

BOROUGH OF WATCHUNG PLANNING BOARD  
COUNTY OF SOMERSET - STATE OF NEW JERSEY

SPECIAL MEETING FOR:  
BONNIE BURN ROAD REDEVELOPMENT  
BLOCK 7402/7403, LOT 19.01, 19.02, 5 AND 10  
BONNIE BURN/BNE  
APPLICATION NO. PB 19-01

TUESDAY, SEPTEMBER 14, 2021  
COMMENCING AT 6:30 P.M.

TRANSCRIPT OF PROCEEDINGS  
VIRTUAL PUBLIC HEARING

BOARD MEMBERS PRESENT:

TRACEE SCHAEFER, CHAIRPERSON  
KEITH S. BALLA, MAYOR  
AL ELLIS  
PAUL FIORILLA  
PIETRO MARTINO, COUNCILMAN  
YVETTE NORA  
KAREN PENNETT  
STEPHEN POTE  
TROY SIMS  
DONALD SPEENEY, VICE-CHAIRPERSON  
ELLEN SPINGLER

ALSO PRESENT:

FRANCIS P. LINNUS, ESQUIRE, BOARD ATTORNEY  
RICARDO MATIAS, P.E., BOARD ENGINEER  
MARK HEALEY, P.P., BOARD PLANNER  
JOHN JAHR, P.E., PTP, TSOS, BOARD TRAFFIC ENGINEER  
THERESA SNYDER, BOARD SECRETARY

STENOGRAPHICALLY REPORTED BY:

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

JOB NO. NJ4785463

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

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I N D E X

WITNESSES	PAGE
Hal Simoff, P.E.	
Direct By Attorney Butler	12
Cross by Attorney Dory	60

PUBLIC COMMENT:

NAME	ADDRESS	PAGE
Gloria Boorujy	1205 Johnston Drive	103
Shimin Qian	138 Hill Hollow Road	105
Scott Seidel	1020 Johnston Drive	108
Dennis Kitt	1065 Johnston Drive	110

## E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
OW-1	Traffic report of Hal Simoff, dated July 29, 2021	*
OW-2	Vehicle queuing stacking report	*
OW-3	University of Florida Highway Capacity Software, dated 2021	*
OW-4	Vehicle queuing report reflecting the numbers from the University of Florida (2021) as marked OW-3	*
OW-5	Supplemental traffic report of Hal Simoff, dated September 1, 2021	*

(\*) Exhibits marked prior to commencement.

1 CHAIRPERSON SHAEFFER: In order to  
2 comply with the executive order signed by the  
3 Governor, and in an effort to follow best practices  
4 recommended by the CDC and in compliance with the  
5 DCA requirements for emergency meeting protocol,  
6 this meeting is being held virtually for all board  
7 members, board professionals, the applicant, the  
8 applicant's professionals, interested parties and  
9 members of the public.

10 Any remote public meeting where sworn  
11 testimony is being taken shall be broadcast by video  
12 as well as audio. And all individuals giving sworn  
13 testimony shall appear by video. Because of the  
14 quasi-judicial nature of the hearing, written public  
15 comment and/or questions cannot be accepted prior to  
16 the hearing. That's as per our resolution PB 20-R14.

17 Notice has been posted on the Borough  
18 website, at Borough Hall in compliance with the DCA  
19 requirements for emergency meeting protocol and has  
20 been given to The Echoes Sentinel, Courier News and  
21 The Star Ledger. Notice has been filed with the  
22 Borough clerk.

23 Okay, if we can please stand and salute  
24 the flag.

25 (Pledge of Allegiance.)

1 CHAIRPERSON SCHAEFER: Roll call  
2 please, Theresa.

3 BOARD SECRETARY: Mr. Ellis?  
4 (Non-audible response.)

5 Ms. Pennett?

6 MEMBER PENNETT: Here.

7 BOARD SECRETARY: Councilman Martino?

8 COUNCILMAN MARTINO: Present.

9 BOARD SECRETARY: Mayor Balla?  
10 Mr. Speeney? Don?

11 VICE-CHAIRMAN SPEENEY: Present.

12 BOARD SECRETARY: Ms. Spingler?

13 MEMBER SPINGLER: Here.

14 BOARD SECRETARY: Mr. Pote?

15 MEMBER POTE: Here.

16 BOARD SECRETARY: Mr. Fiorilla?

17 MEMBER FIORILLA: Here.

18 BOARD SECRETARY: Mr. Sims?

19 MEMBER SIMS: Here.

20 BOARD SECRETARY: Ms. Nora?

21 MEMBER NORA: Here.

22 BOARD SECRETARY: Madam Chair?

23 CHAIRPERSON SCHAEFER: Here.

24 BOARD SECRETARY: Mr. Linnus?

25 ATTORNEY LINNUS: Here.

1 BOARD SECRETARY: Mr. Matias?

2 BOARD ENGINEER: Here.

3 BOARD SECRETARY: Mr. Healey?

4 BOARD PLANNER: Here.

5 BOARD SECRETARY: And Mr. Jahr?

6 BOARD TRAFFIC CONSULTANT: Here.

7 CHAIRPERSON SCHAEFER: Thank you,  
8 Theresa. Please indicate that we have a quorum to  
9 conduct business.

10 Okay, Ellen, can you please call the  
11 application.

12 MEMBER SPINGLER: Yes. Case Number  
13 PB 19-01, Bonnie Burn/BNE. Bonnie Burn Road  
14 Redevelopment. Block 7402/7403, Lot 19.01, 19.02, 5  
15 and 10, represented by Nicole B. Dory, Esquire.  
16 BBRA Zone. Expiration 12/26/21.

17 CHAIRPERSON SCHAEFER: '21, yeah.  
18 Thank you.

19 Okay, so we're here tonight to continue  
20 the affordable application. And at our July 13th  
21 meeting the applicant finished the presentation and  
22 then rested their case.

23 As you remember from our last special  
24 meeting, we had stated that they had listened to our  
25 comments and concerns and had revised their plans.

1 And they had submitted a new set that reflected  
2 those comments, changes and additions.

3 As you also remember at our special  
4 meeting of August 10th, the opposer, Weldon, was to  
5 present his witness, Mr. Simoff, to present their  
6 traffic report. And Mr. Simoff had contracted the  
7 COVID virus and was unable to be present. It was  
8 the opinion of this board to continue this  
9 application until tonight's meeting.

10 But before we get any further, Mr.  
11 Simoff, how are you doing?

12 HAL SIMOFF: I'm doing fine. Thank  
13 you for your concern.

14 CHAIRPERSON SCHAEFER: Well, it's good  
15 to see you. Glad you're here.

16 Okay. So now we're going --

17 HAL SIMOFF: I just want to add that I  
18 had the vaccine so that my -- my virus traits were  
19 minimal. So that was a positive.

20 Thank you.

21 CHAIRPERSON SCHAEFER: That's good.

22 I am going to be proceeding with  
23 the opposer, Weldon, who is represented by their  
24 attorney, Mr. Butler. But before we do, I'm turning  
25 it over to Frank because I know Frank wants to



1 address the board.

2 ATTORNEY LINNUS: Yes. Thank you,  
3 Madam Chair. We're at the portion of the public  
4 hearing where the applicant has rested. And now the  
5 objector is coming in with some testimony and it's  
6 the objector's portion of the case. He has Mr.  
7 Simoff here tonight, his traffic consultant.

8 Just to refresh the board as to where  
9 we are and where we're going with traffic, the  
10 applicant has proposed, along with this site plan,  
11 an installation of a traffic signal at the  
12 intersection of Bonnie Burn Road and the site  
13 entrance road. So that is before the board.

14 That issue is totally within the  
15 jurisdiction of the Union County Planning Board. We  
16 don't have jurisdiction over whether they're going  
17 to get a traffic signal at that location or not.  
18 However, we must proceed on the site plan aspects of  
19 this application, which does include, and assumes, a  
20 traffic signal.

21 If for some reason, the board approves  
22 this with the traffic signal and Union County does  
23 not authorize a traffic signal then the applicant  
24 must return to this board with a new plan -- a new  
25 site plan not showing a traffic signal because we

1 have no jurisdiction over that issue.

2 We maintain our rights, planning board  
3 rights to review the site plan in its entirety,  
4 including all aspects of traffic, which include  
5 access, circulation, traffic impact and potential  
6 off-tract improvements.

7 So having said that, I think the  
8 applicant -- the objector, can proceed with its  
9 witness. Unless the board has any questions.

10 CHAIRPERSON SCHAEFER: Before we  
11 proceed with Mr. Butler, just an FYI to anyone who  
12 is here from the public, you will be able to ask  
13 questions and questions only of the opposer's  
14 witness, Mr. Simoff, that has to do with traffic.

15 No comments will be made on this  
16 application until the application is completely  
17 done. And then you will be able to make comments at  
18 the very end of the application when both sides have  
19 rested.

20 So with that being said, I have also  
21 been informed that Mayor Balla is somewhere here.  
22 He just called in. So he's on the phone.

23 MAYOR BALLA: Yeah, I'm here.

24 CHAIRPERSON SCHAEFER: Okay.

25 All right, Mr. Butler, would you like

1 to proceed?

2 ATTORNEY BUTLER: Yes, with your  
3 permission. And thank you for the opening, Mr.  
4 Linnus.

5 I would like to qualify as an expert in  
6 traffic, Hal Simoff, and I would like to proceed as  
7 follows: Mr. Simoff, would you please advise the  
8 board as to your educational and professional  
9 background regarding traffic engineering?

10 HAL SIMOFF: Do I have to be sworn?

11 ATTORNEY BUTLER: Yes.

12 ATTORNEY LINNUS: Mr. Simoff, where  
13 are you? I must see you.

14 HAL SIMOFF: I'm sitting next to Bill  
15 Butler.

16 ATTORNEY BUTLER: Unfortunately.

17 ATTORNEY LINNUS: Do you want to raise  
18 your right hand, please. Do you swear or affirm  
19 that the testimony you are about to give will be the  
20 truth, the whole truth, and nothing but the truth?

21 HAL SIMOFF: Yes, I do.

22 ATTORNEY LINNUS: Proceed.

23 ATTORNEY BUTLER: Thank you,  
24 Mr. Linnus -- Linus.

25

E X A M I N A T I O N

DIRECT BY ATTORNEY BUTLER:

Q. Did you hear my question?

A. Yes.

ATTORNEY LINNUS: Once again, Mr. Butler -- Mr. Butler, I don't mean to interrupt you for the tenth time, but it's Linnus.

ATTORNEY BUTLER: Yeah, I think I said it right the second time.

ATTORNEY LINNUS: The first time.

ATTORNEY BUTLER: I said it right the first time?

ATTORNEY LINNUS: Yes.

ATTORNEY BUTLER: Sorry, Frank.

ATTORNEY LINNUS: That's okay.

THE WITNESS: Yes, I'm a licensed professional engineer and I'm also a licensed professional planner. I'm a fellow with the Institute of Transportation Engineers.

I've been qualified by this board previously. I have been qualified by planning boards/zoning boards from Mahwah to Cape May.

I have -- in the past I have been a professor of traffic engineering at NJIT. I have a

1 bachelor's degree from NJIT.

2 BY ATTORNEY BUTLER:

3 Q. And how many times do you estimate you  
4 have been accepted as an expert in traffic testimony  
5 before planning boards or board of adjustments or  
6 courts or mediations or arbitration proceedings?

7 A. I have been qualified in the Superior  
8 Court as an expert, both accident reconstruction and  
9 site plan applications. I have been -- I have been  
10 at this since the early -- the late '70s until the  
11 present. So it's in excess of almost 50 years.

12 ATTORNEY BUTLER: Madam Chair, I offer  
13 Mr. Simoff as a traffic expert.

14 CHAIRPERSON SCHAEFER: And that's  
15 accepted. Thank you, Mr. Butler.

16 THE WITNESS: Thank you.

17 ATTORNEY BUTLER: Thank you.

18 Theresa Snyder, would you please put up  
19 on the board Page 4 of the applicant's site plan.  
20 It is -- has latest revision date of 6/4/21. It's  
21 entitled, "Layout and Dimensional Plan." Page 4.

22 BOARD SECRETARY: All right, Mr.  
23 Butler, I only have on my screen right now the OW's,  
24 so you're going to have to give me a minute to find  
25 the site plan.

1                   ATTORNEY BUTLER:   Okay.   That's not a  
2   --

3                   BOARD CLERK:    I didn't know you were  
4   going to use the site plan.   I'm sorry.   Sorry,  
5   everyone.

6                   ATTORNEY BUTLER:   Don't have to  
7   apologize to me.   You have been very helpful to both  
8   sides.   It's not an OJ exhibit because it was part  
9   of the site plan.

10                  CHAIRPERSON SCHAEFER:   I'm going to  
11   ask anyone who is not muted to please mute  
12   yourselves because we tend to get some feedback.

13                  PLANNING BOARD SECRETARY:   I'm sorry,  
14   Mr. Butler.   What part of the site plan are you  
15   looking for?

16                  ATTORNEY BUTLER:   I'm looking for Page  
17   4 of 22 of the site plan, called Layout and  
18   Dimensioning Plan.   And it shows the driveways going  
19   into the project.   It shows the light and it shows  
20   Bonnie Burn Road.

21                  CHAIRPERSON SCHAEFER:   Caller  
22   number -- whoever just called in and said "hello,"  
23   please put yourself on mute.

24                  UNIDENTIFIED CALLER:   So on mute?   I  
25   only have the dial pad.   I don't have any other

1 controls.

2 CHAIRPERSON SCHAEFER: Okay. Then you  
3 just need to keep whatever background down --  
4 background noise down because it interferes with our  
5 meeting unfortunately.

6 UNIDENTIFIED CALLER: Okay. This is  
7 the planning board meeting?

8 CHAIRPERSON SCHAEFER: Yes, it is.

9 UNIDENTIFIED CALLER: Okay.

10 PLANNING BOARD SECRETARY: Tracee, my  
11 problem is I'm remotely logged into the server so I  
12 could -- I was on the laptop. I would have to do a  
13 Remote Desktop, which means I would have to log out  
14 of everything to get not my One Drive. Hold on, I'm  
15 sorry. I don't mean to be -- I'm not really  
16 technically savvy.

17 CHAIRPERSON SCHAEFER: You're more  
18 technically savvy than most of us.

19 BOARD SECRETARY: Let me try it another  
20 way.

21 THE WITNESS: Well perhaps Mr. Keller  
22 can put it.

23 ATTORNEY DORY: I have the site plan  
24 sheet. I can send it to you or Mr. Butler.

25 ATTORNEY BUTLER: Yes?

1                   CHAIRPERSON SCHAEFER: Or does Mr.  
2     Matias -- Rick, do you have it that you could share?

3                   BOARD ENGINEER: I do. I do have it.  
4     I can try and share my screen and see if it will pop  
5     up.

6                   PLANNING BOARD SECRETARY: Okay. I  
7     was logging into the website. That's going to take  
8     too much time. I'm so sorry. I was just ready for  
9     the OW exhibits, not the site plan.

10                  CHAIRPERSON SCHAEFER: That's okay.  
11     If we could get Rick to maybe pull it up, that would  
12     be wonderful.

13                  There we go.

14                  BOARD SECRETARY: Thank you.

15                  CHAIRPERSON SCHAEFER: Thank you.

16                  BOARD SECRETARY: Sorry about that, Mr.  
17     Butler.

18                  ATTORNEY BUTLER: All right. No, you  
19     don't have to apologize to me for anything.

20     BY ATTORNEY BUTLER:

21                  Q.     Okay. Now, Mr. Simoff, I'm going to  
22     ask you questions about Sheet 4. Okay?

23                  A.     Yes.

24                  Q.     Now Sheet 4 shows the six buildings;  
25     does it not?



1           A.       Yes.

2           Q.       And it shows the driveways going in and  
3 out of those six buildings; does it not?

4           A.       Yes.

5           Q.       And how many driveways does it show?

6           A.       There's one driveway divided with a  
7 center divider.

8           Q.       There is only one driveway?

9           A.       Yes.

10          Q.       There's not two driveways?

11          A.       It's one in and one out, with a center  
12 divider.

13          Q.       Okay. Now, could I call that -- would  
14 that confuse you if I call that two driveways?

15          A.       I'll figure it out.

16          Q.       Okay. All right.

17                 ATTORNEY DORY: Could I just object to  
18 that. I'm not sure what you're referring to two  
19 driveways as. Could you clarify?

20                 ATTORNEY BUTLER: Yeah, we were  
21 referring to the entrance and exit from the project,  
22 getting into the project and getting out of the  
23 project.

24                 THE WITNESS: The access to Bonnie  
25 Burn Road.

1                   ATTORNEY DORY: Why are you referring  
2 to that as two driveways?

3                   ATTORNEY BUTLER: Excuse me?

4                   ATTORNEY DORY: You're referring to  
5 that as two driveways?

6                   ATTORNEY BUTLER: Yeah.

7                   ATTORNEY DORY: Okay. All right, go  
8 ahead.

9 BY ATTORNEY BUTLER:

10                Q.       Each driveway is how -- how wide is  
11 each driveway?

12                A.       Each side of the island is 20 feet  
13 wide.

14                Q.       Okay. And how many -- how many -- for  
15 each one of the two driveways, is there more than  
16 one lane?

17                A.       Depends on which plan you look at, the  
18 previous plans showed it as two. This plan shows it  
19 as one drive -- one lane.

20                Q.       Okay. We're talking about this plan.

21                A.       Okay.

22                Q.       Which is Sheet Number 4. That's all  
23 I'm interested in at this point.

24                       And it also shows Bonnie Burn Road;  
25 does it not?

1           A.       Yes, it does.

2           Q.       Okay. And does it show a lot  
3 on -- excuse me, does it show a traffic light on  
4 Bonnie Burn Road?

