

TOWNSHIP OF WATCHUNG
PLANNING BOARD
SPECIAL MEETING

In the Matter of: :
: Transcript
FILE PB19-01 :
: of
BONNIE BURN/BNE :
BONNIE BURN ROAD REDEVELOPMENT : Proceedings
Block 7402/7403, Lots 19.01 :
19.02, 5 and 10 :

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Tuesday, June 29, 2019
GoToMeetings Videoconference
Commencing at 6:31 p.m.

BOARD MEMBERS PRESENT:

TRACEE SCHAEFER, Chairwoman
DON SPEENEY, Vice Chairman
KEITH S. BALLA, Mayor
PIETRO MARTINO, Councilman
KAREN PENNETT
ELLEN SPINGLER
STEPHEN POTE
PAUL FIORILLA
YVETTE NORA
THERESA SNYDER, Board Secretary
RICK MATIAS, Board Engineer
MARK HEALEY, Board Planner
JOHN JAHR, Traffic Engineer

MICHAEL LOMBARDOZZI,
Certified Shorthand Reporter

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

FRANCIS P. LINNUS, ESQUIRE
Attorney for the Board

CONNELL FOLEY, LLP

BY: NICOLE B. DORY, ESQUIRE
Attorneys for the Applicant

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1 CHAIRMAN SCHAEFER: Good evening.
2 Calling the board special meeting of June 29,
3 2021 to order. Notice of this special meeting
4 has been given pursuant to Open Public Meetings
5 Act N.J.S.A. 10:4-6. In order to comply with the
6 executive order signed by the governor, and in
7 effort to follow best practices recommended by
8 the CDC, and in compliance with the DCA
9 requirements, emergency meeting protocols, this
10 meeting is being held virtually for all board
11 members, board professionals, the applicant, the
12 applicant's professionals, interested parties,
13 and members of the public.

14 Any remote public meeting where sworn
15 testimony is being taken shall be broadcast by
16 video, as well as audio, and all individuals
17 giving sworn testimony shall appear by video.
18 Because of the quasi-judicial nature of the
19 hearing, written public comment and questions
20 cannot be accepted prior to this hearing. And
21 this is resolution PB20-R14.

22 Notice has been posted on the borough
23 website, at borough hall, in compliance with DCA
24 requirements, emergency meeting protocol, and has
25 been given to the Echo Sentinel, the Courier

1 News, and the Star Ledger. Notice has been filed
2 with the borough clerk.

3 Can we all stand, please, and salute
4 the flag?

5 (Whereupon, the pledge of allegiance
6 is recited.)

7 CHAIRWOMAN SCHAEFER: Theresa, roll
8 call, please. Theresa.

9 MS. SNYDER: Mr. Ellis?

10 Ms. Pennett?

11 Councilman Martino?

12 COMMISSIONER PENNETT: Theresa?

13 MS. SNYDER: Yes, Karen.

14 COMMISSIONER PENNETT: I was able to
15 get on. It finally came in. It kept giving me
16 an error, but...

17 COUNCILMAN MARTINO: Welcome.

18 MS. SNYDER: Councilman Martino?

19 COUNCILMAN MARTINO: Present.

20 MS. SNYDER: Mayor Balla?

21 MAYOR BALLA: Here.

22 MS. SNYDER: Mr. Speeney?

23 VICE CHAIR SPEENEY: Here.

24 MAYOR BALLA: Ms. Spingler?

25 COMMISSIONER SPINGLER: Here.

1 MS. SNYDER: Mr. Pote?

2 Mr. Fiorilla?

3 Caller you have to mute yourself.

4 Mr. Sims?

5 Ms. Nora? Ms. Nora?

6 I can't hear her, either.

7 Okay. Madame Chair?

8 CHAIRWOMAN SCHAEFER: Here.

9 MS. SNYDER: Mr. Linnus?

10 MR. LINNUS: Here.

11 MS. SNYDER: Mr. Matias?

12 MR. MATIAS: Here.

13 MS. SNYDER: Mr. Healey?

14 MR. HEALEY: Here.

15 MS. SNYDER: Mr. Jahr?

16 Mr. Fishinger?

17 Okay. Can we just do a check?

18 Because I see Yvette Nora. I see Paul Fiorilla,

19 but I don't hear him.

20 MR. FIORILLA: Can you hear me now?

21 I lost volume; I seem to have gotten it back a

22 little. I'm sorry, can you hear me?

23 MS. SNYDER: Thank you, Paul.

24 CHAIRWOMAN SCHAEFER: We hear you,

25 but you're freezing up, Paul.

1 Also, I just got a text from Steve
2 Pote --

3 COMMISSIONER PENNETT: Tracee, can
4 you hear me? Theresa, can you hear me?

5 MS. SNYDER: Yes, Karen.

6 CHAIRWOMAN SCHAEFER: Just got a text
7 from Steve Pote, he's having a problem logging
8 in.

9 MS. SNYDER: All right. He's been
10 noted.

11 CHAIRWOMAN SCHAEFER: I'm sorry?

12 MS. SNYDER: This is, like, the worst
13 log-on we've ever had. Figures.

14 All right. So we have Ms. Nora is
15 here. Just for the court reporter, Ms. Nora is
16 present. Mr. Fiorilla is present. Mr. Pote is
17 present.

18 CHAIRWOMAN SCHAEFER: Mr. Pote is
19 here.

20 MS. SNYDER: Right there. Okay.

21 CHAIRWOMAN SCHAEFER: Okay. So
22 please indicate that we have a quorum to conduct
23 business.

24 I'm going to ask everybody to please
25 mute themselves during this particular

1 application, because we're going to have quite a
2 [inaudible] people on --

3 COMMISSIONER PENNETT: Tracee, can
4 you hear me?

5 CHAIRWOMAN SCHAEFER: I can hear you,
6 Karen. Can you hear us, Karen?

7 So this forum is not Zoom; it's on
8 the GoToMeeting forum. So we don't have the
9 capability of raising a hand like you can on Zoom
10 virtual. So I'm just going to ask anybody who
11 has, you know, something to say, please raise
12 your hand to be recognized, and we'll go from
13 there.

14 Ellen, can you please call the
15 next -- or call the application?

16 COMMISSIONER SPINGLER: Yes, Madame
17 Chair.

18 Case PB19-01, Bonnie Burn/BNE, Bonnie
19 Burn Road Redevelopment. Block 7402/7403, Lot
20 19.01, 19.02, 5, and 10. Represented by Nicole
21 B. Dory, Esquire. BBRA Zone. Expiration
22 12/26/21.

23 CHAIRWOMAN SCHAEFER: Thank you.

24 Now, before we continue, Ms. Dory,
25 where are you? There you are. We have -- I'm

1 going to continue how we always do on any meeting
2 that we have. We do have a cutoff of 10 p.m.,
3 unless you're in the middle of testimony. They
4 just -- I find it that we start losing attention
5 of people. So we will continue, especially since
6 we're starting at 6:30 on special meetings for
7 you, it's going to be a long evening.

8 So we are here tonight to continue
9 with the affordable application, which was
10 originally presented to us by the applicant, BNE.
11 There was a settlement through the courts which
12 states that we must have one special meeting a
13 month designated to this application, and if time
14 allows, also at our regular meetings. The
15 applicant coming in front of us are the
16 landowners Karka and Phillips, and they are
17 resuming the application, but I do understand
18 that Sterling Properties has now been designated
19 by the mayor and council as the conditional
20 redeveloper.

21 Our professionals and the applicant's
22 professionals met, went over many comments and
23 questions, so that we could have a more concise
24 application in front of us to hear. As you have
25 seen, we've received reports from our

1 professionals within the last few days.

2 Ms. Nicole Dory does represent the
3 applicant, and she's here tonight. And before we
4 begin, I'd like to just give a sequence of how
5 I'd like to see things go, and Ms. Dory, please
6 contribute. Okay?

7 MS. DORY: Okay.

8 CHAIRWOMAN SCHAEFER: What I'd like
9 to see is you give an overview of the
10 application, and how we got to where we are
11 today, with the overview from -- since we are
12 resuming the application, we are not starting
13 over. Okay? So you'll give us a recap, to the
14 board, of all the prior testimony, so that
15 everybody could be brought up to speed.

16 And since there were so many
17 outstanding questions from previous meetings, I
18 am going to open it up to the planning board
19 members to ask whatever questions that were still
20 outstanding from their list, because I know I
21 have -- I have a few outstanding questions that
22 were not answered, but were going to be answered
23 at subsequent meetings.

24 We will then go into further
25 testimony from the applicant's witnesses. We had

1 left off in February of 2020 with the architect,
2 and I assume that he will continue tonight.

3 In the future, obviously, we're going
4 to hear from your engineer, his revised plans,
5 and our engineer's report will be addressed.
6 Also outstanding, that we still need to hear
7 from, is the traffic, planning, and
8 environmental. And, again, our professional
9 reports will be addressed at each applicant's
10 witness's testimony.

11 I just want to confirm on record that
12 we have all signed certifications that we have
13 all listened and/or read the transcript
14 personally of all the previous meetings back to
15 the beginning of the application, when BNE
16 originally presented to us.

17 A final note on the public, you will
18 be allowed to ask questions of the experts after
19 their testimony, but commentary will be held
20 until the end of the application. If the public
21 plans on submitting testimony, they must be on
22 video. You also must give your name and your
23 address. And I'm going to state up front that,
24 if any of -- anybody gets out of hand, I am
25 prepared to mute you. And you will be able to

1 come back on, but we need to have some order in
2 this hearing.

3 Frank, is there anything else you
4 want to add?

5 MR. LINNUS: Yes, Madame Chair, the
6 -- a couple of items.

7 Number one, I did review the notice
8 that was submitted by the applicant, and it is in
9 order; therefore, this board has jurisdiction to
10 hear the continuation of the application.

11 So we can turn it over to Nicole now,
12 if the chair chooses to do that.

13 MS. SNYDER: Tracee?

14 MR. BUTLER: Madame Chair, this is
15 Bill Butler. Can I just make an appearance?

16 CHAIRWOMAN SCHAEFER: Caller one is
17 who?

18 MR. BUTLER: Bill Butler.

19 CHAIRWOMAN SCHAEFER: Okay,
20 Mr. Butler. That's you. Are you on video?

21 MR. BUTLER: Yes, my name is Bill
22 Butler. I'm with the Westfield law firm of
23 Butler & Butler, and on behalf of Weldon
24 Materials, Inc., objecting to this application,
25 the traffic light, traffic associated with what's

1 there now, traffic which will be generated by
2 this project. I just want to make my appearance
3 at this point for the record. And thank you,
4 Madame Chair, for permitting me to do so.

5 CHAIRWOMAN SCHAEFER: Okay.

6 Mr. Butler, you are aware that if you -- you
7 know, if you're going to ask questions or what
8 have you, you'll need to be on video. Okay?

9 MR. BUTLER: I need what?

10 CHAIRWOMAN SCHAEFER: You'll need to
11 be on video if you're asking questions of any of
12 the applicant's witnesses.

13 MR. BUTLER: Okay. Right now, I'm on
14 telephone. My traffic expert, who runs the
15 computer, has been delayed -- questions until he
16 gets here and he sets up the computer. I will
17 follow the rules of the planning board like I
18 think I always do.

19 CHAIRWOMAN SCHAEFER: Okay. Thank
20 you, Mr. Butler.

21 MR. BUTLER: Thank you.

22 CHAIRWOMAN SCHAEFER: Also on, for
23 the record, John Jahr has now come on to our
24 meeting, he's now present.

25 Okay. Where were we? Ms. Dory?

1 Oh, before you begin, again, I'm
2 repeating to everybody: Please mute yourselves
3 unless you're speaking.

4 MR. FIORILLA: I'm just going to say
5 that my mute button isn't working. I'm trying
6 to, but it won't let me. I shouldn't make any
7 noise, but I can't do it for some reason. Sorry.

8 MS. DORY: Okay. Thank you.

9 So good evening, Madame Chair, and
10 Mayor, and members of the board. I'd just like
11 to introduce myself again for those who might
12 have joined a little late. My name is Nicole
13 Dory. I'm with the law firm of Connell Foley.
14 And I wanted to thank the board very much for
15 having a special meeting this evening. I'm here
16 on behalf of the applicant, Bonnie Burn
17 Redevelopers Urban Renewal, LLC, which was
18 formerly Sterling Watchung, LLC, and we're for
19 the application 19-01. And this is an
20 application for preliminary and final site plan
21 approval for the Bonnie Burn Redevelopment Area.

22 And this property is governed by the
23 redevelopment plan for the Bonnie Burn
24 Redevelopment Area, and that plan was first
25 adopted by the borough council in 2018; it was

1 most recently amended by the borough council in
2 December of 2020, December 17th, but I just
3 wanted to mention, earlier this month, the
4 borough council also did introduce, on first
5 reading, an amendment to the ordinance, and it
6 has been referred to this board for consistency,
7 and hopefully that amendment will be adopted next
8 month. But I'll discuss that in a little bit
9 more detail later on in my presentation.

10 So if I may, Madame Chair, I'd like
11 to give a brief introduction, and then, perhaps,
12 outline the presentation that we've prepared for
13 the board this evening, if that's all right.

14 MR. LINNUS: All right. Nicole,
15 before you do proceed, I note that the original
16 application was only for preliminary site plan
17 approval. I also note that the application has
18 been amended, and you're seeking preliminary and
19 final site plan approval. I want to remind the
20 applicant's attorney, as I did with the former
21 applicant, that it's the policy of the board not
22 to grant preliminary and final at the same time.
23 So I'd like your reaction to that.

24 MS. DORY: Yes, we do understand that
25 that is the board's policy, but we have requested

1 both preliminary and final site plan approval.
2 We believe that the application we've submitted
3 and the plans are sufficient for the board to
4 approve the application on final site plan
5 approval, so we are still proceeding with the
6 application as submitted, for both preliminary
7 and final.

8 MR. LINNUS: I note that you do --
9 your client does have the right to seek
10 preliminary and final at the same time under the
11 Municipal Land Use Law, but this board also has
12 the right to, at the conclusion of the hearings,
13 condition the preliminary with conditions which
14 must be met and satisfied before you come back
15 for a final presentation to the board.

16 MS. DORY: Yes, it is our hope that
17 the board will grant both preliminary and final
18 approval, and that we can satisfy any necessary
19 comments, or address things, to grant final
20 approval.

21 MR. LINNUS: I just want to put you
22 on notice that that's the board's policy.

23 MS. DORY: Yes, I understand that.
24 Yes.

25 CHAIRWOMAN SCHAEFER: The other thing

1 I want to say is it's a continuation of the
2 application. Frank, correct me if I'm wrong, the
3 previous applicant had agreed to bifurcate the
4 application. So why would that not still hold
5 true if all we're doing is continuing and not
6 restarting?

7 MR. LINNUS: That's true, the
8 applicant had an opportunity to amend the
9 application, and they did amend the application.
10 So they are asking for preliminary and final at
11 the same time.

12 CHAIRWOMAN SCHAEFER: Any questions
13 from any of the planning board members?

14 I don't know who Caller Number 2 is,
15 but please mute yourself. Thank you.

16 Okay. We'll continue and we'll come
17 back to that.

18 MS. DORY: Thank you.

19 So as you mentioned, this is a
20 continuation of the site plan application that
21 was filed by BNE, and that application was filed
22 on May 9, 2019; it was deemed complete on June
23 19, 2019. And as I will explain, the application
24 had been previously dismissed by the planning
25 board without prejudice. As you mentioned, it

1 was the subject of litigation. And, now, due to
2 cooperation with the board, I'm happy that we're
3 here this evening, pursuant to the settlement
4 agreement, to continue the board's hearings for
5 the application.

6 So this is an application for both
7 preliminary and final approval. It's to
8 construct an inclusionary 230-unit development,
9 with 46 units being for affordable housing. The
10 property is 41.80 acres. It's located on Bonnie
11 Burn Road in Watchung.

12 So, again, I'd just like to say thank
13 you very much for the board's efforts to continue
14 the application. I know that, last month,
15 unfortunately, we had a hiccup with notice, but
16 we've really taken this time to refine the
17 application, and try to clean up the plans, and
18 resolve some of the more technical comments as
19 much as we could. And we've accomplished this
20 with the board's hard-working professionals, and
21 the board members who have reviewed our plans,
22 and many responses. So I just want to thank you
23 all for the time and effort you've put into this
24 application. I think it's really going to allow
25 the board to review this in the most efficient

1 way.

2 So to explain to you the order for
3 our presentation this evening, first, I would
4 like to bring you up to speed on where we were
5 with our other approvals for the project. And
6 there have been some council actions that have
7 happened in the interim that I'd like to explain.
8 There was the amendment of the redevelopment plan
9 and the new designated redeveloper. And then, I
10 wanted to summarize for you, the public -- for
11 you and the public the prior testimony and the
12 exhibits that were presented at the prior
13 hearings.

14 So as far as new testimony, I do have
15 with me Jack Raker, who's the project architect.
16 And once we get to it, I would like to pick up
17 right where we left off with the board in
18 February of 2020, to complete Mr. Raker's
19 testimony for the application.

20 And then, I also have with me Eric
21 Keller. He's the project's civil engineer; he's
22 also a planner and a traffic engineer. So
23 Mr. Keller previously provided engineering
24 testimony, and he also did testify as to some
25 waivers that were requested for the application.

1 So after Mr. Raker, I'd like to continue with
2 Mr. Keller, just to touch on a few more
3 engineering issues. And then, I'd like to have
4 Mr. Keller address traffic.

5 You know, so that's my planned order
6 of testimony.

7 As I will explain, there was a
8 variance previously identified for the project,
9 which is no longer applicable, because the
10 redevelopment plan had been amended. So we're
11 not planning on having any additional planning
12 testimony at this time for Mr. Keller.

13 MR. LINNUS: Nicole, let me interrupt
14 you: Are you saying that Mr. Keller provided
15 planning testimony, is that what you're saying?

16 MS. DORY: Well, he -- there was
17 about three waivers: one was the topsoil --

18 MR. LINNUS: Who's going to address
19 compliance with the redevelopment plan?

20 MS. DORY: Well, the compliance with
21 the requirements of the redevelopment plan have
22 been discussed by Mr. Keller during the course of
23 his engineering testimony, as well as by
24 Mr. Raker during the course of his architectural
25 testimony.

1 MR. LINNUS: Mark, do you need to
2 hear from the applicant's planner, Mark Healey?

3 MR. HEALEY: Yeah, well, I think we
4 should hear the testimony and see I mean, my
5 memo, I went through, basically, each of the
6 requirements of the redevelopment plan, and
7 highlighted those that I thought still needed to
8 be addressed or still needed to have some
9 conclusion. So what I would suggest is come back
10 to me, perhaps at the end of this additional
11 testimony, and we'll see if additional planning
12 testimony is needed.

13 MR. LINNUS: Okay.

14 MS. DORY: Okay. We can certainly
15 provide additional planning testimony, as
16 necessary. We just thought we had addressed most
17 of the comments, and so it wasn't -- but we
18 will -- we will listen to the board.

19 MR. LINNUS: I also noted, Nicole,
20 you didn't mention any environmental testimony.
21 It's not your -- you're not going to present any
22 environmental testimony? I thought that was
23 discussed at the February meeting.

24 MS. DORY: Yes, BNE had proposed to
25 call the environmental consultant. You know, at

1 the time they filed the application, they didn't
2 have any environmental permits. So as I will
3 explain in my presentation here, we do actually
4 have environmental permits for the property now.
5 We recently obtained permits from the New Jersey
6 Department of Environmental Protection on June
7 17th of 2021. So I do have copies of those
8 permits. Mr. Keller can testify to them, and we
9 can submit them -- hopefully, if we get to his
10 testimony this evening, we can submit them to the
11 board.

12 MR. LINNUS: All right. Is it your
13 intention to present an environmentalist at the
14 Phase 2 study that was done?

15 MS. DORY: No, it is not, and that is
16 mostly because that's an outside agency approval.
17 I think there were only, perhaps, two questions
18 related to that, having to do with remediation
19 that might be necessary, and, you know, I'd be
20 happy --

21 MR. LINNUS: That's precisely what
22 I'm inquiring about, the necessity for -- the
23 potential necessity of remediation.

24 MS. DORY: Yes, you know, my
25 intention was not to call an environmental

1 consultant, because that is the subject of DEP
2 approvals for the project that would be obtained
3 after this board's approval. You know, I'm
4 certainly happy to answer any questions that the
5 board might have as to those two areas, but it
6 was not my intention to bring the environmental
7 consultant.

