like the architecture that  
12 is proposed. And I think the site will work though I  
13 do have questions relative to parking.

14 To me it really boils down to FAR and I have not  
15 heard an argument although I respect Mr. Preiss as  
16 everyone knows to the utmost, that is a very, very  
17 tough hurdle with respect to this application.

18 I could poll the other Board Members with  
19 respect to that. I could carry to a date which we  
20 will agree upon this evening to allow you the time you  
21 requested, Mr. Del Vecchio, to review the Master Plan  
22 amendment of 2016 and review the testimony or the  
23 transcript of the testimony of Ms. Green so that you  
24 and your witnesses could respond. But I did want to  
25 get that point across.

1 I think there are some very good qualities  
2 associated with the proposed. But this is a big bump  
3 in the road for me. I'm not quite sure about the  
4 other Board Members.

5 And, again, I give you that choice, I could poll  
6 them or just carry and allow you to come back with  
7 whatever you may decide too come back with.

8 MR. DEL VECCHIO: We're fine with you  
9 carrying the meeting, Mr. Chairman.

10 CHAIRMAN DePINTO: Okay. With that said,  
11 let me open up the meeting to the public once again.

12 Anyone care to make the motion?

13 MS. O'NEILL: So move.

14 MR. ZITELLI: Second.

15 CHAIRMAN DePINTO: Ms. O'Neill, seconded  
16 Mr. Zitelli.

17 All in favor?

18 (Aye)

19 Anyone from the public? Yes, sir. Just  
20 identify yourself.

21 MR. TINTLE: Dave Tintle, 49 Whitney Hill,  
22 Park Ridge.

23 Mr. Del Vecchio, we heard testimony earlier this  
24 evening in regards to the four parking spots in the  
25 southeast corner of the property. There is going to

1 be a retaining wall for those four spots. And if I'm  
2 looking at the diagram correctly on top of it a fence.

3 My question is, what will the retaining wall be  
4 made of such as railroad ties, brick, stone and will  
5 the fence be a solid fence or a cyclone fence or  
6 something like that?

7 MR. DEL VECCHIO: I'm going to ask Mr.  
8 Dipple to respond. It's really engineering comments.

9 MR. DIPPLE: As proposed on the plans, the  
10 retaining wall is proposed to be constructed of a  
11 segmental block. So those blocks are 18 inches by 8  
12 inches and they're stacked by hand with a geofabric  
13 beneath. They're very common.

14 I know of one, I don't know if it was the  
15 subject of the earlier application but as you drive  
16 down toward the center of town from this site there's  
17 a housing development that has a, that has a segmental  
18 block retaining wall tiered along Grand Avenue. It  
19 will look something like that.

20 It is less than 6 feet tall now and the fence, I  
21 believe we have, is a post and rail fence proposed  
22 throughout the site, around the detention basin and  
23 where necessary for fall protection.

24 MR. TINTLE: Would it be possible to have  
25 a solid fence in that area, I asked, as it goes into



1 some living rooms, some of the residences?

2 MR. DIPPLE: No, I don't believe that it's  
3 appropriate to have a solid fence there. I think  
4 that, I think it's -- we, we provided extensive  
5 landscaping. We have actually gained the spots away  
6 from, purposely away from any of the residences and we  
7 went through iterations of the plan to do that.

8 I think the post and rail fence is more  
9 appropriate for the site and, and I believe it also,  
10 you know, brings kind of, matches the architecture and  
11 brings a little bit of esthetics to the site.

12 So, as you see, I'm sorry, it's just going  
13 through but if you see the spots, they really do not  
14 head directly toward anyone's window or living room.

15 MR. TINTLE: All right. I disagree but  
16 thank you.

17 CHAIRMAN DePINTO: Thank you.

18 Anyone else from the public?

19 Okay. The Chair will entertain a motion to  
20 close the meeting to the public.

21 MR. ZITELLI: So move.

22 CHAIRMAN DePINTO: Mr. Culhane.

23 MR. CULHANE: Second.

24 CHAIRMAN DePINTO: Mr. Zitelli, seconded  
25 Mr. Culhane.

1 All in favor?

2 (Aye)

3 Members of the public that are here, please be  
4 advised this application is going to be carried to  
5 what date? April 2nd. No further notice will be  
6 given other than this announcement.

7 Please feel free to contact the Planning Board  
8 secretary to confirm that date.

9 Thank you very much for coming.

10 MR. DEL VECCHIO: Thank you, Mr. Chairman.

11 (The hearing adjourns 11:15 p.m.)

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

2 I CERTIFY that the foregoing is a true and  
3 accurate transcript of the testimony and proceedings  
4 as reported stenographically by me at the time, place  
5 and on the date herein before set forth.

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

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DONNA LYNN J. ARNOLD, C.C.R.  
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