

Special Public Meeting of the Englewood Cliffs Planning Board
Minutes
March 30, 2016

The Special Meeting of the Englewood Cliffs Planning Board was called to order by Chairman Fehre at 7:30 PM.

Present at Roll Call:

Mr. Fehre
Mr. Villari
Mr. Kilmartin
Mr. Trovato
Mr. Chinman
Mrs. Rosenberg
Mrs. O'Shea – Borough Rep
Mr. Kim – 1st Alternate
Mr. Porrino – 3rd Alternate
Mr. Lee – 4th Alternate
Councilman Park
Ms. Eastwood – Mayor Designee

Absent:

Mr. Duffy – 2nd Alternate
Mayor Kranjac

Also Present:

Andrew Hipolit, P.E., of Maser Consulting, the Borough's consulting engineer.
Michael Kates, Esq., of Kates Nussman Rapone Ellis & Farhi, the Board's attorneys.

Public notice of this special meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, The Star Ledger, and posting of notice on the municipal building bulletin board at 482 Hudson Terrace.

Flag salute led by Councilman Park

Old Business:

Master Plan Amendment – Public Hearing – Creation of New Zone B-5
Business Zone for the approximately 27.03 acre tract known as
111 Sylvan Avenue Block 206 – Lot 6 and rescission of the existing
B-2A Overlay Zone, which includes Lot 6 and other parcels.

Adoption and Memorializing Resolution

See attached transcripts.

Mr. Kates, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. The Chairman asked for a motion to approve. Motion was made by Mrs. O'Shea, seconded by Mr. Chinman. Chairman asked for roll-call vote of the members that were eligible to vote: Mr. Fehre, Mr. Villari, Mr. Trovato, Mr. Kilmartin, Mr. Chinman, Mr. Kim, Mr. Lee, Mrs. O'Shea, Councilman Park, and Ms. Eastwood each voted to adopt this Resolution; it was unanimous.

Application #238K - Major Subdivision
Estate of Josephine Mauro – 361, 365, 369 Mauro Road
Block 406 – Lots 1, 2, 3

See attached transcripts.

Note correction of voting:

Chairman Fehre requested a motion to approve the application. Motion was made by Mr. Chinman, seconded by Mr. Trovato. This motion was approved by roll-call vote, 8 Ayes, (Mr. Fehre, Mr. Trovato, Mr. Kilmartin, Mrs. Rosenberg, Mr. Villari, Mr. Chinman, Mr. Kim, Mrs. O'Shea), 1 Nays, (Councilman Park) No Abstentions.

New Business:

Application #264K - Site Plan with height variance – boundary fence in excess of 6' in height.
Dwight Englewood School
Solomon Field (Terminus of Egan Place)
Block 702 – Lot 21

Mr. Porrino and Mrs. Rosenberg recused themselves from this application.

Mr. George Van Haasteren, 315 E. Palisade Avenue, Englewood NJ, Head of Grounds for Dwight Englewood School. He stated that they are looking to improve the baseball field at Egan Place. We would like to put up new fencing and backstop and enhance the area and neighbors in the area. They will also be putting in some new landscaping. It will be approximately 20' fencing (netting) around the field. The backstop will be slightly larger than the one that is there now to prevent the foul balls to go over.

Mrs. O'Shea questioned the height of the bottom part of the fence that will be permanent. Mr. Van Haasteren stated it will be 10' in height.

Mr. Hipolit stated the existing fence is 8' the new one will be 10'.

Chairman Fehre asked for a motion to open to public. Motion was made by Mr. Chinman, seconded by Mr. Kilmartin and carried unanimously by voice vote.

Mr. Remo Biagioni, 240 Fairview Avenue wanted to know where the backstop was going to be located. Mr. Van Haasteren stated it will be in the same location that it is now southwest corner. Mr. Biagioni questioned if there will be any scoreboards? Mr. Van Haasteren stated there will be no scoreboards on the field. The softball field will also have the portable fencing.

Chairman Fehre asked for a motion to close to public. Motion was made by Mr. Chinman, seconded by Mr. Kilmartin and carried unanimously by voice vote.

Chairman Fehre requested a motion to approve the application. Motion was made by Mr. Trovato, seconded by Ms. Eastwood. This motion was approved by roll-call vote, 10 Ayes,

(Mr. Fehre, Mr. Trovato, Mr. Kilmartin, Mr. Villari, Mr. Chinman, Mr. Kim, Mr. Lee, Mrs. O'Shea, Councilman Park, and Ms. Eastwood), No Nays, No Abstentions.

Chairman Fehre asked for a motion to open to public. Motion was made by Mr. Kilmartin, seconded by Mrs. Rosenberg and carried unanimously by voice vote.

No Comments.

Chairman Fehre asked for a motion to close to public. Motion was made by Mr. Kilmartin, seconded by Mr. Chinman and carried unanimously by voice vote.

Chairman Fehre asked for a motion to adjourn the meeting at 10:38 pm. Motion was made by Mrs. O'Shea, seconded by Mrs. Rosenberg and carried unanimously by voice vote.

Respectfully submitted



Caterina Scancarella
Planning Board Administrative Secretary

ENGLEWOOD CLIFFS PLANNING BOARD
SPECIAL MEETING – March 30, 2016 7:30 PM

10 Kahn Terrace, Englewood Cliffs, NJ

CALL TO ORDER

The meeting of the Englewood Cliffs Planning Board will come to order this (date). The time is (time).

"OPEN PUBLIC MEETINGS ACT" STATEMENT

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, and Northern Valley Press posting of notice on the Borough Hall bulletin board at 482 Hudson Terrace, Englewood Cliffs.

ROLL CALL

FLAG SALUTE LED BY:

APPROVAL OF MINUTES: March 10 and March 15, 2016

OLD BUSINESS:

Master Plan Amendment – Public Hearing – Creation of New Zone B-5
Business Zone for the approximately 27.03 acre tract known as 111 Sylvan Avenue
Block 206 – Lot 6 and rescission of the existing B-2A Overlay Zone, which includes
Lot 6 and other parcels.

Adoption and Memorializing Resolution

Application #238K - Major Subdivision
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Block 406 - Lots 1, 2, and 3

NEW BUSINESS:

Application #264K - Site Plan with height variance – boundary fence in excess of 6' in height
Dwight Englewood School
Saloman Field (Terminus of Egan Place)
Block 702 - Lot 21

COMMUNICATIONS

COMMITTEE REPORTS

PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA

ADJOURNMENT

**NOTICE OF PUBLIC HEARING
TO ADOPT MASTER PLAN AMENDMENT
FOR THE BOROUGH OF ENGLEWOOD CLIFFS**

In accordance with the Municipal Land Use Law, Chapter 291, Laws of NJ 1975 as amended, more particularly N.J.S.A. 40:55D-13, notice is hereby given of a public hearing at a special meeting of the Planning Board ("Board") of the Borough of Englewood Cliffs ("Borough"), in Council Chambers at the Municipal Building, 10 Kahn Terrace, Englewood Cliffs, New Jersey, on Wednesday, March 30, 2016 at 7:30 p.m. or as soon thereafter as the matter can be reached, to consider adoption of a proposed Master Plan Amendment (the "Amendment"). At this special meeting, formal action may be taken on the Amendment, including the adoption of a memorializing resolution.

The Amendment is of the Land Use Plan Element and relates specifically to the creation of a new Zone B-5 Business Zone for the approximately 27 acre tract known as 111 Sylvan Avenue (Lot 6 in Block 207), and the rescission of the existing B-2A Overlay Zone, which includes Lot 6 and other parcels.

The Amendment, prepared by the Borough Professional Planner Phillips Preiss Grygiel, LLC, is on file at the office of the Englewood Cliffs Borough Clerk, located at Borough Hall, 482 Hudson Terrace, Englewood Cliffs, and available for public inspection during normal business hours (Monday through Friday, 9:00 a.m. through 4:00 p.m.). Interested persons may appear at the hearing, either in person or by attorney, and present any objections or comments which they may have regarding the Amendment. The hearing may be continued without further notice on such additional or other dates and at such locations as the Board may determine. As a matter of convenience, it is intended to post the Amendment on the Borough's website, www.inglewoodcliffsnj.org.

The Board, upon considering the proposed Amendment and the testimony and evidence presented at the hearing, may take formal action and shall have the right to adopt, adopt with amendments, or decline to adopt the proposed Amendment, and to make a recommendation that the governing body of the Borough of Englewood Cliffs enact such amendments to the Borough's zoning regulations as may be necessary to make them consistent with the Amendment.

Questions and additional information concerning the Amendment can be directed to the Board's Administrative Secretary, Caterina Scancarella, at 201-568-9262.

By order of the Englewood Cliffs Planning Board.
Caterina Scancarella, Administrative Secretary.

The Record, Hackensack

Publication Name:

The Record, Hackensack

Publication URL:

Publication City and State:

Hackensack , NJ

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Bergen

Notice Popular Keyword Category:

Notice Keywords:

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Notice Authentication Number:

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Notice Publish Date:

Sunday, March 20, 2016

Notice Content

NOTICE OF PUBLIC HEARING TO ADOPT MASTER PLAN AMENDMENT FOR THE BOROUGH OF ENGLEWOOD CLIFFS In accordance with the Municipal Land Use Law, Chapter 291, Laws of NJ 1975 as amended, more particularly N.J.S.A. 40:550-13, notice is hereby given of a public hearing at a special meeting of the Planning Board ("Board") of the Borough of Englewood Cliffs ("Borough"), in Council Chambers at the Municipal Building, 10 Kahn Terrace, Englewood Cliffs, New Jersey, on Wednesday, March 30, 2016 at 7:30 p.m. or as soon thereafter as the matter can be reached, to consider adoption of a proposed Master Plan Amendment (the "Amendment"). At this special meeting, formal action may be taken on the Amendment, including the adoption of a memorializing resolution. The Amendment is of the Land Use Plan Element and relates specifically to the creation of a new Zone B-5 Business Zone for the approximately 27 acre tract known as 111 Sylvan Avenue (Lot 6 in Block 207), and the rescission of the existing B-2A Overlay Zone, which includes Lot 6 and other parcels. The Amendment, prepared by the Borough Professional Planner Phillips Preiss Grygiel, LLC, is on file at the office of the Englewood Cliffs Borough Clerk, located at Borough Hall, 482 Hudson Terrace, Englewood Cliffs, and available for public inspection during normal business hours (Monday through Friday* 9:00 a.m. through 4:00 p.m.). Interested persons may appear at the hearing, either in person or by attorney, and present any objections or comments which they may have regarding the Amendment. The hearing may be continued without further notice on such additional or other dates and at such locations as the Board may determine. As a matter of convenience, It is intended to post the Amendment on the Borough's website, www.englewoodcliffsnj.org. The Board, upon considering the proposed Amendment and the testimony and evidence presented at the hearing, may take formal action and shall have the right to adopt, adopt with amendments, or decline to adopt the proposed Amendment, and to make a recommendation that the governing body of the Borough of Englewood Cliffs enact such amendments to the Borough's zoning regulations as may be necessary to make them consistent with the Amendment. Questions and additional information concerning the Amendment can be directed to the Board's Administrative Secretary, Caterina Scancarella, at 201-568-9262. By order of the Englewood Cliffs Planning Board. Caterina Scancarella, Administrative Secretary. March 20, 2016-Fee:\$62.37(66) 4006925

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**NOTICE OF PUBLIC HEARING
TO ADOPT MASTER PLAN AMENDMENT
FOR THE BOROUGH OF ENGLEWOOD CLIFFS**

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By order of the Englewood Cliffs Planning Board.
Caterina Scancarella, Administrative Secretary

NOTICE OF SPECIAL MEETING
PLANNING BOARD
BOROUGH OF ENGLEWOOD CLIFFS

At the call of the Chairman, a Special Meeting of the Englewood Cliffs Planning Board will take place on **Wednesday, March 30, 2016, at 7:30 P.M., in the Council Chambers in the Municipal Building, 10 Kahn Terrace, Englewood Cliffs, New Jersey.**

The Agenda of the Meeting, to the extent known at this time, is as follows:

Master Plan Amendment - Public Hearing - Creation of new Zone B-5 Business Zone for the approximately 27.03 acre tract known as 111 Sylvan Avenue (Lot 6 in Block 207) and rescission of the existing B-2A Overlay Zone, which includes Lot 6 and other parcels.

Adoption of Memorializing Resolution.

Application #238K - Estate of Josephine Mauro
361, 365 and 369 Mauro Road
Block 406, Lots 1, 2 and 3

Major Subdivision

Application #264K - Dwight-Englewood School
Solomon Field (Terminus of Egan Place)
Block 702, Lot 21

Site Plan with height variance – boundary fence in excess of 6 feet in height.

The Agenda for this meeting will be posted at the Borough Hall, 482 Hudson Terrace, Englewood Cliffs, NJ.

Formal action may be taken.

Caterina Scancarella
Planning Board Secretary

The Record, Hackensack

Publication Name:
The Record, Hackensack

Publication URL:

Publication City and State:
Hackensack, NJ

Publication County:
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Notice Popular Keyword Category:

Notice Keywords:
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Notice Publish Date:
Sunday, March 20, 2016

Notice Content

NOTICE OF SPECIAL MEETING PLANNING BOARD BOROUGH OF ENGLEWOOD CLIFFS At the call of the Chairman, a Special Meeting of the Englewood Cliffs Planning Board will take place on Wednesday, March 30, 2016, at 7:30 P.M., in the Council Chambers in the Municipal Building, 10 Kahn Terrace, Englewood Cliffs, New Jersey. The Agenda of the Meeting, to the extent known at this time, is as follows: Master Plan Amendment - Public Hearing - Creation of new Zone B-5 Business Zone for the approximately 27.03 acre tract known as 111 Sylvan Avenue (Lot 6 in Block 207) and rescission of the existing B-2A Overlay Zone, which includes Lot 6 and other parcels. Adoption of Memorializing Resolution. Application #238K - Estate of Josephine Mauro 361, 365 and 369 Mauro Road Block 406, Lots 1,2 and 3 Major Subdivision Application #264K - Dwight-Englewood School Solomon Field (Terminus of Egan Place) Block 702, Lot 21 Site Plan with height variance - boundary fence in excess of 6 feet in height. The Agenda for this meeting will be posted at the Borough Hall, 482 Hudson Terrace, Englewood Cliffs, NJ. Formal action may be taken. Caterina Scancarella Planning Board Secretary March 20, 2016-Fee: \$68.04 (72) 4006970

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**NOTICE OF SPECIAL MEETING
PLANNING BOARD - BOROUGH OF ENGLEWOOD CLIFFS**

At the call of the Chairman, a Special Meeting of the Englewood Cliffs Planning Board will take place on Wednesday, March 30, 2016, at 7:30 P.M. in the Council Chambers in the Municipal building, 19 Kahn Terrace, Englewood Cliffs, New Jersey.

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Master Plan Amendment- Public Hearing - Creation of new Zone B-5 Business Zone for the approximately 27.03 acre tract known as 111 Sylvan Avenue (Lot 6 in Block 207) and rescission of the existing B-2A Overlay Zone, which includes Lot 6 and other parcels.

Adoption of Memorializing Resolution.

Application #238K - Estate of Josephine Mauro

361, 365 and 369 Mauro Road

Block 406, Lots 1, 2 and 3

Major Subdivision

Application #264K - Dwight-Englewood School

Solomon Field (barbecue of Egan place)

Block 702, Lot 21

Site Plan with height variance - boundary fence in excess of 6 feet in height.

The Agenda for this meeting will be posted at the Borough Hall, 462 Hudson Terrace, Englewood Cliffs, NJ.

Formal action may be taken.

Caterina Scancarella

Planning Board Secretary

DRAFT

AMENDMENT TO THE LAND USE ELEMENT OF THE BOROUGH OF ENGLEWOOD CLIFFS MASTER PLAN
CREATING A NEW B-5 CORPORATE BUSINESS ZONE CLASSIFICATION FOR BLOCK 207, LOT 6



PREPARED FOR THE ENGLEWOOD CLIFFS PLANNING BOARD
by PHILLIPS PREISS GRYGIEL LLC | PLANNING & REAL ESTATE CONSULTANTS | FEBRUARY 2016

PA. Phillips

Paul A. Phillips
New Jersey Professional Planner License #3046

**AMENDMENT TO THE LAND USE ELEMENT OF THE
BOROUGH OF ENGLEWOOD CLIFFS MASTER PLAN
CREATING A NEW B-5 CORPORATE BUSINESS ZONE
CLASSIFICATION FOR BLOCK 207, LOT 6**

PREPARED FOR

THE BOROUGH OF ENGLEWOOD CLIFFS PLANNING BOARD

BY

PHILLIPS PREISS GRYGIEL LLC

PLANNING & REAL ESTATE CONSULTANTS

FEBRUARY 2016

I. Introduction

The purpose of this Amendment to the Land Use Element of the Borough of Englewood Cliffs Master Plan is to guide the planning and development of a large and unique property on the east side of Sylvan Avenue in a manner consistent with the Borough's planning goals and objectives. Specifically, this document sets forth the planning rationale in support of a new zoning classification for Block 207, Lot 6 (the "subject property") that is intended to encourage modern corporate office development.

In 2012, the Englewood Cliffs Zoning Board of Adjustment (ZBA) granted a "d(6)" height variance and site plan approval to LG Electronics USA to facilitate the development of an 8-story office facility located on the subject property. Several parties instituted legal challenges to the ZBA approval. This approval was upheld by the Superior Court of New Jersey, Law Division, Bergen County in 2013, but was later overturned by the Superior Court of New Jersey, Appellate Division in a case decided in October 2015 (Jacoby v. Englewood Cliffs Board of Adjustment).

After the 2012 ZBA approval, the Borough asked its planning consultant at the time, Burgis Associates, to study a potential rezoning of properties located to the east of Sylvan Avenue within the southerly portion of the B-2 district to allow taller buildings. This resulted in the adoption of an ordinance (Ordinance No. 12-20) that created a "B-2A Overlay" district which tied tract size to height for these particular properties. Subsequently in August 2014, Englewood Cliffs also adopted an ordinance amending its Zoning Ordinance to prohibit the construction of any building in excess of 35 feet in height in any zoning district within the Borough, which effectively nullified the building heights permitted under the B-2A Overlay zoning.

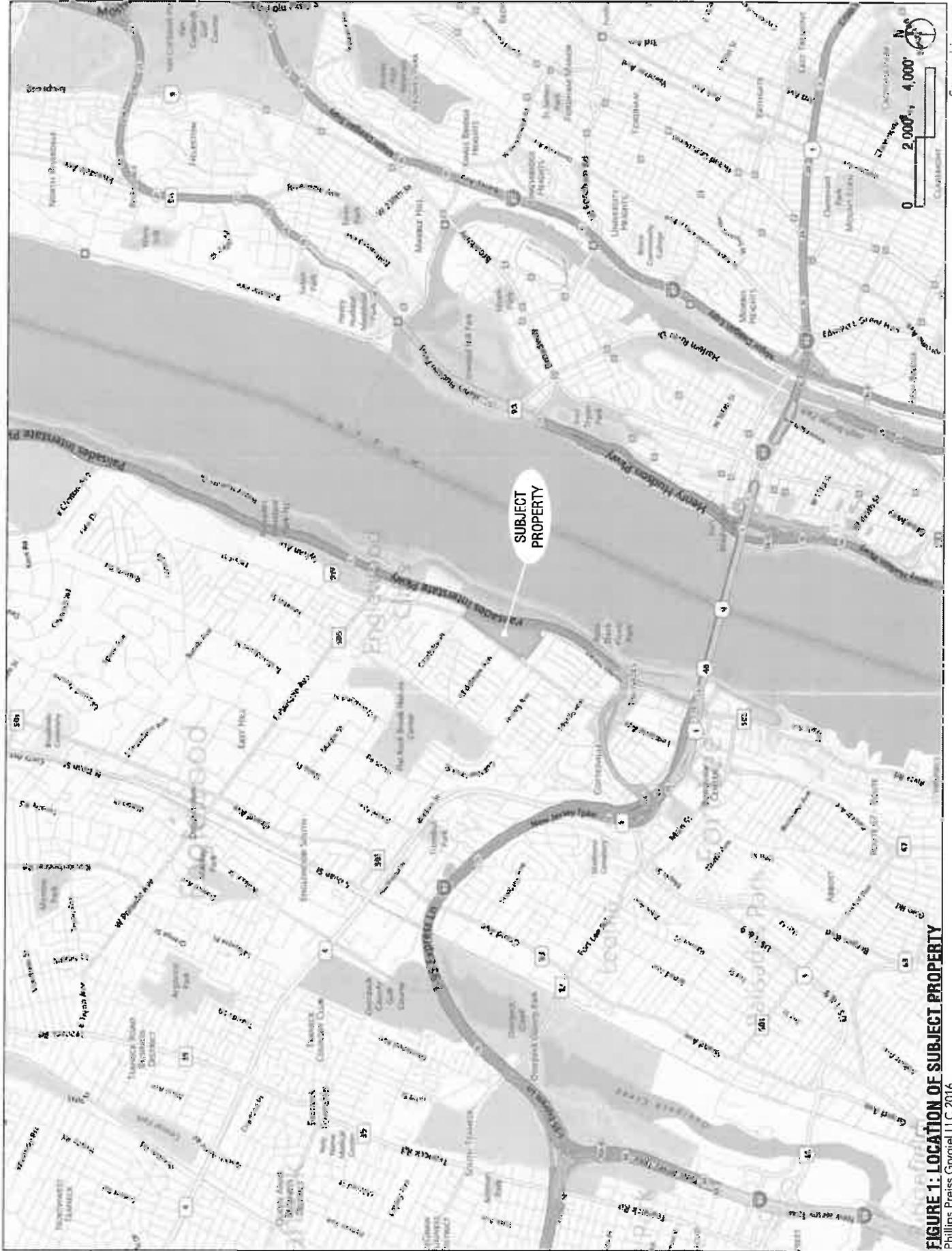
In light of the above actions, the Borough has retained Phillips Preiss Grygiel LLC ("PPG") to provide zoning and master plan recommendations for the subject property and larger Sylvan Avenue corridor consistent with an agreement with certain parties settling litigation against the 2012 ZBA approval. The case settlement agreement dated June 17, 2015 is between Scenic Hudson, Inc., New Jersey State Federation of Women's Clubs, Margo Moss, Jakob Franke, and LG Electronics USA, Inc. and provides standards for development on the subject property. This Master Plan Amendment has been prepared in response to the Appellate Division ruling and the settlement agreement noted above.

The remaining chapters are organized as follows: Chapter II describes the locational and physical characteristics of the subject property; Chapter III discusses the zoning of the subject property and the surrounding lands along the Sylvan Avenue corridor; Chapter IV details the planning rationale in support of a Master Plan Amendment advocating a new zoning designation for the subject property; Chapter V considers the Master Plan Amendment in relation to the master plans of adjoining municipalities, the County Master Plan, the State Development and Redevelopment Plan, and the District Solid Waste Management Plan; and Chapter V provides a summary of the Master Plan Amendment from an overall policy standpoint.

II. Description of Subject Property

The subject property is located on the east side of Sylvan Avenue in the southerly portion of the Borough of Englewood Cliffs (see Figure 1). This 27.03 acre tract is known as 111 Sylvan Avenue and is referred to as Block 207, Lot 6 on the Borough's tax maps. As discussed below, the property had previously been occupied by several corporate users, but the buildings have since been demolished. The tract has substantial exposure with approximately 2,000 feet of frontage along Sylvan Avenue and approximately 2,200 feet of frontage along Hudson Terrace (which is located between the subject property and the Palisades Parkway). In addition, it has approximately 750 feet of frontage along Van Nostrand Avenue. Historically, access was provided via seven driveways located along Sylvan Avenue and six along Hudson Terrace. The property also possesses a varying lot depth which ranges from approximately 1,020 feet along its southerly boundary to approximately 240 feet at its northerly boundary. A few small wetlands areas are located within the easterly portion of the tract and a large wooded area of approximately 3.5 acres is located in its northerly section. There is also a change in grade from the property's high point along Sylvan Avenue down to Hudson Terrace (measuring approximately 35 feet within the southerly portion of the tract and approximately 10 feet within its northerly portion).

As illustrated by the aerial photograph in Figure 2, the subject property is currently vacant. It was most recently improved with an approximately 412,000 square foot three-story office and distribution facility with approximately 1,047 surface parking spaces. The building coverage was approximately 22.4 percent and the total impervious coverage on the site was approximately 57.5 percent. According to the Borough of Englewood Cliffs Comprehensive Master Plan, the sprawling low-rise mixed-use facility was originally constructed and occupied by Prentice-Hall in 1953 as the first major corporate tenant in the community. Later, a check-processing subsidiary of Citigroup occupied the property until its closure in 2011.



Source: bing.com

FIGURE 1: LOCATION OF SUBJECT PROPERTY

Phillips Preiss Grygiel LLC 2016

III. Zoning and Master Plan Designations of the Sylvan Avenue Corridor Generally and the Subject Property in Particular

A. Zoning Classification of the Subject Property and the Sylvan Avenue Corridor in General

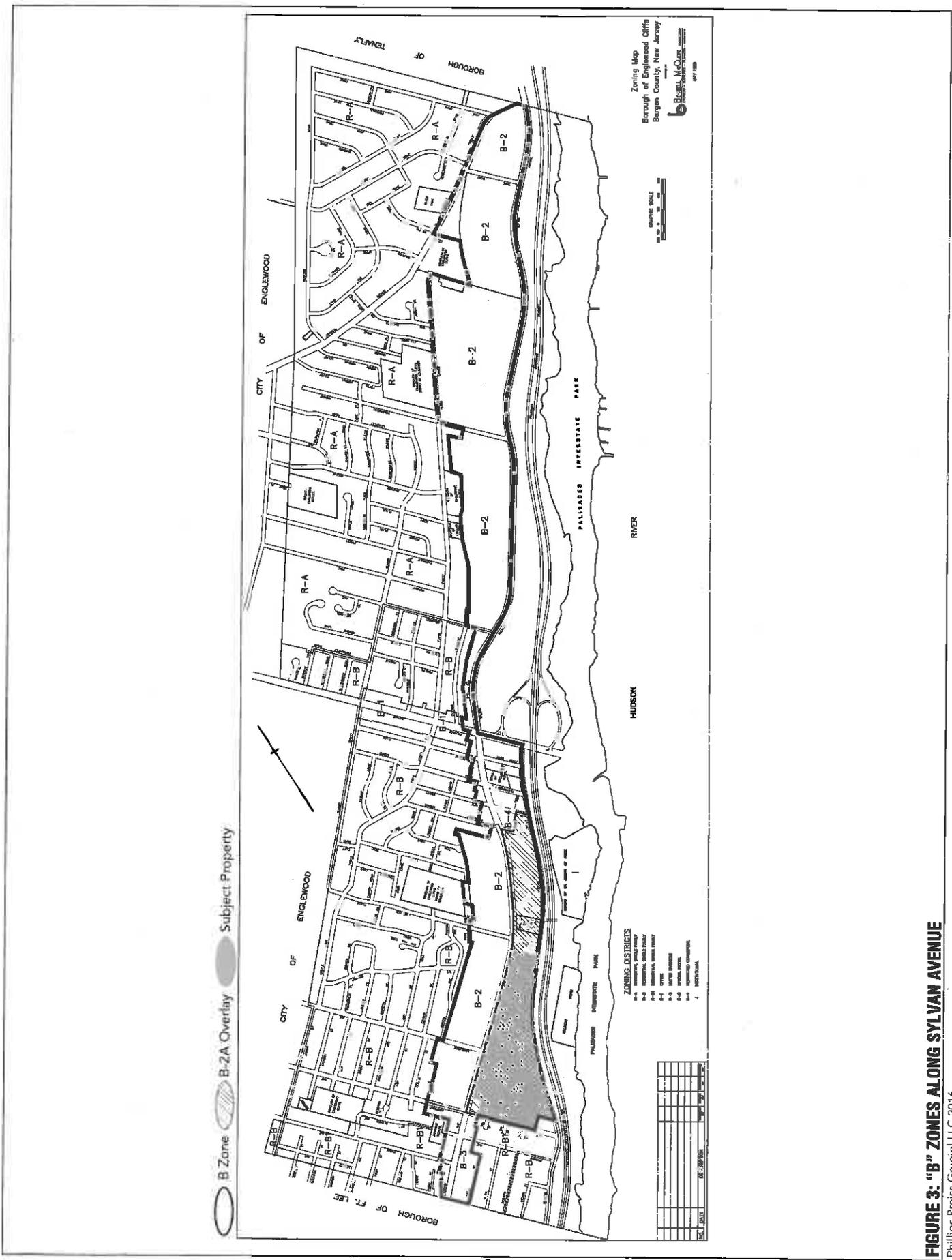
1) Description of "B" Zones along Sylvan Avenue

Sylvan Avenue is the primary commercial corridor within Englewood Cliffs. As shown in Figure 3, the Borough has historically utilized three "B" zone classifications to control development along Sylvan Avenue: the B-2 Limited Business district, the B-3 Special Retail district and the B-4 Restricted Commercial district. The B-2 district comprises over 80% of the lands with frontage along the corridor and is intended principally for office and laboratory/research use. The B-3 zone is located within the stretch of Sylvan Avenue which begins to the south at the Borough's border with Fort Lee Borough and extends north to Van Nostrand Avenue. The intent of the B-3 district is to encourage professional offices and to modernize an area of traditional smaller retail establishments and restaurants. The B-4 district is oriented around the intersection of Sylvan Avenue and Palisade Avenue and permits offices and banks without drive-in facilities as principal uses. The maximum height permitted along Sylvan Avenue is 2 stories and either 30 feet (in the B-3 zone) or 35 feet (in the B-2 and B-4 zones). As will be explained in Subsection 3, the B-2A Overlay district, adopted in 2012, allowed the development of taller buildings in a portion of the B-2 zone by tying maximum permitted height to tract size.

