TOWNSHIP OF MILLSTONE PLANNING BOARD

COUNTY OF MONMOUTH - STATE OF NEW JERSEY

- -

SPECIAL MEETING FOR:

MASTER PLAN
MILLSTONE TOWNSHIP ADOPTION OF THE TOWNSHIP'S AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN

- -

TRANSCRIPT OF PROCEEDINGS
PUBLIC HEARING
WEDNESDAY, JANUARY 29, 2020

BOARD MEMBERS PRESENT:

MITCHELL NEWMAN, CHAIRMAN
ROBERT BECK
ANTHONY CONOSCENTI
STACIE M. CURTIS
NANCY GRBELJA, DEPUTY MAYOR
ROSE OXLEY
THOMAS PADO
CHRIS PEPE, VICE-CHAIRMAN
MARY PINNEY
JEFFREY ZINER

ALSO PRESENT:

MICHAEL B. STEIB, ESQUIRE, Board Attorney
MATT SHAFAI, P.E., Board Engineer
M. McKINLEY MERTZ, P.P., AICP, Board Planner
PAMELA D'ANDREA, Board Secretary

STENOGRAPHICALLY REPORTED BY:

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T R A N S C R I P T of the computerized stenographic notes of the proceedings in the above-entitled matter, as taken by and before ANGELA C. BUONANTUONO, a Certified Court Reporter, Registered Professional Reporter, Certified LiveNote Reporter and Notary Public of the State of New Jersey, held at THE TOWNSHIP OF MILLSTONE MUNICIPAL COURT BUILDING, 215 Millstone Road, Millstone Township, New Jersey 08535 on Wednesday, January 29, 2020, commencing at 7:30 in the evening.

I N D E X

PUBLIC COMMENT:

ERIC DAVIS	210 Disbrow Hill Road	69
BOB SANICKI	723 Perrineville Road	80
PEGGY MALKIN	Roosevelt	83
MIKE HAMILTON	82 Pine Drive, Roosevelt	89
MICHAEL RUIZ	722 Perrineville Road	101
KYLE SANICKI	723 Perrineville Road	111
MIKE PISAURO, ESQ.	31 Titus Mill Road, Pennington	117

CHAIRMAN NEWMAN: Good evening, everyone. We're going to call the meeting to order. Welcome to the January 29th meeting of the Millstone Township Planning Board.

Pam, would you please read the Statement of Adequate Notice?

MRS. D'ANDREA: Let the minutes show that adequate notice of this meeting, as required by P.L. 1975, Chapter 231, has been provided by publication in The Asbury Park Press and the Times of Trenton, posted on the Township bulletin board and filed with the Township Clerk on the same date.

I do have an additional item to read. The Township of Millstone will be videotaping and recording this meeting for replay on the Millstone PEG Channel. By attending this evening, attendees acknowledge this recording and agree to allow their images to be recorded.

All attendees and participants agree to conduct themselves in a manner appropriate for public gathering. Individual speakers should be advised that no right of public -- of privacy protects a person's public comments made in a public forum. Accordingly, all participants bear responsibility for their own statements and

commentary.

And I would just ask that everyone turn off their cell phones, or just mute them.

CHAIRMAN MITCHELL: Okay. Thank you. Would everyone, please, stand and join us in a flag salute.

(Pledge of Allegiance.)

Mike, it says in our agenda there might be members still to be sworn in? It has been carried over from last month.

MR. STEIB: That is a carryover. Ms. Pinney has signed an oath and has been sworn.

CHAIRMAN NEWMAN: Okay. Thank you.

And, Pam, would you please call the roll?

MRS. D'ANDREA: Yes. Mr. Beck?

MR. BECK: Yes.

MRS. D'ANDREA: Deputy Major Grbelja?

DEPUTY MAYOR GRBELJA: Here.

MRS. D'ANDREA: Okay. Mayor Masci is not here. Mr. Conoscenti?

MR. CONOSCENTI: Here.

MRS. D'ANDREA: Chairman Newman?

CHAIRMAN NEWMAN: Yes.

MRS. D'ANDREA: Ms. Oxley?

MS. OXLEY: Yes.

MRS. D'ANDREA: Mr. Pado?

MR. PADO: Yes.

MRS. D'ANDREA: Vice-Chairman Pepe?

VICE-CHAIRMAN PEPE: Yes.

MRS. D'ANDREA: Ms. Pinney?

MS. PINNEY: Yes.

MRS. D'ANDREA: Mr. Ziner?

MR. ZINER: Yes.

MRS. D'ANDREA: Ms. Curtis?

MS. CURTIS: Here.

MRS. D'ANDREA: And Mr. Arpaia is absent.

CHAIRMAN NEWMAN: Okay. Thank you.

MRS. D'ANDREA: And may we table the --

CHAIRMAN NEWMAN: The minutes? Okay.

MRS. D'ANDREA: -- the meeting minutes, please, until the 12th?

CHAIRMAN NEWMAN: Okay. So that will be on for our next meeting?

MRS. D'ANDREA: That's correct.

CHAIRMAN NEWMAN: Which is February 12th.

MRS. D'ANDREA: Yes. Thank you.

CHAIRMAN NEWMAN: Our agenda

identifies a public comment portion for 15 minutes and then our primary agenda item, which is our Master Plan.

So if anybody would like to approach the Planning Board with any comments that do not pertain to the Master Plan, this would be that opportunity in our general public comment section. But if your comment is related to the Master Plan topic at hand, then there will be a separate, lengthier-than-15-minute, comment period.

So I would like to open it at this point for the public comment not otherwise on items that are scheduled for our agenda.

Thank you. Seeing none, we'll close that public comment portion and move on with our agenda, which is the consideration of the Amended Housing Element and Fair Share Plan to our Master Plan.

What I'm going to ask this evening is that our attorney, Mr. Steib, will give an introduction as to the process and the procedure and what leads up to the hearing that we're going to have tonight. And then we'll turn it over to our planner and she will give a more detailed analysis of this amendment.

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The board will then, of course, have an opportunity to talk and question our professionals. And we'll then open it up to the public and you will have an opportunity to ask questions or present comments. And when you do so, we would ask you to step forward and come up to the microphone. You are welcome to sit if that's more comfortable. And we'll ask for your name and address and you will be sworn in, in case you're going to provide comments or testimony other than just questions.

Just because we do have a rather large group and you might say, well, this doesn't seem like a large group by numbers, it is a larger group than we sometimes see at meetings, so we will try to ask that you keep your comments or questions into around a five-minute range.

We do not have a timer, I promise, but we're just trying to make sure everyone gets an opportunity to speak. But there will be flexibility with that, of course. We are certainly interested in what you have to say or any questions that you might have.

So with that, Mike, unless there's any other introductory comments you think we need to make, I'll turn it over to you.

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MR. STEIB: No, that's fine. My portion of this is to kind of bring you up to speed on what has been called the Mount Laurel Doctrine.

And just give you a little background as to how we got here today, in 1975 the Supreme Court of this state came down with a decision in the case of South Burlington County N.A.A.C.P. v. The Township of Mount Laurel. And in that case the Supreme Court made a declaration that every municipality in the state has a constitutional obligation to affirmatively plan and provide for, in its Land Use Regulations, a reasonable opportunity for persons of low and moderate income to meet the needs and desires and the resources to have a place to live within the community.

The obligation extends beyond just the municipal boundaries but extends to a regional boundary. And in the case of Millstone Township, our region consists of Monmouth County, Ocean County, and Mercer County. So we are Region 4; that's our region. And that is the group of persons that we are directed to by the Supreme Court to address in connection with our Mount Laurel Affordable Housing Plan.

The Supreme Court decided that in the

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event a municipality falls short of meeting their obligation, then their zoning regulations are considered to be exclusionary and unconstitutional and can be thrown out, essentially.

Shortly thereafter, in 1983, the Supreme Court had the Mount Laurel II case. And in that case the Court found that its case in 1975 had not been very well accepted by municipalities, and municipalities were not complying with providing regulations to meet their housing need for their affordable housing in the region.

And they -- the Court then constructed what has been called the builder's remedy. So that if a municipality has not complied with this obligation, the Court can impose what they call a builder's remedy upon that municipality, which includes imposing, or I should say, first, declaring the ordinances to be invalid and unconstitutional, and then considering lawsuits by builders to come in on whatever property they desire and request the Court to compel the municipality to accept high-density development in those areas.

The Mount Laurel Doctrine, as it has evolved, consists of three principal concepts. The first principal concept is what we call the

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municipal obligation, which is the number. And that is coming up with a methodology to determine how a municipality, or I should say, how a municipality must, in terms of quantity, address a Mount Laurel obligation.

So in the courts, after Mount Laurel II, the courts adopted methodologies through expert witnesses that came in in builder's remedy cases and would use that methodology and impose a number on that municipality and say, this is your obligation, this is what you have to meet. And if you haven't met it, we're going to make you meet it. And that was done by granting builder's remedies for high-density development.

The second concept is compliance standards, which is once you know what your number is, what kind of development will the courts or under the Fair Housing Act, COAH, which is now defunct, but at one point COAH would determine what kind of development will satisfy your need, will count against that number that you have to come up with.

And then the third concept was immunity. And that came into effect when, after Mount Laurel II and after municipalities had some

very, very bad results with courts determining extremely high obligations for them to meet that were unconscionable, the public outcry from that caused the legislature to adopt the Fair Housing Act in 1975, which created COAH, the Council on Affordable Housing.

And COAH was directed to develop new regulations and methodologies as to how to arrive at the number for each municipality in the entire state and then the methodology, the methods by which a municipality could comply with that number and meet that number. What kinds of development would qualify as a credit against that number.

And the third thing was immunity. And COAH adopted in its regulations the ability for a municipality to get immunity from builder's remedy suits. So that if you applied with COAH, and if you submitted your documentation as COAH required, and basically played by COAH's rules, you would be immune from builder's remedy suits as a municipality.

So that went on for some time and we had what they called rounds, which are six-year periods. The first round of COAH was from 1987 to 1993. That was Round 1. Round 2 was 1993 to 1999.

That was Round 2.

And in both of those rounds, Millstone Township applied to COAH, submitted all of their documentation to COAH, said you've imposed a number on us, we are accepting that number and this is how we're going to comply with it. And in both cases Millstone Township complied by putting together plans and building housing for low and moderate income families so that they complied with those rules and regulations.

When Round 3 came about, in 1999, COAH failed to adopt regulations for a period of four years. Not until 2003 did COAH do its job to adopt regulations. When they adopted those regulations, they were challenged by the builders community. They went up through the court system and were found to be invalid because the methodology that they used, which was different than the prior methodologies, which had been attacked as not being satisfactory by municipalities, as still being too aggressive as the courts have been under Mount Laurel II, and they adopted a different methodology.

But that was thrown out by our appellate courts when the builders challenged them. So they set forth a new set of regulations for Round

3. Those too were challenged by the builder's community and those too were, in large part, found to be unconstitutional and improper and thrown out.

And the Supreme Court directed COAH once again to come up with a new set of Round 3 regulations, which they came up with the regulations, however, they never adopted them. When it came time to adopt them, in 2014, there was a three-three tie, three for, three against, so the motion failed. And at that point, the Fair Share Housing Center, which is a public advocate for affordable housing, went to the Supreme Court and said, Supreme Court, we now have been waiting for over ten years for COAH to do its job. They haven't done their job. They're defunct. And we want you, the courts, to take over and let's go back to Mount Laurel II and have the courts as the first resort for determining what the obligation is and how you satisfy that obligation and whether or not somebody gets immunity.

And that was -- that went to the Supreme Court on March 15th of -- March 12th of 2015. The Supreme Court said, yes, Fair Share Housing, you're right, COAH hasn't done its job. COAH is moribund. And we are now going to take

everything out of COAH's hands, as they effectively don't exist, and we are going to throw it back on the courts.

And, at that point in time, the Supreme Court said if a municipality wants to continue the immunity that it had under COAH, the municipality has to file a declaratory judgment proceeding in the Superior Court by June 2nd of 2015, requesting the Court to approve their plan, that is, approve the number that they say that they should have to meet and approve the methods by which they could satisfy that number.

And at that same time they could also request the Court, and say to the Court, we have been doing what we could. We tried through COAH to get things done. COAH dropped the ball on us. We've been acting in good faith, so we're still entitled to the immunity that we had under COAH.

And that is, in this case, exactly what Millstone Township did, with over 300 other communities in the State of New Jersey. Over 300 declaratory judgment actions were filed in the first and second week of June of 2015 and they have been managed by the courts ever since.

The level of management has been, for

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the most part, by the courts in each county assigning a judge who will be the principal judge to oversee the process, the affordable housing process, and then having judges beneath that person to take on individual cases and manage them.

In addition to that, virtually everywhere the courts have appointed what they call a court master, which is a professional planning consultant presumably knowledgeable in affordable housing issues, to advise the court, not the parties, but to give the court independent advice as to whether or not the municipality is the good guy in this case and the builder's lobby are the bad guys, or vice versa, the municipality isn't doing what they're supposed to do and the affordable housing people are really doing the right thing, trying to meet their constitutional obligation.

And that is where we got into the court system and that started a process of the court master assigned to a -- a municipality's case saying, show us what you're proposing. And Millstone, as did all the other Monmouth County cases and the counties throughout the state, were given a form of plan to put together and submit, and then it became a negotiation.

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And the negotiation came as a result of a couple of things. First, Fair Share Housing Center, the group that brought the case to the Supreme Court to have COAH found to be moribund and debunked, were made by the Supreme Court an interested party in every case in the State of New Jersey.

So everywhere you're at, every town has Fair Share Housing Center as an adversary, if you will, because Fair Share Housing Center is part of the builder's lobby that has been promoting super high numbers to impose upon municipalities to require them to meet numbers that are unrealistic.

In response to that, and basically that's Fair Share Housing and they are also supported by the New Jersey Builders Association, which is a builder's lobby and they're well funded. And not only that, but they had also been fighting their builder's remedy cases bringing experts into the courts since 1975 attacking towns saying you haven't met your obligation.

So they had a long history of experts involved learning about this process and ready to go to attack municipalities. Municipalities, on the other hand, were not used to this kind of litigation

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nor were they well funded.

So there were approximately 210 municipalities that did at the outset create a consortium, each putting in a certain amount of funds to the consortium in order to be able to hire experts to put forth a municipal's case on what the methodology should be as to what the number is for each town.

And ultimately, in 2018, a 40-day trial was conducted in Mercer County, which is part of Region 4, our region, by Judge Jacobson. And a 40-day trial was conducted where the experts for the builder's lobby came forth and presented their position on how you come up with the number, and the municipality's experts came in with how their numbers should be set forth, and the Court also had a court master advising the Court independently.

And Judge Jacobson came up with a methodology during that 40-day trial and about probably another six months of deliberating, probably communicating with other judges throughout the state and came down with a decision setting forth a methodology.

That methodology has, in large part, been accepted by many communities because if you go

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to trial and say, we're not going to accept that methodology, we want to try this case, guess who's going to show up for the builder's lobby? The exact same people that testified in the Mercer County case. Who is going to come out for the municipality? The exact same experts that testified in the Mercer County case, based upon the same information and based upon the same opinions that they had.

