

<div>1</div> <div> <div>1</div> <div> <div>BOROUGH OF OLD TAPPAN PLANNING BOARD WEDNESDAY, JANUARY 11, 2023 COMMENCING AT 7:00 P.M.</div> <div> <div>IN THE MATTER OF</div> <div> <div>CSH Old Tappan, LLC Coral/Capital Senior Housing 244 Old Tappan Road Block 1606, Lot 3 Assisted-living facility</div> <div>TRANSCRIPT OF PROCEEDING</div> </div> </div> </div> <div> <div>8</div> <div> <div>B E F O R E:</div> <div> <div>BOROUGH OF BOROUGH OF OLD TAPPAN PLANNING BOARD THERE BEING PRESENT:</div> <div> <div>WILLIAM WEIDMANN, CHAIRMAN NICK MAMARY, VICE CHAIRMAN MICHAEL ALESSI, FINANCIAL SECRETARY WILLIAM BOYCE, COUNCILMAN MEMBER (ABSENT) THOMAS GALLAGHER, COUNCILMAN MEMBER (RECUSED) ANNA HAVERILLA, MEMBER CHARLES MAGGIO, MEMBER DAVID KEIL, MEMBER DANIEL ELLER, MEMBER NICKI LOULLOUDIS, ALTERNATE #1 MEMBER ROBERT SCOZZAFAVA, ALTERNATE #2 MEMBER VICKEN BEDIAN, ALTERNATE #3 MEMBER MICHAEL AZARIAN, ALTERNATE #4 MEMBER</div> </div> </div> </div> <div> <div>20</div> <div> <div>QUICK COURT REPORTING, LLC 47 Brian Road West Caldwell, New Jersey 07006 973-618-0872 Office@quickreporters.com</div> </div> </div> </div></div>	<div>3</div> <div> <div>1</div> <div> <div>INDEX</div> </div> </div> <div> <div>2</div> <div> <div>W I T N E S S E S</div> <div> <div>SWORN</div> <div>PAGE</div> </div> </div> </div> <div> <div>3</div> <div> <div>GEORGE WHEATLE WILLIAMS, PP, AICP</div> <div>10</div> </div> </div> <div> <div>4</div> <div> <div>Cross Examination by Mr. Steinhagen</div> <div>11</div> </div> </div> <div> <div>5</div> <div> <div>Redirect Examination by Ms. Price</div> <div>42</div> </div> </div> <div> <div>6</div> <div> <div>Board/Professional Questions</div> <div>48</div> </div> </div> <div> <div>7</div> <div> <div>Vice Chairman Mamary</div> <div>48</div> </div> </div> <div> <div>8</div> <div> <div>SUMMATIONS</div> <div>50</div> </div> </div> <div> <div>9</div> <div> <div>MR. STEINHAGEN</div> <div>50</div> </div> </div> <div> <div>10</div> <div> <div>MS. PRICE</div> <div>57</div> </div> </div> <div> <div>11</div> <div> <div>BOARD PROFESSIONALS &amp; DELIBERATIONS</div> <div>70</div> </div> </div> <div> <div>12</div> <div> <div>JOHN SZABO, PP, AICP</div> <div>70</div> </div> </div> <div> <div>13</div> <div> <div>Board/Professional Questions</div> <div>89</div> </div> </div> <div> <div>14</div> <div> <div>Mr. Regan</div> <div>92</div> </div> </div> <div> <div>15</div> <div> <div>Ms. Haverilla</div> <div>99</div> </div> </div> <div> <div>16</div> <div> <div>Mr. Maggio</div> <div>93</div> </div> </div> <div> <div>17</div> <div> <div>MR. REGAN</div> <div>93</div> </div> </div> <div> <div>18</div> <div> <div>MR. MAGGIO</div> <div>97</div> </div> </div> <div> <div>19</div> <div> <div>CHAIRMAN WEIDMANN</div> <div>100</div> </div> </div> <div> <div>20</div> <div> <div>VICE CHAIRMAN MAMARY</div> <div>101, 128</div> </div> </div> <div> <div>21</div> <div> <div>MR. ALESSI</div> <div>107</div> </div> </div> <div> <div>22</div> <div> <div>MS. HAVERILLA</div> <div>110</div> </div> </div> <div> <div>23</div> <div> <div>MR. KEIL</div> <div>114</div> </div> </div> <div> <div>24</div> <div> <div>MR. ELLER</div> <div>114, 127</div> </div> </div> <div> <div>25</div> <div> <div>MS. LOULLOUDIS</div> <div>121</div> </div> </div> <div> <div>26</div> <div> <div>MR. SCOZZAFAVA</div> <div>122</div> </div> </div> <div> <div>27</div> <div> <div>MR. BEDIAN</div> <div>125</div> </div> </div> <div> <div>28</div> <div> <div>E X H I B I T S</div> </div> </div> <div> <div>29</div> <div> <div>NO. DESCRIPTION IDENT/EVID</div> </div> </div> <div> <div>30</div> <div> <div>(No Exhibits Marked.)</div> </div> </div>
<div>2</div> <div> <div>1</div> <div> <div>A P P E A R A N C E S:</div> </div> </div> <div> <div>2</div> <div> <div>ROBERT REGAN, ESQUIRE</div> </div> </div> <div> <div>3</div> <div> <div>Counsel to the Board</div> </div> </div> <div> <div>4</div> <div> <div>PRICE, MEESE, SHULMAN &amp; D'ARMINIO, P.C.</div> </div> </div> <div> <div>5</div> <div> <div>BY: GAIL PRICE, ESQUIRE</div> </div> </div> <div> <div>6</div> <div> <div>Tice Corporate Center</div> </div> </div> <div> <div>7</div> <div> <div>50 Tice Boulevard, Suite 380</div> </div> </div> <div> <div>8</div> <div> <div>Woodcliff Lake, New Jersey 07677</div> </div> </div> <div> <div>9</div> <div> <div>(201)439-8619</div> </div> </div> <div> <div>10</div> <div> <div>Counsel to the Applicant</div> </div> </div> <div> <div>11</div> <div> <div>BEATTIE PADOVANO, LLC</div> </div> </div> <div> <div>12</div> <div> <div>BY: DANIEL STEINHAGEN, ESQUIRE</div> </div> </div> <div> <div>13</div> <div> <div>50 Chestnut Ridge Road</div> </div> </div> <div> <div>14</div> <div> <div>Suite 208</div> </div> </div> <div> <div>15</div> <div> <div>Montvale, New Jersey 07645</div> </div> </div> <div> <div>16</div> <div> <div>(201) 799-2128</div> </div> </div> <div> <div>17</div> <div> <div>Attorney for Interested Party, Angeline Sheridan,</div> </div> </div> <div> <div>18</div> <div> <div>31 Edith Drive</div> </div> </div> <div> <div>19</div> <div> <div>A L S O P R E S E N T:</div> </div> </div> <div> <div>20</div> <div> <div>THOMAS SKRABLE, PE, Board Engineer (ABSENT)</div> </div> </div> <div> <div>21</div> <div> <div>JOHN SZABO, PP, AICP, Borough Planner</div> </div> </div> <div> <div>22</div> <div> <div>DIANE FROHLICH, Board Secretary</div> </div> </div> <div> <div>23</div> <div> <div></div> </div> </div> <div> <div>24</div> <div> <div></div> </div> </div> <div> <div>25</div> <div> <div></div> </div> </div>	<div>4</div> <div> <div>1</div> <div> <div>CHAIRMAN WEIDMANN: In compliance with</div> </div> </div> <div> <div>2</div> <div> <div>the Open Public Meetings Law, notification of this</div> </div> </div> <div> <div>3</div> <div> <div>meeting has been sent to our official newspapers and</div> </div> </div> <div> <div>4</div> <div> <div>other publications circulating in the Borough of Old</div> </div> </div> <div> <div>5</div> <div> <div>Tappan.</div> </div> </div> <div> <div>6</div> <div> <div>And notices posted on the bulletin</div> </div> </div> <div> <div>7</div> <div> <div>board at Borough Hall.</div> </div> </div> <div> <div>8</div> <div> <div>Can we stand and salute the flag?</div> </div> </div> <div> <div>9</div> <div> <div>(Whereupon, all rise for a recitation</div> </div> </div> <div> <div>10</div> <div> <div>of the Pledge of Allegiance.)</div> </div> </div> <div> <div>11</div> <div> <div>CHAIRMAN WEIDMANN: Can I have a roll</div> </div> </div> <div> <div>12</div> <div> <div>call, please?</div> </div> </div> <div> <div>13</div> <div> <div>MS. FROHLICH: Chair Weidmann?</div> </div> </div> <div> <div>14</div> <div> <div>CHAIRMAN WEIDMANN: Here.</div> </div> </div> <div> <div>15</div> <div> <div>MS. FROHLICH: Mr. Mamary?</div> </div> </div> <div> <div>16</div> <div> <div>(No Response.)</div> </div> </div> <div> <div>17</div> <div> <div>MS. FROHLICH: Mr. Maggio?</div> </div> </div> <div> <div>18</div> <div> <div>MR. MAGGIO: Here.</div> </div> </div> <div> <div>19</div> <div> <div>MS. FROHLICH: Mr. Keil?</div> </div> </div> <div> <div>20</div> <div> <div>MR. KEIL: Here.</div> </div> </div> <div> <div>21</div> <div> <div>MS. FROHLICH: Mr. Alessi?</div> </div> </div> <div> <div>22</div> <div> <div>MR. ALESSI: Here.</div> </div> </div> <div> <div>23</div> <div> <div>MS. FROHLICH: Ms. Haverilla?</div> </div> </div> <div> <div>24</div> <div> <div>MS. HAVERILLA: Here.</div> </div> </div> <div> <div>25</div> <div> <div>MS. FROHLICH: Councilman Gallagher?</div> </div> </div>

<p>5</p> <p>1 COUNCILMAN GALLAGHER: Here.</p> <p>2 MS. FROHLICH: Councilman Boyce?</p> <p>3 (No response.)</p> <p>4 MS. FROHLICH: Mr. Eller?</p> <p>5 (No Response.)</p> <p>6 MS. FROHLICH: Ms. Louloudis?</p> <p>7 MS. LOULLOUDIS: Here.</p> <p>8 MS. FROHLICH: Mr. Scozzafava?</p> <p>9 MR. SCOZZAFAVA: Here.</p> <p>10 MS. FROHLICH: Mr. Bedian?</p> <p>11 MR. BEDIAN: Here.</p> <p>12 CHAIRMAN WEIDMANN: Say Mr. Mammary one</p> <p>13 more time.</p> <p>14 MS. FROHLICH: Mr. Mammary?</p> <p>15 VICE CHAIRMAN MAMARY: Here.</p> <p>16 (Whereupon, the Board conducts other</p> <p>17 agenda items including reorganization,</p> <p>18 swearing in of one New Board Member Michael</p> <p>19 Azarian and swearing in of board members</p> <p>20 with renewed appointments. The public hearing</p> <p>21 in this matter continues at 7:12 p.m.)</p> <p>22 CHAIRMAN WEIDMANN: Can we have a</p> <p>23 motion to close the reorganization?</p> <p>24 VICE CHAIRMAN MAMARY: Motion to close.</p> <p>25 COUNCILMAN GALLAGHER: Second.</p>	<p>7</p> <p>1 COUNCILMAN GALLAGHER: Here.</p> <p>2 MS. FROHLICH: Councilman Boyce?</p> <p>3 (No Response.)</p> <p>4 MS. FROHLICH: Mr. Eller?</p> <p>5 MR. ELLER: Here.</p> <p>6 MS. FROHLICH: Ms. Louloudis?</p> <p>7 MS. LOULLOUDIS: Here.</p> <p>8 MS. FROHLICH: Mr. Scozzafava?</p> <p>9 MR. SCOZZAFAVA: Here.</p> <p>10 MS. FROHLICH: Mr. Bedian?</p> <p>11 MR. BEDIAN: Here.</p> <p>12 (Whereupon, the Board conducts other</p> <p>13 agenda items. The public hearing in this</p> <p>14 matter continues at 7:21 p.m.)</p> <p>07:21PM 15 CHAIRMAN WEIDMANN: Next up is 244 Old</p> <p>07:21PM 16 Tappan Road.</p> <p>07:21PM 17 COUNCILMAN GALLAGHER: I will be</p> <p>07:21PM 18 excusing myself, Bob.</p> <p>07:21PM 19 (Whereupon, Councilman Gallagher</p> <p>07:21PM 20 recuses himself and steps off the dais.)</p> <p>07:21PM 21 MR. REGAN: Mr. -- yeah, Mr. Boyce</p> <p>07:21PM 22 isn't here or he'd have to recuse himself.</p> <p>07:21PM 23 CHAIRMAN WEIDMANN: The floor is yours.</p> <p>07:21PM 24 MS. PRICE: Good evening, Members of</p> <p>07:21PM 25 the Board, Members of the Public, Gail Price from the</p>
<p>6</p> <p>1 CHAIRMAN WEIDMANN: All in favor?</p> <p>2 (Whereupon, all present members respond</p> <p>3 in the affirmative.)</p> <p>4 CHAIRMAN WEIDMANN: Now we need a</p> <p>5 motion to open the regular meeting.</p> <p>6 VICE CHAIRMAN MAMARY: Motion to open.</p> <p>7 COUNCILMAN GALLAGHER: Second.</p> <p>8 CHAIRMAN WEIDMANN: All in favor?</p> <p>9 (Whereupon, all present members respond</p> <p>10 in the affirmative.)</p> <p>11 CHAIRMAN WEIDMANN: Can we have a roll</p> <p>12 call please, Diane?</p> <p>13 MS. FROHLICH: Mr. Weidmann?</p> <p>14 CHAIRMAN WEIDMANN: Here.</p> <p>15 MS. FROHLICH: Mr. Mamary?</p> <p>16 VICE CHAIRMAN MAMARY: Yes.</p> <p>17 MS. FROHLICH: Mr. Maggio?</p> <p>18 MR. MAGGIO: Yes.</p> <p>19 MS. FROHLICH: Mr. Keil?</p> <p>20 MR. KEIL: Here.</p> <p>21 MS. FROHLICH: Mr. Alessi?</p> <p>22 MR. ALESSI: Here.</p> <p>23 MS. FROHLICH: Ms. Haverilla?</p> <p>24 MS. HAVERILLA: Here.</p> <p>25 MS. FROHLICH: Councilman Gallagher?</p>	<p>8</p> <p>07:21PM 1 firm of Price, Meese, Shulman &amp; D'Arminio, 50 Tice</p> <p>07:21PM 2 Boulevard, Woodcliff Lake, New Jersey.</p> <p>07:21PM 3 We're here this evening as follow-up to</p> <p>07:21PM 4 our December meeting. As you know we started</p> <p>07:22PM 5 hearings in February of last year. So we're just</p> <p>07:22PM 6 about at the one-year mark with our hearings and we</p> <p>07:22PM 7 all planned to have everything wrapped up this</p> <p>07:22PM 8 evening.</p> <p>07:22PM 9 You'll hear from Mr. Steinhagen, we</p> <p>07:22PM 10 have been working very hard to reach an agreement</p> <p>07:22PM 11 with Lakeview, including up until about an hour ago.</p> <p>07:22PM 12 And I'll let Mr. Steinhagen speak for his client.</p> <p>07:22PM 13 So I suppose that the one thing that</p> <p>07:22PM 14 was limited and reserved was an opportunity for</p> <p>07:22PM 15 Mr. Steinhagen to ask questions of our planner. I've</p> <p>07:22PM 16 had Mr. Williams here, he's here this evening. So I</p> <p>07:22PM 17 think that goes first. The record has been otherwise</p> <p>07:22PM 18 closed in the application.</p> <p>07:22PM 19 And I'll be ready to do summation and</p> <p>07:23PM 20 then would ask for instruction on the application</p> <p>07:23PM 21 unless there's other issues at that point in time.</p> <p>07:23PM 22 CHAIRMAN WEIDMANN: Okay.</p> <p>07:23PM 23 MR. REGAN: Mr. Steinhagen cross</p> <p>07:23PM 24 examine Mr. Williams.</p> <p>07:23PM 25 Mr. Williams is here?</p>

<p>9</p> <p>07:23PM 1 MS. PRICE: Yes.</p> <p>07:23PM 2 MR. REGAN: And Mr. Williams was</p> <p>07:23PM 3 previously sworn and remains under oath.</p> <p>07:23PM 4 MR. STEINHAGEN: So, good evening,</p> <p>07:23PM 5 Members of the Board. Happy New Year. I hope you</p> <p>07:23PM 6 had a nice holiday season.</p> <p>07:23PM 7 For the record, Daniel Steinhagen,</p> <p>07:23PM 8 member of the firm of Beattie Padovano, 200 Market</p> <p>07:23PM 9 Street, Montvale, New Jersey, on behalf of Angeline</p> <p>07:23PM 10 Sheridan and the Lakeview Association.</p> <p>07:23PM 11 Ms. Price is correct and we had hoped</p> <p>07:23PM 12 to be here under different circumstances tonight. We</p> <p>07:23PM 13 had indicated I think back in the November that there</p> <p>07:23PM 14 was a tentative settlement and Ms. Price and I were</p> <p>07:23PM 15 on the phone, I can't even tell you how many times</p> <p>07:23PM 16 today, and I want to compliment Ms. Price, her team.</p> <p>07:24PM 17 They did a great job trying to get us to a point</p> <p>07:24PM 18 where we can have an agreement and resolve the issues</p> <p>07:24PM 19 between the applicant and Lakeview.</p> <p>07:24PM 20 They really went above and beyond, but</p> <p>07:24PM 21 unfortunately, we were unable to reach a deal. And I</p> <p>07:24PM 22 apologize to her -- well, I apologize to her and her</p> <p>07:24PM 23 team for the effort that we went through to do that.</p> <p>07:24PM 24 It's not what I -- we had hoped to</p> <p>07:24PM 25 happen, but we -- we just couldn't get there at the</p>	<p>11</p> <p>1 MR. STEINHAGEN: I'm going to try to --</p> <p>2 I'll let Mr. Williams have the mic.</p> <p>3 I'm going to try to project. If you</p> <p>4 can't hear me or if I'm talking too fast, let me</p> <p>5 know.</p> <p>6 CROSS EXAMINATION</p> <p>7 BY MR. STEINHAGEN:</p> <p>8 Q. Mr. Williams, good evening. How are</p> <p>9 you?</p> <p>07:25PM 10 A. Good evening. I'm well.</p> <p>07:25PM 11 And yourself?</p> <p>07:25PM 12 Q. Okay.</p> <p>07:25PM 13 You testified, I guess -- it says last</p> <p>07:25PM 14 month, but it was November, about a demographic</p> <p>07:25PM 15 analysis based upon the American Community Survey.</p> <p>07:25PM 16 Do you recall that?</p> <p>07:25PM 17 A. I do.</p> <p>07:25PM 18 Q. And that ACS, I'm going to shorthand</p> <p>07:25PM 19 it, is based -- is prepared by the Census Bureau,</p> <p>07:25PM 20 correct?</p> <p>07:25PM 21 A. That is correct.</p> <p>07:25PM 22 Q. And the Census Bureau puts -- has all</p> <p>07:25PM 23 kinds of data about population, age, financial</p> <p>07:25PM 24 resources, demographics, et cetera, yes?</p> <p>07:25PM 25 A. Yes.</p>
<p>10</p> <p>07:24PM 1 last minute, but I mean I think we spoke at 6:00</p> <p>07:24PM 2 tonight, 6:15 maybe.</p> <p>07:24PM 3 MS. PRICE: That was the last one,</p> <p>07:24PM 4 right.</p> <p>07:24PM 5 MR. STEINHAGEN: But, yeah, that's --</p> <p>07:24PM 6 that's where we are, but, again, my hats are off. I</p> <p>07:24PM 7 think they did a -- her, her client, her</p> <p>07:24PM 8 professionals did a great job in trying to get us</p> <p>07:24PM 9 there and I -- I wish that it wasn't the way it is.</p> <p>07:24PM 10 And, unfortunately, we are where we are</p> <p>07:24PM 11 tonight. And the association is still in objection</p> <p>07:24PM 12 to the project, but that is -- that is not a</p> <p>07:24PM 13 reflection of the efforts that either the association</p> <p>07:24PM 14 or the applicant put in to try to get us to that</p> <p>07:25PM 15 point.</p> <p>07:25PM 16 That's -- that's fair?</p> <p>07:25PM 17 MS. PRICE: Yes, thank you, Dan.</p> <p>07:25PM 18 And Mr. Williams is here.</p> <p>07:25PM 19 MR. STEINHAGEN: Okay.</p> <p>07:25PM 20 MR. REGAN: Mr. Williams, you were</p> <p>07:25PM 21 sworn on November 9th, you remain under oath.</p> <p>07:25PM 22 MR. WILLIAMS: Thank you.</p> <p>23 MR. REGAN: Thank you.</p> <p>24 MR. WILLIAMS: Good evening and Happy</p> <p>25 New Year's.</p>	<p>12</p> <p>07:25PM 1 Q. Okay.</p> <p>07:25PM 2 And you can sort the data into discrete</p> <p>07:26PM 3 areas the Census tracks, correct?</p> <p>07:26PM 4 A. Yes.</p> <p>07:26PM 5 Q. And you testified that you looked at a</p> <p>07:26PM 6 category for households having a person that is more</p> <p>07:26PM 7 than 60 years of age or older to determine</p> <p>07:26PM 8 eligibility for or potential users of the services</p> <p>07:26PM 9 that the applicant would be providing.</p> <p>07:26PM 10 Is that correct?</p> <p>07:26PM 11 A. That's correct.</p> <p>07:26PM 12 Q. Okay.</p> <p>07:26PM 13 ACS doesn't have a category -- and tell</p> <p>07:26PM 14 me if I'm wrong, ACS doesn't have a category for</p> <p>15 persons in need of assisted living or memory care,</p> <p>16 does it?</p> <p>17 A. It does not.</p> <p>18 Q. Okay.</p> <p>19 Do you know what percentage of the</p> <p>07:26PM 20 population needs memory care or assisted living</p> <p>07:26PM 21 services?</p> <p>07:26PM 22 A. That was not part of my testimony.</p> <p>07:26PM 23 It may have been testified to by the</p> <p>07:26PM 24 owner/representative, but, no, I do not.</p> <p>07:26PM 25 Q. Okay. Did you review his testimony or</p>

<p>07:26PM 1 were you here when he testified?</p> <p>07:26PM 2 A. I was.</p> <p>07:26PM 3 Q. Do you recall that he indicated that</p> <p>07:26PM 4 the average age of the residents of this community</p> <p>07:26PM 5 would be 86 years old?</p> <p>07:26PM 6 A. I don't recall.</p> <p>07:26PM 7 Q. Okay. So -- excuse me.</p> <p>07:26PM 8 A. Uh-huh.</p> <p>07:27PM 9 Q. My notes indicate that you said that</p> <p>07:27PM 10 there were 27.7 percent of the households in Old</p> <p>07:27PM 11 Tappan have a person over the age of 60.</p> <p>07:27PM 12 Is that right?</p> <p>07:27PM 13 A. That sounds correct.</p> <p>07:27PM 14 Q. That 27.7 percent of Old Tappan's</p> <p>07:27PM 15 residents need the services that CSH hopes to provide</p> <p>07:27PM 16 in Old Tappan?</p> <p>07:27PM 17 A. That also sounds correct.</p> <p>07:27PM 18 Q. Okay.</p> <p>07:27PM 19 I'm going to represent to you and I'm</p> <p>07:27PM 20 going to quote what Mr. McElwee said and you can --</p> <p>07:27PM 21 I'd ask you to assume that it's an accurate quote,</p> <p>07:27PM 22 but at the first hearing he said that there were</p> <p>07:27PM 23 plenty of people in Old Tappan who are wealthy and,</p> <p>07:27PM 24 "could afford to take care of their mother and</p> <p>07:27PM 25 father".</p>	<p>15</p> <p>07:28PM 1 A. I remember reviewing the list of</p> <p>07:28PM 2 similar uses or competitors. I don't recall what the</p> <p>07:28PM 3 radius was for those, but I can certainly search my</p> <p>07:28PM 4 file.</p> <p>07:28PM 5 Q. Do you know how many beds are in each</p> <p>07:28PM 6 of those communities?</p> <p>07:28PM 7 A. I would have to search my file.</p> <p>07:28PM 8 Q. Okay. So you don't know offhand --</p> <p>07:28PM 9 A. No.</p> <p>07:28PM 10 Q. -- you don't -- and you didn't testify</p> <p>07:28PM 11 to it?</p> <p>07:28PM 12 A. Correct.</p> <p>07:28PM 13 Q. Okay.</p> <p>07:28PM 14 So if I told -- if I gave you a list of</p> <p>07:29PM 15 more than eight within five miles, you wouldn't have</p> <p>07:29PM 16 any information as to how many beds?</p> <p>07:29PM 17 A. Not without referring to the file.</p> <p>07:29PM 18 Q. Okay.</p> <p>07:29PM 19 Isn't it important when you're asking</p> <p>07:29PM 20 the board to determine whether the benefits of</p> <p>07:29PM 21 approving this project substantially outweigh the</p> <p>07:29PM 22 detriments, because that's what really the <u>Sica</u> test</p> <p>07:29PM 23 is all about, that you're able to accurately quantify</p> <p>07:29PM 24 the market supply and demand?</p> <p>07:29PM 25 A. The answer is: Yes, in the context of</p>
<p>14</p> <p>07:27PM 1 Does that sound like something he might</p> <p>07:27PM 2 have said?</p> <p>07:27PM 3 A. Sounds like it's possible, yes.</p> <p>07:27PM 4 Q. Okay.</p> <p>07:27PM 5 If there are a lot of people who are</p> <p>07:27PM 6 wealthy in Old Tappan --</p> <p>07:27PM 7 A. Uh-uh.</p> <p>07:27PM 8 Q. -- this is a nice community, as we all</p> <p>07:27PM 9 know, wouldn't those folks who can take care of mom</p> <p>07:27PM 10 and dad have alternatives, like in-home care?</p> <p>07:28PM 11 A. So, not necessarily planning testimony,</p> <p>07:28PM 12 but I can tell you both from my review of the</p> <p>07:28PM 13 literature and in discussion with Mr. McElwee, while</p> <p>07:28PM 14 that's true, I believe what Mr. McElwee testified to</p> <p>07:28PM 15 was that the option of having this type of land use,</p> <p>07:28PM 16 assisted living proximate to the primary household is</p> <p>07:28PM 17 a benefit to families.</p> <p>07:28PM 18 Q. Okay. Mr. McElwee also --</p> <p>07:28PM 19 A. They're not mutually exclusive.</p> <p>07:28PM 20 Q. Oh, sorry. Excuse me.</p> <p>07:28PM 21 Mr. McElwee said that there were five</p> <p>07:28PM 22 competitors within three miles of the site and one of</p> <p>07:28PM 23 which of them is in New York and eight within five</p> <p>07:28PM 24 miles.</p> <p>07:28PM 25 Do you have any knowledge of that?</p>	<p>16</p> <p>07:29PM 1 the <u>Sica</u> test.</p> <p>07:29PM 2 And my testimony was both based on our</p> <p>07:29PM 3 demographic analysis and I relied heavily on the</p> <p>07:29PM 4 testimony of Mr. McElwee, which went directly to his</p> <p>07:29PM 5 market analysis or the market analysis of the</p> <p>07:29PM 6 applicant.</p> <p>07:29PM 7 Q. Do you know if that market analysis was</p> <p>07:29PM 8 submitted?</p> <p>07:29PM 9 A. I don't recall.</p> <p>07:29PM 10 Q. Okay.</p> <p>07:29PM 11 So -- and I'm going to pose a question</p> <p>07:29PM 12 to you and you can tell me if you agree or not.</p> <p>07:29PM 13 A. Uh-huh.</p> <p>07:29PM 14 Q. It's one thing if there's a demand of</p> <p>07:29PM 15 1,000 -- there's a shortfall of 1,000 beds and then</p> <p>07:29PM 16 this is in the context of the first prong of the <u>Sica</u></p> <p>07:29PM 17 test, which is identifying the need.</p> <p>07:29PM 18 A. The public interest, yes.</p> <p>07:29PM 19 Q. Yes, the public interest at stake.</p> <p>07:29PM 20 It's one thing if there's a shortfall</p> <p>07:30PM 21 of a 1,000 beds versus -- and it's a completely</p> <p>07:30PM 22 different set of facts if there is an oversupply of</p> <p>07:30PM 23 1,000 units. The use is still inherently beneficial,</p> <p>07:30PM 24 but would you agree that in the event of a surplus,</p> <p>07:30PM 25 the nature of the public interest, the need for the</p>