8 MR. LINNUS: Okay. Proceed with your
9 application.

10 CHAIRWOMAN SCHAEFER: I will say this
11 to you, that there were several questions, not
12 only from our planning board members but from the
13 public, referencing environmental. And it was
14 stated in the February 2020 meeting, when BNE was
15 still the applicant, that they were bringing an
16 environmentalist to go over these questions, and
17 I'm a little dismayed that we wouldn't have that
18 ability to ask those questions and get the
19 answers to the questions we had asked, and did
20 not get answers to.

21 MS. DORY: Okay. Well, it's
22 certainly our intentions to answer all the
23 board's questions as best as we can; it's just
24 that remediation of the property is -- you know,
25 it's the subject of the NJDEP outside agency

1 approval. I don't believe there's any borough
2 ordinance that would govern that. You know,
3 it's -- some of these matters are very technical
4 and outside of the board's jurisdiction, although
5 we understand that the board may have questions
6 as to those DEP approvals. So I am certainly
7 happy to answer any of those questions, and if
8 there are questions I cannot answer, you know, we
9 will consider how we can answer them.

10 MR. LINNUS: I might point out,
11 Madame Chair, that there are AOCs, there are
12 issues -- environmental issues that were raised
13 by the Phase 2, which would be appropriate for
14 discussion, albeit subject to approval of the
15 NJDEP. They may relate to construction of the
16 project, location of the units, et cetera. But
17 that's up to the board.

18 CHAIRWOMAN SCHAEFER: Well, I think
19 that's important. And, Rick, that would come to
20 you, I would assume, Rick?

21 MR. MATIAS: Yes. And, also, as
22 everyone had stated already, this is an NJDEP
23 approval. There would not be specific
24 requirements that we would impose -- or
25 additional requirements that we would impose,

1 outside of NJDEP. So although I do think that
2 there's some questions that people have, and that
3 the board members have, that -- you know, the
4 proper testimony has to be --

5 CHAIRWOMAN SCHAEFER: This meeting is
6 really not doing well tonight. We don't normally
7 have technical difficulties, and you're cutting
8 in and out. I know that Don Speeney had some
9 specific questions, and when we get there, I'm
10 sure he's going to have them, and I think Karen
11 had some specifics. So as long as you're open to
12 having these questions and answering them, and
13 then, if anything comes from, you know, our
14 professionals on it, great. Okay? But it's
15 important that we get our answers.

16 MS. DORY: I understand. I
17 understand that the board has some questions, and
18 we're going to do our best to address them, and
19 we'll go from there.

20 CHAIRWOMAN SCHAEFER: Okay.

21 MS. DORY: All right. So before I go
22 back in time and summarize all the prior board
23 hearings, I wanted to just explain a little bit
24 more on how we got to where we are.

25 So, you know, I did mention the

1 application was originally filed by BNE. It was
2 deemed complete in June of 2019.

3 And then there were hearings on the
4 application, and the first hearing was October
5 15, 2015 -- excuse me, 2019; January 29, 2020 was
6 the next hearing; and then, there was the third
7 hearing, on February 18, 2020. There were a few
8 things that happened after that, but then it --
9 I'll just say, in May of 2020, BNE terminated its
10 contract to buy the property, and then, later in
11 May and June of 2020, the planning board
12 considered whether to dismiss the application as
13 a result of that.

14 On June 16, 2020, the board voted to
15 dismiss the application without prejudice. And
16 there was some litigation as a result of that,
17 but, in the end, that litigation was settled, and
18 the lawsuit was dismissed, so that this
19 application could be continued this evening.

20 Earlier this year, the planning board
21 and the superior court approved the settlement to
22 allow these hearings to continue, and we did that
23 first with the owners named as the applicant for
24 the application, and the owners are Karka
25 Investments and Phillips Properties.

1 And just before that settlement, the
2 borough council also amended the redevelopment
3 plan. As I mentioned on December 17, 2020, the
4 amendment eliminated an ambiguity in the
5 redevelopment plan ordinance, and it also reduced
6 the minimum lot size for the redevelopment area
7 slightly from 40 to 39 acres. And those
8 amendments were to address a lawsuit that was
9 filed by an objector, Weldon Materials, and also
10 to eliminate a lot size variance.

11 So, next, after that, we had made a
12 submission on May 11, 2020. We provided a
13 written response to the last set of comments to
14 the board's professionals. We also provided
15 revised plans on behalf of the owners as the
16 applicant, and those were to address outstanding
17 comments from the board's professionals from 2019
18 and 2020. And that was in anticipation of the
19 scheduled May 26th hearing date that was
20 canceled. We did receive review reports after we
21 made our May 11th submission, on May 20th, 21st,
22 and 22nd of this year, and then we renoticed to
23 hold the hearing.

24 So in that interim period, as I
25 mentioned, we took the opportunity to address as

1 many outstanding comments as we could from the
2 board's professionals. Also, in May, on May
3 20th, 2021, the borough council adopted a
4 resolution to name Sterling Watchung, LLC, as the
5 conditioner -- conditional redeveloper of the
6 property, and Sterling is the contract purchaser
7 for the property.

8 Sterling later applied for approval
9 from the state to convert to an urban renewal
10 entity that is named Bonnie Burn Redevelopers
11 Urban Renewal, LLC, which is the applicant. So
12 they received that approval to convert to the
13 urban renewal entity on May 25th of this year.

14 And the next thing that happened
15 after that was on June 11th. We submitted
16 revised plans and documents to name Bonnie Burn
17 Redevelopers Urban Renewal as the applicant. And
18 it is also the designated redeveloper --
19 conditional redeveloper of the property.

20 And then, as I mentioned, the borough
21 council, on June 17th, introduced, on first
22 reading, an amendment to the redevelopment plan
23 ordinance, and that is to -- that amendment is to
24 allow for sewer service for the project to be
25 directed where service is available, and not to

1 any particular agency. That ordinance, I
2 understand, will be referred to this board for
3 consistency with the master plan, and, hopefully,
4 it will be adopted on second reading that -- next
5 month.

6 The amendment also corrects the total
7 acreage of the property, which is now 41.80
8 acres, and that increased slightly from 41.03
9 acres, and that was due to a small addition of
10 property from another lot. We explained that in
11 our May 11th submission to the board.

12 On June 17th, the DEP, as I
13 mentioned, also approved applications for the
14 project. And so the project now has permits for
15 flood hazard area and wetlands permits for the
16 project. So the DEP reviewed the plans for the
17 project and approved them.

18 The applicant has also obtained
19 certification from the Somerset-Union Soil
20 Conservation District for the project, and that
21 was on May 27th of this year.

22 So during the course of our
23 presentation, we hope to introduce those
24 approvals to the board, hopefully this evening.

25 Also, today, we made a submission to

1 Union County Engineering Department for their
2 approval to install a traffic light at the
3 intersection of the project entrance and Bonnie
4 Burn Road, and a copy of that submission was
5 provided to the borough, to the borough engineer,
6 who's also the board's traffic engineer,
7 Mr. Jahr. We also provided a copy to Mr. Butler,
8 the attorney for the objector, Weldon. So we are
9 currently before Union County on the traffic
10 light approval.

11 Okay. So now that I've brought you
12 up to date on where we are, I just wanted to, as
13 briefly as possible, try to summarize the various
14 testimony and exhibits that were marked at the
15 prior hearings for the application. And like I
16 said, after that, I wanted to introduce the
17 architect, Mr. Raker, to complete his testimony.
18 And, hopefully, if we can complete Mr. Raker's
19 testimony, I'd like to introduce Mr. Keller
20 briefly for engineering, and then, also, for
21 traffic.

22 CHAIRWOMAN SCHAEFER: Ms. Dory, can
23 you just hold on one second? I'm getting a text
24 from my secretary, something that we have not
25 received. Theresa?

1 MS. SNYDER: We weren't copied on
2 that report that was sent to Union County about
3 the traffic light.

4 CHAIRWOMAN SCHAEFER: Okay. So we'll
5 need a copy.

6 MS. DORY: Okay. We submitted a copy
7 to Mr. Jahr; we can certainly send in a copy to
8 the board.

9 CHAIRWOMAN SCHAEFER: Thank you. I'm
10 sorry, I didn't mean to interrupt. I'm just
11 trying to capture any issues as we're coming
12 across them.

13 MS. DORY: Okay. So I'm just going
14 to go ahead and summarize the prior meetings.

15 And I'll start with the October 15,
16 2019 meeting. That was the first meeting for the
17 application after it was filed in May of 2019.
18 The applicant, at the time, was BNE. BNE's
19 attorney introduced the application: same
20 application, a 230-unit residential development
21 with 46 affordable housing units. The units are
22 to be constructed in six multi-family residential
23 buildings with a separate clubhouse.

24 At that time, the applicant requested
25 relief from the planning board as follows:

1 A variance for an undersized lot due
2 to a 0.67-acre roadway dedication, which brought
3 the lot size below the requirement, at the time,
4 of 41 acres. As I mentioned before, that
5 variance is no longer applicable, due to the
6 December 2020 amendment of the redevelopment plan
7 adopted by the council.

8 So, at this point, the application is
9 what I would refer to as an as-of-right
10 application, it complies with the requirements of
11 the redevelopment plan; however, we are still
12 continuing to seek relief as to other
13 construction and design waivers -- type of
14 waivers for the application.

15 For example, we are seeking relief to
16 remove topsoil from the property, where no
17 topsoil is permitted to be removed, and that is
18 because of the limited development area. The
19 applicant has limited area to store soil, and
20 cannot use it on-site. That was -- that was
21 explained by BNE at the October 2019 hearing, and
22 we're still seeking that relief.

23 Also, BNE had requested a design
24 waiver to use single-lined parking stall striping
25 where hairpin striping is required. We are also

1 still seeking that relief.

2 And, lastly, a de minimis exception
3 from the Residential Site Improvement Standards
4 to permit sidewalks to be located on only one
5 side of the loop road, where sidewalks are
6 required to be installed on both sides. And we
7 are also still seeking that relief.

8 After the application was introduced,
9 there was a colloquy with Mr. Butler. Mr. Butler
10 had requested that the board take a vote to halt
11 any action on the application until the
12 applicant -- at that time, BNE -- had applied to
13 Union County for approval for the traffic light
14 that is proposed with the application. The board
15 declined that request, and allowed the
16 application to continue in the normal course.

17 So as part of that colloquy, the
18 applicant had stated that it would agree to a
19 condition of approval, that any approval by this
20 board be conditioned upon Union County's approval
21 of the traffic light, and that if that traffic
22 light was not approved by Union County, then the
23 applicant would return to the board with
24 alternative traffic measures. And that
25 continues -- that condition is also acceptable to

1 the current applicant.

2 After that, the applicant began with
3 the presentation of Mr. Keller for engineering
4 testimony. At that October 15, 2019 meeting,
5 Mr. Keller gave an overview of the property, of
6 the existing conditions, and also described the
7 inclusionary residential development that's
8 proposed for the property. He presented Exhibit
9 A-1, which is an existing conditions aerial, to
10 orient the board. So if I may, if I can figure
11 this out, I wanted to share my screen, just to
12 remind the board of Exhibit A-1. And during the
13 course of my presentation, I might call up some
14 of the other exhibits that were presented.

15 So Mr. Keller described the property
16 as over 41 acres. It has 1,250 feet of frontage
17 along Bonnie Burn Road. The property is wooded,
18 with one vacant single-family home in the middle.
19 Mr. Keller identified the current site driveway
20 that exists across from the Chemical Engine Fire
21 Station.

22 He identified wetlands and state open
23 waters, and associated riparian zones on the
24 property. He explained that these areas are
25 mostly being avoided, except for the access road

1 and a stormwater discharge point, which are the
2 subject of the NJDEP permits that were recently
3 approved for the project.

4 Next, he explained the grade of the
5 property and the location of utility connections,
6 and that they have will serve letters from
7 utilities to service the project.

8 Mr. Keller next presented Exhibit
9 A-2, which is a site plan rendering. I'm just
10 going to show you Exhibit A-2. It shows the
11 proposed development. He described the bedroom
12 mix, and compliance with the redevelopment plan's
13 requirements. You know, the bedroom mix is 51
14 one-bedrooms, 169 two-bedrooms, and 10
15 three-bedrooms, with 46 of those units being
16 affordable units, which complies with the
17 ordinance. And of the affordable units, they are
18 nine one-bedroom units, 27 two-bedroom units, and
19 10 three-bedroom units.

20 Mr. Keller explained that 60 percent
21 of the property will be placed into a
22 conservation easement in perpetuity, so it will
23 not be developed. Mr. Keller explained the
24 locations of the buildings, and that the plans
25 will comply with the setback and buffer

1 requirements of the redevelopment plan.

2 He explained that access is proposed
3 by a boulevard driveway with a median and a
4 roundabout, and that the placement of the
5 boulevard was guided by wetlands located in the
6 area. He explained that there is one sign
7 proposed in the median, and eight directional
8 signs are proposed.

9 He also provided testimony as to the
10 waivers that are sought that I described before,
11 and the reason that they should be granted:

12 First, the requests to provide
13 hairpin striping, as more appropriate for this
14 residential development.

15 To allow the export of topsoil,
16 because the applicant is trying to preserve, and
17 not disturb as much land as possible.

18 And the de minimis exception from the
19 Residential Site Improvement Standards so allow a
20 sidewalk only on one side of the boulevard as not
21 really necessary to have sidewalks on both sides,
22 since people will not be walking on both sides of
23 the loop road.

24 Mr. Keller also summarized the bulk
25 requirements, the minimum disturbed and

1 undisturbed areas for the project, impervious
2 coverage, allowable building coverage. He
3 testified that all of these requirements in the
4 redevelopment plan were more than satisfied.

5 As I mentioned, he described the
6 bedroom mix. He also explained parking for the
7 project, and that it met requirements of the
8 redevelopment plan, the Residential Site
9 Improvement Standards, and ADA requirements.

10 Mr. Keller then presented Exhibit A-3
11 to demonstrate compliance with these
12 requirements. And, as well, he also used this
13 exhibit to demonstrate a complete pedestrian
14 circulation system within the site.

15 And during the course of his
16 testimony, the applicant also agreed to extend
17 the sidewalks behind Buildings 3 and 6.

18 Next, he presented Exhibit A-4, let
19 me bring that up, to show the circulation for
20 fire trucks and emergency vehicles. The
21 applicant also agreed to submit to the board an
22 additional exhibit to show aerial truck access
23 for the project, and that was done at a
24 subsequent meeting, which I'll show you.

25 Mr. Keller testified that the fire chief and the

1 fire official were satisfied with the plans.

2 Mr. Keller addressed trash and
3 recycling. He described it was all handled
4 internally to the buildings, that there would be
5 a dumpster for the clubhouse, and he explained
6 some of the clubhouse's amenities.

7 Mr. Keller testified to site grading,
8 retaining walls proposed along the western loop
9 road by a detention basin, and, also, an
10 associated guardrail and fencing.

11 He explained that the project will
12 generally maintain the existing natural buffers,
13 but that there are areas of minimal disturbance,
14 and that those areas will be revegetated.

15 Mr. Keller also testified to
16 stormwater measures -- excuse me, he testified to
17 stormwater, as well as to measures to address
18 water quality, groundwater recharge, and
19 compliance with the redevelopment plan standards.

20 He explained that there is available
21 sewer capacity and sufficient pressure and flow
22 for water to serve the project.

23 He presented Exhibit A-5 to show
24 extensive landscaping and compliance with
25 landscaping requirements. He also testified to

1 lighting.

2 Mr. Keller testified as to outside
3 agency approvals, and that the applicant received
4 approval from the Somerset County Planning Board
5 on June 17, 2019. And as I mentioned, now, we
6 have some other approvals from the DEP that
7 Mr. Keller had testified to at the time of the
8 October 2009 (sic) hearing. But we now have
9 those approvals from DEP, and also from the soil
10 conservation district.

11 And he did also mention the traffic
12 light. We also now have submitted to Union
13 County for the traffic improvements.

14 And in the course of his testimony at
15 the October 2019 hearing, there was questioning
16 by board members, and also by the board's planner
17 and engineer, and by two members of the public.
18 And there was also questioning by Mr. Butler on
19 behalf of Weldon.

20 At that time, Mr. Butler noted he
21 would be filing an application for an
22 interpretation with the zoning board to determine
23 if the steep slope ordinance applied. That issue
24 has now become not applicable, or moot, and that
25 was as a result of the council's amendment of the

1 redevelopment plan on December 17, 2021 (sic),
2 that I mentioned.

3 Weldon did file an application with
4 the zoning board for an interpretation regarding
5 the steep slope ordinance. That application was
6 filed in November of 2019, and it was denied by
7 the zoning board.

8 At the time of the October 15, 2019
9 hearing, that issue was just raised by
10 Mr. Butler, and after that, there was also more
11 questioning of Mr. Keller by the public.

12 The October 15, 2019 hearing
13 concluded, and the application was supposed to be
14 carried to November 19, 2019; however, the board
15 did not hear the application on that date,
16 because Weldon had filed its interpretation
17 application with the zoning board on November 12,
18 2019. And as I mentioned, that application was
19 heard, and was denied by the zoning board in
20 December of 2019, finding that the steep slope
21 ordinance did not apply.

22 Later that year, there were requests
23 by the applicant for a special meeting in
24 December that was canceled, and the application
25 was next heard on January 29, 2020.

1 So at the January 29, 2020 hearing,
2 the meeting started with an introduction by the
3 applicant's attorney, and that was followed by
4 the continuation of engineering testimony by
5 Mr. Keller to address revisions to the plans
6 since the last meeting, and to respond to
7 questions.

8 Mr. Keller presented Exhibit A-5,
9 which is a site plan rendering -- I'm sorry, I
10 think, before, I skipped over Exhibit A-4, which
11 was presented at the October 15th meeting -- 2019
12 meeting. I'll present that. And, unfortunately,
13 it's rotated on my screen. That's okay.

14 So going back to the January 29, 2020
15 meeting, Mr. Keller presented Exhibit A-5 site
16 plan rendering. That was similar to Exhibit A-2
17 that he had presented at the prior meeting, and
18 he used this exhibit to explain the plan
19 revisions. The applicant had added a sidewalk
20 behind Buildings 3 and 6, and he had relocated
21 the wooded trail away from homes.

22 Mr. Keller also presented Exhibit
23 A-6, which is a pedestrian circulation plan.
24 That was similar to a prior exhibit, A-3. He
25 showed the new location of the trail, and

1 testified that there was complete circulation
2 within the development. And during the course of
3 his testimony, the applicant agreed to provide
4 additional fencing to prevent trespass to nearby
5 properties.

6 I'll just pull up one of the other
7 exhibits. Mr. Keller also presented next Exhibit
8 A-7, a conservation easement exhibit, to show the
9 areas of the property that will be deed
10 restricted as open space. He testified that the
11 buffer provided more than -- the buffer that has
12 been provided more than satisfies the
13 requirements of the redevelopment plan. At that
14 time, 23.5 acres of land was proposed for a
15 conservation easement, and as we explained in our
16 recent submission to the planning board on June
17 11, 2021, that area for conservation easement has
18 now increased slightly to 24.28 acres, to be
19 preserved in perpetuity as open space.

20 Mr. Keller also addressed the board's
21 engineer's comments on stormwater management for
22 the project, which comments were addressed to the
23 satisfaction of the board's engineer.

24 He next presented Exhibit A-5, Truck
25 Turning Template -- excuse me, Exhibit A-8.

1 And that was also submitted to the
2 board on November 5, 2019. This exhibit was
3 prepared and submitted in response to a request
4 by the board.

5 Mr. Keller also presented Exhibit
6 A-9, Site Section. This is a site profile that
7 was also submitted to the planning board in
8 response to comments. Mr. Keller then testified
9 that the site profile -- he testified as to the
10 site profile, and he explained the site
11 elevations with respect to the proposed
12 improvements.

13 Mr. Keller also presented Exhibit
14 A-10, Supplemented Buffer Planting. He testified
15 to buffer plantings, as well as to explain the
16 type and location of fencing with respect to the
17 retaining wall and the wooded path. He also
18 testified to landscape maintenance procedures.

19 Mr. Keller also testified to other
20 revisions to the plans; for example, revisions to
21 the access drive to provide for one lane on each
22 side; revisions to show single line parking
23 striping in front of the garages.

24 He testified that the lighting plan
25 was revised to provide additional lighting at

1 pedestrian crossings, drive aisles, and
2 intersections, and those changes were made in
3 response to comments from the board's traffic
4 engineer.