2) B-2 Zone Regulations

The subject property is located within the B-2 zone, which is the most restrictive of the "B" zones located along Sylvan Avenue. It comprises two distinct sections: a northerly section located along the west side of Sylvan Avenue between Demarest Avenue and the Tenafly border and a southerly section bounded by Van Nostrand Avenue to the south; Hudson Terrace to the east; Sherwood Avenue to the north; and the rear lot lines of the properties along Sylvan Avenue to the west.

The B-2 zone permits business offices, professional offices, governmental and corporate offices; laboratory and research facilities; and houses of worship. Accessory parking areas are permitted on the same lot as the principal use. The bulk and height requirements for the B-2 zone are indicated in Table 2.



Source: Borough of Englewood Cliffs Zoning Map

FIGURE 3: "B" ZONES ALONG SYLVAN AVENUE

Phillips Preiss Gygiel LLC 2016

Table 2: Bulk and Height Requirements for the B-2 Zone

Regulation	Requirement
Minimum lot area	80,000 sq. ft.
Minimum lot width	125 ft.
Minimum front yard	60 ft.
Minimum rear yard	20% of lot depth
Minimum side yard	30 feet
Minimum both side yard	60 feet
Minimum corner side yard	30 feet
Maximum lot coverage	33.3%
Maximum building height	35 feet / 2 stories

The buffer requirement south of Hollywood Avenue and north of Van Nostrand Avenue is 50 feet; to north of Hollywood Avenue and south of Sanford Drive is 120 feet.

The southerly segment of the B-2 zone, which encompasses the subject property, contains a mix of uses and lot sizes that belie the current B-2 zoning. In fact, approximately half of the lots do not conform to the 80,000 square feet tract size requirement. Meanwhile, with an area of over 27 acres, Block 207, Lot 6 greatly exceeds the minimum lot area for the B-2 district.

3) B-2A Overlay

In October 2012, the Borough of Englewood Cliffs created an overlay zone, known as the B-2A, which encompassed the subject property and others in the vicinity (see Figure 3). The permitted principal uses in the B-2A zone are business offices, professional offices, corporate offices and laboratory and research facilities. The maximum height requirement is 6 stories for properties larger than 5 acres; 8 stories are allowed on tracts larger than 25 acres. Parking garages with a maximum height of four stories or 60 feet are permitted on tracts greater than 20 acres; for parcels at least 5 acres a maximum height of three stories and 40 feet is permitted for parking garages.

Table 3: Bulk, Height and Other Requirements for the B-2A Overlay Zone

Regulation	Overlay Standard No. 1	Overlay Standard No. 2
Min./Max. Lot Area	Min: > 5 acres Max: 25 acres	Min: >25 acres
Min. Lot Width	250 feet	500 feet
Min. Front Yard	60 feet	60 feet
Min. Side Yard	60 feet	100 feet
Min. Rear Yard	22.5% of lot depth	25% of lot depth
Min. Corner Lot Setback to Street	75 feet	100 feet
Max. Lot Coverage	22.5%	20%
Max. Impervious Coverage	40%	35%
Max. Building Height	6 stories/90 feet	8 stories/150 feet

Additionally, a 100 foot buffer is required on B-2A properties abutting “residential lots.”

4) Height Limit

In August 2014, the Mayor and Council of the Borough of Englewood Cliffs adopted Ordinance 2014-11, which amended the Borough’s Zoning Ordinance to prohibit the construction of any building in excess of 35 feet in height in any zoning district in the municipality.

B. Master Plan Designation and Relevant Land Use Policies

The Borough of Englewood Cliffs Comprehensive Master Plan (2001) places the subject property within the “Limited Business” category in the Land Use Plan (see Figure 4). The boundaries of the Limited Business area are largely consistent with the existing boundaries of the Borough’s B-2 zone, except for several publicly-owned properties which are placed under “public” land use categories. The Master Plan notes that the Limited Business areas include “business and professional offices, governmental uses and corporate offices.” These areas “represent the largest non-residential land use in the Borough” and “account for the overwhelming majority of all non-residential taxable lands in the Borough.” The Plan further states that “these uses represent the engine that sustains economic vitality to the community.” The 2003 Master Plan Reexamination Report recommended specific changes to the buffer requirements for the “B” zones along the Sylvan Avenue corridor. No other changes or significant land use policies related to the subject property were proposed.

A 2007 study of the “B” zones along Sylvan Avenue, prepared by Phillips Preiss Shapiro Associates on behalf of the Planning Board, emphasized that the “campus-style configuration” of the subject property

(i.e., Block 207, Lot 6) is “somewhat out-of-character with the largely 1- to 2-acre office sites in the area.” Noting its similarities to the CNBC and Unilever campuses within the northerly portion of the B-2 district, the 2007 study recommended that this particular tract be considered for placement within “any new corporate office district” established along the corridor. Subsequently, the Planning Board’s 2009 Master Plan Reexamination proposed a new “B-5” zone district for certain properties located within the existing B-2 zone. The Plan made the following statement:

It is recommended that the current B-2 zoning district be separated into two distinctive zones, as the northern section of the district has dissimilar characteristics than that of the remainder of the zone. Furthermore, the current zone regulations fail to support the large-scale corporate office presence that exists in the northern section of the B-2 zone. In fact, the existing bulk standards are too permissive, particularly relative to lot size and setbacks. It is therefore recommended that a new corporate office land use classification be created in the land use plan, and hence, a new B-5 zone classification be established in accordance with the proposed zoning map.

The Reexamination Report also set forth potential use and bulk regulations for a B-5 zone:

In the new B-5 zone, permitted uses should be limited exclusively to professional offices and corporate office/research facilities. The minimum lot size for these lots in the new B-5 zone should be increased from 80,000 square feet found in the current B-2 zone to at least 5 acres and possibly 15 acres to avoid potential future subdivision of these large corporate campuses. Similarly, the allowable 60-foot front yard setback requirement found in the old B-2 zoning regulations should be increased and an overall impervious coverage limitation should be established to protect the expanses of green space in this district. A front yard landscaping requirement should be considered as well.

The “Proposed Zoning Map” contained in the 2009 Reexamination Report showed the subject property along with several large corporate campus properties in the northerly portion of the B-2 district within the proposed new B-5 zone. The Report also provided several recommendations to enhance buffer and landscaping requirements throughout all of the “B” zones and also to relax the off-street parking requirements for corporate office uses. Despite those prior studies and Master Plan recommendations, Block 207, Lot 6 remained within the B-2 zone until the adoption of the B-2A Overlay zone.

Englewood Cliffs New Jersey Land Use Plan

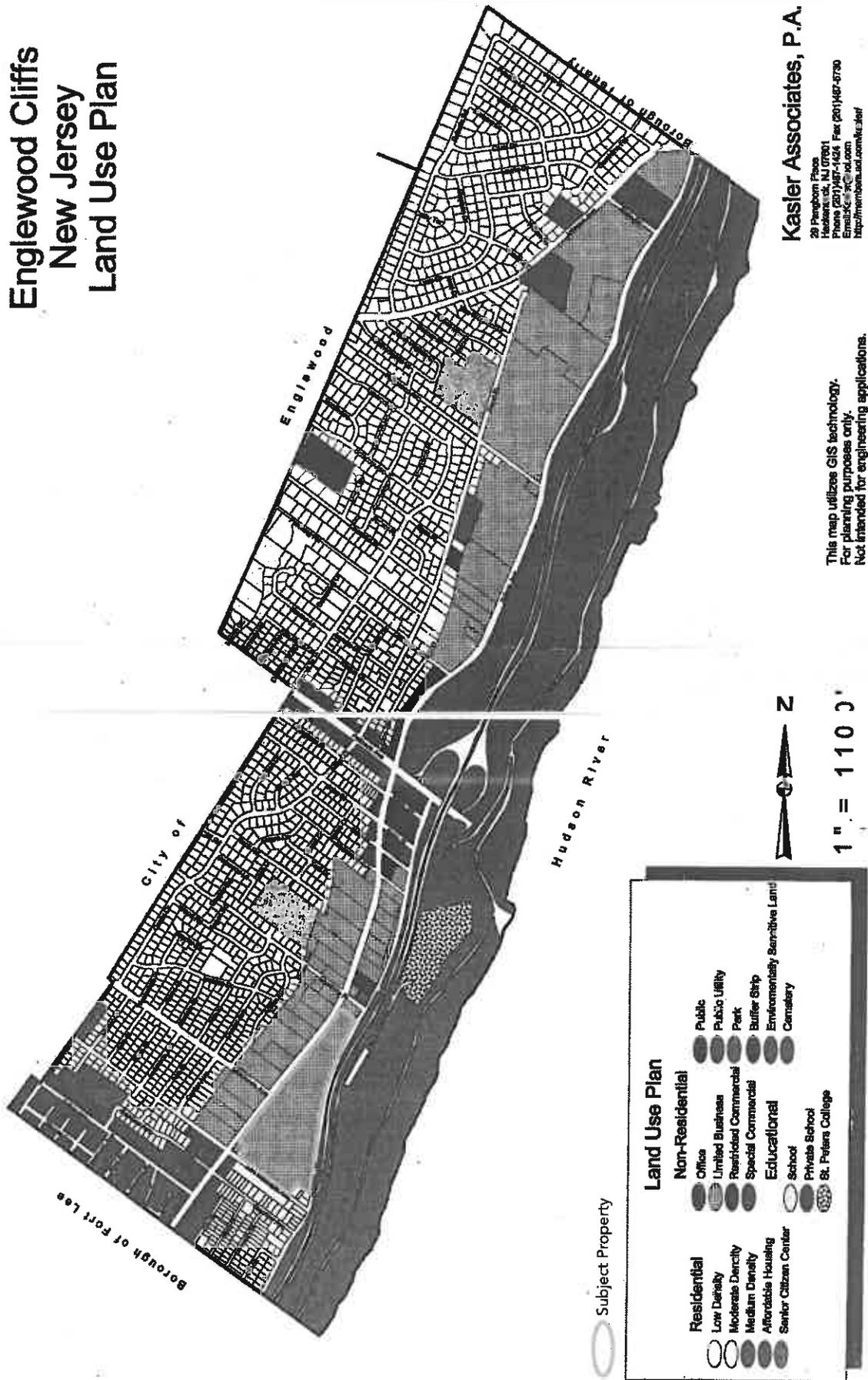


FIGURE 4: MASTER PLAN LAND USE DESIGNATION OF THE SUBJECT PROPERTY

Phillips Preiss Grygiel LLC 2016

Source: Borough of Englewood Cliffs Comprehensive Master Plan

IV. Recommended Master Plan Classification and Zoning for the Subject Property

In consideration of 1) the ZBA's approval of the LG corporate headquarters project; 2) the subsequent litigation and settlement; and 3) the adoption of the B-2A Overlay zone, the Planning Board is re-evaluating its Master Plan policies with respect to potential corporate office development within the Limited Business zone along the Sylvan Avenue corridor. The following sets forth the reasons for focusing on the subject property in particular and also describes the planning basis for an Amendment to the Borough's Master Plan which supports a new zone classification for the subject property while retaining the underlying Limited Business zone classification for the balance of what is now the B-2A Overlay zone. The chapter also summarizes the benefits of a new zone classification from a Master Plan perspective and identifies numerous Master Plan objectives and purposes of the Municipal Land Use Law which are advanced.

A. Planning Rationale in Support of an Amendment to the Master Plan Land Use Element

The physical characteristics, surrounding land uses and current conditions of the subject property stand out within the context of the "Limited Business" area along the Sylvan Avenue corridor. In terms of redevelopment potential for new corporate office development, much of the remainder of the area is constrained by surrounding residential land uses as well as the physical limitations of the properties themselves. As noted, the Limited Business area is principally intended to promote office development and is broken up into two distinct segments along Sylvan Avenue. The northerly segment possesses a different character than its southerly counterpart. It contains large corporate campus facilities for CNBC, Unilever and others which are well-suited to the large tracts located along the westerly frontage of Sylvan Avenue (the easterly frontage is undevelopable). The low-rise form of those campuses is appropriate considering the residential neighborhood located to the west and the substantial depth and frontage of each property. However, a more intensive development scheme (i.e., with buildings taller than 35 feet) would be challenging to implement without creating detrimental impacts on residential areas. Consequently, the current zoning scheme for the northerly segment of the Limited Business area – which encourages low-rise corporate campus uses – remains appropriate.

The southerly segment of the Limited Business area consists of the 27-acre subject property, as well as a number of small lots improved with office/commercial uses. Unlike the northerly segment, both sides of Sylvan Avenue are fully developed. The properties to the west of Sylvan Avenue in this area comprise small lots with limited depth that abut residential uses to the west. Most of these lots are in the range of two to three acres in area and none exceeds five acres. Meanwhile, lands along the easterly frontage of Sylvan Avenue other than the subject property are smaller, developed office properties, all of which are roughly an acre in area or less. The B-2 zone's regulations are in fact designed for development of smaller properties, with a minimum lot area requirement of just under two acres.

By comparison, the subject property is substantially larger in size and is presently vacant. This parcel presents a unique opportunity for redevelopment by a single corporate user. Given its acreage and undeveloped status, it merits special consideration from a planning/zoning standpoint relative to all other properties within the Limited Business district which have very different development characteristics (i.e., small sites developed with buildings). The subject property also does not directly abut any residential uses. There are residential uses on the south side of Van Nostrand Avenue across from the southern boundary of the subject property, but given the site's size and width at its southern end, there is ample room to require significant setbacks and buffering from these closest residential uses. The ability to provide such separation and to allow additional development on portions of the site away from residential uses provides an opportunity to advance a new master plan/zoning classification for this property, with its own regulations intended for a larger-scale redevelopment project. At the same time, given its close proximity to the Palisades Interstate Park and associated cliffs to the east, any new master plan/zone designation must be sensitive to this historic resource and any new height, bulk and other development standards should be designed so as to protect the Palisades viewshed.

Among the reasons to explore the potential for larger-scale – and taller (i.e., greater than 35 feet) – buildings for the subject property is the growing evidence that sprawling low-rise single-user corporate campuses with expansive parking fields have become outmoded in New Jersey.¹ Taller buildings with open floor plans and cutting-edge architecture are highly valued by modern high-tech, biotech and financial/professional services corporations and also preferred by the next generation of workers who are more likely to live in or near urban areas. Also, taller development can serve to maximize natural light, reduce the amount of impervious coverage on a property and provide greater amounts of open space. Properly crafted zoning regulations can allow for larger-scale development, such as a major headquarters of a global corporation, that furthers the general welfare without creating substantial detrimental impacts on surrounding areas or the community-at-large.

Meanwhile, there is a need for an improved regulatory scheme for the provisions of buffers and landscaping as well. As described in Chapter III, the 2009 Master Plan Reexamination noted that “buffers are of particular significance” along the Sylvan Avenue corridor and determined that “requiring front yard landscaping would enhance the overall image and streetscape along Sylvan Avenue.” The Master Plan Reexamination also emphasized that “introduction of a maximum impervious coverage standard would assure landscaping and green space as part of any future development.” In addition, buffering along Hudson Terrace, across from which to the east is the Palisades Interstate Parkway and Palisades Interstate Park, is similarly important.

¹ See “Reinventing the New Jersey Economy: New Metropolitan and Regional Employment Dynamics,” *Rutgers Regional Report*, Bloustein School at Rutgers University, December 2012.

Englewood Cliffs New Jersey Land Use Plan



FIGURE 5: RECOMMENDED MASTER PLAN CLASSIFICATION FOR THE SUBJECT PROPERTY

Source: Borough of Englewood Cliffs Comprehensive Master Plan
 Phillips Preiss Grygiel LLC 2016

Based on an analysis of the subject property and its physical and locational context with the Sylvan Avenue corridor, it is evident that the property is deserving of unique treatment from a Master Plan and zoning standpoint. In fact, a new "Corporate Business" classification for this large tract represents a valid approach to facilitating corporate office development in a manner that would also implement the Borough's Master Plan objectives regarding improved open space buffer and aesthetic requirements for this portion of Sylvan Avenue. The primary purpose of this new "Corporate Business" classification would be to provide for a large-scale office facility with taller buildings than currently allowed in the corresponding B-2 Limited Business zone, but also well below heights which were permitted in accordance with the B-2A Overlay zone.

The proposed new heights would also be in keeping with the previously cited 6/17/15 case settlement agreement (i.e., below the Palisades tree line), a principal goal of which is to preserve essentially unmarred the historic Palisades viewshed for the benefit of the general public, neighboring and regional communities and the residents of the Borough. A set of carefully-crafted standards regulating setbacks, coverage, buffers, landscaping and overall design would further alleviate the potential for detrimental visual, environmental and other impacts on the surrounding community. It should be emphasized that the boundaries of this new "Corporate Business" zone classification are proposed to be limited exclusively to Block 207, Lot 6, as none of the other properties in the current B-2A Overlay zone possess the same characteristics as this ±27 acre tract. Figure 5 illustrates the recommended boundaries for a new "Corporate Business" zone classification as shown on the Land Use Plan of the Borough of Englewood Cliffs Comprehensive Master Plan.

B. Recommended Requirements for a New B-5 Corporate Business Zone

In terms of implementation, it is recommended that the governing body consider a zoning ordinance amendment to create a new district entitled the B-5 Corporate Business zone consistent with the boundaries shown in Figure 5, which coincides with that of Lot 6 in Block 207. As indicated, although not part of any prior Master Plan Amendment, it is recommended that the B-2A Overlay zone district, which included Lot 6 in Block 207 as well as over a dozen additional lots as part of a continuous stretch of properties along the east side of Sylvan Avenue, be rescinded in its entirety. The permitted uses in the new B-5 Business zone would be the same as in the current B-2 zone (i.e., business offices, professional offices, governmental and corporate offices, laboratory and research facilities and houses of worship). Additionally, accessory parking structures would be permitted subject to certain height restrictions. Freestanding office buildings would also be allowed.

The permitted building heights would vary depending upon location within the limits of the property so as to be in concert with/respect the existing tree line of the Palisades. The maximum building height would be 70 feet, however such height would be permitted only within a specific portion of the property. Meanwhile, lower (and varying) allowable building heights would be mandated for the balance of the

property. In other words, permissible building heights would be tied to a series of required setbacks as measured from property lines.

The following generic standards are proposed to regulate new development within the B-5 Corporate Business zone (see Table 4). More definitive zone standards would be developed as part of the implementing zoning scheme.

Table 4: Recommended Bulk, Height and Other Requirements for the B-5 Corporate Business Zone

Regulation	Requirement
Min. Lot Area	25 acres
Min. Lot Frontage	2,000 feet
Min. Front Yard	60 feet
Min. Side Yard (one/both)	60 feet/200 feet
Max. Lot Coverage	33.3%
Max. Impervious Coverage	45%
Max. Building Height as measured from the curb level immediately adjacent to the front of the building (i.e., along Sylvan Avenue)	Maximum 70 feet restricted to a portion of the property only with lower (and varying) allowable heights mandated for the balance of the property
Min. Area for Private Common Open Space or Pedestrian Amenities*	5% of lot area
Required Buffer to R-B1 Zone	125 feet

*Shall include all outdoor seating, gathering and recreation areas and walking trails.

Under the B-5 Corporate Business zone, the required buffer to the R-B1 zone would be 125 feet. This will further mitigate the potential for detrimental impacts on the residential properties located along Van Nostrand Avenue, as would allowing additional height only beyond a prescribed distance from the R-B1 zone. Also, a minimum requirement for outdoor common space amenities for employees is recommended to ensure that corporate tenants include walking paths, seating areas and recreation spaces for use by their employees. Other appropriate design standards can be employed as necessary to insure that any new development is sensitive to the Sylvan Avenue streetscape, residential properties to the south and the Palisades parklands to the east. Strict regulations should be provided for signage in this zone as well. Lastly, consideration should be given to relaxing the current office parking requirement in the context of a single user corporate office facility.

C. Benefits of a New B-5 Corporate Business Master Plan and Zone Classification

When compared to the current B-2 zone standards that are designed to effectuate the existing Limited Business zone classification in the Borough's Master Plan, the proposed B-5 zoning mandates increased setbacks, open space and buffers. It should also be emphasized that the former improvements on the subject property, including the 412,000 square feet of office space and 1,047 parking spaces, covered almost 60% of the site. Also, since the floor area can be provided in a taller building envelope there is a positive trade-off in terms of the impacts to the balance of the site, and especially in terms of increased green space. Additionally, the 125 foot buffer to the R-B1 zone is more than twice the distance provided under the Limited Business zone designation. In summary, the new B-5 zoning would facilitate a state-of-the-art, corporate office prototype that provides tangible land use, environmental and aesthetic benefits in the form of additional open space, improved drainage and more landscaping.

From an impact standpoint, the subject property can certainly accommodate new development under the B-5 zoning without creating detrimental impacts on the surrounding properties or the community at large. As noted above, the increased setbacks and additional open space drastically exceed that which is envisioned under the Limited Business zone designation. Perhaps most importantly, not only would side yard setbacks be increased, but where no green space is now required as part of the B-2 zone standards that are intended to implement the Limited Business designation in the Master Plan, over half of the tract would be green space under the new B-5 zone. Such safeguards are intended to mitigate the impacts of buildings up to 70 feet in height (i.e., in lieu of the current 35 foot limit). The land use and visual impacts on residential uses would be minimal as well. The subject property is substantially separated from the residential neighborhoods located across Sylvan Avenue to the west. Additionally, there is a 125 foot buffer area separating the adjacent residential properties in the RB-1 zone. Finally, recognizing the importance of the nearby Palisades Interstate Parkway, public parklands and the Palisades cliffs, the varying height restrictions would essentially keep future building construction below the existing tree line, thereby protecting these historic resources as viewed from within or outside New Jersey, while still enabling reasonable development in an appropriate location.

D. Advancement of the Borough of Englewood Cliffs' Master Plan Goals and Objectives

The B-5 Corporate Business zone designation is substantially consistent with the goals and objectives of the Borough's Master Plan. Specifically, the following would be advanced by this proposal:

- *Objective #1: Established Neighborhood Areas.* To maintain and enhance the attractive and established character of Englewood Cliffs in both its residential and non-residential areas.

This objective would be furthered under the B-5 Corporate Business zone classification by ensuring that taller office buildings are restricted to a large tract located east of Sylvan Avenue (away from residential uses) and also by providing a 125 foot buffer to the RB-1 residential zone.

- *Objective #3: Preservation of the Environment.* To promote and protect environmentally sensitive areas including wetlands and wetlands buffers, flood prone buffers, steep sloping areas, the quality and purity of rivers and streams and areas of trees and other vegetative cover.

As enumerated above, the limited impervious coverage to be permitted on the subject property as part of the B-5 Corporate Business zone classification allows more of the lands to be devoted to open space, buffers and setback areas. Additionally, this reduction minimizes potential impacts to the existing wetlands areas and other environmentally-sensitive features. Finally, by restricting building height as proposed (i.e., below the tree line of the adjacent Palisades), such new zone designation will appropriately protect a significant historic resource.

- *Objective #7: Appropriate Use of All Lands.* To encourage action to guide the appropriate use or development of lands in Englewood Cliffs in a manner which will promote the public health, safety, morals and general welfare.

The B-5 Corporate Business zone classification provides appropriate standards for new larger-scale office development on a property which is particularly suited to sustain appropriate redevelopment without incurring any detrimental impacts on the public good.

- *Objective #18: Buffer Areas.* To continue to maintain adequate buffer areas separating residential areas from nearby non-residential uses.

This objective is advanced by the provision of a 125 foot buffer under the B-5 Corporate Business zone classification to separate new development from the adjacent R-B1 residential zone.

- *Objective #19: Improvement of Business Area:* To upgrade and improve the business areas of the community, where appropriate, by providing off-street parking, upgrading landscaping, signage and street fixtures in a comprehensive and coordinated manner.

The B-5 Corporate Business zone classification greatly enhances the southerly portion of the Sylvan Avenue corridor. The increased landscaping and open space required will implement aesthetic and environmental improvements to the streetscape along this corridor while allowing the Borough to attract a major corporate facility.

E. Advancement of the Purposes of the Municipal Land Use Law

The B-5 Corporate Business zone classification directly advances at least five (5) purposes of the Municipal Land Use Law (NJSA 40:50D-2 et seq.), as follows:

- (a) *To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals and general welfare.* The B-5 Corporate Business zone classification will guide the redevelopment of a key property within the Sylvan Avenue corridor in a manner that will lead to aesthetic, environmental and economic benefits for the Englewood Cliffs community, while avoiding the potential for detrimental impacts on surrounding properties and the public-at-large. It will also attract new jobs to the Borough which help stimulate the local economy and reinforce the southerly portion of the Sylvan Avenue corridor.
- (c) *To provide adequate light, air and open space.* The recommended standards for the B-5 Corporate Business zone classification ensure that adequate light, air and open space are provided in a manner that allows for appropriate development within the district while also affording protection to surrounding commercial, residential and public lands.
- (g) *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.* The B-5 Corporate Business zone classification focuses new office development on a previously developed property which, by virtue of its size and location away from residential uses, can sustain taller buildings while strengthening the Borough's open space, buffer and coverage requirements for this property. This will result in significant environmental benefits.
- (i) *To promote a desirable visual environment through creative development techniques and good civic design and arrangement.* The B-5 Corporate Business zone classification will encourage modern corporate office development while maximizing the amount of open space and landscaping on the redeveloped property. This will result in an improved visual environment along the southerly portion of the Sylvan Avenue corridor, while also protecting nearby residential properties and adjacent historic/scenic resources.
- (j) *To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land.* The B-5 Corporate Business zone classification allows for the appropriate redevelopment of a large, former office property while also providing for

substantial amounts of open/green space and avoiding any significant disturbance to or adverse visual impacts on the Palisades cliffs or adjoining park lands, which is especially relevant in light of the fact that the Palisades Interstate Park has been designated a National Historic Landmark.