<p>17</p> <p>07:30PM 1 services that CSH hopes to provide, isn't quite -- it</p> <p>07:30PM 2 doesn't push down on the positive side of the scale?</p> <p>07:30PM 3 A. I think I follow the question.</p> <p>07:30PM 4 And, again, I apologize to the board</p> <p>07:30PM 5 and the audience, without reviewing the tables, I'd</p> <p>07:30PM 6 be at a bit of a deficit.</p> <p>07:30PM 7 But I will say this: Based on a review</p> <p>07:30PM 8 of the Master Plan and hearing Mr. McElwee's</p> <p>07:30PM 9 testimony, he referred to the "Silver Tsunami," he</p> <p>07:30PM 10 provided his market analysis, which justifies the</p> <p>07:30PM 11 need in this area and relied on the state certificate</p> <p>07:30PM 12 of need. Our position was that there is a documented</p> <p>07:30PM 13 or substantiated need for those spaces,</p> <p>07:31PM 14 notwithstanding the surrounding competition.</p> <p>07:31PM 15 Q. Doesn't the certificate of need look at</p> <p>07:31PM 16 the financial viability of the site, not necessarily</p> <p>07:31PM 17 the number of beds of competitors in the neighboring</p> <p>07:31PM 18 communities or in this community?</p> <p>07:31PM 19 A. The focus was on the need for the use,</p> <p>07:31PM 20 as well as what you mentioned and I think it went</p> <p>07:31PM 21 onto talk about, if memory serves me correctly, the</p> <p>07:31PM 22 applicant's experience and success in this particular</p> <p>07:31PM 23 land use area.</p> <p>07:31PM 24 Q. Okay. But -- so as you stand here</p> <p>07:31PM 25 today, having given testimony that there is a</p>	<p>19</p> <p>07:32PM 1 A. I want to say 2016.</p> <p>07:32PM 2 Q. So that may not have include -- so that</p> <p>07:32PM 3 master planning document may not have necessarily</p> <p>07:32PM 4 included an analysis of other developments in nearby</p> <p>07:32PM 5 communities post-2016?</p> <p>07:32PM 6 A. I believe it included projections, but</p> <p>07:32PM 7 don't quote me on that.</p> <p>07:32PM 8 Q. Okay. Okay.</p> <p>07:32PM 9 Do you know how many properties are</p> <p>07:32PM 10 identified in the Master Plan that are within Old</p> <p>07:32PM 11 Tappan that are designated as historic on either the</p> <p>07:33PM 12 state or federal register?</p> <p>07:33PM 13 A. I do not.</p> <p>07:33PM 14 Q. Okay.</p> <p>07:33PM 15 You know that this property is, though?</p> <p>07:33PM 16 A. Correct.</p> <p>07:33PM 17 Q. And you know that this property is</p> <p>07:33PM 18 specifically referenced in the Master Plan for</p> <p>07:33PM 19 preservation, correct?</p> <p>07:33PM 20 A. And that came up in one of the prior</p> <p>07:33PM 21 hearings, yes.</p> <p>07:33PM 22 Q. Does approval of this project, with its</p> <p>07:33PM 23 81,000-square-foot assisted-living facility, preclude</p> <p>07:33PM 24 the realization of the Master Plan goal of acquiring</p> <p>07:33PM 25 this property and preserving the Gerrit Haring house</p>
<p>18</p> <p>07:31PM 1 significant need for this use, you don't know or you</p> <p>07:31PM 2 can't personally quantify, within a reasonable degree</p> <p>07:31PM 3 of planning certainty, the extent of the need?</p> <p>07:31PM 4 A. I -- I can't without referring to my</p> <p>07:31PM 5 notes or the file, but I would remind my testimony</p> <p>07:31PM 6 included references to the Borough Master Plan, which</p> <p>07:31PM 7 spoke to the need for this type of housing.</p> <p>07:31PM 8 Q. Did it say specifically memory care and</p> <p>07:31PM 9 assisted living or did it say senior housing?</p> <p>07:31PM 10 A. It said both. It actually said the</p> <p>07:32PM 11 ordinance should be reviewed to include -- to meet</p> <p>07:32PM 12 the demand for the continuum of housing for</p> <p>07:32PM 13 age-restricted housing and that included, in my</p> <p>07:32PM 14 opinion, what's being --</p> <p>07:32PM 15 Q. Would this -- would this -- this</p> <p>07:32PM 16 wouldn't be a use specific to Old Tappan, would it?</p> <p>07:32PM 17 There would be people coming from Old Tappan, but</p> <p>07:32PM 18 also from other communities, correct?</p> <p>07:32PM 19 A. The use will be specific to the site in</p> <p>07:32PM 20 Old Tappan. But, of course, I think there was</p> <p>07:32PM 21 testimony and discussion with the audience about</p> <p>07:32PM 22 where potential users would come from. And they</p> <p>07:32PM 23 would come from the region.</p> <p>07:32PM 24 Q. So what was the date of the Master Plan</p> <p>07:32PM 25 that you referred to?</p>	<p>20</p> <p>07:33PM 1 on this property for public use?</p> <p>07:33PM 2 A. The -- the phraseology is interesting.</p> <p>07:33PM 3 A simple answer would be, perhaps, yes.</p> <p>07:33PM 4 But in the broader context, the answer</p> <p>07:33PM 5 might be no.</p> <p>07:33PM 6 For example, the testimony that was</p> <p>07:33PM 7 provided was that the house in question would be</p> <p>07:33PM 8 relocated and that was a relocation that was agreed</p> <p>07:33PM 9 to by several parties and that open space would be</p> <p>07:33PM 10 provided as well.</p> <p>07:33PM 11 Q. When you say --</p> <p>07:33PM 12 A. So in that sense the historic</p> <p>07:33PM 13 preservation --</p> <p>07:33PM 14 Q. So you're preserving it by conveying it</p> <p>07:34PM 15 to the Borough?</p> <p>07:34PM 16 A. Relocating and conveying, correct.</p> <p>07:34PM 17 Q. And that's something is, obviously, of</p> <p>07:34PM 18 value to the Borough?</p> <p>07:34PM 19 A. Correct.</p> <p>07:34PM 20 Q. In your opinion? Okay.</p> <p>07:34PM 21 Another negative impact at least</p> <p>07:34PM 22 potentially from the perspective of the Lakeview</p> <p>07:34PM 23 board is how surface water or how stormwater is</p> <p>07:34PM 24 addressed.</p> <p>07:34PM 25 Are you aware or have you heard</p>

<p>21</p> <p>07:34PM 1 testimony about -- in this application about the path</p> <p>07:34PM 2 and flow of stormwater under existing conditions?</p> <p>07:34PM 3 A. I am aware.</p> <p>07:34PM 4 Q. And I'm going to generalize it, but</p> <p>07:34PM 5 rain falls on the property and it generally moves in</p> <p>07:34PM 6 a northeast direction; is that your understanding?</p> <p>07:34PM 7 A. Yes.</p> <p>07:34PM 8 Q. And it goes over onto the Lakeview</p> <p>07:34PM 9 side, not in the specific -- do you understand that</p> <p>07:34PM 10 or...</p> <p>07:34PM 11 A. I follow you.</p> <p>07:34PM 12 Q. And I understand that you're not an</p> <p>07:34PM 13 engineer, and you're...</p> <p>07:34PM 14 A. Correct.</p> <p>07:34PM 15 Q. Okay.</p> <p>07:34PM 16 Have you reviewed the plans?</p> <p>07:34PM 17 A. I have.</p> <p>07:34PM 18 Q. Okay. And so you're aware that the</p> <p>07:34PM 19 current setup is not overland flow just as a natural</p> <p>07:35PM 20 condition, instead the -- the detention basin at the</p> <p>07:35PM 21 rear of the property is going to discharge through a</p> <p>07:35PM 22 headwall, you're aware of that?</p> <p>07:35PM 23 A. Yes.</p> <p>07:35PM 24 Q. Okay.</p> <p>07:35PM 25 Is that a different condition than</p>	<p>23</p> <p>07:36PM 1 And thank you for making it general,</p> <p>07:36PM 2 because planner not engineer.</p> <p>07:36PM 3 Q. I understand.</p> <p>07:36PM 4 Getting back to the Master Plan, did</p> <p>07:36PM 5 you review the 1994 Master Plan?</p> <p>07:36PM 6 A. We did.</p> <p>07:36PM 7 Q. Okay.</p> <p>07:36PM 8 So if I read to you from page 82 where</p> <p>07:36PM 9 it says:</p> <p>07:36PM 10 "Old Tappan has an excellent</p> <p>07:36PM 11 opportunity to retain some of its finest</p> <p>07:36PM 12 historic buildings and facilities."</p> <p>07:36PM 13 That would include the Gerrit Haring</p> <p>07:36PM 14 House?</p> <p>07:36PM 15 A. Sure.</p> <p>07:36PM 16 Q. And then on page 83, it says:</p> <p>07:36PM 17 "The Master Plan proposes to protect</p> <p>07:37PM 18 and preserve these historic facilities."</p> <p>07:37PM 19 Also referring to this property.</p> <p>07:37PM 20 Okay. On page 58, referring</p> <p>07:37PM 21 specifically to the Gerrit Haring House.</p> <p>07:37PM 22 "This house is significant" -- and this</p> <p>07:37PM 23 is a quote:</p> <p>07:37PM 24 "This house is significant for its</p> <p>07:37PM 25 architecture and its association with the</p>
<p>22</p> <p>07:35PM 1 what's on -- than what is existing?</p> <p>07:35PM 2 A. I think the site engineer's testimony</p> <p>07:35PM 3 was that all conditions existing, and subsequent to</p> <p>07:35PM 4 the initial submission of our plan, would be</p> <p>07:35PM 5 improved.</p> <p>07:35PM 6 Q. No, I understand that, but it's</p> <p>07:35PM 7 different?</p> <p>07:35PM 8 A. Correct.</p> <p>07:35PM 9 Q. Is it possible that a -- from a</p> <p>07:35PM 10 planning standpoint that a potential negative impact</p> <p>07:35PM 11 associated with this project is discharging from a</p> <p>07:35PM 12 single point, which is what the applicant is</p> <p>07:35PM 13 proposing to do under the plans that are currently</p> <p>07:35PM 14 before the board, onto the Lakeview property and that</p> <p>07:35PM 15 could cause erosion and things of that nature?</p> <p>07:35PM 16 Could that -- would that be -- if that</p> <p>07:35PM 17 were to pass, erosion from a point source, would that</p> <p>07:35PM 18 be a potential negative impact in your mind?</p> <p>07:35PM 19 A. In -- under that hypothetical, if that</p> <p>07:36PM 20 were possible or to happen, it could rise to the</p> <p>07:36PM 21 level of a potential negative impact.</p> <p>07:36PM 22 But my recollection of the site</p> <p>07:36PM 23 engineer's testimony is that substantial effort was</p> <p>07:36PM 24 made to mitigate any negative impact on the</p> <p>07:36PM 25 surrounding properties.</p>	<p>24</p> <p>07:37PM 1 exploration and settlement of the Bergen</p> <p>07:37PM 2 County, New Jersey area."</p> <p>07:37PM 3 Are you familiar with or did you read</p> <p>07:37PM 4 that in the 1994 Master Plan?</p> <p>07:37PM 5 A. I did.</p> <p>07:37PM 6 Q. Okay.</p> <p>07:37PM 7 Now, jumping ahead a little bit to the</p> <p>07:37PM 8 2006 document, page 64, this is a quote:</p> <p>07:37PM 9 "Each municipality is unique in its</p> <p>07:37PM 10 heritage and architectural characteristics and</p> <p>07:37PM 11 these contribute greatly to the community</p> <p>07:37PM 12 character, desirability, and sense of place."</p> <p>07:37PM 13 And I'm going to emphasize "sense of</p> <p>07:37PM 14 place."</p> <p>07:37PM 15 "The preservation of historic sites,</p> <p>07:37PM 16 neighborhoods, landmarks and buildings of</p> <p>07:37PM 17 architectural significance are important, not</p> <p>07:37PM 18 only to maintaining community pride, but also</p> <p>07:37PM 19 because these features constitute a basis for</p> <p>07:37PM 20 learning."</p> <p>07:37PM 21 Are you familiar with that statement in</p> <p>07:38PM 22 the 2006 Master Plan document?</p> <p>07:38PM 23 A. It does sound familiar.</p> <p>07:38PM 24 Q. Okay.</p> <p>07:38PM 25 Now, the application, and the way</p>

<p style="text-align: right;">25</p> <p>07:38PM <b>1</b> you're proposing it, is to lift the Gerrit Haring</p> <p>07:38PM <b>2</b> House off of its foundation and relocate it across</p> <p>07:38PM <b>3</b> the street onto municipal property?</p> <p>07:38PM <b>4</b> Is that correct?</p> <p>07:38PM <b>5</b> <b>A.</b> Correct.</p> <p>07:38PM <b>6</b> <b>Q.</b> Okay.</p> <p>07:38PM <b>7</b> Will that take the property off the</p> <p>07:38PM <b>8</b> historic register, as far as you're aware?</p> <p>07:38PM <b>9</b> <b>A.</b> I'm not a historic preservation expert,</p> <p>07:38PM <b>10</b> but my understanding is that it would not.</p> <p>07:38PM <b>11</b> <b>Q.</b> Okay.</p> <p>07:38PM <b>12</b> <b>A.</b> And the reason, I suppose that's true,</p> <p>07:38PM <b>13</b> is historic designations for significant events,</p> <p>07:38PM <b>14</b> architectural significance or a site.</p> <p>07:38PM <b>15</b> So the intent is to preserve that</p> <p>07:38PM <b>16</b> designation by relocating --</p> <p>07:38PM <b>17</b> <b>Q.</b> Were you here last month?</p> <p>07:38PM <b>18</b> <b>A.</b> I was.</p> <p>07:38PM <b>19</b> <b>Q.</b> Did you hear Mr. Adriance testify?</p> <p>07:38PM <b>20</b> <b>A.</b> I did not.</p> <p>07:38PM <b>21</b> I stepped out.</p> <p>07:38PM <b>22</b> <b>Q.</b> Oh, okay.</p> <p>07:38PM <b>23</b> Will the relocation of the building</p> <p>07:38PM <b>24</b> minus the foundation, you're going to -- the</p> <p>07:38PM <b>25</b> foundation is going to be destroyed, correct?</p>	<p style="text-align: right;">27</p> <p>07:39PM <b>1</b> preserve this particular structure and the sense of</p> <p>07:39PM <b>2</b> place --</p> <p>07:39PM <b>3</b> <b>A.</b> Oh --</p> <p>07:39PM <b>4</b> <b>Q.</b> -- that this structure is on?</p> <p>07:39PM <b>5</b> <b>A.</b> -- so my testimony looked at the -- I</p> <p>07:39PM <b>6</b> think, three iterations to the Master Plan in total</p> <p>07:39PM <b>7</b> and spoke to a number of goals and objectives that</p> <p>07:39PM <b>8</b> would be advanced if this application were approved.</p> <p>07:39PM <b>9</b> My opinion in terms of the relocation</p> <p>07:39PM <b>10</b> is the considered negotiations for how best to</p> <p>07:39PM <b>11</b> relocate that historic structure within the Borough</p> <p>07:39PM <b>12</b> would not be a substantial negative impact.</p> <p>07:40PM <b>13</b> <b>Q.</b> So there's been negotiations about</p> <p>07:40PM <b>14</b> moving it and yet we have a document that says let's</p> <p>07:40PM <b>15</b> keep it here?</p> <p>07:40PM <b>16</b> <b>A.</b> We have a document that makes several</p> <p>07:40PM <b>17</b> recommendations about historic preservation.</p> <p>07:40PM <b>18</b> I think what I'm suggesting to you and</p> <p>07:40PM <b>19</b> the board is that a compromise has been struck that</p> <p>07:40PM <b>20</b> meets the intent and the spirit of that</p> <p>07:40PM <b>21</b> recommendation.</p> <p>07:40PM <b>22</b> <b>Q.</b> Okay.</p> <p>07:40PM <b>23</b> But they haven't amended -- this board</p> <p>07:40PM <b>24</b> hasn't amended the Master Plan --</p> <p>07:40PM <b>25</b> <b>A.</b> Not yet.</p>
<p style="text-align: right;">26</p> <p>07:38PM <b>1</b> <b>A.</b> That I don't recall.</p> <p>07:38PM <b>2</b> <b>Q.</b> Okay.</p> <p><b>3</b> Gerrit Haring didn't build his house</p> <p><b>4</b> next to a fire station, did he?</p> <p><b>5</b> I mean, it's an -- it's an obvious</p> <p><b>6</b> question.</p> <p><b>7</b> <b>A.</b> Right.</p> <p><b>8</b> <b>Q.</b> That's -- that's a no?</p> <p><b>9</b> <b>A.</b> Right.</p> <p><b>10</b> <b>Q.</b> Okay.</p> <p>07:39PM <b>11</b> How does moving the house, not the</p> <p>07:39PM <b>12</b> foundation, to a new location that's shared with the</p> <p>07:39PM <b>13</b> fire department building, preserve the character and</p> <p>07:39PM <b>14</b> sense of place of the structure?</p> <p>07:39PM <b>15</b> <b>A.</b> I would defer to a historic</p> <p>07:39PM <b>16</b> preservationist on that.</p> <p>07:39PM <b>17</b> <b>Q.</b> Is that person going to testify?</p> <p>07:39PM <b>18</b> <b>A.</b> Not that I know of, no.</p> <p>07:39PM <b>19</b> <b>Q.</b> Okay.</p> <p>07:39PM <b>20</b> <b>A.</b> But I didn't provide any testimony on</p> <p>07:39PM <b>21</b> historic preservation.</p> <p>07:39PM <b>22</b> <b>Q.</b> I understand, but I want to understand</p> <p>07:39PM <b>23</b> the basis of your opinion that you're not going to</p> <p>07:39PM <b>24</b> impair the intent and purposes of the Zone Plan and</p> <p>07:39PM <b>25</b> Zoning Ordinance when the Master Plan says, let's</p>	<p style="text-align: right;">28</p> <p>07:40PM <b>1</b> <b>Q.</b> -- to fix that?</p> <p>07:40PM <b>2</b> <b>A.</b> Correct.</p> <p>07:40PM <b>3</b> <b>Q.</b> Okay.</p> <p>07:40PM <b>4</b> Is moving it undermining -- and when I</p> <p>07:40PM <b>5</b> say "it," I mean, the Gerrit Haring House.</p> <p><b>6</b> Does it undermine the manner in which</p> <p><b>7</b> this area was settled?</p> <p><b>8</b> <b>A.</b> Does it undermine the manner in</p> <p><b>9</b> which...</p> <p><b>10</b> <b>Q.</b> I mean, Gerrit Haring put his house in</p> <p>07:40PM <b>11</b> a specific location, not across the street, not in</p> <p>07:40PM <b>12</b> Hackensack, not in any other place, it was in this</p> <p>07:40PM <b>13</b> place?</p> <p>07:40PM <b>14</b> <b>A.</b> Correct.</p> <p>07:40PM <b>15</b> Again, not as a historic</p> <p>07:40PM <b>16</b> preservationist, but as a planner I would suggest,</p> <p>07:40PM <b>17</b> no --</p> <p>07:40PM <b>18</b> <b>Q.</b> Okay.</p> <p>07:40PM <b>19</b> <b>A.</b> -- it does not.</p> <p>07:40PM <b>20</b> <b>Q.</b> And I guess you're saying at the same</p> <p>07:40PM <b>21</b> time the Borough is getting something valuable in</p> <p>07:41PM <b>22</b> exchange for what's going on --</p> <p>07:41PM <b>23</b> <b>A.</b> That is correct.</p> <p>07:41PM <b>24</b> <b>Q.</b> For this variance --</p> <p>07:41PM <b>25</b> <b>A.</b> That is correct.</p>

<div>29</div> <div>07:41PM 1 Q. -- and the approval? Okay.</div> <div>07:41PM 2 If the Borough lost its ability to</div> <div>07:41PM 3 secure historic preservation grants because this</div> <div>07:41PM 4 house is no longer on the historic register, which is</div> <div>5 what the historic preservation expert who testified</div> <div>6 last month indicated, would that, in your opinion,</div> <div>7 undermine the Master Plan's goal of preserving a</div> <div>8 historic structure and -- because the access to</div> <div>9 federal and state dollars to do so is no longer</div> <div>10 there?</div> <div>11 A. Again, not as a historic</div> <div>07:41PM 12 preservationist. I would submit as a planner, not</div> <div>07:41PM 13 necessarily.</div> <div>07:41PM 14 Q. Okay.</div> <div>07:41PM 15 Why not?</div> <div>07:41PM 16 A. There are other sources of funding for</div> <div>07:41PM 17 preservation and the intent of this relocation would</div> <div>07:41PM 18 be not only to relocate the structure, but to</div> <div>07:41PM 19 relocate it in a manner that keeps it intact.</div> <div>07:41PM 20 Q. What happens if it breaks?</div> <div>07:41PM 21 A. (No Response.)</div> <div>07:41PM 22 MR. STEINHAGEN: Okay. Can the</div> <div>23 transcript reflect that he doesn't have an answer.</div> <div>24 Thank you.</div> <div>25 BY MR. STEINHAGEN:</div>	<div>31</div> <div>07:42PM 1 instances where they are -- there's an interplay</div> <div>07:42PM 2 between --</div> <div>07:42PM 3 Q. Sure?</div> <div>07:42PM 4 A. -- D variances.</div> <div>07:42PM 5 Q. Okay. So here you have the use</div> <div>07:43PM 6 variance; you have a floor area ratio variance; and a</div> <div>07:43PM 7 density variance. Is that -- do you agree with that?</div> <div>07:43PM 8 A. Yeah, definitely the D-1 use variance.</div> <div>07:43PM 9 I don't recall the density variance, but, yes, the</div> <div>07:43PM 10 D-6, I'm sorry.</div> <div>07:43PM 11 Q. D-6 is a height variance.</div> <div>07:43PM 12 A. D-5, sorry.</div> <div>07:43PM 13 Q. What about a D-4?</div> <div>07:43PM 14 D-4 is a floor area ratio?</div> <div>07:43PM 15 A. Yeah.</div> <div>07:43PM 16 Q. So the maximum floor area -- there's a</div> <div>07:43PM 17 floor area ratio in the zone. I believe it's a</div> <div>07:43PM 18 sliding scale. The maximum you can do is 16 percent</div> <div>07:43PM 19 up to 8400 square feet, that's the absolute maximum</div> <div>07:43PM 20 you can do.</div> <div>07:43PM 21 Is that right?</div> <div>07:43PM 22 A. Give me one second.</div> <div>07:43PM 23 So I'll ask you to repeat the question,</div> <div>07:43PM 24 but before you do, I will say that the application</div> <div>07:43PM 25 was amended to bring us into compliance, it was just</div>
<div>30</div> <div>1 Q. I'm going to move on from historic</div> <div>2 preservation.</div> <div>07:42PM 3 You didn't talk a whole lot about the</div> <div>07:42PM 4 bulk variances and I understand that's because -- you</div> <div>07:42PM 5 gave some testimony on the C variance, that's because</div> <div>07:42PM 6 it's your opinion that the other variances are</div> <div>07:42PM 7 subsumed within the grant of the use variance.</div> <div>07:42PM 8 Is that correct?</div> <div>07:42PM 9 A. In part, yes.</div> <div>07:42PM 10 Q. What do you mean in part?</div> <div>07:42PM 11 A. So my testimony was twofold.</div> <div>07:42PM 12 One, that there is general acceptance</div> <div>07:42PM 13 that C variances or bulk and area variances can be</div> <div>07:42PM 14 subsumed under granting the D-1 use variance, for a</div> <div>07:42PM 15 number of reasons. And I went through those reasons.</div> <div>07:42PM 16 Q. I -- and I --</div> <div>07:42PM 17 A. But then I went through each of the</div> <div>07:42PM 18 bulk variances separately and gave the proofs for</div> <div>07:42PM 19 each.</div> <div>07:42PM 20 Q. What about other D variances?</div> <div>07:42PM 21 Are other D variances subsumed where</div> <div>07:42PM 22 you have to have special reasons?</div> <div>07:42PM 23 A. There is a treatise on land use written</div> <div>07:42PM 24 by Cox or what we often refer to as Cox.</div> <div>07:42PM 25 They're not subsumed, but there are</div>	<div>32</div> <div>07:43PM 1 a D-1 use variance.</div> <div>07:44PM 2 Q. So your -- it's your opinion that the</div> <div>07:44PM 3 Borough's Zoning Ordinance permits an</div> <div>07:44PM 4 81,000-square-foot building in the R-40 zone?</div> <div>07:44PM 5 A. No.</div> <div>07:44PM 6 Q. Why not?</div> <div>07:44PM 7 A. Because that's not what the code</div> <div>07:44PM 8 requires.</div> <div>07:44PM 9 Q. Is there a floor area ratio limit in</div> <div>07:44PM 10 the R-40 zone?</div> <div>07:44PM 11 A. Yes.</div> <div>07:44PM 12 Q. Okay.</div> <div>07:44PM 13 Do you exceed the floor area ratio</div> <div>07:44PM 14 limit in the R-40 zone?</div> <div>07:44PM 15 A. We do.</div> <div>07:44PM 16 Q. Okay. So you need a D-4 variance --</div> <div>07:44PM 17 A. Okay.</div> <div>07:44PM 18 Q. -- is that a fair assessment?</div> <div>07:44PM 19 A. That is.</div> <div>07:44PM 20 Q. Okay.</div> <div>07:44PM 21 Are there any other buildings in the</div> <div>07:44PM 22 R-40 zone that are in the range of 81,000 square</div> <div>07:44PM 23 feet?</div> <div>07:44PM 24 A. Not that I'm aware of.</div> <div>07:44PM 25 Q. So it's not consistent with the</div>



		33			35
07:44PM	1	neighborhood?	07:46PM	1	three units per acre, they can do it by way of making
07:44PM	2	A. (No Response.)	07:46PM	2	a minimum lot area requirement?
07:44PM	3	Q. Yes?	07:46PM	3	A. I am aware.
07:44PM	4	A. The FAR is not consistent, that's true.	07:46PM	4	I forgot the name of the case, but,
07:44PM	5	Q. Okay.	07:46PM	5	yes.
07:44PM	6	Do you know what the purpose of the FAR	07:46PM	6	Q. Okay. Would a density -- a permissible
07:44PM	7	variance is?	07:46PM	7	density -- if I told you the permissible density
07:44PM	8	A. Yes.	07:46PM	8	based on a 40,000-square-foot area, minimum lot area,
07:44PM	9	Q. What is it?	07:46PM	9	1.09 units per acre, would that sound about right?
07:44PM	10	A. It's to limit or control --	07:46PM	10	A. Sure.
07:44PM	11	Q. Wait, excuse me, let me back up. The	07:46PM	11	Q. It's a little bit less than --
07:44PM	12	purpose of the FAR restrictions, not the FAR --	07:46PM	12	A. Yeah.
07:44PM	13	A. I understood.	07:46PM	13	Q. -- 40,000 is a little bit less than
07:44PM	14	Q. -- yeah, I just want to make sure that	07:46PM	14	43,560 --
07:44PM	15	the transcript is --	07:46PM	15	A. Right.
07:44PM	16	A. It's to control intensity of	07:46PM	16	Q. -- correct?
07:44PM	17	development.	07:46PM	17	A. Right.
07:44PM	18	Q. And by intensity, we're not necessarily	07:46PM	18	Q. And how many units per acre are being
07:44PM	19	talking about traffic, we're talking about mass and	07:46PM	19	proposed here?
07:44PM	20	bulk?	07:46PM	20	A. So the DUs or dwelling units per acre
07:45PM	21	A. That's correct.	07:46PM	21	were -- were testified both in my direct testimony
07:45PM	22	Q. Okay.	07:46PM	22	and the site engineer. The reason we're before this
07:45PM	23	And the Borough has elected to do that	07:46PM	23	board is because we exceed that.
07:45PM	24	here in this zone by saying the absolute cap is	07:46PM	24	Q. I understand.
07:45PM	25	8,400 square feet, correct?	07:46PM	25	What's -- what's the number?
		34			36
07:45PM	1	A. Correct.	07:46PM	1	A. I have to look that up.
07:45PM	2	Q. And we're a little bit less than ten	07:46PM	2	Q. You're doing 100 and it's about
07:45PM	3	times the mass and bulk permitted on any particular	07:46PM	3	5-and-a-half acres?
07:45PM	4	lot in the R-40 zone.	07:46PM	4	A. Correct.
07:45PM	5	Is that correct?	07:46PM	5	Q. So it's a little bit less than 20?
07:45PM	6	A. That's correct.	07:46PM	6	A. Yes.
07:45PM	7	Q. Okay.	07:46PM	7	Q. Are there any zones anywhere in the
07:45PM	8	Now, with respect to density, do you	07:47PM	8	Borough of Old Tappan that permit a density of about
07:45PM	9	know what the permissible density in the R-40 zone	07:47PM	9	18 units an acre that you're aware of?
07:45PM	10	is?	07:47PM	10	A. No, not that I'm aware of.
07:45PM	11	A. I'd have to double check my records.	07:47PM	11	Q. And are there any developments, whether
07:45PM	12	Q. Okay. So --	07:47PM	12	permitted by zoning, preexisting or otherwise, are
07:45PM	13	A. That's part of my original testimony,	07:47PM	13	there any projects, any conditions anywhere in the
07:45PM	14	but I'd have to --	07:47PM	14	Borough where they allow -- where there is, in fact,
07:45PM	15	Q. Would you agree with me that a -- the	07:47PM	15	18 dwelling units per acre?
07:45PM	16	R-40 zone, because it says the minimum lot area is	07:47PM	16	A. Allowed, no. Permitted -- approved,
07:45PM	17	40,000 square feet, it requires one dwelling on at	07:47PM	17	that I don't know.
07:45PM	18	least 40,000 square feet?	07:47PM	18	Q. So you have no idea whether or not
07:45PM	19	A. Yes.	07:47PM	19	this, with 18 units an acre, and I get that it's a
07:45PM	20	Q. That's the minimum?	07:47PM	20	different type of use than a traditional
07:45PM	21	A. Yes.	07:47PM	21	single-family --
07:45PM	22	Q. And are you aware that there's case law	07:47PM	22	A. Correct.
07:45PM	23	that says that a municipality can regulate density	07:47PM	23	Q. -- or even a multifamily, there is
07:46PM	24	not just by saying in the bulk chart, the max -- the	07:47PM	24	nothing in the Borough that comes anywhere close to
07:46PM	25	minimum -- the maximum density is one unit per acre,	07:47PM	25	this density, is there?

