

TOWNSHIP OF PARSIPPANY-TROY HILLS
PLANNING BOARD

IN THE MATTER OF: : TRANSCRIPT
: :
CASE #12:524 : OF
RD Realty, LLC :
Waterview Boulevard :
Block 421, Lot 29 : PROCEEDINGS
_____X

Monday, February 11, 2013
Parsippany High School
309 Baldwin Road
Parsippany, New Jersey
Commencing at 7:33 p.m.

BOARD MEMBERS PRESENT:

CASEY PARIKH, Chairman
DOMINIC MELE
ROBERT KELLER
COUNCILMAN MICHAEL J. dePIERRO
MAYOR JAMES BARBERIO
KENNETH PURZYCKI
PAULA CSANTAVERI
THOMAS DINSMORE
TURAN AYAZ
JENNIFER COLLINS

ALSO PRESENT:

PEGGY MADER, Board Secretary
EDWARD SNIECKUS, Board Planner
GORDON METH, The RBA Group, Board Engineer

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1 applicant's concerned, is well in hand and is complete.
 2 I just want to remind the Board that this
 3 is an application for concept review. What we're
 4 dealing with is an application by the applicant which
 5 looks for the Board to recommend to the Township
 6 Council a proposed zoning ordinance. It's an overlay
 7 zone. It doesn't change the underlying zoning, but
 8 it's an additional option, as far as the development of
 9 the property is concerned. We have had several
 10 meetings. We have listened to your concept plan. We
 11 have listened to your experts. We have listened to the
 12 public. We've made some major revisions to the plan.
 13 The first one is there is no access onto
 14 Intervale Road.
 15 The second one is that we have provided
 16 that we -- the applicant, if you will, is amenable to
 17 the fact that we would produce six units per acre.
 18 The other one is there would be no gasoline
 19 station, as has been suggested by some people.
 20 And finally, I just want to make sure, the
 21 density we talked about, and the access. The density,
 22 of course, affords the opportunity for site plan review
 23 to develop extensive buffers, as far as the property's
 24 concerned. So we believe, Mr. Chairman and members of
 25 the Board, that we have addressed those issues. We

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1 believe we have a viable proposal for the property,
 2 frankly. We request your recommendation at this point.
 3 Thank you.
 4 CHAIRMAN PARIKH: So six units per acre.
 5 How many does that come out to total.
 6 MR. GAROFALO: 65.
 7 CHAIRMAN PARIKH: 65.
 8 MR. GAROFALO: 65 units. Those are
 9 condominium units, for-sale condominium units.
 10 CHAIRMAN PARIKH: Okay. What I'd like to
 11 do before we proceed, I'd like our attorney here to
 12 explain the procedure and how this is going to work
 13 tonight and going forth.
 14 MR. CRESITELLO: Okay. Thank you, Mr.
 15 Chairman. Just to remind everybody, this is a concept
 16 review. The Board is not taking any formal action
 17 tonight. This is not an endorsement of the specific
 18 plan that has been depicted and shown to the Board and
 19 to the public. I just wanted to remind the Board that
 20 our local ordinance actually defines a concept review
 21 as a submission of a plan for a "Optional informal and
 22 non-binding review by the Planning Board."
 23 All that the Board is being asked to do,
 24 presumably at the conclusion of this meeting, is to
 25 direct me whether or not to send a letter to the

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1 governing body asking the governing body to develop an
 2 ordinance which would create an overlay zone for this
 3 specific property, subject to certain conditions that
 4 the Planning Board would want to see; for example, the
 5 maximum density of six units per acre; no access to
 6 Intervale Road; certain buffering requirements that
 7 have been talked about and established on the record;
 8 and the maximum building height, to name a few.
 9 If we take that action and send such a
 10 letter there's still no zone change in place, there's
 11 still no formal action, there's still no ordinance,
 12 nothing has happened, nothing has -- there's been no
 13 binding action taken.
 14 What would then happen is the governing
 15 body could decide to ignore the request or they could
 16 decide to develop an ordinance. If they develop an
 17 ordinance the ordinance will be handled in the normal
 18 course of any ordinance. There will be a public
 19 meeting at the township committee where the ordinance
 20 is introduced. Once it is introduced by a majority
 21 vote it is then referred back to this body for review.
 22 Once this body completes its review of the ordinance,
 23 which will then have specific requirements in it, all
 24 the bulk standards will be established by then,
 25 everything will be in the ordinance, the ordinance gets

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1 referred back to the governing body for a public
 2 hearing in what's called the second reading.
 3 Quite honestly, that is the avenue for
 4 public comment. That is where the formal binding
 5 action will take place. In other words, the Council
 6 will at the second reading decide to either adopt the
 7 ordinance, at which time it becomes the law, or they
 8 don't. And there is a public hearing with public
 9 comment afforded at that time and in that forum.
 10 Assuming that all happens, the overlay zone
 11 is then in place, and if the applicant wishes and
 12 everything is still in place they can then come back to
 13 this Board for a site plan hearing, and that would
 14 entail a full-blown traditional site plan hearing that
 15 everybody in this Board is certainly familiar with.
 16 And that's when we would talk about in much more detail
 17 some of the general concepts that we've talked about so
 18 far being buffering, landscaping, stormwater
 19 management, all of the traditional site plan issues.
 20 So that's just an overview. I wanted to
 21 remind the Board again, I know that this has been much
 22 more than a normal concept review, but it is still just
 23 a concept review. There's nothing binding about any of
 24 the action that you're going to take. And then, Mr.
 25 Chairman, do you want to go over how we're going to

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1 proceed the rest of the evening or --

2 CHAIRMAN PARIKH: Yes. What I'm going to

3 do next is, as we all know there are a lot of questions

4 from the public that we have heard, we have read, and

5 we have seen some e-mails going around. What I'd like

6 to do is some of those questions that I saw and I read

7 I'd like to get answers to those questions again, maybe

8 from our experts, and get their comments. That's the

9 first thing we're going to do.

10 After, we will take questions from the

11 public and their comments. What we'll do is we'll have

12 to limit each person to about three minutes of time to

13 ask questions and a comment. And as we normally do we

14 don't want repetitious questions or repetitious

15 comments. It doesn't serve any purpose for the Board

16 or for the public at that point. So, we'll ask you not

17 to repeat. And at some point in time when as a Board

18 we feel that we have enough questions, issues,

19 concerns, comments that we have heard we may ask at

20 that point to, you know, close the public portion at

21 that time.

22 Once we have done all that we'll ask the

23 applicant's attorney to summarize that application.

24 And after the summary -- and this all depends on the

25 time tonight, but after that we'll have someone from

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1 the Board make a motion one way or the other for the

2 recommendation or not to make a recommendation.

3 So, that's the procedure we're going to

4 follow. I'll start with some of the questions for our

5 expert. Especially, we have a planner here who has

6 done a lot of work and a lot of research on this

7 particular application, and our traffic engineer is

8 also here, and our engineer, okay.

9 I'll start with the question, and you can

10 reply about -- "This concept plan could bring a host of

11 problems to both Mountain Lakes and Parsippany,

12 including traffic, noise, light pollution, and

13 diminishment of water quality of the stream that runs

14 along Intervale Road."

15 MR. SNIECKUS: I'll share a mic with you.

16 Good evening, everyone. Ed Snieckus, professional

17 planner, and good evening Board Members. With regard

18 to the issue of traffic, I think the Board has heard

19 from not only the applicant's expert but also the

20 Board's expert, and I can embellish on this, but that

21 the issue of traffic will be adequately addressed at

22 the time of site plan.

23 What's unique in this consideration is that

24 what has been revised in the current plan, there's no

25 access to Intervale Road, or the current recommendation

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1 that's being considered by the Board, there's no access

2 to Intervale Road.

3 (Members of the public say they cannot

4 hear.)

5 Secondly -- sorry about that. I thought

6 the microphone was picking me up. I'm hearing an echo.

7 The next thing relative to traffic is the issue of

8 whether or not the use would intensify the traffic.

9 It's actually going to change the characteristics of

10 the traffic relative to what the permitted use is in

11 the zone. That's something the Board has to take a

12 look at, is consider the differences between the

13 permitted use and the proposed use and see what the

14 potential impacts might be relative to that as well.

15 In addition to that, are there reasonable

16 improvements that can be established within the road

17 network -- through the road networks themselves to

18 support some level of improvements in order to

19 accommodate this change in the property or a

20 consideration of an overlay use on the property, and

21 then these secondary roads become overwhelmed. And

22 that's something where we have to look at traffic

23 volumes and things of that nature. It will probably be

24 more vetted out at the site plan level than mere

25 discussion at the conceptual level.

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1 In addition to that there's some other

2 considerations: Potential for light pollution within

3 the zone. As the ordinances are currently written

4 every application has to prove that they're not

5 exceeding what's called the North American Luminous

6 Engineering Society Standards. Those standards are

7 specifically identified in the existing development

8 regulation that every development has to meet. What

9 that requires is minimizing the sky glow. It also

10 requires no greater than a half foot-candle at the

11 property line of any particular tract.

12 In addition to that, it also has different

13 standards for -- remember, there are two different uses

14 that are being considered here: One is the commercial

15 use that's in the foreground of the property; the next

16 is the residential use which is in the background.

17 There are two separate requirements or lighting levels

18 that need or are established within those requirements,

19 or standards. The lighting levels for townhouses are

20 much less, and that's something that you should

21 understand that the existing regulations currently

22 require special controls and specific controls for

23 those features.

24 As far as environmental and water quality

25 issues, as you've heard tonight, and I want to make

<p style="text-align: right;">Page 14</p> <p>1 sure everybody heard this, there is not a request for a 2 gas station at this location. One of the things in the 3 earlier iterations of the ordinance was a consideration 4 of an exemption from the wellhead protection ordinance 5 that we have in town. In the wellhead protection 6 ordinance it talks about you can't permit gas stations 7 with a Tier 1 Area. Tier 1 Area is the highest 8 regulated area. That that is now not on the table. 9 And it's actually a recommendation that we weren't very 10 proactive towards, and I'm glad the applicant has 11 rescinded that.</p> <p>12 And that all the main wellhead protection 13 requirements will apply to the property. They're not 14 asking for any specific exemptions from that. And if 15 anything of a contaminant substance were stored or 16 contained at the site it would be a requirement for a 17 best management plan put in place that the township 18 would be well aware of. And our consultants will 19 review along with specialists in town.</p> <p>20 In addition to that, there was also 21 information provided to the Board regarding 22 environmental constraints, wetlands, things of -- the 23 quality of adjacent streams, whether or not there's any 24 riparian buffers that could affect the environment. 25 Those specific issues were addressed in the letter</p>	<p style="text-align: right;">Page 16</p> <p>1 direction there would be a net reduction of traffic of 2 140 trips comparing the two, and a net increase of 135 3 in the off-peak direction. That's the morning peak 4 hour. So overall, the morning peak hour total traffic 5 would actually be slightly less than the proposed 6 development -- than the office building.</p> <p>7 During the evening peak hour the outbound 8 traffic would be of comparable level, the same number 9 of trips in and out in the peak direction. In the 10 off-peak direction there would be a lot more trips: 11 245 inbound to the proposed overlay zoning versus the 12 office building.</p> <p>13 On a Saturday there would be in the 14 neighborhood of 350 additional or extra inbound trips, 15 and 239 outbound trips. Now, in addition to this, so 16 Saturday is where there's a major increase in traffic 17 for the proposed zoning, and the evening peak hour in 18 the off-peak direction. But the applicants in this 19 instance prepared a comprehensive traffic analysis of 20 the area on Saturdays and weekday peaks. And we've 21 confirmed and reviewed all that data and concur with it 22 based on previous studies in the area and other counts. 23 And really found that from a traffic impact standpoint 24 the only place that really seems to have an affect is 25 the intersection of Route 46 and Waterview, which the</p>
<p style="text-align: right;">Page 15</p> <p>1 submitted to the Board by Ecol Sciences. Ecol 2 Sciences, for those of you not in the field, is a 3 well-respected, statewide expert in environmental 4 considerations and they've provided their analysis in 5 the documentation that has been submitted with the 6 record, and provides a factual finding that there are 7 no regulated environmental features on a subject site, 8 such as wetland, wetland buffers, or transition areas 9 or the like. So that has been provided to the Board, 10 and I just want to the address that issue regarding 11 those concerns. Chairman, if there's anything I 12 missed?</p> <p>13 CHAIRMAN PARIKH: No. Gordon, do you have 14 any comments on the traffic.</p> <p>15 MR. METH: Sure. Thank you, Mr. Chairman. 16 As stated by Mr. Snieckus, the basis of comparison that 17 one needs to use in this case is to compare the current 18 zoning potential yield on this property to what is 19 being considered or proposed. And that current zoning 20 based on previous plans could yield 259,000-square feet 21 of office space. And we compared a comparison of the 22 traffic generated by that 259,000-square foot office 23 space to the concept plan the Board was shown. This 24 had 72 townhouses, it's not what was just mentioned 65, 25 but we found that in the morning peak hour in the peak</p>	<p style="text-align: right;">Page 17</p> <p>1 issue could be resolved by adding left-turn arrows to 2 Waterview, the Waterview Boulevard approaches.</p> <p>3 I think the Board has also talked about 4 doing further improvements to that intersection. I 5 think those could only better the situation. And the 6 applicant is also proposing some traffic signal at the 7 driveway to minimize any impact it would have in the 8 localized area. So based on this my conclusion is that 9 the traffic from this overlay zone could be 10 accommodated by the road system, and would not lead to 11 any adverse secondary impacts.</p> <p>12 CHAIRMAN PARIKH: Thank you.</p> <p>13 MR. METH: One other thing I'll add in 14 terms of water quality and stormwater runoff. This 15 development will be required to -- it will be a major 16 project with respect to stormwater rules, which means 17 that once developed the applicant will have to prove -- 18 they will have to basically detain stormwater on the 19 site, and they will have to meet three levels of -- or 20 three different criteria: One, is they will have to 21 actually reduce the amount of stormwater coming off 22 this property than is there in the no-build situation 23 in the existing case and detain it so that it doesn't 24 lead to an increase in stormwater runoff in peak 25 conditions.</p>

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1 Number two: They will have to treat either
 2 through mechanical means or otherwise, or through
 3 various other treatments, water quality. Runoff from
 4 the site will have to be treated through 80 percent of
 5 suspended solids from many of the impervious areas.
 6 Number three: Is they will have to
 7 maintain ground water recharge. That means the amount
 8 of water that goes into the ground for this development
 9 will have to be maintained. And it will -- the water
 10 that goes in there has to be cleaned before it goes in.
 11 And that's basically a requirement of any development
 12 over a quarter acre of impervious surface in the state
 13 of New Jersey. Thank you.
 14 CHAIRMAN PARIKH: Thank you, Gordon.
 15 Another question I saw, Bob, was about water. Do we
 16 have adequate water in the town? The question is,
 17 during the summertime we have a restriction of the
 18 water for car washing and sprinkler and things like
 19 that. So do we have enough water for this project.
 20 MR. SNIECKUS: Mr. Chairman, I'm going to
 21 refer to a letter from Kevin Ryan who I believe is the
 22 head of the water and -- water utility department,
 23 thank you, Mayor, in that he's done an analysis based
 24 upon the development including 189,000-square feet of
 25 retail. He's indicated here, and I think it's 60-some

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1 residential units, I think 62 units is the unit count,
 2 and he established that there would be sufficient water
 3 -- "There would be no problems supplying water to this
 4 project. In addition, any proposed water demand in
 5 excess of 6,000-gallons per day would require an NJDEP
 6 Bureau of Safe Water Drinking permit. As part of the
 7 permit process the DEP would look at all outstanding
 8 permits or current pumping totals, et cetera. If the
 9 DEP determines there is not enough water in Parsippany
 10 to tie-in this additional customer currently a permit
 11 would not be issued." And he feels confident that
 12 there will be significant -- or adequate supply, excuse
 13 me.
 14 But yet what I also wanted to point out is
 15 that one of the other things we've been recommending in
 16 other ordinances and other sections of the development
 17 code and including the master plan is the issue of
 18 what's called water saving irrigation and features of
 19 various site plans. They could do it through
 20 irrigation systems, or they could do it also through
 21 using more native material in the plant material, as
 22 well as reducing lawn areas and things of that nature.
 23 I think through those approaches we can also reduce the
 24 water demand based upon the overall design now that
 25 there are more sustainable drawings.

