1 BOROUGH OF MONTVALE, NEW JERSEY PLANNING BOARD 2 : TRANSCRIPT OF 3 IN THE MATTER OF: PROCEEDINGS : WAYPOINT RESIDENTIAL 4 : SERVICES, LLC 127 SUMMIT AVENUE 5 : BLOCK 1002, LOT 7 : 6 _____ 7 Tuesday, February 16, 2021 Via Zoom Teleconference 8 Commencing at 10:03 p.m. 9 BOARD MEMBERS PRESENT: 10 JOHN DEPINTO, Chairman 11 MICHAEL GHASSALI, Mayor ROBERT ZITELLI 12 CHRIS GRUBER JOHN CULHANE 13 THERESA CUDEQUEST ROSE CURRY WILLIAM LITNER 14 15 ALSO PRESENT: 16 ANDREW HIPOLIT, Board Engineer DARLENE GREEN, Borough Planner 17 LORRAINE HUTTER, Board Secretary 18 19 20 LISA C. BRADLEY 21 CERTIFIED COURT REPORTER 22 23 QUICK COURT REPORTING, LLC 47 BRIAN ROAD 24 WEST CALDWELL, NEW JERSEY 07006 (973) 618-0872 25 office@quickreporters.com

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					CHAIRMAN DEPINTO: I've read into the
			2	2	2 record this is a continued public hearing on Block
1	<u>A P P</u>	<u>E A R A N C E S</u> :		:	3 1002, Lot 7, Waypoint Residential of 127 Summit
2		ROBERT T. REGAN, ESQ. Counsel for the Board		4	Avenue. Mr. Wolfson is representing the Applicant
4					5 this evening.
5		DAY PITNEY, LLP BY: PETER J. WOLFSON, ESQ.			Good evening, Mr. Wolfson.
6		One Jefferson Road Parsippany, New Jersey 07054 (pwolfson@daypitney.com)			
7		Counsel for the Applicant		8	
8		HERZFELD & RUBIN		g	
9 10		BY: PETER J. KURSHAN, ESQ. 354 Eisenhower Parkway Livingston, New Jersey 07039		10	
11		(pkurshan@chaselawnj.com) Counsel for Objector Summit Ridge			
12		Condominium Association		1	
13				12	
14				13	
15				14	Kurshan, on behalf of Summit Ridge Condominium
16 17				1:	5 Association, a member of its board.
18				10	G CHAIRMAN DEPINTO: Okay. Very good.
19				17	7 Thank you.
20				18	Mr. Wolfson, it's all yours.
21				19	
22				20	
23 24				2	
25				22	
				23	
				24	5, ,
				2	5 would be useful if I just ran through how we got to
					5
					I where we are tonight, and I'll do it as briefly as I
			3	2	2 can.
1	WT TIND	<u>INDEX</u>	DAGE	3	3 CHAIRMAN DEPINTO: I think that would
2	WITNES PATTI	35 RUSKAN	<u>PAGE</u> 35	4	be a good idea, number one. Number two, it's my
4					5 understanding that you sent out notices again for
5		EXHIBITS			5 this meeting; is that correct?
6	NO.	DESCRIPTION	PAGE		
7	B-12	Review Memorandum of Mr. Hipolit, dated 11/9/20	15	8	
8	B-13	Agus letter, dated 11/3/21	18		
9 10	B-14	Chart by Ms. Green	20	10	
11	B-15	Review letter of Ms. Green, dated 10/28/2020	23		, 5
12	B-16	Fire Department review memo,	24	11	
13	A-29	dated 11/16/20 Architectural plans, dated 10/16/20	27	12	5
14	A-30	First-floor plan, updated 10/16/20	28	13	
15	A-31	Second-floor plan, updated 10/16/20	28	14	CHAIRMAN DEPINTO: properly sent?
16 17	A-32	Third-floor plan, updated 10/16/20	28	1:	5 Okay, good.
18	A-33	Exterior elevations	29	16	And both Mr. Kurshan and Mr. Wolfson,
19	A-34	Letter of Ms. Ruskan, dated 6/26/20	29	17	7 did you receive copies of the chart that was
20	A-35	Plans dated 10/16	32	18	B prepared by Darlene Green?
21				19	
22 23				20	
23				2	
25				22	
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					-
				2	5 Please continue, Mr. Wolfson.

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1	MR. WOLFSON: Thank you, Mr. Chairman.	1	2020, concerning Summit Ridge's allegations that
2	As I indicated, we filed the original application on	2	there were D variances needed in conjunction with
3	this matter on January 3, 2020. We attended a Site	3	the application and other objections.
4	Plan Review Committee. We received some excellent	4	At the December 1 hearing, each of
5	comments that led to revisions in the plans and the	5	Summit Ridge and the Applicant presented their
6	submission on February 7, 2020 revised plans.	6	positions, including planning testimony with respect
7	We commenced our hearing before this	7	to Summit Ridge's objections. And Summit Ridge had
8	Board on March 3, 2020, and presented testimony from	8	the opportunity cross-examine Mr. Preiss, the
9	a representative of the Applicant, and we commenced	9	Applicant's planner.
10	our civil engineering testimony with our project	10	The Board did not render a final
11	engineer, Patti Ruskan. Both witnesses were subject	11	decision on the objections at that time as it sought
12	to questions from the Board and the public at this	12	further review and advice from its own
13	time.	13	professionals.
14	Following the hearing, the Applicant	14	Following that December 1 hearing, the
15	made substantial modifications to the plans in	15	Applicant received memoranda from the Board Planner,
16	response to comments from the Board Members and the	16	Darlene Green, dated December 14 and December 22,
17	public and submitted the revised plans on June 26,	17	2020; from the Board Engineer, Andy Hipolit, dated
18	2020.	18	December 16, 2020; and the Board's Attorney, Mr.
19	The Applicant next appeared before the	19	Regan, dated December 22, 2020; all of whom largely
20	Board on July 7th and provided testimony from	20	agreed with the Applicant's positions.
21	Richard Preiss, the project planner; and again from	21	Additionally, the Board received a memorandum dated
22	Patti Ruskan, the engineer, who discussed the	22	December 17, 2020, from Peter Steck, Summit Ridge's
23	substantial revisions that had been made to the	23	planner, who had testified at that hearing.