5           A.       It shows a proposed traffic light,  
6 yes.

7           Q.       And is that that dot in the middle of  
8 Bonnie Burn Road?

9           A.       Yes.

10          Q.       And does that have a line to a note  
11 that says, Proposed Traffic Signal?

12          A.       Yes, it does.

13          Q.       Okay. Your testimony is going to  
14 surround this exhibit tonight; is that correct?

15          A.       The access and the egress along Bonnie  
16 Burn Road, yes.

17          Q.       Okay. Now, would you describe for me  
18 the contour of Bonnie Burn Road as it goes from west  
19 to east? And the quarry would be north, so east  
20 would be towards Route 22 and west would be towards  
21 Route 78; is that correct?

22          A.       Yes, I understand.

23          Q.       Okay.

24          A.       The access point is near the western  
25 edge of the property. And the alignment is -- it's

1 a curbed alignment going down the -- call it down  
2 the hill toward -- going down towards New Providence  
3 Road. And the property has a significant amount of  
4 frontage on Bonnie Burn Road.

5 Q. Okay. How about the contour of the  
6 road?

7 A. Well, there's horizontal issues and  
8 there's vertical issues.

9 Q. When you say "issues," what are you  
10 talking about?

11 A. Well, it's not straight and level.

12 Q. Okay. And when you say "vertical" you  
13 mean up and down?

14 A. Yes.

15 Q. And when you say "horizontal" you mean  
16 sideways?

17 A. Yes.

18 Q. Okay. Now, presently Bonnie Burn Road  
19 is a two-lane road going east and west; is that  
20 correct?

21 A. Yes, one lane in each direction.

22 Q. Okay. This site plan changes that,  
23 doesn't it?

24 A. Yes.

25 Q. Okay. What does this site plan do to

1 Bonnie Burn Road going in a westerly direction?

2 A. It's -- there's a proposed widening  
3 that includes a left-turn lane in the westbound  
4 direction.

5 Q. Okay. So at that point, Bonnie Burn  
6 Road is three lanes; is it not?

7 A. Yes.

8 Q. It's two going -- one going west, one  
9 going east, and there's a turning lane that goes  
10 from the -- from the east to make a left onto the  
11 site?

12 A. Right. It's basically in the middle,  
13 in between the east and west lanes.

14 Q. Okay. Before I leave this exhibit, is  
15 there any other comments you want to make on it?

16 A. No, I think I would like to get into  
17 the issues of the traffic control.

18 Q. Okay. We have the report. Do you have  
19 the plan here? We can always go back to it.

20 CHAIRPERSON SCHAEFER: Mr. Butler, do  
21 you want the screen removed?

22 THE WITNESS: Please.

23 ATTORNEY BUTLER: Yes, please. I'm  
24 sorry, Madam Chair.

25 Yes, I am through with that exhibit for

1 now unless we have to call for it to be back and I  
2 don't think we will have to.

3 Thank you very much for reminding me.

4 CHAIRPERSON SCHAEFER: No problem.

5 ATTORNEY BUTLER: Okay. Now, if  
6 Theresa Snyder would be kind enough to put up on the  
7 screen OW-1, which is a traffic report of Hal  
8 Simoff, dated July 29th, 2021. OW-1.

9 BOARD SECRETARY: Is this correct?

10 THE WITNESS: Yeah.

11 ATTORNEY BUTLER: Yes, that's the  
12 second -- but that's fine. That's fine. I'm going  
13 to ask some preliminary questions.

14 That's perfect. Thank you very much.

15 BY ATTORNEY BUTLER:

16 Q. Now, Mr. Simoff, you're objecting on  
17 behalf of Weldon Quarry; are you not?

18 A. Yes.

19 Q. Okay. Weldon Quarry is located  
20 directly across the street from the subject  
21 property; is that correct?

22 A. Correct.

23 Q. Okay. Now, have you had conversations  
24 with Bob Weldon, the president of Weldon Materials,  
25 Inc., regarding traffic to and from the quarry using

1 Bonnie Burn Road?

2 A. Yes.

3 Q. Okay. Can you give us the benefit of  
4 what you learned from those discussions and those  
5 meetings?

6 A. A significant proportion of the Weldon  
7 trucking, as well as the visitors, the trucks and  
8 activity that come and go to the quarry, use Bonnie  
9 Burn Road as a -- as an access route from Route 78  
10 and from Valley Road to get to the entrance to the  
11 quarry that is down on New Providence Road.

12 Q. Okay. Now, the entrance and exit to  
13 the quarry is located on New Providence Road; is  
14 that correct?

15 A. Yes.

16 Q. Okay. Now you have been out there and  
17 you watched traffic movements from the quarry in and  
18 out?

19 A. Many times.

20 Q. Many times? Okay.

21 In your opinion, on New Providence Road  
22 is it difficult to make a left-hand turn?

23 A. Yes. A left-hand turn out.

24 Q. And that's because of?

25 A. The backup from -- the backup from the

1 intersection of New Providence and Bonnie Burn  
2 during the peak hours. It's basically a  
3 heavily-traveled intersection, Bonnie Burn and New  
4 Providence Road.

5 Q. Okay. Now, let me talk to you about  
6 Union Avenue Place. That's also across the street  
7 from the exit of the quarry; is it not?

8 A. Yes.

9 Q. Was there an issue associated with  
10 that?

11 A. Well, there's a truck limit, a weight  
12 limit on Union Avenue so that all the traffic  
13 exiting the quarry has to either turn left or right,  
14 all the truck traffic.

15 Q. If it makes a left. You just described  
16 how difficult it is to make a left; did you not?

17 A. Right. So most of the traffic makes a  
18 right and heads towards -- heads towards Bonnie Burn  
19 Road.

20 Q. Okay. Now, when it reaches Bonnie Burn  
21 Road that's a signaled intersection; is it not?

22 A. Yes, it is.

23 Q. And Weldon traffic can, at that point,  
24 can make a right and go west towards 78; is that  
25 correct?



1           A.       Yes.

2           Q.       And it could also make a left -- it  
3 could also make a left on Route 22; could it not?

4           A.       Yes.

5           Q.       It could also go through the  
6 intersection and drive over the flyover into the  
7 center of Scotch Plains; is that correct?

8           A.       Correct, Park Avenue.

9           Q.       Okay. Now, you indicated that Bob  
10 Weldon advised you that these are the travel ways of  
11 his trucks and the trucks that he hires; is that  
12 correct?

13          A.       And patrons of the quarry, you know,  
14 contractors that are coming to the quarry to pick up  
15 material.

16          Q.       Okay. Now, forget about the quarry and  
17 the traffic from the quarry. Bonnie Burn Road, how  
18 would you describe the driving general public, as  
19 far as number of vehicles on Bonnie Burn Road?

20          A.       Well, most of the -- in the morning  
21 the traffic is predominantly headed westbound going  
22 towards 78. And then there's a reverse flow in the  
23 afternoon where most of the traffic is headed  
24 eastbound coming from 78, coming down the hill.

25          Q.       Okay. Now those -- you even have

1 figures, do you not, specifically explaining what  
2 you just said on Page 2 of your report, OW-1?

3 A. Yes. Down near the bottom.

4 ATTORNEY LINNUS: Excuse me, Mr.  
5 Simoff, Mr. Butler. What is the date of this OW-1?

6 ATTORNEY BUTLER: OW-1 is dated July  
7 29th, 2021.

8 ATTORNEY LINNUS: Thank you.

9 ATTORNEY BUTLER: And, Mr. Linnus,  
10 tomorrow I will be sending you, like you know has  
11 been my habit, all the exhibits and the numbers for  
12 all the exhibits to assist everybody in evaluating  
13 this case. That will go out tomorrow.

14 ATTORNEY LINNUS: Thank you.

15 BY ATTORNEY BUTLER:

16 Q. Now, before we go into what you have on  
17 Page 1, your report, as well as the Bowman Report,  
18 which was authored by Eric Keller, refers to a.m.  
19 peak hour and p.m. peak hour; does it not?

20 A. Yes.

21 Q. Okay. I want to get an understanding  
22 of peak hour because not everybody is a traffic  
23 engineer and not everybody understands the meaning  
24 of those terms.

25 Now just stick with a.m. As best you

1 can and as simply as you can, would you explain what  
2 you mean in your reports when you use the term "a.m.  
3 peak hour"?

4 A. Yes. The practice is usually where  
5 we -- traffic counts are conducted in 15-minute  
6 periods. In the a.m. it's usually 7:00 to 9:00 a.m.  
7 and then what happens is the four contiguous  
8 15-minute count periods that turn out to be the  
9 highest four numbers combined, is characterized as  
10 the peak hour.

11 Q. So those 15-minute segments, they would  
12 be continuous; would they not?

13 A. Yes.

14 Q. They're not interrupted?

15 A. Right. They would have to be  
16 contiguous to establish the peak hour.

17 Q. So in any particular site between  
18 7:00 a.m. and 9:00 a.m. we could have a different  
19 specific hour as the peak a.m. hour; is that  
20 correct?

21 A. Yes.

22 Q. And does it work the same way for p.m.  
23 peak hour?

24 A. Correct, yes.

25 Q. Okay. Now let's go to Page 2 of OW-1.

1 And you have peak hour trip generation, 230 units;  
2 do you not?

3 A. Yes.

4 Q. Where did you get those numbers?

5 A. There is a Table 2 in the Bowman  
6 Report that calculates the peak hour based on the  
7 Institute of Transportation Engineers' criteria for  
8 calculating peak hour.

9 Q. Okay. Now, that Bowman Report dated  
10 5/1, revised 10/7/19, its original date is 5/1/19,  
11 revised 10/7/19; is that the report you're referring  
12 to?

13 A. Yes, it's entitled "Traffic  
14 Engineering Evaluation."

15 Q. Okay. And that was submitted to this  
16 planning board in support of this application; is  
17 that correct?

18 A. Yes.

19 Q. Was there any other traffic report that  
20 either Mr. Keller or Bowman Engineering submitted in  
21 support of this application?

22 A. I don't believe so.

23 Q. Okay.

24 ATTORNEY DORY: Objection. Objection,  
25 just for the record. I just want to note my

1 objection. The applicant submitted various traffic  
2 reports.

3 ATTORNEY BUTLER: Do you want to  
4 identify them?

5 CHAIRPERSON SCHAEFER: Ms. Dory,  
6 before you begin, I don't know who has -- who's not  
7 muted but everybody needs to be muted. We're  
8 getting some feedback here, a banging, and it's very  
9 distracting. I'm sorry to interrupt.

10 ATTORNEY BUTLER: I'm sorry if I'm  
11 causing it. I'm sorry if I'm causing it, Madam  
12 Chair. I don't think I am, but if I am, I  
13 apologize.

14 CHAIRPERSON SCHAEFER: No, I don't  
15 think you are, Mr. Butler.

16 But go ahead, Ms. Dory. I'm sorry.

17 ATTORNEY DORY: I'm not prepared to  
18 list all the dates for you, but I know there was the  
19 traffic engineering evaluation that was revised a  
20 few times and there was also the Warren Study that  
21 was submitted that was revised a few times. So  
22 there has been more than one report submitted.

23 ATTORNEY BUTLER: The Warren Study all  
24 three counsel -- Frank, you and I -- have agreed, is  
25 a Union County issue. So I'm not talking about

1     that.

2                   ATTORNEY DORY:   Well, you asked him  
3     what has been submitted to the board and I'm  
4     clarifying what has been submitted to the board.  I  
5     understand your position.

6                   ATTORNEY BUTLER:  Okay.  That was  
7     submitted to the county, not to the board.  Okay?

8                   ATTORNEY DORY:  That's not correct,  
9     but that's fine.

10                  ATTORNEY BUTLER:  But I appreciate  
11     your interjecting so that we can straighten out that  
12     issue, Nicole.

13     BY ATTORNEY BUTLER:

14                  Q.       Now, on Page 1 of your report, which  
15     you incorporated from the Bowman --

16                  A.       Page 2.

17                  Q.       -- Page 2 of your report, what does  
18     that indicate?  What are the figures?

19                  A.       There's a table in the Bowman traffic  
20     evaluation that uses the ITE, Institute of  
21     Transportation Engineers, Trip Generation  
22     calculations for 230 units.  And it shows that the  
23     a.m. peak consists of 22 vehicles entering and 61  
24     vehicles exiting.

25                  Q.       For a total of what?

1           A.       83 vehicles.

2           Q.       And go ahead, I'm sorry.

3           A.       And in the afternoon, it's a reverse  
4 flow. There's 62 entering and 39 exiting for a  
5 total of 101.

6           Q.       Okay. Now, this is trip generation,  
7 this means these are the increased vehicles that are  
8 going to be created by the 230-unit apartments; is  
9 that correct?

10          A.       Yes. It's the -- it's the accepted  
11 means of projecting that.

12          Q.       All right. You're not challenging  
13 those figures, are you?

14          A.       No.

15          Q.       Now, let's go down further and talk  
16 about actual traffic on Bonnie Burn Road, and I  
17 think those numbers, a.m. peak and p.m. peak,  
18 reflect what I just said; is that correct?

19          A.       Yes, they reflect the projected  
20 numbers. There's a growth volume. There's a volume  
21 associated with additional -- with additional nearby  
22 approved developments. And these are the numbers  
23 that Bowman developed for the east and westbound on  
24 Bonnie Burn Road.

25          Q.       Okay. Now, these are numbers that

1 Bowman represented that he counted or had somebody  
2 else count?

3 A. There were counts and then there were  
4 projections for additional traffic.

5 Q. Okay. And you, for your report, have  
6 adopted those numbers; is that correct?

7 A. Yes.

8 Q. Without doing independent vehicle  
9 inspections, you relied upon the Bowman traffic  
10 counts; is that correct?

11 A. Yes.

12 Q. Okay.

13 A. Traffic projections.

14 Q. Projections, okay. The a.m. peak hour  
15 is how many vehicles westbound?

16 A. 1498. 1,498.

17 Q. Okay. And now, I'm going to skip the  
18 other ones except one, p.m. peak hour, going  
19 eastbound what is the number of projected vehicles?

20 A. 1,180.

21 Q. Okay. Now, just looking at those two  
22 numbers that you gave us, what immediate conclusion  
23 do you draw?

24 A. The traffic volumes on Bonnie Burn  
25 Road are significant.



1 Q. And when is traffic heaviest?

2 A. During the morning a.m. peak hour.

3 Q. 1498 vehicles?

4 A. 1498 eastbound -- I'm sorry, westbound  
5 and another 522 eastbound. So the total is in  
6 excess of 2,000 cars.

7 Q. Now, in the Bowman Report, and I'm not  
8 going to continue unless Frank tells me to, and I  
9 will if he tells me to, the Bowman report is dated  
10 5/1/19 and it's revised 10/7/19.

11 ATTORNEY BUTLER: And I would prefer  
12 not to have to repeat those dates, if that's all  
13 right, Frank? Or Nicole?

14 ATTORNEY DORY: If that's what you're  
15 going to refer to as the Bowman Report, that's fine  
16 with me.

17 ATTORNEY BUTLER: Thank you very much.  
18 And if I make a mistake, please correct me, because  
19 I want things to be accurate.

20 BY ATTORNEY BUTLER:

21 Q. Now, attached to the Bowman report as  
22 an exhibit, is a document on the bottom entitled or  
23 numbered, Roman numeral II C-5; is that correct?

24 A. Yes.

25 Q. Okay. Now, I want to talk to you, if I

1 may, on the figures associated with the westbound  
2 traffic towards Route 78. Okay?

3 Now, this application, as Mr. Linnus  
4 pointed out, is predicated upon a traffic light and  
5 it's seeking conditional approval and that is  
6 approval of the traffic light. So we're assuming,  
7 for the purpose of tonight, that there's a traffic  
8 light; is that correct?

9 A. That's the application that they put  
10 forth.

11 Q. All right. Now, do you notice the  
12 solid black bars on II C-5?

13 A. Yes.

14 Q. I would like to ask you some questions  
15 that appear below the third black line and over on  
16 the far left it says, "signal information."

17 ATTORNEY BUTLER: And I would request  
18 any board member or any consultant that loses me to  
19 make me stop and to make sure that they understand  
20 where I'm at on this particular page.

21 And I have heard -- I've heard no  
22 questions, so I assume everybody understands where  
23 I'm at.

24 BY ATTORNEY BUTLER:

25 Q. Now, you see where it says "signal

1 information westbound"?

2 A. Yes.

3 Q. Okay. And to the left it has the color  
4 of traffic lights; does it not?

5 It has green, it has yellow and it has  
6 red; am I correct?

7 A. Correct.

8 Q. And it shows traffic under Westbound L  
9 -- what does "L" mean?

10 A. Left.

11 Q. Left. Now, there are two arrows there;  
12 are there not?

13 A. Yes.

14 Q. And one arrow seems to be going to the  
15 left and one to the right --

16 A. Correct.

17 Q. -- is that correct?

18 A. Yes.

19 Q. Would that indicate to you two lanes?

20 A. Yes.

21 Q. But --

22 A. Let me just interrupt for a second.

23 Q. Okay.

24 A. In the upper right-hand corner there  
25 is a diagram of the intersection and it depicts the

1     lanes. And as you can see in the northbound, headed  
2     towards the top of the sheet, is a left arrow and a  
3     right arrow.

4             Q.       Okay. Now, when I asked you to give me  
5     your interpretation of -- bear with me a moment --  
6     Page 4 of the site plan, you testified that there  
7     was only one driveway; is that correct?

8             A.       One lane, yes.

9             Q.       One lane. And II C-5 shows two lanes?

10            A.       Yes.

11            Q.       What is your opinion of the  
12     discrepancy?

13            A.       The original plan had two lanes and  
14     this -- and the same 20 feet was re-striped for one  
15     lane.

16            Q.       Well, in other words, the present site  
17     plan as well II C-5 is inconsistent; would that be  
18     fair or unfair?

19            A.       No, there's -- they are not  
20     consistent, yes.

21            Q.       They are inconsistent?

22            A.       Correct.

23            Q.       Okay. Now, add up the total green  
24     time, yellow time and red time and how many seconds  
25     do you get?

1           A.       Well, you mean for the northbound  
2       exit?

3           Q.       Exactly.

4           A.       12 seconds.

5           Q.       12 seconds. So, therefore, this light  
6       would stop traffic for 12 seconds; is that correct?

7           A.       Correct.

8           Q.       Now --

9           A.       12 seconds of each cycle.

10          Q.       12 seconds of each cycle, okay.

11                   Now, now let's go down to the fifth  
12       solid line. And the second column has "WB" for  
13       westbound; does it not?

