

PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS

140 First Avenue
Atlantic Highlands, New Jersey
Tuesday, November 27, 2018
7:30 P.M.

x ----- x

IN RE:

PB18-06, BLOCK 142, LOT 5,
17 AVENUE D (DENHOLTZ CUSTOM
HOMES) - APPLICATION FOR
PRELIMINARY & FINAL
SUBDIVISION WITH VARIANCES
AS MAY BE REQUIRED

TRANSCRIPT
OF
PROCEEDINGS

x ----- x

B E F O R E:

JAMES NEFF	-	CHAIRMAN
RICHARD COLANGELO	-	VICE CHAIRMAN
JOHN MCGOLDRICK	-	BOARD MEMBER
SANDRA HOFFMANN	-	BOARD MEMBER
MARTIN HAWLEY	-	BOARD MEMBER
DEBORAH MURRAY	-	BOARD MEMBER
LOUIS FLIGOR	-	COUNCILMAN
LOUIS ILLIANO	-	BOARD MEMBER
BRIAN DOUGHERTY	-	BOARD MEMBER
DOUGLAS PEPE	-	BOARD MEMBER
DR. EDWARD CETRON	-	BOARD MEMBER
JOSEPH CACCAMO	-	BOARD MEMBER
KEVIN LLARRAZA	-	BOARD MEMBER

ALSO PRESENT:

MICHAEL B. STEIB, ESQ.		BOARD ATTORNEY
DOUGLAS ROHMEYER	-	BOARD ENGINEER
ERIN URIARTE	-	BOARD SECRETARY

DEBRA-ANN BALSAMO
CERTIFIED COURT REPORTER

APPEARANCES

GIORDANO, HALLERAN & CIESLA, ESQUIRES
BY: JOHN A. GIUNCO, JR., ESQ.,
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Suite 300
Red Bank, New Jersey 07701
Attorneys for the Applicant

ZAGER & FUCHS, P.C.
BY: KEVIN I. ASADI, ESQ.,
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Red Bank, New Jersey 07701
Attorneys for Neighbors for Waterfront
Preservation

CHAIRMAN NEFF: Pursuant to
Section 5 of the Open Public Meetings Act, this
meeting has been duly advertised in accordance with
law by publication in the official newspapers of the
Borough and by posting in Borough Hall by the Borough
Clerk as part of the annual notice. This meeting is a
quasi-judicial proceeding. Any comments or questions
must be limited to issues that are relevant to what
the Board may legally consider in reaching a decision.
Decorum appropriate to a judicial hearing must be
maintained at all times.

The matter on the agenda for this
evening is PB18-06, Block 142, Lot 5, 17 Avenue D,
Denholtz Custom Homes. Application for preliminary
and final subdivision with variances as may be
required.

MR. GIUNCO: Mr. Chairman, John
Giunco of Giordano, Halleran and Ciesla appearing on
behalf of the Applicant. And if I may address the
Board for a moment.

VOICE FROM AUDIENCE: Please
speak into the microphone.

MR. GIUNCO: Thank you. Since
our last meeting, the Applicant took the opportunity
to revise the plans and, in fact, has reduced the

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Table with 3 columns: WITNESS, VOIR DIRE, DIRECT. Includes entries for JAMES KENNEDY, P.E., JOHN REA, P.E., SUSAN BRACEFIELD, P.E., and ANDREW JANIW, P.P.

EXHIBITS MARKED IN EVIDENCE

Table with 3 columns: EXHIBIT, DESCRIPTION, PAGE. Lists exhibits A-27 through A-33 with their descriptions and page numbers.

scope of the project to 16 lots, eliminated all of the
variances, all of the design waivers and the RSIS
exception for the offset streets. And as a result of
that, the plan that's now being provided is without
waiver, variance or exception. And it's substantially
the same plan in terms of utility, delivery of
utilities and design and I would like to present to
the Board testimony of the revisions to the plans that
have been submitted and have been reviewed by your
board consulting engineer and bring everybody up to
speed on that. And then I don't think we'll be real
long in that presentation, but when you're ready for
me to start, I'm ready.

Mr. STEIB: Mr. Chairman, before
we do that, I would just like to note that the Board
has received several additional exhibits since the
last meeting. We were up to exhibit A-26. A-27 are
preliminary and final major subdivision plans prepared
by Kennedy Consulting Engineers dated March 26, 2018
revised through November 8, 2018.

In addition to that, exhibit A-28
is a technical review from your engineers, CME
Associates that's dated October 25, 2018.

Exhibit A-29 is a further
technical review, number four, from your engineers,

1 CME Associates. That's dated November 21, 2018.
2 And exhibit A-30 is a sewer pump
3 station plan prepared by Mazur Consulting, P.A. and
4 that has a date of November 16, 2018. Those are the
5 additional exhibits that I'm aware of thus far in
6 connection with the application.

7 **MR. GIUNCO:** Mr. Steib, I also
8 submitted a re-notice for this application.

9 **MR. STEIB:** That's true. There
10 was a new service packet. We'll make that exhibit
11 A-31. I believe that the service is in order and the
12 Board can continue without jurisdiction with respect
13 to the application.

14 **MR. GIUNCO:** Thank you.
15 (Preliminary and final
16 subdivision plans prepared by Kennedy Consulting
17 Engineers dated March 26, 2018 is received and marked
18 A-27 in evidence.)

19 (Technical review from CME
20 Associates dated October 25, 2018 is received and
21 marked A-28 in evidence.)

22 (Technical review from CME
23 Associates dated November 21, 2018 is received and
24 marked A-29 in evidence.)

25 (Sewer pump station plan prepared

1 (There is a brief recess taken.)

2 **MR. GIUNCO:** Mr. Chairman, I'll
3 call Jim Kennedy. He was sworn at the last meeting.
4 Do you wish to re-swear him or does he remain under
5 oath?

6 **MR. STEIB:** We're going to
7 re-swear him.

8
9 J A M E S K E N N E D Y, PE, with offices at 211
10 Maple Avenue, Red Bank, New Jersey, being first duly
11 sworn, testified as follows:

12 **MR. STEIB:** Please state your
13 name and address.

14 **MR. KENNEDY:** James Kennedy,
15 K-e-n-n-e-d-y, 211 Maple Avenue, Red Bank, New Jersey.

16 **MR. STEIB:** The Board has
17 previously accepted your credentials as a professional
18 engineer in the State of New Jersey?

19 **MR. KENNEDY:** That's correct.

20 **MR. STEIB:** That continues.

21 **MR. KENNEDY:** Thank you.

22 **MR. GIUNCO:** That you for
23 accepting him as an expert.

24 **DIRECT EXAMINATION BY MR. GIUNCO:**

25 **Q. Mr. Kennedy, since the last meeting did**

1 by Mazur Consulting, P.A. dated November 16, 2018 is
2 received and marked A-30 in evidence.)

3 (Re-notice for Application is
4 received and marked A-31 in evidence.)

5 **MR. GIUNCO:** With your
6 permission, Mr. Chairman, I'll recall Jim Kennedy to
7 the stand, please.

8 **MR. ASADI:** Mr. Neff, may I be
9 heard on this one matter. This is concerning exhibit
10 A-30 that was just read into the record, the sewer
11 pump design plan. I have not seen that, I don't know
12 when it was submitted, but when we did an OPRA request
13 for any submissions, I just want it noted that we got
14 the new plans, but we did not get any material about
15 the sewer pump station and I'm a bit concerned that I
16 haven't had an opportunity to review that.

17 **THE COURT REPORTER:** May I have
18 your name, please.

19 **MR. ASADI:** Kevin Asadi,
20 A-s-a-d-i, appearing on behalf of Neighbors for
21 Waterfront Preservation.

22 **CHAIRMAN NEFF:** We are just going
23 to take a couple minute recess, I guess, here for a
24 minute. We're having a recording problem here;
25 technical issues.

1 **you revise the plans for this development?**

2 A. Yes. We revised the plans to reduce the
3 number of building lots from 21 to 16. In addition,
4 we proposed an enhanced open space lot consisting of
5 1.85 acres or about 30 percent of our lot area as an
6 open space lot. We've also relocated the pump station
7 to an area further away from the flood zone, further
8 away from the water, to be located on that open space
9 lot. And as you can see, we substantially reduced the
10 length of the road by creating a 650 foot-long
11 cul-de-sac. The cul-de-sac is designed entirely in
12 accordance with the Residential Site Improvement
13 Standards, that's the administrative code provisions
14 that guide engineers and planners in the design of
15 single-family homes and subdivisions such as this.

16 So all lots now conform to the lot shape
17 circle. You remember that we are here requesting
18 variances, albeit in my opinion negligible, but albeit
19 they were variance. We now comply with all of the
20 ordinance requirements for the R-1 Zone. We have an
21 average lot area of 11,942 square feet where 7,500 is
22 required in the zone. The lot shape circles on that.
23 There was much testimony with regard to the offset of
24 our roadways from the two intersections; Harbor View
25 and Bay on Avenue D. That's now eliminated. The

1 cul-de-sac stem is aligned perpendicularly with Harbor
 2 View. In so doing, we're requesting no exceptions
 3 from the RSIS. One comment that was made in the CME
 4 review letter was with regard to the shade tree
 5 spacing and it suggested if we want to stick with the
 6 shade trees as shown, that a design waiver would be
 7 necessary. We've agreed to increase the number of
 8 shade trees and completely eliminate that design
 9 waiver.

10 So where before you with an engineering
 11 plan for a subdivision for 16 building lots that's in
 12 full compliance with your R-1 Zone and with the
 13 Residential Site Improvement Standards and it meets
 14 standards and accepted engineering principles with
 15 regard to the layout and design of a single-family
 16 subdivision.

17 Each of these lots, if approved, would
 18 be subject to a plot plan. That is a plot plan or a
 19 grading plan on a lot-by-lot basis. Once the
 20 footprints are actually designed, that's a second
 21 layer of review that your Building Department and
 22 engineer would review the actual footprint on the
 23 actual lot with grading and other improvements. What
 24 we show is building footprints just as we had before,
 25 now all uniformly in scale. If you recall, some of

1 we are eliminating with this layout. It shows the
 2 relocated pump station. The pump station is a
 3 conforming location on the open space lot delineated
 4 as Lot 5.17. Lot 5.17 is outlined in red and is a
 5 C-shaped lot that goes along the perimeter of the
 6 site. It also shows to the north or to the bayside, a
 7 stone revetment. Previously we had proposed a
 8 bulkhead along the waterfront. There was a concern
 9 with regards to maintenance and design and ownership.
 10 So we looked at what other people have done to the
 11 east of here and we saw stone revetments throughout
 12 much of the waterfront properties. So we are
 13 proposing a stone revetment that would be on each of
 14 the lots, therefore, it would be maintained by the lot
 15 owners.

16 **CHAIRMAN NEFF:** Excuse me, can
 17 you just explain exactly what a stone revetment is?

18 **MR. GIUNCO:** Mr. Chairman, if I
 19 may.

20 **Q. Mr. Kennedy, did you prepare an exhibit
 21 to demonstrate a revetment?**

22 A. Yes, I did.

23 **Q. And it was prepared by you and others
 24 under your direction for presentation to the Board?**

25 A. That's correct. This is a conceptual

1 our lots were tight last time and we've reduced the
 2 size of the footprints. Now each footprint shown, the
 3 rectangles are all uniformly sized. The force main,
 4 the pump station, I'm just going to stand and
 5 address -- I guess we should mark this.

6 **Q. Well, I was going to ask you that. Did
 7 you or others under your direction prepare the
 8 rendering that's on the easel before the Board?**

9 A. Yes, I did.

10 **MR. GIUNCO:** Can I ask that that
 11 be marked as A-31, please -- oh, A-32, excuse me.

12 (16 Residential Lot Subdivision
 13 Rendering dated November 27, 2018 is received and
 14 marked A-32 in evidence.)

15 A. It bears the title of 16 Residential Lot
 16 Subdivision Rendering with the date of November 27,
 17 2018. I also have reduced copies of this plan.
 18 Hopefully, there's a lot of you, but, hopefully,
 19 there's enough. You'll have to share them.

20 So this 11 by 17 plan that I'm handing
 21 out is exactly what's mounted on the board, just
 22 smaller.

23 The exhibit shows the road A proposed
 24 cul-de-sac that I described. It shows sidewalk on
 25 both sides of the street, that's another waiver that

1 cross-section of what a stone revetment looks like.

2 **MR. STEIB:** We can mark it later,
 3 if you want.

4 **MR. GIUNCO:** We'll do it right
 5 now.

6 A. Again, this is 11 by 17.

7 **Q. Do you have a larger version?**

8 A. No.

9 **MR. GIUNCO:** So I would ask the
 10 Board to consider marking one of these and ask it be
 11 marked as A-33.

12 **MR. STEIB:** A-33.
 13 (Schematic of a stone revetment
 14 is received and marked A-33 for identification.)

15 A. A-33 that is being passed out now, that's a
 16 schematic cross-section of this slope protection.
 17 Because we have a slope, a coastal bluff that goes
 18 down into the wave action, the wave action of the bay,
 19 we have to protect or armor the lower portion of that
 20 slope by providing slope stabilization in the form of
 21 a stone revetment. Now a revetment is a stone slope.
 22 It's basically a graded, engineered stone slope
 23 protection. There's other instances of this along the
 24 bay just to the east, in fact, four or five properties
 25 have this same shore protection.

1 Generally, we would rather see something
2 like this which is a stone protection, it provides for
3 some certain environmental benefits instead of
4 providing a hard structure. So it's consistent with
5 the Coastal Zone Management Rules. We know that we
6 have to get certain permitting for it and we will
7 achieve that with the DEP.

8 **Q. This revetment is designed in accordance
9 with other plans and designs that the DEP permits and
10 approves for revetments provided in the design?**

11 A. Well, sure. This is an Army Corp, the Army
12 Corp provides certain ways of modifying or
13 structurally armoring slopes, this is certainly one of
14 the ways and it's something that is done throughout
15 the United States, but right here in Atlantic
16 Highlands as well. So we expect that DEP after the
17 structural design and analysis is complete, that the
18 DEP would approve the stone revetment. It solves the
19 issue of the Board's question about who would maintain
20 it, it would solve the question of ownership because,
21 again, the stone revetment is on the private
22 properties. So each property owner would be
23 responsible for its portion of the stone revetment.

24 Now this is not, this is nothing
25 technical, there is nothing -- it's a stone revetment.

1 the southerly portion of the site where there's an
2 existed wooded line. We are not proposing landscaping
3 in that area because it's wooded. But you can see,
4 and I'll just point out on the exhibit, along the
5 westerly portion of the site and then across the
6 southerly portion of the site and then we go into a
7 wooded area and we continue the buffer landscaping,
8 again, along the entire southerly line. Shade trees
9 are proposed along Avenue D as well as our proposed
10 road A.

11 Also, just no change from last time, but
12 we are proposing re-vegetation of the coastal bluff
13 using native plantings that also have a vegetative
14 stability action on the coastal bluffs. The root
15 systems just simply like a dune planting that provides
16 a root system that controls long-term erosion.

17 So that's the landscape that's proposed
18 currently. We have 102 trees that will be adjusted
19 upward to meet the requirements or suggestions of CME.
20 We have 256 shrubs and then we have perennial grasses,
21 native grasses that will stabilize the slope of the
22 bluff.

23 **VICE CHAIRMAN COLANGELO:** Do any
24 of the bay front homes have any direct access to get
25 down to the ocean, do they have a path or anything?

1 And we also see that other private property owners
2 maintain stone revetments, again, through the Bayshore
3 area, but, also, right here in Atlantic Highlands.

4 **BOARD MEMBER PEPE:** What's on the
5 bayside, the material in the 20-foot wide open space?
6 In the 20-foot wide open space on the bayside of the
7 stone revetment, what is --

8 **MR. KENNEDY:** I'll repeat the
9 question. In the 20-foot open space area on the
10 bayside of the stone revetment that's the sand that
11 exists today.

12 **BOARD MEMBER PEPE:** Pre-existing
13 sand.

14 **MR. KENNEDY:** Correct, that's the
15 pre-existing. The mean high water is shown there.
16 There's an area between the mean high water and the
17 toe of the slope that can be used for public access
18 and we are armoring the slope and not impacting the
19 area between that toe of the slope or the bottom side
20 of the slope and the mean high waterline.

21 **Q. With regard to the landscaping, could
22 you just briefly describe the proposed landscaping?**

23 A. Sure. So landscaping we're providing a
24 perimeter buffer of red cedar American holly and
25 Leyland Cypress. You can see the landscaping along

1 A. So the question was do any of the bay front
2 homes have an access to get down to the oceanfront,
3 I'm sorry, bay front portion of the open space. And,
4 currently, as designed, they do not. However, in the
5 future, there could be. Each of the property owners,
6 again, will own down to the water's edge, down to the
7 open space lot, and there's nothing to my knowledge,
8 other than a DEP permit, that precludes the
9 construction of such access.

10 **Q. But, Jim, that jurisdiction is not with
11 the municipality, it's with the NJ DEP?**

12 A. Correct. With regard to lighting, we had
13 proposed previously eight light poles. Because of the
14 shortening of the roadway, we have six decorative
15 JCP&L fixtures, 16-foot mount height to provide for
16 lighting.

17 Now in accordance with the BPU tower for
18 JCP&L, JCP&L has to design the lighting, it's going to
19 be their light fixtures, and they provide direct
20 fiberglass poles with a decorative pole top. That's
21 what's proposed. And they will actually, ultimately,
22 provide the final design of that pole.

23 **BOARD MEMBER PEPE:** What goes in
24 the 1.885 acres of open space, what's going to go
25 there, any landscaping, nothing?

1 **MR. KENNEDY:** Yes. There is
 2 landscaping proposed along the perimeter. The
 3 question was what goes in the 1.885 acres of open
 4 space. So along the westerly portion that is used for
 5 the Catamaran Club, we don't propose to do anything in
 6 that area at this time. Along the southerly portion
 7 where it's kind of a darker green on the exhibit,
 8 those would be the open space area most approximate to
 9 the residential homes that are along the south of the
 10 cul-de-sac. And then the northerly portion really is
 11 that line between the mean high waterline and the toe
 12 of the revetment.

13 **BOARD MEMBER HAWLEY:** Who is
 14 going to retain ownership of that open space?

15 **MR. KENNEDY:** The question was
 16 who will retain ownership of the that open space lot
 17 and the Homeowners Association that will be formed for
 18 this community will retain ownership.

19 **MR. GIUNCO:** The Ordinance
 20 specifies that open space should either be in public
 21 or common ownership. We elected to put it in common
 22 ownership because of the Board's expression and the
 23 public's expression about shifting the maintenance
 24 cost would be too burdensome for the Borough.

25 **CHAIRMAN NEFF:** So this will be

1 **BOARD MEMBER PEPE:** Sand. Okay.
 2 **MR. GIUNCO:** The concept was to
 3 provide the open space. The Ordinance doesn't get as
 4 specific to say if it's sand, keep it sand, grass and
 5 so forth. So what we tried to do is design the most
 6 sensible for everyone involved. Keep the beach
 7 looking like the beach, put the southerly side and
 8 have grassy areas behind those houses in the open
 9 space.

10 **BOARD MEMBER PEPE:** Even though
 11 the map currently shows --

12 **MR. GIUNCO:** Well, that's an
 13 aerial photo and that's what's there now.

14 **BOARD MEMBER PEPE:** But this, in
 15 actuality, when you actually get the subdivision, will
 16 all be cleared sand?

17 **MR. GIUNCO:** Correct.

18 **BOARD MEMBER PEPE:** Are there
 19 maintenance obligations in the Homeowners Association
 20 documents that require that area to be maintained?

21 **MR. GIUNCO:** Well, they're in the
 22 Ordinance and the obligation would be assumed by the
 23 Homeowners Association. And then within the
 24 organization and the operation of that Association,
 25 they will determine -- well, the developer will

1 an HOA, Homeowner's Association concern?

2 **MR. GIUNCO:** Yes.

3 **VICE CHAIRMAN COLANGELO:** Being
 4 that it is an open space is it going to be continued
 5 as a parking lot and storage? If you're not planning
 6 to put anything there is it going to continue --

7 **MR. GIUNCO:** No, no, no, you
 8 can't park in open space.

9 **VICE CHAIRMAN COLANGELO:** That's
 10 why I'm asking.

11 **VOICE FROM AUDIENCE:** Can you
 12 please speak up. We can't hear you.

13 **VICE CHAIRMAN COLANGELO:** Not a
 14 problem. Is the open space proposed that's currently
 15 used as parking and storage going to be continued to
 16 be used as parking and storage for whatever use that
 17 it is right now? And their answer was it's not
 18 permitted to be used that way.

19 **MR. GIUNCO:** It's open space
 20 under the Ordinance. Common ownership.

21 **BOARD MEMBER PEPE:** I'm not clear
 22 on what's going there. I see a picture, I see a
 23 Catamaran Club, I see sand. What's going there when
 24 the Catamaran Club is gone?

25 **MR. GIUNCO:** Sand.

1 provide a methodology that the homeowners can accept.
 2 However, when they become in control of the
 3 Association, which there's a statutory period after a
 4 number of units are sold, then the homeowners could
 5 elect to modify their system, but they can't elect to
 6 forgo that obligation because it's imposed, one, by
 7 Ordinance which we are complying with. And, second,
 8 in the event the Board chooses to approve this
 9 application, it would be memorialized in that
 10 resolution of approval. And I'm sure they'll be a
 11 deed recorded for the open space in the Monmouth
 12 County Clerk's office after your Board attorney and
 13 engineers are satisfied that it meets the proper
 14 requirements for the Ordinance and for definition by
 15 the survey.

