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<p>1 <u>I N D E X (continued)</u></p> <p>2 <u>E X H I B I T S</u></p> <p>3 NO. DESCRIPTION ID EVID</p> <p>4 ZBA-3 Letter to K. Walsh, Esq., from N. Saluzzi, dated 6/1/18 17</p> <p>5</p> <p>6 ZBA-4 Letter from Chief A. Jannicelli dated 6/15/18 17</p> <p>7 ZBA-5 Neglia Engineering Associates Report issued 8/20/18 17</p> <p>8</p> <p>9 ZBA-6 Memorandum from R. Preiss, P.P., dated 8/29/18 17</p> <p>10 ZBA-7 email from Clay Bosch dated 11/23/18 17</p> <p>11</p> <p>12 ZBA-8 Memorandum from R. Preiss, P.P., dated 6/20/19 17</p> <p>13 ZBA-9 Settlement Agreement 17</p> <p>14 ZBA-10 Note & attachments from V. Appelle 17</p> <p>15</p> <p>16 O-1 Veronica Appelle letter 125</p> <p>17 O-2 One page double-sided photographs 143</p> <p>18</p> <p>19 O-3 Photograph 162</p> <p>20 O-4 Photograph 165</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p>7</p> <p>-02:-49 1 matter and a consultant only. He has no interest</p> <p>-02:-49 2 whatsoever in the project, other than as a</p> <p>-02:-49 3 consultant.</p> <p>-02:-49 4 As I understand it, consultants can be</p> <p>-02:-49 5 used by anyone who deems to use them.</p> <p>-02:-49 6 Thank you.</p> <p>-02:-49 7 I just want to give you my position,</p> <p>-02:-49 8 because this may come up again, I just figured let me</p> <p>-02:-49 9 get that on the record.</p> <p>-02:-49 10 I'd like to hear from Mr. Princiotto as</p> <p>-02:-49 11 well.</p> <p>-02:-49 12 MR. NEWMAN: And I'd also like to hear</p> <p>-02:-49 13 if anybody from the public has any objection or if</p> <p>-02:-49 14 they have any questions.</p> <p>-02:-49 15 MR. DELIA: If you give me two seconds,</p> <p>-02:-49 16 I'll take a closer look.</p> <p>-02:-49 17 MR. PRINCIOTTO: While you're doing</p> <p>-02:-49 18 that.</p> <p>-02:-49 19 When did this initiation of the process</p> <p>-02:-49 20 begin?</p> <p>-02:-49 21 MR. NEWMAN: The initiation occurred</p> <p>-02:-49 22 about a month ago, since the last meeting, where I</p> <p>-02:-48 23 could have disclosed it when I attended. He's going</p> <p>-02:-48 24 to be my architect simply for zoning approval of the</p> <p>-02:-48 25 project, which is 24 units.</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p>6</p> <p>-02:-51 1 CHAIRWOMAN HEMBREE: Now we have the</p> <p>-02:-51 2 continuation of 188 Broadway.</p> <p>-02:-50 3 MR. DELIA: Good evening, Chairwoman</p> <p>-02:-50 4 Hembree, members of the board.</p> <p>-02:-50 5 MR. NEWMAN: Madam Chairwoman, if</p> <p>-02:-50 6 you'll just give me a minute. I always find it</p> <p>-02:-50 7 appropriate to disclose if there's any potential of</p> <p>-02:-50 8 conflict. You have an architect who has testified in</p> <p>-02:-50 9 this matter, Mr. Albert Dattoli. I happen to own</p> <p>-02:-50 10 property in Lincoln Park, New Jersey, in Morris</p> <p>-02:-50 11 County, and I am going to use Mr. Dattoli -- I have</p> <p>-02:-50 12 discussed with him retaining him -- I'm going to use</p> <p>-02:-50 13 him with respect to my own application. I have</p> <p>-02:-50 14 partners on the project, but effectively I am a</p> <p>-02:-50 15 50-percent owner in this project, and I am going to</p> <p>-02:-50 16 use Mr. Dattoli in that project. He is going to be</p> <p>-02:-50 17 my architect.</p> <p>-02:-50 18 I want to disclosure that to you, to</p> <p>-02:-50 19 the applicant, as well as the public, and see if you</p> <p>-02:-50 20 have any objection to that.</p> <p>-02:-50 21 MR. DELIA: I do not believe that is a</p> <p>-02:-49 22 conflict of interest or is it any violation of the --</p> <p>-02:-49 23 it will come to me in a second -- the other act that</p> <p>-02:-49 24 deals with professional conduct at hearings.</p> <p>-02:-49 25 Mr. Dattoli is a consultant in this</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p>8</p> <p>-02:-48 1 I had an architect who actually</p> <p>-02:-48 2 designed the plans. That architect is from</p> <p>-02:-48 3 Philadelphia. He has decided that it's not worth it</p> <p>-02:-48 4 to come down.</p> <p>-02:-48 5 I telephoned Mr. Dattoli. I have</p> <p>-02:-48 6 orally made arrangements with Mr. Dattoli as to his</p> <p>-02:-48 7 fees. He has sent me a proposal, which I agreed to,</p> <p>-02:-48 8 and he is going to represent the entity which is</p> <p>-02:-48 9 known as "Dovetail Commons LLC" over which I am</p> <p>-02:-48 10 officially a 50-percent partner. And he will</p> <p>-02:-48 11 represent us before the zoning board in Lincoln Park</p> <p>-02:-48 12 when that application comes to fruition.</p> <p>-02:-48 13 MR. PRINCIOTTO: And I know that you</p> <p>-02:-48 14 will be fair and impartial, but I have to ask you on</p> <p>-02:-48 15 the record: Do you feel that you can be fair and</p> <p>-02:-48 16 impartial in this matter?</p> <p>-02:-48 17 MR. NEWMAN: I feel I can be fair and</p> <p>-02:-47 18 impartial in this matter, and I would also like to</p> <p>-02:-47 19 state for the record, while there are issues with</p> <p>-02:-47 20 this particular matter, I don't see the architectural</p> <p>-02:-47 21 designs or the plans as really something that is in</p> <p>-02:-47 22 contention, at least in my mind.</p> <p>-02:-47 23 MR. PRINCIOTTO: Okay. Could we have a</p> <p>-02:-47 24 motion to open to the public on this limited issue?</p> <p>-02:-47 25 MR. HAYES: Motion to open to the</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">9</p> <p>-02:-47 1 public.</p> <p>-02:-47 2 CHAIRWOMAN HEMBREE: Second?</p> <p>-02:-47 3 MS. EFFRON-MALLEY: Second.</p> <p>-02:-47 4 CHAIRWOMAN HEMBREE: All in favor?</p> <p>-02:-47 5 (Whereupon, all resent members respond</p> <p>-02:-47 6 in the affirmative.)</p> <p>-02:-47 7 CHAIRWOMAN HEMBREE: Opposed?</p> <p>-02:-47 8 (No response.)</p> <p>-02:-47 9 CHAIRWOMAN HEMBREE: Okay. So open.</p> <p>-02:-47 10 I think we want to know if there are</p> <p>-02:-47 11 any members of the public who have a problem with</p> <p>-02:-47 12 Gary's disclosure?</p> <p>-02:-47 13 MR. NEWMAN: Or any questions, only</p> <p>-02:-47 14 directed at this particular issue.</p> <p>-02:-47 15 MS. GELLERT: Yes.</p> <p>-02:-47 16 Sally Gellert, 210 Highview.</p> <p>-02:-47 17 I don't have a problem, I do have a</p> <p>-02:-47 18 question as to why you happened to choose an</p> <p>-02:-47 19 architect who you knew had a current project before</p> <p>-02:-47 20 this board?</p> <p>-02:-47 21 MR. NEWMAN: The reason why I chose him</p> <p>-02:-47 22 is, as I disclosed probably at the start of this, I</p> <p>-02:-47 23 happen to know him, I'm very good friends with a</p> <p>-02:-46 24 gentleman in town named Matt Bruziggi (phonetic), and</p> <p>-02:-46 25 he uses him on occasion. I respect his work, and he</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">11</p> <p>-02:-45 1 MR. PRINCIOTTO: Yes.</p> <p>-02:-45 2 MR. HAYES: Motion to close to the</p> <p>-02:-45 3 public.</p> <p>-02:-45 4 MS. EFFRON-MALLEY: Second.</p> <p>-02:-45 5 CHAIRWOMAN HEMBREE: All in favor?</p> <p>-02:-45 6 (Whereupon, all resent members respond</p> <p>-02:-45 7 in the affirmative.)</p> <p>-02:-45 8 CHAIRWOMAN HEMBREE: Opposed?</p> <p>-02:-45 9 (No response.)</p> <p>-02:-45 10 CHAIRWOMAN HEMBREE: Closed to the</p> <p>-02:-45 11 public.</p> <p>-02:-45 12 MR. DELIA: So, if you could, and I'll</p> <p>-02:-45 13 tab them for you, take a look at page 82, where I put</p> <p>-02:-45 14 an X, there are four common law items, and then on</p> <p>-02:-45 15 85, under the Local Government Ethics Law, and I'll</p> <p>-02:-45 16 circle each category, and some of them, you know, go</p> <p>-02:-44 17 on for a bit, but in the first paragraph there's some</p> <p>-02:-44 18 explanation as to the types of conflict.</p> <p>-02:-44 19 MR. PRINCIOTTO: Okay.</p> <p>-02:-44 20 MR. DELIA: Anyway, here we go.</p> <p>-02:-44 21 MR. PRINCIOTTO: Yes, I have them.</p> <p>-02:-44 22 I mean, one is a direct pecuniary</p> <p>-02:-44 23 interest. You don't have any direct pecuniary</p> <p>-02:-44 24 interest in this application?</p> <p>-02:-44 25 MR. NEWMAN: In this application,</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">10</p> <p>-02:-46 1 seemed like the right man for the job, so to speak,</p> <p>-02:-46 2 and that's why I asked him if he would do it.</p> <p>-02:-46 3 And my architect, who's really down in</p> <p>-02:-46 4 Philadelphia, decided that it wasn't really fruitful.</p> <p>-02:-46 5 MS. GELLERT: Thank you.</p> <p>-02:-46 6 CHAIRWOMAN HEMBREE: Anybody else?</p> <p>-02:-46 7 (No response.)</p> <p>-02:-46 8 MR. DELIA: If I could follow-up?</p> <p>-02:-46 9 CHAIRWOMAN HEMBREE: Sure.</p> <p>-02:-46 10 MR. DELIA: And, again, I'm really</p> <p>-02:-46 11 going straight from the Cox book. It's been a while</p> <p>-02:-46 12 since I had to brush-up on my conflict of interest on</p> <p>-02:-46 13 the spot.</p> <p>-02:-46 14 I'll hand you this in a moment.</p> <p>-02:-46 15 There's one spot where it talks about four</p> <p>-02:-46 16 circumstances which would indicate a conflict. I'd</p> <p>-02:-46 17 ask you to take a look at that and see if any of</p> <p>-02:-46 18 those pertain to you, in your opinion.</p> <p>-02:-45 19 If you could just bear with me for one</p> <p>-02:-45 20 more second, I just want to see if there's anything</p> <p>-02:-45 21 specific in the Local Government Ethics Law, which is</p> <p>-02:-45 22 the other statute I could not remember off the top of</p> <p>-02:-45 23 my head.</p> <p>-02:-45 24 MR. NEWMAN: Before we get to that,</p> <p>-02:-45 25 should we close to the public?</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">12</p> <p>-02:-44 1 absolutely not.</p> <p>-02:-44 2 MR. PRINCIOTTO: Now, indirect</p> <p>-02:-44 3 pecuniary interest would be if you have a matter that</p> <p>-02:-44 4 financially benefits one closely tied to you.</p> <p>-02:-44 5 COURT REPORTER: Could you speak up,</p> <p>-02:-44 6 please. You are not speaking into the microphone. I</p> <p>-02:-44 7 can't hear you.</p> <p>-02:-44 8 MR. PRINCIOTTO: I'll repeat that.</p> <p>-02:-44 9 Indirect pecuniary interest is when an</p> <p>-02:-44 10 official, like the board member here, votes on a</p> <p>-02:-44 11 matter that financially benefits one closely tied to</p> <p>-02:-43 12 the board member, such as an employer or a family</p> <p>-02:-43 13 member.</p> <p>-02:-43 14 MR. NEWMAN: That does not apply here.</p> <p>-02:-43 15 MR. PRINCIOTTO: Direct personal</p> <p>-02:-43 16 interest, when an official or board member here votes</p> <p>-02:-43 17 on a matter that benefits a blood relative or close</p> <p>-02:-43 18 friend in a non-financial way.</p> <p>-02:-43 19 MR. NEWMAN: The matter here is not at</p> <p>-02:-43 20 issue.</p> <p>-02:-43 21 MR. PRINCIOTTO: And, four, indirect</p> <p>-02:-43 22 personal interest is when the board member here votes</p> <p>-02:-43 23 on a matter in which his or her judgment may be</p> <p>-02:-43 24 affected because of membership in some organization.</p> <p>-02:-43 25 MR. NEWMAN: That does not apply here.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">13</p> <p>-02:-43 1 MR. PRINCOTTO: Mr. Delia, do you have</p> <p>-02:-43 2 anything else?</p> <p>-02:-43 3 MR. DELIA: I'm satisfied.</p> <p>-02:-43 4 Thank you.</p> <p>-02:-43 5 CHAIRWOMAN HEMBREE: Okay. Thank you.</p> <p>-02:-43 6 MR. PRINCOTTO: Any board member have</p> <p>-02:-43 7 anything to say on the issue?</p> <p>-02:-43 8 CHAIRWOMAN HEMBREE: No.</p> <p>-02:-43 9 MR. PRINCOTTO: Did I ask you, I know</p> <p>-02:-43 10 you will be fair and impartial, but, for the record,</p> <p>-02:-43 11 you feel you can decide this case and that won't have</p> <p>-02:-43 12 any impact on your decision?</p> <p>-02:-43 13 MR. NEWMAN: Yes.</p> <p>-02:-43 14 MR. PRINCOTTO: Okay. Any other</p> <p>-02:-43 15 questions, comments?</p> <p>-02:-43 16 (No response.)</p> <p>-02:-42 17 CHAIRWOMAN HEMBREE: Should we move on?</p> <p>-02:-42 18 MR. PRINCOTTO: Yes.</p> <p>-02:-42 19 MR. NEWMAN: Please.</p> <p>-02:-42 20 MR. PRINCOTTO: Okay. Tonight we</p> <p>-02:-42 21 expect to conclude this meeting. We have testimony</p> <p>-02:-42 22 to take tonight, including the zoning board's</p> <p>-02:-42 23 planner, testimony from the traffic engineer, and I</p> <p>-02:-42 24 think a little bit of testimony from the engineer for</p> <p>-02:-42 25 the board.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">15</p> <p>-02:-41 1 ask everyone who would like to make a comment or to</p> <p>-02:-40 2 submit documents or testify to sign this.</p> <p>-02:-40 3 CHAIRWOMAN HEMBREE: Okay. Shall we</p> <p>-02:-40 4 begin?</p> <p>-02:-40 5 MR. PRINCOTTO: Yes.</p> <p>-02:-40 6 CHAIRWOMAN HEMBREE: I think we should</p> <p>-02:-40 7 begin while you're passing the papers around. Is</p> <p>-02:-40 8 that okay? We don't want to waste anymore time. We</p> <p>-02:-40 9 have plenty of time.</p> <p>-02:-40 10 MS. BORRELLI: Is there a need for this</p> <p>-02:-40 11 board to be up?</p> <p>-02:-40 12 CHAIRWOMAN HEMBREE: Is there a need,</p> <p>-02:-40 13 Mr. Delia, for the board behind you?</p> <p>-02:-40 14 MR. DELIA: No, not right now.</p> <p>-02:-40 15 MS. BORRELLI: Thank you.</p> <p>-02:-40 16 MR. DELIA: You are welcome.</p> <p>-02:-40 17 MR. PRINCOTTO: All right. Just some</p> <p>-02:-40 18 recordkeeping here.</p> <p>-02:-40 19 In terms of the exhibits, I received an</p> <p>-02:-40 20 exhibit list from Mr. Delia.</p> <p>-02:-39 21 Thank you.</p> <p>-02:-39 22 MR. DELIA: You're welcome.</p> <p>-02:-39 23 MR. PRINCOTTO: I have exhibits that</p> <p>-02:-39 24 the board previously marked as ZBA-1 and ZBA-2.</p> <p>-02:-39 25 I have, for the record, ZBA-3, which is</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">14</p> <p>-02:-42 1 I have tonight sign-in sheets for</p> <p>-02:-42 2 people who would like to make public comment, because</p> <p>-02:-42 3 I need to know in advance so we can budget the amount</p> <p>-02:-42 4 of time here tonight, because we do expect to</p> <p>-02:-42 5 conclude.</p> <p>-02:-42 6 So I have three sheets. One is for</p> <p>-02:-42 7 residents of Woodcliff Lake who live within 200 feet</p> <p>-02:-42 8 of 188 Broadway, the subject site. Another sign-in</p> <p>-02:-42 9 sheet is for residents of Woodcliff Lake who do not</p> <p>-02:-42 10 reside within 200 feet of 188 Broadway. And a third</p> <p>-02:-41 11 sheet is for members of the public that are not</p> <p>-02:-41 12 residents of Woodcliff Lake.</p> <p>-02:-41 13 So I'm going to hand these three sheets</p> <p>-02:-41 14 out, look carefully and determine which sheet you</p> <p>-02:-41 15 should be signing, and print your name and address</p> <p>-02:-41 16 legibly.</p> <p>-02:-41 17 I'd also like to know if there's anyone</p> <p>-02:-41 18 who has any documents or evidence that they would</p> <p>-02:-41 19 like to submit tonight or would like to testify, and</p> <p>-02:-41 20 I'm going to ask that right now.</p> <p>-02:-41 21 Okay. All right. I see four hands.</p> <p>-02:-41 22 So when you sign in, just put a "T" by</p> <p>-02:-41 23 your name, and that will indicate to me that you</p> <p>-02:-41 24 would like to testify or submit some proof. So I'm</p> <p>-02:-41 25 going to hand out these three sheets right now and</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">16</p> <p>-02:-39 1 a letter to Kathryn Walsh at Wells, Jaworski &</p> <p>-02:-39 2 Liebman, sent by our zoning officer/construction</p> <p>-02:-39 3 official at the time, Nick Saluzzi, on June 1, 2018.</p> <p>-02:-39 4 There's a letter from Chief Anthony</p> <p>-02:-39 5 Jannicelli, dated June 15, 2018, that's ZBA-4.</p> <p>-02:-39 6 The Neglia Engineering Associates</p> <p>-02:-39 7 report that was issued dated August 20th, 2018,</p> <p>-02:-39 8 ZBA-5.</p> <p>-02:-38 9 A memorandum issued by Richard Preiss</p> <p>-02:-38 10 from Phillips Preiss, dated August 29, 2018, ZBA-6.</p> <p>-02:-38 11 This is an email, ZBA-7, it actually</p> <p>-02:-38 12 comes from Clay Bosch, from the Shade Tree</p> <p>-02:-38 13 Commission, dated November 23rd, 2018, sent to our</p> <p>-02:-38 14 board secretary.</p> <p>-02:-38 15 And then we have another memo from</p> <p>-02:-38 16 Richard Preiss from Phillips Preiss dated June 20,</p> <p>-02:-38 17 2019, we'll mark that as ZBA-8.</p> <p>-02:-38 18 And then we have the settlement</p> <p>-02:-38 19 agreement between the borough and the Fair Share</p> <p>-02:-38 20 Housing Center, that will be made part of the record</p> <p>-02:-38 21 as ZBA-9.</p> <p>-02:-38 22 I've also marked, but not in the</p> <p>-02:-38 23 record, a note that was sent to me by a resident,</p> <p>-02:-37 24 Veronica Appelle, and attached to it were some</p> <p>-02:-37 25 e-mails, and it looks like a letter dated December</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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-02:-37 1 13, 2018; an e-mail, I'm not sure of the date,
-02:-37 2 handwritten on it, it says August 7, 2018; and
-02:-37 3 another copy of a letter issued to Chief Anthony
-02:-37 4 Jannicelli from Dennis D'Angelis (phonetic), traffic
-02:-37 5 safety supervisor. We're marking that for
-02:-37 6 identification right now.
-02:-37 7 MR. DELIA: That's fine.
-02:-36 8 MR. PRINCOTTO: Not into the record,
-02:-36 9 and I'm probably going to ask Mr. Intindola questions
-02:-36 10 about that.
-02:-36 11 MR. DELIA: Okay.
-02:-36 12 Again, just for the record, I do object
-02:-36 13 to that. I only received it at noon today, so it
-02:-36 14 came late and it's also, in my opinion, hearsay.
-02:-36 15 So for those reasons I would object to
-02:-36 16 its entry into evidence at some point here.
-02:-36 17 MR. PRINCOTTO: Technically the rules
-02:-36 18 of evidence don't apply, but I understand the nature
-02:-36 19 of your objection.
-02:-36 20 MR. DELIA: But it's a serious hearsay
-02:-36 21 and very late. This has been out for months, and I
-02:-36 22 get it the day of the last hearing. That's just not
-02:-36 23 right.
-02:-36 24 MR. PRINCOTTO: Okay. I understand
-02:-36 25 your objection, but Mr. Intindola might be able to

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-02:-36 1 shed some light on this.
-02:-36 2 MR. DELIA: Okay.
-02:-36 3 MR. PRINCOTTO: Perhaps you might not
-02:-36 4 object after you hear what he has to say about it,
-02:-36 5 maybe you will, and you certainly have a right to
-02:-36 6 object.
-02:-36 7 MR. DELIA: We're talking about it and
-02:-36 8 I just want to get it out there so we can continue on
-02:-35 9 a seamless pace.
-02:-35 10 (Whereupon, exhibits ZBA-3 through
-02:-35 11 ZBA-10 are marked for identification.)
-02:-35 12 MR. PRINCOTTO: We're going to start
-02:-35 13 with our first witness tonight, Mr. Richard Preiss.
-02:-35 14 In fact, I'll ask you to stand and
-02:-35 15 raise your right hand.
-02:-35 16 Do you swear or affirm to tell the
-02:-35 17 truth under penalties of law?
-02:-35 18 MR. PREISS: I do.
-02:-35 19 **RICHARD PREISS, P.P., AICP**, c/o Phillips
-02:-35 20 Preiss, LLC, 33-41 Newark Street, Third Floor,
-02:-35 21 Suite D, Hoboken, New Jersey 07039, having been
-02:-35 22 duly sworn/affirmed, testified as follows:
-02:-35 23 **DIRECT EXAMINATION**
-02:-35 24 **BY MR. PRINCOTTO:**
-02:-35 25 **Q.** I know, Mr. Preiss, you're well known

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-02:-35 1 to me and certain members of the board.
-02:-35 2 We do have new members of the board and
-02:-35 3 we have members of the public who do not have the
-02:-35 4 benefit of your background and qualification, so I'm
-02:-35 5 going to ask you to provide us with your educational
-02:-35 6 background and your professional qualifications.
-02:-34 7 **A. Right.**
-02:-34 8 So, my name is Richard Preiss, spelled
-02:-34 9 P-R-E-I-S-S.
-02:-34 10 I work for the firm of Phillips Preiss
-02:-34 11 Grygiel Leheny Hughes, LLC. We're a planning and
-02:-34 12 real estate consultant with offices in Hoboken, New
-02:-34 13 Jersey.
-02:-34 14 I've been with that firm since 1981.
-02:-34 15 I've been a partner in that firm since 1984.
-02:-34 16 I have been the municipal planning
-02:-34 17 consultant in Woodcliff Lake for the past four years,
-02:-34 18 most particularly for the zoning board, for the
-02:-34 19 planning board, and also initially not for the
-02:-34 20 council, but for the purposes of helping the borough
-02:-34 21 figure out its affordable housing obligation. I've,
-02:-34 22 subsequently, also become the council's planner.
-02:-34 23 By way of background in education, I
-02:-34 24 have a bachelor's degree in town and regional
-02:-34 25 planning, and a master's degree in planning. I'm a

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-02:-33 1 licensed planner in the State of New Jersey. As
-02:-33 2 indicated, I've been a licensed planner since 1986.
-02:-33 3 I've testified before boards like this
-02:-33 4 ever since that period of time, and I've been
-02:-33 5 involved in most applications or all the applications
-02:-33 6 that required planning review for the zoning board
-02:-33 7 and the planning board.
-02:-33 8 I've also been tasked with helping to
-02:-33 9 evaluate proposals for rezoning or changes to the
-02:-33 10 master plan and amendments in Woodcliff Lake since my
-02:-33 11 tenure here in 2015.
-02:-33 12 **Q.** You're familiar with the borough's
-02:-33 13 master plan?
-02:-33 14 **A. Yes.**
-02:-33 15 **Q.** And reexamination of the master plan?
-02:-33 16 **A. Yes.**
-02:-33 17 **Q.** And any proposals or changes in zoning
-02:-32 18 in the borough in the last four years?
-02:-32 19 **A. Yes.**
-02:-32 20 **Q.** Now, I know you issued an initial
-02:-32 21 memorandum that I referenced.
-02:-32 22 **A. It's not really a memorandum, it's an**
-02:-32 23 **outline.**
-02:-32 24 If I can just explain. I do have a
-02:-32 25 presentation. I'm going to look at all of the