24	plans. Following that direct testimony, Mr. Preiss	24	The Applicant then appeared before this
25	and Ms. Ruskan were questioned by the Board and	25	Board on January 5, 2021, where Summit Ridge
	7		9
1	members of the public.	1	continued its jurisdictional objections by
2	members of the public. The Applicant appeared again before the	2	continued its jurisdictional objections by presenting testimony of Mr. Steck. Following that
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1	by members of the public.	1	time ago that allowed for conversions of what had
2	In her latest report, Ms. Green opined	2	been age-restricted projects. My vague recollection
3	that a variance will be necessary to permit public	3	of that was that that had a time frame in it. And
4	access on the proposed walking trail. In deference	4	that may have sunsetted by now. In any event, this
5	to Ms. Green, the Applicant revised its application	5	Applicant would stipulate that they would be bound
6	to seek a C variance to permit public access to the	6	by that. And believe there's case law that
7	proposed walking trail. Should the Board not act	7	indicates that under those circumstances, the
8	favorably on such a variance, the Applicant will	8	Applicant and successors could be bound to the
9	simply remove the proposed public parking lot and	9	55-year restriction.
10	prohibit public access to the proposed walking	10	MR. REGAN: In perpetuity?
11	trail, restricting it only to its own residents.	11	MR. WOLFSON: Well, I just got a text,
12	I wanted to take a moment just to	12	which is our way of communicating with our clients
13	remind the Board, since this hearing has been	13	during the age of Zoom, and they indicated they'd be
14	conducted over such an extended period, of what we	14	okay with no limit on the length of that restriction
15	believe is the most important point of this	15	and indeed would agree to a deed restriction in
16	application. That is that it is an age-restricted	16	perpetuity.
17	55-and-up upscale rental community which could be	17	MR. REGAN: Okay. Thank you.
18	confirmed by the recording of a deed restriction.	18	CHAIRMAN DEPINTO: Thank you.
19	It will not generate school children and will allow	19	MR. KURSHAN: Mr. Chairman?
20	Montvale homeowners to downsize and remain in	20	CHAIRMAN DEPINTO: Yes.
21	Montvale. And with the realities of affordable	21	MR. KURSHAN: Just in response to what
22	housing compliance in New Jersey and the next round	22	Mr. Wolfson said, I do not believe that there's been
23	of compliance not that far away, God forbid, coming	23	an opportunity to cross-examine Ms. Ruskan with
24	in 2025, it will be less intensive, we believe, than	24	regard to the exhibits she identified on October
25	what might well happen on this site if this	25	6th, with regard to the turning restriction on the
	11		13
1	11 low-intensity development does not go forward.	1	13 new plan. And just so the record is clear, during
1		1 2	
	low-intensity development does not go forward.		new plan. And just so the record is clear, during
2	low-intensity development does not go forward. Mr. Chairman, in terms of proceeding	2	new plan. And just so the record is clear, during the testimony of December 1st, my cross-examination
2 3	low-intensity development does not go forward. Mr. Chairman, in terms of proceeding tonight, as I indicated in going over the history of	2 3	new plan. And just so the record is clear, during the testimony of December 1st, my cross-examination of Mr. Preiss was not completed because the Board at
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2 3 4 5	low-intensity development does not go forward. Mr. Chairman, in terms of proceeding tonight, as I indicated in going over the history of what's happened here, we believe that Patti Ruskan closed her testimony and was made available to	2 3 4 5	new plan. And just so the record is clear, during the testimony of December 1st, my cross-examination of Mr. Preiss was not completed because the Board at that point believed that it had to address the D variance jurisdictional issue.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	low-intensity development does not go forward. Mr. Chairman, in terms of proceeding tonight, as I indicated in going over the history of what's happened here, we believe that Patti Ruskan closed her testimony and was made available to public questions. I have with me, Cory Chase, my traffic engineer; and Richard Preiss, our project planner. If for some reason the Board feels that Ms. Ruskan needs to present additional testimony, she is on the Zoom with us. MR. REGAN: Mr. Chairman, could I ask Mr. Wolfson a question? CHAIRMAN DEPINTO: Sure. MR. REGAN: Mr. Wolfson, what would be the length of time the age restriction for residents would be in effect? Is there a specific time period? MR. WOLFSON: I did not discuss that question with my client. I can ask them if they had a limitation in mind and I can circle back here. MR. REGAN: Well, isn't it true that a developer of this type of a project could eliminate	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	new plan. And just so the record is clear, during the testimony of December 1st, my cross-examination of Mr. Preiss was not completed because the Board at that point believed that it had to address the D variance jurisdictional issue. Thank you. MR. WOLFSON: Mr. Chairman, if Mr. Kurshan has questions limited to the two very narrow exhibits and he'd like to ask Patti Ruskan, I can bring her up. In terms of any questions he has for Mr. Preiss, as I indicated, he will be testifying at the end of our presentation, and he'll certainly have an opportunity to cross him at that time. CHAIRMAN DEPINTO: Well, before we do that, let's first discuss I'm going to go Mr. Hipolit. Mr. Hipolit, your office prepared technical reviews of the plans as revised and submitted by Patti Ruskan, is that correct? MR. HIPOLIT: That is correct. CHAIRMAN DEPINTO: And have those plans been entered into evidence as Board exhibits?

	14		16
1	if Mr. Wolfson and Mr. Regan and Mr. Kurshan are on	1	MR. REGAN: That was marked as B-9.
2	the same page with respect to those reviews.	2	MR. WOLFSON: That's what I have.
3	MR. HIPOLIT: What I have are the	3	MR. HIPOLIT: I think that's kind of
4	last two letters I have are November 9, 2020, which	4	at that point, I think we're really back to the
5	is really a review of the project that lists in it	5	November 9th letter. That was kind of looking at
6	in appendix Exhibit 1, all the plans we reviewed.	6	the Summit Ridge letter, so I don't really think
7	So that's really three pages of documents. It goes	7	that's relevant anymore.
8	all the way to comment DD, so it goes all the way	8	MR. WOLFSON: Also, for Mr. Hipolit, I
9	through A to Z and then up to DD. So were they	9	had I have a December 4, 2020 letter
10	actually marked as exhibits? It's been such a	10	CHAIRMAN DEPINTO: I'm sorry. Mr.
11	while, I don't know.	11	Wolfson, can you repeat that?