So the popular wisdom was, hey, if you go through that -- and we're talking about a municipality probably having to expend $200,000 to take something like that to a trial -- and you're going to wind up with most likely within a couple of numbers, one way or the other, of the number that the Mercer County case came up with.

So that helped in the settlement processes for many towns in terms of, number one, what is our number? And in Millstone's case, that number is 231 units. The builder's lobby came up -- had a different number. They had 367 units that they thought we should be coming up with.

So the number that the Court came up with using the Mercer technology is a little bit less than two-thirds of what the builder's lobby

came up with. The Econsult experts, which were for the town, came up with 161 units, which is a little bit less of a difference downward.

In any event, in Millstone's case, Millstone had both Fair Share Housing Center as an adversary and also had Showplace Farms property as an adversary. And ultimately it was determined that we all agreed that it was not worth having a trial on the numbers because it was unlikely that there would be any significant difference in the numbers after going through that exercise. So that number was agreed upon.

The rest of the case was then deciding -- well, and there was an immunity aspect of it and we immediately, in 2015, applied for immunity, were granted immunity on the basis that we were complying with the court, that we were working with the court master, that we were meeting in negotiation sessions with Fair Share Housing and a Showplace Farm representative in an effort to reach a resolution.

CHAIRMAN NEWMAN: So, Mike, sorry to interrupt you -- give you a chance to take a breath -- so the five years, effectively, 2015 to 2020, since the Court said that we're taking over since

nothing has happened, in those five years we have had immunity because we are participating in the court process through our declaratory judgment action.

MR. STEIB: Correct.

CHAIRMAN NEWMAN: And we are cooperating in the process.

MR. STEIB: Correct.

CHAIRMAN NEWMAN: And that's part of what we're doing today. We're another step in that cooperation process to continue our immunity?

MR. STEIB: That we are. And -- but we got a gun put to our head in mid-2018 when the judge assigned to our case said, You're coming up with a plan and you're coming up with it within, I'm pulling it out, about 60 days, 60 to 90 days. I want a final plan.

And if you don't have a final plan, we're sending you to trial and you're going to have to try the case on the numbers. You are going to have to spend the money. And you are going to have to face your interveners, which at that point, Showplace Farms was Toll Brothers, which was not a lightweight.

So we got pushed to the wall. We still

said we're not doing Toll Brothers. We have municipally sponsored 100 percent affordable projects that we want in. And Toll Brothers was attacking them, trying to throw them out so that they could get even more units in for their inclusionary zoning.

And so that you're aware of it, inclusionary zoning means that a developer comes in and says, okay, I'm going to provide 50 units of your affordable housing. To provide those 50 units, I get to do 200 units of market housing. So you are going to have to zone me for 250 units in order to have 50-unit affordables.

Millstone Township has been working since Round 1 at producing 100 percent affordable units within Millstone Township and has three affordable projects in its plan now, 100 percent affordable projects, one which is under construction, two which are in the concept stages for that, for which Millstone Township has been planning well in advance to do that.

But there comes a point in time where it's no longer affordable to build 100 percent affordable projects and we didn't have one. We did have a tract from Baldachino, where they came in and

said we will put our property up. And as opposed to the Toll Brothers project, they were less than half of what Toll Brothers was proposing in terms of producing units.

Toll Brothers was at 569 units. They're at 242. And Toll Brothers was requiring that we bring infrastructure, that is public water and sewer into Millstone Township, whereas the Baldachino tract will do everything on-site. Because once you bring in public water and sewer, that essentially changes the whole complexion of Millstone Township, because Millstone Township then becomes a township that has infrastructure. And that increases -- would increase your number in the next round because you now have infrastructure and it would make it easier for others to come in and say, wait a second, we have public water and sewer; we can get access to it.

CHAIRMAN NEWMAN: Mike, I know you touched on this before, but if we were to say yesterday, today or tomorrow, we're out, this process doesn't work for us for whatever reason we want to say, and thumb our nose at it.

MR. STEIB: My next page.

CHAIRMAN NEWMAN: Oh, sorry. I wasn't

reading, I promise. Go ahead. Sorry.

MR. STEIB: It's my next page.

So in any event, it's understood that throughout the entire State of New Jersey, inclusionary zoning developments raise concern by residents. First of all, because they're higher density, and just legitimate planning and engineering concerns.

There are some perhaps less objective reasons that some people just don't want those people here or don't want that kind of development here, but those aren't going to be given too much consideration by the courts. But certainly legitimate engineering and planning reasons do.

The design and implementation of these developments throughout the state, and particularly in the plan that we have here in Colts Neck, will require applications for, in particular, the Baldachino site --

CHAIRMAN NEWMAN: Did you say "Colts Neck"?

MR. STEIB: Millstone. I'm sorry, Millstone.

CHAIRMAN HARMS: Don't you live in Colts Neck?

MR. STEIB: No, I don't. But they would require a variety of municipal, county, and state level review by various agencies, municipal planning board, municipal fire code official, health department, traffic safety, and other approvals are required at the municipal level. Approvals may be required at the county level if you're on a county road or if you're within 200 feet of county facilities. If you're on a state highway or near state facilities, you require state DOT. For various environmental things, you will require state NJDEP approvals. So there are multiple levels that any developer has to go on to make sure that their sites are reviewed, assessed, and approved under the appropriate regulations.

Now, as far as the consequences that Mr. Newman has brought up of this approval, Millstone Township entered into a Settlement Agreement. After this process it went through with the courts, over a four-and-a-half-year period, reached a Settlement Agreement where Fair Share Housing Center agreed to knock off 130 units of their -- 130-some units of what they said our number was, which came in to a number that the Mercer County methodology comes in at.

Toll Brothers essentially went away in terms of their 569-unit housing development that they wanted with public water and sewer, and is now looking to develop that property, the Showplace Farms property, as for warehouse use, which has been a conforming use, permitted for many years, under the zoning in Millstone Township. So we have now reached settlement with them under those terms.

The Housing Element And Fair Share Plan now has been approved by the court to the extent that the process is, once you reach a settlement, the court sets what they call a Fair Share hearing date. And on that date the judge then listens to the various sides and their planning consultants and decides whether or not the plan that has been submitted provides a realistic opportunity that affordable housing will be developed in this case on or before July of 2025.

And if the Court makes a decision that, yes, I believe that the plan is fair and does meet those requirements and is constitutional, then the Court sets down what they call a hearing for compliance.

And in our case, on October 22nd, we went before Judge Grasso Jones. The case was

presented. All sides were heard and the judge said, yes, I believe that your plan does pass constitutional muster and, therefore, I am going to grant you a Fair Share approval, subject to a compliance hearing.

The compliance hearing is what this is, the first step of this evening. And that is the planning board considering and adopting a Housing Element And Fair Share Plan, which is a document that I'll allow McKinley to describe more particularly, but it has a ton of background material that's required for the planners to put together and then it sets forth what the compliance package is for the town to meet its affordable housing obligation.

And then the question that was raised is, well, what happens if the board says, so what, we don't like the settlement, we want to fight it? There have been some cases, one fairly recently in Englewood Cliffs, which gives some idea of what we can expect if that's going to occur because they had a proposed Settlement Agreement. And as a result of public pressure, the town said no, we decided that we're not going to go along with that agreement.

And in that case, the other parties to

the settlement did, as I would expect the parties in this settlement will, petition the court to revoke the Township's immunity from builder's remedy suits. They're going to say the town no longer has a white hat on, the town has a black hat on; they negotiated over three years or four-and-a-half years, finally came to a settlement, and now that we have the settlement, we put it on paper, now they're saying thumbs up to you, we're not doing it. And if the Court comes up with that decision, then the town loses its immunity and the town is subject to a builder's remedy suit from any builder that wants to build anyplace.

Secondly, Fair Share Housing and others will be entitled to withdraw from the agreement and withdraw their agreement to the settlement number.

MR. PEPE: Michael, based on what is being proposed in this location, what could possibly a builder's remedy lawsuit result -- could it result in a worse plan?

Like let's think about how we're going to overuse that property and how we're going to intensify that use. Let's think and then let's imagine a builder's remedy lawsuit. Could it be worse?

MR. STEIB: Well, it could be because -- I haven't finished with what they're going to do but --

MR. PEPE: I know. But we're talking about this right now and we're drawing a conclusion in relation to something, so I would like to finish that thought.

MR. STEIB: The answer to your question is, yes, it could. And the reason that I say that is because what is going to happen is that not only are they going to ask to kick up the number, so if the number goes up, we need more units. They come in and say, hey, we can supply those units; we can engineer them on this site. Then yes, they have an argument for a larger number of units on that site.

In addition to that, I fully anticipate that they -- that we will then have people coming back in and saying, oh, by the way, you know, you fought with Toll Brothers who were attacking your municipally sponsored projects, saying they weren't reasonable, they weren't going to be able to be feasible economically, and they are going to come back on that attack. And if they're able to knock out our municipally sponsored sites, that is going

to bump up the number that we're lacking. And that number could be added. Again, I don't know if they can engineer more on that site.

All we have seen is engineering for the number that they have proposed. And they have done studies and they've done some engineering that says yes, we can accomplish this so...

MR. ZINER: On that same thought, is there a potential to propose a Plan B? A different plan other than what is being presented tonight?

MR. STEIB: Anybody can propose anything but if this doesn't get adopted, then we're not going to have much time. Fair Share Housing is going to be filing an action to throw us out of immunity and to enforce this agreement.

Or in the absence of enforcing the agreement, attacking the number and trying to push up our numbers.

MR. ZINER: So let me understand this. Is there a window of opportunity that we can come up with Plan B --

MR. STEIB: That window of opportunity was for the last four-and-a-half years.

MR. PEPE: Okay. But is it closed now?

MR. STEIB: It's pretty much closed unless you want these -- unless you want these potential alternatives.

CHAIRMAN NEWMAN: If another property owner -- if we do go down that path and we lose immunity, taking it to that next step, I understand that the Baldachino site that we started to talk about could have a different number.

We don't know the answer to that until we have -- nobody knows how much more you can engineer that site for additional homes. But it's possible that someone else that has another property that we might not even know about could say, hey, you lost your immunity, I would like to do X hundred on my 30-acre site somewhere else and because your number is higher, I'm ready, willing, and able?

MR. STEIB: Yes.

CHAIRMAN NEWMAN: Okay. So it opens us up to -- so the builder's remedy idea is other folks, once you lose immunity, can start jumping in.

MR. STEIB: True.

CHAIRMAN NEWMAN: And now it's not us, it's the court taking over?

MR. STEIB: True.

MS. CURTIS: And correct me if I'm wrong, too. If we have a builder's remedy suit, will that allow them to bring in public water and sewer?

MR. STEIB: Depends on the location. If it's part of their plan, if you are back at Toll Brothers, that's a possibility.

CHAIRMAN NEWMAN: So let's let Mike finish his overview, and then if there's any other questions for Mike, that's fine. Then we'll turn it over to McKinley.

MR. STEIB: I think I finished it.

CHAIRMAN NEWMAN: Well then, any other -- Jeff, did you have another follow-up?

MR. ZINER: I just have one other follow-up. So if this plan does not get accepted, can the Township create a different alternative plan is really the simple question?

MR. STEIB: Anything is possible. The problem that I have is whether the Township will have time to do that before the court strips them of their immunity and before there are other suits that are filed, that the court is not going to say -- after those suits are filed, the court is not going to say, oh, we're going to give you immunity again.

MS. CURTIS: So once you lose it, you lose it?

MR. STEIB: Once you lose it, you're going to have a hard time convincing a judge who just said, I don't think you're acting in good faith. It's going to be a hard time convincing that judge to say, oh, no, I changed my mind; you have your white hat back on.

MS. OXLEY: Mike, can you -- you know, West Windsor went through something like this, right, West Windsor?

MR. STEIB: Everybody is going through something like this.

MS. OXLEY: I think they basically lost their immunity; is that correct?

MR. STEIB: I'm not sure about West Windsor. Monroe did. Englewood Cliffs did.

MS. OXLEY: Because my understanding was --

MR. STEIB: Englewood Cliffs wound up with the judge not only removing immunity but they tripled their number over what they had agreed to in their agreement. It went from 95 to 320-something.

MS. OXLEY: And I understand West Windsor, you know, correct me if I'm wrong, West

Windsor did lose their immunity and they had a builder's remedy and what happened was they now are looking at 1,500 units. That's what I understand.

MR. STEIB: I can't say that because I haven't followed their case. I don't know.

MS. OXLEY: 1,500 units, they're actually --

MS. CURTIS: They didn't lose their immunity, they went to trial.

MS. OXLEY: They went to trial.

MS. CURTIS: They went to trial and --

MR. PEPE: So that's not -- we don't know that factually, so let's --

MS. CURTIS: No, they did, they did go to trial.

MS. OXLEY: They did go to trial.

MR. PEPE: No, but I'm saying they didn't necessarily get up to 1,500 units --

MS. CURTIS: Yes, they had.

MR. PEPE: What was their original number?

MS. CURTIS: It was originally -- I think it went from 2,200 and they had to negotiate it down to 1,500.

MR. PEPE: So they did better, you're

saying?

MS. CURTIS: Well, they didn't do better, it was lower. And then when they went to trial, the judge came back and said they wanted 2,200 units.

MR. PEPE: And then ultimately settled?

MS. CURTIS: And then after they got to trial they settled at 1,500.

The original number, I think, you would have to research it, was around 800 or something like that. And when it went to trial, that's what they ended up with.

DEPUTY MAYOR GRBELJA: South Brunswick wanted to continue to have only municipally sponsored projects. And what they did is they had asked for extensions in their plan under Judge Wolfson on two occasions. And on the third occasion what he did is he said no, and what they did is they had five builder remedy suits that came in.

The thing that protects us is our immunity. And in the event the state comes in and the state DEP deems the area not correct, we still are protected under immunity. And then what we could do is we could look for other alternatives at that particular point but we're protected.

Because at least what we're doing is we are legitimate in our concern that we want to comply and we have a plan that is in place. So it's not like there's -- we've stopped our plan or we're not looking for a Fourth Round plan or our entire process has stopped. We are continuing to look at other alternatives for the Fourth Round or in the event something happens that doesn't occur.

But if our plan doesn't go through and if we do our strip, and we have builders that do come in, we could actually have 1,155 units that Millstone could potentially have --

MR. PEPE: Of low income? Or are you saying builder's remedy?

DEPUTY MAYOR GRBELJA: Well, it would be of units.

MR. PEPE: Four to one.

DEPUTY MAYOR GRBELJA: Right. It's really five units for every one, so you multiply 231 by five because it's that number.

So we were able to actually, with the bonus units that we had, lower it, which I'm sure McKinley will talk about, to about 178 units with only that one inclusionary development.

And there's still a possibility, if it

comes before the planning board, we have to actually see what is the land going to be able to do, which this planning board is going to be able to look at, what is it actually going to be able to hold, what does the DEP say, what are the actual lines going to do, which this board controls. And then we'll actually see, you know, how it fits into the plan.

CHAIRMAN NEWMAN: So, Nancy, I think you might have said this already, let's say we get past today's process and it goes to the point where the site that we're concerned about, Baldachino, puts an application in front of us, the state, the county, Soil Conservation District and all those agencies and it fails for one reason or another, because it can't handle the development for any variety of environmental reasons, or traffic reasons or all the other things that go into our Land Use laws, then it sounds like you're saying we're back to the court saying, We did -- we made that effort. We did what we were supposed to do. Now we would like to present an alternate plan?