V. Relationship to State Development and Redevelopment Plan and Adjacent Municipalities

Relationship to State Development and Redevelopment Plan (SDRP)

On March 1, 2001, the State Planning Commission readopted the State Development and Redevelopment Plan (SDRP). In the SDRP, the subject property is classified as Planning Area 1, Metropolitan Planning Area (PA-1). The SDRP defines Metropolitan Planning Areas as areas which “provide for much of the state’s future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign areas of sprawl; and protect the character of existing stable communities.” The Planning Board believes that the Master Plan Amendment creating the new B-5 Corporate Business zone classification for Block 207, Lot 6 is well-reconciled with the guiding policies and policy objectives of the adopted SDRP for Planning Area 1, Metropolitan Planning Area.

Consistent with the goals for the PA-1, the Board is satisfied that the B-5 Corporate Business zone classification will promote redevelopment needed to transform a large underutilized property into a state-of-the-art corporate office development that will ensure efficient utilization of scarce land resources while also carefully protecting the character of surrounding communities. The B-5 Corporate Business zone classification will also promote private sector investment and economic development in suitable core locations and in accordance with the objectives for PA-1. Such new zone designation also places compact redevelopment in a location well served by existing transportation networks, including Route 9W (Sylvan Avenue) and the Palisades Interstate Parkway.

Relationship to Adjoining Municipalities

The Borough of Englewood Cliffs borders three municipalities (Fort Lee to the south; Tenafly to the north; and Englewood to the west). The Borough’s 2001 Comprehensive Master Plan sets forth a specific policy statement indicating the relationship of the proposed development of the municipality as developed in the master plan to the master plans of these three contiguous municipalities. In particular, the 2001 Comprehensive Master Plan discusses the Borough’s master plan designations in the context of the immediately adjacent master plan classifications of each of the three municipalities (i.e., specifically where lands directly adjoin the Borough of Englewood Cliffs). As the location of the B-5 Corporate Business zone classification (which is the basis for the Master Plan Amendment) does not adjoin and/or is sufficiently removed from any of these adjacent areas along the municipal boundary, the development contemplated will not alter the previously cited policy statements regarding the relationship of the Borough’s master plan to the master plans of contiguous municipalities.

Relationship to Bergen County Master Plan

The Land Use Element of the Bergen County Master Plan has not been updated since 1973. While the land use conditions in the County have changed since that time, the Master Plan Amendment advocating the new B-5 Corporate Business zone classification does not conflict with the goals and policies of the County plan.

Relationship to District Solid Waste Management Plan

The Bergen County Utilities Authority is the agency empowered to supervise the implementation of the solid waste management plan for Bergen County. The plan was originally adopted in 1979 and was most recently updated in 2006. The Master Plan Amendment creating the new B-5 Corporate Business zone classification in no way conflicts with the County's solid waste management plan.

VI. Summary

The foregoing Amendment to the Land Use Element of the Borough of Englewood Cliffs Master Plan outlined the planning rationale and recommended parameters for a new Master Plan designation and zoning classification known as the B-5 Corporate Business zone for a single ±27 acre property known as Block 207, Lot 6, located along the east side of Sylvan Avenue in the southerly section of the Borough. The conclusions were based on an analysis of the physical characteristics of the subject tract and surrounding properties, and also the Borough's historic master plan and zoning treatment of the Sylvan Avenue corridor. The B-5 Corporate Business zone classification provides a number of benefits to the Englewood Cliffs community and also advances several of its Master Plan objectives. In order to implement this concept, it is recommended that the Borough adopt a new B-5 Corporate Business zone consistent with the land use policies and zoning parameters set forth in this Amendment.

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ENGLEWOOD CLIFFS PLANNING BOARD
SPECIAL MEETING

----- X

IN RE: MASTER PLAN AMENDMENT:

Creation of New Zone B-5 Business Zone
for the approximately 27.03 acre tract known
as 111 Sylvan Avenue, Block 206 - Lot 6 and
rescission of the existing B-2A Overlay
Zone, which includes Lot 6 and other
Parcels.

----- X

March 30, 2016
7:30 p.m.

SPECIAL MEETING, in the
above-captioned matter, held at the
Englewood Cliffs Planning Board, 20 Kahn
Terrace, Englewood Cliffs, New Jersey,
before Cynthia Zoller, R.P.R., a Notary
Public within and for the State of
New Jersey.

Job Number: NJ 2280581

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2 BOARD ATTORNEY: Michael B. Kates, Esq.
3
4 CHAIRMAN: Edwin Fehre
5
6 VICE CHAIRMAN: Aurel Villari
7
8 BOARD SECRETARY: Cathy Scancarella
9
10 Mary O'Shea
11 Kiky Kim
12 Roy Kilmartin
13 Matthew Trovato
14 Jeff Chinman
15 J.P. Lee
16 Russell Porrino (recused)
17 Jill Rosenberg (recused)
18 Lauren Eastwood, Mayor's Representative
19 Councilman Mark M. Park
20
21 Presenter of Master Plan Amendment:
22 Paul A. Phillips, AICP, PP
23 Phillips Preiss Grygiel, LLC
24 Planning & Real Estate Consultants
25 33-41 Newark Street
Third Floor, Suite D
Hoboken, New Jersey 07030

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1 CHAIRMAN FEHRE: We're
2 going to juggle the agenda around a
3 little bit. We have a couple of
4 small items to deal with.
5 Hopefully, we can get them out of
6 the way quickly.
7 The first item of old
8 business is the Master Plan
9 Amendment Public Hearing, Creation
10 of the New Zone B-5 Business Zone
11 for approximately 27.03 acre tract
12 known as 11 Sylvan Avenue, Block
13 206 - Lot 6 and rescission of the
14 existing B2-A Overlay Zone, which
15 includes Lot 6 and other parcels.
16 This evening we are going
17 to have a vote to adopt and
18 memorialize the Resolution so this
19 is a continuing hearing on the
20 Master Plan Amendment and this
21 requires special notification. Has
22 this been advertised in accordance
23 with the Municipal Land Use Law?
24 MS. SCANCARELLA: Yes.
25 This Master Plan hearing was

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1
2 INDEX
3 PAGE
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5 PRESENTATION BY MR. PHILLIPS: 6
6 READING OF RESOLUTION: 14
7
8 ROLL CALL FOR ADOPTION OF
9 RESOLUTION: 18
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1 advertised in the record on March
2 20th, 2016 and notice was given by
3 Certified Mail to the Bergen County
4 Planning Board and the municipal
5 clerks of surrounding
6 municipalities.
7 CHAIRMAN FEHRE: Okay.
8 Mr. Phillips has prepared the
9 Amendment and was here in the prior
10 meeting. Can you briefly summarize
11 what has been done.
12 MR. KATES: Mr. Phillips,
13 you remain under oath.
14 MR. PHILLIPS: Understood,
15 Mr. Kates.
16 MR. PORRINO: Mr.
17 Chairman, point of order. There is
18 a couple of us that will be
19 recusing and I'm one. Let the
20 record note that I'm recusing,
21 please.
22 CHAIRMAN FEHRE: Okay. I
23 think there's another recusal.
24 MS. ROSENBERG: I'm
25 recusing.

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1 CHAIRMAN FEHRE: Ms.
2 Rosenberg will not be voting and I
3 myself will not be voting because I
4 did not attend the last meeting.
5 Anybody else need to recuse? If
6 not, then you may proceed, Mr.
7 Phillips.
8 MR. PHILLIPS: Thank you,
9 Mr. Chairman and good evening,
10 Members of the Board. I do intend
11 to be much briefer tonight than I
12 was in February, but based on the
13 chair's directive, I will provide a
14 basic summary of the Amendment for
15 the board and the public.
16 So this Master Plan
17 Amendment involves and addresses a
18 single property, Block 207, Lot 6.
19 It's an unimproved property about
20 27 acres in size, has significant
21 frontage a both Sylvan Avenue and
22 Hudson Terrace, it has additional
23 frontage on Van Nostrand Avenue, it
24 has a bearing lot depth measuring
25 between 1,000 feet along the south

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1 to about 240 feet in the north and
2 it basically results in a unique
3 tract which is substantially larger
4 than those in the vicinity along,
5 actually, both sides of Sylvan
6 Avenue. Most of the immediately
7 adjacent properties, both to the
8 north and south and across Sylvan
9 Avenue, are all developed and the
10 buildings occupy much smaller lots,
11 typically, in the one- to two-acre
12 range.
13 Now, all of these
14 properties that I mentioned
15 currently, including the subject
16 property, fall within your B-2
17 Limited Business District
18 classification in the current
19 Master Plan. I'm not talking about
20 the zoning, I'm talking about the
21 Master Plan classification and that
22 district basically, envisions
23 buildings of no more than two
24 stories and 35 feet in height and
25 also significantly, that zone does

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1 not have an impervious coverage
2 requirement, no requirement for
3 open space. The zone allows you to
4 essentially, blacktop the site with
5 buildings and with parking so
6 because of its undeveloped status
7 and its substantial size relative
8 to the surrounding properties, the
9 property actually presents a unique
10 development opportunity and one
11 which basically, can attract a
12 major corporate office user so as a
13 result, this Master Plan Amendment
14 is advocating a new district
15 classification. We are calling it
16 B-5. It would provide for somewhat
17 taller buildings than is presently
18 envisioned in the B-2
19 classification, but it would also
20 at the same time, mandate
21 significant open space as part of
22 the overall development scheme.
23 There's also ample room in
24 the southerly portion of the
25 property to provide a suitable and

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1 adequate buffer to the residences
2 which exist on Van Nostrand Avenue
3 and with regard to height, there is
4 a proposed maximum 75 foot height
5 restriction. It would exist for
6 only a portion of the property,
7 with varying and lower heights
8 permitted on other sections of the
9 property basically, designed to
10 respect the existing tree line of
11 the nearby Palisades and to also be
12 consistent with the Settlement
13 Agreement that was to put in place
14 between Scenic Hudson and other
15 parties and LG and again, the goal
16 was to preserve the Palisades
17 Viewshed, which obviously, benefits
18 not only residents of Englewood
19 Cliffs, but those of surrounding
20 municipalities and also the public
21 at large.
22 We would not propose any
23 changes in the contemplated uses
24 within the B-2 District, basically,
25 an office-type district. We've

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1 indicated in the document there are
 2 a number of Master Plan goals that
 3 would be advanced, including
 4 enhancing both residential and
 5 nonresidential areas, improving
 6 business areas, protecting the
 7 environment and maintaining
 8 adequate buffer areas.
 9 The proposed new zoning
 10 also would advance multiple
 11 purposes of the statute, the
 12 Municipal Land Use Law, encouraging
 13 municipal action to guide
 14 appropriate use or development of
 15 lands, providing adequate light,
 16 air, open space, providing
 17 sufficient space in appropriate
 18 locations for a variety of uses,
 19 promoting a desirable visual
 20 environment through the development
 21 techniques, promoting the
 22 conservation of historic sites and
 23 districts, open space, and valuable
 24 natural resources and preventing
 25 urban sprawl and degradation of the

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1 environment.
 2 And then lastly, as you
 3 will recall, the subject property
 4 together with probably another
 5 dozen or so sites to the north were
 6 part of a rezoning, I think it went
 7 as far as Sherwood Avenue, back in
 8 2012, which created what was known
 9 as the B-2A Overlay District. That
 10 district actually allowed much
 11 greater heights than was being
 12 proposed for the B-5 District and
 13 as I mentioned, that B-2 Overlay
 14 Zone was not supported by a Master
 15 Plan Amendment; notwithstanding
 16 that, we are recommending now, that
 17 that zoning be rescinded, as it
 18 applies to not only the subject
 19 property, but all the other dozen
 20 or so properties which that Overlay
 21 Zone encompassed and that for those
 22 other properties, that they would
 23 revert back to the B-2A zoning that
 24 was in place prior to the 2012
 25 amendment.

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1 So that, pretty much,
 2 summarizes the document. I would
 3 be happy to answer any other
 4 questions and I told you I would be
 5 a lot briefer than the last time.
 6 CHAIRMAN FEHRE: Okay,
 7 thank you. Are there any questions
 8 from any board members?
 9 (No questions.)
 10 CHAIRMAN FEHRE: If not,
 11 can I have a motion to open the
 12 meeting to the public for asking
 13 questions?
 14 MR. CHINMAN: So moved.
 15 CHAIRMAN FEHRE: Second?
 16 MS. O'SHEA: Second.
 17 CHAIRMAN FEHRE: All in
 18 favor?
 19 (All said, "Aye.")
 20 CHAIRMAN FEHRE: Is there
 21 anybody in the public that would
 22 like to be heard or ask a question
 23 of Mr. Phillips? If not, can I
 24 have a motion to close the public
 25 portion of the meeting?

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1 MR. KILMARTIN: Motion.
 2 CHAIRMAN FEHRE: Second?
 3 MR. CHINMAN: Second.
 4 CHAIRMAN FEHRE: Okay.
 5 All in favor.
 6 (All said, "Aye.")
 7 CHAIRMAN FEHRE: At this
 8 time, Mr. Kates has prepared a
 9 Resolution which would adopt this
 10 Master Plan Amendment. Can you
 11 summarize that, Mr. Kates?
 12 MR. KATES: Well, I can. I
 13 think I can skip the "whereas" and
 14 talk about the labored procedural
 15 history of the treatment of this
 16 site, both as a Master Plan target
 17 and as a zoning target.
 18 There are referrals to the
 19 settlement that Mr. Phillips
 20 mentioned at length and this is
 21 being fashioned, this Master Plan
 22 is being fashioned to satisfy what
 23 is a compromise of the interest of
 24 the environmental group and the
 25 property owner and so it has their

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1 support so let me get to the
2 specifics that we are resolving
3 tonight in this recommendation:
4 "1. The subject
5 property, presently vacant, is
6 approximately 27 acres in size with
7 substantial frontage along Sylvan
8 Avenue and Hudson Terrace and
9 additional frontage along Van
10 Nostrand Avenue. It is a varying
11 lot depth ranging from
12 approximately 1,000 feet at the
13 southerly boundary to 240 feet
14 along the northerly boundary,
15 resulting in the uniquely shaped
16 lot, which is substantially larger
17 than those in its vicinity along
18 Sylvan Avenue.
19 "2. To the subject
20 property presents a unique
21 opportunity to attract a single
22 corporate user, in light of the
23 property's acreage, size, and
24 differences relative to all
25 properties in the southerly portion

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1 of the B-2 Zone, in the B-2A
2 Overlay Zone, which includes
3 significantly smaller two- to
4 three-acre lots.
5 "3. There is ample room
6 between the southerly portion of
7 the subject property and the
8 residences on Van Nostrand Avenue
9 to create an adequate buffer
10 between the two uses.
11 "4. The proposed 70 foot
12 height restriction on the portion
13 of the subject property with lower
14 heights permitted on other portions
15 of the subject property will,
16 consistent with the Settlement
17 Agreement, keep buildings in the
18 proposed B-5 Zone below the
19 Palisades Interstate Park tree
20 line. Preserving the Palisades
21 Viewshed and thereby, benefitting
22 the residents of Englewood Cliffs,
23 residents of surrounding
24 municipalities and the general
25 public.

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1 "5. Building height as
2 allowed in the proposed B-5 zone,
3 maximizes natural light to future
4 office facilities, reduces
5 impervious coverage and allows for
6 greater open space to be provided.
7 "6. The proposed B-5 Zone
8 advances the goals of the Borough
9 Master Plan, including enhancing
10 both residential and nonresidential
11 areas, improving business areas,
12 protecting the environment and
13 maintaining adequate buffer areas.
14 "7. The proposed B-5 Zone
15 advances multiple purposes of the
16 Municipal Land Use Law 40:55D-1,
17 including encouraging municipal
18 action to guide the appropriate use
19 or development of all lands in the
20 State, providing adequate light,
21 air, and open space, providing
22 sufficient space and appropriate
23 locations for a variety of uses,
24 promoting a desirable visual
25 environment, utilizing creative

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1 development techniques and specific
2 design arrangement and promoting
3 the conservation of historic sites
4 and districts, open space and
5 valuable natural resources and
6 preventing urban sprawl and
7 degradation of the environment.
8 And finally, "8. The B-2A
9 Overlay Zone, which was not
10 supported by a preceding Master
11 Plan Amendment, should be rescinded
12 in favor of the proposed B-5 Zone
13 for the subject property and the
14 remainder of the lands in the B-2A
15 Overlay Zone should refer to the
16 B-2 Zone criteria.
17 "The Plan resolved that
18 the Planning Board hereby adopts
19 the proposed Master Plan Amendment
20 entitled, 'Amendment to the Land
21 Use Element of the Borough of
22 Englewood Cliffs Master Plan
23 Creating a New B-5 Corporate
24 Business Zone Classification for
25 Block 207, Lot 6,' and recommends

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1 its implementation to the adoption
 2 of an Amendment to the Borough's
 3 Zoning Ordinance. When resolved,
 4 the copies of the Master Plan
 5 Amendment and this Resolution be
 6 filed with the Planning Board of
 7 the County of Bergen, pursuant to
 8 N.J.S.A. 40:55D-13 and delivered to
 9 the Mayor and Counsel and be placed
 10 upon the Borough's website.
 11 CHAIRMAN FEHRE: Thank you.
 12 Could I have a motion to adopt
 13 this?
 14 MS. O'SHEA: So moved.
 15 CHAIRMAN FEHRE: Second?
 16 MR. CHINMAN: Second.
 17 CHAIRMAN FEHRE: Roll
 18 call?
 19 MS. SCANCARELLA: Mr.
 20 Villari?
 21 MR. VILLARI: Yes.
 22 MS. SCANCARELLA: Mr.
 23 Trovato?
 24 MR. TROVATO: Yes.
 25 MS. SCANCARELLA: Mr.

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1 Kilmartin?
 2 MR. KILMARTIN: Yes.
 3 MS. SCANCARELLA: Mr.
 4 Chinman?
 5 MR. CHINMAN: Yes.
 6 MS. SCANCARELLA: Mr. Kim?
 7 MR. KIM: Yes.
 8 MS. SCANCARELLA: Mr. Lee?
 9 MR. LEE: Yes.
 10 MS. SCANCARELLA: Mrs.
 11 O'Shea?
 12 MRS. O'SHEA: Yes.
 13 MS. SCANCARELLA:
 14 Councilman Park?
 15 COUNCILMAN PARK: Yes.
 16 MS. SCANCARELLA: And Ms.
 17 Eastwood?
 18 MS. EASTWOOD: Yes.
 19 MS. SCANCARELLA: Motion
 20 passed.
 21 CHAIRMAN FEHRE: Thank you.
 22 (Thereupon, the matter was
 23 concluded. Time noted: 7:40 p.m.)
 24 * * *
 25

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1
 2 CERTIFICATE
 3
 4 I, CYNTHIA ZOLLER, R.P.R., a
 5 Notary Public and Certified Shorthand
 6 Reporter of the State of New Jersey,
 7 License No. 30X100178500, do hereby
 8 certify that the foregoing is a true and
 9 accurate record of the proceedings.
 10 I DO FURTHER CERTIFY that I am not
 11 related through blood or through
 12 marriage, to any of the parties to this
 13 action, and that I have no financial
 14 interest in this action.
 15
 16
 17
 18 *Cynthia Zoller, R.P.R.*
 19
 20 Cynthia Zoller, R.P.R.
 21 Notary Public of the State of New Jersey
 22
 23 My Commission Expires June 4, 2016
 24
 25

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March 30, 2016

VIA EMAIL

Ms. Cathy Scancarella, Planning Board
Administrative Secretary
Borough of Englewood Cliffs
482 Hudson Terrace
Englewood Cliffs, NJ 07632

Re: Estate of Josephine Mauro
361, 365 & 369 Mauro Road
Block 406, Lots 1, 2 and 3
Borough of Englewood Cliffs, Bergen County, NJ
Planning Board Application #238K
MC Project No. ECP-033

Dear Ms. Scancarella:

Our office is in receipt of copies of documents relative to the above-referenced application summarized in Exhibit 1.

Based on our review of these documents, we offer the following comments in this matter:

General

1. The Owner/Applicant in this matter is:

Estate of Josephine Mauro
Joseph Petrolino, Co-Executer
c/o 75 Ormont Road
Chatham, New Jersey 07928

The Applicant shall notify the Board of any changes to the above information.

2. The project is located at 361, 365, 369 Mauro Road, Block 406, Lot 1, 2 & 3, Englewood Cliffs, New Jersey.
3. The project is located in the Residence District (RB) and is located between Rock Road and Toni Drive.
4. The Applicant is requesting major subdivision approval for the realignment of existing lot lines to create a newly formed lot 2. The realigned lot lines will create additional variances



to lot 3. The Applicant will also seek new variances under the proposed conditions and the existing variance will remain. The newly formed lot 2 will be improved with a single family dwelling with off street parking, patio, and onsite drainage measures. The Applicant is also proposing drainage improvements on existing lot 3 to minimize excess runoff from the site entering Mauro Road.

Variances/Non-conformities/Waivers

5. The Board should request comments from the Board Attorney and Planner regarding the requirements of variances/non-conformities/waivers related to the construction and subdivision. The Applicant has listed the following variance requests on their application regarding proposed lot 3:
 - a. Minimum Front Yard Setback to Toni Drive, 25' is required and 18.64' is a pre-existing, non-conforming condition requiring a 6.36' variance from subsection 30-6.1.
 - b. Minimum Rear Yard Setback to proposed lot 2, 25' is required and 18.1' is proposed, requiring a 6.9' variance from subsection 30-6.1.
 - c. Maximum Building Height, 4,025.1 SF is proposed to remain and 3,500 SF is the maximum allowable requiring a 525.1 SF variance from Section 30-5.2.

Miscellaneous

6. This application was previously reviewed by Boswell McClave Engineering. The Applicant shall comply with the requirements in the previous response letter dated February 5, 2016. The Applicant has not complied with the following:
 - a. #7-Existing Building Height shall be provided for lots 1 & 3.
 - b. #22- Right of Way infringement for retaining wall located on lot 3.
7. The Applicant shall submit a separate subdivision plat with the required certification per the "Recordation Act" to this office for review. The plat shall contain all the required information in section 15-6.3 of the Borough ordinance.
8. The Applicant shall revise sheet 1 to include a signature line for the Secretary of the Planning Board.
9. The Applicant shall provide testimony and/or additional information regarding the boundary information referenced in note 1 on sheet 3. It appears that the Northern, Southern and Eastern boundary lines for proposed lot 2 and the Northern and Southern boundary line for proposed lot 3 have conflicting information.
10. The location of the two soil logs referenced in the Johnson Soils Company report shall be added to the Boundary & Topography Survey for review.



11. The Applicant shall provide testimony regarding the proposed width of the driveway. The Applicant shall be aware of the Borough Ordinance (30-5.1, a, 5) which limits the driveway width.
12. The Applicant shall provide testimony regarding the proposed sight distance for the proposed driveway located on lot 2.
13. The Applicant is proposing a structural retaining wall over 4 feet high on proposed lot 2. The Applicant shall comply with section 30-7.15 of the Borough Ordinance. The retaining wall shall be designed by a New Jersey Licensed Professional Engineer. Wall plans, elevations and design computations shall be submitted to the Planning Board's Engineer for review.
14. The Applicant shall provide testimony regarding the proposed drainage discharge from the walls.
15. The Applicant is proposing a seepage pit on the western portion of lot 3. The proposed seepage pit is located only 8 feet+/- from the proposed retaining wall located on lot 2. The Applicant shall provide testimony relating to the stability and/or drainage issues regarding the proximity to the retaining wall.
16. The Applicant shall clarify the discrepancy in the drainage report regarding the CN number used for the pervious runoff. The coefficient does not appear to match the one cited in the appendix of the drainage report.
17. The Applicant shall certify the proposed development will result in a reduction of stormwater run-off and volume for the R.S.I.S., 2, 10 and 100 year storms when comparing the post developed site to the existing conditions.
18. The Applicant shall clarify if all the runoff from the roof of the proposed dwelling will be directed to the proposed dry-wells on the property.
19. The Applicant shall revise the plans to include the following note, "An As Built Survey of the proposed improvements shall be completed and submitted for review before a Certificate of Occupancy will be issued".
20. The Applicant shall provide testimony regarding proposed access to the drywells for maintenance. Any proposed access lids subject to vehicular traffic shall support HS20 loading requirements.
21. The Applicant shall revise the plans to show the material to be used for the proposed driveway.
22. The Applicant shall revise the plans to show the limit of disturbance and silt fence on lot 3.



23. The Applicant shall deed restrict the properties to prevent any further subdivision of the resultant properties.
24. The Applicant shall provide the following details
 - a. Driveway Material
 - b. Mauro Road-Pavement Repair Detail
 - c. Wall Drain
 - d. Patio
 - e. Riser Information for Drywell
25. The Applicant shall address the permitting requirements including, but not limited to, the following:
 - a. United Water;
 - b. Borough of Englewood Cliffs, Sewer Department Approval;
 - c. Shade Tree Approval;
 - d. Building Department Permits; and
 - e. Any other permits required for the project.
26. Prior to the start of construction, the Applicant shall provide all bonds required by the City ordinance and/or the Municipal Land Use Law for all work performed within the City's Right-Of-Way

If you have questions or require any additional information, please do not hesitate to contact the undersigned.

Very truly yours,

MASER CONSULTING P.A.

A handwritten signature in black ink, appearing to read 'Andrew R. Hipolit', written over a horizontal line.

Andrew R. Hipolit, P.E., P.P., C.M.E.
Borough Engineer

ARH/tva

cc: Owner and Applicant via Attorney, Mark J. Sokolich, Esq. (via email)
Michael Kates, Esq., Board Attorney (via email)



Ms. Cathy Scancarella, Planning Board Administrative Secretary
MC. Project No. ECP-033
March 30, 2016
Page 5 of 6

EXHIBIT 1

**SUMMARY OF DOCUMENTS SUBMITTED
FOR THE
ESTATE OF JOSEPHINE MAURO
361, 365 & 369 MAURO ROAD
APPLICATION**

MARCH 2016



The following is a summary of the documents submitted for the review of the Estate of Josephine Mauro, 361, 365 & 369 Mauro Road Application:

- a. Letter from Boswell McClave Engineering to Ms. Cathy Scancarella, Planning Board Secretary regarding Estate of Josephine Mauro Subdivision Revised Submission, dated February 5, 2016;
- b. Plan entitled "361-365 Mauro Road, Lots 1, 2 & 3 Block 406, Situated in the Borough of Englewood Cliffs, Bergen County, NJ", prepared by Mark S. Martins, P.E., L.S., consisting of five (5) sheets, dated 10/12/15, last revised 3/17/16;
- c. Report entitled "Drainage Calculations, 361, 365, 369 Mauro Road, Lots 1, 2,3 Block 406, Borough of Englewood Cliffs", prepared by Mark S. Martins, P.E. & L.S., dated November 12, 2015, last revised March 18, 2016;
- d. Letter from Johnson Soils Company to Estate of Josephine Mauro, c/o Joseph Petrolino regarding 361-369 Mauro Road, dated February 29, 2016; and
- e. Application Checklist.

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ENGLEWOOD CLIFFS PLANNING BOARD
PLANNING BOARD MEETING

----- X

IN RE:
APPLICATION #238K - MAJOR SUBDIVISION
ESTATE OF JOSEPHINE MAURO - 361,
365, 369 MAURO ROAD - BLOCK 406,
LOTS 1, 2, 3.

----- X

March 30, 2016
7:45 p.m.