12	CHAIRMAN DEPINTO: Bob, do your	12	MR. WOLFSON: Yeah. I have a Mr.
13	records show in Andy's review letter of 11/9 being	13	Hipolit report, dated December 14, 2020, which was
14	marked into evidence?	14	marked as B-7, but I believe that that dealt with
15	MR. REGAN: I'm going to look. I have	15	the D issue.
16	the letter, but it's not shown on my copy of it as	16	MR. HIPOLIT: It did.
17	being marked.	17	And there was and we have to go back
18	MR. HIPOLIT: I never testified to it.	18	to the record, Mr. Chairman, but my recollection in
19	MS. HUTTER: I don't have it as	19	one the hearings, there was a discussion, I believe,
20	marked. The last time thing I have marked is the	20	by Patti Ruskan about our letter which she just
21	December 16th.	21	basically said they reviewed it and they were going
22	MR. REGAN: Yeah, that was B-9. I	22	to agree to it and make changes to it.
23	have that.	23	Mr. Wolfson, I don't think we've seen
24	MR. WOLFSON: So if I might, I think	24	revised plans in their entirety to this entire set.
25	we got waylaid by the 11th hour D variance	25	Correct?
	15		·
	15		17
1	discussion. But the November 9, 2020 memorandum	1	17 MR. WOLFSON: I'm going to ask Patti
1 2		1 2	
	discussion. But the November 9, 2020 memorandum		MR. WOLFSON: I'm going to ask Patti
2	discussion. But the November 9, 2020 memorandum from Mr. Hipolit has not been yet marked into the	2	MR. WOLFSON: I'm going to ask Patti Ruskan to come forward. She's been sworn already.
2 3	discussion. But the November 9, 2020 memorandum from Mr. Hipolit has not been yet marked into the record. In addition, the landscape consultant	2 3	MR. WOLFSON: I'm going to ask Patti Ruskan to come forward. She's been sworn already. MR. HIPOLIT: Because we had the
2 3 4	discussion. But the November 9, 2020 memorandum from Mr. Hipolit has not been yet marked into the record. In addition, the landscape consultant review memorandum, last revised November 3, 2020,	2 3 4	MR. WOLFSON: I'm going to ask Patti Ruskan to come forward. She's been sworn already. MR. HIPOLIT: Because we had the driveway sidewalk issue. We had some little issues,
2 3 4 5	discussion. But the November 9, 2020 memorandum from Mr. Hipolit has not been yet marked into the record. In addition, the landscape consultant review memorandum, last revised November 3, 2020, has not. And finally, the updated Fire Department	2 3 4 5	MR. WOLFSON: I'm going to ask Patti Ruskan to come forward. She's been sworn already. MR. HIPOLIT: Because we had the driveway sidewalk issue. We had some little issues, and I don't know you have some exhibits, but I
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1yet to be marked into the record, is that correct?1is B-11, right.2MR. REGAN: 11/9.2CHAIRMAN DEPINTO: Right3MR. HIPOLIT: 11/9.3last Board exhibit was B-13?4CHAIRMAN DEPINTO: I'm sorry. 11/9.4MR. REGAN: B-13, that weight marked it5MR. REGAN: I think we just marked it5DeBlasio's report.6CHAIRMAN DEPINTO: There was a letter6CHAIRMAN DEPINTO: Whether was a letter7MR. HIPOLIT: There was a letter7Darlene Green's chart as B-14?8before it, but it's irrelevant because this letter9(Exhibit B-14, Chart by Mether was and the marked for identification and recomments made the10first revision. So this is the letter for10marked for identification and recomments made the	vas Mr.
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9 covers that letter and all the comments made the 9 (Exhibit B-14, Chart by Ma	
10first revision. So this is the letter for10marked for identification and rec	s. Green, is
	eived into
11engineering on this application.11evidence.)	
12 CHAIRMAN DEPINTO: So we're going to 12	
13mark that as B-12.13MS. GREEN: Mr. Chairma	an, I'm not sure
14Then there's a landscape letter of14that my October 28th letter, which was	the last full
15 11/3. Is that Agus letter? 15 technical review, was ever marked.	
16MR. HIPOLIT: It is.16MR. WOLFSON: There was	as a Board
17 CHAIRMAN DEPINTO: And that has not 17 Planner letter marked as B-2, I have.	
18been marked into evidence, is that correct?18CHAIRMAN DEPINTO: Ms	. Hutter, what
19 MR. HIPOLIT: Correct. 19 are you showing as B-2?	
20CHAIRMAN DEPINTO: And, Bob, we're20MR. REGAN: I might have	e that. Let me
21 going mark that B-13? 21 take a look.	
22 MR. REGAN: B-13. 22 MR. WOLFSON: I don't kit	now that we've
2323seen an October one. The B-2 would h	ave predated
24(Exhibit B-13, Agus letter, dated24October.	
2511/3/21, is marked for identification and25MR. REGAN: Yeah, it defi	nitely would
19	21
1 received into evidence.) 1 because	
2 2 MR. WOLFSON: That wou	Id have predated
3 CHAIRMAN DEPINTO: Let's move on to 3 October.	
4 I don't believe that we've a	
5 Ms. Green, what are your what are 5 MS. HUTTER: Darlene, th	ie
 6 the dates of your technical review letters? And 7 have they been marked into evidence? 6 October 28th, did we ever mark that? 7 MR. REGAN: I have B-2 a 	ac Darlana's
 8 MS. GREEN: So I'll go back to my last 9 full technical review letter, which was dated 8 July 7th. That was the first planning re 9 was marked. Then I have B-8, Darlene 	
10 October 28, 2020. Then my next letter was an 10 December 14th.	21
10October 20, 2020. Then my next letter was an10Determber 14th.11analysis of the Summit Ridge objections, dated11MS. HUTTER: What about	t October 28th?