DEPUTY MAYOR GRBELJA: We might, yes.

MS. CURTIS: Correct. And I think that we can --

MR. STEIB: And you're still wearing a

white hat.

DEPUTY MAYOR GRBELJA: Correct, we're still wearing the white hat.

MS. CURTIS: You have your immunity.

DEPUTY MAYOR GRBELJA: And don't think for a minute that we have not, along this whole process from Round 2 to Round 3, we planned for two Round 3s during the time when they were trying to get their regulations. We had two Round 3 plans to go before it went to the court. So we actually did three Round 3 plans.

So we have always been ready to go. And we didn't stop. Even at this particular point, we have not stopped. We are working with this, but there are still things that we are working on.

MR. PEPE: Matt Shafai, have you had a chance to look at the township property as our Township engineer?

MR. SHAFAI: Which property; the Baldachino property?

MR. PEPE: Correct.

MR. SHAFAI: Yes.

MR. PEPE: In your opinion, I know it's not, you know...

MR. SHAFAI: The Concept Plan?

MR. PEPE: You tell me. Can that land hold this development, what we're proposing?

MR. SHAFAI: As it's presented right now, yes. But they are still missing numerous DEP permits.

MR. PEPE: Understood.

MR. SHAFAI: And there hasn't been any studies done.

CHAIRMAN NEWMAN: And you haven't seen a set of engineering plans --

MR. SHAFAI: No.

CHAIRMAN NEWMAN: -- to confirm the storm water works?

MR. SHAFAI: No, just one-page concept plan.

DEPUTY MAYOR GRBELJA: That stuff actually went directly to the court. It didn't come to us, it went to the court master and it went to -- directly into the court.

CHAIRMAN NEWMAN: Okay. And obviously, McKinley, Chris's question goes to you also from a planning perspective, what is your evaluation of the viability or approvability of the Baldachino site?

MS. MERTZ: Again, with the limited

drawings that we have gotten, it could support the numbers that they're proposing and it's probably better than some other alternatives in the town.

CHAIRMAN NEWMAN: But you haven't seen all of the traditional reports and plans that you would see in an actual Site Plan Subdivision submission to this board.

MS. MERTZ: Correct.

CHAIRMAN NEWMAN: And do you know, Matt, have they made any formal submissions to the state, to DEP?

MR. SHAFAI: We have not been copied on any applications anywhere.

CHAIRMAN NEWMAN: So water, sewer, wetlands, et cetera?

MR. SHAFAI: I haven't seen anything.

CHAIRMAN NEWMAN: Okay. And in our planning board review, if this goes the next steps and then we get that application, that all has to be part of the process?

MR. SHAFAI: That's correct.

CHAIRMAN NEWMAN: We have to see where the actual wetlands are, where the buffers are, are there endangered species?

MR. SHAFAI: Soil testing, everything.

CHAIRMAN NEWMAN: So, Nancy and Mike, in all of your court processes because I know you have both been on the front lines, in all of that process, the Court understands -- I'm asking -- I'm not suggesting I know the answer, the Court understands that there's no slam dunk in an element of a plan; it could not work and then come back?

MR. STEIB: Correct.

CHAIRMAN NEWMAN: And it could be for no fault of this town or this board, but just because it wasn't as viable as they --

DEPUTY MAYOR GRBELJA: Everything was submitted in good faith and it was submitted by the developer and their legal representative and their engineers. And they came to court and submitted and were represented separately just as Showplace was represented by their legal counsel and their representatives at the same point as interveners.

CHAIRMAN NEWMAN: Right. Unless there's any other questions for Mike and we can follow up later as the night moves on --

MR. ZINER: I just have one question on clarity. Nancy made a comment saying we could be five times 231, but most of these developments are currently in play or completed. So I'm a little

confused as to how we go from 231 in a remedy suit to over 1,000?

DEPUTY MAYOR GRBELJA: I was just using that as an example. If it's 231 and you had -- if you were just saying if you had -- if your number was 231, yes, we did this because we have been moving along.

But, let's say, for example, not everything has been completed. And I don't know how many we have completed already, maybe 60 out of the 178. But out of the 2 -- out of the 231, we got bonus units and so on and so forth.

But I'm just saying in general, as a general thing, if we were going to say, oh, we are going to be inclusionary, we could have had 1,155 if we were not diligent and making sure that we didn't stop our processing.

MR. ZINER: No, that's not the question I'm asking.

DEPUTY MAYOR GRBELJA: Well, you're saying of all of the stuff, what we don't have built?

MR. ZINER: Um-hum.

DEPUTY MAYOR GRBELJA: Anything that we don't have built is listed there, which would be

the -- we probably have at least 100 units that aren't built.

Anything that is on CKV or Burnt Tavern and behind Burger King and that, none of that stuff has been built.

MR. ZINER: It's not built but it's already planned and funded.

DEPUTY MAYOR GRBELJA: The funding is there but we don't have a shovel in the ground. Anything could happen. What I'm doing is I'm using an example.

MR. ZINER: No, no. I'm just trying to make sure that we're not exaggerating what we're doing here.

DEPUTY MAYOR GRBELJA: I'm not exaggerating, but what I'm saying is if you are going to take the numbers at any particular time and you take your immunity, anybody could come in just like we had Toll Brothers come in and fight us tooth and nail on our CKV property.

I don't really -- I don't know if this is -- I don't want to argue semantics but we actually had more units on some of the properties than we did before, and we had to fight court cases and briefs with Toll Brothers that actually reduced

the numbers on that land.

I'm not going to argue right now to say that if we were going to go into where we were opened up to a builder's remedy suit, that they weren't going to come back and look for more court cases that were going to further reduce our cases now, because they wouldn't have stopped unless we didn't have an agreement. So, you know what I'm talking about, Mike. They were relentless. And if there was more time, they would have dug up a whole lot of stuff and would have tried to cut us from 75 units down to 49 units to 20 units so that they could do inclusionary developments.

And if you think that you don't have builders that would be out there that would want to do that, that is what they were attacking, our municipally sponsored units. And it happened to be whether we were going to have rentals, whether the deeds were going to be held in the same name of the same company, whether they were going to be individuals. They challenged every aspect of that to try to prevent us from using affordable housing and from building those as municipally sponsored units.

I can leave it at that.

CHAIRMAN NEWMAN: Let's turn it over to McKinley. And if you could go through this from the planning side and the Master Plan Housing Element side of it?

MS. MERTZ: Sure. For the benefit of the public, my name is McKinley Mertz. I'm with Heyer, Gruel & Associates. We are the Township's planners. Our office has been helping your governing body develop this plan for the last four or five years. And I put this plan together. I'm here tonight to present it to you.

Mike did a great job going over the history. It's very long and complicated and not that interesting at times, but every aspect of it is important to how we got to where we are today with this plan.

Before I jump into the specifics of Millstone's plan, I just wanted to give everybody, including the board, a visual about the type of households that are living in these completed and proposed units. When people hear affordable housing, that's sort of an abstract term and it's not always clear what that means.

So when we talk about that, we're talking about households that are a moderate income,

low-income, or very low-income bracket. And what that means is it's in relation to the region's median household income.

So, as Mike said, we're in Region 4 here. The median household income for Monmouth County, Ocean County, and Mercer, so all together, is about $103,000 for a four-person household. So if we break that down to a moderate income household, that's a household that's earning between 50 and 80 percent of that median income, we get to $82,000 a year for a four-person household. If we break that down one more, to a low-income household, that's a household earning between 30 and 50 percent of that median income number, we're at 51,000 a year for a four-person household.

MR. PEPE: Hold on. You said between 30 and 50 percent but you are taking the higher number of that range. So why don't you give us the mean number of that range?

MS. MERTZ: If you're asking me to do math on the spot, I don't think I can.

VICE-CHAIRMAN PEPE: I can do it. You get the idea. The way we're looking at this is not exactly accurate so, listen, it's super important. People are here. We're talking about people's

homes. We're talking about a very emotional topic. What I'm trying to do here is not sensationalize anything one way or the other.

MS. MERTZ: Sure.

VICE-CHAIRMAN PEPE: So, if you can, let's just define everything we're doing. This way everybody is comfortable and nobody is going to come back and say that we, as a board, who were put here by them, misrepresented anything.

MS. MERTZ: That's fair.

VICE-CHAIRMAN PEPE: So the idea of this range, 50 percent, right, it's between 50 and 30. If you want to favor it with a 37 percent of 108, so it's like 39,000.

MS. MERTZ: That's fair. You are correct, I was giving the 50 percent and 80 percent numbers.

The final is 30 percent very low-income, 30 percent of the median household income and that is $30,000 about. 30,000 and change. The type of households that comprise these income brackets tend to be teachers, nurses, your working class families.

Like I said, Millstone Township has been involved in the COAH process since the

beginning. You've been very involved and very diligent in putting forth the effort, receiving your certification, and this process has been no exception to that.

So if we jump into where we are with this, what we're calling the Third Round, which is, essentially, from 1999, when COAH failed to adopt new rules, until 2025. That is the current round we're in. And as Mike listed, the Township has a Third Round need of 231 units.

Now, in addition to that, there is still a need that was created during those earlier rounds what we call the prior rounds, which was 1987 to 1999. It was really two rounds but for ease, we're combining them into one name or one umbrella. That requirement was 81 units.

Now, because the Township received their certification for that prior round, those -- that number 81 has already been fulfilled but we still lay it all out in the plan, so I'll just walk you through where the Township was on that as well.

There is a third category of need for all of the towns, every town in New Jersey, that's known as the present need or rehabilitation need.

And what that is referring to is any deficient housing within a municipality that needs to be rehabilitated to essentially bring it up to code. The criteria for an efficient housing has to do with overcrowding, lack of plumbing and lack of kitchen facilities and is in relation to homes built before 1960.

So the methodology for how all these numbers has come up, Mike has talked about the negotiations between what the builders' lobby came up with versus what the municipality's professionals came up with. It's the very detailed process that it is not even worth beginning to scrape the surface of because it just, quite frankly, doesn't make sense because we're just bouncing numbers around.

But generally speaking, these numbers come from a state level at first. They are narrowed down to these regional levels, and then they're narrowed down town by town. So the need, as we're calling it, comes overall as a state need and then gets funneled down.

So when we say that Millstone has a present rehabilitation need of 20, those are the deficient units, nobody went out and counted there are 20 units in this town that need to be

rehabilitated. That was a funneled down number that was established.

So that present need comes with every new round. Every time there's a new round, there's a new present-need number. So the way the Township will meet that 20-unit need is through a rehabilitation program. Counties used to run their own rehabilitation programs. However, several of them, including Monmouth County, have stopped those programs.

My understanding from talking with representatives at the county is that was due to -- the way they put it to me was it became too cumbersome to maintain all of the liens and deed restrictions that had to be put on these units. Once a unit gets rehabilitated with county funds or state funds, a deed restriction needs to be placed on the unit so that it continues to be occupied by low or moderate income households.

So Monmouth County has stopped their program. The Township, therefore, is going to pick up a program and establish a brand-new program. The Affordable Housing Alliance is going to be running that program. It's going to be all of the applicants for these rehabilitated units will go

through the Affordable Housing Alliance. They will create the program and run it out of their office.

The Township, additionally, has 18 rehabilitated units that they were required to do under court order between 2004 and 2008. Only seven homes were rehabilitated during that time, so the Township is still on the hook for those remaining units.

So in total we have 38 units, the 20 rehabilitated units from this round and the 18 units that were assigned between the 2004 and 2008 period, seven of which have been completed. So we're down to 31 units that the Affordable Housing Alliance will manage.

MR. STEIB: That isn't new units. That's rehabilitating existing homes.

MS. MERTZ: Right. Those were those deficient housing units we were talking about. Existing, not new.

The prior round, which we both mentioned now, again, 1987 to 1999, the Township received certification for that time period. So those units that fulfill that have been created, have been constructed. They're being lived in. A handful of them were constructed in the '80s, so

they have been around for a while. And most of those are -- well, I shouldn't say most, but several of those are group homes. And group homes count as very low-income towards a town's obligation.

So we have the Millstone Road Group Home, the Red Valley Road Group Home, Millstone Canwright House are all group homes. In addition to that, we have the Novad House, which is a single-family rental unit. And finally, the Indian Path development was an inclusionary development at the time of the prior round certification. That included six affordable units.

And that, again, that was constructed in the late '80s and -- sorry, early '90s and has been occupied as such. So all of those count toward your prior round.

There was a previous mechanism called an RCA, a Regional Contribution Agreement. This was a mechanism that was allowed during the prior round but the courts have since deemed it unconstitutional. What it did was it allowed one municipality, that we call the sending municipality, to essentially "send" their units to another town, the receiving municipality, they would pay that other town, and that town would build the units

there. The sending municipality would receive credit for that.

That program is no longer in play but any towns that received certification with that mechanism during the prior rounds still get to receive those credits.

CHAIRMAN NEWMAN: So we can't use that going forward?

MS. MERTZ: We can't use that again, no. But during that prior round, the Township of Millstone entered into an agreement with Asbury Park. And they "sent" 46 units to Asbury Park and they paid them to build the units. So Millstone still gets to receive those 46 units of credit for their prior round.

Now, Nancy brought up this point earlier, there's this idea of bonus credits. So when we say 81 units, 231 units, that's still a municipality's obligation, but they can receive bonus credits for rental units. Not sales units, but any rental projects. So you can receive two for the price of one. If you have a rental development with five rental units, you can receive ten credits towards your obligation.

Now, that's only good up until half of

your obligation -- I'm sorry, 25 percent of your obligation, you're capped. But you are able to receive quite a few extra credits through that that are not units. They are credits versus units.

So for the prior round Millstone receives 16 bonus credits. So the full 81 units weren't constructed. And again, we also had the RCA program. But that's what a rental bonus can do. You can receive rental bonus for senior rental units at a slightly lower ratio, instead of two for one, it's 1.33, basically one-and-a-third per unit. So that helps municipalities in fulfilling their number.

All right. So the Third Round, which is again where we are now, which is the 26-year round, that is -- a lot of that has been the focus of the discussion over the last four years.

Some of the developments that I mentioned for the prior round had enough credits that we could bring some of those forward to the Third Round.

You had already fulfilled your prior round and we still had extra credits. For example, the Red Valley Road Group Home, we didn't need to use all of those units for the prior round because

we fulfilled that. So we got to carry forward two of those units to the Third Round.

So what we have in the Third Round is a carry-over from the Millstone Road Group Home, the Red Valley Road Group Home, the Indian Path Inclusionary Development, the Millstone Canwright Group Home. All of those were constructed and occupied in the prior round but we got to bring them forward and basically -- and claim the rest of them, as we say.

Since that time, additional group homes have been constructed. What this plan refers to is Group Home 1 and Group Home 2. Those are located at 31 Burnt Tavern Road and 8 Novad Court.

Those, again, group homes. Those are constructed. We're getting 12 credits between those group homes. Allen House 1, which was constructed a few years ago, that's a 100 percent affordable development for seniors. All rental for seniors.