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1 CHAIRMAN PARIKH: I think the next
 2 question I had was already answered, that's about the
 3 wellhead protection ordinance. There is no exemption
 4 requested by the applicants.
 5 MR. SNIECKUS: No exemption, that's right.
 6 CHAIRMAN PARIKH: And next one, this I've
 7 seen a lot too, "The language proposed at Waterview is
 8 kind of ambiguous leaving nearly all 132 acres of tract
 9 that, you know, that this current application can be
 10 extended to the whole property, 132 acres?"
 11 MR. SNIECKUS: As I understand, Mr.
 12 Chairman, what is the proposal before the Board for
 13 consideration is just for the specific tract in
 14 question, 26 acres. You can establish an overlay
 15 ordinance over an existing zone that would only apply
 16 to a specific area of that zone. And that would be
 17 what I think is for the Board's consideration tonight,
 18 just for 26 acres. Not for the rest of the POD, just
 19 for the 26 acres in question.
 20 CHAIRMAN PARIKH: Can this become
 21 something other than Whole Foods when it's done.
 22 MR. SNIECKUS: Mr. Chairman, through the
 23 zoning regulations you do not regulate the actual user
 24 of the property, so therefore, what's been indicated by
 25 the applicant is that he does have Whole Foods very

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1 interested. In fact, I think he's represented certain
 2 agreements to have them there. But in any development
 3 that is proposed before the Board there could be an
 4 alternative user. But I will point out that there is a
 5 specific design feature that Whole Foods looks for, the
 6 type of users such that -- the high-end sort of
 7 shopping center. They require a certain size building,
 8 certain configuration of depth and dimension, including
 9 certain other features of delivery areas and things of
 10 that nature. And it's pointed out that in the site
 11 plan based upon their layout you would have setbacks
 12 from adjacent properties and things of that nature, but
 13 yet the depths of the individual pads that are proposed
 14 are actually very unique or very specific for those
 15 types of users, and therefore, would tend to be that
 16 type of a higher level shopping type of facility in my
 17 opinion.
 18 CHAIRMAN PARIKH: And last question I have
 19 is 14 kids coming out of 72 units, people are
 20 questioning that. How can they believe that? Do we
 21 know how that number comes about.
 22 (Members of the public cannot hear.)
 23 CHAIRMAN PARIKH: I'm sorry. The 14 kids
 24 coming out of the school for the public school system
 25 out of 72 townhomes, can you explain how is that

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1 calculated? And do we have any information from the
 2 school system.
 3 MR. SNIECKUS: Thank you, Mr. Chairman.
 4 I'll make sure people can hear me on this. Is that we
 5 did receive, also the Board did request from the
 6 Parsippany Township School system from a Dr. LeRoy
 7 Seitz, as to his calculation of the number of
 8 school-age children that are currently being
 9 experienced from various impact multipliers within the
 10 school. They had an analysis based on the 72 former
 11 units that were proposed. They did an impact analysis
 12 wherein he found that -- I'll try to boil this down, he
 13 talks about the overall numbers, occupied units of
 14 20,279 housing units, they sent 7,287 students to the
 15 district schools. And based upon that he's arrived at
 16 a multiple of approximately 36 students for the 72
 17 three-bedroom townhouse units.
 18 When in consideration what we find in our
 19 professional opinion is that looking at what the
 20 applicant's planner had identified as the Rutgers
 21 Study, I'll just call it that from the standpoint of
 22 its analysis, wherein, they look throughout the state
 23 at developments of various sizes and various unit
 24 counts and establish certain multipliers associated
 25 with the number of units, and basically what they've

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1 come up with is an approximation of what was provided
 2 of the 12 school-age children, except that I took a
 3 more conservative approach to that and took a look at
 4 the number of school-age children for the -- this type
 5 of development and then considered the potential
 6 open-space area and things of that nature that tends to
 7 attract more school-age children. And that what I
 8 would then offer to the Board is that there is a higher
 9 multiple of one school-age children for every four
 10 units, basically.
 11 And for 65 units I did it for what I
 12 thought was going to be 61 which was indicated, but for
 13 65 units it would be about 16 school-age children. And
 14 that is what we've been finding. It may not be the
 15 number of children in the facility, but yet it's an
 16 actual number of school-age children. And we're
 17 finding that number is actually very conservative in
 18 many communities where we're seeing it actually lower
 19 than that.
 20 CHAIRMAN PARIKH: I just want to point
 21 out, these numbers that you just pointed out here,
 22 those numbers, the letter came from Superintendent of
 23 the Schools, but the numbers came from the demographic
 24 of the school system; is that correct.
 25 MR. SNIECKUS: That's correct, from what I

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1 understand.
 2 CHAIRMAN PARIKH: And that's basically
 3 most of the common questions I saw, and I talked to --
 4 it's a good idea to get answers to those questions.
 5 Okay.
 6 What we're going to do next is we're going
 7 to ask the public for their questions. Questions will
 8 be for the planner, the last testimony we heard from
 9 the planner that is still open, and the comments, any
 10 comments you have. Three minutes per person. And at
 11 some point in time, I mean, if you start repeating the
 12 same questions, same comments we're going to stop
 13 public comments portion.
 14 MR. GAROFALO: Mr. Chairman, are we doing
 15 questions first and comments afterwards?
 16 MR. CRESITELLO: Either/or.
 17 CHAIRMAN PARIKH: Either one.
 18 MR. GAROFALO: Okay.
 19 CHAIRMAN PARIKH: Do you have any other
 20 comments? Okay. And anyone? Are we starting from
 21 anybody or people within 200 feet.
 22 MR. CRESITELLO: Mr. Chairman, I think we
 23 should follow the -- for tonight, no, actually when we
 24 open it to the public it's going to be for anyone in
 25 the room who wants to come up and make comment, and/or

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1 ask any remaining questions they may have of Mr.
 2 McDonough. But I do want to recognize and give him an
 3 opportunity to speak first, Mr. Rob Simon. He's an
 4 attorney. He's been retained by some portion of the
 5 Objectors. I think he should have the first
 6 opportunity to address Mr. McDonough and make any
 7 statement he wants to on the record and then we can
 8 move on to the general public.
 9 MR. SIMON: Than you, Mr. Cresitello, Mr.
 10 Chairman, members of the Board. Can I approach the
 11 front, please? Thank you.
 12 MR. CRESITELLO: You've got to hold it real
 13 close.
 14 MR. SIMON: Not too close. I've done that
 15 before. Ladies and gentlemen of the Board, good
 16 evening. Let me start by introducing myself. My name
 17 is Rob Simon. I'm an attorney with Herold Law in
 18 Warren, New Jersey, and I have been retained to
 19 represent three individuals in particular that intend
 20 to form what's called The Neighborhood Organization,
 21 but technically just in terms of full disclosure have
 22 not formally filed yet. And I talked to Mr. Cresitello
 23 about it, and I felt that the appropriate thing to do
 24 at least for tonight is identify the name of the
 25 proposed organization which is called "Don't Rezone

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1 Waterview," and the individual trustees whose names are
2 Ron Owens, Margaret Gossett, and John Beehler. So --
3 MR. CRESITELLO: Hold on one second. Do
4 those names again.
5 MR. SIMON: It's Ron Owens, Margaret
6 Gossett, and John Beehler.
7 MR. CRESITELLO: Can we have their
8 addresses, please?
9 MR. SIMON: Sure. Mr. Owen is 154
10 Intervale Road, Mountain Lakes. Ms. Gossett's address
11 is 24 Glen Road, Mountain Lakes. And Mr. Beehler's
12 address is 51 Intervale Road in Boonton, New Jersey,
13 mailing address.
14 So to clear up the record I have instructed
15 those three individuals as part of retaining an
16 attorney to represent them in a land use proceeding,
17 that although they can make statements if I choose to
18 call them as a witness that one of the restrictions by
19 hiring an attorney is that those individuals are not
20 allowed to ask questions, in this case of Mr.
21 McDonough, just so we're clear about that.
22 So, I'd like to start by just making a
23 couple of comments. I was just retained just literally
24 probably less than 24 business hours ago, and sometimes
25 when you get an application and not having been through

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1 the first three hearings you get a chance to take a
2 look at it anew and look at it with a fresh
3 perspective. And I will tell you that you're not going
4 to like, unfortunately, with no disrespect intended,
5 you're probably not going to like what I'm about to say
6 for starters, which is that this Board has absolutely
7 zero, zero jurisdiction to hear this application, if
8 you want to call it "The Application for Concept
9 Review." (Applause by public.)
10 And what I'd like to do for starters is to
11 basically not just make these brash statements and sit
12 down and start questioning Mr. McDonough, but literally
13 walk you through a little bit as to why I come to that
14 conclusion under your ordinance and under the municipal
15 land use law.
16 MR. CRESITELLO: Mr. Simon, I deferred to
17 you first. I know you've reviewed the prior
18 transcripts, you're familiar with Mr. McDonough's
19 testimony. This is your opportunity first as an
20 attorney on behalf of the Objectors to cross-examine
21 Mr. McDonough and/or ask him -- make general comment on
22 the application. Now, we'll give you some deference
23 and not restrict you to three minutes, but we're not
24 going to give you a half hour or an hour or two to kind
25 of make your general oral statements.

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1 MR. SIMON: Thank you.
2 (Shouting by public.)
3 MR. CRESITELLO: Hold on. Hold on.
4 Listen, there's a couple of ground rules: First of
5 all, the meeting is only going to go on so long
6 tonight. And the more we have the public outburst and
7 the clapping and any type of conduct that disrupts the
8 meeting it's just going to delay it. It's going to
9 take away from the ability of the people sitting next
10 to you to get up and talk, so that's number one.
11 Number two: Mr. Simon, I would ask that
12 you direct your comments to the Board, not to turn
13 around and placate to the audience, okay? So, you can
14 continue.
15 MR. SIMON: So with regard to jurisdiction
16 of the Board, there are -- notwithstanding the fact
17 that multiple times -- and I thank Mr. Cresitello for
18 reminding the public and the Board -- that I have read
19 the transcripts, numerous, numerous times of flip
20 flopping by the applicant as to what we're here for.
21 Let me explain what the law is. The law is as follows:
22 Mr. Cresitello talked about informal concept review.
23 Informal concept review is provided under section --
24 MR. CRESITELLO: Mr. Simon, do you have a
25 question for Mr. McDonough?

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1 (Shouting by public.)
2 MR. CRESITELLO: Here we go again.
3 MR. SIMON: Mr. Cresitello, with all due
4 respect, if there's a question that goes to the
5 jurisdiction of this Board to hear this application
6 tonight --
7 MR. CRESITELLO: I can assure you I've
8 already ruled on that issue or we would not have had
9 four hearings.
10 MR. SIMON: I believe that everything I'm
11 about to say has not been brought up in one word of the
12 transcript.
13 MR. CRESITELLO: Mr. Simon, the time to
14 challenge jurisdiction has sailed, quite frankly. This
15 Board --
16 (Shouting by the public.)
17 MR. CRESITELLO: We're up to the fourth
18 hearing. There's been no challenge to jurisdiction. I
19 believe this Board has jurisdiction. If you want to
20 move on you can do that.
21 UNIDENTIFIED PUBLIC VOICE: Let him talk.
22 MR. SIMON: I think it's important for the
23 public process, and as Mr. Cresitello knows all too
24 well, probably even better than I know, that the issues
25 of jurisdiction can be challenged at any time during

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1 the course of a proceeding, even years after the
 2 proceeding. And there are tons of cases that talk
 3 about a situation where the Planning Board, the Board
 4 of Adjustment, the municipal council got it wrong and
 5 everything had to start over again years and years and
 6 years later.

7 What I am doing, with all due respect, is
 8 to try to avoid that situation. So whatever this Board
 9 decides to do or not do is just done once and it
 10 doesn't have to be remanded back to a Board like a
 11 Planning Board two or three years later. So with all
 12 due respect, I do ask for some indulgence to at least
 13 talk through the issues of jurisdiction because I think
 14 it obviously has a very intricate bearing on the way
 15 this process continues.

16 MR. CRESITELLO: Okay. You can continue.

17 MR. SIMON: Basically, informal concept
 18 review basically under 40:55D-10.1 in the municipal
 19 land use law states that where you have an application
 20 for development and you want to go in before a Planning
 21 Board for an informal review to get a little bit of a
 22 give and take before a Board you have a right to do
 23 that. And, in fact, Mr. Cresitello also talked about
 24 the fact that under your own ordinance it contemplates
 25 informal concept review.

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1 Here's the catch: Informal concept review
 2 is not permitted where you have an application that
 3 doesn't go to the Planning Board but goes to the Board
 4 of Adjustment because you need a type of use variance
 5 or any other application for which jurisdiction lies
 6 with the Board of Adjustment under the Municipal Land
 7 Use Law.

8 Under these circumstances as we sit here
 9 today there is no overlay zone adopted, implemented,
 10 introduced. Zero. As a result of that today the
 11 zoning that's affected is the POD Zone. The POD Zone
 12 does not allow for the proposed development as a
 13 concept plan by the applicant. It is prohibited. As a
 14 result of it being prohibited relief needs to be
 15 afforded to the applicant by not the Planning Board but
 16 the Board of Adjustment under 40:55D-70(d) of the
 17 municipal land use law.

18 Cox in zoning, which has been referred to a
 19 couple of times through the course of this proceeding
 20 which I did read about in the transcript, clearly
 21 provides that informal concept review is not before a
 22 Board of Adjustment it's only before a Planning Board.
 23 So, if you have an application that you need to go to
 24 the Board of Adjustment you can't have informal concept
 25 review before the Planning Board, you just can't have

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1 it.

2 Second of all, it contemplates a pending
 3 application that the applicant is about to file an
 4 application for development. Before they do they want
 5 to make sure that the Planning Board, or they have an
 6 option to decide whether the Planning Board wants to
 7 take a look at it, give them some good recommendations
 8 about moving the parking, moving the drainage, how many
 9 detention basins we need.

10 That's not what we have here. If you look
 11 at the notice, I'll get into the notice in a minute,
 12 the notice and part of this application asks for a zone
 13 change, a recommendation as to a proposed zone change.
 14 The municipal land use law and your ordinance does not
 15 contemplate that you can use -- it's clever, I'll give
 16 the applicant credit, but you cannot as a matter of law
 17 use this informal concept hearing proceeding to come in
 18 here and say, oh, by the way, we want a zone change.

19 Second of all, if you look at the municipal
 20 land use law, whether under 40:55D-26, -62, there is
 21 zero, zero again, jurisdiction for a Planning Board on
 22 its own without a recommendation from the governing
 23 body to make any type of review of a proposed
 24 ordinance.

25 Now, that being said, once the governing

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1 body introduces an ordinance a couple of things can
 2 happen, actually, probably three things can happen that
 3 will lead it to this Planning Board: It will ask this
 4 Planning Board under Section 26 to make sure it's not
 5 inconsistent with the master plan. It may end up
 6 bringing the matter back down to the Planning Board.
 7 Because as we heard and we saw from reading the
 8 transcripts that this proposed use is currently not
 9 consistent with the master plan, so there may be a
 10 proposed master plan amendment.

11 And third of all, as was appropriately
 12 mentioned earlier in the hearing tonight, is that the
 13 applicant ultimately may have to come back here for
 14 formal site plan approval or subdivision approval.

15 Bottom line is this: There is nothing in
 16 the ordinance, there's nothing in the Municipal Land
 17 Use Law that forget about informal concept review,
 18 there's nothing that allows this Board on its own in
 19 the first instance at a request of a developer, and I'm
 20 not even talking about spot zoning issues. And I saw
 21 that you guys discussed those and Mr. McDonough raised
 22 that issue early on, I believe, in the first hearing,
 23 I'm not talking about whether it's spot zoning or not,
 24 that's for another day, what I'm talking about is
 25 whether -- how a review of an ordinance is initiated,

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1 and this is not the way to initiate it. And it's not
 2 because it's my opinion, ladies and gentlemen, it's
 3 because the law does not allow for it.
 4 Second of all, there is a notice that was
 5 provided after the fact, not the first hearing, I don't
 6 even think for the second hearing, but for the third
 7 hearing. And what does the notice say? The notice
 8 (A), doesn't talk about what the proposed use is; (B),
 9 the notice doesn't say we're going informal concept
 10 review, it talks about an ordinance change, a proposed
 11 overlay ordinance. Again, there's no slot in the law
 12 to allow someone to go in with an "application for a
 13 development" and say I want to call this an application
 14 to propose an ordinance amendment for an overlay zone.
 15 It is not permitted.
 16 Now, that being said, and not withstanding
 17 the fact that, as Mr. Cresitello knows, the Perlmar
 18 Case (sic), that you have to specify what the proposed
 19 use is, and that wasn't done in the notice.
 20 Let me also address the issue that was
 21 raised about, you know, limiting, you know, the
 22 opportunity for questions or comments. And number one
 23 is that I respectfully submit that it should be, first
 24 of all, separated out.
 25 And number two is this: This is not an

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1 application for development as the term is defined
 2 under the municipal land use law with certain timing
 3 requirements. Like for example, as you all know that
 4 when you have a site plan application and it's for I
 5 think more than ten units or more than ten acres you
 6 have up to 95 days, otherwise you have 45 days. And
 7 there's that municipal land use clock. And I know from
 8 time to time you hear applicants asking Mr. Cresitello
 9 for maybe an extension of time because the application
 10 is not completed for a site plan or a subdivision or
 11 for a bulk variance relief.
 12 This -- even if you disagree with me and
 13 you somewhere find that there is jurisdiction for
 14 either informal concept review, which there isn't, or
 15 for a proposed ordinance, which there isn't, there is
 16 no municipal land use law time clock. There is no
 17 Parsippany-Troy Hills ordinance time clock. There is
 18 no rush here. The reason why there's a time clock on
 19 the municipal land use law is not to prejudice the
 20 applicant. There's nothing to prejudice here.
 21 So, under the circumstances, and I can
 22 understand why because of this what I think was called
 23 by someone, maybe your professional planner, as kind of
 24 a hybrid, and not just a "Zone change" -- or not just,
 25 I'm sorry, a "Concept review." I think that it's only

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1 fair, certainly, if you do decide ultimately, and it
 2 sounds like from Mr. Cresitello's initial comment that
 3 jurisdiction has "Already been decided," that you
 4 respectfully afford the public an opportunity to
 5 respond to the good professional comments and testimony
 6 by the applicant, provide them an opportunity to go out
 7 and get their own traffic consultant. We're listening
 8 to your consultant's traffic conclusions. It's only
 9 fair to the public process, and it's really, frankly, a
 10 nice opportunity.
 11 As Mr. Cresitello knows, I represent
 12 developers. I represent objectors. I've served as a
 13 Chairman of a Planning and Zoning Board for many years.
 14 This is a really nice opportunity to really take a
 15 breather and listen to an opposing view, whether it's
 16 traffic, whether it's planning, whether it's appraisal
 17 testimony, whether it's an architect, an engineer. So
 18 by the time -- when you do listen to it and you decide
 19 what you want to do, assuming you have jurisdiction,
 20 you heard my position on that, that an informed
 21 decision can be made taking into consideration all the
 22 right things.
 23 So, with that, frankly, I do submit, and
 24 before I start asking my friend and learned colleague,
 25 Mr. McDonough, some questions, I do submit that for all

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1 those reasons that it has been really not an
 2 appropriate way to proceed here. And my legal opinion
 3 on behalf of my clients is that this matter shouldn't
 4 proceed at all. And that if an ordinance needs to be
 5 introduced it can be certainly by the governing body
 6 under 40:55D-62 of the municipal land use law. There's
 7 no doubt that that can happen, but because of the
 8 safeguards provided by the municipal land use law, and
 9 the circumstances under which, the limited
 10 circumstances under which a Planning Board reviews that
 11 proposed ordinance or comments on a potential amendment
 12 to the master plan, that this is not the right way to
 13 go. So... (Applause by public.)
 14 MR. CRESITELLO: Having said that, and
 15 we're not going to engage in a legal debate here
 16 because it's not the proper forum, but suffice it to
 17 say I disagree with your entire analysis.
 18 (Shouting by public.)
 19 MR. CRESITELLO: What I do take issue with,
 20 Mr. Simon, is I take issue with your characterization
 21 and suggestion that this Board is rushing anything
 22 along. This is the fourth night of hearings. On each
 23 and every occasion the public has been given an
 24 opportunity to cross-examine and address the comments
 25 of these experts. So having said that -- having said

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1 that, Mr. Simon, you've made your point on the record.
 2 You've expressed your position regarding jurisdiction.
 3 I would ask that you now address Mr. McDonough.
 4 MR. SIMON: And I just would ask that, by
 5 the way, and I, a thousand percent, agree with you in
 6 terms of commentary so we can move this process along,
 7 but that being said I think that affording the
 8 applicant "Three full nights," three and a half nights,
 9 because obviously we're going to do some
 10 cross-examination as well by members of the public, and
 11 then trying to or implying that you may get to a vote
 12 or determination on this, I respectfully submit that it
 13 does not afford the public an opportunity, and there's
 14 case law on it.
 15 I know that you know about it, which
 16 talks -- and under the municipal land use law that for
 17 any application for development that neighbors and
 18 interested parties should be afforded a full and fair
 19 opportunity to not only cross-examine witnesses but to,
 20 if they so desire to, to present an Objector's case and
 21 present expert testimony so the Board gets both sides
 22 of the issue and make an informed decision.
 23 And Mr. McDonough's going to laugh right
 24 now because I mention this case every time he and I are
 25 together. There's a case called Smith versus

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1 Fairhaven. Smith versus Fairhaven is an Appellate
 2 Division case, and I love quoting the case, because
 3 what it says is that a land use proceeding is not
 4 adversarial. It is not Perry Mason. What the Board is
 5 empowered to do, and has to do as its responsibility,
 6 is to listen to all the applicant's testimony, listen
 7 to all the Objector's and interested party's testimony,
 8 and make a decision that it best affords within the
 9 consideration of the rights of the applicant and the
 10 rights of the public, and we're not asking for anything
 11 more than that. So with that, let me continue on.
 12 MR. GAROFALO: Excuse me, may I be heard
 13 one second, please?
 14 MR. CRESITELLO: Briefly.
 15 MR. GAROFALO: And I don't want to get into
 16 a dialogue either, but the point of the matter is that
 17 if the Board acts and refers this to the town council
 18 there will be a public hearing, at which time
 19 everyone --
 20 MR. CRESITELLO: I already said that.
 21 MR. GAROFALO: Well, I will say it once
 22 more. Everyone will have an opportunity to present
 23 whatever information or testimony or dialogue they
 24 want. If the town council passes it it goes back to
 25 the Planning Board and the Planning Board has to refer

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1 it back to the council. There will be another hearing.
 2 And if the ordinance gets adopted there will be a site
 3 plan hearing. So to say that the public is not going
 4 to be heard is absolute nonsense. Thank you.
 5 J O H N M c D O N O U G H, PP, having been previously
 6 sworn, testifies as follows:
 7 CROSS-EXAMINATION BY MR. SIMON:
 8 Q. Mr. McDonough, when were you retained by
 9 the applicants?
 10 A. **Date?**
 11 Q. Approximately.
 12 A. **Early 2012.**
 13 Q. And what were you asked to do as part of
 14 that retention?
 15 A. **I was retained to author a draft ordinance**
 16 **that would entail a redevelopment or a development, per**
 17 **se, of the subject tract. And so that's what I did. I**
 18 **put together, again, according to the program that was**
 19 **outlined by the applicant, a program taking pieces of**
 20 **the Parsippany ordinance, and essentially putting**
 21 **together a language that would manifest what was being**
 22 **drawn out in a plan level.**
 23 Q. And when you started to undertake that
 24 charge were you presented with a version of a plan to
 25 kind of work off of?