PLANNING BOARD MEETING, in the
above-captioned matter, held at the
Englewood Cliffs Planning Board, 20 Kahn
Terrace, Englewood Cliffs, New Jersey,
before Cynthia Zoller, R.P.R., a Notary
Public within and for the State of
New Jersey.

Job Number: NJ 2266063

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2	
3	BOARD ATTORNEY: Michael B. Kates, Esq.
4	CHAIRMAN: Edwin Fehre
5	VICE CHAIRMAN: Aurel Villari
6	BOARD SECRETARY: Cathy Scancarella
7	
8	Mary O'Shea
9	Kiky Kim
10	Jill Rosenberg
11	Roy Kilmartin
12	Matthew Trovato
13	Jeff Chinman
14	J.P. Lee
15	Russel Porrino
16	Lauren Eastwood, Mayor's Representative
17	Councilman Mark M. Park
18	Andrew W. Hipolit, P.E.
19	Maser Consulting
20	LAW OFFICES OF MARK J. SOKOLICH
21	Attorneys for Applicant,
22	ESTATE OF JOSEPHINE MAURO
23	1223 Anderson Avenue
24	Fort Lee, New Jersey 07024
25	BY: MARK J. SOKOLICH, ESQ.
	PHONE: 201-224-4000
	FAX: 201-224-8105

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7	EXAMINATION BY MR. TAYLOR: 109
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1	CHAIRMAN FEHRE: Now, we
2	are going to move on to Application
3	No. 238K, Major Subdivision, Estate
4	of Josephine Mauro, 361, 365 and
5	369 Mauro Road, Block 406, lots 1,
6	2, and 3.
7	MR. SOKOLICH: Mr.
8	Chairman.
9	CHAIRMAN FEHRE: Good
10	evening, Mr. Sokolich.
11	MR. SOKOLICH: On the
12	record, on behalf the Josephine
13	Mauro Estate, this is a continued
14	public hearing relating to the
15	premises known as 361, 65 and 69
16	Mauro Road here in the Borough of
17	Englewood Cliffs. As its chair
18	points out, this is an application
19	for subdivision.
20	Just a very, very
21	condensed review of the procedural
22	history of the application. When
23	first I appeared here many months
24	ago, it was to seek affirmation of
25	a prior subdivision approval by the

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1 then Englewood Cliffs Planning
2 Commission. Lots were established
3 pursuant to that approval; in fact,
4 homes were constructed pursuant to
5 that approval. Actually, there was
6 transfership of ownership during
7 the last 20 and 25 years. My
8 client passed away. The Estate of
9 Mauro then marketed the middle lot
10 and title searches on the middle lot
11 revealed the existence of a title
12 issue, not the least of which was
13 the clear and concise delineation
14 of the subdivision consistent with
15 the subdivision approval that had
16 been gotten.
17 We then ultimately
18 converted our application from a
19 request to effectively ratify and
20 affirm the action taken by your
21 predecessor board here in Englewood
22 Cliffs, to that of a subdivision
23 application anew.
24 The applicant then
25 converted from the testimony of a

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1 surveyor, to that of Mr. Martins, a
2 licensed engineer and surveyor, to
3 respond to and provide a more
4 detailed subdivision plat, storm
5 water management, respond to then
6 Mr. Boswell, now Mr. Hipolit and we
7 are here for effectively, the
8 affirmation of that middle lot and
9 subdivision approval allowing us to
10 file a subdivision plat effectively
11 not creating, but reaffirming, if
12 you will, the three lots that
13 exist, Lots 1, 2, and 3 here in
14 Block 406, I believe.
15 When we last were here, we
16 had presented the testimony of Mr.
17 Martins, who provided a brief
18 history of the property and
19 responded to various concerns that
20 were raised by board members and
21 also the engineer, I believe, at
22 the last hearing. It was both
23 Boswell and Maser. I know that
24 there were a few issues and
25 requests that were made, not the

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1 least that was a perc test, things
2 of that nature. We also agreed at
3 that time to, for example, add a
4 storm water management system into
5 Lot 3, which is a residence still
6 owned by the estate.
7 Nonetheless, we've done
8 all of that and we've reflected
9 that on revised plans before the
10 board and they were filed on a
11 timely basis for consideration by
12 you this evening. The board is
13 also aware that there is counsel.
14 The neighborhood an engaged
15 professional that's also here to
16 talk about the issues that exist,
17 in the substructure that exist in
18 front of our property.
19 For this evening's
20 purposes, as far as my direct
21 application is concerned, with the
22 chair's permission, we would just
23 ask Mr. Martins just to provide
24 brief testimony on the distinctions
25 and revisions on the plans now that

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1 which are originally proposed and
2 then we'll effectively conclude our
3 application, if that's acceptable.
4 CHAIRMAN FEHRE: Yes,
5 that's acceptable.
6 MR. SOKOLICH: Thank you.
7 So Counsel, I don't know where I
8 left off so maybe we can jump to
9 A-1A or A-10. I don't believe we
10 ever got that far.
11 MR. KATES: I can tell you
12 where you jumped off. Your last
13 exhibit is A-15.
14 MR. SOKOLICH: We had 15
15 exhibits on this application?
16 MR. KATES: You started at
17 A-10 the last time.
18 EXAMINATION BY
19 MR. SOKOLICH:
20 Q May we go to A-20 then. I'm going
21 to pre mark as A-20, three pages tonight,
22 right Mark?
23 A A total of eight -- five pages, I
24 should say, one is --
25 (Whereupon, Applicant's Exhibits

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1 A-20, A-21, and A-22 were marked for
2 Identification.)
3 Q A-20, A-21 and A-22, each of these
4 plans have an initial date, just for
5 identification purposes, of October 12,
6 2015, last revised March 17, 2016?
7 A Correct.
8 Q That's consistent on A-20, 21, and
9 22?
10 A With the exception of the -- it
11 is.
12 Q So A-20 is identified as your
13 cover sheet, correct?
14 A Yes, it is.
15 Q A-21 is identified as your
16 boundary and topographic survey and A-22 is
17 identified as your site plan, correct?
18 A Correct.
19 Q And these plans were in addition
20 to other plans that were filed in
21 anticipation of this hearing, but 20, 21 and
22 22 are truly the main picture of what's
23 being proposed by the applicant, correct?
24 A Yes.
25 Q I don't need you to recant all

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1 that we've testified to now, but if you
2 would just provide a very, very brief
3 summary as to why we are here tonight again
4 if you would.
5 A Yes. We had made some revisions
6 based on some comments from the board at the
7 last meeting and also from the engineering
8 letter from Boswell Engineering and the
9 major thrust of the comments from the board
10 were, number one, to provide some additional
11 drainage for Lot 3, which is the existing
12 house lot on the corner of Mauro Road and
13 Toni Drive so previously, where we had that
14 was again based on a prior comment from
15 Boswell Engineering, we had proposed one
16 seepage pit to capture a portion of the
17 existing roof runoff. We have now proposed
18 three seepage pits for that lot to capture
19 the entire roof runoff from that property.
20 Q So back to A-20 for a second.
21 Have these plans changed at all in any
22 material significance since our last
23 submission to the board?
24 A No.
25 Q And A-21, which is the boundary

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1 and topographic survey here, too, other
2 than the last revised date, have there been
3 any revisions to this plan?
4 A No.
5 Q So our focus then is what is
6 marked A-22?
7 A If we could mark the next sheet
8 the, utility plans.
9 Q We'll mark that as A-23.
10 (Whereupon, Exhibit A-23 was
11 marked for Identification.)
12 A Sheet 4 of 5 and that indicates
13 the location of the proposed seepage pits.
14 Q Let me bring you back, if I could
15 just for a moment. We'll stay on what we
16 pre marked as A-22. First and foremost, you
17 were present at the last hearing?
18 A Yes, I was.
19 Q And there was a request that a
20 perc test be conducted, correct?
21 A Correct.
22 Q I know that there was maybe a
23 little bit of resistance, but in fact, was
24 this applicant able to perform a perc test?
25 A Yes, we did.

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1 Q And the results of that test,
2 in fact, were filed with the board in
3 anticipation of this meeting?
4 A Yes, they were.
5 Q And if you would just briefly, was
6 that perc test satisfactory for purposes of
7 the system that you are proposing? I mean,
8 could you just summarize those results very
9 briefly for us, if you would.
10 A Yes, I will. If you don't mind,
11 I'll just -- two test pictures were taken
12 and one on Lot 3 at the west in front of the
13 property, both of those logs and percolation
14 rates are sufficient. Actually, they were
15 very good for the site. We had percolation
16 for the item in range of 415 inches so we
17 have some excellent material to work with.
18 Q I think we indicated at the last
19 meeting the perc test is more commonly
20 conducted after the subdivision aspect, but
21 in fact, it was done now so that we can
22 provide adequate assurance that the system
23 that you are proposing will perc, for lack
24 of a better term --
25 A That's correct.

1 Q -- number one. Number two, I
2 believe we also had submitted, did we not,
3 to incorporating a storm water management
4 system on existing Lot 3. Now, existing Lot
5 3 is where the larger single-family
6 residential dwelling located to the east is
7 located, correct?

8 A Yes. That's the existing
9 structure.

10 Q And this application does not seek
11 any modification of that dwelling,
12 demolition of that dwelling, subdivision of
13 that property, that lot, that property; that
14 property is remaining presently in its
15 existing condition, correct?

16 A Yes.

17 Q Could you just briefly indicate to
18 the board the system that you proposed on
19 Lot 3 and also indicate what you think that
20 system will accomplish most importantly.

21 A Well, most importantly, it was
22 designed to accomplish, at the request of
23 the board, to make to a positive impact on
24 the drainage of this area so currently right
25 now, there's really no retention, no

1 storm water management on the existing lot
2 at all. The roof drains mask go /OUPLT way
3 out to the curb line and contribute directly
4 into the storm water infrastructures on the
5 site and basically, disconnect that almost
6 direct connection, we are going to be having
7 a positive impact on the infrastructure and
8 reducing the amount of flows coming off this
9 property.

10 Q So for Lot 3 again we are not even
11 on the middle lot -- for Lot 3, were you to
12 -- once the applicant, in fact, constructs
13 this system and installs it and renders it
14 operational and provided, it functions the
15 way you designed it to function as modified
16 by other comments in Maser or elsewhere, the
17 goal is to do what, to accomplish what?

18 A To actually reduce the amount of
19 runoff coming off the property.

20 Q So as not to have any negative
21 impact or added impact, if you would, to the
22 plumbing or the for the piping, for lack of
23 a better term, in the street that we are
24 advised is problematic, correct?

25 A That is our intent, yes.

1 Q Does the same hold true for the
2 middle lot, meaning the system that you
3 designed there, subject to whatever comments
4 and revisions we make and now knowing the
5 perc results, is that system, the goal of
6 that system to likewise, not have any
7 adverse impact on the infrastructure of the
8 roadway and effectively, contain that storm
9 water all on site?

10 A Yes, it is.

11 Q Neither of those conditions exist
12 now though, correct?

13 A That's correct.

14 Q So then it would be a fair
15 statement to say that were your systems to
16 work properly, which we trust they will, it
17 would actually alleviate, to a certain
18 extent, a demand that's on the
19 infrastructure now?

20 A Yes.

21 Q You have had an opportunity, have
22 you not, to review a letter from Maser
23 Consulting dated today, March 30, that I
24 forwarded to you earlier today, correct?

25 A Yes, I did.

1 Q Mark, is there anything in Mr.
2 Hipolit's report with respect to comments
3 that he makes with regard to either the
4 system on Lot 2 or the system on Lot 3 that
5 we are unable to either comply with to its
6 fullest extent or substantially comply to
7 the point that you reasonably believe that
8 we can satisfy any concern raised in their
9 report?

10 A We do intend to comply with his
11 comments and suggestions.

12 Q Other than the perc, which we've
13 touched upon, we touched upon the storm
14 water, you touched upon -- are there any
15 other revisions on what we now marked as
16 A-23 that you would highlight for the
17 benefit of the board, correct?

18 A Those are the important once.

19 Q And I believe we also received
20 some comments from the engineer engaged by
21 the neighborhood, correct?

22 A Yes.

23 Q And we'll reserve our right to
24 respond to those as the evening progresses;
25 is that acceptable?

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1 A Yes.
2 MR. SOKOLICH: Mr.
3 Chairman, I offer Mr. Martins, but
4 we are happy to report that we were
5 able to conduct and perform and
6 receive the results of the perc
7 test, which was no easy chore,
8 because it was a relatively short
9 period, but we are happy -- we were
10 happy to do it.
11 CHAIRMAN FEHRE: Are there
12 any questions from the board
13 members? Yes?
14 MR. KATES: What's your
15 latest revision date.
16 MR. MARTINS: March 17,
17 2016.
18 CHAIRMAN FEHRE: Mr.
19 Hipolit, do you have a question?
20 MR. HIPOLIT: I just have
21 a statement and one, we did review
22 Johnson's soil tests and they were
23 very good tests so they did, I
24 agree with Mr. Sokolich, they did
25 get that done in a very quick

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1 period. I do appreciate that.
2 Just a question for you.
3 In my letter, just to make sure you
4 saw it, we asked that there's a
5 deed restriction for the larger Lot
6 No. 3 not to be subdivided; is that
7 agreeable?
8 MR. SOKOLICH: That is not,
9 respectfully, and that's why -- and
10 I wasn't trying to be cute, I was
11 particular with my -- with the
12 comments that are in the report
13 that relate to the system, we
14 certainly will agree.
15 Just if I may summarize,
16 Mr. Hipolit had made a suggestion,
17 one of his suggestions in his
18 report that the larger lot be
19 restricted by way of deed that it
20 no longer be subdivided my clients
21 who are presently the
22 representatives, the executors of
23 the estate have zero intention of
24 marketing this property to someone
25 for purposes of subdividing, but we

Page 20

1 just don't feel comfortable
2 strapping to any successor owner on
3 the ability to do what he wants
4 with that property and create
5 conforming lots. That is
6 absolutely, not the intention. We
7 have no reason to believe that that
8 will happen. The house that's
9 there now is in very good shape.
10 It is not, as we would call it, a
11 tear-down. We just wouldn't want
12 to encumber any subsequent property
13 rights, but that's not the
14 intention of the applicant.
15 MR. HIPOLIT: As far as my
16 letter, everything else is general
17 engineering comments. That was the
18 only item that -- everything else
19 they agreed, I'm okay with.
20 CHAIRMAN FEHRE: Any other
21 questions?
22 MR. PORRINO: Mr.
23 Chairman, I have a question.
24 CHAIRMAN FEHRE: Mr.
25 Porrino.

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1 MR. PORRINO: The site plan
2 Mr. Martin shows proposed dwelling
3 and retaining walls and it
4 designates building heights as
5 well, proposed building heights.
6 Can we assume that no approval is
7 being granted or variances are
8 being granted for, A, building
9 height or design waivers, let's
10 say, for the retaining walls that
11 are depicted on the plan?
12 MR. MARTINS: Yes. It's
13 not the intent -- it's just a
14 conceptual footprint to illustrate
15 to the board we have no plans going
16 to the Building Department and
17 filing a permit for this particular
18 footprint.
19 MR. PORRINO: Thank you.
20 CHAIRMAN FEHRE: Are there
21 any other questions? Is this your
22 last witness, Mr. Sokolich?
23 MR. SOKOLICH: It is, Mr.
24 Chairman, and for the record, our
25 planner is also here -- if the

Page 22

1 board were to request any other
2 further testimony.
3 CHAIRMAN FEHRE: Does
4 anybody feel they need planner
5 testimony at anytime?
6 (No response.)
7 CHAIRMAN FEHRE: Well, then
8 we'll ask for a motion to open the
9 meeting for comments from the
10 public.
11 MS. ROSENBERG: So be it.
12 CHAIRMAN FEHRE: Second?
13 MR. CHINMAN: Second.
14 CHAIRMAN FEHRE: All in
15 favor?
16 (All said, "Aye.")
17 CHAIRMAN FEHRE: Would
18 anybody like to be heard?
19 MR. TAYLOR: Good evening.
20 Steven Taylor, 1 Bridge Plaza
21 North, Suite 275, Fort Lee.
22 Chairman, Board, I
23 represent a con /STPREUPBG of
24 property owners along the Mauro
25 Road area and with your permission,

Page 23

1 you tell me how to you want me to
2 proceed, I have experts here who
3 are prepared to offer testimony in
4 regards to the proposed subdivision
5 and proposed plans and I can bring
6 them up one at a time and question
7 them at this time.
8 CHAIRMAN FEHRE: It's your
9 choice how you want to make the
10 presentation.
11 MR. TAYLOR: We'll do that.
12 So I'll call up Nick Wunner, who is
13 the engineer for the residents.
14 MR. KATES: Mr. Wunner, I
15 ask you be sworn under oath.
16 (Mr. Wunner raised his right hand.)
17 MR. KATES: Do you swear
18 the testimony you give this board
19 shall be the truth, the whole
20 truth, and nothing but the truth?
21 MR. WUNNER: I do.
22 MR. KATES: Would you
23 please identify yourself? Spell
24 your last name.
25 MR. WUNNER: Sure. It's

Page 24

1 W-U-N-N-E-R.
2 MR. KATES: And your
3 business address?
4 MR. WUNNER: It's P.O. Box
5 303 in Succasunna,
6 S-U-C-C-A-S-U-N-N-A.
7 MR. KATES: Your witness.
8 EXAMINATION BY
9 MR. TAYLOR:
10 Q Mr. Wunner, what's your present
11 work? What do you do for a living?
12 A I'm a licensed professional
13 engineer, land surveyor, and planner in the
14 State of New Jersey. I've been so licensed
15 since 1975 as a surveyor, since 1979 as an
16 engineer. I have been in private practice
17 37 years, been working in various firms
18 throughout my career, which is about 50
19 years. I have been an adjunct at NJIT
20 teaching civil engineering, surveying,
21 planning and design courses and I have been
22 a municipal engineer for a couple of towns
23 and we do primarily, subdivision site plan.
24 Q And were you retained to give an
25 opinion on the subdivision application

Page 25

1 before us today?
2 A Yes, I was.
3 Q And what did you do in regards to
4 that scope of work?
5 A Well, I was originally given the
6 first set of plans that the attorney
7 referred to that was done by the surveyor.
8 I believe the name of the company was
9 Bullseye Surveying, if I'm not mistaken,
10 which was just a one-page minor subdivision.
11 I have looked at that and then I understand
12 that the board attorney classified this as a
13 major subdivision due to the town
14 requirement that more than two lots is a
15 major subdivision and this is, obviously,
16 three lots.
17 I then received a three-lot set
18 of, Sheet 4 of 5 for a major subdivision. I
19 also received the Boswell report of February
20 6th, I believe, of this year and I reviewed
21 that and then I did recently receive the
22 revised plans and then just this afternoon,
23 the report of Mr. Hipolit.
24 Q And you had a chance to review all
25 of those documents?

1 A Yes, I did.
 2 Q Let's step back for a second.
 3 Regarding the three lot subdivision proposed
 4 today, in regards to the subdivision, have
 5 you compared it to the subdivision that
 6 currently exists?
 7 A Yes. As we stated, the original
 8 subdivision of this area was from a
 9 subdivision in 1961, which had created along
 10 Mauro Road, three lots and I guess I could
 11 use this, I'm not sure if it shows up on
 12 this sheet or not. Yes. If you look at
 13 what you call this A-21, you'll see lightly
 14 marked where the subdivision from 1961 was
 15 and I have a copy of the 1979 minor
 16 subdivision which kind of shows what they
 17 are proposing, except I notice that the lot
 18 line between Lot 2 and 3 had changed from
 19 that '78 or '79 subdivision.
 20 Q Let me just stop you there for a
 21 second. Now, you referenced a '79
 22 subdivision. Was that subdivision recorded?
 23 A No.
 24 Q So it doesn't exist in the public
 25 records?

1 A That's right.
 2 Q The only plat that exists in the
 3 public records is the '61 plat?
 4 A That's correct.
 5 Q Go ahead.
 6 MR. KATES: Mr. Taylor,
 7 could I ask the witness to use my
 8 marker and highlight those lines on
 9 the original?
 10 Q Identify what lines you are
 11 highlighting when you do so.
 12 A The line I'm highlighting is the
 13 line that was between what's now called Lots
 14 2 and 3, I believe it was 7 and 8 and Block
 15 9W or something, on the original subdivision
 16 map and as you could see, it goes through
 17 the existing house, looks like they added on
 18 the garage. If you look at the original
 19 subdivision, they only show this house so
 20 that's --
 21 MR. KATES: And on the
 22 westerly side?
 23 A On the westerly side, I don't
 24 know if that shows up any better.
 25 MR. KATES: It helps.

1 A I had with me a different
 2 color, I probably should have used that.
 3 What that line, with this angle point in the
 4 rear and then it went up to Mauro Road.
 5 Now, this house --
 6 Q Let me stop you there for a
 7 second. The three lots that you are
 8 referencing with the highlighter is in
 9 reference to the '61 plat?
 10 A Correct.
 11 Q And those are the three lots that
 12 are recorded in the public records of Bergen
 13 County?
 14 A Correct.
 15 Q Okay. Go ahead.
 16 A Now, that '79 subdivision created
 17 this line between Lots 1 and 2 and this
 18 house was built and it kind of always
 19 confused me as to how this property got sold
 20 because the deed from that '79 subdivision
 21 was never filed, nor a plat was never filed
 22 so I could only assume, because I never got
 23 their deed, that they actually took title
 24 based on the '61, but that's just an
 25 assumption on my part. I have been doing

1 surveying for 50 years.
 2 Q Now, while you are there with the
 3 orange highlighter, highlight the tax map
 4 lines you just referenced.
 5 A Well, this line isn't quite -- the
 6 tax map line, I mean, I'll highlight it, but
 7 it's not quite the line that was from '79.
 8 Q And why not?
 9 A The '79 line, the line between 1
 10 and 2 is correct, but as you go along this
 11 curve and then you come tangent to Mauro
 12 Road here, the '79 map had that distance as
 13 6.29, I believe, over six feet. It's now
 14 over 12 feet so it actually got shifted to
 15 the east ever so slightly by six feet.
 16 Q So based upon your review, are we
 17 comparing the lots from 1961 to the proposal
 18 today for the lots from 1979 that was never
 19 recorded, to the proposal today?
 20 A We are showing the lines that were
 21 from '61 to one of the lines from '79 to be
 22 exact and the other line to be slightly
 23 different.
 24 Q Let me see if I can ask the
 25 question a little better. What should we be

1 comparing, '61 to today or '79 to today?
 2 A '61.
 3 Q Thank you. Now, in regards to
 4 what is recorded in the public records of
 5 Bergen County and what is being proposed
 6 today, let's talk about lot sizes then the
 7 lot sizes proposed today. What's the size
 8 of the lot, if you know, for each lot in
 9 1961?
 10 A I could pull out the first map
 11 that was submitted, which was the minor
 12 subdivision as they called it, that was done
 13 by Bullseye Surveying.
 14 MR. TAYLOR: Board, just so
 15 you know, that map has already been
 16 entered in the first hearing in
 17 February that we had, I believe.
 18 A Based on that map which states
 19 that the original subdivision from 1961, Lot
 20 1, which at that time was known as Lot 6 and
 21 Block 9W, contained 13,693 square feet.
 22 Q And what is proposed today?
 23 A 11,321 square feet.
 24 Q From your experience as an
 25 engineer and as a licensed surveyor, has a

1 new lot been created?
 2 A By this subdivision, it would be,
 3 yes.
 4 Q Go on to the next lot.
 5 A The middle lot, Lot 2, was known
 6 as Lot 7 and Block 9W, at the '61
 7 subdivision contained 12,436 square feet.
 8 Q What does it show today?
 9 A 8,782 square feet.
 10 Q What does it show as existing?
 11 A It doesn't.
 12 Q It shows no existing lot size?
 13 A No.
 14 Q It was indicated as a new lot when
 15 it's already been a lot?
 16 A Correct.
 17 Q And the third?
 18 A The third, Lot 8, Block 9W, had
 19 12,568 square feet.
 20 Q And what does it show today?
 21 A As proposed or existing?
 22 Q As proposed.
 23 A As proposed, 18,670.
 24 Q As existing?
 25 A It shows in this chart that

1 existing is 25,005 square feet.
 2 Q Can you reconcile that?
 3 A They added what was Lot 2 to Lot 3
 4 and added them together.
 5 Q So is it correct in looking at the
 6 grid of the proposal, that what the
 7 applicant was showing is an existing Lot 1
 8 and then a combined existing Lot 2 and 3?
 9 A That's what they are indicating,
 10 proposed Lot 3, yes.
 11 Q Is it more correct to say there
 12 was an existing Lot 1, there was an existing
 13 Lot 2 and there was an existing Lot 3?
 14 A Right, from the 1961 subdivision.
 15 Q And are all three of those lots
 16 being changed in some type of fashion with
 17 the proposal before us today?
 18 A Yeah.
 19 Q So in essence, what you have is a
 20 brand-new subdivision?
 21 A Yes.
 22 Q Now, in regards to your review,
 23 did you review anything else?
 24 A I reviewed the, as I stated, the
 25 plans as originally submitted and the

1 Boswell letters, as well as the Englewood
 2 Cliffs codes.
 3 Q In regards to the engineering
 4 review from Boswell, did you have any
 5 comments regarding that review?
 6 A Yes.
 7 Q Could you briefly describe those
 8 to the board.
 9 A Briefly?
 10 Q Yes.
 11 A All right. It talks generally.
 12 Q Let me stop you right there for a
 13 second, I'm sorry. What was Boswell
 14 reviewing when he issued his memo?
 15 A He was reviewing the original
 16 three-lot subdivision, which was dated
 17 October 12th, 2015.
 18 Q And in your review, were you
 19 comparing his review to the plans that the
 20 applicant submitted?
 21 A Yes.
 22 Q And you can go through your
 23 review.
 24 A I found some issues with the
 25 Boswell report. He talks about waivers and

1 variances and my opinion, I said I have
2 been doing this a long time, even though
3 they say, for example, the only variance
4 they think, they say they don't need is
5 because of the impervious coverage, the
6 building coverage on Lot 3. I say it still
7 should be a variance just to make it legal
8 so that in case somebody in the future buys
9 it, at least it's approved as a variance
10 with the board and nobody has to come back
11 here in the future.

12 He keeps mentioning it as a minor
13 subdivision, even though it's been
14 classified as a major and his review
15 comments were a minor subdivision review
16 comments and I couldn't figure out why is he
17 reviewing that as a minor subdivision when
18 it's a major subdivision and it seems to be,
19 I really don't know what he's thinking
20 about; however, it should be noted under the
21 Municipal Land Use Law, this is a major
22 subdivision and it needs to be a plat filed
23 in the Bergen County Clerk's Office and I
24 think one of Mr. Hipolit's comments was that
25 comment that the subdivision plat needs to

1 be prepared, Mylars made, and it has to be
2 filed in the Bergen County Clerk's Office.
3 This cannot be filed by deed, that was the
4 problem they had in the beginning, but
5 Boswell kept mentioning minor subdivision
6 and I found that a little disturbing.
7 Under major subdivision, he
8 mistakenly referred to the Map Filing Law,
9 which got repealed a couple of years ago and
10 under which is a recordation map. There is
11 no map anymore, unfortunately, and those are
12 some minor things, but then we get to the
13 storm water management.

14 Q I want to get to the major issues
15 that you identify through your review.

16 A He looked at the runoff
17 coefficients and said they should be
18 changed. He mentions a coefficient of .25
19 and .20. As engineers, we are to follow
20 under the law, the Residential Site
21 Improvement Standards and then in the
22 original drainage calculations that Mr.
23 Martins, his coefficients were based off
24 RSIS, Boswell says change it. You can't.
25 You have to follow what the RSIS says. It's

1 a C soil.

