

TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING

South Third Street
Phillipsburg, New Jersey
Wednesday, September 22, 2021

IN RE:

NFI, REAL ESTATE, LLC-Preliminary and Final Major
Site Plan approval and Variance Relief Application
Concerning Property Located at 188 Strykers Road and
Designated as Block 99, Lots 3.01 & 6. Continuation
of hearing.

P R E S E N T:

GARRY VAN VLIET, CHAIRPERSON
EARL CLYMER, MEMBER
ANNE COYLE, MEMBER
BRIAN WEEKS, MEMBER
JOSEPH PRYOR, MEMBER
JIM MENGUCCI, MAYOR

JAMES BRYCE, BOARD ATTORNEY
GEORGE A. RITTER, BOARD PLANNER
ADAM WISNIEWSKI, BOARD ENGINEER
BETH DILTS, BOARD SECRETARY

1 CHAIRPERSON VAN VLIET: We have an
2 applicant continuing the hearing. NFI Real
3 Estate, LLC, preliminary and final major
4 site plan approval and variance relief
5 application concerning property located at
6 188 Strykers Road and designated as Block
7 99, Lot 3.01.

8 Is the applicant here?

9 MR. PECK: Yes.

10 CHAIRPERSON VAN VLIET: Very good.

11 MR. PECK: Thank you, Mr.

12 Chairman. Good evening, Members of the
13 Board and associated -- everyone else.

14 For the record, my name is Mark
15 Peck. I am an attorney with the Florio,
16 Perrucci Law Firm, here on behalf of the
17 applicant, FMI Real Estate, LLC. We are
18 here continuing our hearing that began May
19 26 of this year. We are seeking preliminary
20 and final major site plan with bulk variance
21 relief.

22 Since it has been four months since
23 we were last before you, if you will indulge
24 me, I will refresh you with some of the
25 details. We are seeking to construct a

1 592,800 square foot warehouse, which will
2 include 29,640 square feet of office space
3 and the associated improvements that will go
4 along with that structure.

5 It is property located at Lots 3.01
6 and 6 in Block 99. That is 188 Strykers
7 Road. This is located in your ROM Zone
8 District, where it is a permitted use. The
9 property itself is a landlocked
10 46-and-three-quarter-acre parcel. That is
11 lot 3.01.

12 So we have an agreement to obtain
13 from the adjacent property owner, Lot 6, an
14 agreement to obtain a 50-foot-wide easement
15 across the north side of that Lot 6, giving
16 access to Strykers Road. And we do have the
17 executed consent to the owner to the
18 existence and location of this.

19 The lot itself is irregularly
20 shaped. It is bordered by Barry Plastics to
21 the west, the railroad to the north, the
22 Overlook development to the east, and the
23 existing solar field to the south.

24 In large, as a consequence of the
25 lot's landlocked status, we are seeking

1 several variances from Section 243-63 D,
2 which has to do with the need for lot
3 frontage on a public street; from Section
4 243-75 E, where you need at least 300 feet
5 of street frontage. And again, all we will
6 have is that 50-foot access easement.
7 Again, without those easements, the lot
8 would be zoned in utility.

9 There is also some
10 landscape-related variances from Section
11 243-75 D2, which is the 25-foot landscape
12 buffer. I believe our testimony showed we
13 would fill that in, if not completely, we
14 could certainly mitigate against that.

15 And then there is one that is sort
16 of "to-be-determined". I do want to stress
17 -- we are here tonight and we do have our
18 engineer, but we do recognize the elephant
19 in the room, which is the driveway and the
20 adjacent application that is going on at the
21 same time.

22 We understand we are still in the
23 process of trying to work a plan out and
24 refine something that not only will work to
25 our benefit and to the adjacent landowner's

1 benefit, but that would be something that
2 the Township and this Board could appreciate
3 and approve. But we are not there yet.

4 We recognize that we are going to
5 have to come back to address that, but what
6 we are hoping is we can basically clean
7 everything else up, just leaving the issue
8 of the driveway with us.

9 At the May 26 hearing, our site
10 engineer, Kyle McKenna, and our traffic
11 engineer, John Witchner, testified there
12 were some -- I don't want to say open
13 issues, but the Board raised some questions
14 and they asked that we maybe consider some
15 different options related to the landscaping
16 and parking, things like that. So Kyle is
17 going to give some testimony to that.

18 Also, stormwater drainage. Now,
19 the Colliers review letter suggests that the
20 new Stormwater Drainage Ordinance applies
21 that was adopted by the Township on December
22 28 of last year and the State law went into
23 effect March 2, but our application was
24 filed December 23, predating the adoption of
25 that.

1 So it is our position that the
2 prior ordinance applies and I believe Mr.
3 Bryce agrees with that legal conclusion, and
4 I believe Mr. McKenna is also going to
5 testify about the sewer.

6 And then once Mr. McKenna is done
7 with his site testimony, we have our
8 planner, Andrew Janiw, who will put on the
9 proofs for the variances we need, of course,
10 other than the driveway, which is yet to be
11 resolved. Again, when that is resolved, we
12 will have everybody back in to hopefully
13 conclusively wrap this up.

14 So without any further adieu, I
15 would like to bring up Mr. --

16 MR. PRYOR: Mr. Peck?

17 MR. PECK: Yes, sir.

18 MR. PRYOR: I have a quick
19 clarification before you even start.

20 You just said 29,640 square feet of
21 office space. I think the last
22 correspondence we got on the sewer, that had
23 been reduced to 17,5.

24 MR. PECK: That is right and that
25 is very perceptive of you, Mr. Pryor.

1 MR. PRYOR: So it is 17,5?

2 MR. PECK: That is right because we
3 are reducing the sewer ask as well. Mr.
4 McKenna will testify more to that, but we
5 are going from 10,000 gallons per day to
6 8,000 gallons per day. So the reduction in
7 office space will help us to get to that
8 number. So thank you for clarifying that.

9 I would like to ask Mr. McKenna to
10 come on up. And he has been previously
11 sworn, so I believe that is all right.

12 MR. MCKENNA: Good evening,
13 everyone.

14 MR. PECK: You have been
15 previously sworn. So I believe you just
16 have a few items that you would like to
17 clean up that were left hanging from last
18 time we were here.

19 MR. MCKENNA: So, as Mr. Peck
20 noted, just a few items you wanted us to
21 provide follow-up clarification on relative
22 to our hearing on May 26.

23 The first was the stormwater, which
24 Mr. Peck had noted, based on the time of
25 application, we are -- our stance is that we

1 would not be subject to the new Green
2 Infrastructure requirements, the new DEP
3 standards. With that being said, with the
4 exception of the waiver for pipe velocity
5 that was previously noted, we would be
6 willing to agree to the conditions outlined
7 in the Board engineer's review letter.

8 Changes to the plans would be
9 fairly minimal, inclusive of planting of the
10 previously proposed basins and also just
11 some redistribution of water -- stormwater
12 runoff and some adjustment to the points of
13 analysis, along with some other minor
14 changes to the stormwater report itself. I
15 just wanted to kind of close the loop on the
16 stormwater design.

17 Additionally, the Board planner had
18 requested and provided recommendations
19 related to open space. We were previously
20 requesting a waiver or variance for the open
21 space requirement based on the area of open
22 space within the trailer storage areas on
23 the site.

24 So what we have done is we reviewed
25 the recommendation and we agreed to provide

1 an open space -- additional open space
2 within the trailer storage areas in order to
3 conform with the requirement. The deficit
4 previously was 11,660 square feet. I
5 prepared an exhibit to outlined those
6 additional areas. It is in the package that
7 was distributed. The exhibit that I put on
8 the Board right now is actually Exhibit A-1,
9 previously marked in. It is just a
10 rendering of the site for everyone's
11 reference.

12 MR. PECK: A-2.

13 MR. MCKENNA: I am sorry. A-2.

14 So this would be Exhibit A-3,
15 almost identical to Exhibit A-2. It is a
16 colorized version of the site plan. For
17 reference, north is to the top of the page.
18 The title of the exhibit is Open Space
19 Exhibit. And the areas outlined in red
20 within the trailer parking areas to the
21 north and south of the proposed building
22 would illustrate where we would be proposing
23 the additional open space required.

24 The area outlined to the northeast
25 of the building in red, that is actually a

1 vehicular parking area, which we would
2 propose banking those parking spaces that
3 are illustrated on the plan, just to provide
4 a little bit of additional green space
5 between the proposed warehouse use and the
6 adjacent residential property to the
7 northeast of the site. That could
8 alternatively be turned into parking very
9 easily if the need shall arise. This would
10 actually mitigate and eliminate one of the
11 variance requests related to open space.

12 Additionally, there was a request
13 at the previous hearing in May and in the
14 April review letter from the Board planner
15 to provide some renderings to help
16 illustrate the topographic change across the
17 site and also the view from the residential
18 uses to the northeast. We prepared several
19 different views, which we can -- which are
20 provided in the reduced copies that I
21 distributed.

22 I am going to pull up what we will
23 call Exhibit A-4. This is Exhibit A-4. The
24 title of the exhibit is NFI Facility and
25 Initial Plantings rendering, dated June 20,

1 2021.

2 So what we are looking at here, and
3 if you follow along on the reduced-sized
4 copies that I distributed, the bottom left
5 corner of the page is a key map that zooms
6 in on the northeastern -- I am sorry,
7 northern part of the property, focusing on
8 the property line that divides the proposed
9 warehouse use and the residential use.

10 Each of these views illustrates a
11 perspective rendering of what you would be
12 seeing from the various residential
13 buildings that are just northeast of the
14 property line.

15 I am going to go ahead and move
16 over here so I can kind of flip through, but
17 if you follow along, there are multiple
18 views provided in these packets. I am not
19 going to go through every single one of
20 them, but they are available for you to take
21 a look at. If you would like to, look at
22 them on this board, if you have any
23 questions, please feel free to ask.

24 MR. PECK: Mr. Bryce, should we
25 maybe mark this whole packet and note it as

1 A-4, consisting of eight different views?

2 MR. BRYCE: Yes. I was just
3 counting them.

4 MR. MCKENNA: Each of these
5 packets will be a separate exhibit. We will
6 mark it for the record.

7 MR. PECK: How many sheets are
8 there?

9 MR. MCKENNA: There are 12 sheets.

10 MR. BRYCE: 12 sheets. A-4.

11 MR. MCKENNA: Again, this is
12 really to provide some perspective. This
13 view is the northern-most building, and it
14 kind of gives you an idea of what the
15 resident would see six feet above the
16 exterior elevation basically, which is what
17 you would see from the first-floor
18 elevation.