			37				39
07:47PM	1	A.	Not that I'm aware of.	07:49PM	1	A.	-- perhaps less driveways and garages,
07:47PM	2	Q.	Okay.	07:49PM	2		yeah.
07:47PM	3		And what's the purpose of a density	07:49PM	3	Q.	Okay. I understand.
07:47PM	4		restriction?	07:49PM	4		The project exceeds the impervious
07:47PM	5	A.	Also to -- well, there are a couple of	07:49PM	5		coverage limit in the R-40 zone by approximately
07:47PM	6		purposes.	07:49PM	6		8,000 square feet, right?
07:47PM	7		One is to control intensity of	07:49PM	7		Isn't a significant reason for that
07:47PM	8		development. And the other is for impact on the	07:49PM	8		variance that the a site is over parked compared to
07:47PM	9		surrounding community.	07:49PM	9		what the RSIS requires?
07:47PM	10	Q.	Okay.	07:49PM	10	A.	I think the purpose for that variance
07:48PM	11		Did you look at the 1994 Master Plan?	07:49PM	11		and, again, this goes hand and glove with the
07:48PM	12	A.	Again, I did, yes.	07:49PM	12		testimony from the site engineer that the treatment
07:48PM	13	Q.	Okay. So you're familiar with the	07:49PM	13		of the site's impervious surface and runoff and
07:48PM	14		statement on the page 76 that says:	07:50PM	14		stormwater treatment, that the site can accommodate
07:48PM	15		"The goal of the Master Plan is	07:50PM	15		that --
07:48PM	16		directed to maintain the low-density	07:50PM	16	Q.	Sure.
07:48PM	17		residential atmosphere in Old Tappan."	07:50PM	17	A.	-- extra.
07:48PM	18		You're aware of that, right?	07:50PM	18	Q.	I understand, but the Dynamic plans say
07:48PM	19	A.	I am.	07:50PM	19		that the parking requirement is 38, yet there's 46
07:48PM	20	Q.	Okay.	07:50PM	20		parking spaces on the site, correct?
07:48PM	21		And 18 units an acre, in this	07:50PM	21	A.	Yes.
07:48PM	22		community, is not necessarily low density, is it?	07:50PM	22	Q.	Why not reduce the number of parking
07:48PM	23	A.	No, it's not.	07:50PM	23		spaces, reduce the amount of imperious coverage,
07:48PM	24	Q.	Okay.	07:50PM	24		reduce the amount of stormwater runoff, the amount of
07:48PM	25	A.	Again, our testimony, that's why it was	07:50PM	25		water you need to treat, that might allow you to make
			38				40
07:48PM	1		a team that provided testimony, that while this is	07:50PM	1		the basins smaller, expand the buffers?
07:48PM	2		greater than the permitted density and the FAR, given	07:50PM	2		Why are we over parking compared to
07:48PM	3		the nature of the use, the impact would not be, as	07:50PM	3		what's actually required?
07:48PM	4		you mentioned in your question, similar to a density	07:50PM	4	A.	I'm neither the traffic engineer or
07:48PM	5		if they were single-family or townhouses.	07:50PM	5		site engineer, but I can tell you if the board made
07:48PM	6	Q.	So like -- here, what's the impact of	07:50PM	6		that a condition of approval, I don't think that
07:48PM	7		an 81,000-square-foot multifamily building in terms	07:50PM	7		would be a problem.
07:48PM	8		of the visual appearance of a large building,	07:50PM	8	Q.	Okay.
07:48PM	9		compared -- how does the 81,000-square-foot building,	07:50PM	9		Do you need a building coverage
07:48PM	10		because it's assisted living, memory care, differ	07:50PM	10		variance also?
07:49PM	11		from the visual impact if it were fewer units, but	07:50PM	11	A.	I believe so.
07:49PM	12		for a multifamily building?	07:50PM	12	Q.	Okay. That's all -- if you believe so,
07:49PM	13	A.	Typically, and the testimony was, if I	07:50PM	13		then that's -- that's the end of the question.
07:49PM	14		remember correctly, the proposed use has a lower	07:50PM	14	A.	Improved lot coverage, maximum floor
07:49PM	15		traffic impact in terms of --	07:50PM	15		area, maximum height, loading spaces, rear yard
07:49PM	16	Q.	But I'm asking about -- I'm asking	07:50PM	16		buffer, side yard and the sign.
07:49PM	17		about the mass and bulk, the visual impact?	07:50PM	17	Q.	Were you here when I asked Mr. Sehna
07:49PM	18	A.	In terms of visual?	07:51PM	18		about -- and I think it was in May or June about the
07:49PM	19	Q.	Yeah.	07:51PM	19		buffer variance or waiver?
07:49PM	20	A.	Fewer curb cuts, fewer driveways, fewer	07:51PM	20	A.	I don't recall.
07:49PM	21		garages for assisted living.	07:51PM	21	Q.	Okay.
07:49PM	22	Q.	I'm asking about for a multifamily	07:51PM	22		Do you remember him agreeing that there
07:49PM	23		building that had a parking lot and --	07:51PM	23		were no physical conditions that prevented
07:49PM	24	A.	Less parking --	07:51PM	24		compliance?
07:49PM	25	Q.	Okay.	07:51PM	25	A.	I don't recall.

<p style="text-align: right;">41</p> <p>07:51PM <b>1</b> <b>Q.</b> Okay. Last set of questions.</p> <p>07:51PM <b>2</b> Are you aware that the Borough entered</p> <p>07:51PM <b>3</b> into an affordable housing settlement agreement?</p> <p>07:51PM <b>4</b> <b>A.</b> Yes.</p> <p>07:51PM <b>5</b> <b>Q.</b> Did you review that settlement</p> <p>07:51PM <b>6</b> agreement?</p> <p>07:51PM <b>7</b> <b>A.</b> No.</p> <p>07:51PM <b>8</b> <b>Q.</b> Okay.</p> <p>07:51PM <b>9</b> Were you aware that the Borough</p> <p>07:51PM <b>10</b> obtained a vacant land adjustment?</p> <p>07:51PM <b>11</b> <b>A.</b> No.</p> <p>07:51PM <b>12</b> <b>Q.</b> Okay.</p> <p>07:51PM <b>13</b> So you have no knowledge of whether or</p> <p>07:51PM <b>14</b> not it has a real estate development potential, an</p> <p>07:51PM <b>15</b> unmet need?</p> <p>07:51PM <b>16</b> What's -- what's the affordable housing</p> <p>07:51PM <b>17</b> set-aside for this project?</p> <p>07:51PM <b>18</b> <b>A.</b> Ten.</p> <p>07:51PM <b>19</b> <b>Q.</b> Okay.</p> <p>07:51PM <b>20</b> If I told you that the Borough has a</p> <p>07:51PM <b>21</b> mandatory set-aside ordinance that requires at least</p> <p>07:51PM <b>22</b> 15 percent, not 10 percent, would that surprise you?</p> <p>07:51PM <b>23</b> <b>A.</b> Yes.</p> <p>07:51PM <b>24</b> <b>Q.</b> Okay.</p> <p>07:52PM <b>25</b> Are you seeking a variance from this</p>	<p style="text-align: right;">43</p> <p>07:53PM <b>1</b> astronomical to be looking at this with a density</p> <p>07:53PM <b>2</b> calculation of the numbers that Mr. Steinhagen was</p> <p>07:53PM <b>3</b> proposing, do you see that the same as the definition</p> <p>07:53PM <b>4</b> of a dwelling unit that you deal with as a</p> <p>07:53PM <b>5</b> professional planner?</p> <p>07:53PM <b>6</b> <b>A.</b> No, they're -- they're different</p> <p>07:53PM <b>7</b> animals and I tried to answer that question a bit</p> <p>07:53PM <b>8</b> clearer, but, yes. They are different. The use</p> <p>07:53PM <b>9</b> that's being proposed for assisted living, very</p> <p>07:53PM <b>10</b> different than the typical or traditional</p> <p>07:53PM <b>11</b> single-family townhouses.</p> <p>07:53PM <b>12</b> <b>Q.</b> And this, in fact, is defined as beds,</p> <p>07:53PM <b>13</b> bed count --</p> <p>07:53PM <b>14</b> <b>A.</b> That's correct.</p> <p>07:53PM <b>15</b> <b>Q.</b> -- correct?</p> <p>07:53PM <b>16</b> <b>A.</b> That is very true.</p> <p>07:53PM <b>17</b> <b>Q.</b> And our letter that you referred to as</p> <p>07:53PM <b>18</b> our certificate of need from the New Jersey</p> <p>07:53PM <b>19</b> Department of Health approves the certificate by way</p> <p>07:53PM <b>20</b> of that bed count and unit count, correct?</p> <p>07:53PM <b>21</b> <b>A.</b> As opposed to dwelling units, that's</p> <p>07:53PM <b>22</b> correct.</p> <p>07:53PM <b>23</b> <b>Q.</b> Okay.</p> <p>07:53PM <b>24</b> And with regard to the size of the</p> <p>07:54PM <b>25</b> property, again, the questions that were asked of you</p>
<p style="text-align: right;">42</p> <p>07:52PM <b>1</b> condition?</p> <p>07:52PM <b>2</b> <b>A.</b> No.</p> <p>07:52PM <b>3</b> <b>Q.</b> Okay. Is there any reason why you</p> <p>07:52PM <b>4</b> can't comply with a 15 percent set-aside?</p> <p>07:52PM <b>5</b> <b>A.</b> Be a question more for the operator</p> <p>07:52PM <b>6</b> than myself.</p> <p>07:52PM <b>7</b> MR. STEINHAGEN: Okay.</p> <p>07:52PM <b>8</b> That's all I have, Chairman.</p> <p>07:52PM <b>9</b> Thank you for your time.</p> <p>07:52PM <b>10</b> MS. PRICE: I just have a couple,</p> <p>07:52PM <b>11</b> George, if you don't mind.</p> <p>07:52PM <b>12</b> THE WITNESS: No.</p> <p>07:52PM <b>13</b> REDIRECT EXAMINATION</p> <p>07:52PM <b>14</b> BY MS. PRICE:</p> <p>07:52PM <b>15</b> <b>Q.</b> Mr. Williams, the questions from</p> <p>07:52PM <b>16</b> Mr. Steinhagen dealing with units, the code talks</p> <p>07:52PM <b>17</b> about dwelling units in terms of a house or an</p> <p>07:52PM <b>18</b> apartment, a townhouse?</p> <p>07:52PM <b>19</b> Some --</p> <p>07:52PM <b>20</b> <b>A.</b> That's correct.</p> <p>07:52PM <b>21</b> <b>Q.</b> We're not dealing with that type of</p> <p>07:52PM <b>22</b> living arrangement in this case, correct?</p> <p>07:52PM <b>23</b> <b>A.</b> Very true.</p> <p>07:52PM <b>24</b> <b>Q.</b> So when there was an attempt to somehow</p> <p>07:52PM <b>25</b> categorize and make it seem like this was</p>	<p style="text-align: right;">44</p> <p>07:54PM <b>1</b> regarding minimum square footage, that was all for</p> <p>07:54PM <b>2</b> the R-40, it wasn't looking at our 5-and-a-half-acre</p> <p>07:54PM <b>3</b> site, correct?</p> <p>07:54PM <b>4</b> <b>A.</b> That is very correct.</p> <p>07:54PM <b>5</b> <b>Q.</b> So those code provisions that are</p> <p>07:54PM <b>6</b> provided in the Old Tappan Zoning Code under R-40</p> <p>07:54PM <b>7</b> when it lists all the different setbacks, building</p> <p>07:54PM <b>8</b> coverage, each of the bulk regulations, those are</p> <p>07:54PM <b>9</b> listed with regard to a 40,000-square-foot lot,</p> <p>07:54PM <b>10</b> correct?</p> <p>07:54PM <b>11</b> <b>A.</b> Correct, which is why in the planning</p> <p>07:54PM <b>12</b> testimony you often hear planners say that those</p> <p>07:54PM <b>13</b> would be subsumed under the grant of the D-1, because</p> <p>07:54PM <b>14</b> they don't really fit with what's being proposed.</p> <p>07:54PM <b>15</b> <b>Q.</b> And, in fact, in this case one of the</p> <p>07:54PM <b>16</b> items that we were being asked to look at was the</p> <p>07:55PM <b>17</b> number of loading spaces, which, in fact, in the R-40</p> <p>07:55PM <b>18</b> wouldn't even be talking about loading?</p> <p>07:55PM <b>19</b> <b>A.</b> That's correct.</p> <p>07:55PM <b>20</b> <b>Q.</b> So we were being asked to look at</p> <p>07:55PM <b>21</b> things two different ways depending on which bulk</p> <p>07:55PM <b>22</b> regulation was being called into question, correct?</p> <p>07:55PM <b>23</b> <b>A.</b> That is correct.</p> <p>07:55PM <b>24</b> <b>Q.</b> And in terms of the historic structure,</p> <p>07:55PM <b>25</b> and I know you're not a historic expert, but there's</p>

<p style="text-align: right;">45</p> <p>07:55PM <b>1</b> been different discussions on that historic structure</p> <p>07:55PM <b>2</b> and you may have been out of the room during the</p> <p>07:55PM <b>3</b> testimony and you may have been out of the room when</p> <p>07:55PM <b>4</b> I was asked questions about this, but the home would</p> <p>07:55PM <b>5</b> be preserved under Mr. Steinhagen's questions</p> <p>07:55PM <b>6</b> regarding the 2016 and the 1984 Master Plans if, in</p> <p>07:55PM <b>7</b> fact, the home was remaining on the property, which</p> <p>07:55PM <b>8</b> is the current state of affairs?</p> <p>07:55PM <b>9</b> <b>A.</b> Correct.</p> <p>07:56PM <b>10</b> <b>Q.</b> The home is being proposed to stay on</p> <p>07:56PM <b>11</b> the property, be given to the Borough, but not be</p> <p>07:56PM <b>12</b> moved across the street, would that be consistent</p> <p>07:56PM <b>13</b> with the questions that Mr. Steinhagen was posing in</p> <p>07:56PM <b>14</b> terms of remaining in its environs?</p> <p>07:56PM <b>15</b> <b>A.</b> Yes.</p> <p>07:56PM <b>16</b> <b>Q.</b> And whether a historic structure stays</p> <p>07:56PM <b>17</b> on a register or not, the bottom line is that this</p> <p>07:56PM <b>18</b> property, whether it's under this application or not,</p> <p>07:56PM <b>19</b> is private property, correct?</p> <p>07:56PM <b>20</b> <b>A.</b> That is correct.</p> <p>07:56PM <b>21</b> <b>Q.</b> So we're not talking about public</p> <p>07:56PM <b>22</b> property here?</p> <p>07:56PM <b>23</b> <b>A.</b> Correct.</p> <p>07:56PM <b>24</b> <b>Q.</b> It could be, you know, obtained by</p> <p>07:56PM <b>25</b> public funds or anyone in question?</p>	<p style="text-align: right;">47</p> <p>07:58PM <b>1</b> for 10?</p> <p>07:58PM <b>2</b> <b>A.</b> That is correct.</p> <p>07:58PM <b>3</b> MS. PRICE: Thank you.</p> <p>07:58PM <b>4</b> That's all I had.</p> <p>07:58PM <b>5</b> MR. REGAN: Mr. Steinhagen, any</p> <p>07:58PM <b>6</b> redirect?</p> <p>07:58PM <b>7</b> MR. STEINHAGEN: If you'll allow it,</p> <p>07:58PM <b>8</b> sure.</p> <p>07:58PM <b>9</b> MS. PRICE: Redirect on his cross of --</p> <p>07:58PM <b>10</b> MR. STEINHAGEN: Yes.</p> <p>07:58PM <b>11</b> MS. PRICE: -- of my witness?</p> <p>07:58PM <b>12</b> MR. REGAN: Oh, that's right.</p> <p>07:58PM <b>13</b> MS. PRICE: No, it's redirect --</p> <p>07:58PM <b>14</b> MR. REGAN: I'm sorry.</p> <p>07:58PM <b>15</b> MS. PRICE: That's okay.</p> <p>07:58PM <b>16</b> MR. STEINHAGEN: He put new testimony</p> <p>07:58PM <b>17</b> in.</p> <p>07:58PM <b>18</b> MS. PRICE: No, he didn't.</p> <p>07:58PM <b>19</b> Everything was on your questions.</p> <p>07:58PM <b>20</b> MR. REGAN: I'm sorry. Okay.</p> <p>07:58PM <b>21</b> I don't think there's any need for</p> <p>07:58PM <b>22</b> redirect.</p> <p>07:58PM <b>23</b> CHAIRMAN WEIDMANN: Okay.</p> <p>07:58PM <b>24</b> MR. REGAN: Mr. Szabo, do you have any</p> <p>07:58PM <b>25</b> questions of Mr. Williams?</p>
<p style="text-align: right;">46</p> <p>07:56PM <b>1</b> <b>A.</b> Yes.</p> <p>07:56PM <b>2</b> <b>Q.</b> But efforts can be made to preserve the</p> <p>07:56PM <b>3</b> home, correct?</p> <p>07:56PM <b>4</b> <b>A.</b> Which is the -- yes.</p> <p>07:56PM <b>5</b> <b>Q.</b> And this applicant has indicated that</p> <p>07:57PM <b>6</b> it will and has retained a historic expert to take</p> <p>07:57PM <b>7</b> all -- make all efforts to propose that the home is</p> <p>07:57PM <b>8</b> saved and a new foundation is provided.</p> <p>07:57PM <b>9</b> Is that correct?</p> <p>07:57PM <b>10</b> <b>A.</b> Yes. Clearly and specifically, yes.</p> <p>07:57PM <b>11</b> <b>Q.</b> I think that was all I had.</p> <p>07:57PM <b>12</b> Oh, other than on the affordable</p> <p>07:57PM <b>13</b> housing units, the 10 percent on affordable housing</p> <p>07:57PM <b>14</b> calculations per Medicaid is, in fact, the</p> <p>07:57PM <b>15</b> appropriate and required calculation for a Medicaid</p> <p>07:57PM <b>16</b> bed; isn't that a fact?</p> <p>07:57PM <b>17</b> <b>A.</b> That's correct. And it comports with</p> <p>07:57PM <b>18</b> the Borough's regulations as well.</p> <p>07:57PM <b>19</b> <b>Q.</b> Okay.</p> <p>07:57PM <b>20</b> So it's not that we're out of whack</p> <p>07:57PM <b>21</b> somehow or, you know, not dealing with our affordable</p> <p>07:57PM <b>22</b> housing obligation?</p> <p>07:57PM <b>23</b> <b>A.</b> No.</p> <p>07:57PM <b>24</b> <b>Q.</b> To the contrary, 100 beds -- if 100</p> <p>07:58PM <b>25</b> beds, and in fact we have less, but we've committed</p>	<p style="text-align: right;">48</p> <p>07:58PM <b>1</b> MR. SZABO: No, I do not.</p> <p>07:58PM <b>2</b> VICE CHAIRMAN MAMARY: I would be</p> <p>07:58PM <b>3</b> interested in knowing why Mr. Steinhagen was</p> <p>07:58PM <b>4</b> mentioning the 15 as opposed to the 10, because</p> <p>07:58PM <b>5</b> that's something that it wasn't made clear to us.</p> <p>07:59PM <b>6</b> MR. REGAN: Well, the 10 percent -- the</p> <p>07:59PM <b>7</b> 10 percent is a Medicaid regulation.</p> <p>07:59PM <b>8</b> MS. PRICE: Medicaid, right.</p> <p>07:59PM <b>9</b> MR. REGAN: Right.</p> <p>07:59PM <b>10</b> MS. PRICE: It's a Medicaid regulation.</p> <p>07:59PM <b>11</b> MR. REGAN: What he's talking about, in</p> <p>07:59PM <b>12</b> the Borough's settlement with Fair Share Housing</p> <p>07:59PM <b>13</b> Center, any new developments have a 15 percent</p> <p>07:59PM <b>14</b> set-aside, any new developments of more than five</p> <p>07:59PM <b>15</b> units, there's a 15 percent set-aside if you have</p> <p>07:59PM <b>16</b> rental.</p> <p>07:59PM <b>17</b> That's -- that's a boilerplate</p> <p>07:59PM <b>18</b> provision in every settlement with Fair Share Housing</p> <p>07:59PM <b>19</b> all across the state.</p> <p>07:59PM <b>20</b> VICE CHAIRMAN MAMARY: Is that</p> <p>07:59PM <b>21</b> applicable here?</p> <p>07:59PM <b>22</b> MR. REGAN: I don't believe it is --</p> <p>07:59PM <b>23</b> MS. PRICE: No.</p> <p>07:59PM <b>24</b> MR. REGAN: -- because this is a</p> <p>07:59PM <b>25</b> Medicaid regulation.</p>

<p>49</p> <p>1 MS. PRICE: Right.</p> <p>2 The Medicaid regulation that governs</p> <p>07:59PM 3 this type of development is for 10 percent set-aside.</p> <p>07:59PM 4 That's why I wanted to be clear that we</p> <p>07:59PM 5 weren't violating any provision.</p> <p>07:59PM 6 VICE CHAIRMAN MAMARY: Well, that was</p> <p>07:59PM 7 my -- my point. I'm just getting some clarity.</p> <p>07:59PM 8 MS. PRICE: Right.</p> <p>07:59PM 9 That's why I wanted to make sure by my</p> <p>07:59PM 10 redirect that it's clear we're not asking for any</p> <p>07:59PM 11 relief. And we're not violating any regulations.</p> <p>07:59PM 12 We're compliant with the regulations.</p> <p>07:59PM 13 MR. REGAN: That's correct.</p> <p>07:59PM 14 CHAIRMAN WEIDMANN: Thank you.</p> <p>07:59PM 15 MR. REGAN: I think we're done with</p> <p>07:59PM 16 Mr. Williams.</p> <p>08:00PM 17 THE WITNESS: Thank you.</p> <p>08:00PM 18 MR. REGAN: Thank you.</p> <p>08:00PM 19 MS. PRICE: So...</p> <p>08:00PM 20 CHAIRMAN WEIDMANN: Do you have</p> <p>08:00PM 21 anything else?</p> <p>08:00PM 22 MS. PRICE: No, just to sum.</p> <p>08:00PM 23 CHAIRMAN WEIDMANN: Let's hear --</p> <p>08:00PM 24 MR. REGAN: Well, let's ask,</p> <p>08:00PM 25 Mr. Steinhagen, do you have any witnesses?</p>	<p>51</p> <p>08:00PM 1 I say "that," it's what you are doing, it's not an</p> <p>08:01PM 2 easy job.</p> <p>08:01PM 3 And my client's appreciate the</p> <p>08:01PM 4 attention you've given to this issue, to their</p> <p>08:01PM 5 concerns and to the application.</p> <p>08:01PM 6 I'm going to start with the question</p> <p>08:01PM 7 that was just posed about affordable housing. I</p> <p>08:01PM 8 represented a party in the Borough's affordable</p> <p>08:01PM 9 housing declaratory judgement action. I'm going to</p> <p>08:01PM 10 check my -- check the citation, if you don't mind.</p> <p>08:01PM 11 It's Section 255-122 of the Borough's Zoning</p> <p>08:01PM 12 Ordinance, which is entitled, "Affordable Housing</p> <p>08:01PM 13 Mandatory Set-Aside."</p> <p>08:01PM 14 And it refers to any residential</p> <p>08:01PM 15 dwelling at a density of six units or more per acre</p> <p>08:01PM 16 whether permitted by a zoning amendment, a use</p> <p>08:01PM 17 variance granted by the board, Borough's planning</p> <p>08:01PM 18 board acting as a board of adjustment or the adoption</p> <p>08:01PM 19 of a redevelopment plan. That's what it applies to.</p> <p>08:01PM 20 The fact that the department of health</p> <p>08:01PM 21 says, you know, as a condition of your licensure for</p> <p>08:01PM 22 a certificate of need, you need to provide us, the</p> <p>08:02PM 23 DOH, with 10 percent of the beds for Medicaid has</p> <p>08:02PM 24 nothing to do with your affordable housing set-aside,</p> <p>08:02PM 25 mandatory set-aside ordinance.</p>
<p>50</p> <p>08:00PM 1 MR. STEINHAGEN: No, we're done as of</p> <p>08:00PM 2 -- no, we're done as of now.</p> <p>08:00PM 3 MR. REGAN: I thought. I thought the</p> <p>08:00PM 4 only thing was --</p> <p>08:00PM 5 MR. STEINHAGEN: No. No.</p> <p>08:00PM 6 MR. REGAN: -- your cross examination of</p> <p>08:00PM 7 Mr. Williams.</p> <p>08:00PM 8 MR. STEINHAGEN: I think the only thing</p> <p>08:00PM 9 that we have to do is for either Ms. Price -- well,</p> <p>08:00PM 10 not either, for Ms. Price and I to give some final</p> <p>08:00PM 11 remarks. I'll be brief, if I -- if the board will</p> <p>08:00PM 12 indulge me.</p> <p>08:00PM 13 MS. PRICE: Do you want to hear from</p> <p>08:00PM 14 Mr. Steinhagen before?</p> <p>08:00PM 15 MR. REGAN: Mr. Steinhagen, do your</p> <p>08:00PM 16 summation now.</p> <p>08:00PM 17 MR. STEINHAGEN: So I'm going to start</p> <p>08:00PM 18 with the question that was just asked, and I -- I</p> <p>08:00PM 19 represented a party -- again, for the record, Daniel</p> <p>08:00PM 20 Steinhagen from Beattie Padovano on behalf of</p> <p>08:00PM 21 Lakeview and Ms. Sheridan.</p> <p>08:00PM 22 First thing I want to do is thank the</p> <p>08:00PM 23 board for their attention to this application. I sat</p> <p>08:00PM 24 in your shoes for a number of years in my town. And</p> <p>08:00PM 25 I know from doing this and from doing that. And when</p>	<p>52</p> <p>08:02PM 1 There's no exemption, because a party</p> <p>08:02PM 2 is agreeing with some other entity to do something</p> <p>08:02PM 3 that they get a pass from your ordinance.</p> <p>08:02PM 4 Your ordinance does not allow a</p> <p>08:02PM 5 10 percent set-aside.</p> <p>08:02PM 6 MR. REGAN: Have you ever seen an</p> <p>08:02PM 7 assisted living or nursing home development with a</p> <p>08:02PM 8 set-aside of greater than 10 percent?</p> <p>08:02PM 9 MR. STEINHAGEN: Yes.</p> <p>08:02PM 10 MR. REGAN: And where was that?</p> <p>08:02PM 11 MR. STEINHAGEN: In the Borough -- in</p> <p>08:02PM 12 the Township of Mahwah right now.</p> <p>08:02PM 13 My firm is representing a developer</p> <p>08:02PM 14 where a substantially higher than 10 percent</p> <p>08:02PM 15 set-aside is required.</p> <p>08:02PM 16 MR. REGAN: And what was the Medicaid</p> <p>08:02PM 17 regulation applicable?</p> <p>08:02PM 18 MR. STEINHAGEN: It's -- the project is</p> <p>08:02PM 19 currently in the development process, but Fair Share</p> <p>08:02PM 20 Housing Center demanded a higher set-aside.</p> <p>08:02PM 21 MR. REGAN: Okay. They haven't</p> <p>08:02PM 22 demanded anything in --</p> <p>08:02PM 23 MR. STEINHAGEN: They haven't -- they</p> <p>08:02PM 24 have not -- I can't speak to what they've demanded.</p> <p>08:02PM 25 I can tell you that your ordinance says, any</p>