2 I agree with what Mr. Martins came
3 up, looking at the charts and everything and
4 I actually put it in his drainage
5 calculations. The runoff coefficient under
6 RSIS, Boswell told him not to follow it and
7 I find that to be to wrong. I strongly
8 disagree with that.

9 Q Let's move away from Boswell's
10 review and get to your review of the current
11 revised plans, because those are really the
12 issue we want to get to.

13 Can you flip to the drainage map
14 that's been entered and this is A-23, I
15 believe, Sheet 4 of 5. Have you had an
16 opportunity to review this?

17 A Yes.

18 Q And did you provide written
19 comments based upon it, based upon your
20 review?

21 A Yes.

22 Q Let's go through those and you
23 tell us what are the major issues you
24 find there.

25 A Well, I mention the recommendation

1 that the major change, as Mr. Martins
2 stated, was the decision of these dry wells.
3 The problem I have is there is no topography
4 to determine if they can actually get the
5 roof leaders into them. He did -- they did
6 mention they did soil logs and permeability
7 and percolation tests. My comment on those
8 was, although, the soils were good, they
9 only went eight foot deep and nine foot
10 deep.

11 Q Why is that an issue?

12 A Well, did they hit ledge rock,
13 they hit water table, what did they hit to
14 stop at those two dimensions. If they hit a
15 water table there's requirements the bottom
16 of the dry well has to be some feet above a
17 water table. If they hit ledge rock we need
18 to know that, because if the water is going
19 through the dry well and hit ledge rock,
20 it's going to go along the rock and pop out
21 somewhere else.

22 Q Do you need any further
23 information to determine if the dry wells
24 that are represented on Lot 3 will work?

25 A Yes. I need to know topography in

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1 this area and I believe he stated, Mr.
2 Martins stated that they did the soil log, I
3 believe he said by the dry well they had
4 originally proposed. My opinion, they
5 really should do one in the back here,
6 because soils can change in a matter of 50
7 feet. If they hit high ledge rock or high
8 water table, I don't know which, it could
9 dampen the use of a dry well.
10 MR. KATES: When you say
11 topography?
12 MR. WUNNER: Contours.
13 MR. TAYLOR: Isn't A-21 a
14 contour map?
15 MR. KATES: Isn't 21 a
16 contour map?
17 MR. WUNNER: What sheet is
18 that?
19 MR. KATES: A-21, 2 of 5.
20 MR. WUNNER: It is a
21 contour map, but it's only limited
22 to what we call the middle lot.
23 It's not out in the periphery of
24 Lot 3 by Toni Road -- Drive and in
25 the front by Mauro Road.

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1 Q The seepage pits he was
2 describing were on Lot 3, the contours that
3 are shown on the lot, the map you are
4 looking at is on Lot 2.
5 MR. HIPOLIT: One
6 question, you are also asking for a
7 test pit in the back or in the rear
8 of Lot 3; is that what you are
9 referring to?
10 MR. TAYLOR: Yes.
11 MR. HIPOLIT: So you want
12 to want a topo on Lot 3 and a soil
13 log in the back of Lot 3?
14 MR. WUNNER: Yes.
15 A The other question I had with
16 regards to the plan, before I get to the
17 storm water management, is that the plan
18 shows, at lease the plan I had, showed
19 inlets -- there we go. It shows inlets near
20 the base of the wall.
21 Q We are actually going to get to
22 Lot 2 so before we --
23 A That has to do with drainage.
24 Q Right, but let's clear up anything
25 else on Lot 3 before we move to Lot 2. Is

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1 there anything else you need to report on
2 Lot 3?
3 A No.
4 Q Let's move on to Lot 2, the middle
5 lot and talk about the drainage proposed on
6 that lot.
7 A All right. He shows inlets at the
8 base, near the base of wall, but in the
9 drainage calculations I didn't see where --
10 what's those inlets picking up. If you look
11 at the topo maps, this could potentially be
12 picking up a lot of drainage behind it and I
13 don't know, he shows 6 inch PVC pipe going
14 to the dry wells, but is that -- I mean, it
15 could be picking up maybe other half acre --
16 MR. HIPOLIT: At least,
17 what I heard from Mr. Martins is
18 other than the one comment in my
19 letter, which is they will not,
20 they are not agreeing to not
21 subdivide Lot 3 anymore, they are
22 agreeing to comply with the rest of
23 my letter, which means they are
24 proposing not to increase any
25 additional flow off this property

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1 in the proposed condition, but they
2 also proposed that Lot 2 is just
3 conceptual so they are going to
4 have to design Lot 2 when they
5 submit for a building permit. If
6 they were approved, they would have
7 a condition that says they would
8 decrease or increase the runoff on
9 that property. They may show two
10 pits conceptually. Now, it could
11 be -- so they haven't designed it.
12 I don't want to stop your
13 testimony, but they've agreed to
14 not increase that flow at whatever
15 cost.
16 MR. WUNNER: Can I just
17 address that?
18 MR. TAYLOR: Go ahead.
19 MR. WUNNER: The question
20 is, we have a concept in front of
21 you, Andy, and I know where you are
22 coming from, once this gets
23 approved, what happens to the plat
24 plan? Are you going to review it?
25 Is there to going to be a note on

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1 the subdivision that says it has to
2 have that?

3 MR. HIPOLIT: That would
4 have to be, absolutely. We have to
5 be very careful if that is not a
6 plan the board's approving.

7 MR. TAYLOR: Just to
8 address that to the board, we
9 understand that this is conceptual
10 in nature. The exercise that we
11 are attempting to go through with
12 our presentation and our testimony
13 is in regard to will this
14 conceptual add any net drainage
15 into Mauro Road, understanding
16 there are significant problems in
17 Mauro Road and based upon
18 Subdivision Law, if this plan
19 cannot be shown that it will not
20 add any net drainage into Mauro
21 Road, then that's a problem the
22 board has to consider in their
23 approving the subdivision
24 application so in theory, we agree
25 with you, but we can only review

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1 and talk about what's in front of
2 us and whether this concept will,
3 in fact, increase the problems that
4 currently exist in Mauro Road.

5 We are trying to go
6 through with Nick's testimony, Mr.
7 Wunner's testimony, whether that
8 plan achieves that goal.

9 MR. HIPOLIT: Can I just
10 ask one question? I agree with
11 you. I mean, our goal was the same
12 thing. We know there's issues with
13 Mauro Road and we don't believe any
14 additional water should flow there
15 under the proposed conditions. I
16 think, really, the question for you
17 guys, the objectors, if they can
18 guarantee or if the board was to
19 act on it and they put a condition
20 that made that (inaudible) would
21 that be okay for you?

22 MR. TAYLOR: I think we
23 need to review anything that
24 proposes engineering on that lot
25 and whether that is a situation

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1 where we put all of our heads
2 together with you and with the
3 applicant and with our engineer,
4 whatever that entails, to come to
5 some type of agreement, that okay,
6 we can bless some type of plan.
7 However we get there, we don't
8 care. We are not here to be
9 obstructionist, just for the sake
10 of being obstructionist. We want
11 to protect the property owners
12 along the road, that's all.

13 MR. HIPOLIT: That's fair.

14 Q You were talking about the inlets.

15 A All right. On a revised plan or
16 revised layout, these inlets are not going
17 to be there. There's still going to be
18 drainage coming across this lot from up
19 above and that needs to be addressed in some
20 fashion. I have a lot of problems with the
21 concept and I know the concept is just that,
22 a concept, but at least every one I've ever
23 done, when I do a concept, at least I
24 do it with some form of reality that could
25 be built. This concept cannot be built as

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1 shown.

2 Q Why?

3 A From a grading standpoint, first
4 of all. Putting walls around the property
5 like that, the building, from an aesthetic
6 standpoint, I think it's going to be ugly.
7 Not being on a realtor, I can't say if it
8 will reduce property values surrounding the
9 area. Potentially, it could.

10 MR. SOKOLICH: Mr. Wunner,
11 I'm going to object, unless you are
12 an appraiser.

13 MR. WUNNER: Did I just
14 say that?

15 MR. SOKOLICH: You did,
16 but you kept testifying.

17 A Grading wise he doesn't meet the
18 International Residential Building Code for
19 New Jersey, which requires that from the
20 foundation, you got a slope west from the
21 foundation at a 5 percent grade for 10 feet.
22 This wall, from what I can scale, it doesn't
23 give a dimension. On the east side is
24 maybe about 4 foot from the foundation.
25 Fire protection could be a problem. The

1 wall on the other side is 6 feet. It just
2 doesn't make sense grading wise.

3 Q In general, as it relates to the
4 Proposed Lot 2, is there anything
5 exceptional regarding the property itself?

6 A Yes. In the rear of the property
7 again, because I could scale this plan, I
8 couldn't scale the first one, the slopes
9 back there are about 20 to 25 percent,
10 rather steep. The slopes in the front of
11 the property are 20 to 25 percent, mostly 25
12 percent. There is an area in the middle of
13 the lot, 10 to 15 percent so with those
14 slopes, grading is going to be very tricky
15 and going to be an issue and this grading
16 plan, I do not believe is functional and
17 workable.

18 Q Any particular reason why, other
19 than what you testified to?

20 A Pretty much, the grading, the
21 walls, it just doesn't look like it would
22 work.

23 Q Now, in regards to your other
24 comments beginning on your Page 2 under
25 "Storm Water Management," you've already

1 gone through RSIS. Talk about the C soil.

2 A Based on RSIS, and we've been
3 doing this since '75, is when the Municipal
4 Land Use Law came into effect and
5 residential site improvements finally
6 adopted them, I think it was '98 or '99,
7 soils are classified A, B, C, D. A being
8 the best soil for runoff, storm water will
9 infiltrate, very little runs off. D soil,
10 on the other end, is pretty much, clay; very
11 little will infiltrate, all of it runs off.

12 This has been classified as a
13 C soil by the Soil Service. I can't
14 remember the exact name of the soils, but
15 it's a C soil and it's been developed on a
16 chart, on the chart, I think, it's Table 7.1
17 and the RSIS book, a table of the different
18 soils A, B, C, D of different land uses when
19 we do drainage calculations, we have to look
20 at the land use; is it impervious, which
21 coverage is, everything runs off; is it
22 grass, grass has a much lower runoff,
23 because water will infiltrate it; is it
24 wooded and if it's wooded it has a lower C
25 value, which means the trees will take the

1 water up and we'll hear from our expert on
2 that. So we have to go by that so we look
3 at the C soil, we look at the land use and
4 then we do a calculation, the existing
5 condition and then the proposed condition,
6 and as Mr. Hipolit just said, you've got to
7 make sure that there's no water coming off
8 this site in the proposed condition.

9 Q Okay. So based upon the C soil,
10 did you find anything objectionable about
11 Mr. Martins' calculation of that?

12 A Well, it's -- how he calculated
13 the volume for the dry wells, that had me a
14 little concerned. Boswell stated he should
15 just use 2 or 3 inch roof runoff, but then
16 he says to look at the two-, the ten- and
17 the hundred-year storm.

18 Now, there's another site which we
19 use, which is the NOAA, the National Oceanic
20 Administration and they have, you could go
21 in and by putting in a latitude and a
22 longitude, it will actually take you to the
23 site and then will give you runoff
24 values of infiltration and it will give you
25 for each duration storm and then for each

1 year storm and you probably heard the term
2 hundred-year storm and ten-year storm,
3 two-year storm and it gives rainfall
4 intensity based on different times of
5 concentration, which should be used, not
6 just a 3 inch per hour; for example, a
7 hundred-year storm, if memory serves me
8 correct, I think it's about eight inches, I
9 think he had in the calculation for a
10 hundred-year storm and I think he had 4.4
11 inches per hour in the two-year storm and
12 that's what should be used.

13 Quite honestly, his first set of
14 calculations almost met the RSIS standards,
15 I don't know why he changed it.

16 Q In regards to the seepage pits
17 that are proposed, did you find any
18 information in Mr. Martins' calculations
19 that will show how long it will take those
20 seepage pits to empty?

21 A No. Under the best management
22 practice, the need to empty within 72 hours.

23 Q So that could be an issue
24 moving forward if this concept is
25 constructed?

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1 A Right -- and he would have to
2 utilize, and another reason for, I think
3 they misnamed it, it's actually a
4 permeability test, it's not a percolation
5 test, he could utilize that and calculate
6 how long it would take to empty the dry
7 wells based on that permeability. That was
8 done in the soils report.
9 Q Now, just to finish up here, on
10 Lot 2, what's the current nature of the lot?
11 I mean, is it developed at this point?
12 A No.
13 Q What exists there now?
14 A Right now, it's wooded with
15 understory grub grass.
16 Q So when you say wooded, what do
17 you mean by wooded?
18 A There's -- there were stands of
19 trees, I think, I can't remember the exact
20 number of trees, somewhere in the
21 neighborhood of 15, 20, maybe.
22 Q So any development that occurs on
23 the proposed Lot 2 would have to, by
24 nature, eliminate those trees?
25 A Some of them, yes.

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1 Q So does that cause any type of
2 engineering concern for you?
3 A It increases runoff. From an
4 engineering standpoint, it does increase
5 runoff and needs to be taken into account.
6 MR. TAYLOR: I have nothing
7 further and I submit the witness.
8 MR. KILMARTIN: I have a
9 question. So you've indicated
10 what's inadequate about that. Can
11 the objective be achieved and how
12 do you achieve it. The objective
13 of no additional runoff, can it be
14 achieved?
15 MR. WUNNER: It could be,
16 yes.
17 MR. KILMARTIN: Then let's
18 hear that.
19 MR. TAYLOR: Let me --
20 MR. HIPOLIT: I think it
21 will be hard for Mr. Wunner to
22 actually do that now. Somebody
23 would actually have to sit down and
24 design it.
25 MR. KILMARTIN: Can it be

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1 done?
2 MR. HIPOLIT: Yes.
3 MR. KILMARTIN: Are we
4 saying that can be a condition
5 imposed upon the theoretical
6 purchaser of this lot, regardless
7 of cost? Are you saying that this
8 could be so cost prohibitive? What
9 are you saying?
10 MR. WUNNER: No, it won't
11 be cost prohibitive. It may
12 require instead of two dry wells,
13 it may require three or four, I
14 don't know until I sit down and
15 actually do calculations. One
16 thing I think you need to be a
17 little bit leery about is again if
18 I remember, let me go back to this,
19 the size of the house, right now
20 they show a 40 x 48 foot house and
21 then it's conceptual. What's to
22 say they don't come in with a plan
23 later on that's, you know, 50 x 60?
24 MR. TROVATO: It's got to
25 stay within what's allowed in the

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1 zoning.
2 MR. WUNNER: That's the
3 point. Right now, the dry wells,
4 if I design it, would be based on
5 this footprint and this driveway,
6 but what if that house increases?
7 Now, what I've calculated --
8 MR. KILMARTIN: From your
9 perspective, it can be done.
10 Whatever house is approved to go
11 there, it should be able to be
12 engineered in a way that the
13 objective is achieved.
14 MR. WUNNER: Yes.
15 MR. TAYLOR: But as
16 proposed, in your professional
17 opinion, does this plan achieve
18 that?
19 MR. WUNNER: I don't
20 believe so.
21 MR. KATES: But that
22 answer doesn't turn on where the
23 lot lines are configured, does it?
24 Really, you are basing that on the
25 footprint they are showing there is

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1 a schematic; am I correct?
2 MR. WUNNER: Yes.
3 MR. KATES: So we are
4 really circling around the wrong
5 issue, aren't we?
6 MR. TAYLOR: I would, I
7 would disagree to a certain point,
8 in that, what we are reviewing is
9 the concept proposed by the
10 applicant. It's not our job to
11 propose something to complete this
12 application. What we are saying is
13 as a major subdivision, you have to
14 take drainage into consideration.
15 That's the job of the applicant.
16 The applicant has provided the
17 plan, that plan has been reviewed.
18 Can this plan be tweaked in some
19 type of way? Probably, but that's
20 something that the engineers would
21 have to get together in order to do
22 so the only question we are
23 answering today is does this plan
24 as presented, achieve that goal and
25 the answer from Mr. Wunner is it

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1 does not.
2 MS. ROSENBERG: Mr. Wunner,
3 hi. Did you see Mr. Hipolit's
4 comments to the application?
5 MR. WUNNER: As I was
6 leaving the office tonight, they
7 e-mailed it me.
8 MS. ROSENBERG: Is that a
9 yes or no?
10 MR. WUNNER: I did a quick
11 read of them, yes.
12 MS. ROSENBERG: Okay. And
13 can you give me your comments on --
14 your professional opinion?
15 MR. WUNNER: Give me a
16 minute just to read through them
17 again and refresh my memory.
18 The one comment that I
19 respectfully will disagree with
20 you, Andy, is Comment 6 where he
21 states that, "The Applicant shall
22 comply with the requirements of the
23 Boswell report" and I had a lot of
24 issues with the Boswell report, as
25 I had stated and I do have a

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1 problem with that comment.
2 MR. HIPOLIT: Well, let me
3 -- just so you understand, it just
4 refers to two comments in the
5 letter, which was provide the
6 existing building height and
7 there's a right-of-way encroachment
8 so Boswell is talking about those
9 two comments so can you address
10 those two issues -- provide the
11 building height and then really,
12 you have an encroachment through
13 here, either get the encroachment
14 approved or get it removed.
15 MR. WUNNER: All right. I
16 didn't read it that way. That's
17 okay.
18 MR. HIPOLIT: I'm not
19 saying --
20 MR. WUNNER: Thank you for
21 clarifying that for me.
22 MR. TAYLOR: Do you have
23 any other comments on that report?
24 MR. WUNNER: Well, I do
25 agree that and I think they said

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1 they would do that, is to put the
2 soil logs wherever they actually
3 dug them on the plan, because I
4 wasn't sure where they actually dug
5 them.
6 I agree with Comment 13,
7 Number 16 -- I'm sorry, I'm talking
8 to myself. I agree with 17, 18, I
9 agree, definitely 19, I agree with
10 number 20. It's one thing that
11 hasn't been talked about and I
12 didn't really bring it up, but
13 there should be an operation and
14 maintenance manual that goes along
15 with this subdivision so that the
16 dry wells get cleaned.
17 If you look at defense
18 management practices, they give a,
19 what maintenance should be done
20 after what design storm, after
21 every one-inch storm, you should
22 take a look at it, make sure that
23 leaves and debris don't get into it
24 and get it cleaned out, that type
25 of thing so I agree with that.

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1 It looks like the rest of
2 it is okay, ma'am.
3 MS. ROSENBERG: So you
4 agree with our Borough engineer's
5 comments to the application?
6 MR. WUNNER: Yes.
7 MS. ROSENBERG: Okay.
8 MR. KILMARTIN: Just one
9 more question regarding on Lot 3,
10 you are saying you needed some more
11 information about, really the
12 location of the, two of the three
13 seepage pits so that before you
14 would be able to have an opinion as
15 to how effective they would be?
16 MR. WUNNER: Yes. I would
17 like to see, yes. You need
18 topography so you could see how
19 they go -- how the roof leaders
20 will flow into it. I mean, I took
21 a look this, this evening and it
22 gets pretty steep around this
23 sidewalk and I believe they show
24 the dry well near that and I just
25 wanted -- that's why I need

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1 (inaudible) to see how it's going
2 to flow into it, the same in the
3 back here and again I have been
4 doing this a long time and I've
5 done soil logs 50 feet away, I can
6 get completely different results.
7 Luckily, they had an eight foot and
8 a nine foot, but back in the back
9 there, you really need to see
10 what's going on.
11 MR. KILMARTIN: And it does
12 slope down considerably--
13 MR. WUNNER: Yes.
14 MR. KILMARTIN: -- from
15 the back to the front.
16 MR. WUNNER: Yes, in the
17 back, but this topography carries
18 through the back, yes, the
19 steepness.
20 MR. KILMARTIN: Okay. So
21 you would be recommending
22 additional tests.
23 MR. WUNNER: Tests and
24 survey and topography, yes.
25 CHAIRMAN FEHRE: I have a

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1 question. Lot No. 3 presently has
2 no seepage pits at all and the
3 house was built before our Zero
4 Runoff Ordinance came into effect
5 so right now, all of the impervious
6 coverage is, water that hits that
7 impervious coverage is going onto
8 to Mauro Road, correct?
9 MR. WUNNER: Correct.
10 CHAIRMAN FEHRE: Maybe a
11 little bit onto Toni Drive, but now
12 they are putting in three seepage
13 pits where there were none before.
14 Isn't it obvious that the water
15 coming from that property is going
16 to be less than what it was before
17 they put the seepage pits? I mean,
18 it's not increasing, it's obviously
19 decreasing it and I think
20 drastically, I would think.
21 MR. WUNNER: By putting in
22 the dry wells.
23 CHAIRMAN FEHRE: By putting
24 in the three seepage pits.
25 MR. WUNNER: Yes.

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1 CHAIRMAN FEHRE: Now, does
2 that make up for any questions
3 about the two seepage pits on Lot
4 No. 2 that you might have?
5 MR. WUNNER: Well --
6 CHAIRMAN FEHRE: It seems
7 to be that the net effect of this,
8 what they are doing here by putting
9 in 5 seepage pits, it seems to me
10 obvious that the water is going,
11 runoff is going to be less onto
12 Mauro Road and it is going to be
13 less going into the storm drain
14 system in the street.
15 MR. WUNNER: By putting in
16 the dry wells, that's correct, as
17 long as the calculations all work
18 out, but, yes, I would agree.
19 CHAIRMAN FEHRE: Wouldn't
20 that help to ameliorate the problem
21 in the town's drainage system
22 that's going through pipe going
23 through Mauro Road?
24 MR. WUNNER: (Inaudible).
25 MR. TAYLOR: I think what

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1 he's asking is, is really an
2 elementary question, which is as of
3 right now, Lot 3 has no seepage
4 pits. They are proposing three and
5 then there are two on Lot 2. Just
6 by the mere fact that those are
7 being proposed, isn't that
8 decreasing any drainage that would
9 then flow into Mauro Road? Did I
10 state that correctly?
11 CHAIRMAN FEHRE: Yes. A
12 decrease -- I mean, it seems to me
13 that by putting in 5 seepage pits,
14 you are going to be much better
15 off --
16 MR. WUNNER: Yes.
17 CHAIRMAN FEHRE: -- as far
18 as the main storm drain that runs
19 down from Mauro Road.
20 MR. TAYLOR: Okay. So
21 that's the foundational question.
22 Do you agree with that?
23 MR. WUNNER: Yes. It will
24 reduce the runoff going into Mauro
25 Road.

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1 MR. TAYLOR: Can I ask a
2 follow-up question?
3 CHAIRMAN FEHRE: Sure.
4 Q Do you know or do you have enough
5 information to tell how well Lot 3 will
6 reduce any runoff without the additional
7 information you've asked for?
8 A That would be difficult. I need
9 to see the (inaudible) calculations --
10 Q Before you can bless what was
11 proposed on Lot 3 and fully agree with the
12 chairman's question, you have to see more
13 information?
14 A I need to see that information,
15 yes.
16 Q And then you are asking for
17 certain clarifications on Lot 2 as well?
18 A Yes.
19 MR. TAYLOR: Nothing
20 further for this.
21 MR. KATES: Can I ask a
22 question?
23 MR. WUNNER: Yes.
24 MR. KATES: O-1 was marked
25 for identification last time. Is

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1 that what we are looking at now,
2 dated January 29, 2016, or is that
3 something different? I have it
4 referenced as "Cover letter with
5 Mr. Wunner's report regarding
6 public drainage," but --
7 MR. TAYLOR: The January
8 29th memo, I believe, was provided
9 to you, January 28th is new so that
10 needs to be marked.
11 MR. KATES: January 29?
12 MR. TAYLOR: I'm sorry, 29
13 and today. The other memo is March
14 28th.
15 MS. SCANCARELLA: The
16 Wunner Engineering one has to be
17 marked?
18 MR. TAYLOR: Yes.
19 MR. KATES: Well, let me
20 ask, are you using that first one
21 to be marked for identification as
22 O-1?
23 MR. TAYLOR: Yes. He's --
24 actually, you reported on both of
25 those. He went through them both.

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1 MR. KATES: Okay. So
2 subject to Mr. Sokolich and the
3 March 28 memorandum, O-1 and the
4 January 29 memorandum, new '04.
5 MR. TAYLOR: Yes.
6 MR. KATES: You haven't
7 previously referred to that, right?
8 MR. TAYLOR: Right.
9 MS. SCANCARELLA: O-1 and
10 O-4?
11 MR. KATES: O-1 and O-4.
12 (Whereupon, Objectant's Exhibits O-1
13 and O-4 were marked for Identification.)
14 MR. KATES: And Mr.
15 Sokolich has seen these?
16 MR. TAYLOR: Yes. He has a
17 copy of them.
18 MR. KATES: Mr. Sokolich
19 I'm sorry --
20 CHAIRMAN FEHRE: Do you
21 want to respond to this witness?
22 MR. SOKOLICH: May I, Mr.
23 Chairman?
24 CHAIRMAN FEHRE: Go ahead.
25 MR. SOKOLICH: I just have

1 a few questions for Mr. Wunner,
 2 thank you.
 3 EXAMINATION BY
 4 MR. SOKOLICH:
 5 Q At the inception of your testimony
 6 you conceded, did you not, that three lots
 7 lawfully exist?
 8 A Yes.
 9 Q Did you conduct, by chance, in
 10 reaching that conclusion, a title search to
 11 determiner and confirm precisely what
 12 interests exist of record?
 13 A Did I do a title search, no.
 14 Q You indicated during the course of
 15 your testimony towards the end that you
 16 conceded that a system could, in fact, be
 17 designed for both Lot 2 and Lot 3 that would
 18 create a zero runoff circumstance and have
 19 no runoff onto either Mauro or Toni Drive;
 20 is that correct?
 21 A Yes.
 22 Q And you also during, just to
 23 confirm, you conceded or you indicated,
 24 confirmed during the course of your
 25 testimony that you agreed with Mr. Hipolit's

1 comments?
 2 A Yes.
 3 Q And I believe Mr. Hipolit's
 4 comments go to, do they not, achieving a
 5 zero runoff system on both Lot 2 and Lot 3,
 6 correct?
 7 A I'm trying to see which comment
 8 that might be.
 9 MR. HIPOLIT: 14, 15.
 10 MR. TAYLOR: Let's let him
 11 testify.
 12 A Mr. Hipolit does state that
 13 there's a discrepancy in the drainage report
 14 and that they have to clarify the storm
 15 water runoff for the two-, the ten- and the
 16 hundred-year storm.
 17 Q But you agreed with his comments
 18 and you agree that a zero runoff
 19 circumstance can be created on both Lot 2
 20 and 3, correct?
 21 A He said, "The Applicant shall
 22 clarify all roof runoff for the proposed
 23 dwelling be directed to proposed dry
 24 wells." I believe that's what he's stating,
 25 yes.