14          A.       Oh, I thought that was "William  
15       Butler." A little levity.

16          Q.       I know. I tried that two months ago,  
17       remember?

18          A.       But the bottom line is that it's  
19       westbound.

20          Q.       It's westbound, okay.

21                   Now, again, you have no problem with  
22       the applicant's engineer using II C-5; is that  
23       correct?

24          A.       Well, other than --

25          Q.       Other than the lanes?

1           A.       Correct.

2           Q.       But let's stick with those two lanes  
3 for a minute and let's see where we go.

4           A.       Okay.

5           Q.       Okay? Now, following that down, I want  
6 you to look at where it says "capacity."

7                    Do you see capacity?

8           A.       Yes.

9           Q.       What number does it say for capacity?

10          A.       1,499.

11          Q.       In your professional opinion, what does  
12 capacity mean?

13          A.       It's the number of vehicles that can  
14 pass through that intersection in that direction.

15          Q.       Would that be the maximum number of  
16 vehicles when it says "capacity"?

17          A.       Yes. It's with the factors involved,  
18 the timing, the lane widths, et cetera.

19          Q.       That would be maximum?

20          A.       Yes.

21          Q.       What happens when you add, in this  
22 particular case, you would add to the 499; what  
23 would happen?

24          A.       You would exceed capacity.

25          Q.       And what would that do to the level of

1 service?

2 A. Makes it Level of Service F.

3 Q. Okay. Now, do you remember when Eric  
4 Keller testified in July and I cross-examined him  
5 regarding Roman numeral II C-5 and he denied that  
6 the westbound was an F; do you remember that?

7 A. Yes.

8 Q. Do you remember him saying that he was  
9 going to correct that?

10 A. Yes.

11 Q. And, to your knowledge, has he ever  
12 corrected it?

13 A. To my knowledge it has not been done.

14 Q. To your knowledge, with those numbers,  
15 could it ever be corrected?

16 A. No. I went back in the interim and  
17 looked at the Highway Capacity Manual, the source of  
18 these criteria, and it basically says that when you  
19 exceed capacity, the level of service is F.

20 Q. Okay. Now continuing, this 12-second  
21 stop, and we have red at two seconds going both  
22 directions; is that correct?

23 A. That's basically an all-red -- it's a  
24 standard practice to have everybody stop to clear  
25 the intersection so that if somebody is passing

1 through the intersection at the last second they  
2 don't hit the car in the other direction.

3 So there's a common practice of  
4 providing for what's called an all-red or a  
5 clearance red.

6 Q. And that's a safety measure; is that  
7 correct?

8 A. Yes. It's standard in New Jersey.

9 Q. Okay. Now, that is a backup, that  
10 results -- go to the next line, that's a backup of  
11 782 feet; is that correct?

12 A. Correct.

13 Q. During this 12 seconds, it causes  
14 782 feet to be gridlocked?

15 A. To be backed up, yes.

16 Q. And underneath that it translates to  
17 how many vehicles would be backed up; is that  
18 correct?

19 A. 31.

20 Q. The answer is 31 vehicles will be  
21 backed up; is that correct?

22 A. Yes.

23 Q. Okay. And you put it all together and  
24 you get F; is that correct?

25 A. Yes. And I have highlighted that.



1           Q.       Okay. Now, II C-5, the University of  
2 Florida, there's a copyright of 2019; is that  
3 correct?

4           A.       Yes.

5           Q.       And what is that called?

6           A.       Highway Capacity Software.

7           Q.       Otherwise abbreviated as?

8           A.       HCS.

9           Q.       It's a commonly used tool in traffic  
10 engineering?

11          A.       Yes.

12          Q.       Okay.

13                   ATTORNEY BUTLER: Now, bear with me a  
14 moment, Madam Chair.

15                   ATTORNEY BUTLER:

16          Q.       On Page 1 of your report you talk about  
17 K-1, which is part -- which is part of the Bonnie  
18 Burn Road Redevelopment Area, right?

19          A.       Yes.

20          Q.       Commonly referred to as our Mount  
21 Laurel District in this area, correct?

22          A.       Correct.

23          Q.       Okay. And we're going to come back to  
24 that, but that's on Page 1. The last part of your  
25 testimony is going to be about that.

1                   Now, I'm going to move on now. All  
2 right, now, in your report, OW-1, you have an  
3 Exhibit 1 which is II C-5, which is the applicant's  
4 engineer. And you also have an Exhibit 2 and it's  
5 entitled, "Body of the 50-Percentile Queue at the  
6 Proposed Signal;" is that correct?

7           A.       Yes.

8           Q.       And it's marked OW-2; is that correct?

9           A.       Yes, I believe so.

10          Q.       So what did you do there? What is  
11 OW-2?

12          A.       What I did is I took the site plan --

13          Q.       Excuse me.

14                   ATTORNEY BUTLER: Theresa Snyder --

15                   THE WITNESS: She's got it.

16                   ATTORNEY BUTLER: Does she have it?

17          Okay.

18                   Thank you very much. I was looking  
19 down. I didn't catch that. I apologize.

20          BY ATTORNEY BUTLER:

21                  Q.       One second. OW-1, does that look like  
22 this?

23                  A.       Yes.

24                  Q.       There's as many cars there as there are  
25 here?

1           A.       Yes.

2           Q.       Wait a minute. Wait a minute. This is  
3 the second.

4           A.       This is OW-2.

5           Q.       OW-2, okay. Give me one second. Okay.  
6 Now, OW-2, what does OW-2 reflect?

7           A.       It's a plotting of the results of the  
8 Bowman calculations that show the queuing and the  
9 plotting of the 31 -- I call it 31 vehicles.

10          Q.       31 vehicles. So that gives us an idea  
11 of the backup of the vehicles; is that correct?

12          A.       Yes.

13          Q.       Okay, now, I want to go to Page 3.

14                 ATTORNEY BUTLER: And you don't have  
15 to put this up, Ms. Snyder, because it has already  
16 been put up.

17          Q.       OW-1, which is your report of  
18 July 20th, 2021, on Page 3 in the middle, you say  
19 this, "When the volume exceeds the capacity, the  
20 queues will increase as the hour progresses?"

21                 Is that an accurate statement?

22          A.       Yes.

23          Q.       What does it mean?

24          A.       Well, the fact that the volume is  
25 greater than the capacity and each cycle, it

1 just -- it's the traffic compounds itself and  
2 increases the queue.

3 Q. Now, when you say "at each cycle," what  
4 does that mean? I don't understand that.

5 A. The projections call for the traffic  
6 to change through -- go through the three cycles in  
7 90 seconds. Every 90 seconds, or 40 times per hour,  
8 the red, green -- red, yellow and green -- red comes  
9 up.

10 Q. Okay. So, in other words, in each  
11 cycle the queue becomes longer; is that correct?

12 A. Right. Because what happens is the  
13 capacity is -- the volume exceeds the capacity and  
14 then it just spills over to the next cycle.

15 Q. So at this point, as you show on OW-2,  
16 this is the best case scenario for the initial  
17 queuing; is that correct?

18 A. Well, this is what happens, as we  
19 stated, the peak hour is approximately between 7:15  
20 and 8:15. And then as these numbers increase, this  
21 queuing will increase.

22 Q. Okay. Now, let me go, if I may, to  
23 OW-5, which is your supplemental report, dated  
24 September 1, 2021; is it not?

25 A. Yes.

1                   ATTORNEY DORY: Can I just ask what is  
2   OW-4? We skipped over that number, I believe, or  
3   OW-3? Are you skipping those?

4                   ATTORNEY BUTLER: Excuse me, one  
5   second. OW-4 is the queuing that I'm going to get  
6   to shortly. We haven't gotten there yet.

7                   ATTORNEY DORY: Okay. So you're  
8   skipping OW-3 and OW-4. I just wanted to clarify.

9                   THE WITNESS: No, they're coming up.

10                  ATTORNEY BUTLER: They're coming up.  
11   You'll have to be patient, like I'm not, and you'll  
12   get there. Okay?

13   BY ATTORNEY BUTLER:

14                  Q.       Now again, in OW-5, which is your  
15   report of September 21, 2021, you again, show the  
16   Bowman II C-5, which is attached to his traffic  
17   report; is that correct?

18                  A.       Yes.

19                  Q.       And he used the highway capacity  
20   software printed by the University of Florida for  
21   the year 2019; is that correct?

22                  A.       It was the version that was available  
23   in 2019.

24                  Q.       And his latest revision is 2019 --

25                  A.       Yes.

1 Q. -- right?

2 A. Yes.

3 Q. But today -- well, what is today's  
4 date?

5 A. September, 2021.

6 Q. September 14th?

7 A. The day after the 13th.

8 Q. And you know why I know the 13th, but  
9 you don't have to explain why you know that. Okay?

10 But in any event, University of  
11 Florida has updated its Highway Capacity Software;  
12 has it not?

13 A. Yes.

14 Q. Okay. Now, in your professional  
15 opinion, which is more appropriate, to use an old  
16 report or a new report?

17 A. Well, standard practice would say that  
18 you would use the latest available version of the  
19 Highway Capacity Software.

20 Q. Okay. Now, I'm going to talk to you  
21 about, if I may, and that's OW-3.

22 ATTORNEY BUTLER: Theresa, may we  
23 please put OW-3 up on the screen?

24 THE WITNESS: That's it.

25 ATTORNEY BUTLER: That's it? Okay.

1 BY ATTORNEY BUTLER:

2 Q. Now, again, I'm going to go through  
3 this with you and again --

4 ATTORNEY DORY: Can you identify --  
5 I'm sorry, can you identify what OW-3 is?

6 Is it what's attached to OW-5?

7 ATTORNEY BUTLER: Yes. It's the  
8 Highway Capacity Software put out by the University  
9 of Florida on 2021, the same as they put out in  
10 2019, which was used by your traffic engineer.

11 But now we're talking about the latest  
12 version, which is 2021, which is the present  
13 version.

14 ATTORNEY DORY: Yes. I am just trying  
15 to understand what you have on the screen. So OW-3  
16 is --

17 ATTORNEY BUTLER: Have I answered your  
18 question?

19 ATTORNEY DORY: -- OW-5. Yes.

20 ATTORNEY BUTLER: Have I answered your  
21 question?

22 ATTORNEY DORY: Yes.

23 ATTORNEY BUTLER: It's OW-3, ma'am,  
24 that I'm talking about now.

25 ATTORNEY DORY: Yes. And OW-3 is

1 another copy of one of the pages in OW-5.

2 ATTORNEY BUTLER: OW-3 is the 2021  
3 University of Florida, the latest Highway Capacity  
4 Software, which is an update of what your traffic  
5 engineer used in 2019. Okay?

6 BY ATTORNEY BUTLER:

7 Q. Now, again, there are these black bars;  
8 is that correct?

9 A. Yes.

10 Q. Now after the three black bars -- after  
11 the third black bar there is again, a signal  
12 formation. The form is the same; is it not?

13 A. Yes.

14 Q. And it, again, shows 12 seconds, right?

15 A. Yes, for the northbound approach.

16 Q. You used 12 seconds because that is  
17 what the applicant's engineer used, right?

18 A. Correct.

19 Q. Okay. Now, we get different results on  
20 this more recent, modern report, don't we?

21 A. Yes.

22 Q. Okay. Now, the volume to capacity goes  
23 from what to what?

24 A. In the earlier version it is 1.059, I  
25 believe.



1 Q. It's 1.052?

2 A. 052, and in the updated version it's  
3 1.069.

4 Q. Now, what does that tell you?

5 A. That the ratio of volume to capacity,  
6 based on the updated calculation criteria, got  
7 worse.

8 Q. Okay. Now, the queue, the queue in the  
9 2019 version was 782 feet; is that correct?

10 A. Yes.

11 Q. And now what does it go to?

12 A. It goes to 1,151. Almost 1,152.

13 Q. Okay. And the queue, the queue goes  
14 from 31 -- excuse me, the queue goes from 78.4 feet  
15 to how many feet?

16 A. As I said, 1,150 -- call it 1,152.

17 Q. And the vehicles in that queue go from  
18 31.3 to what?

19 A. 45.4.

20 Q. Okay. And that's OW-3, right?

21 A. Yes.

22 ATTORNEY BUTLER: Now, could we put up  
23 OW-4 on the screen, please?

24 THE WITNESS: That's it.

25 ATTORNEY BUTLER:

1 Q. Okay. OW-4, what does that reflect?

2 A. That's a plotting of the results of  
3 the calculations that show the 45 vehicles queued on  
4 Bonnie Burn Road.

5 Q. All right. So that's the backup  
6 because traffic has been stopped on Route 22 for  
7 only 12 seconds?

8 A. No. The traffic --

9 Q. I'm sorry. On Bonnie Burn Road for  
10 12 seconds?

11 A. Yeah, it has been stopped at  
12 each -- at each cycle 12 seconds.

13 And it extends about 150 feet beyond  
14 the property line, south of -- I'm sorry, east of  
15 the property line.

16 Q. So, in other words, again, with every  
17 cycle this queuing gets even longer; does it not?

18 A. Yes.

19 Q. Okay.

20 ATTORNEY BUTLER: Now, Theresa, would  
21 you please put up K, which is Page 13 of 18 of the  
22 Bonnie Burn Road redevelopment, which is our Mount  
23 Laurel Ordinance in this area?

24 THE WITNESS: She's got it.

25 ATTORNEY BUTLER: Okay, it's up.

1 ATTORNEY BUTLER:

2 Q. Now, to your knowledge, before the good  
3 mayor and council of Watchung adopted Bonnie Burn  
4 Road Redevelopment District, did they do a traffic  
5 study?

6 A. I don't believe so.

7 Q. Okay. Now, during the Mount Laurel  
8 process before Judge Miller, we had the Fair Housing  
9 Corporation, we had BNE, which was the former owner  
10 under the contract, we had the master planner, was  
11 any traffic study done?

12 A. I don't believe so. I haven't seen  
13 one.

14 Q. Okay. But to cover all that, I guess,  
15 in the Bonnie Burn Road Redevelopment Ordinance they  
16 have Paragraph K, Additional Requirements, which  
17 talks all about Traffic Impact Study; does it not?

18 A. Yes.

19 Q. Okay. Now, have you thoroughly  
20 reviewed Paragraph K?

21 A. Yes.

22 Q. Now. In your opinion, does this  
23 application with the light comply with the  
24 requirements of Paragraph K?

25 A. No.

1           Q.       All right. Now, I would like you to  
2 specifically read that part of Paragraph K which you  
3 find is not in compliance, which you find this site  
4 plan with the light is not in compliance.

5                   I want you to read and I want you to  
6 tell me why you conclude that the site plan does not  
7 -- with the light, does not conform to any part of  
8 particular (sic) K that you read?

9           A.       It's Paragraph A, which is the first  
10 subsection. It says, "The existing network  
11 available to serve the proposed development, as well  
12 as the proposed network within the -- within the  
13 development itself and the surroundings shall be --  
14 will be affected by the proposed development." I'm  
15 skipping some words. "This analysis shall include  
16 the capacity of the existing and proposed roadways."

17                   So obviously we had a discussion. The  
18 capacity of Bonnie Burn Road is being exceeded by  
19 the traffic signal at the driveway. And then it  
20 goes, in the last sentence, the last portion of the  
21 Paragraph A it says, "Including unsafe intersections  
22 and vertical or horizontal alignment." When we have  
23 those --

24           Q.       Let me interrupt you. Let me interrupt  
25 you. You have to apologize. I have got to

1 apologize, okay. But take a look at OW-4, which is  
2 the queuing associated with the University of  
3 Florida 2021 Highway Capacity Software.

4 In your --

5 A. That's what I was looking for.

6 Q. -- it shows the contour of the road  
7 pretty clearly with your queuing; does it not?

8 A. Yes.

9 Q. What does it show?

10 A. It shows the alignment and then, as we  
11 all know, the road is headed uphill as we -- as one  
12 travels west on Bonnie Burn.

13 Q. And now, you have traveled on or about  
14 this area many times?

15 A. Yes.

16 Q. Okay. And you're testifying now from  
17 your personal experience?

18 A. Yes.

19 Q. So the road is curved; is that correct?

20 A. Yes. There's a reverse curve. It  
21 goes -- it goes to the left and then it goes back to  
22 the right.

23 Q. Okay. And while OW-4 is not a  
24 topography, so it doesn't have engineering on it,  
25 what is your testimony as to whether the -- the

1 vertical contours of the road?

2 A. Well, what happens is when the traffic  
3 queues up, it's projected by either my calculations  
4 or Eric Keller's calculations, coming around the  
5 curve people have a tendency to not see the car in  
6 front of them stopped and it creates a hazardous  
7 situation.

8 Q. You're describing --

9 A. Both the horizontal and the vertical  
10 alignment --

11 Q. -- present a dangerous situation?

12 A. Yes. Unsafe.

13 Q. Unsafe, okay.

14 A. And then what also happens is when  
15 people are queued and they're Level of Service F and  
16 they're stopped, they have a tendency to push the  
17 limits of the movements and not wait for the next  
18 signal change. They have a tendency to go forward.

19 Q. Okay. Now, are you through explaining  
20 that part of Paragraph K that you feel as though  
21 violates the ordinance -- the site plan violates the  
22 ordinance?

23 A. Yes.

24 Q. Okay. Is there any other part of  
25 Paragraph K that does the same?

1           A.       Yes, Paragraph B.

2           Q.       Paragraph B.   Would you read Paragraph  
3   B?

4           A.       It says, "The analysis shall evaluate  
5   the current and planned development in the  
6   surrounding -- in surroundings including individual  
7   residences or businesses on Bonnie Burn Road,  
8   including Weldon Quarry."

9           Q.       Now how is that violated?

10          A.       Well, as I said, a significant  
11   percentage of the Weldon Quarry traffic, both their  
12   trucks and the patrons, are using this approach and  
13   it has a negative -- a significant negative impact  
14   to the operations of the quarry.   And as one can  
15   also see, that the second plotting that I prepared  
16   extends beyond the property and blocks driveways to  
17   the east of the subject property.