19 If I flip to the next page --
20 again, these are all provided in the packet
21 I distributed -- you would see a view that
22 focuses more on a second-story view,
23 approximately 15 feet above the exterior
24 elevation of the building.

25 As we go through it, it is a

1 similar perspective moving along each
2 building at six feet, and approximately 15
3 feet above the exterior grade of the six
4 different buildings going in the
5 north-to-south direction along that
6 property.

7 I think this view of Building 2 is
8 actually a good representation of what we
9 would consider the worst case. As you move
10 forward to the south, the berm that we are
11 proposing, landscape berm, actually gets
12 even larger with some more significant
13 planting.

14 That is what we prepared for
15 everyone's reference. I think it does help
16 to illustrate what kind of buffering we are
17 proposing relative to the residential
18 buildings.

19 MR. PRYOR: I do have a question
20 on this. A lot of these trees are pretty
21 mature. Is that because they are part of
22 the existing treeline or --

23 MR. McKENNA: Correct. Yes. So
24 this does illustrate the existing treeline
25 out there on the residential property.

1 MR. PRYOR: Because anything you
2 are going to plant is going to be --

3 MR. MCKENNA: This shows --

4 MR. PRYOR: -- a lot more modest.

5 MR. MCKENNA: Correct. We are
6 not able to bring in mature trees that are
7 out there today. But over time -- there is
8 also included in your packet a mature
9 perspective view. What it would like after
10 the trees have a chance mature in the
11 future.

12 MR. WEEKS: Do you have a packet
13 that actually has the building on it? This
14 one has no building on it.

15 MR. MCKENNA: This is the exhibit
16 that is on the Board right now, and that
17 also has the elevation on it.

18 (Discussion off the record.)

19 CHAIRPERSON VAN VLIET: Are these
20 actual photographs or just artist
21 renderings?

22 MR. MCKENNA: These are artist
23 renderings.

24 CHAIRPERSON VAN VLIET: So this
25 isn't actually proposed to show anything

1 that is actually out there?

2 MR. MCKENNA: Well, we can't show
3 the building because it doesn't exist, but
4 it is an artist rendering.

5 CHAIRPERSON VAN VLIET: I am not
6 saying this. I am talking about these.

7 MR. BRYCE: This has not been
8 marked yet, I believe. This is NFI
9 predevelopment.

10 MR. MCKENNA: There are three
11 different variations that we can mark in. I
12 can go through each of them, if you would
13 like. There is a lot of renderings here, so
14 we didn't want to overwhelm anyone.

15 MR. BRYCE: I understand. The
16 one that you did mark in, though, as A-4,
17 was NFI's Facility, Existing With Building?

18 MR. MCKENNA: It is initial plan.

19 MR. BRYCE: I don't have that
20 one.

21 MR. MCKENNA: It is right here.

22 CHAIRPERSON VAN VLIET: What is
23 it supposed to show?

24 MR. MCKENNA: This is supposed to
25 represent --

1 MR. PECK: The packets got pulled
2 apart inadvertently.

3 MR. MCKENNA: This is supposed to
4 represent --

5 MR. BRYCE: I think that anything
6 that was handed out, we have to --

7 CHAIRPERSON VAN VLIET: This is
8 an artist rendering of what is out there?
9 Did they go out there and photograph it?

10 MR. MCKENNA: I can bring those up
11 here.

12 CHAIRPERSON VAN VLIET: It doesn't
13 look anything like that.

14 MR. RITTER: We had asked -- along
15 with these renderings, did you put together
16 any -- we had asked for some cross-sections
17 that actually showed the relationship of
18 your proposed building to the topography to
19 the existing homes out there.

20 Did you put any of those together?

21 MR. MCKENNA: We didn't do a
22 cross-section of the site. We were focusing
23 on putting something that was illustrated
24 together. What we did do, is on Exhibit
25 A-4, which is titled: NFI Facility, Initial

1 Plantings, we provided labels that note the
2 height of the building relative to the
3 height that you are viewing the building at.

4 So, for example, on the first sheet
5 of the initial plantings package, there is a
6 red label. It says top of building
7 elevation is approximately 410.5 feet. The
8 view of this elevation from what we are
9 referring to as Building 1, which is the
10 northern-most building along the property
11 line is 366.5.

12 So we went ahead and labeled each
13 grade that this rendering was developed,
14 based upon. So we can provide some kind of
15 reference as to the topography between the
16 proposed warehouse and the residences
17 adjacent to the property.

18 MR. RITTER: Well, I guess what I
19 am saying is that the renderings -- well,
20 first of all, I think it shows a lot of
21 mature vegetation that is far nicer than
22 what is out there mixed into the hedgerows.
23 But also, there is going to be a good many
24 seasons that it is not fully leafed out, and
25 the cross-sections would have helped

1 everybody envision how your grading plan,
2 along with where the parking is and where
3 the building is, all fits into the landscape
4 out there.

5 A couple of sections I think would
6 have been -- I don't know if they would be
7 more helpful, but it would clearly, I think,
8 help the Board better understand what is
9 going on out there.

10 In terms of the relationship to the
11 building, I am not sure how helpful, to be
12 honest with you, all these renderings are to
13 give the Board a picture of what the
14 neighbors are going to actually see when
15 your project is completed. I guess that is
16 my sense of this.

17 CHAIRPERSON VAN VLIET: That is
18 my concern also. I mean, this is a very
19 nicely suitable rendering, but it doesn't
20 give us any information about what it looks
21 like out there now. It is not really
22 helpful to the Board.

23 MR. MCKENNA: I know the concern
24 -- some of the feedback we received last
25 time was view from the residents of the

1 proposed building, which is really what the
2 goal of this was. Each one of these
3 perspectives is based on survey documents,
4 topography of our site under proposed
5 conditions and the existing conditions of
6 the residential properties and the homes
7 there.

8 MR. RITTER: What you are telling
9 the Board is these are all scaled correct?

10 MR. MCKENNA: They are scaled,
11 relatively correct. It is not an actual
12 photo. We didn't go over to the residents'
13 homes and go to their second floor window
14 and take photos of the area where the
15 building is going to be placed, but we did
16 provide an artist rendering to try and
17 illustrate as best we could. But they are
18 to scale and they were based upon the survey
19 that was submitted along with the
20 application.

21 So they are correct and relatively
22 correct in regard to topography, which is
23 why, again, we provided two views from each
24 building, trying to be thorough and address
25 both the concerns of what someone would see

1 out of a unit on their first floor and also
2 their second floor as well.

3 And I know again the relative
4 topography was a discussion point at the
5 previous hearing and that is what we did
6 provide, some reference points from the top
7 -- both the absolute top of the building and
8 relative to the finished floor -- or the
9 actual viewpoint, illustrating each one of
10 the perspective views.

11 So I mean, I do think it is helpful
12 and it kind of meets the intent of -- what
13 we were requested to illustrate with the
14 cross-section.

15 And as far as the comment about
16 mature height of trees, there is, you know,
17 a rendered view in the package that I will
18 bring up and mark this for the record that
19 does help to illustrate the mature trees,
20 which would take some time. It can be ten
21 years or so, depending on the growth rate of
22 the trees.

23 MR. PECK: Again, we would be
24 willing to work with, of course, the Board
25 planner and engineer with tree selection and

1 things like that.

2 MR. MCKENNA: Just for the record
3 in the meantime, I am going to mark the
4 existing rendering as A-5 and I am going to
5 mark the mature rendering as A-6.

6 There is also a view that again
7 provides a perspective, illustrates the view
8 of the proposed building. Again, it is an
9 artist rendering of the proposed building
10 with no buffer. You can see -- I am going
11 to mark that.

12 So again, I do think this is
13 helpful. What we are looking at right now
14 on the left is A-7, which is an artist
15 rendering of what the view from the
16 northern-most building in the residential
17 property would see of the proposed building
18 relative to the A-4, which is to the right,
19 which shows the same view with the proposed
20 initial -- proposed planting buffer.

21 Again, this is one where we
22 consider the worst case scenario. It is in
23 the area of the site where there is -- there
24 is still some buffer planting obviously, but
25 it is not as wide as it is at other portions

1 of the site. So I think it is very
2 representative and kind of the worst case.

3 MR. WEEKS: What is the distance?
4 If you look at your little side map here,
5 from Building 1 to -- let's take a road.
6 There have got to be trucks going through
7 there. How close are we from the building,
8 that little cross road?

9 MR. MCKENNA: When you say the
10 cross road --

11 MR. WEEKS: It is highlighted in
12 the circle. You have got the arrow. It is
13 highlighted in blue.

14 MR. MCKENNA: Sure. So from the
15 building to that road?

16 MR. WEEKS: Yes.

17 MR. MCKENNA: It is approximately
18 60 to 80 feet.

19 MR. WEEKS: 60 to 80 feet.

20 MR. MCKENNA: Yes.

21 Are there any other questions on
22 this particular -- on these renderings? I
23 can flip through other views and help
24 describe the topography, if that would be
25 helpful.

1 MR. PECK: Hearing none, why don't
2 you discuss -- we had the Wastewater
3 Management Plan.

4 MR. MCKENNA: Sure. So the last
5 time -- we wanted to provide some followup
6 or clarification on his Comment 3.06 in the
7 Collier's letter, which related to sewer
8 capacity, request for sewer capacity from
9 the Township of Lopatcong and an amendment
10 to the town sewer service area.

11 We did review the report prepared
12 by JMT, dated April 22, 2021. And in the
13 summary of that report, it does note that
14 there is a potential sewer capacity of up to
15 19,720 gallons per day.

16 We have amended our request -- as
17 was previously noted -- from 10,000 gallons
18 per day to 8,000 gallons per day, based on
19 redistribution of the office and warehouse
20 space. We did submit a letter noting that
21 request with updated sewer capacity
22 calculations to the Township.

23 We have not received any formal
24 response from the Township that I am aware
25 of, but the applicant would be willing to

1 accept the condition of both sewer capacity
2 and amendment of the wastewater management
3 area as a condition of approval for the
4 project.

5 MR. PRYOR: I do have a couple
6 questions, if this is the right time to ask
7 them.

8 MR. MCKENNA: Sure.

9 MR. PRYOR: I remain a little
10 skeptical of your projections. I mean, your
11 first one is 10,000. And it seemed like you
12 started with 10,000, you subtracted off the
13 DEP criteria for the office and then you
14 divided by 25 to come up with your number of
15 employees. So it seemed like you backed
16 into it.

17 Now we are at eight, and it is
18 based on 250 employees total. If we go to
19 your traffic report, they are projecting 355
20 employees on a maximum shift.