<p style="text-align: right;">53</p> <p>08:03PM 1 application for a residential building with more than</p> <p>08:03PM 2 six units per acre that requires a use variance,</p> <p>08:03PM 3 which is what we're here for tonight -- we heard that</p> <p>08:03PM 4 this is 18 units an acre and it's a use variance --</p> <p>08:03PM 5 requires a minimum set-aside of 15 percent.</p> <p>08:03PM 6 Frankly that's not even correct under</p> <p>08:03PM 7 the COAH regulations which require a 20-percent</p> <p>08:03PM 8 set-aside.</p> <p>08:03PM 9 MR. REGAN: If it's a sale.</p> <p>08:03PM 10 MR. STEINHAGEN: No, it's if you have a</p> <p>08:03PM 11 vacant land adjustment. It absolutely is true and</p> <p>08:03PM 12 I'm happy to give you the citation later because I</p> <p>08:03PM 13 litigated that issue in the Englewood Cliff's case.</p> <p>08:03PM 14 I think that the applicant's position</p> <p>08:03PM 15 is wrong. I think that there is a chance that this</p> <p>08:03PM 16 project does not get affordable housing credit.</p> <p>08:03PM 17 They'll get credit for Medicaid units</p> <p>08:03PM 18 under their certificate of need, but you may not get</p> <p>08:03PM 19 any affordable housing credits and Fair Share Housing</p> <p>08:03PM 20 Center may come after you.</p> <p>08:03PM 21 MR. REGAN: But you've had the</p> <p>08:03PM 22 opportunity to speak to Fair Share, I assume, about</p> <p>23 that issue.</p> <p>24 MR. STEINHAGEN: I've talked to them</p> <p>25 about this issue in connection with another project</p>	<p style="text-align: right;">55</p> <p>08:04PM 1 MR. REGAN: You're talking about</p> <p>08:04PM 2 regional surplus?</p> <p>08:04PM 3 MR. STEINHAGEN: Correct. I don't --</p> <p>08:04PM 4 we don't know that.</p> <p>08:04PM 5 MR. REGAN: Do you have any evidence of</p> <p>6 any --</p> <p>7 MR. STEINHAGEN: No, no, no. I don't</p> <p>8 have -- Mr. Regan, I'm sorry, I'm giving a</p> <p>9 summation.</p> <p>10 I don't have the burden --</p> <p>11 MR. REGAN: I'm just asking you the</p> <p>12 question.</p> <p>13 MR. STEINHAGEN: No.</p> <p>14 MR. REGAN: If you don't want to answer</p> <p>15 the question --</p> <p>16 MR. STEINHAGEN: No, no. I don't have</p> <p>17 the burden of demonstrating the extent of the need.</p> <p>18 That's the applicant's burden. The applicant hasn't</p> <p>19 done it.</p> <p>20 And the board can make a decision as it</p> <p>21 wants, but they have the burden of proof here, not --</p> <p>22 not any other interested party.</p> <p>08:05PM 23 The applicant also has the burden of</p> <p>08:05PM 24 demonstrating special reasons for the other two</p> <p>08:05PM 25 D variances. It didn't do it. It didn't -- it</p>
<p style="text-align: right;">54</p> <p>1 in Closter.</p> <p>2 MR. REGAN: Not in connection with this</p> <p>3 project?</p> <p>4 MR. STEINHAGEN: No, not in connection</p> <p>08:03PM 5 with this project, but a project in Closter that's</p> <p>08:03PM 6 currently in front of the board of adjustment and</p> <p>08:03PM 7 they want a -- well, I -- I can assure you that</p> <p>08:04PM 8 Mr. Bowers wants more than 10 percent.</p> <p>08:04PM 9 MR. REGAN: Well, I've had other issues</p> <p>08:04PM 10 with Mr. Bowers on assisted-living facilities where</p> <p>08:04PM 11 he accepted the 10 percent.</p> <p>08:04PM 12 MR. STEINHAGEN: Okay.</p> <p>08:04PM 13 This is an inherently beneficial use</p> <p>08:04PM 14 case. The applicant, while it says it did</p> <p>08:04PM 15 demographic studies, did not demonstrate the extent</p> <p>08:04PM 16 of the need. And that's a problem for the board,</p> <p>08:04PM 17 because on one hand you have the special reasons that</p> <p>08:04PM 18 are assumed to be satisfied versus the negative</p> <p>08:04PM 19 impacts.</p> <p>08:04PM 20 We don't know how -- how heavy that</p> <p>08:04PM 21 side of the scale is.</p> <p>08:04PM 22 We don't know how many beds there are</p> <p>08:04PM 23 in the community. When I say "the community," I</p> <p>08:04PM 24 don't mean Old Tappan, because there is another</p> <p>08:04PM 25 community -- there is another --</p>	<p style="text-align: right;">56</p> <p>08:05PM 1 didn't demonstrate, at least under the test, whether</p> <p>08:05PM 2 or not it's applicable, I don't know, but they have a</p> <p>08:05PM 3 density variance. They have a floor area ratio</p> <p>08:05PM 4 variance. And the building, whether it's for</p> <p>08:05PM 5 assisted living, memory care, apartments, it's ten</p> <p>08:05PM 6 times too big for this lot based upon the Borough's</p> <p>08:05PM 7 Zoning Ordinance.</p> <p>08:05PM 8 And if we divided it up into five lots,</p> <p>08:05PM 9 because that was what the Borough's Zoning Ordinance</p> <p>08:05PM 10 would theoretically allow, if they could fit it, it's</p> <p>08:05PM 11 still too big by a factor of two. You can have an</p> <p>08:05PM 12 8,400-square-foot building on a 40,000-square-foot</p> <p>08:05PM 13 lot. They might get five lots, they might get six.</p> <p>08:05PM 14 But they're not getting up to 80,000 square feet of</p> <p>08:05PM 15 building. And they're certainly not getting up to</p> <p>08:05PM 16 81,000 square feet of three-story building with three</p> <p>08:05PM 17 rows of windows with a long façade.</p> <p>08:06PM 18 And the same thing is true about the</p> <p>08:06PM 19 density.</p> <p>08:06PM 20 This applicant is turning the</p> <p>08:06PM 21 proverbial hose on onto my client's property.</p> <p>08:06PM 22 Yes, they are reducing the water in</p> <p>08:06PM 23 accordance with the DEP regulations, in accordance</p> <p>08:06PM 24 with the Borough's stormwater management ordinance.</p> <p>08:06PM 25 But you heard your own engineer, who's</p>

<p style="text-align: right;">57</p> <p>08:06PM <b>1</b> not here tonight and I hope he gets better soon, he</p> <p>08:06PM <b>2</b> said, I have concerns about what this applicant is</p> <p>08:06PM <b>3</b> doing. They do not have our consent to change the</p> <p>08:06PM <b>4</b> way that water drains and turn on a hose and dump the</p> <p>08:06PM <b>5</b> water onto our property.</p> <p>08:06PM <b>6</b> I think that they have not satisfied</p> <p>08:06PM <b>7</b> their burden of proof here. We would ask that the</p> <p>08:06PM <b>8</b> board deny the application.</p> <p>08:06PM <b>9</b> I want to thank you, again, for your</p> <p>08:06PM <b>10</b> attention this evening. I appreciate it very much.</p> <p>08:06PM <b>11</b> Thank you.</p> <p>08:06PM <b>12</b> (Applause.)</p> <p>08:07PM <b>13</b> MS. PRICE: I have a bunch of things,</p> <p>08:07PM <b>14</b> so just give me one second.</p> <p>08:07PM <b>15</b> So, just on Mr. Steinhagen's first</p> <p>08:07PM <b>16</b> point and his reference to the property in Mahwah,</p> <p>08:07PM <b>17</b> that development is an independent living development</p> <p>08:07PM <b>18</b> with an assisted component, but it is not the</p> <p>08:07PM <b>19</b> development that we have here before this board</p> <p>08:08PM <b>20</b> tonight. And I have handled numerous assisted-living</p> <p>08:08PM <b>21</b> applications and have never ever been asked for more</p> <p>08:08PM <b>22</b> than a 10 percent --</p> <p>08:08PM <b>23</b> MR. REGAN: Didn't you do the Artis</p> <p>08:08PM <b>24</b> application --</p> <p>08:08PM <b>25</b> MS. PRICE: Yes.</p>	<p style="text-align: right;">59</p> <p><b>1</b> MS. HAVERILLA: -- would still get the</p> <p><b>2</b> credits, the ten credits --</p> <p><b>3</b> MS. PRICE: Yes.</p> <p><b>4</b> MS. HAVERILLA: -- for that?</p> <p><b>5</b> MS. PRICE: Every -- every borough that</p> <p>08:09PM <b>6</b> I've appeared in and have given the 10 percent on</p> <p>08:09PM <b>7</b> behalf of the client or the client has given the ten</p> <p>08:09PM <b>8</b> units, all of those municipalities have always gotten</p> <p>08:09PM <b>9</b> credit in their affordable housing plans. None of</p> <p>08:09PM <b>10</b> the plans have ever been negatively impacted and I</p> <p>08:09PM <b>11</b> can state that unequivocally.</p> <p>08:09PM <b>12</b> So with that said, I also want to thank</p> <p>08:09PM <b>13</b> the board and its professionals. It's been a long</p> <p>08:09PM <b>14</b> road since December of '21 is when we filed this</p> <p>08:09PM <b>15</b> application, and it has gone through several</p> <p>08:09PM <b>16</b> different looks, because every time the board asked</p> <p>08:09PM <b>17</b> me to take something back to our client, our client</p> <p>08:09PM <b>18</b> looked at it, had the team work it up and the client</p> <p>08:09PM <b>19</b> came back and said okay.</p> <p>08:10PM <b>20</b> I have a list of 21 conditions that our</p> <p>08:10PM <b>21</b> client has agreed to over the course of this</p> <p>08:10PM <b>22</b> application and never, ever during the course has our</p> <p>08:10PM <b>23</b> client said no to anything that this board has asked</p> <p>08:10PM <b>24</b> for, whether it has involved your ambulance service,</p> <p>08:10PM <b>25</b> whether it has involved improving drainage for a</p>
<p style="text-align: right;">58</p> <p>08:08PM <b>1</b> MR. REGAN: -- a few years ago?</p> <p>08:08PM <b>2</b> MS. PRICE: Yes, the Artis application</p> <p>08:08PM <b>3</b> in this very Borough.</p> <p>08:08PM <b>4</b> MR. REGAN: That was the same thing,</p> <p>08:08PM <b>5</b> 10 percent?</p> <p>08:08PM <b>6</b> MS. PRICE: Correct, 10 percent.</p> <p>08:08PM <b>7</b> And that is compliant with all</p> <p>08:08PM <b>8</b> regulations and Fair Share has never come knocking on</p> <p>08:08PM <b>9</b> my door saying you need to do more.</p> <p>08:08PM <b>10</b> They didn't do it in Norwood.</p> <p>08:08PM <b>11</b> They didn't do it in Washington</p> <p>08:08PM <b>12</b> township.</p> <p>08:08PM <b>13</b> And they haven't done it in other</p> <p>08:08PM <b>14</b> locations around the state where I have appeared in</p> <p>08:08PM <b>15</b> connection with these applications.</p> <p>08:08PM <b>16</b> MS. HAVERILLA: Why was -- is there a</p> <p>08:08PM <b>17</b> difference between the Medicare set-aside and the</p> <p>08:08PM <b>18</b> Fair Share Housing set-aside?</p> <p>08:08PM <b>19</b> MS. PRICE: No, the Fair Share just</p> <p>08:08PM <b>20</b> happens to be the party, you know, who was around the</p> <p>08:08PM <b>21</b> whole state --</p> <p>08:08PM <b>22</b> MS. HAVERILLA: All right. So we would</p> <p>08:08PM <b>23</b> still --</p> <p>08:09PM <b>24</b> MS. PRICE: -- seeking to get more and</p> <p><b>25</b> more.</p>	<p style="text-align: right;">60</p> <p>08:10PM <b>1</b> homeowner on Holbrook, despite the fact that the</p> <p>08:10PM <b>2</b> application had nothing to do with that.</p> <p>08:10PM <b>3</b> Whether it was a matter of addressing</p> <p>08:10PM <b>4</b> Mr. Skrable's concern about the extra lane on Old</p> <p>08:10PM <b>5</b> Tappan Road, had nothing to do with this application,</p> <p>08:10PM <b>6</b> we agreed to it, to enhance the public safety on Old</p> <p>08:10PM <b>7</b> Tappan Road.</p> <p>08:10PM <b>8</b> We agreed to look at the schedule shift</p> <p>08:11PM <b>9</b> changes because of the concerns for the school.</p> <p>08:11PM <b>10</b> We agreed to be cognizant of the</p> <p>08:11PM <b>11</b> construction hours along those same lines because of</p> <p>08:11PM <b>12</b> the school and the concern for safety of children.</p> <p>08:11PM <b>13</b> We responded to all of the requests</p> <p>08:11PM <b>14</b> from the fire department. We redesigned the building</p> <p>08:11PM <b>15</b> to make sure that there was full circular access with</p> <p>08:11PM <b>16</b> the pervious pavement to assist the trucks.</p> <p>08:11PM <b>17</b> And we did various other revisions that</p> <p>08:11PM <b>18</b> the fire department asked us to take into</p> <p>08:11PM <b>19</b> consideration.</p> <p>08:11PM <b>20</b> We addressed the parking spaces for</p> <p>08:11PM <b>21</b> electric vehicles. We said we'd take more comments</p> <p>08:12PM <b>22</b> under consideration, if the board wanted us, to</p> <p>08:12PM <b>23</b> either make-ready additional spaces or address them</p> <p>08:12PM <b>24</b> somehow else.</p> <p>08:12PM <b>25</b> We agreed to the Bi-Fuel generator that</p>

<p style="text-align: right;">61</p> <p>08:12PM 1 we were asked to look at and come back with and to</p> <p>08:12PM 2 respond to the concerns that have arisen on other --</p> <p>08:12PM 3 you know, other locations whenever we've had these</p> <p>08:12PM 4 weather emergencies that shut down power, especially,</p> <p>08:12PM 5 in consideration for our type of use.</p> <p>08:12PM 6 We spent a lot of time investigating</p> <p>08:12PM 7 that, and we came back with that type of generator</p> <p>08:12PM 8 that you asked us to look for.</p> <p>08:12PM 9 We made modifications to the elevator</p> <p>08:12PM 10 to ensure that we had the proper sizing for EMS to</p> <p>08:13PM 11 adequately, you know, be able to address the</p> <p>08:13PM 12 situation with a patient.</p> <p>08:13PM 13 We've addressed the historic home in a</p> <p>08:13PM 14 couple of different ways. At one point we were</p> <p>08:13PM 15 keeping the historic home on the property, and next</p> <p>08:13PM 16 we were moving it across the street. Last count, we</p> <p>08:13PM 17 were keeping it on the property.</p> <p>08:13PM 18 But in any event, we are donating it to</p> <p>08:13PM 19 the Borough for the Borough's use, and providing a</p> <p>08:13PM 20 foundation for that historic home, and the two acres</p> <p>08:13PM 21 plus of environmentally-constrained property.</p> <p>08:13PM 22 You don't get a lot of applications</p> <p>08:13PM 23 where the Borough gets the benefit of that type of</p> <p>08:13PM 24 beneficial and positive consideration from an</p> <p>08:14PM 25 applicant.</p>	<p style="text-align: right;">63</p> <p>08:15PM 1 testimony by Mr. McElwee is also uncontradicted.</p> <p>08:16PM 2 There's nothing documentary in document format, in</p> <p>08:16PM 3 this record, that can contradict or that does</p> <p>08:16PM 4 contradict any of the testimony or examination of the</p> <p>08:16PM 5 written word of Mr. McElwee, our civil engineer, our</p> <p>08:16PM 6 architect, our traffic engineer, our landscape</p> <p>08:16PM 7 architect or our professional planner.</p> <p>08:16PM 8 This case clearly, as you all know,</p> <p>08:16PM 9 wasn't done in a couple of hours. A lot of thought,</p> <p>08:16PM 10 a lot of expense and a lot of redesign was put into</p> <p>08:16PM 11 this.</p> <p>08:16PM 12 Our use is an inherently beneficial</p> <p>08:16PM 13 use. And I'm sure you will hear from Mr. Szabo and</p> <p>08:17PM 14 Mr. Regan about what that means, but it's important</p> <p>08:17PM 15 for me to say the need is not what's at stake under</p> <p>08:17PM 16 the <u>Sica</u> test. There are four elements that you</p> <p>08:17PM 17 heard Mr. Williams testify to.</p> <p>08:17PM 18 The first is the designation of the</p> <p>08:17PM 19 public interest at stake. And the assisted living</p> <p>08:17PM 20 and memory care needs of our -- I can't even know</p> <p>08:17PM 21 that I'm saying this sitting here at my age now --</p> <p>08:17PM 22 (Laughter.)</p> <p>08:17PM 23 MR. REGAN: Senior citizens.</p> <p>08:17PM 24 MS. PRICE: I know, that's the public</p> <p>08:17PM 25 interest at stake here.</p>
<p style="text-align: right;">62</p> <p>08:14PM 1 There's been a lot of concern from the</p> <p>08:14PM 2 public about wetlands and vernal habitat and how to</p> <p>08:14PM 3 protect that area.</p> <p>08:14PM 4 The area is going to rest with the</p> <p>08:14PM 5 Borough. We won't have any rights to do anything</p> <p>08:14PM 6 with that acreage, because it will be the Borough's.</p> <p>08:14PM 7 And although we only had to do a</p> <p>08:14PM 8 50-foot buffer, we've provided an additional 10-foot</p> <p>08:14PM 9 buffer on the wetlands. So we've done a 60-foot</p> <p>08:14PM 10 buffer.</p> <p>08:14PM 11 DEP in their Letter of Interpretation</p> <p>08:14PM 12 said we were intermediate value, so 50 feet. And DEP</p> <p>08:14PM 13 did a site visit. It wasn't just based upon an</p> <p>08:14PM 14 application that was mailed in. They came out to the</p> <p>08:15PM 15 site and did a walk-through.</p> <p>08:15PM 16 And they said, yes, in fact, that there</p> <p>08:15PM 17 is a vernal habitat, but the only time that that was</p> <p>08:15PM 18 relevant would be if we were applying for any</p> <p>08:15PM 19 permits, which we're not.</p> <p>08:15PM 20 That LOI is part of this record. And</p> <p>08:15PM 21 that LOI is uncontradicted, in any respect, by any</p> <p>08:15PM 22 expert testimony. We're not applying for any</p> <p>08:15PM 23 additional permits. The LOI is in full force and</p> <p>08:15PM 24 effect to allow the construction of this project.</p> <p>08:15PM 25 Our expert testimony and our factual</p>	<p style="text-align: right;">64</p> <p>08:17PM 1 You know, our seniors, me being one,</p> <p>08:17PM 2 that's the public interest. And that is recognized,</p> <p>08:17PM 3 specifically, in the Municipal Land Use Law.</p> <p>08:17PM 4 Senior citizen housing, and it's not</p> <p>08:18PM 5 qualified, it doesn't say senior citizen housing that</p> <p>08:18PM 6 cannot be assisted living or that cannot be memory</p> <p>08:18PM 7 care. It's a global use. That's one of the areas in</p> <p>08:18PM 8 law that's provided as that public interest.</p> <p>08:18PM 9 The second public -- the second prong</p> <p>08:18PM 10 to it which I think that we also had no problem --</p> <p>08:18PM 11 let me just globally say, we had no problem with any</p> <p>08:18PM 12 of the four prongs under the <u>Sica</u> test.</p> <p>08:18PM 13 The second was: Are there any</p> <p>08:18PM 14 detrimental effects. The third: Are we able to</p> <p>08:18PM 15 reduce any effect by the imposition of reasonable</p> <p>08:18PM 16 conditions. And then the weighing of the positive</p> <p>08:19PM 17 and the negative.</p> <p>08:19PM 18 I've already talked about the</p> <p>08:19PM 19 conditions, 21 of them. And this board is capable of</p> <p>08:19PM 20 coming up with more reasonable conditions over and</p> <p>08:19PM 21 above the 21 that I have listed if, in fact, there</p> <p>08:19PM 22 are more issues that need to be looked at and for</p> <p>08:19PM 23 this applicant to handle during a resolution</p> <p>08:19PM 24 compliance timeframe.</p> <p>08:19PM 25 This is an oversized piece of property.</p>



<p style="text-align: right;">65</p> <p>08:19PM <b>1</b> The drainage right now is an existing condition that</p> <p>08:19PM <b>2</b> flows overland. We are reducing that drainage.</p> <p>08:19PM <b>3</b> We're not increasing it. We're reducing it. We're</p> <p>08:19PM <b>4</b> slowing the flow, the time and we're reducing the</p> <p>08:19PM <b>5</b> amount. And we are not violating a single DEP or</p> <p>08:20PM <b>6</b> local regulation. That's very significant for when</p> <p>08:20PM <b>7</b> this board acts.</p> <p>08:20PM <b>8</b> The board cannot overstep on governing</p> <p>08:20PM <b>9</b> regulations in that or any other field, and if we</p> <p>08:20PM <b>10</b> were violating a regulation, I certainly would have</p> <p>08:20PM <b>11</b> had to address that with our engineer and have him</p> <p>08:20PM <b>12</b> explain to you what we were violating and why. And</p> <p>08:20PM <b>13</b> you can bet -- I never know whether it's donuts to</p> <p>08:20PM <b>14</b> dollars or dollars to donuts -- but you can bet that</p> <p>08:20PM <b>15</b> we would have heard specific testimony about those</p> <p>08:20PM <b>16</b> regulations that we were violating because we heard a</p> <p>08:20PM <b>17</b> lot during this case. And there are no regulations</p> <p>08:20PM <b>18</b> being violated. So the drainage situation, we have</p> <p>08:21PM <b>19</b> totally improved.</p> <p>08:21PM <b>20</b> We tried to address things with the</p> <p>08:21PM <b>21</b> church next door. I don't know how many times we</p> <p>08:21PM <b>22</b> tried to set up an appointment with the church and we</p> <p>08:21PM <b>23</b> were met with closed doors one, two, three, no</p> <p>08:21PM <b>24</b> access. We wanted to get on the site. We had</p> <p>08:21PM <b>25</b> offered to get a camera investigation to see if they</p>	<p style="text-align: right;">67</p> <p>08:23PM <b>1</b> The same situation with the church with</p> <p>08:23PM <b>2</b> regard to the side yard, you'll remember. You asked</p> <p>08:23PM <b>3</b> whether we can increase the side yard. We looked.</p> <p>08:23PM <b>4</b> We made it bigger.</p> <p>08:23PM <b>5</b> At the same time we were doing that we</p> <p>08:23PM <b>6</b> looked to see the existing side yard on the church,</p> <p>08:23PM <b>7</b> and it turns out that they have less of a setback</p> <p>08:23PM <b>8</b> than what we were proposing. And the entire area of</p> <p>08:24PM <b>9</b> the church -- on the church's side is a driveway and</p> <p>08:24PM <b>10</b> their air conditioning units.</p> <p>08:24PM <b>11</b> But one of the questions came up and,</p> <p>08:24PM <b>12</b> again, I was asked to take back to the client, can</p> <p>08:24PM <b>13</b> you move the generator, because the generator's</p> <p>08:24PM <b>14</b> located on that side. And we don't want any noise</p> <p>08:24PM <b>15</b> issues. Can you schedule the testing time for the</p> <p>08:24PM <b>16</b> generator to be totally not near any of the church</p> <p>08:24PM <b>17</b> services? And can you mitigate the number of times</p> <p>08:24PM <b>18</b> the generator needs to be tested?</p> <p>08:24PM <b>19</b> We agreed to all of that. Another</p> <p>08:24PM <b>20</b> condition that could be contained in an approval by</p> <p>08:24PM <b>21</b> the board.</p> <p>08:24PM <b>22</b> It's just one item after another that</p> <p>08:25PM <b>23</b> we have tried to demonstrate how CSH can become a</p> <p>08:25PM <b>24</b> very productive, very beneficial resident of Old</p> <p>08:25PM <b>25</b> Tappan.</p>
<p style="text-align: right;">66</p> <p>08:21PM <b>1</b> were having a problem with their line, unable to do</p> <p>08:21PM <b>2</b> it. And that was outside of the design. That was</p> <p>08:21PM <b>3</b> another thing that we were doing outside of our</p> <p>08:21PM <b>4</b> property and outside of our application, but all to</p> <p>08:21PM <b>5</b> be a good neighbor and to see if there was any kind</p> <p>08:22PM <b>6</b> of a problem that needed to be addressed.</p> <p>08:22PM <b>7</b> We do not need a height variance in the</p> <p>08:22PM <b>8</b> true sense of the word. We need a variance to go</p> <p>08:22PM <b>9</b> from two-and-a-half stories to three, but we're</p> <p>08:22PM <b>10</b> compliant with the measurement of height, which is</p> <p>08:22PM <b>11</b> what the visual is. We're not asking to go to</p> <p>08:22PM <b>12</b> 50 feet, 60 feet. It's a difference between, with a</p> <p>08:22PM <b>13</b> half story.</p> <p>08:22PM <b>14</b> And this board asked us again, go back</p> <p>08:22PM <b>15</b> out onto Old Tappan Road and tell us what the</p> <p>08:22PM <b>16</b> situation looks like with your site and the church</p> <p>08:22PM <b>17</b> site, because is there going to be a big problem? Is</p> <p>08:23PM <b>18</b> it going to look like you're over shadowing the</p> <p>08:23PM <b>19</b> church?</p> <p>08:23PM <b>20</b> So we did it. And Mr. Sehnal</p> <p>08:23PM <b>21</b> testified. And guess what? We're actually going to</p> <p>08:23PM <b>22</b> be lower than the church.</p> <p>08:23PM <b>23</b> So that exercise demonstrated that our</p> <p>08:23PM <b>24</b> proposed plan had no negative impact on that visual</p> <p>08:23PM <b>25</b> component.</p>	<p style="text-align: right;">68</p> <p>08:25PM <b>1</b> Everybody likes quiet, trees-lined</p> <p>08:25PM <b>2</b> properties. And we've heard on several nights that</p> <p>08:25PM <b>3</b> people like to walk by the property in its current</p> <p>08:25PM <b>4</b> condition.</p> <p>08:25PM <b>5</b> Well, there's a bunch of properties in</p> <p>08:25PM <b>6</b> Ridgewood that I like to look at too, but I would</p> <p>08:25PM <b>7</b> never, ever think that I had the ability to say to a</p> <p>08:25PM <b>8</b> property owner, you can't do anything with your</p> <p>08:25PM <b>9</b> property because I like the way it looks, which is</p> <p>08:25PM <b>10</b> basically what some people are saying here.</p> <p>08:25PM <b>11</b> AUDIENCE MEMBERS: No, no, no.</p> <p>08:25PM <b>12</b> FEMALE AUDIENCE MEMBER: It's not true.</p> <p>08:25PM <b>13</b> FEMALE AUDIENCE MEMBER: Not true.</p> <p>08:25PM <b>14</b> (Audience Outburst.)</p> <p>08:26PM <b>15</b> MS. PRICE: Certain people said they</p> <p>08:26PM <b>16</b> like the way that the property exists today and they</p> <p>08:26PM <b>17</b> want it to remain in a park-like setting.</p> <p>08:26PM <b>18</b> And I submit that although the project</p> <p>08:26PM <b>19</b> needs some variance relief, the bulk regulations, by</p> <p>08:26PM <b>20</b> law, under the <u>Price vs. Himeji</u> case that</p> <p>08:26PM <b>21</b> Mr. Williams cited, are subsumed within the</p> <p>08:26PM <b>22</b> D variance, which is the inherently beneficial use of</p> <p>08:26PM <b>23</b> the assisted living and memory care use.</p> <p>08:26PM <b>24</b> So while we tried to minimize the</p> <p>08:26PM <b>25</b> number of those variances. And we were able to do</p>