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<p style="text-align: right;">21</p> <p>-02:-32 1 aspects of the application, particularly the planning -02:-32 2 testimony. -02:-32 3 I was in the process of reviewing the -02:-32 4 transcripts, which I only got last week on Thursday, -02:-32 5 so it did take me a while to put the presentation -02:-32 6 together, but I did have the benefit of hearing -02:-32 7 Mr. Burgis' testimony, the planner for the applicant, -02:-32 8 relating to the master plan. -02:-32 9 And, so, in light of that, I was able -02:-32 10 to put together a three-page outline, which has now -02:-31 11 been marked ZBA-8, and I believe that was distributed -02:-31 12 to the planning board members. I think we have -02:-31 13 copies meant for anybody in the public who wants to -02:-31 14 follow along with it. -02:-31 15 This is going to be part of my -02:-31 16 presentation this evening, but I do want to get it to -02:-31 17 the members of the board and particularly to the -02:-31 18 applicant and their planner, so that they would have -02:-31 19 an opportunity to review it ahead of tonight's -02:-31 20 hearing. So that will be something that I'm going to -02:-31 21 reference in my remarks. -02:-31 22 Q. Okay. I don't mean to interrupt, but I -02:-31 23 was referring to your memo -- -02:-31 24 A. Oh, I see. Okay. -02:-31 25 Q. -- of August 29, 2018. The one we LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">23</p> <p>-02:-30 1 I'd like to do this kind of as an -02:-29 2 almost hypothetical argument. -02:-29 3 I want to put aside the fact that the -02:-29 4 property needs a use variance. It's useful to do -02:-29 5 that and just to assume for the purposes of looking -02:-29 6 at the site plan that this is a use that is permitted -02:-29 7 in the zone. -02:-29 8 So, if you do that, it allows you to -02:-29 9 focus on the site plan, itself, and see, you know, -02:-29 10 from a planning and engineering point, whether it -02:-29 11 makes sense. -02:-29 12 And, of course, the use variance is the -02:-29 13 main issue, and I will be addressing that, but I just -02:-29 14 want to look at the site plan from a planning point -02:-29 15 of view, to see if it really makes sense. -02:-29 16 So, you have a site which has an -02:-29 17 existing three-story office building in the front -02:-29 18 with parking below, a large parking lot behind it, -02:-29 19 and the site has well established buffers and a -02:-29 20 preserved steep area to the rear. -02:-29 21 So, assuming one were permitted to -02:-28 22 allow apartments to be developed in this particular -02:-28 23 development, the first thing that one would do as a -02:-28 24 developer would be to determine how many apartments -02:-28 25 you could obtain by converting the office building LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">22</p> <p>-02:-31 1 marked that ZBA-6. -02:-31 2 A. Right. -02:-31 3 We did an initial review letter prior -02:-31 4 to the applicant actually having come before the -02:-31 5 board and started a hearing just to, you know, -02:-31 6 provide some background and indicate what the -02:-30 7 variances are and then the planning proofs that were -02:-30 8 required for the variance. -02:-30 9 Yes, I did that. -02:-30 10 Q. And then your outline dated June 20, -02:-30 11 2019? -02:-30 12 A. Correct, which is something I'll be -02:-30 13 referring to towards the end of my testimony. -02:-30 14 So let me start by saying that I was -02:-30 15 here for all of the hearings. I've reviewed all of -02:-30 16 the plans. I've seen all transcripts. And I will -02:-30 17 address the planning testimony last. -02:-30 18 I'd like to deal with some of the -02:-30 19 aspects insofar as they relate to the variances -02:-30 20 related to civil engineering, the site plan, the -02:-30 21 architectural plans, and traffic testimony, traffic -02:-30 22 and parking, and also the testimony of the real -02:-30 23 estate broker. -02:-30 24 So let me first talk a little bit about -02:-30 25 the site plan and the engineering testimony. LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">24</p> <p>-02:-28 1 into apartments. And in this case, you'd look at it -02:-28 2 from the point of view of no change to the footprint -02:-28 3 or to the height, you'd probably want to re-clad the -02:-28 4 building, as has been proposed, to make it more -02:-28 5 residential in appearance. -02:-28 6 The one thing I'll say is that I'm not -02:-28 7 going to comment on the architecture at this point. -02:-28 8 I will say that if the board did see fit to grant the -02:-28 9 variance, that I would ask that in the resolution -02:-28 10 they allow our office and the engineer office to work -02:-28 11 with the architect to perhaps tweak and improve the -02:-28 12 design. -02:-28 13 But, anyway, assuming that you can -02:-28 14 convert the front building to residential, you'll -02:-28 15 find that you'd still have excess parking behind it. -02:-28 16 So the addition of another building in -02:-27 17 the parking lot behind it of more or less the same -02:-27 18 height, and the ability to be able to have the number -02:-27 19 of units that the remaining parking can support -02:-27 20 through the RSIS standards, would allow you to add -02:-27 21 this extra building to the rear. -02:-27 22 You would absolutely want to make sure -02:-27 23 that the rear building, when you add it, does not -02:-27 24 block the view of residents to the rear, particularly -02:-27 25 those that have views of the reservoir and also to LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">25</p> <p>-02:-27 1 have any impact on residents who live to the side, -02:-27 2 and, to the extent that it's possible, you'd want to -02:-27 3 make it less visible to the public on Broadway, and -02:-27 4 this is what the applicant is proposing. -02:-27 5 So from a purely site plan point of -02:-27 6 view, if you assume that apartments were a permitted -02:-27 7 use in this particular district and you were -02:-27 8 converting the office and adding units, to me the -02:-27 9 site plan does make sense. -02:-27 10 So the existence of the front office -02:-26 11 building and the fact that where you have multifamily -02:-26 12 residential development permitted in Woodcliff Lake, -02:-26 13 and I know that in virtually all circumstances where -02:-26 14 this occurs, it's inclusionary development, meaning -02:-26 15 that it has a section of the units which are -02:-26 16 dedicated to low- and moderate-income housing, to -02:-26 17 provide for the fair share obligation of the borough. -02:-26 18 But in that particular context, when -02:-26 19 you compare it to what the borough has done to meet -02:-26 20 its affordable housing obligation in other locations, -02:-26 21 if one were to convert the building and add the -02:-26 22 building in the way that the applicant is proposing, -02:-26 23 in this particular context, in the context of what -02:-26 24 Woodcliff Lake has allowed in other districts, to me -02:-26 25 it's not overly dense or too close to the front, side LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">27</p> <p>-02:-24 1 proposed would serve the needs of people, divorcees, -02:-24 2 people who are downsizing, millennials who are coming -02:-24 3 into town. -02:-24 4 He did talk about this being a -02:-24 5 particularly good location, and I think that I do -02:-24 6 agree that proximity to the train station is a draw; -02:-24 7 however, I think the Broadway corridor lacks the type -02:-24 8 of retail and entertainment component, things like -02:-24 9 coffee shops and movie theaters and gyms and -02:-23 10 restaurants and bars, that typically attract older -02:-23 11 and especially younger empty-nesters. -02:-23 12 Moreover, the proposed use is not a -02:-23 13 mixed use, it's solely residential. -02:-23 14 But even, you know, putting that aside, -02:-23 15 is there demand for units like this in the -02:-23 16 marketplace and would this be a good location, given -02:-23 17 its proximity to the train station? -02:-23 18 I think the answer is yes. -02:-23 19 I think there's two aspects about the -02:-23 20 conversion which was not clear from the testimony -02:-23 21 that was provided. -02:-23 22 The first is, it's really not clear -02:-23 23 whether the building was purposely emptied of tenants -02:-23 24 to make way for the project or there was no evidence -02:-23 25 on the record that the applicant had substantial LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">26</p> <p>-02:-25 1 or rear yards or too high. -02:-25 2 This is borne out by, I think it's A-8, -02:-25 3 which is a comparison table which the applicant -02:-25 4 provided, which demonstrate that if this property -02:-25 5 were rezoned for the use, for example, that it would -02:-25 6 not be inconsistent with what Woodcliff Lake has -02:-25 7 permitted elsewhere for this type of development in -02:-25 8 terms of the bulk standards. -02:-25 9 So I think from a site plan point of -02:-25 10 view, assuming -- of course, and this is a big if, -02:-25 11 and I'll get to it, assuming that the use were -02:-25 12 permitted, this is not an unreasonable proposal for -02:-25 13 the conversion and the addition of apartments. -02:-25 14 Let me talk about the testimony of the -02:-25 15 real estate broker. I do agree with counsel Sal -02:-25 16 Princiotto, the real estate broker is not an -02:-25 17 appraiser, does not have an MAI, that he's not able -02:-24 18 to opine on the impact to the property values, and -02:-24 19 nor did he do a proper study in this respect. -02:-24 20 However, I think the board can take -02:-24 21 note of his testimony in regard to his point of view -02:-24 22 in terms of whether there is a market demand for -02:-24 23 apartments like those provided in this proposal at -02:-24 24 this location, and I think what he indicated is that -02:-24 25 this location and the type of units that were being LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">28</p> <p>-02:-23 1 difficulty finding office tenants and allowing this -02:-23 2 building to continue to be an office. And I think -02:-22 3 that there was also an absence of testimony, -02:-22 4 particularly from the architect, to say whether the -02:-22 5 building was designed in such a way that it would be -02:-22 6 infeasible to renovate it or modernize it for an -02:-22 7 office or some other permitted use. -02:-22 8 So I think on those two things, I don't -02:-22 9 know that the applicant has really proved their case -02:-22 10 in this situation. However, I do understand that -02:-22 11 this is a suitable and attractive location for the -02:-22 12 proposed use. -02:-22 13 With regard to the traffic testimony, I -02:-22 14 know Brian Intindola is going to address this, but -02:-22 15 just generally, from my point of view, the parking -02:-22 16 does meet the RSIS standard. It seems that the -02:-22 17 internal circulation can work, particularly for fire -02:-22 18 access. And I think, as their traffic engineer was -02:-22 19 able to indicate, the traffic generated for this -02:-21 20 project will be less than the office use. -02:-21 21 So if you look at all of the prior -02:-21 22 testimony, I think that there are certain benefits or -02:-21 23 certain things that are evident from the site plan -02:-21 24 and from the testimony that are provided by those -02:-21 25 witnesses that indicate that this is an appropriate LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">29</p> <p>-02:-21 1 plan within that particular context.</p> <p>-02:-21 2 So what I think that the board is</p> <p>-02:-21 3 facing really comes down to the planning arguments,</p> <p>-02:-21 4 whether there are special reasons, the negative</p> <p>-02:-21 5 criteria, and, in particular, what is known as the</p> <p>-02:-21 6 "<u>Medici</u> reconciliation," whether that has been met.</p> <p>-02:-21 7 I know that the board is familiar with</p> <p>-02:-21 8 these concepts, but before I address the planning</p> <p>-02:-21 9 testimony provided by Mr. Burgis, I do want to</p> <p>-02:-21 10 clarify what the <u>Medici</u> decision basically indicates</p> <p>-02:-21 11 and what the board has to do.</p> <p>-02:-20 12 The <u>Medici</u> decision, which is a Supreme</p> <p>-02:-20 13 Court decision from the 1980s, said that when you're</p> <p>-02:-20 14 dealing with a use variance, in addition to, you</p> <p>-02:-20 15 know, your special reasons and negative criteria,</p> <p>-02:-20 16 there's an enhanced burden of proof for a use</p> <p>-02:-20 17 variance.</p> <p>-02:-20 18 The first is that as part of your</p> <p>-02:-20 19 special reasons, you have to show that the site is</p> <p>-02:-20 20 particularly suited for the proposed use.</p> <p>-02:-20 21 We have lots of testimony on that</p> <p>-02:-20 22 from -- as I've indicated, others, from the</p> <p>-02:-20 23 engineering, traffic and real estate broker and</p> <p>-02:-20 24 architecture, and we have some testimony from</p> <p>-02:-20 25 Mr. Burgis.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">31</p> <p>-02:-18 1 have a lot of respect for him and his testimony.</p> <p>-02:-18 2 In his testimony, he started out by</p> <p>-02:-18 3 referencing the master plans, the 2002 Master Plan,</p> <p>-02:-18 4 the 2008 Master Plan Reexamination, and the 2008</p> <p>-02:-18 5 Broadway corridor study, with particular focus on the</p> <p>-02:-18 6 goals and objectives. And I will get to that a</p> <p>-02:-18 7 little bit later, and I will use the handout ZBA-8 to</p> <p>-02:-18 8 talk about that. So I'll come back to that last.</p> <p>-02:-18 9 With regard to the special reasons,</p> <p>-02:-18 10 there were five that he mentioned.</p> <p>-02:-18 11 The first one he indicated was that</p> <p>-02:-18 12 there are purposes of the Municipal Land Use Law that</p> <p>-02:-18 13 would be advanced by this project.</p> <p>-02:-18 14 Now, I think what the board has to do</p> <p>-02:-18 15 is you have to look at these goals, because every</p> <p>-02:-17 16 project, whether or not they conform to a zoning</p> <p>-02:-17 17 ordinance, whether they're permitted or not, can be</p> <p>-02:-17 18 said to further one or more purposes of the Municipal</p> <p>-02:-17 19 Land Use Law.</p> <p>-02:-17 20 So I think the key, in the case of a</p> <p>-02:-17 21 use variance where the board has to grant a use which</p> <p>-02:-17 22 the governing body has prohibited in the zone, is to</p> <p>-02:-17 23 determine whether this proposed use goes above and</p> <p>-02:-17 24 beyond and does more to further those goals than</p> <p>-02:-17 25 would a permitted use or the existing use on the</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">30</p> <p>-02:-20 1 The second part of the <u>Medici</u> criteria,</p> <p>-02:-20 2 and it's often mischaracterized, is what's known as</p> <p>-02:-20 3 the "<u>Medici</u> reconciliation." And what it says is the</p> <p>-02:-20 4 applicant doesn't only have to show that the use</p> <p>-02:-20 5 would not be inconsistent with the master plan, but</p> <p>-02:-19 6 the board has to reconcile the grant of the variance</p> <p>-02:-19 7 with the fact that the council, through its zoning,</p> <p>-02:-19 8 has prohibited this use in the zone, and it's known</p> <p>-02:-19 9 as the <u>Medici</u> reconciliation test.</p> <p>-02:-19 10 So you have to go beyond the argument</p> <p>-02:-19 11 saying, oh, well, this use is supported by some of</p> <p>-02:-19 12 the goals in the master plan; you have to provide a</p> <p>-02:-19 13 clear rationale why this use should be allowed at</p> <p>-02:-19 14 this site, when the zoning basically says this is a</p> <p>-02:-19 15 prohibited use of the site. And I'll get into that</p> <p>-02:-19 16 in later testimony.</p> <p>-02:-19 17 So let me address a little bit the</p> <p>-02:-19 18 planning testimony provided by Mr. Burgis.</p> <p>-02:-19 19 Now, I know Mr. Burgis for over 30</p> <p>-02:-19 20 years. He's a highly respected planner. He was a</p> <p>-02:-19 21 consultant to the borough for many years. If you</p> <p>-02:-19 22 look at the documents that I'm referring to with</p> <p>-02:-19 23 regard to the master plan review, those were prepared</p> <p>-02:-18 24 by his office, and he has a long history here, and</p> <p>-02:-18 25 he's very knowledgeable of the community. So I do</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">32</p> <p>-02:-17 1 site. So you can't just say, well, it promotes this</p> <p>-02:-17 2 goal. The question is: Does it do it better or are</p> <p>-02:-17 3 there certain things that this use advances to a</p> <p>-02:-17 4 greater degree in the purposes of the Municipal Land</p> <p>-02:-17 5 Use Law than an office use was in the SO zone, which</p> <p>-02:-17 6 is the main permitted use.</p> <p>-02:-17 7 With regard to the second special</p> <p>-02:-17 8 reason, he indicated that this project would assist</p> <p>-02:-16 9 the borough with the unmet need, and I'll also talk a</p> <p>-02:-16 10 little bit about this because this is part of the</p> <p>-02:-16 11 discussion about the master plan and the history of</p> <p>-02:-16 12 the Broadway corridor zoning, but I think what the</p> <p>-02:-16 13 board should understand, that the borough did settle</p> <p>-02:-16 14 their affordable housing obligation with the Fair</p> <p>-02:-16 15 Share Housing Center. I know Mr. Princiotto has</p> <p>-02:-16 16 identified it, I think as ZBA-9, which is the</p> <p>-02:-16 17 settlement between the borough and the Fair Share</p> <p>-02:-16 18 Housing Center.</p> <p>-02:-16 19 MR. PRINCIOTTO: That's correct.</p> <p>-02:-16 20 THE WITNESS: It adopted a Housing</p> <p>-02:-16 21 Element and Fair Share Plan, and it has adopted</p> <p>-02:-16 22 overlay zones to meet its unmet need.</p> <p>-02:-16 23 And during that process of negotiation</p> <p>-02:-16 24 or mediation with the Fair Share Housing Center, the</p> <p>-02:-16 25 borough was asked to consider adopting overlay zoning</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">33</p> <p>-02:-16 1 over the Broadway corridor, in particular the area</p> <p>-02:-16 2 south of Highview where this site is located, to</p> <p>-02:-16 3 allow for mixed use, that would be retail ground</p> <p>-02:-16 4 level and apartments above.</p> <p>-02:-16 5 And in the end, the borough decided not</p> <p>-02:-15 6 to go in that direction, and Fair Share Housing</p> <p>-02:-15 7 Center agreed that that wasn't necessary, and other</p> <p>-02:-15 8 overlay zoning was adopted. And in that respect,</p> <p>-02:-15 9 this particular area and this site in particular was</p> <p>-02:-15 10 not included in overlay zoning.</p> <p>-02:-15 11 In terms of the area north of Highview</p> <p>-02:-15 12 -- and I think one has to distinguish in terms of</p> <p>-02:-15 13 zoning and master plan the area north of Highview and</p> <p>-02:-15 14 the area south of Highview -- in the area north of</p> <p>-02:-15 15 Highview, the borough did agree to rezone or</p> <p>-02:-15 16 redevelop three borough-owned parcels for 100 percent</p> <p>-02:-15 17 affordable housing, that's known as the "North</p> <p>-02:-15 18 Broadway" site. It was declared an area in need of</p> <p>-02:-15 19 redevelopment. The borough is soliciting proposals</p> <p>-02:-15 20 to pick a redeveloper, and it will be redeveloped for</p> <p>-02:-15 21 a residential development in that particular</p> <p>-02:-15 22 location.</p> <p>-02:-15 23 Also north of Highview, across the</p> <p>-02:-15 24 street, is the VFW site. Part of the fair share plan</p> <p>-02:-14 25 was to adopt overlay zoning to allow affordable</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">35</p> <p>-02:-13 1 purview of smart growth.</p> <p>-02:-13 2 It would be a lot better if it were</p> <p>-02:-13 3 mixed use, that would further it to a much greater</p> <p>-02:-13 4 extent, but essentially a residential development of</p> <p>-02:-13 5 this type close to a train station does further the</p> <p>-02:-13 6 principles of smart growth.</p> <p>-02:-13 7 The fourth special reason is, he</p> <p>-02:-13 8 indicated that it furthers the purposes of the state</p> <p>-02:-13 9 plan. He mentioned that the site is in Planning Area</p> <p>-02:-13 10 1, which is a metropolitan area, where growth is</p> <p>-02:-13 11 encouraged.</p> <p>-02:-13 12 I just want to point out that virtually</p> <p>-02:-13 13 all of Bergen County, except for two small areas in</p> <p>-02:-12 14 the Highlands, are in the PA-1. So this site is far</p> <p>-02:-12 15 from being unique. And I think the state goals and</p> <p>-02:-12 16 objectives for the PA-1 are virtually synonymous with</p> <p>-02:-12 17 the smart growth principles cited in the prior</p> <p>-02:-12 18 special reason, so I'm not sure that this is an added</p> <p>-02:-12 19 special reason; however, it's worth noting it does</p> <p>-02:-12 20 have the imprimatur of the state plan, it does</p> <p>-02:-12 21 reinforce the notion of transit-oriented development.</p> <p>-02:-12 22 The first special reason is that this</p> <p>-02:-12 23 project would generate less traffic.</p> <p>-02:-12 24 To me, I'm not quite sure that that</p> <p>-02:-12 25 would rise to the level of being a special reason. I</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">34</p> <p>-02:-14 1 housing on that side, but I think significantly, in</p> <p>-02:-14 2 terms of the unmet need, no overlay zones were</p> <p>-02:-14 3 required or adopted to meet the unmet need along the</p> <p>-02:-14 4 Broadway corridor south of Highview.</p> <p>-02:-14 5 So I just think that the board needs to</p> <p>-02:-14 6 know that history.</p> <p>-02:-14 7 Despite having said that, is there a</p> <p>-02:-14 8 benefit to the borough where nine additional units of</p> <p>-02:-14 9 affordable housing would assist with its unmet need</p> <p>-02:-14 10 obligation?</p> <p>-02:-14 11 Yes, there would be certainly a benefit</p> <p>-02:-14 12 to that. It's certainly not required, and if the</p> <p>-02:-14 13 borough never granted the zoning, granted this</p> <p>-02:-14 14 variance, I don't think it would have any problem in</p> <p>-02:-14 15 terms of its compliance with its affordable housing</p> <p>-02:-14 16 obligation.</p> <p>-02:-14 17 Mr. Burgis also talked about furthering</p> <p>-02:-13 18 the principle of smart growth. He indicated that</p> <p>-02:-13 19 having a high density residential development located</p> <p>-02:-13 20 close to the train station and shopping, referred to</p> <p>-02:-13 21 as a "transit-oriented development," would follow the</p> <p>-02:-13 22 principles of smart growth, which is encouraged by</p> <p>-02:-13 23 the state, that is, compact, walkable,</p> <p>-02:-13 24 environmentally sustainable, varied housing.</p> <p>-02:-13 25 Yes, this project does fall within the</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">36</p> <p>-02:-12 1 think it's more of appropriate criteria to address in</p> <p>-02:-12 2 terms of the negative criteria.</p> <p>-02:-12 3 In other words, the grant of the</p> <p>-02:-12 4 variance would not have a substantial negative impact</p> <p>-02:-12 5 on traffic, rather than the project, itself,</p> <p>-02:-12 6 generates less traffic.</p> <p>-02:-12 7 So, in my opinion, I'm not quite sure</p> <p>-02:-11 8 that this amounts to a special reason. Moreover, I</p> <p>-02:-11 9 think the SO zoning in place presupposes a certain</p> <p>-02:-11 10 amount of traffic that would be generated.</p> <p>-02:-11 11 The office use has existed at this</p> <p>-02:-11 12 location. It's generated more traffic than the</p> <p>-02:-11 13 residential use, before conversion, would create, and</p> <p>-02:-11 14 they don't seem to be particular problems that would</p> <p>-02:-11 15 be ameliorated or overcome if this project were</p> <p>-02:-11 16 converted to residential use.</p> <p>-02:-11 17 In other words, it's not solving a</p> <p>-02:-11 18 traffic problem. Yes, there's less traffic.</p> <p>-02:-11 19 Is there a traffic problem now?</p> <p>-02:-11 20 I don't think we've heard evidence that</p> <p>-02:-11 21 there is, and I think Mr. Intindola can address this.</p> <p>-02:-11 22 The overall levels of service and daily</p> <p>-02:-11 23 traffic volumes, the difference between the office</p> <p>-02:-11 24 and the residential to me may not be substantially</p> <p>-02:-11 25 different or create an advantage to this area than</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">37</p> <p>-02:-11 1 what presently exists; in other words, if the office -02:-10 2 remained in place, I'm not sure that one would notice -02:-10 3 the difference. -02:-10 4 In terms of the negative criteria, I'll -02:-10 5 just go through what Mr. Burgis indicated. -02:-10 6 He did indicate to the board, and I do -02:-10 7 agree with him, that all projects have some impact, -02:-10 8 but the Municipal Land Use Law is clear under the -02:-10 9 negative criteria, under the first prong, that the -02:-10 10 impacts must rise to the level of being "substantial" -02:-10 11 in order for the board to say that the negative -02:-10 12 criteria have not been satisfied. -02:-10 13 So in terms of the impact on the zone -02:-10 14 plan, referenced in earlier testimony that it -02:-10 15 supported five separate goals and objectives of the -02:-10 16 master plan, he pointed out that the development is -02:-10 17 only located in the special office and not the R-15 -02:-10 18 portion of the property, which is zoned for -02:-10 19 single-family use, and was not disturbing the steep -02:-10 20 slope portion in the rear. -02:-10 21 He indicated the project is consistent -02:-09 22 with the master plan goal of allowing mixed use on -02:-09 23 the Broadway corridor. Again, I'll address that -02:-09 24 separately. -02:-09 25 He relied upon the traffic engineer's LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">39</p> <p>-02:-08 1 There were a number of design waivers: -02:-08 2 The size of stalls, walking grade, things that -02:-08 3 related to the buffer. I'll let Mr. Jacobs opine on -02:-08 4 those. Those are more of a technical and engineering -02:-08 5 issue. -02:-08 6 So let me now turn to what I think is -02:-08 7 the real crux of the matter, which is the application -02:-08 8 in the context of the master plans and the zoning. I -02:-08 9 would like to examine truly what the master plan, the -02:-07 10 master plan reexamination, and the Broadway corridor -02:-07 11 amendments to the master plan say about mixed use or -02:-07 12 solely residential use along the Broadway corridor -02:-07 13 and what recent actions of the borough council have -02:-07 14 had to say about the prospect of revising the zoning -02:-07 15 in this regard. -02:-07 16 So I now refer to the handout, ZBA-8. -02:-07 17 So to go back to the 2002 Master Plan, and there's -02:-07 18 really nothing in the master plan, from what I could -02:-07 19 see, that talks about even mixed use or residential. -02:-07 20 None of the goals in that master plan support -02:-07 21 residential developments in the B-1 or SO zone. -02:-07 22 In the discussion on uses at page 58 on -02:-07 23 the B-1, Broadway zone, there's no reference to mixed -02:-07 24 use or to apartment development. The same with -02:-06 25 regard to the discussion on the SO Broadway zone. LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">38</p> <p>-02:-09 1 testimony in with regard to the traffic impacts. -02:-09 2 Again, Mr. Intindola can weigh in on that. -02:-09 3 And he indicated that because of the -02:-09 4 bedroom mix, in particular the fact that there was a -02:-09 5 very large component of one bedroom units, would -02:-09 6 generate very few schoolchildren and have little -02:-09 7 impact on the school, and in my experience as a -02:-09 8 planner working for developers and working for -02:-09 9 municipalities, I would agree. One-bedroom apartment -02:-09 10 units, in particular, and projects of this type don't -02:-09 11 generate a lot of schoolchildren. So I think the -02:-09 12 board can take note of that. -02:-09 13 I didn't see any major problems related -02:-09 14 to the bulk variances, the front yard setbacks. This -02:-09 15 is an existing condition, it's not that much. It -02:-09 16 doesn't encroach that much into the front yard -02:-08 17 setback, it's not going to be exacerbated by this -02:-08 18 project, so I don't think that that's a particular -02:-08 19 issue. -02:-08 20 There is a height variance required, -02:-08 21 two-and-a-half stories are allowed, but three is -02:-08 22 proposed. But accommodating this building within 36 -02:-08 23 feet, I think that's the key area, and I think -02:-08 24 because of that, this is relative to the new -02:-08 25 building, that that's not a substantial impact. LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">40</p> <p>-02:-06 1 MR. NEWMAN: I'm sorry to interrupt. -02:-06 2 So you're saying 2002, that document -02:-06 3 which the board does not have, says nothing about -02:-06 4 these kind of uses. -02:-06 5 Do I have that correct? -02:-06 6 THE WITNESS: It does not. It doesn't. -02:-06 7 When it discusses the B-1 and the SO zone, it does -02:-06 8 not talk about mixed use or residential development. -02:-06 9 It talks about other uses, you know, retail and so -02:-06 10 forth. -02:-06 11 That will change in subsequent -02:-06 12 documents, but insofar as that document is concerned, -02:-06 13 there's nothing in the goals or the uses that would -02:-06 14 support either mixed use or solely residential -02:-06 15 development. -02:-06 16 The next document is the periodic -02:-06 17 reexamination of the master plan and development -02:-06 18 regulations, the Borough of Woodcliff Lake, December -02:-06 19 of 2008, also prepared by Burgis Associates. They -02:-06 20 did the 2002 Master Plan. -02:-06 21 And at page 22, when they are talking -02:-06 22 about specific changes to the master plan, there's a -02:-05 23 discussion of differentiating permitted uses in the -02:-05 24 B-1, B-2, and B-3 districts. And it says: -02:-05 25 "For example, the B-1 district uses LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">41</p> <p>-02:-05 1 should be uses appropriate for a traditional -02:-05 2 downtown area, since the zone is within -02:-05 3 walking distance of the train station." -02:-05 4 It doesn't elaborate and say "mixed -02:-05 5 use" or "residential" in that particular study. -02:-05 6 So, again, in the 2008 Master Plan, -02:-05 7 there is no reference to mixed use or residential. -02:-05 8 There were two Broadway corridor -02:-05 9 studies that were done, one document which is known -02:-05 10 as the Broadway Corridor Phase 2 study, which was -02:-05 11 done in June 2012, again it's a Burgis Associates -02:-05 12 document, there were no recommendations or findings -02:-05 13 related to the mix of retail/residential uses or -02:-05 14 allowing residential uses alone south of Highview. -02:-05 15 That particular document focused on -02:-05 16 three redevelopment sites, Malek, Mayberry, and the -02:-04 17 post office shopping center were recommended for -02:-04 18 mixed use, but mixed use as recommended in this -02:-04 19 particular document meant retail either on the first -02:-04 20 floor or on two floors or retail on the ground floor -02:-04 21 and office on the second. So this document didn't -02:-04 22 talk about residential uses. -02:-04 23 Very shortly thereafter, there was a -02:-04 24 Broadway corridor study master plan amendment, that's -02:-04 25 August 2012, and this is the first time that this <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p> </p>	<p style="text-align: right;">43</p> <p>-02:-03 1 south of Highview, to allow mixed-use -02:-03 2 development and encourage redevelopments." -02:-03 3 So I think when you summarize what's in -02:-03 4 the earlier documents, there is no recognition, no -02:-03 5 recommendation for mixed use. -02:-03 6 In the Broadway corridor study, the -02:-03 7 master plan, and some of the follow-up memorandums, -02:-02 8 there is a reference to mixed use. But I think -02:-02 9 what's critical is there were no recommendations to -02:-02 10 permit a mix of uses in the SO zone. It talked about -02:-02 11 it in the B-1 zone. And there were no -02:-02 12 recommendations to allow solely multifamily -02:-02 13 development south of Highview, either in the SO or -02:-02 14 the B-1 zones. -02:-02 15 I just want to bring the zoning board -02:-02 16 up to speed in terms of some of the more recent -- -02:-02 17 when I say "recent," in the past three years, the -02:-02 18 zoning history, because the council has taken up this -02:-02 19 notion of should it allow mixed use or residential -02:-02 20 development on the Broadway corridor. -02:-02 21 And there were two instances, it -02:-02 22 started when DMR Architects were engaged by the -02:-02 23 council to look at the Broadway corridor study and -02:-02 24 come up with some proposed zoning. -02:-02 25 They did put a proposal forward late in <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p> </p>
<p style="text-align: right;">42</p> <p>-02:-04 1 notion of mixed use is mentioned in those studies. -02:-04 2 So there was a memo from Donna Holmquist, who was a -02:-04 3 planner at Burgis, that was sent to the planning -02:-04 4 board that was entitled "Supplemental Planning Board -02:-04 5 Recommendations - Broadway Corridor Study Phase 2," -02:-04 6 and there were two recommendations. -02:-04 7 Recommendation No. 1 was "Overlay -02:-04 8 Zone." -02:-04 9 It says: -02:-04 10 "To encourage redevelopment of -02:-04 11 properties in the B-1 district, the borough -02:-03 12 should consider implementing an overlay zone -02:-03 13 allowing mixed-use (commercial/apartment) -02:-03 14 development and restaurants. In addition to -02:-03 15 the other uses currently permitted in the B-1 -02:-03 16 district." -02:-03 17 And then the second thing it said is: -02:-03 18 "2. Under "Apartments. Apartments, as -02:-03 19 part of a mixed-use development with -02:-03 20 commercial space, could foster vitality in the -02:-03 21 B-1 district, if permitted." -02:-03 22 And then finally there was another -02:-03 23 memorandum from Donna Holmquist to the planning board -02:-03 24 dated August 6, 2012, and it indicates as follows: -02:-03 25 "Implementation of an overlay zone, <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p> </p>	<p style="text-align: right;">44</p> <p>-02:-02 1 2016, it was 2017 when the council began to consider -02:-01 2 this. So that was one of the efforts that occurred. -02:-01 3 So, in 2017, the council was sent this -02:-01 4 proposed change to the zoning by DMR Architects. -02:-01 5 What the architect had proposed was to allow for -02:-01 6 mixed use in the Broadway corridor, and, even, in -02:-01 7 some cases, to allow for solely residential use. -02:-01 8 With regard to the second one, solely -02:-01 9 residential use, this was just -- and let me just put -02:-01 10 it in context. This was not something that the -02:-01 11 council endorsed, it was not their document, it was a -02:-01 12 document that was provided by DMR Architects and it -02:-01 13 was merely sent to the council to review that. -02:-01 14 And at the same time, our firm was -02:-01 15 engaged with the Fair Share Housing Center in doing -02:-00 16 mediation on providing the fair share obligation for -02:-00 17 the borough for the third round. -02:-00 18 So when I became aware that the council -02:-00 19 was considering allowing mixed use or even -02:-00 20 residential use in the Broadway corridor, I indicated -02:-00 21 that if this was going to happen, Fair Share Housing -02:-00 22 Center would insist that if that was done, either by -02:-00 23 zoning or overlay zoning, that they would have to -02:-00 24 provide a set aside for low and moderate income -02:-00 25 housing. <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p> </p>