16 **BOARD MEMBER PEPE:** Can I ask you
 17 just because I'm not fully versed in the open space
 18 provision as it relates to this question so maybe you
 19 can educate me on this. Open space means leave it
 20 open. Who maintains the space to keep junk out of it
 21 and keep people from throwing garbage on it?

22 **MR. GIUNCO:** The owners.

23 **BOARD MEMBER PEPE:** And that's
 24 written in the Ordinance or is that --

25 **VOICE FROM AUDIENCE:** Can you

1 please speak up.

2 **MR. GIUNCO:** Well, it would be in
3 both. The question was who would maintain the open
4 space and the answer was the Homeowners Association
5 will assume that obligation as an Association and then
6 their own rules and regulations will determine each
7 parties contribution either economically or physically
8 as the case may be.

9 **BOARD MEMBER PEPE:** Thank you.

10
11 **BY MR. GIUNCO:**

12 **Q. Any other features of the plan that you**
13 **would like to either modify or that you would like to**
14 **present?**

15 A. The storm water system is a still a
16 conventional gravity storm water system. There's far
17 less impervious surface with this plan so, therefore,
18 the peak flows through our system is lower. There's a
19 water treatment device that we proposed as part of our
20 storm water system to clean the water before it goes
21 out into the bay. There is a gravity sanitary sewer
22 that flows to a low point, a manhole, and then that
23 manhole conveys the sanitary sewer flow to a pump
24 station. The pump station has been relocated based
25 upon the feedback that we received from the public and

1 of services, snow removal, street maintenance, et
2 cetera, would be much less than the individual
3 homeowners of these 16 lots because they're relatively
4 a small buyer of that service. So it would be, I
5 can't say what it would be, I would suggest that
6 that's something that the municipality may want to
7 look at more carefully because the reimbursement could
8 be more than the cost if it was assumed by the
9 municipality directly.

10 But, again, we understand as Planning
11 Board members you didn't want to have any obligations
12 to pass through to the municipal agency, but there is
13 only so many things that are really under your
14 jurisdiction, that particular issue is statutorily
15 determined by the state. You know, fairness in
16 taxation and so forth.

17 **BOARD MEMBER PEPE:** I have a
18 septic field, can I call the town and tell them to
19 pump it out and put it into the town's sewer?

20 **MR. GIUNCO:** If other citizens in
21 the town have that same situation, the answer is you
22 can make that application. But you generally find the
23 septic systems, however, is that they are not
24 typically managed by a central agency.

25 **BOARD MEMBER MURRAY:** Is there a

1 from the Board. The pump station then lifts, in
2 essence, lifts that sanitary sewer flow with a
3 two-inch force main that connects to the public system
4 at Harbor View Drive, similar to the last time, just a
5 relocation of the pump station.

6 **CHAIRMAN NEFF:** Who is
7 responsible for the pump station maintenance and
8 upkeep, is that the HOA?

9 **MR. GIUNCO:** It could be. The
10 question was the maintenance of the sewer pump
11 station. The fact of the matter is we can say it's
12 assumed by the Homeowners Association, but the law in
13 New Jersey is pretty clear that if you're a taxpayer
14 in a community or municipality then you, each of the
15 taxpayers, are entitled to the same benefits. So if
16 you want to have the maintenance and operation of the
17 sewer plant operate as a pump station by the
18 Homeowners Association we can do that, but then they
19 are entitled under statute and the municipality is
20 obligated to reimburse them for their expenses under
21 the Municipal Services Act because no one else in the
22 community is paying for their own maintenance. And
23 you may want to consider that, we will do whatever you
24 like, but you may want to consider it because it's
25 likely that the municipality costs for all those kinds

1 warranty on the pump station where there's bonding so
2 that if anything goes wrong with the --

3 **MR. GIUNCO:** No, we'll just
4 follow the statutory and municipal standards. At the
5 time of construction if it's owned by the Homeowners
6 Association, it's my understanding of the bonding laws
7 which were just changed a couple of years ago, it
8 would not be bondable because it would be an onsite
9 project by the Homeowners Association. If it was a
10 municipal -- if it was for the municipal benefit, then
11 it would be bonded. But we will follow every statute
12 that's applicable.

13 **BOARD MEMBER DOUGHERTY:** Back to
14 the open space. If you establish the ownership is
15 owned by the Homeowners Association, would the public
16 have access?

17 **MR. GIUNCO:** No. The Ordinance
18 is specific, there's public open space which we had
19 originally offered, but that was, of course, not
20 something that the Board found very acceptable based
21 on a lot of the comments and possible cost of
22 maintenance. So under this system we tried to address
23 that issue directly and deal with it by removing that
24 obligation from the municipality and putting it under
25 the other provisions in this Ordinance which are

1 common open space. So it would be in the Homeowners
2 Association and, as I mentioned, the Homeowners
3 Association would then determine how they allocate
4 their expenses to the various property owners.

5 **BOARD MEMBER PEPE:** They'll have
6 access to the beach.

7 **MR. GIUNCO:** Well, the way we
8 planned to set it up, each homeowner will have their
9 own open space and that section to the west would be
10 generally common open space within the common open
11 space area. But the idea of the Ordinance was to keep
12 it from being developed and to keep from construction
13 being on it.

14 **BOARD MEMBER PEPE:** Thank you.

15 **MR. GIUNCO:** You're welcome.

16
17 **BY MR. GIUNCO:**

18 **Q. Jim, are there any other aspects of the**
19 **revised plans that you want to bring to the Board's**
20 **attention?**

21 A. No.

22 **MR. GIUNCO:** You know what, can I
23 add one question.

24
25 **BY MR. GIUNCO:**

1 **MR. GIUNCO:** Correct.

2 **CHAIRMAN NEFF:** Well, there's a
3 fence there now blocking it off.

4 **VICE CHAIRMAN COLANGELO:** Can we
5 also discuss things like E that Mr. Rohmeyer in
6 reference to the effects on the surrounding noise
7 impact and things like that?

8 **MR. GIUNCO:** Well, first of all,
9 with regard to the noise impact, I think that comment
10 was directed towards the sewer pump station. And in
11 that regard I have Miss Susan Bracefield, the engineer
12 that designed that, to testify about its operation.

13 Additionally, we have Andrew
14 Janiw, our professional planner, who will address
15 those issues. So what we're talking about here is the
16 engineering aspects and even though this was an
17 engineering review letter, there were some comments
18 that slid over into planning and we'll address those.

19 **MR. ROHMEYER:** I just have a
20 couple of more questions I want to ask you. With
21 regard to the street trees, I believe they're depicted
22 close to the right-of-way line. Is it possible to
23 actually install them on the private property so it
24 would not be the Borough's responsibility for
25 maintenance in the future?

1 **Q. Mr. Kennedy, you've had a chance to**
2 **review Mr. Rohmeyer's letter in detail?**

3 A. Yes, I have.

4 **Q. Are we able to meet the conditions that**
5 **remain in that letter in terms of revision to the**
6 **plan?**

7 A. Yes, we are.

8 **Q. Are there any issues that you would like**
9 **to discuss?**

10 A. Well, there's just really a question of
11 access off of Avenue D. Mr. Rohmeyer has indicated
12 that some access off of Avenue D should be proposed,
13 but we had received public comment that perhaps that
14 wasn't desirable because it would increase parking at
15 the end of Avenue D. So it's within a public
16 right-of-way. The ability for the Borough to
17 construct a stairway is there if they wish to do so.
18 We are not proposing a public access at the terminus
19 of Avenue D.

20 **Q. So other than that, you can comply with**
21 **each of the conditions in the letter?**

22 A. Yes.

23 **BOARD MEMBER PEPE:** You're not
24 putting a barrier down there, you're just not making
25 the access way?

1 **MR. KENNEDY:** We take no
2 exception to that.

3 **MR. ROHMEYER:** Thank you. With
4 regards to the relocated pump station, it appears that
5 your access is being proposed through Borough property
6 coming off of Center. In the event that, I'm not
7 aware of any plan or anything, but in the event of the
8 Borough redeveloping or improving that property and
9 that access was lost, is there an alternate access to
10 the pump station through your parcel?

11 **MR. KENNEDY:** Yes. There's
12 actually two other alternate accesses; one is through
13 the easement, the 20-foot wide easement that runs from
14 our proposed road A in a north/south direction between
15 two of the lots.

16 Secondly, we also have the
17 open space portion of the project that extends out to
18 Avenue D where a driveway can be brought to access the
19 pump station. We merely are taking advantage of an
20 existing gravel driveway that's in that same location
21 and, in essence, reducing impervious surface by
22 utilizing the infrastructure that's available.

23 **BOARD MEMBER PEPE:** Where's that
24 easement that you were referring to, I don't see it on
25 the plan.

1 **MR. GIUNCO:** The easement? Oh,
2 the easement between the lots.
3 **BOARD MEMBER PEPE:** Yeah.
4 **MR. KENNEDY:** There's a utility
5 meant located between lots 5.11 and 5.12 running in a
6 north/south direction. It has a 20-foot dimension.
7 That's where our sanitary sewer line is located, it's
8 going towards the pump station.
9 **MR. GIUNCO:** You'll see that on
10 exhibit A-32.
11 **BOARD MEMBER PEPE:** Well, we see
12 it here now now that it's been pointed out.
13 **MR. ROHMEYER:** And can you just
14 confirm for the record that the easement we're
15 discussing between the two proposed residential
16 properties, it will house not only the gravity
17 sanitary, but, also, water service, gas, electric and
18 it will serve as a backup access to the pump station.
19 **MR. KENNEDY:** That's correct.
20 That was our plan. There's the sanitary sewer in that
21 area is relatively deep so we need to provide about an
22 eight foot unobstructed path for a trench box, but
23 outside of that eight foot area within the 20-foot
24 easement, we can provide adequate separation for a
25 water service to the pump station, telecommunications

1 to have the Borough maintain it, again, because of the
2 local Government Services Act that would require
3 reimbursement of the municipal facility.
4 **BOARD MEMBER PEPE:** Is there a
5 way to give the municipality the choice because I
6 can't make that decision, so is there a way to make it
7 a condition on the municipality's decision?
8 **MR. GIUNCO:** I would say yes, but
9 that's a question that you should direct to your
10 Board.
11 **MR. STEIB:** And the answer is
12 yes, you can make it a provision. You can provide in
13 the resolution that this is to be a Homeowners
14 Association subject to the approval of the governing
15 body.
16 **MR. GIUNCO:** But I think this is
17 specific. We will need the Homeowners Association to
18 own the open space. But I think, if I may interpret,
19 your question was specifically as to allocation of
20 maintenance expenses.
21 **BOARD MEMBER PEPE:** Correct.
22 But if we put it on the HOA and the governing body,
23 then they can disapprove it and then it would turn
24 back.
25

1 as well as electric and gas.
2 **MR. ROHMEYER:** How about the
3 groundwater monitoring wells, is there an easement for
4 those? Where are they located on this?
5 **MR. GIUNCO:** They'll have to
6 remain available until they're finally closed out.
7 And I just, I did calculate this for the last
8 application, I don't really remember exactly. I think
9 that the time should satisfy the DEP, they'd be
10 removed before we're actually ready to sell these.
11 But if not, then we would have to have an easement for
12 them. And it would be a self-terminating easement so
13 that when the final approval or remedial action
14 outcome is approved, then the wells would be removed
15 and that easement will terminate.
16 **MR. ROHMEYER:** Continuing on with
17 some of the questions in my report, there's a few
18 other issues of ownership, ultimate ownership as
19 you're proposing it for you mentioned the pump
20 station, you mentioned the open space. What about the
21 manufactured treatment device for your storm water
22 quality and outflow?
23 **MR. KENNEDY:** So that's very
24 similar to the pump station where the HOA could
25 maintain it, however, it might be more cost feasible

1 **MR. GIUNCO:** Certainly. I hope
2 that you understand what we've done here is try to
3 interpret all of the comments we received and react to
4 them in a way to satisfy them. We're certainly not
5 going to change direction right now and say no. So
6 the answer is of course.
7 **DOCTOR CETRON:** But from a
8 Planning Board perspective, it would behoove us to
9 leave the final decision on balancing homeowner and
10 then the Borough reimbursing versus the Borough
11 assuming it with an economy of scale to the Borough
12 and not to us.
13 **VICE CHAIRMAN COLANGELO:** We
14 can't make that decision.
15 **MR. GIUNCO:** I raised that it's
16 happened in my other applications in other
17 municipalities, those issues would come up. We've
18 gone through those analyses and they always come back
19 with the municipality's costs are less or very
20 competitive. But in any event, however you choose to
21 do that, we are prepared to accept it.
22 **MR. ROHMEYER:** With regards to
23 the proposed residential structures, will they all
24 meet our code for flood damage prevention with regards
25 to flood elevation?

1 **MR. KENNEDY:** Yes, of course.
2 They must. That's something that will also be
3 illustrated on the plot plan reviews where we set
4 finished floors. But the lowest finish floor is well
5 above the highest flood zone that approaches the
6 property.
7 **MR. ROHMEYER:** Will you still be
8 able to comply with parking requirements for
9 single-family residential?
10 **MR. KENNEDY:** As proposed, and
11 Mr. Montefort testified previously, with regard to the
12 garage space, a two-car garage. We're also proposing
13 a two parking spot driveway to each garage. The five
14 bedroom home is the standard under RSIS. That
15 requires 3.0 parking spaces, we provide four on each
16 lot. Plus there's on-street parking available on one
17 side of the street for an additional, a minimum, of 12
18 cars on the street. So we meet the RSIS requirements
19 for both off-street parking and guest parking on the
20 street.
21 **MR. GIUNCO:** If I may address one
22 issue. Mr. Montefort is not here this evening because
23 there's really know change in his testimony. The
24 model, style that was presented is what will continue
25 and each home will be a custom-designed home for that

1 untethered access, that's available to them. But it's
2 really an HOA thing to be decided in the future,
3 although it's there. We provide the ability to access
4 the entire --
5 **MR. ROHMEYER:** I asked the
6 question because I only envision the private property
7 owners scaling the stone revetment in the year of
8 yard. So you're saying they'd have to build some sort
9 of staircase or walkway down --
10 **BOARD MEMBER PEPE:** Or walk down
11 to the cul-de-sac.
12 **MR. GIUNCO:** They could walk to
13 the cul-de-sac as you said. However, as I stated
14 earlier, this is under the jurisdiction of NJ DEP, so
15 each of those homeowners will have to make their own
16 application if, in fact, they buy that in the project
17 our client can well make that application on their
18 behalf. So they'll have to make an individual
19 application to the DEP.
20 **BOARD MEMBER PEPE:** Does DEP
21 require the vegetation to be maintained as part of a
22 condition of the CAFRA permit?
23 **MR. GIUNCO:** I don't have the
24 CAFRA conditions, but it's likely.
25 **MR. ROHMEYER:** Back to the

1 purchaser. And you'll recall, I'm proffering that his
2 testimony remains in effect. The lot sizes have
3 changed somewhat, but the houses will be basically the
4 same style and design. But they're individually
5 designed for each of the 16 buyers.
6 **BOARD MEMBER PEPE:** They're not
7 going to be 16 identical boxes, they're going to be --
8 **MR. GIUNCO:** Well, if everybody
9 like's this one so much, maybe, but I doubt it.
10 That's not the plan. The plan is that everybody can
11 express themselves.
12 **MR. ROHMEYER:** How will the
13 proposed open space lot be accessed by the future
14 homeowners?
15 **MR. KENNEDY:** So that each of the
16 ocean or bay front properties, the property boundaries
17 go to the extent of the open space lot. So as I
18 testified previously, there's nothing stopping, just
19 like any other waterfront property in the Borough,
20 nothing stopping those property owners from applying
21 to DEP for a walkway down to the beach.
22 On the southerly portion of the
23 site they're on grade, the open space behind them is
24 on grade with the rear of their homes and if the
25 Homeowners Association chooses to, you know, allow

1 access, to the open space at the end of the
2 cul-de-sac. It looks like there's about a six or
3 seven footdrop off, pretty steep. It doesn't seem
4 very inviting to walk down the sidewalk to the end of
5 the cul-de-sac to access. I just want to understand,
6 I want the Board and the public to understand what
7 will, if there's something going to be developed, a
8 staircase or some sort of a ramp or something at the
9 end of the road?
10 **MR. KENNEDY:** Well, currently one
11 is not proposed in that location. That would, again,
12 be within a flood zone and under the jurisdiction of
13 the Building Department as well as CAFRA. So a
14 stairway is not proposed at this time. Adequate
15 access is provided along the southerly portion that's
16 on grade. There's access for maintenance purposes.
17 Also, off of Central using the
18 Borough's property for maintenance purposes, there's
19 access available there. We also have a utility
20 easement that extends to the north for our storm water
21 discharge that could also be used for access for
22 maintenance purposes.
23 **MR. ROHMEYER:** That's all for
24 right now. Thank you.
25 **CHAIRMAN NEFF:** Any other

1 questions from the Board of Mr. Kennedy?
 2 (Witness excused.)
 3 **MR. GIUNCO:** Mr. Chairman, my
 4 next witness would be John Rea.
 5 **CHAIRMAN NEFF:** What we'll do is
 6 for the public questions, we'll hold them until all
 7 the Applicant's witnesses are finished and then we'll
 8 open it up for the Board and public all at one time.
 9 There is a signup sheet for questions or comments out
 10 in the hallway by the door if you didn't see it.
 11 We'll be going by that listing going down. We have
 12 last meeting's list, also, for those who did not get a
 13 chance at the last meeting.
 14 **MR. GIUNCO:** Mr. Chairman, I'm
 15 offering John Rea as an expert in the field of traffic
 16 engineering and ask that he be re-sworn.
 17
 18 J O H N H. R E A, P.E., with offices at 1431
 19 Lakewood Road, Suite C, Manasquan, New Jersey 08736
 20 being first duly sworn, testified as follows:
 21 **MR. STEIB:** And your name and
 22 address?
 23 **MR. REA:** John Rea, R-e-a. I'm a
 24 principal with McDonough & Rea Associates, traffic and
 25 transportation engineers. 1431 Lakewood Road,

1 **DIRECT EXAMINATION BY MR. GIUNCO:**
 2 **Q. John, we had asked you to review the**
 3 **traffic plan that was proposed and I've asked you to**
 4 **compare the revised plan that's now shown as A-32 on**
 5 **our board with the original plan that had been**
 6 **submitted and after commentary from the Board and**
 7 **public has been revised to this plan.**
 8 A. Okay. And I did review the original plan
 9 which was 21 lots with a loop roadway configuration.
 10 I did not appear at the last hearing to testify on
 11 that plan so I have reviewed that plan as well the new
 12 plan that Mr. Kennedy has proffered and is shown on I
 13 think it's A-32, exhibit A-32.
 14 **Q. A-32.**
 15 A. I've looked at both.
 16 **Q. Can you describe to the Board your**
 17 **analysis of the capacity and the adequacy of the**
 18 **design plan for the traffic that this project will**
 19 **generate?**
 20 A. Well, although I thought the first plan
 21 which was 21 lots and had a loop road right through
 22 the configuration was an acceptable plan from a
 23 traffic engineering standpoint. There were some
 24 issues with that plan, specifically with the New
 25 Jersey Residential Site Improvement Standards. There

1 Manasquan, New Jersey.
 2 **MR. GIUNCO:** Mr. Chairman, Mr.
 3 Rea was accepted as an expert at the last hearing, do
 4 you wish to hear his credentials again?
 5 **MR. REA:** I was not. I wasn't
 6 here at the last meeting, but I'll go through them.
 7 **MR. GIUNCO:** I'm going to offer
 8 him as an expert in the field of traffic engineering.
 9 Do you wish to hear his credentials?
 10 **MR. STEIB:** Yes, please.
 11 **MR. REA:** I'm a licensed
 12 professional engineer in the State of New Jersey. I
 13 have a total of 45 years experience in the traffic
 14 engineering field, the last 35 of which have been in
 15 the consulting business here in the State of New
 16 Jersey. I have an undergraduate degree in civil
 17 engineering from NJIT and a Masters degree in
 18 transportation engineering from the Polytechnic
 19 Institute of New York which I believe is now part of
 20 NYU. And I have appeared before this Board before a
 21 long time ago for some commercial properties on Route
 22 36 and over 250 municipalities I've appeared in as an
 23 expert witness throughout the state.
 24 **CHAIRMAN NEFF:** Any questions
 25 from the Board. Okay. Thank you.

1 was an offset from Harbor View Drive that we didn't
 2 meet the standards that's required by RSIS and
 3 although I felt the traffic volumes were going to be
 4 relatively low coming out of our side of the roadway
 5 interacting with another relatively low volume
 6 roadway, the plan that Mr. Kennedy has put forth today
 7 is a better plan, a more acceptable plan from a
 8 traffic engineering point of view.
 9 Our cul-de-sac roadway is lined up
 10 center line to center line with Harbor View Drive.
 11 That is in accordance with the Residential Site
 12 Improvement Standards. No waiver or no de minimus
 13 acceptance is required for that. It's an acceptable
 14 design. It's also a standard engineering design.
 15 When laying out a subdivision like this, you either
 16 try to align your roadway up with the roadway on the
 17 other side of the street or you try to at least have a
 18 minimum offset of about 150 feet. So that's
 19 acceptable.
 20 We have a 28-foot wide roadway that
 21 terminates at a cul-de-sac. The dimension of the
 22 roadway itself is 28 feet within a 50 foot
 23 right-of-way also meets the RSIS. Parking will be
 24 permitted only on one side of the street.
 25 In accordance with RSIS and in general,

1 I just found the plan to be designed acceptably in
2 conformance with RSIS and in conformance with traffic
3 engineering principles.