1 Q So -- and you've appeared
 2 before planning boards and zoning boards in
 3 the past, correct?
 4 A Yes.
 5 Q Okay. And have you -- so you are
 6 effectively, asking this board, are you not,
 7 to replace your comments and your memorandum
 8 on what to do and what not to do with this
 9 report, with that of Mr. Hipolit's; is that
 10 the request of the objector? You are asking
 11 to effectively, have your memorandum
 12 incorporated into any action of this board,
 13 for us to follow your memorandum as opposed
 14 to Mr. Hipolit's; is that the request?
 15 A Yes. In my report I make
 16 technical comments as to what needs to be
 17 done and Mr. Hipolit stated based on the
 18 town requirement, that it needs to be zero
 19 runoff so basically, I'm saying, yes, it
 20 needs to be, both need to be looked at.
 21 Q You do -- and you've indicated
 22 that you are reviewing a concept plan on Lot
 23 2, correct?
 24 A Correct.
 25 Q And a concept plan is simply a

1 proposal, a concept proposal, but isn't it
 2 in the ordinary course of action, that the
 3 precise plan, the precise system that's
 4 going to be incorporated onto any lot is
 5 presented when an applicant or a builder or
 6 a homeowner presents his application package
 7 for a building permit and that's then
 8 subjected and to the review of the board and
 9 borough engineer; isn't that customary?
 10 A Not necessarily.
 11 Q Not necessarily?
 12 A No. Because if you create Lot 2
 13 and it's a variance-free situation, why does
 14 it have to come back before the board?
 15 That's the problem.
 16 Q But let me ask you this question,
 17 Mr. Wunner: If this board were to adopt the
 18 resolution and impose as a condition that we
 19 subject ourselves or any subsequent owner of
 20 Lot 2 subject him or herself to a complete
 21 and thorough review by Maser Consulting, to
 22 confirm that each and every comment in
 23 Mr. Hipolit's memorandum is complied
 24 with to the fullest extent, wouldn't that
 25 satisfy the concerns you are raising this

1 evening?
 2 A As long as the plan comes back
 3 before the board.
 4 MR. KATES: Why the board?
 5 Q Why the board?
 6 A You just said that.
 7 Q No, no. I said Mr. Hipolit and
 8 Maser Consulting engineer review.
 9 A Let's back up. You stated that
 10 the builder will come in here because this
 11 is a pie-in-the-sky concept, would come in
 12 there --
 13 Q Well, I certainly didn't say that,
 14 Mr. Wunner.
 15 A I did -- come in here with a plan
 16 with the house that they want to put on this
 17 lot, right, that's what you are saying, they
 18 would come in with a plan once Lot 2 is
 19 created --
 20 Q A house is actually designed?
 21 A -- a house is actually designed
 22 and you are saying that just -- and I said,
 23 well, once that happens, the board is out of
 24 it and you said, no, they're not.
 25 Q No, no. Mr. Wunner, you are

1 putting words in my mouth and --
 2 A That's what I heard, sir, I'm
 3 sorry.
 4 Q Hold on. Let me ask the question
 5 again.
 6 Everything that you said, once a
 7 house is precisely designed, you've already
 8 agreed that you're in agreement with Mr.
 9 Hipolit's comments; you've already agreed
 10 that he is imposing a zero, as the law
 11 requires, a zero runoff circumstance on both
 12 Lot 2 and 3. I'm saying to you that when
 13 someone comes with a specific design, this
 14 house, the specific location, the specific
 15 size, the number of bedrooms, bathrooms to
 16 the inch with working drawings prepared by
 17 licensed architects and engineers, at that
 18 point when they submit for a building
 19 permit, do you not have any comfort in
 20 knowing that those plans are going to be
 21 thoroughly reviewed by Maser Consulting to
 22 make sure that that specific design complies
 23 with each and every comment in the Maser
 24 consulting report; not coming back before
 25 the board, going back before Maser

1 Consulting?
 2 A The comment I have about that is,
 3 and I would have to go back through the
 4 ordinances because I'm not a hundred percent
 5 sure that Maser gets those plans.
 6 Q Would you feel comfortable if we
 7 ask that that protocol be incorporated into
 8 any resolution by the board; exactly
 9 precisely, what I said?
 10 A As long as Maser is going to
 11 review any plot plan, site plan that's
 12 proposed --
 13 Q Yes, sir.
 14 A I wouldn't have a problem with
 15 Maser reviewing it, but I think we should
 16 also as objectors, have a look at it also
 17 and I think it should be put on the map,
 18 because that lot might not be sold for five
 19 years from now. You and I will all be
 20 retired.
 21 MR. SOKOLICH: Mr. Wunner,
 22 I'm not going to be retired, but
 23 thank you. No further questions.
 24 MR. KATES: We are talking
 25 zero runoff, that's not really the

1 criterion, is it? It's no increase
 2 in runoff. We are not supposed to
 3 be ending up here with no net
 4 increase. What I understand the
 5 applicant is doing by the
 6 installation of seepage pits is
 7 reducing that runoff not,
 8 certainly, not increasing it, am I
 9 right?
 10 MR. TAYLOR: I believe so.
 11 MR. WUNNER: I have to
 12 look through the code. I think
 13 it's, zero runoff is what's always
 14 used, but what you just said is
 15 correct, Counselor, that it's no
 16 net increase.
 17 MR. KATES: No net
 18 increase.
 19 MR. KILMARTIN: Those are
 20 two very different standards,
 21 aren't they, though?
 22 MR. WUNNER: But I have to
 23 read to see what -- I thought I had
 24 it here.
 25 MR. HIPOLIT: In our

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1 ordinance, it's called zero runoff,
2 which means they can't increase the
3 runoff. The proposal in front of
4 you in concept or verbal by
5 Sokolich is they are committing to
6 basically, reduce it so they are
7 meeting a higher standard than what
8 our ordinance calls for.
9 MR. KILMARTIN: Mr.
10 Hipolit, do you feel that on Lot 3
11 that the proposed seepage pits in
12 their proposed locations meets that
13 higher standard of zero runoff.
14 MR. HIPOLIT: So I look at
15 the proposed locations of Lot 3 as
16 conceptual also, because it is
17 again, they don't necessarily have
18 enough details to show the piping
19 and before they could get it in,
20 they would need to agree they are
21 going to provide three seepage pits
22 at locations that actually can be
23 installed. It could end up they
24 all end up in the front yard and
25 the piping goes around the house.

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1 I'm not sure that the one in the
2 back could actually be installed,
3 because there's a big hill back
4 there. I am relatively confident
5 they could put three on the lot
6 based on the soil tests they have.
7 You never know, you can go 25 feet
8 against the property and hit solid
9 room so if they agree to do the
10 three pits and they agree to put
11 them in the locations that they
12 work in, we would be okay with
13 that.
14 MR. KILMARTIN: So then we
15 need to hear that from the
16 applicant.
17 MR. SOKOLICH: That is
18 absolutely, the fact as to our
19 intentions and we would be more
20 than willing to allow it to be an
21 express condition of any action of
22 the board.
23 MR. KILMARTIN: Thank you.
24 CHAIRMAN FEHRE: Any other
25 questions for this witness?

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1 MR. TAYLOR: I have another
2 witness.
3 CHAIRMAN FEHRE: Okay.
4 MR. TAYLOR: Next witness,
5 Scott Cullen, ASCA.
6 MR. KATES: Mr. Cullen, can
7 you raise your right hand.
8 (Mr. Cullen complies.)
9 MR. KATES: Do you swear
10 the testimony you are about to give
11 this board shall be the truth, so
12 help you, God?
13 MR. CULLEN: Yes, I do.
14 MR. KATES: Spell your
15 last name for the record, please.
16 MR. CULLEN: C-U-L-L-E-N.
17 MR. KATES: And Scott is
18 S-C-O-T-T?
19 MR. CULLEN: Correct.
20 MR. KATES: And your
21 business address?
22 MR. CULLEN: P.O. Box
23 31152 in Greenwich, Connecticut.
24 EXAMINATION BY
25 MR. TAYLOR:

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1 Q Mr. Cullen, what kind of work
2 do you do?
3 A I'm a consulting arborist.
4 Q And would you briefly describe for
5 the board your qualifications.
6 A I am a licensed arborist in
7 Connecticut since 1976, a registered
8 consulting arborist since about 1996, and a
9 certified arborist since about 1996 and I
10 have been involved in arboriculture since
11 1971. I have a master's degree in real
12 estate development, which gives me a, some
13 insight to trees and the development
14 process. I'm published in the peer-reviewed
15 literature. I teach throughout the United
16 States and also in the United Kingdom.
17 Q And were you retained to review
18 the conditions on Lot 2 as it relates to the
19 trees?
20 A Yes, I was.
21 Q Tell us what you did in regards to
22 that.
23 A I came out to the lot and
24 inventoried the trees on the lot, measured
25 them all, compared their locations to those

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1 that were in a letter from the objectors
2 that were submitted to the board earlier
3 before my involvement and I considered three
4 concerns that the objectors had; one was the
5 nature of the trees, their type, condition
6 and general location, which I've just
7 described; the second, the effects of the
8 subdivision and development on those trees
9 and thirdly, the role of the trees in
10 intercepting and dissipating rain and
11 groundwater.
12 Q I would like to concentrate on the
13 trees' ability to intercept rain. What did
14 you find in regards to that issue?
15 A I found that there were 10 -- or
16 22 trees or large shrubs on the site, this
17 the middle lot, and that 10 ten of those
18 were large shade trees that would contribute
19 significantly to the interception of rain.
20 Q Have you done an analysis
21 regarding the interception of rain on Lot 2
22 that you can show?
23 A Sure.
24 MR. CULLEN: Mr. Martins,
25 may I take your thing down?

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1 A I did not do an analysis in
2 terms of measurements or experiments. I
3 relied on the literature and what the
4 literature says about what trees do to
5 capture and dissipate rainfall. I'm
6 concerned mostly with the precipitation that
7 falls from the sky. There could be some
8 contribution of the trees to -- absorbing
9 water that's coming from off the site on the
10 ground.
11 MR. KATES: Mr. Cullen, can
12 you mark that as Exhibit O-5?
13 MR. CULLEN: Sure.
14 MR. KATES: Do that in the
15 corner with today's date.
16 (Whereupon, Objector's Exhibit O-5
17 was marked for Identification.)
18 MR. CULLEN: And Mr.
19 Kates, this is also Figure 2 in my
20 report that you already have, which
21 O-2.
22 MR. KATES: Okay.
23 A So this is a deciduous tree. Most
24 of the big trees on the site are deciduous
25 trees. They do four things; the rain falls

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1 on the tree in the summer, the rain falls
2 on the leaves even in the winter when it's
3 bear of leaves, the rain falls on the
4 branches. Some of that rainfall that is on
5 the canopy or on the branches evaporates
6 before it even reaches the ground. The most
7 current research says it evaporates even
8 during the rainfall event, as well as
9 afterwards.
10 Once the surfaces have absorbed
11 all that they can -- or intercepted all that
12 they can and the rains -- the water flows
13 down as a phenomenon called step flow, even
14 though, it's reaching the ground, the trees
15 are slowing it down so it reduces the
16 velocity of the water that's flowing over
17 the ground. The roots of the tree in the
18 soil make the soil more porous and they
19 increase it's absorptive capacity of the
20 soil so what reaches the ground is less
21 likely to run off, because the soil can
22 absorb more and then the fourth thing is the
23 process called transforation, that when
24 there are leaves on the trees, the roots
25 absorb moisture, for the botanical processes

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1 of the tree, that moisture is carried up
2 and leaves, it's transpired in the
3 atmosphere so those are the four ways that
4 the trees are going to reduce the water that
5 actually reaches the ground and runs off.
6 Q Now, after all of that, what does
7 it mean?
8 A The literature shows that a large
9 shade tree can transpire, that's that one
10 effect, transforation, 40,000 gallons a
11 year, up to 40,000 gallons a year.
12 Q And based upon this footprint that
13 has been shown on Applicant's, it's Sheet 3
14 of 5, I don't know which A it is, A-23,
15 based upon footprint that is proposed on
16 A-23, how many of the existing trees would
17 be lost?
18 A There would be five. And I just
19 saw this earlier this he evening, but the
20 calculations that I did then were that five
21 of the ten large trees would be lost to that
22 conceptual design.
23 Q And based on the literature, how
24 much additional drainage would then be added
25 to Lot 2 based upon --

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1 A If we lost five large trees,
2 that means there would be an additional
3 200,000 gallons reaching the ground that the
4 trees were not intercepting.
5 Q And if they are not there to
6 intercept them, what happens to that
7 drainage, that water?
8 A It goes somewhere. It goes either
9 into some system, which gets designed which
10 you were discussing earlier or it goes off
11 the site. Some small amount of it would
12 evaporate from the ground.
13 Q And if the current plan does not
14 take into effect, the loss of those trees
15 and the drainage that would be added due to
16 the loss of the trees, is there a problem
17 with the system, in your opinion?
18 A I can't comment on the systems as
19 an engineer. If the loss of the trees
20 increases the amount of water that reaches
21 the ground, then the system has to be
22 designed to accommodate that additional
23 water. The question that I have for the
24 engineers is that, as I heard the testimony,
25 the systems were designed, the dry wells or

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1 pits, whatever they are, to catch the roof
2 runoff, the area of the roof. If the area
3 of the trees that is lost extends outside
4 that roof line, then you've also got to
5 catch the extra water that's falling in that
6 area.
7 Q And so at the end of the day, what
8 you are telling us is the loss of five trees
9 will increase the amount of water on-site
10 and it needs to be accounted for in any
11 plan, either conceptual or design at a later
12 date?
13 A That is correct.
14 MR. TAYLOR: I don't have
15 any further questions.
16 MS. ROSENBERG: I have a
17 question.
18 MR. CULLEN: Yes.
19 MS. ROSENBERG: So if the
20 applicant or in your design or in
21 all of your design or
22 counterproposal, would that be to
23 replant in another area, some
24 trees?
25 MR. CULLEN: That would

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1 not be part of this initial
2 calculation. Any trees that would
3 be replanted either on the site or
4 off the site would be very, very
5 small and wouldn't have a
6 significant impact on that rainfall
7 interception compared to what's
8 there. They might 50 years from
9 now.
10 MS. ROSENBERG: Isn't there
11 any kind of tree, bush, you know,
12 that could alleviate or offset what
13 could possibly happen with your
14 scenario?
15 MR. CULLEN: It is a
16 question of the size of the trees
17 so a newly planted tree is going to
18 be relatively small, probably a
19 trunk about that big, it might be
20 12 or 14 feet high. If you can
21 look at the report, I don't know if
22 you have it, at Exhibit 5, those of
23 you that have it, you can see the
24 size of these trees. Mrs.
25 Rosenberg, do you have it? I can

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1 show you mine.
2 MS. O'SHEA: I don't think
3 we have a copy.
4 MR. TAYLOR: It was
5 provided in an earlier exhibit, but
6 I have others.
7 MR. CULLEN: So these
8 trees that we are talking about
9 that are large enough to intercept
10 that amount of water are anywhere
11 from 12 inches up to the largest
12 one is 37 inches in diameter, the
13 trunk and it's probably, at least
14 80 feet tall and Mr. Wunner might
15 be able to do a calculation that
16 tells me what the volume of that
17 is, but that's a huge amount of
18 tree so the small tree would be
19 proportionately less in terms of
20 how much rainfall it can intercept.
21 MS. ROSENBERG: Right,
22 that's a new tree.
23 MR. CULLEN: Correct.
24 MS. ROSENBERG: How about,
25 I mean, really, this is not my

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1 expertise, but I do go to nurseries
2 and I do see really tall trees and
3 that are all ready and they
4 transplant them. What would that
5 effect be?
6 MR. CHINMAN: How many
7 gallons?
8 MS. ROSENBERG: I'm just
9 thinking, you know, you just
10 testified, I'm thinking of an
11 alternative, in your opinion.
12 MR. CULLEN: Well, I don't
13 know, I don't know that there is --
14 MR. TAYLOR: Let her finish
15 her question.
16 MR. CULLEN: I'm sorry.
17 MS. ROSENBERG: It's just,
18 you know, I'm just responding to
19 your concern, to all of your
20 concerns and want to know what your
21 opinion would be to a fully mature
22 tree of that sort being
23 transplanted there. What kind of
24 effect would that have? Would that
25 be similar or would it be less

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1 effect?
2 MR. CULLEN: I'm sorry,
3 ma'am, are you finished?
4 MS. ROSENBERG: Yes.
5 MR. CULLEN: Okay. If you
6 could transplant, if the applicant,
7 if an owner could transplant a tree
8 that as large as the trees are
9 there and put at there, it would
10 have a similar, if not an equal
11 effect in terms of intercepting
12 rain. The problem is, you can't
13 put it into space that's now
14 occupied by a building.
15 MS. ROSENBERG: I
16 understand that, but how about the
17 putting them at the perimeter of
18 the building?
19 MR. CULLEN: I think with
20 the trees that they would save as
21 indicated on the concept plan,
22 there's not room for additional
23 trees of that size.
24 MR. CHINMAN: Can I ask you
25 what species of the trees coming

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1 down?
2 MR. CULLEN: Mostly, oak,
3 Red and Black Oak.
4 MR. CHINMAN: Are there
5 different absorption rates of
6 different species?
7 MR. CULLEN: Most of the
8 deciduous shade trees that we have
9 here in the Northeast are pretty
10 similar; oaks, maples --
11 MR. CHINMAN: In the winter
12 when it snows and there's no leaves
13 and there's, you know, a lot of
14 snow and it just melts, doesn't
15 that kind of offset the rain, you
16 know, I mean --
17 MR. CULLEN: Yes. The
18 effect in the winter is going to be
19 different. There isn't to going to
20 be transforation, there aren't
21 going to be leaves to intercept the
22 rainfall. This winter we had more
23 rain than we had snow. Last winter
24 we had lots of snow. The 40,000
25 gallons per year per large shade

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1 tree was a calculation that was
2 done specifically, for the
3 Northeast region and I would assume
4 that that is based on there being
5 snow in the northeast.
6 MR. CHINMAN: What kind of
7 a tree is the 40,000 gallons based
8 on?
9 MR. CULLEN: The
10 literature just calls it large. My
11 guess is that would be -- not my
12 guess, my opinion is that that
13 would probably be looking at the
14 studies that are done, 20, 24 inch
15 trees and we have trees that are
16 37.
17 MS. ROSENBERG: I have
18 another follow-up question. What
19 about large bushes, what kind of
20 affect does that have on, you know,
21 what you were saying with
22 precipitation and you lose the
23 tree, what about with bushes?
24 MR. CULLEN: If we could
25 put in a large bush and it has 5

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1 percent, just to pick a number, of
2 the crown volume of this large
3 tree, it might intercept 5 percent
4 of the water.
5 MS. ROSENBERG: So in
6 concept, if the perimeters of that
7 newly built house is surrounded by
8 bushes, wouldn't that have almost
9 the same original effect?
10 MR. CULLEN: No.
11 MS. ROSENBERG: Why is
12 that?
13 MR. CULLEN: Because the
14 comparative volume of foliage and
15 stems of a bush, even if there were
16 ten of them compared to this 80
17 foot tall, 37 inch diameter tree.
18 MS. ROSENBERG: So you
19 couldn't give me like an analysis
20 of one tree equals ten bushes or
21 anything like that?
22 MR. CULLEN: No, not as we
23 stand here today.
24 MS. O'SHEA: What about
25 weeping willow trees? They absorb

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1 lot of water. Weeping willow
2 trees, they drink a lot of water.
3 MR. CULLEN: They do and
4 to do enough it, would have to be a
5 large weeping willow tree.
6 MS. O'SHEA: They grow
7 faster.
8 MR. CULLEN: They do.
9 MS. O'SHEA: I mean, I
10 know, because -- I know that.
11 MR. CULLEN: And I would
12 agree. The issue is that if when
13 you take the trees off the site to
14 build the plan, to build the house
15 and put in a driveway, you don't
16 have the room for a willow or any
17 other tree to go back there and
18 grow to that same size.
19 MS. O'SHEA: My father
20 planted weeping willow trees in a
21 50-foot rear backyard, because we
22 had a wet backyard. They grew very
23 fast and they absorbed a lot of
24 water so we didn't have a water
25 problem and then other trees grew

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1 in the meantime, and then he cut
2 the willow trees down because the
3 other trees were big enough.
4 MR. CULLEN: That sounds
5 like a good plan, but you had the
6 space to do that.
7 MS. O'SHEA: We only had 50
8 feet.
9 MR. CULLEN: I'm not sure
10 that there is, I don't have the
11 plans, I don't have the scale,
12 whether there is room on that site
13 to put that many trees.
14 CHAIRMAN FEHRE: Mr.
15 Cullen?
16 MR. CULLEN: Yes.
17 CHAIRMAN FEHRE: Are you
18 still answering the question? You
19 said that a typical tree, 40,000
20 gallons a year, isn't it really the
21 question that we have to answer is
22 what is that tree doing during this
23 hundred-year storm and a torrential
24 downpour? Because this is the
25 thing that affects the drainage

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1 system, not what it does on the
2 average, you know, 100 gallons a
3 day or whatever, is not going to
4 make any difference, but does the
5 tree do anything during a one
6 hundred-year storm that will
7 alleviate the runoff of the
8 property?
9 MR. CULLEN: Good
10 question. Most these interception
11 effects happen in the first one to
12 two inches of rainfall so in a
13 typical, event it's doing a lot.
14 In the hundred-year storm, maybe in
15 the ten-year storm it does what it
16 does in the first one to two inches
17 and then it's beyond that tree's
18 capacity to intercept anything
19 further.
20 MR. TAYLOR: Do you have
21 any questions?
22 MR. SOKOLICH: I do.
23 (Inaudible.)
24 EXAMINATION BY
25 MR. SOKOLICH:

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1 Q Mr. Cullen, how are you?
2 A I'm fine, thank you.
3 Q We'll go in reverse order. You
4 were just asked the question about a
5 hundred-year storm and I recognize that you
6 are not an engineer, but wouldn't it really,
7 truly be a fair statement to say that in a
8 hundred-year storm setting, the rate of
9 runoff is so rapid that trees of truly, any
10 size would have little or no impact on
11 retention of water?
12 A The trees would be affected in the
13 first one to two inches of rainfall, beyond
14 that, they couldn't be effective. Whether
15 that's relatively a lot or little compared
16 to what that event is, I don't have --
17 Q And that answer takes into account
18 the rate of runoff on a typical hundred-year
19 storm, how fast the water comes down?
20 A It could be as effective in the
21 one to two inches of rainfall.
22 Q I presume, and correct me if I'm
23 wrong because I'm new at this, but the
24 retention of a tree would be directly
25 impacted, for example, by the size of

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1 its root system?
2 A I'm not sure I understand your
3 question.
4 Q Well, does the root system for a
5 tree have an impact on the ability to retain
6 water?
7 A Whether or not it could be
8 retained?
9 Q Correct.
10 A If you are going to disturb too
11 much of the root system to do whatever you
12 need to do.
13 Q Got it, but root systems vary to
14 from trees to trees, do they not or are they
15 all the same size system and the same level
16 of effectiveness for all same types of
17 species of trees? Doesn't it vary from
18 tree to tree?
19 A The size of the root system will
20 vary from tree to tree, species independent,
21 depending on the amount of rainfall, the
22 nature of the soil, whether there's ledge.
23 Q And you indicated at the inception
24 of your testimony that you did not conduct
25 any measurement or drainage calculations to

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1 determine precisely what's absorbed
2 on-site and the actual impact that the
3 removal of these trees would have, correct?
4 A That's correct.
5 Q And the exhibit that you've
6 presented to the board this evening, I'm
7 just is trying to be clear here, is that a
8 picture of a tree that exists on the subject
9 property or is that an exhibit that you used
10 in the past with other applications, not
11 necessarily this one, but others?
12 A That is an image, a graphic that I
13 have used before and that comes from the
14 literature that describes these events.
15 Q And in fairness, when the question
16 was asked, I mean, inevitably, a homeowner
17 is going to install landscaping. Wouldn't
18 the impact of that landscape, the growth of
19 the landscaping have an impact on the
20 retention level; in other words, well, trees
21 might be this big now, they'll might
22 inevitably get bigger and bigger and bigger
23 like, in fact, the trees that are on the
24 site now, which would then have more of a
25 beneficial impact on retention, correct?

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1 A As a landscape matures and the
2 foliage and stem volume increases, their
3 contribution to rainfall interception would
4 also increase.
5 Q Okay. And lastly, you are looking
6 at a concept plan when you were referring to
7 A-23, you recognize that?
8 A Yes.
9 Q And you indicated that that
10 concept plan as presently proposed would
11 require the removal of five, in your
12 opinion, five of these larger trees, but if
13 the house were situated differently or
14 ultimately the building permit got submitted
15 depicting a different footprint, then
16 perhaps, it would be less or more than five
17 trees so that will have an impact on your
18 opinions that you provided this evening,
19 correct?
20 A What actually would be built would
21 change the opinion.
22 MR. SOKOLICH: Thank you,
23 Mr. Cullen.
24 MR. CULLEN: Very well.
25 MR. TAYLOR: A few

1 follow-up questions for Mr. Cullen.
 2 EXAMINATION BY
 3 MR. TAYLOR:
 4 Q In regards to your analysis and
 5 the literature and your experience, have you
 6 seen affect upon the amount of drainage
 7 produced on a site once trees have been
 8 removed if no building has been built? Have
 9 you seen that in your work?
 10 A Yes.
 11 Q And if your experience in viewing
 12 that previously, was it consistent with the
 13 literature that you presented before the
 14 board this evening?
 15 A Conceptually, very, very
 16 consistent. Whether there was the exact
 17 gallonage which was added, I have no way of
 18 knowing just by looking, but certainly, if
 19 you were to remove trees from a site,
 20 particularly on slopes, even if there is no
 21 structure, no impervious surface, you have
 22 an ability to then get erosion.
 23 Q So it's reasonable from your
 24 expertise and your experience, to assume
 25 that if the trees are removed, drainage will

1 be increased on the site. Now, whether
 2 some other type of plan is developed to
 3 handle that drainage, it's a separate issue,
 4 but just from that standpoint, removal of
 5 the trees will increase drainage?
 6 A That's a completely reasonable
 7 inference.
 8 MR. TAYLOR: Nothing else.
 9 MR. SOKOLICH: Mr.
 10 Chairman, one more, I'm sorry.
 11 This will be in follow-up to his
 12 question.
 13 EXAMINATION BY
 14 MR. SOKOLICH:
 15 Q Mr. Cullen, this property that you
 16 are referring to, this personal observation
 17 that you made that the removal of the trees
 18 and the consequential runoff of water as a
 19 result of such removal, did that property
 20 have an engineer-approved storm water
 21 system, management system on it?
 22 A I couldn't say. I was speaking
 23 generally about sites that I have observed.
 24 Probably, not.
 25 Q Probably not, okay. So it's a

1 piece of property where all the trees are
 2 removed, the lot is now barren and that
 3 water goes haywire --
 4 A I agree.
 5 Q Correct? Is that--
 6 A That's a technical term,
 7 "haywire."
 8 MR. SOKOLICH: Thank you.
 9 MR. CULLEN: You are
 10 welcome.
 11 MR. TAYLOR: Mr. Chairman,
 12 that's it for this witness.
 13 CHAIRMAN FEHRE: No further
 14 questions. Do you have another
 15 witness?
 16 MR. TAYLOR: That's the
 17 extent of our experts this evening.
 18 I do have two fact witnesses who
 19 would like to testify with regard
 20 to the problems they experience
 21 along Mauro Road, because the issue
 22 we are presenting is if drainage is
 23 increased, they will continue to
 24 experience these problems and they
 25 may get worse so I would just like

1 them to testify to just their
 2 specific issues they've dealt with
 3 at their specific homes.
 4 MR. SOKOLICH: Mr.
 5 Chairman, if I may be heard? This
 6 applicant would be willing to
 7 stipulate that there is an ongoing
 8 issue on Mauro Road. We would be
 9 willing to stipulate that this has
 10 been a longstanding issue. We
 11 don't know precisely what the
 12 reason, we understand what the
 13 neighbors are complaining of. We
 14 would stipulate they experienced
 15 very bad circumstances there,
 16 flooding, damage as a result of it.
 17 I don't know why we would need that
 18 fact testimony. This is a major
 19 subdivision application,
 20 respectfully.
 21 MR. TAYLOR: And in
 22 response, respectfully, because
 23 it's a major subdivision, drainage
 24 is at issue. They can testify to
 25 the drainage problems that exist

1 and the issue is if this plan does
 2 not handle the drainage on this
 3 site, the drainage problems will be
 4 worse.
 5 CHAIRMAN FEHRE: I think we
 6 can hear them.
 7 (Discussion was held off the record.)
 8 MR. KATES: Could I swear
 9 you in.
 10 (Mr. Karamanoukian raised his right hand.)
 11 MR. KATES: Do you swear
 12 the testimony you give this board,
 13 shall be the truth, so help you,
 14 God?
 15 MR. KARAMANOUKIAN: Yes.
 16 MR. KATES: Would you
 17 identify yourself.
 18 MR. KARAMANOUKIAN: Jack
 19 Karamanoukian,
 20 K-A-R-A-M-A-N-O-U-K-I-A-N.
 21 MR. KATES: And your
 22 address?
 23 MR. KARAMANOUKIAN: 372
 24 Mauro Road.
 25 MR. KATES: Your witness.