<p style="text-align: right;">69</p> <p>08:26PM <b>1</b> that more as we went along. We eliminated the</p> <p>08:26PM <b>2</b> signage variance. We made some of the other</p> <p>08:26PM <b>3</b> variances smaller in number. Those variances are</p> <p>08:27PM <b>4</b> contained within the D variance, itself. And all</p> <p>08:27PM <b>5</b> those proofs are without contradiction by any</p> <p>08:27PM <b>6</b> professional expert testimony or documents, no</p> <p>08:27PM <b>7</b> evidence to show anything different.</p> <p>08:27PM <b>8</b> So it's our hope that with hearings</p> <p>08:27PM <b>9</b> that go back to February, and let me just see what</p> <p>08:27PM <b>10</b> the number is. I think we have exhibits numbering --</p> <p>08:28PM <b>11</b> Mr. Regan, you probably have the number</p> <p>08:28PM <b>12</b> of exhibits there.</p> <p>08:28PM <b>13</b> MR. REGAN: I have to go through my</p> <p>08:28PM <b>14</b> notes, 32 or 33 exhibits.</p> <p>08:28PM <b>15</b> MS. PRICE: Right, 32.</p> <p>08:28PM <b>16</b> MR. REGAN: The number of hearings is</p> <p>08:28PM <b>17</b> about seven or eight.</p> <p>08:28PM <b>18</b> MS. PRICE: Right, yeah. So 32 or 33</p> <p>08:28PM <b>19</b> exhibits that we've introduced without exhibits that</p> <p>08:28PM <b>20</b> go against those.</p> <p>08:28PM <b>21</b> I'd ask the board for its approval of</p> <p>08:28PM <b>22</b> this application. It will do a lot of good things</p> <p>08:28PM <b>23</b> for members of this community and members of the</p> <p>08:28PM <b>24</b> surrounding communities.</p> <p>08:28PM <b>25</b> FEMALE AUDIENCE MEMBER: No, no.</p>	<p style="text-align: right;">71</p> <p>08:30PM <b>1</b> MR. SZABO: Just a few, Mr. Chairman,</p> <p>08:30PM <b>2</b> if you can indulge me.</p> <p>08:30PM <b>3</b> I just wanted to, kind of, put things</p> <p>08:30PM <b>4</b> in context for the board for your deliberations and</p> <p>08:30PM <b>5</b> I'll -- and some of it may seem repetitive to some of</p> <p>08:30PM <b>6</b> the testimony that you had, but I want to share it</p> <p>08:30PM <b>7</b> from my perspective.</p> <p>08:30PM <b>8</b> The applicant is seeking a D-1</p> <p>08:30PM <b>9</b> variance, to permit a 100-bed senior assisted-living</p> <p>08:30PM <b>10</b> facility in a zone where it's not permitted.</p> <p>08:30PM <b>11</b> And I think it's important to</p> <p>08:30PM <b>12</b> understand and recognize that this board is acting in</p> <p>08:30PM <b>13</b> a quasi-judicial function.</p> <p>08:31PM <b>14</b> In other words, you're judges. And I</p> <p>08:31PM <b>15</b> think the public needs to understand that's why the</p> <p>08:31PM <b>16</b> Chairman was so hard on procedure, why certain things</p> <p>08:31PM <b>17</b> had to be done certain ways, because we're treating</p> <p>08:31PM <b>18</b> this case as a use variance as if we were in a court</p> <p>08:31PM <b>19</b> of law where there has to be witnesses. Then you</p> <p>08:31PM <b>20</b> have to have cross examination of witnesses. And</p> <p>08:31PM <b>21</b> then you get the summative as you've heard, but</p> <p>08:31PM <b>22</b> summation also comes from the public in the process.</p> <p>08:31PM <b>23</b> So there's a procedure. And the</p> <p>08:31PM <b>24</b> importance of that is because if you don't follow</p> <p>08:31PM <b>25</b> proper procedures, if you don't follow the structure</p>
<p style="text-align: right;">70</p> <p>08:28PM <b>1</b> MALE AUDIENCE MEMBER: No.</p> <p>08:28PM <b>2</b> AUDIENCE MEMBERS: No. No.</p> <p>08:28PM <b>3</b> (Audience Outburst.)</p> <p>08:28PM <b>4</b> MR. ELLER: Excuse me.</p> <p>08:28PM <b>5</b> MS. PRICE: I think that the Municipal</p> <p>08:28PM <b>6</b> Land Use Law very clearly talks about regional</p> <p>08:29PM <b>7</b> benefits, as well as local benefits, and the fact</p> <p>08:29PM <b>8</b> that planning boards and zoning boards of adjustment</p> <p>08:29PM <b>9</b> are charged not just with looking at what's in our</p> <p>08:29PM <b>10</b> four corners of our municipality, but looking beyond.</p> <p>08:29PM <b>11</b> And your counsel and your planner may</p> <p>08:29PM <b>12</b> be able to go beyond that statement, because that's</p> <p>08:29PM <b>13</b> not for me to go very far on, but there is a regional</p> <p>08:29PM <b>14</b> component to the Municipal Land Use Law with regard</p> <p>08:29PM <b>15</b> to planning and developing.</p> <p>08:29PM <b>16</b> So, again, I thank you. I hope our</p> <p>08:29PM <b>17</b> case was clearly understood and that the relief that</p> <p>08:30PM <b>18</b> we are seeking can be acted upon in accordance with</p> <p>08:30PM <b>19</b> the Municipal Land Use Law and that we can show that</p> <p>08:30PM <b>20</b> everything that we agreed to along the way we stand</p> <p>08:30PM <b>21</b> by our commitment.</p> <p>08:30PM <b>22</b> So thank you.</p> <p>08:30PM <b>23</b> CHAIRMAN WEIDMANN: Thank you.</p> <p>08:30PM <b>24</b> Mr. Szabo, do you have any comments</p> <p>08:30PM <b>25</b> regarding...</p>	<p style="text-align: right;">72</p> <p>08:31PM <b>1</b> of the law in this kind of application, you run the</p> <p>08:31PM <b>2</b> risk of being overturned just on a procedural ground</p> <p>08:31PM <b>3</b> by disenfranchising someone, for example, or because</p> <p>08:31PM <b>4</b> you didn't follow some regulatory requirement.</p> <p>08:31PM <b>5</b> So please don't take offense if there</p> <p>08:31PM <b>6</b> was -- if you felt that you were hamstrung or that</p> <p>08:31PM <b>7</b> the structure of the hearing was such that you</p> <p>08:31PM <b>8</b> weren't given an opportunity to be heard.</p> <p>08:32PM <b>9</b> The reality is that the board really</p> <p>08:32PM <b>10</b> has to follow certain protocols in the capacity that</p> <p>08:32PM <b>11</b> they acting in now as a quasi-judicial body.</p> <p>08:32PM <b>12</b> And I'm sharing this because it's going</p> <p>08:32PM <b>13</b> to be important to understand where I'm coming from</p> <p>08:32PM <b>14</b> in some of my -- my comments.</p> <p>08:32PM <b>15</b> Now, again, case law supports the</p> <p>08:32PM <b>16</b> classifications, certain types of senior housing is</p> <p>08:32PM <b>17</b> inherently beneficial, and specifically</p> <p>08:32PM <b>18</b> assisted-living senior facilities have been</p> <p>08:32PM <b>19</b> classified as such.</p> <p>08:32PM <b>20</b> I'm sure Mr. Regan will elaborate on</p> <p>08:32PM <b>21</b> some of the case law, because I'm not an attorney,</p> <p>08:32PM <b>22</b> but I'm aware of the case law.</p> <p>08:32PM <b>23</b> But he'll opine and offer some guidance</p> <p>08:32PM <b>24</b> on what case law has been on how these types of uses</p> <p>08:32PM <b>25</b> are classified.</p>

<p style="text-align: right;">73</p> <p>08:32PM <b>1</b> And what does that mean? What does it</p> <p>08:32PM <b>2</b> mean? Inherently beneficial means a lot of things to</p> <p>08:32PM <b>3</b> a lot of people, but in this proceeding what we care</p> <p>08:32PM <b>4</b> about is what does the law say? And when you look at</p> <p>08:32PM <b>5</b> the land use law, New Jersey Statutes annotated</p> <p>08:32PM <b>6</b> 40:55D-4, it actually defines what an inherently</p> <p>08:32PM <b>7</b> beneficial use is.</p> <p>08:32PM <b>8</b> An inherently beneficial use means a</p> <p>08:32PM <b>9</b> use which is universally considered of value to the</p> <p>08:33PM <b>10</b> community because it fundamentally serves the public</p> <p>08:33PM <b>11</b> good and promotes the general welfare. Such a use</p> <p>08:33PM <b>12</b> includes, but is not limited to, a hospital, a</p> <p>08:33PM <b>13</b> school, childcare center, group home or a wind, solar</p> <p>08:33PM <b>14</b> or photovoltaic energy facility or structure.</p> <p>08:33PM <b>15</b> So having classified assisted-living</p> <p>08:33PM <b>16</b> facilities, senior assisted-living facilities as</p> <p>08:33PM <b>17</b> inherently beneficial, it falls within this global</p> <p>08:33PM <b>18</b> category.</p> <p>08:33PM <b>19</b> Well, what does -- what does that mean</p> <p>08:33PM <b>20</b> in terms of the application? Well, it means that</p> <p>08:33PM <b>21</b> it's given special status. It's the simplest way to</p> <p>08:33PM <b>22</b> put it, that, you know, the applicant doesn't have to</p> <p>08:33PM <b>23</b> demonstrate things that you normally would require</p> <p>08:33PM <b>24</b> under a D-1 variance, which would mean special</p> <p>08:33PM <b>25</b> reasons, particular suitability and the enhanced</p>	<p style="text-align: right;">75</p> <p>08:34PM <b>1</b> heard a great deal of testimony about demographics</p> <p>08:34PM <b>2</b> and aging of -- of our population. And that has been</p> <p>08:34PM <b>3</b> provided on the record by the principal and also by</p> <p>08:35PM <b>4</b> the planner. And in my own experience, and I think</p> <p>08:35PM <b>5</b> we all know, that we're again as a society. I'm</p> <p>08:35PM <b>6</b> getting older. I'm now a senior. I didn't think I'd</p> <p>08:35PM <b>7</b> get there, but I did.</p> <p>08:35PM <b>8</b> I'm not -- I don't want sympathy, but I</p> <p>08:35PM <b>9</b> may end up in one of these places.</p> <p>08:35PM <b>10</b> But the bottom line is that we are</p> <p>08:35PM <b>11</b> living longer and we have growing numbers of seniors</p> <p>08:35PM <b>12</b> entering a period of time when they are required</p> <p>08:35PM <b>13</b> specialized care.</p> <p>08:35PM <b>14</b> There's a reason why residents of these</p> <p>08:35PM <b>15</b> type of facilities are in their 80s. I'm going to be</p> <p>08:35PM <b>16</b> 64. And I'm feeling it now. I can't imagine what an</p> <p>08:35PM <b>17</b> 80 or 80-plus-year-old at that point in their life</p> <p>08:35PM <b>18</b> where you just need specialized care. It doesn't</p> <p>08:35PM <b>19</b> mean that you're necessarily bedridden, could be, but</p> <p>08:35PM <b>20</b> that the normal functions of everyday living become a</p> <p>08:35PM <b>21</b> burden. And we try to relieve that burden with</p> <p>08:35PM <b>22</b> respect to the services that these types of</p> <p>08:35PM <b>23</b> facilities provide.</p> <p>08:35PM <b>24</b> So there's a public interest. It's not</p> <p>08:35PM <b>25</b> a market. It's not only specific to this town. The</p>
<p style="text-align: right;">74</p> <p>08:33PM <b>1</b> burden under the <u>Medici</u> case.</p> <p>08:33PM <b>2</b> And the point here is, it gets a</p> <p>08:33PM <b>3</b> special status, a special review.</p> <p>08:33PM <b>4</b> Now, does that mean that we approve</p> <p>08:34PM <b>5</b> every inherently beneficial use that comes across the</p> <p>08:34PM <b>6</b> board's dais? No.</p> <p>08:34PM <b>7</b> So then what does the board do? How</p> <p>08:34PM <b>8</b> does it evaluate this type of application that's</p> <p>08:34PM <b>9</b> inherently beneficial? What are the standards?</p> <p>08:34PM <b>10</b> Well, fortunately because the board is</p> <p>08:34PM <b>11</b> acting in a quasi-judicial function, and because we</p> <p>08:34PM <b>12</b> have case law, we have guidance from the courts on</p> <p>08:34PM <b>13</b> how we are supposed to approach the review of this</p> <p>08:34PM <b>14</b> type of application. And that would be the <u>Sica</u> case</p> <p>08:34PM <b>15</b> that you've heard mentioned and testified to by the</p> <p>08:34PM <b>16</b> applicant's planner, Mr. Williams.</p> <p>08:34PM <b>17</b> And the applicant is required to go</p> <p>08:34PM <b>18</b> through a four-prong analysis, present that to the</p> <p>08:34PM <b>19</b> board, and the board has to then evaluate that</p> <p>08:34PM <b>20</b> analysis and reconcile it to determine whether or not</p> <p>08:34PM <b>21</b> the detriments outweigh the benefits and whether or</p> <p>08:34PM <b>22</b> not the negative criteria can be addressed with</p> <p>08:34PM <b>23</b> reasonable conditions. And that's important.</p> <p>08:34PM <b>24</b> So let's -- let's -- let's break it</p> <p>08:34PM <b>25</b> down. Okay. The public interest at stake, you've</p>	<p style="text-align: right;">76</p> <p>08:36PM <b>1</b> land use law and planning, we do need to consider</p> <p>08:36PM <b>2</b> sometimes the community being more expansive. People</p> <p>08:36PM <b>3</b> move in. They move out. The need is still there,</p> <p>08:36PM <b>4</b> that's the interest.</p> <p>08:36PM <b>5</b> So that -- that was clarified by the</p> <p>08:36PM <b>6</b> applicant, provided to the board.</p> <p>08:36PM <b>7</b> We have to identify -- the applicant</p> <p>08:36PM <b>8</b> has to identify, the board needs to identify the</p> <p>08:36PM <b>9</b> detrimental effects that ensue from the grant of the</p> <p>08:36PM <b>10</b> variance, recognizing, and this is important, that</p> <p>08:36PM <b>11</b> there are always certain impacts associated with</p> <p>08:36PM <b>12</b> development from -- whether it's a permitted use or</p> <p>08:36PM <b>13</b> not, there's always going to be an impact from</p> <p>08:36PM <b>14</b> development. And we talked a lot about what those</p> <p>08:36PM <b>15</b> are.</p> <p>08:36PM <b>16</b> The discussions and concerns are</p> <p>08:36PM <b>17</b> centered on drainage, the loss of open space, tree</p> <p>08:36PM <b>18</b> coverage, traffic and the historic structure.</p> <p>08:36PM <b>19</b> Let's start with drainage, even though</p> <p>08:36PM <b>20</b> that's an in engineering issue. There's been a</p> <p>08:36PM <b>21</b> tremendous amount of testimony presented on drainage.</p> <p>08:37PM <b>22</b> I defer to the engineers that are licensed to do</p> <p>08:37PM <b>23</b> drainage work. Mr. Skrable, I have great confidence</p> <p>08:37PM <b>24</b> in his ability to review this to make sure that the</p> <p>08:37PM <b>25</b> drainage will be addressed.</p>

<p style="text-align: right;">77</p> <p>08:37PM <b>1</b> But also remember that this is on a</p> <p>08:37PM <b>2</b> county road, the county is going to get involved in</p> <p>08:37PM <b>3</b> some of that drainage also because they have</p> <p>08:37PM <b>4</b> jurisdiction over drainage and right-of-ways within</p> <p>08:37PM <b>5</b> the county, if it's a county road. So you've got</p> <p>08:37PM <b>6</b> many eyes looking at this.</p> <p>08:37PM <b>7</b> You're -- I understand there's a</p> <p>08:37PM <b>8</b> controversy between adjoining property owners over</p> <p>08:37PM <b>9</b> who has the right to do what. I think we discussed</p> <p>08:37PM <b>10</b> that very early on in the process. And it was</p> <p>08:37PM <b>11</b> suggested, well, you know what that -- that really is</p> <p>08:37PM <b>12</b> a legal issue in many respects.</p> <p>08:37PM <b>13</b> I'm not prepared to comment on that,</p> <p>08:37PM <b>14</b> but I do know that drainage issues are things that</p> <p>08:37PM <b>15</b> can get resolved through engineering practices.</p> <p>08:37PM <b>16</b> And it's just -- I had a -- I have many</p> <p>08:37PM <b>17</b> good friends that are engineers and, basically, they</p> <p>08:37PM <b>18</b> tell me with enough money you can solve pretty much</p> <p>08:37PM <b>19</b> any engineering issue.</p> <p>08:37PM <b>20</b> But, again, the -- the reliance of our</p> <p>08:38PM <b>21</b> own professionals, the county and the applicant's</p> <p>08:38PM <b>22</b> professionals to ensure that, you know, these types</p> <p>08:38PM <b>23</b> of issues are addressed.</p> <p>08:38PM <b>24</b> And remember, as was testified to</p> <p>08:38PM <b>25</b> numerous times, there are -- there are all kinds of</p>	<p style="text-align: right;">79</p> <p>08:39PM <b>1</b> (Audience Outburst.)</p> <p>08:39PM <b>2</b> MR. SZABO: However, maybe not to the</p> <p>08:39PM <b>3</b> degree of the type of development.</p> <p>08:39PM <b>4</b> But, again, to expect there will be no</p> <p>08:39PM <b>5</b> consequences or any kind of impact from any</p> <p>08:39PM <b>6</b> development on that property I think is unrealistic.</p> <p>08:39PM <b>7</b> And -- and, furthermore, the Borough has opted not to</p> <p>08:39PM <b>8</b> purchase the property, either for historic</p> <p>08:39PM <b>9</b> preservation purposes or open space, despite the</p> <p>08:39PM <b>10</b> Master Plan's recommendation.</p> <p>08:39PM <b>11</b> And I'll get into that in a moment.</p> <p>08:39PM <b>12</b> And that's a policy decision made by</p> <p>08:39PM <b>13</b> the Borough. And that's -- that's reality.</p> <p>08:39PM <b>14</b> Traffic, the applicant has provided</p> <p>08:39PM <b>15</b> traffic testimony to indicate that the traffic</p> <p>08:39PM <b>16</b> impacts to Old Tappan Road would be minimal.</p> <p>08:39PM <b>17</b> I provided -- I -- there's been no</p> <p>08:39PM <b>18</b> contradictory testimony otherwise. And I would point</p> <p>08:39PM <b>19</b> out that when issues were raised regarding the access</p> <p>08:40PM <b>20</b> and the widening of that road, the applicant is</p> <p>08:40PM <b>21</b> actually improving the situation in that regard.</p> <p>08:40PM <b>22</b> The historic structure is proposed to</p> <p>08:40PM <b>23</b> be relocated. There's been discussions about whether</p> <p>08:40PM <b>24</b> or not it loses historic status or not.</p> <p>08:40PM <b>25</b> I'm not a historic preservation expert</p>
<p style="text-align: right;">78</p> <p>08:38PM <b>1</b> regulations that protect wetlands, floodplain,</p> <p>08:38PM <b>2</b> drainage requirements, which are constantly being</p> <p>08:38PM <b>3</b> updated and upgraded to meet modern needs and</p> <p>08:38PM <b>4</b> standards.</p> <p>08:38PM <b>5</b> In fact, recently the NJ DEP issued</p> <p>08:38PM <b>6</b> orders to update, all municipalities to update their</p> <p>08:38PM <b>7</b> stormwater management standards and requirements and</p> <p>08:38PM <b>8</b> everybody had to do that as of last year.</p> <p>08:38PM <b>9</b> So the town of Old Tappan, the Borough,</p> <p>08:38PM <b>10</b> has done that.</p> <p>08:38PM <b>11</b> Loss of open space and tree cover.</p> <p>08:38PM <b>12</b> That -- that is always a troubling aspect of any</p> <p>08:38PM <b>13</b> development. I'm a strong advocate for preservation</p> <p>08:38PM <b>14</b> of open space and tree cover and fauna and flora and</p> <p>08:38PM <b>15</b> all of that.</p> <p>08:38PM <b>16</b> However, you can't ignore the fact that</p> <p>08:38PM <b>17</b> there are property rights to the developer associated</p> <p>08:39PM <b>18</b> with this property. So if a single-family developer</p> <p>08:39PM <b>19</b> came in for a five or six lot subdivision, there</p> <p>08:39PM <b>20</b> would be a lot of disturbance, tree removal and</p> <p>08:39PM <b>21</b> probably I suspect we'll be having the same</p> <p>08:39PM <b>22</b> conversation with that application we are having with</p> <p>08:39PM <b>23</b> this one.</p> <p>08:39PM <b>24</b> FEMALE AUDIENCE MEMBER: We don't know</p> <p>08:39PM <b>25</b> --</p>	<p style="text-align: right;">80</p> <p>08:40PM <b>1</b> either. However, I do know one important fact.</p> <p>08:40PM <b>2</b> Nothing is protecting that house now.</p> <p>08:40PM <b>3</b> The applicant can -- any developer who</p> <p>08:40PM <b>4</b> owns that property or this developer can knock that</p> <p>08:40PM <b>5</b> house down tomorrow. And the legacy would be lost</p> <p>08:40PM <b>6</b> forever.</p> <p>08:40PM <b>7</b> Now, sometimes when faced with those</p> <p>08:40PM <b>8</b> kinds of choices by a municipality or the government,</p> <p>08:40PM <b>9</b> you got to -- you have to pick. You have to decide</p> <p>08:40PM <b>10</b> what is the best way to preserve what we can and</p> <p>08:40PM <b>11</b> salvage what we can.</p> <p>08:40PM <b>12</b> And the decision was, we'll accept the</p> <p>08:40PM <b>13</b> donation. If you recall, originally the applicant</p> <p>08:40PM <b>14</b> was willing to subdivide the property and donate it</p> <p>08:40PM <b>15</b> to the Borough and leave it on its own tract.</p> <p>08:40PM <b>16</b> But through the discussions with the</p> <p>08:41PM <b>17</b> board and the municipality, it has evolved to a</p> <p>08:41PM <b>18</b> different solution. And it can go either way.</p> <p>08:41PM <b>19</b> However, I want to emphasize, nothing</p> <p>08:41PM <b>20</b> is protecting that historic structure today. And if</p> <p>08:41PM <b>21</b> the Borough feels that it can get some good use out</p> <p>08:41PM <b>22</b> of it on another location nearby, that's a policy</p> <p>08:41PM <b>23</b> decision on the part of the Borough.</p> <p>08:41PM <b>24</b> Ambulance and emergency service impacts</p> <p>08:41PM <b>25</b> have been discussed and -- and this comes up quite</p>