21 The other thing, we have heard a
22 lot of applicants here on warehouses. And I
23 recognize -- I am not going to take their
24 testimony and apply it here, but in each
25 case, they supported these employee

1 projections with something. I mean, there
2 were comments. They gave us figures for a
3 nonautomated warehouse and then they moved
4 it up to a degree of automation and they had
5 figures from here or there, and so many per
6 thousand square feet. And, you know, the
7 wastewater came off of that. I am comparing
8 it with some of our other applications that
9 are quite higher. Absent any kind of backup
10 for the employees, it is just a number to me
11 at this point.

12 The 8,000, I wondered what was
13 magic about that. I wondered if you were
14 trying to get to some threshold for TWA.
15 Maybe you can answer that.

16 MR. McKENNA: Sure. There are a
17 lot of questions there. I can answer some
18 of them.

19 MR. PRYOR: How about the last one?

20 MR. McKENNA: As far as the last
21 one, the 8,000 gallons per day, it wasn't an
22 attempt to forego any state-level approval.
23 We are working -- we actually have an
24 application in to the DEP already for the
25 amendment to the wastewater.

1 MR. PRYOR: Because there are
2 other criteria attached to that, the 8,000,
3 it isn't the only thing.

4 MR. MCKENNA: Sure. Understood.

5 MR. PRYOR: I don't know. That is
6 my comment. I mean, I have a big question
7 mark behind your wastewater demand right
8 now, and it looks like you are playing with
9 numbers and whatever number of employees you
10 need to get to a number, it seems like that
11 is what you are doing.

12 MR. MCKENNA: A lot of that is, I
13 think, applicant related and end user
14 related. So this is --

15 MR. PRYOR: I understand that.
16 And everybody has acknowledged so far that
17 has been here there is a range, and they
18 have given us a feel for that range. And I
19 think most people that come here -- the
20 tenant is as important as the structure. We
21 get that. I don't know. You threw 8,000.
22 You said 250 employees total. Here, your
23 own traffic engineer has 355 employees on
24 the big shift. It just doesn't jive to me.

25 MR. MCKENNA: I would like to

1 clarify. It is only 250 employees max shift
2 within the warehouse area. It does exclude
3 -- you still have 17,500 square feet of
4 office space.

5 MR. PRYOR: That is a handful of
6 employees.

7 MR. McKENNA: I think, if
8 anything, we are just erring on the side of
9 caution from the traffic perspective,
10 because projecting traffic and accommodating
11 more employees, there is also some
12 potential, as far as parking --

13 MR. PRYOR: I am not going to
14 present testimony, but, you know, you would
15 have to convince me.

16 MR. McKENNA: And that is -- you
17 know, as a condition, essentially --

18 MR. PRYOR: I have just seen too
19 many applications here from too many
20 warehouses, and I have never seen something
21 this low with no support at all, without any
22 knowledge of a tenant. Tenants come and go.
23 Barry I thought signed a ten-year lease, and
24 they are gone. So things change.

25 Where is your connection point

1 right now?

2 MR. MCKENNA: Right now, our
3 plans are no different than the plans that
4 were submitted and presented in the May
5 hearing. It is the catching point to the
6 sewer pump station just south of the site on
7 Strykers Road.

8 MR. PRYOR: Do you have an
9 agreement with them yet?

10 MR. MCKENNA: Not that I am aware
11 of. Obviously this approval would be
12 subject to that agreement. I think that is
13 something that your board engineer actually
14 addressed in his letter that any approval at
15 this point would have to be subject to
16 several conditions that he outlined in his
17 review letter. The applicant has no
18 objection with conforming with those
19 conditions.

20 MR. PRYOR: And I guess the last
21 sentence fits right in. Even if you get a
22 wastewater -- actually it is an area -- I am
23 a Water Quality Management Plan member.
24 There is no guarantee you get capacity. And
25 I believe the applicant has been before the

1 Board at least twice. And the counsel has
2 supported neither an allocation or
3 Wastewater Management Plan amendment. So I
4 think it is important that the council or
5 the Planning Board hears that.

6 Gentlemen, am I saying that
7 correctly?

8 MR. RITTER: Yes.

9 MR. PRYOR: Mr. Peck, you came
10 before us, is that a fair statement?

11 MR. PECK: It is a fair statement
12 thus far.

13 MR. PRYOR: I will stop there.

14 MR. McKENNA: That is all the
15 additional testimony I had.

16 CHAIRPERSON VAN VLIET: Okay.

17 Does the Board have any additional
18 questions? Adam? George?

19 MR. RITTER: I have only one.

20 On the markup plan, since we
21 haven't had a chance to look at them until
22 tonight, would it be your testimony then
23 that the area marked in red, the cutouts and
24 the truck parking area, those areas are all
25 added up and you no longer need the variance

1 for green space within the pavement?

2 MR. MCKENNA: Correct. So your
3 review letter had noted a deficit of 11,660
4 square feet?

5 MR. RITTER: Yes.

6 MR. MCKENNA: Those areas that are
7 outline in red, Exhibit A-3, they do
8 summarize to that value. It is actually a
9 little bit more than that.

10 MR. RITTER: Okay. That is great.
11 I just wanted to make sure. And that does
12 not include the reserved parking area or it
13 does?

14 The piece that you are holding for
15 reserved parking that you suggested you
16 leave an open space as -- for today. If you
17 need it later, you would build it.

18 MR. MCKENNA: The banked parking?

19 MR. RITTER: Yes.

20 MR. MCKENNA: No. We are not
21 counting the banked parking towards the open
22 space requirement.

23 MR. RITTER: Okay. Good.

24 CHAIRPERSON VAN VLIET: You are
25 only stating here that, you know, if you

1 need the parking, you are going to make a
2 parking lot out of it.

3 MR. McKENNA: That is correct.

4 I think what Mr. Ritter was asking,
5 were we counting the landscaping area that
6 would be the banked parking area towards the
7 conformance of that open space requirement,
8 and the answer is no. That would be met
9 solely based upon the additional green space
10 within the trailer storage areas.

11 CHAIRPERSON VAN VLIET: Which the
12 proposal will maintain the required amount?

13 MR. PECK: I believe what he is
14 testifying is that if the banked parking
15 were to be constructed, we would still be
16 within the ordinance parameters for the open
17 space.

18 MR. McKENNA: Correct. There is
19 no ordinance requiring a number of trailer
20 spaces. So we would meet ordinance criteria
21 by providing the additional open space areas
22 within the previously proposed trailer
23 parking spaces. These are really two
24 separate items. I kind of just hit them at
25 the same time because they are somewhat

1 related in that it is an attempt to provide
2 additional green space on-site.

3 But the trailer spaces that we are
4 proposing to convert to landscaped area,
5 which are just to the north and south of the
6 proposed building, not the area all the way
7 in the eastern corner of the site, those
8 trailer spaces would equate to the deficit
9 that was previously noted of 11,660 square
10 feet.

11 What we are proposing is that we
12 actually bank the parking at the eastern
13 corner, which is delineated in red on
14 Exhibit A-3, because the applicant is
15 comfortable with that -- the resulting
16 parking spaces. If they ultimately need it,
17 they will construct it. They are still
18 asking for an approval for that parking area
19 and it would meet the open space
20 requirement.

21 MR. PECK: And those trailer
22 spaces would always remain green.

23 MR. McKENNA: That is correct.

24 MR. PECK: They are not banked or
25 anything like that.

1 MR. BRYCE: For my benefit, just
2 so I understand, could you just point to
3 those trailer spaces that you are referring
4 to?

5 MR. MCKENNA: The trailer spaces
6 are immediately to the south and to the
7 north of the proposed building.

8 The banked parking area is also
9 delineated in red at the eastern corner of
10 the site. So two separate areas. The
11 banked parking spaces would be 87 parking
12 spaces banked and would provide additional
13 -- likely one area that would be subject to
14 being converted to a parking surface at a
15 later date. But again, in the meantime, it
16 is on you. We would rather provide some
17 additional green space.

18 MR. BRYCE: Okay. So on your
19 exhibit that is up there, the trailer
20 parking area, I guess it is these little
21 cutouts?

22 MR. MCKENNA: Cutouts.

23 MR. BRYCE: I see.

24 MR. MCKENNA: Correct.

25 MR. WISNIEWSKI: What would be

1 placed in that banked parking area for now,
2 just a lawn?

3 MR. MCKENNA: We haven't detailed
4 it, but the thought is essentially just a
5 lawn, because there is -- perhaps planted as
6 a meadow mix. That way, if it ever does
7 need to be utilized for parking, they would
8 get a little bit of what they requested in
9 their review letter.

10 MR. WISNIEWSKI: And you are not
11 having to dig up trees and shrubs then.

12 MR. MCKENNA: Correct. It would
13 be just like that, except it would be like a
14 meadow-planted mix, so that if it was ever
15 needed, it would provide the benefit, but if
16 it is needed, it would not require an
17 additional variance.

18 MR. PRYOR: I have to ask both
19 Adam and George. If one is counter to my
20 intuition here, he has agreed to offset the
21 deficit and additional parking, but he has
22 got this area for 87 trailers, and you look
23 out at it one day and it has green grass and
24 you look at it the next day and it has got
25 80 trailers in it. And I thought the whole

1 purpose of this was, you know, for open
2 space and air and visual.

3 MR. WISNIEWSKI: I think banking
4 that parking gets you closer to what the
5 Highlands is looking for. I think the
6 Highlands is looking for the parking to get
7 pulled away further from that line.

8 If the Highlands had their
9 druthers, they wouldn't want that banked,
10 they would just want to eliminate it
11 altogether, but if it is needed for the
12 applicant's purposes, then that is why they
13 are intending on banking.

14 I think to meet the open space
15 George was referring to -- not to speak out
16 of turn -- but the parking area that we are
17 talking about to meet the open spaces for
18 the trailer parking, which are just along
19 the sides of the building -- if I am wrong,
20 George --

21 MR. RITTER: There are two
22 different issues, the way I look at it.
23 There is the issue of providing adequate
24 buffering and landscaping of the residential
25 area to the rear.

1 The variance that we are talking
2 about is we have in a Code that within a
3 paved surface area we have to create a
4 certain amount of green space for trees and
5 something to be planted. And the variance
6 we are talking about here is that in the big
7 truck parking area, in the original plan,
8 they had no cutouts. It was just a sea of
9 parking. And as such, they came up short
10 with the amount of green space in the
11 parking area that they had to create.

12 What the applicant has done, by
13 creating these cutouts, according to his
14 testimony, is he now complies with the green
15 space within the parking area, which, to me,
16 is a different issue than had they
17 adequately buffered the neighbors.

18 MR. PRYOR: I have a third issue
19 that maybe lies in between. I mean, can you
20 just take a grass area and park trailers on
21 it?