18          Q.       How does all this affect, it says  
19   "individual residences"?

20          A.       Well, when the traffic queues up it  
21   blocks the driveway and it also has a negative -- a  
22   significant negative impact to the Weldon Quarry  
23   operation.

24          Q.       Okay.   Well, to my knowledge, there is  
25   no homes on the quarry side of Bonnie Burn Road?

1           A.       Right. But there are on the south  
2 side.

3           Q.       Okay. And there will be queuing there  
4 as well?

5           A.       Yes.

6           Q.       All right. Now, is there any other  
7 part of K that you feel as though this site plan  
8 violates?

9           A.       Paragraph E.

10          Q.       What does that say?

11          A.       "The redevelopment will be responsible  
12 for off-tract site improvements related to traffic,  
13 such as a traffic light, acceleration and  
14 deceleration lanes to achieve sufficient sight  
15 distance and related improvements to individual  
16 driveways serving this site, fronting onto Bonnie  
17 Burn Road."

18          Q.       What is the problem with that?

19          A.       The alignment of the roadway has a  
20 negative impact on sight distance when you have 35  
21 or 45 cars queued, waiting for the traffic light to  
22 go westbound. And so the sight distance is  
23 significantly impacted.

24                    There's no -- there are no acceleration  
25 or deceleration lanes proposed. And as I said, and



1 the individual driveway operating -- well, Bonnie  
2 Burn Road operating at Level of Service F is a  
3 hazard to safe operations along -- for the motoring  
4 public.

5 ATTORNEY BUTLER: Madam Chair, would  
6 you just bear with me one moment. I just want to  
7 check my notes. I'm sorry.

8 CHAIRPERSON SCHAEFER: No problem.

9 BY ATTORNEY BUTLER:

10 Q. Okay. And in your professional  
11 opinion, what concluding comments do you have  
12 regarding the site plan and the associated traffic  
13 light?

14 A. Well, basically the traffic light has  
15 been developed to allow 60 cars to come out of the  
16 driveway. And your -- when we look at the balance,  
17 you're impacting 1,500 cars to accommodate 60.

18 Q. Does that make sense to you?

19 A. It's a bad bet.

20 Q. I mean from a practical standpoint,  
21 should 60 cars be able to cause the queuing of 1,000  
22 -- almost 1,500 vehicles?

23 A. Right. There's 1,500 vehicles  
24 traveling westbound in the morning. And those cars  
25 are being severely impacted and negatively impacted

1 by the ability to get 60 cars out of the site.

2 Q. Okay. Now, you've discussed the grades  
3 and the curves, right?

4 A. Yes.

5 Q. And you have indicated that they're  
6 dangerous; is that correct?

7 A. Yes. And in both of my exhibits where  
8 I show the -- where I plot the queuing there are  
9 advanced warning signs that show the safe travel  
10 speed to go around those curves and it's listed at  
11 25 miles per hour.

12 Q. Now, in your professional opinion,  
13 should the applicant's traffic engineer have adopted  
14 the Florida 2021 Highway Capacity Software?

15 A. Well, there was an opportunity to  
16 resubmit the plans. The plans were resubmitted.  
17 Many of the reports were resubmitted but the Highway  
18 Capacity Software was not updated.

19 ATTORNEY BUTLER: At this time, Madam  
20 Chair, I have no questions of this witness.

21 CHAIRPERSON SCHAEFER: Thank you, Mr.  
22 Butler.

23 Ms. Dory?

24 MS. DORY: Thank you, Madam Chair. I  
25 don't know if the board's professionals have any

1     comments or questions. I don't know if they want to  
2     go before me, but I can certainly ask my questions  
3     now.

4                   CHAIRPERSON SCHAEFER: If you are  
5     fine, let me then go to my professionals and then I  
6     will come back to you.

7                   ATTORNEY DORY: Sure. Thank you.

8                   CHAIRPERSON SCHAEFFER: So, John, Rick,  
9     Mark, questions?

10                  BOARD TRAFFIC CONSULTANT: Tracee, it  
11     would definitely be our preference to allow Mr.  
12     Keller or the developer's team to answer any of the  
13     queries by the objector first.

14                  We would be curious to see what they  
15     would have to say about Mr. Simoff's testimony prior  
16     to providing any guidance to the board.

17                  CHAIRPERSON SCHAEFER: Okay. Ms.  
18     Dory, back to you.

19                  ATTORNEY DORY: Okay. You know, the  
20     applicant is not intending on presenting any  
21     additional testimony from Mr. Keller at this time on  
22     traffic. You know, our position is that these  
23     issues are before Union County and these relate to  
24     the traffic light and this is -- information will be  
25     presented to Union County, so we're not intending on

1 further addressing it.

2 We believe we have established that  
3 there's a -- we have done a conservative analysis  
4 and that we have met the requirements of the  
5 redevelopment plan in Section K because we have  
6 submitted a traffic impact evaluation that meets  
7 those requirements and that has been supported by  
8 the board's traffic engineer.

9 But I do have some questions for Mr.  
10 Simoff that I would like to ask.

11 CHAIRPERSON SCHAEFER: Go ahead.

12 ATTORNEY DORY: Okay.

13

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

15

16 CROSS BY ATTORNEY DORY:

17 Q. So good evening, Mr. Simoff. It's nice  
18 to meet you.

19 A. Good evening.

20 Q. I'm glad you were able to recover and  
21 I'm also glad you're well.

22 A. Thank you.

23 Q. So I heard the summary that Mr. Butler  
24 gave, with you walking through your two reports  
25 here. So I have -- and I know you have numbered

1 several different exhibits, but what I have received  
2 from the planning board clerk, from you, are  
3 essentially two reports. One is dated July 29th,  
4 2021, which is identified as OW-1. And then it --  
5 that report also had a stacking plan that was  
6 identified as OW-2, correct?

7 A. Yes.

8 Q. Okay. And then the second report that  
9 you submitted was a September 1st, 2021, report or  
10 memo that attached a -- some revised exhibits. They  
11 were also numbered as, I believe, OW-3 through OW-5,  
12 correct? Those were all part of your September 1st,  
13 2021, report?

14 A. Yeah, I think OW-5 was -- was the  
15 memo. There was somewhat of an overlap.

16 Q. Okay. Thank you for clarifying that.  
17 So all of those documents, OW-1 through OW-5, those  
18 respond to Bowman's Traffic Evaluation that was  
19 dated May 19th, 2000 -- excuse me, May, 2019 and  
20 last revised October 7th, 2019, correct?

21 A. Yes.

22 Q. And that is what Mr. Butler has been  
23 referring to as the Bowman Report, correct?

24 A. Yeah, it's a Traffic of Engineering  
25 Evaluation.

1           Q.       Right. And do you understand that  
2 other traffic reports were also submitted to the  
3 planning board during the course of the application  
4 since it was filed in 2019?

5           A.       There was a -- I'm sometimes a little  
6 confused because there's been so many reports  
7 submitted, but there was Warrant studies that were  
8 submitted.

9           Q.       Yes. And you understand there was a  
10 Warrant study submitted by you and also by Bowman  
11 related to this project?

12          A.       Yes.

13          Q.       But as far as the Bowman Report, which  
14 Mr. Butler has been referring to, the Traffic  
15 Evaluation from 2019, you have never responded to  
16 that report before you submitted your reports this  
17 year in July and September, correct?

18          A.       Yes, this is the first time I have  
19 responded to that report.

20          Q.       Okay. Do you know why you waited so  
21 long?

22          A.       It wasn't my turn.

23          Q.       Okay. But you did submit the Warrant  
24 study, right?

25          A.       Well, there's some question as to

1 where the Warrant study is being reviewed.

2 Q. Okay. But you understand --

3 ATTORNEY BUTLER: Let him finish,  
4 ma'am, please. Go ahead.

5 THE WITNESS: Initially, the Warrant  
6 study was submitted to the planning board and then,  
7 I might be paraphrasing it, but the Warrant study  
8 was then determined to be in the sole review of the  
9 county so it was not discussed at this board, it was  
10 discussed -- it's being discussed at the county.

11 BY ATTORNEY DORY:

12 Q. Okay. And you understand that your --  
13 Weldon's attorney's position, Mr. Butler -- is that,  
14 you know, any decision about the Warrant study and  
15 the traffic light is going to be made by Union  
16 County?

17 A. Yes, that's my understanding.

18 Q. And Mr. Butler has also made  
19 submissions to Union County prepared by you related  
20 to the traffic light; is that correct?

21 A. That's right. I don't agree with the  
22 conclusions of the Warrant study submitted to Union  
23 County.

24 ATTORNEY BUTLER: I think the question  
25 was, I think, I might be wrong, whether you

1 submitted a Warrant study analysis to Union County.

2 Now, I might be wrong.

3 Nicole, am I wrong?

4 ATTORNEY DORY: Yes. I am asking if  
5 there have been submissions by Mr. Simoff that have  
6 been submitted to Union County related to the  
7 traffic light.

8 THE WITNESS: Yes.

9 ATTORNEY DORY: Yes. Thank you.

10 BY ATTORNEY DORY:

11 Q. Okay. And the concerns that you've  
12 raised in the documents that were marked this  
13 evening as OW-1 through OW-5, those are related to  
14 what Mr. Butler referred to as page, Roman Numeral  
15 II C-5 of the Bowman Report, correct?

16 A. Plus I -- there were some  
17 inconsistencies that I brought out, like II C-5  
18 analyzed the exiting move from the site as two lanes  
19 and I read it as one lane.

20 Q. Right. And just looking at II C-5 --  
21 hold on a second.

22 So I'm looking at Page II C-5, which  
23 was attached to OW-1, perhaps it was also separately  
24 marked. But that's entitled, "Signalized  
25 Intersection Results Summary," correct?



1           A.       Yes. And that was taken from the  
2 Bowman Report.

3           Q.       Right. And it's analysis generally  
4 after the light is installed?

5           A.       Yes.

6           Q.       So would your -- the concerns that you  
7 raised and the issues that you raised in OW-1  
8 through OW-5 relating to the proposed intersection,  
9 signalized intersection, will those also be raised  
10 with Union County?

11          A.       Yes.

12          Q.       And you understand, you have reviewed  
13 the redevelopment plan ordinance for this project?

14          A.       Yes.

15          Q.       Okay. And you understand that the  
16 Borough Council has zoned for this use for 230  
17 apartments to be developed on this property?

18          A.       Yes.

19          Q.       So I'm looking at your statement in  
20 OW-1, the first page, which is your July 21st, 2021,  
21 memo and the third paragraph there where you state  
22 that, based on your review, you say, "The proposed  
23 access to Bonnie Burn Road will have" -- and by that  
24 you mean the traffic light; is that right?

25          A.       Well, the way it has been presented to

1     this board.

2             Q.     Right. Okay. Well, "Will have" -- you  
3     state there, "will have significant evident impact  
4     to the existing traffic on Bonnie Burn Road and does  
5     not satisfy the requirements of the Redevelopment  
6     Plan Ordinance."

7             A.     Well, "redevelopment ordinance" is  
8     what the memo says.

9             Q.     Okay. Then I have quoted that  
10    accurately?

11            A.     Yes.

12            Q.     Okay. And Mr. Butler questioned you,  
13    and you went through Paragraphs A, B and E of  
14    Paragraph K --

15            A.     Yes.

16            Q.     I'm sorry. So Paragraph K of the  
17    Redevelopment Plan Ordinance and then you  
18    specifically pointed to subsections K-1A, B and E,  
19    correct?

20            A.     Correct.

21            Q.     And would you agree that Section K of  
22    the Redevelopment Plan Ordinance provides what the  
23    redevelopment should include in its Traffic Impact  
24    Study?

25            A.     Yes.

1           Q.       Okay. And it's your opinion that some  
2 of the information presented by the applicant, that  
3 you don't agree with that, is that your opinion?

4           A.       Well, no, I do agree. I mean, it  
5 shows Level of Service F for the westbound traffic  
6 and it shows significant queues going westbound in  
7 the morning on Bonnie Burn Road.

8           Q.       Okay. But you suggest in your  
9 testimony this evening that you didn't agree with  
10 the information that was presented in Page II C-5,  
11 and then you revised it, right?

12          A.       Well, II C-5 is inconsistent with the  
13 plan that was presented. There has not been a  
14 subsequent traffic evaluation after October 7th,  
15 2019 to this board.

16          Q.       Right. And this is the first time you  
17 have raised this issue with this board, correct, in  
18 your report that was submitted --

19                   ATTORNEY BUTLER: That was asked and  
20 answered.

21                   ATTORNEY DORY: Well, no. I mean...

22                   THE WITNESS: Well --

23                   ATTORNEY BUTLER: It was asked and  
24 answered. The answer was no.

25                   ATTORNEY DORY: All right, Madam

1 Chair. I have no further questions for Mr. Simoff.

2 The board has the opinion of Mr. Jahr  
3 and the applicant's traffic engineer so we're going  
4 to rely on those opinions. We believe we have  
5 presented a conservative analysis. The issues are  
6 before Union County. And Mr. Simoff indicated that  
7 these issues would also be raised again with Union  
8 County.

9 So we believe we have submitted a  
10 traffic evaluation that satisfied the requirements  
11 of the Redevelopment Plan, Section K.

12 ATTORNEY BUTLER: Madam Chair, may I  
13 respond?

14 CHAIRPERSON SCHAEFER: Yes, Mr.  
15 Butler.

16 ATTORNEY BUTLER: There's two  
17 different issues here, separate and distinct. One  
18 is the site plan application which you're hearing  
19 tonight. The other is a separate and distinct  
20 application to Union County which all counsel agree  
21 has exclusive jurisdiction over the light.

22 What either side submitted to the light  
23 -- and we're going to submit a supplemental report  
24 this week on the light to Union County -- is  
25 separate and distinct before this board. What we

1 submitted to Union County is not going to go before  
2 this board. So it's a camouflage for counsel for  
3 the applicant to say, Oh, all the other traffic  
4 engineer, all the other statistics that Mr. Simoff  
5 testified to, are going to go to the county so  
6 that's enough. There's two different applications.  
7 That's the first point I want to make.

8 Madam Chair, the second point I would  
9 like to ask is, is there going to be any rebuttal  
10 testimony tonight on the traffic engineering report  
11 submitted by Mr. Simoff?

12 CHAIRPERSON SCHAEFER: Well, according  
13 to what Ms. Dory said, she says, no.

14 Correct, Ms. Dory?

15 ATTORNEY DORY: Correct.

16 ATTORNEY BUTLER: And does that mean  
17 that there will be no rebuttal testimony at any  
18 future hearing?

19 ATTORNEY DORY: Any future hearing  
20 before this board? Correct.

21 ATTORNEY BUTLER: Yes. Okay, now --

22 ATTORNEY DORY: As long as we are  
23 concluding tonight and we're finishing, yes.

24 ATTORNEY BUTLER: Here is my problem,  
25 Madam Chair. It's about 8:00 o'clock, okay. We

1 have plenty of time. All right? If there's going  
2 to be no rebuttal testimony, then she can't do  
3 rebuttal testimony. If she does rebuttal testimony  
4 she should have been prepared tonight to do it but  
5 she says she's not going to.

6 CHAIRPERSON SCHAEFER: Ms. Dory said  
7 that she's not going to do it.

8 My next step is I want to open it up to  
9 my professionals to ask Mr. Simoff any questions  
10 that they might have.

11 ATTORNEY BUTLER: Madam Chair, thank  
12 you.

13 CHAIRPERSON SCHAEFER: Okay, Mr.  
14 Butler?

15 ATTORNEY BUTLER: Yes, very much so.

16 CHAIRPERSON SCHAEFER: Okay. I'm  
17 opening it up to Mark, John, Rick, any questions,  
18 comments to Mr. Simoff?

19 JOHN JAHR: I would like to say a few  
20 things, not many though. I guess the -- probably  
21 the most important thing is --

22 ATTORNEY BUTLER: Excuse me, John?

23 JOHN JAHR: John Jahr.

24 ATTORNEY BUTLER: All right, John.

25 I'm sorry.

1                   JOHN JAHR: Thank you, Mr. Butler.

2                   I would like to say that Mr. Simoff's  
3 testimony, I don't see a lot to have an exception  
4 with. I would say that nothing in his testimony  
5 this evening would change my opinion that was stated  
6 in my May 21st report for the board. So I see no --  
7 no need to question him further or delve any further  
8 into this.

9                   I think his presentation spoke for  
10 itself. And I -- I really don't have anything I  
11 want to object to over it. I think that his facts  
12 were taken from Mr. Keller's report. I would say  
13 probably 80 or 90 percent of what he testified was  
14 what was included in Mr. Keller's report and -- and  
15 then he did a nice update of Mr. Keller's analysis.  
16 So I really don't have exception with anything.

17                  What I would say is, you know, just for  
18 the board to consider that there are traffic lights  
19 at Bonnie Burn Road and New Providence and Bonnie  
20 Burn Road and Valley Road. And I would say that,  
21 you know, bear in mind that the same traffic that's  
22 going to go through this new traffic light is  
23 currently going through those lights. So in today's  
24 condition --

25                  ATTORNEY BUTLER: Traffic light.

1                   JOHN JAHR: Yeah, plausible, yeah, if  
2 a light is allowed.

3                   I would once again like to stress to  
4 the board that should the board approve the  
5 application, you know, it is dependent upon Union  
6 County approving the traffic elements that have been  
7 so overwhelmingly discussed. So I'm certain that,  
8 you know, and I'm not -- I don't really need to say  
9 this, but, it's certainly as a condition of any  
10 approval.

11                  And I offer myself to answer any  
12 questions that anybody might have with regard. This  
13 was very technical testimony this evening. It might  
14 be a little confusing or difficult. And if I can  
15 maybe possibly help, I would say this, the simplest  
16 way I feel I can help the board is just bear in  
17 mind, because we have all driven out here, that  
18 there are two traffic lights at either end of this  
19 project that will operate similarly to what Mr.  
20 Simoff testified to this evening.