We have recently, here at this board, in November, we heard a proposal for Allen House 2. It's essentially the exact same thing as Allen House 1. It's even on the property next door. It's a mirror image. It's going to be supplying ten affordable rental units for seniors as well.

Another 100 hundred percent municipal -- or 100 percent affordable project.

And what some of this discussion earlier was talking about were these inclusionary developments versus these 100 percent affordable developments. And from the municipality's standpoint, these 100 percent affordable developments are the way to go because you don't get any additional units. You fulfill your affordable obligation, your Fair Share obligation without adding market-rate units to a site and to the town.

The inclusionary development is, as I am fairly sure was made clear but I'll say it again, is when you have market-rate units that are basically subsidizing the affordable units. And usually that's at a 20 percent set-aside. That is where that 1-to-5 ratio came into. So for every five units you get -- five units of market-rate, you get one unit of affordable.

So those are where municipalities get hit really hard with a lot of additional housing units because you see the affordable number but you have to think times five is how many units you're going to end up with.

So these, Allen House 1 and Allen House

2, those have been really good projects. And those are or will be managed also by the Affordable Housing Alliance. And they are the ones in charge of -- again, Allen House 1 is constructed. For Allen House 2, the Affordable Housing Alliance is in charge of pursuing the funding and securing the funding for that. The municipality has already -- the Township has already deeded them the property or is about to, at least. About to. So they will move on and work on their funding for that.

Additionally, we have the Burnt Tavern Apartments. That's another already completed site. That's a family rental. Another 100 percent affordable that has four rental units within it.

And then we get into the proposed properties. And a lot of these were the subject of the negotiations over the last few years. The first of which is the one that we refer to as Shu Lee or Millstone Village.

That is going to be comprised of -- that's also going to be a 100 percent affordable family rental project with 30 affordable units. So, again, you're not getting any market-rate units with that project.

The next one is what we're calling CKV

or Millstone Woods. That will be 100 percent affordable for sale. So not rental, so we don't get to claim any rental bonuses for that one. That is going to consist of 46 affordable units, 25 will be low-income and 24 will be moderate income.

CHAIRMAN NEWMAN: So let's just a minute just to talk about that.

MS. MERTZ: Sure.

CHAIRMAN NEWMAN: So CKV is 100 percent affordable and it will be 46 affordable homes and no market-rate, so it's not inclusionary. But who's building it?

Ms. MERTZ: That's another one that the Affordable Housing Alliance will be securing the funding for and doing the construction for.

CHAIRMAN NEWMAN: But Millstone is responsible for some of the construction, if I'm reading this right, streets, utilities.

MS. MERTZ: So we're in the process, the Township is still in the process of working out the development agreement with -- for this project with the Affordable Housing Alliance. So we're still negotiating.

There has been some discussion about what the Township will be contributing or helping

with in terms of what you said, infrastructure, utilities. It's expected that some of that will be -- will come from the Township but we have not determined the extent of that.

DEPUTY MAYOR GRBELJA: But some of that is going to come from the agreement that we have with Showplace.

MS. MERTZ: Yes.

DEPUTY MAYOR GRBELJA: The upfront money, 1.9 million, that is supposed to come from the agreement of that, the upfront money to help with the infrastructure for that to offset our costs.

MS. MERTZ: Right. That's a good point, so let me explain that a little further right now.

The Showplace Farms, as was mentioned, they're no longer doing inclusionary development as was originally proposed. They're going to be developing warehouse space and doing a payment in lieu of units. So the township is getting -- 2.5 percent of the assessed value will be going to the township. We're estimating that to be about $1.8 million. And that money will have to be used for affordable housing purposes, so stuff like

utilities, improvements. That money will come directly from what the Township is getting from Showplace Farms.

CHAIRMAN NEWMAN: What about, Nancy, here's a question for you. The purchase of the CKV property, how was that handled?

DEPUTY MAYOR GRBELJA: The Township bonded for that money. That was the property, remember, that we were looking to purchase and we bought.

CHAIRMAN NEWMAN: Right. So the land doesn't come for free. It's another part of the process. You have to buy the land --

DEPUTY MAYOR GRBELJA: We bought that.

CHAIRMAN NEWMAN: Right. We put up a bond. We have to pay off the bond at some point.

DEPUTY MAYOR GRBELJA: Correct.

CHAIRMAN NEWMAN: So the town has to pay X for the land, and then the town has to pay Y for the infrastructure, which hopefully comes from the Showplace moving forward. And then some third party, this group, is actually going to build the homes.

MS. MERTZ: Correct.

CHAIRMAN NEWMAN: So it's a little

bit of a -- a lot of things had to fall into place for that?

MS. MERTZ: Absolutely.

CHAIRMAN NEWMAN: And, Nancy, is it fair to say that in those several other group home scenarios that McKinley went through, several of which are already on the books and successful, there was that same formula?

DEPUTY MAYOR GRBELJA: Yes. If you remember correctly, when different properties became available, such as the Allen House 1, that was a piece of property that the Township acquired that a builder had that he didn't want and the Township bought and we just had and we used that.

If you remember when we were sitting at our work group, there was that house that Allen House 2 was going to go on that was just for sale that we got at a very good cost. And we said what about that for COAH. And we bought that. And we had it and we put it in the bank.

The process that was on here, which was the rental homes that just had gone up, the four homes, the Burnt Tavern Apartments, that was a piece of property that when Gary Mangino had an application that came before the planning board, he

donated a piece of property, that property came to us.

The property that the Shu Lee apartments are on, that is property that is behind the Burger King area --

UNIDENTIFIED SPEAKER: You are stalling us.

CHAIRMAN NEWMAN: Excuse me. We're going to let the process continue, if you don't mind, and we will open it up to the public.

DEPUTY MAYOR GRBELJA: What happened was --

UNIDENTIFIED SPEAKER: Let's get to the Baldachino question here.

CHAIRMAN NEWMAN: Thank you for your comments. We'll do it more formally in a few minutes.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN NEWMAN: So if you would hang out a little bit more, we'd appreciate it.

UNIDENTIFIED SPEAKER: You're stalling us.

CHAIRMAN NEWMAN: Thank you for that comment.

DEPUTY MAYOR GRBELJA: Those were two

of the properties that we purchased back then. So whenever properties became available, what we did is we purchased properties knowing that we had COAH obligations that were coming up, and that's what we did.

So that's where we got all of these properties from. So we built up the bank.

MS. CURTIS: I have a quick question; can I ask?

CHAIRMAN NEWMAN: Sure.

MS. CURTIS: Okay, thank you.

How about Showplace Farms, you said that is going to generate about $1.8 million in the beginning.

DEPUTY MAYOR GRBELJA: Yes.

MS. CURTIS: Now, how much is it going to generate in annual taxes for the Township?

DEPUTY MAYOR GRBELJA: I think we estimated about 1.7 million.

MS. CURTIS: That's annual?

DEPUTY MAYOR GRBELJA: Yes.

MS. CURTIS: So that warehouse is not going to really create any additional cost for education because it's a warehouse, so it's limited --

DEPUTY MAYOR GRBELJA: No cost for education and also no impact on schools.

MS. CURTIS: Okay. Thank you.

CHAIRMAN NEWMAN: Thank you. Go ahead, please.

MS. MERTZ: The final proposed development, which is why I know everybody is sitting in the audience tonight, is the Baldachino property. This is -- yes, the only new inclusionary development that is proposed as a component of this plan.

So the numbers for this we're talking 194 market-rate units and 48 affordable family rental units. And, again, that is that 20 percent set-aside that we had talked about, that 1-to-5 ratio.

CHAIRMAN NEWMAN: That also yields bonus credits?

MS. MERTZ: Yes. Because we get rental for all of this, we're getting 44 bonus credits from this site. So we're getting 48 units but we're also getting 48 bonus credits.

VICE-CHAIRMAN PEPE: So we get a total of 96 credits?

MS. MERTZ: Correct.

VICE-CHAIRMAN PEPE: And how many do we need to satisfy this round of COAH?

MS. MERTZ: So we need 231 --

VICE-CHAIRMAN PEPE: 231?

MS. MERTZ: Total units, correct. And with all of the developments that I just expressed now, with the addition of one final program called the Accessory Apartment Program, what that essentially does is it allows somebody, a private property owner, should they choose to build an accessory affordable apartment on their site, the Township will give them money to construct it and deed restrict it for ten years for an affordable household. Should someone choose to take advantage of that, it's available.

And even though none of those units -- even though no one has come to the Township yet to build one of those units, the Township still gets to take the ten credits because that program is available. We're creating the opportunity. That is what the courts want to see.

So that program, while it hasn't been taken advantage of yet, is still an opportunity. So we get 10 credits for that.

So with the developments that we just

listed, we get a total of 184 units, and 58 rental bonuses for a grand total of 242 credits. And if anyone can do math, you can see we're about 11 units over, and we are allowed to carry those units to the next -- the next round, whatever it is that may be.

CHAIRMAN NEWMAN: And towards that 231, 96 of that is the Baldachino site or 48 plus 44?

MS. MERTZ: Correct. Just to make sure everyone is clear, it's 48 units, 96 credits.

CHAIRMAN NEWMAN: That's what I meant to say.

VICE-CHAIRMAN PEPE: So if I reduce the size of that, but I'm reducing two for one, I have to reduce half, I could reduce by six, arguably?

MS. MERTZ: Correct.

VICE-CHAIRMAN PEPE: Reduce by six ultimately because I have five for one, right, I reduce by six. And then six times five, 30. So I get 36 less units on the property if we were to just take that property and meet our minimum?

MS. MERTZ: Good math. Yes.

Those are all of the proposed mechanisms. I will note one thing that we talked

about with the Showplace Farms, we worked out a Settlement Agreement with them that they're contributing their 2.5 percent to the Township so that they can construct affordable housing elsewhere. However, the Township already has on its books a development fee ordinance. And we'll continue to run that.

And what that means is anytime a multifamily building, which doesn't happen very often in Millstone, or a commercial building comes in, they have to pay a percentage of their total assessed value towards this development fee which goes into a trust fund. And that trust fund can only be spent on affordable housing measures.

So things like the construction of the 100 percent developments adding to the utilities, that comes out of this fund. Mine and Mike's fees can come out of this fund because it's all affordable housing dedicated. The money to run the rehabilitation program can come out of this fund. Anything that is affordable-housing focused.

So beyond the developments we're talking about today, there's constantly this fee that is being collected for commercial properties, should a multifamily property come in as well.

MS. CURTIS: Is that a one-time fee or an annual fee?

MS. MERTZ: It's a one-time fee, yeah, when they construct.

CHAIRMAN NEWMAN: Anything further?

MS. MERTZ: No, that's it.

I want to make one point just in case there's any confusion. The maps that we included in our plan include wetlands but we have not performed an LOI. We're required by the law to put any environmental constraints on those maps. But we're using state data. We did not go out and do our own research for that.

CHAIRMAN NEWMAN: So the lines might be bigger or wider?

MS. MERTZ: Correct. When these developments come in, as Matt said, they'll have to go through the whole permitting process and do these LOIs and their lines could be slightly different from ours.

CHAIRMAN NEWMAN: Thank you. Anything else from anyone on the board as to our professionals? Any other comments or questions?

Sorry, we're going to take a five-minute break. Thanks, everybody. We are

adjourned for a couple of minutes.

(A recess is taken at 8:50 p.m.)

(The record resumes at 9:00 p.m.)

CHAIRMAN NEWMAN: Thanks, everybody. I'm going to call the meeting back to order and we are back on the record.

I believe we concluded the presentation of our professionals and questions by and comments by the board. And at this time, I do want to let the board members know that you're free to present other comments or questions, but at this moment I would like to open it up to the public.

If there's any member of the public that would like to approach the board with any questions or comments, please approach the microphone. You're welcome to sit down.

We do ask that you say your name and spell your last name and give your address so that we can get you properly logged in on the record, and look forward to your comments. Thanks.

MR. DAVIS: I'm Eric Davis. I live at 210 Disbrow Hill Road in Millstone.

I just have a couple of questions about the plan. Just so I'm clear or we're clear, with the bonus points that we have and versus the 231

current obligation, how many actual units do we have to construct now to get to the 231?

MS. MERTZ: So we're proposing 184 actual units to be constructed, the rest to be acquired through bonus credits.

MR. DAVIS: If we construct those, we will actually have excess credits, you said?

MS. MERTZ: Right --

MR. ZINER: Those are affordable units.

MR. DAVIS: Right.

MS. MERTZ: Right. And I'll clarify that a little bit. The way that the plan is now with the 184 units and 58 bonus credits, we get to 242, which is 11 more than the requirement.

Now, part of the reason for that, for adding that was a little buffer area. The Accessory Apartment Program that I talked about, not a single one of our towns has ever had someone come forth and want to take advantage of that program.

There is some uncertainty about the viability of it in the future, so we built a little buffer just in case something were to happen and the courts were to say, you know, no one is taking advantage, that's not an opportunity. So there's a

little buffer built in.

But if it does remain viable, then those credits can be carried forward.

MR. DAVIS: Got it. Question about the development fees. You mentioned that the Showplace Farms, at least according to this document, was 1.7 million at 2 1/2 percent. The other development fees, you said that was just for multifamily or commercial?

MS. MERTZ: So it's buried deep in here, I probably don't have a tab for it -- correct. So I think it's -- I think it remains -- and, Mike, correct me if I'm remembering this wrong -- I think it remains 2.5 percent for the commercial and one point -- 1.5 percent for residential unless they're coming in for density bonus.

If they're asking for more units than is permitted by zoning, then that number jumps to 6 percent.

MR. DAVIS: Okay.

MS. MERTZ: And that is already on the books. The Township already has that. We're going to update that to current standards, but you already have that.

MR. DAVIS: Okay. So in this exhibit

here where we come up with like 2.3 million in revenue, they project 100,000 per year from 2020 to 2025. Using the two-and-a-half percent --

MS. CURTIS: What page is that?

MS. MERTZ: There's no page numbers.

MR. DAVIS: HGA-5.

MS. MERTZ: So that's the draft of the spending plan. So one of the facets of this that we didn't go into is all towns are required to put together a spending plan that will show how they plan to spend the fees that they collect from the development fee ordinance.

So the numbers listed in this plan are an estimate based off of previous development fees collected, that $100,000 a year. We did an analysis of the -- I think we looked back -- we looked back at the trust fund that you already have, you've been collecting development fees, we looked back at that from 2007 until now.

And we also looked at the New Jersey Department of Community Affairs and examined the new construction that has taken place in Millstone since 2000. And that is how we came up with that general $100,000 a year from the general development fees, basically everything except Showplace.

So we're projecting about $100,000 a year to come in plus the 1.7. I misspoke earlier. I said 1.8. We're projecting 1.7 from Showplace.

MR. DAVIS: So assuming the two-and-a-half percent is more likely the fees, so that you're looking at roughly $4 million in development per year as a basis to get that 100,000? Is that what it calculates to, two-and-a-half percent?

MS. MERTZ: My math, I'm sorry, I'm bad at math.

MR. DAVIS: I put it in my calculator.

MS. MERTZ: I believe you, yes. That sounds right.

CHAIRMAN NEWMAN: So you're suggesting that we need to keep generating that much new development every year to generate that number?