12December 14, 2020. Then I had a review of the Steck12MS. GREEN: I don't have	
 13 planning memo, dated December 22, 2020, and then the 13 it being marked. 	any notes of
1414MR. REGAN: I don't think	that was
15 Kurshan and Mr. Wolfson. 15 marked.	
16 MR. WOLFSON: The reports that Darlene 16 MS. HUTTER: It was never	er marked.
17 just referred to were marked as B-8 and B-11, 17 MR. REGAN: Never market	
18 have B-1, 2, 3, 4, 5. Those are Hipolit,	
19 CHAIRMAN DEPINTO: That's 12/14 is 19 Police Department, Fire Department, Tr	
20 B-8? 20 that's B-1 through 5. B-7 is Andy Hipo	-
21 MR. REGAN: B-8 was December 14th. 21 I don't think it's been marked.	-
22 B-11 was December 22nd. 22 CHAIRMAN DEPINTO: So	, Darlene, with
23 CHAIRMAN DEPINTO: And is that the 23 your review letter of 10/28, were your	
23CHARMAN DEFINIO. And is that the23your review letter of 10/28, were your24last Board exhibit, Bob, B-11.24recommendations incorporated on your	r letter of

	22		24
1	THE WITNESS: No. So the two December	1	MR. WOLFSON: Yeah, it's an updated
2	letters were a direct response to the D variance	2	review memo.
3	issues raised by Summit Ridge. Both of those	3	CHAIRMAN DEPINTO: And was that marked
4	letters were solely focused on the arguments put	4	into evidence, Mr. Wolfson?
5	forth about the supposed D variances.	5	MR. WOLFSON: I don't show it as being
6	MR. REGAN: And they were marked as	6	marked. I would propose it be marked as B-16.
7	, B-8 and B-11.	7	CHAIRMAN DEPINTO: Okay. Lorraine or
8	CHAIRMAN DEPINTO: Correct. So	8	Bob, do you have the 11/16 Fire Department?
9	outstanding is your technical review of 10/28 which	9	MR. REGAN: I am looking right now.
10	was never marked into the record?	10	Let me see what I have.
11	MR. REGAN: I have my copy of the	11	MS. HUTTER: I have it, and it is not
12	October 28th report from Darlene. And normally, I	12	marked.
13	mark the document. It's not marked.	13	MR. REGAN: I agree. It's not marked.
14	MS. HUTTER: It's not marked in my	14	CHAIRMAN DEPINTO: Why don't we mark
15	file either.	15	that one. And I guess that's what, B-15 now?
16	CHAIRMAN DEPINTO: Mr. Wolfson, do you	16	MR. REGAN: B-16.
17	have a copy of that one?	17	MS. HUTTER: B-16.
18	MR. WOLFSON: I do not.	18	
19	CHAIRMAN DEPINTO: Mr. Kurshan?	19	(Exhibit B-16, Fire Department review
20	MR. KURSHAN: I do not have it.	20	memo, dated 11/16/20, is marked for
21	CHAIRMAN DEPINTO: You do not have	21	identification and received into evidence.)
22	that one either?	22	
23	MR. KURSHAN: I do not I stand	23	MR. KURSHAN: May I request a copy of
24	corrected, Mr. Chairman. I do have the October 28,	24	B-16, please?
25	2020 letter.	25	MS. HUTTER: Yes.
	23		25
1	CHAIRMAN DEPINTO: Okay.	1	MR. KURSHAN: Thank you.
2	MR. REGAN: Mr. Chairman, do you want	2	CHAIRMAN DEPINTO: How about any other
3	to have that marked?	3	exhibits from Fire Department or Police Department?
4	CHAIRMAN DEPINTO: You have it, Bob?	4	MR. WOLFSON: There was an original
5	MR. REGAN: Yeah, October 28th. My	5	Police Department report which was marked as B-3 and
6	notes do not reflect it being marked.	6	an original Fire Department as B-4, and Triborough
7	CHAIRMAN DEPINTO: Well, let's mark	7	Ambulance was B-5.
8	that, but I would like a copy of it sent to Mr. Wolfson, Lorraine.	8	MR. REGAN: Mr. Kurshan, do you have
9 10	MS. HUTTER: I'm doing that now.	9 10	those? MR. KURSHAN: I have B-3. I do not
11	MR. REGAN: That would be B-15.	11	have B-4 nor do I have B-5.
12		12	CHAIRMAN DEPINTO: Lorraine, do you
13	(Exhibit B-15, Review letter of Ms.	13	have B-4, B-5?
14	Green, dated 10/28/2020, is marked for	14	MS. HUTTER: Yeah, hold on. I will
15	identification and received into evidence.)	15	send them to him. They should be up in the
16		16	documents on the Google Docs, but I'll double-check.
17	CHAIRMAN DEPINTO: I think we've	17	CHAIRMAN DEPINTO: How about you, Bob?
18	covered all planning and engineer technical reviews.	18	MR. REGAN: I don't have that.
19	How about other agencies and departments? What	19	MS. HUTTER: What don't you have, Bob?
20	exhibits do we have?	20	CHAIRMAN DEPINTO: B-4, B-5.
21	MR. WOLFSON: We have an updated Fire	21	MR. REGAN: Let me take a look.
22	Department review memo, dated November 16, which has	22	B-4 is Fire Department July 6th; B-5,
23	not been marked.	23	Triborough, July 7th.
20	not been marked.		
23 24	CHAIRMAN DEPINTO: I'm sorry, 11/16	24	MS. HUTTER: Which has not been

	26		28
1	MR. REGAN: They've been marked,	1	and received into evidence.)
2	though.	2	
3	MS. HUTTER: Yes.	3	CHAIRMAN DEPINTO: And then A-30 would
4	MR. REGAN: They were marked on 7/21.	4	be AEX 2, first-floor plan, also updated 10/16/20.
5	MS. HUTTER: Mr. Wolfson, do you have	5	MR. REGAN: That's the first-floor
6	copies of those?	6	plan?
7	MR. WOLFSON: Yes.	7	MR. WOLFSON: Correct.
8	MS. HUTTER: I'll get them to Mr.	8	
9	Kurshan.	9	(Exhibit A-30, first-floor plan,
10	CHAIRMAN DEPINTO: Mr. Kurshan, do you	10	updated 10/16/20, is marked for
11	have copies of those as well?	11	identification and received into evidence.)
12	MR. KURSHAN: B-3, yes. I am	12	
13	requesting copies of B-4 and B-5, please.	13	MR. WOLFSON: Then A-31 will be
14	MS. HUTTER: I'll do that right now.	14	AEX-03, second-floor plan, also updated 10/16/20.
15	CHAIRMAN DEPINTO: Are there any other	15	
16	outstanding exhibits to be marked into the record	16	(Exhibit A-31, second-floor plan,
17	either on behalf of the Applicant or the Borough or	17	updated 10/16/20, is marked for
18	the objector?	18	identification and received into evidence.)