4 **MR. GIUNCO:** I have no other
5 direct questions for Mr. Rea.

6 **CHAIRMAN NEFF:** Anyone from the
7 Board? Mr. Rohmeyer, any questions?

8 **MR. ROHMEYER:** No.

9 **MR. GIUNCO:** Thank you, John.
10 May I call Susan Bracefield.

11 Miss Bracefield is a civil engineer with Mazur
12 Associates. She's responsible for the design of the
13 pump station. I'm going to offer her as an expert
14 witness in the field of sanitary system design.

15
16 S U S A N B R A C E F I E L D, with offices at 331
17 Newman Springs Road, Suite 203, Red Bank, New Jersey
18 07701 being first duly sworn, testified as follows:

19 **MR. STEIB:** State your name and
20 address and please spell the last name so we get the
21 proper spelling.

22 **MS. BRACEFIELD:** Susan
23 Bracefield, B-r-a-c-e-f-i-e-l-d. Address is 331
24 Newman Springs Road, Red Bank.

25 **VOIR DIRE EXAMINATION BY MR. GIUNCO:**

1 a half feet above, the top of it will be five and a
2 half feet above grade, the second one will be six feet
3 above grade. So the entire pump station property will
4 be fenced in with a lock and key so no one can access
5 that. The electric panels will be aluminum structures
6 that are locked and only the pump station operators
7 can access those electric panels.

8 **Q. Now in your analysis of this or in your
9 preparation and design of this particular pump
10 station, did you consult with or review the other pump
11 stations in Atlantic Highlands and under the control
12 of the Sewer and Water Department?**

13 A. Yes. We met with the Borough's Water and
14 Sewer Department and met with the operator prior to
15 the design to discuss the type of pump station design
16 that would be done and where we would connect to the
17 sanitary sewer systems, they advised us of their
18 preferred location for our connection point. The type
19 of pump station designed is typical for this area and
20 we used, I would say, a high, an expensive type of
21 pump to ensure that it will be viable and last many
22 years in our design.

23 One of the changes that we made from
24 what we had originally talked about was the wet well
25 would be more rigid and less likely to cause any noise

1 **Q. Would you advise the Board of your
2 experience, training and credentials for purposes of
3 consideration as an expert in the field of civil
4 engineering?**

5 A. Yes. I have 35 years experience in water
6 and waste water sanitary sewer design. I graduated
7 from Stevens Institute of Technology. I've testified
8 before many Planning Boards in New Jersey, many in
9 Monmouth and Ocean counties and I've done numerous
10 pump station designs over the years.

11 **CHAIRMAN NEFF:** Okay.

12 **MR. GIUNCO:** Thank you.

13
14 **DIRECT EXAMINATION BY MR. GIUNCO:**

15 **Q. Sue, could you just briefly describe the
16 proposed pump station and then I'd like you to address
17 the potential impacts in terms of sound, odors, et
18 cetera.**

19 A. Yes. The sanitary pump station will consist
20 of two below grade chambers; one is a pump station wet
21 well and the second is a valve chamber. Above grade
22 there will be an emergency generator and two electric
23 panels. One of the question in the engineer's review
24 letter was the height of the above grade structures.
25 The above grade electric panels, one will be five and

1 from vibrations. And we also put in the highest, we
2 have designed the highest level enclosure for the
3 generator to contain the noise and lower the impact on
4 adjacent properties.

5 **DOCTOR CETRON:** What's the fuel
6 for the generator?

7 **MS. BRACEFIELD:** It's a natural
8 gas fuel.

9 **BOARD MEMBER PEPE:** I can't tell
10 from the elevation plans, I just can't read the
11 numbers, how high above sea level is the pump station?

12 **MS. BRACEFIELD:** It's not in a
13 flood zone and it's at a higher -- the elevation is 24
14 at the pump station site which is higher than the
15 previous location.

16 **COUNCILMAN FLIGOR:** Currently,
17 our sewer pump station, the main station in town, uses
18 a system in order to monitor different lift stations
19 and stuff like that and the reason for that is in a
20 flood condition, they get an emergency call either on
21 a pager or on their iPad that lets them know what's
22 going on so they can actually control the system from
23 those iPad. Do you plan on any systems for that pump
24 station that we can connect to?

25 **MS. BRACEFIELD:** Yes, we can

1 supply a system that can connect to the Borough's
 2 system and provide alarms to the Borough.
 3 **COUNCILMAN FLIGOR:** Your client
 4 would be acceptable to that?
 5 **MR. GIUNCO:** Yes.
 6 **COUNCILMAN FLIGOR:** Thank you.

8 **BY MR. GIUNCO:**

9 **Q. Sue, did you also analyze whether there**
 10 **would be emission of any odors from this particular**
 11 **facility?**

12 A. Yes. The pump station flow is only 27
 13 gallons per minute and the force main was kept at a
 14 two-inch diameter force main to minimize the length of
 15 time that the sewerage is in the pump station in the
 16 force main so it will be evacuated quickly and will
 17 not be sitting for a long time. It will not create
 18 odors.

19 **Q. And it would be located in a chamber?**

20 A. Yes. It's a below grade chamber. The
 21 actual sewerage is approximately 20 feet deep below
 22 grade. So there is no escape of the odor. And
 23 there's also, there is a fan shown on the plan, but
 24 the fan will only be used when the operators need to
 25 open up that chamber and go into or enter the top of

1 direct questions of Miss Bracefield.
 2 **CHAIRMAN NEFF:** Any other
 3 questions from the Board?
 4 **MR. ROHMEYER:** Thank you, Mr.
 5 Chairman.
 6 The pumps are submersible pumps?
 7 **MS. BRACEFIELD:** Yes.
 8 **MR. ROHMEYER:** So they really
 9 won't make any noise?
 10 **MS. BRACEFIELD:** You'll not hear
 11 them when you're standing out by the pump station.
 12 **MR. ROHMEYER:** So the loudest
 13 component will be the generator?
 14 **MS. BRACEFIELD:** Yes.
 15 **MR. ROHMEYER:** When it's
 16 exercised periodically?
 17 **MS. BRACEFIELD:** Yes. And by law
 18 in New Jersey, the generators are scheduled each
 19 individual exercise period so the operator can
 20 schedule that during the day at a convenient time so
 21 it won't bother people.
 22 **BOARD MEMBER PEPE:** The backup
 23 generator?
 24 **MR. GIUNCO:** The emergency backup
 25 generator.

1 it for any reason. Normally, the fan will not be
 2 operating so there will be no changing of the air out
 3 of the structure.

4 **DOCTOR CETRON:** The access to the
 5 chamber, is it going to be fixed or will it be put in
 6 place when they need to go down into the chamber both
 7 for normal maintenance and rescue maintenance.

8 **MS. BRACEFIELD:** Part of the
 9 chamber has an access hatch that can be opened up and
 10 there will be a hoist that will be portable. So
 11 they'll put the hoist up when they need to access it
 12 and they'll store it either in probably in their truck
 13 or at another facility.

14 **DOCTOR CETRON:** So most of the
 15 time, unless they're going down or there's a rescue
 16 going down, there will be no visual impact to that
 17 hoist or anything else.

18 **MS. BRACEFIELD:** Correct.

19 **COUNCILMAN FLIGOR:** Are those
 20 pumps basically on off or --

21 **MS. BRACEFIELD:** As designed
 22 right now they're on off because they're relatively
 23 small and we didn't see a need for variable frequency.

24 **COUNCILMAN FLIGOR:** Okay.

25 **MR. GIUNCO:** I have no other

1 **MR. ROHMEYER:** There's a small
 2 light proposed at the pump station location, can you
 3 talk about that.
 4 **MS. BRACEFIELD:** Yes. There's
 5 one site light proposed which will be manually turned
 6 on by the operator if they needed to work there in an
 7 emergency at night. It will not be on all the time.
 8 **MR. ROHMEYER:** Thank you.
 9 **CHAIRMAN NEFF:** Nothing else from
 10 the Board?
 11 **MR. GIUNCO:** Thank you, Sue.
 12 My next witness will be Andrew
 13 Janiw. Mr. Janiw is a licensed professional planner.
 14 He appeared at the last hearing and I ask that he be
 15 re-sworn and present his credentials.
 16
 17 A N D R E W J A N I W, P.P., 315 Highway 34, Colts
 18 Neck, New Jersey, being first duly sworn, testified as
 19 follows:
 20
 21 **MR. STEIB:** Once again, your name
 22 and address.
 23 **MR. JANIW:** Andrew Janiw,
 24 J-a-n-i-w. I'm a principal with Beacon Planning and
 25 Consulting Services, 315 Highway 34, Colts Neck, New
 Jersey.

VOIR DIRE EXAMINATION BY MR. GIUNCO:

Q. Andrew, would you give the Board your education, training and experience.

A. Certainly. I have a Bachelors and Masters degree in civil engineering from the New Jersey Institute of Technology. I have New Jersey Professional Planners license as well as I'm certified by the American Institute of Certified Planners currently serving as the Planner for the Borough of Carteret in Middlesex County, the Redevelopment Planner for South Amboy Redevelopment Authority, Redevelopment consultant for the City of Wildwood. I've represented other communities throughout my career and have appeared before Boards on behalf of private clients throughout the State of New Jersey.

I have been accepted as an expert in Land Use Planning by the Superior Court of New Jersey and I regularly lecture for such organization as New Jersey Futures, Plan Smart New Jersey as an expert on planning and redevelopment.

CHAIRMAN NEFF: Thank you.

Accepted.

MR. GIUNCO: Thank you.

DIRECT EXAMINATION BY MR. GIUNCO:

is something that's consistent with what's foreseen by your governing body and your policymakers when preparing Ordinances. And this is, in fact, on point with your Master Plan which specifically in terms of goals and objectives of your Master Plan seek to encourage the restoration and redevelopment of substandard sites, buildings, street scape to contribute to the improvement and enhancement of the community. This site is a redevelopment of a non conforming use. This is currently used for marine storage and commercial operations for a variety of small businesses.

Q. Please continue.

A. As I was saying, your Master Plan seeks to encourage the restoration and redevelopment of substandard sites, buildings as it contributes to the improvement and enhancement of the community. This property currently operates as a non conforming use. Not only does your Master Plan encourages, but the Municipal Land Use Law encourages restoration of properties into conforming uses pursuant to your Zone Plan at the earliest convenience and that is, in fact, what we're doing. Your Master Plan also seeks to maintain the present intensity of the land use, the density of population, existing lot sizes and

Q. Andy, we had asked for you to review the revised plan relative to your prior testimony and have you been able to do that?

A. I have. I have. The plan that's before the Board tonight is entirely compliant with your R1 residential zone standards as well as RSIS standards. The plan, as Mr. Kennedy has indicated, has been modified now to subdivide the parcel into 16 single-family lots as well as one open space lot representing approximately 30 percent of the slot area. The proposed use is as depicted on the plan permitted within the district. The district single-family homes on a minimum lot size of 7500 square feet. We meet that and many of the lots actually exceeding that lot area.

The property meets all the bulk standards. Previously, the plan that was before this Board required relief for the circle, the 50-foot circle requirement. Every lot that's now before the Board meets that and there are no bulk deviations proposed with this lot.

In preparation for this evening and in looking at this plan, generally we looked to see whether the plan is consistent with your Zone Plan and your Master Plan in order to opine as to whether this

configuration. This is on point with that. The lots are as proposed within your ordinances and Master Plan, the density is as proposed and with that comes all the other issues that go into your zoning and your bulk requirements.

I was saying the plan that's before the Board is consistent with what's envisioned in your Ordinance in terms of density, in terms of lot size, in terms of configuration, in terms of the provisions of open space requirements. With that when the zone plan formulated the zoning for this area, it took into consideration all the things that come with lots of this size meaning the traffic, the noise generation, the trash generation, access to utilities, all that's anticipated in your Master Plan and your Zone Plan. This is consistent with what was anticipated and is actually on point not only with your Master Plan, but with your Zoning Ordinance for this district.

We also look to the purposes of zoning as to what would be encouraged with this type of subdivision. And, in fact, many of those purposes coincide with your objectives of your Zone Plan and your Master Plan. And the Municipal Land Use Law specifically has several points that they delineate by letter and this plan is on point with, A, to encourage

1 municipal action to guide the appropriate use or
2 development of all lands in a manner that will promote
3 the public health, safety, morals and general welfare.
4 And typically when you have a conforming subdivision
5 that's being proposed as envisioned by the Community
6 Planning Standards that is promoting the general
7 welfare, it does promote all the development of the
8 land as anticipated by the community.

9 C, is to provide adequate light area and
10 open space. Again, we are on point with that. We are
11 providing 30 percent open space as required by your
12 Ordinance. All the homes are separated as the bulk
13 standard requires within your R1 district. So we're
14 on point with C.

15 D, appropriate population densities and
16 concentration that will contribute to the wellbeing of
17 persons, neighborhoods, communities and regions and
18 preservation of the environment. Again, the proposed
19 lots are in absolute conformance with all the bulk
20 standards and we do comply with what is anticipated in
21 terms of population, density and concentration in the
22 R1 district.

23 And, finally, to provide sufficient
24 space and appropriate locations for a variety of
25 agricultural, residential, recreational, commercial

1 because you're not asking for any variances or --

2 **MR. GIUNCO:** We're asking for a
3 major subdivision approval.

4 **BOARD MEMBER PEPE:** Okay. But
5 nothing else?

6 **MR. JANIW:** There are no
7 deviations.

8 **BOARD MEMBER PEPE:** Okay.

9 **CHAIRMAN NEFF:** Any other
10 questions from the Board? Mr. Rohmeyer.

11 **MR. ROHMEYER:** I believe most of
12 the comments in my report have been addressed. One
13 question that just came up with me, the open space lot
14 where that borders the Borough property, is that going
15 to be fenced or delineated?

16 **MR. GIUNCO:** At this point we
17 don't propose in the plan a fence. But we, of course,
18 could if you wanted that.

19 **MR. ROHMEYER:** I'm not
20 recommending a fence, I just want to know --

21 **MR. GIUNCO:** Again, that would
22 be, I think anyone in Atlantic Highlands under your
23 Ordinance can apply for a fence permit and if the
24 Homeowners Association should choose to do that in the
25 future, so be it. For now the plan we're proposing is

1 and industrial use as an open space, both public and
2 private, according to their respective environmental
3 requirements in order to meet the needs of all New
4 Jersey citizens.

5 Again, your Zone Plan established a set
6 of standards for this district. It established that
7 the minimum lot size should be 7500 square feet. It
8 established certain setbacks. It established certain
9 requirements for open space. We need all those so we
10 do, in fact, are one hundred percent consistent in the
11 provision of the appropriate use and the appropriate
12 location as envisioned by the community.

13 So when it comes down to your Zone Plan,
14 your Master Plan, the Municipal Land Use Law, we're
15 absolutely compliant with one hundred percent of the
16 standards and anticipated impacts from a development
17 of this scale in this neighborhood. Quite frankly,
18 this is a plan that's been envisioned by the town and
19 is being executed as envisioned by the community.

20 **MR. GIUNCO:** Thank you. I have
21 no other questions for Mr. Andrew Janiw.

22 **CHAIRMAN NEFF:** Any Board members
23 have any questions?

24 **BOARD MEMBER PEPE:** I'm having a
25 hard time figuring out what it is you're asking us for

1 what we're asking the Board to approve.

2 **CHAIRMAN NEFF:** Any other
3 witnesses?

4 **MR. GIUNCO:** No. That is the
5 presentation of the witnesses to present the revisions
6 to the plan. And, of course, I understand we'll have
7 some questions and all our witnesses are here prepared
8 to answer any questions that are presented.

9 I would, however, like the
10 opportunity to address the Board prior to a
11 consideration for a vote.

12 **CHAIRMAN NEFF:** Of course.

13 **MR. GIUNCO:** Thank you.

14 **CHAIRMAN NEFF:** If there are no
15 other questions from the Board or Mr. Rohmeyer, we'll
16 proceed with questions from the public.

17 We're going to take a five-minute
18 break before getting to the questions.

19 (There is a brief recess taken.)

20 **CHAIRMAN NEFF:** We'll open it up
21 to the public now starting with the residents
22 attorney. Please state your name and address.

23 **MR. ASADI:** Sure. Thank you.
24 Kevin Asadi, Zager Fuchs, 268 Broad Street, Red Bank.
25 So I spoke to you during the

1 break, Mr. Giunco as well, I'm not going to start
 2 asking questions of the witnesses at this moment, I
 3 have a concern about the issue of the conditional Use
 4 variance and because it's a jurisdictional item, I
 5 thought it would be, you know, best served to object
 6 to the issue at this time, flush it out, if necessary
 7 they may have to make changes or the Board might tell
 8 me that I'm wrong. But I thought this would be the
 9 more appropriate time to bring it up.

10 There are five conditions
 11 associated with the conditional use for a sanitary
 12 sewer pumping station and other public utilities that
 13 are part of that. I haven't heard any testimony about
 14 any of these conditions being satisfied. In fact, the
 15 design itself shows that some of these conditions are
 16 blatantly not complied with. I would like to go
 17 through that, but I mean some of it would probably be
 18 supplemented by the Applicant with a little more
 19 testimony. So I'll raise my issues now and if they
 20 want to provide a little extra testimony after those
 21 issues, that's fine, and I'll reserve the right to
 22 question the witnesses as to that testimony. Does
 23 that sound good?

24 **CHAIRMAN NEFF:** Sure.
 25 **MR. ASADI:** So the first

1 submitted. These plans are dated November 16th which
 2 was a Friday, I don't know when they were submitted,
 3 but I don't know if they were submitted ten days prior
 4 to the hearing and I would like an opportunity to have
 5 the plans reviewed by a consultant to make sure that
 6 there's no evidence that we can provide that would
 7 contradict the notion that this facility does not
 8 adversely affect the safe and comfortable enjoyment of
 9 property rights of the zone in which its located. We
 10 have a man's swimming pool 20 feet away from the
 11 location of this pumping station and it's something
 12 that we need to know about.

13 Condition number three I don't have any
 14 problem with.

15 Condition number four I don't have any
 16 problem with.

17 And condition number five, this one, I
 18 think, is blatantly not complied with. Condition
 19 number five talks about the public utility use and lot
 20 shall be all applicable, minimum requirements of the
 21 district in which it's located accept that it need not
 22 have the minimum required lot areas. Only one
 23 principal building will be permitted on the lot and a
 24 paved parking area is required.

25 So as to that parking area, there is no

1 condition is that the Applicant's required to submit a
 2 statement setting forth the reasons that the proposed
 3 installation must be provided aboveground at a
 4 specific location, why it's necessary and convenient
 5 for the efficiency of a public utility system for
 6 provision of service to the neighborhood. I've heard
 7 no testimony about that statement being submitted in
 8 his submission for conditional use. We don't know
 9 what that statement says, we've not seen a copy. I
 10 don't know that it's ever been submitted and I would
 11 like to know whether or not it has been.

12 Number two, the second condition
 13 is the design and zoning issue in connection with such
 14 facility conforms to the general character of the
 15 area, will not adversely affect the safe and
 16 comfortable enjoyment of the property rights of the
 17 zone in which its located.

18 This evening we heard from Miss
 19 Bracefield who testified about certain aspects of the
 20 system and she did give some testimony about whether
 21 or not there would be odors emanating from the
 22 facility. There is no testimony that I heard about
 23 noise coming from the facility as well as, you know,
 24 my client put in an Open Public Records request on the
 25 21st for a copy of any submissions that were

1 designated parking area shown on the plan for the
 2 pumping station, instead, they cover it by the
 3 provision of a driveway. And if you look at the
 4 definition of parking area in your Ordinance, it does
 5 include driveways. So that's fine. However, the
 6 problem with this driveway is twofold: Number one,
 7 the condition requires that a driveway be paved. The
 8 proposed driveway is gravel, it's not paved. So
 9 that's one non compliance with the condition.

10 Second non compliance with the condition
 11 is in the definition section for driveway, a driveway
 12 is defined as a paved or unpaved area used for ingress
 13 or egress of vehicles allowing access from a street to
 14 a building or other structure or facility. This does
 15 not leading from a street to a facility. That's in
 16 the definition. You may think it's technical, but
 17 what we have here is a driveway that's going, that's
 18 leading to a dirt road on municipal property. To my
 19 knowledge, there's no easements that would allow the
 20 developer to continue to use that dirt road through
 21 municipal property in order to access its pumping
 22 station. I think in order to comply they might say
 23 this is a better way to design it, and that's fine,
 24 that might be. That might be a very good reason to
 25 grant a conditional Use Variance. It doesn't mean a

1 conditional Use Variance isn't necessary.
2 So I want to put that on the
3 record and, you know, we'll here from the Applicant.