MR. DAVIS: Yeah. Well, looking at what we're expending, we may not need that but I was trying to get a clarification on the 100,000 per year is based off of, assuming two-and-a-half percent, would be 4 million in development, commercial, basically.

MS. MERTZ: Yes.

MR. DAVIS: Okay. So those numbers

come to 2.3 million. And then the page HGA-7 shows how we're going to spend that money, which I think was 465,000 for rehab, 200,000 for accessory apartments and then roughly 500,000 for the municipal-sponsored projects.

MS. MERTZ: That's correct. That's how it's projected right now, yeah.

MR. DAVIS: So that roughly comes back to 1.1 million. So if you're collecting 1.7, actually we would have a 600,000 surplus for other stuff, other future --

MS. MERTZ: Right. And there is a requirement to spend -- the townships have to provide affordability assistance out of their trust fund. And 30 percent of the trust fund has to be spent on affordability assistance. So that's where some of the excess money goes to.

VICE-CHAIRMAN PEPE: What is affordability assistance?

MS. MERTZ: That is helping make, for example, providing help with, like, security deposits. It's helping to make units more affordable, that might not be, to affordable households.

It will be run with the -- the

Affordable Housing Alliance will do it as part of their contract.

DEPUTY MAYOR GRBELJA: I think we have some upgrading of the original Allen House 1. Some of the bathrooms, they weren't made with handicap accessibility in some of the bathrooms and some of the tubs. So I know that they wanted to add some handicap rails in the bathrooms.

MS. MERTZ: That's a good example. The money is not going to creating new units, it's going to maintaining the existing ones.

MR. DAVIS: So one last question about the redevelopment or development fees. You said it was 1 1/2 percent for a multifamily. So I'm just wondering in these calculations if the Baldachino project goes through, the multifamily that are not -- that are market-rate ones, are they exempt from the one-and-a-half percent?

MS. MERTZ: Yeah, because they're providing the affordable units. So anybody that is not providing affordable units.

MR. DAVIS: All right. One other question about the treatment facility that's supposed to go in --

MS. MERTZ: That's a Matt question.

MR. DAVIS: It's not really a technical question, it's more of a -- well, I guess the question is, this came up before, once these get constructed, who is responsible for maintaining that?

MS. MERTZ: I actually don't know.

MR. SHAFAI: Right now they are, whoever builds it. Whoever is going to run the whole complex.

MR. STEIB: Normally what they're going to do is they're going to wind up hiring a company that monitors and operates these facilities in various places to oversee it.

VICE-CHAIRMAN PEPE: Let's be clear, though. When we had -- this board had been addressed about that before, at one point, because I sat in your seat asking these questions, I was told the Township would be responsible for that.

So I just want to be clear, what is the right answer here? The Township won't have anything to do with that.

MR. STEIB: Correct.

VICE-CHAIRMAN PEPE: That's going to be strictly on the homeowners association of that community.

MR. DAVIS: I have a question about if these are rental units, is there actually a homeowners association?

VICE-CHAIRMAN PEPE: Well, who is managing the rental units? I don't know the answer to that.

CHAIRMAN NEWMAN: It's a landlord or homeowner association. Either way, it's a private entity that, as Mike is suggesting, will hire a professional wastewater management company to manage the wastewater system.

MR. DAVIS: So it technically, it should be on the developer to hire someone and pay for the ongoing maintenance?

CHAIRMAN NEWMAN: Correct.

VICE-CHAIRMAN PEPE: Well, does the developer run a homeowners association or after he's done with the project does he walk away?

CHAIRMAN NEWMAN: Well, in the case of a rental community, it's the developer/landlord who will stay.

VICE-CHAIRMAN PEPE: Right. So it's just going to be a subset of these things. Let's think about it, if one-fifth of it is rental, the balance is ownership, it's one-fifth forming the

association. Which could be kind of interesting that one-fifth would have to pick up the cost of maintenance for a facility that would cover, you know, significantly more people.

Does that become cost prohibitive for a low-income community to maintain that?

CHAIRMAN NEWMAN: Yeah, that wouldn't happen. It would be the entire community because the other units would have to be part of the homeowner association.

VICE-CHAIRMAN PEPE: So a separate homeowner association?

CHAIRMAN NEWMAN: Or one. It depends how it's ultimately set up.

MR. DAVIS: Is it though that only one -- the marketplace units are sell because I think we said we were taking credits for all of them for rentals, right?

MS. MERTZ: For the rentals of the Baldachino site?

MR. DAVIS: Yeah.

MS. MERTZ: Yes.

MR. STEIB: The affordable units.

MS. MERTZ: I'm sorry, the affordables.

MRS. D'ANDREA: One at a time. One at

a time. For Mrs. Buonantuono, one at a time.

MS. MERTZ: I'm sorry.

MR. DAVIS: So the affordable ones are rentals and the other ones could be salable units.

MR. STEIB: It could be.

MR. DAVIS: They could be, or they could rentals, whatever they decide.

MR. STEIB: Correct.

MR. DAVIS: So ultimately it would be either the homeowners association or the landlord that ultimately would be responsible for the ongoing maintenance of the treatment.

CHAIRMAN NEWMAN: It's possible that the homeowner association is for the for-sale market-rate units, and then the landlord-owned affordables is a member of that association, or otherwise contributing to the upkeep of the grounds and the wastewater facility.

But when this -- if and when this application comes before the planning board, that will certainly be a topic that they'll have to demonstrate to us that they have adequately handled how the association is going to work.

And then if it passes muster for the board, they would still have to go to the state, to

the DCA, who would have to bless whatever homeowners association they come up with with an adequate budget.

MR. DAVIS: Or some sort of bonding that's set aside to -- in case something happens.

CHAIRMAN NEWMAN: Sure. The town will certainly ask for a bond to confirm the construction and then maintenance of that facility.

But there's lots of layers of governmental oversight to get to that point. And obviously we're one of the layers today in that process.

MR. DAVIS: Okay. Thank you.

CHAIRMAN NEWMAN: Anyone else?

MR. SANICKI: Okay, it's show time. Hi. My name is Bob Sanicki. I live at 723 Perrineville Road. That's S-A-N-I-C-K-I.

And I'm just shocked. I think I heard five years of siting and planning by the brain trust of Millstone Township and they come up with this disaster. Who is the genius who wants to go from the lowest density in Millstone, ten-acre rural reservation -- preservation, and go all the way to the highest inconceivable, whatever, 1,000 for 15 acres? Who comes up with a concept like that and

tries to sell it? And who buys a concept like that is beyond me.

But let's say, for some crazy reason, this does pass the board, that the zoning is changed and this ten-acre rural preservation in glorious, pristine Millstone becomes a high-density zone. Let's say this plan shows up at the Affordable Housing Office in Trenton, they open it up, oh -- I'm not much of an actor, but I'm going to try -- oh, it's from Millstone. Oh, this should be easy. Hold it. I don't see Route 33. I don't see Great Adventure here. Where the heck is this? Oh, it's in the formal -- formerly ten-acre residential zone. How could that possibly happen? I thought Millstone was environmentally sensitive? Speaking of which, I don't see a tree. Is there a tree here? What, was this land clean cut? Clear cut? How could they fit this -- I call it the Fort Dix solution. This is Millstone's affordable housing is the Fort Dix solution because that's what it is. I lived at Fort Dix for two months and the company street went up and down. You could shoot a bullet down the avenue just like here, because it's all jammed up between the precious wetlands and Perrineville Road.

But also, let me say, further examining

this piece of paper, I'm looking at what I perceive to be a shopping mall at the back because the footprint of these two buildings, you could fit probably six or eight of the residential buildings into that footprint.

I'm saying, how could they have a shopping mall? Oh, no, I'm sorry. That's the wastewater plant and the sewage treatment plant. That's what it is. It's not a shopping mall.

So that's another issue I have with this. Everything is so condensed, so intense and what once was -- what once was kind of a quiet, ten-acre, Rural Preservation Zone is preserved no more.

And what happened to the Master Plan that some of these people wrote up? That beautiful vision. A Master Plan. Why aren't these areas spread out, you know, 45 here or 25 there. Why isn't this in a commercial zone?

Why isn't this, God forbid, in a five-acre residential zone? Why did we have to go all the way to ten-acre?

So it's all kind of crazy here. So I thoroughly oppose this plan. I think it's ill-conceived. And I don't know why, I

just -- let's dump it over here and be rid of it, but it's just not right.

And if this is the -- five years of work went into this, I could get a ruler, a pencil and do this overnight. I could do this easily overnight.

And I think my final word is to say, you know, if this is the best, all we can do, I think some of the elected officials of this town have to be primaried at this time because this is not right.

CHAIRMAN NEWMAN: Thank you. Anyone else like to approach the board? Sure.

MAYOR MALKIN: Hi. I'm Peggy Malkin. I'm the Mayor of Roosevelt.

So I would like to start out by saying I'm a little perplexed and disappointed that after five years of talks about this, that Roosevelt was never informed or included or in any way knowledgeable about all of this.

I know that you're not actually required to discuss it with us but, you know, we're kind of like the hole in the middle of the donut of Millstone, so everything that you're discussing with this property directly affects us.

I think there's a number of issues here that are of grave concern to Roosevelt. I'm not sure if all of you are aware that Roosevelt is the only town in the United States that has national and state historic designation for the town in its entirety.

We're the only town in this country that our entire town is a Historic District. We have tried to preserve the town as much as possible from the original design and concept in 1936. We will be severely impacted by many issues here.

First of all, traffic. So if -- how many exact units are we talking about here? I know there's one-, two- and three-bedroom apartments.

MS. MERTZ: I believe it's 242.

Ms. MALKIN: 242, that's right. I just wanted to make sure before I stated that.

So you have to assume if they're one-, two- and three-bedroom apartments, every family moving in will have a minimum of two cars. So right away you're talking about almost 600 cars.

Most of those cars, I know you're probably going to think that they're going to go the opposite way to East Windsor, but many cars will be coming through Roosevelt. They are going to get to

195. They are going to go to Great Adventure. They are going to go to the beach. They are going to come through Roosevelt.

We have a very small, narrow county road that goes through the center of town. I'm sure most of you know. We also have a public school on that road. Our children walk to school. It's close to everyone, so there's no buses. We have children walking to school every day from September to June. Then we have a camp program in the summer. And we're going to have this influx of cars that is going to, I don't know, I can't even come up with the number, triple, quadruple the number of cars that presently come through Roosevelt.

I'm also curious, I saw that you have allotted 400 spaces for this development, but we know you are going to have more than 400 cars. I wonder where all those other cars are going to park because you have a three-bedroom apartment, you're going to have more than one or two cars for that unit.

We also -- Elys Corner, do you know? That's the main intersection where Roosevelt meets Millstone. That's a very, very dangerous intersection. I'm sure you all know, Scooter Corner

and Elys Corner are dangerous intersections.

And when I first moved to Roosevelt -- I have been there for 45 years -- the only people that came through Elys Corner were people that live in Roosevelt. Now you have all the Millstone people from all your different developments. But it's still going to pale in comparison to how many people are coming through the intersection once this development is completed.

So I know you said many of these studies still have to be done, but you have to consider, like, that entire intersection will have to be changed. Are you widening the road?

Most people move to Roosevelt and Millstone with the expectation of living in the country. That's why we move here, for people that want to live in a rural area. Not the suburbs, not a gated community, and not an urban area. They want to live in the country. So now, is the road going to be widened? Is there going to be a big intersection at Elys Corner?

I do think it's ill-conceived to put such a high-density development in that area, which is a pristine, rural, beautiful area.

And finally, environmentally. What is

going to happen, you're going to pave over all of that land. I know there is a lot of wetlands. I have been told it's almost like a lake. I have walked that property but not for a long time. It's almost like a lake back there. It's a high, high water table.

In Roosevelt our water table has risen dramatically over the years. We've lost trees, we lost -- it started a long time ago and then once Sandy hit, we lost more trees and the water table rose even more. So with this development where is that storm water going? That's a lot of acreage that will now be paved over.

So there's many, many issues that I think you really need to study deeply before you just give a blanket approval to this. And as I said, you know, we are a few feet away and this will dramatically impact Roosevelt on many levels.

So I would hope that you would reconsider either the density or putting it, you know, on one of the other properties that Millstone owns.

Thank you.

DEPUTY MAYOR GRBELJA: Can I just ask you, what was Roosevelt's number for affordable

housing?

MS. MALKIN: Well, right now we have Solar Village and I think there's -- you know, I can't remember how many units. It's fairly small. As of right now that meets our quota. So we have been told that it may go up in, you know, the near future. But you know -- you're familiar with Solar Village? Where the senior citizens -- it's a very small apartment complex where senior citizens live. Mike Hamilton may know because he was the mayor years ago before I was.

Do you know how many units there are?

MR. HAMILTON: How many -- what our obligation is?

MS. MALKIN: Or how many units are at Solar Village? Because that does meet -- that does meet our obligation.

MR. HAMILTON: I'm not exactly sure, but I think it may be 3 or 4 units, something like that. We're pretty much built out. Any of the land that was available we reserved and put into preservation. I can speak to that, too.

DEPUTY MAYOR GRBELJA: I was just --

MS. MALKIN: No, I knew I was going to let Mike speak to that, that part of it.

DEPUTY MAYOR GRBELJA: Thank you.

DEPUTY MAYOR GRBELJA: So I do hope that you give this a lot of thought and, hopefully, reconsider because this is -- this is going to damage Roosevelt severely.

CHAIRMAN NEWMAN: Yes, sir. Why don't you take the next run so we get your name on the record.

MR. HAMILTON: Mike Hamilton from the Borough of Roosevelt. 82 Pine Drive. Right around the corner. We're in the donut hole. It's actually a croissant, I guess, kind of. It's shaped around. And where you're planning on putting this development is at that tip of the croissant, which we like to call it.

I can really relate to where you guys are with this because my job from 2000 through the end of 2003 was to fight off developers. Because we had a COAH obligation and we did everything pretty much by the book, like you guys are doing, and tried to put everything and memorialize everything and submit it to -- on time to the courts. Only we ran a few hours late. And the developers sued us the next morning. They ran to court out of a meeting, a meeting very much like this, and filed a lawsuit

against us.

And so we ended up spending a lot of money and a lot of time fighting off some developers with deep pockets. Probably deeper pockets than the ones you guys might be facing. U.S. Home. We fought off U.S. Home for probably over a year and a half. And it cost a lot of money and a lot of aggravation.

So I can relate to what you're trying to do. You have an obligation, you have to fill it somehow. You've got to look at the land that you have that is available and figure out how you're going to do it in the best possible way.

One of the things that I wanted to mention is there's a lot of people here and I know we're all in the same boat if you live in Millstone or in Roosevelt. When you buy a house you rely on the zoning and you buy into the zoning. If it's five-acre zoning and you have, like in Roosevelt, we have a lot of preserved land on both sides of -- on both sides of a lot of the houses, you buy into this expectation and you put your life savings into this home with the expectation that that zoning is a law and that law is going to protect you and you buy into that lifestyle. And in Millstone you buy into

a community that is a beautiful community, that has great woodlands and it's a beautiful -- it was a beautiful farming community, it still is a beautiful community. But you have this expectation, and you have the right to have this expectation, when you buy into that zoning that you're going to be protected by that.