5 In response to the board's questions,
6 Mr. Keller testified that the boulevard entrance
7 for the project, and he also testified as to the
8 alternative -- excuse me, he testified as to the
9 boulevard entrance for the project, and that
10 alternative access was not feasible, due to the
11 DEP and other constraints.

12 Mr. Keller then addressed the review
13 reports from the board's professionals. He
14 testified as to the October 4, 2019 report of the
15 board's engineer. At that time, it was
16 Mr. Hertis. And in his testimony, he noted that
17 most of the comments were accepted, but he
18 provided testimony and explanations as to those
19 comments that were not accepted and why, and
20 those explanations were accepted by the board's
21 engineer.

22 Some of those comments included that
23 the applicant proposed to submit a construction
24 staging plan prior to construction, which was
25 acceptable.

1 He explained that the applicant did
2 not propose to use a filter fabric on the walking
3 trail, due to safety or slip concerns, which was
4 also acceptable.

5 And that the engineer's report
6 concerning fire and water supply would be
7 provided at the time of building permits.

8 He also testified to landscaping and
9 lighting, site furniture, and bike storage.

10 And he noted that that would also
11 be -- bike storage would also be explained by the
12 architect.

13 Mr. Keller addressed questions in the
14 October 10, 2019 report of the board's planner,
15 Mr. Healey. Some of the comments included that
16 the sign would be -- the sign material would be
17 deferred to final approval. We have now provided
18 that information for you.

19 Item number 47 in Mr. Healey's
20 report, he testified that no construction phasing
21 was proposed, which continues to be true.

22 As to lighting, he -- and
23 landscaping, that all fixtures are LED, and dark
24 sky compliant, with full cutoff fixtures, and
25 that all lights are dusk to dawn.

1 After that, Mr. Keller also responded
2 to questions from 11 members of the public.

3 And at the conclusion of the hearing,
4 Mr. Keller's engineering testimony was closed,
5 except for a few items that the applicant agreed
6 to come back to the board with at the next
7 hearing, and the application was then carried to
8 February 18, 2020.

9 At the February 18, 2020 meeting, the
10 applicant began with Mr. Keller's engineering
11 testimony, as to a few items. Mr. Keller
12 presented Exhibit A-11, and that's entitled
13 Supplemental Buffer Plantings, which supersedes
14 Exhibit A-10. He explained that the proposed
15 landscaping was designed to provide screening
16 from headlight glare near the roadway. He also
17 testified to the fence detail in that area along
18 the top of the retaining wall, and extending
19 northerly along the loop road. At that point,
20 the -- the retaining wall ends, so they had
21 extended the fence. And he also explained that
22 they changed to a composite fence in earth tone
23 to comply with comments from the board and its
24 professionals, and the requirements of the plan.

25 Mr. Keller also provided testimony as

1 to landscape maintenance for the site, the use of
2 fertilizers and pesticides, and winter storm
3 treatment for the roads. He answered questions
4 from the board members on those issues, and there
5 were also questions as to design of the
6 stormwater detention basins, and as well as
7 stormwater maintenance procedures.

8 Mr. Keller then presented Exhibit
9 A-12, Utility Plan. So this is Exhibit A-12.
10 And this was -- he used this exhibit to identify
11 the water main. Mr. Keller testified as to the
12 availability of domestic water for the project,
13 and that there was adequate flow and pressure for
14 the project for water, as well as for
15 firefighting. He testified that there was also
16 sufficient capacity, flow, and pressure in the
17 system for the project. He also answered
18 questions from the board as for construction, and
19 the fact that there was bedrock, shallow bedrock
20 on the property. He also, then, answered
21 questions from five members of the public.

22 Mr. Keller then introduced his last
23 exhibit, which is Exhibit A-13. And he
24 introduced this exhibit so the architect could
25 use it. It's a rendering to show the project

1 with respect to neighboring properties. So
2 Mr. Keller's engineering testimony was completed
3 at that time and they next began the testimony of
4 Mr. Jack Raker, who is the project architect.

5 So during his presentation, Mr. Raker
6 referred to Exhibit A-13, to show some of his --
7 to refer to some of his other exhibits, and
8 demonstrate the location of the proposed
9 buildings for the project.

10 Okay. Mr. Raker presented Exhibit --
11 he presented a package of exhibits, and they
12 were -- each sheet was individually marked. So
13 the first sheet was -- he presented was Exhibit
14 A-14, which is actually the site plan cover sheet
15 for the architectural plans, as last revised
16 December 31, 2019. Mr. Raker explained the
17 overall project, the number of units, and the
18 unit mix, and also the affordable unit mix. He
19 explained that there's 230 units with 46
20 affordable housing units; that is a 20 percent
21 set-aside. And of that, there are 42 one-bedroom
22 units, 142 two-bedroom units, with 26 of those
23 being two-bedroom-dens. He testified as to the
24 number of market-rate units and bedroom types,
25 and he confirmed compliance with the requirements

1 of the redevelopment plan by doing that.

2 For the affordable units, Mr. Raker
3 explained that, of the 46 affordable units, nine
4 will be one-bedroom, 27 will be two-bedroom, and
5 10 will be three-bedroom units. He testified
6 there will be 50 percent moderate-income units
7 and 50 percent low-income affordable units, and
8 that, of those low-income units, 13 percent will
9 be very-low-income affordable housing units. He
10 testified to the number of bedroom types for low
11 and moderate-income units, and he also testified
12 that the project complies with the affordable
13 housing regulations. Those are known as the
14 Uniform Housing Affordability Controls, or the
15 UHAC regulations.

16 Mr. Raker then explained that -- the
17 consideration that his firm took into account for
18 the site design, and so they took into account
19 the environmentally sensitive area, and they made
20 efforts to reduce impervious coverage in
21 designing the project, and, also, they considered
22 the grade of the property in the architectural
23 design of the project.

24 Mr. Raker then presented Exhibit
25 A-15, which is site plan sheet A-17. That shows

1 the two different building types for the six
2 residential buildings. There are two different
3 building types, which are either two or
4 three-story on one side, or four or five-story on
5 the other side. He described the elevation of
6 the buildings with respect to the grade of the
7 property. He describes the garages and parking
8 spaces associated with the units. He explained
9 that there are 107 parking spaces within the
10 buildings. And Mr. Raker also explained in his
11 testimony that all buildings are ADA compliant
12 and meet requirements for fire protection.

13 Mr. Raker then presented Exhibit
14 A-16, which is site plan sheet A-1. He used this
15 exhibit to show the plans for Building 1 -- I'm
16 sorry, in my last exhibit, I just wanted to make
17 a correction. I think I had said -- the
18 buildings for the project are two-story and four
19 and five-story, but it's two and three-story on
20 one side, and three and four-story on the other
21 side.

22 Okay. Going back to Exhibit A-16,
23 Mr. Raker presented Exhibit A-16, which is site
24 plan sheet A 1, to show the plans for Building 1.
25 He explained the layout for this building, the

1 number and location of units, and garages. He
2 also described the location of storage areas in
3 the building.

4 Mr. Raker then presented Exhibit
5 A-17, which is site plan sheet A-2.

6 He also presented Exhibit A-18, which
7 is site plan sheet A-3. He used these exhibits
8 to show Building 1 elevations, A-17 to show the
9 front of the building and A-18 to show the side
10 of the building.

11 He described the architecture --
12 architectural techniques they used to break down
13 the massing of the buildings. He also described
14 the materials for the buildings, and that they
15 were all high quality materials.

16 Next, he presented Exhibit A-19,
17 which is the site plan sheet A-4.

18 And he also presented Exhibit A-20,
19 site plan sheet A-5. And those exhibits were
20 used to explain Buildings 2 and 3, the layout of
21 those buildings.

22 He also presented Exhibit A-21, site
23 plan sheet A-6, and Exhibit A-22, site plan sheet
24 A-7. And those were to show Buildings 2 and 3
25 elevations from the front and the side. He

1 testified that all the buildings are in
2 compliance with the bulk requirements of the
3 redevelopment plan, including height. He
4 testified as to trash and recycling, and that the
5 project complies with municipal and county
6 requirements for recycling.

7 Mr. Raker then presented Exhibit
8 A-23, which is site plan sheet A-11, and he also
9 presented Exhibit A-24, which is site plan sheet
10 A-12. And he used those exhibits to explain the
11 layouts of Buildings 4 and 5.

12 He then presented Exhibit 25, which
13 is site plan sheet A-13, and he presented Exhibit
14 A-26, which is site plan sheet A-14, and he used
15 those exhibits to show buildings -- the
16 elevations for Buildings 4 and 5, from the front
17 and also from the side.

18 Mr. Raker then presented Exhibit
19 A-27, site plan sheet A-8, to explain Building 6,
20 the layout of that building and the units.

21 Mr. Raker also presented Exhibit
22 A-28, which is site plan sheet A-9, and Exhibit
23 A-29, which is site plan sheet A-10, and he used
24 those exhibits to show the elevations for
25 Building 6, again, from the front and from the

1 side, and to demonstrate compliance with the
2 redevelopment plan. During the course of his
3 testimony, Mr. Raker also responded to questions
4 from the board.

5 He next presented Exhibit A-30, which
6 is site plan sheet A-15, with the unit plan, and
7 Exhibit A-31, which is site plan sheet A-16, also
8 with more unit plans. He explained that these
9 are the unit types for the buildings. He
10 explained that some of the units would be
11 variations of a unit type. He also explained the
12 square footage of the affordable and market-rate
13 units in each unit type.

14 And using Exhibit A-31, Mr. Raker
15 explained that some of the market-rate units are
16 advertised as having a den, and he also testified
17 as to the measures the applicant will take to
18 ensure that the den is not used as a bedroom.
19 So, for example, having -- the den does not have
20 a closet, and, also, there were prohibitions in
21 the lease, and occupancy checks.

22 So, at that point, the planning board
23 concluded testimony on the application, due to
24 the late hour. Mr. Raker's testimony was not
25 finished, and the board and the applicant -- at

1 that time, BNE -- had discussed, you know, the
2 next hearing date for the application. At that
3 time, they were looking at the date of March 10,
4 2020, but as we all know, everything changed for
5 everyone on March 9, 2020, because the governor
6 declared a public health emergency on that date,
7 so the March 10th meeting did not go forward, and
8 the application was then listed on the agenda for
9 meetings on March 17, 2020, and April 21, 2020,
10 but those meetings were also canceled.

11 So as I mentioned earlier in my
12 presentation, on -- in May of 2020, on May 5th,
13 it was that BNE's counsel notified the board's
14 attorney that it had canceled its contract to
15 purchase the property. And after that, there was
16 some correspondence submitted to the board by
17 counsel for the owners, our law firm representing
18 the owners, Karka Investments and Phillip
19 Properties, and also by Weldon, by Mr. Butler,
20 submitted letters to the board as to whether the
21 board can continue the application.

22 There were planning board hearings
23 for the application held on May 19, 2020, and
24 June 16, 2020. At those hearings, there was no
25 testimony that was heard from the applicant's

1 witnesses. At the May 19, 2020 meeting, the
2 board considered whether to dismiss the
3 application because the former applicant, BNE,
4 had terminated its contract, and the owners --
5 our firm, on behalf of the owners, also attended
6 the meeting, and requested that the owners be
7 allowed to continue the application. And at the
8 conclusion of the May 19, 2020 meeting, the board
9 voted to dismiss the application without
10 prejudice.

11 Then, at the June 16, 2020 meeting,
12 the board considered a resolution to dismiss the
13 application without prejudice, and, ultimately,
14 the board did vote to adopt that resolution on
15 June 16, 2020. The application was then
16 dismissed.

17 The owners filed litigation, as a
18 result of that, on July 13, 2020, naming the
19 planning board, and as I mentioned earlier, that
20 lawsuit was resolved through a settlement
21 agreement, so that the application could be
22 continued.

23 So earlier this year, on February 16,
24 2021, the planning board voted to approve a
25 settlement agreement with the owners to dismiss

1 the lawsuit and allow the application to
2 continue.

3 After that, the settlement agreement
4 was also filed with the court, and it was
5 approved by the superior court to dismiss the
6 litigation.

7 Next, on April 16, 2021, the owners
8 filed a form, and the required escrow with the
9 planning board, so that the application could be
10 continued with the owners as the applicant. The
11 owners also amended the application to seek both
12 preliminary and final approval for the project.

13 And so, as I mentioned earlier, the
14 owners also then made a submission to the
15 planning board on May 11, 2021, and that was in
16 anticipation of the scheduled May 26th meeting.
17 We received review reports from the board's
18 professionals, and those were dated May 20th,
19 21st, and 22nd of 2021. The May 26th meeting
20 was, unfortunately, canceled, due to an issue
21 with the notice, but it was rescheduled and
22 renoticed for this evening.

23 And as I explained earlier, you know,
24 in the interim period, the applicant was
25 designated as redeveloper of the property, and

1 the applicant had also submitted documentation to
2 the board for Bonnie Burn Redevelopers Urban
3 Renewal, LLC, to be the applicant.

4 So that's the summary of prior
5 testimony. We've provided you with a summary of
6 all the prior hearings for the application.

7 So even though there were hearings in
8 May and June of 2020, there was really no expert
9 testimony presented at those meetings, or any
10 testimony as to the merits of the application.

11 So I'd like to pick up where we left off, which
12 was in the middle of Mr. Raker's testimony at the
13 February 18, 2020 meeting. Mr. Raker, as I
14 mentioned, he's the project architect, and he had
15 concluded this testimony at that time. He was
16 describing the unit layouts, and the last exhibit
17 he presented was Exhibit A-31.

18 CHAIRWOMAN SCHAEFER: So before you
19 continue, as I had mentioned, there are questions
20 of the testimony, there were questions that were
21 not answered, and I do want my planning board to
22 have the ability to ask those outstanding
23 questions.

24 I also have -- and I'm going to start
25 with my list -- before I do, I happened to find a

1 chat section to this whole forum, and some people
2 are stating that the audio is not working well
3 for them, and they cannot see the exhibits.
4 There's other people saying that the audio is
5 fine. We are fine on our audio on this end. You
6 can certainly call in, if you want, if you can't
7 hear via the computer.

8 As far as the exhibits, the exhibits
9 are up in front of us. Maybe it's the way you're
10 viewing it. Or if you can't, then go on to the
11 Watchung website, under planning board, and all
12 of the exhibits are there, that you can pull up
13 and look at. I just wanted to make that comment.

14 So I'm going to start with my
15 questions. And in October 15, 2019, you were --
16 we had agreed that you guys -- well, BNE was
17 going to show us -- some of these are minor, but
18 I want to get them on the record -- the actual
19 composite board-on-board. We had given a
20 recommendation of what type we wanted to see. So
21 they were going to come back and show us that.

22 We also needed to -- BNE also needed
23 to supply the landscape details on lawn
24 pesticides. We did not get that as of yet.

25 A question came up as to where is the

1 super actually going to be, and maintenance and
2 storage part of the clubhouse. Is that because
3 there's going to be maintenance and storage in
4 the clubhouse?

5 I know that Don has a question, so
6 I'll let him ask that, as far as the impact
7 study.

8 We talked about looking into
9 effective alternatives for pesticides, that was
10 in the January meeting.

11 Also needed to add where is the
12 generator, in clubhouse -- at the clubhouse going
13 to be, that was at the January 29th meeting.

14 The architect was going to supply a
15 different angle to a specific house, actually.
16 And I apologize if his name is -- if I'm saying
17 it wrong, but it's Malhotra, that was a public
18 who lived on Johnston Drive, was curious as to
19 what would they see. The architect was going to
20 come back with sight lines for that. Again, that
21 was at our January 29th meeting.

22 There was going to be a condition
23 using calcium chloride, that was in the February
24 meeting of 2020.

25 Question was how often would there be

1 occupancy checks, and are the leases -- we would
2 like to see that the leases include that.

3 I think that was it for my -- my
4 questions, that were out standing and still
5 needed to be addressed.

6 MS. DORY: Okay. Can I respond to
7 those?

8 CHAIRWOMAN SCHAEFER: Absolutely.

9 MS. DORY: Okay.

10 CHAIRWOMAN SCHAEFER: Can you take
11 the exhibits down, though? Unless you plan on
12 showing something.

13 MS. DORY: I was planning on showing
14 just one more exhibit.

15 CHAIRWOMAN SCHAEFER: Okay.

16 MS. DORY: Just to the composite and
17 the fence detail. So my understanding is this
18 exhibit was prepared to address that comment, and
19 that was testified to at the February 18, 2020
20 meeting.

21 CHAIRWOMAN SCHAEFER: Okay. So we
22 have that answer.

23 MR. LINNUS: What's the number of
24 that exhibit?

25 MS. DORY: The number of the exhibit

1 is A-11.

2 MR. LINNUS: Okay. Thank you.

3 MS. DORY: It's called Landscape Curb
4 Planting.

5 MR. LINNUS: Okay. Thank you.

6 MS. DORY: Okay. Your next question,
7 Madame Chair, was --

8 CHAIRWOMAN SCHAEFER: You still
9 needed to supply landscape details, along with
10 pesticides.

11 MS. DORY: Okay. There was a fair
12 amount of testimony by Mr. Keller at the February
13 18, 2020 meeting as to the use of pesticides.

14 CHAIRWOMAN SCHAEFER: Correct, there
15 was --

16 MS. DORY: So it's my understanding
17 that comment has been addressed -- I'm sorry?

18 CHAIRWOMAN SCHAEFER: There was
19 questions of organic types of pesticides. That
20 question actually came up from both Mr. Speeney
21 and Ms. Pennett, and they were going to look into
22 it and then get back to us.

23 MS. DORY: Okay. So I have conferred
24 with the applicant -- the current applicant, and
25 it's acceptable to the current applicant to use

1 organic pesticides.

2 CHAIRWOMAN SCHAEFER: Okay. The next
3 one was the super. Where was he going to be?

4 MS. DORY: Yes. And in our June 11th
5 submission, we had proposed that the
6 identification of the on-site super's unit be
7 identified as a condition of approval.

8 CHAIRWOMAN SCHAEFER: Okay.

9 MS. DORY: So that unit will be
10 identified, we just ask that it be identified as
11 a condition of approval.

12 MR. LINNUS: And that's not an
13 additional unit; that's part of the 230.
14 Correct?

15 MS. DORY: Correct.

16 CHAIRWOMAN SCHAEFER: And what about
17 the maintenance and storage, are they in the
18 clubhouse? Are we going to see where that is,
19 specifically?

20 MR. LINNUS: Yes, we will be
21 providing testimony from Mr. Raker to describe
22 the clubhouse.

23 CHAIRWOMAN SCHAEFER: Okay. Let's
24 see. So you've already said you're going to do
25 the organic pesticides, so that's answered.

1 Generator, has that been added in?

2 And what is that actually going to handle?

3 MS. DORY: My understanding is there
4 was a generator provided at the clubhouse --

5 CHAIRWOMAN SCHAEFER: Right. What's
6 the location?

7 MS. DORY: I thought we had
8 identified the location of the generator, but we
9 can certainly do that for the board.

10 CHAIRWOMAN SCHAEFER: That came up on
11 the January 29th meeting.

12 MS. DORY: Okay. It's my
13 understanding that that is -- that has been
14 located on the plans, and we can identify the
15 plan sheet for you.

16 CHAIRWOMAN SCHAEFER: Okay. Let's
17 see, the architect, maybe he'll bring this up, it
18 had to do with the sight angle to the one
19 resident on Johnston Drive. That was what he was
20 going to come back with, part of his testimony,
21 he needed to look into it. So I don't know if
22 he's going to testify to that this evening.

23 MS. DORY: Okay. Was that as to the
24 view for that property?

25 CHAIRWOMAN SCHAEFER: Correct.

1 MS. DORY: Yes. Okay. Yes, I
2 believe our architect will address that.

3 CHAIRWOMAN SCHAEFER: Okay. You're
4 going to be using calcium chloride, that was a
5 condition as of February 18th.

6 MS. DORY: Yes, we will be using
7 calcium chloride.

8 CHAIRWOMAN SCHAEFER: And then, how
9 often are occupancy checks done -- will be done?

10 MS. DORY: I believe it's done
11 annually, but I'll have to confirm that for the
12 board.

13 CHAIRWOMAN SCHAEFER: And then, well,
14 the lease is -- well, we want to see that
15 included in the lease, occupancy checks.