22 MR. MCKENNA: No. Just to
23 clarify -- two clarifications on that.
24 Number one, the banked parking area is for
25 vehicles. It was not a trailer storage

1 area. It was never proposed as a trailer
2 storage area.

3 Number two, just to clarify, if it
4 were determined that the applicant got a
5 tenant that had a higher density of parking,
6 higher density of employees within the
7 office space, et cetera, they would finish
8 the parking area as shown on the plan. So
9 they would go out there and pave it, curb
10 it, and it would be no different than as was
11 shown.

12 MR. PRYOR: And you would have to
13 come back to the Planning Board at that
14 time, would you not?

15 MR. McKENNA: My understanding is
16 no. We would be requesting that approval
17 now. We are requesting the approval for the
18 parking spaces with the option they be
19 banked in the interim.

20 MR. PECK: We are basically
21 looking for approval as if the entire thing
22 would be built out, but what we are
23 suggesting is that we don't believe we are
24 going to need all that parking, so don't
25 develop it, but if it, in fact, is needed,

1 you know, we already have it.

2 MR. RITTER: I guess the normal
3 way that -- they are asking for the area to
4 be banked, which would mean that if the
5 Board were to approve this, I believe you
6 would be approving the right for them to put
7 parking in that area at some time in future.

8 I would assume -- and Adam can jump
9 in here -- that all the infrastructure, the
10 stormwater, all the runoff from that area is
11 going to be accounted for in their detention
12 basins that they are building today. So
13 that they could essentially go up there and
14 pour it.

15 So if the Board were to agree that
16 that is banked parking, I would think,
17 truthfully, in the future, if they needed
18 it, they could simply come in and pull a
19 building permit for it.

20 MR. PRYOR: And we have no islands
21 or anything?

22 MR. RITTER: No. They are giving
23 you a plan.

24 MAYOR MENGUCCI: They are making
25 up a deficit that you calculated at the

1 outset.

2 MR. RITTER: No. What I
3 understand that they are telling us, is --
4 as I said, the banked parking has nothing to
5 do with our zoning code about how much open
6 space must be in the parking lot. What they
7 are telling us is that -- forget the banked
8 parking, all the green space within our
9 parking lot now meets our code.

10 MR. PRYOR: I get that. But now
11 they got this green space and they are going
12 to convert it to paved space in the future.

13 MR. RITTER: No, that is not
14 counted toward the green space.

15 MR. PRYOR: I know. I got that.
16 I got that. Everything works, but they have
17 a green area that they want to come back and
18 pave in the future and put trucks on it.

19 MR. PECK: That is actually not
20 true.

21 MR. PRYOR: No?

22 MR. PECK: That is actually not
23 true. This is the same plan that we
24 presented in May. All we are saying is
25 rather than -- if we get our approval --

1 saying we are just going to pave it all now,
2 we are suggesting --

3 MR. MCKENNA: Just to clarify, it
4 is still up here, but I am going to
5 reintroduce A-4.

6 MR. PECK: A-2.

7 MR. MCKENNA: Sorry. A-2.

8 Exhibit A-2 shows the same
9 vehicular parking area in the eastern corner
10 of the project. There has been no changes
11 to the layout or the landscaping or anything
12 of that -- or the infrastructure. The
13 infrastructure is designed with that
14 impervious surface in mind.

15 Mr. Ritter had pointed out in his
16 review letter that we have a deficit for
17 open space, totally separate from this
18 parking -- vehicular parking area in the
19 eastern corner.

20 So what we did to accommodate that
21 was agreed to landscape trailer parking
22 spaces, which again are these red boxes to
23 the south and to the north of the warehouse.

24 Additionally, the Highlands has
25 requested that we try to consolidate some of

1 the vehicular parking in the eastern corner
2 of the site or eliminate some. To try and
3 meet in the middle, we have agreed to bank
4 87 parking spaces in that eastern corner of
5 the project, which is what this red hatch is
6 delineating.

7 So that -- again, it is accounted
8 for in the intent of the design. We would
9 meet the criteria with or without it. It is
10 just why put additional impervious surface
11 there if it is not necessary, depending on
12 the tenant and the demand for parking.

13 MR. PRYOR: It says in your
14 report, the applicant has not included the
15 trailer parking spaces in the calculation of
16 needed open space.

17 MR. RITTER: That is right. He
18 originally did not. He originally submitted
19 a plan, and said I comply with the open
20 space. And I calculated it, based on the
21 number of employees.

22 MR. PRYOR: So the 11,660 is your
23 number?

24 MR. RITTER: Yes.

25 MR. WISNIEWSKI: And they are

1 going to curb and landscape 20 trailer
2 parking spots.

3 MR. MCKENNA: Correct.

4 MR. WISNIEWSKI: Permanently.

5 MR. MCKENNA: Those are
6 permanent. We are not going to -- if we had
7 to --

8 MR. WISNIEWSKI: That is where you
9 are getting your 11,000?

10 MR. RITTER: Right.

11 MR. MCKENNA: If we wanted to come
12 in and pave those, we would need to get an
13 approval, but that is not what we are
14 proposing right now. Those would be
15 permanent.

16 MR. RITTER: And the parking lot
17 that is being banked does have cutouts in
18 it, that when it is built there will be
19 green within that. In other words, when you
20 look at it, there are some cutouts. It is
21 not a sheet of asphalt is what I am saying.

22 MR. WEEKS: I have a question.
23 But that can change instantly. And if that
24 changed and became a parking lot, all right,
25 that also means you are going to have more

1 people inside for more sewage. So in
2 effect, that parking lot actually affects
3 two things, all right, plus your runoff.

4 So, have you sized -- again, I
5 think I have heard it, but have you sized it
6 to fit that? Have you sized the building --
7 you know, people coming in to size for that,
8 and then what do you think the long-term
9 would be where that would be banked? Do you
10 feel that the growth would come in where it
11 would block the view for the people over in
12 Overlook? Do you think it will be years or
13 do you think that all of a sudden you are
14 going to come in a week after it is built
15 and say, hey, I have got another company
16 that is coming and let's build it now?

17 MR. PECK: I don't think Mr.
18 McKenna can answer --

19 MR. WEEKS: Those questions?

20 MR. PECK: -- that last question.
21 I mean, the growth of the trees, I think he
22 can answer.

23 MR. MCKENNA: Right. So right
24 now the plan isn't to plant additional trees
25 in that area. As far as the relationship

1 between sewer and parking, this, if approved
2 with the 8,000 gallons per day, the
3 applicant would be constrained to warehouse
4 use that has a maximum employee shift count
5 of 250 employees. That wouldn't change.

6 I can't contemplate that. I don't
7 know enough about it. It is really more of
8 an applicant question, as far as what would
9 be the circumstance where you would need
10 that parking or not or what kind of use
11 would that be. I am not sure about that,
12 but again, it wouldn't change as far as what
13 we are requesting for sewer. The initial
14 application had that entire parking area.
15 Again, this is really trying to -- just to
16 provide additional green space if it is
17 ultimately not needed. We don't want a
18 parking lot out there.

19 MR. WEEKS: I understand. I am
20 trying to figure out longevity, time span.

21 MR. PRYOR: I just want to go back
22 to -- you said per shift. Your report says
23 inclusive of all shifts.

24 MR. MCKENNA: That is correct. I
25 may have mis --

1 MR. PRYOR: 250 employees --

2 MR. MCKENNA: 250 employees

3 inclusive of all --

4 MR. BRYCE: So that is 83

5 employees a shift.

6 MR. MCKENNA: If it has got
7 multiple shifts -- there are multiple shifts
8 a day, correct.

9 MR. PRYOR: Whatever it is.

10 MR. MCKENNA: So it is as outlined
11 in the DEP criteria.

12 MR. PECK: Are there any further
13 board questions for Mr. McKenna?

14 CHAIRPERSON VAN VLIET: The only
15 question I would have is getting into the
16 water supply that the Highlands is
17 requesting to be done, since you are on an
18 aquifer as a deficit.

19 When is your plan to do this,
20 instead of telling us we can't make any
21 approval of this until you have that up and
22 running?

23 MR. MCKENNA: So the Highlands
24 approval would be a condition of this
25 approval. We would have to conform with

1 that. We haven't submitted a site-specific
2 mitigation plan.

3 CHAIRPERSON VAN VLIET: You want
4 us to say okay with this without knowing
5 what that is going to be?

6 MR. MCKENNA: We have submitted
7 that. It has not been approved yet, so we
8 don't have a mitigation plan. But typically
9 we would expect that it would be considered
10 a condition of approval, so once the
11 Highlands review their mitigation plan,
12 confirms that we meet the mitigation targets
13 to their satisfaction, we wouldn't -- this
14 approval wouldn't -- you know, theoretically
15 would be not valid because it is a condition
16 of the approval from the Board.

17 MR. PRYOR: As I understand it,
18 this work is all offsite. It may very well
19 include a combination of things. You do
20 things you expect applicant to do and things
21 you expect the Township to do.

22 MR. MCKENNA: It may. That is
23 one option.

24 MR. PRYOR: That is a tough road.
25 That is a heavy lift.

1 CHAIRPERSON VAN VLIET: It has to
2 be in place before we can go for final site
3 plan approval.

4 MR. MCKENNA: I would defer to
5 Mark, but my understanding is that it could
6 be identified as a condition of approval on
7 the resolution, as an outside agency
8 approval.

9 CHAIRPERSON VAN VLIET: That is
10 the first time I have ever seen that caveat
11 put into a Highlands' requirement. It has
12 to be in and operating before we can give
13 you approval of a final site plan, like at
14 least an idea of what you are proposing to
15 do.

16 MR. MCKENNA: There are -- we
17 have ideas. We just haven't submitted a
18 formal plan to the Highlands at this time.

19 CHAIRPERSON VAN VLIET: Okay.
20 I have nothing further.

21 MR. BRYCE: Just a quick
22 question. Part of the package -- well, I
23 have actually two questions. You included
24 this. Is that going to be marked as an
25 exhibit?

1 MR. MCKENNA: Yes, I will mark
2 that in.

3 MR. BRYCE: That is going to be
4 Exhibit A-8?

5 MR. MCKENNA: Correct.

6 MR. BRYCE: Why don't you just
7 talk about that.

8 MR. MCKENNA: This is titled NFI
9 Facility Proposed Buffer Screening. It is
10 really just a bird's-eye view of the area
11 that we were looking at. It is an artist's
12 illustration of the buffer. Again, it shows
13 the various residential units that were --
14 this was A-8, right?