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1 A. **Yes. There were schematics early on.**
 2 **There was a vision for this site, absolutely. And**
 3 **that's a planner's role: To help define or carve out**
 4 **something that's in a visual for a particular site.**
 5 Q. And how many versions of that schematic had
 6 you looked at prior to the application being submitted
 7 here?
 8 A. **I don't remember. I don't remember.**
 9 Q. Was it more than two?
 10 A. **There may have been several iterations.**
 11 **Again, I don't remember.**
 12 Q. And how many drafts of your ordinance do
 13 you put together, the one that you worked on?
 14 A. **My ordinance evolved as the plan became**
 15 **refined. So, again, I don't know a number. It was a**
 16 **process over several months.**
 17 Q. And did you analyze and anticipate ratables
 18 as part of your review?
 19 A. **We did a physical, yes, which I believe was**
 20 **included in the packet that went to the Board. And I**
 21 **believe I also testified to that.**
 22 CHAIRMAN PARIKH: Let me interrupt here
 23 for a minute. I believe is he repeating questions from
 24 his last testimony. So, you can't start to ask
 25 questions from his last testimony that he gave on

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1 January 17th, I believe. We're not starting from
 2 scratch here.
 3 MR. SIMON: I understand. I'm respectful
 4 of that. Absolutely.
 5 BY MR. SIMON:
 6 Q. Mr. McDonough, how many other overlay zones
 7 are there in Parsippany?
 8 **A. Parsippany does not have an overlay zone,**
 9 **per se. They allow for mixed-use development options,**
 10 **which is what an overlay zone is.**
 11 Q. But there's no other zone that's called an
 12 overlay zone, so to speak?
 13 **A. No. And, again, this is a relatively new**
 14 **type of zoning that I'm seeing. I did three of these**
 15 **alone last week. It's a relatively new tool that**
 16 **planners are using in response to the economic**
 17 **conditions that we're faced with.**
 18 Q. And where did you do those other three?
 19 **A. Last week I was in Boonton. I was in South**
 20 **Brunswick. And I've also been in Washington Township.**
 21 Q. And do you feel that based on your
 22 testimony at the last meeting in January that the
 23 master plan would need to be amended to be consistent
 24 with your proposed ordinance?
 25 **A. The normal process is, yes. This ordinance**

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1 **would get handed up to the governing body. The**
 2 **governing body would send it back for a master plan**
 3 **consistency determination, which is something the Board**
 4 **would have to then, of course, amend. We don't have a**
 5 **plan now that talks about an overlay at this location.**
 6 Q. So the master plan has the overlay?
 7 **A. Yes.**
 8 Q. And just following up with the comment that
 9 the Chairman made earlier, even though the proposed
 10 ordinance only deals with 26 acres did you look at,
 11 when you put together your ordinance, of lands beyond
 12 the 26 acres in the lot in question?
 13 **A. Well, we went back to the archives in the**
 14 **town hall to go back and study the original planned**
 15 **office development zone and the criteria that were**
 16 **established with it. So, yes, we did look at the**
 17 **totality of the tract and how this, I'll call it micro**
 18 **ordinance, would impact the macro development of that**
 19 **planned office development. And there were things**
 20 **related to impervious coverage, building coverage, and**
 21 **the like on the overall tract.**
 22 Q. As a professional planner do you feel that
 23 your proposed ordinance would be applicable to not just
 24 the 26 acres but also the balance of the tract?
 25 **A. The intent is to carve it out for just the**

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1 **26 acres. And it's my opinion that the language is**
 2 **specific to that 26 acres.**
 3 Q. Did you do any study as part of your
 4 ordinance as to how many supermarkets are within three
 5 miles of the site?
 6 **A. No. I know that there is a Shop-Rite.**
 7 **There is a former Pathmark down the street. There is**
 8 **the Shop-Rite, and I know when we work our way up to**
 9 **Boonton you've got Kings, and then we work our way into**
 10 **Denville, but we didn't do a specific spacial analysis,**
 11 **no.**
 12 Q. Did you base your proposed ordinance on any
 13 ordinance from other municipalities?
 14 **A. No. I carved it out based on the structure**
 15 **of the Parsippany ordinances.**
 16 Q. And you heard my comments, you know,
 17 earlier about zoning and jurisdiction. I'm not going
 18 to go through them, but you would agree that under the
 19 current ordinance this proposed plan would need to go
 20 to the Board of Adjustment for use variance, correct,
 21 under the existing ordinance?
 22 **A. Under the existing planned office**
 23 **development this is not a permitted use, correct.**
 24 Q. And do you know for how many years the
 25 current zoning for this zone has been in effect?

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1 **A. I remember when this development came back**
 2 **in I believe it was the '80s, so that would be probably**
 3 **the late '70s when the planned office development**
 4 **kicked in.**
 5 Q. And you mentioned at the last hearing that
 6 you felt the office market had been failing. For how
 7 long has it been failing?
 8 **A. Well, the office market in Morris County in**
 9 **general has been hovering around 20 percent for many**
 10 **years now.**
 11 Q. Do you know how many?
 12 **A. At least ten. At least ten. And I know**
 13 **the progression is continually getting worse. And in**
 14 **light of the economic downturn in 2007 that has**
 15 **exacerbated.**
 16 Q. And that's based on what information did
 17 you rely on?
 18 **A. That's basic real estate information that**
 19 **crosses my desk as a planner on a daily basis.**
 20 Q. And you mentioned at the last hearing that
 21 parking drives the density, or something to that
 22 effect; correct?
 23 **A. With the residential component that parking**
 24 **is a typical driver of density, yes. The plan needs to**
 25 **work. You can't just cram units in that don't have**

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1 **adequate parking. And here the applicant was able to**
 2 **put together a plan where the ratio of parking matches**
 3 **the ratio of units.**
 4 Q. But if you have parking, whether it's
 5 underground or parking garage they wouldn't be the
 6 driver of the density necessarily; correct?
 7 **A. I would disagree. I do a lot of work in**
 8 **the urban areas as well, and we deal with parking**
 9 **garages and towers above. And I argue that all the**
 10 **time, that that is a driver of density. That the**
 11 **density above the parking garage works because parking**
 12 **garage works.**
 13 Q. So, all right. You don't have to -- Mr.
 14 McDonough, there's a reference in your proposed
 15 ordinance talks about the underlying zone, like such as
 16 "Accessory use shall include any accessory uses
 17 permitted in the underlying zone."
 18 Does that mean that if there's an accessory
 19 use that's permitted in the POD Zone that it's also an
 20 accessory use in this zone, even if there are
 21 requirements attached to that use as an accessory use?
 22 **A. I think I understand the question, but the**
 23 **intent is that one -- if one went down one option it**
 24 **would bump out the opportunity to take the other**
 25 **option. So the answer to the question is: This**

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1 **particular section of the ordinance would be struck.**
 2 **And I think that's something that came out**
 3 **in Mr. Sniekus's report early on. The applicant**
 4 **doesn't have a problem with that. Again, hotels are**
 5 **permitted in the underlying district. If one were to**
 6 **develop a hotel here one would lose the opportunity to**
 7 **develop with the retail residential component. It's**
 8 **one or the other, and that's the intent of that**
 9 **overlay.**
 10 Q. But could you mix and match a little bit
 11 with accessory uses?
 12 **A. No, that's not the plan here.**
 13 Q. And in terms of there's no minimum lot size
 14 for this particular tract. Do you mean then that you
 15 could have one lot that, let's say, is 24.9 acres, and
 16 then one lot that is the balance?
 17 **A. That's -- there is no minimum lot size. I**
 18 **don't know how the applicant would actually cut up the**
 19 **site. So we left that open, which is not inconsistent**
 20 **with what we see in planned office development,**
 21 **typically.**
 22 Q. And when you talk about coverage not
 23 including open plazas, walking paths, sidewalks and the
 24 like, all of those could be contained impervious
 25 coverage, though; correct?

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1 **A. Yes.**
 2 Q. Even though they're not counted toward the
 3 75 percent?
 4 **A. Correct.**
 5 Q. And -- let me see --
 6 MR. SIMON: I have no further questions for
 7 Mr. McDonough at this time. Thank you for your
 8 patience. I appreciate it.
 9 CHAIRMAN PARIKH: Thank you. Okay. At
 10 this point I'll open up to the public.
 11 MR. SIMON: I'm sorry, Mr. Chairman, just
 12 one more thing. I do intend to present -- I have one
 13 witness here this evening, and at the appropriate time
 14 I just want to make the Board aware that I'd like to
 15 present that person. It shouldn't take more than ten
 16 minutes, frankly.
 17 CHAIRMAN PARIKH: Let's do it now.
 18 MR. SIMON: Okay.
 19 MR. GAROFALO: Why don't you two share a
 20 mic and I will --
 21 MR. SIMON: I call Richard Plambeck.
 22 MR. CRESITELLO: Would you please raise
 23 your right hand, sir?
 24 MR. GAROFALO: We only have two.
 25 MR. CRESITELLO: He's going to have to

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1 share your microphone, Rob.
 2 Do you swear the testimony you're about to
 3 provide the Board will be the truth so help you God?
 4 THE WITNESS: Yes, I do.
 5 R I C H A R D P L A M B E C K, having been duly
 6 sworn, testified as follows:
 7 MR. CRESITELLO: Before you qualify him,
 8 can you give the Board a synopsis of what his proposed
 9 testimony will be about?
 10 MR. SIMON: Mr. Plambeck has for 20 years
 11 been a member of the Passaic River Coalition and
 12 Groundwater Protection Committee and would like to
 13 speak as to wellhead protection issues.
 14 MR. CRESITELLO: I'm going to defer to the
 15 Board as to -- well, first, why don't you qualify him
 16 and then I'm going to propose to the Board whether or
 17 not they want to engage in this line of testimony with
 18 respect to certain representations already made by the
 19 applicant, as well as whether or not this crosses over
 20 into site plan issues. But first of all, let's qualify
 21 him first.
 22 VOIR DIRE EXAMINATION BY MR. SIMON:
 23 Q. So, Mr. Plambeck, if you would -- if you
 24 could please for the benefit of the Board provide your
 25 occupation, who you're affiliated with regarding the

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1 Passaic River and your areas of expertise?

2 **A. Well, let me start -- I have both a**

3 **bachelor and a masters of science degree in civil**

4 **engineering from the University of Illinois. I was**

5 **licensed as a professional engineer in New Jersey in**

6 **1969.**

7 **My professional experience includes 36**

8 **years with research and engineering and research and**

9 **engineering in project management assignment, both**

10 **foreign and domestic, including 10 years managing large**

11 **research and engineering campuses in New Jersey with**

12 **responsibility for water supply, including wells, and**

13 **distribution systems, as well as domestic and**

14 **industrial waste water treatment plants.**

15 **I've had four years teaching engineering**

16 **and review courses for individuals taking professional**

17 **licensing courses. And for 20 years I've been a member**

18 **of the Passaic River Coalition and its groundwater**

19 **protection committee, and I'm currently the Chairman of**

20 **both.**

21 CHAIRMAN PARIKH: Any questions from the

22 Board members at this point? (No response.) You may

23 proceed.

24 MR. GAROFALO: Mr. Chairman, if I may. I

25 don't understand why this witness is testifying.

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1 That's not an issue in this case. It's only to delay

2 this case and to delay other people who might have

3 legitimate things to talk about it. There's no

4 relevance to his testimony at all.

5 (Shouting by public.)

6 MAYOR BARBERIO: Let me ask a question.

7 I'm asking a question of the attorney here. You know,

8 we've got to be hearing this if the site plan ever

9 comes to us, and, you know, I think that might be the

10 appropriate time. Listen, I have no problem listening

11 to you, sir, to be totally honest with you, but there

12 is a process. And if anyone feels comfortable -- I

13 feel comfortable hearing your testimony, but I

14 understand, you know, that this is going to happen at a

15 later time, maybe, maybe not. So...

16 MR. SIMON: Can I --

17 CHAIRMAN PARIKH: You know --

18 MR. SIMON: Just -- can I just respond?

19 Let me just respond to the Mayor. Thank you for your

20 comments. The one thing that the Board needs to be

21 reminded of, with all due respect of course, is that

22 you cannot say when you have a proposed use that is

23 currently prohibited and cannot proceed without a use

24 variance that we can -- "we'll deal with it." We've

25 heard it a couple of times certainly during --

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1 MR. CRESITELLO: You're back to your legal

2 argument about jurisdiction, okay. I think the Board

3 needs to make --

4 MR. SIMON: It's not jurisdiction.

5 MR. CRESITELLO: Listen. We've been over

6 that already. I understand your position regarding the

7 underlying zoning and use variance and the zoning

8 aspect of the concept plan by way of zoning. I

9 disagree.

10 I would suggest to this Board, and I don't

11 speak for the Board, I don't make the final decisions

12 for the Board, but I will suggest now that we have an

13 understanding. I wanted to give Mr. Simon an

14 opportunity to swear in his expert and qualify him, the

15 Board has done that. Now that we have an understanding

16 from Mr. Simon himself what the issues are I will leave

17 it up to the Board to determine at this time if you

18 want to hear from their individual.

19 It is my legal opinion that it is not

20 relevant at this point in time. There will be an

21 appropriate time. We don't even know what the

22 ordinance is going to say yet, so we also have specific

23 representations from the developer's attorney regarding

24 wellhead protection issues and water issues. I would

25 submit to this Board that the proper time for this

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1 individual to testify would be before the governing

2 body if and when an ordinance is even introduced or

3 adopted, but not tonight before this body.

4 CHAIRMAN PARIKH: Okay. Does any Board

5 member have any comments on this? Does anyone want to

6 hear from this gentleman? (No response.) Okay. I

7 think we're going to not hear this testimony.

8 (Shouting by public.)

9 MR. CRESITELLO: Okay. Next member of the

10 public who wants to come forward?

11 MR. SIMON: The record was clear whether

12 it's Village Supermarket versus Mayfair, or Witt versus

13 Borough of Maywood, that refusing to hear a witness

14 testify at a public hearing that, by the way, has been

15 noticed to the public is blatantly improper. Thank

16 you.

17 (Applause by public.)

18 MR. GAROFALO: With all due respect --

19 (Applause by public.)

20 MR. YOUNG: Richard Young. I live at 179

21 Intervale Road in Parsippany. If I can beg your

22 indulgence, as did the attorney, because you've now

23 grouped together the public comment period with

24 questioning of this witness. That's not how you told

25 us the game would be played. The three-minute limit is

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1 on the public comment period, it's not on questioning
2 the witness. (Applause.)
3 MR. GARRISON: Good evening. I'm John
4 Garrison, 78 Intervale Road, Mountain Lakes. I'd just
5 like to make a comment briefly. The Parsippany
6 Planning Board, the Town Council and the Mayor have a
7 very important responsibility when it comes to
8 considering zoning changes. It involves stewardship of
9 a finite resource and land. We only get one chance to
10 do it right. We face a choice of being prudent for the
11 long-term or sacrificing important principles for
12 short-term gains and permanent damage to our community.
13 Mr. McDonough in his testimony stated that
14 the office market has tanked and therefore the purpose
15 of the overlay is to develop the parcel in a different
16 way. Just because the current office market is soft
17 doesn't mean we should make a decision that will
18 forever change not only this parcel but potentially up
19 to an additional hundred acres. This will be a scar on
20 Parsippany, Mountain Lakes, and neighboring towns.
21 It is clear from prior meetings and those
22 who've attended tonight that there is substantial
23 public opposition to this proposal, and this opposition
24 continues to grow.
25 Here are the problems: Number one,

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1 inadequate buffering. Planted evergreens may obscure
2 some of the view but cannot contain the noise, light,
3 and air pollution that will result from this project.
4 Number two, the premise that these
5 townhomes will sell for \$450 and \$500,000 is wishful
6 thinking. (Applause.) Imagine being out on your small
7 deck or 10-foot plot of land only 25 to 35 feet away
8 from the back of Whole Foods and a big-box store. The
9 aroma of diesel exhaust from refrigerated trucks making
10 deliveries 24/7. The glare from all the security
11 lighting and from the traffic. This is not the type of
12 environment people are going to spend their hard earned
13 money on.
14 Number three: Roughly 75 percent of the
15 land is going to be paved or covered by structures. Is
16 this good stewardship of land? Is this the type of
17 development that you would want adjacent to your
18 neighborhood, ladies and gentlemen, to the neighborhood
19 of your family your friends? Is this the legacy you
20 want to leave our children? Is this the type of
21 development we want to encourage? I don't think so.
22 So, in closing I respectfully ask the
23 Planning Board, the Town Council, and the Mayor to
24 reject this proposal. If you choose not to reject it I
25 believe the voters are going to reject you in November.