1 MR. TAYLOR: Thank you.
 2 EXAMINATION BY
 3 MR. TAYLOR:
 4 Q How long have you resided along
 5 Mauro Road?
 6 A 46 and a half years.
 7 Q Have you experienced any drainage
 8 issues along Mauro Road that affected your
 9 property?
 10 A Yes.
 11 Q Could you just briefly describe
 12 that to the board, please.
 13 A For two years in a row the runoff
 14 from the storms, 2007 and '08, basically
 15 flooded my first floor of the house, about
 16 four inches of water each time.
 17 Q And what happened because of those
 18 floods?
 19 A I had to install a whole sump pump
 20 and drainage system around the whole house.
 21 Q Was there any damage to the house?
 22 A Yes, the entire first floor,
 23 twice.
 24 Q And in damage, describe, describe
 25 the damage.

1 A All my carpeting, furniture,
 2 electronics, flooring, concrete, concrete
 3 from having to do the drainage system.
 4 Q Was there any percolation of the
 5 water through your foundation?
 6 A It was coming through the seams,
 7 yes.
 8 Q It was actually coming through the
 9 cement?
 10 A Yes.
 11 CHAIRMAN FEHRE: What year
 12 was that this flooding occurred?
 13 MR. KARAMANOUKIAN: The
 14 year 2007 and '08. Since we have
 15 had the pump, it basically goes off
 16 at least once a day.
 17 MR. KATES: Could you put
 18 your map on the easel so we can
 19 identify where?
 20 CHAIRMAN FEHRE: Is this
 21 drainage now? Is this an old
 22 problem?
 23 MR. KARAMANOUKIAN: No.
 24 CHAIRMAN FEHRE: Didn't
 25 they put in a larger pipe, I think,

1 in 2012 or something?
 2 MR. KARAMANOUKIAN: It
 3 still happens. I mean, I've lived
 4 there my whole life. You know, the
 5 builder who built it, I knew him.
 6 We never had any issues. These
 7 issues started -- I'm sorry -- when
 8 the houses started being built and
 9 the ones at the top of Toni Drive,
 10 it's progressively gotten worse to
 11 the point where it's always wet.
 12 MR. TAYLOR: And I will
 13 represent to the board to that,
 14 yes, a larger pipe was installed in
 15 2008, but the problems are still
 16 persisting to this day and --
 17 CHAIRMAN FEHRE: Do you
 18 remember the last time that you had
 19 severe flooding?
 20 MR. KARAMANOUKIAN: I
 21 haven't put in a system, but the
 22 system is always running.
 23 CHAIRMAN FEHRE: It's
 24 always running?
 25 MR. KARAMANOUKIAN: I hear

1 it every night.
 2 CHAIRMAN FEHRE: Where do
 3 you live?
 4 MR. KARAMANOUKIAN: Right
 5 at the bottom of Toni and Mauro.
 6 MR. KATES: What's the lot
 7 number?
 8 MR. KARAMANOUKIAN: 11.
 9 MR. TAYLOR: Lot 11, Block
 10 402.
 11 CHAIRMAN FEHRE: So in
 12 other words, all the water is
 13 running down Mauro Road down to
 14 your house?
 15 MR. KARAMANOUKIAN: All
 16 down Toni Drive. I guess, I
 17 shouldn't speak out of turn, but,
 18 you know, I remember that house
 19 being built, I remember Ms. Mauro's
 20 house being built and I respect her
 21 and respect her family.
 22 Q But regarding your issues?
 23 A But the issues still persist and
 24 they are getting worse.
 25 MR. TAYLOR: Thank you.

1 MR. KARAMANOUKIAN: I'll
 2 leave it at that.
 3 I'm sorry, am I allowed to
 4 ask a question? You had mentioned
 5 at the beginning that the house was
 6 a good house and not a knock-down
 7 so where would the, you know, A,
 8 would the seepage pits be visible
 9 to our house?
 10 MR. SOKOLICH: No.
 11 MR. KARAMANOUKIAN: Are
 12 they going to be around the current
 13 house? Because you said it's not a
 14 knock-down so I assume there's a
 15 new house being built?
 16 MR. SOKOLICH: That's
 17 correct. I'll show you, I don't
 18 want to play engineer here so don't
 19 go that far. Tell him where the
 20 seepage.
 21 MR. MARTINS: So the three
 22 seepage pits would be located one
 23 at the corner of Toni in the
 24 northwester corner of lot and one
 25 in the southeast section of the

1 property. They are underground.
 2 MR. KARAMANOUKIAN: And so
 3 the story I remember when Ms. Mauro
 4 actually hiked up here from Union
 5 City to actually buy all this land,
 6 was that she actually bulldozed all
 7 the land so are the seepage pits
 8 going to be effective if all we
 9 have is bedrock, which I know all
 10 we have is bedrock, because we are
 11 in Englewood Cliffs, is that also
 12 going to slide down and
 13 effectively, still slide into my
 14 house?
 15 MR. MARTINS: No. We do
 16 have good percolation in the front,
 17 as mentioned before, the -- in the
 18 engineer's letter. We will provide
 19 additional information and these
 20 are conceptual layouts so their
 21 actual locations may change, but we
 22 do know we can get at least three
 23 pits in that location.
 24 MR. TAYLOR: Nothing
 25 further.

1 (Mr. Byung Han raised his right hand.)
 2 MR. KATES: Do you swear
 3 the testimony you are about to give
 4 this board, shall be the truth, so
 5 help you, God?
 6 MR. HAN: Yes.
 7 MR. KATES: Would you give
 8 us name, please.
 9 MR. HAN: Byung,
 10 B-Y-U-N-G, Han, H-A-N.
 11 MR. KATES: And your
 12 address, Mr. Han?
 13 MR. HAN: 366 Mauro Road.
 14 MR. KATES: And could you
 15 I ask you to go back to the key map
 16 and identify where your property
 17 is?
 18 MR. TAYLOR: Lot 13, Block
 19 402.
 20 EXAMINATION BY
 21 MR. TAYLOR:
 22 Q Same question for you, Mr. Han,
 23 how long have you resided in your home?
 24 A Six and a half years.
 25 Q Six and a half years?

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1 A I'm sorry, six years.
2 Q Six years?
3 A Yes.
4 Q And during that time have you
5 experienced any problems on your property
6 due to the drainage situation existing in
7 Mauro Road?
8 A First, we have had main water
9 break in front of my house and I think
10 another one is in front of 361 Mauro Road,
11 is another one.
12 Q Is that your home, 361?
13 A No. Mine is 366.
14 Q Just, just keep your comments to
15 366. What have you experienced at your home
16 regarding the drainage on Mauro Road?
17 A So first there's water break.
18 Second, I have swimming pool, the size is 21
19 x 40. The swimming pool has a little bit
20 problem, especially, 2012, the storm water
21 problem.
22 Q So in 2012, what happened to the
23 pool?
24 A The pool has, I guess, a little
25 bit of seeping and the pipe, circulation

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1 pipe break.
2 Q So the circulation pipe broke?
3 A Yes.
4 Q And you attribute that to what?
5 What do you blame that on?
6 A I think it's some flooding and the
7 other one is groundwater.
8 Q The groundwater affects the pipes?
9 A Yes.
10 MR. KATES: How do you know
11 that? Were you told that by
12 someone?
13 MR. HAN: Right now, I
14 cannot use the swimming pool.
15 MR. KATES: How were you
16 told that that was the reason that
17 the pipe broke?
18 MR. HAN: I'm guessing.
19 MR. KATES: You are
20 guessing?
21 MR. HAN: Yes. It's a
22 problem right now.
23 MR. TAYLOR: Nothing
24 further. That is it. Last one,
25 Dr. Hanauske.

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1 (Dr. Hanauske raised his right hand.)
2 MR. KATES: Do you swear
3 the testimony you are about to give
4 this board, shall be the truth, so
5 help you, God?
6 DR. HANAUSKE: Yes.
7 MR. KATES: Identify
8 yourself, please.
9 DR. HANAUSKE: My name is
10 Hartmut Hanauske, H-A-N-A-U-S-K-E.
11 MR. KATES: First name?
12 DR. HANAUSKE:
13 H-A-R-T-M-U-T.
14 MR. KATES: And your
15 address, please?
16 DR. HANAUSKE: 368 Mauro
17 Road.
18 MR. KATES: Thank you.
19 Your witness.
20 EXAMINATION BY
21 MR. TAYLOR:
22 Q Taking a look at A-20, which
23 property is your home?
24 A This one.
25 MR. TAYLOR: That would be

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1 Lot 12, Block 402 and we will mark
2 this handout given to you, as O-6,
3 I believe.
4 MR. KATES: Correct, O-6.
5 (Whereupon, Objector's Exhibit O-6
6 was marked for Identification.)
7 Q Dr. Hanauske, I'm going to call
8 your attention to the handout. You are
9 responsible for compiling the handout in
10 front of the board?
11 A Yes.
12 Q Okay. I want to draw your
13 attention to specific pages. Turn to Page 4
14 and please describe what that exhibit
15 entails.
16 A On the left side you see the
17 height lines from the USNG reference for the
18 Englewood Cliffs area that entails the Mauro
19 Road corridor on the right side. On the
20 left side you see the land sat data. In red
21 you have the meters indication of height.
22 On the right side you have in brown the
23 indications of height in feet.
24 Q That area includes Mauro Road?
25 A The black circled area is the

1 current major issue that we are
2 discussing. So you see that this area is
3 below the area on top, each one of these red
4 dots is a storm drain intake. This area, as
5 you can see from other, from the other maps
6 in here is the industrial area on 440, 400,
7 and 374 Sylvan Avenue, 9 West.

8 Q And what did you find in reviewing
9 the storm water drainage system within this
10 area?

11 A These are huge parking lots and
12 commercial buildings. There are over a
13 dozen storm drain intakes and the surface
14 water is all channeled down into Mauro Road
15 like with a huge funnel. There is only one
16 outlet. The thin line around here is the
17 catchment area. There's only one outlet and
18 it is into Mauro Road.

19 Q Okay. And take a look at Exhibit
20 7.

21 MR. KATES: Page 7?

22 Q Page 7 and describe what that page
23 shows.

24 A When the water from the huge
25 commercial area on top of Mauro Road, about

1 40, 50 feet above Mauro Road, hits Mauro
2 Road, it has to make an almost rectangular
3 turn, it doesn't go straight, it has to turn
4 to the left as it comes down Toni Drive to
5 and the pipe under Toni Drive and the
6 culvert under Toni Drive, it hits exactly
7 the property of Mr. Karamanoukian and you
8 can see this flow in here is in this
9 direction and 402 is the Karamanoukian
10 property so there the water has to change
11 direction. The amount of water that comes
12 down, we are talking about zero runoff
13 tonight, but here you have a situation where
14 the entire runoff of the area that is 7
15 acres, goes into the residential storm
16 drains.

17 When you calculate how much that
18 is in a ten-year rain, you come to the sizes
19 of swimming pools 40 x 20 feet that
20 accumulate in mass. It all channels down
21 right in front of Mr. Karamanaoukian's
22 house.

23 Q All right. Turn to Page 7.

24 A Page 7.

25 Q Describe that Page 7.

1 A From Mr. Karamanoukian's
2 house --

3 MR. SOKOLICH: Which one?

4 DR. HANAUSKE: Page 7.

5 The numbers are down there.

6 MR. SOKOLICH: Thank you.

7 A From Mr. Karamanoukian's house the
8 water runs along the street and you have to
9 imagine that within minutes, Mauro Road
10 turns into literally, white water. The
11 water is so high it jumps the curb. He
12 described the subterranean water, the
13 underground water that comes through and
14 breaks the wall in his basement. In our
15 property we have a sump pump that works all
16 the time. The water flows down our
17 driveway, flows through the garage so here
18 you see a box that was standing on the
19 garage floor, you see how high the water was
20 and then washes downhill and washes out
21 basement of the house so you see here, this
22 is from the turbulence that the water has
23 when it runs across the top. It rips out
24 the stones from under a concrete cement
25 slab.

1 Q And just for full disclosure,
2 when was this, the events of these pictures?

3 A This was before the 2008 storm
4 drain upgrade and this was one of the 2007
5 floods that we had. These documents are
6 actually from the presentation that we gave
7 repeatedly to Mayor Parisi.

8 MR. KATES: Whose pictures
9 are these?

10 DR. HANAUSKE: Mine.

11 MR. KATES: You took these?

12 DR. HANAUSKE: Yes, sir.

13 Q Turn to Page 9, please and
14 describe what's on Page 9.

15 A That's a view from our house, the
16 back porch, 368 Mauro Road to 377 Castle so
17 you look downhill and this is the situation
18 that we had repeatedly, that the back of our
19 house with every rainstorm turns into a big
20 pond without fish. You'll see in the back
21 there is a wall. This wall was pushed over
22 repeatedly by water that was up to four feet
23 high. When you look to the left of this
24 image, you'll see there is white reflection.
25 The wall seems to stop there, indeed, it

1 stops there because the waters pushed
2 the wall over and still it is a lake so here
3 is the destruction of the retention wall to
4 the 377 Castle property.

5 Q Turn to Page 11. Is that wall on
6 Page 11 representative of the damage you
7 just described?

8 A Yes. That is another view. You
9 see this is a massive wall that was pushed
10 over by waters that came into Mauro Road
11 from the commercial property's zero runoff
12 policy and that's the damage that we have.
13 That happened repeatedly.

14 Q Okay. Turn now to Page 14 and
15 describe what those pictures show.

16 A We had at least eight meetings
17 with representatives of the Borough,
18 including Mayor Parisi, including the then
19 Borough engineer, Bernie Mirandi. We argued
20 based on this photo documentation, based on
21 videos that we have that we gave to the
22 mayor, that this is an endangerment of the
23 public, because the flood wave that pushed
24 over the wall hit Castle drive. You've got
25 to imagine the flood wave this high hitting

1 a car and of course, there is extensive
2 property damage and Mr. Parisi wrote a
3 letter, said that's unacceptable, we put in
4 a bigger pipe into Mauro Road so in 2008
5 there was a \$1.5 million project to put in a
6 bigger culvert.

7 We met with Mr. Mirandi. He
8 showed us some ideas. He said a 30 inch
9 pipe was enough. We recalculated and told
10 him these waters that we have by measuring
11 the flow in the road and the video, we knew
12 what the flow in the road is, the volume per
13 second. It's not accommodated with a 30
14 inch pipe. We are lay people. We sent it
15 to him with return receipt and he completely
16 ignored it.

17 Q Based upon that, what does the
18 picture in 14 show?

19 A The picture shows immediately
20 after the 30 inch culvert was put into Mauro
21 Road, you'll see on the left side the street
22 has not yet been resurfaced. There's no
23 asphalt, it's still the raw dirt. This was
24 right after the end of putting in the big
25 pipe. The curb has not been put in place,

1 but you see up here in front of what is
2 Lot 3, Ms. Mauro's house, the pipe is, the
3 storm drain intake pipe is surcharging to
4 the point that it jumps the curb. You can
5 clearly see here that it goes onto the
6 grass, but the most amazing thing and
7 shocking thing is when you look at the lower
8 picture on the right-hand side, the pressure
9 of the water that comes down Toni Drive is
10 so big that the runoff broke through the
11 ground and forms a fountain that comes out
12 of the earth. This is water that was
13 pushing itself out of the storm drain system
14 onto the surface. There is a video. It is
15 very impressive. It's a very productive
16 fountain, a big hole. Of course, it was all
17 asphalted over.

18 Q And this was after the pipe was
19 put in?

20 A This was clearly after the pipe
21 was put in. This video was sent to Mirandi,
22 it was sent to Mayor Parisi as evidence that
23 further payments with taxpayer money should
24 not occur. They continued payment.

25 Q Okay. Now, take a look at Page 16

1 and go through those four photos.

2 A That's just another example where
3 you see surcharging of a rainfall on June
4 25, 2012. You'll see Toni Drive, Mauro
5 Road. The round shape is again the bottom
6 of Lot 3 that is this corner here, just
7 below Ms. Mauro's house and you see
8 surcharging up to Forest Drive up here, the
9 most top red arrow, surcharging. Every,
10 every intake manhole cover is surcharging to
11 the point where this big fountain that comes
12 out and it's very impressive on the video,
13 because this monster is this high and this
14 fat and it lifted a manhole.

15 Q On Page 18?

16 A On Page 18, it lifted a manhole
17 cover and while I was filming, a school bus
18 comes and under the heavy rain, the driver
19 didn't see that the manhole cover was moved.
20 The school bus runs with the front wheel
21 into the manhole cover, loses steering with
22 17 children onboard and hardly avoided
23 hitting one of the light poles so then the
24 police was called and it was a big issue.

25 Q Turn to Page 20.

1 A Let me just -- so this, on 17
 2 you see the situation in front of Lot 2,
 3 what we are discussing today. You see the
 4 huge trees with the diameter of 38 inches.
 5 To give you an idea, these trees give a
 6 shadow that is as long as a city block. In
 7 front of Lot 2 you'll see during one of
 8 these rains, a garbage can drifting down
 9 Mauro Road, falling over and hitting a car.
 10 Q Page 20. What does Page 20
 11 represent?
 12 A The damage that we have in our
 13 backyard for the tree stand, because of
 14 constant flooding destroyed the root system
 15 of the trees and as a result, we lost about
 16 10-, 20-, 30-foot trees and one 60-foot tree
 17 that fell on Mr. Han's property and hang
 18 over his swimming pool and a company that we
 19 asked to remove the tree, wanted to have
 20 \$6,000 for the removal of just the big tree.
 21 Q Turning your attention now to Page
 22 24.
 23 A There was great confidence tonight
 24 in the dry wells and the seepage pits and I
 25 heard the comparison that the chairman made

1 of seepage pit on Lot 3 could compensate
 2 for a seepage pit for, for seepage pit on
 3 Lot 2. This image shows you that for
 4 whatever reasons, the simple concept of
 5 seepage pits in Mauro Road doesn't work.
 6 There are many reasons. This is the new
 7 development. This is the house on Lot 3 of
 8 405, it's 60 Sherwood Avenue. There was a
 9 little small building here. An old lady
 10 lived there and there were at least five or
 11 six trees on the property. The trees were
 12 all removed and therefore, we see and I will
 13 explain this, we see as an analogy to the
 14 plant situation on Lot 2. The trees were
 15 removed and obviously, the seepage pit was
 16 calculated just like it's been presented to
 17 you tonight. But with the tree removal, you
 18 removed the living organism that actually
 19 takes water out of the ground.
 20 Q Now, tell us what you see and what
 21 you saw in the picture?
 22 A What you see here is a seepage pit
 23 in a treeless lot that no longer works,
 24 because the water that the trees took out
 25 now stays in and reduces the capacity of the

1 seepage pit. This was the typical
 2 situation in January where you see the
 3 seepage pit is on the leftmost garage,
 4 there's the seepage pit located. It's
 5 overfilled and because it was repeated
 6 freezing and thawing, you actually saw the
 7 fingerprint of the surcharging seepage --
 8 dry well. You see how it comes down the
 9 driveway, it runs into Mauro Road.
 10 Q Page 25.
 11 MR. KARAMANOUKIAN: I'm
 12 sorry, I just want to interrupt.
 13 That house was a small house and
 14 there was land there and they
 15 blasted there. They added a floor
 16 so they blasted away at the rock
 17 and so it was trees and soil and
 18 down to bedrock and that's another
 19 reason why, you know, the same kind
 20 of situation.
 21 A Yes. This house models the
 22 situation for Lot 2 so what you see here is
 23 the overflow of the seepage pit and it flows
 24 across Mauro Road and formed a sheet of ice.
 25 Actually, repeatedly, I took an entire

1 series of pictures and on one of the
 2 occasions a police officer came by and he
 3 couldn't believe his eyes.
 4 Q Okay. Turn to Page 26.
 5 CHAIRMAN FEHRE: Can I just
 6 -- our secretary is also in charge
 7 of the Building Department and she
 8 had a comment to make.
 9 MS. SCANCARELLA: I just
 10 want to make a comment and
 11 actually, does Mr. Hipolit have a
 12 picture of this house at 60
 13 Sherwood? Yes, it's a new
 14 construction. It does not have a
 15 CO. We have not obtained a final
 16 as-built. It has not been finally
 17 approved by the Borough until they
 18 submit that so those issues, Mr.
 19 Hipolit, could be addressed?
 20 MR. HIPOLIT: Yes.
 21 DR. HANAUSKE: The police
 22 officer called the Building
 23 Department and so it's exactly as
 24 you say.
 25 MS. SCANCARELLA: They

1 don't have their CO yet so these
 2 are things that, they have to get
 3 their CO.
 4 Q Let's just describe what's in the
 5 picture.
 6 A So hear you see on the left side
 7 of the triangular driveway from that new
 8 property and you see the amount of ice and
 9 water that runs from this seepage pit into
 10 Mauro Road. Our confidence in seepage pits
 11 and Mauro Road that are put into, as Jack
 12 said, blasted and de-treed properties is
 13 very small.
 14 Q Page 27.
 15 A You see the solution of the house
 16 of this new development in Mauro Road and
 17 this block. They ran a blue tubing and a
 18 little pump and they just pumped out the
 19 seepage pit so when you look at the daytime
 20 picture on the leftmost side, you'll see
 21 actually when you look down into the seepage
 22 pit, you actually see the mirror of the
 23 surface water and they pumped all night and
 24 when I came at around 10 o'clock I had the
 25 picture in the middle so they were day and

1 night pumping the seepage pit, because
 2 they sit on the solid granite of the
 3 Palisades and they can't go deep. That was
 4 discussed this evening about the depth of
 5 the Johnson soil report. And while they
 6 were pumping, it was still running out into
 7 Mauro Road. This is the driveway and this
 8 is the rundown while they were pumping out
 9 the seepage pit.
 10 Q And following up with Page 28,
 11 what does that indicate?
 12 A That shows how at the present time
 13 the seepage pit content is handled in the
 14 Mauro Road corridor. It's just put into the
 15 storm drains and this seepage pit is totally
 16 nonfunctional. It is nice to consider that
 17 a seepage pit on Lot 3 would compensate for
 18 Lot 2, but you don't even know that seepage
 19 pit on Lot 3 is working, because we are
 20 talking solid rock and you can't go deep.
 21 MR. TAYLOR: Okay, that's
 22 it. Thank you, Doctor.
 23 DR. HANAUSKE: You are
 24 welcome.
 25 EXAMINATION BY

1 MR. SOKOLICH:
 2 Q Do you, in this packet, have any
 3 other pictures of any other, what you
 4 contend to be failed seepage pits, other
 5 than 60 Sherwood Road?
 6 A That's the only seepage pit and
 7 new development of Mauro Road that I know
 8 of.
 9 MR. SOKOLICH: Thank you.
 10 CHAIRMAN FEHRE: Let me ask
 11 you a question. We have a
 12 development here, a three-lot
 13 subdivision, it's already three
 14 lots and we are talking about
 15 putting one more, one additional
 16 house on there. I think you have
 17 to say that it's really not the
 18 fault of this applicant that all
 19 this water is running down the hill
 20 from Sylvan Avenue. I know exactly
 21 what's happening. These business
 22 properties up there on Sylvan, they
 23 are completely paved over and the
 24 water is just running off those
 25 parking lots, it's running down the

1 street and then it's going into the
 2 storm drain system and apparently,
 3 all the pictures you show, there is
 4 definitely a problem with handling
 5 that runoff, but how much of this
 6 problem is attributed to this
 7 subdivision? I would have to say
 8 almost nothing is.
 9 DR. HANAUSKE: Sir, in a
 10 way, the applicants and the
 11 residents are the victims of the
 12 botched \$1.5 million Boswell
 13 Engineering project. I do not feel
 14 antagonistic to the applicants at
 15 all. We have exchanged even ideas
 16 about resolving this. We have
 17 given them all the materials that
 18 you have in advance so there is not
 19 some surprise that comes out of
 20 left field. The issue is will this
 21 development further aggravate the
 22 situation that we face.
 23 We have completely
 24 accepted Mayor Parisi's argument
 25 that we have this big privilege of

1 being a relatively small group who
2 got the big present of \$1.5
3 million. No one else in Englewood
4 Cliffs has that privilege, but
5 still, it hasn't changed anything.
6 Jack still has the situation, Mr.
7 Han still has the situation and
8 when Mr. Han said he attributes
9 this, he thinks it's a line break
10 because of the groundwater, you all
11 laughed.

12 Please go to the last
13 page. The groundwater issue is
14 real and in front of Mr. Han, when
15 one stands here, one gets a dry
16 mouth, one gets stage fright, one
17 cannot think straight. In front of
18 Mr. Han's house, there was a water
19 main break. Look at this
20 collection of, you name it, water
21 main break, gas line break, waste
22 line breaks at the bottom downhill
23 from Mauro Road, at the bottom
24 downhill from where Scott says the
25 trees take out, each big tree takes

1 out 40,000 gallons out of the
2 ground. You cut that tree down,
3 the 40,000 gallons stay in the
4 ground, limit, limit the function
5 of the seepage pit and increase the
6 underground water flow, on top of
7 probably not well set pipes, on top
8 of -- now, Steve didn't ask me to
9 show you this picture, but go to
10 picture, Page 21 and you'll see how
11 low the groundwater level is under
12 our property. You dig half a foot
13 deep and you come to the
14 groundwater. The entire section
15 below the applicant's property has
16 repeatedly water main breaks.
17 There is two water main breaks in
18 Mauro Road, one in front of our
19 house, one in front of Mr. Han's
20 house and Fishkin's house. We
21 usually don't think about
22 subterranean water flow, but in
23 this case, it's really significant.

24 MR. TAYLOR: Thank you,
25 Doctor.

1 If I can just conclude,
2 the applicant's proposal is for a
3 major subdivision and that opens up
4 the issue of drainage. The
5 residents are not here to say it's
6 on the applicants or it's their
7 responsibility to correct whatever
8 problems there are in Mauro Road.
9 We have had discussions about this,
10 we've been forthright about it and
11 said that's not your
12 responsibility, but what is their
13 responsibility is not to increase
14 those problems.

15 When you say this is a
16 concept, the concept still has to
17 work. That's the issue, does the
18 concept work from a drainage
19 standpoint. Obviously, I believe
20 the engineers can put their heads
21 together and come up with
22 something. I think they all
23 testified to that tonight I think
24 Mr. Hipolit and Mr. Wunner and the
25 applicant's engineer all believe

1 that this can be solved, the only
2 issue is does this plan in its
3 current state do that. Can you
4 make conditions upon the plan that
5 will see that the engineering works
6 and doesn't exacerbate the existing
7 situation in Mauro Road. Maybe
8 they can do that. They probably
9 can, they are smart guys.

10 The only issue we are
11 saying is, as a board, to be
12 cognizant of that issue and to
13 protect those residents from
14 further damage without adding any
15 zero or net drainage to Mauro Road,
16 that's all we're saying.