We ran into that in Roosevelt with people who wanted to build a yeshiva in a residential area, and they sued us for that. They were going to build a school, essentially, in a residential area right on a street where, you know, there was going to be a lot of traffic, 60, 80 kids, that kind of thing, and they could have won in court. So people were, rightfully, upset about that because, yeah, you spend -- you put your life and your heart and your soul and your sweat equity into a place that you love and you expect that that zoning is not going to change.

So I can really relate to people who are here whose zoning is going to change drastically by this and all of a sudden they're going to feel like the rug was pulled out from underneath them. I would feel that way. I think many of you guys would, too.

So this is -- this is a real shocker to me because I have been in public office in Roosevelt for over 20-some years now, close to 30, actually, but we haven't heard anything from any of you guys regarding this. We have a lot of experience with COAH, with builder's remedy lawsuits, with the courts. We understand what you're going through. We would have been glad to sit down with you guys and say, Look, we understand what you're doing. Have you thought about this?

We ended up snatching up all the developable land in Roosevelt and buying the options and stealing it away from the developers while we were occupying them in court. We were ticking them off in court. We were talking about how they were using this club against this small little town and trying to hammer us into submission so that they could fill their pockets with money. And, you know, they lost sight of the fact that their options were expiring.

We snatched up all of the developable land in Roosevelt, on both sides of 571 and on the Notterman tract which adjoins Millstone. We took it off the books. The developers all of a sudden, even though they were in court fighting against us, they

said, what are we doing now, we don't have any options on any of this land. There's no equity on the builder's remedy if there's no buildable land.

We're built out. We preserved it. That was one of the ways that we handled things, we put our money into preservation, into buying these options and taking that land off the books.

I don't know how many acres and what your land situation looks like when you look at a map and you look at the developable areas, but that's an option sometimes is to try to figure out how you could remove that land from the inventory so that you're not subject to a builder's remedy.

The builder's remedy is a horrible thing. I mean it's really -- they can drag you through the courts, you can get to depositions. It can cost you hundreds of thousands of dollars. So I understand why you're taking this approach. But I think there are other more creative approaches that you might want to look at, too, but it depends on your situation as far as how much developable land you have that is available, and I don't know that situation with you guys.

But we're glad to help. We're right around the corner. And Mayor Malkin and myself and

other people and a lot of Borough officials who have gone through this whole process, we understand the ins and outs of it, including, you know, what happens when you have to go to court when the builders sue you, and they will. I mean, they don't hesitate. They're bullies. They're going to come in and they're going to threaten you and they're going to sue you. And your deputy mayor is correct, they'll go after every little damn thing to try to beat you into submission so that they can get their huge development just for your little quota.

So I understand what you're going through, but I really wish that, as a town that is really going to be affected by this, that we had some more outreach and more inclusion, as far as we were concerned. And we would be glad -- and we're offering that now, too. We're glad to help you out with any advice that we can give or anything regarding our experience, you know, with the courts and that kind of thing.

The whole system has changed. And I think that was outlined very effectively by Michael. And it is -- it is a whole different process now. But I can relate to what you're going through. It's not easy. And you are essentially pulling the rug

out from people, who, you know, have this expectation that, you know, we have this ten-acre zoning, we bought into that. We put our life savings into it.

It's a hard pill to swallow when that happens to people. They don't like to feel like they were blindsided or somehow the deal was changed on them.

So I am not -- I'm not so worried about developers. I think you -- I think, if you're smart, you can deal with them, but it's a risky venture. It's a risky venture. But I think you should look at things and take a creative approach and not be so afraid of the builder's remedy. I think maybe you can come up with some other possible solutions.

I don't know how much time you have and how long you can keep your immunity. That's the question.

CHAIRMAN NEWMAN: As Mike suggested, or said, we're at the end of the time.

But I did want to, I'm not here to respond to everyone's comments, but just on your offer of assistance, I would like to see if that could be something that perhaps we might call on at

a later point. Assuming things continue the way that the court would want them to continue, and there is at some point an application in front of this board for this property, you might not be on the formal 200-foot notice. But, Pam, we can --

MRS. D'ANDREA: The surrounding town would be.

CHAIRMAN NEWMAN: Okay. So what we would hope is that you get notice or we somehow otherwise contact you, and that you could assist us in evaluating -- and that's a very key word -- evaluating this application for all of the reasons that we've talked about and particularly the ones that you have talked about, which would be helpful to us, giving a very hard look at whether it is as viable as the Baldachino property owner currently suggests.

MR. HAMILTON: Yeah, we ran into issues with the wetlands buffer zone. And you said that no LOI was done yet on that property as far as the buffer zones. I don't know if it's exceptional value wetlands. And if that's the case there's a 350-foot buffer zone around the wetlands, and you may not have as many -- as much developable land there as you want to use for those units.

So there's a lot of -- you know, this is Step 1 and there is a lot of things that could really influence whether or not this plan is a viable one for you guys, but these are the kinds of things that we might -- we might be able to talk to you guys about informally.

CHAIRMAN NEWMAN: Right. Even, in addition to appearing at the board and assisting with professional evaluation and local evaluation, when elements of it go to the various state agencies, such as the DEP for wetlands, certainly this board or neighbors or neighboring towns could also approach the DEP to identify that they believe that a line is a little wider than perhaps the developer is suggesting, based on actual on-the-ground knowledge, or local knowledge, that the State may not have.

MR. HAMILTON: Right.

CHAIRMAN NEWMAN: So you can certainly provide valuable guidance and assistance at that stage. We appreciate tonight, but I'm just -- I'm trying to think about where we can go together. And thanks for the idea.

MR. HAMILTON: When you go down the road and you're heading toward Hightstown and you're

heading out of town on 571, where this development is going to be, there's often road flooding down there during rains and all. You're talking about a lot of impermeable surface there, too. 450 parking spots plus, you know, that the layout is going to have a lot of other impermeable surface.

So I would be concerned about that, that that is going to pass muster with a lot of different agencies as far as that's concerned.

CHAIRMAN NEWMAN: The State has some complicated storm water regulations that are getting more complicated every year. So, right, we would all have to be watchdogs over the State and their evaluation of that process.

MR. HAMILTON: But you guys have done a great job of preserving a lot of open space and a lot of farmland and I know that. I'd look at what else is on the books, what else you have. I think the money could be better spent on preserving the rest of the open land so that, essentially, you're built out. There's no room for a builder's remedy if there's no place for a builder to build a house.

CHAIRMAN NEWMAN: I am not sure if we can get there. Nancy, you have done an incredible job preserving thousands of acres.

DEPUTY MAYOR GRBELJA: We try to preserve everything we can.

MR. HAMILTON: And you have done a good job with that, but there may be other creative approaches that you could take. That's all I'm saying.

But, anyhow, looking forward to working with you.

CHAIRMAN NEWMAN: Great.

MR. HAMILTON: We're also very concerned about the traffic situation going through Roosevelt. There's no pedestrian walkways along 571 and Roosevelt near the public school. And there is going to be traffic going through there.

If I wanted to get from there to 195 to head over toward the shore or Great Adventure, I would cut through Roosevelt. I would cut through the Assunpink, too. So there is going to be impact on a lot of different areas from this development. It's fairly wide ranging.

CHAIRMAN NEWMAN: And I would anticipate that, if we're at that point, this board would hire, in addition to Matt and McKinley's services, we would hire a traffic consultant expert for the board, paid for by the -- funded through the

applicant, of course, through the escrow process, but we would hire our own independent traffic expert. And you may consider doing the same, to assist in helping us understand the impacts and how to avoid or mitigate, as we evaluate everything.

MR. HAMILTON: Who is going to provide the police coverage for this proposed development?

CHAIRMAN NEWMAN: Well, right now Millstone is covered through the State Police.

MR. HAMILTON: So the State Police will pick up that additional burden without a cost to Millstone?

CHAIRMAN NEWMAN: That's a township council question. I don't know the answer to that.

MR. HAMILTON: Yeah, I would be concerned about that, too, because, you know, you're asking them to do more and more in terms of coverage and safety and all kinds of issues so that may also come up as an additional cost for you guys.

But, anyhow, any way that we can help, but I think it's -- I would hate to see that land developed for a lot of reasons. I think there is exceptional value wetlands possibly there. It's a beautiful area and I would like to really encourage you guys to preserve as much of that land as you

can.

So, thank you.

CHAIRMAN NEWMAN: Thanks. Thank you very much.

Anyone else like to approach the board? Sure, go ahead.

MR. RUIZ: Hey, there. My name is Mike Ruiz. I'm from 722 Perrineville Road. I just have a couple of questions.

We're going to be living right across from this development, so it's going to impact us probably the most, aside from Kyle and Bob. And I'm just curious to know, like, if street widening needs to occur, for like, you know, any displacement or any inconvenience needs to occur to us for construction purposes or for whatever requirements, you know, from the township, whatever, to widen the roads or anything? Like who is going to compensate -- who is going to cover that cost? Because I have, you know, I have landscaping and pier lights and a myriad of things that would cost tens of thousands of dollars to, you know, replace if the street were to the widened.

CHAIRMAN NEWMAN: If there's a requirement in the process of evaluating the

application to widen the street, the cost would be on the developer, and if those -- if the widening extends past the right-of-way because -- because the road is what you see, the paved road, of course, and then there's a right of way that is outside of that. I don't know the particulars of that road and the right-of-way. But if they have to widen it wider than the right-of-way, they're going to have to go through a process where they purchase that property from you, or there's an eminent domain process that the county --

MR. RUIZ: Okay.

MR. SHAFAI: That's a county road.

CHAIRMAN NEWMAN: Okay. So then the county would be involved in that decision, not the town, to potentially widen it. And then the county, in my experience, would have the developer approach you to compensate you for the widening. And you would say "yes" or "no" or negotiate. And if it comes to no, then the county would have to step in to go through an appraisal process. And if you have certain features that would be disrupted, that would go into that appraisal calculation, or you can negotiate something.

MR. RUIZ: Right.

CHAIRMAN NEWMAN: But I don't -- I'm not suggesting the road would be widened. I have no idea, the board hasn't evaluated that, the application hasn't come forward. And, more importantly, the county would be another one of those layers or governmental agencies that would get the application, we would then lend our two cents, so to speak, to the county. We, in effect, our neighboring town, Roosevelt, might also be approaching the county because it would affect their county roads as well.

And, of course, you're welcome to -- the county is pretty easy to get to, it's right there in Downtown Freehold. And they have meetings that are not well attended so if a few of us are there, it would make quite the impact.

MR. RUIZ: Okay. Another question I have, of the low income housing at that development, how much is the -- what is the ratio of, like, moderate income to low income to very low income?

MS. MERTZ: I think it's -- so 50 percent will be moderate income level, 50 percent will be a low income level, and it sounds like there will be no very low at this development.

MR. RUIZ: Okay. And are they

considering like any kind of pedestrian traffic? Because there's no public transportation there at all. So, like, how would people in low income, you know, who can't afford a car and they're being subsidized to even get the apartment, how are they going to get around?

MR. SHAFAI: There is nothing designed right now.

MR. RUIZ: Right.

MR. SHAFAI: The plan that you have, that's all we have.

MR. RUIZ: Well, I mean, when -- well, like what is the timeline? Like when are we going to have something, like, more concrete that we can sort of like -- these questions would be pertinent?

MS. MERTZ: Well, they will -- the township has to rezone the property to allow them to develop this, and the township has to go to the -- Mike spoke earlier about the final compliance hearing that we have scheduled right now for the end of February.

MR. RUIZ: So, I'm sorry to interrupt, so is zoning like the first step you're going to take, the zoning change? So if you zone it -- rezone it and you find that the DEP or whatever

finds the land inadequate to not -- you know, won't permit --

MR. SHAFAI: Then they can't build there.

MR. RUIZ: So do you switch the zoning back, or is there always going to be the threat of, like, having someone come in --

MR. STEIB: We will have to rethink the plan with the court, and explain to the court that because of these environmental characteristics or whatever characteristics impact on it, whether it's wetlands, whether it's wetland buffers, riparian zones, whatever it is, that we have now learned that this is not -- this cannot be developed and then we have to find another alternative.

VICE-CHAIRMAN PEPE: Just like the scenario where you would apply to the court for that, just like the scenario where we talked about bringing infrastructure in relation to sewer at the project, the Showplace Farms, and that, in theory, that would open up a scenario for that to happen in other places in town. If we're to change the zone here, does that open up an opportunity for other places in town to have the zone change?

MS. MERTZ: Not if it's not included

in this plan.

CHAIRMAN NEWMAN: So the zoning wouldn't be site specific?

MS. MERTZ: Yes. Affordable housing is the only time when spot zoning is legal.

VICE-CHAIRMAN PEPE: Spot zoning is allowed.

MS. MERTZ: Yes.

CHAIRMAN NEWMAN: I just wanted to follow up on a process question you asked.

So the compliance hearing is the end of February?

MS. MERTZ: Right.

CHAIRMAN NEWMAN: When does the zoning have to be done, before or after?

MS. MERTZ: Technically before.

MR. STEIB: It's supposed to be done before. I don't -- I'm not anticipating at this point that the compliance hearing is going to occur at the end of February.

CHAIRMAN NEWMAN: Okay. So if the zoning happens --

MR. STEIB: And that's as a result of some communications that I had with the court master in the last day.

CHAIRMAN NEWMAN: Okay. So if the zoning is supposed to happen before that, first an ordinance has to be drafted. Then the ordinance has to be introduced by the council. Then it comes to the planning board for their review. Then it goes back to the council for a final reading, which is also a public hearing, which will give everybody an opportunity to weigh in on the intricacies of that ordinance, setbacks, buffers and all the things that can start to shape a community that will come forward in the eventual plan to the planning board.

Your question, which is a really good one, is, okay, when does that happen? The zoning ordinance part of it, as Mike and McKinley are explaining, sounds like it's going to happen rather quickly. I'm just going to say a couple of months, but it feels like that. And if all that goes through, then the developer has to prepare an application, a plan, an engineering plan. And, in my experience, even if he goes at a breakneck speed, it's somewhere between 4 to 6 months.

And I don't know that that's the case here, that he's going to go at that speed. To get all of his plans, reports and studies done so he can submit to the board, so he can submit to the state,

so he can submit to the county, Soil Conservation District, and all those kinds of things.

So I can't say how quick or slow they're going to move. And I don't want to overstate anything and say, well, we can see an application by X month or X year, but they can move as fast as they want after the town adopts a zoning ordinance. But I would suggest that we, as citizens or neighbors of our town, will have another chance to take a look at this at the zoning ordinance stage to see if there are parts of the zoning ordinance that can be fine-tuned to help focus the development.

MR. RUIZ: Okay.

CHAIRMAN NEWMAN: I know I didn't give you really hard-and-fast answers. I apologize. I just don't have those.

MR. SHAFAI: The first notice they're going to get is for the wetland studies. When they flag the wetlands, 200 foot radius around this site, you will get a notice that you can come and look at the plan.

CHAIRMAN NEWMAN: Even before a site plan?

MR. SHAFAI: That's correct.

CHAIRMAN NEWMAN: Is one of our completeness requirements an LOI?

MR. SHAFAI: It's a condition of the approval.

CHAIRMAN NEWMAN: Okay.