4 **MR. GIUNCO:** Applicant contends
5 to section 150-55 of your Ordinance provides an
6 exemption from the applicability of these ordinances
7 because it specifically cites that if there is a
8 facility and it specifically says pumping stations
9 which require a building above ground, then these
10 conditions apply. This project proposes the pump
11 station to be below ground. The definition of
12 building in section 150-6 of your Ordinance refers to
13 the form of construction having a roof and adapted the
14 permanent, temporary or continued its occupancy.

15 The testimony from Miss
16 Bracefield was clear. This is in a chamber below
17 ground. Aboveground are electrical boxes. I think we
18 qualify and that was the basis for this application,
19 that it is non applicable to underground utilities.
20 That we have that exemption, the Ordinance provides
21 it. And, second, there's no building in terms of
22 meeting the definition in your Ordinance. Therefore,
23 in our view, the Ordinance section 150-36 does not
24 apply.

25 **DOCTOR CETRON:** Mr. Chairman, can

1 recall the testimony was she designed the system
2 originally with PVC piping at the pump and then she
3 switched that to stainless steel, if I'm correct,
4 stainless steal in order to eliminate vibrations. She
5 also stated that in her opinion if you're standing
6 next to the pump station you wouldn't know it was
7 running.

8 **DOCTOR CETRON:** Yeah, I have one
9 question. If I recall your testimony you said that
10 there were multiple electrical panels and a generator,
11 but the maximum height is 24 foot?

12 **MS. BRACEFIELD:** No, the maximum
13 height is 60 --

14 **MR. GIUNCO:** The elevation was 24
15 feet.

16 **DOCTOR CETRON:** What's the
17 maximum height of all the stuff because that's also
18 listed in the Ordinance.

19 **MS. BRACEFIELD:** The maximum
20 height is 60 above grade. The existing grade --

21 **DOCTOR CETRON:** Okay. I'm just
22 asking because I'm reading the Ordinance. You are
23 well below the 40-foot maximum that would cause you to
24 go into conditional use.

25 **MS. BRACEFIELD:** Yes.

1 I ask a question?

2 **CHAIRMAN NEFF:** Hold on.

3 **MR. ASADI:** My response to that
4 is that there are clearly aspects, the station is the
5 entire plan. We have a six-page engineering detail
6 showing the station. Aspects of the station are
7 aboveground. We have a locked, gated fence going
8 around the entire thing, we've got generators
9 aboveground and you have other aspects of it that are
10 also aboveground. It's not because some of it might
11 be below grade that doesn't render this an entirely
12 underground station. These conditions should apply.

13 **MR. GIUNCO:** I'll respond again
14 with section 150-55 says require a building
15 aboveground and your definitions in section 150-6 it
16 describes building as I stated and it also defines a
17 building area which is, again, not a building. Your
18 Ordinance speaking of a building area as Mr. Asadi is
19 suggesting, the Ordinance would say that. It wouldn't
20 say a building, it would say a building area because
21 you have two distinct definitions in section six.

22 **CHAIRMAN NEFF:** And the noise
23 issue was addressed by Miss Bracefield.

24 **MR. GIUNCO:** Well, Miss
25 Bracefield addressed the noise question. If you

1 **DOCTOR CETRON:** Alright. And
2 that was what I'm trying to understand reading the
3 Ordinance.

4 **MR. GIUNCO:** In interpreting that
5 Ordinance, I don't think we get to the 40 feet.

6 **DOCTOR CETRON:** It depends on
7 where you interpret that comma and I'm checking it
8 both ways, whichever way you interpret the comma.

9 **BOARD MEMBER PEPE:** Mr. Asadi, do
10 you contend that the pump station is a building and,
11 if so, what?

12 **MR. ASADI:** I contend that the
13 Ordinance is little flawed the way it's currently --

14 **BOARD MEMBER PEPE:** That's a
15 different question. My question is is it a building?

16 **MR. ASADI:** I'd have to research
17 the definition of a building noise if I can find that
18 in your Ordinance which I haven't done.

19 The conditional use Ordinance
20 that talks about pumping stations does not say an
21 aboveground pumping station only, it says it applies
22 to pumping stations and then it lays out the
23 conditions. So if you look at the actual conditional
24 use Ordinance which is the zoning Ordinance that we're
25 looking at --

1 **DOCTOR CETRON:** You never get to
 2 that. If you read 150.55 I need you to tell me and
 3 explain on why in 150.55 you think you ever get to the
 4 conditional use Ordinance because as we're trying to
 5 read it here on the Board, it says unless it requires
 6 a true building and it has to be over 40-foot high,
 7 it's not applicable.
 8 **BOARD MEMBER PEPE:** Well, it says
 9 "or" so it has to be one or the other. That's why I
 10 asked is it a building.
 11 **MR. GIUNCO:** Let me consult with
 12 my planner.
 13 **CHAIRMAN NEFF:** While you're
 14 consulting, we're consulting down here, also.
 15 **MR. STEIB:** Mr. Giunco, can I
 16 just ask you a couple of questions or your witness.
 17 The structures consisting of this
 18 pumping station, there is no building with a roof, is
 19 there, or is there not?
 20 **MR. GIUNCO:** I think that
 21 question could be best answered by Miss Bracefield.
 22 **MS. BRACEFIELD:** There is no
 23 building, but there is a roof.
 24 **MR. STEIB:** And your pertinent
 25 structures that are there, what is the height of the

1 enumerated by Mr. Asadi, it still needs to comply with
 2 underlying zone requirements for the R1 zone except
 3 for lot area. The aboveground structures being the
 4 electrical cabinet and the generator appear to be
 5 eight feet off the property line where the setback
 6 requirement is five feet. So the placement of the
 7 aboveground structures complies. And if we really dig
 8 into these definitions of driveway and pavement, our
 9 Ordinance directs us to the definition of cartways
 10 which is a paved or some sort of a hard surface.
 11 It's my opinion regardless of the
 12 applicability of Chapter 150-55, the exemption 150-36
 13 appears to be, the application complies with 36 as
 14 well.
 15 **CHAIRMAN NEFF:** So it's the
 16 Board's decision then that it does comply.
 17 **BOARD MEMBER PEPE:** Well, is
 18 there any counterargument at all or --
 19 **MR. ASADI:** One other question
 20 about the nature of the structure. If it's an
 21 accessory structure, ought there be a principal
 22 structure for there to be an accessory structure or
 23 can we have conforming lots with accessory structures
 24 without any principal structures?
 25 **BOARD MEMBER PEPE:** There is no

1 structure?
 2 **MS. BRACEFIELD:** The highest one
 3 is six feet above grade.
 4 **BOARD MEMBER COLANGELO:** That's
 5 it, six feet?
 6 **MS. BRACEFIELD:** Yes.
 7 **MR. STEIB:** Mr. Chairman, and
 8 I've spoken to Mr. Rohmeyer as well, looking at
 9 section 150-55, section 150-55 says that the
 10 provisions of this chapter, and that is the standards
 11 that we're talking about, shall not apply to customary
 12 underground essential services including pump
 13 stations. However, where there's a required building
 14 aboveground, which there isn't in this case, or any
 15 other aboveground impertinences of any type more than
 16 40 feet high, which these impertinences are not, they
 17 shall require approval as a conditional use. So it
 18 would appear that the conditional use provision would
 19 not apply to this application as presented.
 20 Also, Mr. Rohmeyer indicates to
 21 me that it's his opinion even if it did apply, that
 22 the standards have been complied with.
 23 **MR. ROHMEYER:** If I can
 24 elaborate on that a little bit, section 150-36
 25 requires besides its own five conditions that were

1 structure.
 2 **DOCTOR CETRON:** There is no
 3 structure. It's an impertinence. It's an
 4 impertinence of under 40 foot.
 5 **MR. ASADI:** A structure is still
 6 a different definition. A building you're saying is a
 7 structure with a roof, I haven't referred to it yet,
 8 but a structure is a different definition than a
 9 building.
 10 **BOARD MEMBER PEPE:** I don't want
 11 to argue with you, I just want to hear your argument.
 12 **MR. ASADI:** It would be a non
 13 conforming lot if we're considering it an accessory
 14 structure in which case it meets the side yard setback
 15 requirement, but how can there be a lot with an
 16 accessory structure that has no principal structure.
 17 That would be a non conformity.
 18 **COUNCILMAN FLIGOR:** Customary
 19 underground essential services as herein defined
 20 except that all pump station, electric substations
 21 which require buildings aboveground or any other
 22 aboveground application. Any type more than 40 feet
 23 high shall require approval as a conditional use. So
 24 it doesn't fall under conditional use because it's an
 25 essential service.

1 **MR. ASADI:** Your engineer just
 2 indicated that the last standards do apply.
 3 **DOCTOR CETRON:** No. What he did
 4 say was even if our interpretation of 55 went in your
 5 favor, it still meets all of 36, he never said it
 6 would pass 55.
 7 **MR. ROHMEYER:** I'll reiterate
 8 that. 55, the exemption, in my opinion, applies no
 9 building, no impertinence over 40 feet.
 10 **MR. ASADI:** Okay. I was just
 11 referring to your letter from last week.
 12 **BOARD MEMBER PEPE:** Here's the
 13 question because it's a jurisdictional issue. It's
 14 important, right. So I'm reading the Ordinance, I
 15 just read it, and requires either a building or
 16 impertinence over 40 foot.
 17 **VOICE FROM AUDIENCE:** Can you use
 18 the microphone?
 19 **BOARD MEMBER PEPE:** I'm sorry, I
 20 don't have one.
 21 **VOICE FROM AUDIENCE:** Why are we
 22 even here if we can't hear what's going on. This
 23 happened at the last meeting.
 24 **VOICE FROM AUDIENCE:** Can you
 25 please speak up. We're here because we care.

1 there.
 2 **MR. ASADI:** My client put in a
 3 request and I asked him for it, he doesn't have it. I
 4 asked him this evening.
 5 **MR. STEIB:** See, I was advised
 6 that that was not requested.
 7 **MR. ASADI:** He told me he
 8 requested everything that was submitted.
 9 **MR. STEIB:** I'd have to see it,
 10 I'd have to see the formal request.
 11 **MR. ASADI:** I understand.
 12 **BOARD MEMBER PEPE:** If you say
 13 it's a building give us your best argument that it's a
 14 building and we'll pay attention to it. So far I
 15 don't have one.
 16 **MR. ASADI:** I didn't walk into
 17 the room tonight prepared to make that argument so I
 18 need a few moments to look at the Ordinance.
 19 **CHAIRMAN NEFF:** This is a
 20 continuation from the August 29th meeting. Is Casey
 21 Espinoza here? I guess not.
 22 Donna McDonald.
 23 (No response.)
 24 Dolorus D'Ashille.
 25 (No response.)

1 **BOARD MEMBER PEPE:** There's an
 2 issue that you have raised and it's a jurisdiction
 3 issue and it's an important one so we need to get over
 4 it. And the Ordinance says that if it's got a
 5 building or it's got an impertinence of over 40 foot
 6 tall, then the other provisions apply. If not, they
 7 don't apply. Is it a building?
 8 **MR. ASADI:** It certainly is a
 9 structure.
 10 **BOARD MEMBER PEPE:** That wasn't
 11 my question. My question was is it a building?
 12 **MR. ASADI:** Let's take a recess
 13 and I'll be able to look at it. I'm at a disadvantage
 14 here because I didn't see these schematics until I
 15 walked into this meeting.
 16 **MR. GIUNCO:** You know, that's
 17 been continually raised, but these plans were
 18 submitted in accordance with the requirements of the
 19 Municipal Land Use Law and properly filed on the 16th.
 20 **MR. ASADI:** We put in an OPRA
 21 request to get them.
 22 **MR. GIUNCO:** Well, you could have
 23 come and looked at them. They were on file from
 24 Friday, the 16th.
 25 **MR. STEIB:** Let's stop right

1 Vicky Plumaker.
 2 (No response.)
 3 Mike Scherfen.
 4 **MR. SCHERFEN:** Scherfen. My name
 5 is Michael Scherfen. 55 Avenue D, Atlantic Highlands,
 6 New Jersey. I have a couple of questions for the
 7 engineer. I think it's two engineers, I'm not really
 8 sure how many engineers there are, but I just wanted
 9 to clarify one thing. The last meeting we had here
 10 showed a property diagram showing a boardwalk. I'm
 11 assuming that boardwalk has mysteriously disappeared,
 12 am I correct?
 13 **MR. KENNEDY:** We received
 14 feedback about maintenance, about the construction of
 15 the boardwalk. To answer your question it's removed
 16 from the plan.
 17 **MR. SCHERFEN:** And why is it
 18 removed?
 19 **MR. KENNEDY:** Instead of the
 20 boardwalk, we're proposing no bulkhead and, instead, a
 21 stone revetment and that would be under the
 22 maintenance of the individual property owners.
 23 **MR. SCHERFEN:** So now we don't
 24 have a boardwalk and we have a beach and according to
 25 what I'm looking at on your current plans with this

1 abutment, the high watermark still allows us beach
2 access, okay. Lower tide gives us twice, probably
3 twice the amount of beach that we can use. Have you
4 considered rising tides now and in the future and the
5 existence of that beach still being there?

6 **MR. GIUNCO:** In the first
7 instance, the property is defined by meets and bounds.
8 If the property line was amended by rising water
9 levels, then I guess that somehow the deed can be
10 modified, but I don't know how that can be done under
11 New Jersey law without a subdivision.

12 **MR. SCHERFEN:** Okay. Speaking of
13 subdivision, is there any stipulation on these larger
14 properties that does not allow your homeowners to
15 subdivide their own property and build structures on
16 that property?

17 **MR. GIUNCO:** We do not provide
18 such a restriction. I think that you would have to
19 have a significant Use Variance granted or the
20 Ordinance would have to change.

21 **MR. ASADI:** Okay. I recently
22 redeveloped a cellar and installed a full bath, okay,
23 which put more of a use of my plumbing and my
24 sewerage, okay. I did it by code and it was approved
25 and I put a bathroom in, okay. That bathroom probably

1 requirements that the NJ DEP has for the flows, the
2 estimated flows used to size any sanitary system is
3 very conservative so it would be very unlikely that
4 the actual flows from these units would be three times
5 the estimated flows.

6 **MR. SCHERFEN:** Like you said, the
7 Board wants it eliminated and now we have access to
8 the beach. That's fine. There's a planted area that
9 I think many of us thought that ran along that
10 boardwalk was going to be public access, okay. It was
11 described as public access. It apparently looks like
12 it's part of the person's property, the individual
13 homeowner'S property. So that area has disappeared;
14 is that correct?

15 **MR. GIUNCO:** No, partly correct.

16 **MR. SCHERFEN:** No, partly
17 correct. Please explain.

18 **MR. GIUNCO:** It is not open for
19 public access, it's commonly owned by the Homeowners
20 Association. The Association then can make a
21 determination as to how those maintenance obligations
22 go and the different assessments for each of the
23 different unit owners.

24 **MR. SCHERFEN:** Okay.

25 **MR. GIUNCO:** And this was

1 adds maybe double the amount of sewerage that's coming
2 from my house, okay. Say somebody decides, okay,
3 they're going to put another bathroom in their unit,
4 okay. You've got 16 units, a pumping station that's
5 going to handle 16 units with how many bathrooms are
6 in the units?

7 **MR. KENNEDY:** We don't actually,
8 we don't indicate a bathroom, a bathroom count, it's
9 done by bedrooms with regard to parking and zoning
10 requirements. And I think Miss Bracefield testified
11 that the design was in accordance with the DEP
12 requirements which, again, works on the bathroom plan.

13 **MR. SCHERFEN:** The pumping
14 station, the potential for handling sewerage in the
15 pumping station, how many bathrooms per unit can be
16 handled by that pumping station?

17 **MS. BRACEFIELD:** It's not sized
18 based on the number of bathrooms, it's sized on the
19 number of residential units that the standard NJ DEP
20 requires for bathrooms.

21 **MR. SCHERFEN:** Let's say the
22 sewerage from your development of 16 units, let's say
23 it triples. That pumping station is going to be able
24 to handle triple the amount of sewerage, right?

25 **MS. BRACEFIELD:** Typically, the

1 deliberately designed in response to the Board's
2 concerns about the maintenance cost of the boardwalk.
3 That came right from the Board's Vice-Chair.

4 **MR. SCHERFEN:** Okay. The open
5 space. I still need clarification on that because
6 open space sounds to me like I can walk in from Avenue
7 D and walk behind all these homes and do whatever I
8 want really; I can barbecue there, I can have parties.
9 Is that true?

10 **MR. GIUNCO:** I don't think so. I
11 think that the Ordinance is specific, it provides for
12 public open space, and then it would be up to the
13 Borough to determine what you could do in that. This,
14 however, is common open space. It's common to the
15 Homeowners Association.

16 **MR. SCHERFEN:** Not to the public?

17 **MR. GIUNCO:** Not to the public.

18 **MR. SCHERFEN:** So we are not
19 gaining, we have no open space at all on your
20 property, no access to your open space on your
21 property?

22 **MR. GIUNCO:** Correct.

23 **MR. SCHERFEN:** Okay. But I can
24 walk down your street and if maybe -- okay. If the
25 Catamaran Club wanted to build a stairway they can do

1 that, right, to get access to the beach?
2 **MR. GIUNCO:** I don't know that,
3 they might be able to. They might have to get a DEP
4 permit if the property rights permitted it.

5 **MR. SCHERFEN:** Yeah, okay. The
6 traffic study that was done, is that engineer still
7 here? There you are.

8 **MR. REA:** I never leave until the
9 end because I know there will be traffic questions.

10 **MR. SCHERFEN:** I have a great
11 concern with traffic on Avenue D, the Council knows
12 this, the Board knows this because I brought it up
13 before. We have a high traffic area on Avenue D. It
14 is a main access from highway 36 down Avenue D as far
15 as Center Avenue and as far as Bay Avenue which is
16 directly opposite your property. All the traffic, I
17 would say half the traffic, but I'm not really sure,
18 you would probably know better because you did the
19 study, there's Seastreak traffic that goes north on
20 that street every day, there's a speeding issue which
21 the Council is trying to rectify by putting stop signs
22 in. Going the opposite direction there's traffic
23 going to the highway with the same speeding issue,
24 which is not your issue, but it's a volume issue,
25 okay. So you got traffic going from like let's say

1 hour traffic counts at the intersection of Route 36
2 and Avenue D. I figured this is an issue that
3 somebody may ask me and may bring up. I wanted to be
4 prepared. I've looked at those traffic volumes.
5 You're partially correct in some of the things that
6 you said. I don't know about a potential speeding
7 problem on Avenue D --

8 **MR. SCHERFEN:** That's not your
9 problem.

10 **MR. REA:** No, I understand. But
11 there are, it looks to be, you know, roughly a hundred
12 to 120 cars using Avenue D during peak hours between
13 Route 36 and probably up towards Bay Avenue.

14 **MR. SCHERFEN:** In the opposite
15 direction.

16 **MR. REA:** Yeah, usually going
17 towards the ferry in the morning and away from the
18 ferry in the afternoon. Let me just backup to try to
19 answer your question. That level of volume, although
20 it may be significant to you if you live on the
21 street, does not come anywhere near towards exceeding
22 the capacity of the street to handle that volume of
23 traffic. And if you look at the volumes at the
24 intersection of 36 and Avenue D, there are
25 approximately 1400 cars going through the intersection

1 seven to nine in the morning is when the peak ferry
2 boat traffic is, okay. You got people running from, I
3 mean speeding from highway 36 up to the edge of your
4 property making a right-hand turn, okay. Then you got
5 traffic going in the opposite direction which is local
6 traffic, okay. Now you said that each property has
7 three parking spaces allotted on their driveways. Is
8 that all the driveways or just some of them?

9 **MR. REA:** I think Mr. Kennedy
10 testified to that. It's my understanding that each
11 home has a two-car garage and two spaces in front of
12 the garage. And that actually counts under the RSIS
13 as three.5 parking spaces.

14 **MR. SCHERFEN:** My question to you
15 was if each property had let's say four cars, I'm not
16 great on math, I'm an artist, we don't add, we just
17 make pictures, but four times 16 is what?

18 **MR. REA:** 64.

19 **MR. SCHERFEN:** 64 cars added to,
20 and I'm assuming that some of these people have jobs,
21 I don't know.

22 **MR. REA:** I think I know where
23 your question is going. I didn't even get a chance to
24 answer the first question or comment. Let me backup
25 for a second. I did have an opportunity to do peak

1 during peak hours.

2 **MR. SCHERFEN:** Mm-hmm.

3 **MR. REA:** A 16-unit subdivision
4 will generate 16 peak hour trips. And by peak hour
5 trips I'm talking about the amount of traffic that's
6 generated during the one highest concentrated peak
7 hour of traffic flow in the morning and in the
8 afternoon. That's what we use to do traffic studies,
9 that one highest concentrated peak hour. I'm not
10 talking about a four-hour window over six o'clock in
11 the morning to ten o'clock, just that one concentrated
12 peak hour we will add 16 cars to the existing 1400
13 cars that are going through the intersection. That's
14 an increase of about one percent. It's, quite
15 frankly, not even worthy of a traffic study and that's
16 why it's kind of irrelevant.

17 **MR. SCHERFEN:** So you're saying
18 that peak traffic hour there's only going to be one
19 car per unit using that access?

20 **MR. REA:** Per unit, that's
21 correct.