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-02:00	1	So the council decided that they would
-02:00	2	have a community meeting, it was held at the Tice
-02:00	3	Senior Center in the winter of 2017, and basically
-02:00	4	the community weighed in. The council, thereafter,
-02:00	5	did not move forward with any of those
-02:00	6	recommendations. Essentially, that discussion was
-01:59	7	tabled.
-01:59	8	Based on that discussion, our office
-01:59	9	went back to Fair Share Housing Center in that
-01:59	10	negotiation. We told Fair Share Housing Center that
-01:59	11	the council was not supportive of allowing mixed use
-01:59	12	or residential development in the Broadway corridor I
-01:59	13	believe south of Highview.
-01:59	14	Fair Share Housing Center agreed with
-01:59	15	that. We signed a settlement agreement with Fair
-01:59	16	Share Housing Center which did not require any
-01:59	17	overlay zoning over the Broadway corridor.
-01:59	18	So as a result, neither mixed use or
-01:59	19	residential development was allowed either in the B-1
-01:59	20	or the SO zones.
-01:59	21	In 2018, this was approximately a year
-01:59	22	later, the council once again took up the discussion
-01:59	23	with regard to a revised draft of changes for the B-1
-01:59	24	zone, wherein mixed uses were put forward.
-01:59	25	After some discussion with the council,
		LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
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-01:58	1	they could not reach a consensus on the proposed
-01:58	2	zoning amendment and the matter was tabled.
-01:58	3	So that is basically the master plan
-01:58	4	background and the history with regard to the
-01:58	5	council's taking up this question of whether to allow
-01:58	6	mixed use in this particular area.
-01:58	7	I think it's very important insofar as
-01:58	8	the <u>Medici</u> reconciliation is concerned, because, as I
-01:58	9	said before, the board has to basically reconcile the
-01:58	10	fact that the governing body, through zoning, does
-01:58	11	not permit this use in this particular location. And
-01:58	12	the master plan documents and their actions in the
-01:58	13	recent past, I think, speak to that.
-01:58	14	Let me just point something else out
-01:58	15	that does kind of perhaps open the door to a
-01:58	16	discussion, and this is in the context of a <u>Medici</u>
-01:58	17	reconciliation.
-01:58	18	One way of reconciling the grant of the
-01:57	19	variance in cases like this is where there has been a
-01:57	20	passage of time since the last master plan was done
-01:57	21	and the board can point to changed circumstances.
-01:57	22	So you can look back and you can say,
-01:57	23	well, the last master plan reexamination was done in
-01:57	24	2008. The last time the planning board dealt with
-01:57	25	the Broadway corridor amendment was in 2012. And
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-01:57	1	basically the applicant or the board can say well,
-01:57	2	look, since that period of time, there's been a
-01:57	3	change of circumstances, there's been a change in
-01:57	4	real estate, in market economic conditions, in state
-01:57	5	law, something which would say to the board, if the
-01:57	6	planning board were to be doing the master plan at
-01:57	7	this point, has sufficient change occurred over that
-01:57	8	period of time such that when the board was
-01:57	9	considering making a recommendation for the zoning,
-01:56	10	that those changed circumstances would lead the
-01:56	11	planning board in its master plan to change their
-01:56	12	policy or that the governing body would say, yes,
-01:56	13	there's been sufficient changes in the marketplace,
-01:56	14	where even though the master plan said, you know, not
-01:56	15	to permit this kind particular use at this particular
-01:56	16	location, that they might be persuaded at this point
-01:56	17	to undertake that.
-01:56	18	So, you know, I think it's pretty clear
-01:56	19	from the <u>Medici</u> reconciliation, the master plan, and
-01:56	20	the Broadway corridor amendment I think speaks for
-01:56	21	itself, but I think one of the questions that the
-01:56	22	board has to ask is, are those projects -- are those
-01:56	23	documents so out of date to have circumstances change
-01:56	24	where you can reconcile, you can say, yes, insofar as
-01:56	25	the master plan and the borough is concerned, this is
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-01:55	1	a use now that we think should be permitted and
-01:55	2	reconciled with the fact that the governing body has
-01:55	3	not permitted that use in the zone.
-01:55	4	So that is my testimony, and I'm happy
-01:55	5	to take questions from the board.
-01:55	6	MR. SPIRIG: You started the
-01:55	7	presentation saying let's have a hypothetical saying
-01:55	8	that the use variance is not in the picture.
-01:55	9	THE WITNESS: Right.
-01:55	10	MR. SPIRIG: And talking about
-01:55	11	developing it as a residential use.
-01:55	12	THE WITNESS: Right.
-01:55	13	MR. SPIRIG: Do you recall the question
-01:55	14	that I asked of Mr. Burgis at the last meeting with
-01:55	15	regard to considering it as a residential use, what
-01:55	16	kind of amenity is there for a resident when we're
-01:54	17	putting up a second building, which takes away all
-01:54	18	opportunity for, in my opinion, green space, open
-01:54	19	space, anything that would enhance the lifestyle of
-01:54	20	someone who is living in an apartment?
-01:54	21	And from a planning standpoint, I'm
-01:54	22	curious to hear that.
-01:54	23	THE WITNESS: Yes, so I think when
-01:54	24	you're talking about most residential developments,
-01:54	25	you would want to have some kind of open space
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<p style="text-align: right;">49</p> <p>-01:-54 1 element, and some projects do, they will have a</p> <p>-01:-54 2 sitting area, if it's, you know, geared towards older</p> <p>-01:-54 3 empty-nesters, there may be a small playground or</p> <p>-01:-54 4 play equipment for younger children.</p> <p>-01:-54 5 At this particular location and in</p> <p>-01:-54 6 being so close to the train station and given the</p> <p>-01:-54 7 bedroom mix, as I said before, there's going to be</p> <p>-01:-54 8 very few schoolchildren generated. So to dedicate</p> <p>-01:-54 9 sort of a playground, that's an amenity which would</p> <p>-01:-54 10 be nice. I don't think its absence, you know, is</p> <p>-01:-53 11 something, from a planning point of view, that would</p> <p>-01:-53 12 render the project totally inappropriate.</p> <p>-01:-53 13 It would be nice, you know, if some</p> <p>-01:-53 14 aspect of the open space was enhanced with a walkway</p> <p>-01:-53 15 or something like that, maybe a sitting area, that's</p> <p>-01:-53 16 probably something that could be accommodated.</p> <p>-01:-53 17 You know, the applicant has chosen, in</p> <p>-01:-53 18 this particular situation, not to provide one. I</p> <p>-01:-53 19 think it's an attractive feature and it would be nice</p> <p>-01:-53 20 to have it, but I don't think it's an absolutely</p> <p>-01:-53 21 essential part of the project.</p> <p>-01:-53 22 MR. SPIRIG: So if I can just now</p> <p>-01:-53 23 continue, because you did make a point that I was</p> <p>-01:-53 24 tempted to only hit on at one point.</p> <p>-01:-53 25 With regard to determining whether or</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">51</p> <p>-01:-52 1 sufficient testimony on the record to prove that</p> <p>-01:-52 2 point, and the reason why I think they did not is</p> <p>-01:-52 3 because they're not saying that this is a hardship,</p> <p>-01:-52 4 that this property and this use by virtue of the</p> <p>-01:-52 5 zoning cannot, you know, sustain a reasonable rate of</p> <p>-01:-51 6 return.</p> <p>-01:-51 7 What they are saying is that they</p> <p>-01:-51 8 believe that a residential development in this</p> <p>-01:-51 9 context provides substantial benefit, special reasons</p> <p>-01:-51 10 that would enhance the community.</p> <p>-01:-51 11 I don't think a hardship case was made,</p> <p>-01:-51 12 so I do agree with you in that respect.</p> <p>-01:-51 13 MR. SPIRIG: Thank you.</p> <p>-01:-51 14 MR. NEWMAN: Let me ask you a question.</p> <p>-01:-51 15 If I remember the testimony, there was</p> <p>-01:-51 16 a lot of discussion about empty-nesters, meaning</p> <p>-01:-51 17 people who already live in the community, that their</p> <p>-01:-51 18 children are going to go off to school and they're</p> <p>-01:-51 19 going to downsize, so to speak.</p> <p>-01:-51 20 THE WITNESS: Right.</p> <p>-01:-51 21 MR. NEWMAN: How do you reconcile the</p> <p>-01:-51 22 average-sized home in Woodcliff Lake and the square</p> <p>-01:-51 23 footage of those homes with people moving into a</p> <p>-01:-51 24 one-bedroom apartment?</p> <p>-01:-50 25 I mean, does that sound consistent,</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">50</p> <p>-01:-53 1 not there is really a hardship associated with</p> <p>-01:-53 2 finding an office tenant, and I really never got a</p> <p>-01:-53 3 clear answer to that.</p> <p>-01:-53 4 THE WITNESS: Right.</p> <p>-01:-53 5 MR. SPIRIG: We did get an answer from</p> <p>-01:-53 6 the real estate person, I asked him directly could</p> <p>-01:-52 7 you rent this and he said yes, but at what price?</p> <p>-01:-52 8 And then subsequent to that, we did</p> <p>-01:-52 9 hear testimony from someone with regard to, well, the</p> <p>-01:-52 10 infrastructure is too old to convert it into an</p> <p>-01:-52 11 office building because it was built in the '80s or</p> <p>-01:-52 12 whatever.</p> <p>-01:-52 13 If you think about it, most of the</p> <p>-01:-52 14 office buildings in Woodcliff Lake were built in the</p> <p>-01:-52 15 '80s or '70s, for that matter.</p> <p>-01:-52 16 THE WITNESS: Right.</p> <p>-01:-52 17 MR. SPIRIG: So I'm just curious as to</p> <p>-01:-52 18 what you think of that.</p> <p>-01:-52 19 THE WITNESS: I did not hear from</p> <p>-01:-52 20 Mr. Burgis that this was a hardship variance. He</p> <p>-01:-52 21 never mentioned that as a special reason, and I</p> <p>-01:-52 22 didn't hear other evidence that the building couldn't</p> <p>-01:-52 23 be used for an office or it was absolutely impossible</p> <p>-01:-52 24 to convert it for an office use. They said there</p> <p>-01:-52 25 would be some difficulty. I don't know that we had</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">52</p> <p>-01:-50 1 somebody lives in a 3,000-square-foot house and their</p> <p>-01:-50 2 kids go off to school, and the couple is going to</p> <p>-01:-50 3 move into an 800-square-foot apartment.</p> <p>-01:-50 4 THE WITNESS: Right.</p> <p>-01:-50 5 So, you know, I understand your</p> <p>-01:-50 6 question. I don't think the applicant made the point</p> <p>-01:-50 7 that these units are intended for somebody who lives</p> <p>-01:-50 8 in a large single-family home and now would downsize</p> <p>-01:-50 9 from a single-family home into a one-bedroom.</p> <p>-01:-50 10 What they did say --</p> <p>-01:-50 11 MR. NEWMAN: "Empty-nesters," I</p> <p>-01:-50 12 thought.</p> <p>-01:-50 13 THE WITNESS: Well, yes, but what they</p> <p>-01:-50 14 did say is there may be, you know, divorcees,</p> <p>-01:-50 15 transient people, maybe relatives, somebody who maybe</p> <p>-01:-50 16 left their single-family home and found a location</p> <p>-01:-50 17 elsewhere and now wanted to move back into the</p> <p>-01:-50 18 community.</p> <p>-01:-50 19 So small apartments like this that are</p> <p>-01:-50 20 targeted towards older and younger empty-nesters, you</p> <p>-01:-49 21 know, is something that is desirable in communities</p> <p>-01:-49 22 and I think --</p> <p>-01:-49 23 MR. NEWMAN: But --</p> <p>-01:-49 24 THE WITNESS: -- I think their is</p> <p>-01:-49 25 evidence, for example, in 62 Broadway, where there</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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-01:49 1 were 14 apartments and retail space, we know that the
-01:49 2 retail space, there's trouble, you know, there's been
-01:49 3 difficulty renting those out. The 14 apartments are
-01:49 4 rented.
-01:49 5 So, clearly -- and I'm not saying the
-01:49 6 source of demand, you know, is a couple who is
-01:49 7 downsizing and would go from a 3,000-square-foot
-01:49 8 single-family home into a one-bedroom unit, but I do
-01:49 9 believe it does fulfill a housing need, and I think
-01:49 10 there's ample indication in the marketplace that that
-01:49 11 is something that would add to the variety of housing
-01:49 12 options in the community.
-01:49 13 MR. NEWMAN: But do you think that's
-01:49 14 more designed for existing residents in the community
-01:48 15 who are downsizing or for somebody new who would
-01:48 16 seeking?
-01:48 17 This is where I'm having a difficult
-01:48 18 time reconciling that, because I could be wrong, I'm
-01:48 19 not wrong a lot, my wife tells me all the time, but
-01:48 20 if I remember the testimony correctly, it was for
-01:48 21 empty-nesters, which was referred to a lot.
-01:48 22 THE WITNESS: Right.
-01:48 23 MR. NEWMAN: And I still don't
-01:48 24 understand how an empty-nester is going to go from a
-01:48 25 3,000 -- I mean the average house in Woodcliff Lake
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-01:48 1 --
-01:48 2 THE WITNESS: I think you're right.
-01:48 3 MR. NEWMAN: -- to an 800-square-foot
-01:48 4 apartment.
-01:48 5 THE WITNESS: Yes, I think you're
-01:48 6 right.
-01:48 7 There's usually a series. Somebody
-01:48 8 moving out of a single-family home might transition
-01:48 9 into, you know, a townhouse or a two- or
-01:48 10 three-bedroom apartment, but there are circumstances,
-01:47 11 you know, economic lifestyle changes and so forth.
-01:47 12 MR. NEWMAN: Listen, it happens. Just
-01:47 13 as a general reconciliation --
-01:47 14 THE WITNESS: Right.
-01:47 15 MR. NEWMAN: -- you would agree with
-01:47 16 me?
-01:47 17 THE WITNESS: I would agree with you,
-01:47 18 the number of people moving from a large
-01:47 19 single-family home into one of these one-bedroom
-01:47 20 apartments, that's probably not a huge percentage of
-01:47 21 them, but there are other housing needs in the
-01:47 22 community, people who desire to live in this
-01:47 23 community that don't qualify as low and moderate and
-01:47 24 may want to live in the community, and I think this
-01:47 25 kind of housing does address those needs.
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-01:47 1 I think 62 Broadway is evidence of
-01:47 2 that, those are all smaller apartment units and those
-01:47 3 have all been rented, so I think there is a demand.
-01:47 4 As I've indicated, there's not a
-01:47 5 specific obligation on the part of Woodcliff Lake,
-01:47 6 through its fair share obligation to rezone or to
-01:47 7 grant the variance, but, you know, as a point, is
-01:46 8 there a market demand for these kinds of units?
-01:46 9 I think the evidence is clear that
-01:46 10 there probably is.
-01:46 11 MR. NEWMAN: But that's not how it --
-01:46 12 and again you'll correct me if I'm wrong, that's not
-01:46 13 how it was, for lack of a better term, "sold" to this
-01:46 14 board.
-01:46 15 I think the evidence -- and you were
-01:46 16 here, but I think the evidence was this is a good
-01:46 17 place for empty-nesters. I seem to remember
-01:46 18 "empty-nesters."
-01:46 19 THE WITNESS: Empty-nesters doesn't
-01:46 20 mean somebody whose kids have left the home and would
-01:46 21 suddenly transition.
-01:46 22 MR. NEWMAN: When there was testimony
-01:46 23 as to that, it was more of a referral to
-01:46 24 "empty-nesters," yes, but perhaps not people who
-01:46 25 already lived in the community.
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-01:46 1 THE WITNESS: I can't really comment on
-01:46 2 that. You know, you have the evidence in the record.
-01:46 3 From my point of view, what you're
-01:45 4 saying, would somebody transition from a
-01:45 5 3,000-square-foot house into a one-bedroom apartment?
-01:45 6 The answer is unlikely. There may be several steps
-01:45 7 in between transition of housing and there may be
-01:45 8 lifestyle changes or legal circumstances under which
-01:45 9 people find themselves where this kind of housing
-01:45 10 becomes attractive at some point.
-01:45 11 MR. PRINCOTTO: Okay. I think we have
-01:45 12 to move on.
-01:45 13 MR. NEWMAN: Okay.
-01:45 14 MR. PRINCOTTO: There might be other
-01:45 15 questions that board members have.
-01:45 16 CHAIRWOMAN HEMBREE: Questions from
-01:45 17 this side?
-01:45 18 MR. HAYES: No.
-01:45 19 CHAIRWOMAN HEMBREE: Robin?
-01:45 20 MS. EFFRON-MALLEY: No, I think Richard
-01:45 21 did a great job summing up.
-01:45 22 MR. PRINCOTTO: I have a question for
-01:45 23 you.
-01:45 24 BY MR. PRINCOTTO:
-01:45 25 **Q.** In the CBA and in your testimony, you
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-01:45 **1** stated that none of the goals of the master plan
 -01:45 **2** support a residential development in the B-1 or the
 -01:45 **3** SO zones?
 -01:45 **4** **A. In the 2002 Master Plan, yes.**
 -01:45 **5** **Q.** Correct.
 -01:45 **6** Those goals haven't changed, have they?
 -01:44 **7** **A. I can't remember. I didn't see**
 -01:44 **8 anything in the 2008 Master Plan Reexamination which**
 -01:44 **9 indicated they had. That's a very specific question.**
 -01:44 **10 That's goals with respect to residential development**
 -01:44 **11 in B-1 and SO.**
 -01:44 **12** I'm not saying that there is some
 -01:44 **13** general goals, as Mr. Burgis pointed out, that would
 -01:44 **14** support this kind of project, but I was being very
 -01:44 **15** specific as to related to this specific use at this
 -01:44 **16** location and the answer is I wasn't able to find any.
 -01:44 **17** **Q.** From a planning standpoint, there's a
 -01:44 **18** difference between mixed-use and solely
 -01:44 **19** residential-multifamily dwellings?
 -01:44 **20** **A. That's correct.**
 -01:44 **21** **I think, at least insofar as my reading**
 -01:44 **22 of the Broadway corridor study and in connection with**
 -01:44 **23 the proposed zoning changes in a fair share context,**
 -01:44 **24 we always looked at the possibility of doing mixed**
 -01:43 **25 use, which would be retail on the ground floor and**
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-01:43 **1** **apartments above.**
 -01:43 **2** **I don't think there was any serious**
 -01:43 **3 consideration given to doing purely residential**
 -01:43 **4 buildings in either context, even though I will admit**
 -01:43 **5 that Mr. Reiner's document did, you know, indicate**
 -01:43 **6 that that was something that he would propose.**
 -01:43 **7** MR. PRINCIIOTTO: Okay. Any other
 -01:43 **8** questions?
 -01:43 **9** MR. HAYES: No.
 -01:43 **10** MR. PRINCIIOTTO: Board members?
 -01:43 **11** Mr. Delia?
 -01:43 **12** MR. DELIA: May I briefly consult with
 -01:43 **13** Mr. Burgis?
 -01:43 **14** MR. PRINCIIOTTO: Briefly.
 -01:43 **15** MR. DELIA: I will.
 -01:43 **16** (Whereupon, a brief recess is taken.)
 -01:43 **17** MR. SPIRIG: Are we going to have any
 -01:43 **18** other testimony from our engineer?
 -01:43 **19** CHAIRWOMAN HEMBREE: Yes.
 -01:39 **20** MR. DELIA: Thank you.
 -01:39 **21** We're back on the record?
 -01:39 **22** CHAIRWOMAN HEMBREE: Okay. Yes, we're
 -01:39 **23** back on the record.
 -01:39 **24** MR. DELIA: Thank you.
 -01:39 **25**
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-01:39 **1** CROSS EXAMINATION
 -01:39 **2** BY MR. DELIA:
 -01:39 **3** **Q.** Good evening, Mr. Preiss. How are you
 -01:39 **4** tonight?
 -01:39 **5** **A. Good. Thanks.**
 -01:39 **6** CHAIRWOMAN HEMBREE: Quiet, please.
 -01:39 **7** **Q.** So what I want to start first is to go
 -01:39 **8** over what you understand and what we know to be the
 -01:39 **9** actual history and series of master plan documents in
 -01:39 **10** Woodcliff Lake.
 -01:39 **11** **A. Uh-huh.**
 -01:39 **12** **Q.** You've referred to most of them or all
 -01:39 **13** of them at one point in your testimony, but, we have
 -01:39 **14** a master plan update from 2002, which I believe is
 -01:39 **15** the earliest one that we have.
 -01:39 **16** Is that correct?
 -01:39 **17** **A. Yes.**
 -01:39 **18** **Q.** And then that's followed by a Broadway
 -01:39 **19** corridor study, which is not a master plan and it's
 -01:38 **20** not a reexamination, that came in 2008.
 -01:38 **21** Is that correct?
 -01:38 **22** **A. Yes.**
 -01:38 **23** **Q.** Then we have a periodic reexamination
 -01:38 **24** that occurred on December 8, 2008?
 -01:38 **25** **A. Yes.**
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-01:38 **1** **Q.** And then we have a Broadway corridor
 -01:38 **2** study, Phase 2, in 2012.
 -01:38 **3** And another Broadway corridor study
 -01:38 **4** presentation in 2016.
 -01:38 **5** What we don't have, if you agree, is we
 -01:38 **6** do not have a periodic reexamination that is younger
 -01:38 **7** than ten years old.
 -01:38 **8** Is that correct?
 -01:38 **9** **A. That is correct.**
 -01:38 **10** **Q.** What is your understanding of the
 -01:38 **11** Municipal Land Use Law as it relates to the
 -01:38 **12** timeliness of providing a reexamination report?
 -01:38 **13** **A. Either a new master plan has to be**
 -01:38 **14 adopted or it has to be re-examined every ten years.**
 -01:38 **15** **Q.** What is the ramification if that is not
 -01:37 **16** accomplished, if you know?
 -01:37 **17** **A. Well, I think the case law indicates**
 -01:37 **18 that if a plaintiff challenges the zoning, if the**
 -01:37 **19 master plan is timely, then there is a presumption of**
 -01:37 **20 validity that the zoning ordinance is valid, and if**
 -01:37 **21 it's not done in a timely fashion, that presumption**
 -01:37 **22 may be removed.**
 -01:37 **23** **Q.** Okay. And so, in other words, and if I
 -01:37 **24** could cite right from the MLU itself, if you could
 -01:37 **25** just read into the record 40:55D-89.1.
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-01:37 **1 A. It says:**
-01:37 **2 "The absence of the adoption by the**
-01:37 **3 planning board of a reexamination report**
-01:37 **4 pursuant to section, it's see 40:55D-89, shall**
-01:37 **5 constitute a rebuttable presumption that the**
-01:37 **6 municipal development regulations are no**
-01:37 **7 longer reasonable."**
-01:37 **8 Q.** So at this moment in time we have a
-01:36 **9** rebuttable presumption that the Woodcliff Lake zoning
-01:36 **10** ordinance is invalid.
-01:36 **11** Is that correct?
-01:36 **12** MR. PRINCIOTTO: I object. I mean --
-01:36 **13** MR. DELIA: It's a planning question
-01:36 **14** that goes straight to the heart of the series of
-01:36 **15** master plan documents.
-01:36 **16** MR. PRINCIOTTO: You're making a legal
-01:36 **17** argument.
-01:36 **18** MR. DELIA: I'm asking him a question,
-01:36 **19** he can answer yes or no.
-01:36 **20** MR. PRINCIOTTO: You're making legal
-01:36 **21** argument, and he doesn't know what's going to happen
-01:36 **22** with their application. After that, you can make
-01:36 **23** your legal argument, but he didn't testify on direct
-01:36 **24** about that.
-01:36 **25** MR. DELIA: He commented on all the
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-01:36 **1** master plans, he commented on their dates, and I just
-01:36 **2** want to get on the record that the master plan is
-01:36 **3** outside of time by half a year now.
-01:36 **4** MR. PRINCIOTTO: You're trying to make
-01:36 **5** a legal argument.
-01:36 **6** MR. DELIA: I'm making a factual
-01:36 **7** argument. I'm asking factual questions.
-01:36 **8** MR. PRINCIOTTO: What's the factual
-01:36 **9** question?
-01:36 **10** MR. DELIA: How old is your master
-01:36 **11** plan?
-01:36 **12** MR. PRINCIOTTO: Well, you have the
-01:36 **13** dates of the master plan.
-01:36 **14** MR. DELIA: Okay. He's answered the
-01:35 **15** question, I'll move on.
-01:35 **16** MR. PRINCIOTTO: Thank you.
-01:35 **17** BY MR. DELIA:
-01:35 **18 Q.** With the question I just asked, you
-01:35 **19** spoke of reconciliation.
-01:35 **20** Do you think that the question of
-01:35 **21** reconciliation, A, with the passage of ten years,
-01:35 **22** putting aside what the Land Use Law says, but the
-01:35 **23** passage of ten years, when you talk about changed
-01:35 **24** circumstances, wouldn't it be fair to say that there
-01:35 **25** were a lot of changed circumstances that have
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-01:35 **1** occurred in the last ten years as it relates to
-01:35 **2** Woodcliff Lake?
-01:35 **3 A. Yes.**
-01:35 **4 Q.** And among them, an aging population,
-01:35 **5** correct?
-01:35 **6 A. Yes, somewhat.**
-01:35 **7 Q.** We have an emphasis --
-01:35 **8** CHAIRWOMAN HEMBREE: I don't know that.
-01:35 **9** MR. DELIA: I know I'm aging. I was
-01:35 **10** 40-something ten years ago, and now I'm pushing 60.
-01:35 **11** CHAIRWOMAN HEMBREE: It happens to the
-01:35 **12** best of us.
-01:35 **13** MR. NEWMAN: I mean, are you going to
-01:35 **14** present any data that the age in Woodcliff Lake is
-01:34 **15** older than it used to be?
-01:34 **16** BY MR. DELIA:
-01:34 **17 Q.** It's in the master plan documents.
-01:34 **18** Isn't that true?
-01:34 **19 A. Yes.**
-01:34 **20** MR. NEWMAN: Which one?
-01:34 **21** MR. PRINCIOTTO: Which master plan?
-01:34 **22** MR. DELIA: The '08.
-01:34 **23** MR. NEWMAN: You mean the one that you
-01:34 **24** just said is outdated?
-01:34 **25** MR. DELIA: That's right.
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-01:34 **1** I'm asking this gentleman a question
-01:34 **2** about is there an aging population. He answered the
-01:34 **3** question yes. He did answer the question yes.
-01:34 **4** Please, let me ask the questions and let him give the
-01:34 **5** answers.
-01:34 **6** MR. NEWMAN: Okay.
-01:34 **7** MR. DELIA: And please don't interrupt.
-01:34 **8** THE WITNESS: We did a demographic
-01:34 **9** analysis in the, I think it's the 2018 Housing
-01:34 **10** Element and Fair Share Plan, and there are statistics
-01:34 **11** which indicate that generally the population in
-01:34 **12** Woodcliff Lake is aging. That is a fact.
-01:34 **13** BY MR. DELIA:
-01:34 **14 Q.** As we move on, I'll ask you other
-01:34 **15** questions perhaps about changed circumstances, but
-01:34 **16** let me ask you this.
-01:34 **17** Would it be fair to say that in the
-01:34 **18** last ten years, transit-oriented design has become
-01:33 **19** much more a public policy of the State of New Jersey?
-01:33 **20 A. It was a policy back in 2008.**
-01:33 **21 Q.** Do you think it's been implemented more
-01:33 **22** in Bergen County in the last ten years?
-01:33 **23 A. Yes, it probably has.**
-01:33 **24 Q.** Now, referring to -- let me just go to
-01:33 **25** the periodic exams first and start there.
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-01:33 1	The best I can tell from a review of
-01:33 2	the '02 exam, just bear with me one second, the '02
-01:33 3	exam, there was a reference towards the end of it
-01:33 4	which said:
-01:33 5	"A further study was needed for the
-01:33 6	Broadway corridor."
-01:33 7	A. Yes.
-01:33 8	Q. Which is essentially the seed that
-01:33 9	started the whole discussion on the corridor study.
-01:33 10	Is that correct?
-01:33 11	A. I don't know. I mean, it's not unusual
-01:32 12	for a master plans to provide general recommendations
-01:32 13	saying, you know, issues should be looked at in the
-01:32 14	future, it was very general.
-01:32 15	I don't know whether that was the
-01:32 16	origin of a specific reexamination of the corridor
-01:32 17	studies.
-01:32 18	What I will say is even though the
-01:32 19	re-exam was 2008, you know, in 2008, 2012, there was
-01:32 20	specific focus on the Broadway corridor in a master
-01:32 21	plan amendment, and in those documents, you know,
-01:32 22	those issues were addressed.
-01:32 23	So, yes, you're correct, it wasn't
-01:32 24	addressed within the specific context of a
-01:32 25	reexamination report, but it's not like that
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-01:32 1	particular issue hasn't been re-examined since then.
-01:32 2	It was done in 2012.
-01:32 3	And zoning, as I've indicated is, the
-01:32 4	recommendations made, in particular the mixed use,
-01:32 5	was something that the council has looked at in the
-01:32 6	past couple of years and basically has not felt
-01:31 7	appropriate or cannot reach a consensus about
-01:31 8	actually undertaking a rezoning in that regard.
-01:31 9	Q. I would agree that there has been study
-01:31 10	on it, but it has not been done in the context of a
-01:31 11	full blown master plan reexamination --
-01:31 12	A. That is correct.
-01:31 13	Q. -- and the many facets that are
-01:31 14	required by law in a master plan reexamination?
-01:31 15	MR. PRINCIOTTO: Well, I object.
-01:31 16	That's a pretty broad question. Can you be more
-01:31 17	specific?
-01:31 18	MR. DELIA: Sure.
-01:31 19	BY MR. DELIA:
-01:31 20	Q. The master plan reexamination, in
-01:31 21	accordance with statute 40:55D-89, lists a total of
-01:31 22	five separate items that must be in a reexamination
-01:31 23	report.
-01:31 24	Is that correct?
-01:31 25	A. There's four mandatory requirements,
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-01:31 1	and if you have redevelopment plans, there would be a
-01:30 2	fifth, yes.
-01:30 3	Q. And we don't have that here in any of
-01:30 4	the current documentation? When I say "current," I
-01:30 5	mean less than ten-years-old.
-01:30 6	A. The last one, which was done within
-01:30 7	that context, is 2008.
-01:30 8	Q. Okay. Staying with the '02 master plan
-01:30 9	update, which is really a reexamination, and
-01:30 10	referring to page 10, is there an overview statement
-01:30 11	that the only vacant and developable land remaining
-01:30 12	in the borough consists mostly of small individual
-01:30 13	lots scattered throughout the community?
-01:30 14	A. If there's a statement in the master
-01:30 15	plan, that speaks for itself, yes.
-01:30 16	Q. Would that be a change now ten years
-01:30 17	later?
-01:30 18	In the current setting, we now have our
-01:30 19	property which is vacant and of a size which could be
-01:30 20	redeveloped.
-01:30 21	Is that fair to say?
-01:30 22	A. I wouldn't characterize your property
-01:30 23	as vacant, so I disagree.
-01:29 24	There's still -- as Mr. Burgis
-01:29 25	indicated, there's still a number of scattered vacant
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-01:29 1	parcels on the Broadway corridor and throughout the
-01:29 2	community. So that hasn't changed substantially.
-01:29 3	Q. Here's another statement.
-01:29 4	"Multifamily development is limited to
-01:29 5	affordable housing sites."
-01:29 6	That hasn't changed, has it?
-01:29 7	A. Well, the Gables is a multifamily
-01:29 8	development, so that has changed.
-01:29 9	Q. All right. How many units are there?
-01:29 10	A. I believe it's 40 units.
-01:29 11	Q. And how many affordable units are
-01:29 12	there?
-01:29 13	A. There are no affordable units. They
-01:29 14	paid a development fee, but they didn't provide any
-01:29 15	affordable units in that development.
-01:29 16	Q. You've answered the question. I'll
-01:29 17	move on from there.
-01:29 18	When we talk about office land uses,
-01:29 19	where are the larger offices located in Woodcliff
-01:29 20	Lake, on what side of the Causeway, what side of the
-01:29 21	lake?
-01:28 22	A. Well, it's predominantly along the
-01:28 23	Chestnut Ridge Road corridor.
-01:28 24	Q. Would it be fair to say that the
-01:28 25	Chestnut Ridge corridor is much more accessible than
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-01:-28	1	the Broadway corridor?
-01:-28	2	A. Accessible to whom?
-01:-28	3	Q. To commuters, to visitors.
-01:-28	4	A. Not necessarily.
-01:-28	5	MR. NEWMAN: Commuters?
-01:-28	6	MR. DELIA: People coming to work in a
-01:-28	7	car.
-01:-28	8	MR. NEWMAN: From the train station?
-01:-28	9	BY MR. DELIA:
-01:-28	10	Q. People coming to work in a car, driving
-01:-28	11	to work.
-01:-28	12	A. From where?
-01:-28	13	Q. From the west.
-01:-28	14	MR. NEWMAN: What's --
-01:-28	15	MR. DELIA: Let me rephrase the
-01:-28	16	question.
-01:-28	17	BY MR. DELIA:
-01:-28	18	Q. There was a lot of testimony, a lot of
-01:-28	19	statements from the board, a lot of statements from
-01:-28	20	the public --
-01:-28	21	MR. PRINCOTTO: A question, please.
-01:-28	22	MR. DELIA: I have to preface it.
-01:-28	23	MR. PRINCOTTO: No, you can just
-01:-28	24	answer a question. We want to get this concluded
-01:-28	25	tonight. Okay?
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-01:-28	1	MR. DELIA: Okay.
-01:-28	2	BY MR. DELIA:
-01:-28	3	Q. Do you remember anybody speaking here
-01:-27	4	about how difficult it is to get across the Causeway,
-01:-27	5	how this easterly section is unique to Woodcliff
-01:-27	6	Lake?
-01:-27	7	A. There was some testimony to that
-01:-27	8	effect.
-01:-27	9	Q. And you've heard lots about the
-01:-27	10	troubles of going over the Causeway, right, in terms
-01:-27	11	of traffic congestion?
-01:-27	12	A. From where?
-01:-27	13	Q. From the west.
-01:-27	14	A. No, no, no, who provided that
-01:-27	15	information?
-01:-27	16	Q. Coming from the board, coming from the
-01:-27	17	public.
-01:-27	18	You don't recall that?
-01:-27	19	A. No, not within the context of this
-01:-27	20	hearing.
-01:-27	21	Q. Do you believe that the Chestnut Ridge
-01:-27	22	properties are much more suitable for office than the
-01:-27	23	Broadway corridor?
-01:-27	24	A. I think --
-01:-27	25	MR. PRINCOTTO: We're not talking
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-01:-27	1	about the Chestnut Ridge corridor.
-01:-27	2	MR. DELIA: I'm asking about
-01:-27	3	comparisons and I'm asking about the viability of
-01:-27	4	this site as an office use. That came out in his
-01:-27	5	testimony and I have a right to cross on it, and --
-01:-27	6	MR. PRINCOTTO: But it's not his
-01:-27	7	testimony. He didn't perform any comparison between
-01:-26	8	Broadway and the Chestnut Ridge corridor.
-01:-26	9	MR. DELIA: I'm asking a question which
-01:-26	10	is more suitable for office development.
-01:-26	11	MR. PRINCOTTO: Is that the test?
-01:-26	12	MR. HAYES: But does that speak to
-01:-26	13	viability?
-01:-26	14	MR. PRINCOTTO: I don't think that's
-01:-26	15	the test, comparison.
-01:-26	16	THE WITNESS: Let me answer it this
-01:-26	17	way.
-01:-26	18	You know, office use within the context
-01:-26	19	of a downtown, even in communities that have large
-01:-26	20	office parks, there's a variety of office markets.
-01:-26	21	And, clearly, this particular office
-01:-26	22	development, which took place in 1980, had a market,
-01:-26	23	somebody developed it, it was occupied. It's now
-01:-26	24	vacant. One of the things that I don't know --
-01:-26	25	MR. NEWMAN: Is it vacant?
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-01:-26	1	CHAIRWOMAN HEMBREE: Yes, it was
-01:-26	2	testified to being vacant.
-01:-26	3	MR. NEWMAN: In the beginning of this
-01:-26	4	application, it wasn't.
-01:-26	5	CHAIRWOMAN HEMBREE: It wasn't,
-01:-26	6	correct.
-01:-26	7	THE WITNESS: That's correct. I did
-01:-26	8	visit and there were a few tenants there about a year
-01:-26	9	ago. Now it's empty. I did not hear --
-01:-26	10	MR. PRINCOTTO: There was no testimony
-01:-26	11	as to how it got there.
-01:-26	12	MR. NEWMAN: No testimony at all.
-01:-26	13	THE WITNESS: That's the point I made.
-01:-25	14	I haven't heard testimony to say that it's infeasible
-01:-25	15	or there was a concerted marketing effort and there
-01:-25	16	was a failure to find tenants.
-01:-25	17	MR. NEWMAN: Or whether it was listed.
-01:-25	18	MR. PRINCOTTO: Okay. Next question.
-01:-25	19	MR. DELIA: All right. Sure.
-01:-25	20	Can you read that back, please, the
-01:-25	21	last answer.
-01:-25	22	(Whereupon, the Court Reporter reads
-01:-25	23	back the requested portion.)
-01:-24	24	BY MR. DELIA:
-01:-24	25	Q. So if the building were occupied,
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-01:-24 1 literally people working in there right now today,
 -01:-24 2 and we presented our case in the manner in which we
 -01:-24 3 did where we've attempted, at least in our opinion,
 -01:-24 4 to demonstrate particular suitability, do you agree
 -01:-24 5 that this property is particularly well suited?
 -01:-24 6 **A. I would say that, you know, given the**
 -01:-23 7 **property's location and the way that you're proposing**
 -01:-23 8 **to convert it, if it were zoned for the use, it would**
 -01:-23 9 **be an appropriate plan for doing so.**
 -01:-23 10 **Q.** So whether or not the office vacancy
 -01:-23 11 occurred by attrition, whether it occurred
 -01:-23 12 deliberately really doesn't make a difference, does
 -01:-23 13 it?
 -01:-23 14 **A. Well, as I've indicated, there's no**
 -01:-23 15 **evidence on the record and you haven't made the**
 -01:-23 16 **argument that this is a hardship case, and it's up to**
 -01:-23 17 **the board to make a determination.**
 -01:-23 18 I've cited the factors and I've
 -01:-23 19 evaluated the testimony of all the witnesses. It's
 -01:-23 20 up to the board to make a determination whether the
 -01:-23 21 applicant has shown that this site is particularly
 -01:-23 22 suited for the proposed use.
 -01:-23 23 **Q.** Okay, but what I'm saying, and I think
 -01:-23 24 I've answered it, which is, this dialogue as to
 -01:-23 25 whether the building is rented, whether there's a
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-01:-23 1 demand, that has nothing to do with -- really deals
 -01:-22 2 with the positive criteria in the context of our
 -01:-22 3 presentation, does it?
 -01:-22 4 **A. All I was indicating is that it could,**
 -01:-22 5 **but in your case you've not made that argument. And**
 -01:-22 6 **I don't want the board to be led to believe that this**
 -01:-22 7 **is a hardship case, because it's not, and I think we**
 -01:-22 8 **agree on that.**
 -01:-22 9 **Q.** All right. I'm going to switch gears
 -01:-22 10 here now a little bit.
 -01:-22 11 The DMR report that you've cited, along
 -01:-22 12 with the Corridor Phase 2, I believe, in one of the
 -01:-22 13 re-exams, or one of the corridor reports, excuse me,
 -01:-21 14 there is a list of zoning specifications and it's
 -01:-21 15 essentially identical to the one of DMR.
 -01:-21 16 Are you familiar with that?
 -01:-21 17 **A. I did not notice that or make that**
 -01:-21 18 **comparison.**
 -01:-21 19 **Q.** But you have looked at the DMR?
 -01:-21 20 **A. Yes.**
 -01:-21 21 **Q.** And, obviously, have you compared that
 -01:-21 22 to our list of zoning parameters?
 -01:-21 23 **A. I have not.**
 -01:-21 24 **Q.** Would you?
 -01:-21 25 Just give me a second, I will give you
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-01:-21 1 the DMR report, I will give you a copy of our plan,
 -01:-21 2 and I would ask you to let us know.
 -01:-21 3 MR. PRINCIOTTO: That's something your
 -01:-21 4 expert should have done, if you wanted to do it.
 -01:-21 5 You're asking him --
 -01:-21 6 MR. DELIA: He brought up the DMR
 -01:-21 7 report, okay.
 -01:-21 8 MR. NEWMAN: Your expert testified
 -01:-21 9 about all sorts of reports, none of which we've seen.
 -01:-21 10 MR. PRINCIOTTO: He's here for cross
 -01:-21 11 examination, not to prepare an analysis for you that
 -01:-21 12 maybe you wanted to do as part of your application.
 -01:-21 13 THE WITNESS: Let me just --
 -01:-21 14 MR. NEWMAN: I would ask that you limit
 -01:-20 15 your questions to cross, as to what he testified to
 -01:-20 16 on direct.
 -01:-20 17 THE WITNESS: Let me just reinforce
 -01:-20 18 what I said earlier on.
 -01:-20 19 The DMR zoning proposal was a proposal
 -01:-20 20 made by an architectural firm that was hired by the
 -01:-20 21 council to put forward proposed changes.
 -01:-20 22 It was never endorsed. It was never
 -01:-20 23 part of an amendment. The zoning that was proposed
 -01:-20 24 was never put in place. So all it was, it was a
 -01:-20 25 proposal.
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-01:-20 1 So, yes, there may be standards that
 -01:-20 2 they put --
 -01:-20 3 MR. NEWMAN: It was a rejected
 -01:-20 4 proposal?
 -01:-20 5 THE WITNESS: I beg your pardon?
 -01:-20 6 MR. NEWMAN: It was a rejected proposal
 -01:-20 7 and not adopted?
 -01:-20 8 THE WITNESS: I wouldn't say it was a
 -01:-20 9 rejected proposal. They put it forward on two
 -01:-20 10 occasions, and on both occasions the borough could
 -01:-20 11 not reach a consensus about undertaking the rezoning
 -01:-20 12 in concert with that report, and so that discussion
 -01:-20 13 has been tabled. That's the best way for me to
 -01:-19 14 characterize it.
 -01:-19 15 There was not an outright resolution on
 -01:-19 16 the council to say we're not going to make the
 -01:-19 17 changes, but there was also a decision from the
 -01:-19 18 council that we're not going to move forward with
 -01:-19 19 these. So all it was a proposal. It wasn't an
 -01:-19 20 official statement from the planning board or master
 -01:-19 21 plan or anything else.
 -01:-19 22 BY MR. DELIA:
 -01:-19 23 **Q.** Okay. Fair enough. Let's move on.
 -01:-19 24 We'll talk about the '08 reexamination.
 -01:-19 25 This is the one really where you say that we didn't
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-01:-19 **1** point to any specifics in the SO of recommending
-01:-19 **2** residential.
-01:-19 **3** You will agree that we met a number of
-01:-19 **4** the objectives that are set forth in the '08
-01:-19 **5** reexamination, would you agree with that?
-01:-19 **6** **A. You'd have to be specific for me to**
-01:-19 **7** **comment on that.**
-01:-19 **8** **Q.** Okay.
-01:-19 **9** **A. What objective are you talking about?**
-01:-19 **10** **Q.** We'll see about the objectives.
-01:-19 **11** Let's start with:
-01:-19 **12** "To encourage improvements to the
-01:-19 **13** Broadway business district corridor."
-01:-18 **14** Do you believe that this project would
-01:-18 **15** be a boost for development of the downtown corridor?
-01:-18 **16** **A. I think the use is independent of the**
-01:-18 **17** **improvements. You can undertake improvements without**
-01:-18 **18** **changing the use.**
-01:-18 **19** **Q.** How about "preserving natural
-01:-18 **20** environment," have we done that here?
-01:-18 **21** **A. Yeah, but so does the existing office**
-01:-18 **22** **development.**
-01:-18 **23** **Q.** If we were to do say something, a
-01:-18 **24** permitted use on the residential aspect, we would be
-01:-18 **25** able to do a subdivision of some sort, we can put a
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-01:-18 **1** street through there?
-01:-18 **2** **A. I doubt it. I think the steep slope**
-01:-18 **3** **ordinance would preclude you from developing that**
-01:-18 **4** **rear portion anyway.**
-01:-18 **5** So the existing office development, it
-01:-18 **6** preserves the environment just to the same extent
-01:-18 **7** that this development does.
-01:-18 **8** **Q.** Well, it still preserves it, yes?
-01:-17 **9** **A. You're not encroaching onto it, so if**
-01:-17 **10** **you look at it from a negative criteria point of**
-01:-17 **11** **view, you're doing no additional harm to the natural**
-01:-17 **12** **environment or disturbance of steep slopes, yes, I**
-01:-17 **13** **would agree with that.**
-01:-17 **14** **Q.** Okay. In terms of, let's talk about
-01:-17 **15** the orientation of this property, its topography, its
-01:-17 **16** distance off of Broadway.
-01:-17 **17** Do you believe that a mixed-use
-01:-17 **18** development here is appropriate, based on the
-01:-17 **19** physical features of the property?
-01:-17 **20** MR. NEWMAN: A mixed-use development?
-01:-17 **21** MR. DELIA: Mixed use.
-01:-17 **22** THE WITNESS: When you say "mixed use,"
-01:-17 **23** you're saying --
-01:-17 **24** BY MR. DELIA:
-01:-17 **25** **Q.** Retail and residential.
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-01:-17 **1** MR. NEWMAN: That's not your
-01:-17 **2** application. How is that relevant?
-01:-17 **3** MR. DELIA: Because he brought it up
-01:-17 **4** that we don't have -- you know, there's no mix here.
-01:-17 **5** He brought it up.
-01:-17 **6** MR. PRINCOTTO: There's no mixed use
-01:-17 **7** allowed and there's solely multifamily residential
-01:-16 **8** permitted.
-01:-16 **9** MR. DELIA: Right, and Mr. Preiss
-01:-16 **10** pointed to portions of the Broadway corridor study in
-01:-16 **11** which he says that there is essentially a requirement
-01:-16 **12** for a mixed use.
-01:-16 **13** We don't have that.
-01:-16 **14** CHAIRWOMAN HEMBREE: No.
-01:-16 **15** MR. NEWMAN: Requirement or
-01:-16 **16** recommendation?
-01:-16 **17** THE WITNESS: I don't think I said
-01:-16 **18** that. Let me just see if I can explain it.
-01:-16 **19** I said when the recommendations were
-01:-16 **20** made, the consideration for the area south of
-01:-16 **21** Highview was only done within the context of mixed
-01:-16 **22** use.
-01:-16 **23** In other words, the council, when they
-01:-16 **24** looked at the DMR study and were proposing to move
-01:-16 **25** forward and when Fair Share Housing, asked us to
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-01:-16 **1** consider overlay zoning, the only change that was
-01:-16 **2** seriously given consideration was ground floor retail
-01:-16 **3** with residential above.
-01:-16 **4** But even that, as I've indicated, was
-01:-16 **5** not implemented, so, you know, it didn't go anywhere.
-01:-16 **6** So whether it was mixed use or solely
-01:-16 **7** residential, you know, the council has not taken any
-01:-15 **8** action to implement those recommendations from either
-01:-15 **9** of those sources, DMR or from the Broadway corridor
-01:-15 **10** study.
-01:-15 **11** **Q.** The settlement agreement that you
-01:-15 **12** entered or that Woodcliff Lake entered into, while
-01:-15 **13** you stated that there was no demand or requirement
-01:-15 **14** from affordable housing to include an overlay zone --
-01:-15 **15** MR. PRINCOTTO: Objection. He didn't
-01:-15 **16** say that.
-01:-15 **17** MR. DELIA: He did.
-01:-15 **18** MR. PRINCOTTO: He didn't say there
-01:-15 **19** was no demand. He said what the resolution was.
-01:-15 **20** BY MR. DELIA:
-01:-15 **21** **Q.** You advised them that you could not do
-01:-15 **22** an overlay zone and they accepted that?
-01:-15 **23** **A. Basically the way it went is Fair Share**
-01:-15 **24** **Housing Center said we would like you to consider**
-01:-15 **25** **doing an overlay zone to provide additional**
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<p style="text-align: right;">81</p> <p>-01:-15 1 affordable housing to meet your unmet need.</p> <p>-01:-15 2 And, basically, the settlement was</p> <p>-01:-14 3 negotiated, was done without that change.</p> <p>-01:-14 4 So Fair Share Housing Center accepted</p> <p>-01:-14 5 that, the borough could meet its unmet need</p> <p>-01:-14 6 obligation as well as its prospective unmet need</p> <p>-01:-14 7 obligation without undertaking that result.</p> <p>-01:-14 8 Q. Yet that same document also does</p> <p>-01:-14 9 require set aside, yes? A set aside of affordable</p> <p>-01:-14 10 housing in the event of a multiunit project such as</p> <p>-01:-14 11 ours?</p> <p>-01:-14 12 A. Right.</p> <p>-01:-14 13 So, to be clear, both that document and</p> <p>-01:-14 14 an ordinance that was adopted and which has just been</p> <p>-01:-14 15 readopted, which changes the affordable housing</p> <p>-01:-14 16 regulations in Woodcliff Lake, basically says where</p> <p>-01:-14 17 you have a rezoning or a grant of variance or do a</p> <p>-01:-14 18 redevelopment and you produce more than five units,</p> <p>-01:-14 19 an inclusionary element is required.</p> <p>-01:-14 20 So all it's saying is the zoning board</p> <p>-01:-14 21 is not obligated under the terms of that requirement</p> <p>-01:-13 22 to grant the variance; however, if it does grant the</p> <p>-01:-13 23 variance, it has to require that set aside. That's</p> <p>-01:-13 24 all it says.</p> <p>-01:-13 25 Q. Okay. And it's obviously contemplated</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">83</p> <p>-01:-12 1 completely different character and it has different</p> <p>-01:-12 2 zoning than the area south of Highview.</p> <p>-01:-12 3 Q. It's similar in terms of its distance,</p> <p>-01:-12 4 essentially, to the train station, more or less,</p> <p>-01:-12 5 right?</p> <p>-01:-12 6 A. It's probably closer, but not a</p> <p>-01:-12 7 substantial. I'm not disputing that the distance of</p> <p>-01:-12 8 this property to the train station does make it what</p> <p>-01:-11 9 I would characterize as a transit-oriented</p> <p>-01:-11 10 development, yes.</p> <p>-01:-11 11 Q. But that small distance difference is</p> <p>-01:-11 12 what makes --</p> <p>-01:-11 13 A. It doesn't make a difference.</p> <p>-01:-11 14 Q. So there really is no major character</p> <p>-01:-11 15 distinction between these two properties, is there?</p> <p>-01:-11 16 A. No, there's a very substantial</p> <p>-01:-11 17 difference. The property has been rezoned</p> <p>-01:-11 18 specifically for, you know, affordable housing in</p> <p>-01:-11 19 both of those instances. There is only one small</p> <p>-01:-11 20 retail use on the corner of Highview and Broadway,</p> <p>-01:-11 21 and the rest of the properties are residential, or,</p> <p>-01:-11 22 in the case of the VFW, it's a small institutional</p> <p>-01:-11 23 use or are vacant.</p> <p>-01:-11 24 So the zoning history, the intent of</p> <p>-01:-11 25 the borough in terms of utilizing it for a</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">82</p> <p>-01:-13 1 in the context of this application, the set aside,</p> <p>-01:-13 2 you brought it up at the first hearing I was at and</p> <p>-01:-13 3 you mentioned it many times.</p> <p>-01:-13 4 Is that correct?</p> <p>-01:-13 5 A. I don't think it was contemplated. All</p> <p>-01:-13 6 I said is that when the application was made, I</p> <p>-01:-13 7 alerted the applicant and the board to the fact that</p> <p>-01:-13 8 if the board were going to approve the development, a</p> <p>-01:-13 9 set aside would be required.</p> <p>-01:-13 10 Q. Okay. You mentioned the property north</p> <p>-01:-13 11 of us that's been redeveloped or approved for</p> <p>-01:-13 12 redevelopment.</p> <p>-01:-13 13 From a planning perspective, how is</p> <p>-01:-13 14 that any appreciably different than our property?</p> <p>-01:-13 15 A. Well, two things. It's north of</p> <p>-01:-13 16 Highview, which is in the R-15 district, and,</p> <p>-01:-13 17 moreover, the borough had purchased that property</p> <p>-01:-12 18 specifically to provide affordable housing and it's</p> <p>-01:-12 19 part of the fair share settlement, as is the ability</p> <p>-01:-12 20 to develop units on the VFW.</p> <p>-01:-12 21 So that area, which is north of</p> <p>-01:-12 22 Highview, currently there's only one retail use,</p> <p>-01:-12 23 which is right on the corner, the rest of those</p> <p>-01:-12 24 properties, aside from the VFW, are single-family</p> <p>-01:-12 25 residential or vacant properties. So it has a</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">84</p> <p>-01:-11 1 residential project, it's in the Housing Element and</p> <p>-01:-11 2 Fair Share Plan. There's a redevelopment plan in</p> <p>-01:-11 3 progress in which that is going to be developed for</p> <p>-01:-10 4 residential use.</p> <p>-01:-10 5 Whereas, the area south of Broadway is</p> <p>-01:-10 6 not part of the fair share plan, either proposed for</p> <p>-01:-10 7 rezoning or as an overlay zone to allow residential</p> <p>-01:-10 8 use either by itself or in a mixed-use context.</p> <p>-01:-10 9 So those properties have different land</p> <p>-01:-10 10 use characteristics and have a different zoning</p> <p>-01:-10 11 history, and, obviously, from a master plan and</p> <p>-01:-10 12 zoning point of view, are completely different.</p> <p>-01:-10 13 MR. PRINCIOTTO: Are you almost done,</p> <p>-01:-10 14 Mr. Delia?</p> <p>-01:-10 15 MR. DELIA: Almost. It's close.</p> <p>-01:-10 16 MR. PRINCIOTTO: Okay, because we don't</p> <p>-01:-10 17 want to make you come back.</p> <p>-01:-10 18 MR. DELIA: I don't want to come back</p> <p>-01:-10 19 either.</p> <p>-01:-10 20 CHAIRWOMAN HEMBREE: We have to give</p> <p>-01:-10 21 everybody here an opportunity to speak, and that's a</p> <p>-01:-10 22 problem. That's a problem.</p> <p>-01:-10 23 MR. PRINCIOTTO: Let's not argue about</p> <p>-01:-10 24 that.</p> <p>-01:-10 25 MR. DELIA: If I may, I've been on my</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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-01:-10 1 feet here now for six months. All right. And for
-01:-10 2 many reasons, we've gone home, it had nothing to do
-01:-10 3 with me.
-01:-10 4 MR. PRINCOTTO: Let's finish.
-01:-09 5 MR. DELIA: I'm really trying my
-01:-09 6 hardest to get it done. But, with all due respect, I
-01:-09 7 need the liberty to properly --
-01:-09 8 MR. PRINCOTTO: I asked the question,
-01:-09 9 okay.
-01:-09 10 MR. DELIA: Let me finish it with this.
-01:-09 11 BY MR. DELIA:
-01:-09 12 Q. We know that affordable housing is
-01:-09 13 deemed by the courts to be an inherently beneficial
-01:-09 14 use, correct?
-01:-09 15 A. I think you have to distinguish it.
-01:-09 16 An inclusionary affordable housing
-01:-09 17 development is not considered to be an inherently
-01:-09 18 beneficial use. If you're a 100-percent affordable
-01:-09 19 housing project, it is.
-01:-09 20 So your project is not an inherently
-01:-09 21 beneficial use.
-01:-09 22 Q. Understood.
-01:-09 23 If there was a change in circumstances
-01:-09 24 and we came back here --
-01:-09 25 MR. PRINCOTTO: No. No summation
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-01:-09 1 right now. Okay. A question, okay?
-01:-09 2 BY MR. DELIA:
-01:-09 3 Q. Question: If we were to have a fully
-01:-09 4 affordable project applied for here, let's say 100
-01:-09 5 units, is that something that you think we would, A,
-01:-08 6 meet the positive criteria?
-01:-08 7 MR. PRINCOTTO: Objection. That's not
-01:-08 8 your application.
-01:-08 9 MR. NEWMAN: Actually I'd like him to
-01:-08 10 answer that, because that's not this application,
-01:-08 11 that would be a completely different application, and
-01:-08 12 I actually think that in the event that this was an
-01:-08 13 application to satisfy our affordable housing in this
-01:-08 14 application, it might make a difference.
-01:-08 15 THE WITNESS: So it's a hypothetical
-01:-08 16 question. Obviously, just throwing it out and saying
-01:-08 17 would you, I mean, it would depend on so many
-01:-08 18 circumstances.
-01:-08 19 What I would say is that the burden of
-01:-08 20 proof would change substantially if this was a
-01:-08 21 100-percent affordable housing project and the proofs
-01:-08 22 would be different. We wouldn't be talking about an
-01:-08 23 enhanced burden of proof under Medici, for example.
-01:-08 24 MR. DELIA: Well, again, do you -- I
-01:-08 25 withdraw the question. I am concluded with this
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-01:-08 1 witness.
-01:-08 2 Thank you.
-01:-08 3 MR. PRINCOTTO: Thank you.
-01:-07 4 CHAIRWOMAN HEMBREE: I'm going to give
-01:-07 5 her a break after he takes his question.
-01:-07 6 MR. HAYES: I just have a question.
-01:-07 7 CHAIRWOMAN HEMBREE: Speak into the
-01:-07 8 mic.
-01:-07 9 MR. HAYES: Is the idea that there are
-01:-07 10 changed circumstances since the last reexamination
-01:-07 11 mitigated in any respect by the fact that the council
-01:-07 12 has considered mixed use in the Broadway corridor and
-01:-07 13 purposely chosen not take any action?
-01:-07 14 THE WITNESS: I think one has to look
-01:-07 15 at all the changed circumstances in the past, you
-01:-07 16 know, 10-and-a-half, 11 years, so I think the
-01:-07 17 applicant is correct, there has been a change,
-01:-07 18 there's a greater awareness of TOD, there's been a
-01:-07 19 change in the real estate market, but, at the same
-01:-07 20 time, there have been actions that have been
-01:-07 21 undertaken by the council with regard to
-01:-07 22 consideration of zoning.
-01:-07 23 So I think the zoning board needs to
-01:-07 24 take all of those into consideration to determine
-01:-07 25 whether the change in circumstances are sufficient in
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-01:-06 1 their mind to reconcile the fact that this use is not
-01:-06 2 permitted in the zone.
-01:-06 3 CHAIRWOMAN HEMBREE: Thank you.
-01:-06 4 REDIRECT EXAMINATION
-01:-06 5 BY MR. PRINCOTTO:
-01:-06 6 Q. But the mayor and council looked at the
-01:-06 7 Broadway corridor at least three times, two in 2017,
-01:-06 8 once towards the settlement for the affordable
-01:-06 9 housing issue.
-01:-06 10 A. Right.
-01:-06 11 Q. They were aware of any changed
-01:-06 12 circumstances, and, in 2017, when they also looked at
-01:-06 13 it, they were aware of any changed circumstances, as
-01:-06 14 well as in 2018.
-01:-06 15 Isn't that right?
-01:-06 16 A. Yes, I would say so. I mean, you know,
-01:-06 17 the presentations and the consideration were done
-01:-06 18 within the context of those changed circumstances.
-01:-06 19 You know, TOD, revitalizing the downtown, creating
-01:-06 20 more retail space, those were all circumstances which
-01:-05 21 had been changed in which the council was aware of
-01:-05 22 when they weighed those considerations.
-01:-05 23 MR. DELIA: But it was not done in the
-01:-05 24 context of a master plan reexamination?
-01:-05 25 THE WITNESS: That is correct.
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<p style="text-align: right;">89</p> <p>-01:-05 1 CHAIRWOMAN HEMBREE: Okay. I'm acutely</p> <p>-01:-05 2 aware that it's 9:30. We have to take a break so</p> <p>-01:-05 3 that this poor young woman can stand up, at least, so</p> <p>-01:-05 4 you all can stand up. I don't see how we can finish</p> <p>-01:-05 5 this, I honestly don't. I really don't. I mean, I'm</p> <p>-01:-05 6 good, but I'm not that good.</p> <p>-01:-05 7 MR. PRINCIOTTO: Well --</p> <p>-01:-05 8 AUDIENCE VOICE: We have 13 members of</p> <p>-01:-05 9 the public.</p> <p>-01:-05 10 CHAIRWOMAN HEMBREE: We have to listen</p> <p>-01:-05 11 to the members. They haven't even asked Mr. Preiss a</p> <p>-01:-05 12 question.</p> <p>-01:-05 13 MR. PRINCIOTTO: Take a 5-minute break.</p> <p>-01:-05 14 MR. DELIA: All we can do is proceed.</p> <p>-01:-05 15 That's all I ask, we continue and see</p> <p>-01:-05 16 where we land.</p> <p>-01:-05 17 CHAIRWOMAN HEMBREE: Okay.</p> <p>00:-58 18 (Whereupon, a brief recess is taken.)</p> <p>00:-58 19 CHAIRWOMAN HEMBREE: Okay. Let's take</p> <p>00:-56 20 our seats and continue.</p> <p>00:-56 21 I think we need a motion to open to the</p> <p>00:-56 22 public.</p> <p>00:-56 23 MS. SMITH: Just a minute. I have to</p> <p>00:-56 24 turn it back on.</p> <p>00:-56 25 CHAIRWOMAN HEMBREE: Oh, sorry.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">91</p> <p>00:-55 1 permitted in Woodcliff Lake.</p> <p>00:-55 2 So my question to you is, tell me any</p> <p>00:-55 3 other development in Woodcliff Lake that is even</p> <p>00:-55 4 close to what the applicant is asking?</p> <p>00:-54 5 THE WITNESS: Okay. So I'm not saying</p> <p>00:-54 6 it has similar characteristics in terms of its</p> <p>00:-54 7 aesthetics or its location, what I was indicating was</p> <p>00:-54 8 the applicant provided an exhibit, which I think was</p> <p>00:-54 9 A-8, in which they compared the density, the height,</p> <p>00:-54 10 the setbacks that are in the zoning ordinance which</p> <p>00:-54 11 permits multifamily development with what this</p> <p>00:-54 12 project provided, and there's a substantial degree of</p> <p>00:-54 13 similarity, so --</p> <p>00:-54 14 MR. PADOVER: Well, wait, wait, wait.</p> <p>00:-54 15 THE WITNESS: Can I finish the answer?</p> <p>00:-54 16 MR. PADOVER: Yes.</p> <p>00:-54 17 THE WITNESS: So with regard to the</p> <p>00:-54 18 bulk requirements, there is a similarity; with</p> <p>00:-54 19 respect to other characteristics, there are</p> <p>00:-54 20 differences.</p> <p>00:-54 21 MR. PADOVER: So that in my mind is an</p> <p>00:-54 22 unfair characterization.</p> <p>00:-54 23 MR. HAYES: Question, please.</p> <p>00:-54 24 MR. PRINCIOTTO: Questions at the end.</p> <p>00:-54 25 That's a comment.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">90</p> <p>00:-56 1 MS. SMITH: Okay.</p> <p>00:-56 2 CHAIRWOMAN HEMBREE: We need a motion</p> <p>00:-56 3 to open to the public for questions of Mr. Preiss</p> <p>00:-56 4 only, no opinions, just questions.</p> <p>00:-56 5 May I have a motion to open to the</p> <p>00:-56 6 public?</p> <p>00:-55 7 MS. EFFRON-MALLEY: Motion to open to</p> <p>00:-55 8 the public for questions only.</p> <p>00:-55 9 CHAIRWOMAN HEMBREE: Is there a second?</p> <p>00:-55 10 MR. NEWMAN: I will second to open it</p> <p>00:-55 11 to the public for questions only of the borough's</p> <p>00:-55 12 representative, Mr. Preiss.</p> <p>00:-55 13 CHAIRWOMAN HEMBREE: All in favor?</p> <p>00:-55 14 (Whereupon, all resent members respond</p> <p>00:-55 15 in the affirmative.)</p> <p>00:-55 16 CHAIRWOMAN HEMBREE: Opposed?</p> <p>00:-55 17 (No response.)</p> <p>00:-55 18 CHAIRWOMAN HEMBREE: So if you have a</p> <p>00:-55 19 question, please come forward, state your name and</p> <p>00:-55 20 address and your question.</p> <p>00:-55 21 MR. PADOVER: Okay. My name is Craig</p> <p>00:-55 22 Padover. I live at 27 Campbell Avenue in town.</p> <p>00:-55 23 I may have mischaracterized something</p> <p>00:-55 24 you said, but I thought you said that this</p> <p>00:-55 25 application was not uncharacteristic of other housing</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">92</p> <p>00:-54 1 Listen to his testimony. He said in</p> <p>00:-54 2 the bulk requirements, there are noted similarities.</p> <p>00:-54 3 He didn't say in every other aspect they were</p> <p>00:-53 4 similar.</p> <p>00:-53 5 MR. PADOVER: So in a very small way,</p> <p>00:-53 6 in my mind, it's similar, but the nature of the</p> <p>00:-53 7 project is --</p> <p>00:-53 8 MR. HAYES: Wait for the comment</p> <p>00:-53 9 portion.</p> <p>00:-53 10 MR. DELIA: By the way, it's A-18, not</p> <p>00:-53 11 A-8.</p> <p>00:-53 12 THE WITNESS: I'm sorry.</p> <p>00:-53 13 MR. DELIA: I just want the record</p> <p>00:-53 14 cleared up.</p> <p>00:-53 15 MR. COUTO: Alex Couto, 18 Cressfield</p> <p>00:-53 16 Court.</p> <p>00:-53 17 Mr. Preiss, do you know the date of</p> <p>00:-53 18 this application, when was the date, more or less?</p> <p>00:-53 19 MR. NEWMAN: If you know.</p> <p>00:-53 20 MR. COUTO: If you know, more or less.</p> <p>00:-53 21 MR. PRINCIOTTO: I think it was filed</p> <p>00:-53 22 in May or April of 2018.</p> <p>00:-53 23 I'm not under oath.</p> <p>00:-53 24 MR. COUTO: There is a question mostly</p> <p>00:-53 25 to you. So the zoning laws --</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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00:-53 **1** CHAIRWOMAN HEMBREE: For Mr. Preiss?