19	MR. WOLFSON: Mr. Chairman, on behalf	19	
20	of Applicant, you'll recall the last time we had a	20	MR. WOLFSON: And then A-32 is AEX-O4,
21	session on the hearing, we had our architect testify	21	third-floor plan, also updated 10/16/20.
22	and then we were adjourned. We presented plans	22	MR. KURSHAN: That's AEX-4?
23	dated October 16, AEX 1, 2, 3, 4, and 6. The first	23	MR. WOLFSON: AEX-4, yep.
24	is AEX 1, garage plan. I would propose that that be	24	
25	marked as A-29.	25	(Exhibit A-32, third-floor plan,
	27		29
1	CHAIRMAN DEPINTO: Bob, do you have	1	updated 10/16/20, is marked for
2	that?	2	identification and received into evidence.)
3	MR. REGAN: I don't know if I do.	3	
4	From Ms. Ruskan?	4	MR. WOLFSON: And then finally for the
5	MR. WOLFSON: These are architecturals,	5	architecturals, A-32 would be AEX-6, exterior
6	Bob.	6	elevations.
7	MR. REGAN: From Myer?	7	(Exhibit A-33, exterior elevations, is
8	MR. WOLFSON: Yes.	8	marked for identification and received into
9	MR. REGAN: The garage plan is dated	9	evidence.)
10	6/26?	10	
11	MR. WOLFSON: No. Updated 10/16.	11	MR. WOLFSON: And finally, Mr.
12	MR. REGAN: I don't have it. I've got	12	Chairman, in preparing for tonight, I realize that
13	6/26.	13	we submitted a letter over the signature of Patti
14	10/16?	14	Ruskan of PS&S, dated June 26, 2020, directed to
15	MR. WOLFSON: Correct.	15	Lorraine Hutter for the Board. We'd ask that that
16	MR. REGAN: I do have it. Okay. It	16	be marked as A-34.
17	was in back of the other one. We're going to call	17	
18	that A-29?	18	(Exhibit A-34, Letter of Ms. Ruskan,
		19	dated 6/26/20, is marked for identification
19	MR. WOLFSON: Please.		
19 20	MR. WOLFSON: Please. MS. HUTTER: What's the date on that,	20	and received into evidence.)
		20 21	and received into evidence.)
20	MS. HUTTER: What's the date on that,		and received into evidence.) MS. HUTTER: I thought A-6 was 34.
20 21	MS. HUTTER: What's the date on that, Bob?	21	
20 21 22	MS. HUTTER: What's the date on that, Bob?	21 22	MS. HUTTER: I thought A-6 was 34.

		1	
	30		32
1	have the Ruskan of that date?	1	submitting anything back to the County, pending the
2	MR. REGAN: What's the date of that	2	Board's review of our latest plans.
3	letter?	3	CHAIRMAN DEPINTO: Mr. Hipolit, have
4	MR. WOLFSON: June 26, 2020. It was a	4	you had any contact with the County with respect to
5	very long letter with a submission that also	5	this plan?
6	responded to engineering and planning issues.	6	MR. HIPOLIT: So I had direct contact,
7	CHAIRMAN DEPINTO: Any other	7	as directed by the Board, on that left turn. And
8	outstanding exhibits?	8	the County is in agreement with the plan that Ms.
9	Ms. Green, have all of your documents	9	Ruskan presented, in concept. We need final plans
10	been covered?	10	on it, but they agreed with it.
11	MS. GREEN: Yes.	11	MS. RUSKAN: Mr. Hipolit, if I could,
12	CHAIRMAN DEPINTO: Mr. Hipolit, all of	12	the plans that were submitted have a revision date
13	your reports covered?	13	of October 16, 2020, incorporated the left turn lane
14	MR. HIPOLIT: Yes.	14	in that set of plans.
15	CHAIRMAN DEPINTO: How about under	15	MR. HIPOLIT: That's fine.
16	landscaping with Mr. DeBlasio, Mr. Hipolit?	16	MR. WOLFSON: Mr. Chairman, with that
17	MR. HIPOLIT: Yes. That's the one	17	comment, perhaps we should mark the 10/16 updated
18	they talked which was dated I have a date here	18	plans that Patti just referred to as A-35.
19	dated November 3rd was his last review letter which	19	CHAIRMAN DEPINTO: Okay.
20	is the most current one.	20	
21	CHAIRMAN DEPINTO: And Ms. Hutter, you	21	(Exhibit A-35, Plans dated 10/16, is
22	have no other outstanding reports from either	22	marked for identification and received into
23	Triborough, Police, Fire, or other agencies?	23	evidence.)
24	MS. HUTTER: No.	24	
25	CHAIRMAN DEPINTO: Mr. Wolfson, where	25	CHAIRMAN DEPINTO: Is Mr. Preiss still
	31		33
1	are we with respect to submission to the county?	1	33 with us.
1 2	are we with respect to submission to the county? Was an application made to the County for site plan	2	with us. MR. PREISS: Yes, I am.
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	34		36
1	hearing, between delays due to weather and COVID and	1	page 5 it's actually a continuation from the
2	whatever, it's challenging.	2	bottom of page 4, number 20. It has to do with the
3	In addition to what was stated in that	3	revised driveway and the left turn lane. I just
4	table, Richard, are there any other variances that	4	wanted to clarify that I think there was a comment
5	Ms. Green may have overlooked?	5	from it might have been one of the maybe the
6	MR. PREISS: No, not in my opinion.	6	Fire Department.
7	CHAIRMAN DEPINTO: So in your opinion,	7	MR. HIPOLIT: The Fire Department.
8	it's all-encompassing, however, you do dispute two	8	MS. RUSKAN: The concrete curb island
9	of them?	9	is a mountable curb. And I think you agreed with
10	MR. PREISS: There's one I dispute.	10	that, Andy. I just wanted to get that on the record
11	There's another that I think logic would have it	11	that that was what we agreed to. That's what's
12	be it's the setback from the internal it says	12	shown on the current plans.