17 MR. KATES: Are you saying
18 that because there is no cure on a
19 global basis?

20 MR. TAYLOR: No. No, we
21 don't believe there is no cure. We
22 believe there is a cure, but we
23 believe the plan as presented
24 doesn't go far enough to present
25 that cure, as Mr. Wunner said --

1 MR. KATES: That's not a
 2 cure of what's going on in the
 3 neighborhood.
 4 MR. TAYLOR: Well, when
 5 you said cure, I'm talking about
 6 the lots, I'm not talking about
 7 Mauro Road.
 8 MR. KATES: I'm talking
 9 about the bigger problem; in other
 10 words, isn't this bigger than both
 11 of us, in a sense? Doesn't this
 12 municipality having spent 1.5, have
 13 to go back to the drawing board and
 14 figure out how to cure this
 15 problem? Isn't that Mr. Hipolit's
 16 responsibility now to do?
 17 MS. SCANCARELLA: Welcome
 18 back, Andy.
 19 MR. HIPOLIT: I can do it.
 20 MR. TAYLOR: The answer to
 21 your question is yes. The
 22 follow-up is, but is there a
 23 connection between the subdivision
 24 and that problem and as it stands,
 25 until we say this drainage plan

1 contains all of the drainage
 2 on-site, there is no zero or net
 3 addition to Mauro Road, then those
 4 two problems are connected.
 5 MR. KATES: But we know
 6 what the law is as it relates to a
 7 property owner and it is that if
 8 there is a cure, they pay their
 9 proportionate part of that cure,
 10 not that they can't take down
 11 trees, because that's incrementally
 12 going to potentially increase the
 13 problem, unless engineering can
 14 solve it.
 15 MR. TAYLOR: But I don't
 16 believe we presented that as an
 17 issue.
 18 MR. KATES: But this board
 19 is constrained by the law and the
 20 law simply says, Dunkin' Donuts, a
 21 legion of cases simply says that an
 22 off-site condition is not the
 23 responsibility of the property
 24 owner, except that any additional
 25 impact development has on that

1 off-site condition has to be
 2 proportionately paid for by the
 3 developer so what you are
 4 explaining here is a massive
 5 failure in a drainage system that
 6 has, you know, extreme dimensions,
 7 it needs a cure, but that doesn't
 8 justify taking this property
 9 owner's development rights, because
 10 the problem is so immense. The
 11 more immense the problem is, the
 12 less impact it should have on this
 13 particular project.
 14 MR. TAYLOR: Maybe I've
 15 said this in an unartful way so I'm
 16 going to try to be clear. We don't
 17 believe it's the applicant's
 18 responsibility to cure anything in
 19 Mauro Road and that's not what we
 20 are saying.
 21 MR. KATES: But your
 22 proofs are don't cut any of the
 23 trees on that lot, let it be, let
 24 it be in its natural state so it
 25 can absorb some of this problem.

1 That's a taking of land without
 2 just compensation.
 3 MR. TAYLOR: I think you
 4 are misunderstanding what we're
 5 saying if that's the conclusion you
 6 have drawn. What we have said, the
 7 trees affect drainage. Removing
 8 the trees also affect drainage and
 9 if removing the trees affect
 10 drainage and this plan does not
 11 cure the drainage for these
 12 particular sites, then that affects
 13 Mauro Road and the applicant cannot
 14 do that.
 15 We are not saying don't
 16 take the trees because we think you
 17 should cure Mauro Road. We are not
 18 saying that at all. We are saying
 19 whatever plan you present, it has
 20 to take the trees and the drainage
 21 from the trees into effect and
 22 solve the drainage problems as they
 23 exist on Lots 2 and 3. That has
 24 nothing to do with Mauro Road.
 25 That has to do with Lots 2 and 3.

1 MR. KILMARTIN: Mr. Taylor,
2 do you not believe that the
3 representation that's going to be,
4 presuming something is approved
5 here, written in there about the
6 zero runoff representation, subject
7 to enforcement by all the smart
8 engineers, is that sufficient from
9 your perspective or not, the zero
10 runoff as to Lot 3 and Lot 2, which
11 the applicant has represented will
12 be the end result?

13 MR. TAYLOR: I believe
14 that having that condition is not
15 the end result. I think the end
16 result is that condition and some
17 type of concept, as Mr. Wunner and
18 Mr. Hipolit has said; for instance,
19 the contours on Lot 3, they have to
20 seep a little bit more. Now, will
21 those two things work? I think
22 those two things will probably
23 work, but they said they have to
24 see something more and that's what
25 both the Borough engineer and the

1 opposition engineer has said as
2 well, but will those things plus
3 your condition work? I think so,
4 assuming, we can get a plan that
5 they can look at and say that's
6 fine.

7 MR. KILMARTIN: Okay.

8 MR. CHINMAN: Can I just
9 ask a question of Mr. Hipolit.
10 Going back to his Page 24, the
11 picture, it does seem -- shouldn't
12 that be some sort of a drain along
13 the curve to keep the water from
14 going into the street?

15 MR. HIPOLIT: Ideally, if
16 the developer of that property
17 identified a problem during
18 construction, he would want him to
19 catch that water, yes, but I mean,
20 this shows evidence of possibly, a
21 bigger problem so we have to look
22 into this a little more.

23 MR. CHINMAN: Okay.

24 MR. HIPOLIT: Your initial
25 question's answer is yes.

1 MR. CHINMAN: Okay. So
2 within our ordinances, I mean, our
3 current ordinances, we are supposed
4 to keep that water on the property?

5 MR. HIPOLIT: Yes. This
6 one is a little more complicated.
7 Our current ordinances address
8 surface water, this appears to be
9 groundwater so this is very
10 different. You don't have any
11 ordinances that address
12 groundwater. I'm saying that when
13 somebody is developing, we do look
14 at everything including groundwater
15 so if they come with a plan to
16 develop something, making the
17 assumption that their underground
18 retention is systems not a
19 groundwater issue, but it happens
20 to be groundwater, then they have
21 to make an adjustment to that, but
22 yes.

23 CHAIRMAN FEHRE: Any other
24 questions from the board? Mr.
25 Porrino?

1 MR. PORRINO: When you are
2 finished, I have a question for the
3 applicant's attorney, Mr. Sokolich.

4 MR. TAYLOR: Can you give
5 me one second, please?

6 CHAIRMAN FEHRE: Yes. We
7 are going to open this to the
8 public. We are going to take
9 comments from the public.

10 MR. TAYLOR: Just to
11 supplement what Mr. Chinman was
12 speaking of on Page 24, I was just
13 notified that the driveway on Mauro
14 Road, referencing why there's no, I
15 guess, drainage to catch that, the
16 driveway for the previous property
17 was on -- what's the name of the
18 street -- Sherwood. It wasn't on
19 Mauro so the drainage went out to
20 Sherwood and that's why there's no
21 drainage there, nothing to catch
22 that.

23 CHAIRMAN FEHRE: Mr.
24 Porrino, did you have a question
25 for Mr. Sokolich?

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1 MR. PORRINO: For Mr.
2 Sokolich, yes. Mr. Sokolich, could
3 you summarize again any new
4 variances that are being created by
5 this application, not the existing,
6 but the new variance -- I thought
7 there was to only one, it was the
8 rear yard setback.
9 MR. SOKOLICH: That's
10 correct. Mark just confirmed this
11 for me. There is the rear yard and
12 that's -- we call that
13 definitional, because the way you
14 define and the way the rear yard is
15 created on this odd-shaped lot.
16 Let me get the zone.
17 There's a rear yard, Mark,
18 correct, here?
19 MR. MARTINS: Yes.
20 MR. SOKOLICH: You've got
21 to look at me, though, when you say
22 yes.
23 MR. MARTINS: Yes.
24 MR. SOKOLICH: Am I
25 pointing in the same direction?

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1 MR. MARTINS: Yes.
2 MR. SOKOLICH: It's late,
3 I'm sorry. There is a variance
4 that already exists, it's
5 pre-existing whether we are here on
6 this application or not and that is
7 this side yard, correct, Mark, the
8 16.55?
9 MR. MARTINS: That's
10 existing, so we have here existing
11 corner side yard nonconformity on
12 Toni Drive, we have 18.6 --
13 MR. SOKOLICH: Yo mean
14 technically, Toni Drive is the
15 front yard setback?
16 MR. MARTINS: That's the
17 front yard setback and then the
18 rear yard setback.
19 MR. KATES: The question
20 was what's new?
21 MR. MARTINS: Just the rear
22 yard setback is.
23 MR. SOKOLICH: Because of
24 that lot (inaudible).
25 MR. MARTINS: I'm sorry,

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1 one other (inaudible), which is
2 another existing nonconformity,
3 because the lot size, there's a
4 maximum square footage of the
5 building footprint of 3,500 square
6 feet, the existing building is
7 4,025.1 so that's an existing
8 nonconformity not affected by the
9 subdivision.
10 MR. SOKOLICH: Right, but
11 that's existing.
12 MR. PORRINO: My first
13 point is, no resident of Englewood
14 Cliffs should be facing what they
15 are facing. It's clearly not the
16 applicant's fault. I think I can
17 speak for the board here, we all
18 feel for the pain you've gone
19 through here. It's incredible,
20 really.
21 The point I want to make,
22 though, is that if you didn't have
23 that rear yard variance request,
24 let's call it, and you came before
25 this board and we denied this

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1 application, the concern I have and
2 Municipal Land Use Law, the
3 attorney for the applicant can turn
4 around, file an action in Superior
5 Court and probably have our
6 decision either remanded or
7 reversed very quickly so we sit
8 here tonight thinking about, okay,
9 if they cut off -- if we deny this
10 application today and said no, we
11 think that this variance needs to
12 be cured first, they could cure
13 this one variance, cut off a
14 section of the building, come back
15 a month later, I don't think we
16 would have the legal standing to
17 turn down subdivision in that case
18 so my point is, are we better as a
19 board evaluating the issues that
20 exist, especially, about the,
21 regarding ing the storm water
22 issues on Mauro Road, create
23 additional conditions for potential
24 approval and I have no idea how the
25 board is thinking about this, but I

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1 think the board has a little more
2 leverage right now with this
3 applicant, that if you were to come
4 back with a variance-free
5 application six months from now so
6 the point I'm trying to make is I
7 think the better -- the objectors
8 and the board is in a position
9 right now, in a better position to
10 ask for the things that we are
11 asking for; otherwise, the
12 additional seepage pits, for
13 example, on Lot 3, we could not
14 even make that request, it would
15 not be within our rights and you
16 know, you could respond. It was a
17 statement, but I look forward to
18 your comments on it.

19 MR. TAYLOR: Actually, I
20 agree with you to a certain extent,
21 but I think, I think that situation
22 exists that you are describing,
23 whether or not they are asking for
24 variances. The variances are not
25 the issue. The issue that gets us

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1 to the drainage situation is a
2 major subdivision. That's what the
3 Municipal Land Use Law says. Once
4 you get to a major subdivision, it
5 opens up the review and drainage is
6 then at issue so the comments
7 regarding the variances don't
8 matter. I haven't made one comment
9 about their variances, because
10 frankly, I agree with your
11 presentation regarding the
12 variances, the positive and the
13 negative issues and secondly,
14 that's really not the big issue
15 here. The big issue is the
16 drainage and we get to the
17 drainage, because of three lots.

18 MR. PORRINO: I understand
19 that, but my point, in our
20 decisions --

21 MR. TAYLOR: I understand
22 that.

23 MR. PORRINO: -- are
24 always subject to review by others.
25 MR. TAYLOR: Right, right.

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1 MR. PORRINO: So I'm just
2 sort of laying out what could
3 happen in the event this
4 application was denied, they cut
5 five feet off the building, they
6 come back before this board. Lot 3
7 is not going to be offering any
8 on-site retainage, it will stay the
9 way it is today in its worse case,
10 that's the point I'm trying to
11 make.

12 MS. ROSENBERG: You are in
13 a better situation now.

14 MR. PORRINO: So I just had
15 a couple more quick comments.
16 Again I'm not sure, maybe we should
17 just hear if you have a summation,
18 Mr. Sokolich, first.

19 MR. SOKOLICH: In
20 fairness, I would love to hear from
21 -- but I might may have to respond
22 to them, I ask if I can defer until
23 the public is concluded, if that's
24 acceptable.

25 MR. PORRINO: Yes, of

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1 course.

2 CHAIRMAN FEHRE: Any other
3 questions from the board before we
4 open to the public?
5 (No questions.)

6 MR. CHINMAN: Motion to
7 open to the public.

8 CHAIRMAN FEHRE: Second?
9 MR. KILMARTIN: Second.

10 CHAIRMAN FEHRE: All in
11 favor?
12 (All said, "Aye.")

13 CHAIRMAN FEHRE: Would
14 anybody like to be heard? Yes.
15 Please, come forward.

16 SPEAKER: (Inaudible) --
17 26 John Street, Englewood Cliffs.
18 I know Jack a long time
19 and I know he's had problems with
20 the water going down the hill. My
21 problem isn't with the three lots,
22 because I think they should have
23 it, but what's the town doing with
24 the sewer or with the water? That,
25 I think is the question here, not

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1 whether this man's allowed to make
2 three lots and build. Obviously,
3 the old planning board screwed up
4 anyway to begin with by not giving
5 him the right or didn't hook it up
6 or didn't file it or they didn't
7 file it.
8 MS. SCANCARELLA: That's
9 not the Planning Board.
10 SPEAKER: I'm sorry,
11 zoning board, whatever you want to
12 call it.
13 MS. O'SHEA: It's their
14 attorney.
15 MR. TROVATO: Maybe it was
16 you, Tony.
17 SPEAKER: A hundred
18 percent, you know, I try to get
19 three out of four.
20 But honestly, I would
21 think it's up to the town to do
22 something and not really wait, but
23 do it forthwith, because I think
24 you are having a problem on all
25 these properties that they are

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1 building, because all you are doing
2 is you are putting a drain and you
3 are going into a water drain, a
4 sewer, whatever you want to call
5 it, clear water and it goes right
6 in, it can't handle it. It really
7 can't handle it. You are taking
8 down trees, you are putting in a
9 parking lot, you're taking the
10 water, you're throwing it right in
11 and then you want to know why
12 everybody is flooding and you flood
13 in Englewood Cliffs anyway while
14 you go down two feet. That's it,
15 but I think you should have it.
16 CHAIRMAN FEHRE: Anybody
17 else? Yes. Please, come forward.
18 MR. KATES: Step forward.
19 MS. FISHKIN: My name is
20 Olga Fishkin, 364 Mauro Road, and I
21 just wondered, like to add to what
22 all my neighbors said, it's not
23 about us feeling bad about the
24 applicants. We feel for them. We
25 actually all live on Mauro Road and

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1 Mauro Road, you know, was named
2 after the person whose property we
3 discussed now and we are relatively
4 recently new to the neighborhood.
5 We moved in 2010, but we
6 experienced the problems everybody
7 experienced and I'm talking now not
8 only on my behalf, but on behalf of
9 five of my kids who wanted to come
10 and say to you, that, yes, all
11 these technical issues like it's
12 understood that it's not their
13 problem, but it's also not the
14 neighborhood problem, that the
15 neighborhood is changing and not in
16 the best way, that water will make
17 people running out of the
18 neighborhood, because like even if
19 you add that engineering and those
20 seeping pits, we already show they
21 are not working and they are not
22 working not because their
23 engineering bad, but because we are
24 trying to do the impossible. We
25 are trying to create a seepage pit

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1 on a rock, on a solid rock. We all
2 living in Englewood Cliffs so we
3 have to kind of understand what we
4 are trying to accomplish, you know.
5 The neighborhood, like I'm trying
6 to, when I moved I tried to have a
7 garden and as my neighbors said,
8 it's easier to create a pond than a
9 garden on Mauro Road and my
10 neighbor actually to the other
11 side, it's exactly what she did;
12 instead of the garden, now she has
13 a pond and some fishes so you know,
14 what are we looking at, those
15 beautiful -- yes, it's like what
16 those beautiful trees they all have
17 to go down and even the ones that
18 are going to leave, they are going
19 to die, because when I moved to our
20 property, and it's a huge house and
21 we bought it when it was already
22 built so possibly, like our
23 neighbors hated us for like created
24 the big house, but we just got it
25 and the people who will move to the

1 new property will also have nothing
 2 to do with those trees, but they
 3 are changing the neighborhood, they
 4 are changing, like they are killing
 5 the nature, because all of the
 6 trees which are left on my
 7 property, they died two years later
 8 from the construction so we have to
 9 think about bigger picture. I
 10 don't know if we can add anything
 11 to that, but if we can do something
 12 about that, we would like, you
 13 know, to find a decision which
 14 would make more people happier.
 15 Maybe we should discuss could we
 16 create a park in this area, could
 17 we all chip in, you know, I don't
 18 know, but like you know, like
 19 honestly, like people, if people
 20 come together they make a decisions
 21 and they create very unusual way to
 22 handle the situation and it's what
 23 my kids asked me to ask you. We
 24 are talking about drainage, we are
 25 talking about everything. My kids

1 ask you to keep the trees and they
 2 have just message I wanted to give
 3 you.
 4 CHAIRMAN FEHRE: Thank you.
 5 Anybody else?
 6 (No response.)
 7 CHAIRMAN FEHRE: If not,
 8 may I have a motion to close the
 9 public portion?
 10 MR. KILMARTIN: Motion to
 11 close.
 12 MS. ROSENBERG: Second.
 13 CHAIRMAN FEHRE: All in
 14 favor?
 15 (All said "Aye.")
 16 CHAIRMAN FEHRE: Mr.
 17 Taylor, did you want to say
 18 anything or anything more, you want
 19 a summation?
 20 MR. TAYLOR: No. Just to
 21 conclude, I think the overwhelming
 22 thing tonight is can the engineers
 23 put their heads together to assure
 24 whatever conditions the board comes
 25 up with, that the drainage

1 situation will not increase what's
 2 going on in Mauro Road and I think
 3 that's the best case scenario for
 4 everyone involved.
 5 CHAIRMAN FEHRE: Okay,
 6 thank you.
 7 Okay. It's my personal
 8 feeling that -- you want to make a
 9 summation?
 10 MR. SOKOLICH: Mr.
 11 Chairman, I wasn't going to
 12 interrupt you, but very, very
 13 briefly, this is a story about an
 14 applicant that's not turned a tin
 15 ear and counsel is absolutely
 16 right, we have had nothing, but a
 17 very productive relationship
 18 throughout this entire process,
 19 because we too inherit the problem
 20 that's on Mauro Road.
 21 Very quickly, were this
 22 application approved, this concept,
 23 and then, of course, the final plan
 24 that would be subject to Mr.
 25 Hipolit's approval, it would create

1 a much better condition than that
 2 which exists now where there is no
 3 storm water management on Lot 3,
 4 there is no storm water management
 5 on the middle lot; albeit, less
 6 trees, but what's proposed by Mr.
 7 Martins is a system that we have
 8 full confidence will work. Remain
 9 mindful that anybody that
 10 constructs a residence on this
 11 middle lot is going to have to go
 12 through the doors of Maser
 13 Consulting. We've already
 14 stipulated the fact that we'll
 15 comply with each and every of the
 16 engineering concepts that Mr.
 17 Hipolit has incorporated in his
 18 memorandum, that plus the
 19 representations that we made to the
 20 board, plus the conditions Mr.
 21 Kates will put in that resolution
 22 is more than enough, respectfully,
 23 submitted safeguard to ensure that
 24 the zero runoff circumstance would
 25 occur on the lots that are the

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1 subject of this application.
2 Again, we sympathize, in
3 fact, we empathize with the
4 condition that's on Mauro Road. We
5 too need to live with that, but we
6 respectfully submit that the
7 safeguards that have been put into
8 the place, the conditions that have
9 been agreed to by the applicant,
10 the truly zero adverse impact that
11 the variance has on the
12 neighborhood, we would respectively
13 ask the board to act favorably on
14 the application with those
15 safeguards and thank you and thank
16 you, Counsel.
17 MS. ROSENBERG: And that's
18 without the deed restriction,
19 correct?
20 MR. SOKOLICH: That's
21 correct.
22 CHAIRMAN FEHRE: As I was
23 saying, it's my personal feeling
24 that I believe a system can be
25 designed that will minimize the

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1 runoff that is even presently
2 taking place. I mean, if I look at
3 New York City, it's completely
4 paved over and they somehow solved
5 their drainage problem. We can do
6 that here. I think the town has
7 the responsibility to take care of
8 the water that's running down the
9 street and the applicant has the
10 responsibility to have zero runoff
11 and he has said that he can
12 actually reduce the runoff and I
13 believe that Mr. Kates can write a
14 resolution that will give
15 assurances to everybody that this
16 is going to happen.
17 Mr. Kates, do you have any
18 points that you can summarize here?
19 MR. KATES: I've got it
20 covered, but I would defer to Mr.
21 Hipolit. I just need his guidance
22 on the specifics on the engineering
23 conditions, but I've taken my
24 notes, I know what they are, I can
25 list them now, but I don't want to

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1 be limited to those.
2 There was an original
3 stipulation that, to require any
4 residential developer to achieve no
5 less than a specific design which
6 is approved by engineering and so
7 that's been carried forward again.
8 They will cut off drainage
9 to the street and handle low roof
10 drainage on-site, that's what I
11 noted previously.
12 The feasibility perc tests
13 have proven themselves out, but
14 it's still subject to perc'g
15 properly.
16 And then as far as tonight
17 was concerned, we covered a lot of
18 ground on those. We just covered
19 them. Engineering review of any
20 home on Lot 2, thorough engineering
21 review, notwithstanding the fact
22 that it's built into the code now,
23 and they would have to meet those
24 requirements. There would be the
25 three test pits on Lot 3 and

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1 whatever else has been testified to
2 and I would rely on Mr. Hipolit for
3 that.
4 And to the extent there is
5 a municipal solution, this
6 applicant will pay its
7 proportionate part of that
8 responsibility and that's what I've
9 got so far.
10 MR. SOKOLICH: The
11 property owners of the lots will
12 pay their proportionate shares.
13 MR. KATES: The property
14 owners of the lots will pay.
15 MR. KARAMANOUKIAN: I'm
16 sorry, can I ask one more question?
17 There's two lots. That means
18 there's going to be a total of two
19 houses, right? They are not going
20 to -- I mean, is it possible to
21 build a third house, in theory?
22 MR. KATES: Yes, it's
23 possible, but they would have to
24 come back for a subdivision to
25 create that house and that house

1 would have to conform to zoning.
 2 MR. KARAMANOUKIAN: As to
 3 zoning, meaning just the size of
 4 the property and size the house?
 5 MR. KATES: Size wise.
 6 MR. KARAMANOUKIAN: But
 7 living across the street, I would
 8 have no say if what is one house
 9 now became two houses, I'm
 10 forgetting the middle lot.
 11 MR. KATES: You would have
 12 no say, unless there were variances
 13 and you would be noticed and you
 14 could appear.
 15 MR. KARAMANOUKIAN: Thank
 16 you.
 17 MR. PORRINO: I have a
 18 couple more, just points to make to
 19 add to Mr. Kates, just more about
 20 chronology, I guess. When do we
 21 want to have the seepage pits in
 22 Lot 3 installed? Mr. Kates, what
 23 do you suggest?
 24 MR. KATES: Well,
 25 certainly, before, well --

1 CHAIRMAN FEHRE: I would
 2 say before issuing the CO.
 3 MS. EASTWOOD: Before a
 4 CCO gets issued because --
 5 MR. KATES: Absolutely.
 6 (Inaudible) I'm just thinking, I
 7 would say even earlier, but --
 8 MS. O'SHEA: On the
 9 existing house, they should be done
 10 now.
 11 MR. CHINMAN: Six months,
 12 nine months.
 13 MS. O'SHEA: Now.
 14 (Inaudible).
 15 MS. EASTWOOD: Well, before
 16 if they transfer the property,
 17 though. It needs to be done before
 18 the property is transferred.
 19 MR. PORRINO: For instance,
 20 if they decide not to sell, the lot
 21 remains vacant five years from now,
 22 I think the board's consensus is
 23 that we want to have the seepage
 24 pits on Lot 3 put in even sooner
 25 and regardless of what happens if

1 Lot 2 is sold and developed or not.
 2 MS. O'SHEA: Right.
 3 MR. PORRINO: Is that fair,
 4 Mr. Sokolich?
 5 MR. SOKOLICH: How much
 6 time, Mr. Porrino?
 7 MR. PORRINO: Well, we can
 8 say, what's a reasonable period of
 9 time, three months? Six months?
 10 MR. SOKOLICH: Three
 11 months is ambitious.
 12 MS. O'SHEA: The seepage
 13 pits which are on the existing
 14 house.
 15 MR. SOKOLICH: Nine months
 16 preferred, please.
 17 MS. O'SHEA: You are going
 18 to do it in the winter?
 19 MR. SOKOLICH: Ms. O'Shea,
 20 that's been there for a while. We
 21 have to find contractors.
 22 Actually, this is a very large
 23 undertaking what we are doing on
 24 that property. We'll try and get
 25 it done sooner.

1 MR. CHINMAN: You'll get it
 2 approved by Mr. Hipolit?
 3 MR. HIPOLIT: I think it
 4 should be, if they want to
 5 stipulate nine months, that's fine,
 6 but if they decide to come for a
 7 building permit sooner, they have
 8 to go in before the building permit
 9 is issued.
 10 CHAIRMAN FEHRE: Then I
 11 would ask for a motion to approve
 12 this application, subject to the
 13 comments that Mr. Kates made and
 14 subject to all the points that he's
 15 going to put into this resolution.
 16 MR. CHINMAN: So moved.
 17 CHAIRMAN FEHRE: May I have
 18 a motion to -- second?
 19 MR. TROVATO: I'll second.
 20 CHAIRMAN FEHRE: Roll call.
 21 MS. SCANCARELLA: Mr.
 22 Villari?
 23 MR. VILLARI: Yes.
 24 MS. SCANCARELLA: Mr.
 25 Trovato?

1 MR. TROVATO: Yes.
 2 MS. SCANCARELLA: Mr.
 3 Kilmartin?
 4 MR. KILMARTIN: Yes.
 5 MS. SCANCARELLA: Ms.
 6 Rosenberg?
 7 MS. ROSENBERG: Yes.
 8 MS. SCANCARELLA: Mr.
 9 Chinman?
 10 MR. CHINMAN: Yes.
 11 MS. SCANCARELLA: Am I
 12 doing the whole board?
 13 MR. KATES: Nine, yes.
 14 MS. SCANCARELLA: Mr. Kim?
 15 MR. KIKY KIM: Yes.
 16 MS. SCANCARELLA: Mr.
 17 Porrino?
 18 MR. PORRINO: Yes. I'm
 19 not sure if we should be voting.
 20 MR. KATES: Let me see
 21 where we are.
 22 MS. SCANCARELLA: Mrs.
 23 O'Shea?
 24 MRS. O'SHEA: Yes.
 25 MS. SCANCARELLA:

1 Councilman Park?
 2 COUNCILMAN PARK: No.
 3 MS. SCANCARELLA: Chairman
 4 Fehre?
 5 CHAIRMAN FEHRE: Yes.
 6 MR. KATES: We have 10.
 7 (Thereupon, the matter was
 8 concluded. Time noted: 10:39 p.m.)
 9 * * *
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1
 2
 3 CERTIFICATE
 4
 5 I, CYNTHIA ZOLLER, R.P.R., a
 6 Notary Public and Certified Shorthand
 7 Reporter of the State of New Jersey,
 8 License No. 30X100178500, do hereby
 9 certify that the foregoing is a true and
 10 accurate record of the proceedings.
 11 I DO FURTHER CERTIFY that I am not
 12 related through blood or through
 13 marriage, to any of the parties to this
 14 action, and that I have no financial
 15 interest in this action.
 16
 17
 18
 19 *Cynthia Zoller, R.P.R.*
 20
 21 Cynthia Zoller, R.P.R.
 22 Notary Public of the State of New Jersey
 23
 24 My Commission Expires June 4, 2016
 25

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