<p style="text-align: right;">81</p> <p>08:41PM 1 often in the municipalities I represent with these</p> <p>08:41PM 2 type of facilities and the applicant's agreed private</p> <p>08:41PM 3 ambulance corps. We'll have an emergency management</p> <p>08:41PM 4 and he will do the types of things that we feel would</p> <p>08:41PM 5 relieve the Borough of the burden of having to</p> <p>08:41PM 6 allocate scarce resources to emergency services</p> <p>08:41PM 7 connected to this use.</p> <p>08:41PM 8 So they're trying to address the</p> <p>08:41PM 9 impacts as best they can and that was offered.</p> <p>08:41PM 10 The board can impose reasonable</p> <p>08:41PM 11 conditions, that's part of the <u>Sica</u> balance. And a</p> <p>08:41PM 12 lot of those conditions are already embodied, in my</p> <p>08:42PM 13 opinion, in the -- the conditions that have been</p> <p>08:42PM 14 enumerated that they've agreed to already, which</p> <p>08:42PM 15 should be enumerated in any resolution of approval</p> <p>08:42PM 16 should the board be so inclined. You have the</p> <p>08:42PM 17 ability to put a reasonable condition on the use.</p> <p>08:42PM 18 I think the bottom line for me in my</p> <p>08:42PM 19 experience with these, and I've handled, and I've</p> <p>08:42PM 20 seen many applications like this, is that it's very</p> <p>08:42PM 21 difficult -- and it's not just assisted living, but</p> <p>08:42PM 22 any inherently beneficial use, it's very difficult to</p> <p>08:42PM 23 deny these things under circumstances where a lot of</p> <p>08:42PM 24 the issues are being addressed.</p> <p>08:42PM 25 I have a recent case just couple of</p>	<p style="text-align: right;">83</p> <p>08:43PM 1 could expect when you walk in to a board expecting</p> <p>08:43PM 2 approval just because you're inherently beneficial.</p> <p>08:43PM 3 But we're here a year talking about all</p> <p>08:43PM 4 the aspects of this application. And so all of that</p> <p>08:43PM 5 is part of the record that the board can weigh, and</p> <p>08:43PM 6 what has been agreed to, what remains outstanding and</p> <p>08:43PM 7 what needs to still be addressed.</p> <p>08:43PM 8 There had been comments about the</p> <p>08:43PM 9 Master Plan. I recognize that. I prepared the 2016</p> <p>08:44PM 10 Reexamination Report, periodic reexamination report</p> <p>08:44PM 11 on behalf of the board.</p> <p>08:44PM 12 It is -- yes, it is true that the prior</p> <p>08:44PM 13 plans did identify this property for preservation, it</p> <p>08:44PM 14 did say open space is important to the -- to the</p> <p>08:44PM 15 Borough and these are important comments and policy</p> <p>08:44PM 16 statements to makes in a document.</p> <p>08:44PM 17 The Master Plan documents also talk</p> <p>08:44PM 18 about providing for senior care, senior housing, both</p> <p>08:44PM 19 market and affordable. I think it's -- it's worth</p> <p>08:44PM 20 reading the policy statement.</p> <p>08:44PM 21 The Borough seeks to encourage the</p> <p>08:44PM 22 creation of both market-rate and affordable senior</p> <p>23 housing. And the policy statement is the baby boom</p> <p>24 generation continues to age. Old Tappan has</p> <p>25 witnessed the aging of its population. And there's a</p>
<p style="text-align: right;">82</p> <p>08:42PM 1 weeks ago in another jurisdiction I represent, where</p> <p>08:42PM 2 the board of adjustment denied a use variance for</p> <p>08:42PM 3 this use. And the judge took two minutes to overturn</p> <p>08:42PM 4 the decision, remanded it back to the board for</p> <p>08:42PM 5 conditions only and specifically told the board you</p> <p>08:42PM 6 cannot touch the density.</p> <p>08:42PM 7 So it -- I'm not saying it's</p> <p>08:42PM 8 impossible. There could be issues that are raised,</p> <p>08:42PM 9 but you have to satisfy the negative criteria.</p> <p>08:43PM 10 That's the one thing you can hang your hat on.</p> <p>08:43PM 11 And that's where the board needs to</p> <p>08:43PM 12 reconcile everything that they've heard against the</p> <p>08:43PM 13 negative criteria and can you balance that against</p> <p>08:43PM 14 reasonable conditions.</p> <p>08:43PM 15 But I will tell you that it's a tough</p> <p>08:43PM 16 row to hoe in front of a court. And if you're -- and</p> <p>08:43PM 17 if you're going to deny, you're going to need very,</p> <p>08:43PM 18 very clear and specific reasons and you hope they</p> <p>08:43PM 19 hold up.</p> <p>20 THE COURT REPORTER: I'm sorry, very</p> <p>21 specific reasons and what?</p> <p>22 MR. SZABO: Very specific reasons why</p> <p>23 you would deny an inherently beneficial use. Any</p> <p>24 inherent use. I mean you need a good reason.</p> <p>25 It's not a blanket approval that you</p>	<p style="text-align: right;">84</p> <p>1 general lack of housing design to service the unique</p> <p>2 needs of older residents.</p> <p>08:44PM 3 So what -- what does that mean? I</p> <p>08:44PM 4 mean, the Master Plan by, itself is not law. I mean,</p> <p>08:45PM 5 that's -- that's part of the -- the -- I think the</p> <p>08:45PM 6 public confusion about what is a Master Plan.</p> <p>08:45PM 7 The goals and policies of a Master Plan</p> <p>08:45PM 8 are an expression of a community's vision and desires</p> <p>08:45PM 9 intended to guide community decision-making, right?</p> <p>08:45PM 10 These are mostly aspirational. They're goals.</p> <p>08:45PM 11 They're policies. This is that what we want. This</p> <p>08:45PM 12 is what we're going to direct.</p> <p>08:45PM 13 But it is not unusual for plans to have</p> <p>08:45PM 14 a multiplicity of goals. You have more than one goal</p> <p>08:45PM 15 and you have to weigh what's important.</p> <p>08:45PM 16 And in this case the Borough's weighed</p> <p>08:45PM 17 the idea that, well, maybe we don't want to purchase</p> <p>08:45PM 18 this property right now for open space. We want to</p> <p>08:45PM 19 divert our resources elsewhere.</p> <p>08:45PM 20 And -- and so you have to reconcile all</p> <p>08:45PM 21 of those and it -- it doesn't mean that it's not</p> <p>08:45PM 22 important, it just means that you have to balance</p> <p>08:45PM 23 what your current needs are when you consider these</p> <p>08:45PM 24 matters.</p> <p>08:45PM 25 But you have two goals, but one of</p>

<p style="text-align: right;">85</p> <p>08:45PM <b>1</b> which is the creation of senior housing and</p> <p>08:45PM <b>2</b> affordable senior housing. And there's one other</p> <p>08:46PM <b>3</b> goal that the Master Plan talks about and is</p> <p>08:46PM <b>4</b> addressing the affordable housing need.</p> <p>08:46PM <b>5</b> I prepared the Housing Element and Fair</p> <p>08:46PM <b>6</b> Share Plan and guided the Borough through the second</p> <p>08:46PM <b>7</b> -- the third round process. And the Borough has a</p> <p>08:46PM <b>8</b> third-round affordable housing obligation of 271</p> <p>08:46PM <b>9</b> units. And it has an unmet need of 240.</p> <p>08:46PM <b>10</b> Now -- and so the development would</p> <p>08:46PM <b>11</b> provide affordable housing units. And the Borough is</p> <p>08:46PM <b>12</b> kind of obligated under its settlement with Fair</p> <p>08:46PM <b>13</b> Share Housing to capture as many affordable housing</p> <p>08:46PM <b>14</b> units as it can as the opportunities arise, should</p> <p>08:46PM <b>15</b> they arise.</p> <p>08:46PM <b>16</b> And, again, you know, to sum up,</p> <p>08:46PM <b>17</b> additional consideration's here, not to marginalize</p> <p>08:46PM <b>18</b> the concerns expressed by the public, you know, I</p> <p>08:46PM <b>19</b> think that they're all valid. They're all concerns.</p> <p>08:46PM <b>20</b> But I have a concern going forward</p> <p>08:46PM <b>21</b> because the forth round is coming very quickly.</p> <p>08:46PM <b>22</b> July 1, 2025 is right around the corner. It's</p> <p>08:47PM <b>23</b> getting here, it'll be here before we know it. And</p> <p>08:47PM <b>24</b> we still don't have rules that go forward for the</p> <p>08:47PM <b>25</b> fourth round.</p>	<p style="text-align: right;">87</p> <p>08:48PM <b>1</b> Borough has. They're not good ones, but they are</p> <p>08:48PM <b>2</b> what they are.</p> <p>08:48PM <b>3</b> So where does this leave the board?</p> <p>08:48PM <b>4</b> Having heard all the testimony, applying the <u>Sica</u></p> <p>08:48PM <b>5</b> balancing, applying the calculus that the courts are</p> <p>08:48PM <b>6</b> requiring, it's going to be up to you now to</p> <p>08:48PM <b>7</b> determine whether or not the interest has been</p> <p>08:48PM <b>8</b> identified, whether the impacts are identified,</p> <p>08:48PM <b>9</b> whether they can be ameliorated with -- with</p> <p>08:48PM <b>10</b> appropriate conditions.</p> <p>08:48PM <b>11</b> And then finally weigh that and say</p> <p>08:48PM <b>12</b> this use can go forward. And that, unfortunately --</p> <p>08:48PM <b>13</b> well, it's your job, it falls on your lap.</p> <p>08:49PM <b>14</b> So I'll -- I'll defer to Mr. Regan --</p> <p>08:49PM <b>15</b> oh, and on the -- on the issue of subsummation, that</p> <p>08:49PM <b>16</b> came up tonight, it's a generally recognized</p> <p>08:49PM <b>17</b> principal and I -- I agree with Mr. Williams and --</p> <p>08:49PM <b>18</b> and Mr. Regan will speak to the case law. There are</p> <p>08:49PM <b>19</b> numerous -- there are numerous cases that talk to it.</p> <p>08:49PM <b>20</b> MR. REGAN: The main case being <u>Price</u></p> <p>08:49PM <b>21</b> <u>vs. Himeji</u>, the Union City case.</p> <p>08:49PM <b>22</b> MR. SZABO: Right.</p> <p>08:49PM <b>23</b> I won't steal your thunder, but...</p> <p>08:49PM <b>24</b> (Laughter.)</p> <p>08:49PM <b>25</b> MR. REGAN: You already have.</p>
<p style="text-align: right;">86</p> <p>08:47PM <b>1</b> And I'm anticipating that unless the</p> <p>08:47PM <b>2</b> legislature does something soon, very soon, we're</p> <p>08:47PM <b>3</b> going to be going through this process again through</p> <p>08:47PM <b>4</b> the courts. What does that mean for this property?</p> <p>08:47PM <b>5</b> If this property remains undeveloped, and it hasn't</p> <p>08:47PM <b>6</b> been developed, the zoning has been in place. No one</p> <p>08:47PM <b>7</b> has come forward to do a conforming development here.</p> <p>08:47PM <b>8</b> If this property is available on</p> <p>08:47PM <b>9</b> July 1, 2025, I'm willing to bet that this property</p> <p>08:47PM <b>10</b> will be in play at a much higher density than we have</p> <p>08:47PM <b>11</b> settled for before, because fair share is pushing and</p> <p>08:47PM <b>12</b> pushing units and density.</p> <p>08:47PM <b>13</b> So, again, the cautionary note. I</p> <p>08:47PM <b>14</b> think we'll be back here again, either with this or</p> <p>08:47PM <b>15</b> probably a multifamily development in the future. I</p> <p>08:47PM <b>16</b> don't see -- under current conditions whether or not</p> <p>08:48PM <b>17</b> someone is going to offer or come in to do a five or</p> <p>08:48PM <b>18</b> six -- I don't think you can get six lots, but a</p> <p>08:48PM <b>19</b> five-lot subdivision, because remember, the site is</p> <p>08:48PM <b>20</b> constrained.</p> <p>08:48PM <b>21</b> It has a wetland area. It has a buffer</p> <p>08:48PM <b>22</b> requirement, which the applicant is adhering to.</p> <p>08:48PM <b>23</b> But there is going to be that reality</p> <p>08:48PM <b>24</b> at some point.</p> <p>08:48PM <b>25</b> So those are the options that the</p>	<p style="text-align: right;">88</p> <p>08:49PM <b>1</b> MR. SZABO: I'm getting old.</p> <p>08:49PM <b>2</b> MR. REGAN: I'm older.</p> <p>08:49PM <b>3</b> MR. SZABO: Yeah, blame it on the age.</p> <p>08:49PM <b>4</b> I think that the -- it's interesting about</p> <p>08:49PM <b>5</b> subsummation.</p> <p>08:49PM <b>6</b> Yes, the C variances are subsumed, but</p> <p>08:49PM <b>7</b> you consider those variations from the zoning within</p> <p>08:49PM <b>8</b> the context of the D-1. You don't ignore it. You</p> <p>08:49PM <b>9</b> never ignore the impacts of a noncompliance.</p> <p>08:49PM <b>10</b> But the courts have long recognized</p> <p>08:49PM <b>11</b> that this is a single-family zone. If you were to</p> <p>08:49PM <b>12</b> put a gas station there, how do you apply setbacks</p> <p>08:50PM <b>13</b> and all kinds of requirements to a use that's not</p> <p>08:50PM <b>14</b> permitted or to an assisted-living facility, which</p> <p>08:50PM <b>15</b> has different design criteria?</p> <p>08:50PM <b>16</b> And, finally, one last thought, and I</p> <p>08:50PM <b>17</b> think this -- this aspect of the application has been</p> <p>08:50PM <b>18</b> marginalized, location. The proximity to Bi --</p> <p>08:50PM <b>19</b> Bi-County for the seniors, just because you're in</p> <p>08:50PM <b>20</b> assisted living doesn't necessarily mean you're</p> <p>08:50PM <b>21</b> bedridden. So, you have the benefit of the</p> <p>08:50PM <b>22</b> walkability to Bi-County. You have the benefit of</p> <p>08:50PM <b>23</b> walkability to town hall. You have the fire</p> <p>08:50PM <b>24</b> department right around the corner. You have</p> <p>08:50PM <b>25</b> ambulance corps. You have all the services you need</p>

<p style="text-align: right;">89</p> <p>08:50PM 1 within -- within walking distance almost to the</p> <p>08:50PM 2 facility, to the location. And it adjoins -- it</p> <p>08:50PM 3 adjoins a church on one side and a house on the</p> <p>08:50PM 4 other. It's in a -- what I would characterize as,</p> <p>08:50PM 5 kind of, like a transitional, kind of, area that you</p> <p>08:50PM 6 -- you have the ability to kind of figure out what</p> <p>08:51PM 7 could go there if a single-family development was,</p> <p>08:51PM 8 and I think that the locational advantage this offers</p> <p>08:51PM 9 are advantageous to a senior development. You may</p> <p>08:51PM 10 not agree, but I'm just pointing out it's nice to be</p> <p>08:51PM 11 able to walk to the pharmacy. It's nice to be able</p> <p>08:51PM 12 to get, you know, to the Borough hall for whatever</p> <p>08:51PM 13 services and council you may want. Those kinds of</p> <p>08:51PM 14 things -- and it's in -- it's right there.</p> <p>08:51PM 15 So with that, I conclude and I also --</p> <p>08:51PM 16 Mr. Regan, whatever thunder you have left.</p> <p>08:51PM 17 MR. REGAN: Not -- not a lot, but I</p> <p>08:51PM 18 agree with everything you said.</p> <p>08:51PM 19 If I can ask you a question which is</p> <p>08:51PM 20 somewhat troubling me. This site is 5.46 acres</p> <p>08:51PM 21 approximately?</p> <p>08:51PM 22 MR. SZABO: Correct.</p> <p>08:51PM 23 MR. REGAN: My -- my concern is you</p> <p>08:51PM 24 expressed July 1, 2025 is just right around the</p> <p>08:51PM 25 corner.</p>	<p style="text-align: right;">91</p> <p>08:52PM 1 MR. REGAN: Added on to the fourth</p> <p>08:52PM 2 round.</p> <p>08:52PM 3 MR. SZABO: That's what happened in the</p> <p>08:52PM 4 third round.</p> <p>08:52PM 5 MR. REGAN: Right.</p> <p>08:52PM 6 MR. SZABO: And then I think because</p> <p>08:52PM 7 the community has sewer capacity and there's sewer</p> <p>08:52PM 8 available, you're looking at densities of maybe in</p> <p>08:53PM 9 excess of 12, probably now Fair Share is looking at</p> <p>08:53PM 10 15, 20.</p> <p>08:53PM 11 MR. REGAN: You're talking about</p> <p>08:53PM 12 exposure of maybe between 60 and 90 units?</p> <p>08:53PM 13 MR. SZABO: Possibly.</p> <p>08:53PM 14 I mean, it's speculative, Mr. Regan.</p> <p>08:53PM 15 MR. REGAN: I know.</p> <p>08:53PM 16 MR. SZABO: But let's -- let's assume</p> <p>08:53PM 17 --</p> <p>08:53PM 18 MR. REGAN: They're not going to be</p> <p>08:53PM 19 single-family homes?</p> <p>08:53PM 20 MR. SZABO: It won't be single-family</p> <p>08:53PM 21 homes.</p> <p>08:53PM 22 And -- and the way this -- this</p> <p>08:53PM 23 property would enter into the system would be by</p> <p>08:53PM 24 intervention, because there is a structure on it,</p> <p>08:53PM 25 unless that structure is -- is knocked down, it would</p>
<p style="text-align: right;">90</p> <p>08:51PM 1 Any vacant land within the Borough will</p> <p>08:51PM 2 be looked at, in my opinion, by Fair Share Housing</p> <p>08:51PM 3 Center.</p> <p>08:51PM 4 The Borough had an unmet need of</p> <p>08:51PM 5 approximately 240 units under its approved plan with</p> <p>08:51PM 6 the court and Fair Share Housing Center.</p> <p>08:52PM 7 I believe 40 of those units have</p> <p>08:52PM 8 satisfied out of Pearson, which would leave an unmet</p> <p>08:52PM 9 need of about 200, somewhere in that area, but it may</p> <p>08:52PM 10 be a little bit less because there may be some bonus</p> <p>08:52PM 11 credits at Pearson. But at least it's in the 180</p> <p>08:52PM 12 range for an unmet need.</p> <p>08:52PM 13 What exposure would the municipality</p> <p>08:52PM 14 have on July 1, 2025, if this land is vacant?</p> <p>08:52PM 15 MR. SZABO: It would be twofold. One,</p> <p>08:52PM 16 I don't know what the regulations in the future will</p> <p>08:52PM 17 be, but --</p> <p>08:52PM 18 MR. REGAN: No one knows, right?</p> <p>08:52PM 19 MR. SZABO: No one does.</p> <p>08:52PM 20 I mean, if we go on the tract, based on</p> <p>08:52PM 21 past history for the third round, what would happen</p> <p>08:52PM 22 is that the unmet need, and I fear this, but it's</p> <p>08:52PM 23 coming, will become prior round obligations.</p> <p>08:52PM 24 MR. REGAN: That's an add-on.</p> <p>08:52PM 25 MR. SZABO: It's an add-on.</p>	<p style="text-align: right;">92</p> <p>08:53PM 1 become vacant and be considered.</p> <p>08:53PM 2 By the way, the Borough does not have</p> <p>08:53PM 3 much vacant land. We were able to satisfy our</p> <p>08:53PM 4 obligation by virtue of the redevelopment of the</p> <p>08:53PM 5 Pearson property, which absorbed a lot of the RDP we</p> <p>08:53PM 6 --</p> <p>08:53PM 7 MS. HAVERILLA: But that -- that</p> <p>08:53PM 8 obligation -- that -- the 240 is actually what we</p> <p>08:53PM 9 have as an unmet need.</p> <p>08:53PM 10 MR. SZABO: That is correct.</p> <p>08:53PM 11 MS. HAVERILLA: That is the number we</p> <p>08:53PM 12 came down to with Pearson --</p> <p>08:53PM 13 MR. SZABO: Correct --</p> <p>08:53PM 14 MS. HAVERILLA: -- with Pearson --</p> <p>08:53PM 15 MR. SZABO: -- 271 --</p> <p>08:53PM 16 MS. HAVERILLA: We still have 240.</p> <p>08:53PM 17 MR. SZABO: Right, that's correct.</p> <p>08:53PM 18 That's correct.</p> <p>08:53PM 19 MS. HAVERILLA: And they counted every</p> <p>08:53PM 20 single part of Old Tappan when they did this number</p> <p>08:53PM 21 considering even Lake Tappan was in there and the</p> <p>08:53PM 22 golf course.</p> <p>08:53PM 23 MR. SZABO: Correct.</p> <p>08:53PM 24 MS. HAVERILLA: So who knows what</p> <p>08:54PM 25 they're going to put into this.</p>

<p style="text-align: right;">93</p> <p>08:54PM 1 (Audience Outburst.)</p> <p>08:54PM 2 MR. SZABO: We don't -- we don't know.</p> <p>08:54PM 3 So it is -- it is -- I think that -- I understand the</p> <p>08:54PM 4 public. I sympathize -- I empathize with that. I --</p> <p>08:54PM 5 I understand it.</p> <p>08:54PM 6 We go through this in planning all the</p> <p>08:54PM 7 time, but the reality is that the board -- is faced</p> <p>08:54PM 8 with facts that are being presented to you tonight</p> <p>08:54PM 9 and have been for almost a year.</p> <p>08:54PM 10 And you have to weigh all of that. And</p> <p>08:54PM 11 it's my job to just, kind of, lay it out and</p> <p>08:54PM 12 providing context. What the board decides is -- is</p> <p>08:54PM 13 up to you.</p> <p>08:54PM 14 MR. REGAN: Yeah, just a couple of</p> <p>08:54PM 15 things.</p> <p>08:54PM 16 I'm not sure if what I was going to say</p> <p>08:54PM 17 would be redundant, but it's -- the case law is</p> <p>08:54PM 18 overwhelming when it comes to a nursing home use.</p> <p>08:54PM 19 We've heard it's deemed to be an inherently</p> <p>08:54PM 20 beneficial use, perhaps the most frequently cited</p> <p>08:54PM 21 case is <u>Urban Farms vs. Franklin Lakes</u> which involved</p> <p>08:54PM 22 a 120-bed home in that municipality.</p> <p>08:55PM 23 I just want to read something from --</p> <p>08:55PM 24 you've heard, I think, several people referenced the</p> <p>08:55PM 25 Cox treatise on zoning and land use administration,</p>	<p style="text-align: right;">95</p> <p>08:56PM 1 denials of such applications, courts have</p> <p>08:56PM 2 emphasized the positive criteria, that is the</p> <p>08:56PM 3 particularly great benefit to the community at</p> <p>08:56PM 4 large inherent in these uses."</p> <p>08:56PM 5 I think that that's exactly what</p> <p>08:56PM 6 Mr. Szabo was referencing.</p> <p>08:56PM 7 And that brings into play the four-part</p> <p>08:56PM 8 analysis in <u>Sica vs. Wall Township</u>, which Mr. Szabo</p> <p>08:56PM 9 referred to.</p> <p>08:56PM 10 The first step is to identify the</p> <p>08:56PM 11 public interest at stake. We know that nursing homes</p> <p>08:56PM 12 are an inherently beneficial use. I think even more</p> <p>08:56PM 13 significant to the public interest is that Medicaid</p> <p>08:56PM 14 beds will be provided. And the courts have held that</p> <p>08:56PM 15 Medicaid beds serve the general, and promote the</p> <p>08:56PM 16 general welfare.</p> <p>08:56PM 17 And we also have an affordable</p> <p>08:56PM 18 component because of the Medicaid beds, which will</p> <p>08:56PM 19 promote affordable housing, which is also deemed to</p> <p>08:56PM 20 be a general benefit or a general welfare under the</p> <p>08:57PM 21 Municipal Land Use Law.</p> <p>08:57PM 22 Mr. Szabo talked about identifying</p> <p>08:57PM 23 detrimental effects that will ensue from the granting</p> <p>08:57PM 24 of the variance. And in <u>Sica</u> the court said, an</p> <p>08:57PM 25 increase in traffic will usually attend any</p>
<p style="text-align: right;">94</p> <p>08:55PM 1 the 2022 Edition. I just want to read an excerpt.</p> <p>08:55PM 2 "It was also held that nursing homes</p> <p>08:55PM 3 and hospitals are uses which are so similar</p> <p>08:55PM 4 both physically and functionally."</p> <p>08:55PM 5 And you heard Mr. Szabo mention that</p> <p>08:55PM 6 hospitals are deemed an inherently beneficial use in</p> <p>08:55PM 7 the language of the MLUL.</p> <p>08:55PM 8 "That their disparate classification</p> <p>08:55PM 9 for zoning purposes cannot be justified..."</p> <p>08:55PM 10 citing the Urban Farms case.</p> <p>08:55PM 11 And another case <u>PDM Construction Corp.</u></p> <p>08:55PM 12 <u>vs. Welsh</u> noting there was no question but a private</p> <p>08:55PM 13 nursing home served the general welfare as much as</p> <p>08:55PM 14 public.</p> <p>08:55PM 15 And another case, <u>Mercurio vs.</u></p> <p>08:55PM 16 <u>DelVecchio</u> noting that nursing homes are inherently</p> <p>08:55PM 17 beneficial uses.</p> <p>08:55PM 18 I just want to read this other excerpt:</p> <p>08:55PM 19 "Because medical and nursing home</p> <p>08:55PM 20 facilities tend to involve very intensive use</p> <p>08:55PM 21 of property there has been a great deal of</p> <p>08:55PM 22 focus on the negative criteria when</p> <p>08:55PM 23 applications for such facilities come before</p> <p>08:55PM 24 boards. For purpose of this discussion it's</p> <p>08:56PM 25 important to note that in reviewing board</p>	<p style="text-align: right;">96</p> <p>1 nonresidential use in a residential zone.</p> <p>2 The court said that when minimal such</p> <p>3 effect need not outweigh an inherently beneficial use</p> <p>4 that satisfies the positive criteria.</p> <p>5 The traffic report that the applicant</p> <p>6 submitted, to my knowledge, has not been</p> <p>08:57PM 7 contradicted, that there would be appropriate levels</p> <p>08:57PM 8 of service at the site driveway.</p> <p>08:57PM 9 And there's also been testimony that</p> <p>08:57PM 10 the use will generate less traffic than even a</p> <p>08:57PM 11 single-family residential development of four, five</p> <p>08:57PM 12 or six homes.</p> <p>08:57PM 13 FEMALE AUDIENCE MEMBER: Oh my God.</p> <p>08:57PM 14 (Audience Outburst.)</p> <p>08:57PM 15 MR. REGAN: That's what the testimony</p> <p>08:57PM 16 was.</p> <p>08:57PM 17 Now, Mr. Szabo referred to that in some</p> <p>08:57PM 18 situations the board may reduce any detrimental</p> <p>08:57PM 19 effect by imposing reasonable conditions on the use.</p> <p>08:57PM 20 Any approval will have, as a condition, that</p> <p>08:57PM 21 providing an ambulance service, a submission of a</p> <p>08:58PM 22 contract for private ambulance service for the</p> <p>08:58PM 23 development; that the shift changes will occur so as</p> <p>08:58PM 24 not to interfere with school beginning and end times;</p> <p>08:58PM 25 and also that the historic structure will be</p>