16 MS. DORY: Okay. Are you asking for
17 a copy of the lease? I'm not sure what the
18 question is.

19 CHAIRWOMAN SCHAEFER: We want to
20 know, is the occupancy check, however often, is
21 it included in the lease? Are they told how
22 often they're going to be checked,
23 occupancy-wise? Is it once a year? You know, in
24 the standard lease, does it state the tenant will
25 have -- will be subject to occupancy checks once

1 a year? twice a year? once a month?

2 MS. DORY: Okay. I don't have an
3 answer to that question, but I can find out and
4 get back to you.

5 CHAIRWOMAN SCHAEFER: Okay.

6 MS. DORY: My understanding,
7 though -- and I'll have to go back and confirm
8 this -- but my understanding was that was
9 testified to at the February 18, 2020 hearing,
10 that there were annual occupancy checks. But I
11 will confirm that information and get back to
12 you.

13 CHAIRWOMAN SCHAEFER: Yeah, I didn't
14 hear that, and I listened to everything again
15 just recently. But I could wrong, it's a lot of
16 testimony.

17 But as of February 18, 2020, I
18 specifically have here how often do occupancy
19 checks -- you did -- they did testify that the
20 leases will state it, but they still needed to
21 answer how often.

22 Also, we were going to make sure that
23 the dens/offices would not be used as a bedroom.

24 MS. DORY: Yes, so the -- just going
25 back to your earlier comment as to the occupancy

1 checks, so I have confirmed with the current
2 applicant that it is once a year that they will
3 do the occupancy checks.

4 And as to the den not being used as a
5 bedroom, there was also testimony at the February
6 18, 2020 meeting, by Mr. Raker, about the
7 measures they would take to ensure that the dens
8 were not used as bedrooms. And Mr. Raker had
9 testified that, you know, for example, there were
10 no closets in the dens, they would do the
11 occupancy checks, and that there would be
12 something in the lease, also, that would
13 prohibit, you know, multiple people -- excuse me,
14 that would prohibit the dens from being used as
15 bedrooms.

16 CHAIRWOMAN SCHAEFER: Okay. That's
17 it for my questions. I'm going to open it up to
18 my other planning board members for anyone who
19 has questions.

20 I see Karen's hand is up, so Karen
21 Pennett.

22 COMMISSIONER PENNETT: Okay. I have
23 a couple questions about traffic and school
24 buses. I understand the trucks and the garbage
25 trucks can get around and so forth. What about

1 school buses? And then, where will they be
2 stopping for the children? Will there be a
3 central location, or in front of each building?
4 I just want to make sure there's to be -- you
5 know, safety for the kids getting on and off the
6 bus, and then safety for the backup of the
7 traffic school buses usually cause.

8 CHAIRWOMAN SCHAEFER: That was
9 actually answered: They were going to be picked
10 up at the clubhouse, on October 15th.

11 COMMISSIONER PENNETT: Oh, okay.

12 And is there enough parking around
13 the clubhouse for the parents to drop their
14 children off? Because, a lot of times, I've
15 seen, in the past, watching current school buses,
16 you know, the parents are dropping the kids off
17 at the appropriate spot. And will they be able
18 to wait in the clubhouse?

19 MS. DORY: I don't recall those
20 questions specifically, but we did testify to
21 adequate parking for the project, and that it
22 complies with the requirements of the
23 redevelopment plan.

24 COMMISSIONER PENNETT: Okay. And
25 then, next question is about recycling and trash.

1 I remember there is, like, a closet or something,
2 where there will be a trash chute in each of the
3 buildings. Was there also going to be one for
4 recycling?

5 MS. DORY: Yes, my understanding is
6 that there was one for trash and one for
7 recycling. That was testified to by Mr. Raker at
8 the February 18 --

9 COMMISSIONER PENNETT: Okay.

10 MS. DORY: -- 2020 meeting.

11 MS. PENNETT: Okay. I didn't have
12 clear notes on it, so I just wanted to double
13 check that. So they'll be able to throw out the
14 trash and recycling in the same area. Okay.

15 MS. DORY: Right.

16 COMMISSIONER PENNETT: This might be
17 a new question. When I was looking at all your
18 designs and so forth that you sent in, over by
19 the clubhouse, you're going to be having charcoal
20 pits and playground areas. Will there be trash
21 bins and recycling bins, you know, sporadically
22 through that area for people to use.

23 MS. DORY: Our architect will be
24 providing testimony, hopefully this evening, on
25 the clubhouse.

1 COMMISSIONER PENNETT: Okay.

2 MS. DORY: So he can address that.

3 COMMISSIONER PENNETT: Okay. And
4 then, one other question, with -- you know, now
5 that we know that you're using the organic
6 pesticides and so forth, still, when you are
7 spraying, when you're spraying the grass and the
8 trees, will you be notifying the residents, so in
9 case people prefer to not go out at that time, or
10 not walk their animals? Will you be notifying
11 people when areas are being sprayed?

12 MS. DORY: Yes.

13 COMMISSIONER PENNETT: Okay. Also --
14 that's all for right now, thank you.

15 CHAIRWOMAN SCHAEFER: Any other
16 questions, board members? It's really hard to
17 see, so you'll have to speak up.

18 Let's go to the mayor.

19 MAYOR BALLA: Thank you.

20 Question, the design of the building,
21 it's pretty boxy, like, plain looking; certainly,
22 not any style I like. Is there any variety to
23 the style, with regard to, like, peaks, or
24 materials that they could interject, or colors,
25 so it's not just, like, a four-story big box?

1 MS. DORY: I believe Mr. Raker
2 provided testimony as to the variations in the
3 styles of the buildings and materials at the
4 February 18, 2020 meeting.

5 CHAIRWOMAN SCHAEFER: This is -- this
6 can come up from the mayor to Mr. Raker when he
7 continues his testimony this evening. Correct?

8 MS. DORY: I'm sure Mr. Raker can
9 provide some additional details on that.

10 MAYOR BALLA: Okay. Because my other
11 question is: Will the borough receive a detailed
12 rent roll of all tenants with their name,
13 address, phone, and emails?

14 MS. DORY: I don't have an answer to
15 that question. I don't recall that question
16 previously.

17 MAYOR BALLA: Okay. From a safety
18 standpoint, security.

19 MS. DORY: I'm sorry, you're asking
20 for a listing of all of the residents, and their
21 names?

22 MAYOR BALLA: Yes, all the residents,
23 name, address, and contact information.

24 MS. DORY: Okay. All right. Yes,
25 the applicant will provide that.

1 MAYOR BALLA: Yeah, because, with the
2 COVID, with this pandemic, that became a very
3 critical thing to have.

4 MS. DORY: Okay.

5 MAYOR BALLA: And then, my other
6 question relates to the actual area of
7 development is -- is how much? The area that
8 will actually be developed with buildings,
9 driveways, parking, and so forth.

10 MS. DORY: I don't have the exact
11 number with me offhand, but I believe it was --
12 it might have been around 15 acres. I'm going to
13 have to check that number and get back to you.

14 MAYOR BALLA: Okay. Yes --

15 MS. DORY: That was testified to
16 previously by Mr. Keller, I just don't have that
17 number offhand right here.

18 MAYOR BALLA: Yes, and part B of that
19 question -- of this question is, of that, say, 15
20 acres, what's the coverage with hardscape of that
21 15 acres? So how much is hardscape and how much
22 is actual lawn?

23 MS. DORY: Yes, and I recall that
24 Mr. Keller did testify to those numbers, but I
25 don't have them handy. But I can look them up.

1 MAYOR BALLA: Okay.

2 MR. LINNUS: Well, I understand
3 Mr. Keller's going to come back for testimony;
4 perhaps he can answer those questions.

5 MS. DORY: Yes, hopefully he can.

6 MAYOR BALLA: And one other -- with
7 regard to the traffic light, my understanding was
8 that the traffic light, if it's denied by Union
9 County, then you would seek other alternatives
10 for access?

11 MS. DORY: Yes, other alternatives
12 to -- for traffic control.

13 MAYOR BALLA: Okay. Because I
14 thought I heard you say that Mr. Keller said
15 there were no other alternatives; that they
16 weren't feasible.

17 CHAIRWOMAN SCHAEFER: Can I answer
18 that for a moment? I think, Mayor, you're
19 confusing it with access to the site. We were
20 looking for alternative ways if the main
21 boulevard got blocked or what have you. So we
22 were looking for additional access into the site.

23 The traffic light is a totally
24 different subject. If they don't get the traffic
25 light, they're going to have to come back in

1 front of us to give us a different safety way to
2 deal with traffic. It has nothing to do with
3 access into the site.

4 MAYOR BALLA: Okay. All right.
5 Thank you.

6 MS. DORY: Okay. And just to go back
7 to the mayor's two other questions that I didn't
8 have handy, the total limit of disturbance is
9 15.6 acres, and impervious coverage is 8.4 acres.
10 So 8.4 acres of what you'd call hardscape, and
11 then, the total limit of disturbance is 15.6
12 acres.

13 MAYOR BALLA: Okay. Thank you.

14 MS. DORY: You're welcome.

15 CHAIRWOMAN SCHAEFER: Mr. Pote, you
16 had your hand up. Go ahead, Steve.

17 COMMISSIONER POTE: I'm sorry, just
18 getting my mic back on.

19 First of all, thank you for the
20 summary, Ms. Dory. It was very helpful, looking
21 back at that. It, sort of, solidified some
22 things. A couple questions.

23 You talked tonight about Mr. Raker,
24 at some point, saying that the materials meet
25 requirements for fire protection. Are they

1 meeting minimum standards? Are they better than
2 minimum standards? I'm particularly concerned
3 about roofing materials, you know, is it a Class
4 A, B, C type thing, especially with the
5 four-story buildings that we have here, which
6 we're not used to having in Watchung. So that's
7 the first question.

8 Do you want me to just rattle through
9 the questions real quick?

10 MS. DORY: Sure.

11 COMMISSIONER POTE: Okay. The second
12 question was, in general -- this might be
13 something as we go into the next discussion --
14 it's been over a year. Have the materials, in
15 general, potentially changed, in terms of what
16 you want to use on this? Are there learnings
17 from the past that we can now use for this? I
18 guess, has anything changed in terms of what you
19 presented back then, in terms of materials, to
20 now?

21 Next question was you talked about
22 the composite fencing. Who's maintaining that
23 fencing? Is that being done by you all, or is
24 that something which we haven't yet talked about?

25 Occupancy checks, I thought

1 Mr. Healey may have made reference to is there a
2 person living on-site, potentially, who can be
3 doing things like occupancy checks, or is that
4 something coming from the outside?

5 And my final question is, I can't
6 remember, with regards to the sewerage,
7 utilities, whether Berkeley Heights has committed
8 and passed, you know, an ordinance supporting us
9 for that.

10 Thank you.

11 MS. DORY: Okay. The standards for
12 fire protection, I believe, were addressed by
13 Mr. Raker at the February 18, 2020 meeting. I
14 believe he also -- I thought he also addressed
15 fire protection for the attic. But I'm sure
16 Mr. Raker can address the roof, if he hadn't
17 before.

18 As to the materials, the materials
19 have not changed.

20 And the -- the maintenance -- I'm
21 sorry, what was the last question, with respect
22 to the superintendent? You're asking if he would
23 be doing the occupancy checks? Is that what you
24 asked?

25 COMMISSIONER POTE: The last three

1 questions were the maintenance on the composite
2 fencing, because you have trees that fall,
3 naturally, there's going to be maintenance
4 required on those fencing, while it looks
5 beautiful, you know, when it's in good shape, it
6 looks horrible when it's got a tree that has just
7 fallen on it.

8 Occupancy checks, I was just talking
9 about, you know, who'd be doing them, is it
10 on-site, is it by somebody who'd be living
11 on-site, et cetera.

12 And then I was wondering about the
13 Berkeley Heights sewerage.

14 MS. DORY: Okay. Yes, the
15 maintenance of the site would be done through the
16 superintendent. And the applicant would also
17 have an on-site team that would do the occupancy
18 checks.

19 And as to Berkeley Heights,
20 Mr. Keller's testimony in 2020, I believe, was
21 that Berkeley Heights had capacity -- sewer
22 capacity for the project. Hopefully, if we're
23 able to call Mr. Keller at the meeting later this
24 evening, he'll provide some additional details on
25 where the applicant is on obtaining sewer service

1 for the project.

2 COMMISSIONER POTE: Okay. Thank you.

3 MS. DORY: You're welcome.

4 CHAIRWOMAN SCHAEFER: Okay. Don?

5 VICE CHAIR SPEENEY: Thank you,
6 Tracee.

7 In the meeting of February 18, 2020,
8 there was a comment made about limiting two
9 people per bedroom in the contract. Is that
10 still valid?

11 MS. DORY: My understanding is that
12 the applicant is agreeing to that. So, yes, it
13 is still valid, yes.

14 VICE CHAIR SPEENEY: And changing the
15 subject, that permit was issued June 17th, from
16 DEP. And are we going to have a comment on that
17 from --

18 MS. DORY: Yes, I'm hoping that
19 Mr. Keller present the permit this evening, and
20 we can present it to the board.

21 Okay. And then, in the Bowman
22 report, there's an a -- a comment -- or,
23 actually, another response comment to the
24 variances required, and I would like to at least
25 get that back on record, as to why the variances

1 are going to be resolved, or how they're going to
2 be resolved.

3 MS. DORY: Do you want me to respond
4 to that?

5 VICE CHAIR SPEENEY: Yeah, go ahead.

6 MS. DORY: So I had mentioned earlier
7 in my presentation, at the time the application
8 was originally filed, there were -- there was
9 really one variance, and then there were three
10 other items that were -- I would say more along
11 the lines of a construction or design waiver.

12 The first variance was for an
13 undersized lot. That was the only variance that
14 BNE had really proposed for the application. And
15 that was because the -- the minimum lot size for
16 the property, at the time that BNE submitted the
17 application in 2019, was 41 acres, and there was
18 a 0.67 dedication for roadway for the project,
19 and that reduced the minimum lot size.

20 VICE CHAIR SPEENEY: Excuse me,
21 that's -- that's not the variance that I was
22 referring to. The variances and waivers that I'm
23 referring to were in Mr. Matias's report, where
24 he lists number 2, number 3, number 4, on his
25 page 2.

1 MR. LINNUS: Don, what's the date of
2 that report, Don? The date. The date of the
3 report, for the record.

4 VICE CHAIR SPEENEY: May 22, 2021.

5 MS. DORY: Okay. So, I'm sorry,
6 could you just let me know --

7 CHAIRWOMAN SCHAEFER: Please, let me
8 stop you for a moment.

9 Don, on those -- I'll let her answer
10 the question; however, that report for Mr. Keller
11 comes back -- it's Mr. Keller?

12 MS. DORY: Right.

13 CHAIRWOMAN SCHAEFER: When he comes
14 back to give testimony, that's where we're going
15 to have the report reviewed by the applicant.

16 VICE CHAIR SPEENEY: Okay.

17 MS. DORY: I'm fine with her
18 answering your question, I just want to let you
19 know that's how I want to handle it, to make it a
20 little more stream lined.

21 VICE CHAIR SPEENEY: All right. So
22 he will address the content of the Bowman report?

23 CHAIRWOMAN SCHAEFER: The engineer
24 will address our professional's report --

25 VICE CHAIR SPEENEY: And same person

1 will discuss the permit that was issued June 17,
2 2021?

3 CHAIRWOMAN SCHAEFER: Ms. Dory?

4 MS. DORY: Yes, Mr. Keller --
5 correct, yes.

6 VICE CHAIR SPEENEY: Mr. Keller, he's
7 going to raise his price to come.

8 Okay. I'm done.

9 CHAIRWOMAN SCHAEFER: Okay. Paul, I
10 thought you had your hand up.

11 MR. FIORILLA: Yeah, thank you.

12 You know, this project was designed,
13 and we heard it, you know, a year and a half or
14 so ago, which -- pre-pandemic, you know, which,
15 in the real estate world, is like another era.
16 The pandemic has created a lot of changes in the
17 way people use real estate, all kinds of real
18 estate, and the demand for real estate. So I was
19 just curious as to whether you have considered or
20 planned to implement any design changes to, kind
21 of, address things, like, you know, the work from
22 home; concerns about health and safety that are
23 raised as a result of the pandemic; you know,
24 common area. You know, these are all these
25 things that have -- you know, there's, sort of,

1 an evolution, just in the last year, year and a
2 half, as a result of COVID. So, you know, this
3 is basically exactly the same, or are you
4 changing anything to address demand changes among
5 occupiers?

6 MS. DORY: I think there might be
7 additional testimony from our architect on that.
8 My understanding is that they -- they have
9 offices in the clubhouse. There are also outdoor
10 amenities. And there's also dens in the units to
11 allow for work from home. There's no specific
12 changes to the plans, but those are some items
13 that are -- exist in the plans, I think, that
14 address your comment.

15 MR. FIORILLA: Okay. Thanks.

16 One other question would be we're
17 talking about the number of people, the bedrooms
18 be -- and I don't know, this might be a legal
19 question -- is there anything in the lease about,
20 you know, like, Airbnbs, you know, using it as a
21 rental, using units for rentals?

22 CHAIRWOMAN SCHAEFER: Subletting?

23 MS. DORY: I don't know. I don't
24 have an answer to that. My understanding is that
25 the leases don't allow sub lease.

1 COMMISSIONER PENNETT: Wait, could I
2 chime in on Paul's question? Wasn't there an
3 ordinance put in town that there were no Airbnbs
4 in Watchung?

5 CHAIRWOMAN SCHAEFER: Yes, you're
6 right, Karen, but subletting is another entity.

7 COMMISSIONER PENNETT: Oh, okay.

8 Councilman -- Paul, are you done?

9 MR. FIORILLA: Yes.

10 CHAIRWOMAN SCHAEFER: Councilman
11 Martino, you had your hand up. We can't hear
12 you. Nope, cannot hear you. You want to call
13 in?

14 Okay. While he's trying to figure
15 that out, does anybody else have any questions
16 from the planning board?

17 COMMISSIONER PENNETT: Tracee, I do
18 have one other -- maybe two other questions.
19 This might -- if the architect's going to be
20 speaking, I just had a question about the fire --
21 the stairwells, and them being used as fire
22 escapes, because there's usually -- and Pete --
23 Councilman Martino, because he's a professional
24 fireman, about, you know, two stairwells for fire
25 escapes going into one hallway, and on one exit

1 out of the building, if that was -- you know, met
2 the standards, met the codes is.

3 MS. DORY: Yeah, Mr. Raker, the
4 project's architect, testified at the February
5 18, 2020 hearing, that, you know, the project
6 complies with fire requirements, and fire
7 protection requirements. But Mr. Raker will
8 be -- he will continue his testimony this
9 evening, so I'm sure he can address that as well.

10 COMMISSIONER PENNETT: Okay. Thank
11 you.

12 CHAIRWOMAN SCHAEFER: Councilman?

13 COUNCILMAN MARTINO: Madame Chair,
14 can you hear me now?

15 CHAIRWOMAN SCHAEFER: We can hear you
16 now.

17 COUNCILMAN MARTINO: All right.
18 Thank you.

19 This goes back to the occupancy
20 checks, which I'm assuming we're talking about,
21 like, a certificate of habitability, if I'm not
22 mistaken. And I just want everybody to know we
23 already have that in our ordinance, Chapter 27.
24 So I don't know if Ms. Dory wants to review
25 Chapter 27. It also touches upon the mayor's

1 question, to each rental unit has to be
2 registered with the borough clerk prior to each
3 change in occupancy.

4 So a lot of this stuff was already
5 established within our borough. We have a --
6 right now, we have it as a 24-month minimum
7 reinspection, or every time a unit changes
8 occupancy, but I'll be -- I'll give you a little
9 information, [inaudible] ordinances is reviewing
10 this policy now, to maybe up it to an annual
11 inspection by the borough. So I'm not sure if
12 that's what everyone's concern was, but we
13 already had that within our ordinances, and it
14 includes a rent roll, just so everybody knows.

15 MS. DORY: Okay. Thank you. And the
16 applicant will comply with municipal ordinances.

17 COUNCILMAN MARTINO: Thank you.

18 CHAIRWOMAN SCHAEFER: Thank you.

19 Any other questions, before I let
20 Ms. Dory continue with her first new witness?

21 COMMISSIONER NORA: Tracee, can I ask
22 a couple questions?

23 CHAIRWOMAN SCHAEFER: Absolutely.

24 COMMISSIONER NORA: All right. I
25 have a couple random questions here, so bear with

1 me, and thanks for listening. I've picked this
2 up from some of the readings and the notes, and
3 it's a follow-up to some of the other points that
4 were raised.