21                  There are capacity issues at -- at both  
22 of those locations in the existing condition and I  
23 believe that the testimony from Mr. Simoff, correct  
24 me if I'm wrong, is that this light, you know, will  
25 operate in a similar manner if not worse.



1 I feel that we need to let Union  
2 -- Union County has the jurisdiction here. It's  
3 really not our road to -- to get this deep into it.  
4 I feel comfortable that we will get the best  
5 guidance from the county engineer on this matter.

6 It's very complicated. As you can hear  
7 Mr. Simoff made it overwhelmingly clear to all of us  
8 this evening that this is a -- this is a complicated  
9 review and it is better to go to a higher  
10 jurisdiction. And we're lucky to have that  
11 opportunity to have them -- to look at this on all  
12 of our behalf.

13 I offer myself up for any questions  
14 anybody might have.

15 ATTORNEY BUTLER: Madam Chair, Madam  
16 Chair, could Mr. Simoff very quickly, briefly  
17 respond to just a small part of Mr. Jahr's comments?  
18 This will take a couple of seconds.

19 THE WITNESS: Just a couple of  
20 seconds. The intersections to the east and the west  
21 have multiple lanes. What basically -- putting it  
22 in rather simplistic form, the capacity is a  
23 function of the number of lanes and the signal  
24 timing. So one lane can carry a certain number of  
25 cars, two lanes can carry twice as many cars. So

1 east and west of this site the -- all the  
2 intersections have multiple lanes.

3 So that's my only comment.

4 ATTORNEY BUTLER: Thank you, Mr.  
5 Simoff. And thank you, Madam Chair.

6 CHAIRPERSON SCHAEFER: Rick or Mark,  
7 do you have any questions?

8 BOARD ENGINEER: None for me. I defer  
9 to John on the -- on the traffic-related issues. So  
10 he -- he spoke best and I think he is aware of the  
11 reports. And so, no, I don't, I don't have any  
12 questions for Mr. Simoff.

13 Thank you.

14 CHAIRPERSON SCHAEFER: Mark?

15 BOARD PLANNER: Yeah, this is Mark  
16 Healey. I would say the same thing as Rick just  
17 said.

18 CHAIRPERSON SCHAEFER: John, I have a  
19 question for you. Mr. Simoff had testified that the  
20 site plan now shows only one lane going in and one  
21 lane going out of the site; is that true?

22 Because they're showing turning lanes  
23 and all that on those traffic signal lanes that they  
24 just presented.

25 BOARD TRAFFIC CONSULTANT: You know,

1 Tracee -- Ms. Madam Chair, Mr. Simoff has clearly  
2 pointed out there have been a number of iterations  
3 or differences in the lane configuration. I  
4 would -- I would say that we have seen plans with  
5 both two lanes out and one lane out. I think  
6 ultimately the configuration of the 20-foot lane  
7 exiting the site, whether it ends up being one lane  
8 that is striped for left and right traffic, or two  
9 lanes, one lane for left and the other lane for  
10 right turn, will probably be the subject of the  
11 county design requirements. The county will  
12 ultimately choose whether that's going to be one or  
13 two lanes.

14 The plan that is submitted to the  
15 board, I think we have seen it both ways. I guess  
16 that does cause a little bit of a challenge. And I  
17 think doesn't -- wouldn't we have to have them  
18 define that more clearly, or can we leave that to  
19 the discretion of the county engineer?

20 CHAIRPERSON SCHAEFER: And I will  
21 leave that to Frank, but I would think that we need  
22 that defined more clearly.

23 Frank?

24 ATTORNEY LINUS: Yes, absolutely. We  
25 have to know -- the board has to know what plan

1 they're acting upon.

2 BOARD TRAFFIC CONSULTANT: Right.

3 So they need to define whether it's one lane coming  
4 out or two.

5 ATTORNEY LINNUS: That's correct. And  
6 I'm waiting to hear the applicant's response.

7 BOARD TRAFFIC CONSULTANT: Okay. I  
8 believe the plan -- it would be my opinion the plan  
9 right now shows one lane exiting the site. If the  
10 applicant can confirm that?

11 ATTORNEY DORY: Yes, that's correct.

12 BOARD TRAFFIC CONSULTANT: So that --  
13 that is it. If they change it they'll have to come  
14 back to the board.

15 CHAIRPERSON SCHAEFER: So that lane --  
16 that one lane going out, Ms. Dory, is for both right  
17 and left-hand turns?

18 ATTORNEY DORY: Correct.

19 CHAIRPERSON SCHAEFER: Any questions  
20 from -- any questions from my planning board  
21 members?

22 Karen?

23 MEMBER PENNETT: Yes. I know  
24 you're -- I don't know who this goes to. I know  
25 Union County will decide if a light goes in or

1 doesn't go in. If they decide, yes, a light is  
2 required, do they have a certain time they have to  
3 put it in by or can they say, yes, a light is  
4 required, we'll get to it. And they -- and they can  
5 take one -- you know, they can take a month or they  
6 can take, you know, two years. Is there any --

7 BOARD TRAFFIC CONSULTANT: It will be  
8 the -- it will be the applicant's responsibility to  
9 provide design plans and construction plans to the  
10 satisfaction of the county and that -- that time  
11 frame will be entirely on them. So it will be the  
12 applicant's obligation.

13 MEMBER PENNETT: Okay, but will they  
14 put the -- when they say, yes, it's okay, yes, the  
15 light is required and it will go in within  
16 such-and-such a time?

17 BOARD TRAFFIC CONSULTANT: Well,  
18 ordinarily we would -- we would not let them occupy  
19 to a certain point. They would only be allowed to  
20 occupy a certain number of units or maybe the  
21 building subcode official would not let them occupy  
22 any until the light's in place.

23 MEMBER PENNETT: Okay. Now,  
24 another -- this is another question about the timing  
25 of the lights. You know, you have one at, you know,

1 New Providence, you have one at Valley and then you  
2 have one in the middle. And I know we have all been  
3 stuck at lights and they have just been timed wrong,  
4 so the light turns green, but it's still red on the  
5 other side so you can't move.

6 Now, is there going to be any type of  
7 timing so that the lights are in sync with one  
8 another?

9 BOARD TRAFFIC CONSULTANT: I believe,  
10 if the board so directs it, I will be able to stay  
11 involved and make certain that the three lights are  
12 coordinated.

13 MEMBER PENNETT: Okay.

14 BOARD TRAFFIC CONSULTANT: Should the  
15 county -- I said a lot of shoulds, you know, a lot  
16 of ifs, right? If the county says --

17 MEMBER PENNETT: Yes, well, I don't --  
18 I don't like the shoulds and ifs.

19 BOARD TRAFFIC CONSULTANT: Yeah. If  
20 the board says it's okay for me to stay involved,  
21 then I can -- I can certainly make sure that those  
22 three lights are going to be coordinated.

23 MEMBER PENNETT: Okay. Great, thank  
24 you.

25 ATTORNEY BUTLER: Madam, could --

1                   ATTORNEY DORY:   Madam Chair, Madam  
2   Chair?

3                   CHAIRPERSON SCHAEFER:   Hold on, we've  
4   got too many people.   Ms. Dory --

5                   ATTORNEY BUTLER:   Madam Chair, can  
6   Bill Butler make a --

7                   CHAIRPERSON SCHAEFER:   Mr. Butler, Mr.  
8   Butler, please wait.   Ms. Dory.

9                   ATTORNEY BUTLER:   Okay, okay.   I just  
10   want to make sure --

11                   CHAIRPERSON SCHAEFER:   No, no, no,  
12   hold on.   Mr. Butler, I just went to Ms. Dory first.  
13   Let her speak.

14                   ATTORNEY BUTLER:   That's fine.   Thank  
15   you.

16                   CHAIRPERSON SCHAEFER:   Go ahead, Ms.  
17   Dory.

18                   ATTORNEY DORY:   Thank you, Madam  
19   Chair.   I just wanted to respond on the issue  
20   regarding one lane or two.   I mean, the applicant  
21   has submitted site plans that show one lane exiting  
22   currently.   We agree to come back to the board if  
23   Union County did not approve the traffic light.

24                   Whether it's one lane or two lanes  
25   ultimately decided by Union County, I think that's

1 probably a, you know, a site plan exception that,  
2 you know, would not require planning board approval.

3 So it's the applicant's position that,  
4 you know, the conditions imposed by Union County  
5 would certainly agree with. To the extent it  
6 requires site plan approval to -- to return to the  
7 board for that, I guess we would do it, but you  
8 know, having one lane or two, I don't know that  
9 under your ordinance it would require us to return  
10 to the board.

11 ATTORNEY LINNUS: Yeah. I'm not sure  
12 I agree with you on that, Ms. Dory.

13 I think this board has site plan review  
14 and it's very clear to me now that the site plan  
15 that the board is reviewing shows one lane and that  
16 is what the -- the board would be reviewing.

17 In the event Union County does not  
18 approve the traffic signal, you absolutely have to  
19 come back to the board with a new plan. I would say  
20 that in the event the county requires two lanes, I  
21 think you have to revisit the board to -- to get  
22 that site plan changed because you're asking this  
23 board to act on an application for site plan  
24 approval showing one lane out.

25 Those are my current thoughts.



1           ATTORNEY DORY:   Okay.   Well, the  
2   applicant would just like the opportunity to -- to  
3   look at that.   You know, our understanding was that,  
4   you know, if Union County imposed conditions that  
5   didn't require site plan approval that, you know, we  
6   could just make those changes and report back to the  
7   board.

8           ATTORNEY LINNUS:   Well, this board has  
9   exclusive jurisdiction over the site plan, the  
10   entire site plan as presented by the applicant,  
11   subject, of course, to outside agency approvals.

12          CHAIRPERSON SCHAEFER:   And quite  
13   honestly, Ms. Dory, it has been a big concern of  
14   ingress/egress out of this site during the full term  
15   of this application to the point that we asked the  
16   previous owner or previous applicant, are there  
17   ways -- other ways in or out for emergency purposes.  
18   So now that is brought to light.   And shame on us  
19   for not picking up one lane, but I think two lanes  
20   is important, especially if you want people being  
21   able to get out of there quickly.   And if you have  
22   got people wanting to make a right-hand turn, one  
23   lane doesn't afford them to do that while they're  
24   waiting for a red light to turn, in my opinion.

25                   Questions from other planning board

1 members?

2 VICE-CHAIRMAN SPEENEY: A statement?

3 CHAIRPERSON SCHAEFER: Statement,  
4 sorry.

5 VICE-CHAIRMAN SPEENEY: Yeah, I would  
6 think -- and relative to the one lane or two lanes,  
7 if -- even it was designed as one lane, local  
8 traffic will make it two lanes.

9 I think that's just human nature.  
10 20 feet is wide enough for two cars to -- one make a  
11 left and one make a right. And I really -- I really  
12 don't see whether we get the applicant to make it  
13 two-lane road or one-lane road, it's going to happen  
14 as two lanes, period.

15 CHAIRPERSON SCHAEFER: Mayor Balla?

16 MAYOR BALLA: Yeah, the question for,  
17 I think it was Mr. Simoff.

18 THE WITNESS: Yes.

19 MAYOR BALLA: That's dated July of  
20 2021?

21 MAYOR BALLA: Yes.

22 MAYOR BALLA: What was the actual date  
23 that the count was taken?

24 THE WITNESS: I took -- I looked at the  
25 counts that were in the -- that were in the Bowman

1 report and I think it was 2019.

2 MAYOR BALLA: Okay. And do you know  
3 what day of the week?

4 THE WITNESS: Well, the counts -- the  
5 counts at Valley Road and -- and Bonnie Burn were  
6 taken on March 19th, I don't know what date that  
7 was.

8 ATTORNEY BUTLER: St. Joseph's Day.

9 THE WITNESS: And it seems they were  
10 all taken on March 19th, Tuesday.

11 MAYOR BALLA: Of '19?

12 THE WITNESS: Yeah. And then I -- I  
13 supplemented, going back to ancient history here, I  
14 did some counts in June, I believe, of 2019 at  
15 Valley Road and they were 5 or 10 percent, maybe  
16 even more higher, and John Jahr asked that the  
17 applicant use my higher counts in his analysis.

18 MAYOR BALLA: Okay. Thank you.

19 THE WITNESS: Because again I  
20 believe -- just one more comment, the quarry was,  
21 you know, in -- in March, the quarry's not as active  
22 as it would be in June.

23 CHAIRPERSON SCHAEFER: Other questions  
24 from board members?

25 Karen?

1                   MEMBER PENNETT: Yeah, this is another  
2 general question. Turn on red, is there going to be  
3 a no-turn-on-red sign at the exit of the -- the  
4 development?

5                   BOARD TRAFFIC CONSULTANT: That's  
6 going to depend upon the detailed review of the plan  
7 by the county engineer. There are criteria that  
8 will be utilized in order to determine if that's the  
9 correct treatment.

10                  MEMBER PENNETT: Okay. Thank you.

11                  THE WITNESS: I might just add that --  
12 that sometimes -- many times is a function of sight  
13 distance.

14                  MEMBER PENNETT: Okay. So the county  
15 decides that, okay.

16                  CHAIRPERSON SCHAEFER: Other questions  
17 from the board members? Okay, I'm going to open it  
18 up to the public.

19                  MEMBER SPINGLER: Tracee? I'm sorry,  
20 Tracee. I have a question for Mr. Jahr.

21                         Mr. Jahr, does the updated software,  
22 which increases the ratio volume to capacity,  
23 influence your report in any way?

24                  BOARD TRAFFIC CONSULTANT: No, I don't  
25 feel that the change in the -- the updated software

1 would change -- change my opinion that is noted in  
2 my May 21st report.

3 MEMBER SPINGLER: Okay. Thank you.

4 BOARD TRAFFIC CONSULTANT: Although I  
5 agree with Mr. Simoff that it's always better to use  
6 the more updated -- I am confident that the county  
7 will probably insist on even newer software called,  
8 Synchro because this Highway Capacity software will  
9 only analyze one light at a time. I'm quite  
10 confident that Union County will require all three  
11 lights be analyzed in order to get that progression  
12 that we want to have. And that is going to be an  
13 even newer software called Synchro.

14 So I'm very comfortable with the  
15 results of our report and also very comfortable that  
16 the county will -- will see to it that the even  
17 newer software will be utilized.

18 MEMBER SPINGLER: Thank you.

19 CHAIRPERSON SCHAEFER: Other questions  
20 from, excuse me, planning board members?

21 MEMBER NORA: Can I ask a question?

22 CHAIRPERSON SCHAEFER: Yvette.

23 MEMBER NORA: Yeah, I would like to  
24 ask a question to Mr. Simoff regarding the stacking  
25 plan, OW-2, OW-4, the 31 cars there or however many

1 numbers are there. It's 7:15 to 8:15 in the morning  
2 is the peak hours.

3 Are buses factored into that or would  
4 they make a difference? You know, just -- it is a  
5 bus route, stops on Mareu Drive and along Bonnie  
6 Burn.

7 THE WITNESS: I don't -- I don't  
8 believe that the -- I mean, my input to the capacity  
9 calculations did not have any stopping associated  
10 with school buses. So I would -- that would just  
11 add to the situation.

12 MEMBER NORA: Because you do have the  
13 Valley View Road going down that way and then they  
14 vary later.

15 THE WITNESS: It's a planning tool.

16 CHAIRPERSON SCHAEFER: Yvette, that  
17 might be a question for -- for our traffic engineer,  
18 John.

19 BOARD TRAFFIC CONSULTANT: The school  
20 buses would have been in the original counts that  
21 were done in 2019 so I would say they're factored  
22 into to a great extent.

23 I don't think any bus route changes  
24 have taken place. I did speak with the police  
25 approximately two months ago to double-check that

1 and to their knowledge there were no changes in bus  
2 routes since 2019 other than, of course, what, you  
3 know, took place for COVID.

4 So I would say that the bus routes are  
5 already part of the counts that Mr. Simoff and Mr.  
6 Keller used in their analysis.

7 Would you not agree, Hal?

8 THE WITNESS: The other question is  
9 what happens when a school bus stops traffic?

10 BOARD TRAFFIC CONSULTANT: I don't  
11 know that, but school buses don't stop on Bonnie  
12 Burn Road.

13 MEMBER NORA: Mareu Drive.

14 BOARD TRAFFIC CONSULTANT: Yeah, they  
15 come off onto -- right, they come off the road.  
16 They don't stop on Bonnie Burn.

17 THE WITNESS: Okay.

18 BOARD TRAFFIC CONSULTANT: Unless  
19 something has changed, Ms. Nora.

20 Are you aware of school buses stopping  
21 on Bonnie Burn?

22 MEMBER NORA: It's been a while since.

23 MEMBER PENNETT: Can I say something?

24 BOARD TRAFFIC CONSULTANT: Yes.

25 CHAIRPERSON SCHAEFFER: Go ahead,

1 Karen.

2 MEMBER PENNETT: At one point I believe  
3 the Descono(ph) family, they had three children in  
4 the school system. Right now they've all graduated  
5 except for one. I think it just depends on who  
6 lives in the other houses on Bonnie Burn Road  
7 whether the school buses -- the school buses go  
8 if -- so if a resident of Bonnie Burn Road has a  
9 child in the school system, the bus will stop in  
10 front of their driveway.

11 ATTORNEY BUTLER: Which would be --

12 MEMBER PENNETT: It just depends on  
13 who lives on the street.

14 CHAIRPERSON SCHAEFER: Okay. Any  
15 other planning board members?

16 Okay, I'm going to now open it up to  
17 the public.

18 ATTORNEY BUTLER: Madam Chair, Bill  
19 Butler had a question.

20 CHAIRPERSON SCHAEFER: Yes.

21 ATTORNEY BUTLER: I'm sorry, it will  
22 be quick. I just want an explanation. Mr. Simoff  
23 pointed out that C-5 anticipates two lanes. In the  
24 site plan it's one lane.

25 Was it ruled tonight by the board that



1 the applicant is to revise the site plan to two  
2 lanes there or -- or am I incorrect in that  
3 assumption?