13	setback to an internal street; and we have a	13	MR. HIPOLIT: I do. I think it was a
14	driveway, so we don't think that applies. And then	14	combination between police and fire. They were both
15	the combined setback, we think with the changes we	15	talking about that being mountable; more fire. It's
16	just made, we meet that requirement as to 75 feet.	16	going to have to be mountable for them to get into
17	Those are the two. But I'll get into more detail on	17	the site.
18	-	18	MS. RUSKAN: Right.
19	that when I testify. CHAIRMAN DEPINTO: Okay. I guess, Mr.	19	The next item I think is number let
	, , ,		
20	Wolfson, do you want to have Ms. Ruskan give a	20	me double-check. Number 21, and it has to do with
21	report on her last revised plan and statement that	21	the revised grading at the rear of the building on
22	she is in compliance with all recommendations as set	22	the north side of the building where we have
23	forth in those plans by Maser Engineering?	23	incorporated a rain garden between the building and
24	MR. WOLFSON: Patti, can you speak to	24	the property line. There was, I believe, a request
25	that?	25	to connect the emergency access from the northwest
	35		37
1	MS. RUSKAN: I think there were a few	1	corner to the walkway on the southeast. And we
2	items in the November 9, 2020 letter that we needed	2	don't believe that that is necessary to provide
3	to review. I don't know that we can just blanketly	3	
			connectivity there. We have access from the rear of
4	say that we're going to agree.	4	the building to the walking trail as well as just an
5	CHAIRMAN DEPINTO: Mr. Hipolit, are	5	the building to the walking trail as well as just an emergency access. That's the paved surface that the
5 6	CHAIRMAN DEPINTO: Mr. Hipolit, are you prepared to respond to Ms. Ruskan as she does a	5 6	the building to the walking trail as well as just an emergency access. That's the paved surface that the Fire Department wanted. To put another sidewalk in
5 6 7	CHAIRMAN DEPINTO: Mr. Hipolit, are you prepared to respond to Ms. Ruskan as she does a review of your letter of 11/9, Exhibit B-12?	5 6 7	the building to the walking trail as well as just an emergency access. That's the paved surface that the Fire Department wanted. To put another sidewalk in through the rain garden area would be steeply
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	38		40
1	to read the license plate numbers. And I was told	1	MS. RUSKAN: We had submitted on the
2	that that was vetted back to the police, and as long	2	plans the base design being a timber guide rail with
3	as they were identifiable cameras as shown on the	3	an alternate for the W-beam guide rail in the event
4	architecturals at a number of locations, that that	4	that that would be acceptable. That was something
5	was acceptable to the police.	5	that the Applicant may want to install rather than
6	MR. HIPOLIT: Okay. I'm fine with	6	the timber guide rail. That's why we have two
7	that.	7	details.
8	MS. RUSKAN: The next item is item	8	MR. HIPOLIT: Both are fine with us.
9	number 37. And this has to do with our request for	9	The timber guide rail looks nicer, but both would be
10	a waiver from doing a tree survey. We haven't heard	10	fine with us.
11	whether or not that's acceptable. I know we talked	11	MS. RUSKAN: Okay.
12	about doing if it's not acceptable that we would	12	MR. HIPOLIT: So this might be a
13	propose a representative area tree survey. So that	13	longer discussion. Comment number 35 is the water
14	is, I think, more for the Board.	14	service.
15	MR. HIPOLIT: Yeah, it's really for a	15	MS. RUSKAN: Correct. So on the
16	comment, 37 is for the Board to decide if, in fact,	16	current plans that we had submitted in October, we
17	they need a tree survey of the whole site. The site	17	have incorporated a hotbox because that we are
18	is pretty heavily wooded. In the area of the	18	not showing the connectivity through Summit Ridge
19	construction, they're taking down everything. If	19	which the Fire Department prefers and SUEZ would
20	the Board wants a representative, as you've done	20	endorse, but we've kept everything on the site
21	before, they can do that, keeping in mind from the	21	itself with a booster pump and the separate services
22	driveway all the way around the whole building,	22	running up the driveway and into the building.
23	you're clearing every tree. Correct, Patti?	23	MR. HIPOLIT: Well, let me address
24	MS. RUSKAN: That's correct.	24	this to the Board first. So the issue that's come
25	MR. HIPOLIT: So it's below the	25	up going almost back a year ago was our Fire
20	39		41
1		1	
1	retaining walls as you kind of head east and north	1	Department and SUEZ Water separately identified that
2	retaining walls as you kind of head east and north where other than the walking path, all the trees	2	Department and SUEZ Water separately identified that the innermost portions of Summit Ridge has pressure
2 3	retaining walls as you kind of head east and north where other than the walking path, all the trees will be preserved. Even the walking path is going	2 3	Department and SUEZ Water separately identified that the innermost portions of Summit Ridge has pressure and flow problems. The identification of that comes
2 3 4	retaining walls as you kind of head east and north where other than the walking path, all the trees will be preserved. Even the walking path is going to meander through trees so you're not really	2 3 4	Department and SUEZ Water separately identified that the innermost portions of Summit Ridge has pressure and flow problems. The identification of that comes from complaints of both the Fire Department and SUEZ
2 3 4 5	retaining walls as you kind of head east and north where other than the walking path, all the trees will be preserved. Even the walking path is going to meander through trees so you're not really proposed to clear anything other than maybe that	2 3 4 5	Department and SUEZ Water separately identified that the innermost portions of Summit Ridge has pressure and flow problems. The identification of that comes from complaints of both the Fire Department and SUEZ over a number of years. And when you start getting
2 3 4 5 6	retaining walls as you kind of head east and north where other than the walking path, all the trees will be preserved. Even the walking path is going to meander through trees so you're not really proposed to clear anything other than maybe that little parking.	2 3 4 5 6	Department and SUEZ Water separately identified that the innermost portions of Summit Ridge has pressure and flow problems. The identification of that comes from complaints of both the Fire Department and SUEZ over a number of years. And when you start getting to the back development, they can't provide adequate
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	CHAIRMAN DEPINTO: Understood. 24 to this. The reason I s	-
25 And, Mr. Hipolit, briefly, could you 25 provides an added level of protection to your	And, Mr. Hipolit, briefly, could you 25 provides an added level 02/2021 10:17:02 PM Page 42 to 45 of 64	vel of protection to your 12 of 27 sheet

	46		48
1	development and provides water into your site from a	1	CHAIRMAN DEPINTO: Here, we're
2	secondary source in case there's a water main break.	2	proposing, contiguous to this property, a much
3	If there's a break now, you're cut off. You're dry.	3	larger project and it would have the same design
4	If you were connected, you wouldn't be dry. And,	4	feature of not looping or dead-ending if, in fact,
5	again, from a flow and fire-fighting perspective,	5	they don't get agreement with Summit Ridge to loop?