00:-53 **2** MR. NEWMAN: Nope, only Mr. Preiss.

00:-53 **3** Mr. Couto, don't be afraid if you don't have one.

00:-53 **4** MR. COUTO: No, no.

00:-53 **5** The zoning laws that apply would be the

00:-53 **6** zoning laws active in May 2018, is that of the

00:-52 **7** application time?

00:-52 **8** THE WITNESS: There's something known

00:-52 **9** as time of application, which means that the

00:-52 **10** application is bound by the zoning that existed at

00:-52 **11** the time that the application was deemed complete,

00:-52 **12** not at the time when the application was decided.

00:-52 **13** MR. COUTO: Was deemed complete.

00:-52 **14** So the zoning laws could encompass a

00:-52 **15** year?

00:-52 **16** THE WITNESS: Yes, if after that period

00:-52 **17** of time the zoning law had changed, it would not

00:-52 **18** apply to this property in terms of the use variance,

00:-52 **19** unless it made it a permitted use, and, under those

00:-52 **20** circumstances, there would be an acknowledgment that

00:-52 **21** the new laws would apply.

00:-52 **22** But if there were changes which, you

00:-52 **23** know, which created further inconsistencies or

00:-52 **24** variances, that would not apply to this particular

00:-52 **25** project.

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00:-52 **1** CHAIRWOMAN HEMBREE: Okay. Your

00:-52 **2** question?

00:-52 **3** MR. HAYES: Mr. --

00:-52 **4** MR. COUTO: My question is --

00:-51 **5** MR. HAYES: I want to ask you a

00:-51 **6** question just to clarify something.

00:-51 **7** Do you mean to reference zoning

00:-51 **8** ordinances or the master plan?

00:-51 **9** MR. COUTO: I'm going to do it too,

00:-51 **10** because the application was in May, and the counsel

00:-51 **11** is saying that the master plan reexamination was not

00:-51 **12** valid. That's in December 2008. So it's

00:-51 **13** 9-and-a-half years to May 2018, it's not 10 years.

00:-51 **14** So I'm just trying to get a

00:-51 **15** clarification from the point of view, I say maybe the

00:-51 **16** master plan reexamination would still apply. What's

00:-51 **17** your point?

00:-51 **18** THE WITNESS: The master plan

00:-51 **19** reexamination was still valid at the time the

00:-51 **20** application was made. It's no longer that's the

00:-51 **21** case.

00:-51 **22** MR. COUTO: So that's something I guess

00:-51 **23** that counsel will have to decide.

00:-51 **24** MR. PRINCIOTTO: Next question.

00:-51 **25** MR. COUTO: I have another question.

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00:-51 **1** Are you familiar with the size of north

00:-51 **2** of Highview, the properties that were assigned for

00:-51 **3** affordable housing, the size of those properties in

00:-51 **4** relation to 188, are they similar, slightly larger or

00:-50 **5** smaller, from your point of view?

00:-50 **6** THE WITNESS: When you say

00:-50 **7** "properties," what are you referring to?

00:-50 **8** MR. COUTO: The ones that are being set

00:-50 **9** aside for affordable housing.

00:-50 **10** THE WITNESS: The three properties that

00:-50 **11** are being set aside?

00:-50 **12** MR. COUTO: Yes, the three together.

00:-50 **13** THE WITNESS: It's 2.45 acres, the

00:-50 **14** three properties together.

00:-50 **15** MR. COUTO: So it's a little smaller,

00:-50 **16** slightly smaller than this application.

00:-50 **17** THE WITNESS: Yes.

00:-50 **18** MR. COUTO: Okay. Were you at the last

00:-50 **19** council meeting where they had the proposals for

00:-50 **20** those affordable housing was reviewed?

00:-50 **21** THE WITNESS: Yes.

00:-50 **22** MR. COUTO: So from what I recall, and

00:-50 **23** you tell me if I'm incorrect, was three applications

00:-50 **24** --

00:-50 **25** CHAIRWOMAN HEMBREE: We're talking

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00:-50 **1** about this testimony tonight.

00:-50 **2** MR. COUTO: Yes.

00:-50 **3** CHAIRWOMAN HEMBREE: Not what happened

00:-50 **4** at another meeting.

00:-50 **5** MR. COUTO: I just want to refer to the

00:-50 **6** application.

00:-50 **7** So was three applications, one for 16,

00:-50 **8** one for 24, and one for 25.

00:-50 **9** MR. NEWMAN: Objection, outside the

00:-50 **10** scope.

00:-50 **11** MR. DELIA: Outside the scope.

00:-50 **12** MR. COUTO: The question is: Did they

00:-50 **13** propose green areas on the back, three of the

00:-50 **14** proposals or at least one of them?

00:-50 **15** THE WITNESS: It's not relevant to this

00:-49 **16** application.

00:-49 **17** MR. COUTO: Okay. Thank you very much.

00:-49 **18** Thank you.

00:-49 **19** THE WITNESS: You're welcome.

00:-49 **20** MS. LEVINE: Gwenn Levine.

00:-49 **21** I just have two questions for the

00:-49 **22** planner.

00:-49 **23** Has the applicant clearly demonstrated

00:-49 **24** that 188 Broadway is not suited for office use?

00:-49 **25** THE WITNESS: I think I've made my

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00:-49 1 testimony clear, and it's up to the board to make
 00:-49 2 that decision.
 00:-49 3 MS. LEVINE: Okay. So that question
 00:-49 4 would be for all of you.
 00:-49 5 Last question.
 00:-49 6 Has the applicant demonstrated that 188
 00:-49 7 Broadway is peculiarly suited to be a 60-unit
 00:-49 8 apartment complex?
 00:-49 9 THE WITNESS: Again, that's a decision
 00:-49 10 of the board.
 00:-49 11 I presented, you know, my opinion with
 00:-49 12 regard to certain aspects of the plan, the board has
 00:-49 13 to take that into consideration to determine whether
 00:-49 14 this site is particularly suited.
 00:-49 15 MS. LEVINE: Okay. Thank you.
 00:-49 16 MR. CABRERA: Hi. Ulises Cabrera, 14
 00:-48 17 Dorchester Road, Woodcliff Lake.
 00:-48 18 Before I start, I just want to thank
 00:-48 19 the members of the zoning board for their dedicated
 00:-48 20 service to the borough.
 00:-48 21 CHAIRWOMAN HEMBREE: You can thank us
 00:-48 22 by asking him a question right now.
 00:-48 23 (Laughter.)
 00:-48 24 MR. CABRERA: You're adding time too.
 00:-48 25 Excuse me for repeating this question,
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00:-48 1 because I know you've probably answered it, but does
 00:-48 2 the applicant fulfill the Medici reconciliation?
 00:-48 3 THE WITNESS: Again, the board has to
 00:-48 4 make that decision. I provided the background and
 00:-48 5 the documents, I've indicated what the master plan
 00:-48 6 documents have said, what the council's actions are,
 00:-48 7 and the board has to determine whether the applicant
 00:-48 8 has met that proof.
 00:-48 9 MR. CABRERA: And they have to just
 00:-48 10 take into account the zoning that's currently there
 00:-48 11 and what they're asking for the changes to fulfill
 00:-48 12 this reconciliation?
 00:-48 13 THE WITNESS: Well, we know that the
 00:-48 14 zoning doesn't permit it, and that's why they're
 00:-47 15 here, but the Medici reconciliation, as I've
 00:-47 16 indicated, is, the board, if they are going to grant
 00:-47 17 the variance, has to reconcile the fact that what the
 00:-47 18 applicant is asking for is not permitted under the
 00:-47 19 zone.
 00:-47 20 And you can look at what the prior
 00:-47 21 master plan says, you can look at, you know, actions
 00:-47 22 that the borough has taken, and you could look at
 00:-47 23 changed circumstances. At the end of the day, the
 00:-47 24 board is going to have to make that call.
 00:-47 25 MR. CABRERA: Thank you.
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00:-47 1 Does the addition of 60 units that this
 00:-47 2 applicant is proposing increase Woodcliff Lake's
 00:-47 3 population due to the units that are being rented,
 00:-47 4 and does that have an impact on the borough's
 00:-47 5 requirement of affordable housing with the State of
 00:-47 6 New Jersey? In other words, does it increase our
 00:-47 7 overall avocation once this settlement with fair
 00:-47 8 share housing has expired?
 00:-47 9 THE WITNESS: The answer is, it will
 00:-47 10 increase the population and it has no impact on the
 00:-47 11 obligation.
 00:-47 12 MR. CABRERA: Does it have an impact on
 00:-46 13 affordable housing units --
 00:-46 14 THE WITNESS: No.
 00:-46 15 MR. CABRERA: -- that were required, by
 00:-46 16 increasing the population.
 00:-46 17 THE WITNESS: So let me see if I can
 00:-46 18 put it in context.
 00:-46 19 There was a period of time when the
 00:-46 20 Council on Affordable Housing adopted rules that
 00:-46 21 basically said the amount of affordable housing that
 00:-46 22 would have to be provided is proportional to the
 00:-46 23 growth that's induced. That's no longer the
 00:-46 24 situation. The factors which determine the numbers
 00:-46 25 of affordable housing is not generally or
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00:-46 1 specifically predicated on population growth, so the
 00:-46 2 answer is no.
 00:-46 3 MR. CABRERA: Okay. Thank you.
 00:-46 4 CHAIRWOMAN HEMBREE: Anybody else?
 00:-46 5 MS. DISPOTO: Good evening, Cheryl
 00:-46 6 Dispoto, Woodcliff Lake.
 00:-46 7 I just have a few questions for
 00:-46 8 Richard.
 00:-46 9 With the passage of ten years, how many
 00:-46 10 times in the last ten years did the Woodcliff Lake
 00:-46 11 mayor and council reject or table the mixed-use
 00:-46 12 residential plans for the Broadway corridor?
 00:-45 13 MR. NEWMAN: If you know.
 00:-45 14 THE WITNESS: During my tenure?
 00:-45 15 MS. DISPOTO: Yes.
 00:-45 16 THE WITNESS: Twice.
 00:-45 17 MS. DISPOTO: What year was that?
 00:-45 18 THE WITNESS: So let me just say,
 00:-45 19 basically they didn't move forward, they tabled the
 00:-45 20 discussion. So there wasn't a clear resolution to
 00:-45 21 say this is something that we absolutely wouldn't
 00:-45 22 consider, it is also something that they said this is
 00:-45 23 not something that we would consider, they said we
 00:-45 24 can't make a decision, there's no consensus and so
 00:-45 25 they pushed it off. So the point is that the zoning
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00:-45 1 has remained in place where this use is prohibited.
 00:-45 2 MS. DISPOTO: But the Broadway corridor
 00:-45 3 ordinance was actually introduced before the mayor
 00:-45 4 and council in November of 2016, and then it had a
 00:-45 5 second introduction in December of 2017 and it was --
 00:-45 6 MR. DELIA: Objection.
 00:-45 7 MS. DISPOTO: Do you recall that?
 00:-45 8 THE WITNESS: No.
 00:-45 9 MS. DISPOTO: Okay. I'll withdraw it.
 00:-45 10 You talked about the density on this
 00:-45 11 project at the beginning. Can you tell me what the
 00:-45 12 density is for this particular project?
 00:-44 13 THE WITNESS: I don't recall what it
 00:-44 14 is.
 00:-44 15 MS. DISPOTO: Do you know how many
 00:-44 16 units per acre?
 00:-44 17 THE WITNESS: Like 16.9, if I recall.
 00:-44 18 MS. DISPOTO: And do you know if
 00:-44 19 Woodcliff Lake has any other projects in play or any
 00:-44 20 other existing complexes with this density that are
 00:-44 21 not affordable housing related, are you aware?
 00:-44 22 THE WITNESS: No.
 00:-44 23 MS. DISPOTO: Are you aware of anything
 00:-44 24 at this density?
 00:-44 25 THE WITNESS: No.