<p>97</p> <p>08:58PM <b>1</b> relocated to the site designated by the Borough at</p> <p>08:58PM <b>2</b> the applicant's expense.</p> <p>08:58PM <b>3</b> And, again, I think it's undisputed</p> <p>08:58PM <b>4</b> that someone could go in there tomorrow, pull a</p> <p>08:58PM <b>5</b> permit for demolition and knock that house down.</p> <p>08:58PM <b>6</b> So to deny this application, the</p> <p>08:58PM <b>7</b> detriment must be substantial. And I think you'd</p> <p>08:58PM <b>8</b> have a hard time demonstrating to a court that the</p> <p>08:58PM <b>9</b> detriment will be substantial in this application.</p> <p>08:58PM <b>10</b> CHAIRMAN WEIDMANN: Okay.</p> <p>08:58PM <b>11</b> MR. REGAN: Thank you.</p> <p>08:58PM <b>12</b> CHAIRMAN WEIDMANN: Thank you.</p> <p>08:58PM <b>13</b> I'm going to ask each board member to</p> <p>08:58PM <b>14</b> ask a question and if they do, let's not be</p> <p>08:58PM <b>15</b> repetitive as to what we already heard.</p> <p>08:58PM <b>16</b> Okay. Do you have anything, Charlie?</p> <p>08:59PM <b>17</b> MR. MAGGIO: Yeah.</p> <p>08:59PM <b>18</b> Actually I have a couple of questions.</p> <p>08:59PM <b>19</b> I think they've been really answered by -- by John</p> <p>08:59PM <b>20</b> and Bob, but I just wanted to make sure I completely</p> <p>08:59PM <b>21</b> understood what the impact will be.</p> <p>08:59PM <b>22</b> Before I did that, I did want to make a</p> <p>08:59PM <b>23</b> couple of -- a couple of minor statements.</p> <p>08:59PM <b>24</b> You know, I work in the healthcare</p> <p>08:59PM <b>25</b> design and construction industry, so I have some</p>	<p>99</p> <p><b>1</b> So I just wanted to clarify a couple of</p> <p>09:00PM <b>2</b> things that were bugging me tonight that came up.</p> <p>09:00PM <b>3</b> Two questions I have, I think you --</p> <p>09:00PM <b>4</b> you answered them, but I really want to be extra</p> <p>09:00PM <b>5</b> clear, because the audience, the crowd needs to hear</p> <p>09:00PM <b>6</b> it clearly.</p> <p>09:00PM <b>7</b> So if this application is denied, will</p> <p>09:00PM <b>8</b> the courts perceive -- I'm writing this down, so I'm</p> <p>09:00PM <b>9</b> reading my notes -- will the courts perceive an</p> <p>09:00PM <b>10</b> assisted-living facility or any other senior housing</p> <p>09:00PM <b>11</b> as an inherently beneficial use?</p> <p>09:00PM <b>12</b> MR. REGAN: In my opinion, yes, no</p> <p>09:00PM <b>13</b> question about it.</p> <p>09:00PM <b>14</b> MR. MAGGIO: Okay.</p> <p>09:00PM <b>15</b> And then the second, and I think John</p> <p>09:00PM <b>16</b> answered this pretty clearly, the alternative is</p> <p>09:00PM <b>17</b> either now or some time in the next two-and-a-half</p> <p>09:01PM <b>18</b> years, before the fourth round comes along, we have</p> <p>09:01PM <b>19</b> an exposure that could be up to 60 to 90 units --</p> <p>09:01PM <b>20</b> MR. REGAN: Yes, you're right.</p> <p>09:01PM <b>21</b> MR. MAGGIO: And 60 to 90 units, even</p> <p>09:01PM <b>22</b> if you were on the small end of 60 units, it's going</p> <p>09:01PM <b>23</b> to be a lot more than 81,000 square feet.</p> <p>09:01PM <b>24</b> Is that safe to say?</p> <p>09:01PM <b>25</b> MR. SZABO: I can't speculate on the</p>
<p>98</p> <p>08:59PM <b>1</b> knowledge of this stuff.</p> <p>08:59PM <b>2</b> We've used the term "beds" a lot</p> <p>08:59PM <b>3</b> tonight and over the last eleven months. And -- and</p> <p>08:59PM <b>4</b> in the industry they're not considered beds, they're</p> <p>08:59PM <b>5</b> considered residents. And there's a reason for that.</p> <p>08:59PM <b>6</b> The reason for that is these are people, they're not</p> <p>08:59PM <b>7</b> furniture. And so we have to keep that in mind when</p> <p>08:59PM <b>8</b> we're developing senior housing of any type including</p> <p>08:59PM <b>9</b> assisted living, that these are residents, that's</p> <p>08:59PM <b>10</b> number one.</p> <p>08:59PM <b>11</b> Number two, there was the comment made</p> <p>08:59PM <b>12</b> about certificate of need and having submitted many</p> <p>08:59PM <b>13</b> certificates of need to the state in my career, I can</p> <p>08:59PM <b>14</b> tell you that the state is supposed to, I don't know</p> <p>08:59PM <b>15</b> if they do or not, because I don't know what goes on</p> <p>09:00PM <b>16</b> behind closed doors, what goes behind the curtain,</p> <p>09:00PM <b>17</b> but the state is supposed to look at the need and the</p> <p>09:00PM <b>18</b> requirement. They look at demographics. They look</p> <p>09:00PM <b>19</b> at the amount of residents, not beds in the</p> <p>09:00PM <b>20</b> community. And they -- and they evaluate that. And</p> <p>09:00PM <b>21</b> that's part of their decision when they make this.</p> <p><b>22</b> The same way they look at hospital</p> <p><b>23</b> beds. The same way they look at MRIs. The same way</p> <p><b>24</b> they look at urgent care centers, they're supposed to</p> <p><b>25</b> look at that as well.</p>	<p>100</p> <p>09:01PM <b>1</b> size and massing of the building for that number of</p> <p>09:01PM <b>2</b> units, but, you know, it's not going to be a</p> <p>09:01PM <b>3</b> single-story --</p> <p>09:01PM <b>4</b> MR. MAGGIO: Right.</p> <p>09:01PM <b>5</b> MR. ELLER: A lot more parking spots</p> <p>09:01PM <b>6</b> for the building.</p> <p>09:01PM <b>7</b> MR. MAGGIO: Right, and then that's --</p> <p>09:01PM <b>8</b> that's my concern. My concern is what are we going</p> <p>09:01PM <b>9</b> to end up with as a result of that.</p> <p>09:01PM <b>10</b> I have other comments about -- about</p> <p>09:01PM <b>11</b> the presentation that was made. I'll save it for</p> <p>09:01PM <b>12</b> when I cast my vote.</p> <p>09:01PM <b>13</b> CHAIRMAN WEIDMANN: I have one question</p> <p>09:01PM <b>14</b> regarding the moving of the house.</p> <p>09:01PM <b>15</b> Has that been agreed to with the</p> <p><b>16</b> Borough of Old Tappan?</p> <p><b>17</b> FEMALE AUDIENCE MEMBER: We can't hear</p> <p><b>18</b> you.</p> <p><b>19</b> MALE AUDIENCE MEMBER: Can't hear you.</p> <p><b>20</b> (Audience Outburst.)</p> <p><b>21</b> CHAIRMAN WEIDMANN: The moving of the</p> <p>09:02PM <b>22</b> old house across the street, has that been agreed</p> <p>09:02PM <b>23</b> with the Borough of Old Tappan?</p> <p>09:02PM <b>24</b> MS. PRICE: We've put on the record</p> <p>09:02PM <b>25</b> here that we --</p>

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09:02PM	1	CHAIRMAN WEIDMANN: But you have not	09:03PM	1	MR. REGAN: Well, of course.
09:02PM	2	spoke to anybody from the Borough?	09:03PM	2	VICE CHAIRMAN MAMARY: So -- but if
09:02PM	3	MS. PRICE: I think that would be	09:03PM	3	somebody was to say or the public was to say they
09:02PM	4	premature, Mr. Chairman, because until we have an	09:03PM	4	wanted it, but they just didn't want it there for
09:02PM	5	action --	09:03PM	5	whatever their reasons are, is that a defense of the
09:02PM	6	CHAIRMAN WEIDMANN: Okay. So if this	09:03PM	6	--
09:02PM	7	is approved, it's going to be a condition?	09:03PM	7	MR. REGAN: No, you would have to --
09:02PM	8	MS. PRICE: Correct.	09:03PM	8	VICE CHAIRMAN MAMARY: -- who would
09:02PM	9	MR. REGAN: At your cost.	09:03PM	9	defend -- who would defend the public in a case like
09:02PM	10	MS. PRICE: At our cost, correct.	09:03PM	10	this where if the public did not want it and we voted
09:02PM	11	CHAIRMAN WEIDMANN: Right.	09:04PM	11	no. And so we turned it down and then they sue the
09:02PM	12	MS. PRICE: Yes.	09:04PM	12	town.
09:02PM	13	CHAIRMAN WEIDMANN: Okay.	09:04PM	13	MR. REGAN: They sue the board.
09:02PM	14	That's all I have.	09:04PM	14	VICE CHAIRMAN MAMARY: They sue the
09:02PM	15	VICE CHAIRMAN MAMARY: The question of	09:04PM	15	board. So we're sued.
09:02PM	16	the -- the applicant and the objector and the idea	09:04PM	16	And now we defend our --
09:02PM	17	that you did not reach an agreement, how does that	09:04PM	17	MR. REGAN: Decision.
09:02PM	18	supposedly affect our decision?	09:04PM	18	VICE CHAIRMAN MAMARY: -- decision for
09:02PM	19	It's a legal -- it's a legal matter	09:04PM	19	saying --
09:02PM	20	between the two property owners or the developer and	09:04PM	20	MR. REGAN: Right.
09:02PM	21	the property owner?	09:04PM	21	VICE CHAIRMAN MAMARY: -- no.
09:02PM	22	MR. REGAN: I agree.		22	MR. REGAN: Right.
09:02PM	23	VICE CHAIRMAN MAMARY: And so they then		23	VICE CHAIRMAN MAMARY: And who do they
09:02PM	24	have the ability to potentially stop the application		24	-- how does that actually work?
09:02PM	25	if they wanted?		25	MR. REGAN: It goes to a --
		102			104
09:02PM	1	MR. REGAN: They can sue. They can --		1	VICE CHAIRMAN MAMARY: Just explain to
09:02PM	2	if the board approved the application, obviously they		2	us how that works.
09:03PM	3	can appeal that decision in superior court.	09:04PM	3	MR. REGAN: The process is, it goes to
09:03PM	4	They can also sue the applicant if	09:04PM	4	a superior court judge in Hackensack, superior court
09:03PM	5	there's some undue burden on the neighboring property	09:04PM	5	law division.
09:03PM	6	owner.	09:04PM	6	The court looks at and reviews the
09:03PM	7	VICE CHAIRMAN MAMARY: Now, inherently	09:04PM	7	record, the transcripts, most of you have seen copies
09:03PM	8	beneficial use, that term has been brought up several	09:04PM	8	of the transcript --
09:03PM	9	times, and that's property specific or overall to the	09:04PM	9	VICE CHAIRMAN MAMARY: Yeah.
09:03PM	10	town?	09:04PM	10	MR. REGAN: -- all the evidence,
09:03PM	11	MR. REGAN: It's use specific.	09:04PM	11	documents that have been marked -- exhibits that have
09:03PM	12	VICE CHAIRMAN MAMARY: It's use	09:04PM	12	been marked into evidence.
09:03PM	13	specific.	09:04PM	13	Briefs are submitted.
09:03PM	14	MR. REGAN: Right.	09:04PM	14	And then the court renders a decision,
09:03PM	15	VICE CHAIRMAN MAMARY: So -- so this	09:04PM	15	usually without any testimony, based on the record
09:03PM	16	particular property for this particular use is what	09:04PM	16	before the board.
09:03PM	17	they're actually making the application for and	09:04PM	17	VICE CHAIRMAN MAMARY: So it's based on
09:03PM	18	that's what the judge would view.	09:04PM	18	just this proceedings, not what the public would be
09:03PM	19	MR. REGAN: A nursing home is	09:04PM	19	able to bring --
09:03PM	20	inherently beneficial period.	09:04PM	20	MR. REGAN: Right.
09:03PM	21	VICE CHAIRMAN MAMARY: But that	09:04PM	21	VICE CHAIRMAN MAMARY: -- in as
09:03PM	22	particular property only.	09:04PM	22	additional evidence.
09:03PM	23	MR. REGAN: On any property.	09:04PM	23	MR. REGAN: No, no. It's based on the
09:03PM	24	VICE CHAIRMAN MAMARY: No, because this	09:04PM	24	record established before the board, transcripts,
09:03PM	25	is the application.	09:04PM	25	exhibits, argument of counsel.

<p>105</p> <p>09:04PM <b>1</b> VICE CHAIRMAN MAMARY: Okay.</p> <p>09:05PM <b>2</b> I have no more questions.</p> <p>09:05PM <b>3</b> CHAIRMAN WEIDMANN: What are your --</p> <p>09:05PM <b>4</b> what are your odds of winning before the superior</p> <p>09:05PM <b>5</b> court in Hackensack?</p> <p>09:05PM <b>6</b> How many cases have won? Zero.</p> <p>09:05PM <b>7</b> Thank you.</p> <p>09:05PM <b>8</b> MALE AUDIENCE MEMBER: Speculation.</p> <p>09:05PM <b>9</b> MALE AUDIENCE MEMBER: Go ahead.</p> <p>09:05PM <b>10</b> MR. SZABO: Mr. Chairman, I think --</p> <p>09:05PM <b>11</b> VICE CHAIRMAN MAMARY: That might be</p> <p>09:05PM <b>12</b> under the current administration.</p> <p>09:05PM <b>13</b> MR. SZABO: I think -- I think the</p> <p>09:05PM <b>14</b> point that needs to be made is that you can deny the</p> <p>09:05PM <b>15</b> application, just make sure that Mr. Regan has</p> <p>09:05PM <b>16</b> substantial reasons that outweigh everything that</p> <p>09:05PM <b>17</b> you've heard tonight.</p> <p>09:05PM <b>18</b> MR. REGAN: Substantial reasons.</p> <p>09:05PM <b>19</b> MR. SZABO: Substantial is the word,</p> <p>09:05PM <b>20</b> right.</p> <p>09:05PM <b>21</b> It doesn't help to speculate whether we</p> <p>09:05PM <b>22</b> go to court or not.</p> <p>09:05PM <b>23</b> MR. REGAN: No.</p> <p>09:05PM <b>24</b> MR. SZABO: I think it's -- you need to</p> <p>09:05PM <b>25</b> make a decision based on the facts that have been</p>	<p>107</p> <p>09:06PM <b>1</b> come to or do we get outside counsel to represent the</p> <p>09:06PM <b>2</b> board?</p> <p>09:06PM <b>3</b> MR. REGAN: That would have to be</p> <p>09:06PM <b>4</b> discussed.</p> <p>09:06PM <b>5</b> The board would have the option to</p> <p>09:06PM <b>6</b> discuss that.</p> <p>09:06PM <b>7</b> VICE CHAIRMAN MAMARY: And then do you</p> <p>09:06PM <b>8</b> become someone that testifies?</p> <p>09:06PM <b>9</b> MR. REGAN: No, there's no testimony.</p> <p>09:06PM <b>10</b> VICE CHAIRMAN MAMARY: You don't</p> <p>09:06PM <b>11</b> testify.</p> <p>09:06PM <b>12</b> MR. REGAN: There's no testimony at all</p> <p>09:06PM <b>13</b> by anybody.</p> <p>09:06PM <b>14</b> VICE CHAIRMAN MAMARY: Okay.</p> <p>09:06PM <b>15</b> And that's at -- that's at our</p> <p>09:06PM <b>16</b> taxpayers' expense?</p> <p>09:06PM <b>17</b> MR. SZABO: Correct.</p> <p>09:06PM <b>18</b> VICE CHAIRMAN MAMARY: Our board --</p> <p>09:06PM <b>19</b> MR. REGAN: Yes.</p> <p>09:06PM <b>20</b> VICE CHAIRMAN MAMARY: -- being</p> <p>09:06PM <b>21</b> defended by our town is an expense of our town?</p> <p>09:06PM <b>22</b> MR. REGAN: Right.</p> <p>09:07PM <b>23</b> CHAIRMAN WEIDMANN: You're up.</p> <p>09:07PM <b>24</b> MR. ALESSI: Okay.</p> <p>09:07PM <b>25</b> Been a resident of this town almost</p>
<p>106</p> <p>09:05PM <b>1</b> presented and follow the <u>Sica</u> balancing and then</p> <p>09:05PM <b>2</b> state your reasons on the record.</p> <p>09:05PM <b>3</b> MR. REGAN: Right. In the resolution.</p> <p>09:05PM <b>4</b> MR. SZABO: Correct.</p> <p>09:05PM <b>5</b> CHAIRMAN WEIDMANN: Mr. Szabo, how many</p> <p>09:05PM <b>6</b> cases that have gone to Hackensack have won?</p> <p>09:05PM <b>7</b> MR. SZABO: In this town?</p> <p>09:06PM <b>8</b> CHAIRMAN WEIDMANN: No, how many cases</p> <p>09:06PM <b>9</b> in Bergen County on applications similar to this have</p> <p>09:06PM <b>10</b> won?</p> <p>09:06PM <b>11</b> MR. REGAN: In a nursing home type of</p> <p>09:06PM <b>12</b> use?</p> <p>09:06PM <b>13</b> CHAIRMAN WEIDMANN: Yeah.</p> <p>09:06PM <b>14</b> MR. REGAN: The only one I'm familiar</p> <p>09:06PM <b>15</b> with is the Franklin Lakes case. That's a recorded</p> <p>09:06PM <b>16</b> decision.</p> <p>09:06PM <b>17</b> MR. SZABO: Oh, I -- I -- and the case</p> <p>09:06PM <b>18</b> that I just -- well, it was another jurisdiction --</p> <p>09:06PM <b>19</b> MR. REGAN: Another county.</p> <p>09:06PM <b>20</b> MR. SZABO: It's another county.</p> <p>09:06PM <b>21</b> MR. REGAN: But the same --</p> <p>09:06PM <b>22</b> MR. SZABO: Same outcome. Same</p> <p>09:06PM <b>23</b> outcome.</p> <p>09:06PM <b>24</b> VICE CHAIRMAN MAMARY: Mr. Regan, do we</p> <p>09:06PM <b>25</b> -- do you defend the board's decision that we would</p>	<p>108</p> <p>09:07PM <b>1</b> 60 years. Been a volunteer fireman for almost</p> <p>09:07PM <b>2</b> 45 years.</p> <p>09:07PM <b>3</b> Over the past year a lot of testimony</p> <p>09:07PM <b>4</b> about how many trees have been cutting down.</p> <p>09:07PM <b>5</b> Now, the reason why I'm saying I've</p> <p>09:07PM <b>6</b> been here for 60 years, I've been here before</p> <p>09:07PM <b>7</b> Lakeview, before the church, before Klein Corp.,</p> <p>09:07PM <b>8</b> before Sunden's, before Pearson.</p> <p>09:07PM <b>9</b> So we can start by saying, and we can</p> <p>09:07PM <b>10</b> discuss this forever, 200 trees are being cut down,</p> <p>09:07PM <b>11</b> 244 Old Tappan Road. How many trees were cut down</p> <p>09:07PM <b>12</b> for Lakeview?</p> <p>09:07PM <b>13</b> I believe somebody said over 900 dump</p> <p>09:07PM <b>14</b> trucks of dirt will be taken off 244 Old Tappan Road.</p> <p>09:07PM <b>15</b> Where the church stands, there's a</p> <p>09:07PM <b>16</b> giant mountain. I'm sure more than three times the</p> <p>09:07PM <b>17</b> amount of dirt was taken off that property, plus the</p> <p>09:07PM <b>18</b> trees, plus where we used to have the turkey shoot as</p> <p>09:07PM <b>19</b> kids.</p> <p>09:07PM <b>20</b> Klein's Farm, we used to run across</p> <p>09:07PM <b>21</b> before Old Man Klein would yell at you or throw rocks</p> <p>09:07PM <b>22</b> at you.</p> <p>09:08PM <b>23</b> How many trucks of dirt did they take</p> <p>09:08PM <b>24</b> out of there?</p> <p>09:08PM <b>25</b> Like I said, we can discuss that</p>

<p>109</p> <p>09:08PM 1 forever.</p> <p>09:08PM 2 But last meeting it was brought up</p> <p>09:08PM 3 about being disrespectful.</p> <p>09:08PM 4 Mr. Steinhagen just said before, unless</p> <p>09:08PM 5 you sit up here, you don't know what it's like.</p> <p>09:08PM 6 Let me tell you about disrespect.</p> <p>09:08PM 7 Somebody out there misunderstood what happened at a</p> <p>09:08PM 8 meeting, called my neighbors, called my friends,</p> <p>09:08PM 9 constituted lies that I was taking bribes from the</p> <p>09:08PM 10 client.</p> <p>09:08PM 11 Well, my neighbors and friends, and</p> <p>09:08PM 12 some of them are here, you can ask them yourselves,</p> <p>09:08PM 13 didn't work.</p> <p>09:08PM 14 They went to the Mayor and Council and</p> <p>15 to try and get me removed.</p> <p>16 That didn't work, they came to the</p> <p>17 board to try to get me removed, wanted get me</p> <p>18 arrested for taking bribes.</p> <p>19 So I ask a rhetorical question of</p> <p>20 everybody in this room: What is more disrespectful,</p> <p>21 rolling your eyes or you guys clapping or having</p> <p>22 somebody create lies about you that you have to</p> <p>23 explain to your wife and your children that didn't</p> <p>24 happen. Because unless you're sitting up here, you</p> <p>25 don't know what's going on.</p>	<p>111</p> <p>09:10PM 1 have tried to weigh the pros and cons of this</p> <p>09:10PM 2 application. And, honestly, other than losing</p> <p>09:10PM 3 attractive wooded property, I do not see many other</p> <p>09:10PM 4 cons, other than maybe the size being a bit large.</p> <p>09:10PM 5 I would love to see this property stay</p> <p>09:10PM 6 as it is, but I know that is an option that we don't</p> <p>09:10PM 7 have.</p> <p>09:10PM 8 And for me this application is the</p> <p>09:10PM 9 lesser of many evils.</p> <p>09:10PM 10 The pros, though, are many.</p> <p>09:10PM 11 No impact to our schools. No impact to</p> <p>09:10PM 12 our EMS. No impact to the traffic on Old Tappan</p> <p>09:10PM 13 Road.</p> <p>09:10PM 14 A great tax revenue source for the</p> <p>09:10PM 15 town. COAH credits for future use. And a beneficial</p> <p>09:10PM 16 need for our seniors.</p> <p>09:10PM 17 Aside from the fact that the town will</p> <p>09:10PM 18 still have the wetlands as open space and be able to</p> <p>09:11PM 19 keep the historic house on Borough property, rather</p> <p>09:11PM 20 than it deteriorating on someone else's property the</p> <p>09:11PM 21 way it has been for the last few years.</p> <p>09:11PM 22 One of the issues everyone voiced was</p> <p>09:11PM 23 that so many trees are going to be cut down and the</p> <p>09:11PM 24 wetlands destroyed.</p> <p>09:11PM 25 Just to clarify some of the</p>
<p>110</p> <p>1 So, again, the rhetorical question:</p> <p>2 What is more disrespectful, rolling one's eyes or</p> <p>3 having somebody create lies about you that you have</p> <p>4 to defend yourself to -- to your family and your</p> <p>5 children and your friends?</p> <p>6 And that's all I have to say.</p> <p>09:09PM 7 CHAIRMAN WEIDMANN: Anna?</p> <p>09:09PM 8 MS. HAVERILLA: I'm going to read a</p> <p>09:09PM 9 statement and I know it's maybe things that you've</p> <p>09:09PM 10 heard, but rather than going off the cuff, I'm going</p> <p>09:09PM 11 to read this so I can be clear and on point.</p> <p>09:09PM 12 I have lived here for a long time.</p> <p>09:09PM 13 I've lived here for 32 years and have seen many</p> <p>09:09PM 14 changes, but even with all these changes, this town</p> <p>09:09PM 15 is still one of the most beautiful and desirable</p> <p>09:09PM 16 towns in the area. If it was not, I don't think we'd</p> <p>09:09PM 17 have any development whatsoever.</p> <p>09:09PM 18 Progress happens and the more people on</p> <p>09:09PM 19 this earth, the more land will be built upon.</p> <p>09:09PM 20 Just to be absolutely clear, I have --</p> <p>09:10PM 21 because I have read many statements on Facebook, on</p> <p>09:10PM 22 social media. My decision is my own, not the Mayor</p> <p>09:10PM 23 and Council's. And it is solely based upon the facts</p> <p>09:10PM 24 that were presented here.</p> <p>09:10PM 25 As a planning board representative, I</p>	<p>112</p> <p>09:11PM 1 misinformation that has been posted on social media,</p> <p>09:11PM 2 the wetlands will not be touched no matter what is</p> <p>09:11PM 3 done there. It is protected land.</p> <p>09:11PM 4 As for the trees being cut down, that</p> <p>09:11PM 5 would happen no matter what construction were to take</p> <p>09:11PM 6 place.</p> <p>09:11PM 7 Since this is private property and the</p> <p>09:11PM 8 land is so valuable, the owner of this property will</p> <p>09:11PM 9 be developing it at some point, even if this</p> <p>09:11PM 10 application does not pass.</p> <p>09:11PM 11 And, yes, the property owner could</p> <p>09:11PM 12 theoretically put three to four house development on</p> <p>09:11PM 13 property.</p> <p>09:11PM 14 I'm sure not -- that would not be as</p> <p>09:11PM 15 lucrative as he would like, but that would still</p> <p>09:11PM 16 entail the clearing of the property. Or the property</p> <p>09:11PM 17 owner could just sit on the property for another two</p> <p>09:11PM 18 years -- and I have been through all of this</p> <p>09:12PM 19 affordable housing situation, waiting for our Housing</p> <p>09:12PM 20 Element to expire in 2025 and seek a 66- to 100-unit</p> <p>09:12PM 21 development for that property, which would be between</p> <p>09:12PM 22 12 to 20 units per acre. And I'm assuming it would</p> <p>09:12PM 23 be the larger of the number.</p> <p>09:12PM 24 I wonder how many people would like to</p> <p>09:12PM 25 see that happen in town? Affordable housing is not a</p>

<p style="text-align: right;">113</p> <p>09:12PM 1 friend to the municipality, and they don't care what</p> <p>09:12PM 2 the residents want. They just require you to put in</p> <p>09:12PM 3 additional housing no matter what the cost.</p> <p>09:12PM 4 Stormwater was another issue voiced.</p> <p>09:12PM 5 The state and the town takes stormwater management</p> <p>09:12PM 6 very seriously.</p> <p>09:12PM 7 Also, when you have an application this</p> <p>09:12PM 8 size, the requirements for stormwater management are</p> <p>09:12PM 9 much more stringent than would be for just a few</p> <p>09:12PM 10 houses.</p> <p>09:12PM 11 Our engineer is licensed and very</p> <p>09:12PM 12 familiar with the requirements and has worked with</p> <p>09:12PM 13 this applicant to make sure all requirements are met.</p> <p>09:12PM 14 Although I have heard many residents</p> <p>09:12PM 15 questioning the plan and the knowledge these</p> <p>09:13PM 16 engineers have, I have a lot of trust in our engineer</p> <p>09:13PM 17 and feel that he will require the applicants to do</p> <p>09:13PM 18 the best job for our town and for the Lakeview</p> <p>09:13PM 19 residents located behind the development.</p> <p>09:13PM 20 Traffic, yes, the applicant will cause</p> <p>09:13PM 21 some traffic when construction starts. But any</p> <p>09:13PM 22 construction being done there would do the same</p> <p>09:13PM 23 thing, whether it's a single-family house, a</p> <p>09:13PM 24 community center or any other kind of development</p> <p>09:13PM 25 that has been suggested to the board.</p>	<p style="text-align: right;">115</p> <p>09:14PM 1 is a good use for this property.</p> <p>09:14PM 2 That's all I have.</p> <p>09:14PM 3 CHAIRMAN WEIDMANN: Thank you.</p> <p>09:14PM 4 MR. KEIL: Yeah, the only thing I</p> <p>09:14PM 5 wanted to mention is that after the last meeting, we</p> <p>09:14PM 6 received an independent tree inventory, which I -- I</p> <p>09:14PM 7 took a look at and it looks like there's a</p> <p>09:14PM 8 substantial difference between the inventory that was</p> <p>09:14PM 9 offered up by the applicant and the independent</p> <p>09:14PM 10 survey.</p> <p>09:15PM 11 So if this application would be</p> <p>09:15PM 12 approved, I hope that we would somehow find a way to</p> <p>09:15PM 13 reconcile --</p> <p>09:15PM 14 MR. REGAN: I already have that written</p> <p>09:15PM 15 as a condition if it's approved. The number will be</p> <p>09:15PM 16 the Borough's number, not the applicant's.</p> <p>09:15PM 17 MR. KEIL: Okay.</p> <p>09:15PM 18 That's been agreed to.</p> <p>09:15PM 19 MR. REGAN: I don't know whether they</p> <p>09:15PM 20 agree to it or not, I really don't care.</p> <p>09:15PM 21 (Laughter.)</p> <p>09:15PM 22 MR. KEIL: That's all.</p> <p>09:15PM 23 MR. ELLER: Well, the first thing I</p> <p>09:15PM 24 want to say is, I don't know -- I don't know anything</p> <p>09:15PM 25 other than saying I'm sorry for Mike and what you had</p>
<p style="text-align: right;">114</p> <p>09:13PM 1 The truth of the matter is that after</p> <p>09:13PM 2 construction is done, there will be minimal traffic</p> <p>09:13PM 3 going in and out of this development and the traffic</p> <p>09:13PM 4 will not affect the school traffic, which is a huge</p> <p>09:13PM 5 inconvenience on Old Tappan Road.</p> <p>09:13PM 6 The applicant has been very open and</p> <p>7 candid with the planning board and they have tried to</p> <p>8 compromise with every issue the board and the</p> <p>9 residents have brought forth.</p> <p>10 The rendering of the facility is</p> <p>11 beautiful and fitting for that property.</p> <p>12 Even though the property is zoned</p> <p>09:13PM 13 residential, I don't see an issue with this</p> <p>09:13PM 14 application since the property abuts a huge church</p> <p>09:14PM 15 that sits right next to a shopping center on one</p> <p>09:14PM 16 side, and on the other side it has a huge natural</p> <p>09:14PM 17 buffer, which is the wetlands.</p> <p>09:14PM 18 Finally, I have no doubt that should</p> <p>19 the planning board deny this application, the</p> <p>20 applicant will appeal to the Superior Court of New</p> <p>21 Jersey, which will cost the town a good amount in</p> <p>22 legal fees and the applicant will end up getting</p> <p>23 exactly what they want without having to make any</p> <p>24 concessions that the town requested.</p> <p>25 That is why, in my humble opinion, this</p>	<p style="text-align: right;">116</p> <p>09:15PM 1 to go through there.</p> <p>2 I think that whoever was involved with</p> <p>3 that should be ashamed of themselves. And it's</p> <p>4 absolutely pathetic.</p> <p>5 Everybody sits here, we're all</p> <p>6 volunteers. We don't get a salary, stipends,</p> <p>7 benefits, nothing. We sit here month after month to</p> <p>8 do this.</p> <p>9 Most of you I've never seen before.</p> <p>10 Some of you are here on a regular basis.</p> <p>11 We hear the applications for your pool,</p> <p>12 your driveway, your addition, your mother/daughter</p> <p>13 suite so your parents can move in with you.</p> <p>14 All those things go on constantly and</p> <p>15 we make sure that it happens in the best interest of</p> <p>16 the town, which is what we did here this time.</p> <p>17 And I think for anybody to go out on</p> <p>18 that kind of a limb and attack somebody personally</p> <p>19 and go after them, their family and anything else is</p> <p>20 absolutely disgusting.</p> <p>21 So whoever did that, I hope you at</p> <p>22 least, at a minimum, turn around and apologize to</p> <p>23 Mike.</p> <p>09:16PM 24 Second, now, after that I just want to</p> <p>09:16PM 25 move onto the rest of my comments regarding the</p>