MR. SHAFAI: But here, if they're smart enough, they should get that first.

CHAIRMAN NEWMAN: Yes, absolutely. It would be not smart to --

MR. SHAFAI: So you will get a notice, a certified mail notice, that they have studied the wetlands and if you want to look at the plan, come to the town, we have a copy of it.

MR. RUIZ: Okay. But that will happen after the zoning?

MR. SHAFAI: It's probably after the zoning.

MR. RUIZ: Okay. Okay, thanks.

MS. MERTZ: But you get that notice. So if you do, come to the town, look at the map.

MR. RUIZ: Great. Thank you.

CHAIRMAN NEWMAN: Thank you.

MR. ZINER: Can I ask a question?

CHAIRMAN NEWMAN: Sure.

MR. ZINER: What kind of situation

would the town be in if the developer does this thing, it comes back negative, and he backs out of the project.

CHAIRMAN NEWMAN: Mike, why don't you take that. Great question.

MR. STEIB: There's a process under the current mandate from the Supreme Court that we do a couple of things. First of all, in June of next year we will have to do a reevaluation of our plan and present that to the court to say how are you doing with the projects that you zoned for and what, if anything, is happening with them.

And then annually we have to submit a report, put it on the website, the town website, and provide it to Fair Share Housing as to what's happening with the plan, are things developing or not.

If things are looking like they're not developing, then the onus would come on us to go to the court and say, judge, this site isn't working out for this reason, for that reason, for another reason, we have looked at it and we have now found that maybe we can get our number here, at some other spot.

CHAIRMAN NEWMAN: Which goes to what

Nancy was...

MR. STEIB: And look for the court to then approve a modification to the plan.

MR. ZINER: So that we're still wearing white?

MR. STEIB: Yep.

MR. ZINER: Okay.

CHAIRMAN NEWMAN: Thank you. Anyone else like to approach the board?

MRS. SANICKI: My name is Kyle Sanicki, S-A-N-I-C-K-I. And it's 723 Perrineville Road.

Today I want to just reiterate my feelings. I have spoken before the board before. And to, again, go on the record to say that I remain extremely concerned about the proposed development on this property.

It is ten-acre rural zoning. It is rural zoning to protect the aquifer that's below it and the wetlands that are behind it and that was instituted by this board in whatever -- however it was at the time it was done, it was done for a specific reason. This board is preparing to change that zoning for the polar opposite of anything in this town and anything that belongs on that spot.

A density that heretofore this township

has never seen before over an aquifer, preparing a septic treatment plant, butted up against preserved wetlands and digging a well into this aquifer to support, give or take, 1,000 human beings that would be permanent residents there, not to mention who is going to come and go in the meantime. And everything I hear about what everyone is saying is looking at this piece of land to see whether or not this monstrosity can be supported on it.

No one has talked about how that is going to affect any one of the residential homes that surround this, any one of the residential homes that border the roads and the byways going to and from, what that's going to do. We haven't talked about where is the runoff going to be? What is the pollution going to be? Where does anyone think that water is going to go after you cover this with foundations and macadam and increased human life that is going to try and exist on this tiny plot of land? That doesn't change.

And when the DEP comes in, the DEP, I would hope, looks at that land under all weather conditions: After it rains; after it rains for days; when the snow is melting; and when there is drought. And no one has thought about looking at

what is that going to do to any of the properties that surround that.

When there is drought and 1,000 people are drawing down off a well in that aquifer, what happens to our wells? When that septic treatment decides to fail? Hello. Happened. Water table rose. But for 1,000 people? Discharging gray water and effluent back into the land that can't absorb it even now.

What is going to happen when that goes bad? When this management company and these low-income human beings that are going to come and live there, who are going to try and support this, something that this town doesn't even want to do, of affluent people. And what happens when that management company decides to go south, belly up, bankrupt? What happens when those people stop paying their HOA fees? It happens all the time, folks. Then what happens?

And when that leaks or breaks or goes belly up and that effluent and gray water pours into that wetlands and absorbs into the soil, into the drinking water that our wells pull off of, what then? Are you all going to say, "I'm sorry." "Too bad." "You will have to negotiate something." Is

that what is going to happen?

I drove around the block. The block around here is 7 miles on one side, 11 miles on the other. It rained a little bit a couple of days ago, didn't it? My car was plowing through water. Plowing through it. And now what's going to happen? And there are no sidewalks and there are no drains. And even if you put them in, where the hell is the water going to go?

So I'm shocked. I'm shocked that you sit up here and discuss this like it's some kind of abstract comment. And, Ms. McKinley, I am a nurse. And 30 years ago, as a single mother of two, I would be excluded from buying one of these units. So don't sit here and whitewash it, all right? I find that insulting. And so probably do the policemen and the firemen and the teachers that you think are going to be lining up to buy those places. So think again. There is a whole other populous out here.

And when you think about this town of Roosevelt, and all along Baird Road, and all along into East Windsor, and all through this community, what you're going to do. Because if you think, again, that people are going to gravitate to Route 33, when you just put a warehouse in there

that is going to run 300 semitrucks 24 hours a day, plus this overload on these county roads. And we say maybe the roads will be widened. Maybe. I don't know. Maybe, think again.

You don't have to be a planning person to understand what the impact is going to be. And yet you sit here and you talk about this like it's an abstract. And you should think about being more creative. And, you know what, I -- I just want to stomp on the ground and say when you talk about planning, I say, like my father used to say, I call bullshit on that, because it's not and you need to think again.

And when this EPA comes in, I want to see them come in in the rain. I want to see them come in in the snow. I want them to drive around and walk those lands. Because those wetlands on a dry day are not the same wetlands on a wet day.

Think about that. Think about what is going to happen if there's a drought. What is going to happen to that well? And what happens when the well at my neighbor's, that's built in the 1900s, that's not even as deep as my well, what happens when that well draws down and they run out of water? What happens?

And you're going to change this zoning now? And the question is, if this doesn't go through -- and I hope to God it doesn't -- are you going to change the zoning back? Nobody can say. Nobody can say.

So shame on you all, right here and right now. And we'll continue to come here and we'll continue to talk about this. But it's not black and white and it's not abstract. Get out there and walk. Get out there and drive. Go up and down that road.

In the space of a mile and a quarter there's two 90-degree turns that have accidents on them all the time, which neither one of them -- - granted one is in East Windsor, one is in Millstone -- didn't even come up on that last meeting where we talked about dangerous roads in this community. Why? Why? Why?

Thanks.

CHAIRMAN NEWMAN: Thank you.

Anyone else from the public like to approach the board? We're going to let new folks --

MS. MALKIN: I just had a question anyway, so that's fine.

CHAIRMAN NEWMAN: Come on up. We'll

let new folks go first, and then we can go back around, if necessary.

MR. PISAURO: Thank you very much. My name is Mike Pisauro. It's P-I-S-A-U-R-O. I'm the policy director for the Watershed Institute, you may know us under our older name, The Stony Brook-Millstone Watershed Association.

I'm here today because, obviously, we're very concerned about the impacts of a particular property on wetlands and storm water and water quality. I do appreciate where we are in the process and I do appreciate sort of the Catch-22 municipalities are in because of COAH's failure to do its job over, you know, probably a decade or so. But, you know, this is one element that is going to start into motion a bunch of other actions which, you know, once started it may be very hard to deal with.

So with that being said, I had a couple of questions. One, and I'm glad for the clarification earlier, there's going to be a rezoning ordinance and there is no sort of timeline on that at this moment?

Any idea, are we going to do it as a complete zoning or as an overlay zone?

MS. MERTZ: It will be a complete rezoning.

MR. PISAURO: Okay.

MS. MERTZ: And we are working on drafting it presently.

MR. PISAURO: All right.

CHAIRMAN NEWMAN: Are you foreclosing an overlay or it just hasn't been determined?

MS. MERTZ: It won't be an overlay. It will be a complete rezoning of the site.

I'm sorry, just to clarify, overlays have different implications in terms of the types of credits you can take for it. I don't want to get -- there's so many levels. But it is a full rezoning, yeah.

CHAIRMAN NEWMAN: Okay. Mike, before you continue, I'm sorry to interrupt you. What relationship will The Watershed Institute have to this project if it's going through a site plan approval?

Is there an obligation for the applicant to submit to you?

MR. PISAURO: No. We're a nonprofit watershed organization. We are in 25, probably 35 towns, in various degrees, reviewing developments

and working with municipalities, trying to help them with ordinances, sustainability.

We actually sent out, just last week, in a letter to all elected officials inviting them to a roundtable on March 13th to talk about issues regarding sustainability, environment and what municipalities are dealing with. So, as one municipal engineer said, sometimes we are a friend and an ally and other times we're a pain in the __ when it comes to development applications.

CHAIRMAN NEWMAN: So when an application comes in here, you don't necessarily know about it unless you happen to dig in and figure it out, or if we alerted you?

MR. PISAURO: Correct. Correct. We try to stay on top of agendas but that doesn't always happen. So, you know, I always ask anyone who is a friend of The Watershed, if you hear of something, please let us know.

MRS. D'ANDREA: I have an agenda contact thing that I put together and you can put your email on the back of this before you leave and when I do my agendas.

Give me your card --

MR. PISAURO: That would be great.

MRS. D'ANDREA: -- and I can put you on my agenda contact list.

CHAIRMAN NEWMAN: Okay, thanks. I interrupted you, I'm sorry about that.

MR. PISAURO: Oh, no, I appreciate that, and I really appreciate the way you've handled this hearing. It is, like I said, there are serious issues.

So with that being said, I did have some questions. There were a couple of times that there was a discussion about not having an LOI, reading through the material --

MR. SHAFAI: We don't have any permit, no approvals, nothing right now.

MR. PISAURO: But in the packet that was, you know, on the agenda there was discussion from either the applicant or the applicant's attorney about having either old LOIs --

MR. SHAFAI: 2008.

MR. PISAURO: 2008?

MR. SHAFAI: It's expired.

MR. PISAURO: They have not been extended?

MR. SHAFAI: No.

MR. PISAURO: Okay. Do you have a copy

of those?

MR. SHAFAI: It should be on the plan that you guys have, yes.

MR. PISAURO: But do you have DEP's actual LOI?

MR. SHAFAI: No, I do not.

MR. PISAURO: Okay. Because that can change. And there was also a discussion about soil logs. Obviously one of the concerns is -- actually a couple, but you're putting a package plant literally on top of the wetlands, and the impacts to the hydrology, the impacts to the health from nutrient pollution.

MR. SHAFAI: They all go through state approvals. They do. I have no jurisdiction over that.

MR. PISAURO: I appreciate that. But in that letter there was talking about soil logs so I just was curious, does the township have them?

MR. SHAFAI: We don't have them.

MR. PISAURO: Okay. And you know -- so there was an ordinance at the end of the packet, is that something that has been introduced?

CHAIRMAN NEWMAN: It's not a rezoning ordinance for this property.

MR. PISAURO: No, no, there was -- at the end of this packet there was a proposed Ordinance 19, and it was blank. So it's on Page 666, towards the real back of it.

MS. MERTZ: I think it's -- is it Exhibit T?

MR. PISAURO: Appendix S. The ordinance amending Chapter XXXV Land Use Article V.

MS. MERTZ: I think it's the affordable housing ordinance.

MR. PISAURO: Zoning district regulations, accessory apartments. It just said accessory apartments.

VICE-CHAIRMAN PEPE: What does it say?

MR. PISAURO: It's several pages long.

VICE-CHAIRMAN PEPE: What's the gist of it, though.

CHAIRMAN NEWMAN: It was in the PDF.

MR. PISAURO: I think it's just, now that I'm looking at it, more detailed accessory apartments. But it was some very good language in there -- I'm sorry, it's Exhibit T.

MS. MERTZ: Oh, it is T?

MR. PISAURO: I'm sorry. I looked at the wrong one. 668.

So it is, "The ordinance of the Township of Millstone amending the general code of the township by repealing and replacing Article VIII, affordable housing". I was going to ask or make a suggestion. On Page 3 of that ordinance there is a section in definitions called green building strategies, it means those strategies that minimize the impact of development on the environment, enhance the health, et cetera. I would hope, and I would recommend, that we can -- if the planning board could recommend to the township, the council, that you include green storm water, green infrastructure as part of that green building strategies. That will not alleviate any flooding or increase storm water runoff from any development because our rules just -- storm water rules don't deal with that, but DEP adopted at the very beginning of December new storm water rules requiring green infrastructure. That would sort of change the pyridine of how storm water is done. This would get the township out in front, it will provide some benefits in future development.

So putting that in the ordinance would get you a leg up and may help a little bit.

MS. MERTZ: I appreciate that. I made

a note of it and I don't foresee any issues but certainly we'll put it forth to the Township Committee.

MR. PISAURO: I appreciate that.

I have a bunch of questions and I realize, though, it really -- some of these are more appropriate for when the plan comes in. And we are willing to be as much of assistance and guide and pain as possible.

CHAIRMAN NEWMAN: Rather than ask us questions, though, each question obviously has a purpose. Could you just list the topics of your questions so that we are starting to think about those things?

MR. PISAURO: Certainly. Certainly. I mean when I looked at the Conceptual Plan for that site you're literally taking almost every square inch of usable land. And I appreciate the conceptual plan staying out of the transition areas but you're using every square inch of that property that can be used. You're putting a package plant literally on the doorsteps of the wetlands. That package plant is going to be discharging, it sounded like a septic field will be discharging nutrients. It will be changing the hydrology of that site. So

what are those impacts of those wetlands?

You are creating an immense amount of impervious coverage.

VICE-CHAIRMAN PEPE: Just one second.

MR. PISAURO: Sure.

VICE-CHAIRMAN PEPE: That statement there, does the DEP ring in on that, Matt?

MR. SHAFAI: Yes, they have jurisdiction over reviewing and approving the wetlands and all of the design criteria.

MR. PISAURO: They do. That doesn't mean they're not going to have an effect.

I mean, for example, taking a look at the storm water management, there's no requirement in the storm water management rules that say are you changing the direction of surface flow that is going to have an impact on wetlands. The wetlands rules say, are you staying out of the wetlands? Yes. Great. Storm water rules are saying --

MR. SHAFAI: Don't increase the storm water.

MR. PISAURO: Well, you're increasing the volume. You're changing the rate at which it falls off.

MR. SHAFAI: Detention basin and

retention basin, all that stuff, that hasn't been designed yet.

MS. SANICKI: In wetlands.

MR. PISAURO: But my point is if you are changing the grading, if you changing the way that storm water runs currently off that site, you may be directing water that is currently feeding those wetlands and the health of that wetland and you're directing to another part of the site which may have an impact on those wetlands. And the storm water rules don't necessarily look at that.

MR. ZINER: So does the EPA study that would be required for this have any effect on that or enforce...

MR. PISAURO: Not in my experience, no. It almost is somewhat of an exaggeration but do you stay out of wetlands? Yes. You're good. Do you have a storm water management plan that reduces the peak flow, the rate at which it runs off --

DEPUTY MAYOR GRBELJA: I don't believe all that engineering was done when it was submitted to the court. It was just a conceptual thing. We haven't gotten anywhere near that at all.

MR. PISAURO: I understand. I'm just responding to the questions of some of our concerns.