5 Regarding the trash, is that going to
6 be a daily pickup? You know, do we have an idea
7 of volume of trash going in and out?

8 MS. DORY: I believe the testimony at
9 the February 18, 2020 meeting by Mr. Raker was
10 that trash will be picked up as needed, and so if
11 there was more trash --

12 COMMISSIONER NORA: So do you have an
13 estimate? Is it daily, like, one big garbage
14 truck daily, or twice a day, or once a week?

15 MS. DORY: No, the testimony at the
16 February 2020 meeting was that it was done as
17 needed, so if there was some, you know, increase
18 in trash, that that would be -- they would be
19 monitoring that; it would be picked up more
20 regularly, if needed.

21 COMMISSIONER NORA: Next question was
22 that, along with the live-in superintendent, will
23 there be any other employees on staff, like
24 administration or office staff?

25 MS. DORY: My understanding is that

1 there will be on-site staff on the project; I
2 don't know how many others.

3 COMMISSIONER NORA: Okay. And could
4 you get a description of who and, you know, what
5 other administrative support would be required
6 there?

7 MS. DORY: Okay. We can certainly
8 provide that information. I do know that there
9 will be a community manager.

10 COMMISSIONER NORA: Okay.

11 MR. BUTLER: Madame Chair, this is
12 Bill Butler. I want to make a comment at this
13 point.

14 CHAIRWOMAN SCHAEFER: We're not ready
15 for you, Mr. Butler. I have a --

16 MR. BUTLER: But you -- you have a
17 lawyer testifying. All these questions in the
18 last hour have been directed to the attorney, and
19 she's testifying. Witnesses are supposed to
20 testify, not lawyers.

21 COMMISSIONER NORA: I just have a few
22 questions left.

23 CHAIRWOMAN SCHAEFER: Wait a minute.
24 Yvette, hold on.

25 Mr. Butler, what she's doing is she's

1 giving us the answers of previous testimony that
2 has been given since 2019. She's not testifying
3 on anything new. She's just giving us the
4 testimony that's already been done.

5 Frank, am I wrong?

6 MR. LINNUS: No, you're absolutely
7 correct.

8 MR. BUTLER: And I have no problem
9 with a recap. Listen, I think she did a good
10 job --

11 MR. LINNUS: Excuse me, Mr. Butler.
12 The part of the settlement agreement was to
13 allow --

14 (Indiscernible cross-talk.)

15 MR. BUTLER: There were many new
16 questions asked --

17 MR. LINNUS: Excuse me. Whatever
18 Ms. Dory said is not testimony. The testimony is
19 as presented by the applicant's witnesses. She's
20 just recapping a history of what has occurred in
21 these proceedings. So the board is not receiving
22 this information as evidence.

23 On the issue of conditions and prior
24 questions, it's quite typical for the attorney to
25 respond to the board as to whether her client

1 will agree to certain conditions should there be
2 an approval. And, basically, that's all I heard
3 this evening.

4 MR. BUTLER: I agree with that.

5 MR. LINNUS: This is a continuation
6 of a public hearing based on a settlement. There
7 will be additional testimony, at which time every
8 member of the public, including you and your
9 client, will have the opportunity to question
10 every witness that is being presented. This
11 hearing is not over; it's a continuation of a
12 hearing, and tonight was the initial recap, for
13 purposes of the board and the public to hear a
14 recap as to what happened in the last year or so.
15 This is -- the last time the board heard this
16 application was about a year ago. So, right now,
17 what's being done is quite appropriate.

18 CHAIRWOMAN SCHAEFER: Okay.

19 Ms. Nora, please continue.

20 COMMISSIONER NORA: Thank you.

21 Regarding the fire safety, are carbon
22 monoxide detectors required, or will they be
23 installed in the units?

24 MS. DORY: I don't have an answer to
25 that specific question, but Mr. Raker did testify

1 at the February 18, 2020 hearing that the project
2 complies with, you know, fire protection
3 requirements. He is also available for testimony
4 this evening; if you'd like him to address that
5 specific question, I believe the answer will be
6 yes.

7 COMMISSIONER NORA: Okay. Next
8 question, I think, in -- in your application, it
9 says you're complying with consideration of
10 camera systems. Does that mean that a camera
11 system will be installed?

12 MS. DORY: Mr. Raker will be
13 providing testimony as to cameras on the
14 property.

15 COMMISSIONER NORA: Okay. All right.
16 Can you elaborate on the smoking policy? I know
17 it's smoke free in the clubhouse, and I assume
18 allowed inside the units, but along the rest of
19 the property, is there a smoking policy?

20 MS. DORY: I don't recall if that was
21 a question before. Mr. Raker's to testify this
22 evening. I understand, though, that the outside
23 areas are smoke free.

24 COMMISSIONER NORA: Okay. Two more
25 questions.

1 There's only one way in and out of
2 the complex. Is that correct?

3 MS. DORY: Correct.

4 COMMISSIONER NORA: So there's no
5 backup egress --

6 MR. LINNUS: Let's wait for the
7 traffic testimony that we're about to hear at
8 some point in these proceedings, so he'll respond
9 to your question.

10 COMMISSIONER NORA: Okay. I'll save
11 that for later.

12 MS. DORY: I would like to mention,
13 though, that Mr. Keller did testify as to this
14 issue. I believe, at the October 15, 2019
15 meeting, it might have come up, and then, again,
16 in the hearings in 2020. And they did actually
17 go to the DEP to look into whether the old
18 driveway could be used as an alternative access,
19 and that was not possible, due to the
20 environmental constraints of the property. So I
21 believe Mr. Keller has previously testified to
22 this.

23 MR. LINNUS: But Mr. Keller is coming
24 before this board, as I understand it, to
25 continue his testimony.

1 MS. DORY: Yes, correct. I just
2 wanted to point out that I think this issue was
3 already addressed in prior testimony, but, yes,
4 he is available.

5 COMMISSIONER NORA: Okay. And my
6 last question -- there were a lot of questions
7 about the lease, and what would be included in
8 it -- would it be possible to get a copy of the
9 proposed lease, for the tenants?

10 CHAIRWOMAN SCHAEFER: I don't know if
11 that's our purview. Frank?

12 MR. LINNUS: Yes, we can ask for a
13 copy of the lease for the proposed tenants,
14 because there were a couple of issues that were
15 raised; most notably, the debt issue, and a
16 couple of other issues. Weldon needs to be
17 included in the lease -- the notification to
18 these parties that they are proximate to the
19 quarry. So, yes, we can request that as a
20 condition of approval.

21 MS. DORY: The applicant will agree
22 to that condition.

23 COMMISSIONER NORA: That was all from
24 me. Thank you.

25 CHAIRWOMAN SCHAEFER: Thank you,

1 Yvette.

2 Don?

3 VICE CHAIR SPEENEY: Yeah, mostly
4 comment on the ultimate ingress/egress that we
5 were working on way back. I was trying to
6 encourage the applicant, at that time, to
7 consider an alternate ingress/egress, and, again,
8 they said they couldn't do it, because DEP,
9 somebody said you can't.

10 But the thing was there -- there was
11 a blacktop in parallel with the boulevard entry
12 and exit, and that's what I was trying to get as
13 an alternate ingress/egress, at least on an
14 emergency basis. So that's -- that subject is
15 something that the board was very much aware of,
16 and I'm hoping to still get another shot at it
17 later.

18 CHAIRWOMAN SCHAEFER: Yeah, so --

19 MS. DORY: Sorry, my understanding is
20 this was testified to by Mr. Keller at length at
21 the prior hearings. You know, Mr. Keller did
22 testify that the entrance complies with the
23 Residential Site Improvement Standards; however,
24 I know that the board had many questions about
25 this, and was very concerned about whether there

1 was alternative access. And I recall, from the
2 prior testimony and transcripts, that it was
3 discussed, as I mentioned, whether the old
4 driveway could be used as access, and that was,
5 kind of, ruled out by DEP.

6 There was also, I believe, some
7 discussion about maybe some access along the
8 stormwater route, and I think that was also not
9 available as an alternative access.

10 So my understanding is that that
11 was -- that Mr. Keller did testify to this, but
12 hopefully he will be able to testify this evening
13 again, and he can recall some of that for you.

14 CHAIRWOMAN SCHAEFER: Okay. Any
15 other questions before we move on?

16 Okay. You want to call, I guess,
17 Mr. Raker?

18 MS. DORY: Yes.

19 MR. LINNUS: So, Mr. Raker, I don't
20 know whether you were sworn in before, I assume
21 you were, but for purposes of this record, do you
22 mind raising your hand again, wherever you are?

23 J A C K R A K E R, having been duly
24 sworn, testified as follows:

25 MR. LINNUS: Your witness, Counsel.

1 DIRECT EXAMINATION

2 BY MS. DORY:

3 Q. So, Mr. Raker, you prepared and
4 supervised the architectural plans that were
5 submitted to the board for this application. Is
6 that correct?

7 A. I did.

8 Q. And I believe where we left off
9 with your testimony from the February 18, 2020
10 hearing was that you were in the middle of
11 describing the residential buildings and the
12 unit layouts, and then you were going to address
13 the amenities. So do you have further testimony
14 on the units that you'd like to provide?

15 A. I do. I was really at the end of
16 my testimony, very close to the end of my
17 testimony last time. So I'm -- majority of what
18 I'm going to be showing you, I'll walk you
19 through the clubhouse, but the majority of
20 things I'm going to be showing the board is
21 images. So I'll walk you through those, and
22 then I'll answer any of the questions that were
23 from previous testimony that need to be cleared
24 up, and we'll go from there.

25 I do have something to share, so I

1 can share my screen, Nicole?

2 Q. Okay. I believe where we left off
3 with the exhibit numbers, the last exhibit was
4 A-31, so the next exhibit would be A-32.

5 MS. DORY: And Mr. Linnus, would you
6 like Mr. Raker to continue with each page being
7 marked as a separate exhibit?

8 MR. LINNUS: Yes. So we're on A-32,
9 so the first question would be for Mr. Raker to
10 identify what A-32 is.

11 (Whereupon, Exhibit A-32 is marked
12 for identification.)

13 A. Okay. I'm going to share my
14 screen.

15 So, previously, at the last
16 meeting, I shared with you the plans of the
17 units, and A-32 is the plan -- or an image of
18 other units that this developer has constructed,
19 and that will be very similar to these units,
20 similar in appointment, and similar in style.
21 But I just wanted to go over -- the board was
22 very concerned about the finishes within the
23 units, and the amenity of the units themselves,
24 so a picture tells you that -- exactly what you
25 want to see.

1 You know, stainless steel
2 countertops, stainless steel appliances are
3 something that's very popular now days; those
4 will be in the units. High-quality cabinets,
5 and countertops, stone, either granite of some
6 sort, very modern, well-designed, high-style
7 kitchens are sought after by, you know, a very
8 discriminating renter.

9 And then, additionally, living
10 spaces, very well-appointed, very well open --
11 open kitchens --

12 MR. LINNUS: Mr. Raker, excuse me.
13 You've now gone on to A-33. You want to describe
14 A-33?

15 MR. RAKER: That's correct.

16 (Whereupon, Exhibit A-33 is marked
17 for identification.)

18 A. A-33 is a shot of -- a photograph
19 of another unit that this developer has
20 constructed. This shot is from the kitchen into
21 the living space, showing that these spaces are
22 all open to one another, very well appointed,
23 stone countertops, and would simulated floors,
24 these are a hard surface floor, very durable.
25 They have a great look, that the buyer really --

1 the tenant really looks for, you know, luxury
2 apartment.

3 And those are just the two images.
4 I just wanted to show them, so that you had an
5 understanding of what they looked like.

6 (Whereupon, Exhibit A-34 is marked
7 for identification.)

8 A. The next -- the next -- the next is
9 A-34, and that's dated today. On the
10 architectural plans it was sheet A-18. These
11 are the plans of the clubhouse. The plan on the
12 left was the ground floor plan; the plan on the
13 right is the upper floor plan.

14 The plan on the left shows a
15 vestibule entry, and as you enter in, a
16 two-story living space -- I'm assuming everybody
17 can see my cursor and where I'm pointing as I go
18 through. Is that correct?

19 CHAIRWOMAN SCHAEFER: Yes, you're
20 good. Thank you.

21 MR. RAKER: Great.

22 A. To the right, there's a leasing
23 center. And this is, really -- this is, sort
24 of, the welcoming center for future tenants, and
25 visitors coming to -- this is occupied by

1 leasing agents. They'll manage the -- the
2 operations of the -- of the community during the
3 day, and they, you know, have control of showing
4 apartments, greeting tenants as they come in.
5 And in there, there's a leasing area, there's
6 two offices, small kitchenette, and some package
7 room here as well.

8 One of the things I wanted to point
9 out is, you know, all over these -- these
10 apartments, there are security cameras, in all
11 the public spaces, on entry doors. And each
12 entry is fobbed, and every tenant who leases
13 here gets a key fob that allows them access to
14 these spaces. Each of these keyed locations is
15 programmable. So access to any of these
16 locations can be programmed to the -- to the
17 developer's liking, the operator's liking. So
18 if they only want to provide access to the -- to
19 a fitness room, during certain times, they will
20 only allow access during those times. If they
21 want to allow access to the lobby from certain
22 times, they can do that by controlling these fob
23 keys. And it's the same with the -- with the
24 apartments as well. The fob key allow you
25 access to your building, and to your unit, and

1 to the clubhouse, and all of that is managed
2 through programming access.

3 And then, so you walk through into
4 this nice two-story lobby. To the right, I
5 described there was a leasing space. To the
6 left, there's a mail room; this is where tenants
7 will go, pick up their mail. There is also some
8 package lockers, a lot of things that people are
9 ordering a lot of things online. We do do
10 package lockers, so that UPS and FedEx can drop
11 off packages, put the packages in the lockers.
12 In those lockers, they close the button, the
13 tenant gets an email that they received a
14 package, they can then stop by the clubhouse to
15 pick up that package.

16 For larger items, like people
17 ordering furniture, there's a lot of that being
18 done, we do have an oversized package room.
19 That is managed, usually, by the leasing agent,
20 and picked up during the hours that the leasing
21 agent is there.

22 So in this, we have a stairwell in
23 here, and an elevator. Those bring you access
24 to the upstairs. As you come out the elevator
25 or a stairwell, you come into an open classroom.

1 And I'll show you some pictures later on of what
2 some of these spaces look like, of projects that
3 this developer has completed.

4 So in this large space, the front
5 area, you have a nice seating area, a little --
6 I call it a bar area, but it's not really a bar,
7 it's just a counter top space that, if you
8 wanted to do some catering, there's a small --
9 maybe a small under-counter fridge, or
10 under-counter dishwashing, but it's not really
11 visible, it's not like a kitchen. Maybe a sink
12 to wash some dishes.

13 And then, here is a place where you
14 could set up some catering food, and have a
15 small, you know, 50th birthday party or
16 something, rather than have a tenant do it in
17 their room.

18 And this space opens up to a small
19 area where you have some gaming, there's a pool
20 table, maybe some foosball, things of that
21 nature.

22 There's also some areas off to the
23 side where there's -- what's very important now
24 days is to have office space, or co-work -- what
25 we call co-work space. And this co-work space

1 is just small areas where, if you choose to work
2 in -- get together, or just sit in a cubicle
3 make some phone calls privately, all of this
4 seating out here is Wi-Fi enabled, so you can
5 get work at any of these seating in these areas,
6 and if you need to do work privately, you can
7 jump into one of these little office or
8 conference areas to get work done privately.

9 Additionally, we have a finance
10 area over here, and an on -- what we call --
11 it's labeled as spin and yoga, but it is on
12 demand fitness area. That is here. And that's
13 where -- they'll bring in an instructor, or
14 there'll be a screen on TV. Some of you are
15 familiar with things like Peloton, that's
16 similar fitness type happens in that space.

17 And, additionally, a small theater
18 room where people can gather to watch some maybe
19 larger sporting events, movies, et cetera, all
20 of this managed by the developer and the
21 management team, for the purpose of getting all
22 of the people together, get to know one another
23 in this community.

24 These doors access out the back to
25 patio area and the pool. And I'll show you some

1 photographs of the other pool and amenity that
2 is typically outside of these spaces.

3 I'm going to move on to the next
4 exhibit, which is A-35.

5 (Whereupon, Exhibit A-35 is marked
6 for identification.)

7 A. These are the clubhouse elevations.
8 First is the front elevation on the left. That
9 shows that the materials are similar to the
10 materials shown in the previous testimony to the
11 buildings, very durable, high-quality materials,
12 brick and siding, fiber cement siding, as well
13 as a -- like, accent copper roofing, you can see
14 the accent metal roofing, maybe, like, a
15 simulated copper look or a colored material
16 there. But it's accent metal roofing that is
17 shown here. And accent details, such as a nice
18 focal point -- remember, this clubhouse, and
19 this elevation, is what you see as you drive up.

20 To the right, I'm showing the right
21 side elevation. This shows the grading -- how
22 the grading works. Remember, as I testified to
23 previously, there's a lot of -- the sloping
24 characteristic of the site, rather than, you
25 know, build large retaining walls, and build our

1 buildings on a flat site, we chose to work with
2 the grades, and allow the buildings to do their
3 own retaining, and we felt this was a much
4 better way to approach constructing on the site.
5 And you can see it in this elevation, we still
6 maintain the same high quality materials as we
7 did on the front elevation, as they wrap around
8 to the rear.

9 I'll move to the next exhibit. The
10 next exhibit is A-36, clubhouse elevations.
11 These show the rear elevations.

12 (Whereupon, Exhibit A-36 is marked
13 for identification.)

14 A. You'll notice the one on the left
15 is the rear elevation. This fronts the pool and
16 amenity deck. There's lots of glass shown on
17 this elevation, as people can now look at to
18 those -- that space. And, again, a very similar
19 elevation, the right elevation, left elevation,
20 grade sloping in the opposite way.

21 I'm going move on now, I'm going to
22 go through a series of pictures and describe the
23 spaces that I had mentioned previously, you
24 know, that were brought up during my previous
25 testimony. Some of these pictures are a little

1 bit smaller, I do have to zoom in and out.

2 (Whereupon, Exhibit A-37 is marked
3 for identification.)

4 A. This is a picture from an amenity
5 space that has nice tall ceilings --

6 MR. LINNUS: Mr. Raker, excuse me,
7 for the record, this is A-37?

8 MR. RAKER: That's correct, A-37.

9 A. And this is, again, another
10 clubhouse that was constructed by this
11 developer, showing you the high-quality
12 materials on the floors. This is, again, that,
13 sort of, kitchen area that I was describing as
14 maybe a serving kitchen, or a -- where you could
15 put some catered food on here, if you wanted to
16 have a party in here. Showing a pool table as
17 well. Nice little fireplace and seating area to
18 sit around the fireplace. And again, this is
19 not -- this particular clubhouse, this was a
20 similar clubhouse that was done by this
21 developer.

22 (Whereupon, Exhibit A-38 is marked
23 for identification.)

24 A. Another small, intimate sitting
25 area, places for people to sit and work --

1 MR. LINNUS: Mr. Raker, again, we're
2 trying to create a record here. Would you
3 identify the exhibit, please?

4 MR. RAKER: A-38, dated 06/29/21.

5 MR. LINNUS: Okay. Proceed.

6 A. And, again, this shows some -- just
7 even as simple as providing -- the question was
8 asked earlier by one of the council members, how
9 do we handle the designs of providing working
10 spaces for tenants to go and get out of their
11 apartments, and go sit down at the clubhouse,
12 and work from home, but they're still in an open
13 area where there may be some others working,
14 they feel like they're safely not cooped up in
15 their apartment, but they can come out to the
16 clubhouse and get some work done in these
17 spaces.

18 And there's -- you see some of the
19 seating areas against the wall over here, some
20 small seating areas, the banquette seating areas
21 in and around the fireplace, all of which can be
22 done -- most work is done on a laptop now days,
23 and then, off the one side.

24 I'll show you some other pictures,
25 some areas where you can jump into and get

1 some -- make a private phone call and not be
2 disturbed.

3 (Whereupon, Exhibit A-39 is marked
4 for identification.)

5 A. Another photograph of a fitness
6 area. You did see well-appointed, great
7 services --

8 MR. LINNUS: Mr. Raker, once again,
9 please --

10 MR. RAKER: This is A-39 --

11 MR. LINNUS: We're trying to create a
12 record here.

13 MR. RAKER: -- 06/29/21. This
14 exhibit is A-39, 06/29/21.

15 (Whereupon, Exhibit A-40 is marked
16 for identification.)