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1 (Applause.)
2 MS. ASH: Good evening. Sharron Ash, 17
3 Maple Way in Mountain Lakes. At the last meeting I
4 asked this Counsel whether the public was going to have
5 an opportunity to present our opposition. Counsel,
6 could I have your attention?
7 MR. CRESITELLO: You have it, believe me.
8 Believe me, you have it.
9 MS. ASH: I asked this Board if the public
10 was going to have a full and fair opportunity to
11 present their opposition to this application, and we
12 were told on the record that, yes, we would. Tonight
13 now we've presented Counsel, we've presented a witness.
14 The witness proposed to speak directly on point to
15 refute testimony, not conclusions of the developer's
16 counsel, but testimony that's been presented to this
17 Board, and that witness has been rejected.
18 It is extremely disturbing to me that I see
19 many of you looking down. I see many of you not paying
20 attention. And the fact of the matter is that it's
21 hard not to conclude with now the rejection of our
22 witness that this is not already a foregone conclusion
23 in all of your minds.
24 Nonetheless, we have questions for you.
25 And I do hope that you're going to stay and allow the

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1 public an opportunity, not three minutes each, but an
2 opportunity to ask their questions, because I couldn't
3 find any statutory provision that said the developer
4 gets as much time as they want and the public gets
5 three minutes each.
6 That said, I have my first question: How
7 do you intend to maintain the water quality, the runoff
8 from this paved development now where it proposes to
9 replace deciduous forest now instead with diesel fuel,
10 possibly antifreeze and general runoff from this new
11 use? That was for you, Mr. McDonough.
12 MR. McDONOUGH: The ordinance does not
13 trump the town's municipal stormwater management
14 standards. It's still built into the ordinance.
15 MS. ASH: That wasn't my question. My
16 question is: In your plan how do you contemplate
17 dealing with that issue?
18 MR. McDONOUGH: We will comply with the
19 municipal ordinances. I don't know how else to answer
20 that question.
21 MS. ASH: So you don't know, and this panel
22 has no idea how you plan to do that yet?
23 MR. McDONOUGH: Those ordinances are in
24 place to protect the public health safety and welfare.
25 There's no other answer.

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1 MS. ASH: Okay. So none of you know, but
 2 you're ready to recommend this? (Applause.)
 3 What is the -- what is going to be the
 4 impact? We have heard a little bit about traffic use
 5 and the changes that the Board's own expert has decided
 6 will exist. In some cases more than 300 cars or 200
 7 cars and so on. Does that take into account the
 8 evening rush hour and the Waterview parking facility
 9 that has to use the same jughandle at rush hour?
 10 MR. METH: Is this question of John or me?
 11 MR. McDONOUGH: Ma'am, I'm not the traffic
 12 expert. That's been addressed.
 13 MS. ASH: Does anybody know? We heard
 14 tonight from the gentleman at the end.
 15 MR. METH: Mr. Chairman, do you want me to
 16 answer that?
 17 CHAIRMAN PARIKH: If you can answer it in
 18 15 seconds. It's already four minutes time.
 19 (Shouting by public.)
 20 MR. METH: To answer the question, the
 21 analysis of traffic took into account all existing
 22 traffic patterns, including peak-hour traffic, and put
 23 in extra traffic for vacant office space from the
 24 Waterview Complex and other unused developments.
 25 MS. ASH: And so how long will it take now

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1 to get through that jughandle on a bus during rush hour
 2 with your traffic projections on a Friday night?
 3 MR. METH: Could you be more specific on
 4 which jughandle you're referring to?
 5 MS. ASH: The only one that's relevant
 6 here, the one that crosses from 46 and does a jughandle
 7 right where this proposed development is proposed to
 8 be, crossing over by the Parsippany Municipal Building
 9 where you would then make a left turn into the
 10 Waterview parking lot, do you know where I am?
 11 MR. METH: Okay. There's a jughandle on
 12 Route 46 and Waterview Boulevard, there's another one
 13 at Route 46 and Parsippany Road that is also --
 14 MS. ASH: I'm talking about the one at
 15 Waterview where this development is that we're talking
 16 about.
 17 MR. METH: Okay. (Brief pause.)
 18 The average delay in the peak hours after
 19 the improvements that we discussed that are needed
 20 would be in the neighborhood of 33 seconds per hour per
 21 vehicle.
 22 CHAIRMAN PARIKH: Next please. Thank you.
 23 MS. ASH: Okay. 33 seconds. Is that
 24 report available?
 25 CHAIRMAN PARIKH: Next question, please.

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1 MS. ASH: That was the next question. Is
 2 that report available for review by our expert?
 3 MR. METH: There is a copy in our Planning
 4 Board office in Parsippany.
 5 MS. ASH: Thank you.
 6 MR. CRESITELLO: Next person, please.
 7 MS. ASH: Mr. McDonough?
 8 MR. CRESITELLO: Next person, please. Your
 9 time is up.
 10 MS. ASH: Am I being limited?
 11 (Shouting by public.)
 12 MR. CRESITELLO: Ma'am, your time is up.
 13 Next person, please.
 14 No, that's not how it works. Officer?
 15 (Police Officer approaches the public.)
 16 MR. GAROFALO: We have to stop because the
 17 court reporter can't get any of that.
 18 UNIDENTIFIED PUBLIC VOICE: What difference
 19 does it make?
 20 UNIDENTIFIED PUBLIC VOICE: Because they
 21 have to make a record of it, that's why.
 22 MR. BALABAN: Sigmund Balaban, 10 Grecian
 23 Street, Parsippany. As a layman I see things with
 24 different eyes, and I'm a little confused. When
 25 speaking about the water, we speak about water

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1 reduction, if I understood it correctly. But your
 2 water reduction is an increase to me because I am a
 3 water restrictor, okay. So you bring in additional
 4 development that utilizes the water, cut down the
 5 trees, and I have to believe that this gentleman whose
 6 interests are for his client is going to worry about
 7 me. I was born at night, not last night.
 8 As to traffic, all right, I looked at my
 9 calendar and you conveniently didn't mention weekends.
 10 You mentioned weekdays and Saturday. Is everybody
 11 going to disappear on Sunday? All right. And why
 12 don't you know where the post office is in Parsippany
 13 if your involved in traffic?
 14 To Counsel, what time is it, by the way,
 15 since you're looking at the watch? You made a
 16 statement that -- I hope I'm not bothering you in the
 17 least, I know I'm not. All right. You made a
 18 statement that nothing will be decided here tonight.
 19 Am I correct in that understanding? I'm not. What
 20 was -- what did you say?
 21 MR. CRESITELLO: I characterized the nature
 22 of the decision, if any was made.
 23 MR. BALABAN: If any was made. But it's
 24 tilted to be made because this appears to be a kangaroo
 25 court. All right. All right. (Laughter.)

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1 I call it like I see it. All right. And
 2 if a decision is made it's going to the next level
 3 otherwise you wouldn't be pressing -- I'm really
 4 pressing the time, huh? You wouldn't be pressing and
 5 saying, hey, we're going to come back at a later date,
 6 because if a proper decision was made tonight it would
 7 nip it in the bud and there would there would be no
 8 later date.

9 CHAIRMAN PARIKH: Thank you.

10 MR. HOMYAK: Nicholas Homyak, 26 Oneida
 11 Avenue, Lake Hiawatha. I have -- last time we were
 12 here there was a map that I was hoping was going to be
 13 here tonight of the overlay, the plan. And one thing I
 14 found interesting about that map didn't have any
 15 contour lines. And I wanted to cross-examine the
 16 witness as to the ambiguities that exist in the Ecol
 17 Science report itself concerning the exact boundary of
 18 existing wetlands and wetlands transition. They do
 19 exist. And they are in close proximity and may be in
 20 violation to their proper distance or their transition
 21 areas, the 50-foot question.

22 If you look on page two of the report we
 23 have a wetland that does exist, but wetlands are
 24 located in excess of 20 feet north of the property
 25 boundary fence in parentheses. If you look at the

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1 wetlands law was -- you can't have a fence. And even
 2 the transition zone it's a permanent thing. There's a
 3 lot of ambiguities in this report is the point I'm
 4 trying to make. It should be re-examined.

5 And we have here proposed developments,
 6 what do they call it, development for dummies. It's a
 7 scoreboard, seven modules. You have to get a minimum
 8 of 59. I only did three modules, I'm almost -- you
 9 guys are almost failing, but you should honor and
 10 respect this because it's from the state of New Jersey.
 11 They're trying to prevent a sprawl that's been
 12 happening in the state since the 1970's.

13 And one more word, Parsippany used to be
 14 known as the land of the winding rivers. And I'm sure
 15 that when these areas were zoned for development back
 16 in the day they probably cut a lot of corners. And one
 17 more time, right in the Ecol Science report if you
 18 examine it there's ambiguities as to there are
 19 wetlands, there are transition zones, and the boundary
 20 of this development conflicts with the wetlands and
 21 their transition zones which are one in the same
 22 entity, the wetlands and the transition zone. And I'll
 23 leave it at that.

24 MS. HUMPHRIES: Rosanne Humphries, 72
 25 Forest Drive. I have a real concern about the buffer.

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1 And Mr. McDonough you stated on page 43 of the
 2 transcript that "You consider this tract to be a
 3 specialized economic zone that merits having an
 4 incentive so that it should not have to conform to any
 5 of the existing POD buffer requirements or the existing
 6 buffer requirements in all of Parsippany zoning
 7 ordinances."

8 Why do you consider this to be a so-called
 9 specialized economic zone?

10 MR. McDONOUGH: It says it right in the
 11 master plan. There's a number of special economic
 12 development districts, including the POD, including the
 13 SED 3A, 5A. They're right there in the master plan.

14 MS. HUMPHRIES: So then are you suggesting
 15 that any property that lies along Route 46 no matter
 16 how large or what its current zoning constitutes a
 17 specialized economic zone?

18 MR. McDONOUGH: No, that's not the way at
 19 all Parsippany has zoned Route 46. There's a mix of
 20 zoning along Route 46. There happens to be a POD at
 21 this particular location. I can't say it enough, this
 22 is a site that has been targeted for development since
 23 the 1970s.

24 MS. HUMPHRIES: Right, but you're
 25 compromising buffer. The buffer that when I moved here

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1 30 years ago and we had the proposed office development
 2 we had a buffer of 250 feet. And now you're, it's like
 3 65 feet from building to building. And I don't
 4 understand why this constitutes a specialized economic
 5 zone so that you don't have to consider the buffer that
 6 was to protect the residents of this community.

7 MR. McDONOUGH: Well, I said it before,
 8 I'll say it again. The 50-foot buffer that the
 9 applicant is proposing around the perimeter is not
 10 atypical for a differential between residential and
 11 nonresidential development.

12 MS. HUMPHRIES: But that's what was given
 13 to us for protection for our development.

14 MR. McDONOUGH: If you look around the
 15 perimeter of the entire POD Zone those houses in
 16 Intervale Heights have their backyards essentially come
 17 right up to the back. Then you have the 200-foot
 18 buffer. Here we have something different. We have
 19 homes, we have a stream, and then we have a woodland
 20 behind them. From a planning standpoint this is an
 21 opportunity for relaxed zoning at that location to
 22 still meet the intent of the ordinance, provide a
 23 separation between the residential and the
 24 nonresidential. If you look on the plan what the
 25 applicant is doing that buffer is matching all the

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1 other homes on Intervale Heights.
 2 MS. HUMPHRIES: But it's not what was
 3 there. It's not for our protection.
 4 MR. McDONOUGH: It is physically consistent
 5 with what is in the rest of the POD Zone.
 6 MS. HUMPHRIES: Fine.
 7 MR. SINGER: Warren Singer, 23 Homer
 8 Street. Mr. McDonough, you can rest as the planner,
 9 it's going to be comments.
 10 I'm the President of the Parsippany-Troy
 11 Hills Neighborhood Association and I'm here to speak to
 12 you on behalf of my members who are of like mind. We
 13 are concerned about how the proposed development of the
 14 Waterview tract may adversely impact Route 46 and the
 15 surrounding community. A substantial increase in
 16 vehicles equates to an increase in traffic volume,
 17 congestion, delays, pollution and accidents, in spite
 18 of what was said by the experts.
 19 In a recent Parsippany Patch article the
 20 Whole Foods rep stated, "We are thrilled to be coming
 21 to Parsippany. We know Parsippany would be a great
 22 high-traffic area." (Laughter by public.)
 23 It's obvious to us that this store requires
 24 high traffic. Doesn't it follow that a seven-day
 25 operation, 8:00 a.m. to 11 p.m. would attract even a

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1 greater number of vehicles than the area presently has?
 2 One can only speculate over the degree to which the
 3 other stores and the 65 townhouse residents will
 4 contribute to the volume. All the U-turns, the left
 5 turns, the cul-de-sacs proposed by the architects may
 6 facilitate easier access to the development, but we
 7 seriously doubt that any of these will abate traffic
 8 volume and will result in congestion.
 9 A traffic volume study was conducted in the
 10 Hills of Troy by Keller and Kirkpatrick Engineering in
 11 December 2000. Their report indicated that, and I'm
 12 quoting now, "That on a typical weekday 350 vehicles
 13 that pass through the community, the Hills of Troy,
 14 neither originate nor are destined for the
 15 neighborhood. In other words, cut-through traffic."
 16 Although we operate without a crystal ball
 17 we foresee many people driving through our streets
 18 throughout the week day and night using them as a
 19 shortcut corridor. This controversy seems to be a case
 20 of history repeating itself. If a proposal for a town
 21 center at the Waterview tract was unacceptable by the
 22 Town Council in 2005 and a variance for age-restricted
 23 townhouses was denied by the Planning Board in 2006,
 24 why grant this variance in 2013?
 25 As you can see we have been down this dusty

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1 road before. The proposal simply does not factor into
 2 the content or the spirit of the township's master
 3 plan. If this tract was designated for office building
 4 then leave it as such. If it was important for the
 5 Town Council to create ordinances regulating
 6 development why is it any less important for the
 7 Council to abide by them now? I'm almost done.
 8 Not all development is progress. More is
 9 not necessarily better even if it generates additional
 10 revenue for the township. Perhaps I worry too much
 11 with aging. My students thought that I was around when
 12 fire was started, but I have been here long enough to
 13 spot trouble in the making, and ladies and gentlemen
 14 this is troublesome. Thank you. (Applause.)
 15 MR. SCHELL: Good evening. My name is John
 16 Schell. I live at 31 Lockley Court, Mountain Lakes,
 17 New Jersey. I've got one question and one brief
 18 comment. The question is directed to the gentleman at
 19 the far right. I believe he testified about the
 20 estimated traffic at certain periods of time, and you
 21 compared it, I believe, against a hypothetical
 22 situation where if those office buildings -- if there
 23 was an office building on so many square feet,
 24 presumably full, what that would do in terms of traffic
 25 compared to what this proposed development would yield?

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1 And I believe you testified that shockingly that there
 2 would actually be a small decrease. I don't know how
 3 that happens, but you testified that there would be a
 4 small decrease at one time and then maybe a small
 5 increase at another time.
 6 My point of clarification is, am I correct
 7 in assuming you are comparing a hypothetical full
 8 building full of office workers going to and from work
 9 compared to what might occur based upon your estimates
 10 with the developed property?
 11 MR. METH: You're correct. And in that it
 12 was a 259,000-square foot office building full. And
 13 the comparison when there was a reduction was the
 14 weekday morning peak hour when everyone is coming to
 15 work.
 16 MR. SCHELL: So right now where there's
 17 plenty of office space and unerected buildings it's
 18 safe to assume that there would be a market increase
 19 compared to what we've have seen to date; correct?
 20 MR. METH: It would be an increase but any
 21 development of any land could lead to an increase. The
 22 key is the Board is considering allowing different uses
 23 to what could be there now. So a development of
 24 259,000-square feet could proceed as an as-of-right
 25 development, and therefore that's the comparison that

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1 it has to be drawn against.
 2 MR. SCHELL: Thank you. My only other
 3 comment is, I'm a relatively new resident to Mountain
 4 Lakes. I've been here about six and a half years. I
 5 have never seen such a ground swell of opinion against
 6 this type of development. So, just as a reasonable
 7 person I've just got to wonder, if all these people and
 8 more that are not here tonight are against this, who's
 9 for it besides you guys? (Applause.)
 10 MR. BERG: I'm starting to think that
 11 everybody is against it, I'm for it.
 12 MR. CRESITELLO: We need your name and
 13 address, sir.
 14 MR. BERG: Arnie Berg, 383 East Halsey
 15 Road, Parsippany. I've been a resident for 54 years.
 16 MR. CRESITELLO: You need to speak into the
 17 microphone, sir.
 18 MR. BERG: I'm for it. I've spent seven
 19 and a half months last year unemployed. I'm an
 20 electrician. Don't care if you don't care. You
 21 obviously don't care about me either, so. We're going
 22 to lose jobs. We need the jobs. We need the permanent
 23 jobs that come along with this. During the
 24 construction you're going to see all the bodegas and
 25 all the deli's and whatnot they're going to get jobs.

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1 Cerbo Lumber is going to see an increase in their
 2 stuff. Forest Lumber in Mountain Lakes, it's just
 3 inevitable.
 4 It's 46, traffic sucks. We know that.
 5 It's going to get a little worse. Traffic sucks on
 6 East Halsey Road where I live. I don't even go out
 7 after 4:30 to get to Parsippany Road, the light is too
 8 long. I know, go out at 6:30.
 9 I know you guys live a little closer than
 10 this, but I can remember Jefferson Road when there was
 11 only two buildings on there: Leslie Val (sic) and
 12 Pfizer. And we used to play softball in there. We
 13 can't stand still. We need the ratables in this town.
 14 And you've got a Roofer's Local. The
 15 roofers need the jobs down the road from us on
 16 Parsippany Road. I just think we're missing out on a
 17 lot, and I think you'll all shop there after it's done,
 18 if it's done. And I agree with that, if it's done, but
 19 you'll all use it and you'll say that's convenient.
 20 Thank you very much.
 21 MS. BAY: My name is Jackie Bay. I'm
 22 speaking on behalf of the Environmental Commission in
 23 Mountain Lakes. Based upon our research the
 24 Environmental Commission of Mountain Lakes believes
 25 that the rezoning before this Board tonight poses

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1 significant potential detrimental effects upon our
 2 borough's quality of life: Notably increased noise,
 3 light, and air pollution, potential reduction in water
 4 supply, and increased traffic congestion on 46 West.
 5 Rational: Reduction in the buffer from 250
 6 feet. Buffers provide a shield solution. The proposed
 7 reduction of the buffer would mean the physical
 8 elimination of a hill and the trees on it. Without
 9 these natural barriers noise and light pollution from
 10 the expansive parking lot and the 24-hours security
 11 lights of the townhomes would be clearly visible and
 12 audible in the adjacent Mountain Lakes.
 13 Maintain the borough's character and
 14 aesthetics. If this development goes forward as
 15 planned a neighborhood known for turkey crossings and
 16 abundant wildlife will become the neighborhood next to
 17 the strip mall.
 18 Parsippany's own master plan recommends
 19 against big-box development and argues for broad
 20 buffers in order to protect its residents and maintain
 21 street aesthetics and physical character. Mountain
 22 Lakes residents deserve nothing less.
 23 Number two: Potential harm to the shared
 24 aquifer due to the increase in impermeable surface
 25 within a key water recharged area. Harm to the ground

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1 water supply. Mountain Lakes sole source of water is
 2 the aquifer shared with Parsippany. This development
 3 is proposing to pave 75 percent of 26.6 acres within
 4 the aquifer's most efficient recharged area.
 5 Compounding with potential and supply is the additional
 6 demands related to this high density project. Mountain
 7 Lakes and Parsippany are already under mandatory water
 8 restrictions in June through September. This
 9 development can only increase conservation pressures.
 10 We are very gratified to learn that the
 11 developer has withdrawn their request for exemption
 12 from that section of the ordinance that had us very
 13 concerned. We have spoken to your environmental
 14 committee. They would like a chance to weigh in on
 15 this. Unfortunately they have not been asked.
 16 Third question: In fact, on traffic on
 17 Route 46 West. Traffic congestion on 46 West begins to
 18 build on weekdays at 3 p.m. and continues till 7 p.m.
 19 making it difficult to enter and exit Mountain Lakes.
 20 Similar to the gentleman that just spoke, after
 21 four o'clock we don't try to go to Route 46 because
 22 it's too difficult to get out there and get in. Based
 23 upon a study on the Institute of Transportation
 24 Engineer's trip generation report this development can
 25 be expected to generate 19,000 car trips per day.