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00:-44 1 MS. DISPOTO: Are you aware -- for
 00:-44 2 comparison sake, are you aware of the density of,
 00:-44 3 say, the Gables?
 00:-44 4 THE WITNESS: The Gables, I think, is
 00:-44 5 around 5.3 units per acre.
 00:-44 6 MS. DISPOTO: And what about the
 00:-44 7 affordable housing up at north of Highview, right
 00:-44 8 near this project that they talked about?
 00:-44 9 THE WITNESS: Well, we haven't rezoned
 00:-44 10 that property, but the Housing Element and Fair Share
 00:-44 11 Plan calls for 16 affordable housing units on 2.4
 00:-44 12 acres, so it's --
 00:-44 13 MR. NEWMAN: Six per acre.
 00:-44 14 THE WITNESS: Yeah, it's around 6 or 7
 00:-43 15 per acre.
 00:-43 16 MS. DISPOTO: You mentioned "unmet
 00:-43 17 need." I heard you say, at a prior meeting, you
 00:-43 18 called the unmet needs that were required
 00:-43 19 "aspirational."
 00:-43 20 THE WITNESS: Yes.
 00:-43 21 MS. DISPOTO: You recall that?
 00:-43 22 THE WITNESS: Yes.
 00:-43 23 MS. DISPOTO: Can you explain to the
 00:-43 24 board and to the public what that means, that it's
 00:-43 25 "aspirational"?

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00:-43 1 THE WITNESS: Yes -- well, to some
 00:-43 2 extent.
 00:-43 3 So when a community is obligated to
 00:-43 4 meet its fair share housing, it has to take certain
 00:-43 5 actions to meet what's called its "perspective of
 00:-43 6 future affordable housing obligation." So it has to
 00:-43 7 undertake direct action, such as rezoning in
 00:-43 8 Woodcliff Lake's case, extending affordable controls;
 00:-43 9 it may be obligated, as Woodcliff Lake has in this
 00:-43 10 particular situation, obligated itself to build 16
 00:-43 11 units of affordable housing. Those are all direct
 00:-43 12 actions.
 00:-43 13 You know, in regard to the unmet need,
 00:-42 14 the way that is done is that is not something that is
 00:-42 15 necessary going to occur, but mechanisms are put in
 00:-42 16 place so that if circumstances allow it, that
 00:-42 17 development will go forward.
 00:-42 18 So let's take two examples. One is the
 00:-42 19 Teaber (phonetic) office building. At the time that
 00:-42 20 we mediated the fair share agreement, that building
 00:-42 21 was vacant.
 00:-42 22 There was a proposal that was floated
 00:-42 23 by a developer to convert that into senior housing.
 00:-42 24 So at that particular time, we thought that the
 00:-42 25 borough thought that that was a possibility, it

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00:-42 1 wasn't sure, because the office building existed. So
 00:-42 2 they did an overlay zone to say 100 units of senior
 00:-42 3 housing could be built.
 00:-42 4 Subsequently, office tenants came in,
 00:-42 5 so for the time being, it's office, but that overlay
 00:-42 6 zoning is in place so that in the future, if that use
 00:-42 7 ever disappears, the applicant could then come in and
 00:-42 8 build 100 units of affordable housing.
 00:-42 9 So it's not like the 16 units of
 00:-41 10 affordable housing that we're obligated to do on the
 00:-41 11 North Broadway site, that's going to happen, this is
 00:-41 12 something that's aspirational. It's something that
 00:-41 13 could occur or may occur, if circumstances are right.
 00:-41 14 So that's how you address your unmet
 00:-41 15 need as opposed to direct actions to address your
 00:-41 16 perspective need.
 00:-41 17 MS. DISPOTO: So you would say that in
 00:-41 18 your opinion Woodcliff Lake as a borough has done
 00:-41 19 things and put things in place to meet our unmet need
 00:-41 20 in this prospective requirement with Fair Share
 00:-41 21 Housing?
 00:-41 22 THE WITNESS: Insofar as Fair Share
 00:-41 23 Housing is concerned, they're satisfied.
 00:-41 24 At the fairness hearing, the court
 00:-41 25 indicated that the plan was fair, and we have to go

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00:-41 1 back to the judge for, you know, a compliance
 00:-41 2 hearing.
 00:-41 3 But my understanding is that the
 00:-41 4 borough doesn't have to undertake any further
 00:-41 5 rezonings, grant any variances or do any
 00:-41 6 redevelopment outside of what is in the Housing
 00:-41 7 Element and Fair Share Plan in order to be compliant
 00:-40 8 with its unmet need.
 00:-40 9 MS. DISPOTO: Okay.
 00:-40 10 And counsel for the applicant asked you
 00:-40 11 about the mandatory set aside that this borough now
 00:-40 12 has for future multifamily development, and you're
 00:-40 13 aware of that and you talked about that.
 00:-40 14 THE WITNESS: Yes.
 00:-40 15 MS. DISPOTO: The borough recently
 00:-40 16 passed an ordinance with the planning board and a
 00:-40 17 first introduction at the mayor and council that you
 00:-40 18 worked on, 19-05, which is that affordable housing
 00:-40 19 control ordinance that counsel referred to.
 00:-40 20 THE WITNESS: Yes.
 00:-40 21 MS. DISPOTO: Is there a provision in
 00:-40 22 that ordinance that states that the set aside
 00:-40 23 requirement does not give developers the right to any
 00:-40 24 such rezoning variances or other relief or
 00:-40 25 establishes any obligation on the part of the

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00:-40 1 Woodcliff Lake Zoning Board to grant such rezoning or
 00:-40 2 variances or other relief?
 00:-40 3 THE WITNESS: Yes.
 00:-40 4 MS. DISPOTO: So you're familiar with
 00:-40 5 that?
 00:-40 6 THE WITNESS: Yes.
 00:-40 7 MS. DISPOTO: And then I just have two
 00:-40 8 final questions.
 00:-40 9 Do you recall when you worked on the
 00:-39 10 fair share housing committee, who the attorney was
 00:-39 11 representing Woodcliff Lake on the fair share housing
 00:-39 12 committee? Who was on that committee with us?
 00:-39 13 THE WITNESS: It was the planning board
 00:-39 14 attorney and he was appointed to that committee, that
 00:-39 15 was Marc Leibman.
 00:-39 16 MS. DISPOTO: Do you know the name of
 00:-39 17 the law firm that he worked for?
 00:-39 18 THE WITNESS: Yes, but I don't think
 00:-39 19 it's relevant to this application.
 00:-39 20 MS. DISPOTO: Okay. Nothing further.
 00:-39 21 Thank you.
 00:-39 22 CHAIRWOMAN HEMBREE: Any other
 00:-39 23 questions for Mr. Preiss?
 00:-39 24 Okay.
 00:-39 25 MR. NEWMAN: If anybody else has any

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00:-39 1 questions, perhaps form a line to speed it up.
 00:-39 2 MS. APPELLE: Veronica Appelle, 23
 00:-39 3 Cressfield Court.
 00:-39 4 Mr. Preiss, I must be mistaken, but I
 00:-39 5 prepared questions for the beautification of Broadway
 00:-39 6 corridor that you were tasked with from this board to
 00:-38 7 come before the board as the planner. Am I wrong?
 00:-38 8 THE WITNESS: Okay, so that is a
 00:-38 9 separate matter. Our firm prepared design standards
 00:-38 10 for the Broadway corridor, which would be additional
 00:-38 11 regulations that would be added to the site plan
 00:-38 12 standards for any development within the Broadway
 00:-38 13 corridor. So that was introduced by the council,
 00:-38 14 it's going to come back, not to the zoning board, but
 00:-38 15 to the planning board for consistency review in July,
 00:-38 16 and then it will be considered for adoption by the
 00:-38 17 council thereafter. So that's the status of that.
 00:-38 18 This application, because it was deemed
 00:-38 19 complete back in 2018, even if it were adopted and
 00:-38 20 the board had made its decision, would not be subject
 00:-38 21 to those requirements.
 00:-38 22 MS. APPELLE: And vice versa? I mean,
 00:-38 23 how does --
 00:-37 24 THE WITNESS: The merits of this
 00:-37 25 application rests on what the application has

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00:-37 1 proposed and the zoning that was in place at the time
 00:-37 2 it was deemed complete.
 00:-37 3 So the fact that Woodcliff Lake is
 00:-37 4 considering and designing guidelines has no impact on
 00:-37 5 this application.
 00:-37 6 MS. APPELLE: Okay. Thank you very
 00:-37 7 much.
 00:-37 8 THE WITNESS: You're welcome.
 00:-37 9 MR. NEWMAN: Seeing no one in line.
 00:-37 10 MS. YETEMIAN: No, someone is coming
 00:-37 11 up.
 00:-37 12 MS. HIGGINS: Josephine Higgins,
 00:-37 13 Woodcliff Lake.
 00:-37 14 Mr. Preiss, during the year of 2018,
 00:-37 15 did the planning board ever ask you to go forth with
 00:-37 16 review of the master plan or anything to do with the
 00:-37 17 master plan during 2018?
 00:-37 18 THE WITNESS: They have done so now.
 00:-36 19 There was some discussion about it, but there wasn't
 00:-36 20 a direct request from the planning board to do so,
 00:-36 21 not that I recall.
 00:-36 22 MS. HIGGINS: Was there a discussion in
 00:-36 23 2018?
 00:-36 24 THE WITNESS: There has been some
 00:-36 25 discussion in the borough about perhaps doing a new

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<p style="text-align: right;">109</p> <p>00:-36 1 master plan, but there was no direction given out to</p> <p>00:-36 2 our firm, nor did we commit to doing a master plan</p> <p>00:-36 3 update or reexamination.</p> <p>00:-36 4 MS. HIGGINS: Okay. So nothing was</p> <p>00:-36 5 requested of your firm during 2018?</p> <p>00:-36 6 THE WITNESS: That's correct.</p> <p>00:-36 7 MS. HIGGINS: On the planning board?</p> <p>00:-36 8 THE WITNESS: That's correct.</p> <p>00:-36 9 MS. HIGGINS: Because there's only one</p> <p>00:-36 10 meeting in 2018 of the planning board.</p> <p>00:-36 11 THE WITNESS: Yes.</p> <p>00:-36 12 MS. HIGGINS: Okay. Thank you.</p> <p>00:-36 13 CHAIRWOMAN HEMBREE: You remember that</p> <p>00:-36 14 one meeting.</p> <p>00:-36 15 THE WITNESS: I do remember that one</p> <p>00:-36 16 meeting.</p> <p>00:-36 17 MS. HIGGINS: I remember.</p> <p>00:-36 18 MR. NEWMAN: Again, seeing no one in</p> <p>00:-36 19 line, I would like to make a motion to close to the</p> <p>00:-36 20 public.</p> <p>00:-36 21 CHAIRWOMAN HEMBREE: Okay.</p> <p>00:-36 22 MR. HAYES: Second.</p> <p>00:-36 23 CHAIRWOMAN HEMBREE: All in favor?</p> <p>00:-36 24 (Whereupon, all resent members respond</p> <p>00:-36 25 in the affirmative.)</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">111</p> <p>00:-34 1 that, those who are testifying, that you could cut</p> <p>00:-34 2 into the comment portion, we might have to limit the</p> <p>00:-34 3 comment times and divide it up.</p> <p>00:-34 4 AUDIENCE MEMBERS: No!</p> <p>00:-34 5 MS. BORRELLI: Wait. For</p> <p>00:-34 6 clarification, are you saying that not everyone will</p> <p>00:-34 7 be able to even comment, is that what you're saying?</p> <p>00:-34 8 MR. PRINCIOTTO: No, I didn't say that.</p> <p>00:-34 9 MS. BORRELLI: Okay. Just for</p> <p>00:-34 10 clarification, so everyone will get a chance to</p> <p>00:-34 11 comment?</p> <p>00:-34 12 MR. PRINCIOTTO: We might have to</p> <p>00:-34 13 divide up the time. You know, we have to see how</p> <p>00:-34 14 things go.</p> <p>00:-34 15 AUDIENCE MEMBERS: Is that a zoning</p> <p>00:-34 16 board rule?</p> <p>00:-34 17 MR. PRINCIOTTO: Pardon me?</p> <p>00:-34 18 AUDIENCE MEMBERS: Is that a zoning</p> <p>00:-34 19 board rule or your rule? To maybe limit it --</p> <p>00:-34 20 MR. PRINCIOTTO: It's a statutory rule,</p> <p>00:-33 21 okay.</p> <p>00:-33 22 MR. COUTO: Let me ask you a question.</p> <p>00:-33 23 What documents do you want to share with council? I</p> <p>00:-33 24 didn't understand exactly what you wanted to give in,</p> <p>00:-33 25 what you said?</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">110</p> <p>00:-36 1 CHAIRWOMAN HEMBREE: Opposed?</p> <p>00:-36 2 (No response.)</p> <p>00:-36 3 CHAIRWOMAN HEMBREE: Okay.</p> <p>00:-36 4 THE WITNESS: Thank you.</p> <p>00:-36 5 MR. PRINCIOTTO: If we may go a little</p> <p>00:-35 6 bit out of order here, Mr. Delia, just tell me if you</p> <p>00:-35 7 have any objection. We do have Mr. Jacobs here, I</p> <p>00:-35 8 don't think his testimony would take very long.</p> <p>00:-35 9 We're still waiting for our traffic engineer to</p> <p>00:-35 10 arrive.</p> <p>00:-35 11 So just to go over the results of the</p> <p>00:-35 12 sign-in sheet, Mr. Delia and everyone else, we have</p> <p>00:-35 13 13 people that do not reside within 200 feet of the</p> <p>00:-35 14 Broadway that would like to make comments. One</p> <p>00:-35 15 person indicated he would like to testify. Two</p> <p>00:-35 16 indicated that they have some type of exhibits or</p> <p>00:-35 17 documents for evidence. We have six people that do</p> <p>00:-35 18 live within 200 feet of Broadway, and it looks like</p> <p>00:-35 19 perhaps three maybe want to testify.</p> <p>00:-35 20 And I can tell you that if we hear</p> <p>00:-35 21 repetitive testimony, I'm going to ask you not to do</p> <p>00:-34 22 it, not to be rude, but just to move this along. And</p> <p>00:-34 23 if the testimony takes too long, doesn't get right to</p> <p>00:-34 24 the point, it may impact the amount of time that the</p> <p>00:-34 25 public has to make comments. So just be aware of</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">112</p> <p>00:-33 1 MR. PRINCIOTTO: What documents do I</p> <p>00:-33 2 want to share?</p> <p>00:-33 3 MR. COUTO: No, you said some people</p> <p>00:-33 4 have documents.</p> <p>00:-33 5 MR. PRINCIOTTO: I don't know, some</p> <p>00:-33 6 people said that they have handouts.</p> <p>00:-33 7 MR. NEWMAN: He has a right to see any</p> <p>00:-33 8 handouts.</p> <p>00:-33 9 MR. PRINCIOTTO: I haven't seen them, I</p> <p>00:-33 10 don't know what they are.</p> <p>00:-33 11 MR. COUTO: So when we give the</p> <p>00:-33 12 handouts?</p> <p>00:-33 13 MR. PRINCIOTTO: Well, I'm trying to do</p> <p>00:-33 14 that right now.</p> <p>00:-33 15 MR. COUTO: Thank you.</p> <p>00:-33 16 MR. PRINCIOTTO: And I want to try to</p> <p>00:-33 17 move this along. As I said in the beginning of the</p> <p>00:-33 18 night, we need to get this matter to a resolution.</p> <p>00:-33 19 We are permitted to have limits on comment and to</p> <p>00:-33 20 exclude repetitious statements or evidence. If</p> <p>00:-33 21 people keep saying the same things over and over</p> <p>00:-33 22 again, we just have to move on, because we have to</p> <p>00:-32 23 get to a resolution.</p> <p>00:-32 24 So I'm not suggesting that anyone not</p> <p>00:-32 25 be given an opportunity, I'm suggesting that you</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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00:-32 1 should use the time valuably and not to repeat the
 00:-32 2 same questions or the same comments, when we get to
 00:-32 3 that point.
 00:-32 4 So let's get to testimony. And as I
 00:-32 5 said, the priority would be those who reside within
 00:-32 6 200 feet.
 00:-32 7 Sally Gellert, you indicated that you
 00:-32 8 wanted to testify.
 00:-32 9 MR. PREISS: Sorry. Brian just arrived
 00:-32 10 and Evan has to testify before the public.
 00:-32 11 MR. PRINCOTTO: Okay. We were going
 00:-32 12 to go out of order.
 00:-32 13 MR. PREISS: I think the public should
 00:-32 14 hear that testimony before they comment. I hate to
 00:-32 15 say it but...
 00:-32 16 CHAIRWOMAN HEMBREE: You did.
 00:-32 17 MR. PRINCOTTO: Brian, come on in.
 00:-32 18 (Mr. Intindola is now present at 10:00
 00:-32 19 p.m.)
 00:-32 20 MR. INTINDOLA: Hello, everyone.
 00:-32 21 MR. DELIA: Don't sit down.
 00:-32 22 MR. INTINDOLA: You had a long day so
 00:-31 23 far, everyone?
 00:-31 24 MR. NEWMAN: You don't know the half of
 00:-31 25 it.

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00:-31 1 MR. PRINCOTTO: All right, we're going
 00:-31 2 to put you right to work.
 00:-31 3 MR. INTINDOLA: Okay.
 00:-31 4 MR. PRINCOTTO: So raise your right
 00:-31 5 hand.
 00:-31 6 Do you swear or affirm to tell the
 00:-31 7 truth under penalties of law?
 00:-31 8 MR. INTINDOLA: Yes, I do.
 00:-31 9 **BRIAN A. INTINDOLA, P.E.,** c/o Neglia
 00:-31 10 Engineering Associates, 34 Park Avenue,
 00:-31 11 Lyndhurst, New Jersey 07071, having been duly
 00:-31 12 sworn/affirmed, testified as follows:
 00:-31 13 MR. PRINCOTTO: State your full name.
 00:-31 14 MR. INTINDOLA: Yes.
 00:-31 15 Brian A Intindola. Spelling of my last
 00:-31 16 name, I-N-T-I-N-D-O-L-A.
 00:-31 17 I'm a principal at Neglia Engineering
 00:-31 18 Associates and serve as their principal traffic
 00:-31 19 engineer.
 00:-31 20 DIRECT EXAMINATION
 00:-31 21 BY MR. PRINCOTTO:
 00:-31 22 **Q.** Okay. Can you give us quickly the
 00:-31 23 benefit of your educational background and
 00:-31 24 qualifications.
 00:-31 25 **A. Yes.**

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00:-31 1 I'm a graduate of NJIT, with a
 00:-31 2 bachelor's and also a master's. I'm a licensed
 00:-31 3 professional engineer, and I've been serving 20 such
 00:-31 4 years as a municipal traffic engineer for this scale
 00:-31 5 type of project and also traffic signals and
 00:-31 6 reviewing engineering and an engineer for applicants
 00:-30 7 in similar scale.
 00:-30 8 So this is basically my niche in terms
 00:-30 9 of traffic engineering.
 00:-30 10 MR. PRINCOTTO: Okay. Any questions
 00:-30 11 on the qualifications?
 00:-30 12 MR. DELIA: None. Thank you.
 00:-30 13 BY MR. PRINCOTTO:
 00:-30 14 **Q.** Your position with the zoning board in
 00:-30 15 the Borough of Woodcliff Lake?
 00:-30 16 **A. Yes.**
 00:-30 17 Right now I serve as the traffic
 00:-30 18 engineer on behalf of the zoning board of Woodcliff
 00:-30 19 Lake.
 00:-30 20 **Q.** You're familiar with the property that
 00:-30 21 is the subject of this application?
 00:-30 22 **A. Yes.**
 00:-30 23 **Q.** Okay. And can you describe for us the
 00:-30 24 closest intersection to the site?
 00:-30 25 **A. Well, there is the actual intersection,**
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00:-30 1 **which is the driveway intersection, and then just**
 00:-30 2 **north there is the signalized intersection of**
 00:-30 3 **Broadway, Woodcliff Lake that is just to the north of**
 00:-30 4 **us and also serves as access to the New Jersey**
 00:-30 5 **Transit station as well as what we'll call the**
 00:-29 6 **"Causeway" to get to the other side of Woodcliff**
 00:-29 7 **Lake.**
 00:-29 8 **Q.** Now, it's a difficult intersection to
 00:-29 9 describe, but it is not what you would call a typical
 00:-29 10 intersection.
 00:-29 11 Is that correct?
 00:-29 12 **A. Correct.**
 00:-29 13 **Q.** What aspects of it are not typical?
 00:-29 14 **A. Well, one is that the train does cause**
 00:-29 15 **a regular interruption of flow, and in that you get a**
 00:-29 16 **traffic signal that calls for red to avoid, you know,**
 00:-29 17 **vehicles going across the railroad crossing. So one**
 00:-29 18 **element is that it's a skewed intersection. It also**
 00:-29 19 **has the geometric interruption of the railroad**
 00:-29 20 **tracks, which also furthers askew and has its own**
 00:-29 21 **demands of itself.**
 00:-29 22 **Q.** Can you describe for someone who would
 00:-28 23 read this transcript the alignment of the Causeway at
 00:-28 24 Highview, and explain how they relate to one another?
 00:-28 25 **A. Well, basically, if you were to**
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00:-28 **1 negotiate going from Highview across, you'd have to**
 00:-28 **2 chicane through the intersection, and that is what is**
 00:-28 **3 your through movement.**
 00:-28 **4 And because it is a connector, because**
 00:-28 **5 you have the rest of the auto body in your way, it's**
 00:-28 **6 not like one of few connection points that you can**
 00:-28 **7 avail yourself to get to the other side of Woodcliff**
 00:-28 **8 Lake, so it has that function as well.**
 00:-28 **9** So it is a hard-working intersection
 00:-28 **10** and it's slightly geometrically unique.
 00:-28 **11 Q.** Now, how many traffic lights are there
 00:-28 **12** at that intersection?
 00:-28 **13 A.** Well, in its totality, it is a signal.
 00:-28 **14 If I were to count the heads, it would be more than**
 00:-28 **15 ordinary. Typically, you would have two to three**
 00:-28 **16 traffic indicators.**
 00:-27 **17 In this instance, you probably have 50**
 00:-27 **18 percent more, just to account for in giving the**
 00:-27 **19 motorists the adequate read they need to know whether**
 00:-27 **20 to go forward, that they have a green light to go**
 00:-27 **21 through.**
 00:-27 **22 Q.** Now, the Causeway, when you approach a
 00:-27 **23** train station, the Causeway --
 00:-27 **24** MR. DELIA: Excuse me. I have to
 00:-27 **25** interject here. We're talking about off-site
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00:-27 **1** conditions, which is irrelevant for the purposes of
 00:-27 **2** -- existing off-site conditions. To the degree that
 00:-27 **3** impacts were discussed, they were discussed by
 00:-27 **4** Mr. Luglio in that context. I would suggest that we
 00:-27 **5** narrow the focus to the impact of this project and
 00:-27 **6** not continue to have this talk of existing conditions
 00:-27 **7** that are off-site, especially in the context of the
 00:-27 **8** county approval that we received.
 00:-27 **9** MR. PRINCIOTTO: The ingress and egress
 00:-26 **10** to this property, the applicant's property, is within
 00:-26 **11** the vicinity and I'll establish it, although I think
 00:-26 **12** it's on the record of this particular intersection
 00:-26 **13** and that there is, I think, issues and the record
 00:-26 **14** should have a description of this particular
 00:-26 **15** intersection which --
 00:-26 **16** MR. DELIA: It's a standing objection.
 00:-26 **17** You can continue.
 00:-26 **18** MR. PRINCIOTTO: Thank you.
 00:-26 **19** BY MR. PRINCIOTTO:
 00:-26 **20 Q.** What direction does the Causeway head
 00:-26 **21** as you approach the train station; does it take a
 00:-26 **22** bend to the right?
 00:-26 **23 A.** Yes.
 00:-26 **24 Q.** Okay. All right. And if that Causeway
 00:-26 **25** went straight, would it align with Highview?
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00:-26 **1 A.** If it was able to, but right now the
 00:-26 **2 geometry prevents that from happening.**
 00:-26 **3 Q.** Well, that's because there's a building
 00:-26 **4** there, correct?
 00:-26 **5 A.** Right, right.
 00:-26 **6 Q.** The way it was built, correct?
 00:-26 **7 A.** Right.
 00:-26 **8 Q.** Does that particular configuration of
 00:-26 **9** this, you know, intersection pose any traffic issues
 00:-25 **10** or concerns to you?
 00:-25 **11 A.** Well, other than the train station or
 00:-25 **12 the commuter line taking green time away from the**
 00:-25 **13 intersection, it is not a totally unusual**
 00:-25 **14 intersection in Bergen County, because we have a lot**
 00:-25 **15 of skew intersections, because, you know, if you go**
 00:-25 **16 back and you want to hear the whole story of Bergen**
 00:-25 **17 County, there was property lines along property**
 00:-25 **18 lines, that's where the roads forms, and sometimes**
 00:-25 **19 the property lines and the roads didn't really**
 00:-25 **20 line-up, so sometimes you'll have offset**
 00:-25 **21 intersections or at least you're going through a**
 00:-25 **22 skew.**
 00:-25 **23** So excepting the train station
 00:-25 **24** facility, the geometry is not unusual in Bergen
 00:-25 **25** County, and it's typically because it is managed by a
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00:-25 **1** traffic signal, that kind of ameliorates the offset.
 00:-25 **2** Sometimes when you have a stop sign,
 00:-25 **3** it's hard to align the intersection to work right or
 00:-24 **4** you try to go to a four-way stop and that doesn't
 00:-24 **5** work too well. I don't want to go too far afield for
 00:-24 **6** this particular intersection, although it's unique,
 00:-24 **7** it doesn't mean it doesn't work well.
 00:-24 **8 Q.** Now, the traffic flow in this
 00:-24 **9** particular application will change if the board
 00:-24 **10** approves this application; in other words, the
 00:-24 **11** peak-hour flow will be different in terms of coming
 00:-24 **12** into the property and coming out of the property.
 00:-24 **13** Does that present any concerns to you
 00:-24 **14** as a traffic engineer?
 00:-24 **15 A.** So, as we reviewed Mr. Luglio's report
 00:-24 **16 of May 17th, we asked that specific question and what**
 00:-24 **17 we ascertained is that the differential movement that**
 00:-24 **18 may be a concern to the board is that in the morning**
 00:-24 **19 there would be more left turns out as compared to the**
 00:-24 **20 office use. That's put into the context that the**
 00:-23 **21 overall trip generation will be less, will be less,**
 00:-23 **22 but, specifically, if you were looked at that traffic**
 00:-23 **23 movement in the morning, the way it was presented by**
 00:-23 **24 the applicant, there would be seven more left turns**
 00:-23 **25 that would not be there if it remained an office use.**
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00:-23 **1** **So the differential in that one**
 00:-23 **2** **critical turn, in my mind, would be seven more over**
 00:-23 **3** **the peak hour. You have 60 minutes, you have seven**
 00:-23 **4** **additional cars.**
 00:-23 **5** The other turn that is different would
 00:-23 **6** be in the PM, which would be the southbound left into
 00:-23 **7** the site, and in that instance, people are returning
 00:-23 **8** home from work. And the way the applicant has
 00:-23 **9** presented, and I don't disagree with it, would be
 00:-23 **10** eight additional left turns that would be more than
 00:-23 **11** what the office presents.
 00:-23 **12** So that is the specific differential in
 00:-22 **13** the project, but in the context of the total trip
 00:-22 **14** generation being less than the resumption of the
 00:-22 **15** office space, but, you know, at full occupancy. And
 00:-22 **16** to put that into context, I'm just going to look at
 00:-22 **17** the trip generation as presented. And so for the
 00:-22 **18** office, it would have 66 total AM trips and 50 total
 00:-22 **19** PM trips, single peak hour each, compared to 29
 00:-22 **20** residential trips in the morning and 37 residential
 00:-22 **21** trips in the evening.
 00:-22 **22** So globally the trips are less, the
 00:-22 **23** vehicle trips are less, but, locally, with those two
 00:-22 **24** specific movements, the left turn out, there's an
 00:-22 **25** increase of seven, and the left turn in in the

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00:-21 **1** afternoon is an increase of eight.
 00:-21 **2** So that is the difference of the two
 00:-21 **3** uses.
 00:-21 **4** **Q.** Do you have any recommendations to the
 00:-21 **5** board --
 00:-21 **6** **A.** **Well, the difficulty is that --**
 00:-21 **7** **Q.** -- from a traffic standpoint?
 00:-21 **8** **A.** **Yeah.**
 00:-21 **9** The difficulty is that we have the
 00:-21 **10** queue of the traffic signal that we just discussed.
 00:-21 **11** When it's green -- I mean when it's red, it
 00:-21 **12** backwashes across the subject site in the context of
 00:-21 **13** any use would experience that queue.
 00:-21 **14** So what I've done in the past, and I
 00:-21 **15** don't know if the applicant would be amenable to it,
 00:-21 **16** is to bring this to the attention of the county,
 00:-21 **17** regardless of whether they're approved or not, and
 00:-21 **18** see if they can put a do not block the box striping
 00:-21 **19** at the driveway that takes care of a couple of
 00:-21 **20** things.
 00:-21 **21** If it's respected, and it is after a
 00:-21 **22** while, people get used to it, if it's respected, then
 00:-20 **23** those left turns that need to get out can get out,
 00:-20 **24** because there's a gap made, some traffic engineers
 00:-20 **25** will testify that people can get out anyway because a

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00:-20 **1** courtesy gap is provided in the flow of traffic, and
 00:-20 **2** what I'm finding in driving behavior, the courtesy
 00:-20 **3** gaps are less and less. You're at the driveway,
 00:-20 **4** someone waives you on or like no, I'm not letting you
 00:-20 **5** go. What I'm saying is if there is a do not block
 00:-20 **6** the box painted and there's any number of signage
 00:-20 **7** that we can put as do not block the box or whatever,
 00:-20 **8** that can be under the county purview, then that takes
 00:-20 **9** care of two things.
 00:-20 **10** One, the left turns in can access the
 00:-20 **11** site, which would be the southbound turns, and also
 00:-20 **12** the left turns out in the morning can get out if
 00:-20 **13** there is a traffic signal or the train is holding up
 00:-20 **14** traffic, then they can have the courtesy gap, which
 00:-20 **15** is pretty much memorialized by painting the do not
 00:-20 **16** block the box, and the reason why I say that is
 00:-19 **17** because the alternative is if you do a right in,
 00:-19 **18** right out. You know, I'm thinking about this as I
 00:-19 **19** heard the testimony in the hearings, I think it
 00:-19 **20** presents more issues than it solves. So you have,
 00:-19 **21** you know, you say if you want to make a left, but you
 00:-19 **22** made the right turn out and come back around, you
 00:-19 **23** really have to come back around, it's not like one
 00:-19 **24** block around, it's a while. So we're trying to avoid
 00:-19 **25** that. So the applicant's traffic should stay where

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00:-19 **1** it belongs, and that's on Washington. And if we
 00:-19 **2** provide the do not block the box striping, I think
 00:-19 **3** that solves that problem. You know, and not to go on
 00:-19 **4** and on --
 00:-19 **5** CHAIRWOMAN HEMBREE: Broadway?
 00:-19 **6** THE WITNESS: I'm sorry. Broadway.
 00:-19 **7** Broadway. Sorry.
 00:-19 **8** BY MR. PRINCIOTTO:
 00:-19 **9** **Q.** We all knew what you meant.
 00:-19 **10** **A.** **Broadway, and I was thinking about**
 00:-19 **11** **Colonial times and Washington, that's what happens to**
 00:-19 **12** **me, I get a little cross wired sometimes.**
 00:-19 **13** So that being said, and then I think
 00:-18 **14** that solves the problem or the issue where it belongs
 00:-18 **15** where it should be at the location.
 00:-18 **16** **Q.** I'm going to ask one question.
 00:-18 **17** If you have this do not block the box
 00:-18 **18** and people don't honor it, then there is potential
 00:-18 **19** for traffic to backup on Broadway?
 00:-18 **20** **A.** **Well, it is as it exists, and we heard**
 00:-18 **21** **from their traffic engineer that it certainly does go**
 00:-18 **22** **past the driveway. And I think that do we have the**
 00:-18 **23** **opportunity to correct that here, and I have**
 00:-18 **24** **implemented it, people do respect it and they'll be**
 00:-18 **25** **times when people don't respect it, but, overall, it**