17 A. I'll go to the next one, A-40,
18 06/29/2021, showing a small area for a
19 conference area. You can see the seating, the
20 way it's arranged. There's some seating around
21 a table that can be used as a conference area.
22 Again, some adjacent seating against the window.
23 And then, some small areas where you can escape
24 behind some glass, in the back right here, to
25 make a private phone call.

1 (Whereupon, Exhibit A-41 is marked
2 for identification.)

3 A. A-41, 06/29/21. This is a little
4 bit closer of some of those spaces, where you
5 can jump into, close the door, make a phone
6 call, get the work done, without hearing any of
7 the noise that's in the clubhouse.

8 (Whereupon, Exhibit A-42 is marked
9 for identification.)

10 A. A-42, 06/29/21, this is another
11 area of -- just a different view of that last
12 space that I showed, with some banquette seating
13 in the corner, but -- this allows a couple of
14 people to get some work done. They're not
15 interacting, but they're in the same room. It's
16 just a -- it's just done with some great layouts
17 in the furniture plans, and allowing people to
18 get their work done in a great environment.

19 This next exhibit is A-43.

20 (Whereupon, Exhibit A-43 is marked
21 for identification.)

22 A. We haven't identified a location
23 for this in the plan yet. These are becoming
24 very popular. We may find one in the lower area
25 of the clubhouse, tucked off in a corner. It's

1 a pet wash area. These communities are pet
2 friendly, and rather than, if you wash your pet
3 in your apartment, we offer the ability that
4 they could wash their pet in a small room.
5 There is even some below-drying areas that they
6 can below-dry their pets after -- the after
7 they're washed. Again, this was A-43, 06/29/21.

8 (Whereupon, Exhibit A-44 is marked
9 for identification.)

10 The next few slides that I'm going to
11 show you aren't of anything inside the clubhouse;
12 they're amenity areas outside the clubhouse. And
13 while I didn't present any layout or plan that
14 was done by the civil engineer, you know, seeing
15 them in plan is one thing, but seeing what these
16 spaces actually feel like as photographs is very
17 helpful. So I'm going to show you what some of
18 these spaces this developer has done, you know,
19 on other projects, and plans to do similar spaces
20 here.

21 You can see these outdoor seating
22 areas, trellis and shading areas.

23 CHAIRWOMAN SCHAEFER: This is Exhibit
24 A-44?

25 MR. RAKER: A-44, 06/29/21.

1 A. You can see the trellis seating
2 areas. Again, a lot of that space that's inside
3 of the clubhouse is now brought out on the
4 nicer -- for the nicer weather days.

5 (Whereupon, Exhibit A-45 is marked
6 for identification.)

7 A. This is Exhibit A-45, 06/29/21.
8 You can see some additional trellis areas. This
9 shot's taken a little bit more in the evening,
10 fire pit area, some seating around the fire pit
11 places. These are all gas fire pits. They're
12 managed and controlled by maintenance, they're
13 shut off at certain times, so that gathering
14 doesn't happen too late in the evening. But
15 they become very popular spaces for tenants to
16 gather during that time.

17 Q. Mr. Raker, there was a question as
18 to trash areas near the fire pits. Will there
19 be trash areas near the fire pits?

20 A. There will. Again, while they're
21 not shown on plans, because they're just simply
22 trash cans, there will be recycling and trash
23 cans placed throughout these areas, so that
24 tenants can recycle -- both recycle, be
25 encouraged to recycle, and throw trash away.

1 (Whereupon, Exhibit A-46 is marked
2 for identification.)

3 A. This exhibit is Exhibit A-46. It's
4 a shot of another pool area that this developer
5 has constructed. Very well done. Nice seating
6 areas, lounging areas around the pool. And
7 then, all of the units do, like, have views down
8 to the pool deck as well. So it's a very
9 well-appointed area that creates a nice view
10 from your room.

11 And that's the last slide I have
12 from the amenity areas. I'm going to just talk
13 a little bit about some of the other items.

14 So I think there was a question
15 about emergency access into some of these
16 spaces. There's is something -- you know, like,
17 the tenants, while they all have the key card,
18 emergency access is provided with a Knox Box.
19 All of the -- all emergency services have access
20 to that Knox Box, so that gives them access to
21 these spaces. And they're provided on all the
22 buildings as well.

23 Q. And Mr. Raker, before you go on to
24 your next item, I just wanted to confirm:
25 You've reviewed the requirements of the

1 redevelopment plan, and did you make sure that
2 the plan complies with the light -- as respect
3 to the layout of the clubhouse?

4 A. That's correct, it does comply, it
5 complies with all the ordinances, as far as
6 height and area, the clubhouse complies.

7 Q. Okay. And, also, the amenities
8 proposed for the clubhouse are also permitted by
9 the redevelopment plan. Is that correct?

10 A. Absolutely.

11 Q. Thank you.

12 A. Additionally, there will be some
13 playground areas. They'll be for younger
14 children. I don't have any photographs of them
15 to show you, but we'll have them in the
16 surrounding area. But they'll be for children
17 suitable prior to middle school age, and just
18 typically the younger children that you'd get in
19 apartment communities like this.

20 And, Nicole, that would conclude my
21 testimony, unless you want to hit -- discuss the
22 planner's letter.

23 Q. I just wanted to briefly go over,
24 you did review the on-site security for the
25 project, and that complies with the requirements

1 of the redevelopment plan. Is that correct?

2 A. Correct.

3 Q. Okay. So I wanted to go through
4 the outstanding items from the board's
5 professionals' reports. Have you reviewed the
6 board's professionals' reports from May of this
7 year, Mr. Raker?

8 A. I have.

9 Q. And I believe it was only
10 Mr. Healey's May 20, 2021 report that had
11 specific comments as to your testimony.

12 Can you address comment 2 in
13 Mr. Healey's report, and how you have -- explain
14 how you've revised your plans to demonstrate
15 compliance with the UHAC regulations and the
16 redevelopment plan?

17 CHAIRWOMAN SCHAEFER: Can you please
18 just verify what page you're talking about, so we
19 can follow along in the report?

20 MS. DORY: Sure. I'm looking at
21 Mr. Healey's May 20, 2021 report, the board's
22 planner. On page 2, the bottom of page 2 of his
23 report, under Principal Permitted Uses, Section
24 A, number 2 there, there were some outstanding
25 items. He had highlighted text on page 3, which

1 is the continuation of comment 2, and there were
2 also -- I think this also relates to comment 3.

3 BY MS. DORY:

4 Q. So I'd just ask Mr. Raker to
5 explain to the board and Mr. Healey how he
6 revised his plans to confirm compliance with the
7 affordable housing regulations and the
8 requirements of the redevelopment plan.

9 CHAIRWOMAN SCHAEFER: Thank you.

10 A. Sure. You know, one of the
11 things -- and this was our mistake -- there were
12 some things that were inconsistent in the plans,
13 and Mr. Healey noticed them, and I just wanted
14 to -- it made it difficult for him to review
15 compliance. So we did revise these plans, so
16 that all of the numbers were consistent, the
17 charts were consistent, and the -- and the title
18 of the sheets were consistent with what our
19 intention was.

20 So the architectural plan sheets
21 A-15 and A-16 have been revised to provide
22 typical unit floor plans for eight unit types.
23 So one of the unit types that was missing from
24 the previous submission was a three-bedroom
25 affordable low and moderate unit, which we are

1 now showing in the most recently revised
2 submission.

3 Q. Okay. Would you --

4 A. All of the remaining unit types are
5 very similar, just some minor modifications,
6 whether there's a bump-in from an elevator, or a
7 shift here. There's some minor adjustments, but
8 the bulk of the plans have been shown.

9 Architectural plan sheets A-4, A-5,
10 A-8, A-11, and A-12 have been revised to correct
11 any discrepancies on the Buildings 2 and 3 and 6
12 plans.

13 So the inconsistency regarding the
14 950-square-foot unit, market-rate units, has
15 been corrected. The plans have been revised to
16 eliminate the one-bedroom-den designation, which
17 I believe was left over from when we just chose
18 to count them as -- we do have one-bedroom-dens,
19 we're counting them, from a parking standpoint,
20 as two-bedrooms, but we're only marketing them
21 as one dens. But from an occupancy standpoint,
22 that's where they're going to be.

23 The inconsistency in the unit
24 counts on the tables for floor 3 has been
25 corrected on the plans and revised for

1 consistency as well.

2 And the unit counts --

3 CHAIRWOMAN SCHAEFER: What page are
4 you on, sir?

5 MS. DORY: We're still addressing
6 Mr. Healey's report, comment 2. So --

7 MR. RAKER: As well as comment --
8 yeah.

9 CHAIRWOMAN SCHAEFER: Okay.

10 A. Item 3, the inconsistency in the
11 unit counts on the tables for floor 3 has been
12 corrected, and the plans have been revised for
13 consistency.

14 Item 3 there, the unit counts in
15 the table and floor plan for floors 3 and 4 in
16 Buildings 4 and 5 on the architectural sheets,
17 A-5, A-11, and A-12, have been corrected.

18 For item 4, the square footage in
19 the 1,340-square-foot unit, has been corrected
20 to 1,320 on architectural plan sheet A-16.

21 And comment 2 -- item 2, comment
22 number 3 --

23 MR. LINNUS: Again, Mr. Raker, what
24 you're just referring to from Mr. Healey's
25 report, so we can go along with that, which

1 number?

2 MS. DORY: Yeah, he's still working
3 on comment 2 of Mr. Healey's report, and it is
4 also a portion of comment 3. But there's a
5 couple of --

6 MR. RAKER: Yeah, there were a number
7 of little -- of inconsistencies listed in that
8 comment, and we've picked up all of those
9 corrections in the latest submission.

10 So in comment 3 in Mr. Healey's
11 report, the comment is the architectural plans,
12 sheet A-1, have been revised to conform that the
13 market-rate units consist only of one-bedroom and
14 two-bedroom units, and that a minimum of 20
15 percent of the market-rate units consist -- I'm
16 sorry, I just lost my place, excuse me one
17 second. I'll start over.

18 The architectural plans of sheet A-1
19 have been revised -- have been revised to confirm
20 that the market rate units consist of only one
21 and two-bedroom units, and that a minimum of 20
22 percent of the market rate units consist of
23 one-bedroom units, a total of 42 one-bedroom
24 units -- market-rate units are proposed, which is
25 grater than 20 percent of the total market-rate

1 units, and a total of 142 two-bedroom units --
2 two-bedroom market-rate units are proposed. So
3 that addressed comment 3.

4 BY MS. DORY:

5 Q. And, Mr. Raker, could you also
6 address comment 10 of Mr. Healey's report, and
7 that's on page 4 of Mr. Healey's report, under
8 the heading Maximum Building Heights, Number of
9 Units, Building Length, and Height Measurements,
10 Section C?

11 A. Sure. And, in short, there was a
12 mislabeling. We have two buildings that are
13 identical to one another. Building 2 and 3 are
14 identical and Building 4 and 5 are identical to
15 one another. When I did my labels on my sheets,
16 I only labeled them elevation of Building 2 and
17 Building 4. I've corrected that labeling to be
18 consistent with both, so that building -- the
19 elevations are the same for both. The only
20 difference is the average grade around them, and
21 I've noted the both building heights on those
22 elevation sheets. But I'll read through the
23 comments, just to be clear with the board.

24 So comment 10, elevations for
25 Buildings 3 and 4 were presented during direct

1 testimony at the 02/18 meeting, along with the
2 heights of each of the -- to show compliance
3 with the height requirement. The architectural
4 plan sheets A-6 and A-7 have been revised to
5 clarify that they provide building elevations
6 for Buildings 2 and 3 as the elevations are
7 identical, and a note on the elevation clarifies
8 both building heights.

9 Additionally, sheets A-13 and A-14
10 have been revised to clarify that they provide
11 building elevations for Buildings 4 and 5, as
12 the elevations are identical. The only
13 difference between these two is a slight
14 difference in unit configuration in each, and
15 the outward appearance of both will not be
16 different. And a note on the elevations
17 clarifies the building height for each building.

18 Q. Okay. Thank you. Could you also
19 address comments 24, 25, and 26 in Mr. Healey's
20 report? These relate to the recreational
21 amenities and on-site security. I believe you
22 addressed these in your testimony this evening.

23 And just so the board can follow
24 along, comments 24, 25, and 26 in Mr. Healey's
25 report are on pages -- they start at the end of

1 page 6, and go on to page 7, and under the
2 sections Recreation Amenities and Securities,
3 Section F.

4 So, Mr. Raker, if you could just
5 confirm that you addressed these comments in
6 your testimony this evening.

7 A. I addressed these in my comments
8 this evening, and -- that we do comply with the
9 redevelopment plan.

10 Q. Okay. Thank you.

11 And, finally, could you also
12 address item number 51 in Mr. Healey's report?
13 And that's found on page 11 of Mr. Healey's
14 report.

15 You know, I'll preface this
16 question by stating that the applicant has
17 submitted an affordable housing deed restriction
18 for the application, and proposes to identify
19 the precise unit numbers for affordable units as
20 a condition of approval prior to issuance of a
21 certificate of occupancy.

22 A. Right, and one of the things I
23 wanted to -- just to back up, to be clear, we
24 did move one of the low and moderate units
25 around here. Before, I testified that one

1 building did not have a low and moderate unit in
2 it. We corrected that in this revised
3 submission. We moved one of the one-bedroom
4 units over to I believe it was Building 2, which
5 didn't have any low and moderate units in it.
6 We did add one low and moderate unit to that,
7 and we moved it out of one of the other
8 buildings.

9 So, now, we can say that all
10 buildings have at least one low and moderate
11 unit within their -- within their buildings.
12 And we've labeled those buildings, I've
13 clarified my labeling in my revised submission,
14 so that Mr. Healey can see which ones are the
15 low and moderate units.

16 Q. And, Mr. Raker, the cover sheet on
17 your site plan, that you submitted with the
18 submission on June 11, 2020, that has the
19 revised plans, and that cover sheet lists all of
20 the units for market and affordable units, and
21 the bedroom mix for those units. Correct?

22 A. That's correct.

23 Q. And that cover sheet, along with
24 the rest of the plans, have been corrected to
25 make sure that there's consistency, and to

1 confirm compliance with the redevelopment plan
2 and affordable regulations. Correct?

3 A. Yes, that's correct.

4 Q. Okay. And I believe your testimony
5 that we added an affordable housing unit, that
6 was added to Building 1. Is that correct?

7 A. That's correct.

8 Q. Thank you.

9 And did you address all of comment
10 51?

11 A. Let me just confirm that.

12 I believe so.

13 Q. Okay. Thank you.

14 Mr. Raker, you reviewed the
15 distribution of affordable units, and the
16 bedroom types, and the income designations for
17 these plans -- on the plans, and you're
18 confirming that they comply with the affordable
19 housing regulations. Correct?

20 A. They do. The income designations
21 have not been provided on the plans, but will be
22 provided as part of your -- as part of the deed
23 restriction.

24 MS. DORY: Okay. I have no further
25 testimony, no further questions for Mr. Raker.

1 Are there any questions from the board?

2 CHAIRWOMAN SCHAEFER: Yes, I'll
3 start. Since we're on Mark's -- Mark Healey's
4 report, item number 23, on page 6, we have --
5 Mark recommends that the board may wish to
6 consider whether a steep slope privacy fence
7 should extend as well around the bend and further
8 along the westerly side of the access drive,
9 towards the bioretention basin, in order to fully
10 screen headlights and other site activities.
11 Landscaping around the bend does not have the
12 same number of evergreen trees as depicted in the
13 exhibit presented to the board; perhaps aren't
14 even sufficiently labeled.

15 We did have this discussion way back
16 when, and I think this is a point that needs to
17 be addressed. I do feel that we need to have
18 that fence continue around the curve, to shield
19 the houses from headlights.

20 MS. DORY: Yeah -- I'm sorry to
21 interrupt.

22 CHAIRWOMAN SCHAEFER: No, go ahead.

23 MS. DORY: Yes, I just wanted to
24 comment that Mr. Keller will be addressing that.
25 And the applicant actually did extend the fence

1 in the latest submission. And so item 23 in
2 Mr. Healey's report will be addressed by
3 Mr. Keller.

4 There was also a second comment in
5 there about inconsistency with the landscape
6 exhibit, and that has also been corrected. But
7 Mr. Keller can address that further. But the
8 comment has been addressed.

9 CHAIRWOMAN SCHAEFER: In your
10 pictures that you were showing, window coverings,
11 is that part of the landscape of these
12 apartments, or are the tenants responsible for
13 window requirements?

14 MR. RAKER: I believe blinds are
15 provided, but such as, like, curtains, or things
16 of that nature, the tenant does their own
17 direction inside the apartment.

18 CHAIRWOMAN SCHAEFER: We were talking
19 about the layout. So each building does not have
20 a mail -- mailbox, so to speak; you have to go to
21 the clubhouse to collect your daily mail?

22 MR. RAKER: That's correct.

23 CHAIRWOMAN SCHAEFER: Okay. Lots of
24 spaces, clubhouse and so forth, welcome to COVID,
25 what's the sanitizing going to be like of these

1 spaces?

2 MR. RAKER: That's an operational
3 issue, but I'm sure the maintenance crews will
4 operate under any kind of sanitation that's
5 required by ownership. So if there's concerns by
6 tenants, absolutely, they will be cleaned on a
7 routine basis.

8 CHAIRWOMAN SCHAEFER: And then, you
9 talked about pets. So is there a limit on pets?

10 MR. RAKER: That's more of a leasing
11 question. I know that there are -- it's known in
12 the lease, I believe, two per apartment is the
13 maximum allowed --

14 CHAIRWOMAN SCHAEFER: Is there a
15 weight limit or a breed limit?

16 MR. RAKER: I don't believe so, but I
17 believe there are -- there is a fee paid for the
18 pet, and there may be a difference in fee for a
19 smaller pet than a larger pet.

20 CHAIRWOMAN SCHAEFER: So, in other
21 words -- and please forgive me out there, but a
22 pit bull would be allowed?

23 MR. RAKER: You know, I don't think
24 they discriminate from pet to pet, breed to
25 breed.

1 CHAIRWOMAN SCHAEFER: And then, on
2 the pool, are there lifeguards?

3 MR. RAKER: Again, another
4 operational question. I believe so.

5 You know, it's probably better that
6 ownership answer that question. These are more
7 operational questions, and less architectural.

8 CHAIRWOMAN SCHAEFER: I know, but you
9 brought it up, so that's why I'm questioning it.
10 Okay?

11 MR. RAKER: We have a pool, yes. We
12 are going to have a pool.

13 CHAIRWOMAN SCHAEFER: So the other
14 question, if you -- I don't know if you remember,
15 back in February, there was a resident who had
16 wanted -- on Johnston Drive, who wanted a sight
17 light, to see what they would be able to see from
18 their home. Did you ever do that?

19 MR. RAKER: I did, and I can show
20 them to you.

21 CHAIRWOMAN SCHAEFER: Do you have it?

22 MR. RAKER: I do, yes.

23 CHAIRWOMAN SCHAEFER: Okay. If we
24 could see that, this way, we can have that
25 question answered, please.

1 MS. DORY: Okay. I'm sorry, we'd
2 forgotten about this. Mr. Raker, if you could
3 show the board the exhibits you prepared. I
4 think the last Exhibit Number we left off on
5 was --

6 MR. RAKER: A-47.

7 MS. DORY: I was going to say A-48,
8 so I think you're right.

9 MR. RAKER: It's dated 06/29/21.

10 MS. DORY: So this will be A-48?

11 MR. RAKER: This will be A-47.

12 (Whereupon, Exhibit A-47 is marked
13 for identification.)

14 MR. LINNUS: And what is A-47?

15 MR. RAKER: It is a view from Oakwood
16 Road East. This view, there were some
17 questions -- there was some additional
18 landscaping and fencing. This view does not show
19 the additional landscaping and fencing. And
20 then, I'm going to show an additional view that
21 shows the additional landscaping and fencing.

22 (Whereupon, Exhibit A-48 is marked
23 for identification.)

24 MR. RAKER: So here's the view from
25 Oakwood Road East with the --

1 MR. MALHOTRA: Yeah, that's my house.

2 MR. RAKER: -- previous landscaping
3 proposed.

4 This is Exhibit A-48 with the
5 additional fencing and landscaping. And I
6 believe this is as currently proposed, because
7 this is how that was shown -- it was expanded by
8 the civil engineer.