22 **MR. SCHERFEN:** That's pretty
23 amazing, one car per --

24 **MR. REA:** These are numbers that
25 have been published by the Institute of Transportation

1 Engineers and accepted by Monmouth County and the
2 NJDOT. They're real.

3 **MR. SCHERFEN:** Would part of your
4 study also include residential traffic; people going
5 to work from Avenue D to highway 36? It includes
6 that?

7 **MR. REA:** They're traffic counts.
8 They could have been residents, they could have been
9 people getting to and from the ferry. They were just
10 cars traveling down the street.

11 **MR. SCHERFEN:** If I were a buyer
12 of one of your properties and I drove out onto your
13 property onto Avenue D and I hit Bay Avenue where a
14 huge amount of traffic is coming to the ferry and
15 going to highway 36 --

16 **MR. REA:** Well, again, let me
17 stop you. That's not reflected in traffic counts. I
18 don't know what the word "huge" means to you, I know
19 what it means to me. It's not reflected in the
20 traffic counts.

21 **MR. SCHERFEN:** Let me see if I
22 have any other questions. I don't think I do. I'll
23 get out of here. So I have access to the main
24 driveway into the unit, I can come and go as I want,
25 correct?

1 **MR. GIUNCO:** No, we are not
2 planning gates.

3 **CHAIRMAN NEFF:** Chris Nolan is
4 next if he's here. She.

5 Thomas from Fourth Avenue. Last
6 names begins with a K. I think it's a K. 43 Fourth
7 Avenue.

8 (No response.)

9 No?

10 Tucker Snedeker?

11 (No response.)

12 Michael Ferguson.

13 (No response.)

14 Mark Fisher?

15 **MR. FISHER:** Yes.

16 **CHAIRMAN NEFF:** Please remember
17 this is a question period for questions specifically
18 for the Applicant's witnesses. You can make comments
19 later.

20 **MR. FISHER:** My name is Mark
21 Fisher, 91 Third Avenue. F-i-s-h-e. Thank you, Mr.
22 Neff.

23 I have a few questions. I didn't
24 hear any discussion about the Affordable Housing
25 obligations for this community. I understand with

1 **MR. GIUNCO:** Is that a question?

2 **MR. SCHERFEN:** That's a question.

3 **MR. GIUNCO:** You can come and go
4 as you want, yes.

5 **MR. SCHERFEN:** So I go down and
6 park on the parking side of your street and maybe walk
7 down to the beach and leave my car there on the
8 street. I can do that probably, right?

9 **MR. GIUNCO:** I guess.

10 **MR. SCHERFEN:** You guess? Okay.

11 **MR. GIUNCO:** It's not really part
12 of our planning application. In fact, I'm going to
13 say is there a question there and, if so, can you
14 relate it to the application.

15 **MR. SCHERFEN:** Okay. I'll stop.
16 Thank you very much.

17 **CHAIRMAN NEFF:** Is this you said
18 HOA, so, is this, in essence, private property, any
19 sign there no trespassing or anything like that?

20 **MR. GIUNCO:** Well, that would be
21 for the open space. We're expecting that the street
22 would be a public street and that would then make it
23 subject to the rules of the Borough.

24 **CHAIRMAN NEFF:** You're saying
25 it's not going to be a gated community?

1 single-family homes there's no requirements for
2 Affordable Housing, but something gets paid into a
3 fund, correct?

4 **COUNCILMAN FLIGOR:** Correct.

5 **MR. FISHER:** What would be those
6 obligations just so the public knows?

7 **CHAIRMAN NEFF:** I can't calculate
8 the formula, but --

9 **VOICE FROM AUDIENCE:** We can't
10 hear you.

11 **MR. GIUNCO:** As it stands right
12 now, it's our understanding that the Affordable
13 Housing plan has been submitted and it's something
14 being considered for settlement and most likely it
15 will be adopted in Monmouth County sometime in January
16 is what the Court told us when we checked on that the
17 other day.

18 In terms of a development fee,
19 the Ordinance is not specific that it applies.

20 **MR. FISHER:** So what does that
21 mean?

22 **MR. GIUNCO:** There is no
23 Affordable Housing provided on this site. The Borough
24 has met its obligation through a plan, it's been
25 submitted to the courts and it's, again, I'm not

1 participating in that per se, but I was interested in
2 it. And it turns out that it appears that the Borough
3 and the Fair Share Housing and the Courts have reached
4 an agreement as to the provision of Affordable Housing
5 in this round by Atlantic Highlands.

6 **MR. STEIB:** It will be paid into
7 municipal funds.

8 **MR. FISHER:** Okay. We just don't
9 know how much that is at this point.

10 **MR. STEIB:** Correct.

11 **MR. FISHER:** Second question, I
12 didn't hear any discussion about the former soil
13 issues underneath where the two or three tanks under
14 Esso or Exxon, whatever it was called back in the day.
15 The soil contamination, where do we stand with the
16 permitting for the project and has an LSRP been put on
17 retainer for this project?

18 **MR. GIUNCO:** That's exactly the
19 case. It's under the jurisdiction of the DEP through
20 the LSRP.

21 **MR. FISHER:** And permits have
22 been requested?

23 **MR. GIUNCO:** Well, it's actually
24 in process and we're finally just waiting for the time
25 elapse for the testing of the wells.

1 **MR. FISHER:** Thank you. At the
2 last meeting -- I'm sorry, different question.

3 During the construction phase of
4 the project how is the bay going to be protected from
5 construction, garbage, trash blown into the water and
6 when, if things really get bad, any oil sheen that
7 winds up in the bay, how is that going to be
8 controlled?

9 **MR. KENNEDY:** So this level of
10 approval is just one of multiple levels of approval.
11 The soil erosion and sediment control is under a
12 federal department, the USDA, which enables the State
13 of New Jersey under Administrative Code to operate a
14 soil erosion sediment control district. We're
15 obligated to have a soil erosion and sediment control
16 plan certified by the SCD. They are mandated by the
17 Administrative Code and the federal program to conduct
18 routine inspections of the site to ensure that our
19 soil and substation measures are being effective at
20 doing exactly what you're talking about; windblown
21 erosion, water borne erosion and the spread of any
22 sort of contaminants offsite, especially into the bay.
23 So we have proactively developed a plan. We
24 anticipate having it certified by the SCD and those
25 routine inspections not only by SCD, but also by your

1 **MR. FISHER:** Okay. The last
2 special meeting back in August, Mr. Kennedy stated
3 that the loop road is a safer design in providing one
4 way in and one way out and now we have a cul-de-sac so
5 I'm just wondering how that logic changed between
6 August and now.

7 **MR. KENNEDY:** My testimony was in
8 direct response to a question with regard to the RSIS
9 offset; would it be better to just put a cul-de-sac at
10 the end of our loop creating, in essence, a large J.
11 That was for 21 lots. A different lot plan. But in
12 my opinion, at that time, it was better to loop both
13 ends of road out to Avenue D than to provide a
14 cul-de-sac that would have been, in essence, I think,
15 about 1500 feet long ending in a cul-de-sac right by
16 Avenue D. So my testimony held true that if you're
17 going to provide a 1500 foot looped road, it's better
18 to actually loop the road and not end it in a
19 cul-de-sac.

20 Now this is a different design.
21 This is 650 feet long with 16 homes. And you've heard
22 the traffic engineer testify to this and it is a
23 change, it's a change from my testimony. It's no
24 longer 21 homes and it's no longer an approximately
25 1500 foot road.

1 Borough and also by the DEP, in fact, because this
2 will be subject to the DEP permit. That triple layer
3 would provide protection from exactly what you're
4 talking about.

5 **MR. FISHER:** And that includes
6 any oil that might hit the water surface in the bay
7 /KEPB well?

8 **MR. KENNEDY:** Well, I'm not sure
9 what source that will be, but, again, any oil from
10 construction would be a discharge that would not only
11 be caused by the Borough in their routine inspections,
12 but also by the DEP. There would be no source that I
13 know of oil from the site.

14 **MR. FISHER:** Considering it's
15 former use as an oil storage facility, there's always
16 the possibility that there could be a pocket of oil
17 somewhere on the property underground that could wind
18 up in the bay. You look surprised.

19 **MR. KENNEDY:** Well, I guess I
20 don't deal in -- I deal in likelihoods more than
21 probability because this has been the monitoring
22 wells, the LSRP, the geographical technical work that
23 has been done on the site, I highly doubt there is a
24 pocket of oil, and undiscovered pocket of oil
25 underground. This is subject to the inflow and

1 outflow of groundwater. This is not a likelihood.
2 However, let's say it happened. Let's say they're
3 excavating and they find an oil sheen in the dirt that
4 they're excavating, well, they're obligated by the DEP
5 RAO, that's Remedial Action Outcome, to stop
6 construction and to mitigate that oil or whatever it
7 is. That's not a likelihood, but there is an
8 obligation, a continuing obligation, to monitor the
9 site throughout construction in essence to protect the
10 RAO, the Remedial Action Outcome.

11 **MR. FISHER:** So will the LSRP be
12 onsite during excavation activity of the site
13 monitoring that?

14 **MR. KENNEDY:** No. We'll comply
15 with all the rules and regulations of, like I said, of
16 the Borough, the state and the Soil and Sediment
17 Control District.

18 **MR. FISHER:** Okay. Last
19 question. Last meeting in August, Mr. Scherfen asked
20 a question about would the homeowners be notified
21 about the former use of the property and the potential
22 for soil contamination and I believe it was Mr.
23 Kennedy's answer, I could be wrong, that they would be
24 referred to the Borough Clerk for that information.
25 Is that what's commonly done for a site such as this?

1 **MR. KENNEDY:** So there is the
2 Real Estate Disclosure Act that covers the transfer of
3 title within the State of New Jersey and any
4 disclosures that are required by law would be made to
5 the perspective purchasers. I actually didn't say
6 that they would be referred to the clerk, but that's
7 what, in essence, happens.

8 **MR. FISHER:** Okay. Thank you.
9 That's all I have.

10 **CHAIRMAN NEFF:** Tony Hannan.

11 **MR. HANNAN:** My name is Tony
12 Hannan and I live at 1 Brandt Way in Belford. I'm a
13 member of the Catamaran Club. As I was reading the
14 Master Plan there's a lot of statements in there about
15 conserving the waterfront and natural resources. And
16 my question to you is do you think this is the highest
17 and best use of this property? This property is one
18 of the last significant undeveloped lands on Sandy
19 Hook bay and I ask the Board if you can reconsider the
20 zoning.

21 **VICE CHAIRMAN COLANGELO:** Again,
22 I'm sorry, this is a question period to the Applicant
23 for you to ask questions. If you would like to make a
24 comment you're perfectly welcome to during the comment
25 section, alright.

1 **MR. STEIB:** The purpose right now
2 is to ask questions specifically of the Applicant's
3 witnesses themselves.

4 **MR. HANNAN:** I have my name on
5 the comments list, too. Thank you.

6 **CHAIRMAN NEFF:** Michelle Moylan.

7 **MS. MOYLAN:** Good evening. My
8 name is Michelle Moylan. I reside at 85 Bay Avenue.
9 Thank you for this opportunity to get better clarity.
10 I have a few questions. I will begin with the traffic
11 engineer, if I may.

12 **MR. REA:** Okay.

13 **MS. MOYLAN:** Just for
14 clarification during the traffic survey that was
15 conducted, was the scope limited to Avenue D or did it
16 also consider the cross sections for Center Avenue,
17 Bay Avenue, Harbor View Court and Avenue A which
18 serves as secondary and triary traffic for other
19 neighboring communities as they cross through the
20 town?

21 **MR. REA:** The traffic counts were
22 done and the intersection of Route 36 and Avenue D
23 with the understanding that those other roads that you
24 mentioned, such as Bay Avenue, they feed traffic into
25 Avenue D which goes out to the traffic light at Route

1 36. That's the safest place to access the highway.
2 So the volumes that are on Avenue D at Route 36 are a
3 compilation of the volumes from all of those streets.

4 **MS. BRACEFIELD:** Thank you. You
5 had mentioned that as accepted by the regulatory
6 institutions that govern traffic surveys that the
7 acceptable measurement is that singular peak hour as a
8 measurement of what traffic volume looks like.

9 **MR. REA:** Yes.

10 **MS. BRACEFIELD:** I'll imagine
11 there could be conflicting surveys or data out in the
12 marketplace that would shed light to the overall echo
13 system of those streets at a broader view, maybe from
14 six to ten o'clock or nine a.m. when you have school
15 traffic and school children walking or riding their
16 bikes or parents commuting them to school that may
17 fall outside of what you may have looked at as
18 commuter traffic so it doesn't present a very accurate
19 picture for the families that are traveling in the
20 area.

21 **MR. REA:** I respectfully
22 disagree. I understand what you're saying, but
23 traffic engineers measure the capacity of an
24 intersection or roadway based on the peak hour volume
25 with the understanding that if traffic conditions

1 during the peak hour are acceptable than during other
2 non peak hours they would also be acceptable. So
3 really the peak hour in the morning and in the
4 afternoon is mostly related to commuter traffic is the
5 standard by which we measure the impact that a
6 residential community will have on the adjacent
7 roadway network. And I don't think that there are any
8 other competing visions for that, quiet frankly.

9 **MS. MOYLAN:** Okay. Is there a
10 data point during traffic surveys for collecting
11 accident reports.

12 **MR. REA:** If something looks out
13 of sorts when you do your site visits, and I've been
14 to the site three times now, tonight included, if
15 something looks out of sorts on the street, there's a
16 curve, there's a horizontal or vertical curve, there's
17 a site distance issue, something that looks like it
18 would present a problem, then you typically do an
19 accident survey. There's nothing about Avenue D and
20 those streets that intersect with Avenue D. You have
21 a basic grid pattern out there. You have stop signs
22 on certain streets. I know one gentleman mentioned
23 there might be a speeding problem on Avenue D. Quite
24 frankly, when I was out there, you know, the three
25 times I was out there I didn't see what appeared to be

1 subdivisions, nothing unusual about it, and, so, I
2 wouldn't expect anything unusual. And four accidents
3 over eight years on Bay Avenue is not something I
4 would consider to be out of the ordinary.

5 **MS. MOYLAN:** At my house.

6 **MR. REA:** You've been involved in
7 four years?

8 **MS. MOYLAN:** Yes, I have.

9 **MR. REA:** You yourself
10 personally?

11 **MS. MOYLAN:** Yes. Overnight, in
12 the morning or whenever --

13 **MR. REA:** I'll make sure to avoid
14 you in the parking lot. I'm just kidding.

15 **MS. MOYLAN:** Parked cars. Parked
16 cars.

17 **MR. REA:** Okay. I'm sorry. I'm
18 just trying to make light of the situation.

19 **MS. MOYLAN:** You park your car
20 outside your house.

21 **MR. REA:** I gotcha.

22 **MS. MOYLAN:** I believe that's it
23 for you, sir. Thank you. I appreciate it.

24 For the engineer regarding what
25 is called the stone rivet or retaining wall.

1 a speeding problem to me, but there's nothing unusual
2 about the street network, the grid pattern that's out
3 there that would lead me to believe that you would
4 have some kind of significant accident problem.

5 **MS. MOYLAN:** I can appreciate
6 that. By way of reference, I live on Bay Avenue and
7 we've had four car accidents. So I've had four --

8 **MR. REA:** Over how many years?

9 **MS. MOYLAN:** Eight. So that's
10 significant. That's my house. That's not considering
11 my neighbors. So to say that the traffic survey
12 considers the capacity of that street to handle that
13 volume --

14 **MR. GIUNCO:** The question?

15 **MS. MOYLAN:** That's my question.
16 So I feel, you know, that is there additional data
17 that gets considered into that traffic survey is it a
18 complete picture?

19 **MR. REA:** In my opinion, for the
20 size and scope of this project it absolutely is. And,
21 as I said, the grid network out there is very standard
22 in an older residential community. There's nothing
23 out of the ordinary. There aren't any vertical or
24 horizontal site issues. It's a standard, traditional
25 grid network that typical in many residential

1 **MR. KENNEDY:** That would be me,
2 yes.

3 **MS. MOYLAN:** Okay. Visually, I
4 can't really tell. It looks like it's stone boulders,
5 is that correct? What is it made of?

6 **MR. KENNEDY:** You are correct.

7 **MS. MOYLAN:** Okay. Great. Is
8 that going to be the same by the weight of the stone
9 or is it going to be mortar that pulls that together?

10 **MR. KENNEDY:** You can do either,
11 but it's typically a gravity-style revetment. Sea
12 Bright, for instance, that revetment is a mortar
13 revetment with a concrete cap. But in this use where
14 you're backed by soil, a slope revetment, typically
15 it's not grouted. But if the structural engineer at
16 the time decides that that extra strength of a grouted
17 revetment is necessary, that's something that is a
18 design condition that DEP can approve.

19 **MS. MOYLAN:** Thank you. No
20 questions for the Planning Board, correct, just the
21 Applicant?

22 **CHAIRMAN NEFF:** Right.

23 **MS. MOYLAN:** Just for the
24 clarification on section 150-87, open space. In the
25 Ordinance where it speaks to the 30 percent of

1 dedicated common open space, it also states it needs
 2 to be functional and usable. To whom, just the owner?
 3 **MR. GIUNCO:** Anyone.
 4 **MS. MOYLAN:** So that's
 5 essentially private property.
 6 **MR. KENNEDY:** Yes, that's
 7 correct.
 8 **MR. PEPE:** Can I dovetail a
 9 question. You know how we were talking before about
 10 the sewer and whether we can give the option to the
 11 town to take on the sewer responsibility or give it to
 12 the Homeowners Association, presumably the same thing
 13 can happen with the road. Can we do that with the
 14 open space and say, give the town the option to take
 15 it on or not take it on?
 16 **MR. GIUNCO:** That was an issue of
 17 significant discussion by the Board at the first
 18 hearing and we went the way that the Board guided us.
 19 I mean at this point to change it back again. Because
 20 we'd have to redesign the project at that point
 21 because there's not adequate privacies --
 22 **DOCTOR CETRON:** I just want to
 23 clarify something. That wasn't the Board pushing it
 24 away, it was a consensus of everyone sitting on the
 25 Board.

1 any more.
 2 **MS. MOYLAN:** Well, the grade is
 3 going to be higher, right, so there's got to be
 4 runoff.
 5 **MR. GIUNCO:** Same amount of
 6 water.
 7 **MS. MOYLAN:** But there's a slope
 8 now.
 9 **MR. KENNEDY:** We're actually not
 10 directing water towards Harbor View, we actually have
 11 a drainage system within the roadway and the roadway
 12 there's actually a profile in our plans that indicates
 13 that it slopes away from Avenue D to a low point and
 14 that our storm water system intercepts that water and
 15 discharges into the bay. So we don't expect any
 16 additional water; drainage impact, storm water impact
 17 to adversely impact any runoff.
 18 **MS. MOYLAN:** So along with that,
 19 if it's flowing into that drainage and going out to
 20 the bay, part of the (inaudible) environmental
 21 sensitivity which would include the bay; so you'll
 22 have oil, sediment, residue, pollution going into
 23 those drains going out to the bay.
 24 **MR. KENNEDY:** Part of my
 25 testimony last time, and I'll reiterate it, that we

1 **MR. GIUNCO:** A consensus. Quite
 2 frankly, to make it a consensus the Board had to be
 3 involved.
 4 **BOARD MEMBER PEPE:** It was clear
 5 to me that people were asking and you were suggesting
 6 that it be changed.
 7 **MR. GIUNCO:** Well, we try an
 8 satisfy that and I think the difference in the open
 9 space would be, would require a redesign. We haven't
 10 designed the privacy that would be needed to have
 11 public open space.
 12 **MS. MOYLAN:** Relative to the
 13 Ordinance for designing requirements, section B,
 14 second bullet point where it states, you know,
 15 planning will mitigate adverse affects of traffic,
 16 noise, transportation, drainage and utility on
 17 neighboring properties. With the elevation increasing
 18 being considered for that particular property, they'll
 19 be additional runoff that we've talked about at many
 20 meetings that will fall into Harbor View Drive which
 21 currently is already taxed from a drainage
 22 perspective. So I'm just, I didn't get to hear,
 23 unfortunately, how that would be addressed with this.
 24 **MR. GIUNCO:** Where would the
 25 additional water come from? It's not going to rain

1 are providing a filter system to mitigate the impact
 2 of exactly what you said. This is something that it's
 3 common with subdivisions because it's a state law. We
 4 have to mitigate and by doing something called a
 5 manufactured treatment device, we are providing
 6 filtration of our runoff prior to discharge into the
 7 bay.
 8 **COUNCILMAN FLIGOR:** Are you using
 9 a storm ceptor?
 10 **MR. KENNEDY:** The question was if
 11 we're using a storm ceptor. And we're not, we're
 12 using something called a storm filter. The storm
 13 filter is certified by New Jersey as providing 80
 14 percent of total solid removal.
 15 **COUNCILMAN FLIGOR:** I just wanted
 16 to hear you say it.
 17 **MS. MOYLAN:** I can't recall, I
 18 think it was a closing statement, that this plan is in
 19 line with the vision of the town and executed by a
 20 vision of the community. I just wanted to get a sense
 21 of context where the orientation of that statement
 22 comes from?
 23 **MR. JANIW:** So the Master Plan in
 24 the Ordinance is a reflection of the governing body's
 25 assessment of what is appropriate in what location.