4 CHAIRPERSON SCHAEFER: You're  
5 incorrect. We didn't -- we didn't make that  
6 statement. I think it was stated that the county  
7 will be the one to -- John, please correct me if I'm  
8 wrong, that the county will dictate.

9 We do have final jurisdiction over the  
10 site plan, but right now it's one lane. And like  
11 Don said, traffic is really going to create it -- or  
12 the car lanes are going to create itself in a  
13 20-foot-wide boulevard.

14 ATTORNEY BUTLER: But we do have an  
15 inconsistency in the site plan and the traffic  
16 report that was submitted as part of this  
17 application.

18 CHAIRPERSON SCHAEFER: Frank?

19 ATTORNEY LINNUS: I'm going to defer  
20 to John Jahr on the inconsistency since it's a  
21 purely, solely a traffic issue.

22 John, what do you think about the  
23 inconsistency?

24 BOARD TRAFFIC CONSULTANT: Well, I  
25 don't like it, but I think that it doesn't

1 substantively change what is going to happen next.  
2 What, you know, I think what happens next is the  
3 county is going to look at it and they're ultimately  
4 going to come back and tell us whether it needs to  
5 be one lane or two lanes.

6 So the fact that the board is reviewing  
7 the application based on one lane, all right, but  
8 under a condition that the county is going to review  
9 it and make its recommendation, I would say that,  
10 you know, that the -- the county could say, okay  
11 yes, one lane is fine or the county can come back  
12 and say, well, we want two lanes.

13 Well, if that's the case then, you  
14 know, I would say that -- my guess would be the  
15 board would be comfortable with either one or two  
16 lanes coming out of the development, whichever the  
17 county engineer feels is the safest. And that would  
18 be my opinion as well.

19 I, you know, right now, I would say  
20 that -- that they're proposing one lane and if -- if  
21 the county engineer comes back and says that that  
22 one lane will be adequate then, you know, I would be  
23 in agreement with that. But the county could also  
24 come back and say they would prefer to see two lanes  
25 because of just what Mr. Speeney said, that people

1 are just going to do it anyway. Yeah, 20 feet wide  
2 is really wide, so...

3 ATTORNEY LINNUS: John, are you  
4 satisfied that the traffic testimony and the reports  
5 that have been submitted are appropriate for a  
6 one-lane exit?

7 BOARD TRAFFIC CONSULTANT: Yes. Well,  
8 actually Mr. Simoff did the analysis. Yes.

9 ATTORNEY LINNUS: Okay.

10 CHAIRPERSON SCHAEFER: But John, let  
11 me ask you on HC done by Bowman back in 2019, it is  
12 showing two lanes out.

13 BOARD TRAFFIC CONSULTANT: Yes.

14 CHAIRPERSON SCHAEFER: Okay. So will  
15 the county realize this has now changed?

16 BOARD TRAFFIC CONSULTANT: Yes, Mr.  
17 Simoff has -- has submitted his analysis with the  
18 one lane to the county.

19 I mean, for the sake of everybody  
20 involved, I would be more than happy to make sure  
21 that -- that Mr. Mineo, the county engineer, has the  
22 benefit of all of this discussion in his review.

23 CHAIRPERSON SCHAEFER: I think that's  
24 important, John. I think it's real important.

25 BOARD TRAFFIC CONSULTANT: So long as

1 the applicant and the objector are comfortable with  
2 it, I'd be more than happy to make certain that --  
3 that, you know, he has received all the reports from  
4 Mr. Simoff, all the reports from Mr. Keller.  
5 And that I will go over with him the discussion  
6 about one lane, two lanes for the driveway and --  
7 and anything else that you all might want me to  
8 share with him.

9 CHAIRPERSON SCHAEFER: I think it's  
10 important on the board's behalf that you do that.

11 BOARD TRAFFIC CONSULTANT: Certainly.

12 CHAIRPERSON SCHAEFER: No disrespect  
13 to Mr. Butler or to Ms. Dory, but I have to protect  
14 our town to the best of our ability and I think that  
15 you need -- you are representing us.

16 BOARD TRAFFIC CONSULTANT: Agreed.

17 CHAIRPERSON SCHAEFER: So I think  
18 that's important.

19 BOARD TRAFFIC CONSULTANT: I will be  
20 certain to do that.

21 CHAIRPERSON SCHAEFER: Okay.

22 ATTORNEY DORY: The applicant has no  
23 objection.

24 CHAIRPERSON SCHAEFER: Thank you. Mr.  
25 Butler, are you done because I want to go on to

1 now the public.

2 ATTORNEY BUTLER: Oh, yes, I'm done,  
3 Madam Chair. And I appreciate you letting me ask  
4 for that clarification.

5 CHAIRPERSON SCHAEFER: Okay. I am now  
6 opening it up to the public. This is questions only  
7 of Mr. Simoff's testimony of tonight. If you have a  
8 question, I ask that you either come on video or  
9 that you need to tell us who you are and your  
10 address.

11 Any public?

12 DENNIS KITT: Madam Chair, it's Dennis  
13 Kitt, I live at 1065 Johnston Drive. I'm sorry,  
14 just here on on voice for now.

15 CHAIRPERSON SCHAEFER: Okay.  
16 Mr. Kitt, your address?

17 DENNIS KITT: 1065 Johnston Drive.

18 CHAIRPERSON SCHAEFER: Okay. Your  
19 question, Mr. Kitt?

20 DENNIS KITT: All right. I guess,  
21 just two quick ones, one about the -- the school  
22 bus. I know recently before -- right before the  
23 pandemic, in early 2020, I've waited behind a bus  
24 stopping at the intersection of Mareu and Johnston  
25 many times. So I don't know if that's supposed to

1 be a regularly scheduled stop, but the practice of  
2 that of -- of a driver, whoever is picking up  
3 students who live on Mareu Drive, has been to stop  
4 on Johnston, you know, not on the side of the  
5 street, but in the street and, you know, for the  
6 traffic to wait behind the bus while everyone comes  
7 in.

8 So I don't know if this was factored  
9 into anyone's reports or not. It seems like --

10 CHAIRPERSON SCHAEFER: Mr. Kitt, can I  
11 ask you a question? You're saying Johnston and  
12 Mareu? Mareu is part of --

13 DENNIS KITT: I'm sorry, I mean Bonnie  
14 Burn. I'm sorry, I misspoke. At the intersection  
15 of Bonnie Burn. So right after, you know, I have --  
16 I have seen the bus, the bus route comes down --  
17 comes eastbound on Valley, takes a right onto Bonnie  
18 Burn, and then right as it arrives at Mareu Drive it  
19 stops and picks up students, who I believe live on  
20 Mareu Drive. They seem to, you know, walk down the  
21 road and gather there. So...

22 ATTORNEY LINNUS: Mr. Kitt, Mr. Kitt,  
23 this is Frank Linnus, the board attorney. It sounds  
24 like you're drifting into statements and comments.  
25 We have to swear you in. This is the time for you

1 to ask questions of the witness.

2 DENNIS KITT: Right. So I just -- you  
3 know, my -- so my question --

4 ATTORNEY LINNUS: So what is your  
5 question, sir?

6 DENNIS KITT: My question is  
7 whether -- it's just to confirm whether or not, you  
8 know, that was taken into account as part of the  
9 reports?

10 I came away with the impression that,  
11 you know, the witnesses were operating on the  
12 presumption that there was, you know, no school bus  
13 stop along that route. And so if, you know, I just  
14 wanted to ask the witnesses whether to -- to correct  
15 that presumption, if -- if my understanding is  
16 incorrect.

17 CHAIRPERSON SCHAEFER: Okay. Mr.  
18 Jahr? Mr. Jahr? John, can you answer?

19 BOARD TRAFFIC CONSULTANT: Yes, so to  
20 answer the question, the -- if the school bus was  
21 stopping during the time in 2019 when the traffic  
22 counts were being done then their effect on the  
23 counts and on the operation of the road was to some  
24 extent taken into account.

25 It all depends on, you know, at that

1 particular time because I believe, as stated  
2 earlier, that the school bus stopping on Bonnie Burn  
3 is very dependent on who is going to school and, you  
4 know, so there's a lot of variables there.

5 But to the best extent possible it's --  
6 it's taken into account.

7 THE WITNESS: And if I can just add or  
8 make another comment to that?

9 ATTORNEY BUTLER: This is Mr. Simoff.

10 THE WITNESS: The volume is included,  
11 but the stopping of traffic is not. If the -- if  
12 the the school bus stops traffic with their flashing  
13 lights to accommodate the children, that's not  
14 included in the assumptions.

15 CHAIRPERSON SCHAEFER: Mr. Kitt, your  
16 second question?

17 DENNIS KITT: Sure, I guess my second  
18 question -- and maybe this is out of scope. I -- it  
19 may relate more to the process before Union County,  
20 but I was wondering, you know, Mr. Simoff, or if --  
21 if or the other traffic engineers, if you have  
22 considered any other options in terms of, you know,  
23 possible mitigation of traffic in connection with  
24 constructing the development, whether it -- whether  
25 it involves widening Bonnie Burn Road to be two



1 lanes in each direction or other -- or other impacts  
2 or whether that -- those sort of impacts will be  
3 considered during the application for the county?

4 CHAIRPERSON SCHAEFFER: Mr. Jahr?

5 BOARD TRAFFIC CONSULTANT: It would be  
6 my -- it would be my opinion that -- that will be  
7 considered as the county evaluates this further.

8 THE WITNESS: And basically I did my  
9 analysis based on what the applicant presented.

10 DENNIS KITT: Okay. And just, I mean,  
11 and this again, forgive me if this is out of scope.

12 You know, if the county determined that  
13 additional sort of mitigation would be required,  
14 whether it's widening the road or other sort of  
15 improvements, is there -- what will the -- who would  
16 bear the cost of implementing that mitigation; would  
17 it be the town, the county or the developer?

18 Again, forgive me if this is -- the  
19 question is out of scope.

20 BOARD TRAFFIC CONSULTANT: That's  
21 fine. The developer is going to be responsible for  
22 bearing any costs to -- to facilitate the traffic  
23 for -- for this project.

24 So if there's any road widening or  
25 traffic lights or signs or lines or anything at all,

1 the developer will bear the cost of everything  
2 required by the county to install this driveway and  
3 allow them access.

4 DENNIS KITT: All right. Thank you.  
5 Thank you all for your time.

6 I don't have any other questions.

7 CHAIRPERSON SCHAEFER: Okay. Thank  
8 you, Mr. Kitt.

9 Any other questions from public?

10 Okay, hearing none, at this point I  
11 guess we go to, Frank, closing arguments?

12 ATTORNEY LINNUS: That's correct,  
13 Madam Chairperson. Now's the time the -- first you  
14 close the public hearing, and then, assuming you  
15 close the public hearing, then at this point the --  
16 the applicant's attorney, as well as the objector's  
17 attorney, will have the right and opportunity to  
18 provide closing statements or arguments.

19 CHAIRPERSON SCHAEFER: The public  
20 session is closed. We're hearing no further  
21 questions from the public.

22 So we will start with Mr. Butler.

23 ATTORNEY LINNUS: Mr. Butler.

24 ATTORNEY BUTLER: Okay. And thank you  
25 for the opportunity, for listening to me and my

1 witness, and we only had one witness.

2 We're objecting to this application  
3 predicated upon traffic. We understand Mount Laurel  
4 is an important project. We understand that all  
5 towns are subject to Mount Laurel obligation. Our  
6 problem is here that this site is not appropriate  
7 for 230 units because of traffic generated on an  
8 already congested road. "Congested" meaning that it  
9 can't take any more traffic. And this takes more  
10 traffic.

11 And this not only -- traffic interrupts  
12 Weldon, but it interrupts the general traveling  
13 public because Bonnie Burn Road is a major artery  
14 between Route 78 and Route 22. Heavily traveled  
15 road in both directions.

16 I rely upon Mr. Simoff's report of  
17 July 29th, 2021, dated OW-1, in which he uses the  
18 applicant's traffic generation numbers. He also  
19 uses the traffic counts. Even though they were in  
20 March and the quarry is much busier in our hotter  
21 months than it is in March, we accepted them.  
22 Because even with them we show, I think we show,  
23 that it is ridiculous to have a small number of  
24 cars, about 62, interrupt and stop for 12 seconds  
25 1,500 cars.

1           The problem with the light is that it  
2 stops traffic. That's the problem. It stops  
3 traffic. Now we know the traffic -- the light issue  
4 is Union County. So let's wait for Union County.  
5 So my comments are predicated upon you got the light  
6 because you're asking for conditional approval.

7           I think Mr. Simoff used the figures  
8 from the applicant's engineer against him to show  
9 that he's going to increase gridlock. He's going to  
10 cause further delay.

11           We also pointed out that under Section  
12 K of the Land Development Ordinance, which was  
13 signed by the present Mayor -- of course, he  
14 inherited this. He didn't create this. Keith  
15 signed it because it was all done before he went in.  
16 But it requires a traffic study. Because, I  
17 represent to you, that nobody -- Judge Miller,  
18 housing, the fair housing authority, the planning  
19 board -- nobody did a traffic study to determine  
20 this.

21           In my humble opinion, this should not  
22 be considered vacant land to accommodate 230 units.  
23 It probably should be accommodated for 23 units. Of  
24 course the Mayor and council, in its wisdom, passed  
25 the Bonnie Burn Road Redevelopment District, but

1 they were aware of traffic. They were keenly aware  
2 of traffic. And that's where K comes in, Paragraph  
3 K.

4 And before I get to Paragraph K, I just  
5 want you to look at the -- the queuing, the  
6 resulting queuing from the -- from the modern  
7 University of Florida. Highway Capacity Software  
8 which -- which shows tremendous, tremendous queuing.  
9 A backup of 1,152 feet and 45 cars. This is  
10 unbelievable in every -- in every scale, every part  
11 of the hour it gets longer and longer.

12 I don't know whether it goes down to  
13 the intersection of Bonnie Burn Road and New  
14 Providence Road, but we're going to find out if you  
15 ever adopt this. This has to be good planning.

16 I know Mount Laurel is important. But  
17 you can't disregard your planning obligations,  
18 otherwise, you're doing great detriment to not only  
19 the present but the future traveling public. And  
20 the future traveling public is probably what you  
21 should be more concerned about than Weldon. The  
22 future traveling public doesn't have the money to  
23 hire a Butler or -- or a Simoff, but we do and we  
24 did. And it's not only Weldon that's affected  
25 traffic-wise, but the traveling public, which

1 includes probably half of you.

2                   Regarding Paragraph K, it's a dangerous  
3 intersection. You go out there, you take your life  
4 in your own hands. When I go out there I park at  
5 the firehouse. I'm nervous when I go out there.  
6 And I have been out there 100 times. Believe me,  
7 over the last 20 years, I've been out there at least  
8 100 times.

9                   It's up and down. It's curvy. I've  
10 been there and experienced personal accidents. Of  
11 course, now, this is a summation. Summation isn't  
12 evidential. Either is an introduction. It's not --  
13 it's not evidential, it's argument. And that's what  
14 I'm doing, I'm making an argument. I'm not a  
15 witness. But for the reasons expressed by Mr.  
16 Simoff Subparagraph A is violated in at least two --  
17 in four sections. And since he just testified to  
18 them, I'm not going to bore you with -- when you  
19 repeat them, but this is a dangerous intersection  
20 that's gridlocked now and it's going to get worse.

21                   I have -- I have no further questions.  
22 I'm sorry, I have no further comments.

23                   ATTORNEY LINNUS: All right. Madam  
24 Chairperson, before we proceed with Ms. Dory, I just  
25 want to make -- be sure that the public was afforded

1 an opportunity to make their comments.

2 I know they were afforded an  
3 opportunity to ask questions, but we have to make  
4 sure that the public was afforded an opportunity to  
5 make comments.

6 CHAIRPERSON SCHAEFER: The comments  
7 would come after the closing arguments.

8 ATTORNEY LINNUS: No, comments usually  
9 comes before closing arguments, but if the attorneys  
10 have no objections we could forgo that normal  
11 procedure.

12 Any objection, Ms. Dory?

13 ATTORNEY DORY: I'm sorry. I'm fine  
14 with opening it up to the public now, if you want,  
15 for public comment.

16 GLORIA BOORUJY: This is Gloria  
17 Boorujy speaking. I live on Johnston Drive.

18 CHAIRPERSON SCHAEFER: Hold on. Hold  
19 on. We haven't gotten there yet.

20 Go ahead, Frank.

21 ATTORNEY LINNUS: Yeah, I would think  
22 that you would want to open up to public comment.

23 CHAIRPERSON SCHAEFER: Okay.

24 ATTORNEY LINNUS: And then at that  
25 point it would be fair to Mr. Butler if he wanted to

1 add something to what he previously stated on his  
2 closing argument. Because it is normal procedure to  
3 have the public comment before the closing  
4 arguments.

5 CHAIRPERSON SCHAEFER: Mr. Butler, are  
6 you good with that?

7 ATTORNEY BUTLER: I'm perfectly fine  
8 with that.

9 CHAIRPERSON SCHAEFER: Okay. Whoever  
10 the caller was that started speaking, can you please  
11 give us your name and address?

12 GLORIA BOORUJY: Yes, my name is --

13 ATTORNEY LINNUS: And you will need to  
14 be sworn -- ma'am, you will need to be sworn in.

15 CHAIRPERSON SCHAEFER: Hold on. I'm  
16 sorry again, ma'am.

17 Frank, these are comments. Why do they  
18 need to be sworn in?

19 ATTORNEY LINNUS: If they're going to  
20 provide any testimony.

21 CHAIRPERSON SCHAEFER: Well, if  
22 they're providing testimony -- Frank, I'm sorry --

23 GLORIA BOORUJY: Oh, forget it.

24 CHAIRPERSON SCHAEFER: No, ma'am,  
25 don't go anywhere. If it's testimony they have to



1 be on video.