15 MR. BRYCE: That is correct.

16 My next question is and maybe I
17 missed it in testimony. I am just looking
18 at A-3. I just note that on the southern
19 aspect of the building there is the property
20 line corner that comes to -- in the middle
21 of the cartway, and it is noted that there
22 is a proposed plus/minus 2400 square feet.

23 MR. WISNIEWSKI: Next to the cell
24 tower site?

25 MR. MCKENNA: Correct.

1 MR. BRYCE: I was just curious.
2 Do you guys have control over that area or
3 do you have a secured easement for that
4 area?

5 MR. MCKENNA: The owner did
6 consent.

7 MR. BRYCE: I understand the
8 consent, but do you actually have a
9 legal-enforceable right to that area?

10 MR. MCKENNA: I would defer to --

11 MR. PECK: I don't know about the
12 cell tower. I know for the -- that actually
13 includes the corner as well.

14 MR. BRYCE: The consent?

15 MR. PECK: Correct.

16 MR. BRYCE: But you don't have an
17 easement for that yet?

18 MR. PECK: No. We have a contract
19 that says we will enter into an easement.

20 MR. WISNIEWSKI: As part of the
21 same document that established the driveway
22 access?

23 MR. MCKENNA: Correct, which we
24 did submit.

25 CHAIRPERSON VAN VLIET: Have you

1 completed --

2 MR. MCKENNA: Yes.

3 MR. PECK: Yes, unless any of the
4 public has -- I don't want to step on any
5 toes.

6 CHAIRPERSON VAN VLIET: I will
7 open this up to the public on questions to
8 this gentleman on what he has testified to.

9 MS. DONNA SCHNEIDER: Donna
10 Schneider, 26 Meadowview.

11 I wanted to ask about the sewer.
12 Who did you say you got a report for that we
13 had 19,000 gallons per day?

14 MR. MCKENNA: JMT prepared a
15 report for the Township.

16 MS. DONNA SCHNEIDER: Who is JMT?

17 MR. PECK: Are they not the
18 Township's sewer engineer?

19 MS. DONNA SCHNEIDER: They are
20 the township's? Thank you.

21 Can I ask you, Board, is that an
22 accurate number that we have 19,000 gallons
23 per day?

24 MR. PRYOR: Do you mind if I
25 answer?

1 CHAIRPERSON VAN VLIET: It is not
2 the Planning Board's purview --

3 MS. DONNA SCHNEIDER: Okay.

4 MR. PRYOR: I am answering as
5 someone who is familiar with it. I will
6 give you my interpretation.

7 MS. DONNA SCHNEIDER: Thank you.

8 MR. PRYOR: The 19,000 figure is
9 correct. We have 20,000 gallons in dispute
10 with Pohatcong. The allegation is that when
11 the mall opened, we were supposed to
12 transfer 20,000 to them. And the dispute --
13 they are alleging it was never transferred.

14 So right off the top, you have
15 20,000, and it is written right into our
16 Wastewater Management Plan, that that has to
17 be solved before we can use it.

18 The second thing is, the mall is
19 empty. It is in the sewer service area. It
20 is in a Redevelopment Zone. It is not going
21 to remain empty. It is going to open again.

22 So obviously it is going to require
23 wastewater, and it is in the Wasterwater
24 Management Zone. It is going to be in the
25 Redevelopment Zone. It is in the process of

1 -- and it is under dispute right from the
2 start.

3 So, I think to say that there is
4 19,000 available is not fully correct.

5 MS. DONNA SCHNEIDER: Okay. So I
6 am trying to figure out how -- what happens
7 then if this gets approved and then that
8 land gets redeveloped, and now we have less
9 sewer available for that plant?

10 MR. PRYOR: I think I said before,
11 there is no guarantee they are going to get
12 sewer capacity here.

13 MS. DONNA SCHNEIDER: How do we
14 know whether they get it or not? Sorry. I
15 am just trying to --

16 MR. PRYOR: It has to play out.

17 MS. DONNA SCHNEIDER: Okay. I am
18 just trying to figure -- if we are saying
19 that and they take eight, they are leaving
20 us with basically not much and then you have
21 got all these other applications in.

22 MR. PRYOR: Whoever comes in there
23 is going to have a demand. The first guy
24 that came in and nobody has gone anywhere
25 with him, but his demand was far above 20.

1 So, there is a lot of moving parts here.
2 They all have to play out.

3 MS. DONNA SCHNEIDER: Okay. All
4 right. Thank you.

5 CHAIRPERSON VAN VLIET: They
6 won't be settled at the Planning Board
7 level.

8 MS. DONNA SCHNEIDER: Okay.
9 Apparently not. Thank you.

10 CHAIRPERSON VAN VLIET: Any
11 further questions from the public?

12 Hearing none, I will close the
13 public portion.

14 Mr. Peck, if you would like to
15 proceed.

16 MR. PECK: Thank you. I had
17 indicated that we are going to bring our
18 planner up next, but we have a
19 representative from NFI, the applicant, who
20 wants to just give a little testimony on the
21 employee counts, since there was some back
22 and forth. He can give some clarification
23 into that. I don't believe he has been
24 worn.

25 (Michael Landsburg was sworn in.)

1 MR. LANDSBURG: My name is
2 Michael Landsburg, L-A-N-D-S-B-U-R-G. I am
3 the chief development officer for NFI. I
4 have been with the company for 16 years, and
5 I just wanted to comment on Mr. Pryor's
6 comment about employees and the range at
7 these types of facilities.

8 We are not like a typical real
9 estate developer. We have a full service
10 supply chain business, third-party logistics
11 business throughout the US and Canada. We
12 operate about 60 million square feet in
13 North America and have a range of
14 operations.

15 It is true that we don't know what
16 operation or customer or tenant will occupy
17 this building today. And so that is where
18 we can't sit here and say it is going to be
19 specifically this number of employees. But
20 I can tell you, for this size building,
21 across all the different facilities we
22 operate, there is a range to Mr. Pryor's
23 point. I agree with him. That range could
24 be as low as 50 employees for a building of
25 this size or something, you know, much

1 higher than that.

2 So that is -- I just wanted to give
3 that comment. And especially in this day
4 and age, where there is a lot more
5 technology in these buildings, sometimes
6 that results in a higher employee count.
7 Sometimes that results in a lower employee
8 count. But it could be a much lower count
9 for something like this, or as many as the
10 250-plus that we were -- that Kyle was
11 talking about.

12 So that is my comment. I wanted to
13 share it, and if there are any questions, I
14 would be happy to address them.

15 CHAIRPERSON VAN VLIET: Thank
16 you.

17 George? Adam? Do you have any?
18 Board members?

19 MR. RITTER: I have only one, and
20 it may be a little too simplistic.

21 If we are looking at an employee
22 base of around 250 or so, is there any
23 reason that that upper parking lot has to be
24 banked? In other words, 89 less spaces
25 onsite still keeps you plenty of parking for

1 the employees. I am just asking.

2 MR. LANDSBURG: I think Kyle
3 maybe can comment on that. What we were
4 looking at is -- I think the 250 is in the
5 warehouse, plus the office space. So that
6 could be potentially a handful or
7 potentially significant. And that is where
8 that 355 number came in.

9 If there are multiple shifts and
10 people are coming and going at the same
11 time, you need that extra capacity for the
12 cars to come in and out, because you may
13 have two people -- you know, a single person
14 in the building, but two cars, one coming
15 and one leaving. We don't expect that to be
16 the case.

17 Our expectation is it is probably a
18 lower number, which is why we are okay with
19 the banked parking at the outset. But I
20 think we would -- we just don't know, and so
21 that is why we are suggesting -- we don't
22 want to take credit for the banked parking
23 as open space, but thought that was a good
24 solution to have it shown, to get approved,
25 that hey, the total is the total, but if we

1 never need it, we will leave it as banked
2 and we are happy to show it as green space
3 on the plan to be out there.

4 MR. RITTER: That is fine. I
5 just wondered.

6 CHAIRPERSON VAN VLIET: I open it
7 back up to the public. Anyone have any
8 questions of this testifier?

9 MR. PECK: Thank you, Michael.

10 CHAIRPERSON VAN VLIET: We will
11 close the public portion.

12 Mr. Peck?

13 MR. PECK: Thank you.

14 I would like to call our final
15 witness for the evening, Mr. Andrew Janiw,
16 our planner.

17 (Andrew Janiw, Planner, was sworn
18 in.)

19 MR. JANIW: Andrew Janiw,
20 J-A-N-I-W.

21 MR. PECK: Mr. Janiw, will you
22 give the Board the benefit of your education
23 and employment experience?

24 MR. JANIW: Certainly.

25 I am a licensed professional

1 planner in the State of New Jersey, as well
2 as a member of the American Institute of
3 Certified Planners. I have a Bachelor's and
4 Master's Degree in Civil Engineering from
5 the New Jersey Institute of Technology.

6 I have been a principal and
7 managing member of Beacon Planning and
8 Consulting Services since 1998. I am
9 currently qualified as an expert in the
10 State of New Jersey by the Superior Court of
11 the State of New Jersey. I am serving as a
12 planner for the Borough of Carteret, and
13 have since 2004. I am currently also the
14 planner for the Township of Livingston in
15 Essex County and redevelopment planner for
16 South Amboy, Toms River, Plainsboro and
17 special consultant to Flemington.

18 I have testified throughout the
19 State of New Jersey before public boards and
20 on behalf of municipalities and private
21 clients, as well. And my licensure and
22 documents are all in good standing.

23 MR. PECK: I would like to present
24 Mr. Janiw as an expert in the field of
25 planning.

1 CHAIRPERSON VAN VLIET: So moved.

2 MR. PECK: Thank you.

3 MR. JANIW: So moving on this
4 evening, I actually -- from a
5 straightforward planning perspective, it is
6 not a very complicated case in the fact that
7 we are seeking bulk relief, as opposed to a
8 use relief, because this is a use that is
9 permitted within the ROM District.

10 As the Board knows, when preparing
11 for an application like this, the usual kind
12 of repertory actions are to review your
13 ordinance, your Master Plan, to review the
14 application itself, to review the review
15 letters that have been going back and forth
16 for your professionals, as well as all the
17 correspondence related to that. And that
18 is, in fact, what we have done to prepare
19 for the testimony this evening.

20 I was participating in the May
21 meeting remotely through Zoom meeting. I
22 was attendant to that, so I do have the
23 history of this entire application before me
24 in preparation for this evening.

25 Not to be too redundant, but the

1 property is a 46.75-acre parcel located
2 along Strykers Road. It is a landlocked
3 parcel. We do require relief because of
4 that situation.