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<p style="text-align: right;">125</p> <p>00:-18 1 seems to be a plausible solution for an inconvenience</p> <p>00:-18 2 that the site experiences now under the existing</p> <p>00:-18 3 condition.</p> <p>00:-18 4 Q. Any other comments on the traffic?</p> <p>00:-18 5 A. I think that the applicant had</p> <p>00:-18 6 testified that they are going to provide a sidewalk</p> <p>00:-18 7 down the driveway. And if this is positioned as a</p> <p>00:-17 8 transportation or transit-oriented development or</p> <p>00:-17 9 somewhere in that shade of development, that</p> <p>00:-17 10 certainly should be provided, because that would be</p> <p>00:-17 11 conducive for people that live there to walk down the</p> <p>00:-17 12 driveway and be on the sidewalk, as opposed to in the</p> <p>00:-17 13 driveway, and I think that would be a good</p> <p>00:-17 14 recommendation to move forward.</p> <p>00:-17 15 (Veronica Appelle letter is marked as</p> <p>00:-17 16 exhibit O-1 for identification.)</p> <p>00:-17 17 BY MR. PRINCIOTTO:</p> <p>00:-17 18 Q. I'm going to show you what we marked as</p> <p>00:-17 19 O-1, which is a letter to me from Veronica Appelle,</p> <p>00:-17 20 which certain attachments.</p> <p>00:-17 21 Mr. Delia has a copy of it.</p> <p>00:-17 22 MR. DELIA: And once again for the</p> <p>00:-17 23 record, I object to parts of that, which were</p> <p>00:-17 24 received at noon today.</p> <p>00:-17 25 THE WITNESS: And it is a cover letter,</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">127</p> <p>00:-15 1 A. Correct. Correct.</p> <p>00:-15 2 Q. All right. It's not inconsistent with</p> <p>00:-15 3 --</p> <p>00:-15 4 A. No, it's not inconsistent and I'm just</p> <p>00:-15 5 surmising based on the number of 10 trips per day.</p> <p>00:-15 6 Q. And the next exhibit is something</p> <p>00:-15 7 issued by the traffic bureau, Woodcliff Lake Police</p> <p>00:-15 8 Department, dated December 13, 2018, traffic counts</p> <p>00:-15 9 for Broadway and Woodcliff Avenue. Let's just focus</p> <p>00:-15 10 on the Broadway.</p> <p>00:-15 11 A. Okay.</p> <p>00:-15 12 Q. Are you familiar with these statistics</p> <p>00:-15 13 --</p> <p>00:-15 14 A. Yeah.</p> <p>00:-14 15 Q. -- and traffic counts?</p> <p>00:-14 16 A. Yes.</p> <p>00:-14 17 In the read through, it reports</p> <p>00:-14 18 approximately 4,500 trips on December 4th, going</p> <p>00:-14 19 Broadway southbound for a 24-hour period.</p> <p>00:-14 20 And then Broadway northbound,</p> <p>00:-14 21 approximately 5,500 vehicles, not trips, on December</p> <p>00:-14 22 6th.</p> <p>00:-14 23 Q. These are traffic counts, right?</p> <p>00:-14 24 A. These are 24-hour, it looks like they</p> <p>00:-14 25 are tube counts that they did, I don't know the exact</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">126</p> <p>00:-16 1 handwritten cover letter. I'm sure it was entered</p> <p>00:-16 2 into the record. I don't want to belabor that.</p> <p>00:-16 3 BY MR. PRINCIOTTO:</p> <p>00:-16 4 Q. All right. Just very quickly, I</p> <p>00:-16 5 submitted this to you, you've reviewed this before.</p> <p>00:-16 6 A. I had the opportunity to read through</p> <p>00:-16 7 it, yes.</p> <p>00:-16 8 Q. And the information on what was the</p> <p>00:-16 9 handwritten date of August 7, 2018, the data there</p> <p>00:-16 10 with regard to trips and 60 dwellings and 600 trips</p> <p>00:-16 11 for a 24-hour period, are you familiar where that</p> <p>00:-16 12 data came from?</p> <p>00:-16 13 A. Yeah, the plausible source of that</p> <p>00:-16 14 would be from the Residential Site Improvement</p> <p>00:-16 15 Standards, which reports per a dwelling, I believe</p> <p>00:-16 16 it's a single-family detached, it would be 10 trips</p> <p>00:-16 17 on a 24-hour basis, and it doesn't say this</p> <p>00:-16 18 explicitly, but I'm just drawing from what I know,</p> <p>00:-15 19 that probably came from RSIS, which is a typical</p> <p>00:-15 20 calculation to figure out the number of trips when</p> <p>00:-15 21 you're designing the type of road that a residential</p> <p>00:-15 22 project would host.</p> <p>00:-15 23 Q. Okay. So the Residential Site</p> <p>00:-15 24 Improvement Standards would have this particular</p> <p>00:-15 25 data?</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">128</p> <p>00:-14 1 methodology that they did, but it looks that way.</p> <p>00:-14 2 And then what I can say about this is</p> <p>00:-14 3 not that I did the data myself, but it is consistent</p> <p>00:-14 4 with what the applicant's traffic engineer has</p> <p>00:-14 5 reported in his previous testimony.</p> <p>00:-14 6 So it's kind of like another data point</p> <p>00:-14 7 to confirm both the peak hour and the 24 hours that</p> <p>00:-14 8 have been previously reported by the expert's [sic]</p> <p>00:-14 9 traffic engineer.</p> <p>00:-14 10 So like when I look at the data, I see</p> <p>00:-13 11 Broadway southbound and Broadway northbound, and if I</p> <p>00:-13 12 just rule of thumb heuristically look at this, it's</p> <p>00:-13 13 about 450 peak hour trips southbound and 550 peak</p> <p>00:-13 14 hour trips northbound, which is in the order or the</p> <p>00:-13 15 scale of magnitude as reported by the applicant's</p> <p>00:-13 16 traffic engineer, so it kind of converges on that</p> <p>00:-13 17 same data, so it seems to be consistent.</p> <p>00:-13 18 MR. PRINCIOTTO: All right. I don't</p> <p>00:-13 19 have any other questions.</p> <p>00:-13 20 MR. HAYES: I have two quick questions</p> <p>00:-13 21 related to trip generation.</p> <p>00:-13 22 So the trip generation, you stated, per</p> <p>00:-13 23 the applicant's expert witness is less, but that only</p> <p>00:-13 24 relates to the designated peak hours, correct?</p> <p>00:-13 25 THE WITNESS: Less with the reported</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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00:-13 **1** peak hours, yes.

00:-13 **2** MR. HAYES: So, in your opinion, which

00:-12 **3** use do you think generates more trips in the 22 other

00:-12 **4** off-peak hours?

00:-12 **5** THE WITNESS: Well, that's what we

00:-12 **6** design. So, then, there are like, say, to answer

00:-12 **7** your question --

00:-12 **8** MR. HAYES: I understand you studied

00:-12 **9** it, how you gear the study to measure the peak hours.

00:-12 **10** For these two particular uses we're

00:-12 **11** talking about, a residential use or a commercial use,

00:-12 **12** for the remainder of the day that is not that peak

00:-12 **13** hour, including weekends, which use generates more

00:-12 **14** total trips?

00:-12 **15** THE WITNESS: I would think that it

00:-12 **16** would be comparable. Like in terms of order of

00:-12 **17** magnitude over 24 hours, like it would be a similar

00:-12 **18** trip generation with a little bit more on the

00:-12 **19** weekends when people are home, because typical

00:-12 **20** offices are 9 to 5 and closed on Saturday, depending

00:-12 **21** on the office. So then specific to a Saturday, the

00:-11 **22** Saturday peak hours for a residential use are similar

00:-11 **23** to --

00:-11 **24** MR. HAYES: I'm not talking about peak

00:-11 **25** hours, I'm talking about all other times.

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00:-11 **1** THE WITNESS: No, well, I'm just saying

00:-11 **2** all other times they would be comparable, with the

00:-11 **3** exception of the weekend.

00:-11 **4** MR. HAYES: From 9:00 at night, same

00:-11 **5** trip generation, office building, residential use?

00:-11 **6** THE WITNESS: No, it would be, actually

00:-11 **7** there would be more activity at the residential use.

00:-11 **8** I'm not prepared to answer your

00:-11 **9** question.

00:-11 **10** MR. HAYES: I'm just asking what you

00:-11 **11** think.

00:-11 **12** THE WITNESS: So my answer is, it's

00:-11 **13** comparable, and in the off-peak it's probably a

00:-11 **14** little bit more with the residential.

00:-11 **15** MR. HAYES: I'm not asking for you to

00:-11 **16** support anything with statistics.

00:-11 **17** THE WITNESS: I can provide that to the

00:-11 **18** board.

00:-11 **19** MR. HAYES: What your opinion is.

00:-11 **20** THE WITNESS: There's actual data from

00:-11 **21** the ITE that shows you and takes you through the

00:-11 **22** 24-hour bell curve of trip generation or the sinusoid

00:-11 **23** through trip generation for both the residential use

00:-11 **24** and for the commercial use.

00:-10 **25** Unfortunately, I don't have that data

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00:-10 **1** with me right now, because I was focusing on the peak

00:-10 **2** hour.

00:-10 **3** CHAIRWOMAN HEMBREE: Any other

00:-10 **4** questions?

00:-10 **5** MR. SPIRIG: Yeah, I have one.

00:-10 **6** You were given a copy of the

00:-10 **7** conditional approval by the Bergen County Planning

00:-10 **8** Board. Have you seen a copy of that?

00:-10 **9** THE WITNESS: I haven't.

00:-10 **10** MR. SPIRIG: Then I won't ask.

00:-10 **11** Thank you.

00:-10 **12** MR. PRINCIOTTO: Motion to open to the

00:-10 **13** public?

00:-10 **14** MR. HAYES: Motion to open to the

00:-10 **15** public.

00:-10 **16** MR. SPIRIG: Second.

00:-10 **17** CHAIRWOMAN HEMBREE: All in favor?

00:-10 **18** (Whereupon, all resent members respond

00:-10 **19** in the affirmative.)

00:-10 **20** CHAIRWOMAN HEMBREE: Opposed?

00:-10 **21** (No response.)

00:-10 **22** CHAIRWOMAN HEMBREE: Okay. If you have

00:-10 **23** a question for this witness, yes, for this witness.

00:-10 **24** MR. COUTO: I just have a quick

00:-10 **25** question.

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00:-10 **1** MR. NEWMAN: You don't have to ask

00:-10 **2** questions.

00:-10 **3** (Laughter.)

00:-10 **4** MR. COUTO: Very quick. Very quick.

00:-10 **5** Who would control to make the lane

00:-10 **6** through with the train is on, who is in control? You

00:-09 **7** have to make a application to the county to make that

00:-09 **8** lane flow through, north, south?

00:-09 **9** THE WITNESS: As I understand the

00:-09 **10** question, that would be a joint application with

00:-09 **11** Bergen County to the NJ DOT to convene a diagnostic

00:-09 **12** team meeting at the site and then take it through

00:-09 **13** that process. It's a long, drawn out process, but it

00:-09 **14** can be done.

00:-09 **15** MR. COUTO: Then it would be done with

00:-09 **16** the owner of the site and the town together?

00:-09 **17** THE WITNESS: No, I did not say that.

00:-09 **18** MR. COUTO: I don't know what "joint"

00:-09 **19** means.

00:-09 **20** THE WITNESS: Let me be clear.

00:-09 **21** It is a joint effort with Bergen

00:-09 **22** County, New Jersey Transit, and NJ DOT.

00:-09 **23** MR. COUTO: That our town can initiate?

00:-09 **24** THE WITNESS: They can always initiate

00:-09 **25** that, and I'd be glad to talk to Bergen County to see

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00:-09 **1** if that process is, you know, feasible to be
 00:-09 **2** initiated.
 00:-09 **3** MR. COUTO: Thank you.
 00:-09 **4** MS. BORRELLI: Hi. Ann Marie Borrelli.
 00:-08 **5** You talked about the do not block box,
 00:-08 **6** right?
 00:-08 **7** CHAIRWOMAN HEMBREE: Use a microphone.
 00:-08 **8** MS. BORRELLI: I'm sorry.
 00:-08 **9** You talked about the do not block box
 00:-08 **10** as about a solution for the proposed apartments, but
 00:-08 **11** that also could be a solution for the existing office
 00:-08 **12** building, correct?
 00:-08 **13** THE WITNESS: No doubt.
 00:-08 **14** MS. BORRELLI: Okay. Thank you.
 00:-08 **15** MR. NEWMAN: Seeing no one else in line
 00:-08 **16** --
 00:-08 **17** CHAIRWOMAN HEMBREE: Okay, close the
 00:-08 **18** meeting.
 00:-08 **19** MR. NEWMAN: I'd like to make a motion
 00:-08 **20** to close to the public.
 00:-08 **21** MR. HAYES: Second.
 00:-08 **22** CHAIRWOMAN HEMBREE: All in favor?
 00:-08 **23** (Whereupon, all resent members respond
 00:-08 **24** in the affirmative.)
 00:-08 **25** CHAIRWOMAN HEMBREE: Opposed?
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00:-08 **1** (No response.)
 00:-08 **2** CHAIRWOMAN HEMBREE: Thank you very
 00:-08 **3** much.
 00:-08 **4** MR. DELIA: I have a question or two.
 00:-08 **5** CHAIRWOMAN HEMBREE: Okay.
 00:-08 **6** MR. DELIA: Very quick, I promise.
 00:-08 **7** CROSS EXAMINATION
 00:-08 **8** BY MR. DELIA:
 00:-08 **9** **Q.** Mr. Intindola, reference was made to
 00:-08 **10** not the traffic counts but the exhibit before that,
 00:-08 **11** an e-mail that set out different types of trip
 00:-08 **12** generation.
 00:-08 **13** Your best guess is it comes from RSIS
 00:-07 **14** and it pertains to detached single family homes.
 00:-07 **15** Is that correct?
 00:-07 **16** **A.** **That was my testimony.**
 00:-07 **17** **Q.** But you don't really know what the
 00:-07 **18** source is?
 00:-07 **19** **A.** **I said that was my presumption.**
 00:-07 **20** MR. DELIA: Understood.
 00:-07 **21** And that's it.
 00:-07 **22** CHAIRWOMAN HEMBREE: Okay. Just one?
 00:-07 **23** MR. DELIA: Just one, I don't need to
 00:-07 **24** ask the second.
 00:-07 **25** CHAIRWOMAN HEMBREE: Okay.
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00:-07 **1** MR. DELIA: Oh, I will say we will
 00:-07 **2** stipulate that we will approach the county on a do
 00:-07 **3** not block the box.
 00:-07 **4** CHAIRWOMAN HEMBREE: Okay.
 00:-07 **5** THE WITNESS: Thank you for your time,
 00:-07 **6** board members.
 00:-07 **7** CHAIRWOMAN HEMBREE: Thank you.
 00:-07 **8** Okay.
 00:-07 **9** MR. PRINCIIOTTO: Raise your right hand.
 00:-07 **10** Do you swear or affirm to tell the
 00:-07 **11** truth under penalties of the law?
 00:-07 **12** MR. JACOBS: I do.
13 EVAN M. JACOBS, P.E., P.P., c/o Neglia
14 Engineering Associates, 34 Park Avenue,
15 Lyndhurst, New Jersey 07071, having been duly
16 sworn/affirmed, testifies as follows:
17 DIRECT EXAMINATION
18 BY MR. PRINCIIOTTO:
 00:-07 **19** **Q.** State your full name for the record.
 00:-07 **20** **A.** **Evan M. Jacobs.**
 00:-07 **21** **Q.** And very briefly state your
 00:-07 **22** qualifications.
 00:-07 **23** **A.** **Sure.**
 00:-06 **24** I'm a licensed professional engineer
 00:-06 **25** and planner in the State of New Jersey.
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00:-06 **1** I'm employed at Neglia Engineering
 00:-06 **2** Associates.
 00:-06 **3** I represent the Borough of Woodcliff
 00:-06 **4** Lake as the borough engineer, and also for the
 00:-06 **5** planning board, as well as the zoning board, as well
 00:-06 **6** as two other municipalities in Bergen County and one
 00:-06 **7** in Essex County.
 00:-06 **8** I graduated from NJIT with a bachelor's
 00:-06 **9** and a master's degree in civil engineering.
 00:-06 **10** I've been employed at Neglia for about
 00:-06 **11** four years.
 00:-06 **12** MR. PRINCIIOTTO: Any questions on the
 00:-06 **13** qualifications?
 00:-06 **14** MR. DELIA: None.
 00:-06 **15** BY MR. PRINCIIOTTO:
 00:-06 **16** **Q.** All right. You issued a review letter
 00:-06 **17** report dated August 20, 2018. We've marked it ZBA-5.
 00:-06 **18** **A.** **Correct.**
 00:-06 **19** **Q.** Are there any open issues that you have
 00:-05 **20** based upon your review letter, after the
 00:-05 **21** modifications were made by the applicant?
 00:-05 **22** **A.** **I have a number of relatively minor**
 00:-05 **23** **technical comments in my letter that I believe the**
 00:-05 **24** **applicant's engineer has agreed to address.**
 00:-05 **25** The one outstanding thing that I have
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00:-05 **1** not received resolution on was regarding vehicle
 00:-05 **2** circulation throughout the site. I had some
 00:-05 **3** questions and concerns about the fire truck turning
 00:-05 **4** throughout the site and we've requested electronic
 00:-05 **5** files with the turning templates to review, and to
 00:-05 **6** date I have not received that. I reached out
 00:-05 **7** multiple times, I have not received those.
 00:-05 **8** **Q.** And what is your concern about those?
 00:-05 **9** **A.** **The exhibit that the applicant's**
 00:-05 **10** **traffic engineer brought to the meeting showed the**
 00:-05 **11** **fire truck in conflict with a parking space, meaning**
 00:-05 **12** **that the fire truck, in order to make a turning**
 00:-05 **13** **maneuver, would be clipping or impacting potentially**
 00:-04 **14** **something in that parking space there. It's a**
 00:-04 **15** **relatively minor conflict that I think could be**
 00:-04 **16** **resolved, but I have not seen a resolution of that.**
 00:-04 **17** And, additionally, the fire truck
 00:-04 **18** pictured in the turning template does not appear to
 00:-04 **19** visually match the fire truck that the fire
 00:-04 **20** department has required them to analyze.
 00:-04 **21** It could just be a graphical issue,
 00:-04 **22** which is why I asked for the electronic files, to
 00:-04 **23** verify it, but without anything to verify it, that's
 00:-04 **24** still a concern of ours.
 00:-04 **25** **Q.** Any other comments or recommendations
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00:-04 **1** to the board?
 00:-04 **2** **A.** **Just that the conditions in my letter,**
 00:-04 **3** **if the board were to grant approval, would be made a**
 00:-04 **4** **condition of approval.**
 00:-04 **5** CHAIRWOMAN HEMBREE: Okay. Any
 00:-04 **6** questions?
 00:-04 **7** Motion to open -- oh, sorry.
 00:-04 **8** MR. SPIRIG: I'll ask some questions.
 00:-04 **9** Have you had an opportunity to look at
 00:-04 **10** the conditional approval from the county --
 00:-04 **11** THE WITNESS: I did.
 00:-04 **12** MR. SPIRIG: -- document?
 00:-04 **13** So there's a number of references. The
 00:-04 **14** reason it's conditional is there's a number of
 00:-04 **15** references here to walkways, curbs, ADA requirements
 00:-03 **16** and so forth. There's a lot of specific details in
 00:-03 **17** here.
 00:-03 **18** In your opinion, does this affect the
 00:-03 **19** presentations that were given to this board with
 00:-03 **20** regard to engineering and architecture in any way?
 00:-03 **21** THE WITNESS: No.
 00:-03 **22** Generally summarizing, a lot of those
 00:-03 **23** requirements are for improvements to existing county
 00:-03 **24** infrastructure for the application, which is very
 00:-03 **25** typical on jobs that require county approval, like
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00:-03 **1** upgrading the handicapped curb ramps at the
 00:-03 **2** intersections, replacing curbs that may be broken or
 00:-03 **3** deficient to county standards; nothing in the
 00:-03 **4** county's conditional approval that would
 00:-03 **5** significantly impact the design or the plans that
 00:-03 **6** have been presented, in my opinion.
 00:-03 **7** MR. SPIRIG: Thank you.
 00:-03 **8** CHAIRWOMAN HEMBREE: Okay. Anybody
 00:-03 **9** else?
 00:-03 **10** Motion to open to the public?
 00:-03 **11** MR. KAUFMAN: So moved.
 00:-03 **12** CHAIRWOMAN HEMBREE: Second?
 00:-03 **13** MR. HAYES: Second.
 00:-03 **14** CHAIRWOMAN HEMBREE: All in favor?
 00:-03 **15** (Whereupon, all resent members respond
 00:-03 **16** in the affirmative.)
 00:-03 **17** CHAIRWOMAN HEMBREE: Opposed?
 00:-03 **18** (No response.)
 00:-03 **19** CHAIRWOMAN HEMBREE: Anybody from the
 00:-03 **20** public who wishes to ask the engineer a question?
 00:-03 **21** (No response.)
 00:-02 **22** CHAIRWOMAN HEMBREE: Not seeing anybody
 00:-02 **23** standing in line, motion to close for the public?
 00:-02 **24** MS. EFFRON-MALLEY: Motion to close.
 00:-02 **25** MR. NEWMAN: Second.
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00:-02 **1** CHAIRWOMAN HEMBREE: All in favor?
 00:-02 **2** (Whereupon, all resent members respond
 00:-02 **3** in the affirmative.)
 00:-02 **4** CHAIRWOMAN HEMBREE: Opposed?
 00:-02 **5** (No response.)
 00:-02 **6** MR. DELIA: Thank you, Evan.
 00:-02 **7** THE WITNESS: I got off easy.
 00:-02 **8** CHAIRWOMAN HEMBREE: Okay,
 00:-02 **9** Mr. Princiotto.
 00:-02 **10** MR. PRINCIOTTO: Next we're going to
 00:-02 **11** move to those who live within 200 feet that wanted to
 00:-02 **12** make comments and will testify, actually there are
 00:-02 **13** three people that indicated that they want to
 00:-02 **14** testify.
 00:-02 **15** Sally Gellert is the first person.
 00:-02 **16** MR. HAYES: Do you have a time how long
 00:-02 **17** we're going to proceed?
 00:-02 **18** MR. PRINCIOTTO: I think we need a
 00:-02 **19** motion to extend. I'd like to get this application
 00:-02 **20** concluded tonight.
 00:-02 **21** CHAIRWOMAN HEMBREE: Extend to what?
 00:-02 **22** MR. PRINCIOTTO: Well, past 10:30.
 00:-02 **23** CHAIRWOMAN HEMBREE: As long as it
 00:-02 **24** takes?
 00:-02 **25** 11:30, okay.
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00:-02 1 MR. PRINCOTTO: Motion to extend?

00:-02 2 MR. HAYES: So moved.

00:-02 3 MR. PRINCOTTO: Second?

00:-02 4 MR. SPIRIG: Second.

00:-02 5 CHAIRWOMAN HEMBREE: All in favor?

00:-02 6 (Whereupon, all resent members respond

00:-02 7 in the affirmative.)

00:-02 8 CHAIRWOMAN HEMBREE: Opposed?

00:-02 9 MR. NEWMAN: Opposed.

00:-01 10 CHAIRWOMAN HEMBREE: He flew from

00:-01 11 somewhere else today, that's why it's the next day

00:-01 12 for him.

00:-01 13 Okay. Ms. Gellert.

00:-01 14 MR. PRINCOTTO: I need to swear you

00:-01 15 in.

00:-01 16 Raise your right hand.

00:-01 17 Do you swear or affirm to tell the

00:-01 18 truth under penalties of law?

00:-01 19 MS. GELLERT: I do.

00:-01 20 **SALLY GELLERT,**

00:-01 21 210 Broadway, Woodcliff Lake, New Jersey,

00:-01 22 having been duly sworn, testifies as follows:

00:-01 23 MS. GELLERT: Okay. I have taken some

00:-01 24 pictures of our property. I heard that there will be

00:-01 25 no impact to my view, and, yet, when I sit behind my

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00:-01 1 driveway looking across at 188, I can see a corner of

00:-01 2 the building now.

00:-01 3 Next to that would be an entire

00:-01 4 building. So how can you tell me this doesn't impact

00:-01 5 my view? It certainly does.

00:-01 6 MR. PRINCOTTO: When did you take

00:-01 7 those photographs?

00:-01 8 MS. GELLERT: I took them May of this

00:-01 9 year. I didn't put a specific date on it.

00:-01 10 MR. PRINCOTTO: And where were you

00:-01 11 standing when you took these photographs?

00:-01 12 MS. GELLERT: I was standing, well --

00:-00 13 MR. PRINCOTTO: Were you on the

00:-00 14 ground?

00:-00 15 MS. GELLERT: I was on the ground. I

00:-00 16 was next to the driveway. You can see the big tree

00:-00 17 stump in the property that is kind of consistent

00:-00 18 through the property.

00:-00 19 So I was, like, standing between the

00:-00 20 driveway and the next property up on Highview,

00:-00 21 looking across, and then I looked up the street, up

00:-00 22 to the Highview property to locate it.

00:-00 23 And I've got also a view from across

00:-00 24 the front of our property on the street, where I am

00:-00 25 sure that's a desire path from people who are rushing

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00:00 1 to get the train. I've rush to get the train. You

00:00 2 run out the last possible minute, and through our

00:00 3 front yard is the quickest way to get there. There

00:00 4 is a bit of a grade question, but I don't know. And

00:00 5 there are steps right now on the side by our house.

00:00 6 So, you know, so I've got a bunch of pictures.

00:00 7 MR. PRINCOTTO: We're going to mark

00:00 8 that for identification, O-2.

00:00 9 (One page double-sided photographs is

00:00 10 marked as exhibit O-2 for identification.)

00:00 11 MR. PRINCOTTO: Is there writing on

00:00 12 there?

00:00 13 MS. GELLERT: It's just my descriptions

00:00 14 of what I was photographing, you know, how can

00:00 15 someone say the southern view would not change --

00:00 16 COURT REPORTER: Sorry. Speak slower.

00:00 17 MS. GELLERT: Okay.

00:00 18 Above left side steps of building on

00:00 19 north side, and so forth descriptors.

00:00 20 MR. PRINCOTTO: Can you please show it

00:00 21 to Mr. Delia.

00:00 22 MS. GELLERT: Okay.

00:00 23 MR. DELIA: Okay. No objection.

00:00 24 MR. PRINCOTTO: You wish to submit

00:00 25 that to the board as evidence?

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00:00 1 MS. GELLERT: Sure.

00:00 2 MR. PRINCOTTO: Do you have any other

00:00 3 testimony?

00:00 4 MS. GELLERT: Let's see.

00:00 5 Okay. So I've got the -- okay.

00:00 6 I understand that the traffic studies

00:00 7 are done in a manner consistent with others

00:00 8 throughout the community, state and country --

00:00 9 MR. PRINCOTTO: Now, is this a comment

00:00 10 or --

00:00 11 MS. GELLERT: I don't know.

00:00 12 MR. PRINCOTTO: Well, okay.

00:01 13 I don't think you're a traffic expert.

00:01 14 MS. GELLERT: No, I'm not a traffic

00:01 15 expert, so you want me to get back on the history for

00:01 16 comments later?

00:01 17 MR. PRINCOTTO: Yes, and I don't mean

00:01 18 to interrupt you.

00:01 19 MS. GELLERT: No, that's fair. You

00:01 20 know, this is new.

00:01 21 Yeah, and also I heard this described

00:01 22 as a catalyst to further development.

00:01 23 Well, you know, we've got --

00:01 24 MR. PRINCOTTO: That sounds like a

00:01 25 comment.

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00:01 1 MS. GELLERT: That's a comment, add it
 00:01 2 to the end. Okay.
 00:01 3 MR. PRINCOTTO: Thank you.
 00:01 4 MS. GELLERT: Where do I leave this,
 00:01 5 right here?
 00:01 6 MR. PRINCOTTO: You can leave that
 00:01 7 right there.
 00:01 8 MR. NEWMAN: What did we mark that?
 00:01 9 MR. PRINCOTTO: O-2.
 00:01 10 O-1 was the Appelle letter.
 00:01 11 Next on the list, Veronica Appelle. I
 00:01 12 think I covered your exhibit, which I marked O-1,
 00:01 13 that Mr. Intindola testified about.
 00:01 14 MS. APPELLE: Only if you gave all of
 00:02 15 that same information to everyone else on this board
 00:02 16 and the public.
 00:02 17 MR. PRINCOTTO: Well, we have --
 00:02 18 MS. APPELLE: But I haven't.
 00:02 19 MR. PRINCOTTO: Well, I think --
 00:02 20 MS. APPELLE: I don't think they've
 00:02 21 seen it. They've commented and talked in the ether
 00:02 22 about it, and people remember more when they're
 00:02 23 visual learner. You've never seen that.
 00:02 24 MR. NEWMAN: I got a great idea, why
 00:02 25 don't you pass them all here?

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00:02 1 MS. APPELLE: What a good idea.
 00:02 2 Sorry about that.
 00:02 3 MR. DELIA: May I get a copy, please?
 00:02 4 MS. APPELLE: Sure, because I have
 00:02 5 copies for the entire public too, of what the police
 00:02 6 chief said, what his sergeant said, and what the
 00:02 7 planning board knows.
 00:02 8 MR. NEWMAN: You want to hand that to
 00:02 9 Mr. Delia.
 00:02 10 MR. DELIA: Thank you.
 00:02 11 MS. APPELLE: And if you would all like
 00:02 12 to distribute these and pass them out or come up and
 00:02 13 take a copy, it's not part of the five minutes
 00:02 14 because --
 00:03 15 MR. DELIA: I object to all of these.
 00:03 16 MS. APPELLE: Yes, you said that right
 00:03 17 from the beginning. However, it's not hearsay.
 00:03 18 MR. PRINCOTTO: Wait a second. You
 00:03 19 can't -- no arguments.
 00:03 20 MS. APPELLE: Well, he argued first.
 00:03 21 MR. DELIA: I'm arguing through the
 00:03 22 Chair. I'm not trying to make this personal. I'm
 00:03 23 not trying to be antagonistic. I'm simply making a
 00:03 24 legal position, which is that all these documents
 00:03 25 have no foundation. We heard from Mr. Intindola on

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00:03 1 one of them that his best guess is where his source
 00:03 2 is, and he doesn't know. This is all hearsay.
 00:03 3 So, for all of those reasons, again,
 00:03 4 primarily starting with no foundation, let's start
 00:03 5 there, and the hearsay. The two together in my
 00:03 6 opinion are objectionable.
 00:03 7 That's all I have to say.
 00:03 8 MR. PRINCOTTO: Okay. I think
 00:03 9 Mr. Intindola did provide some foundation. They're
 00:04 10 consistent with what's in the RSIS.
 00:04 11 MR. DELIA: He said as best he could
 00:04 12 guess under the circumstances, that's what he said.
 00:04 13 He does not know where these numbers come from, he
 00:04 14 can only guess. There is no foundation. We don't
 00:04 15 have a source. We don't have a citation.
 00:04 16 MR. NEWMAN: Is this one document or
 00:04 17 several documents?
 00:04 18 MS. APPELLE: They're numbered 1, 2, 3.
 00:04 19 The first one is the police chief's,
 00:04 20 goes to the police chief --
 00:04 21 MR. PRINCOTTO: There's an attachment
 00:04 22 that's not evidence.
 00:04 23 Don't look at the last page.
 00:04 24 MS. APPELLE: Oh, the last page is just
 00:04 25 pictures.

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00:04 1 MR. NEWMAN: The last page.
 00:04 2 MS. APPELLE: Were is pictures, so
 00:04 3 don't worry about those, just deal with these others.
 00:04 4 MR. PRINCOTTO: I instruct the board
 00:04 5 to disregard it. That's comment.
 00:05 6 If you want to make comment. I marked
 00:05 7 as O-1 is the same thing as the first three pages,
 00:05 8 and Mr. Intindola testified about the traffic counts
 00:05 9 and the data that's in all of the attachments.
 00:05 10 MR. NEWMAN: Is this a letter to the
 00:05 11 Woodcliff Lake Police Department?
 00:05 12 MR. PRINCOTTO: Which one are you
 00:05 13 referring to?
 00:05 14 MR. NEWMAN: I'm looking at the first
 00:05 15 page, the front, Woodcliff Lake Police Department.
 00:05 16 MR. SPIRIG: It's from --
 00:05 17 MR. PRINCOTTO: Well, it's from a
 00:05 18 sergeant with regard to traffic counts. It's to the
 00:05 19 chief, to Chief Anthony Jannicelli from Sgt. Craig
 00:05 20 DeGeorge, right, reference, traffic counts for
 00:05 21 Broadway and Woodcliff Lake.
 00:05 22 MR. NEWMAN: Right, December 13th, 2018
 00:05 23 is the date of the letter. And this is a business
 00:05 24 record of the Woodcliff Lake Police Department.
 00:06 25 MR. DELIA: There is no foundation on

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00:06 1 that.

00:06 2 MR. PRINCIOTTO: And actually

00:06 3 Mr. Intindola testified it was consistent with the

00:06 4 testimony of the applicant's traffic expert, not

00:06 5 materially different, consistent to the traffic

00:06 6 counts of the applicant's traffic consultant.