2 ATTORNEY LINNUS: Correct.

3 CHAIRPERSON SCHAEFER: According to  
4 our resolution. This is comments.

5 So, ma'am, please, if you have a  
6 comment, please give your name and address.

7 GLORIA BOORUJY: My name is Gloria  
8 Boorujy. I live at 1205 Johnston Drive.

9 And Johnston Drive has always been a  
10 very hard place to enter and to exit. So -- and  
11 what I'm concerned about, how do I get out with all  
12 this traffic? Because I can no longer can make a  
13 left-hand turn. I only can make a right-hand turn.  
14 What about Johnston Drive? That is very hard, you  
15 know, coming down and -- and signaling and coming up  
16 the driveway with all that traffic. It's horrendous  
17 now, what about later?

18 Okay.

19 CHAIRPERSON SCHAEFER: Thank you,  
20 ma'am. Other public comment?

21 SHIMIN QIAN: Yes. My name is --  
22 yeah, my name is Shimin Qian. I live on 138 Hill  
23 Hollow Road in Watchung.

24 ATTORNEY LINNUS: All right. Ma'am,  
25 could you spell your, name, please?

1 SHIMIN QIAN: Okay. It's S-H-I-M-I-N.

2 CHAIRPERSON SCHAEFER: And your last  
3 name?

4 ATTORNEY LINNUS: Last name?

5 SHIMIN QIAN: Q-I-A-N.

6 ATTORNEY LINNUS: Thank you.

7 SHIMIN QIAN: Okay. I just want to  
8 make a comment about the scale of this development  
9 and its potential impact to our town.

10 Just let me quote the existing  
11 population of Watchung which is standing at below  
12 6,000. And this proposed development alone we're  
13 going to see 230 units, which could bring in, you  
14 know, close to 800, 900 new residents.

15 Okay, so what I heard people were  
16 saying, okay, it's affordable housing that is a  
17 obligation. That is fine. I am in support of that.  
18 And when I look at the numbers, the Watchung's  
19 remaining low-income housing obligation before 2025  
20 is 38 units. In other words, we do not need to  
21 build 230 units, which is way more than what this  
22 town can accommodate to fulfill our affordable  
23 housing obligations.

24 And what we can see from the scale of  
25 this proposed development, we can see the traffic

1 impact which we just heard the testimony. And we  
2 can also imagine the estimate of the project project  
3 the impact to Watchung's school systems with 230  
4 rental families. And our existing Valley View  
5 Middle School population current pupil numbers is  
6 295. The Bayberry Elementary School, the current  
7 pupils numbers are 341. And this proposed  
8 development sits on 41-acre woodland on a steep  
9 slope. Along a steep two-lane Bonnie Burn Road that  
10 is already congested without the influx of this,  
11 what I call, overdevelopment that brings.

12 And I just have no way -- whichever way  
13 that I look at it, this -- this scale of this  
14 project is simply incredible. It's not something  
15 that I would -- any sane person would agree that --  
16 that this town could -- could absorb.

17 So I ask, you know, our planning board  
18 who -- and most of you are residents of this town  
19 also -- really consider, you know, the -- the  
20 tremendous impact this -- this development project  
21 could take this town. And, you know, vote your  
22 conscious. Vote, you know, for -- for this town's  
23 residents, the 6,000 residents.

24 Thank you.

25 CHAIRPERSON SCHAEFER: Thank you.

1 Thank you.

2 Any other public comments?

3 SCOTT SEIDEL: Scott Seidel.

4 CHAIRPERSON SCHAEFER: Can you give us  
5 your address, Mr. Seidel?

6 SCOTT SEIDEL: Certainly. 1020  
7 Johnston Drive.

8 I have a few comments listening to the  
9 testimony this evening on this project. It  
10 certainly seems to be a much larger scale than would  
11 be appropriate for that site.

12 I'm concerned the traffic counts were  
13 done in March when the Weldon operation was much  
14 slower than it normally is in the summer months.

15 I'm concerned that plans that are  
16 inconsistent are being sent to the county for  
17 review. Over the years I have been before planning  
18 boards before and I don't understand why we would  
19 send a plan that may or may not be the right one to  
20 the county for them to review and get back to  
21 Watchung on it. I think the plans that are sent  
22 should be the one that they want reviewed and not  
23 one that we're going to let them decide which  
24 version of it that it should be. It should be the  
25 consistent plan.

1 I would think a smaller development  
2 would be more appropriate for this site.

3 I have only lived here just this year,  
4 although I bought my house a year and a half, and I  
5 have been here all the time in this area. And in  
6 the winter when we get some snow or ice, and not  
7 much of it, that road gets closed. And I don't know  
8 whether consideration has been given to what will  
9 happen in that circumstance with all these cars for  
10 the 230 units are going to go.

11 That road, Bonnie Burn Road, is quite  
12 busy right now. And just to add this volume of  
13 traffic to it, to me, doesn't seem to make sense.  
14 And I think the project should be scaled back.

15 CHAIRPERSON SCHAEFER: Thank you.

16 Any other public --

17 ATTORNEY LINNUS: Madam Chair, I think  
18 it's appropriate now to ask Nicole Dory, the  
19 applicant's attorney, to confirm as to whether the  
20 plan that they're seeking approval for tonight, the  
21 one -- let's call it the one-lane plan, is the same  
22 plan that will be presented to the county.

23 Nicole?

24 ATTORNEY DORY: Yes, my understanding  
25 is that the one-lane plan will be presented to the

1 county.

2 ATTORNEY LINNUS: Well, I want to  
3 go -- you to go a little further than that. If this  
4 board takes action on a site plan, the one-lane  
5 plan, that will be the plan that will go to the  
6 county.

7 ATTORNEY DORY: Yes, we will submit  
8 the plans that are approved by the planning board to  
9 the county.

10 ATTORNEY LINNUS: Okay, thank you.

11 CHAIRPERSON SCHAEFER: Continuing with  
12 public comments. Anybody else from the public that  
13 wants to speak? Okay. I close the public.

14 DENNIS KITT: Ms. Madam Chair?  
15 Apologies. It's Mr. Dennis Kitt again. This time  
16 with comment instead of questions.

17 I don't know if I -- do you need me to  
18 restate my address?

19 CHAIRPERSON SCHAEFER: Please.

20 DENNIS KITT: Okay. Again, my name is  
21 Dennis Kitt. I live at 1065 Johnston Drive.

22 You know, just wanted to echo that, you  
23 know, that I think, look, that we -- we all  
24 understand our Mount Laurel obligations. We all  
25 understand that there is an issue with, you know, a

1 lack of affordable housing in our country and we  
2 need -- we all need to do something about it.

3 I think that this plan is -- you know,  
4 the scale of this plan is just not suited for the  
5 site. I think we should build on this site. I  
6 think we should build affordable housing on the  
7 site.

8 I think 230 units, you know,  
9 particularly when you compare it with what is sort  
10 of built on equivalent sites throughout this region  
11 in this part of the state, it's just, you know, way  
12 out of -- way out of line with what we've seen --  
13 what we're seeing in other parts of the county. For  
14 example, down in Scotch Plains we might have a  
15 development that is this large, but which has direct  
16 access to Route 22 or, you know, the sites in  
17 Berkeley Heights that have direct access to I-78.  
18 Similar scale, but much more direct access to, you  
19 know, to -- to amenities and to, you know, roads  
20 and -- and public transportation and the like,  
21 whereas there's not going to be anything for this  
22 site.

23 I mean, I haven't seen any plans about,  
24 you know, putting a bus in, for example. You know,  
25 other -- any sort of traffic mitigation, you know,

1 it's -- it's just sort of frustrating to see how,  
2 you know, everything is focused on just, you know,  
3 are these -- is a traffic light going to be enough?

4 I mean, if there's something that is  
5 going to be built on this scale, I mean I would -- I  
6 would wish to see studies done about widening the  
7 road, two lanes each direction. Bonnie Burn is  
8 already four lanes, two lanes each direction for  
9 much of its length, except for this segment between  
10 Valley and New Providence.

11 You know, I would, suggest, you know,  
12 and I understand, you all of you, I'm sure, have the  
13 town's best interest at heart to follow very closely  
14 the proceedings before Union County. You know, if  
15 this road ends up being widened, I think there's a  
16 question as to what to do about the intersection  
17 with Johnston and Bonnie Burn because there's no way  
18 one is going to be able to make a left turn at that  
19 intersection unless a light is put at that  
20 intersection as well. And, you know, maybe --  
21 maybe -- maybe we do need a light there. That is an  
22 area that is prone to accidents.

23 But, anyhow, I have -- I have gone on  
24 for long enough. Thank you for your patience and  
25 for -- for listening.



1                   CHAIRPERSON SCHAEFER: Thank you. And  
2 thank you, Mr. Kitt.

3                   Any other public comments?

4                   Hearing none, I now close the public  
5 comment section.

6                   Ms. Dory, before we go back to you, Mr.  
7 Butler, did you want to add to your closing  
8 argument?

9                   ATTORNEY BUTLER: Excuse me. I had  
10 the mic turned off. Oh, I'm sorry. No, Madam  
11 Chair.

12                  CHAIRPERSON SCHAEFER: Thank you.  
13 Okay, Ms. Dory.

14                  ATTORNEY DORY: Thank you, Madam  
15 Chair. I'll just -- I will try to be brief.

16                  So on behalf of the applicant, Bonnie  
17 Burn Urban Redevelopers -- Urban Renewal, excuse me,  
18 we greatly appreciate all of your attention and your  
19 time that you have paid to this application. I know  
20 there have been many, many meetings and it has been  
21 a long time, but, you know, this is really an  
22 important moment for the board and also the Borough.

23                  This site plan application, although it  
24 was filed back in 2019, this project has really been  
25 about 30 years in the making. So, you know, maybe

1 over 30 years when this property was -- it was the  
2 first time this property was contemplated as a site  
3 for affordable housing. And that was to meet the  
4 Borough's Mount Laurel constitutional obligation.

5 The property comprises four tax lots.  
6 It's nearly 42 acres. And the Borough adopted the  
7 Bonnie Burn Redevelopment Plan in 2018 to allow for  
8 this development of 230 units which would include 46  
9 affordable housing units.

10 And as part of this development the  
11 applicant is also dedicating 60 percent of the  
12 property, over 24 acres, to be permanently deed  
13 restricted as a conservation area so it will never  
14 be developed.

15 And the residential development will  
16 also include, you know, in addition to that it has  
17 various amenities and carefully designed landscaping  
18 for the residents. And all of this is -- is also  
19 for the great benefit of the Borough.

20 The project has been considered by the  
21 board's planner, Mr. Healey, several times. Most  
22 recently the redevelopment plan was considered by  
23 Mr. Healey in recommending amendments to refine that  
24 plan. And Mr. Healey in his July 13th, 2021, report  
25 he explained that the Bonnie Burn Redevelopment Plan

1 is a key, I quote, he said, "A key mechanism of the  
2 Borough's Housing Element and Fair Share Plan."  
3 And he said that by amending that plan to allow for  
4 this project and this site plan application, you  
5 know, the board is directly implementing a component  
6 of the Borough's Master Plan.

7 And as I said, the borough has been  
8 trying to implement this plan for over 30 years.  
9 The borough filed an affordable housing declaratory  
10 judgment action in 2015. And it resolved that with  
11 a settlement agreement with Fair Share Housing  
12 Center. And that required the adoption of the  
13 Bonnie Burn Redevelopment Plan to allow for this  
14 project.

15 So as a result of that settlement the  
16 Superior Court of New Jersey granted the borough a  
17 final judgment of compliance and repose that has  
18 provided continued immunity from builder's remedy  
19 lawsuits.

20 So it was that affordable housing  
21 obligation that really prompted the counsel to ask  
22 this board to study whether this property was in  
23 need of redevelopment. And several years ago the  
24 board held a hearing. It reviewed a report by a  
25 planner and determined that the standard for an area

1 in need of redevelopment had been met. And based  
2 upon this board's advice and recommendation the  
3 Borough Council agreed.

4 So it was on October 4th, 2018, that  
5 the counsel first adopted this detailed  
6 redevelopment plan for this area creating the Bonnie  
7 Burn Redevelopment Area. And over the years since  
8 then the council has consistently adopted amendments  
9 to that plan to make this development a reality.

10 So I think it's important to note that  
11 while this plan for this development, this  
12 inclusionary development, was adopted several years  
13 ago, with every single plan amendment this board has  
14 consistently found that the uses and the detailed  
15 requirements proposed by the redevelopment plan are  
16 consistent with the Borough's Master Plan.

17 And I hope you will agree with me that  
18 during the course of the many hearings for this  
19 application and all of the submissions made,  
20 that -- and all the testimony you have heard,  
21 that the applicant has demonstrated that this  
22 application fully complies with the redevelopment  
23 plan ordinances requirements.

24 So I mean, consistent with the  
25 redevelopment plan, the application is consistent

1 with the plan's requirements as well as the various  
2 concept plans and diagrams that were attached to the  
3 redevelopment plan.

4           You know, the development is largely  
5 contained into the middle of the property with  
6 wetlands and streams and -- and regulated buffers  
7 left basically undisturbed. Buffers and, you know,  
8 heights in -- in the details and diagrams in the  
9 redevelopment plan have been followed. Buffers  
10 are -- have been maintained around the entire site.

11           And the project also includes amenities  
12 required by the plan, such as the clubhouse. It  
13 also includes a pool, playground, and a pedestrian  
14 network and ample parking.

15           And as you have heard much discussion  
16 about the project also includes traffic controls.  
17 And these include lane widening and a light at the  
18 project entrance that is currently before Union  
19 County for approval. And that traffic light has  
20 been recommended by the board's traffic engineer as  
21 well as the applicant's. And the applicant will  
22 also be responsible for the installation of all of  
23 these improvements.

24           I know you -- you've heard from Weldon  
25 and Mr. Butler and Mr. Simoff. They responded to

1 reports that the applicant had submitted in May  
2 and -- and revised in October of 2019. They  
3 responded to those reports two years later almost.

4 So it's the applicant's position, as  
5 I've stated and also as acknowledged by Mr. Simoff,  
6 that the borough has zoned for this use and these  
7 units. And then also that the decision on the  
8 traffic light lies with Union County.

9 The applicant has provided, you know,  
10 reports on traffic to the board. And the  
11 applicant's analysis, and we think also that of Mr.  
12 Simoff's, shows that we have been overly  
13 conservative and we think that the actual traffic  
14 operations will probably be much better.

15 But for purposes of the board's review  
16 I think it's important to -- to consider that the  
17 board's traffic engineer stated tonight that in his  
18 opinion, his May 20, 2021, report that was favorable  
19 to the traffic light, that opinion has not changed.  
20 Mr. Jahr and Mr. Simoff have agreed, you know, on  
21 the information presented. And that these issues  
22 about the traffic light are going to be decided by  
23 Union County, another agency.

24 But for purposes of this board to  
25 review it, you know, the board really has to look at

1 the requirements of the redevelopment plan. And I  
2 hope you will agree with me that this application  
3 really complies to a T with the redevelopment plan  
4 and that includes Paragraph K. We submitted a  
5 traffic evaluation that complied with that  
6 paragraph.

7 You know, the board's planner, he  
8 submitted a report in May of this year. Our planner  
9 pointed out in his testimony that the board's  
10 planner used the word "complies" at least 25 times  
11 when evaluating the application against the many,  
12 many detailed requirements of the redevelopment  
13 plan.

14 And I think probably since May we  
15 probably have added the word "complies" a few more  
16 times on top of that because we have made some  
17 submissions to -- to further revise the plan.

18 So at this point there are really only  
19 three minor design-related waivers or -- or  
20 construction-related waivers or variances for the  
21 application. The first is for the movement of  
22 topsoil off the site during development. And that's  
23 to prevent unnecessary destruction of forested  
24 areas;

25 The second is to use single stripe

1 instead of hairpin striping for parking stalls since  
2 this is a residential development;

3 And the third is a de minimis exception  
4 from the Residential Site Improvement Standards to  
5 have a sidewalk on one side of the loop road. And  
6 with the applicant's last submission we also added  
7 more sidewalks to -- more sidewalk connections to  
8 address some of the board's concerns on that last  
9 item.

10 But these are really more like de  
11 minimis waivers than variances. We did provide  
12 planning testimony to support them, but these issues  
13 really relate to other general Borough ordinances  
14 and -- and also the Residential Site Improvement  
15 Standards. They are not requirements of the  
16 borough's redevelopment plan for this project.

17 But more importantly the applicant's  
18 testimony has established that the project still  
19 functions safely and efficiently and meets all of  
20 the standards of the redevelopment plan even if with  
21 these minor deviations.

22 So, you know, our planner also  
23 mentioned that the development generally promotes  
24 the efficient use of land and as well as  
25 environmental preservation. You know, you're saving



1 60 percent of this site and placing it into a  
2 conservation area.

3 And I think, most importantly, the plan  
4 achieves the fundamental purpose of what it was  
5 intended to do and that's years of effort to promote  
6 the development of affordable housing in the  
7 Borough, which is what led the council to find that  
8 the property is in need of redevelopment.

9 So on behalf of the applicant, we thank  
10 you very much for your attention to this matter.  
11 And we request that you act favorably on the project  
12 and the application. We are requesting that the  
13 planning board vote on the application's request for  
14 preliminary site plan approval.

15 And pursuant to our -- our discussions  
16 at the last meeting, you know, the applicant will  
17 agree to resubmit plans for final site plan approval  
18 on a separate date, hopefully soon, so that the  
19 board can separately vote on final site plan  
20 approval for the application.

21 So thank you very much. That's all I  
22 have.

23 CHAIRPERSON SCHAEFER: Okay, thank  
24 you.

25 Frank?

1                   ATTORNEY LINNUS: Okay, the hearing is  
2 concluded. Here are the options that the board has:

3                   One of the options is to deliberate  
4 tonight and take action, either yea or nay. It  
5 would be a motion to approve preliminary only with  
6 conditions. And we would elaborate on some of the  
7 conditions;

8                   You could reject the plan tonight, vote  
9 against it;

10                  Or another option would be to defer  
11 action on the plan, authorize me to prepare  
12 a resolution for a future meeting either yea or nay.