1 The Master Plan is something that's prepared and then
2 is re-examined every ten years in order to determine
3 what changing factors would impact the community and
4 impact the community's vision for certain zoning
5 requirements. As of today, the community standards
6 that were adopted for this property are under the R1
7 zoning standards which says it's appropriate for 7500
8 square foot lots. So we are consistent with what the
9 Zone Plan says. We are consistent with the
10 recommendations of the Master Plan and subsequent
11 Master Plan reexamination. So this is very much, this
12 is a conforming application with everything that the
13 community has stipulated should be here.

14 **MS. MOYLAN:** Thank you. Along
15 with that Master Plan document, the Borough's
16 development regulations are based on policies for
17 Atlantic Highlands that offer guidance on the
18 protection of the environmental qualities of the
19 Borough, but also the management of waterfront
20 development and an overall plan to protect the
21 waterfront locations to ensure that the community has
22 access to the bay for swimming, boating, walking, et
23 cetera and the maintenance of the architectural
24 heritage. So some of those features have been removed
25 from that plan design.

1 **MR. JANIW:** Well, no. What
2 pertains to this property is reiterated in the R1
3 zoning standards and we are complying with every one
4 of the standards that have been adopted for this
5 property.

6 **MS. MOYLAN:** But you also said
7 that you took into consideration that it is within the
8 Master Plan document and now that's gone away.

9 **MR. JANIW:** No, no, no. The
10 Master Plan document, if you recall, talks about
11 consistency with the neighborhood development pattern,
12 consistency with the size of the property, consistency
13 with the density of the neighborhood. We meet all
14 those objectives.

15 **MS. MOYLAN:** The Master Plan
16 document also talked about the continuance to improve
17 the balance between housing development and open space
18 preservation with an aim of providing residents with
19 increased opportunity for active and passive
20 recreation and maintaining those natural buffers for
21 wildlife habitat, property values and the residents
22 enjoyment that depend on those properties. So there
23 is a lot within that Master Plan document that kind of
24 speaks to both sides of the coin so I don't really
25 feel that it can index on one side and not the other.

1 **MR. JANIW:** Well, the
2 Ordinance --

3 **MR. GIUNCO:** Well, was that a
4 question. What was the question? It sounded like a
5 statement.

6 **BOARD MEMBER PEPE:** Just end it
7 with is that right.

8 **MS. MOYLAN:** Is that right?
9 Thank you.

10 **MR. JANIW:** The R1 standard, and
11 there are standards within your Ordinance for open
12 space, common open space and public open space. We
13 are complying with the provision of the adequate
14 amount of common open space for this community and the
15 residents of this community will enjoy 30 percent open
16 space within their zone.

17 **MS. MOYLAN:** The residents within
18 that community.

19 **VICE CHAIRMAN COLANGELO:** Excuse
20 me. It says in the Master Plan itself the
21 preservation of open space, do you consider this lot
22 right now open space?

23 **MR. JANIW:** No, this lot is a non
24 conforming use.

25 **VICE CHAIRMAN COLANGELO:** As

1 quoted in the Master Plan it says for the preservation
2 of open space. Do you consider this lot currently
3 open space?

4 **MR. JANIW:** No, this is not a
5 vacant parcel of land. This property has been
6 developed by a variety of non conforming uses over the
7 years. We've talked about the history of oil tanks on
8 this property. It's currently used as marine storage
9 as well as office. All these uses are non conforming
10 uses. What this application does is bring this
11 property into conformity with the vision of the Master
12 Plan and Ordinance.

13 **BOARD MEMBER PEPE:** Well, and
14 you're also creating open space.

15 **MR. JANIW:** And we are creating
16 open space.

17 **BOARD MEMBER PEPE:** Within the
18 definition of the Ordinance.

19 **VICE CHAIRMAN COLANGELO:** Within
20 the definition of the Ordinance. That's what the
21 Ordinance says right now.

22 **MS. MOYLAN:** Thank you.

23 **CHAIRMAN NEFF:** Cory from Harbor
24 View Drive?

25 (No response.)

1 Richard Busick, Bay Avenue.
 2 **MR. BUSICK:** Good evening. My
 3 name is Rich Busick from 113 Bay Avenue here in
 4 Atlantic Highlands. Just a couple of quick questions.
 5 My first question was for the builder, this may have
 6 been covered in his testimony, but I understand that
 7 the height of the homes is less or equal to 35 feet
 8 and I'm just wondering if those are two or three
 9 stories?

10 **MR. GIUNCO:** 35 feet is a
 11 restriction in the zone. We do not seek any waivers
 12 or variance.

13 **MR. BUSICK:** Two-story,
 14 three-story homes?

15 **MR. GIUNCO:** Two and a half
 16 stories.

17 **MR. BUSICK:** My second question
 18 is is there just an estimated time period, assuming
 19 all the approvals are met, from the time the project
 20 commences until anticipated completion?

21 **MR. GIUNCO:** I don't have one.
 22 It is my client's intention that when all approvals
 23 are finalized, to begin the process of construction.

24 **MR. BUSICK:** But there's no
 25 estimate as to how long that time would take.

1 which belongs to people getting to the Seastreak
 2 ferry.

3 **MR. BUSICK:** I'm sorry, just so
 4 I'm understanding, you're able to say during peak
 5 hours approximately 120 cars each way or are you
 6 looking at 120 cars between --

7 **MR. REA:** No, 120 each way so
 8 about 240 in two directions.

9 **MR. BUSICK:** Alright. Thank you.
 10 So that 16 cars is more significant when measured
 11 against that smaller volume of cars versus the 1400.
 12 I'm only asking that question I understand the traffic
 13 study.

14 **MR. REA:** I understand. The 16
 15 cars generated from this development will likely be
 16 directional; it will be towards Route 36 in the
 17 morning and away from Route 36 in the afternoon. So I
 18 understand, you know, your question. It's just not a
 19 significant amount of volume. That's all I can say.

20 **MR. BUSICK:** I understand. You
 21 know, it is significant to the people who live on the
 22 street.

23 **MR. REA:** If you break it down
 24 it's one car every four minutes.

25 **MR. BUSICK:** Okay. That's all I

1 **MR. GIUNCO:** It's pretty hard to
 2 say. We still have to get the CAFRA permits and soil
 3 certification. We have obtained it from Monmouth
 4 County and we're here asking for the municipal
 5 approvals.

6 **MR. BUSICK:** Thank you. And my
 7 last question I just wanted to clarify regarding the
 8 traffic, the traffic study, I understand that the
 9 study at the intersection of Avenue D and Route 36
 10 during the peak hour, peak hours, is approximately
 11 1400 cars per hour?

12 **MR. REA:** Yeah, that's the
 13 number, approximately 1400.

14 **MR. BUSICK:** Thank you. Was
 15 there, and you may have mentioned this and I may have
 16 missed it, was there an estimate as to how many of
 17 those cars were actually traveling on Avenue D itself?

18 **MR. REA:** Yes. There were about
 19 120 cars in each direction during both the morning and
 20 afternoon peak hours. So 120 heading up towards Bay
 21 Avenue and 120 heading back down towards Route 36.
 22 Roughly about 120 to 125 cars, both for the morning
 23 and afternoon peak hours. So I think what that shows
 24 me is that there's a combination of traffic on Avenue
 25 D; some of which belongs to the residents and some of

1 have. Thank you.

2 **CHAIRMAN NEFF:** Don Adler?
 3 (No response.)

4 I'm going to start the list from
 5 tonight.

6 Andy Clurfeld?

7 **MS. CLURFELD:** Andy Clurfeld,
 8 C-l-u-r-f-e-l-d, and I'm at 41 Third Avenue. Thank
 9 you very much. I'm hopeful I'm able to make my points
 10 clear about the open space questions that I have and
 11 I'd like to direct my questions, please, to the
 12 appropriate planner, engineers who could probably
 13 answer them.

14 Could someone please give me the
 15 dimensions of that open space area and by that I mean
 16 the one at the far left. I don't need the square
 17 footage, but 30 yards by X or such, if you can please
 18 tell me that.

19 **MR. KENNEDY:** So the estimate
 20 would be about 400 feet in the north/south or up and
 21 down and then you see that it's kind of varied in
 22 shape. So it's a hundred feet towards the water about
 23 and about 45 feet as you go to the south.

24 **MS. CLURFELD:** So at its longest
 25 north to south point it's 400 feet and then at its

1 widest east to west point it's 100 feet down to 45
 2 feet. And that particular open space is what you are
 3 saying, am I correct, is not public open space, but it
 4 is the Homeowners Association open space?
 5 **MR. KENNEDY:** Yes. In accordance
 6 with the Ordinance --
 7 **MS. CLURFELD:** Right. I'm aware
 8 of that.
 9 **MR. GIUNCO:** Would you let us
 10 answer your question.
 11 **MS. CLURFELD:** Oh, sure.
 12 **MR. KENNEDY:** So in accordance
 13 with the Ordinance, we're required to provide this
 14 common open space. So, yes, that's part of the --
 15 **MS. CLURFELD:** I'm trying to
 16 differentiate because at one point we were talking
 17 about open space for the public and we were assured
 18 that it would be and now it's being stated tonight,
 19 and I just want to clarify so that I understand, it is
 20 for the Homeowners Association and not for the
 21 public-at-large.
 22 **MR. KENNEDY:** Correct.
 23 **MS. CLURFELD:** Correct. Okay.
 24 And what, what can be done in an open space of those
 25 dimensions in that location, what could we anticipate

1 terrible at that.
 2 So once the Homeowners
 3 Association is formed, presumably that's after all the
 4 houses are occupied, and we don't have a timeframe for
 5 that, then it's a group of people, Mr. Planner -- I'm
 6 sorry, your name?
 7 **MR. GIUNCO:** That's not correct.
 8 The Homeowners Association will be prepared and formed
 9 before any of the houses are sold.
 10 **MS. CLURFELD:** Isn't the
 11 Homeowners Association governed by homeowners,
 12 property owners?
 13 **MR. GIUNCO:** Yes.
 14 **MS. CLURFELD:** But --
 15 **MR. GIUNCO:** Unless it was formed
 16 before someone bought or chooses to buy the property,
 17 they wouldn't know the terms and conditions of it.
 18 **MS. CLURFELD:** Who sets them?
 19 **MR. GIUNCO:** Who what?
 20 **MS. CLURFELD:** Who sets the terms
 21 of like if the Homeowners Association is going to have
 22 the rule of this open space, who is setting the rules
 23 if not the homeowners themselves?
 24 **MR. GIUNCO:** So Atlantic
 25 Highlands, through their Ordinance, has defined the

1 because there's public view from the Catamaran site.
 2 What can he we anticipate looking at there?
 3 **MR. KENNEDY:** Well, one of the
 4 things that your Ordinance allows is recreation,
 5 passive recreation and/or active recreation. So it
 6 can be left alone and used for passive recreation
 7 or --
 8 **MS. CLURFELD:** Contemplation,
 9 right, yeah. I'm a big contemplator. That's how I
 10 stay then as an eater for a living. No, I'm joking.
 11 **MR. GIUNCO:** There's walking, a
 12 little exercise and so forth.
 13 **MS. CLURFELD:** But as the expert
 14 who is being paid for this, so passive is volleyball,
 15 a volleyball net.
 16 **MR. KENNEDY:** So a bench, a
 17 sitting area. Those are all passive recreation areas.
 18 I can't foresee what the Homeowners Association will
 19 choose to do and I'm not going to try to force our
 20 planner what the Homeowners Association may choose to
 21 do in the future.
 22 **VICE CHAIRMAN COLANGELO:** If you
 23 ask question, please let him answer the question for
 24 you.
 25 **MS. CLURFELD:** Gotcha. Im

1 use of open space. So the Homeowners Association will
 2 adopt a document that incorporates all of those
 3 conditions or rules and regulations. They will then,
 4 the way it most likely will work is we will propose a
 5 draft, it will be reviewed by either the Planning
 6 Board attorney or the Borough attorney and any edits
 7 or comments --
 8 **MS. CLURFELD:** "We" meaning the
 9 developer?
 10 **MR. GIUNCO:** Well, yes.
 11 **MS. CLURFELD:** So the developer
 12 sets up the framework for the use of the open space
 13 and then the township Borough council --
 14 **MR. GIUNCO:** It's kind of like
 15 the plans that we do here. We submit the plans for
 16 review and comment based on the Ordinance. Exact same
 17 concept.
 18 **MS. CLURFELD:** I know different
 19 Homeowners Associations and they sort of decide when
 20 there's common area; that there's going to be a garden
 21 there, that there's going to be a volleyball court
 22 there. So this was confusing to me.
 23 **MR. GIUNCO:** It sounds like
 24 you're confused, yes.
 25 **MS. CLURFELD:** Oh, John. Come

1 on. We've known each other too long.
 2 **MR. GIUNCO:** You know how this
 3 works.
 4 **VICE CHAIRMAN COLANGELO:** Ladies
 5 and gentlemen, there's obviously going to be a lot of
 6 questions and it's going to be a long night, I would
 7 greatly prefer, with the back and forth, I would
 8 prefer from both ends, please, okay, please ask the
 9 questions with no wise remarks from either side,
 10 alright. We're all here trying to accomplish
 11 something.
 12 **MS. CLURFELD:** I do want to ask
 13 questions and I do have concerns.
 14 **CHAIRMAN NEFF:** Excuse me. The
 15 developer and such, I believe, typically creates
 16 governing documents, initial documents for a Condo
 17 Association, Homeowners Association and there are no
 18 Board members because there are no owners at the time,
 19 but they have to have some documents in hand to show
 20 the perspective owners.
 21 **MS. CLURFELD:** How things will
 22 work.
 23 **CHAIRMAN NEFF:** How things will
 24 work. They change as more of the residents become
 25 Board members they can always make amendments to those

1 **MS. CLURFELD:** Part of the 30
 2 percent open space?
 3 **MR. KENNEDY:** Yes.
 4 **MS. CLURFELD:** And those, am I
 5 correct in assuming, that those open spaced parcels
 6 are maintained by the property owners directly to the
 7 north of that?
 8 **MR. KENNEDY:** No.
 9 **MS. CLURFELD:** Who maintains that
 10 darker green area?
 11 **MR. KENNEDY:** The HOA; the
 12 Homeowners Association because it's one single lot.
 13 **MS. CLURFELD:** And who has access
 14 to each of those?
 15 **MR. KENNEDY:** The members of the
 16 HOA.
 17 **MS. CLURFELD:** All of the
 18 members. So one three doors down from another can go
 19 in the other's deeper backyard area?
 20 **MR. KENNEDY:** It's one open space
 21 lot at 1. --
 22 **MS. CLURFELD:** It's not cordoned
 23 off in any way, though. I'm just trying to visually
 24 imagine it.
 25 **DOCTOR CETRON:** It looks like a

1 docs.
 2 **MS. CLURFELD:** So those 16
 3 homeowners will have something to work with from the
 4 get-go and they can add onto that.
 5 **CHAIRMAN NEFF:** Typically, that's
 6 how it works.
 7 **MS. CLURFELD:** That's great
 8 clarity. Thank you, Mr. Neff. I appreciate that very
 9 much.
 10 So this at maximum 40 by 100 lot,
 11 is this the entirety of the 30 percent of open space?
 12 **MR. KENNEDY:** No, it's not 40,
 13 it's 400. But, no, that's not the entirety of the
 14 open space.
 15 **MS. CLURFELD:** 400 by -- where's
 16 the rest of the open space?
 17 **MR. KENNEDY:** Well, on the
 18 exhibit you can see that it's the outline in red to
 19 the north, to the west and to the south of the
 20 development.
 21 **MS. CLURFELD:** And is the south
 22 which is the red outlining the darker green, is that
 23 what's considered partly open space?
 24 **MR. KENNEDY:** Not partly, it's
 25 open space.

1 big C. It's one lot.
 2 **MS. CLURFELD:** One big lot behind
 3 everyone else's yard. And they can put up a fence if
 4 they --
 5 **DOCTOR CETRON:** No, no, no. It's
 6 one big lot.
 7 **MR. GIUNCO:** May I offer Mr.
 8 Kennedy go to the Board and demonstrate it physically.
 9 **MS. CLURFELD:** Thank you. Thank
 10 you.
 11 **MR. KENNEDY:** So the lot lines
 12 end at this red line.
 13 **MS. CLURFELD:** Yes.
 14 **MR. KENNEDY:** The individual lot
 15 is owned up to that red light. To the south this
 16 encompasses the open space lot that we were referring
 17 and then all the way back through.
 18 **MS. CLURFELD:** Oh, so it's just
 19 like a big perimeter.
 20 **MR. KENNEDY:** A C-shaped
 21 perimeter, correct.
 22 **CHAIRMAN NEFF:** And that's
 23 available for the Homeowners Association residents,
 24 not open to the public.
 25 **MS. CLURFELD:** Only to the 16

1 owners.

2 **CHAIRMAN NEFF:** So is that clear

3 now everybody who sits through this ad nauseam, I

4 think.

5 **MS. CLURFELD:** I've been at all

6 the meetings and this is the first time it's been

7 explained.

8 **CHAIRMAN NEFF:** Well, it's

9 changed since the last meeting.

10 **MS. CLURFELD:** This is new to me

11 here. Sorry about that, so. You're all bored with

12 this so we'll move on.

13 There was something alluded to

14 that confused me. At the western end of the

15 cul-de-sac someone was mentioning a staircase or a

16 ramp down to the open space area for the homeowners.

17 No, there's not going to be any access at that

18 drop-off point at the end of the cul-de-sac?

19 **MR. KENNEDY:** None is proposed.

20 **MS. CLURFELD:** None is proposed.

21 So the cul-de-sac ends and the access to the open

22 space for the homeowners is from where?

23 **MR. KENNEDY:** The rear of every

24 single lot to the south of the cul-de-sac and the rear

25 of every lot to the north so should they choose to

1 **MR. KENNEDY:** As was testified,

2 the road will be public and we envision this roadway

3 would be controlled by the Borough ordinances.

4 Whatever the Borough Council at some future time

5 decides with regard to parking permits or hours, we

6 provide the ability of at least 12 cars parking

7 on-street. It's not sized for two-side parking, just

8 one.

9 **MS. CLURFELD:** But it's parking

10 that's open to the public, like I can go park there if

11 I chose.

12 **MR. KENNEDY:** Like any other

13 street.

14 **MS. CLURFELD:** Gotcha. Well, now

15 we do have some --

16 **VICE CHAIRMAN COLANGELO:** We're

17 getting to a point now we're asking questions that

18 have been asked and answered.

19 **MS. CLURFELD:** I'm going to ask

20 another question about the pump design and the woman,

21 I have your name here, Miss Bracefield.

22 **MS. BRACEFIELD:** Yes.

23 **MS. CLURFELD:** The pump design,

24 you mentioned that you anticipated it would last many

25 years. Can you please put a number to the word

1 develop a walkway down to the open space.

2 **MS. CLURFELD:** Gotcha. So the

3 homeowners can do that.

4 **MR. KENNEDY:** Yes. And there's

5 also an easement that goes through at least two of the

6 properties to the north and to the south for

7 maintenance access, maintenance access by the HOA, so

8 that the Ordinance maintaining this open space area

9 can be done by the HOA. So there's access for the

10 lawn company or whoever is going to access the --

11 **MS. CLURFELD:** Or kids from the

12 development?

13 **MR. KENNEDY:** Sure.

14 **MS. CLURFELD:** Kids could go down

15 there and play?

16 **MR. KENNEDY:** They can play and

17 they can throw a ball and do whatever the HOA doc

18 allows of the association. They have the enjoyment of

19 the open space area.

20 **MS. CLURFELD:** Okay. Is parking

21 for that street, that cul-de-sac street, I don't know

22 if it's been named yet, but is parking for that

23 cul-de-sac street is on one side, is that private or

24 public meaning is there going to be permit only

25 parking for the homeowners or can --

1 "many"?

2 **MS. BRACEFIELD:** A typical life

3 cycle is 20 or more years.

4 **MS. CLURFELD:** 20 or more years.

5 **MS. BRACEFIELD:** Before it needs

6 maintenance. But the structures themselves will

7 last --

8 **MS. CLURFELD:** Typically last?

9 **MS. BRACEFIELD:** -- 50 years, 40

10 years, but the mechanics will have to be updated.

11 **CHAIRMAN NEFF:** One more question

12 and we move onto someone else to give other people a

13 chance. You can come back later on.

14 **MS. CLURFELD:** I gave up my time

15 last time and you were thankful then, but not so now.

16 I understand. I don't want to be confused about that,

17 too.

18 What is the assessed dollar value

19 of this seven acre development parcel, undeveloped as

20 it is?

21 **MR. GIUNCO:** I don't know the

22 assessed value.

23 **MS. CLURFELD:** You don't?

24 **MR. GIUNCO:** No. It would be on

25 the property card.

1 **MS. CLURFELD:** Okay. Thank you.
2 Janice Evertsen?
3 **MS. EVERTSEN:** My name is Janice
4 Evertsen, E-v-e-r-t-s-e-n, 72 Burlington Avenue,
5 Leonardo.
6 For Mr. Kennedy. Have you
7 received approval permits from the office of Coastal
8 and Land Use Planning?
9 **MR. KENNEDY:** Not yet.
10 **MS. EVERTSEN:** And what is the
11 status of that?
12 **MR. KENNEDY:** This is sort of a
13 gateway. The plans have already changed three times
14 so we're trying to get some sort of an approval from
15 the municipality and then we'll proceed with our CAFRA
16 permit.
17 I mean we obviously have had
18 three applications with DEP, we're not going in blind,
19 we have environmental consultants, but we have not
20 submitted our permit application yet.
21 **MS. EVERTSEN:** I see. From what
22 I've read in the spirit of the letter of the Coastal
23 zone's management rules, there doesn't seem to be a
24 lot in this proposal nor in the previous two proposals
25 that agree with the rules.