5 There is an easement that is
6 proposed to cross the adjacent Lot 6 in
7 order to provide access to this property.
8 The property is being proposed to be
9 developed with a warehouse that will be
10 approximately 592,800 square feet, of which
11 approximately 17,500 square feet will be
12 dedicated office space.

13 As I mentioned, in preparation for
14 this evening, I reviewed your Master Plan,
15 historic master plans going back to 1989,
16 looking at the goals and objectives of those
17 master plans, as well as the ordinances, and
18 I would like to put on the record, because
19 we do have to have a reconciliation in terms
20 of the negative criteria with your zone plan
21 and the evolution of your zone plan -- so I
22 think it is important to understand how the
23 municipality has viewed this use, the ROM
24 District, through the years and what
25 recommendations were made through the years.

1 Starting with your 1989 Master
2 Plan, under their goals and objectives, you
3 listed to develop densities and intensities
4 of land use, compatible with the physical
5 limitations of the land and the present and
6 future infrastructure capacity, to encourage
7 the integrated development of the Industrial
8 District south of Route 57 -- and we are
9 South of Route 57 -- to ensure adequate
10 services and accessibility, to promote
11 design layouts, which utilize road
12 capacities of arterial and collective roads,
13 encourage through traffic to use these
14 designated roads and discourage through
15 traffic on local roads, to promote land
16 uses, which will provide a favorable fiscal
17 balance and stable tax base and to enhance
18 the attractiveness and accessibility of the
19 industrial district and promote the
20 coordinated development of the district to
21 ensure the establishment of stable,
22 long-term assets for the community.

23 Your 2004 re-examination report
24 revisited the ROM District. And on Page
25 2-11 of that report stated the 2000

1 re-examination report expressed the need for
2 nonresidential growth and development as a
3 means to balance the residential development
4 and increase tax revenues in an effort to
5 offset raise in taxes.

6 By 2000, the Township had begun
7 steps necessary to enhance the
8 attractiveness and accessibility of the
9 Research Office Manufacturing Zone, located
10 south of Route 57. Plans were being
11 prepared for the improvement of Strykers
12 Road from Route 57 south to the municipal
13 boundary with Greenwich Township. On Page
14 319, it is cited as a goal to encourage
15 mixed office and warehouse structures in the
16 ROM District.

17 In 2005, a subsequent reexamination
18 report stated the testimony should amend the
19 Sanitary Sewer District Plan to include the
20 undeveloped tract zoned ROM east of Strykers
21 Road, and we are that tract east of Strykers
22 Road.

23 The 2012 reexamination report on
24 Page 2. As a result of these new
25 initiatives by the State and Township, the

1 Planning Board has reexamined the Township
2 Master Plan and developed regulations to
3 determine the specific changes necessary to
4 align the Master Plan and development
5 regulations with the Township's objectives
6 for growing the industrially-zoned plans
7 located south of the Norfolk Southern
8 Railroad -- and that is paralegal to Route
9 57. We are that tract south of that. It is
10 the intent of this report to identify the
11 specific revisions needed to bring the
12 Township Master Plan and development
13 regulations current with the need to guide
14 future land use within the Lopatcong
15 Township's Research Office and Manufacturing
16 Zone located south of this railroad.

17 And Page 3, an additional goal was
18 to expand the boundaries of the sewer
19 service area so as to include the
20 undeveloped portions of the ROM Zone lying
21 south of Norfolk Southern Railroad.

22 And then finally, Lopatcong
23 authorized your planner to prepare a
24 Highland Center Planning Study report. The
25 report was originally dated December 7, 2017

1 and revised in June of 2018. And this
2 report was dealing with Highlands
3 reconciliation of your land uses and whether
4 you were zoned properly and whether those
5 were being managed properly.

6 On Page 12 of that report under
7 nonresidential districts, your planner
8 wrote: With regard to the ROM Zone, the
9 analysis includes all known existing
10 commercial, industrial and manufacturing
11 businesses located in all three district
12 areas, north, west and south. Only the
13 south ROM Zone is located within the center.
14 Of the 44 parcels located within the ROM
15 Zone, half are developed with either a
16 commercial or industrial manufacturing use.

17 On Page 8 of the report, it stated:
18 Generally speaking, the center has excellent
19 access to and through all its area. The
20 primary movement of vehicular traffic
21 through the Lopatcong/Highland Center and
22 via major State arterial thoroughfares, U.S.
23 Highway 22, New Jersey State Route 57, are
24 excellent.

25 Improvements to Route 22 should

1 include additional signalization and turning
2 lanes that will improve access to the
3 proposed warehouse development in Lopatcong
4 and the adjoining Phillipsburg redevelopment
5 area.

6 So as recently as 2018, your
7 professionals indicated that the area was
8 able to accommodate warehousing within the
9 ROM District, that you had adequate
10 circulation, adequate access to and from the
11 site, and, in fact, recommended extensions
12 of sewer service area to this very district
13 that we are proposing.

14 So, historically there has been a
15 propensity, through your documentation,
16 through your ordinances, through your master
17 planning that this is an appropriate use and
18 scale for the property. You have reexamined
19 your ordinance. You have reexamined your
20 ROM District. And up through the 2018
21 Highlands report, you stated that it was
22 operating properly, you had capacity and, in
23 fact, encouraging additional growth in order
24 to stabilize your tax base.

25 So when we talk about reconciling

1 with your Master Plan and Ordinance, we have
2 to understand that this is the historic view
3 that the Township has had for the property.

4 Now, as the Board knows, any
5 application with variances has to be
6 reconciled with public purpose. And the
7 public purposes are listed through your
8 Municipal Land Use Law.

9 The Municipal Land Use Law
10 stipulates what are commonly known as the
11 public purposes of zoning and how we can
12 reconcile applications with those public
13 purposes. Those are lettered throughout and
14 I would like to read three that I believe
15 would apply to this application.

16 The first is G. To provide
17 sufficient space and appropriate locations
18 for a variety of agricultural, residential,
19 recreational, commercial and industrial uses
20 in open space, both public and private,
21 according to their respective environmental
22 requirements in order to meet the needs of
23 all New Jersey citizens.

24 We are on point with that. I laid
25 the basis historically through your master

1 planning about how this was deemed to be an
2 appropriate location for industrial uses,
3 for warehouse uses and we are consistent
4 with that.

5 K, to encourage planned unit
6 development to incorporate best features of
7 design and relay the type, design and layout
8 of residential, commercial, industrial and
9 recreational development to a particular
10 site.

11 Again, this property, even though
12 it is landlocked, has been designed
13 consistent with most of the standards of the
14 ROM District. Meaning, we provide the
15 appropriate setback. We provide the
16 appropriate coverage. We are providing the
17 appropriate parking. Operationally, this
18 property is designed as intended within the
19 ROM District.

20 And finally, M, to encourage the
21 coordination of the various public and
22 private procedures and activities shaping
23 land development with a view of lessening
24 the cost of such development and to the more
25 efficient use of land.

1 As we know, particularly here in
2 Highlands, land is a precious resource. It
3 is intended to be developed carefully and
4 appropriately, and that is what your Master
5 Plan and zoning procedures do. We are
6 consistent with what the vision was for this
7 property and we are requiring a shared
8 access in order to develop this property as
9 it was intended and viewed within your
10 ordinances. That is an efficient use of
11 land. That speaks very much so to M within
12 the MLUL and how we are encouraging that.

13 That brings us to the variances.

14 So as you know with variances,
15 particularly bulk variances, there are two
16 tests. There is the hardship variance or
17 the C-1 variance and the C-2 balance test.

18 The hardship variance is typically
19 a variance that is necessitated because of
20 some unique situation or difficulty
21 associated with the property. And in this
22 instance, it is the lack of street frontage,
23 the lack of access from the street.

24 So when we look at the C-1
25 criteria, those would be the appropriate

1 criteria to apply to the fact that we don't
2 have access to a street, and we are planning
3 to access this property through a 50-foot
4 easement on an adjoining property and that
5 we don't have 300 feet of frontage and the
6 lot width.

7 The parcel is landlocked. Lot
8 frontage along the street is not possible.
9 That is the classic hardship.

10 With respect to the C-1
11 reconciliation, we have to prove that this
12 property is consistent with the ordinance
13 and your intent of the ordinance, which we
14 are, and then that way we are not creating
15 any type of significant hardship or
16 detriment to the neighbors. And we are not.
17 We are developing this property as it was
18 intended.

19 Your Master Plan anticipated this
20 scale of development, this scale of traffic
21 and the associated conditions with that in
22 terms of operating as a warehouse that is
23 permitted within the ROM District.

24 The balance of the relief that we
25 are seeking would qualify under what is

1 known as the C-2 criteria, which is the
2 classic balance test.

3 So when we look at the C-2
4 criteria, there are three positive prongs
5 and two negative prongs. The positive
6 prongs of the C-2 are that the application
7 relates to a specific piece of property, and
8 this does; that the purposes of the MLUL
9 would be advanced by a deviation from the
10 Zoning Ordinance requirements, and I have
11 read three instances within the MLUL that I
12 believe we would advance; and finally, that
13 the benefits of the deviation would outweigh
14 the detriments.

15 So we have to look at what
16 detriments are being created. This is being
17 proposed as anticipated within your zone
18 plan at the intensity that is anticipated in
19 the zone plan.

20 So things like the nuisance issues
21 of traffic, noise, light, those were all
22 anticipated in your zone plan. We are not
23 creating any excessive nuisance here.

24 You have heard testimony regarding
25 the operation of the property, the traffic

1 flow of the property. It is all operating
2 as anticipated for this type of use. We
3 don't anticipate any type of nuisance.

4 Finally, that the variance would
5 not impair the intent and purpose of the
6 zone plan. Again, but for the access to the
7 property, which was testified to extensively
8 by both Kyle and Mr. Witchner in terms of
9 traffic, we are not having any type of issue
10 that would be a negative or an impairment to
11 your zoning plan or ordinance. It is as
12 intended.

13 So looking at the C-2 variances
14 that were requested, first is a deviation
15 from 243-75 B2. 25-foot-wide buffer strip
16 required along all lot lines other than
17 street lines. So there is no buffer
18 proposed along the adjacent Lot 6. That is
19 going to be developed. That is where the
20 solar panels are, and I understand that is
21 going to be the subject of a future
22 application.

23 Where we did concentrate the
24 buffering is along the residential
25 neighborhood. Kyle presented several cross

1 sections -- not cross- sections, but
2 depictions of how that would work in terms
3 of landscaping. We are intending to buffer
4 that area. We are intending to screen that
5 area. That screening is concentrated where
6 it would be most effective.

7 We know that Lot 6, which is
8 currently improved with the solar array, is
9 not going to be harmed in any way, shape or
10 form by this development and it will
11 probably be developed in a compatible matter
12 shortly.