00:06 7 MS. APPELLE: I'll clarify that when I

00:06 8 have a chance.

00:06 9 MR. PRINCIOTTO: All right. We have

00:06 10 those exhibits, is there anything else you'd like to

00:06 11 testify about?

00:06 12 MS. APPELLE: Me?

00:06 13 MR. PRINCIOTTO: Yes.

00:06 14 MS. APPELLE: Oh, sure.

00:06 15 Perhaps Mr. Intindola, he suggested

00:06 16 where it came from, but I think probably it came from

00:06 17 the Federal Highway Administration's U.S. Department

00:06 18 of Transportation report, 2010. The reason --

00:06 19 MR. NEWMAN: Well, there's a letter

00:06 20 here from the police department that states some

00:06 21 data. That's what I see.

00:07 22 MS. APPELLE: So which one are you

00:07 23 referring to, 1, 2, or 3?

00:07 24 MR. NEWMAN: Well, there's three pages

00:07 25 of one letter.

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00:07 1 MS. APPELLE: They're three different

00:07 2 things.

00:07 3 MR. SPIRIG: I think they're three

00:07 4 different letters.

00:07 5 MR. NEWMAN: They're three different

00:07 6 letters?

00:07 7 MS. APPELLE: Yes, and most likely you

00:07 8 should have had this to review, because that's why I

00:07 9 gave it to you, just as he gives you all the stuff

00:07 10 and then you share it. That's what I thought I was

00:07 11 supposed to do, and I did that.

00:07 12 MR. PRINCIOTTO: Well, Mr. Intindola

00:07 13 just testified about this.

00:07 14 MS. APPELLE: Yeah, but what you did

00:07 15 was --

00:07 16 MR. HAYES: It's easily digestible

00:07 17 information.

00:07 18 MS. APPELLE: Thank you.

00:07 19 CHAIRWOMAN HEMBREE: So where are we

00:07 20 going with this?

00:07 21 MR. PRINCIOTTO: I don't know.

00:07 22 MS. APPELLE: Well, Mr. Intindola

00:07 23 didn't even mention Woodcliff Avenue with the 4,041

00:07 24 vehicles.

00:07 25 MR. PRINCIOTTO: It was open to the

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00:07 1 public. If you wanted to ask him a question about

00:07 2 it, you could. He indicated traffic counts.

00:07 3 MS. APPELLE: He only did half.

00:07 4 MR. NEWMAN: In defense of the

00:07 5 applicant, how is the applicant responsible for the

00:07 6 number of vehicles on Woodcliff Avenue?

00:08 7 MS. APPELLE: They're not, but these

00:08 8 counts were done when their 60 units weren't built

00:08 9 and when no one was in the office building.

00:08 10 So these high numbers will only get

00:08 11 much higher.

00:08 12 MR. NEWMAN: How do you know that?

00:08 13 MS. APPELLE: Well, doesn't it stand,

00:08 14 600 trips --

00:08 15 MR. NEWMAN: Whoa. One second. Okay.

00:08 16 It's a letter dated 2018, but it doesn't say when

00:08 17 these counts were done.

00:08 18 MS. APPELLE: Yes, it does, November

00:08 19 28th, December 12th, December 4th, and December 6,

00:08 20 2018.

00:08 21 MR. NEWMAN: Okay. For what they're

00:08 22 worth.

00:08 23 MS. APPELLE: Well, before anyone built

00:08 24 anything and when the office building had no people

00:08 25 in it going to and from, that was my point.

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00:08 1 MR. PRINCIOTTO: All right. The board

00:08 2 is aware of the traffic counts. Is there anything

00:08 3 else that you would like to --

00:09 4 MS. APPELLE: Okay. So then the second

00:09 5 sheet, the police chief e-mailed me on August 7th --

00:09 6 MR. NEWMAN: Well, you didn't write

00:09 7 these letters.

00:09 8 MS. APPELLE: No, these aren't mine.

00:09 9 MR. NEWMAN: Right, these are from the

00:09 10 police chief.

00:09 11 MS. APPELLE: And from his officers to

00:09 12 him.

00:09 13 MR. NEWMAN: So he's not here. So the

00:09 14 letter being here is one thing, but, I mean, and I

00:09 15 always defer to our counsel on the zoning board, but

00:09 16 anything anybody told somebody else and the person is

00:09 17 not here, that's hearsay. So I don't want to hear

00:09 18 about what the police chief told somebody else. If

00:09 19 you had a direct conversation with somebody and that

00:09 20 person told you something, that's okay, but once he

00:09 21 told me that he said or he told me that she said --

00:09 22 MS. APPELLE: Okay. Well, if you read

00:09 23 the beginning, though, he's telling you when we spoke

00:09 24 of it, it is already part of the record from their

00:10 25 traffic bureau to the planning board. So if you

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00:10 1 would go back to the planning board, you would see
 00:10 2 what he said in here is accurate. It's been given by
 00:10 3 the traffic experts to the planning board, which
 00:10 4 states really --
 00:10 5 MR. DELIA: For the record, this is the
 00:10 6 zoning board.
 00:10 7 MS. APPELLE: Yeah, but they all work
 00:10 8 together.
 00:10 9 MR. DELIA: No, they're independent
 00:10 10 bodies.
 00:10 11 MS. APPELLE: Okay.
 00:10 12 MR. DELIA: Independent quasi-judicial
 00:10 13 bodies that should not have an interrelationship in
 00:10 14 terms of sharing information, evidence that's out of
 00:10 15 context.
 00:10 16 MS. APPELLE: In your opinion it's out
 00:10 17 of context.
 00:10 18 MR. DELIA: In my opinion, there's no
 00:10 19 foundation for these documents. In my opinion, they
 00:10 20 are hearsay. That is my opinion.
 00:10 21 MR. PRINCOTTO: Well, I think
 00:10 22 Mr. Intindola indicated that these traffic counts are
 00:10 23 not any different than the traffic counts that your
 00:10 24 expert came up with.
 00:10 25 MR. DELIA: He said they were close.
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00:10 1 MR. PRINCOTTO: So what are we arguing
 00:10 2 about?
 00:11 3 MS. APPELLE: But his expert did it for
 00:11 4 two hours, these are over a 24-hour period.
 00:11 5 MR. NEWMAN: But they're not
 00:11 6 disagreeing with one another.
 00:11 7 MS. APPELLE: Okay. All right.
 00:11 8 MR. PRINCOTTO: There are traffic
 00:11 9 counts, I think it's acknowledged by both experts.
 00:11 10 MS. APPELLE: And is it also
 00:11 11 acknowledged that when you put more buildings up and
 00:11 12 you have more people --
 00:11 13 MR. PRINCOTTO: This is an argument
 00:11 14 that you can make.
 00:11 15 The testimony has to do with some
 00:11 16 personal knowledge that you have that's relevant to
 00:11 17 this application. Do you have any personal knowledge
 00:11 18 that you would like to testify about?
 00:11 19 MS. APPELLE: Well, I live there so I
 00:11 20 certainly know what it looks like and what it's like.
 00:11 21 I can tell you about the trains, how many times they
 00:11 22 stop now, why you're going to have more trains with
 00:11 23 more cars taking more time to stop at that
 00:11 24 intersection.
 00:11 25 MR. PRINCOTTO: Well --
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00:11 1 MS. APPELLE: Common sense.
 00:11 2 MR. PRINCOTTO: I'm not certain that
 00:11 3 you're qualified to do that.
 00:11 4 MS. APPELLE: Well, I think everyone is
 00:11 5 kind of qualified to do that. That makes sense. It
 00:12 6 would be common sense to expect that the traffic
 00:12 7 through Woodcliff Lake will be substantially
 00:12 8 increased.
 00:12 9 MR. PRINCOTTO: It sounds like you
 00:12 10 want to make a comment that you are concerned about
 00:12 11 the traffic conditions, and if you want to make that
 00:12 12 comment --
 00:12 13 MS. APPELLE: And safety, yes.
 00:12 14 MR. PRINCOTTO: -- then you can make
 00:12 15 that when we get to comments. You see, this is what
 00:12 16 I mean, you're not testifying about anything that you
 00:12 17 have personal knowledge about, and it's going to cut
 00:12 18 into the time that people have to make comments.
 00:12 19 MS. APPELLE: Well, it's not going to
 00:12 20 do, because we're going to be here until we've all
 00:12 21 had our five minutes of comments. I didn't know the
 00:12 22 procedure, I did the best I could with it, and we'll
 00:12 23 see how it goes.
 00:12 24 MR. PRINCOTTO: Thank you.
 00:12 25 I can't read the name, it looks like
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00:12 1 it's Walter Appelle.
 00:13 2 MR. APPELLE: Can I defer to somebody
 00:13 3 else or do I have to go?
 00:13 4 MR. PRINCOTTO: You're next on the
 00:13 5 list. Then we're going to move to people who don't
 00:13 6 live within 200 feet.
 00:13 7 CHAIRWOMAN HEMBREE: I thought there
 00:13 8 were more people.
 00:13 9 MR. COUTO: As a comment or testimony?
 00:13 10 MR. PRINCOTTO: Testimony.
 00:13 11 MR. NEWMAN: Personal knowledge. Facts
 00:13 12 that you have personal knowledge of.
 00:13 13 MR. PRINCOTTO: We're going to move to
 00:13 14 the evidence.
 00:13 15 MR. DELIA: The gentleman is asking, I
 00:13 16 think, is there a difference between testimony and
 00:13 17 comments? And at this point, the answer is, they get
 00:13 18 to speak. Isn't this their final say?
 00:13 19 MR. PRINCOTTO: No, this is testimony.
 00:13 20 MR. DELIA: And then they get to speak
 00:13 21 again?
 00:13 22 MR. PRINCOTTO: To make comments, yes.
 00:13 23 AUDIENCE MEMBERS: We heard from you
 00:13 24 for six months.
 00:13 25 MR. DELIA: That's totally
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00:13 1 inappropriate at this stage of the game, to have them
 00:13 2 comment. Essentially what they're doing now is
 00:13 3 commenting and then they'll comment again.
 00:13 4 MR. NEWMAN: Well, they shouldn't be
 00:13 5 commenting, they should only testify to personal
 00:13 6 facts they have personal knowledge.
 00:13 7 MR. PRINCIOTTO: Craig Marson.
 00:13 8 CHAIRWOMAN HEMBREE: So testimony,
 00:13 9 Mr. Marson, no comments.
 00:13 10 MR. NEWMAN: This is only testimony.
 00:14 11 MR. MARSON: No comments, but let me
 00:14 12 ask you for your help. I have three pages to read
 00:14 13 with full attachments. The attachments, some of it
 00:14 14 is my observation, some of it is direct facts that I
 00:14 15 have knowledge of as do you. You make the decision,
 00:14 16 I just want to read my three page. I have
 00:14 17 attachments for you and the whole board, everybody
 00:14 18 gets a packet.
 00:14 19 Do you want me to read the three pages
 00:14 20 or not?
 00:14 21 MR. PRINCIOTTO: Well, are the pages
 00:14 22 comments?
 00:14 23 MR. MARSON: The pages, everything is
 00:14 24 researched, everything is documented. It's three
 00:14 25 pages about my observations about the deal.

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00:14 1 MR. HAYES: What is the subject matter?
 00:14 2 MR. MARSON: The subject matter is 188.
 00:14 3 It is all related to 188 and people that had to do
 00:14 4 with 188 and the transaction. It is all
 00:14 5 interrelated. I've got packets for everybody, three
 00:14 6 pages to read, and then I'll sit down.
 00:14 7 MR. PRINCIOTTO: It sounds like comment
 00:14 8 to me.
 00:14 9 MR. MARSON: I'll wait. I'm happy to
 00:14 10 wait. Your decision.
 00:14 11 MR. NEWMAN: Why don't you start by
 00:14 12 doing it?
 00:14 13 MR. DELIA: It's a mystery, until we
 00:14 14 see what he has.
 00:15 15 MR. NEWMAN: Let's start giving your
 00:15 16 page.
 00:15 17 MR. PRINCIOTTO: All right, so then
 00:15 18 other than that we have --
 00:15 19 MR. MARSON: I've been waiting and
 00:15 20 waiting patiently. I am not trying to be rude.
 00:15 21 MR. PRINCIOTTO: Don't hand it out yet,
 00:15 22 I haven't seen it and Mr. Delia hasn't seen it.
 00:15 23 Please, hand it back, just give one to me.
 00:15 24 MR. NEWMAN: One to you, one to
 00:15 25 Mr. Delia.

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00:15 1 MR. MARSON: I'm happy to do it as
 00:15 2 commentary, if you like, your decision. I'm happy to
 00:15 3 do it as commentary.
 00:15 4 MR. NEWMAN: All right. Let them
 00:15 5 figure it out.
 00:15 6 MR. DELIA: You know, three pages plus
 00:15 7 exhibits, so for me to sit here now and say yes or
 00:15 8 no, I can't do it. I don't know. All I can tell you
 00:16 9 is what is alleged are conflicts of interest which
 00:16 10 are factual in nature to start with.
 00:16 11 So mere documentation to prove such an
 00:16 12 allegation I think is inappropriate, without direct
 00:16 13 personal knowledge attached to that.
 00:16 14 MR. PRINCIOTTO: Okay. All right.
 00:16 15 This is what I'm going to do on this. I'm going to
 00:16 16 defer on this. It looks more like comments to me, so
 00:16 17 let me see what else we have, and then we'll come
 00:16 18 back to this. Okay?
 00:16 19 MR. MARSON: I should sit?
 00:16 20 MR. PRINCIOTTO: And then I'll come
 00:16 21 back to you.
 00:16 22 MR. NEWMAN: Let's see if there are
 00:16 23 some simpler issues.
 00:16 24 MR. PRINCIOTTO: Ann Marie Borrelli,
 00:16 25 you said you have a handout. I don't know what the

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00:16 1 nature of this handout is.
 00:16 2 Do you have a copy for Mr. Delia?
 00:17 3 MS. BORRELLI: Okay. I took pictures
 00:17 4 from my front window and I took a picture from the
 00:17 5 deck of the house across the street from me at 15
 00:17 6 Cressfield Court.
 00:17 7 MR. PRINCIOTTO: All right. Can you
 00:17 8 raise your right hand.
 00:17 9 You're going to testify. Okay.
 00:17 10 You have photographs, correct?
 00:17 11 MS. BORRELLI: Yes.
 00:17 12 MR. PRINCIOTTO: Okay. Do you swear or
 00:17 13 affirm to tell the truth under penalties of law?
 00:17 14 MS. BORRELLI: Of course. Definitely.
 00:17 15 Yes.
 00:17 16 **ANN MARIE BORRELLI,**
 00:17 17 18 Cressfield Court, Woodcliff Lake, New Jersey,
 00:17 18 having been duly sworn, testifies as follows:
 00:17 19 MR. PRINCIOTTO: And you stated your
 00:17 20 name, Ann Marie Borrelli, right?
 00:17 21 MS. BORRELLI: Yes.
 00:17 22 MR. PRINCIOTTO: You took these
 00:17 23 photographs. When did you take the photographs?
 00:17 24 MS. BORRELLI: I took these in the
 00:17 25 beginning of April.

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00:17 **1** MR. PRINCIOTTO: Of?

00:17 **2** MS. BORRELLI: Of 2019.

00:17 **3** And I took these pictures to prove,

00:17 **4** contrary to testimony that no one's view would be

00:17 **5** obstructed, so I took these pictures to show that

00:17 **6** indeed there would be an obstruction of view.

00:18 **7** MR. PRINCIOTTO: How many pictures did

00:18 **8** you take?

00:18 **9** MS. BORRELLI: There's two pictures,

00:18 **10** and I have copies.

00:18 **11** MR. PRINCIOTTO: You gave two to

00:18 **12** Mr. Delia just now?

00:18 **13** MS. BORRELLI: Yes.

00:18 **14** MR. PRINCIOTTO: Okay.

00:18 **15** MS. BORRELLI: And I have them marked

00:18 **16** to show the area of the lake, and I have it marked to

00:18 **17** show that from the deck of the homes on where the

00:18 **18** backyards overlook the proposed apartment, that they

00:18 **19** will have full view of the back of the apartment

00:18 **20** building, because from their view they can look down

00:18 **21** and see the parking lot and actually see the painted

00:18 **22** stripes of the parking spaces, so they will have full

00:18 **23** view.

00:18 **24** MR. PRINCIOTTO: All right. We have to

00:18 **25** mark the photographs. Okay. All right. So I'm

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00:18 **1** going to ask you to do me a favor, just to speed

00:18 **2** things up. On the first photograph, can you mark

00:19 **3** that O-3. Okay.

00:19 **4** (Photograph is marked as exhibit O-3

00:19 **5** for identification.)

00:19 **6** MR. PRINCIOTTO: Okay. Tell us, okay,

00:19 **7** you took O-3, correct?

00:19 **8** MS. BORRELLI: Yes.

00:19 **9** MR. PRINCIOTTO: Where were you when

00:19 **10** you took O-3?

00:19 **11** MS. BORRELLI: O-3, I am standing on --

00:19 **12** this one, I am standing, I'm by my house and I had a

00:19 **13** zoom lens. And so when I look out my window, I can

00:19 **14** see the lake. And this day, it wasn't that sunny

00:19 **15** when I took it, but when it's sunny, I can see the

00:19 **16** sun bouncing off the lake, I can see it shining, so I

00:19 **17** do see it.

00:19 **18** Now --

00:19 **19** MR. HAYES: What date did you take the

00:19 **20** photograph?

00:19 **21** MS. BORRELLI: It was on a Sunday. The

00:19 **22** actual date I don't have. It was in April.

00:19 **23** MR. HAYES: Approximate date, April?

00:19 **24** MS. BORRELLI: I don't remember.

00:19 **25** MR. COUTO: I'm not sure.

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00:19 **1** MS. BORRELLI: I don't know. It was in

00:19 **2** April.

00:19 **3** So, as you can see, though, and so

00:19 **4** there was testimony that there's trees there, so we

00:20 **5** don't see the lake.

00:20 **6** MR. NEWMAN: This is a picture that you

00:20 **7** took on or about April 20th? Sometime in April?

00:20 **8** MS. BORRELLI: Sometime before --

00:20 **9** MR. NEWMAN: And you took that

00:20 **10** photograph?

00:20 **11** MS. BORRELLI: I took it, yes.

00:20 **12** MR. NEWMAN: And where were you

00:20 **13** standing when you took that photograph?

00:20 **14** MS. BORRELLI: I was standing looking

00:20 **15** out my front window.

00:20 **16** MR. NEWMAN: And that photograph

00:20 **17** standing outside your front window is a photograph of

00:20 **18** your view of the lake?

00:20 **19** MS. BORRELLI: Yes, yes.

00:20 **20** MR. PRINCIOTTO: All right. I mean, I

00:20 **21** can't see it from here, but can you see the building

00:20 **22** at 188 Broadway?

00:20 **23** MS. BORRELLI: The top of 188 obstructs

00:20 **24** part of the lake, but you can see that I have this

00:20 **25** sliver here.

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00:20 **1** Now, the second building is going to be

00:20 **2** higher and it's going --

00:20 **3** MR. DELIA: It is not. It's not going

00:20 **4** to be higher, slightly higher in context but --

00:20 **5** MR. NEWMAN: Mr. Delia, do you have an

00:20 **6** objection to the photograph itself?

00:20 **7** MR. DELIA: No, I have no objection.

00:20 **8** MS. BORRELLI: Thank you.

00:20 **9** MR. NEWMAN: Your photograph --

00:20 **10** MR. PRINCIOTTO: You can consider that,

00:20 **11** that's O-3.

00:21 **12** MS. BORRELLI: So from the height of

00:21 **13** the second building, and we saw on the architect's

00:21 **14** plans that the second building will have higher, and

00:21 **15** it will definitely reduce the view of the lake, and I

00:21 **16** will wind up with hardly like anything to see, so...

00:21 **17** CHAIRWOMAN HEMBREE: Like that's behind

00:21 **18** you, right?

00:21 **19** MS. BORRELLI: Yes, you can see that it

00:21 **20** is taller, and this is a misrepresentation because

00:21 **21** it's not tucked below the mountain in obscurity. It

00:21 **22** is very visible, as you can see from these pictures,

00:21 **23** and it is higher.

00:21 **24** MR. PRINCIOTTO: That building is not

00:21 **25** there yet.

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00:21 1 MS. BORRELLI: This building, right,
 00:21 2 this building.
 00:21 3 We all can see the top of this building
 00:21 4 very clearly, and we can also see down to the parking
 00:21 5 lot.
 00:21 6 MR. PRINCOTTO: Okay. And the next
 00:21 7 photograph you have, mark that O-4.
 00:21 8 MS. BORRELLI: Okay.
 00:21 9 (Photograph is marked as exhibit O-4
 00:21 10 for identification.)
 00:21 11 MS. BORRELLI: This picture was taken
 00:21 12 from the deck of the home at 15 Cressfield Court,
 00:21 13 which their backyard overlooks 188 Broadway. And as
 00:21 14 you can see --
 00:22 15 MR. PRINCOTTO: Who lives there?
 00:22 16 MS. BORRELLI: Who lives there are the
 00:22 17 Burnidges (phonetic).
 00:22 18 MALE AUDIENCE MEMBER: I do.
 00:22 19 MR. NEWMAN: You took that picture?
 00:22 20 MS. BORRELLI: Yes. I went over to his
 00:22 21 house. He was very kind to let me stand on his deck,
 00:22 22 because they're kind neighbors.
 00:22 23 MR. NEWMAN: And that photograph truly
 00:22 24 and accurately depicts the view from his house of the
 00:22 25 site as it currently exists today?

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00:22 1 MS. BORRELLI: Yes, and you can see
 00:22 2 that he can clearly see a good view of the parking
 00:22 3 lot where the proposed second building will stand.
 00:22 4 MR. NEWMAN: Mr. Delia, any objection
 00:22 5 to that particular photograph?
 00:22 6 MR. DELIA: Just a question. Did you
 00:22 7 use a zoom lens on that one?
 00:22 8 MS. BORRELLI: This one I did not use a
 00:22 9 zoom lens.
 00:22 10 MR. DELIA: So how close is that to the
 00:22 11 property?
 00:22 12 MS. BORRELLI: This was taken with the
 00:22 13 regular lens.
 00:22 14 MR. DELIA: How far away would you say
 00:22 15 you are --
 00:22 16 MS. BORRELLI: From the property?
 00:22 17 Whatever you have in your documentation
 00:22 18 as far as what the distance is.
 00:22 19 MR. DELIA: Let me say, where on this
 00:22 20 gentleman's property were you standing?
 00:22 21 MS. BORRELLI: I'm standing on this
 00:23 22 deck.
 00:23 23 MR. DELIA: Okay. I have no further
 00:23 24 questions.
 00:23 25 MR. PRINCOTTO: Okay. And no

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00:23 1 objection to O-3 and O-4, can you put those on the
 00:23 2 other photographs that we marked.
 00:23 3 MS. BORRELLI: Okay.
 00:23 4 MR. PRINCOTTO: Put them on top of the
 00:23 5 four green photographs.
 00:23 6 MS. BORRELLI: Okay. Do you want me to
 00:23 7 hand these out to anybody?
 00:23 8 MR. PRINCOTTO: Well, you gave two to
 00:23 9 Mr. Delia?
 00:23 10 MR. DELIA: Yes, I have them.
 00:23 11 MR. PRINCOTTO: If you want to leave
 00:23 12 some extra copies.
 00:23 13 MS. BORRELLI: Okay, I'll leave these
 00:23 14 here like that.
 00:23 15 I also have an article that was in the
 00:23 16 northjersey.com. It's an article about the owners of
 00:23 17 188, and it's just an article about the type of
 00:23 18 character that they have, and it's an article --
 00:23 19 MR. DELIA: Objection. That's a
 00:23 20 comment, not testimony.
 00:23 21 MR. HAYES: Ma'am, this is comment, not
 00:23 22 testimony.
 00:23 23 MS. BORRELLI: I just want to present
 00:23 24 this as well. It's an article about --
 00:23 25 MR. NEWMAN: You want to submit a

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00:23 1 periodical article that was written --
 00:23 2 MR. PRINCOTTO: By somebody else?
 00:24 3 MR. NEWMAN: -- by somebody else?
 00:24 4 MR. DELIA: About someone's character?
 00:24 5 MR. PRINCOTTO: Well, here's a problem
 00:24 6 with that, okay. Don't give it to me. We can mark
 00:24 7 it for identification, if you want only, but the
 00:24 8 problem with it is that somebody wrote something, and
 00:24 9 whoever wrote it is entitled to their opinion,
 00:24 10 however, Mr. Delia also has the right to
 00:24 11 cross-examine that person who wrote that and to check
 00:24 12 the veracity of it and ask him questions, but just
 00:24 13 having that piece of paper, he can't do it.
 00:24 14 MS. BORRELLI: Okay. I'll leave it
 00:24 15 here.
 00:24 16 MR. PRINCOTTO: Okay.
 00:24 17 MR. NEWMAN: So you're two out of three
 00:24 18 so far.
 00:24 19 MS. BORRELLI: But it's there, if
 00:24 20 anybody needs a little reading.
 00:24 21 MR. PRINCOTTO: All right.
 00:24 22 MS. BORRELLI: Thank you.
 00:24 23 MR. PRINCOTTO: Alex Couto.
 00:24 24 MR. DELIA: Wait, wait, wait. I have a
 00:24 25 question.

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00:24 1 MS. BORRELLI: To who? To me?

00:24 2 MR. DELIA: Yes, to you.

00:24 3 You took photographs, did you do any

00:25 4 line-of-sight studies?

00:25 5 MS. BORRELLI: Well, that's my view

00:25 6 when I look out my window, my line of sight is what I

00:25 7 see.

00:25 8 MR. DELIA: Did you do any

00:25 9 line-of-sight studies, yes or no?

00:25 10 MS. BORRELLI: (Shakes head.)

00:25 11 No.

00:25 12 MR. DELIA: I'll take that as a no.

00:25 13 MS. BORRELLI: Why would I do a line of

00:25 14 sight?

00:25 15 MR. NEWMAN: The witness is nodding her

00:25 16 head that you didn't do a line of sight.

00:25 17 MS. BORRELLI: No, I didn't do a line

00:25 18 of site, but that's my view. You can't disagree with

00:25 19 my view, right?

00:25 20 CHAIRWOMAN HEMBREE: Asked and

00:25 21 answered. Okay.

00:25 22 MS. BORRELLI: Thank you.

00:25 23 MR. PRINCIOTTO: All right.

00:25 24 Mr. Couto, do you have any evidence or

00:25 25 exhibits or did you want to testify?

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00:25 1 MR. COUTO: It's third-party exhibits,

00:25 2 I don't know if I hand it now or hand it under the

00:25 3 comments.

00:25 4 MR. NEWMAN: What do you mean by

00:25 5 "third-party exhibits"?

00:25 6 MR. COUTO: One is, I did some research

00:25 7 on the date the deed was recorded. I've done --

00:25 8 MR. NEWMAN: This is a copy of the

00:25 9 public document --

00:25 10 MR. COUTO: Yes.

00:25 11 MR. NEWMAN: -- from the recording of

00:26 12 the deed?

00:26 13 MR. COUTO: From what I assume is

00:26 14 correct, but counselor can say if it is correct or

00:26 15 not.

00:26 16 And the other that I have is a copy of

00:26 17 the notice of settlement from Woodcliff Lake, which

00:26 18 is affordable housing settlement, so I took it from

00:26 19 the Woodcliff Lake website.

00:26 20 MR. PRINCIOTTO: Okay. Why is this

00:26 21 relevant to this application?

00:26 22 MR. COUTO: I have some comments to

00:26 23 make related to that.

00:26 24 MR. PRINCIOTTO: I'm asking you now why

00:26 25 is it -- you have a copy of what, a deed when the

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00:26 1 property was purchased?

00:26 2 MR. COUTO: Not the deed, the date the

00:26 3 deed was recorded.

00:26 4 MR. PRINCIOTTO: Why is that important?

00:26 5 MR. COUTO: Because I'm going to make

00:26 6 some comments of the date of deed versus the date of

00:26 7 the application.

00:26 8 MR. PRINCIOTTO: I know you're going to

00:26 9 make a comment, but why is it relevant? They signed

00:26 10 the certification they don't own the property when

00:26 11 they filed the application.

00:26 12 Is that correct?

00:26 13 MR. DELIA: I haven't looked at that

00:26 14 application in some time. I know it was signed by

00:26 15 the owner. I have to look at it to see who exactly

00:26 16 signed it.

00:26 17 MR. PRINCIOTTO: Are you saying they

00:26 18 didn't own the property?

00:26 19 MR. COUTO: No, I'm not saying nothing

00:26 20 like that. It's related to the use that the comment

00:27 21 that was made by some experts that they couldn't make

00:27 22 a living as a rental office. So related to the time

00:27 23 they added as a rental office versus the time they

00:27 24 made an application.

00:27 25 MR. HAYES: I don't think that's in

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00:27 1 dispute.

00:27 2 MR. DELIA: I think timing of ownership

00:27 3 is absolutely irrelevant to this land use proceeding.

00:27 4 MR. NEWMAN: I would say that,

00:27 5 Mr. Couto, we haven't heard a lot of evidence about

00:27 6 them leasing it out as an office building and that

00:27 7 it's not possible. I don't recall much of that at

00:27 8 all.

00:27 9 MR. COUTO: Okay. I can leave it for

00:27 10 comment.

00:27 11 MR. NEWMAN: All right. Why don't we

00:27 12 leave that for comment?

00:27 13 MR. COUTO: I will leave it for

00:27 14 comments.

00:27 15 Thank you.

00:27 16 MR. NEWMAN: Moving right along.

00:27 17 MR. PRINCIOTTO: All right. So we're

00:27 18 done with everyone who wanted to testify. All right.

00:27 19 AUDIENCE MEMBERS: No. No.

00:27 20 MR. COUTO: Can we take this down

00:27 21 (indicating)?

00:27 22 MR. DELIA: Sure. Sorry about that.

00:27 23 MR. PRINCIOTTO: Except for

00:28 24 Mr. Marson.

00:28 25 MR. DELIA: These are comments now

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00:28 1 versus testimony?

00:28 2 MR. NEWMAN: Well, this is --

00:28 3 MR. PRINCIOTTO: No, I'm just reviewing

00:28 4 what he handed up to me and he handed to you.

00:28 5 MR. DELIA: Okay. I have not.

00:28 6 MR. PRINCIOTTO: Okay.

00:28 7 MR. MARSON: Do you need a copy? Does

00:28 8 anyone need a copy?

00:28 9 MR. PRINCIOTTO: We need to take a look

00:28 10 at it and I'll take a look at it.

00:28 11 MR. DELIA: I'll stipulate that this

00:30 12 document, at least in part, purports to be or alleges

00:31 13 a conflict of interest by our architect, who was a

00:31 14 planner board member, not a zoning board member. We

00:31 15 had testimony on this.

00:31 16 CHAIRWOMAN HEMBREE: Yes.

00:31 17 MR. DELIA: It's irrelevant and

00:31 18 unfounded, and that's No. 1.

00:31 19 And No. 2, as it relates to again some

00:31 20 purported impropriety on the part of the owner, one

00:31 21 of the managers, it's an allegation and I don't

00:31 22 really fully understand it.

00:31 23 I do know that the deed is attached,

00:31 24 and it was dated and recorded right around the time

00:31 25 we filed this application.

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00:31 1 So, yes, we did own the property. And

00:31 2 I don't know what more to get from that. If we're

00:31 3 going to sit here and have allegations on someone's

00:31 4 credibility, on their ethics, I think it's

00:31 5 inappropriate.

00:31 6 MR. NEWMAN: Do any of the allegations

00:31 7 refer to anybody who's on this board?

00:31 8 MR. DELIA: No.

00:32 9 There's no allegations whatsoever as it

00:32 10 pertains to the relationship or the dialogue with

00:32 11 this board or in any way impacts any member of this

00:32 12 board.

00:32 13 MR. NEWMAN: Mr. Marson?

00:32 14 MR. MARSON: Yes, sir.

00:32 15 MR. NEWMAN: Without telling us the

00:32 16 content --

00:32 17 MR. MARSON: Okay.

00:32 18 MR. NEWMAN: -- what is your proffer,

00:32 19 what is it that you want to show by these documents?

00:32 20 MR. MARSON: The failure to disclose

00:32 21 economic and work relationships have so sullied --

00:32 22 MR. NEWMAN: By whom?

00:32 23 MR. MARSON: By whom.

00:32 24 The general or managing partner of the

00:32 25 entity that purchased the building.

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00:32 1 MR. NEWMAN: Okay.

00:32 2 MR. MARSON: He failed to disclose to

00:32 3 the planning board attorney supposedly.

00:33 4 MR. NEWMAN: Okay, but this is before

00:33 5 the zoning board.

00:33 6 MR. MARSON: No, no, no, it is before

00:33 7 the zoning board, but the zoning board is now faced

00:33 8 with the result of a conflicted transaction.

00:33 9 And the problem is in this case the

00:33 10 fruits, so to speak, of this transaction is you are

00:33 11 being asked to make adjustments or approvals of (d)

00:33 12 variances to a property that was subject to a series

00:33 13 of conflicted transactions between law partners --

00:33 14 let me finish -- law partners and people that were

00:33 15 supposed to be directly supervised that had duty to

00:33 16 disclose not only to themselves but to Woodcliff

00:33 17 Lake, the planning board, and anybody else that may

00:33 18 have been affected.

00:33 19 MR. NEWMAN: Let me ask you a question.

00:33 20 The people that are sitting here on

00:33 21 this board --

00:33 22 MR. MARSON: Yes, sir.

00:33 23 MR. NEWMAN: -- are any of them

00:33 24 involved?

00:33 25 MR. MARSON: Absolutely not. No.