1 sewer system. I think you're mixing storm water flow
2 which goes to the bay which Mr. Kennedy testified
3 about and the two, the storm water and the sanitary
4 sewer waters do not mix at all on this project.
5 **MS. EVERTSEN:** There is a rule
6 about encouraging the redevelopment of inactive and
7 underutilized waterfront facilities for ports water
8 dependent and maritime uses, conserve waterfront sites
9 for water-dependent activities, Coastal open space. I
10 don't see coastal open space in that picture.
11 **MR. KENNEDY:** So what you're
12 reading from is the Coastal Zone Management Rules
13 which is DEP. That's not something that typically --
14 **MS. EVERTSEN:** A part of the DEP,
15 yes, there are several.
16 **MR. KENNEDY:** Thank you. The
17 Land Use Regulation Program. That's not typically the
18 venue of this Board.
19 **BOARD MEMBER PEPE:** Not at all.
20 **MR. KENNEDY:** We have to go to
21 that department and receive a permit. If we don't
22 receive a permit, we have to modify our plans and come
23 back here. We have met with them. We've had three
24 applications with them. We believe we have a
25 permeable plan and going through the Coastal Zone

1 **CHAIRMAN NEFF:** Can you be more
2 specific?
3 **MS. EVERTSEN:** Well, sure.
4 **MR. GIUNCO:** It's subject to an
5 application.
6 **MS. EVERTSEN:** One specific
7 question I have for Miss Bracefield, do you happen to
8 know how many CSO's are actually in Sandy Hook Bay,
9 Raritan Bay currently?
10 **MS. BRACEFIELD:** I do not know,
11 but I don't know what this has to do with this project
12 because it's not going to be a CSO.
13 **MS. EVERTSEN:** Well, if there is
14 runoff from an increase in housing, which there will
15 be, and more of a burden to existing sewerage
16 treatment, there will be more runoff into the bay as
17 has been stated this evening.
18 **MS. BRACEFIELD:** I think we're
19 mixing two different subjects here. The sanitary pump
20 station is going to collect the sanitary sewerage from
21 the plumbing from the houses which is going to go into
22 the Borough of Atlantic Highlands sewer system which
23 then gets pumped to the Township of Middletown Sewer
24 Authority waste water treatment plant where there is
25 capacity for this flow. It will not be overtaxing the

1 Management Rules tonight, in front of this Board, is
2 not really the subject of typically what we do.
3 **CHAIRMAN NEFF:** It's irrelevant.
4 **MS. EVERTSEN:** It's not exactly
5 irrelevant.
6 **DOCTOR CETRON:** What we do is
7 when we make our decision, it's contingent upon them
8 then going to that organization satisfying them, then
9 going to the federal level and satisfying them. So if
10 at any point after we make our approval with those
11 contingents, it doesn't succeed, it comes back and
12 they start over again.
13 **MS. EVERTSEN:** Thank you. I also
14 wanted to, I know we had discussed a lot tonight about
15 open space, but to me it's more like backyards.
16 **BOARD MEMBER MURRAY:** That's a
17 comment, not a question.
18 **MS. EVERTSEN:** There was one more
19 item. Oh, for flood hazard and, again, you'll
20 probably have the same response because this is under
21 DEP. Have flood hazard area control permits been
22 submitted?
23 **MR. KENNEDY:** That's actually
24 done concurrently with CAFRA. The flood hazard area
25 permitting is actually a branch of CAFRA. When you're

1 going for a CAFRA permit, you get everything else.
2 That's applicable. The Ordinance, which I testified
3 to previously, does have floodplain protection and we
4 testified that the Borough Ordinance with regard to
5 flood protection would be met on a lot-by-lot basis.

6 **MS. EVERTSEN:** Okay. I was
7 reading something earlier particularly about
8 underground utilities and pumps in flood hazard zones
9 so I have a concern with underground utilities,
10 underground pumps.

11 **DOCTOR CETRON:** Is there a
12 question? If the question is is it going to be in the
13 flood zone, that has been asked and answered, that it
14 will not be in a flood zone.

15 **MS. EVERTSEN:** Anything
16 underground?

17 **MR. KENNEDY:** The pump station is
18 located above the flood zone in zone X. There's not a
19 floodplain concern with regard to the location of the
20 pump station.

21 **MS. EVERTSEN:** Okay. And what
22 last thing for the traffic planning engineer. I just
23 wanted to mention that, it was mentioned earlier about
24 the study seems as if it were limited.

25 **MR. REA:** Usually for 16 lots I'm

1 **MS. EVERTSEN:** Okay. Thank you.
2 **CHAIRMAN NEFF:** Rosalie Moresco?
3 (No response.)

4 Mike Scherfen, Avenue D.

5 **MR. SCHERFEN:** I already spoke.

6 Thank you.

7 **CHAIRMAN NEFF:** Mark last name
8 begins with a K on Third Avenue.

9 (No response.)

10 Mark Kishon?

11 **MR. KISHON:** I'm done.

12 **CHAIRMAN NEFF:** Marilyn Scherfen?

13 **MS. SCHERFEN:** I'm Marilyn

14 Scherfen. 55 Avenue D. I spoke last time and I just
15 want clarification. Is all of our testimony from last
16 time part of the process now?

17 **CHAIRMAN NEFF:** Yes.

18 **MR. STEIB:** Yes.

19 **MS. SCHERFEN:** I read the
20 transcript, at least my part of that, and I had asked
21 the question because of the very significant piece of
22 property that we're looking at, if there would be an
23 archeological survey, it was listed as an agricultural
24 survey.

25 So, Mr. Kennedy, just for

1 not even called out to do any testimony. So, yes, it
2 was limited.

3 **MS. EVERTSEN:** For the study?

4 **MR. REA:** Yes.

5 **MS. EVERTSEN:** Just noting going
6 through the town, my husband and I were commenting on
7 the way here that there are already one, two, three
8 intersections on Center which was not mentioned,
9 avenues that are extremely dangerous to people running
10 the stop sign all the time. So I just wanted to bring
11 that up.

12 **CHAIRMAN NEFF:** This is just for
13 questions.

14 **MS. EVERTSEN:** Was there any
15 testing or monitoring on Center?

16 **MR. REA:** No.

17 **MS. EVERTSEN:** Was there any
18 monitoring on Bay?

19 **MR. REA:** Well, Bay and Center
20 will lead you into Avenue D, so to a certain extent
21 there was.

22 **MS. EVERTSEN:** Was there
23 monitoring specifically on --

24 **MR. REA:** I did not do counts on
25 Bay Avenue or Center Avenue, no.

1 clarification, will there be an archeological survey
2 done let's say if the remains of Native Americans were
3 found?

4 **MR. KENNEDY:** That is actually
5 handled by CAFRA, by the New Jersey Department of Land
6 Use Regulations Program. If there is something within
7 the records of DEP or historically that there could be
8 Indian remains or Native American remains or any
9 historic feature such as that, the DEP can require an
10 archeological study. And, again, we will comply with
11 the standards and regulations of the State of New
12 Jersey at that time.

13 **MS. SCHERFEN:** And how will that
14 be monitored, that's my last question.

15 **MR. KENNEDY:** Well, they won't
16 issue a permit unless we do it.

17 **MS. SCHERFEN:** Okay. Thank you.

18 **CHAIRMAN NEFF:** Frank Schuck.
19 (No verbal response.)

20 Kate Wigginton.

21 **MS. WIGGINTON:** Good evening.

22 I'm Kathleen Wigginton. My first question will be for
23 you, Mr. Steib. Are you going to impose the 11
24 o'clock rule?

25 **MR. STEIB:** That's up to the

1 Board when we get there.
 2 **CHAIRMAN NEFF:** Very good chance
 3 of it.
 4 **MS. WIGGINTON:** And my next
 5 question, I think Marilyn had --
 6 **VICE CHAIRMAN COLANGELO:** This
 7 portion is for questions to the Applicant.
 8 **MS. WIGGINTON:** My other question
 9 was if this ever goes to appeal, all the transcripts
 10 from the prior testimony and this testimony will be
 11 included in the transcripts, correct?
 12 **MR. STEIB:** It's all part of the
 13 record.
 14 **MS. WIGGINTON:** Thank you. Okay.
 15 Mr. Giunco, I presume we're now going to have an
 16 Association, a Homeowners Association?
 17 **CHAIRMAN NEFF:** Please speak into
 18 the microphone.
 19 **MS. WIGGINTON:** That you weren't
 20 sure, but we're definitely going to have a Homeowners
 21 Association this time?
 22 **MR. GIUNCO:** Yes.
 23 **MS. WIGGINTON:** Okay. The main
 24 part of the open space, the western part, if a
 25 homeowner or if anyone wants to go and take advantage

1 water management. There's a 20 foot easement that
 2 provides access through two of the properties.
 3 **MS. WIGGINTON:** Okay.
 4 **MR. KENNEDY:** Or that area, that
 5 20-foot strip of land, can be accessed from the west
 6 or from the south, depending on how you want to get
 7 there.
 8 **MS. WIGGINTON:** There's going to
 9 be some kind of a public easement?
 10 **MR. KENNEDY:** Yes, ma'am.
 11 **MS. WIGGINTON:** And who will
 12 maintain the bulkhead, the open space bulkhead?
 13 **MR. KENNEDY:** So there is no
 14 bulkhead.
 15 **MS. WIGGINTON:** The open space
 16 area?
 17 **MR. KENNEDY:** We specifically put
 18 the stone revetment on the private properties. So
 19 each of the waterfront properties will actually have
 20 their own section of revetment to maintain. And the
 21 maintenance of the revetment is very minor.
 22 **MS. WIGGINTON:** I'm not referring
 23 to that, I'm referring to the open space, the chunk of
 24 land, who is going to maintain that area?
 25 **MR. GIUNCO:** The Homeowners

1 of the seashore they have to go through the open
 2 space, they just don't cut through someone else's
 3 yard; is that correct?
 4 **MR. GIUNCO:** As you came to the
 5 end of the question I trailed off and didn't hear what
 6 you said. I apologize.
 7 **MS. WIGGINTON:** Okay. The
 8 bulkhead, it looks like adjoining property owners.
 9 **MR. GIUNCO:** To begin with, if I
 10 may, this plan removes the bulkhead and replaces it
 11 with a revetment.
 12 **MS. WIGGINTON:** Which has, also,
 13 a strip of open space that you can go and stroll. The
 14 only access to that would be from the open space on
 15 the west side, is that correct, for property owners?
 16 **MR. GIUNCO:** Well --
 17 **MS. WIGGINTON:** Unless you want
 18 them to cut through your property.
 19 **MR. GIUNCO:** Mr. Kennedy outlined
 20 how it could be accessed, I'll ask him to do it again.
 21 **MR. KENNEDY:** On a lot-by-lot
 22 basis or if the Homeowners Association itself, could
 23 provide for a CAFRA or DEP application to construct a
 24 walkway from the properties down to that area. Or the
 25 area could be accessed through the easement for storm

1 Association.
 2 **MR. KENNEDY:** The HOA.
 3 **MS. WIGGINTON:** And you also
 4 mentioned that the road was going to be 28 feet.
 5 **MR. KENNEDY:** Yes, ma'am.
 6 **MS. WIGGINTON:** Now that's not
 7 wide enough for a two-lane road and parking on one
 8 side, is it?
 9 **MR. KENNEDY:** Yes, it is. The
 10 state standards require a 28-foot park width when
 11 you're parking on one side with two-way traffic.
 12 **MS. WIGGINTON:** The cars can go
 13 by?
 14 **MR. KENNEDY:** Yes, ma'am. It's a
 15 Residential Site Improvement Standard.
 16 **MS. WIGGINTON:** It just sounds
 17 kind of tight with the cars nowadays, but...
 18 Mr. Rea, when did you observe the
 19 traffic in that area, what time of the day?
 20 **MR. REA:** I've been out to the
 21 site on three occasions; once was to meet I think it's
 22 the 3:50 ferry which came in around 4 o'clock that
 23 day, that was about a month ago. This evening I was
 24 out there to observe some of the ferries coming in
 25 before the meeting. And the third time was during the

1 middle of the day when things were bright and sunny
2 and I wanted to get a good picture of road network in
3 the area.

4 **MS. WIGGINTON:** A weekday?

5 **MR. REA:** Yes.

6 **MS. WIGGINTON:** And did you
7 observe any of the activity from Bay Avenue and the
8 stop sign on Center, how that backs up?

9 **MR. REA:** I observed it, I didn't
10 see a backup during the times that I was there.

11 **MS. WIGGINTON:** Did you observe a
12 lot of the hundreds of people that take the Henry
13 Hudson trail?

14 **MR. REA:** There were some people
15 on the trail while I was there, I certainly didn't see
16 hundreds.

17 **MS. WIGGINTON:** I mean there is a
18 lot of activity. Okay.

19 Who will be the sewer
20 operator?

21 **MS. BRACEFIELD:** That status has
22 not been determined to date, but there will be a sewer
23 operator.

24 **MS. WIGGINTON:** And that person
25 will be employed by the Homeowners Association?

1 **MS. WIGGINTON:** It could. Will
2 all the vegetation and the trees be installed before
3 you have a completion of the project?

4 **MR. KENNEDY:** So what typically
5 happens is that the infrastructure is placed, the
6 sewer, the water, and then the curb and pavement is
7 base course. And the houses are constructed and as
8 they sell, the lots are improved with shade trees,
9 with landscaping, with lawn. So everything won't get
10 put in until, obviously, each of the homes are built.

11 **MS. WIGGINTON:** I'm talking about
12 the general area, not so much specific yards and
13 gardens for the people. I'm talking about the shade
14 trees along Avenue D and whatever other vegetation
15 that you decide will be planted there.

16 **MR. KENNEDY:** And, again, it all
17 depends on the construction of those homes. The
18 Avenue D homes, the two homes that are there, the
19 shade trees typically wouldn't get installed until
20 those two homes are built and stabilized.

21 **MS. WIGGINTON:** How about the
22 trees along the roadway?

23 **MR. KENNEDY:** Again, typically
24 during construction because there's disturbance;
25 there's soil piles. We don't want to put a tree in

1 **MS. BRACEFIELD:** Either -- I
2 guess it depends on how the ultimate ownership of the
3 pump station. If it's owned by the Homeowners
4 Association, they will hire an operator to operate the
5 pump station. If it ends up being owned and operated
6 by the Borough, the Borough's sewer department would
7 operate it.

8 **MS. WIGGINTON:** The Borough would
9 have to take that responsibility, correct?

10 **MS. BRACEFIELD:** If that happens,
11 yes.

12 **MS. WIGGINTON:** Are there going
13 to be, Mr. Kennedy, are there going to be cellars in
14 these homes?

15 **MR. KENNEDY:** Mr. Montefort
16 testified last time that some of them will have
17 basements and some will not. With this new plan, it's
18 likely that more of them can have basements than the
19 previous plan.

20 **MS. WIGGINTON:** Okay. It's my
21 understanding from your past testimony that will be
22 sold individually, a person will come in contract so
23 you could have scattering of developments going on
24 forever; is this correct? I mean --

25 **MR. GIUNCO:** It could.

1 and have the root system damaged that would impact the
2 longevity of the tree. So that the landscaping, the
3 trees, the seed is usually done last after the home is
4 constructed.

5 **MS. WIGGINTON:** So it will be a
6 vacant landscape until the 16 homes are built.

7 **MR. KENNEDY:** It's usually done
8 on a lot-by-lot basis.

9 **MS. WIGGINTON:** Yeah, but if that
10 one takes that one there and this one takes this one
11 here, if it's scattered, they're just going to buy the
12 property, right, they're just going to buy the lot.
13 So you can have scattered all over for years, does
14 that mean that it's going to take forever if you don't
15 have a true influx of people in one particular area?

16 **MR. KENNEDY:** Well, it's not
17 going to take forever. I mean they're building out a
18 16 lot subdivision. The absorption of a 16 lot
19 subdivision in a Borough like Atlantic Highlands I
20 don't expect it will take forever.

21 **MR. GIUNCO:** But it could.

22 **MR. KENNEDY:** But it could.

23 **MS. WIGGINTON:** And how does
24 CAFRA know about the archeological option, how do they
25 know?

1 **MR. KENNEDY:** Gosh, I wish I
 2 knew. They have historic studies. They have areas
 3 where there would be a likelihood of native American
 4 settlers and that would be --
 5 **MR. GIUNCO:** But this site has
 6 gone through extensive remediation. It was operated
 7 as an industrial site for many years. It's highly
 8 unlikely that there is any realistic expectation of
 9 finding artifacts on a site like this.
 10 **MS. WIGGINTON:** This site, I have
 11 been here since 1950, this site has been concreted.
 12 No one knows what's underneath that concrete. All we
 13 know is that the ducks used to be in the puddles, they
 14 used to die, that's all we know. So I just hope the
 15 homeowners are going to be aware of the contamination
 16 possibilities.
 17 **CHAIRMAN NEFF:** Emily Smith. No
 18 Emily.
 19 James Krause.
 20 (No response.)
 21 Carol Nolte.
 22 **MS. NOLTE:** Carol Nolte. 105 Bay
 23 Avenue. Mr. Kennedy, I'll start with questions for
 24 you. On the northern part of the common area for the
 25 HOA, does that property go right to the waterline?

1 is it filtered down to in terms of microns?
 2 **MR. KENNEDY:** I actually --
 3 there's a complete certification form. New Jersey has
 4 a profile suspended solid. So what they do is they
 5 put this profile suspended solid through the filter
 6 and then they measure to make sure that what's coming
 7 out of the filter takes out 80 percent of the total
 8 suspended solids. When you talk about micron filters
 9 or drinking water quality, that's not, that's not the
 10 New Jersey certification standard. The certification
 11 standard is 80 percent total suspended solid removal.
 12 There is a total suspended solid matrix that is
 13 something that's done by NJIT and I don't have that in
 14 front of me.
 15 **MS. NOLTE:** So that filter only
 16 has to be cleaned periodically then?
 17 **MR. KENNEDY:** Yes, it does.
 18 **MS. NOLTE:** And how is that
 19 monitored, is it a differential pressure or is there
 20 something that monitors it or does somebody have to
 21 physically go and look at it? How's that work?
 22 **MR. KENNEDY:** Well, there's a
 23 driving head that moves the water through the
 24 filtration device. If it stops working because it
 25 becomes clogged, then the storm water starts to

1 **MR. GIUNCO:** I think that
 2 question has been asked and answered quite a few
 3 times, but nonetheless.
 4 **MR. KENNEDY:** So the meets and
 5 bounds go to the mean high water and that's where the
 6 property line boundary meets the property line, so
 7 that's where the open space goes.
 8 **MS. NOLTE:** And on the left side
 9 of the property, what retains that property? It looks
 10 like it's a different level so what prevents it from
 11 slumping?
 12 **MR. KENNEDY:** Well, it's graded
 13 with a slope and will be vegetated and stabilized.
 14 When you say slump, this is not within a slump --
 15 **MS. NOLTE:** Well, I described it
 16 as slump.
 17 **MR. KENNEDY:** Okay. So there's
 18 guidance with regards to vegetated stabilized slopes
 19 and we are sloping the property in accordance with
 20 those guidelines.
 21 **MS. NOLTE:** The storm filters
 22 that you talked about, does that storm filter have a
 23 filter element?
 24 **MR. KENNEDY:** Yes, it does.
 25 **MS. NOLTE:** And what is the, what

1 backup. It's self-monitoring. Someone has to
 2 routinely physically every four months, three to four
 3 months depending on the amount of water going through
 4 it, has to visually inspect the box and make sure that
 5 there is sediment removed from the box and that the
 6 filter system is working.
 7 **MS. NOLTE:** Is that a washable
 8 element or do we have to pay to replace that
 9 element?
 10 **MR. KENNEDY:** Both.
 11 **BOARD MEMBER PEPE:** Is there
 12 anything non standard about this?
 13 **MR. KENNEDY:** No.
 14 **MS. NOLTE:** Is that something
 15 that we have already in Atlantic Highlands?
 16 **MR. KENNEDY:** Well, I don't know.
 17 Most of the water in Atlantic Highlands goes right
 18 into the bay without filtration whatsoever.
 19 **MS. NOLTE:** So that's going to be
 20 a cost that we have to consider. Okay.
 21 **DOCTOR CETRON:** Let's clarify
 22 that.
 23 **VICE CHAIRMAN COLANGELO:** I'm
 24 going to ask you one more time, just ask your question
 25 just as we asked the Applicant to be polite.