6	the flow is low in there and barely meets the	6	MR. HIPOLIT: Correct, but they have
7	minimum requirements. So if you were to have a fire	7	one difference. This development is going to
8	in a building at the end of that loop, those	8	propose a pumping station to raise that pressure and
9	buildings are all in jeopardy as we sit here now.	9	flow. So they're going to spend, we'll call it, a
10	MR. KURSHAN: If I may, Mr. Chairman,	10	large amount of money to create a solution to that
11	may I ask Mr. Hipolit a question?	11	pressure and flow problem. Summit Ridge
12	CHAIRMAN DEPINTO: Sure.	12	CHAIRMAN DEPINTO: So Waypoint could
13	MR. KURSHAN: The construction that	13	get adequate supply and pressure without the loop?
14	you envision, is this digging up the water main from	14	MR. HIPOLIT: Correct. I'm forcing
15	Summit Avenue going north? Or is this creating a	15	the argument to make them connect is the smarter
16	connection in and around the cul-de-sac and going	16	thing to do.
17	east to the adjacent property that we're discussing?	17	CHAIRMAN DEPINTO: And that would save
18	Or is it a combination of the two?	18	expense for Waypoint if, in fact, there were
19	MR. HIPOLIT: No, it's the latter.	19	connection; and it would improve the service to
20	It's just a connection from where your water main	20	Summit Ridge, in your opinion?
21	ends, it would go from that point east to Waypoint.	21	MR. HIPOLIT: That's my opinion.
22	MR. KURSHAN: So that is what you're	22	CHAIRMAN DEPINTO: Okay.
23	referring to as the loop. So the Summit Ridge north	23	Patti, do you agree with that?
24	to south main would then go north, loop to the east,	24	MS. RUSKAN: Yes, I do.
25	and then the Waypoint access would be heading south	25	CHAIRMAN DEPINTO: So we have two
	47		10
	47		49
1	back to Summit Avenue?	1	engineers agreeing on that.
1 2	back to Summit Avenue? MR. HIPOLIT: Right. And if we get	1 2	engineers agreeing on that. Mr. Kurshan, I think it would be
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	50		52
1	potentially I'm not sure I need them and then	1	back near the building.
2	some bonding would be put in place on both sides,	2	CHAIRMAN DEPINTO: Beyond the limits
3	the insurance agreements, all the hold harmlesses.	3	of clearance, obviously.
4	And the decision at that point would be made right	4	MR. HIPOLIT: Correct.
5	there of, okay, does Waypoint construct it to the	5	CHAIRMAN DEPINTO: And to the
6	line and does SUEZ connect it? Or does Waypoint	6	alternative of the sampling, what else would we do?
7	come in and connect it? Those details are not known	7	The ordinance requires a full count, is that
8	yet. We can't do any of this unless we get an	8	correct?
9	agreement that you guys want to let them do this, if	9	MR. HIPOLIT: It requires a full count
10	it's approved. I don't know if it's going to be	10	of the whole property, yes.
11	approved. If it's not approved, you're still in the	11	CHAIRMAN DEPINTO: Okay. But the
12	same situation you're in now.	12	Applicant has the right to ask for the sampling,
13	CHAIRMAN DEPINTO: We've hit our	13	which they are asking.
14	curfew hour. Is there any other open items on that	14	How about we poll the Board with regard
15	technical review that we've been going over?	15	to that? And let me see, where am I? I guess I'm
16	MS. RUSKAN: Give me one minute. I	16	starting with Mayor Ghassali. Mayor, a full count
17	think there might be one more.	17	of the trees or a sampling of a given area that the
18	This is on page 13 of 22. It's 57,	18	Applicant is requesting?
19	small letter G. And this has to do with the	19	MAYOR GHASSALI: Mr. Chairman, we have
20	Filttera biofiltration device.	20	the ordinance that requires the full count. We also
21	MR. HIPOLIT: It's just the	21	have the Environment Commission. The Environmental
22	maintenance of it. You'll agree to the maintenance	22	Commission at some point needs to get involved in
23	conditions of it, right?	23	this. I'm going to say that we stick with the
24	MS. RUSKAN: Absolutely.	24	ordinance of the full count and to consider
25	MR. HIPOLIT: Yes, so don't worry	25	involving the Environment Commission on this, too.
	51		53
1	about that.	1	MR. WOLFSON: Mr. Chairman.
2	about that. MS. RUSKAN: Okay.	2	MR. WOLFSON: Mr. Chairman. CHAIRMAN DEPINTO: Yes, Mr. Wolfson.
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2 3 4	about that. MS. RUSKAN: Okay. MR. HIPOLIT: You don't really have a choice on that.	2 3 4	MR. WOLFSON: Mr. Chairman. CHAIRMAN DEPINTO: Yes, Mr. Wolfson. MR. WOLFSON: First of all, just a reminder, this is an inclusionary project which will
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	54		56
1	question.	1	Mayor. We have the ordinance in place. I think we
2	When KHov did the other side of the	2	should follow what the ordinance says.
3	Swerpa (phonetic) buffer, as we called it back then,	3	CHAIRMAN DEPINTO: Thank you.
4	did they ever count all the trees?	4	Mr. Gruber.
5	MS. RUSKAN: No. The Board granted	5	MR. GRUBER: I'd follow the ordinance.
6	the waiver for representative area tree survey.	6	CHAIRMAN DEPINTO: Lorraine, did you
7	MR. HIPOLIT: And how big was that	7	keep a tally on that?
8	representative area?	8	MS. HUTTER: Yes, I did. It's even.
9	CHAIRMAN DEPINTO: Let's continue with	9	You would be the deciding vote.
10	the polling. Mayor, you'd like to see compliance	10	I have Mr. Culhane for sampling, Ms.
11	with the code, counting of all the trees and	11	Curry for sampling, Litner for sampling.