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00:33 1 MR. NEWMAN: So if nobody who is

00:33 2 sitting here is involved, we're the ones who are

00:34 3 ultimately making the decisions, and these are other

00:34 4 people who have perhaps bad interests, how does that

00:34 5 directly relate to the decision of this board?

00:34 6 MR. MARSON: As far as I'm concerned,

00:34 7 the facts that I am attempting to present show a

00:34 8 pattern of self dealing while serving in a fiduciary

00:34 9 capacity -- let me finish now. You're asking.

00:34 10 MR. NEWMAN: Okay.

00:34 11 MR. MARSON: And that the self dealing

00:34 12 so infected the transaction that whether it's between

00:34 13 law partners, planning board partners, or people who

00:34 14 were serving in a capacity has now tainted this

00:34 15 transaction so that the zoning application is

00:34 16 tainted.

00:34 17 MR. NEWMAN: Okay.

00:34 18 MR. HAYES: This sounds like possibly a

00:34 19 legal issue independent from us.

00:34 20 MR. NEWMAN: So let's just say for the

00:34 21 sake of this discussion that the mayor has a huge

00:34 22 financial interest in this transaction. Nobody on

00:35 23 this board is involved in that. And while that may

00:35 24 have a legal ramification, and when I say the

00:35 25 "mayor," I am just using that as an example.

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00:35 1 MR. MARSON: I understand. Believe me,
 00:35 2 we're not going to call Mr. Rendo. Sorry, Carlos,
 00:35 3 you're not getting the call, you're still standing.
 00:35 4 Thank you.
 00:35 5 MR. NEWMAN: It's a hypothetical.
 00:35 6 MR. MARSON: All right. Fair enough.
 00:35 7 I'm with you.
 00:35 8 MR. NEWMAN: So I don't see how it
 00:35 9 would be relevant to the decision of this board,
 00:35 10 unless there was an allegation that somebody who's
 00:35 11 sitting here who's ultimately going to make this
 00:35 12 decision is involved and has a financial interest,
 00:35 13 which is the same reason why, when we started this
 00:35 14 meeting, I disclosed that I may hire Mr. Dattoli for
 00:35 15 an unrelated project.
 00:36 16 MR. MARSON: Well, I appreciate that
 00:36 17 but --
 00:36 18 MR. NEWMAN: At this point I'm going to
 00:36 19 turn it over to our actual attorney, who gets paid to
 00:36 20 make these calls.
 00:36 21 CHAIRWOMAN HEMBREE: After you
 00:36 22 slandered the mayor, Gary.
 00:36 23 MR. NEWMAN: I did not slander the
 00:36 24 mayor. It's not the actual mayor.
 00:36 25 MR. PRINCIOTTO: I'm reading your
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00:36 1 summary and it says, after you give us all this
 00:36 2 information, that you're asking us to halt the
 00:36 3 administrative procedures and engage in full
 00:36 4 conflicts investigation where warranted.
 00:36 5 You know, this board is not charged
 00:36 6 with conducting these types of investigations. Their
 00:36 7 authority is pursuant to the Municipal Land Use Law.
 00:36 8 If you have any conflicts or issues, they're not
 00:36 9 before this board, this board doesn't have
 00:36 10 jurisdiction to hear those conflicts. Some of the
 00:36 11 people that you seem to be complaining about didn't
 00:36 12 even testify at this hearing, so that you can't even
 00:36 13 argue whatever you want to argue of their
 00:36 14 credibility, because they did not testify in this
 00:37 15 case. And it's very late in the day to say that we
 00:37 16 should halt this application on the day we're trying
 00:37 17 to conclude it, but it doesn't matter, because the
 00:37 18 board doesn't have the jurisdiction to conduct the
 00:37 19 type of investigations that you're talking about. It
 00:37 20 looks like you might have asked the mayor and council
 00:37 21 or other people to look at it.
 00:37 22 So you do have some comments in here,
 00:37 23 which you can make during the comments portion, but
 00:37 24 if you're asking this board to conduct an
 00:37 25 investigation with regard to certain actions taken by
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00:37 1 individuals before they filed the application, the
 00:37 2 board is not going to conduct an investigation.
 00:37 3 MR. NEWMAN: You may have a valid
 00:37 4 basis, again, I haven't read it --
 00:37 5 MR. MARSON: I understand.
 00:37 6 MR. NEWMAN: -- investigating somebody
 00:37 7 or something, but this is not the place.
 00:37 8 AUDIENCE MEMBER: Where is?
 00:37 9 MR. NEWMAN: Well --
 00:37 10 AUDIENCE MEMBER: Ethics board.
 00:38 11 MR. NEWMAN: You need to see one of the
 00:38 12 80,000 lawyers licensed to practice law within the
 00:38 13 State of New Jersey.
 00:38 14 MR. MARSON: Am I allowed to this
 00:38 15 during the comment section?
 00:38 16 CHAIRWOMAN HEMBREE: No.
 00:38 17 MR. DELIA: I will object.
 00:38 18 MR. PRINCIOTTO: I would say not about
 00:38 19 the individuals that didn't testify, but comments
 00:38 20 about the application, you may. You know, you can
 00:38 21 comment about anyone who testified before this board
 00:38 22 during this application.
 00:38 23 MR. MARSON: Some of the writing is,
 00:38 24 yes.
 00:38 25 MR. DELIA: He's speaking of
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00:38 1 Mr. Dattoli, and the cross examination or the
 00:38 2 questioning occurred in the transcript.
 00:38 3 CHAIRWOMAN HEMBREE: Yes, it did.
 00:38 4 MR. DELIA: And, once again,
 00:38 5 Mr. Dattoli was a planning board member. We're here
 00:38 6 for a use variance. So I don't know where the
 00:38 7 planning board comes into play at all. Whatever
 00:38 8 happened there, true or not, is irrelevant before
 00:38 9 this board.
 00:39 10 AUDIENCE VOICE: Is it relevant in
 00:39 11 terms of fair share housing and the Broadway corridor
 00:39 12 ordinance that were booth before the planning board?
 00:39 13 MR. DELIA: That never got adopted, no.
 00:39 14 AUDIENCE MEMBER: Well, affordable
 00:39 15 housing did, and it was a basis for a lot of their
 00:39 16 testimony. Unmet need was part of the positive
 00:39 17 criteria.
 00:39 18 MR. NEWMAN: I don't remember any of
 00:39 19 that.
 00:39 20 CHAIRWOMAN HEMBREE: But we weren't on
 00:39 21 the affordable housing board or part of those
 00:39 22 discussions.
 00:39 23 MR. PRINCIOTTO: I think we'll move on
 00:39 24 to the comments.
 00:39 25 CHAIRWOMAN HEMBREE: I hate to be the
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<p style="text-align: right;">181</p> <p>00:39 1 wicked witch, but we have 20 minutes that we've</p> <p>00:39 2 authorized, so let's move it.</p> <p>00:39 3 FEMALE AUDIENCE MEMBER: That's not</p> <p>00:39 4 fair. We sat here for the same six months.</p> <p>00:39 5 CHAIRWOMAN HEMBREE: What do you want</p> <p>00:39 6 us to do, ma'am?</p> <p>00:39 7 FEMALE AUDIENCE MEMBER: Keep going</p> <p>00:39 8 until we are heard.</p> <p>00:39 9 AUDIENCE MEMBERS: Then let's</p> <p>00:39 10 reschedule.</p> <p>00:39 11 MR. DELIA: Look, we're not getting</p> <p>00:39 12 done by 11:30. Go to 11:30 and take it from there.</p> <p>00:39 13 CHAIRWOMAN HEMBREE: Okay.</p> <p>00:40 14 MR. MARSON: May I ask one question?</p> <p>00:40 15 CHAIRWOMAN HEMBREE: Yes.</p> <p>00:40 16 MR. MARSON: So during comments, do I</p> <p>00:40 17 try to parse what I'm reading and limit it?</p> <p>00:40 18 MR. PRINCIOTTO: Yes, I don't want you</p> <p>00:40 19 to make any comments about any individuals who did</p> <p>00:40 20 not testify before this board.</p> <p>00:40 21 MR. MARSON: Okay.</p> <p>00:40 22 MR. PRINCIOTTO: And I don't want you</p> <p>00:40 23 to make any comments about investigations that you</p> <p>00:40 24 want this board to conduct.</p> <p>00:40 25 So, if those are comments, you can</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">183</p> <p>00:41 1 have strictly adhered to our longstanding zoning</p> <p>00:41 2 codes in this borough.</p> <p>00:41 3 In 2017, our mayor and council, and</p> <p>00:41 4 this is where I beg to differ with Richard, rejected</p> <p>00:41 5 an idea to rezone the Broadway corridor. It was</p> <p>00:41 6 rejected. It was presented before the mayor and</p> <p>00:41 7 council in 2016 at meetings in November and December,</p> <p>00:41 8 and it was pulled from the agenda.</p> <p>00:42 9 In 2017, there was a town hall meeting.</p> <p>00:42 10 Broadway corridor was discussed ad nauseam, and there</p> <p>00:42 11 was extraordinary public outcry, so much so that the</p> <p>00:42 12 mayor and council and this borough as a whole on a</p> <p>00:42 13 policy basis decided that apartment housing was not a</p> <p>00:42 14 suitable use along Broadway and that's not what was</p> <p>00:42 15 wanted here. So much so, that when I was appointed</p> <p>00:42 16 in the spring of 2017 to the fair share housing</p> <p>00:42 17 committee, as Richard testified today, as part of our</p> <p>00:42 18 settlement agreement, we decided not to present the</p> <p>00:42 19 Broadway corridor as part of our fair share housing</p> <p>00:42 20 settlement. And Fair Share Housing was okay with</p> <p>00:42 21 that, provided we presented other things as part of</p> <p>00:42 22 our settlement.</p> <p>00:42 23 This application is for a use variance,</p> <p>00:42 24 because the proposed use is not permitted in this</p> <p>00:42 25 zone.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">182</p> <p>00:40 1 leave them out.</p> <p>00:40 2 You can make comments about the</p> <p>00:40 3 application, you're in favor of it, you're against</p> <p>00:40 4 it, you don't like it for X, Y, and Z reasons, you</p> <p>00:40 5 think it has these positive aspects, you think it has</p> <p>00:40 6 these negative comments, you think the applicant has</p> <p>00:40 7 met the burden of proof or not met the burden of</p> <p>00:40 8 proof and the reasons why. So tell us.</p> <p>00:40 9 MR. MARSON: Okay.</p> <p>00:40 10 MR. PRINCIOTTO: I don't know if</p> <p>00:40 11 everyone is still here that wanted to make a comment.</p> <p>00:40 12 CHAIRWOMAN HEMBREE: Yes, they are.</p> <p>00:40 13 Cheryl Dispoto, you're next.</p> <p>00:40 14 MS. DISPOTO: Thank you.</p> <p>00:41 15 Cheryl Dispoto, Woodcliff Lake.</p> <p>00:41 16 I actually have several comments about</p> <p>00:41 17 this application.</p> <p>00:41 18 First, let me start by saying that</p> <p>00:41 19 Woodcliff Lake is not an apartment town. Our master</p> <p>00:41 20 plan does not talk about or contemplate mixed use or</p> <p>00:41 21 residential in this zone.</p> <p>00:41 22 I think that I've established, through</p> <p>00:41 23 Richard Preiss' testimony tonight, that we have no</p> <p>00:41 24 high-density development of this kind and certainly</p> <p>00:41 25 not 16 or 17 units per acre in our borough, and we</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">184</p> <p>00:43 1 I do think you should consider that it</p> <p>00:43 2 is very difficult to reconcile that the governing</p> <p>00:43 3 body did not change this zone, choose to change this</p> <p>00:43 4 zone, or approve any development like this in the</p> <p>00:43 5 past in this area.</p> <p>00:43 6 This applicant has cited numerous times</p> <p>00:43 7 throughout these hearings that it has met the</p> <p>00:43 8 positive criteria, and one of the things that their</p> <p>00:43 9 planner talked about was that this project will help</p> <p>00:43 10 the borough meet its affordable housing unmet need.</p> <p>00:43 11 That's where I strongly disagree. And</p> <p>00:43 12 I think that Richard testified to this, and I think</p> <p>00:43 13 that these affordable units are not required, as</p> <p>00:43 14 Woodcliff Lake has gone through all the necessary</p> <p>00:43 15 steps to fulfill our legal obligation to comply with</p> <p>00:43 16 Woodcliff Lake's legal requirements. We are already</p> <p>00:44 17 building what is legally required and satisfying our</p> <p>00:44 18 Fair Share Housing obligations.</p> <p>00:44 19 In fact, our planning board just passed</p> <p>00:44 20 an ordinance that revised our set aside to comply</p> <p>00:44 21 with our settlement agreement, which Richard</p> <p>00:44 22 testified to. And in that ordinance it states</p> <p>00:44 23 specifically, this set aside requirement does not</p> <p>00:44 24 give developers the right to any such rezoning,</p> <p>00:44 25 variances or other relief or establishes any</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">185</p> <p>00:44 1 obligation on the part of the Woodcliff Lake Zoning</p> <p>00:44 2 Board to grant such rezoning or variances or other</p> <p>00:44 3 relief.</p> <p>00:44 4 In other words, you have no obligation</p> <p>00:44 5 and no requirement to grant the applicant's variance</p> <p>00:44 6 based on our Fair Share Housing settlement.</p> <p>00:44 7 Throughout the Pascack Valley, we've</p> <p>00:44 8 seen predatory developers using affordable housing</p> <p>00:45 9 requirements to overdevelop every inch of this area.</p> <p>00:45 10 Woodcliff Lake, as a borough, has done an excellent</p> <p>00:45 11 job of preventing that from happening here. We</p> <p>00:45 12 solved our affordable housing problem in a concise</p> <p>00:45 13 and measured way, and we are not overdeveloping in</p> <p>00:45 14 this town.</p> <p>00:45 15 We do not need these additional units,</p> <p>00:45 16 and Fair Share Housing was satisfied with us not</p> <p>00:45 17 putting an overlay zone before the Broadway corridor.</p> <p>00:45 18 Residents are tired from developers in</p> <p>00:45 19 the state and now in this region in the Pascack</p> <p>00:45 20 Valley and now tonight before this board in our own</p> <p>00:45 21 town that using the affordable housing argument to</p> <p>00:45 22 overdevelop.</p> <p>00:45 23 This applicant is disingenuous with</p> <p>00:45 24 their affordable housing argument, because when they</p> <p>00:45 25 initially submitted their application, they weren't</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">187</p> <p>00:47 1 prides itself on open space and its sprawling</p> <p>00:47 2 single-family residential homes, and vote no to this</p> <p>00:47 3 apartment complex that we just don't need and we are</p> <p>00:47 4 not required to approve.</p> <p>00:47 5 I also want to say that I did agree</p> <p>00:47 6 with Mr. Preiss, and I'm just backtracking a little</p> <p>00:47 7 bit. I did agree that the applicant's real estate</p> <p>00:47 8 broker, I thought his opinion was absolutely -- he</p> <p>00:47 9 was very unqualified, it was a net opinion, and I</p> <p>00:47 10 also disagree, though, with Mr. Preiss that this will</p> <p>00:47 11 have no impact on our J rated school district. I</p> <p>00:47 12 think that the real estate brokers testimony</p> <p>00:47 13 demonstrated that he knows nothing about Woodcliff</p> <p>00:47 14 Lake and what makes Woodcliff Lake a great place to</p> <p>00:47 15 live in.</p> <p>00:47 16 Thank you.</p> <p>00:48 17 (Applause.)</p> <p>00:48 18 MR. NEWMAN: Mr. Delia, you closed,</p> <p>00:48 19 right? I know you have commentary at the end.</p> <p>00:48 20 MR. DELIA: Yes, but I have a closing</p> <p>00:48 21 argument.</p> <p>00:48 22 MR. NEWMAN: You have a closing</p> <p>00:48 23 argument?</p> <p>00:48 24 MR. DELIA: Uh-huh.</p> <p>00:48 25 MR. STAR: And Alvin Star, a resident</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">186</p> <p>00:45 1 even suggesting to add any affordable units until</p> <p>00:45 2 they were reminded of the set aside that was part of</p> <p>00:45 3 our settlement agreement. And they should have known</p> <p>00:46 4 full well the terms of our settlement agreement,</p> <p>00:46 5 because the applicant, one of the equity partners in</p> <p>00:46 6 this project, his law partner represented the Borough</p> <p>00:46 7 of Woodcliff Lake, which was established by</p> <p>00:46 8 Mr. Preiss on our Fair Share Housing Committee, and</p> <p>00:46 9 was also our planning board attorney and was involved</p> <p>00:46 10 with the Broadway corridor ordinance.</p> <p>00:46 11 I hope you will see that there is no</p> <p>00:46 12 need for these units, and the negative impacts</p> <p>00:46 13 significantly outweighs any benefit.</p> <p>00:46 14 This applicant is seeking to maximize,</p> <p>00:46 15 in my opinion, its profit at the expense of the</p> <p>00:46 16 residents by proposing two buildings and over</p> <p>00:46 17 building this lot with no green or open space, and it</p> <p>00:46 18 is not in keeping with who we are as a municipality,</p> <p>00:46 19 as we pride ourselves here in Woodcliff Lake on</p> <p>00:46 20 keeping out urban sprawl and maintaining our treeline</p> <p>00:46 21 character and green space.</p> <p>00:46 22 For all these reasons, I urge you to</p> <p>00:46 23 reject this application. I urge this board to think</p> <p>00:47 24 long and hard about everything that I've said and</p> <p>00:47 25 remember this is Woodcliff Lake, a community that</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">188</p> <p>00:48 1 of Woodcliff Lake.</p> <p>00:48 2 MR. NEWMAN: And these are all closing</p> <p>00:48 3 arguments now.</p> <p>00:48 4 MR. DELIA: Agreed.</p> <p>00:48 5 I haven't asked a single question of</p> <p>00:48 6 anyone on these closing arguments.</p> <p>00:48 7 MR. STAR: Hi. I'm Alvin Star. I'm a</p> <p>00:48 8 resident of Woodcliff Lake for approximately 35</p> <p>00:48 9 years.</p> <p>00:48 10 Thank you for the time. I'd rather</p> <p>00:48 11 read this, it will be quicker and make everybody</p> <p>00:48 12 happy.</p> <p>00:48 13 CHAIRWOMAN HEMBREE: She's been sitting</p> <p>00:48 14 here for three hours (indicating). So...</p> <p>00:48 15 MR. STAR: She's a marvel.</p> <p>00:48 16 Local roadways, including the Broadway</p> <p>00:48 17 corridor, are over 100-years-old, with little or no</p> <p>00:48 18 roadway structure improvements to allow for</p> <p>00:48 19 additional traffic flow.</p> <p>00:48 20 Broadway and Woodcliff Lake Avenue is</p> <p>00:48 21 arguably the worst intersection in town.</p> <p>00:49 22 Traffic is severely backed up at rush</p> <p>00:49 23 hours at Broadway/Woodcliff, Broadway/Prospect,</p> <p>00:49 24 Broadway/Highview and on the Causeway, the only</p> <p>00:49 25 east/west connector of Woodcliff Lake.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

<p style="text-align: right;">189</p> <p>00:49 1 New Jersey Transit trains at Woodcliff</p> <p>00:49 2 Lake station further and severely aggravate and</p> <p>00:49 3 otherwise backup traffic --</p> <p>00:49 4 CHAIRWOMAN HEMBREE: Slow down. She</p> <p>00:49 5 has to get it down.</p> <p>00:49 6 MR. STAR: Okay. You're right.</p> <p>00:49 7 All three parking lots with complex</p> <p>00:49 8 geometries are full with no expansion planned. There</p> <p>00:49 9 are blocked views with dangerous ingress/egress, all</p> <p>00:49 10 traffic is stopped when the train enters the station.</p> <p>00:49 11 A car had driven into the station a few years ago,</p> <p>00:49 12 due to the dangerous curve in the road.</p> <p>00:49 13 Okay. Now I'll talk about traffic,</p> <p>00:49 14 about this thing right now.</p> <p>00:49 15 It is pretty much universally</p> <p>00:49 16 recognized that the current traffic situation is bad</p> <p>00:49 17 at the location of the applicant's project. The</p> <p>00:49 18 applicant believes that too heavily --</p> <p>00:49 19 CHAIRWOMAN HEMBREE: Slowly.</p> <p>00:49 20 MR. STAR: The applicant believes that</p> <p>00:49 21 too heavily occupied apartment buildings will result</p> <p>00:50 22 in a decrease in vehicular ingress and egress during</p> <p>00:50 23 rush hours compared to the existing single commercial</p> <p>00:50 24 building with a recent history of no occupancy.</p> <p>00:50 25 Do not believe this! It's my view that</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">191</p> <p>00:51 1 of the site.</p> <p>00:51 2 And this was discussed by Mr. --</p> <p>00:51 3 CHAIRWOMAN HEMBREE: The traffic</p> <p>00:51 4 engineer.</p> <p>00:51 5 MR. STAR: The traffic engineer from</p> <p>00:51 6 Neglia.</p> <p>00:51 7 This is an impossible situation. Just</p> <p>00:51 8 imagine the traffic mess --</p> <p>00:51 9 MR. PRINCIOTTO: Sir, how many pages do</p> <p>00:51 10 you have?</p> <p>00:51 11 MR. STAR: It's three. It's fast.</p> <p>00:51 12 MR. PRINCIOTTO: But you're not even</p> <p>00:51 13 done with one page.</p> <p>00:51 14 MR. STAR: Well, I'm at the bottom of</p> <p>00:51 15 the page.</p> <p>00:51 16 MR. PRINCIOTTO: We're going to have to</p> <p>00:52 17 limit the time, and I don't like to do it, but we</p> <p>00:52 18 just don't have time to hear everybody.</p> <p>00:52 19 MR. STAR: Well, just bear with me. I</p> <p>00:52 20 want my five minutes, please.</p> <p>00:52 21 Other high-density developments in Park</p> <p>00:52 22 Ridge and Montvale will add to the traffic flows, and</p> <p>00:52 23 a great incidence of traffic accidents will result.</p> <p>00:52 24 New Jersey Transit may schedule more</p> <p>00:52 25 frequent trains and propose a train bypass in town to</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">190</p> <p>00:50 1 the applicant has manipulated the data through</p> <p>00:50 2 questionable modeling assumptions and used its</p> <p>00:50 3 modeling to provide a beneficial result, that is, he</p> <p>00:50 4 states and I repeat that the traffic situation will</p> <p>00:50 5 improve during rush hours or that the traffic flows</p> <p>00:50 6 of too heavily occupied apartment buildings are</p> <p>00:50 7 compared to past low occupancy of one commercial</p> <p>00:50 8 building. This is a false positive.</p> <p>00:50 9 Consider if the applicant had used</p> <p>00:50 10 actual historic occupancy data associated with the</p> <p>00:50 11 commercial building as a baseline. This data clearly</p> <p>00:50 12 exists. Such an analysis would very likely disprove</p> <p>00:50 13 the false positives.</p> <p>00:50 14 In reality, it is very likely that</p> <p>00:51 15 future traffic flows during rush hours and non-rush</p> <p>00:51 16 hours would be forecasted to be much worse compared</p> <p>00:51 17 to this baseline.</p> <p>00:51 18 Increased traffic flows into and out of</p> <p>00:51 19 this project site at this very dangerous intersection</p> <p>00:51 20 are unacceptable and present a huge risk to human</p> <p>00:51 21 life.</p> <p>00:51 22 There is one point of ingress and</p> <p>00:51 23 egress to serve the apartment dwellers. Cars will</p> <p>00:51 24 exist into an overcapacity queued Broadway during</p> <p>00:51 25 rush hours, with uncontrolled left turns into and out</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">192</p> <p>00:52 1 serve the ever increasing needs of computation into</p> <p>00:52 2 New York City. This will tie up traffic even more.</p> <p>00:52 3 The applicant has refused to assess</p> <p>00:52 4 cumulative growth as part of his study. Applicants</p> <p>00:52 5 in other towns are required to perform additional</p> <p>00:52 6 studies associated with cumulative growth and do so</p> <p>00:52 7 at their cost. This is a standard of the industry.</p> <p>00:52 8 Don't believe otherwise.</p> <p>00:52 9 The applicant has also refused to</p> <p>00:52 10 prepare a pedestrian safety plan of the crossing</p> <p>00:52 11 across Broadway to the New Jersey Transit station.</p> <p>00:52 12 People will be at risk. The applicant has not sent</p> <p>00:53 13 his traffic study, nor pedestrian study, which was</p> <p>00:53 14 never done, to the Bergen County engineer assigned to</p> <p>00:53 15 this case, nor to New Jersey Transit for review.</p> <p>00:53 16 Broadway is a county road, and New</p> <p>00:53 17 Jersey Transit is a party of interest in this</p> <p>00:53 18 application.</p> <p>00:53 19 The applicant has done very little in</p> <p>00:53 20 terms of the traffic analysis, and its findings have</p> <p>00:53 21 inspired very little confidence.</p> <p>00:53 22 In my opinion, it gives every</p> <p>00:53 23 appearance of trying to avoid further analysis,</p> <p>00:53 24 knowing the results may not be supportive to a</p> <p>00:53 25 positive outcome, to a positive vote on the</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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00:53 1 application by the zoning board.
 00:53 2 This is indeed very unfortunate, and,
 00:53 3 in my view, counter to good engineering practice.
 00:53 4 The zoning board recognizes the
 00:53 5 additional risk to public safety from additional
 00:53 6 traffic flows as a result of this application, and
 00:53 7 that town does not need to be sued for negligence in
 00:54 8 the event of traffic accidents or injuries or
 00:54 9 fatalities.
 00:54 10 Now circulation.
 00:54 11 The applicant, with the involvement of
 00:54 12 Woodcliff Lake Fire Department, has presented a
 00:54 13 rudimentary study illustrating how a large fire truck
 00:54 14 could enter and exit the site during a fire
 00:54 15 emergency.
 00:54 16 The most glaring and obvious omission
 00:54 17 is that the applicant assumes no cars in the parking
 00:54 18 lot, nor tenants, including children, scurrying in
 00:54 19 the night as the realistic worst case scenario trying
 00:54 20 to leave the site.
 00:54 21 Consider the imagery. One point of
 00:54 22 ingress/egress, and it will remain as such.
 00:54 23 How is the flow of emergency response
 00:54 24 vehicles and residents to be managed in a chaotic
 00:54 25 situation that is all too certain to occur?

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00:54 1 Answer: It won't be managed, because
 00:54 2 the configuration of the property doesn't allow for
 00:54 3 it.
 00:54 4 The applicant, with the involvement of
 00:54 5 the Woodcliff Lake Fire Department, has not prepared
 00:54 6 an emergency response plan. Most likely because
 00:55 7 there isn't one that can pass a true review.
 00:55 8 Woodcliff Lake fire personnel has said
 00:55 9 that they will judge how to handle a fire at this
 00:55 10 time when one would occur and that the preparation of
 00:55 11 an emergency response plan as part of this
 00:55 12 application is unnecessary.
 00:55 13 The Woodcliff Lake Fire Department
 00:55 14 indicates that its judgment and experience, though
 00:55 15 excellent that it is, should be trusted, as they have
 00:55 16 extensive experience in fighting fires in town.
 00:55 17 However, the applicant's project
 00:55 18 involves the first high-density apartment buildings
 00:55 19 in town in a very, very constrained site.
 00:55 20 The Woodcliff Lake Fire Department has
 00:55 21 no such firefighting experience or none truly worthy
 00:55 22 of this application.
 00:55 23 The Woodcliff Lake Fire Department also
 00:55 24 hasn't addressed how a fire on the steep slope
 00:55 25 immediately east of the new building leading to the

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00:56 1 nearby houses could be properly fought. Again, the
 00:56 2 basic phrase, "trust my judgment."
 00:56 3 The Woodcliff Lake Fire Department has
 00:56 4 indicated, following questioning, that a vegetation
 00:56 5 management plan for the steep slope prepared as a
 00:56 6 component of an emergency response plan is
 00:56 7 unnecessary.
 00:56 8 I find it hard to believe.
 00:56 9 MR. PRINCIOTTO: Thank you.
 00:56 10 MR. STAR: Okay. I have this much and
 00:56 11 I'm done.
 00:56 12 MR. PRINCIOTTO: All right. You're
 00:56 13 going to have to cut it short. Okay. Just sum up,
 00:56 14 please. You're well over five minutes. Okay. We're
 00:56 15 going to have to limit the time.
 00:56 16 MR. STAR: Okay.
 00:56 17 Plain and simple, this project will
 00:56 18 result in a fire trap, and that's my opinion. And
 00:56 19 the zoning board of Woodcliff Lake, knowing these
 00:56 20 conditions, leaves the town liable to litigation for
 00:56 21 negligence in the case of a fire.
 00:56 22 Now I'm going to address the sight line
 00:56 23 issues that was brought up by other people.
 00:56 24 The applicant has performed but one
 00:56 25 sight line analysis, resulting in his position that

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00:56 1 the back building will not obstruct views to the lake
 00:57 2 from the houses above.
 00:57 3 The applicant has indicated that this
 00:57 4 one analysis is the worst-case analysis. He did one
 00:57 5 analysis. This assumption is wrong headed, leading
 00:57 6 to an illogical and unsubstantiated conclusion.
 00:57 7 MR. PRINCIOTTO: Sir, I asked you to
 00:57 8 conclude.
 00:57 9 MR. STAR: It is nonsense.
 00:57 10 Ladies and gentlemen of the zoning
 00:57 11 board, this application has major faults that present
 00:57 12 unacceptable risk to life and limb, including those
 00:57 13 of children. There are associated quality-of-life
 00:57 14 issues as well; public safety; not making money for a
 00:57 15 few people must be paramount in our decision making.
 00:57 16 We need know protect people and the reputation of
 00:57 17 Woodcliff Lake.
 00:57 18 We enjoy a lifestyle here, and we don't
 00:57 19 need low home values resulting from unbridled owner
 00:57 20 development and higher property taxes when the town
 00:57 21 is sued for negligence. Please reject this
 00:57 22 application.
 00:57 23 Thank you, all.
 00:57 24 AUDIENCE MEMBERS: Well said.
 00:57 25 (Applause.)

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00:57 **1** MR. HAYES: It is 11:30.
 00:58 **2** CHAIRWOMAN HEMBREE: Wait a minute,
 00:58 **3** please.
 00:58 **4** MR. PRINCOTTO: How many more people
 00:58 **5** want to make comments from the public?
 00:58 **6** MR. DELIA: We have to come back.
 00:58 **7** MR. SPIRIG: Based on the number of
 00:58 **8** people that you mentioned, if everybody gets five
 00:58 **9** minutes, it will be an hour-and-a-half.
 00:58 **10** MR. DELIA: I want to thank you for
 00:58 **11** pushing as hard as you can, but we have to come back.
 00:58 **12** CHAIRWOMAN HEMBREE: You should have
 00:58 **13** listened to me.
 00:58 **14** Thank you.
 00:58 **15** MR. PRINCOTTO: That's appreciated.
 00:58 **16** All right. Our next meeting is July 23rd. We have
 00:59 **17** two other applications on.
 00:59 **18** MR. DELIA: Can't be older than this.
 00:59 **19** MR. PRINCOTTO: No, but
 00:59 **20** notwithstanding that you're coming back, I don't
 00:59 **21** think that we should extend it beyond what is
 00:59 **22** necessary, so people who already made comments, I
 00:59 **23** think we should have -- well, we probably have about
 00:59 **24** 15 people that still need to make comments, and,
 00:59 **25** Mr. Delia, you want to say something to the board.

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00:59 **1** MR. DELIA: Yes, and that's going to be
 00:59 **2** a while.
 00:59 **3** MR. PRINCOTTO: All right. I'm going
 00:59 **4** to ask our Chairwoman, Ms. Hembree, do you want to
 01:00 **5** hear this on the 23rd, and, Mr. Delia, does that work
 01:00 **6** for you?
 01:00 **7** MR. DELIA: It does.
 01:00 **8** CHAIRWOMAN HEMBREE: It's fine with me.
 01:00 **9** Can everybody be here?
 01:00 **10** MR. NEWMAN: Wouldn't miss it for the
 01:00 **11** world -- actually for the world, I would.
 01:00 **12** MR. PRINCOTTO: All right. So for the
 01:00 **13** record, you're going to extend the time, Mr. Delia --
 01:00 **14** MR. DELIA: Yes.
 01:00 **15** MR. PRINCOTTO: -- to the 23rd?
 01:00 **16** MR. DELIA: Yes.
 01:00 **17** Can we have quiet so we can finish
 01:00 **18** this, please.
 01:00 **19** July 23rd, 7:30, in this room. No
 01:00 **20** further notice is needed.
 01:00 **21** MR. PRINCOTTO: Actually we should
 01:00 **22** start earlier, if we could.
 01:00 **23** MR. DELIA: We'll be first on the
 01:00 **24** agenda.
 01:00 **25** MR. HAYES: I will not be able to start

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01:00 **1** earlier.
 01:00 **2** MR. PRINCOTTO: All right, 7:30, July
 01:00 **3** 23rd.
 01:00 **4** MR. DELIA: Thank you. Have a good
 01:00 **5** night.
6 (Time noted: 11:33 p.m.)
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1 C E R T I F I C A T I O N
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3
4 I, KIM O. FURBACHER, License No.
5 XIO1042, a Certified Court Reporter, Registered Merit
6 Reporter, Certified Realtime Court Reporter, and
7 Notary Public of the State of New Jersey, hereby
8 certify that the foregoing is a verbatim record of
9 the testimony provided under oath before any court,
10 referee, board, commission or other body created by
11 statute of the State of New Jersey.
12 I am not related to the parties
13 involved in this action; I have no financial
14 interest, nor am I related to an agent of or employed
15 by anyone with a financial interest in the outcome of
16 this action.
17 This transcript complies with
18 Regulation 13:43-5.9 of the New Jersey Administrative
19 Code.
20
21
22
23 KIM O. FURBACHER, CRCR, CCR, RMR
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201-641-1812

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