<p style="text-align: right;">117</p> <p>09:16PM 1 process, what we did here and how we go forward.</p> <p>09:16PM 2 First thing I'd say is I think that</p> <p>09:16PM 3 just going forward on some of our next hearings,</p> <p>09:16PM 4 especially big applications, we should consider</p> <p>09:16PM 5 having Bob and John open the hearings with some of</p> <p>09:16PM 6 what you did tonight. I think that would ease a big</p> <p>09:16PM 7 portion of what happened and the confusion as to how</p> <p>09:16PM 8 these proceed, what people can do, when to speak,</p> <p>09:16PM 9 when to ask questions, who to ask questions, of all</p> <p>09:16PM 10 those things was a cause of a lot of a frustration</p> <p>09:16PM 11 and hardship during these meetings.</p> <p>09:16PM 12 So I think that's something we should</p> <p>09:16PM 13 consider going forward just to make it easier.</p> <p>09:16PM 14 My next question is for Bob. If this</p> <p>09:16PM 15 application were approved, does that give -- does</p> <p>09:16PM 16 that have any impact or any bearing on another -- an</p> <p>09:16PM 17 another lawsuit?</p> <p>09:17PM 18 Say Lakeview turns around and sues CSH</p> <p>09:17PM 19 for whatever regarding the easements, the drainage,</p> <p>09:17PM 20 does our approval grant any weight to one side -- one</p> <p>09:17PM 21 way or the other.</p> <p>09:17PM 22 MR. REGAN: I don't think it does.</p> <p>09:17PM 23 Your approval relates to the board and the board</p> <p>09:17PM 24 only.</p> <p>09:17PM 25 MR. ELLER: Okay.</p>	<p style="text-align: right;">119</p> <p>09:18PM 1 Over the last few years we've seen it,</p> <p>09:18PM 2 our settlement, we've beat that horse dead in the</p> <p>09:18PM 3 last 12 months talking about it and what goes on and</p> <p>09:18PM 4 why.</p> <p>09:18PM 5 I think that by putting this here now</p> <p>09:18PM 6 we are protecting the town. No one wants to see -- I</p> <p>09:18PM 7 would love to see a park there tomorrow, but I don't</p> <p>09:18PM 8 think that's ever going to be a viable situation.</p> <p>09:18PM 9 When these kind of things happen, I look at it and</p> <p>09:18PM 10 say, what would I do.</p> <p>09:18PM 11 I'm the property owner, as far as I</p> <p>09:18PM 12 know, that -- the purchase of this property was never</p> <p>09:18PM 13 brought to the town. I know the statement was made</p> <p>09:18PM 14 about a policy and an affirmative decision by the</p> <p>09:18PM 15 town. The town was never offered an opportunity to</p> <p>09:18PM 16 purchase this property to the best of my knowledge.</p> <p>09:18PM 17 This is a private transaction, a private sale.</p> <p>09:18PM 18 And if I was the property owner and</p> <p>09:18PM 19 this -- and this contract wasn't able to go through</p> <p>09:18PM 20 and the sale fell apart, I ask myself what would I</p> <p>09:18PM 21 do? Would I sit on it for two years and turn around</p> <p>09:18PM 22 and sell it to somebody who's going to put 60</p> <p>09:18PM 23 townhouses on it, probably make a lot more money or</p> <p>09:18PM 24 would I -- or would I try to turn around and sell it</p> <p>09:18PM 25 for half the price to make a park out of it?</p>
<p style="text-align: right;">118</p> <p>09:17PM 1 Is -- do either you or John, do you</p> <p>09:17PM 2 know any -- do you have any examples to demonstrate</p> <p>09:17PM 3 what the substantial reasons for a denial would be?</p> <p>09:17PM 4 Like how -- what is -- have you ever --</p> <p>09:17PM 5 can you give us any examples that you -- that have</p> <p>09:17PM 6 been upheld and recognized and affirmed by a court</p> <p>09:17PM 7 and affirmed the court's -- a board's decision.</p> <p>09:17PM 8 MR. SZABO: No, no. They're generally</p> <p>09:17PM 9 overturned.</p> <p>09:17PM 10 MR. REGAN: I can't either, because</p> <p>09:17PM 11 when it's an inherently beneficial use, you're in a</p> <p>09:17PM 12 different atmosphere, a totally different situation.</p> <p>09:17PM 13 MR. ELLER: Thank you.</p> <p>09:17PM 14 And then all I would say, honestly, I</p> <p>09:17PM 15 -- I tend to agree with everything Anna had to say</p> <p>09:17PM 16 here.</p> <p>09:17PM 17 I think that this is the least of a</p> <p>09:17PM 18 bunch of bad -- this is the least evil of a bunch of</p> <p>09:17PM 19 bad decisions or a bunch of bad outcomes.</p> <p>09:17PM 20 I don't think anyone here wants to see</p> <p>09:18PM 21 this developed, but by the same token I don't think</p> <p>09:18PM 22 there is any other even remotely better situation or</p> <p>09:18PM 23 better outcome that can happen than this because of</p> <p>09:18PM 24 the COAH -- because of the COAH situation and how</p> <p>09:18PM 25 this is going to go.</p>	<p style="text-align: right;">120</p> <p>09:18PM 1 I don't believe that's a viable option</p> <p>09:19PM 2 and a really -- I don't think that's ever something</p> <p>09:19PM 3 that can happen. I wish it would. I -- honest to</p> <p>09:19PM 4 God, I wish it would happen. No one wants to see it</p> <p>09:19PM 5 here. I'm third generation in this town. My mother</p> <p>09:19PM 6 still tells me about the dirt roads and when there</p> <p>09:19PM 7 was no traffic lights and the same farms Mike grew up</p> <p>09:19PM 8 with.</p> <p>09:19PM 9 I just don't think that there is any</p> <p>09:19PM 10 realistic better option for this. And it's truly</p> <p>09:19PM 11 unfortunate and the problem is it's a political</p> <p>09:19PM 12 problem. It is not a -- it is not something that we</p> <p>09:19PM 13 have really any control over.</p> <p>09:19PM 14 We can turn around and deny this right</p> <p>09:19PM 15 now. We go to court. All of our professionals are</p> <p>09:19PM 16 sitting here telling us they expect it to be -- our</p> <p>09:19PM 17 decision to be overturned if it's denied.</p> <p>09:19PM 18 I think that's a misuse of tax dollars.</p> <p>09:19PM 19 And it opens us up to a whole slew of other negative</p> <p>09:19PM 20 -- negative outcomes that I think would be far more</p> <p>09:19PM 21 detrimental to the town.</p> <p>09:19PM 22 So that's my opinion.</p> <p>09:19PM 23 Like I said, no one wants to see this,</p> <p>09:19PM 24 but I think it's, unfortunately, the best of a bad</p> <p>09:19PM 25 situation.</p>

<p style="text-align: right;">121</p> <p>09:20PM 1 MS. LOULLOUDIS: I'll just make a quick  09:20PM 2 comment, because I know, Anna, you touched on a lot  09:20PM 3 of things that I probably would have said as well.  09:20PM 4 And Mr. Szabo, I want to thank you for  09:20PM 5 your, kind of, breakdown of, you know, your  09:20PM 6 perspective of the testimony.  09:20PM 7 I was going to touch, actually, on  09:20PM 8 those five key issues: Stormwater, traffic, the  09:20PM 9 preservation of the trees, the house and what was the  09:20PM 10 last one? I guess it was --  09:20PM 11 VICE CHAIRMAN MAMARY: Historic.  09:20PM 12 MS. LOULLOUDIS: What's that?  09:20PM 13 The historic house.  09:20PM 14 Those have always been, kind of, the  09:20PM 15 things that I found were the key issues.  09:20PM 16 Once I confirmed in an earlier hearing  09:20PM 17 that there was nothing precluding the historic house  09:20PM 18 from being taken down, to me that was kind of the key  09:20PM 19 to everything, because it can be taken down. It can  09:20PM 20 be developed as five single families.  09:20PM 21 I'll just say that as a practicing  09:21PM 22 engineer myself, I have sat on a planning board like  09:21PM 23 this as a citizen. I've sat in Tom Skrable's chair  09:21PM 24 for other towns. I've sat in Mr. Sehnal's seat.  09:21PM 25 And your -- your position is the</p>	<p style="text-align: right;">123</p> <p>09:22PM 1 as a resident are -- are troubled by.  09:22PM 2 When we moved to this town 22 years  09:22PM 3 ago, it's changed dramatically. Most change is good,  09:22PM 4 some change challenges you a little bit.  09:22PM 5 Mr. Szabo, I'm sure when the 2016  09:22PM 6 Master Plan was written and talked about senior  09:22PM 7 housing, probably we thought about a different type  09:23PM 8 of senior housing, because there are none.  09:23PM 9 I am 66 years old. So I am in the  09:23PM 10 demographic. And this residence is for people mostly  09:23PM 11 in their mid-80s, but at 70 years old and 72 years  09:23PM 12 old, there is no where in Old Tappan that I can go to  09:23PM 13 that maybe will be on an apartment building, one  09:23PM 14 level. So right now my wife and I sit alone in a  09:23PM 15 4,000-square-foot house. Probably the smallest house  09:23PM 16 in this town is 2,000. And some of my neighbors have  09:23PM 17 moved to other towns because there was nothing for  09:23PM 18 them in this town.  09:23PM 19 I'm a little perplexed and concerned  09:23PM 20 about how this is beneficial to the community when  09:23PM 21 there are so many other facilities within the general  09:23PM 22 radius of our town.  09:24PM 23 They're -- the one thing that we've  09:24PM 24 learned in this town with Bi-State plaza losing its  09:24PM 25 supermarket, we can go anywhere in 10 minutes.</p>
<p style="text-align: right;">122</p> <p>09:21PM 1 hardest, and I appreciate all of your team's very  09:21PM 2 hard work.  09:21PM 3 I also appreciate the public and their,  09:21PM 4 you know, questions and their concerns, because I  09:21PM 5 live in this town as well. And I validate a lot of  09:21PM 6 your concerns.  09:21PM 7 I also see it from the perspective of  09:21PM 8 stormwater drainage and how the DEP works and how the  09:21PM 9 regulations are. The regulations are going to be  09:21PM 10 worse in about six months. And we're going to be  09:21PM 11 designing for 2 feet above whatever the flood  09:21PM 12 elevations are now. And we're going to be designing  09:21PM 13 for storm events that are the year 2100, I think, or  09:21PM 14 2050, I forget.  09:21PM 15 So this is hurting developers. It's  09:21PM 16 hurting towns. It's hurting residents. It's -- it's  09:22PM 17 just the regulatory nightmare that we all have to  09:22PM 18 deal with.  09:22PM 19 So that's -- that's my two cents.  09:22PM 20 MR. SCOZZAFAVA: I'm conflicted with  09:22PM 21 what has happened here. I think the amount of time  09:22PM 22 that we spent on this was good.  09:22PM 23 I worked for a company, my entire  09:22PM 24 career was in change management and nothing stays the  09:22PM 25 same. And that's the part that the public and myself</p>	<p style="text-align: right;">124</p> <p>09:24PM 1 So if somebody needed to go into an  09:24PM 2 assisted facility in Closter or in Norwood or in  09:24PM 3 Westwood, it's a short drive, you can get there.  09:24PM 4 That's not something that we benefit  09:24PM 5 just by having another one in our town.  09:24PM 6 On the flip side, there's another  09:24PM 7 aspect to that as well. My dad spent the last five  09:24PM 8 years of his life in an assisted living and memory  09:24PM 9 care facility. And I would have loved to have him  09:24PM 10 here in our town.  09:24PM 11 At that point of my life, I was  09:24PM 12 traveling and on an airplane five days a week,  09:24PM 13 sometimes gone three weeks at a time.  09:24PM 14 So where did my dad go? He went up  09:25PM 15 about 60 miles from here to be next to my older  09:25PM 16 brother who had more of an opportunity to visit him.  09:25PM 17 I feel the same is going to happen in  09:25PM 18 our town because most of our children can't afford to  09:25PM 19 live in this town.  09:25PM 20 So when it's time for me at 86 years  09:25PM 21 old, if that's -- I'm going 100, so don't worry about  09:25PM 22 that.  09:25PM 23 (Laughter.)  09:25PM 24 MR. SCOZZAFAVA: But at the time that I  09:25PM 25 need it, I'll be going to where my children are, in</p>

<p style="text-align: right;">125</p> <p>09:25PM <b>1</b> that general vicinity. I hope they grow to be able</p> <p>09:25PM <b>2</b> to live here. I definitely don't want to leave this</p> <p>09:25PM <b>3</b> town, you know, when I get too old to maneuver</p> <p>09:25PM <b>4</b> through a 4,000-square-foot house.</p> <p>09:25PM <b>5</b> So I'm in the middle here. I don't</p> <p>09:25PM <b>6</b> think I have a vote. I'm an alternate.</p> <p>09:25PM <b>7</b> But the -- the traffic situation, I</p> <p>09:25PM <b>8</b> think, if you remember I brought up, because I do</p> <p>09:26PM <b>9</b> substitute crossing guard, the people in the morning</p> <p>09:26PM <b>10</b> that move their kids down Old Tappan Road are very</p> <p>09:26PM <b>11</b> efficient in doing that.</p> <p>09:26PM <b>12</b> This is obviously better than having a</p> <p>09:26PM <b>13</b> group of townhouses going on there.</p> <p>09:26PM <b>14</b> So change is tough, people, but it's</p> <p>09:26PM <b>15</b> not going to stop. And we just have to do our best.</p> <p>09:26PM <b>16</b> We can't lose the concessions that CSH has given us.</p> <p>09:26PM <b>17</b> Those are important.</p> <p>09:26PM <b>18</b> And if we need more, we should work</p> <p>09:26PM <b>19</b> through that as part of the resolution.</p> <p>09:26PM <b>20</b> MR. REGAN: Well, everyone will get a</p> <p>09:26PM <b>21</b> draft of the resolution before the meeting when it's</p> <p>09:26PM <b>22</b> scheduled, and if there is -- it is an approval, the</p> <p>09:26PM <b>23</b> conditions will be detailed with specificity.</p> <p>09:26PM <b>24</b> MR. SCOZZAFAVA: Thank you.</p> <p>09:26PM <b>25</b> MR. BEDIAN: I don't want to sound</p>	<p style="text-align: right;">127</p> <p>09:28PM <b>1</b> I know the COAH, you know, it's bearing</p> <p>09:28PM <b>2</b> on everybody's mind, but we're only getting ten</p> <p>09:28PM <b>3</b> credits. It is something, it's better than zero, but</p> <p>09:28PM <b>4</b> it's not -- it shouldn't be the major or -- or the</p> <p>09:28PM <b>5</b> factor to, you know, vote on this application.</p> <p>09:28PM <b>6</b> I hope it doesn't come to my vote,</p> <p>09:28PM <b>7</b> anyway I'm --</p> <p>09:28PM <b>8</b> (Laughter.)</p> <p>09:29PM <b>9</b> MR. BEDIAN: -- I'm the bottom of the</p> <p>09:29PM <b>10</b> pecking order here so...</p> <p>09:29PM <b>11</b> MR. SZABO: There's a seat right here.</p> <p>09:29PM <b>12</b> MR. BEDIAN: So I have more freedom to</p> <p>09:29PM <b>13</b> express my opinion.</p> <p>09:29PM <b>14</b> It -- it has been a journey. For me it</p> <p>09:29PM <b>15</b> was, you know, this was my first, you know, serving</p> <p>09:29PM <b>16</b> on a board, so it was -- it's a good experience.</p> <p>09:29PM <b>17</b> And, you know, really enjoyed, like,</p> <p>09:29PM <b>18</b> being here every -- every month, I would say, and the</p> <p>09:29PM <b>19</b> public engagement is commendable. And that's what</p> <p>09:29PM <b>20</b> makes Old Tappan a great, you know, community.</p> <p>09:29PM <b>21</b> And thank you.</p> <p>09:29PM <b>22</b> (Applause.)</p> <p>09:29PM <b>23</b> MR. ELLER: Can I have one more</p> <p>09:29PM <b>24</b> question to Bob?</p> <p>09:29PM <b>25</b> Just quick, if it goes to a lawsuit, if</p>
<p style="text-align: right;">126</p> <p>09:26PM <b>1</b> repetitive.</p> <p>09:26PM <b>2</b> Most of, you know, my colleagues here,</p> <p>09:26PM <b>3</b> the board members covered, you know, pretty much</p> <p>09:27PM <b>4</b> everything I had in mind to say.</p> <p>09:27PM <b>5</b> I'm still conflicted. I didn't buy the</p> <p>09:27PM <b>6</b> beneficial use argument that much.</p> <p>09:27PM <b>7</b> In my opinion the historic house will</p> <p>09:27PM <b>8</b> not survive moving it from current location couple</p> <p>09:27PM <b>9</b> hundred feet to the parking lot here.</p> <p>09:27PM <b>10</b> I am a civil engineer registered in the</p> <p>09:27PM <b>11</b> State of New Jersey. I work for a construction</p> <p>09:27PM <b>12</b> company.</p> <p>09:27PM <b>13</b> One of my projects, I wasn't the</p> <p>09:27PM <b>14</b> project manager for that particular, you know,</p> <p>09:27PM <b>15</b> contract, Thank God, was an old firehouse in</p> <p>09:27PM <b>16</b> Peekskill, New York. You can Google it and you can</p> <p>09:27PM <b>17</b> see it, was to move the firehouse a couple hundred</p> <p>09:27PM <b>18</b> feet because it was in the way of building a highway.</p> <p>09:28PM <b>19</b> It did not survive. It was 200-year-old house like</p> <p>09:28PM <b>20</b> the one we have here. It's -- it's -- it's very,</p> <p>09:28PM <b>21</b> very difficult to move very old building.</p> <p>09:28PM <b>22</b> But, again, on the flip side of the</p> <p>09:28PM <b>23</b> coin is, it's a private property. There's nothing</p> <p>09:28PM <b>24</b> preventing any owner to knock it down and there's</p> <p>09:28PM <b>25</b> nothing we can do about it.</p>	<p style="text-align: right;">128</p> <p>09:29PM <b>1</b> it's denied, does -- is there any other factors that</p> <p>09:29PM <b>2</b> are similar to if it was an intervenor situation</p> <p>09:29PM <b>3</b> where any of the restrictions or anything are in</p> <p>09:29PM <b>4</b> question anymore, as far as the -- it would only</p> <p>09:30PM <b>5</b> pertain to the exact application, correct?</p> <p>09:30PM <b>6</b> MR. REGAN: That's correct.</p> <p>09:30PM <b>7</b> MR. ELLER: Nothing can be expanded or</p> <p>09:30PM <b>8</b> changed or altered --</p> <p>09:30PM <b>9</b> MR. REGAN: Right.</p> <p>09:30PM <b>10</b> MR. ELLER: -- as part of this --</p> <p>09:30PM <b>11</b> MR. REGAN: Is there's a denial, the</p> <p>09:30PM <b>12</b> decision would be to contest the board's denial,</p> <p>09:30PM <b>13</b> request that the court order the approval of the plan</p> <p>09:30PM <b>14</b> as submitted.</p> <p>09:30PM <b>15</b> MR. ELLER: Thank you.</p> <p>09:30PM <b>16</b> VICE CHAIRMAN MAMARY: So the</p> <p>09:30PM <b>17</b> conditions that you were going to write would now no</p> <p>09:30PM <b>18</b> longer be applicable?</p> <p>09:30PM <b>19</b> MR. REGAN: That's correct.</p> <p>09:30PM <b>20</b> VICE CHAIRMAN MAMARY: So there's no --</p> <p>09:30PM <b>21</b> MR. REGAN: Unless -- unless the court</p> <p>09:30PM <b>22</b> reads -- it's possible the court could -- the court</p> <p>09:30PM <b>23</b> reverses a denial.</p> <p>09:30PM <b>24</b> The court could send it back to the</p> <p>09:30PM <b>25</b> board for the imposition of conditions that are</p>



<p style="text-align: right;">129</p> <p>1 reasonable.</p> <p>2 MR. SZABO: That's what happened in the</p> <p>3 town that I was talking about the denial was sent</p> <p>4 back --</p> <p>5 MR. REGAN: With the court being able</p> <p>6 to review those conditions.</p> <p>7 MR. ELLER: Correct.</p> <p>8 MR. REGAN: That's the remand.</p> <p>09:30PM 9 That's in a denial situation.</p> <p>09:30PM 10 MR. ELLER: But any of that leverage we</p> <p>09:30PM 11 have is kind of out the window on some of the other</p> <p>09:30PM 12 ones.</p> <p>09:30PM 13 MR. REGAN: That's true.</p> <p>09:30PM 14 Chairman WEIDMANN: Welcome to the</p> <p>09:30PM 15 State of New Jersey.</p> <p>09:30PM 16 (Laughter.)</p> <p>09:30PM 17 CHAIRMAN WEIDMANN: There is no meeting</p> <p>09:31PM 18 open to the public this evening because we had that</p> <p>09:31PM 19 at the last meeting.</p> <p>09:31PM 20 So what the board is going to do now is</p> <p>09:31PM 21 consider the vote on this application.</p> <p>09:31PM 22 Just so you know, there are seven</p> <p>09:31PM 23 people eligible to vote.</p> <p>09:31PM 24 The applicant must receive five votes</p> <p>09:31PM 25 in the affirmative. If they don't receive five votes</p>	<p style="text-align: right;">131</p> <p>09:32PM 1 agree to it.</p> <p>09:32PM 2 So with that --</p> <p>09:32PM 3 MS. HAVERILLA: Second.</p> <p>09:32PM 4 CHAIRMAN WEIDMANN: I need a second.</p> <p>09:32PM 5 MS. HAVERILLA: Second.</p> <p>09:32PM 6 CHAIRMAN WEIDMANN: Second by Anna.</p> <p>09:32PM 7 Do you have the list of the seven</p> <p>09:32PM 8 people?</p> <p>09:32PM 9 MS. FROHLICH: Yes.</p> <p>09:32PM 10 CHAIRMAN WEIDMANN: Diane?</p> <p>09:32PM 11 MS. FROHLICH: Yup.</p> <p>09:32PM 12 CHAIRMAN WEIDMANN: Okay.</p> <p>09:33PM 13 MS. FROHLICH: Ready?</p> <p>09:33PM 14 CHAIRMAN WEIDMANN: Bill Weidmann.</p> <p>09:33PM 15 Go ahead.</p> <p>09:33PM 16 MS. FROHLICH: Mr. Maggio?</p> <p>09:33PM 17 MR. MAGGIO: Yes.</p> <p>09:33PM 18 MS. FROHLICH: Mr. Keil?</p> <p>09:33PM 19 MR. KEIL: No.</p> <p>09:33PM 20 MS. FROHLICH: Mr. Alessi?</p> <p>09:33PM 21 MR. ALESSI: Yes.</p> <p>09:33PM 22 MS. FROHLICH: Mr. Eller?</p> <p>09:33PM 23 MR. ELLER: Yes.</p> <p>09:33PM 24 MS. FROHLICH: Ms. Haverilla?</p> <p>09:33PM 25 MS. HAVERILLA: Yes.</p>
<p style="text-align: right;">130</p> <p>09:31PM 1 in the affirmative, the application is turned down.</p> <p>09:31PM 2 So that's the way it works. You're</p> <p>09:31PM 3 going to hear seven people up here vote, you know, up</p> <p>09:31PM 4 or down, and depending upon the number of votes, they</p> <p>09:31PM 5 need five votes in the affirmative, okay, for this</p> <p>09:31PM 6 application to pass.</p> <p>09:32PM 7 I'm just saying that, you want me to</p> <p>09:32PM 8 make a --</p> <p>09:32PM 9 MR. REGAN: That's absolutely correct.</p> <p>09:32PM 10 CHAIRMAN WEIDMANN: Okay.</p> <p>09:32PM 11 Anyway I will make a proposal in the</p> <p>09:32PM 12 affirmative that this application be approved in what</p> <p>09:32PM 13 we heard over the last 11 months.</p> <p>09:32PM 14 MR. REGAN: Subject to all the</p> <p>09:32PM 15 conditions that we have --</p> <p>09:32PM 16 CHAIRMAN WEIDMANN: Subject to --</p> <p>09:32PM 17 MR. REGAN: -- which are probably like</p> <p>09:32PM 18 30 or 40.</p> <p>09:32PM 19 CHAIRMAN WEIDMANN: Subject to all</p> <p>09:32PM 20 conditions that the applicant must agree to.</p> <p>09:32PM 21 And that the seven -- if it's in the</p> <p>09:32PM 22 affirmative, the people that voted in the</p> <p>09:32PM 23 affirmative, must read Bob's --</p> <p>09:32PM 24 MR. REGAN: There will be a resolution.</p> <p>09:32PM 25 CHAIRMAN WEIDMANN: -- resolution and</p>	<p style="text-align: right;">132</p> <p>09:33PM 1 MS. FROHLICH: Mr. Mamary?</p> <p>09:33PM 2 VICE CHAIRMAN MAMARY: No.</p> <p>09:33PM 3 MS. FROHLICH: Mr. Weidmann?</p> <p>09:33PM 4 CHAIRMAN WEIDMANN: Yes.</p> <p>09:33PM 5 The vote carries in the affirmative.</p> <p>09:33PM 6 MR. REGAN: Five/two.</p> <p>09:33PM 7 CHAIRMAN WEIDMANN: Five to two.</p> <p>09:33PM 8 MS. PRICE: Thank you very much.</p> <p>9 (Whereupon, this matter is concluded.</p> <p>10 Time noted: 9:33 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #50094914, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.



LAURA A. CARUCCI, C.C.R., R.P.R.  
License #XI02050, and Notary Public  
of New Jersey #50094914, Notary  
Expiration Date December 3, 2023

Dated: 1/17/23

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