1 **MS. NOLTE:** That was the
 2 question, is that something we have to maintain, I'm
 3 asking him.
 4 **VICE CHAIRMAN COLANGELO:** Go
 5 ahead.
 6 **MR. KENNEDY:** Similar to the pump
 7 station, the filter elements will have to be replaced
 8 and there will be maintenance involved. The HOA can
 9 do it or the Borough can do it. I think that as
 10 things move forward with the Clean Water Act, that
 11 most municipalities will start filtering their storm
 12 water. Just because we're on the vanguard, it
 13 shouldn't be held against us. This is something
 14 that's required by your Ordinance, your regulations
 15 and it makes a lot of sense.
 16 **MS. NOLTE:** In your proposal,
 17 since we have never maintained this and we don't know
 18 the cost of it, is this something that is part of the
 19 proposal giving us examples of the cost of the filter
 20 elements and maintaining that system or not?
 21 **DOCTOR CETRON:** Timeout. I'm
 22 trying to understand the relevance of that question.
 23 You keep saying we, we, we, the problem is it's the
 24 Homeowners Association.
 25 **MS. NOLTE:** Well --

1 **DOCTOR CETRON:** Timeout. Unless
 2 you are one of those 16 people, none of us in this
 3 room, as it's configured right now, are going to pay a
 4 nickle for that. The homeowners will.
 5 **MS. NOLTE:** That's not something
 6 we have to reimburse the homeowners to maintain?
 7 **DOCTOR CETRON:** Now here's the
 8 issue and this is what was raised and people have to
 9 understand this. There are other laws that pertain to
 10 how the municipality may or may not have to reimburse
 11 those homeowners. That's outside the scope of this
 12 Planning Board right now. That is something that
 13 would be referred up to the governing body to sit down
 14 with the Homeowners Association and workout between
 15 council, if you will, and the Homeowners Association.
 16 Is it cheaper for them to pay and the town to
 17 reimburse. It's just like sometimes --
 18 **MS. NOLTE:** Again, either way
 19 we're paying for it either through them or directly?
 20 We're paying for it, am I wrong? We're paying for it.
 21 **MR. GIUNCO:** You're paying sewer
 22 and water fees, also, and taxes.
 23 **MS. NOLTE:** But we're going to
 24 pay more because it's something new and it's something
 25 else that has to be maintained and whether we --

1 **VICE CHAIRMAN COLANGELO:** Please
 2 ask a question, not make a comment.
 3 **MS. NOLTE:** I didn't mean to make
 4 a comment. I was clarifying his comment was
 5 incorrect. Let's go on with a question. I have to go
 6 home, too.
 7 **COUNCILMAN FLIGOR:** There are
 8 three storm ceptors in Atlantic Highlands; one of them
 9 is owned by Atlantic Highlands and maintained by
 10 Atlantic Highlands, the other two are maintained by
 11 the gas company and the Burger King. They're their
 12 own storm ceptors. They're responsible for them, we
 13 don't pay anything for them.
 14 **MS. NOLTE:** Okay. That's not
 15 what we talked about because those are residents and
 16 they're classified differently. Okay. So, well,
 17 that's what we just discussed so I'd be grateful if we
 18 didn't have to maintain it.
 19 Let's talk about the pump
 20 station. You had said that there's virtually no
 21 noise. What does that mean in terms of decibels and
 22 from what distance do you mean no noise?
 23 **MS. BRACEFIELD:** I think when we
 24 were talking about no noise, we were talking about the
 25 pumps themselves operating on a daily basis. Standing

1 outside of the pump station you should not hear the
 2 pumps operating, they're at 20 feet deep. When
 3 someone, when the operators need to access the pumps,
 4 they will, if they need to access the wet well and
 5 open up that chamber, they will turn a fan on, the fan
 6 brings air into the wet well. It's a very small fan,
 7 it will not be very noisy. Standing at the edge of
 8 the property line you should not hear that fan.
 9 **MS. NOLTE:** So we're like 20
 10 decibels, 50 decibels, what?
 11 **MS. BRACEFIELD:** The fan itself
 12 is less than one horsepower so I think it's similar to
 13 a fan that you would have in your house so you're not
 14 going to hear that. I don't know what the decibels
 15 are. When the generator runs that will make some
 16 noise. We are doing the most stringent sound
 17 enclosure that's available for the generator so that
 18 no one living next to it will be bothered by the sound
 19 of the generator. It will be exercised regularly.
 20 Besides that, it will only run when there's a power
 21 outage.
 22 **MS. NOLTE:** Okay. So you said
 23 there's some type of noise attenuation around the
 24 generator, is that sound wall?
 25 **MS. BRACEFIELD:** It's an

1 enclosure that is, a cabinet that is around the
2 generator.

3 **MS. NOLTE:** And does it have any
4 absorptive qualities to it or is it just like a
5 plastic enclosure?

6 **MS. BRACEFIELD:** No, it has sound
7 attenuation. It does have absorption, I don't know
8 exactly what the material is.

9 **MS. NOLTE:** But you'll be able to
10 tell us what we should expect from the property line,
11 what we should hear from the generators?

12 **MS. BRACEFIELD:** Yes, we can get
13 that.

14 **MS. NOLTE:** Not just direct like
15 this, but, also, up like this because the sounds will
16 travel this way as opposed to this way. I know that's
17 different.

18 **BOARD MEMBER PEPE:** Everybody in
19 town can have a generator.

20 **CHAIRMAN NEFF:** How big is this
21 generate as opposed to a homeowner that has a 2500
22 square foot house?

23 **MS. BRACEFIELD:** It is slightly
24 bigger than that, but it's much smaller than the
25 generators that are like at firehouses.

1 maintenance because you said a few minutes ago that
2 the only required maintenance, you required
3 maintenance every 20 years, I think you meant
4 replacement cost every 20 years prior to the required
5 maintenance every six months to a year. So we need to
6 know what those costs are; either we're paying the
7 homeowners for it or we're paying for it ourselves.
8 So if it's not in the proposal, will you put that in
9 the proposal?

10 **MS. BRACEFIELD:** If the Borough
11 requests that or the Planning Board requests that, we
12 can provide that.

13 **MS. NOLTE:** Alright. Thank you.

14 **CHAIRMAN NEFF:** Laurie Zydell.

15 **MS. ZYDEL:** Laurie Zydell,
16 Z-y-d-e-l, from 39 East Lincoln Avenue. Thank you for
17 the opportunity to speak. You all look like you're
18 ready to go home.

19 I'm going to bring up something
20 that is really been a subject tonight, and I'm sorry
21 about this, but, Mr. Kennedy, I need to know in the
22 front of the revtment there is that open space that
23 everybody is talking about that we don't have access
24 to. But I'd like to know if there's a boat coming up
25 and it's low tide and the waterline is back, I mean

1 **BOARD MEMBER PEPE:** There's a
2 giant one right on First Avenue.

3 **MS. NOLTE:** Well, with my
4 generator I had to get permission from my neighbors,
5 so, you know, I want the neighbors to be aware of
6 that.

7 **BOARD MEMBER PEPE:** We're not
8 here approving generators, we're here approving --

9 **MS. NOLTE:** We're approving the
10 quality of life, including the people that you're
11 putting in those new houses. And if it gets loud and
12 they have a problem with it, guess what, they're
13 going to say we want to have something done with that
14 thing.

15 **VICE CHAIRMAN COLANGELO:** Can we
16 please go back to the questions to the Applicant.

17 **MS. NOLTE:** Then stop addressing
18 things to me and let me ask my questions.

19 **CHAIRMAN NEFF:** One more question
20 so we can move onto someone else.

21 **MS. NOLTE:** One more question. I
22 just want to make sure that for the pump station that
23 we're provided with the cost of the equipment that's
24 in the pump station that is part of the Ordinance,
25 part of your proposal and, also, parts for the

1 can we pull up on a boat? Do we have access to that
2 water? There's a little catamaran. This is for Mr.
3 Kennedy.

4 **MR. KENNEDY:** So your question is
5 if have you a boat can you pull up below the mean high
6 waterline and access below the mean high waterline,
7 (inaudible) that is subject to a riparian grant and I
8 believe the State of New Jersey would allow that
9 access to that.

10 **MS. ZYDEL:** But if we're pulling
11 up to the sand I'm just curious because that's how you
12 dock your boat.

13 **MR. KENNEDY:** I would think that
14 that is (inaudible).

15 **MS. ZYDEL:** I have another
16 question and I'm going to rephrase it because it
17 really is for the Planning Board so I'm going to
18 change it a little bit. If the Planning Board
19 required you to supply a side elevation since you're
20 raising the land at flood zone by raising it six feet
21 high and we don't have a side elevation, what that's
22 going to look like, the entire piece of property,
23 seven acres or whatever you have there, you're raising
24 it at a flood zone by six feet of fill essentially; is
25 that correct?

1 **MR. KENNEDY:** So previously when
2 we had the loop design we were proposing a retaining
3 wall you might remember that was about six feet tall
4 along the westerly portion of the site, that's been
5 eliminated. We're actually sloping the site and we
6 don't need as much fill any longer because of the
7 change in configuration.

8 **MS. ZYDEL:** Understood. But how
9 much fill do you actually need to raise it out of the
10 flood zone?

11 **MR. KENNEDY:** We're not raising
12 it out of a flood zone. Some of the portion of the
13 site still are in the flood zone, but the cul-de-sac,
14 it's about, about two feet higher than the existing
15 grade.

16 **MS. ZYDEL:** Two feet higher than
17 what it is now?

18 **MR. KENNEDY:** Than the land
19 elevation now, correct.

20 **MS. ZYDEL:** At the highest point
21 of fill?

22 **MR. KENNEDY:** No, at the
23 cul-de-sac.

24 **MS. ZYDEL:** At the cul-de-sac.
25 So can you point to where the highest point would be

1 in that design?

2 **MR. KENNEDY:** Let me correct my
3 testimony. It's two feet above the flood zone at the
4 cul-de-sac. So we are raising the elevation greater
5 than two feet at that point so that the flood waters
6 don't backup into our storm water system. So it's
7 about four or five feet of fill at the cul-de-sac.

8 **MS. ZYDEL:** That's the highest
9 point of the cul-de-sac?

10 **MR. KENNEDY:** No, the
11 cul-de-sac's actually -- our road goes in from Avenue
12 D so it's not the highest point of the subdivision at
13 all. The highest point of the subdivision is actually
14 over towards Avenue D. I'm just saying the cul-de-sac
15 is probably four or five feet above existing grade and
16 then we're sloping down from the cul-de-sac into the
17 open space line. The open space line at that point is
18 in excess of a hundred feet wide. And that, again, is
19 not adjoining us. It's not adjoining the park, it's
20 adjoining the open space.

21 So if the Planning Board were to
22 require an elevation to show a runoff from the highest
23 point of the fill down into the surrounding areas,
24 would you be --

25 **BOARD MEMBER MURRAY:** What fill?

1 **MS. ZYDEL:** Well, they're filling
2 according to what, to my understanding, you're
3 bringing in quite a bit of fill.

4 **MR. KENNEDY:** Well, I don't know
5 if they're actually bringing it in. If you know the
6 property, there's quite a large rise up where the
7 building is so we're actually leveling off some of the
8 portions of the site.

9 **MS. ZYDEL:** You're not adding any
10 soil to that location to raise it out of the zone?

11 **MR. KENNEDY:** You're asking two
12 different things. Are we importing fill meaning are
13 we bringing it from offsite to onsite. That's
14 importing fill; that's bringing in fill.

15 **MS. ZYDEL:** You're regrading it?

16 **MR. KENNEDY:** We might need some
17 supplementary fill. There's not a lot topsoil out
18 there so we might be bringing fill in.

19 **MS. ZYDEL:** Some?

20 **MR. KENNEDY:** Correct.

21 **MS. ZYDEL:** Could you be more
22 specific in how much extra soil you may need after you
23 regrade?

24 **MR. KENNEDY:** No, actually we
25 can't, until we find out the type and the suitability

1 of the soils that are out there for our purposes. I
2 would hesitate to actually give you an estimate of
3 that. But I know that bulk grading on this property
4 is about even with, with our bulk grade. Now that
5 includes excavation of basements, that includes work
6 that we're doing for the road base, the sewer.

7 **MS. ZYDEL:** And this is all
8 included in your report for the Planning Board to look
9 at?

10 **MR. KENNEDY:** Well, it's part of
11 our plan. This is our grading plan. Anyone can look
12 at the grading plan and see where we're raising, where
13 we're cutting --

14 **MS. ZYDEL:** And where the water
15 is running off into.

16 **MR. KENNEDY:** We've had to
17 provide a storm water management report and grading
18 plans. So, yes, we've addressed that in our report,
19 in our testimony and it's been reviewed by the Board's
20 professionals.

21 **MS. ZYDEL:** Okay. So you don't
22 think that an elevation, a side elevation is required
23 because you don't think it's built up high enough
24 where the surrounding area is going to be looking up
25 at the homes so the side elevation is not necessary.

1 **MR. KENNEDY:** Well, the side
2 elevation, you're kind of talking about an
3 architectural term like a side elevation.
4 **MS. ZYDEL:** You're showing
5 regrading, showing regrading from the ground
6 standpoint, but you're not --
7 **MR. GIUNCO:** I have a bit of an
8 objection. If Mr. Kennedy could answer one question
9 then it would be a lot easier to get it understood, I
10 believe. So if you could just limit yourself to one
11 question.
12 **MS. ZYDEL:** It's all the same
13 question.
14 **MR. GIUNCO:** And that question
15 is?
16 **MR. KENNEDY:** Sheet five of 12
17 shows the proposed and existing grade. I believe
18 that's what you're asking for.
19 **BOARD MEMBER PEPE:** Is it your
20 concern that the surrounding properties are going to
21 be looking up on this property?
22 **MS. ZYDEL:** Yes.
23 **BOARD MEMBER PEPE:** So are
24 surrounding properties going to be looking up on this
25 property because of the regrading exercise that's

1 **MR. KENNEDY:** The cul-de-sac,
2 yes.
3 **MS. ZYDEL:** Hope you all got
4 that.
5 **BOARD MEMBER PEPE:** I did, but
6 isn't that going to be in the open space area?
7 **MR. KENNEDY:** You would have to
8 look across the open space.
9 **BOARD MEMBER PEPE:** I understand
10 what you're saying.
11 **VICE CHAIRMAN COLANGELO:** What is
12 there now, isn't there a concrete wall there right
13 now?
14 **MR. KENNEDY:** There's a concrete
15 wall, there's a fence.
16 **VICE CHAIRMAN COLANGELO:** I'm
17 just asking to make this clear, as far as looking at
18 what is there understanding Miss Zydel's question
19 about looking up, right now when you look to the east
20 are you looking up about a 12 to 14-foot concrete wall
21 with a fence on top of it?
22 **MR. KENNEDY:** Yes, you are.
23 **MS. ZYDEL:** Not if you're walking
24 back from the beach.
25 **VICE CHAIRMAN COLANGELO:** If you

1 being done.
2 **MR. KENNEDY:** If they're lower
3 than this property --
4 **MS. ZYDEL:** If they're lower.
5 **VICE CHAIRMAN COLANGELO:** Please
6 let me him answer your question.
7 **MR. KENNEDY:** So, yes, if you're
8 at the Catamaran Club looking over this property as
9 you are today, there are some parts of this property
10 that are higher than the Catamaran Club. There is not
11 going to be a change in this development. Yes, with
12 the cul-de-sac and the roadway, you asked us to get it
13 out of the flood zone, we did it. So now we are
14 raising portions of it. So if you looked from the
15 Catamaran Club through the trees, through the open
16 space and you look for the curb, it's going be higher.
17 **MS. ZYDEL:** Can I now ask another
18 question, how much higher.
19 **MR. KENNEDY:** If you're standing
20 at the Catamaran Club looking over, there's a natural
21 grade there maybe six to eight feet higher.
22 **MS. ZYDEL:** Six to eight feet
23 higher standing at the Catamaran Club looking up at
24 those houses six to eight feet above from where you're
25 standing?

1 look east you have a concrete wall there. If you look
2 east there's a 12-foot concrete wall there.
3 **DOCTOR CENTRON:** And if you look
4 at the grading plan which we've just referenced,
5 you'll be able to see that that little portion right
6 up at the beach doesn't change.
7 **MS. ZYDEL:** Can you point that
8 out to me, please.
9 **DOCTOR CENTRON:** This is all
10 public domain information. You can --
11 **MS. ZYDEL:** I'd like you to just
12 please point it out to me on the map.
13 **DOCTOR CENTRON:** Why don't you
14 bring up the grading plan. This has all been
15 submitted.
16 **MR. KENNEDY:** So this is the
17 cul-de-sac and you'll see lines that go down to the
18 cul-de-sac, those are contour lines, those are lines
19 of equal elevation.
20 **MS. ZYDEL:** And that's where the
21 fence is now, Mr. Colangelo?
22 **VICE CHAIRMAN COLANGELO:** There
23 is a wall.
24 **MS. ZYDEL:** A wall right there?
25 **VICE CHAIRMAN COLANGELO:** There

1 is a wall further -- excuse me, I'm going to let the
2 engineer testify. I asked the engineer if there was a
3 wall there. So if he would like to describe what is
4 there, that is up to him.

5 **MR. GIUNCO:** Chairman, if you're
6 using a different exhibit that was already marked --

7 **MR. KENNEDY:** Well, this was
8 previously marked as A-20. It's a color aerial,
9 aerial exhibit, dated 7/31/18. It was the same exact
10 one that was marked previously. I'm referring to the
11 project site which is centered on the aerial. There
12 is the concrete wall that's basically runs from a
13 north/south direction roughly where lot 5.07 and 5.11
14 exists on our development plan. You said when you're
15 walking back from the water, that would have to be on
16 this site. You're walking back from the water on this
17 site or on the Catamaran site.

18 **MS. ZYDEL:** If you're standing at
19 the Catamaran, right, dead center where you say the
20 cul-de-sac is and you're standing and looking at the
21 cul-de-sac, so where your finger is now and you're
22 going to go straight across where the cul-de-sac is,
23 show me where the cul-de-sac ends because that's your
24 point of reference.

25 **MR. KENNEDY:** The cul-de-sac ends

1 and what percentage of angle so I know what the drop
2 is because it's not an actual drop anymore. I want to
3 know where it starts; the angle of the slope and how
4 far down it slopes.

5 **MR. KENNEDY:** So that slope is
6 actually a design condition. Typically, it's the
7 angle of repose of the stone which is about 30
8 percent, that would be the slope of the revetment.
9 But, again, it's subject to structural engineering
10 design. If the wave velocity, wave requires a lower
11 angle, so be it. If they can withstand a greater wave
12 runoff, then the angle can steepen. But, typically,
13 it's the angle of repose of the stone or about 30
14 percent.

15 **CHAIRMAN NEFF:** Thank you.

16 **MS. ZYDEL:** Thank you.

17 **CHAIRMAN NEFF:** Does the Board
18 want to continue? There's approximately maybe ten or
19 12 more names. Do you want to continue or cut it
20 here?

21 **VOICE FROM BOARD:** I'll stay here
22 all night.

23 **CHAIRMAN NEFF:** I'm not going to
24 stay here all night.

25 **DOCTOR CETRON:** If we're not

1 roughly at the back of these four vehicles that are
2 located here. So this is the open space lot roughly.

3 **MS. ZYDEL:** Okay.

4 **MR. KENNEDY:** From the four homes
5 to this red line where it's existing grade is going to
6 stay right where it is. From the four cars to the
7 east, that's where we slope up to our cul-de-sac.

8 **MS. ZYDEL:** Are you going to have
9 that drawn or some kind of topography map --

10 **MR. GIUNCO:** Objection. This
11 question has been asked and answered --

12 **MS. ZYDEL:** I want to make sure.

13 **MR. GIUNCO:** Objection. This
14 question has been asked and answered. The question
15 has been asked and answer.

16 **MS. ZYDEL:** Okay. That's all I'm
17 asking.

18 **MR. GIUNCO:** Section five.

19 **MS. ZYDEL:** My last question
20 is --

21 **MR. GIUNCO:** For the record, for
22 the record, we're referring to sheet five of the plan
23 set at the grading plan.

24 **MS. ZYDEL:** Last question. The
25 revetment, how you say it grades down, how long is it

1 going to get through to a vote tonight, which I don't
2 think we will, then there's no reason to stay any
3 later because we're going to have to have a special
4 meeting anyway.

5 **CHAIRMAN NEFF:** My feelings
6 exactly.

7 The Board has decided, but down
8 this end they don't want to stay. We're not going to
9 get through it all tonight anyhow with all the
10 comments and everything.

11 **MR. STEIB:** So for the members of
12 the public --

13 **VOICE FROM AUDIENCE:** We can't
14 hear you again.

15 **MR. STEIB:** So for the members of
16 the public who are interested in this application, it
17 is going to be carried to the December 13, 2018
18 meeting at 7:30 p.m., not here, but at the municipal
19 complex in the meeting room there. At that time, we
20 will announce when the next meeting for this hearing
21 will continue.

22 The Applicant has rested. When
23 we start the next meeting we're going to complete
24 questions of the public, we will then have public
25 comment and then complete the application. So if

1 you're interested, you need to either come to the
2 meeting on December 13th to find out what the next
3 date and time will be and place, which I assume will
4 be here, but I can't tell you that definitely yet, or
5 at least check with the Board's secretary the day
6 after so that you can find out when it's going to
7 continue.

8 (Hearing is adjourned at 11:10 in
9 the evening.)

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5 CERTIFICATE
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8 I, DEBRA-ANN BALSAMO, a Certified
9 Shorthand Reporter and Notary Public of the State of
10 New Jersey, certify that the foregoing is a true and
11 accurate Computerized Transcript of the proceedings as
12 taken before me stenographically on the date
13 hereinbefore mentioned.
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DEBRA-ANN BALSAMO, C.S.R.

Dated: December 7, 2018
My Commission Expires on
December 6, 2020
License No. X101161

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