9 CHAIRWOMAN SCHAEFER: This looks just
10 like the other picture you put up.

11 MS. DORY: Can you point out --

12 MR. RAKER: It is, very similar.

13 MR. MALHOTRA: Yeah, what's the
14 difference?

15 MR. RAKER: Well, I'm going to flip
16 between them, and if you notice, see my cursor?
17 Keep your eye right in this area here. And,
18 again, this is without the trees. The trees are
19 down. Can you see that difference? I'm going to
20 just flip between them. You can see the
21 additional fencing and landscaping.

22 CHAIRWOMAN SCHAEFER: So where are
23 you standing right now to take this picture?

24 MR. RAKER: In the street.

25 CHAIRWOMAN SCHAEFER: On Oakwood?

1 MR. RAKER: Yes. I can't get into
2 people's backyards. I can --

3 MR. MALHOTRA: Can you describe the
4 fencing, please?

5 CHAIRWOMAN SCHAEFER: Okay. We
6 need -- I don't know who's talking. Right now,
7 it's planning board questions. Whoever is
8 speaking, you will -- if you are public, you will
9 have the opportunity to ask questions once is it
10 planning board is done, and the opposer is done
11 asking. Then you can be more than happy to go on
12 record, tell us who you are, and ask your
13 questions of this particular witness.

14 Continue, Mr. Raker.

15 MR. RAKER: Sure. Well, I mean, I
16 can just respond through testimony that the
17 fencing was as previously provided to and
18 summarized by Nicole in her summary, and that was
19 done on our February presentation, as well as
20 summarized and presented tonight by Nicole.

21 (Whereupon, Exhibit A-49 is marked
22 for identification.)

23 MR. RAKER: I have one additional
24 view that was asked for. We have one more view.
25 This is A-49 this is a view from Woods Lane.

1 This is the only area that I could find that I
2 could have any sort of view to the site. You can
3 see through the trees -- again, this is
4 wintertime -- some of the building that gets
5 exposed. It's only one of the buildings that you
6 could see from this view.

7 CHAIRWOMAN SCHAEFER: Okay. Anyone
8 else have questions from the planning board?
9 Karen?

10 COMMISSIONER PENNETT: Okay.
11 Chairwoman Schaefer asked about mail, and being
12 delivered, and you said that all the mail was
13 going to be delivered to the clubhouse?

14 MR. RAKER: Sure, yes.

15 COMMISSIONER PENNETT: Okay. In the
16 plans for each of the buildings, the residential
17 buildings, there are mailboxes in the lobby
18 center.

19 MR. RAKER: Correct. Currently, the
20 proposal is to have the mail go to the clubhouse,
21 but, again, they're -- postal services can be,
22 sometimes, difficult to deal with. They may want
23 the -- the address. So, potentially, there's a
24 chance, in dealing with the postal service,
25 they'll want to deliver to the buildings, so we

1 need to -- we need to be somewhat flexible with
2 them. So we are showing them a potential
3 location, if that needs to happen.

4 COMMISSIONER PENNETT: Okay. Thank
5 you.

6 And then, one other question -- well,
7 two other questions.

8 All of the pictures that you were
9 showing of the clubhouse, I mean, they're all --
10 they're all very nicely laid out and everything.
11 The rooms that we were seeing, are those the size
12 of what would be this clubhouse?

13 MR. RAKER: Very similar. Some of
14 the images that we're showing were of two-story
15 spaces. And we do have a two-story section in
16 our clubhouse, and we do have an opportunity to
17 do some cathedral ceilings in the upper area, so
18 we can open our -- open up some of our ceilings
19 and get some clerestory light in as well.

20 COMMISSIONER PENNETT: Okay. I just
21 want to make sure it's clear that the pictures
22 you're showing are pictures; you know, the
23 building, the room sizes may be completely
24 different.

25 MR. RAKER: Sure, anything can be

1 shifted around, but these have been selected
2 because they are of similar -- they serve a
3 similar sized community; they'll probably be very
4 similarly appointed. We were selective in our
5 imagery.

6 COMMISSIONER PENNETT: Okay. And
7 then, one final question. You talked about, you
8 know, possible parties at the clubhouse, and pet
9 wash. You know, all great. Who is responsible
10 for cleanup of -- you know, I take my dog to be
11 washed. I'm assuming whoever washes their dog is
12 responsible for cleanup, or whoever has the
13 parties is responsible for cleanup?

14 MR. RAKER: Yeah, I -- you know,
15 again, that's another management question. I
16 would imagine so. If you have a catering
17 service, or if you're having a small party, I'm
18 sure that, you know, you're renting it out, you
19 don't want to leave it dirty for your neighbors
20 who are, you know, the other tenants, they're not
21 going to want to clean it. And there's cleaning
22 services as well that come and clean these spaces
23 on a routine basis, and that's done as well.

24 But after a party, I would imagine
25 that the tenant is responsible for the bulk of

1 the waste, and then there are cleaning crews that
2 come on a regular basis.

3 COMMISSIONER PENNETT: Okay. Also,
4 for pet washing and so forth, the owner is
5 responsible?

6 MR. RAKER: Yeah, they would be
7 responsible.

8 COMMISSIONER PENNETT: Okay. Thank
9 you.

10 MR. RAKER: Sure.

11 CHAIRWOMAN SCHAEFER: Mayor, I know
12 you had a question in reference to the
13 renderings, so this is the time to bring that up.

14 MAYOR BALLA: Yes, a question with
15 regard to the renderings, isn't it design feature
16 with regard to the overall boxiness of the
17 four-story buildings? Is there any variety in
18 terms of peaking, or depth -- depth in the back,
19 or pull-out in colors of any of the buildings?

20 MR. RAKER: There is a possibility we
21 could change some of the colors that had been
22 presented. We are going with very traditional
23 stylings, and we do like -- there are some
24 significant stepbacks in the building, upwards of
25 5 and 6 feet. They all do comply with the

1 redevelopment ordinance. There is a requirement
2 in the redevelopment plan for buildings to step
3 and create shadow lines; I believe we've done
4 that, and done that to an extent that's very
5 successful. And I believe these buildings have a
6 lot of movement in them.

7 There is one roof height. We are
8 limited in roof height. We can't go up any, to
9 start creating any variety or breaks in the
10 roofline, so we do have to keep under that
11 allowable building height. So we are -- we are
12 successful in doing that. That may be what
13 you're seeing, is, sort of, a similar roofline.

14 But we do vary the gable heights as
15 well, as we turn gables in the elevation, and I
16 did discuss that in my previous testimony, and we
17 create some significant shadows lines by using
18 terraces and bumps in the building, and changing
19 materials as well.

20 MAYOR BALLA: And that's my other
21 question as well, with the changing of the --
22 changing of the material, you know, whether you
23 have brick, stone, or stucco.

24 MR. RAKER: Generally, I wouldn't
25 recommend going with a brick and then a stone in

1 another building. I think sticking to similar
2 materials is something that the building plan
3 encourages, the redevelopment plan encourages,
4 but varying the materials on the building, which
5 is what we're doing, we're varying the brick
6 versus the siding, and then creating some
7 bump-out bays that are accented with different
8 colors within the building, that's the way to
9 break up the mass of the building.

10 If we'd like, we could consider an
11 alternate color scheme for other buildings,
12 simply by changing siding color, or roofing
13 color, and brick color, but, you know, the
14 redevelopment plan did ask for similar materials,
15 so we are compliant with that.

16 MAYOR BALLA: Okay. Thank you.

17 CHAIRWOMAN SCHAEFER: Other planning
18 board members have questions of this particular
19 witness?

20 Mark?

21 MR. HEALEY: Just a few quick notes.
22 I do appreciate their detailed response to my
23 architectural-related comments; with that said,
24 I've not had a chance to review -- those are, I
25 believe, reflected on the new set of plans, dated

1 in June, which, obviously, came after my May 20th
2 review. So I would need the opportunity, at some
3 point, to review the plans, you know, to make
4 sure that they, indeed, reflect what the
5 architect spoke of. And that pertains to
6 comments 2A, 2B, 3, 24, 25, and 26.

7 Comment 51 really is intended --
8 frank, that's -- at the point of resolution, I'd
9 suggest that we look carefully at comment 51,
10 because a lot of those would really be
11 appropriately included as conditions.

12 The one issue that I did not
13 highlight, because at the time I reviewed this in
14 May, I thought this was going to be for
15 preliminary, now they're asking for preliminary
16 and final. So I believe there was some mention
17 that there's some more detail on the monument
18 sign at the entrance. Can somebody provide some
19 testimony about that?

20 MS. DORY: I believe our civil
21 engineer can provide that additional testimony.
22 My understanding is there's some additional
23 signage detail that was provided on the civil
24 plans.

25 MR. HEALEY: Okay. Thank you.

1 That's all I have.

2 MR. LINNUS: Madame Chair, I have a
3 question before Mr. Raker leaves. Actually, it's
4 of Ms. Dory: Who's going to testify as to the
5 deed restrictions being in conformance with the
6 UHAC requirements?

7 MS. DORY: I can address that.

8 MR. LINNUS: I assume, then, the
9 affordability controls are a minimum of 30 years?
10 And, typically, what we've done in other towns is
11 the deed restriction would be 30 years, or
12 released by the borough, whichever is later. Do
13 you have an objection to that?

14 MS. DORY: The applicant -- I believe
15 the deed restriction that we provided provides
16 for 30 years. I believe the applicant is looking
17 for a deed restriction for that time period, and
18 not longer, but I understand that the borough
19 does need to release the deed restriction.

20 MR. LINNUS: Okay. So, basically, I
21 think you've already agreed -- and confirm on the
22 record, please -- that the deed restrictions that
23 you're proposing are subject to the review of the
24 borough attorney and the planning board attorney.

25 MS. DORY: Yes.

1 MR. LINNUS: Correct? Yes?

2 MS. DORY: Yes.

3 MR. LINNUS: Okay. I'd also remind
4 you that there are uniform deed restrictions in
5 Appendix E of the UHAC regulations and the COAH
6 regulations. But that's for a later date. The
7 important part is that you're agreeing, as a
8 condition, that the deed restrictions are subject
9 to the review and approval of the borough
10 attorney and the planning board attorney. Do I
11 hear a yes?

12 MS. DORY: Yes.

13 MR. LINNUS: Okay. Thank you.

14 CHAIRWOMAN SCHAEFER: Any additional
15 questions from planning board members?

16 Don?

17 VICE CHAIR SPEENEY: Thank you.

18 The issue about deed restrictions,
19 and 30 years, what happens after 30 years?

20 MR. LINNUS: That was the question,
21 Don, and --

22 MS. DORY: Yes, the applicant has
23 submitted a deed restriction that proposes a deed
24 restriction for 30 years, and that is the minimum
25 time period. That is also the maximum time

1 period that the applicant is proposing at this
2 time. But I do understand that the borough needs
3 to release the deed restriction, but the
4 affordable housing deed restriction that was
5 submitted complies with the UHAC regulations.

6 VICE CHAIR SPEENEY: Yeah, I was
7 wondering, if I'm living in one of these deed
8 restricted units at the end of 30 years, and I
9 want to stay there, am I carried forward, or do I
10 have to go to market value, market rate?

11 MS. DORY: I'm sorry, I don't
12 understand the question. Can you repeat it?

13 VICE CHAIR SPEENEY: I'm saying, if
14 I'm in a deed restricted unit, at the end of 30
15 years, do I lose my deed restriction and have to
16 go to market rate? Is that what happens after 30
17 years?

18 MS. DORY: Well, my understanding is
19 that each of these units are going to be
20 individually leased to residents, but the units
21 themselves will have an affordable housing deed
22 restriction associated with them for a period of
23 30 years, and after that period, they can be
24 released, the restriction can be released.

25 VICE CHAIR SPEENEY: Thank you. I'm

1 not really clear on it, but I don't want to --

2 MR. LINNUS: I think what his
3 question is, after 30 years, if someone is in
4 there under the affordable, okay, after 30 years,
5 that is no longer affordable, does it
6 automatically go to a market rate, or does that
7 affordable person who's been living there remain
8 at the affordable rate?

9 MS. DORY: Well, what I was trying to
10 explain was that the deed restriction has to be
11 released. So if there's somebody occupying the
12 unit in the middle of that time period, that's
13 what the question is?

14 CHAIRWOMAN SCHAEFER: Correct.

15 MS. DORY: Yeah, I'm unable to
16 predict what happens at that point, because my
17 understanding would be that the unit would be
18 leased, you know, for a certain amount of time to
19 a resident, and then the lease would end. So I'm
20 not sure if that would actually coincide with the
21 exact time period that the deed restriction is
22 being released.

23 CHAIRWOMAN SCHAEFER: I get what
24 you're saying.

25 Don, do you understand?

1 VICE CHAIR SPEENEY: Yeah, I think
2 the end of the lease issue is the same question
3 for me. I think, if my lease ran out, and I was
4 there at an affordable rate because of income,
5 why wouldn't I stay there -- or why wouldn't I be
6 allowed to stay there at that same rate? And it
7 sounds like, at the end of 30 years, or at the
8 end of my lease, I'm out of there, independently
9 -- not because I want to go, but because I'm
10 kicked out.

11 MR. LINNUS: Don, the only thing I
12 can tell you is that the UHAC regulation states
13 minimum of 30 years. That's why I questioned the
14 applicant's attorney as to whether we're going to
15 have some control over the deed restrictions, and
16 typically, what I've seen in deed restrictions is
17 a minimum of 30 years for rentals, or until
18 released by the municipality.

19 Now, the other part of your question
20 relates to happens not only to the tenant, but
21 what happens to the borough's affordable housing
22 plan after 30 years, and that's why some of these
23 restrictions go on beyond 30 years.

24 VICE CHAIR SPEENEY: I won't be
25 around, I don't think, but thank you.

1 CHAIRWOMAN SCHAEFER: Other questions
2 from planning board members before I turn it over
3 to Mr. Butler?

4 Okay. Mr. Butler, do you have
5 questions for this witness?

6 CROSS-EXAMINATION

7 BY MR. BUTLER:

8 Q. Yeah, a couple of questions is that
9 I pointed out to you Weldon's interested in
10 traffic, but I found Mr. Raker's testimony very
11 interesting. About four or five times, he
12 referred to -- Mr. Raker, you referred to this
13 developer, this developer, about 10 or 11 times.
14 Now, were you referring to this developer in
15 comparison to the old BNE developer? Is that
16 what you were doing?

17 A. No.

18 Q. Well, when you kept on saying "this
19 developer." In other words, these units, these
20 architectural units, as you describe them,
21 they're the same under BNE as under Sterling
22 Properties?

23 A. I had different photographs
24 previously. We substituted new photographs for
25 this developer.

1 Q. So is that why you're referring to
2 "this developer," "this developer," you're
3 comparing it to BNE?

4 A. I was just reinforcing the fact
5 that these images were -- these images that I
6 was showing were completed by this developer.

7 Q. The architectural plan -- in other
8 words, you submitted new architectural plans,
9 did you not?

10 A. I did, yes.

11 Q. And they're different than they
12 were submitted by BNE. Is that correct?

13 A. No, they are substantially similar.

14 Q. Substantially similar?

15 A. Correct.

16 Q. Okay. And when -- you kept on
17 referring to, you know, this developer, this
18 developer, he built this, he built that, and you
19 showed architectural pictures. Give me the
20 names of the towns in which those pictures
21 were -- those projects were built.

22 A. I'll let the developer answer that
23 question.

24 MS. DORY: I just want to object to
25 the line of questioning. I'm not sure how this

1 relates to the testimony or compliance with the
2 redevelopment plan.

3 CHAIRWOMAN SCHAEFER: Frank?

4 MR. BUTLER: My question stands.

5 MR. LINNUS: I think he's allowed to
6 ask the question. I think it's a relevant
7 question, or at least tangentially relevant.
8 What the applicant, through its witness, has
9 demonstrated is here's a series of photographs of
10 what we're kind of going to look like, sort of
11 look like, and I think it's appropriate for the
12 architect, if he can, to identify what projects
13 these photos were taken from, if he knows.

14 MR. RAKER: I'll let the applicant
15 answer that question.

16 MS. DORY: Okay. I have a
17 representative of the developer here --

18 MR. LINNUS: Will you --

19 MS. DORY: I'm sorry, can I speak?
20 Mr. Butler, can I speak?

21 MR. LINNUS: I didn't hear the answer
22 from the witness, I'm sorry.

23 MS. DORY: Okay. Mr. Butler, can I
24 speak?

25 MR. BUTLER: Before you jump in, I

1 would like to know what the answer was --

2 CHAIRWOMAN SCHAEFER: Mr. Butler,
3 stop. They're trying to answer your question.

4 Ms. Dory, please, answer the
5 question.

6 MR. BUTLER: Is the witness going to
7 answer it or the lawyer?

8 CHAIRWOMAN SCHAEFER: Mr. Butler,
9 please stop.

10 Go ahead, Ms. Dory.

11 MS. DORY: Thank you. This is Nicole
12 Dory. I'm the attorney for the applicant. You
13 asked a question about the towns which the
14 photographs were taken from that Mr. Raker showed
15 in his presentation this evening, and I have a
16 representative from the applicant here this
17 evening, Mr. Nicholas Hollenbeck, and he's
18 available to identify towns that the photographs
19 are taken from, to answer your question. He's
20 not Mr. Raker --

21 (Indiscernible cross-talk.)

22 MS. DORY: I just wanted to point it
23 out for the record. Okay? That Mr. Hollenbeck
24 can answer the question. Okay?

25 CHAIRWOMAN SCHAEFER: Yes. Let's

1 move on. Mr. Hollenbeck, please answer the
2 question.

3 MR. LINNUS: Well, before he answers,
4 I'd like to see Mr. Hollenbeck and swear him in.

5 MS. DORY: Thank you.

6 MR. LINNUS: Mr. Hollenbeck, where
7 are you?

8 MR. HOLLENBECK: I am at the office
9 of [inaudible] Properties, Hoboken, New Jersey.

10 MR. LINNUS: No, I want to see you.
11 Please raise your right hand.

12 N I C K H O L L E N B E C K, having
13 been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. DORY:

16 Q. Mr. Hollenbeck, you reviewed the
17 architectural presentation that was presented by
18 Mr. Raker this evening. Correct?

19 A. Correct.

20 Q. And in that architectural
21 presentation, there were photographs of examples
22 of other developments that -- Sterling Watchung,
23 and this applicant, the related entity, has
24 completed. Is that correct?

25 A. That's correct.

1 Q. And Mr. Butler's question is asked
2 that the applicant identify the towns in which
3 these photographs were taken from. Do you have
4 that information?

5 A. Yes, I do.

6 Q. Okay. Can you list off the towns?

7 A. Certainly. So this particular
8 photograph, A-37, is from our project called
9 Central + Oak in East Rutherford, New Jersey.

10 Q. Okay. And just for the record, the
11 exhibit that was presented was A-37.

12 And this Exhibit is A-38. And can
13 you identify the project for this picture?

14 A. Sure, this is a project called
15 Reva, in Rahway, New Jersey.

16 Q. Okay. And the next exhibit is
17 A-39. Can you identify the development?

18 A. Yes, this is the same project in
19 Rahway, New Jersey.

20 Q. And this is Exhibit A-40. Can you
21 please identify the development?

22 A. This is, again, the next -- the
23 same project, Rahway, New Jersey.

24 Q. Okay. This is Exhibit A-41. Can
25 you please identify the development for this?

1 A. Rahway, New Jersey.

2 Q. Okay. The next exhibit?

3 A. Rahway, New Jersey, A-42.

4 MR. BUTLER: What town was that?

5 MR. HOLLENBECK: Rahway.

6 MS. DORY: Rahway, New Jersey.

7 MR. BUTLER: I'm sorry, Ms. Dory. I
8 didn't hear his answer. I don't hear that well,
9 I apologize.

10 MS. DORY: Okay. A-42 was a
11 development in Rahway, New Jersey.

12 MR. BUTLER: Oh, okay. I got that.
13 Thank you.

14 MR. RAKER: Nick, I'll answer this
15 one. My vanity as an architect got the best of
16 me, and I did put a space in that we did. This
17 was done for Roseland Properties in Morris
18 Plains, New Jersey.

19 MR. BUTLER: This is A what?

20 MR. RAKER: This is A-43.

21 MR. BUTLER: A-40?

22 MS. DORY: The last exhibit was A-43.

23 BY MS. DORY:

24 Q. The next exhibit is A-44.

25 Mr. Hollenbeck, can you please identify the

1 development from this photo?