13 With respect to any deviations
14 along the rail line, there are several pinch
15 points that are proposed in terms of where
16 we have deviations within that buffer.
17 Again, that is not something that will
18 impair or harm anyone. Where it counts
19 along the residential line, we meet the
20 intent and the intensity of the buffer that
21 is anticipated within your zone plan.

22 We had originally asked for a
23 deviation from 243-62 A, landscaping,
24 buffering. We are intending now to comply
25 with the number of landscaping plantings and

1 shrubs that are required. You also heard
2 testimony tonight that we will comply with
3 the open space deviation that was initially
4 requested. So we are eliminating those two
5 variances.

6 With respect to the minimum clear
7 distance of 25 feet between two driveways,
8 you heard testimony, there still has to be
9 some resolution in terms of how the
10 driveways will be configured. That will be
11 a matter of a future discussion when the
12 driveway issue is resolved.

13 And finally, the waivers that we
14 are requesting relate to the driveway apron,
15 permitted width of 25 feet with a maximum of
16 40. We have an existing 112.4 width
17 proposed. A waiver is requested. There was
18 testimony regarding the operation of that
19 driveway width, apron width, and the safety
20 related to truck traffic. And we are
21 requesting that waiver.

22 And then finally, for parking lots
23 in excess of 100 stalls, sidewalk is
24 required along all driveways and roadways to
25 accommodate pedestrian travel. Again,

1 sidewalks are not proposed. They are
2 proposed along the building's northern and
3 southern elevations proximate to the vehicle
4 parking lots to provide safe pedestrian
5 circulation on the site.

6 You heard testimony from the
7 engineer regarding that, but that is the
8 limit of the sidewalks that are proposed,
9 but we do believe it is safe and will
10 function properly.

11 And finally, sorry, excuse me,
12 buildings in excess of 10,000 square feet
13 must provide 30-foot fire aisles along on
14 building exposures. We are providing a
15 24-foot wide aisle along the employee
16 parking in the building's front facade. We
17 are requesting this waiver and there was
18 testimony by the engineer that is safe, and
19 I believe your fire marshal will be
20 commenting on that as well in terms of the
21 safety of that.

22 CHAIRPERSON VAN VLIET: Has he
23 commented yet?

24 MR. JANIW: We have not received
25 his comments yet, to the best of my

1 knowledge.

2 And then the driveway with a
3 maximum of four-percent grade permitted when
4 within 100 feet of an intersecting street.
5 This is actually something that is
6 logistically impossible to do, because
7 Stryker Road in this area has a grade that
8 exceeds four percent. We are following the
9 grade of the road and we are requesting that
10 waiver as well.

11 So when we look at the package of
12 the variance relief that is intended, that
13 is requested here, as well as the buffers,
14 they all intend to meet the intent of the
15 ordinance.

16 We are screening the property from
17 the residential neighbors that are adjacent
18 to this property. We are providing safe
19 circulation within the property. We are
20 providing safe access -- what we believe to
21 be safe access for your fire vehicles around
22 the property. And then we still have the
23 unresolved issues of the driveways, which
24 will be a matter of a subject later, but we
25 do have testimony on the record that that

1 again will be configured in a manner that is
2 acceptable and safe and will present that
3 and provide the supplemental testimony to
4 that effect.

5 When we look at the negative
6 criteria in terms of detriments, I don't
7 think we have identified any. The property
8 will function properly. There are
9 conditions that are being requested with
10 respect to the resolution of the sewer
11 system and the driveway access. And again,
12 those are matters that are largely outside
13 the purview of this board, certainly can be
14 considered, but not something that you have
15 jurisdiction over. And I do believe it
16 would be appropriate to make those as
17 conditions of approval, because they do
18 require outside agency review and approval.

19 And that, in summary, is my
20 testimony and I welcome any questions or
21 comments.

22 CHAIRPERSON VAN VLIET: Thank
23 you. Questions?

24 MR. PRYOR: I do have one. You
25 made mention to the Wastewater Management

1 Plan. And that was extended to the parcel
2 south of this. I think around -- there was
3 a great deal of discussion with the
4 Highlands about that. It was written in
5 there that we were to comply with our
6 contractual requirements.

7 Now, how do you reconcile that?
8 The Wastewater Management Plan was looked at
9 in depth at that time and there was a
10 conscious decision on the part of the
11 Township and the Highlands to not extend it
12 into your applicant's site. And you
13 repeatedly talked about promoting this
14 through extension of the Wastewater
15 Management Plan. I would just make that
16 remark.

17 MR. JANIW: Historically, your
18 Master Plan has talked about developing this
19 area with warehousing, consistent with the
20 ROM District. It has talked about extending
21 sewer and promoting that type of development
22 in this area to provide a stable base. It
23 did not carve up which property should get
24 sewer. If not, it was --

25 MR. PRYOR: The Wastewater

1 Management Plan does that.

2 MR. JANIW: I am talking about your
3 Master Plan, not the Wastewater Management
4 Plan.

5 CHAIRPERSON VAN VLIET: It is the
6 --

7 MR. JANIW: This board reconciles
8 things with your Master Plan. That is the
9 criteria in order to adjudicate this, your
10 ordinance and your Master Plan.

11 Your Master Plan had envisioned and
12 recommended sewer extension to the area
13 south of 57. We are south of 57.

14 To that extent, we are -- do have
15 an application pending for inclusion in the
16 sanitary sewer service area. Again, that is
17 the jurisdiction of another body, but we do
18 believe in terms of the land use perspective
19 here, that we are consistent with your
20 Master Plan, consistent with the goals of
21 your Master Plan and don't violate any of
22 those goals.

23 MR. PECK: Does that conclude your
24 direct testimony?

25 MR. JANIW: It does.

1 MR. RITTER: I have one question
2 and that deals with -- if I understand where
3 we are headed here, essentially the
4 applicant is going to provide on Section
5 243-62 A1, we pointed out that you are a
6 little bit short in landscaping. If I
7 understand, you are indicating the Applicant
8 will now comply with that?

9 MR. JANIW: My discussion with the
10 applicant is we will comply with that.

11 MR. RITTER: In relation to the
12 variance for 243-49 G5 with the cutouts for
13 the truck parking spaces, you are going to
14 comply with that?

15 MR. JANIW: Right. That is
16 correct.

17 MR. RITTER: The question I had is
18 regarding our landscape buffers. Now, our
19 buffer requirements are actually, by most
20 standards, I would say very minimal. We
21 require 25-foot-width buffers around these
22 industrial properties in town.

23 And this plan, though it did meet
24 it on most of the areas, does not comply as
25 it relates to certain areas of the property

1 in terms of providing us the minimum 25-foot
2 setback.

3 I guess my question to you on that
4 is, on a property of this size, why can't we
5 get a clean 25-foot buffer around the
6 property and why would that be something
7 that the Board would have to grant you
8 relief on when, in fact, it is a large
9 property and the fact that you can't get it
10 is just the way you chose to do the layout,
11 not so much being driven by the site itself.
12 At least that is my --

13 MR. JANIW: I would disagree with
14 that because I think the layout is largely
15 driven by the site. As you can see, it is
16 not a regularly-shaped property. It is very
17 irregular in fact.

18 In order to develop this property,
19 as envisioned with the Plan -- keeping in
20 mind we are consistent with your coverage,
21 we are consistent with your building
22 coverage, we meet all your setback
23 requirements. The issue is the buffer.

24 So when we look at a property like
25 this -- and again, in Carteret, we are a

1 very heavily industrial community. So I am
2 dealing with buffers and we have a lot of
3 industrial buffers between commercial and
4 residential properties all the time.

5 We looked to, what is the intent of
6 the buffer, what is the buffer trying to do
7 and are we doing that.

8 So the 25-foot buffer is really
9 intended to screen and protect adjacent land
10 uses that may be incompatible. We are
11 compliant and we do intend to comply to
12 enhance the buffer adjacent to the community
13 that is adjacent to us, the residential
14 community. That is something that we agree,
15 and we are concentrating the buffer.

16 The buffer along the adjacent ROM
17 property that is currently solar panels,
18 quite frankly, what are we buffering there
19 in terms of noncompatibility. It is
20 currently a solar field and it may be a
21 warehouse at some point. We don't have any
22 kind of issues where we are conflicting land
23 uses or creating some kind of an unsightly
24 detriment to the adjacent property.

25 And then finally, when we are

1 looking along the rail line and Route 57, I
2 indicated to you there were a couple of
3 pinch points and intrusions there. But
4 again, that is an area where we are not
5 creating anything that is violating an
6 incompatibility issue with the adjacent land
7 uses. So when we look at, kind of the form
8 function argument, what is the intent of the
9 buffer, we meet the intent of what the
10 buffer is trying to do, which is to screen
11 noncompatible land uses.

12 We had to skew the property. You
13 can see it is set somewhat angularly on the
14 property. It is a little bit irregular
15 because we don't have a rectangular shape.
16 And really, it would create a situation
17 where you create multiple boxes. I think
18 this is a very efficient use of the land, a
19 very efficient layout of the land and
20 provides for adequate circulation, both
21 pedestrian and vehicular on the property.
22 So we are asking for that buffer because,
23 quite frankly, it works and there is no harm
24 in the areas where we are not providing the
25 buffer, as anticipated within your Zone

1 Plan.

2 That is why we have variance
3 relief. We try to justify the variances.
4 We try to justify the waivers. And those
5 are our purposes.

6 MR. PRYOR: If I ask for the same
7 buffer, then instead of a strip of green
8 there, we have a 50-feet of bare space.
9 And, of course, that buffer could be
10 provided if we shrunk the building a foot or
11 two. So all these things, as I see it,
12 these bulk variances that come on in this
13 when you shrink a buffer, it is just to
14 maximize the size of the building. And I
15 don't understand why we can't meet buffer
16 requirements.

17 I don't see it as a benefit to the
18 Township as eliminating that buffer.
19 Nothing else, you have a 50-foot strip which

20 --

21 MR. JANIW: And again, your Master
22 Plan is encouraging -- creating a stable tax
23 base, you would think --

24 MR. PRYOR: We have a stable tax
25 base. We are getting there. We are

1 growing.

2 MR. JANIW: You are growing because
3 of applications like this, Mr. Pryor.

4 MR. PRYOR: A little buffer isn't
5 going to hurt our tax base.

6 MR. JANIW: I guess we will have to
7 agree to disagree.

8 CHAIRPERSON VAN VLIET: Any
9 further questions?

10 None from the Board, I will open --

11 MR. BRYCE: You did indicate
12 Section K in your testimony.

13 MR. JANIW: Yes.

14 MR. BRYCE: And then you mentioned
15 planned unit development, but this is not a
16 planned unit development, correct?