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1 Again, this can only exacerbate a difficult situation
 2 on 46 West as people are trying to get to 80 West.
 3 In an effort to understand the potential
 4 traffic impact we called the Planning Board on
 5 January 28th and we asked for a copy of the traffic
 6 study. We were told "It is not available. Call back
 7 tomorrow." We called back. The Planning Board
 8 study -- the traffic study, rather, did materialize and
 9 we were told that we could not have a copy of it. That
 10 we needed to come visit it in the offices of the
 11 Planning Board from nine to five. When I explained
 12 that this was a problem for having experts analyze a
 13 report they said, "Well, I'll call you back."
 14 They called back the next day and I could
 15 pay \$16 to get a two-inch thick report for the traffic
 16 study. Problem was it was a report that could not be
 17 put into a copy machine, so again I could not make
 18 copies to give to our experts.
 19 When I called back and said I wanted to pay
 20 \$16 for more reports then there was another pause and
 21 they said, "We'll get back to you." They got back to
 22 us on Friday at noon, and what would you know but an
 23 electronic link to a report that was written on October
 24 25th, 2012, magically appeared in my inbox during a
 25 snowstorm.

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1 So now we have the traffic report, however,
 2 we respectfully, and I mean respectfully, as a good
 3 neighbor, we request time to analyze that report and to
 4 get it in front of the people who can understand it,
 5 because right now 150 cars in 33 second delay sounds
 6 very small, but the trip generation report suggests
 7 19,000 cars and that's not small. We would like more
 8 time to analyze the report. Thank you very much.
 9 (Applause.)
 10 MR. SHETH: Hello, my name is Manoj Sheth,
 11 last name is S-h-e-t-h, first name M-a-n-o-j. I'm at
 12 69 Forest Drive, Parsippany, New Jersey. So this
 13 property is direct adjacent to the proposed
 14 development. I and my wife we bought this property in
 15 the middle of 2011. And a major part of this appeal of
 16 this property was the office zone behind and the
 17 200-foot buffer that is between this property and the
 18 proposed development.
 19 Now I see this proposal and, frankly, while
 20 this proposal is facing you and saying it's going to
 21 increase the ratable of this town. It is going to get
 22 the desirable and classy business store town. So this
 23 side is pretty much looking at me with his thumb on his
 24 nose and saying this market can't be moving here.
 25 My son attends elementary school. He has

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1 25 students in his class. The New Jersey average of
 2 2009 was about 20, 21. That's about 20, 25 percent
 3 more students in his class to date. And I look at this
 4 proposal of the townhouses and I'm sure this would only
 5 increase, put more pressure on our statistics.
 6 The proposal states, and I heard in one of
 7 the testimony is that there's a shortage of townhouses
 8 property in Parsippany. I looked up -- I looked up
 9 Parsippany and I found specific information, population
 10 per square mile. Population number is about 2,300.
 11 Morris County is 1,000. New Jersey is about 1,200. So
 12 I don't know how we are able to get this high mileage
 13 without adequate multifamily homes. Okay.
 14 I appeal to this Board to look at this
 15 other side of this proposal and make its decision.
 16 We'll agree that the goal of the city's administration
 17 is to increase the quality of life, not necessarily the
 18 tax revenues.
 19 So I looked up Parsippany is rated in New
 20 Jersey Magazine as number 15 top small towns to live
 21 in. And the first criteria was the amount of -- the
 22 number of workplaces to work in this city. Thirty of
 23 the Fortune 500 companies are all in this city. This
 24 city is rated as a desirable place where you would want
 25 to put your office in. And this proposal is taking

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1 away a professional office zone and taking away a
 2 ratable and putting townhouses into it.
 3 So I appeal that let us not compromise to
 4 increase the ratables and give us possibly what the
 5 planners had in their mind when they made this
 6 particular zone was in increasing our quality of life.
 7 Thank you. (Applause.)
 8 MR. POULOS: Hi. My name is Nick Poulos.
 9 I live at 270 Baldwin Road, Apartment C-12. And I
 10 don't see any reason to put up this development here.
 11 Why can't we just recycle? That's my one issue I have
 12 here. We've got a lot of vacant buildings, and retail
 13 space.
 14 The other thing as far as traffic goes,
 15 that traffic study that you did and everything it's
 16 probably going to be the equivalent of driving on 202
 17 right now in the morning between Route 46 and Route 10
 18 which would take you about a half hour to get from
 19 Route 46 to Route 10 in the morning and probably
 20 evening, too.
 21 The other thing I worry about now is
 22 supposedly you put up this development, and you know
 23 it's going well and good and then we have another
 24 recession and the building's become vacant for whatever
 25 reason. Let's say Whole Foods goes bankrupt. What's

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1 going to happen in this space now? Now we've got no
2 space and everything now, so what are we going to do?
3 And that's all I have to say. (Applause.)
4 MR. LEMMO: Peter Lemmo, 56 Pickwick Lane,
5 Mountain Lakes. The gentleman on the far end, I
6 believe you said that the traffic study indicated it
7 would be 320 cars during the peak time?
8 MR. METH: No, that's not what I said. I
9 said that there would be an increase of -- well,
10 depending on which peak time. I was quoting the
11 Saturday would be over -- an office development would
12 be 350 inbound cars, and 239 outbound cars additional
13 on a Saturday, Saturday peak hour.
14 MR. LEMMO: It seems hard to believe that
15 you still need to make 900 parking spaces. Why would
16 you need 900 parking spaces? Does this make any sense?
17 MR. METH: First of all, that's a
18 comparison to -- that's not the actual traffic, that is
19 the comparison of how much an increase is over an
20 office development. An office development does
21 generate some traffic on Saturdays.
22 Second of all, parking accumulation has --
23 deals not just with all the cars coming in and out in
24 an hour, but there is a dwell-time factor. So usually
25 the parking requirement is much higher than the amount

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1 of traffic you get at any given hour.
2 MR. LEMMO: Well, I think the whole issue
3 comes down to quality of life in Parsippany. And I
4 think for too long Parsippany has been building,
5 building, building and over-building. Wherever you
6 look you see more things going up. I moved to
7 Parsippany in 1977 and it just got worse and worse. I
8 moved to Mountain Lakes. And now it looks like you
9 folks are infringing on Mountain Lakes. You can say
10 goodbye to the wild turkeys and the animals, the
11 quality of life. You'll have the noise, light
12 pollution, and the garbage trucks, the dumpsters, the
13 traffic, the people, the noise, the crowdedness. It's
14 ridiculous.
15 I'm sure anybody -- any one of you would
16 not want to live there and face all that. And you know
17 that's true. You probably thank God I don't live
18 there.
19 I understand this man was looking for a
20 job. I've been in that situation and down that road,
21 but that's something we deal with. But here you have
22 thousands of people that would be affected every day of
23 their lives for the rest of their lives. (Applause.)
24 Jobs will come by. And most of those jobs
25 in those stores are dead-end jobs. And when their job

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1 is over building they're gone, the builders. They're
2 not going to be living there. They're not going to be
3 suffering through it every day of their life when they
4 go home. Think about it.
5 MS. DANCHAK: Allison Danchak, 41 Forest
6 Drive, Parsippany. As far as the jobs go, build an
7 office building, you would have jobs there as well,
8 correct? So that's an option too.
9 My question is for Mr. McDonough. Here we
10 go. Okay. On January 7th you stated that the office
11 market continues to tank; however, tonight you said
12 that over the last ten years vacancies have been about
13 20 percent; correct?
14 MR. McDONOUGH: I said vacancies have been
15 over 20 percent.
16 MS. DANCHAK: Over 20 percent. And is that
17 consistent throughout New Jersey?
18 MR. McDONOUGH: I believe so, yes. It's a
19 statewide problem.
20 MS. DANCHAK: It is a statewide problem?
21 MR. McDONOUGH: Absolutely.
22 MS. DANCHAK: Have you done the same for
23 retail space?
24 THE WITNESS: The retail market is
25 stronger. I don't have the percentages, no.

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1 MS. DANCHAK: So you didn't put that in
2 your application any statistics on retail vacancy?
3 MR. McDONOUGH: You have real-world
4 interest, retail interest in occupying this space.
5 Plan has been put forth. I was asked to put those --
6 that plan into words, which is what I've done. I was
7 asked to tie that to Parsippany's zoning ordinances,
8 which I've done. That was my charge with this
9 application.
10 MS. DANCHAK: Okay. So for the Planning
11 Board representatives you may want to know that since
12 2010 we have had a higher percentage of vacancies in
13 retail space than in office buildings. Where the
14 office buildings are consistently at 20 percent we have
15 seen an increase in retail vacancies from 7 percent
16 over 10 percent.
17 Now, the other thing I found interesting in
18 this research is that it kind of defies economic theory
19 of supply and demand with office space. Office rentals
20 have continually been at about \$23 a square foot. Has
21 not changed in the last ten years, give or take a
22 dollar or so. However, the retail space in our town
23 which has increased 3 percent has been consistent with
24 supply and demand. And we've seen a 20 percent
25 decrease in rental rates, which obviously impacts the

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1 value and the ratables on our retail space, forget
2 offices.

3 Therefore, even with the 20 percent
4 decrease we cannot fill the existing retail space in
5 our town. How much lower do we go? That's the kind of
6 statistics I think that should be presented by a
7 developer. Your predecessors got it right. They found
8 a compromise that the community can live with. Don't
9 go against that. I don't understand why we would
10 consider putting in a huge retail space on beautiful
11 land. (Applause.)

12 MS. JETTON: My name is Ann Jetton, 30
13 Forest Drive, Parsippany. This is for Mr. McDonough.
14 You said on page 130 of the transcript that the buffer
15 under your ordinance as it exists now can be either in
16 a natural state or a supplemental state, which is
17 consistent with what the applicants would do here.
18 Where does the existing ordinance say that a
19 supplemental state constitutes evergreen trees or
20 bushes?

21 MR. McDONOUGH: The intent of the ordinance
22 is that that be a green belt around the property. No
23 structures. A band of green either planted or
24 preserved. It's not one or the other, it's a
25 combination or again it can be one or the other, but it

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1 doesn't have to be one or the other.

2 MS. JETTON: Well, what evidence do you
3 have that the city's forest is in any way parable
4 aesthetically and practicality to evergreen trees? A
5 natural forest is not the same as evergreen trees that
6 you plant. Wildlife doesn't live in evergreens.

7 MR. McDONOUGH: This is something that will
8 come down to site plan, but the intent is to provide a
9 green wall around the perimeter of the property to
10 protect those homes on Forest Drive.

11 MS. JETTON: But not the environment, we're
12 not trying to protect the environment as well as
13 existing residents?

14 MR. McDONOUGH: From an environmental
15 standpoint we're trying to provide adversity of
16 planting types. And the leaves mixed with deciduous
17 forest is perfectly reasonable from both a landscape,
18 architecture and a planning standpoint.

19 MS. JETTON: And I think wildlife is
20 primarily different than what's currently there.

21 Anyway, next. How do you examine whether
22 evergreen trees create the same ecosystem as deciduous
23 trees? And if so have you submitted any such analysis
24 as part of your application?

25 MR. McDONOUGH: No.

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1 MS. JETTON: How long will it take for a
2 baby evergreen tree to reach the proper height of a
3 100-year old deciduous native tree?

4 MR. McDONOUGH: A 6-foot height planted
5 evergreen grows about a foot a year. I said about.

6 MS. JETTON: Why do you believe a double
7 row of short native evergreens will be adequate to
8 replace a mature deciduous forest?

9 MR. McDONOUGH: Again, this comes down to
10 site plan. The Board can mandate during the site plan
11 process that those trees be 8-feet tall on top of a
12 berm. They could be 10-feet tall. Enough to provide a
13 screening effect for the structures that are on the
14 subject property.

15 MS. JETTON: Based on your past experience
16 in these types of developments?

17 MR. McDONOUGH: Driving down Mazdabrook
18 Road --

19 MS. JETTON: I have recently, just
20 yesterday, and was amazed at how my taxes have tripled
21 yet there's all this development. So I still don't see
22 how all development, all these big mansions and
23 townhomes are helping me in any way, because my taxes
24 have tripled since I've moved here. And I was amazed.
25 I could not believe what was developed here and yet my

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1 taxes still go up. So, I don't see how any of this
2 development is helping our town or our taxes or the
3 existing people in it. I just don't.

4 And I also just want to bring out, way back
5 in the '80s when there was this battle over this land,
6 they created the land and there was an agreement, they
7 put the 300-foot or the average 200-foot buffer in
8 there for a reason. And they canned office buildings
9 for a reason because they wanted to control traffic.
10 And what you're going to do is say, oh, we can stand
11 more traffic on the weekends.

12 Do you love more traffic? Is this what you
13 guys want? Is this the future of Parsippany? Is this
14 where you're going, like Route 10, so we have traffic
15 seven days a week all day long? So trying to take your
16 kids around town is a nightmare. They can't make it
17 anywhere on time. We can't make it anywhere on time
18 because you never know what's going to happen. If
19 Route 80 or 287 has an accident we're sitting still for
20 hours upon end.

21 CHAIRMAN PARIKH: Okay. Your three minutes
22 are up. Thank you.

23 MS. McELROY: Diana McElroy, 37 Intervale
24 Road. I want to know where there's evidence of real
25 estate comparables of townhouses and -- townhouse sales

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1 that were done in situations where the three-story
 2 townhouse looked directly at the top of discount
 3 department stores? Like do you have that comparable?
 4 MR. McDONOUGH: I don't.
 5 MS. McELROY: And you're saying it's going
 6 to sell for what \$450, \$500,000?
 7 MR. McDONOUGH: Yes.
 8 MS. McELROY: In what world? In what
 9 reality? Have you driven around to see what's on sale?
 10 I mean, starter homes can't sell and you're telling me
 11 that 75 units are going to sell?
 12 MR. McDONOUGH: That's the proposal, yes.
 13 MS. WIDDOWSON: My name is Fay Widdowson.
 14 I live at One Winding Way in Parsippany. This is my
 15 daughter Alexa. She attends the Intervale Elementary
 16 School. She's in Grade One and there are 25
 17 individuals in her class.
 18 My first question is for you, Mr. Snieckus.
 19 Earlier in your testimony you had mentioned a number of
 20 children of school age that may live in this proposed
 21 development, one given by our superintendent Dr. Seitz,
 22 and one given by your research. There's a large
 23 disparity between those two numbers. So my question to
 24 you, sir, is why do you not value the number that comes
 25 from the superintendent of the school district in which

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1 this proposal is being planned?
 2 MR. SNIECKUS: Let me just clarify that. I
 3 did not say that I did not value his calculations, it's
 4 just that my calculation, based on our experience,
 5 differ. When using the Rutgers Study, as well as
 6 studies of various multi-family developments throughout
 7 New Jersey, especially the northeast, we have concluded
 8 that we find a different number. It's actually a
 9 25 percent number, as opposed to a 30 percent or 50
 10 percent number he had quoted.
 11 MS. WIDDOWSON: Would you not think that
 12 Dr. Seitz would know his school district better than a
 13 study from Rutgers?
 14 MR. SNIECKUS: From a standpoint of the
 15 number of children from a typical single-family
 16 development I would agree, this is not your typical
 17 single-family development, this is a multifamily
 18 townhouse which is different.
 19 MS. WIDDOWSON: And there are other
 20 multifamily dwellings in this town that Dr. Seitz looks
 21 over as superintendent of our school district; correct?
 22 MR. SNIECKUS: Correct.
 23 MS. WIDDOWSON: Multiple apartments that
 24 we're all aware of, okay. So, I would propose that the
 25 Board take the higher number into consideration and

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1 think long and hard about where that capital investment
 2 is going to come from. It's going to be us, the
 3 taxpayers, in order to further improve these schools
 4 that were just so recently improved and expanded upon
 5 to deal with the increase in children in the school
 6 district.
 7 Secondly, Mr. McDonough, on page 132 of the
 8 transcript it stated that "Traffic had been studied and
 9 discussed at length and there should not be any
 10 substantial detriment in terms of movement on adjacent
 11 the roadways."
 12 Did these studies look at the potential
 13 traffic runoff into adjacent municipalities like
 14 Mountain Lakes, and also Intervale Heights behind on
 15 major roads such as the Boulevard, Intervale, Morris,
 16 Midvail, Forest, where I live? Did you look at those
 17 surrounding roads?
 18 MR. McDONOUGH: Ma'am, I think you're
 19 asking the wrong person. I'm not the traffic expert,
 20 I'm a planning expert.
 21 MS. WIDDOWSON: So can somebody answer if
 22 traffic impacts on the surrounding neighborhoods was
 23 evaluated?
 24 MR. METH: Mr. Chairman, do you want me to
 25 answer that?

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1 CHAIRMAN PARIKH: Yes. And that will be
 2 the last question for you.
 3 MR. METH: Okay. There was a comprehensive
 4 study conducted and any location that added more than
 5 25 trips per hour was studied and looked at. And there
 6 was -- and the traffic impacts were documented in this
 7 2-inch thick report.
 8 MS. WIDDOWSON: Did you look at Forest
 9 Drive and Intervale?
 10 MR. METH: First of all, I didn't look at
 11 anything. I'm the Board's expert. I reviewed what was
 12 prepared. There's no specific analysis to Forest
 13 Drive. Subsequent at some of the later meetings we did
 14 some supplemental counts there and the access proposal
 15 which would have impacted it to direct connection to
 16 Intervale was removed from the table with a connection
 17 to Waterview Boulevard. At that point I don't see any
 18 spillover effects on Forest Drive.
 19 MS. WIDDOWSON: So Forest Drive, I don't
 20 know if you know or not, I live on the corner of Forest
 21 and Winding is notorious for a cut-through road. There
 22 used to be, before our police department unfortunately
 23 is using members in rank, there used to be a traffic
 24 policeman who used to regularly sit on Forest Drive
 25 because of all the speeders and all the cut-throughs,

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1 okay, between Intervale, 202, 287, Waterview, that
 2 whole entire area I live on a cut-through. There's no
 3 policeman there anymore to monitor this traffic.
 4 So I would propose to the town that you
 5 take a very long hard look not only at the traffic
 6 implications to the direct area of this proposal but to
 7 your neighborhood surrounding it. I can't even turn
 8 left onto Route 202 from Forest to take my children to
 9 school anymore, I have to go the long way and take
 10 rights on Intervale, on Lakeside Drive, and all the way
 11 around that way. I now have to go the long way to
 12 school. I don't want to make it an even longer trip.
 13 CHAIRMAN PARIKH: Thank you.
 14 MS. WIDDOWSON: Thank you.
 15 MR. GRIBBIN: John Gribbin, 10 Winding Way,
 16 Parsippany. Mr. McDonough, with regard to buffers on
 17 the tract, did you research the subdivision in the
 18 1980s that produced the lots that are there now?
 19 MR. McDONOUGH: Yes.
 20 MR. GRIBBIN: Did you look at the final
 21 plat of that subdivision?
 22 MR. McDONOUGH: No.
 23 MR. GRIBBIN: You researched it but you
 24 didn't look at the final plat of the subdivision?
 25 MR. McDONOUGH: I did not.