2 MR. HOLLENBECK: Rahway, New Jersey.

3 MS. DORY: Thank you.

4 MR. BUTLER: I have no further
5 questions regarding these locations.

6 CHAIRWOMAN SCHAEFER: Okay. So
7 you're done, Mr. Butler? I can go on to the
8 public?

9 MR. BUTLER: I'm through, Madame
10 Chair. Thank you.

11 CHAIRWOMAN SCHAEFER: Thank you.

12 Okay. I'm going to open it up to the
13 public, if anyone has a question on this
14 testimony, and only this testimony, I would like
15 you to please tell me who you are, give me your
16 address, and then ask your question. Anyone from
17 the public? I know one gentleman on Oakwood, he
18 had some questions. Are you still out there?

19 MR. MALHOTRA: Yes, I'm here. Hello?

20 CHAIRWOMAN SCHAEFER: Hello?

21 MR. MALHOTRA: Are we open to asking
22 questions.

23 CHAIRWOMAN SCHAEFER: It's questions
24 only of this witness. Would you like to ask a
25 question of the architect? Hello?

1 MR. MALHOTRA: Yes, I'm here.

2 CHAIRWOMAN SCHAEFER: Would you like
3 to ask a question of this witness, the architect?

4 MR. MALHOTRA: Yes, I would like to
5 ask a question of the Oakwood architect.

6 CHAIRWOMAN SCHAEFER: Before you do,
7 you need to tell me who you are, and give me your
8 address.

9 MR. MALHOTRA: Okay. I'm Pavi
10 Malhotra, 157 Oakwood Road East.

11 MR. LINNUS: Sir, would you spell
12 your last name, please, for the record?

13 MR. MALHOTRA: M-A-L-H-O-T-R-A.

14 MR. LINNUS: Okay. Thank you.

15 CHAIRWOMAN SCHAEFER: Okay, sir. Go
16 ahead. You can ask your question.

17 MR. MALHOTRA: So is it possible to
18 open the artifact shown from Oakwood Road?

19 CHAIRWOMAN SCHAEFER: Sure.

20 Mr. Raker?

21 MR. MALHOTRA: Yeah. Sorry, can you
22 show the next one, number 4?

23 MR. RAKER: That's not from Oakwood.

24 MR. MALHOTRA: Oh, okay. This one --
25 yeah.

1 CHAIRWOMAN SCHAEFER: No, go back.

2 This is what --

3 MR. RAKER: This is a view from
4 Oakwood Road East.

5 MR. LINNUS: Would you identify the
6 exhibit for the record, please? Excuse me.

7 MR. RAKER: The exhibit -- the
8 exhibit was A-48.

9 MR. LINNUS: And that's the view from
10 Oakwood?

11 MR. RAKER: Road East, enhanced
12 landscaping and fence, which is what is currently
13 proposed.

14 CHAIRWOMAN SCHAEFER: Okay, sir.
15 Your question?

16 MR. MALHOTRA: So I have couple of
17 questions. Yeah, so my house was on the right of
18 the A-48 exhibit. That is 157. So this fencing,
19 is that going behind the house on the right as
20 well, or does it stop? I cannot see clearly,
21 because this is just for illustration purposes,
22 I'm assuming. I only see a couple of buildings
23 there. I only see four buildings. I'm zooming.
24 A couple of buildings are going to be behind my
25 property as well. Is that correct?

1 MR. RAKER: There's -- these
2 buildings are the buildings that are closest to
3 your property. The fence ends approximately in
4 this location.

5 MR. MALHOTRA: Okay. What is behind
6 the house? I don't see -- you're not showing it
7 here, but the house on the right, what is behind
8 that? What is being put --

9 MR. RAKER: The angle that this is
10 taken from, you're seeing two of the uppermost
11 buildings closest to your house. That's these
12 two buildings here.

13 MR. MALHOTRA: Okay.

14 MR. RAKER: The building that's
15 furthest, closest to the clubhouse, you do not
16 see in this image.

17 MR. MALHOTRA: So are they behind the
18 157, the house on the right? The other two.

19 MR. RAKER: Correct, these two here
20 are the closest buildings from your house.

21 MR. MALHOTRA: The closest building
22 to the house on the right.

23 MR. RAKER: No, they're here, as
24 shown in this image.

25 MR. MALHOTRA: No, I understand that.

1 My house is the house on the right, what you see.

2 MR. RAKER: Correct.

3 MR. MALHOTRA: Okay.

4 MR. LINNUS: Can you point it out,
5 please?

6 MR. RAKER: This house here is your
7 house?

8 MR. MALHOTRA: That is correct.

9 MR. RAKER: Okay. And I'm saying
10 that the two buildings shown in this image are
11 the two buildings that are closest to your house.

12 MR. MALHOTRA: Okay. So the other
13 two buildings are -- okay. So you're saying the
14 other two buildings are on the other side. So I
15 won't --

16 MR. RAKER: The other side, they're
17 further from your house.

18 MR. MALHOTRA: Okay. And the
19 clubhouse and the pool?

20 MR. RAKER: Not seen from this view.

21 MR. MALHOTRA: It's not seen, but is
22 that behind my house?

23 MR. RAKER: No, it's -- actually, if
24 you look at where my cursor's circling, the
25 lowest building -- if you look at my cursor going

1 in a circle, there's an adjacent building to the
2 left, it's behind that building.

3 MR. MALHOTRA: Okay. Oh, got it.
4 Okay. That's good to know.

5 Now, I joined a bit late. So how
6 tall are those -- so if you look at the second or
7 third level of the house, I believe they're three
8 levels. Is that correct?

9 MR. RAKER: These buildings are two
10 and three levels. From your vantage point,
11 they're only two levels.

12 MR. MALHOTRA: So if -- so in -- so
13 some of these evergreen trees, how tall are they,
14 and how high do they go? Because, in winter, my
15 concern is privacy, right, if somebody from the
16 second floor of that building would be able to
17 look at my house and my bedroom. Right? It's on
18 the left-hand side.

19 MR. RAKER: I'm going to have to let
20 the landscape architect or the civil engineer
21 answer questions regarding height of the trees.
22 I believe he did extensive testimony on the
23 landscaping in and around this area, and the
24 heights of the trees in his previous --

25 MS. DORY: Yes, Mr. Keller did

1 previously provide testimony as to the heights of
2 trees.

3 CHAIRWOMAN SCHAEFER: Mr. Keller did
4 provide testimony; however, this particular
5 resident had questions, and it was not answered,
6 as to the sight line. And he has every right to
7 ask whatever questions he wants, and I do want
8 the answers given to him. Whether it be tonight,
9 or when Mr. Keller comes back, I want this --
10 this resident's questions answered.

11 MS. DORY: Sure, we can certainly ask
12 Mr. Keller to address that during the course of
13 his testimony.

14 CHAIRWOMAN SCHAEFER: Mr. Malhotra,
15 are you good with that?

16 MR. MALHOTRA: Yes, okay. Appreciate
17 that. I have a couple more questions, ma'am.

18 CHAIRWOMAN SCHAEFER: Okay.

19 MR. MALHOTRA: You have time for me?
20 Yep. Okay. Great.

21 So I may have misheard, but there
22 are -- are there any plans for a trail in that --
23 in that area, outside the fence?

24 MR. RAKER: Again, that's another
25 landscape or civil engineering question.

1 MR. MALHOTRA: Okay. Because if that
2 could be answered, because I'm really concerned,
3 if it's right behind my backyard, I have a trail
4 running across, that kind of defeats the whole
5 idea of privacy, if I have something right there.
6 I'm not sure exactly -- I'm not able to see it
7 from here, but it would be good to know what is
8 being constructed, you know, behind the 157
9 Oakwood, behind my house.

10 CHAIRWOMAN SCHAEFER: So when the
11 engineer testifies, that's the second question
12 you're going to ask him. Okay? Mr. Malhotra?

13 MR. MALHOTRA: Yes, ma'am.

14 CHAIRWOMAN SCHAEFER: I said, when
15 the engineer comes back to testify, that's the
16 second question you're going to ask him, you're
17 going to ask about the height of the evergreens,
18 and you're going to ask him about the trail
19 location.

20 MR. MALHOTRA: That's right. Yep.
21 Great.

22 CHAIRWOMAN SCHAEFER: What else?
23 Anything else for this particular man?

24 MR. MALHOTRA: No, I think the -- my
25 only other question was I believe the fence I see

1 here, in this, looks different from what was
2 shown earlier. Right? So that could be just the
3 color or the type of fence, but I'm viewing the
4 height of the fence is 6 feet as well, 6 to 8
5 feet? Is that correct?

6 MR. RAKER: I'll let the engineer --
7 I mean, I can answer that question, because I
8 know it, but the engineer selected the fence. We
9 did show a lighter fence in this rendering than
10 was shown in the scene image that was shown
11 previously, it was darker fence. I'm sure the
12 color is open -- can be decided upon, and
13 whatever the board's preference, if they want a
14 darker fence or a sligher fence, we'll make that
15 work.

16 MS. DORY: And Madame Chair -- I'm
17 sorry, Madame Chair, can I just clarify?

18 CHAIRWOMAN SCHAEFER: Yes.

19 MS. DORY: I just wanted to clarify,
20 the exhibit that was previously shown, I believe
21 it was A-11, that was presented by Mr. Keller at
22 previous hearings. And during that -- I believe
23 it was at the February 18, 2020 meeting, and
24 Mr. Keller did explain that the color of the
25 fencing in that exhibit was different, and that

1 an earth tone fence would be used to comply with
2 the redevelopment plan.

3 CHAIRWOMAN SCHAEFER: Do you know the
4 height of that fence?

5 MS. DORY: Yes, I believe it was 6
6 feet.

7 CHAIRWOMAN SCHAEFER: It's going to
8 be 6 feet, Mr. Malhotra.

9 MR. MALHOTRA: Okay. Six feet. And
10 the color -- and the color would be similar to
11 what I'm seeing in the current exhibit?

12 CHAIRWOMAN SCHAEFER: Ms. Dory?

13 MR. MALHOTRA: Is that right?

14 MS. DORY: That's my understanding.
15 I will have Mr. Keller confirm the color, but my
16 understanding is that an earth tone fence was
17 proposed.

18 MR. MALHOTRA: Okay.

19 CHAIRWOMAN SCHAEFER: Okay. You
20 good?

21 MR. MALHOTRA: I'm good. Thank you.

22 CHAIRWOMAN SCHAEFER: Any additional
23 questions from the public?

24 MS. QIAN: Yeah, I do have a
25 question.

1 CHAIRWOMAN SCHAEFER: May I have your
2 name and address, please?

3 MS. QIAN: Yes, I'm a Watchung
4 resident, my name is Shimin Qian, and I reside at
5 138 Hill Hollow Road. First name S-H-I-M-I-N,
6 last name Q-I-A-N.

7 CHAIRWOMAN SCHAEFER: Thank you.

8 MS. QIAN: Yeah, this question is
9 related to Mr. Raker's testimony. And I guess my
10 only question was related to a prior question
11 regarding the school bus. I mean, the clubhouse
12 seems nicely appointed, but considering this
13 rental community has 230 units, and we can
14 imagine, you know, we will be adding a couple
15 hundred school aged children who are going to
16 school from this particular community every
17 morning, so that's about equal to the size of the
18 value view medical school population right now.

19 So I was just wondering if there's
20 any architectural consideration or design
21 consideration, in terms, you know, how the
22 clubhouse is going to be able to accommodate this
23 school bus coming in to pick up all these
24 hundreds of children; for example, the parking
25 space, and the capacity, and, you know, how is

1 that going to be handled. So that's my question.

2 MS. DORY: Madame Chair, I just
3 wanted to object to the question. I don't think
4 there's any foundation for the hundreds of
5 schoolchildren referenced, but I'll let Mr. Raker
6 answer the question as best as he can.

7 MS. QIAN: What is your estimate? I
8 mean, when you design a building, a community,
9 you've got to have considered --

10 CHAIRWOMAN SCHAEFER: Ma'am. Ma'am,
11 I will --

12 MS. QIAN: -- the population that's
13 going to reside in there --

14 CHAIRWOMAN SCHAEFER: -- mute you in
15 you don't stop talking.

16 MS. QIAN: -- you have estimate.
17 Okay?

18 CHAIRWOMAN SCHAEFER: I'm going to
19 only say this one more time: If you continue to
20 talk over me, I will have you muted. I'm trying
21 to get the answers for you. If you allow the
22 woman, Ms. Dory, to answer your question, she
23 will, but I am not going to allow you to just go
24 on and give testimony or comments. This is
25 questions only.

1 Ms. Dory?

2 MR. RAKER: I mean, I can answer the
3 question. On my limited experience, there --
4 these apartment communities do not attract a
5 significant amount of children, and this
6 developer runs many of these types of
7 communities, and knows, generally, the amount of
8 children. There have been numerous studies done,
9 and the Rutgers study is one of them, that points
10 to the number of children that this would
11 generate. I don't have a number for you; that's
12 beyond my level of experience. But we do have an
13 understanding that a majority of children do come
14 from the low- and moderate-income units, and that
15 we have accommodated the correct amount of
16 amenity and space for those children.

17 As far as bus traffic, that is,
18 again, beyond my area of expertise.

19 CHAIRWOMAN SCHAEFER: Who can answer
20 this question? Ms. Dory, who can answer --

21 MS. DORY: I'm sorry, I didn't hear
22 you.

23 CHAIRWOMAN SCHAEFER: Who can answer
24 this question more clearly?

25 MS. DORY: The question as to how the

1 applicant has considered the school bus
2 [inaudible] --

3 CHAIRWOMAN SCHAEFER: As to the bus,
4 the bus situation.

5 MS. DORY: I believe that our traffic
6 engineer can probably address those questions
7 during his testimony. I don't believe -- I
8 believe Mr. Raker has answered the question to
9 the best of his ability.

10 CHAIRWOMAN SCHAEFER: That question,
11 ma'am, is going to have to wait until the traffic
12 engineer comes and testifies.

13 MS. QIAN: Okay. As long as we'll
14 get answer on that.

15 CHAIRWOMAN SCHAEFER: Understood.
16 Just remember, when the traffic engineer comes,
17 that's the time to ask the question. Okay?
18 Hello? Ma'am, do you want to respond to me?

19 MS. QIAN: Yes, I was on mute. Okay?
20 Yeah, so, yeah, we would like answers
21 when -- yeah.

22 CHAIRWOMAN SCHAEFER: When the
23 traffic engineer testifies, that's when you can
24 ask that question. Okay?

25 MS. QIAN: Okay.

1 CHAIRWOMAN SCHAEFER: Any other
2 questions from public?

3 Okay. Hearing none, the public
4 question of the questions is closed for this
5 witness.

6 Due to the late hour, Ms. Dory, I
7 don't want to start with another witness, because
8 I'm sure it's going to take a while. What I
9 would like to know is who would be next up at our
10 next meeting.

11 MS. DORY: Okay. Yeah, I was
12 planning on bringing Mr. Keller back, as I
13 mentioned, to address some open engineering
14 items. So that was the next order of testimony,
15 and then I wanted to proceed with Mr. Keller's
16 traffic testimony.

17 CHAIRWOMAN SCHAEFER: Okay.

18 MS. DORY: And I understand that the
19 board has considered to carry this meeting,
20 perhaps, to a special meeting date on July 13th.
21 Is that correct?

22 CHAIRWOMAN SCHAEFER: Yep, I haven't
23 gotten that far yet.

24 What we're going to do is -- for our
25 next meeting, yeah, there'll be a special meeting

1 on July 13th to continue this application.

2 I do want to let all my planning
3 board members know we need to start that meeting
4 even earlier, we need to start it at 5:30; the
5 reason being the mayor and council have sent us
6 three ordinances that we have to review for the
7 master plan consistency, as well as get comments
8 back to the mayor and council. But since we are
9 mandated to start at 6:30 on our special meetings
10 with the Bonnie Burn hearing, I don't see how
11 we're going to do all three in one night. So
12 we're just going to do two of them, and the one
13 would be redevelopment, and then the second one
14 has to do with the cannabis. We should get
15 through those pretty quickly. And then, we'll go
16 straight into our special meeting with the Bonnie
17 Burn application.

18 The third ordinance we just got this
19 week, can't put it on for the special meeting, so
20 that one, we will review at our regular scheduled
21 meeting on July 20th, which will start at 7:30.

22 But for everybody's purpose tonight,
23 this application will be continued until July
24 13th, we will be starting at 5:30, and then going
25 directly into the application once we're done

1 with what we need to do with the two ordinances.
2 There will be no further notification to the
3 public, so beyond that, this is where we are at.

4 MR. LINNUS: And this will be a
5 virtual meeting, I understand, Madame Chair?

6 CHAIRWOMAN SCHAEFER: Theresa?

7 MS. SNYDER: As far as I know, yes,
8 it is. It's been noticed as virtual, so I guess
9 we should continue with that.

10 MS. DORY: Okay. So, Madame Chair,
11 may I just ask, for purposes of the notice, will
12 the virtual meeting login information be most
13 posted to the planning board's website before the
14 meeting?

15 CHAIRWOMAN SCHAEFER: Theresa?

16 MS. SNYDER: Yes, that's always
17 included on the agenda, and it is always the same
18 logon information. We don't change meeting IDs
19 or anything like that. So whatever you use
20 tonight will be good for next meeting, but it
21 will also be included in the agenda for the 13th
22 of July.

23 MR. LINNUS: And Theresa, of course,
24 since this is a special meeting, it'll be
25 properly notice under the open public meetings

1 act. Is that correct?

2 MS. SNYDER: It already has been.

3 MS. DORY: Madame Chair, can I ask
4 another question?

5 CHAIRWOMAN SCHAEFER: Yes.

6 MS. DORY: I understand the board
7 also has a regularly scheduled meeting on July
8 20th. Would the board be open to considering
9 this application on July 20th?

10 CHAIRWOMAN SCHAEFER: We're not going
11 to have time on the 20th. We're in the middle of
12 another application. I'm not sure how long
13 that's going to take, and we're going to have a
14 lengthy ordinance review. So I don't want to
15 promise you something that I think really won't
16 happen, because that one starts at 7:30. Okay?
17 So by the time we get through the ordinance, and
18 then get through the final with the application,
19 and resolutions, we're not going to have time to
20 start.

21 So, Theresa, we have discussed
22 further special meetings. Correct?

23 MS. SNYDER: We did discuss having a
24 standing special meeting date on the second
25 Tuesday of every month, and if everyone is

1 agreeable to that, I can do a notice moving
2 forward, but I haven't gotten confirmation from
3 all sides that that is going to be our special
4 meeting date for each month, the second Tuesday
5 of each month, 6:30.

6 CHAIRWOMAN SCHAEFER: Ms. Dory?

7 MS. DORY: Okay. Thank you. I
8 understand. You know, we just wanted to see if
9 the board was available on July 20th, but if not,
10 we will certainly work with Ms. Snyder to arrange
11 for another date that works for everyone. Thank
12 you.

13 CHAIRWOMAN SCHAEFER: What we want
14 her to do is make it the second Tuesday of every
15 month for a special, so that it's just ongoing,
16 you don't have to check every month and see what
17 dates are for who. We can have it mandated
18 second Tuesday, every month, for however long we
19 need for a special meeting. If we can fit you in
20 on our regular agenda no problem, no problem, no
21 problem at all, in addition to your special
22 meeting. Okay?

23 MS. SNYDER: Yes.

24 CHAIRWOMAN SCHAEFER: But if you can
25 just check and see if the second Tuesday of every

1 month works, that's what we'll program moving
2 forward.

3 MS. DORY: Okay. Yes, I will. Thank
4 you.

5 CHAIRWOMAN SCHAEFER: All right.

6 (Whereupon, the board discussed other
7 agenda items at this time.)

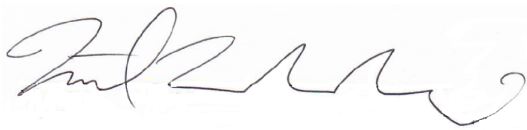
8 CHAIRWOMAN SCHAEFER: We will all get
9 back July 13th to continue this application, but
10 we're also going to start at 5:30, and we're
11 going to go over the two ordinances, and go
12 directly into the Bonnie Burn application.

13 (Whereupon, the hearing concluded at
14 10:04 p.m.)

C E R T I F I C A T E

I, Michael Lombardozzi, a Notary Public and Certified Court Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth.

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



Michael Lombardozzi,
Certified Court Reporter, State of New Jersey
CERT #: 30X100239700
Date: 6 Jul 2021

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