17 MR. JANIW: It talks about
18 incorporating design and relating the design
19 to the specific environmental compatibility
20 of the property. So I do believe, in terms
21 of a unit this size, it is a substantial
22 development plan, developments usually talk
23 about size of development. So this is a
24 fairly substantial scale of development. It
25 is 46 acres. It is 500,000 plus square feet

1 of building.

2 So I do believe that when we talk
3 about the relationship of the best design
4 features to a specific site, that does
5 comply here. But again, when we look the
6 Municipal Land Use Law, we look at the
7 reconciliation, we only have to meet one of
8 the criteria in order to meet the public
9 purpose. I believe we meet three. Quite
10 frankly, if you don't believe we meet K, I
11 still think we meet G and M.

12 MR. BRYCE: That is fine. I just
13 want to be clear, because I read K as it
14 says planned unit developments. Planned
15 units developments is defined: Requires 10
16 or more acres developed as a single entity
17 according to a plan containing one or more
18 contiguous clusters of noncontiguous
19 clusters, land unit residential developments
20 and one or more public, quasi-public,
21 commercial or industrial areas, et cetera.

22 So it looks -- for a planned unit
23 development, it looks like it is trying to
24 link up with residential and commercial.
25 And I think K really addresses that. That

1 is just my opinion.

2 MR. JANIW: Keeping in mind that we
3 are relative to your affordable housing
4 district and the adjacent property. So when
5 you look at this in terms of that mesh, I do
6 believe we are, as I anticipated, designing
7 this such that, to be most protective of
8 that relationship --

9 MR. BRYCE: But it is not a
10 planned-unit development, right?

11 MR. JANIW: Well, in terms of K --

12 MR. BRYCE: Does it meet that
13 planned-unit development under the Municipal
14 Land Use Law? That is simply the question.

15 MR. JANIW: It does not meet the
16 strict definition of a planned-unit
17 development, but I think it has some
18 substantial characteristics the same.

19 MR. PECK: But we still have G and
20 M.

21 MR. JANIW: Yes, we do.

22 MR. BRYCE: That is fine.

23 MR. RITTER: I have one more
24 question.

25 Just for clarity, I have here in my

1 notes that the access driveway would be,
2 quote, shared. Is that your intent? Is
3 that the intent of the applicant to
4 eventually work with the adjoining property
5 owner to, quote, have a shared driveway?

6 MR. JANIW: It hasn't been
7 designed. I quite frankly don't know how it
8 will work. There may be a shared easement.
9 There are different configurations that have
10 been anticipated or looked at. Nothing has
11 been resolved. So right now we have the
12 rights to a 50-foot easement or access to
13 this property, and I can't comment from a
14 design point any further than that.

15 MR. RITTER: So essentially the
16 Board is looking at the driveway as
17 proposed.

18 MR. JANIW: We don't have a
19 finalized design for the driveway.

20 CHAIRPERSON VAN VLIET: And your
21 traffic reports are both independent traffic
22 reports looking at both properties, the
23 adjacent property and your property, but
24 they all come together at one point.

25 MR. JANIW: They may be operating

1 simultaneously at some point.

2 MR. PECK: And that is why we are
3 -- clearly we are going to have to return.

4 CHAIRPERSON VAN VLIET: But we
5 have a board going here, and we would like
6 some information and you can't provide it to
7 us.

8 MR. JANIW: We indicated upfront
9 that we don't have that yet. We will
10 present it when it is finalized, and we are
11 not asking for a vote tonight.

12 CHAIRPERSON VAN VLIET: Why don't
13 you hold the application until it is time
14 that you have the information. You are
15 asking us to buy a pig in a poke basically.

16 MR. JANIW: I don't believe that
17 is the case.

18 MR. PECK: Sir, with all due
19 respect, we are not asking for a vote
20 tonight. We are just trying to keep
21 advancing the ball forward with the hopes
22 and understanding that we have this driveway
23 issue.

24 MR. JANIW: There are some limited
25 issues that aren't resolved --

1 CHAIRPERSON VAN VLIET: It is the
2 driveway issue. It is the water issue. It
3 is the lack of the aquifer underneath you.
4 All questions that we have to take into
5 consideration and we are not getting any
6 answers on them.

7 MR. PRYOR: I will say, this
8 application is nine months old now.

9 MR. JANIW: Understood.

10 MR. PRYOR: Enough time to get an
11 answer.

12 CHAIRPERSON VAN VLIET: If you are
13 requesting we don't vote tonight, we won't
14 have a vote tonight, but where are we going
15 with this?

16 MR. PECK: As we indicated, we are
17 going to come back. We are speaking with
18 the adjacent landowner about the access
19 issues, and that is a domino that when that
20 falls we believe everything else will fall
21 into place and we will return with a
22 fully-engineered plan with the access.

23 CHAIRPERSON VAN VLIET: I got a
24 letter from you this afternoon.

25 MR. PECK: I know you did.

1 CHAIRPERSON VAN VLIET: Okay.
2 Just indicating that time limits are now in
3 effect.

4 MR. PECK: Yes.

5 MR. PRYOR: When you come back
6 with the driveway resolved, are we going to
7 have a plan for the water deficit? Are we
8 going to have a clue of what we are going to
9 do with the sewer?

10 MR. PECK: We certainly hear you
11 loud and clear right now.

12 CHAIRPERSON VAN VLIET: If there
13 are no further questions from the Board, I
14 will open it up to the public for any
15 questions of this witness.

16 MS. DONNA SCHNEIDER: Donna
17 Schneider, 26 Meadowview. I guess it is
18 more of a comment.

19 You made a comment about, you know,
20 it is industrial in Carteret. We are not
21 Carteret. And we don't want to be Carteret.
22 I know Carteret and I don't want to be that.

23 And also the 25-foot buffer, thank
24 you, Board, for trying to push that, because
25 again there is no reason why we can't have

1 that. And for you to say, well, you know,
2 the property next door; that is going to be
3 a warehouse too, so who cares? We do. I
4 live here. I care. I don't want it to look
5 like Carteret. So I don't appreciate you
6 making those references.

7 MR. JANIW: For the record, that
8 was a comment, not a question. No response.

9 CHAIRPERSON VAN VLIET: Anyone
10 from the public?

11 Seeing none, we will close the
12 public portion on this testimony.

13 CHAIRPERSON VAN VLIET: Mr. Peck?

14 MR. PECK: That would conclude all
15 the testimony we are prepared to give
16 tonight. We thank the Board for its
17 courtesies this evening. And we have heard
18 your comments as we have in the past and
19 look forward to appearing back.

20 CHAIRPERSON VAN VLIET: In that
21 mode, are you requesting an extension to
22 some further point or -- where are we with
23 that?

24 MR. PECK: I mean, I think we
25 would have to give an extension. I would

1 suggest, through October 31, subject to us
2 waiving it again, because we don't know when
3 we will have the things with our neighbors
4 worked out.

5 CHAIRPERSON VAN VLIET: I have no
6 objection to extending it to the next
7 planning board meeting.

8 MR. PECK: Right. And then we
9 will let you know in sufficient time in
10 advance --

11 CHAIRPERSON VAN VLIET: I really
12 appreciate it. You disappointed me with my
13 4 o'clock letter today.

14 MR. PECK: Always glad to be of
15 service, Mr. Chairman.

16 CHAIRPERSON VAN VLIET: I thank
17 you very much for that.

18 MR. PECK: Gotta keep things
19 interesting.

20 CHAIRPERSON VAN VLIET: Yes, it
21 does.

22 MR. WISNIEWSKI: Mr. Ritter and I
23 were having a short conversation here. We
24 were just wondering whether the applicant
25 intends to submit plans that will address

1 Mr. Ritter and my technical comments for
2 consideration of the Board before a vote is
3 requested, similar to what was requested of
4 the prior applicant last month. I don't
5 know if that is the Board's feeling here
6 or --

7 CHAIRPERSON VAN VLIET: It would
8 be, yes.

9 MR. WISNIEWSKI: -- what the
10 approach is going to be. That is what
11 George and I were wondering.

12 MR. PECK: I am sorry, Adam, I
13 missed the first and probably most important
14 part of the statement.

15 MR. WISNIEWSKI: So the question
16 that was posed to the Chair and the rest of
17 the Board was whether the Board is looking
18 to see plans that are finalized, have all
19 the engineering, buffering, driveway issues
20 addressed in coordination with the adjacent
21 applicant for the Board's consideration
22 prior to a vote being requested on the
23 application.

24 CHAIRPERSON VAN VLIET: We would
25 need that.

1 MR. WISNIEWSKI: That was the
2 criteria placed upon the prior applicant. I
3 am just asking if that is the same situation
4 here.

5 CHAIRPERSON VAN VLIET: Yes. I
6 would say it was.

7 MR. PECK: I understand, and I did
8 want to clarify that the extension of time
9 be granted. There are still some matters in
10 dispute. So we are extending the time
11 without, of course, waiving any of our
12 previously asserted rights, for the record.
13 Understood, it is best to keep things -- and
14 yes, we did hear that at the last hearing,
15 and we will proceed accordingly.

16 CHAIRPERSON VAN VLIET: Very
17 good.

18 Do I have a motion to extend them
19 to the next planning board meeting?

20 MR. PRYOR: Okay. I will make
21 that motion.

22 CHAIRPERSON VAN VLIET: Thank
23 you.

24 MR. WISNIEWSKI: October 27.

25 CHAIRPERSON VAN VLIET: October

1 27?

2 MR. PECK: Without need for
3 further notice?

4 CHAIRPERSON VAN VLIET: Without
5 need.

6 Do I have a second?

7 MAYOR MENGUCCI: I will second
8 it.

9 CHAIRPERSON VAN VLIET: Role call,
10 please.

11 MS. DILTS: Member Clymer?

12 MR. CLYMER: Abstain.

13 MS. DILTS: Coyle?

14 MS. COYLE: Yes.

15 MS. DILTS: Pryor?

16 MR. PRYOR: Yes.

17 MS. DILTS: Weeks?

18 MR. WEEKS: Yes.

19 MS. DILTS: Mayor Mengucci?

20 MAYOR MENGUCCI: Yes.

21 MS. DILTS: Chairman Van Vliet?

22 CHAIRMAN VAN VLIET: Yes.

23 Okay, and for the public, this is
24 your notice that this matter is being
25 carried to Wednesday, October 27, 7 p.m. in

1 chambers here. You will receive no further
2 notice. This is your notice. So if you
3 want to continue to participate, please come
4 at that time.

5 (Proceeding adjourned at 8:48 p.m.)

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