12	referral to the Environmental Commission.	12	And then on the full, the Mayor,
13	MAYOR GHASSALI: Yes.	13	Zitelli, Cudequest, and Gruber.
14	CHAIRMAN DEPINTO: Let's move on. The	14	CHAIRMAN DEPINTO: Okay. I want a
15	next Board member would be Mr. Culhane on this.	15	full count on it.
16	MR. CULHANE: Sampling.	16	Okay. Are there other open issues on
17	CHAIRMAN DEPINTO: I'm sorry. What?	17	this?
18	MR. CULHANE: Sampling.	18	Mr. Wolfson, as I said, we've hit
19	CHAIRMAN DEPINTO: You agree, is that	19	curfew on this. We're going to put you I'm
20	what you said?	20	sorry. Go ahead.
21	MR. CULHANE: I agree with a sampling,	21	MR. WOLFSON: Respectfully, if I can
22	not a full.	22	close out this witness and see if there are any
23	CHAIRMAN DEPINTO: Sampling. Okay.	23	questions. Mr. Kurshan said he didn't have an
24	I'm sorry. Thank you.	24	opportunity to question on two exhibits, which we've
25	Ms. Curry, sampling or full tree	25	discussed tonight. I don't know how many Board
	55		F.7
	55		57
1	count?	1	or questions there might be. If we can get that done,
1 2		1 2	questions there might be. If we can get that done, I don't have to bring her back.
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	58		60
1	MS. HUTTER: Yes.	1	think, Mr. Wolfson, the density, from day one we've
2	MR. REGAN: That's the lighting plan,	2	been saying it's higher than what we need there.
3	right, Lorraine?	3	The height is an issue. And then those two will
4	MS. HUTTER: Yes.	4	take care of the parking. So I agree with the
5	CHAIRMAN DEPINTO: Have we've gotten	5	Chairman.
6	revised plans on that?	6	CHAIRMAN DEPINTO: Now, if, in fact,
7	MS. HUTTER: No, not yet.	7	there could be a reduction in density, I might have
8	Do you want me to ask them to carry?	8	a different position relative to a sampling versus a
9	CHAIRMAN DEPINTO: Yeah.	9	full count on the trees. But that's for you to
10	MS. HUTTER: Okay.	10	determine.
11	MR. HIPOLIT: I'd say yes. They never	11	With that said, I want to thank you
12	get	12	very much for coming. And I agree it was good that
13	CHAIRMAN DEPINTO: They can continue	13	we were table to clear up the record.
14	with their usage of their illegal lights for another	14	Patti, I'm sorry I've got to drag you
15	couple of weeks beyond the 16th. So tell them they	15	back next month, but
16	can send us thank you notes.	16	MR. ZITELLI: Mr. Chairman?
17	MR. REGAN: They'll be into daylight	17	CHAIRMAN DEPINTO: Yes.
18	savings time, John, they'll save money.	18	MR. ZITELLI: So if you're still
19	CHAIRMAN DEPINTO: Yeah.	19	looking for comments
20	MS. HUTTER: Mr. Wolfson, you would	20	CHAIRMAN DEPINTO: Oh, I'm sorry. Go
21	like to be carried to the 16th of March?	21	ahead.
22	CHAIRMAN DEPINTO: Here's what I'd	22	MR. ZITELLI: That's okay.
23	like to do. I'd like to comment to giving Waypoint	23	My concern one of my concerns on
24	the entire evening, with the exception of any minor	24	this is the driveway and the width of the driveway.
25	use permits that come in, so that we can try to wrap	25	Now, I believe the reason we can't make the driveway
	59		61
1	59 it up.	1	61 wider is because we might be encroaching on the
1 2		1 2	
	it up.		wider is because we might be encroaching on the
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	it up. But, Mr. Wolfson, I would like for you to convey to your client the chart that was prepared by Ms. Green points out, in my opinion, some pretty drastic elements with respect to the plan. And my concern is the overall density. And I believe that if we lessen the density, we may be able to eliminate or lessen the severity of some of these variances. Whether it's 11 variances which were cited by Ms. Green or 10 or 9 that Mr. Preiss agrees to, and then the design waivers on top of it, that's a lot. That's a lot to deal with. And this should give you the time to explore that with Mr. Preiss and to thoroughly analyze Ms. Green's comments on it. Any other Board members wish to comment on that to offer any advice to Mr. Wolfson as to where to go with this? MAYOR GHASSALI: Mr. Chairman. CHAIRMAN DEPINTO: Mr. Mayor. MAYOR GHASSALI: Thank you. We've been consistent from the beginning about the high	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<pre>wider is because we might be encroaching on the wetlands, right?</pre>

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1	DEP. And the people down there are not very	<u>C E R T I F I C A T E</u>
2	friendly.	
3	MR. ZITELLI: I'm only offering it,	
4	you know I would go ahead, you know, if you guys	I, LISA C. BRADLEY, a Certified Court
5	could get one, I would support it. You can tell	Reporter and Notary Public of the State of New
6	them I think that the Board would support that. I'm	Jersey, authorized to administer oaths pursuant to R.S. 41:2-1, do hereby state that the foregoing is a
7	not looking to really encroach too much into that	true and accurate verbatim transcript of my
8	wetlands. And I understand that. But we're looking	stenographic notes, taken via Zoom teleconference,
9	at a safety issue here of people. I'm talking about	of the within proceedings, to the best of my ability.
10	somebody who's been hit by a car, so I know what	abinty.
11	it's like. I don't want anybody else to have to go	
12	through something I've been through. So I'm giving	
13	it to you through personal experience.	
14	CHAIRMAN DEPINTO: Okay. Got it.	
15	Thank you.	
16	Anyone else?	
	-	
17	With that said, I want to thank	
18	everyone for their patience this evening. We'll	
19	carry this to March 16th. No further notice will be	
20	provided to the public other than this announcement.	
21	Mr. Wolfson, anything you want to add	_Lun C. Brodley
22	to this?	LISA C. BRADLEY, CCR
23	MR. WOLFSON: And that's 7:30, your	NJ Certified Court Reporter License No. 30XI00228700
24	regular time, Mr. Chairman?	
25	CHAIRMAN DEPINTO: Yes.	
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1	MR. WOLFSON: We thank the Board for	
2	its time. Have a good evening, and be safe.	
3	CHAIRMAN DEPINTO: Thank you. You	
4	too.	
5	(Proceeding concluded at 11:15 p.m.)	
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