13                  So those would be the options.

14                  CHAIRPERSON SCHAEFER: Can you review  
15 that one more time, please?

16                  ATTORNEY LINNUS: Sure. Okay, the  
17 board's options are as follows:

18                  Number one, you could take action  
19 tonight, legal action tonight. And the action would  
20 be approval of preliminary site plan only with  
21 standard conditions and we could discuss some of the  
22 conditions.

23                  The other option you have would be to  
24 deny the plan tonight, and that would be the action  
25 of the board. And then depending on that action, I

1 would prepare a memorializing resolution within  
2 45 days or so to reflect the board's action.

3 That is one option, yea or nay tonight,  
4 take action.

5 Second option would be to defer action  
6 tonight and authorize me to prepare a resolution,  
7 either yea or nay for consideration at one of the  
8 next meetings.

9 VICE-CHAIRMAN SPEENEY: Chair.

10 CHAIRPERSON SCHAEFER: Who's speaking?

11 VICE-CHAIRMAN SPEENEY: Yeah, Don.

12 CHAIRPERSON SCHAEFER: Yes, Don.

13 VICE-CHAIRMAN SPEENEY: I would like  
14 to follow the attorney's suggestion, his third  
15 suggestion and that is that he creates a resolution  
16 that we would then vote on at some future meeting.  
17 And then the resolution that the attorney would  
18 create would have all of the conditions that we've  
19 developed. And that the resolution should be  
20 written in the affirmative, and then board members  
21 could either vote yea or nay on that particular  
22 resolution.

23 And I think -- I think that would give  
24 us enough time to really review all of the content  
25 of the many meetings that we have had and -- and

1 seeing a written, succinct written version of that  
2 from attorney would go a long way for us to vote in  
3 a very practical way. That's it. Thank you.

4 CHAIRPERSON SCHAEFER: Don, I happen  
5 to agree with you. That was my thought pattern  
6 also. What I learn from good people.

7 Do I have any feedback from other  
8 planning board members?

9 So Don, you know what, since you  
10 brought it up, you want to make the motion?

11 VICE-CHAIRMAN SPEENEY: Yeah, I'll  
12 make the motion that attorney -- well, attorney  
13 draft a resolution for -- in the affirmative with  
14 the conditions for us to review and then vote on at  
15 a future meeting.

16 CHAIRPERSON SCHAEFER: In the  
17 affirmative for preliminary approval to be voted on  
18 at a future meeting?

19 VICE-CHAIRMAN SPEENEY: Yes.

20 ATTORNEY DORY: And I'm sorry, this is  
21 Ms. Dory. What meeting would that be voted on?

22 CHAIRPERSON SCHAEFER: Well, Frank do  
23 you have that?

24 ATTORNEY LINNUS: Well, yeah.  
25 Probably a meeting in October.

1 BOARD SECRETARY: So we have two  
2 dates. There's either -- we have in the master  
3 calendar set aside October 12th, Tuesday  
4 October 12th for a special meeting or our regular  
5 meeting on Tuesday October 19th.

6 ATTORNEY DORY: Okay. Because there's  
7 also a meeting on the 21st. It's next week.

8 ATTORNEY LINNUS: The 21st, Nicole, is  
9 out of the question.

10 CHAIRPERSON SCHAEFER: But let me also  
11 add -- let me also add that, Mr. Linnus, that our  
12 agenda is pretty full on the 21st. We have an  
13 application which they don't even know about yet,  
14 but we have something else -- what else do we have,  
15 Theresa?

16 THERESA SNYDER: We have the TLE  
17 resolution.

18 CHAIRPERSON SCHAEFER: Okay. So for  
19 me to say at the end of the meeting, it's not going  
20 to happen. And Frank certainly needs a heck of a  
21 lot more time than one week to put a resolution  
22 together with all the conditions.

23 ATTORNEY DORY: Sure, sure. I  
24 understand that. I'm just trying to figure out the  
25 timing. I mean, we did rest a -- a while ago. I

1 guess we had hoped that we might have a vote.

2 So I was wondering if the board would  
3 consider a vote on preliminary approval this evening  
4 and -- and then authorize Mr. Linnus to draft the  
5 resolution that could be voted on in -- in the  
6 October meeting.

7 CHAIRPERSON SCHAEFER: No, I think  
8 that we need to do it where we can see all of the  
9 conditions and look at, you know, we will authorize  
10 Frank to -- to draft it in the affirmative for  
11 preliminary approval, but then at the next meeting,  
12 based on that, that would be the yea or nay of the  
13 approval.

14 I don't want to -- I don't want to be  
15 pushed into anything. This is a very important  
16 application. We've come very far, very quickly and  
17 I think we need to do it the right way.

18 VICE-CHAIRMAN SPEENEY: Tracee?

19 CHAIRPERSON SCHAEFER: Yes.

20 VICE-CHAIRMAN SPEENEY: Tracee, if we  
21 follow the suggestion of Frank drafting the  
22 affirmative document, and then vote on it at  
23 sometime in the future, next month or whatever --  
24 Frank, check me on this -- we don't have to  
25 memorialize that because that's -- that's an action

1 taken that has been voted on.

2 ATTORNEY LINNUS: That's correct, you  
3 can -- you can take action and then -- and then  
4 finalize the resolution and memorialize the  
5 resolution at a subsequent meeting. Or we can have  
6 the resolution ready and if you're happy with the  
7 resolution and you vote on it then that's the  
8 resolution and that's the action.

9 So we can do it in one meeting. It's  
10 up to the board.

11 VICE-CHAIRMAN SPEENEY: That's my  
12 point. My point is that we could certainly offer to  
13 save some time in between votes, you know, another  
14 30 days shouldn't make any difference, but -- but we  
15 should be able to craft a memorialization based on  
16 what we do on that night.

17 ATTORNEY LINNUS: Again, that depends  
18 on whether the board is satisfied with the  
19 resolution that I will have prepared and the board  
20 could either take action that evening on the  
21 resolution which would be the action of the board at  
22 one meeting or the board could, if they're not happy  
23 with the resolution or want to make changes or -- or  
24 want to make substantive changes to the resolution,  
25 one way or the other, then they could take action

1 on -- take action approving the application with  
2 conditions, but authorizing the memorialization at a  
3 later meeting.

4 But I think in fairness to the  
5 applicant, in light of the time constraints that the  
6 applicant and board is under to have final approval  
7 by the end of the year, I think it's -- it's  
8 probably fair to hope that the resolution I craft  
9 will be adopted by the board at that meeting.

10 VICE-CHAIRMAN SPEENEY: Okay. Frank,  
11 if -- if there are any changes to that resolution,  
12 in other words, if we get it early enough and we  
13 give you some feedback, et cetera, but at the  
14 meeting itself, if there are any changes to be made,  
15 those changes can be made online, I mean, we can do  
16 that right -- right there and just have the chair  
17 and the secretary initial the changes.

18 ATTORNEY LINNUS: That's correct.

19 CHAIRPERSON SCHAEFER: We've done  
20 that.

21 VICE-CHAIRMAN SPEENEY: Okay.

22 CHAIRPERSON SCHAEFER: We've done that  
23 before.

24 So we have a motion on the table. Do I  
25 have a second?



1                   MEMBER SPINGLER:   Second.

2                   ATTORNEY DORY:   I'm sorry, it's Ms.  
3   Dory again.   Can I just clarify the date?   Would  
4   that be the October 12th meeting then?

5                   ATTORNEY LINNUS:   Ms. Dory -- Ms.  
6   Dory, it's my practice when I prepare a draft  
7   resolution to circulate it first to the staff and --  
8   and the board chair for review.   And basically, I  
9   can't tell you right now whether it will be at the  
10   first or the second meeting in October.

11                   We will certainly try to get it on the  
12   agenda for the first meeting in October, but perhaps  
13   not.

14                   CHAIRPERSON SCHAEFER:   But if you are  
15   pushing for an actual date, then I'm going to give  
16   you our regular meeting in October because I -- I  
17   just don't want to have any issues and time  
18   constraints.   This is a lengthy resolution.   Many  
19   conditions that need to, you know, need to be  
20   reviewed by many parties.

21                   So if you are looking for a hard date,  
22   I'm going to tell you our regular meeting in  
23   October.

24                   ATTORNEY DORY:   Okay, Madam Chair.   I  
25   appreciate it.   I just -- I'm, you know, just

1     cognizant of our last conversation about having to  
2     resubmit for final, and I then I know the board  
3     would have to decide that before the end of the  
4     year.

5                     So the applicant would appreciate it if  
6     it could be considered at the October 12th meeting,  
7     the resolution.

8                     CHAIRPERSON SCHAEFER:   October 12th is  
9     -- will be a special meeting.  Again, it's really  
10    going to be hinged on -- if you are looking for a  
11    date tonight, I am not going to pin our attorney up  
12    against a wall to get everything he needs to get to  
13    us and get it reviewed by all the parties that need  
14    to review it to promise you the second Tuesday of  
15    the month.  That's not fair to you, it's not fair to  
16    us.

17                    ATTORNEY DORY:   I understand.  I'm not  
18    trying to --

19                    CHAIRPERSON SCHAEFER:   No, I know, but  
20    I am saying I think that everybody -- if we can just  
21    say we'll do it at our regular meeting, it gives  
22    everybody enough time to do what they need to do.

23                    And, you know, you have until the end  
24    of December.  If we could come so close -- you know,  
25    we still have other special meetings that we can,

1     you know, do with this application -- but if we come  
2     so close and everybody is working together on this  
3     and working for the -- in the same goal, I can't  
4     imagine that you wouldn't give us -- give us, or  
5     you, a slight extension just to get it through.  
6     But, you know, this is an important thing that we  
7     can't just haphazardly say "okay."

8                     So if you want a hard date, then  
9     tonight I'm saying to you we're going to do it at  
10    our regular October meeting.

11                    ATTORNEY DORY: I was not looking for  
12    a hard date. I was trying to clarify. If you  
13    cannot provide a hard date I understand. I just --  
14    the applicant would appreciate it as soon as  
15    possible. Thank you.

16                    CHAIRPERSON SCHAEFER: And believe me,  
17    we would like to have this end.

18                    So at this point let's just, because  
19    we've got to give -- I'm just going to say let's do  
20    it at our regular October meeting.

21                    ATTORNEY BUTLER: And when is that?  
22    This is Butler. October 19th, is that when you  
23    would -- Madam Chair --

24                    CHAIRPERSON SCHAEFER: October 19th.  
25    October 19th meeting. What I would ask is that we

1 start that meeting earlier, at 6:30, rather than  
2 waiting to 7:30 so that we could, you know, have  
3 more time to afford it. And we can keep the, as far  
4 as I know, we can keep that date open just for you,  
5 Ms. Dory, for your application.

6 ATTORNEY DORY: Okay. Does that have  
7 to be noticed as a special meeting then because it's  
8 being -- starting earlier?

9 CHAIRPERSON SCHAEFER: Probably.  
10 Frank?

11 ATTORNEY LINNUS: Nope, no. Isn't  
12 October 19th our regular meeting?

13 CHAIRPERSON SCHAEFER: Yes, but I want  
14 to move it up to 6:30.

15 ATTORNEY LINNUS: Then indeed it would  
16 have to be noticed.

17 CHAIRPERSON SCHAEFER: Then let me ask  
18 you, Frank, are you confident in being able to get  
19 this put together in order to do a special meeting  
20 the second Tuesday of October?

21 ATTORNEY LINNUS: Because of the  
22 number of parties that -- that have to take a look  
23 at the draft, I would say no. The odds aren't --  
24 aren't great on that.

25 CHAIRPERSON SCHAEFER: Okay. So then

1 the answer is October 19th, 6:30. Yes, you will  
2 have to re-notice.

3 ATTORNEY DORY: I'm sorry, I didn't  
4 think I would have to re-notice. I thought perhaps  
5 the board might have to provide the --

6 CHAIRPERSON SCHAEFER: I didn't say  
7 you specifically. I'm just saying --

8 ATTORNEY DORY: Oh, okay.

9 CHAIRPERSON SCHAEFER: -- we would have  
10 to -- we would have to re-notice.

11 ATTORNEY LINNUS: That would be  
12 Theresa doing the Open Public Meetings Act notice.  
13 I see her nodding her head, yes. Okay.

14 All right, then it appears that this  
15 matter will be carried, this application will be  
16 carried to a special meeting --

17 CHAIRPERSON SCHAEFER: Frank, Frank,  
18 we haven't voted yet.

19 ATTORNEY LINNUS: Right.

20 CHAIRPERSON SCHAEFER: I have a motion  
21 on the table and a second.

22 Do we have discussion?

23 Roll call, Theresa.

24 BOARD SECRETARY: Ms. Spingler?

25 MEMBER SPINGLER: Yes.

1 BOARD SECRETARY: Mr. Ellis?

2 MEMBER ELLIS: Yes.

3 BOARD SECRETARY: Councilman Martino?

4 VICE-CHAIRMAN SPEENEY: He's muted.

5 CHAIRPERSON SCHAEFER: Can't hear you.

6 Is it a yes or is it a no? Yes.

7 BOARD SECRETARY: Councilman Martino

8 is yes. Ms. Pennett?

9 MEMBER PENNETT: Yes.

10 BOARD SECRETARY: Mayor Balla?

11 MAYOR BALLA: Yes.

12 BOARD SECRETARY: Mr. Speeney?

13 VICE-CHAIRMAN SPEENEY: Yes.

14 BOARD SECRETARY: Mr. Pote?

15 MEMBER POTE: Yes.

16 BOARD SECRETARY: Mr. Fiorilla?

17 MEMBER FIORILLA: This is a vote on  
18 voting on -- to vote next month with a resolution?

19 ATTORNEY LINNUS: Yes, that's right.

20 MEMBER FIORILLA: Yes.

21 BOARD SECRETARY: And Madam Chair?

22 CHAIRPERSON SCHAEFER: Yes.

23 ATTORNEY DORY: Thank you.

24 CHAIRPERSON SCHAEFER: Okay. So this  
25 will be heard at our regular meeting of

1     October -- carried to our regular meeting of  
2     October 19th at 6:30.

3                     We will be starting that meeting an  
4     hour early. And at that point we will have the  
5     -- we will have had the resolution ahead of time to  
6     review. Any changes or comments that we want to  
7     make we will make at that meeting. And then we will  
8     vote on that resolution. The resolution will be in  
9     the affirmative, for preliminary approval as what we  
10    did tonight.

11                    So Frank will get it out to everybody,  
12    obviously, before the meeting.

13                    VICE-CHAIRMAN SPEENEY: Tracee?

14                    CHAIRPERSON SCHAEFER: Yeah.

15                    VICE-CHAIRMAN SPEENEY: If -- if Frank  
16    is -- does not have that resolution ready, then it  
17    would be at the 19th meeting that we would set  
18    another date or --

19                    CHAIRPERSON SCHAEFER: You're correct.  
20    But Frank's going to have it for the 19th. We  
21    can't -- we can't keep continuing this. Frank is  
22    going to have it for the 19th.

23                    VICE-CHAIRMAN SPEENEY: You just  
24    twisted his arm.

25                    CHAIRPERSON SCHAEFER: Period.

1 Right, Frank?

2 ATTORNEY LINNUS: I'll do the very  
3 best I can. And I'll have my portion done by that  
4 time.

5 CHAIRPERSON SCHAEFER: Okay. We'll  
6 have a month and a half so that -- that will be  
7 good.

8 VICE-CHAIRMAN SPEENEY: Yeah, I just  
9 want to -- Tracee, I just want, to, by interjecting  
10 that comment, is to -- not put pressure on -- on the  
11 board members and attorney that -- that it's the end  
12 of the world if things aren't in a way that I's are  
13 dotted and T's are crossed because we still have  
14 time to move that particular decision to another  
15 date.

16 CHAIRPERSON SCHAEFER: I understand  
17 what you're saying, but at this point I want  
18 everybody on the same page. We're going to have  
19 that resolution to review. We will make our  
20 comments, changes, what have you, the night of  
21 October 19th.

22 VICE-CHAIRMAN SPEENEY: Yeah. Well,  
23 okay.

24 CHAIRPERSON SCHAEFER: And then be  
25 prepared to vote. I mean there should be -- we're



1 starting the meeting at 6:30. There should be no  
2 reason that we can't get through it. Especially if  
3 we're going to be receiving it ahead of time.

4 VICE-CHAIRMAN SPEENEY: Could be a  
5 100-page resolution.

6 ATTORNEY LINNUS: Not really.

7 CHAIRPERSON SCHAEFER: Are we all  
8 done?

9 VICE-CHAIRMAN SPEENEY: That was a  
10 joke.

11 CHAIRPERSON SCHAEFER: Yeah, I think  
12 Frank would quit at that point. No, that's not  
13 going to --

14 ATTORNEY LINNUS: I think he would,  
15 yes.

16 VICE-CHAIRMAN SPEENEY: Okay.

17 CHAIRPERSON SCHAEFER: So --

18 ATTORNEY LINNUS: Is the meeting to be  
19 conducted virtually, Madam Chair?

20 MEMBER ELLIS: Oh please, yes.

21 BOARD SECRETARY: Yes.

22 CHAIRPERSON SCHAEFER: Theresa?

23 BOARD SECRETARY: Yes.

24 ATTORNEY LINNUS: Okay. Then I  
25 suspect that this -- this matter will be carried to

1 the meeting of October 19th. That's a regular  
2 meeting. However it's going to start at 6:30. So,  
3 therefore, Theresa has to make the appropriate  
4 notice. And she's nodding her head yes again. And  
5 I guess we'll see everyone on the 19th at 6:30.

6 This pronouncement will serve as the  
7 carrying of the meeting. There's no additional  
8 notice requirement on the part of the applicant.

9 ATTORNEY DORY: Thank you.

10 CHAIRPERSON SCHAEFER: That's it for  
11 you guys. Thank you. And we'll move on with you in  
12 October.

13 Planning board members, we still have a  
14 little bit more to discuss, but as far as this  
15 application, we are done this evening on there.

16 ATTORNEY DORY: Thank you all very  
17 much. Take care.

18 CHAIRPERSON SCHAEFER: Thank you. You  
19 too.

20

21 (Application adjourned at 9:24 p.m.)

22

23

24

25

C E R T I F I C A T E

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

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

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



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