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1 MR. GRIBBIN: Did you know that the final
 2 plat, which is a filed map in the -- all the records in
 3 Morris County, calls for a 200-foot buffer which is now
 4 something which goes with the land and not just with
 5 the ordinance?
 6 MR. McDONOUGH: That I'm not aware of, no.
 7 MR. GRIBBIN: Would that have an impact on
 8 your development?
 9 MR. McDONOUGH: That's a legal question. I
 10 don't know.
 11 MR. GRIBBIN: I don't understand, you call
 12 yourself an expert and you said that you have
 13 researched the subdivision, but yet you didn't look at
 14 the file. Are you sure you didn't look at it?
 15 MR. McDONOUGH: I'm not aware of a legal
 16 encumbrance on that property with respect to a buffer
 17 or an easement around the perimeter of the property.
 18 MR. GRIBBIN: Did you look at any of the
 19 deeds that changed hands?
 20 MR. McDONOUGH: No, I did not.
 21 MR. GRIBBIN: They're readily available in
 22 the tax assessor's office. The deeds refer to the
 23 filed map which establishes a 200-foot buffer around
 24 the area that we're talking about.
 25 MR. McDONOUGH: I answered your question.

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1 MR. GRIBBIN: Not a very good answer, as
 2 far as I'm concerned.
 3 MR. ARNOLD: I'm Stephen Arnold. I live at
 4 4 Craven Road in Mountain Lakes. My property is
 5 300 feet from the lot. I've heard some people say that
 6 this is like a kangaroo court. I don't think so. I
 7 don't know that any of the Planning Board has decided
 8 which way to go or not. They may decide to go one way
 9 or another way. And I don't know anything about the
 10 jurisdiction.
 11 If you decide to proceed to recommend to
 12 the Council to do something you could recommend that
 13 they strengthen the ordinance as opposed to allowing
 14 what has been submitted by the developer.
 15 If there is a zoning, an overlay zoning or
 16 a change of the existing zoning it should contain clear
 17 regulations that reaffirm or reinforce the existing POD
 18 Clause 430-155 governing height, area and other bulk
 19 requirements. Maybe it's okay to have some other
 20 views. And I'm not saying that these uses are okay.
 21 Maybe some of them are, some of them aren't, I think,
 22 but whatever is allowed should not be allowed to
 23 violate paragraphs C, D, E, F, G, and H of the POD
 24 Clause 430-155, buffers, et cetera, all of the
 25 regulations.

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1 So if there's an ordinance or something
 2 that it should have a condition that any overlay, if
 3 there's an overlay, has to abide by those regulations
 4 about buffers, the average 200 feet, et cetera.
 5 The only overlay, really should be of the
 6 use. That's really all that they should be submitting
 7 for here. We have different views, but we shouldn't
 8 violate the environment any more than it's being
 9 allowed to be violated -- well, it's being allowed to
 10 be by the existing POD ordinance.
 11 Now, one improvement of the regulations is
 12 something that's in paragraph "H." Paragraph "H" refers
 13 to 360-foot elevation above sea level. And that
 14 paragraph "H" says that the buffer along the western
 15 northern sides should to the extent feasible be in
 16 agreement with the 360-foot elevation from there to the
 17 border lines, which was a very good regulation.
 18 The Planning Board and Councilmen in 1982
 19 did some wonderful things, and that's one of the
 20 wonderful things they did there. And the plan for the
 21 final subdivision shows an office building,
 22 259,000-square feet maybe. So it wasn't going to
 23 violate that thing.
 24 One thing I think you should do, if you
 25 request some change or modification, is require that,

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1 well, first I'm going to call it, there's a ridge that
 2 goes along Fox -- that goes along Forest Drive and
 3 Intervale. And it could be called Intervale Ridge. It
 4 could be called Doremus Ridge, which I call it Doremus
 5 Ridge. That's also where Doremus Cemetery is near the
 6 peak of it. And I would propose that a regulation
 7 being that they're not making any changing of the land
 8 for any elevation above the 360 feet. That's pretty
 9 much in line with what's in the existing ordinance --
 10 CHAIRMAN PARIKH: Your three minutes are
 11 over, sir. Thank you.
 12 MR. ARNOLD: Well, there are some errors in
 13 the report by Burgis and Associates where they claim --
 14 CHAIRMAN PARIKH: Excuse me.
 15 MR. ARNOLD: They claim that the building
 16 allowed 30 percent, but it's 12.5 percent in the POD.
 17 And then Burgis Associates comes out and says, okay,
 18 let's allow 25 percent as it's a decrease from 30
 19 percent. It's not doubling, it's a 12.5 percent in the
 20 POD ordinances.
 21 CHAIRMAN PARIKH: Okay. Sir, thank you.
 22 Sir, your three minutes is over.
 23 MR. ARNOLD: Five percent. Many regulation
 24 errors are being made and we should look at it.
 25 CHAIRMAN PARIKH: Thank you, sir.

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1 MS. BRIGHTON: Nancy Brighton, 24 Maplewood
 2 Drive, Parsippany. I'm the Chair of the Historic
 3 Preservation Advisory Committee. One of the committees
 4 that advises the Planning Board on actions before the
 5 Board, so the community has this statement. We
 6 previously submitted a letter prior based on the
 7 earlier meetings, and this is to flush out some of
 8 those things in that.
 9 The committee advises the Planning Board to
 10 improve in any overlay or ordinance language for this
 11 property the following: Language for the protection of
 12 the Doremus Cemetery, which is two separate pieces of
 13 property but is adjacent to the back end of the
 14 property, to include a suitable buffer zone and
 15 protection before, during and after any construction
 16 that may subsequently take place.
 17 The committee also advises, as part of the
 18 language for an ordinance overlay, the completion of
 19 other requirements or the completion of an
 20 archeological survey of this parcel before any ground
 21 survey activities. This parcel has been relatively
 22 undeveloped except for farming for a very long --
 23 actually for this entire period that Parsippany has
 24 been there before. And then the maintenance of the
 25 green buffer zone along Route 46 similar to the berm or

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1 undeveloped border that currently is on Route 46 on
 2 Parsippany Road to Waterview Boulevard to minimize the
 3 effects of harm on what has been a historically
 4 undeveloped portion of the town. Thank you.
 5 MS. Du TERTRE: My name is Nancy Du Tertre,
 6 41 Lake Drive, Mountain Lakes. First of all, I just --
 7 I have several comments and I have questions also.
 8 First comment is I think it's an absolute travesty that
 9 you all have not consulted with your environmental
 10 committee on this huge issue. I don't understand why
 11 and I think it's a disgrace. (Applause.)
 12 Mr. McDonough, are you aware that there are
 13 only two other communities in Parsippany with three
 14 bedroom townhouse condominiums that are currently
 15 selling in your projected per unit price ranges as
 16 between four to \$500,000?
 17 MR. McDONOUGH: No.
 18 MS. Du TERTRE: Okay. Then I would like to
 19 advise you that there are only two: One is Sterling
 20 Mist. They are selling for between \$450 and \$550,000,
 21 and Mazdabrook selling between \$375,000 and \$475,000.
 22 I'm wondering, what makes you think that your
 23 properties will sell for the same amount as these other
 24 communities when these other communities offer
 25 clubhouses, fitness centers, meeting rooms and don't

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1 face the back side of a strip mall? (Applause.)
 2 MR. McDONOUGH: We're talking about new
 3 construction. We're talking about prime residential
 4 construction. You heard a renowned architect talk
 5 about the materials that are going to be built into
 6 this. Like the retail end of it, this is a high-end
 7 project, the finishes the amenities. That's the price
 8 point, \$500,000.
 9 MS. Du TERTRE: And the reason why I ask
 10 whether you are aware of these other price ranges is
 11 because apparently much of the decision whether or not
 12 to go forward on this project depends on so-called
 13 ratables, which would be also highly dependent on the
 14 sale of these condominiums. If these condominiums do
 15 not sell what happens to that plot of land, does it
 16 convert to commercial under your plan?
 17 MR. McDONOUGH: We are not dealing with a
 18 fly-by night applicant here. We're dealing with an
 19 applicant that knows what it's doing and knows its
 20 price points.
 21 MS. Du TERTRE: All right. I don't think
 22 that was an answer, but I'll move onto my next
 23 question. You say on page 130 of the transcript that
 24 your proposed 50-foot buffer is "not inconsistent with
 25 buffers found in other Parsippany zones such as PRD-1,

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1 PRD-2." You repeated that again here tonight.
2 These zones were never zoned for office
3 development, were deep within buffers, and have other
4 restrictions which you chose to ignore in your proposal
5 here. Are you aware, for example, that your proposed
6 50-foot buffer is not even the buffer requirement in
7 the PRD-1 zoning?
8 MR. McDONOUGH: No, I'm not.
9 MS. Du TERTRE: It's 65 feet.
10 MR. McDONOUGH: The PRD-2 zoning is 50
11 feet.
12 MS. Du TERTRE: Yes, that's correct. Are
13 you aware that in the PRD-2 50-foot buffer zones they
14 have a zoning requirement that limits it to four units
15 per acre, not the seven that you are proposing?
16 MR. McDONOUGH: Understood. (Applause.)
17 MS. Du TERTRE: So isn't it more to the
18 point that your proposed buffer is actually radically
19 inconsistent with the current POD Zone on the entire
20 132-acre tract?
21 MR. McDONOUGH: No. The SED is 50 feet.
22 The PRD-2 is 50 feet. The APRD-2 is 40 feet. The P2
23 is 25 feet. I'm not inventing new zoning here in
24 Parsippany.
25 CHAIRMAN PARIKH: Okay. That's the last

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1 question. Three minutes is over please. Thank you.
2 MS. Du TERTRE: Well, I'm not done yet.
3 You doubled the FAR --
4 CHAIRMAN PARIKH: Next, please.
5 MS. Du TERTRE: Why have you doubled the
6 FAR?
7 UNIDENTIFIED PUBLIC VOICE: You're mixing
8 up the comment period with the questions of the
9 witness. That's not what you told us you would do.
10 MR. YAREMA: My name is Ken Yarema, 41
11 Winding Way. I've lived on Winding Way for about
12 25 years, and actually before, about ten minutes ago I
13 had a whole page written out of things I was going to
14 comment about. I kind of decided to scrap that and
15 just make mention that for any Board member who might
16 happen to think that my fellow neighbors have short
17 memories when it comes to election time and how the
18 votes were cast against us and our families and our
19 neighborhood, we won't forget, that's number one.
20 Number two: Has anyone looked at the
21 impact -- has anyone looked at the impact of water
22 pressure? And will my water pressure and my sprinkler
23 system, for example, be affected if the water pressure
24 is being drained by this development? Has anyone
25 looked at water pressure? (No response.) I guess not.

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1 Finally, my last statement, if anyone has
2 any allusion about the number of new students that will
3 be attending the school let me enlighten people to a
4 few things. My wife was associated with the West
5 Orange Board of Ed for over 20 years. It is a known
6 fact, in fact, they actually have people who they've
7 hired to chase down people who send students to nice
8 neighborhoods because they don't want their students
9 going to their bad neighborhoods.
10 So what they do is, it's very simple. What
11 they do is they use an address of a resident in the
12 nice neighborhood, your development, sir, and they will
13 plug in that address. They will come to our town.
14 They don't live in our town, but they'll be in our
15 town. They will get their lunches, their recreation,
16 and supported by our tax dollars.
17 And have no allusion, this is the truth,
18 it's a fact. So 14, 20, 31, that's a joke. That's not
19 going to happen. You're going to have more students
20 because it's a known fact that this takes place.
21 Parents in bad neighborhoods who want to give their
22 children a good education, Mountain Lakes, Parsippany,
23 they will use those addresses to get their kids to our
24 schools. Thank you.
25 MR. KOEBER: Good evening. My name is

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1 Garret Koeber. I live at 109 Intervale Road. My
2 question is, I don't have a whole bunch of statistics
3 but as a father of four children I live on Intervale
4 Road. I'm assuming none of you live on Intervale Road
5 and are aware of the current traffic that goes on
6 during the week and on weekends, and there is a
7 significant difference on weekends. And the statistics
8 that I believe it was 375, 250, whatever it was,
9 additional cars for a planned office development for a
10 Saturday, what you're proposing and what is being
11 proposed is now for a shopping center which, correct me
12 if I'm wrong, but is going to be open Saturday and
13 Sunday. What is the additional traffic that that is
14 going to generate? I haven't heard any numbers about
15 that.
16 The section of road that I live on is
17 dangerous. I have little children. It doesn't matter
18 300 cars, 200 cars, all it takes is one car to kill a
19 child.
20 Second thing I want to say, how do you
21 know -- how are you going to restrict a tractor trailer
22 from coming down Intervale Road? Currently, there are
23 no wait limits. It's a 25-speed limit, but like the
24 other woman had mentioned on Forest Road I haven't seen
25 a police officer patrol Intervale Road in a very long

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1 time.

2 My question is this: Everything, the other

3 questions that I have, I have open-ended questions

4 because I haven't heard any answers. This is proposed

5 to go forward, but what is the benefit other than an

6 additional shopping center, additional overlay? As

7 residents what is the benefit, am I going to get

8 additional services from these ratables that are going

9 to come in? Thank you.

10 MR. HYSON: My name is James Hyson, 2

11 Littlewood Court, Pine Edge Condominium, Mountain

12 Lakes. I am a member of the Pine Edge Condominium

13 Board and I'm speaking on behalf of the Association

14 which is within 200 feet of the planned development.

15 I have a question and also a

16 recommendation. I have a question. I didn't follow

17 the traffic study, maybe could you help me out on this,

18 but it sounded like when you did the traffic study you

19 were comparing the traffic from the residential complex

20 to the traffic from the existing office development if

21 it had been developed?

22 MR. METH: That is correct.

23 MR. HYSON: It did not take into account

24 the additional traffic from the retail complex?

25 MR. METH: The comparison made for the

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1 purposes of this hearing was the comparison of the trip

2 generation from the concept development shown, which

3 was a retail development. All the traffic from that

4 compared against the traffic of a 259,000-square foot

5 office building that could be developed on this tract.

6 MR. HYSON: I thought I heard you say

7 earlier you were comparing to the residential. The

8 comparison was just to the retail then?

9 MR. METH: No, the retail and the

10 residential together.

11 MR. HYSON: They were together?

12 MR. METH: Correct, but I said at the

13 outset that it was based on -- these unit numbers were

14 basically on the 72 townhouse units. As we heard

15 earlier tonight I guess that number's been down or

16 revised to 65, the ten percent reduction for the

17 townhouses.

18 MR. HYSON: Now, you basically just do the

19 traffic study at peak times, you don't consider the

20 traffic during the day?

21 MR. METH: Well, what it is is when we

22 analyze traffic we have to analyze it against sort of a

23 worst-case scenario. So we look at the morning peak

24 hour, rush hour, the evening rush hour, and the

25 Saturday midday as the highest hour represented for the

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1 weekend. It means that this is how the idea is, if it

2 works during those periods by -- I guess by -- it is

3 implied that it works during other hours when traffic

4 is not as high. So we find the highest hour in volume

5 of the baseline addition and compare it with the

6 traffic --

7 MR. HYSON: And you say the traffic will

8 flow?

9 MR. METH: Correct.

10 MR. HYSON: I guess I would ask the

11 Planning Board as I think about this proposal. There's

12 going to be a substantial amount of increased traffic.

13 It may not be to the peak level during the day, and

14 particularly from this retail development. And I ask

15 you to take that into consideration as you go forward

16 with this plan.

17 My recommendation has to do with a question

18 that I think needs to be answered. And that is, can

19 this land be developed as a multi-use parcel while

20 maintaining the existing quality of life for those

21 living around it? Previously it was determined that

22 the land could be developed for office use provided

23 that there was a 200-foot buffer around the

24 development. Now you are being asked to approve a

25 residential parcel with a smaller 65-foot buffer and a

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1 retail parcel with an even smaller 50-foot buffer. The

2 retail parcel will see much heavier uses throughout the

3 day than the previous planned office complex. This

4 argues for an even larger buffer than the 200 feet

5 buffer specified for the office complex.

6 CHAIRMAN PARIKH: Okay. Sir. Your three

7 minutes is over. Thank you.

8 Before I go to the next speaker here I'd

9 like to say that as far as the traffic and the school

10 and the buffer, water issues, lighting, and wetlands, I

11 think this Board has enough -- heard enough concerns

12 and issues, and if you can try to, you know, speak

13 about other issues other than those I would appreciate

14 that. Thank you.

15 MS. BATTY: My name is Sandy Batty, 15

16 Lockley Court in Mountain Lakes. This development has

17 two flaws: One, the change in the use is obviously

18 changing the quality of life around the property. So

19 it's -- you don't look at the traffic peak flows you

20 should look at the hours of operation. And also what

21 kind of traffic is flowing; namely, tractor trailers

22 that are going to be coming in to supply the stores;

23 the garbage trucks that are going to be hauling away

24 the trash.

25 The second problem with this is that

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1 there's too dense a development being proposed for this
 2 property. The developer has shoehorned every possible
 3 thing you can get in here, and you have the obvious
 4 loss of buffers, but then there is also the problem of
 5 stormwater. Now, he has testified that he is going to
 6 obey your ordinance, which is good, but the department
 7 of environmental protection recommends a low impact
 8 development first. What you do is you work with nature
 9 to control stormwater. Why? Because mechanical
 10 systems fail, and they will fail. And that will be
 11 after the developer goes when Parsippany has to pay the
 12 price for repairing the stormwater systems that have
 13 failed.

14 And who will be impacted the most will be
 15 across Route 46 downhill at the Troy Brook as the water
 16 flows into Troy Brook which already floods. I know you
 17 must be aware that the Rutgers Environmental Extension
 18 Water Resources has done a whole study of the Troy
 19 Brook and has mapped out the flooding potential of the
 20 Troy Brook right there across 46. You are building up
 21 a problem that Parsippany will get to pay for in the
 22 future. (Applause.)

23 MR. SUDOL: Robert Sudol, 75 Forest Drive,
 24 Parsippany. I've got a question and then a comment to
 25 the Board.

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1 Sir, how much of this area will be covered
 2 surface with the proposed development? How much of a
 3 surface area will be covered?

4 MR. McDONOUGH: We have an impervious
 5 coverage of .75, 75 percent.

6 MR. SUDOL: 75 percent. Okay. Well,
 7 here's my next question to you, sir. Why haven't you
 8 chosen to model your mixed commercial and residential
 9 rezoning on Parsippany's mixed land use zoning which
 10 only requires -- that requires 50 percent of the land
 11 be covered, as well as the land, partial 50 percent be
 12 left in its natural vegetative state? Why did you
 13 choose to disregard that and reinvent your own zoning?

14 MR. McDONOUGH: We looked at the totality
 15 of the POD District and what the maximum allowable
 16 impervious coverage would be in aggregate, and this
 17 development coupled with the other developments will
 18 not exceed that maximum allowable impervious coverage.

19 MR. SUDOL: So it would be at 50 percent?

20 MR. McDONOUGH: No, the allocation, the
 21 aggregate that's left over for this particular tract is
 22 75 percent.

23 MR. SUDOL: Okay. Here's my comment to the
 24 Board. Ladies and gentlemen, I've been a resident here
 25 for 25 years. I've been in my house on Forest Drive

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1 for 13. Myself, like my neighbors bought our
 2 properties because we loved the land, okay. We don't
 3 want to see anything go in there. But I'm a realist.
 4 I understand that progress is going to happen and that
 5 something will go there. This is the third time I'm
 6 trying to fight this, but let me ask you, please not
 7 this plan.

8 This developer does not have a concern for
 9 the community nearby, in my opinion. They've shortened
 10 the buffers, they've packed it in. They started out
 11 with a 40-foot building, higher than anything else
 12 residential in the town. They dropped it down to 35,
 13 okay. Then they're going to put in these evergreen
 14 trees that our gentleman says grow about a foot a year.
 15 So if they put in a 10-foot tree and the tree takes it
 16 will only be 15 years before it reaches the top of the
 17 building. We have to do better than this. You have to
 18 do better than this for us, please. You're the people
 19 who are watching out for us. Smart development, smart
 20 development. This is not a smart development plan.
 21 Please. Protect us. (Applause.)

22 MR. CRESITELLO: Okay. Hold on one second.
 23 It's up to the Board, but our normal quitting time is
 24 10:30. We do not work generally beyond that time. At
 25 this point we are going to make an announcement that

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1 the woman in the red sweater or maroon sweater at the
 2 end of the line either that individual or at 10:15,
 3 whichever comes first, will be the last opportunity for
 4 public comment.

5 CHAIRMAN PARIKH: Thank you.

6 MS. PAIGE ASH: My name is Paige Ash. I
 7 live at 17 Maple Way in Mountain Lakes. Respect is
 8 something that as a student is basic to the classroom
 9 that I sit in. I have sat through the entire public
 10 session tonight and I've observed various members on
 11 their cell phones ignoring the public's comments.

12 The public process is in place for a
 13 reason, and it's troubling that certain members have
 14 ignored the public, such as Peggy Mader who has been on
 15 her cell phone almost the whole night.

16 MS. MADER: I don't vote.

17 MR. CRESITELLO: She's the Board secretary,
 18 she doesn't vote.

19 Okay. Can you just continue?

20 MS. PAIGE ASH: Let me just say that if we
 21 were in school right now I can guarantee that certain
 22 members on the Board would be getting a detention.

23 MS. PIEGARI: Angela Piegari, 10 Winding
 24 Way. Okay. I moved to Parsippany 13 and a half years
 25 ago not on its reputation for office buildings, for

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1 commerce, which is the image I had of the town as
 2 opposed to residential areas. The only reason I had
 3 any idea of the town's residential areas were because
 4 of friends who live in town in different sections of
 5 the town.
 6 If it were not for them I would not know
 7 that there are such nice areas of town, or for the
 8 schools and other amenities that the town affords. I
 9 found a lovely neighborhood in Intervale Heights off of
 10 Intervale Road and Glen Road. I realize that I'm only
 11 a stone's throw away from Route 46, 202, 287 and 80,
 12 but you would not know it driving up Intervale Road or
 13 coming in off of Route 202 onto Forest. It appears to
 14 be in a little country area. That is reinforced by all
 15 the animals who call this area their home, including
 16 wild turkeys, foxes, hawks, deer, coyotes, which I've
 17 seen, bears, and all the little critters as well. And
 18 I might add, I also had an emu in my driveway two years
 19 after I moved in, face-to-face with that animal. He
 20 had gotten lose from somebody's little farm around the
 21 area.
 22 And I especially was fond of the bear who
 23 made his home under my deck last winter during his
 24 hibernation and who left, by the way, very peacefully
 25 during the early spring, but again you would not know

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1 all of this exists if you simply went up and down Route
 2 46, or for that matter Route 10. Route 46 in
 3 Parsippany has become a totally commercial zone, some
 4 of which is an eyesore for the town, in my opinion.
 5 Debris-strewn property lines the highway along with
 6 signs all over the place and lights constantly beaming
 7 down at you, as well as the vacant stores up and down
 8 the highway, of which I have pictures in my camera, if
 9 you're interested in seeing them.
 10 One comes away feeling that that simply
 11 exists for commerce office building and light industry.
 12 It does not have the feel of a place where people live,
 13 play, go to school and worship. And this is what
 14 concerns me about this proposed development. It will
 15 add to the negative image of the environment with more
 16 stores, restaurants, and for good measures squeezed in
 17 townhouses.
 18 One gets the impression that Parsippany
 19 exists only for businesses of all sorts rather than its
 20 citizens who live here 24/7. When will the town
 21 respect its citizens and their needs and wishes to
 22 retain a really good quality of life. This is what I
 23 am requesting, that this Planning Board reject this
 24 change in zoning and the entire project. (Applause.)
 25 MS. EMR: Ellen Emr, 44 Crane Road,

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1 Mountain Lakes. I'd like to start by saying that I
 2 appreciate some of the adjustments that apparently have
 3 been made in buffering in less density and appreciation
 4 of the concerns of the residents in that area. I don't
 5 think it goes far enough.
 6 Residents -- and also I also appreciate the
 7 comments that this really is not about Whole Foods,
 8 it's about an entire development in a development with
 9 a tremendous density. And I do have -- I want to point
 10 out that Mountain Lakes and Parsippany have been
 11 partners for years, for decades. In protecting the
 12 environment, we are the founding members of the
 13 Whippany River Watershed Action Committee. We've
 14 worked on companies that have polluted air, polluted
 15 water. We all signed onto an agreement that pollution
 16 does not know municipal boundaries. It's a regional
 17 issue. And the solutions to all of this have to be
 18 regional. And I appreciate in the past as a delegate
 19 to the Whippany River and as an elected official in
 20 Mountain Lakes, as the former Chair of the
 21 Environmental Commission, I've worked with a lot of
 22 people from Parsippany and always had a great
 23 experience and a lot of cooperation.
 24 I am hoping that tonight you'll appreciate
 25 that this project is going to have a regional effect.

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1 The first obligation of elected and appointed municipal
 2 officials -- and it was drummed into me when I became a
 3 council member, the first obligation of all of us is to
 4 protect the property values of its residents.
 5 In this case the residents on both sides of
 6 Intervale Road will be negatively impacted and all the
 7 property owners are entitled to the same respect and
 8 attention regardless of the size or value of their
 9 homes. Increased traffic, noise pollution, air
 10 pollution resulting from this project will be
 11 experienced going east and west on 46 and all the
 12 capillary and arterial roads around the project.
 13 I appreciate the traffic studies, but as
 14 has been said tonight, in a retail situation you're not
 15 worrying about peak close, what you're worrying about
 16 is all day long. The stores, especially the grocery
 17 store is open from seven o'clock at night, to ten
 18 o'clock at night. And the parking spaces are
 19 short-term ten minutes to half hour duration and there
 20 is a turnover constantly in parking. So all that
 21 traffic pollution is going to be there all day long.
 22 The residents surrounding anything with that kind of
 23 retail operation needs to have a buffer that's
 24 enormous, 200, 300-foot vegetative buffer would be
 25 something that I would want for that kind of

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1 development.

2 CHAIRMAN PARIKH: Okay. Thank you. Your

3 three minutes are over. Thank you.

4 MS. EMR: Okay. Thank you.

5 MS. JOELSSON: Mary Joelsson, 60

6 Scarborough Road, Mountain Lakes. I have a quick

7 question, comment and then a question. I was just

8 wondering, as a ten-year shopper at Whole Foods, if

9 anybody has -- if Whole Foods knows of the opposition

10 to this particular site building how likely they are to

11 go ahead? Because I know they would be -- I was just

12 there maybe three days ago and I got \$0.30 back for

13 every bag I brought. And they're very into

14 sustainability and greenness, and I'm just curious to

15 know if anybody has -- if the feedback comes to Whole

16 Foods about what's going on here and the standards that

17 are being kept here whether they'll actually following.

18 Does anybody know?

19 MR. McDONOUGH: I don't know that answer.

20 MS. JOELSSON: No, it's just not really --

21 but anyway, Mr. McDonough, you say on page 131 of the

22 transcript that, "You're seeking a floor area ratio or

23 FAR of .3, which is significantly higher than the FAR

24 of .176 on the entire 132-acre tract under the current

25 POD zoning. This represents almost a 100 percent

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1 increase in the permissible FAR, and the amount of

2 space that will be covered by impermeable building and

3 structures. You say this .3 FAR is consistent with

4 other commercial areas." What commercial zoning

5 ordinance are you referring to?

6 MR. McDONOUGH: I'd have to go back and

7 check my notes.

8 MS. JOELSSON: Why is this increased FAR

9 that you're proposing appropriate in an area next to a

10 residential area?

11 MR. McDONOUGH: I'm sorry.

12 MS. JOELSSON: Why is this increased FAR

13 you're proposing appropriate in an area next to a

14 residential area?

15 MR. McDONOUGH: Again, we looked at the

16 totality of the tract, of the POD tract. We're not

17 exceeding the FAR in the total tract.

18 UNIDENTIFIED PUBLIC VOICE: But the overlay

19 applies to this lot, not the whole tract.

20 CHAIRMAN PARIKH: Excuse me, sir.

21 MS. JOELSSON: What is your proposed FAR in

22 a residential area?

23 MR. McDONOUGH: We don't go by FAR in

24 residential.

25 MS. JOELSSON: How did you select the FAR

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1 percentage other than the fact that it corresponded to

2 the maximum number of units that could be built on the

3 property?

4 MR. McDONOUGH: Again, for residential we

5 went with density, for commercial we went with FAR.

6 MS. JOELSSON: Thank you. (Applause.)

7 MS. VYFF: Hi, I'm Marnie Vyff. I live at 10

8 Vail Drive, Mountain Lakes. It's part of the village

9 which is right across Intervale Road.

10 I want to start by first of all saying how

11 impressed I am with the research and intelligence of

12 all the comments that have come from the audience here,

13 and I want to bring that to your attention. I want you

14 to all on the Board there think about how much work the

15 people here today have put into the comments that they

16 have come up to say. And in the same breath I want to

17 express how disappointed I am in you, Mr. McDonough,

18 because you have not come through with any decent

19 research or anything. You come up with "I don't know"

20 so many times this evening. And I want the Board to

21 recognize that as well.

22 I also want to remember Geraldine Dodge who

23 used to own this property. She's a major

24 environmentalist. She has -- they sold the property

25 when she died so they could start an environmental

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1 group that's stationed in Morristown. And I want --

2 I've always considered this tract of land, I know even

3 though I didn't note it, as her land. And those trees

4 are a symbol to me -- I grew up in Mountain Lakes -- of

5 nature. And I am a naturalist. I have a masters in

6 environmental management. I believe in nature. I

7 believe in environmental -- in, I'm sorry, global

8 warming, and I believe that trees are essential to our

9 future, to the future of people. We're all crazed

10 about these storms, the trees actually mitigate the

11 wind speeds. And that's like super -- I don't want to

12 sound crazy, but I think we all need to learn a little

13 bit more about nature before we make these decisions to

14 destroy it. Thank you. (Applause.)

15 MS. STEERE: Thank you. My name is Carol

16 Ann Steere. I live at 3 Pleasant Terrace, Lake

17 Intervale section of Parsippany, mailing address

18 Boonton.

19 I'd like to clarify that it's my

20 understanding that this process or this public hearing

21 is to ask questions of the testimony of experts that

22 spoke on January 7, 2013. So this question is for John

23 McDonough who spoke at that meeting.

24 Mr. McDonough, you state, actually, let me

25 rephrase that. Mr. McDonough, have you been -- have

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1 you had the opportunity to read the transcripts from
 2 our last meeting on January 17, 2013, provided by
 3 Parsippany?

4 MR. McDONOUGH: Yes.

5 MS. STEERE: Okay. I quote and I read from
 6 page 127 line 20. "Our environmentalists tell us there
 7 are no environmentalist --" I'm sorry. I'll start
 8 over.

9 "Our environmentalists tell us there are no
 10 environmental constraints on this property." Is that
 11 accurate?

12 MR. McDONOUGH: Yes. That's what I said.

13 MS. STEERE: And it is my understanding that
 14 I can ask you questions on that?

15 MR. McDONOUGH: Yes.

16 MS. STEERE: Okay. And that's the forum for
 17 this, right?

18 MR. McDONOUGH: I'll answer questions to
 19 the best of my ability.

20 MS. STEERE: All right. I just want to make
 21 sure I'm reading that question with the Board. Well
 22 then, I really don't have a question. What I just want
 23 to state, I am very disappointed that we have a
 24 representative here from Passaic River Coalition and I
 25 feel that that is someone that was hired to speak for

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1 us, or came as an individual of a neighboring
 2 community, and I'm very disappointed to find out that
 3 he is not allowed to speak at this public hearing. And
 4 that is just very upsetting because this area, as I
 5 believe and as probably stated many times, is a
 6 wetlands and wetlands transition point. Therefore, in
 7 my ignorance I really do not understand why a
 8 representative from the Passaic River Coalition is not
 9 allowed to make a statement or ask questions at a
 10 public hearing. Thank you very much.

11 CHAIRMAN PARIKH: Thank you. Close the
 12 public portion. Time noted is 10:17.

13 MR. DEMICCO: I'm sorry, but I'm somewhat
 14 handicapped and I could not stand in this line for the
 15 last three meetings and I haven't been able to say
 16 anything.

17 CHAIRMAN PARIKH: Okay. I'll give you
 18 that.

19 MR. DeMICCO: My name is Felix DeMicco. I
 20 live at 3 Laurel Drive, Parsippany. I moved to
 21 Parsippany 26 years ago. And I came here because at
 22 the time there was a family member and I had to help
 23 out and I wasn't really crazy about moving to New
 24 Jersey. I'm not from this area. I have been around
 25 the world.

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1 My professional life is I spent 40 years in
 2 law enforcement in critical infrastructure protection.
 3 I'm still Board certified in security management and
 4 critical infrastructure by two national organizations.
 5 And what I want to say, and I'm a little bit -- I don't
 6 have notes, so I'm speaking from the heart here. And
 7 it's going to be a little bit around, but one thing
 8 that I had noticed in the 26 years I've been here is
 9 the services of the town, because they have had to be
 10 so spread thin, are somewhat less than what they were
 11 26 years ago. This is not the town I moved to.

12 The development in this town has been
 13 unprecedented. And I've lived all over the world. I
 14 lived in the Middle East, Far East, Europe, Asia, the
 15 Caribbean, and I've never, ever, seen anything like
 16 this unmitigated development.

17 There has been challenges on a couple of
 18 occasions, but they haven't really been strong ones,
 19 and every time it's always been, let us do this because
 20 this is going to help your taxes. We're going to get
 21 these ratables and things are going to get better. In
 22 spite of that my taxes have gone up, and as somebody
 23 else mentioned, 300 percent since I moved to town.
 24 There has been no mitigation under any circumstances.

25 The schools have become overcrowded in

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1 spite of the development. Our resources have continued
 2 to get thinned out because of the money situation in
 3 the town. We have less law enforcement today, yet
 4 we're proposing to put a strip mall in. What in God's
 5 name do you think that's going to bring here? There's
 6 going to be thefts and God knows what else is going to
 7 go on there.

8 There is not a town in this state that is
 9 not affected by this even now, even now. And yet with
 10 our immediate resources we have two police officers
 11 here, a few guys like myself, I mean, not quite as
 12 husky, to throw people out of this place if they speak
 13 more than three minutes. What the hell kind of
 14 attitude is that?

15 It's not going to make any sense. This
 16 development doesn't make any sense. We've talked about
 17 the wildlife before. I used to have bear and fox and
 18 deer and everything in my yard. One thing the
 19 development in this town has helped me with is I don't
 20 have deer eating my vegetables anymore because they're
 21 not here anymore. There are still some bear, but we
 22 clear-cut the top of the hill when we put Waterview
 23 Boulevard in the first place, that narrowed the
 24 habitat. Then they wanted to put a skating rink in.
 25 We said, no, you can't do that, the habitat.

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1 We had at least one animal that had to be
 2 destroyed already, one bear, and I know there's been a
 3 fatality, at least one fatality with the traffic
 4 situation on Parsippany Boulevard where it goes into
 5 Waterview, because I saw it with my own two eyes. And
 6 it's not going to get any better.

7 You've really got to take a hard look at
 8 this. Someone said please help us. Please help us.
 9 You're our representatives, you're not the developer's
 10 representatives. You're our representatives. And we
 11 need you to look out for us. And that's basically what
 12 all these people are asking. Think about the thousands
 13 of hours that have been committed to this for all the
 14 people that have been coming to all of these meetings.
 15 It's probably equal to what the developers have put in.
 16 It just doesn't make any sense if this project will go
 17 through, and I hope you make a recommendation to the
 18 Zoning Board that they do not do this overlay. That
 19 they do not consider this. Thank you.

20 (Standing ovation and applause by public.)

21 CHAIRMAN PARIKH: Okay. At this point we
 22 are going to take about a five-minute recess, and when
 23 we come back we'll ask the applicant's attorney to
 24 summarize his application here, the concept plan.
 25 Thank you.

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1 (A break is taken at 10:23 p.m.)
 2 (Back on the record at 10:32 p.m.)

3 CHAIRMAN PARIKH: Peggy, are we ready?
 4 SECRETARY MADER: Yes.

5 CHAIRMAN PARIKH: I'd like to reconvene
 6 the meeting for the Parsippany-Troy Hills Planning
 7 Board and it's Monday February 11th. It's 10:34 p.m.
 8 roll call, please.

9 (Secretary Mader calls the roll and the
 10 following Board Members are present: Mayor Barberio,
 11 Csantaveri, Collins, Councilman Depierro, Dinsmore,
 12 Keller, Mele, Purzycki, Chairman Parikh. Attorney
 13 Cresitello, Mr. Meth, and Mr. Snieckus are also
 14 present.)

15 CHAIRMAN PARIKH: Okay. At this point
 16 I'll ask Mr. Garofalo to summarize his plan.

17 MR. GAROFALO: Thank you, Mr. Chairman.
 18 Frankly, I said most of it earlier this evening.
 19 (Public shouts they can't hear.)

20 MR. GAROFALO: Frankly, I said most of it
 21 earlier this evening, but I will repeat some of it. We
 22 appreciate the opportunity having to present this
 23 matter to this Board. You have the power and ability
 24 to do what you're doing, and we respectfully request
 25 that the Board consider referring the matter to the

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1 Township Council for its consideration.

2 I recognize that this is a learning
 3 process. It was a learning process for us, it was a
 4 learning process for you, and it's a learning process
 5 for the public and the town. It will be a continuing
 6 learning process if we can get this to the Zoning Board
 7 and to the Planning Board and Township's Council which
 8 will all require a hearing as we go along.

9 So the next step we're asking the Board to
 10 consider is to refer to the Township Council and hope
 11 that the Township Council will consider in their own
 12 due diligence to introduce an ordinance.

13 If that happens there will be further study
 14 and further investigation, further testimony, and
 15 further hearings. So this process will continue. And
 16 what we've done, I believe, in the process at this
 17 level is we have made some very, very significant
 18 changes to the plans which we have discussed this
 19 evening: One, of course, is we have no access on
 20 Intervale Road; the second is that we have reduced the
 21 density of the project; third, we reduced the height of
 22 the development as far as the townhouses are concerned;
 23 and we have made other traffic improvements all of
 24 which will be in favor of this type of use.

25 So, we've attempted to accommodate the

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1 concerns and issues of the Board. We respectfully
 2 request that you entertain a motion to refer this to
 3 the Township Council. Thank you very much.

4 CHAIRMAN PARIKH: Okay. So we heard the
 5 application. We heard the public. We heard some
 6 comments from the Board members, and at this point I'll
 7 ask our attorney to suggest, I'll say, a motion for
 8 this plan.

9 MR. CRESITELLO: Okay. Board Members,
 10 there will be an opportunity for comment in one second
 11 from the Board. If the Board is inclined to move this
 12 along to the next step in the process the motion would
 13 be to authorize the Board attorney to forward a letter
 14 to the governing body requesting that that body develop
 15 an ordinance creating an overlay zone for this subject
 16 property subject to certain conditions.

17 My recollection of the major conditions,
 18 and certainly it won't be limited to these conditions,
 19 but the first would be a maximum density of six units
 20 per acre. The second would be no access to Intervale
 21 Road. The third would be a minimum of 50-foot buffer
 22 to the R-3 Zone. Fourth would be a 25-foot green
 23 buffer between the commercial and residential uses.
 24 And the fourth would be a maximum of residential
 25 building height of 35 feet.

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1 CHAIRMAN PARIKH: At this point I'll ask
 2 someone to make this motion. What I suggest to the
 3 Board Members is either say yes or no I'd like you to
 4 comment -- put your comment for the record, too, when
 5 you vote. So can someone make this motion?
 6 BOARD MEMBER KELLER: Mr. Chairman, I'll
 7 make the motion that our attorney referred to, and
 8 here's why: I sat on this Board when two other
 9 applications for this tract came before the Board. And
 10 this Board put such restrictions on those developers
 11 that they walked away from it. So far this developer
 12 has been more than accommodating in making the
 13 concessions that we have requested. (Public shouts.)
 14 This is only -- this is only a concept
 15 review. All we're doing is referring this to the
 16 Council. When they -- we heard the concerns that
 17 you've shared with us tonight, and believe it or not I
 18 share many of those concerns. (Public shouts.)
 19 I'm a member of and subscribe to more
 20 environmental organizations than I can list here right
 21 now. The environment is a concern to me. I am a
 22 realist, though, as well. And if you owned a piece of
 23 property and wanted to develop it you would be entitled
 24 to develop it. Our job as the members of the Planning
 25 Board is to make sure that we've reduced as much as

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1 possible the impact that that development has on the
 2 property. For that reason I make the motion.
 3 BOARD MEMBER DINSMORE: Mr. Chairman,
 4 before I second this motion I want to say a few words.
 5 When a piece of property has not been developed due to
 6 its zoning for over a generation there's a problem.
 7 That's evidence of a hardship; therefore, a change may
 8 be needed if it cannot be economically developed as
 9 zoned.
 10 The decision tonight is not to allow a
 11 particular plan, but to agree to change the zone in
 12 such a way that it might allow such a plan as that is
 13 presented. I viewed the site plan not as what they
 14 will do, but as evidence of what they believe will work
 15 for them.
 16 If we agree to the overlay -- if we agree
 17 to the overlay the Council will get to decide if it
 18 goes forward and in what form. If they agree then the
 19 applicant must come here with a complete site plan,
 20 with a complete traffic report, with site and traffic
 21 improvements that we will get to discuss and have input
 22 from public on.
 23 I really do wish that the people here would
 24 respect this process. (Public laughs.) The people,
 25 right there, that's proof that you do not understand

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1 that these people have rights under the U.S.
 2 Constitution to use their property.
 3 (Public shouts.)
 4 UNIDENTIFIED PUBLIC VOICE: You're not
 5 representing your town. Pursuit of happiness. They
 6 bought it with the stipulation --
 7 BOARD MEMBER DINSMORE: That's the
 8 Declaration of Independence not the Town Committee --
 9 CHAIRMAN PARIKH: Go ahead, Mr. Dinsmore.
 10 BOARD MEMBER DINSMORE: My whole point,
 11 though, is that the points made by many of the
 12 Objectors that there are problems with the buffer I
 13 think is valid. The whole point is that there are
 14 concerns about how runoff and traffic is done. These
 15 are valid concerns that we will take up later on. When
 16 the Council looks at this I am hopeful that they will
 17 look at the zones that we already have in existence:
 18 The PRD-1, the PRD-2 for the townhouse section, and the
 19 B-1 and B-2A for the highway business districts,
 20 because I think they can seriously restrict what might
 21 be built there.
 22 I really do think it's important to listen
 23 to what the Vice-Chairman of this Board said, that
 24 there have been many plans brought before this Board
 25 and the developers walked away. I think that it would

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1 be very nice, it would be wonderful if we could have
 2 that open space. If we could buy that open space and
 3 leave it as it is, but that is not on the table.
 4 UNIDENTIFIED PUBLIC VOICE: Why not?
 5 BOARD MEMBER DINSMORE: Because of the
 6 costs, and at many levels, the loss of taxes, the
 7 amount of money it would cost us to buy. (Public
 8 shouts.)
 9 These all matter. So for those reasons I'm
 10 going to second the motion.
 11 CHAIRMAN PARIKH: Okay. We have a motion
 12 and a second. Roll call, please.
 13 COUNCILMAN dePIERRO: Well, I'd like to say
 14 something.
 15 CHAIRMAN PARIKH: You will say when your
 16 turn comes to vote. Thank you.
 17 SECRETARY MADER: Mr. Ayaz?
 18 BOARD MEMBER AYAZ: No.
 19 (Applause by public.)
 20 CHAIRMAN PARIKH: Mr. Ayaz, are you going
 21 to comment on that?
 22 BOARD MEMBER AYAZ: I too am a resident of
 23 Parsippany. I've been here for almost 30 years. I'm
 24 honored to be on this Planning Board. My background,
 25 just in case anybody's curious, I have a Bachelor's and

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1 Master's Degree in architecture. I am in this field.
 2 I did study planning as well, and I too am concerned
 3 about the development of our town. The developer is
 4 interested in maximizing land use and he has a right to
 5 do that, just as all the other residents in this town
 6 do. I personally feel that this particular plan of
 7 this direction I don't agree with at this point.
 8 (Applause by public.)
 9 CHAIRMAN PARIKH: Thank you. Thank you.
 10 SECRETARY MADER: Mayor Barberio?
 11 MAYOR BARBERIO: Yes. First of all, I've
 12 heard everybody's concerns in regards to this matter,
 13 but this Board's not approving the project. That's not
 14 what we're here to do. We're going to make a
 15 recommendation to the Township Council with constraints
 16 that have been recommended by this Board. It would be
 17 up to the Council at that time to either agree to
 18 approve the ordinance that's going to be drafted or not
 19 to approve the ordinance. I believe in the due process
 20 that everybody should have, as well as everybody here,
 21 as well as the developer, and I don't believe in
 22 stopping that due process.
 23 I think, you know, I've heard a lot of the
 24 comments tonight and I think we can all agree to
 25 disagree, but there was a lot of comments made that

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1 yeah, you know, you've got some great comments and we
 2 take that to heart and we understand that. But the
 3 fact of the matter is that I truly believe that we
 4 should let the process go forward, and with the
 5 constraints and conditions that have been imposed by
 6 this Planning Board.
 7 SECRETARY MADER: Ms. Collins?
 8 BOARD MEMBER COLLINS: Yes. I feel that
 9 the applicant addressed the Board's concerns. They
 10 removed the Intervale Road access. They increased the
 11 buffer. They've reduced the density. I feel that the
 12 regional corridor such as Route 46 is the perfect place
 13 for retail. I feel that the proposed residential is a
 14 perfect buffer between the existing single-family
 15 dwellings and the residential.
 16 SECRETARY MADER: Councilman dePierro?
 17 COUNCILMAN dePIERRO: I personally would
 18 have preferred the quaint little town center that was
 19 proposed first. I would prefer the age-restricted
 20 housing that was proposed second, but this same group
 21 is here and didn't want either one of those things.
 22 This is proposal number three. Economic times have
 23 changed with 480 homes in lower Lake Hiawatha that are
 24 no longer assessed as livable homes. Times have
 25 changed.

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1 I'd like to make some amendments to our
 2 recommendation to Council. By my calculations the
 3 residential portion of that property, even including
 4 the interior road, come to ten acres. Ten acres, 6
 5 units per acre, that's 60 units, not 65 by my
 6 arithmetic. I'd like that number to be included in
 7 what we recommend to the Town Council.
 8 In addition to that I'd like to recommend
 9 that the units that are removed be removed the closest
 10 to the residents on Forest Drive so that we do increase
 11 the buffer more than it is now.
 12 I had another recommendation, but I guess
 13 the appropriate time is at the site plan time, if we
 14 get to that point, and that would be to have an
 15 additional lane where the island is at the jughandle
 16 turn, steal part of that island and make that an
 17 additional exit lane right-turn only. Center lane can
 18 go straight left or right, and the left lane go left
 19 only kind of a thing for better handling of traffic,
 20 but this is not the time for that. That would come at
 21 site plan if we get to that point. So I'm going to
 22 vote yes.
 23 BOARD MEMBER DINSMORE: Mr. Chairman, just
 24 -- Mr. dePierro made a remark that reminded me of
 25 something that was important to me.

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1 SECRETARY MADER: You didn't vote.
 2 BOARD MEMBER DINSMORE: Well, I seconded
 3 it. I'm going to vote in favor, but there are a couple
 4 of small things: One, is that the buffering with
 5 regard to the townhouses, I think, is very important
 6 that there be significant buffering between the
 7 townhouses and that wall that's going to be -- if it's
 8 to be built, that would be built in the middle of the
 9 property.
 10 COUNCILMAN dePIERRO: Mr. Dinsmore, I'm
 11 recommending just the opposite. I'm saying push them
 12 down away from the residents on Forest Drive and crowd
 13 the wall. I don't care about the wall. Get them away
 14 from the residents and provide more buffer.
 15 BOARD MEMBER DINSMORE: That's fair, but
 16 I'm also concerned about a 21-foot wall by the homes.
 17 (Public shouting.) And I just want the Council to
 18 consider that part of it. That the wall should not
 19 have the -- I would rather have the density be reduced
 20 and have the wall be stepped back rather than a
 21 straight wall, because if that wall is going to be in
 22 the resident's ownership then they're going to have to
 23 support a 21-foot wall, and I don't like that idea. I
 24 don't like that being right next to the residential.
 25 So I'm just saying that I'd reduce the

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1 density before I would say move it closer to the
2 others. I think that the buffering question is a good
3 and fair question by the opposition. So, I would vote,
4 yes.

5 SECRETARY MADER: Mr. Keller?
6 BOARD MEMBER KELLER: Yeah, one comment on
7 Mr. Dinsmore. Since we haven't seen the final site
8 plan, we're reducing the density there may be room to
9 shuffle the townhouses around a bit. And that's part
10 of what we're talking about tonight, this isn't the
11 site plan application, this is just a concept.

12 I compliment each and every one of you for
13 coming out. Having sat on the Planning Board for the
14 number of years that I have when our Chairman asked if
15 there's anyone from the public that wants to make
16 comments you can hear crickets chirp. I thank each and
17 every one of you for taking part of the process.
18 Believe me, we have heard you. And if and when a site
19 plan comes back to us we're going to take every last
20 thing that you said into consideration, because we are
21 all residents of the township of Parsippany-Troy Hills.
22 We don't want anything bad to go on in this town.
23 Something is going to be built there. As Mr. Dinsmore
24 said, that's gone or for more than a generation.
25 That's gone on for more than a generation sitting

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1 empty.

2 UNIDENTIFIED PUBLIC VOICE: So what?
3 BOARD MEMBER KELLER: So what? I'm not
4 going to get into an argument. I vote yes.

5 SECRETARY MADER: Mr. Mele?
6 BOARD MEMBER MELE: I want to repeat what
7 Councilman dePierro said in terms of the density per
8 acre. We want to make it clear that we're not talking
9 about 65 units or 61, as was talked about earlier
10 tonight, but 60. It started out at 72. It was very
11 nice of the developer to come down and -- (Public
12 shouts.) Come down to 60.

13 In relationship to that, let me say that I
14 do have concerns about how this flies in the face,
15 these 60 units flies in the face of the plan that
16 exists which states that we have adequate housing in
17 this community, both apartments and townhomes, but even
18 so I want to see this go to the Council so that they
19 can determine whether this is feasible. So I vote yes.

20 SECRETARY MADER: Mr. Purzycki?
21 BOARD MEMBER PURZYCKI: I would like to
22 thank everybody who came out and I listened to every
23 one of you. I've got a lot of notes made, and I have a
24 lot of concerns about this whole process. The biggest
25 concern I have is the fact that this piece of property

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1 has not been developed, and I sat on the original PDR
2 for this to try to get this all to be office building,
3 but why this one piece of property never got developed
4 as office I do not know. But the trouble is it will
5 probably never get developed and it has -- the owner
6 has a right to put something on there.

7 And I think it's up to this Board to try to
8 figure out what is wrong? Is it our zoning or is it
9 just that we're not up to date enough to look at it?
10 And one possibility I could see is something to do in
11 an overlay zone. I did not agree with what this
12 applicant is saying, but I don't mind seeing mixed use
13 of some sort come about. I would like to have it if
14 we're going to put some restraints on things to the
15 Town Council to stop -- everybody's talking about their
16 residential. I have nothing wrong with residential, I
17 think we could use residential, and maybe a higher
18 percent residential, but I would like to see everybody
19 as quiet about this so-called big box thing that we
20 know nothing about. Everybody's concerned about Whole
21 Foods, and I have nothing wrong with Whole Foods. I
22 think it would be a great thing for everybody in the
23 community. I think everybody here would go to Whole
24 Foods, but I don't know what this big box thing is
25 going to be, and at Christmas time what the traffic is

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1 going to be like.

2 I would like to say if it goes to the
3 Council and look at the overlay, try to eliminate this
4 big box thing somehow. Bring it down so that the
5 weekend traffic is not what you see at Christmas and
6 New Year's and all the big holidays with what I
7 consider a big-box type of retailer would be. I don't
8 think the traffic would be so bad for a Whole Foods
9 type of deal.

10 I'm going to vote yes only because I think
11 we have got to try something to develop this piece of
12 property. We may put in some restraints so that the
13 developer would just walk away like everybody else has
14 and good, but at least we tried to do something.

15 SECRETARY MADER: Chairman Parikh?
16 CHAIRMAN PARIKH: Okay. I'd like to thank
17 you for coming over here participating in the process.
18 I'm on the Planning Board for approximately 20 years,
19 and this is not the first concept plan or obligation in
20 front of the Planning Board. My experience is, any
21 large scale development is generally -- the developer
22 comes in with much larger denser overwhelming projects
23 with multiple variances saying anything less would make
24 the project financially not feasible. That means that
25 they will not make as much money as they could.

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1 The traffic issues are generally resolved
 2 by tweaking the traffic lights, maybe adding a lane or
 3 so. Do I really believe that there will be absolutely
 4 no impact on the traffic? Absolutely not. Yes, Route
 5 46 East, West, there will be impact there. People in
 6 the office buildings they'll complain about this
 7 traffic problem, too, but we'll trust the expertise of
 8 our traffic engineer to make sure the level of service
 9 remains acceptable.

10 Financial impact to the town, jobs and the
 11 ratables. They're significant that cannot be ignored.
 12 And typically any developers, if there's any variances
 13 needed, the positive criteria will almost always
 14 outweigh the negative criteria. And we're all aware of
 15 these things. On the other hand, we have had many
 16 neighbors, like here tonight, come to us and always
 17 typically will say we don't want anything built there,
 18 keep it like open space. That's -- we heard that many
 19 times, too. Anything a developer suggests has a
 20 negative impact and no one will believe anything that
 21 the developer says.

22 The bottom line is the neighbor will always
 23 say our house prices will go down, our quality of life
 24 will go down, and things will not be the same as when
 25 we purchased our home. Again, we are also aware of

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1 those things. After a long hearing, the discussions we
 2 have had, examination and the cross-examinations this
 3 Planning Board looks at what is best for the community
 4 and for the town. Does our decision make everyone
 5 happy? Of course not. Does everyone get what they
 6 want? No. The Planning Board has to stay within the
 7 guidelines provided to us by the land use laws, the
 8 township master plan, and the township ordinance. We
 9 have to trust opinion of our planner, engineer, and
 10 other township experts.

11 So in short, the planning is not an attempt
 12 -- planning is an attempt to strike a balance between
 13 often competing interests. I believe the applicant has
 14 met significant changes to the original plan to
 15 accommodate concerns of the community, but we're not
 16 done yet. Planning Board will review the ordinance
 17 that comes to us and the site plan. We're not done
 18 yet. Believe me, we are not done.

19 And I believe we can achieve the balance
 20 between the community concerns and the township
 21 financial benefits. So looking at the whole picture
 22 here and knowing that we're not done, this is just the
 23 beginning, I'm going to vote. Yes. Thank you.

24 SECRETARY MADER: The vote is eight to one
 25 in favor.

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1 CHAIRMAN PARIKH: Okay. So is there a
 2 motion to adjourn?
 3 BOARD MEMBER KELLER: So moved.
 4 CHAIRMAN PARIKH: Thank you.
 5 (The hearing on this application concludes
 6 at 10:59 p.m.)
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1 C E R T I F I C A T E

2
 3 I, IRIS LA ROSA, a Notary Public and Certified
 4 Shorthand Reporter of the State of New Jersey, do
 5 hereby certify that the foregoing is a true and
 6 accurate transcript of the testimony as taken
 7 stenographically by and before me at the time, place,
 8 and on the date hereinbefore set forth.

9 I DO FURTHER CERTIFY that I am neither a
 10 relative nor employee nor attorney nor counsel of any
 11 of the parties to this action, and that I am neither a
 12 relative nor employee of such attorney or counsel, and
 13 that I am not financially interested in the action.
 14
 15
 16 IRIS LA ROSA, CSR, RPR
 17 Certificate No. 30XI00162800
 18 Dated:
 19
 20
 21
 22
 23
 24
 25

A				
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