DEPUTY MAYOR GRBELJA: But I think it would be good if you talked about what the topics were and then when they sit down with the plan at least we know what you're looking at and we could incorporate that or think about what it is and where you're going so that we don't have to think about something that has been designed and then come back and redo it, but know kind of what you're thinking about.

So if you put that together and you send it into the township, it's certainly something that we could have on the radar.

MR. PISAURO: Great. I appreciate that. We will do that.

CHAIRMAN NEWMAN: Great, thank you. Fantastic.

MR. PISAURO: Thank you for this opportunity. I look forward...

CHAIRMAN NEWMAN: Look forward to working with you.

MR. PISAURO: Yes.

VICE-CHAIRMAN PEPE: Thank you very much.

DEPUTY MAYOR GRBELJA: I have been pushing to reinstitute our watershed council.

CHAIRMAN NEWMAN: The time might be perfect to push harder.

DEPUTY MAYOR GRBELJA: Thank you.

CHAIRMAN NEWMAN: Anyone else like to approach the board before we have other folks that have already spoken.

Go ahead, Mayor.

MAYOR MALKIN: Peggy Malkin. Roosevelt, New Jersey. Well, my first question now has been answered because I wanted to know if we could be officially included on, you know, the notice of all of the meetings, all the future meetings.

Two quick things. To piggyback onto what Mike Hamilton said, we have a lot of experience in Roosevelt fighting off people who want to come in and sort of take over our town. I think we're always seen as tiny and very vulnerable, but we're sort of the mouse that roared.

In the years that I have been there we have fought off at least two large developers. We fought off this yeshiva, who didn't just want to put a school but an entire campus on a residential street with cafeteria, dorms.

What I really wanted to remind

everyone, I'm not sure if any of you were here then, but we also were able to fight off the State when they wanted to put a nuclear waste facility in Roosevelt. And that was one of the few times that Millstone joined in. We had many, many residents from Millstone coming to our meetings and we successfully lobbied to not have that facility in Roosevelt.

So we have a lot of experience with preserving our town in its -- for its historic value and its beauty. And so, as Mike said, we're willing to help you in any way we can. We really have, every few years, it seems like something comes up in Roosevelt where somebody wants to change it and we are able to stave that off.

But what I really wanted to ask you is, is this included in your Master Plan, like this rezoning, this development, is this all in your Master Plan?

DEPUTY MAYOR GRBELJA: The affordable housing? Yes.

MAYOR MALKIN: But I mean this particular development?

MR. STEIB: This document becomes part of the Master Plan.

MR. ZINER: It's an amendment to it.

MAYOR MALKIN: All right. Thank you.

CHAIRMAN NEWMAN: Thank you, again. Unless there's anyone else who would like to approach the board, seeing none, I will close the public hearing portion and ask the board if there was any further questions or comments from the board or our professionals on the matter before us?

So, Mike, we have this obligation to evaluate this affordable housing plan, which is effectively as part of our -- will become a part of our Master Plan, what type of action should we consider taking on this matter?

I'm not suggesting you tell us what to do, but what would be a motion that we could make and then deliberate and vote on?

MR. STEIB: Well, the action, pursuant to the Settlement Agreement and the direction of Judge Grasso Jones is that your professionals were to prepare and submit to you a Housing Element And Fair Share Plan consistent with the terms of the settlement. And the board has, then, to make a determination whether to adopt it or deny it.

CHAIRMAN NEWMAN: So is it -- and I'm not looking to simplify it, but is our charge to

identify whether this board agrees that this is consistent with the Settlement Agreement, or are we charged with something --

MR. STEIB: You're here to comply with the Settlement Agreement.

CHAIRMAN NEWMAN: Okay.

MR. STEIB: That's what the court's order says. What the court's direction is.

CHAIRMAN NEWMAN: And then this document, Housing Element And Fair Share Plan, would be that document that would comply with the Settlement Agreement that is part of the court process.

MR. STEIB: Correct.

CHAIRMAN NEWMAN: And then if this board were to take action to adopt that, the next step would be the town, then, preparing and considering a zoning ordinance to follow the different properties that are in this document?

MR. STEIB: Correct. Ordinances to implement the plan, for instance, adopting the ordinance for the rehabilitation plan, adopting the ordinance for the apartment, accessory apartment plan.

CHAIRMAN NEWMAN: Or that Shu Lee

property.

MR. STEIB: Adopting through the Shu Lee property, the CKV property. It's, for each of those things, it would be an ordinance adoption.

MR. ZINER: It's an all-or-nothing is how it's written presently, right?

CHAIRMAN NEWMAN: This plan?

MR. STEIB: That is true. It is because it follows the terms of the Settlement Agreement, the outline of the Settlement Agreement.

CHAIRMAN NEWMAN: And if this board were to not take that action it would be in violation of that Settlement Agreement?

How do you want to characterize it?

MR. STEIB: It would be. It would be -- we would be to the end of my conversation with you at the outset.

CHAIRMAN NEWMAN: Okay. Which would then?

MR. STEIB: We would be in violation of the Settlement Agreement. We would be looking at the possibility of Fair Share Housing; looking for the court to withdraw our immunity, to increase our numbers; for potential other developers to come in; et cetera, et cetera.

CHAIRMAN NEWMAN: Okay. So with that said, if we proceed tonight the way that the court would anticipate we proceed, there is a zoning ordinance process that will, again, have public participation and this planning board will have an opportunity to review that zoning ordinance.

MR. STEIB: Correct.

CHAIRMAN NEWMAN: And then, if that all moves ahead, there's a compliance hearing which I guess, we could attend but I would assume that the judge would approve this at the compliance hearing if everyone else -- if everything else is squared away.

MR. STEIB: There will be an opportunity for comments to be submitted to the court pre-compliance hearing, and for people to appear at court at the compliance hearing, if they wish.

CHAIRMAN NEWMAN: Just like here, members of the public.

MR. STEIB: Yes.

CHAIRMAN NEWMAN: And they can speak up to the judge in that process?

MR. STEIB: In my experience the judge will allow that.

VICE-CHAIRMAN PEPE: In your experience has anything ever happened? In other words, you go and speak to the judge. Does he change his mind?

MR. STEIB: I have seen matters carried in order to address, perhaps, as you said, have come up. In other cases I have seen the judge hear things and say I'm satisfied.

CHAIRMAN NEWMAN: And then if that, if the judge does bless the plan regardless of the public --

MR. STEIB: It won't be blessing the plan, it will be saying you have complied with what I ordered you to do.

CHAIRMAN NEWMAN: Well, which is the zoning, the zoning ordinance that has been adopted.

MR. STEIB: There's a lot more than just the zoning ordinance.

CHAIRMAN NEWMAN: Okay. I'm simplifying it to get to my next point, which is and then the applicant has to go through all of that process, time, money and expense, of proving the site meets all of these criteria with all of these governmental agencies, including coming to this board for their evaluation of all of the things that

we talked about tonight and probably others.

MR. STEIB: Yes.

VICE-CHAIRMAN PEPE: But how much bite does this board ultimately have.

So let's assume that we said yes to all of that, and the plan comes to us to be approved. And we look at it and we go, we don't feel comfortable with this, we think this encroaches on wetlands, we think there's too much impervious surface. And we say all those things, right, and we say this isn't correct and ultimately you need to shrink the project to make it comply. And if we do that, then what happens?

Because now we're not in compliance with the law or the agreement that we --

MR. STEIB: It depends on whether what you just said is correct, that, in fact, they are encroaching on wetlands and that, therefore that's inappropriate. And they are --

VICE-CHAIRMAN PEPE: So it would only be in that case -- it would only be in that case that it was an environmental issue, it wouldn't be setbacks, it wouldn't be laws that we created, things that we did to keep things rural and protected here in our opinion and the way we wanted

our town to go, right? It would only have to be if it violated a State law, something that wasn't acceptable environmentally, would be our only protection to curtail the size of this development; is that correct.

MR. STEIB: No, because there's also a county road, so this application has to go to the county. If the county says this road cannot handle this type of traffic, things need to be done. If the county says, wait a second, there's an intersection here and an intersection there that is now effected, that has to be squared away. If you can't square that away from your development then --

VICE-CHAIRMAN PEPE: That hasn't stopped it though, right? So the idea that the county makes the road wider, let's assume that is the case because the county has the ability to do so. And like we talked about it could, ultimately, if you want to sell your property as they encroached on it, there could be eminent domain for the sake of satisfying COAH, which seems to be an underlying or very important theme for the state.

So let's assume that that can happen. And I'm even curious, is the State going to provide a traffic study expert? I mean we talked about

providing our own, and we suspect the developer will, and it's great that he or she will pay for that, but I'm not so sure the county is going to bother to come on out.

The fact of the matter is those corners are extremely dangerous. And if the county cared at all, even the way it exists today with a smaller subset of people living here, they're still completely unacceptable. The amount of accidents, the way it's designed, it's crazy.

Right?

CHAIRMAN NEWMAN: But if the county said, for example, that this development exceeds the infrastructure capacity for the roads so, therefore, they have to be improved, whatever that means, widened or whatever --

VICE-CHAIRMAN PEPE: Or a traffic light needs to be put, whatever it might be, right?

CHAIRMAN NEWMAN: Right -- or property has to be taken for additional widening, the county doesn't pay for that. The county says to the applicant, okay, therefore you have to do X dollars worth of improvements, and then the applicant may say, No problem, here's -- I will do it.

VICE-CHAIRMAN PEPE: Right.

CHAIRMAN NEWMAN: Or you've made the job economically infeasible and that would be that point where the county could effectively stop it by making the infrastructure improvements unreasonable for that developer to handle. It might not be unreasonable for the ask but...

VICE-CHAIRMAN PEPE: So, and I know we don't have a crystal ball, but let's imagine, just for a minute, things that may stop this thing or make it smaller in this location, right.

So we've talked about the roads. Check the box. And we can understand, in the remotest way, the cost that might be associated with that. It's not terribly expensive to reconfigure the road and install a traffic light. It's not -- it wouldn't be burdensome for a development of this size.

If we encroach upon the wetlands and we do some damage there, that probably would go in favor of making this development smaller.

I think, like, really what I'm left with, what my crystal ball seems to say, is that the only shot I have here is the DEP -- is the DEP or the EPA, whatever governing body might control this thing, that's really our only shot to keep our

Master Plan sort of the way we drew it, with all of our names on it, you know, intact.

So maybe I'm going to refer to all of our experience here, right, because we all have a little bit of experience. We're not experts but, Matt, I'm going to go back to you. What do you think about this property?

I mean, do we feel like, you know, I have driven by their neighbor, the neighbor of the property, and I see that they have a mounted septic field in their backyard. Right? It looks like that's probably a result of the land being kind of wet. Right?

Matt, earlier I asked you just, you know, for back-of-the envelope scenario, Hey, what you do you think? Do you think this thing could fit on here? You kind of said yes. Right? Like, I know you don't know facts, like I know you don't have the wetlands delineated, I get all that. I get all that. But back-of-the-envelope situation, I don't think I got a winner there. Right? I kind of trust Matt. We have worked with him for a long time. Probably don't think I have a winner there either.

The way I'm looking at this is that

this approval, if we decided to go in this direction, just based on the little bit of expertise we all have as regular people, chances are we're going to get this thing and we're going to own it.

So if you choose to vote, and I'm not trying to influence -- no, actually, I am trying to influence everybody. Right? If we decide to go in this direction, I want you to think that your vote is a vote for this project. I want you to think it's not a vote for a smaller project. I don't want you to think it's a vote for something that may or may not happen. We should assume that we have opened the door to make this happen. And, that being said, we have a very, very difficult decision.

I also want to make clear to everybody in the audience, I've said this many times, nobody on this board or on the Township Committee wants this. You have to understand people worked hard to try to do this the best they can and have made the decisions that were best at the time. Nobody wants to own this. Nobody.

Nevertheless, though, go back to the concept that I'm presenting here. And what I'm saying here is that I would like everybody, when they think about voting for this, think about the

project that has been proposed, and think about it -- think about it, in its entirety, with all the dark parts that go with it: Polluted wells, overtaxed septic systems, things of that nature, with no help from the DEP. Because the fact of the matter is this board has never seen the DEP come to this town and do anything to help us stop development, ever.

CHAIRMAN NEWMAN: I don't know if we've been in this situation, so I'm not...

VICE-CHAIRMAN PEPE: We haven't. But even on small ones, I've never had the DEP -- I have been on this board for 15 years or so, and this is clearly the hardest thing I have ever had to address. But I can say for 15 years, or however long I've been doing this, I've never had the DEP come in here and say you guys, you're wrong.

CHAIRMAN NEWMAN: And, in my experience, they don't typically do that, but that doesn't mean we can't get a little bit move forceful or creative in this scenario.

VICE-CHAIRMAN PEPE: It sounds to me like it's a law. Like it sounds to me like there's a formula in relation to these delineated wetlands and it's going to be whatever it's going to be.

And I suspect the developer in question, Mr. Baldachino or Mrs. Baldachino, the Baldachino family, have some idea. I don't suspect they have just gone into this completely blind. Right? I suspect they have done a little bit of homework. Maybe not had an official wetlands delineation study done, but suspect that they've probably gone out and dug some pits.

MS. OXLEY: Mike, can I ask you a question? We're really, really voting on the plan not the outcome at this point. There's a plan in place. The outcome may be the same, but it may be different based on, as we implement the plan, we may have to zigzag, zigzag.

If by some chance while we're trying to implement the plan, say another property comes along that is a better fit, can we say to the court, look, I know we have implemented this, we're implementing this plan and in good faith something else came along that is a better fit because A, B, C, D; do you think that that would put us in jeopardy if you go back to the court and say this is a better fit?

And say that there's no property right now. Let's say in about six months something comes along that might be a little bit of a better fit.

MR. STEIB: It would put us in jeopardy --

MS. OXLEY: It would still put us in jeopardy?

MR. STEIB: -- if this property were pursuing development.

If the court looks at it and says, okay, it's been rezoned, and now we're sitting here and it's June of 2021 and you're up for a review and nothing has happened with this property and we say, by the way, this other property has come up, we want it changed because the Baldachino tract is not -- is not coming about. Then, yes, we could, with the white hat on, I think, take that, pursue that action.

If, however, they have now filed an application, spent $100,000 in engineering fees and are in good faith pursuing it, then I think we would have a problem with that.

MS. OXLEY: Okay. And meanwhile there could be possibilities that there could be something that basically this property becomes not what it -- you know, you can't put so many units on it. Then, at that point, are we going to be asked to look for something else as soon as possible, or how

does that work?

MR. STEIB: We will be asked to look for something else to fill the need.

MS. OXLEY: Okay. And will they give us a certain time frame?

MR. STEIB: Well, the court is going to look at that on an annual basis.

MS. OXLEY: Okay.

MR. STEIB: And if we hit that annual review and it's not panning out, the court is going to say, what are you guys doing? I want a report from you. What are you looking at? How are you going to fill this gap?

MS. OXLEY: So if they see movement, whether we've identified -- say we're trying to identify something, we are actively looking and talking?

MR. STEIB: As long as we're actively working in good faith.

MS. OXLEY: Okay.

DEPUTY MAYOR GRBELJA: I have a question. Let's say, for example, as the intervenor is gone and as the plan has been approved. And, let's say, for example, with some of our municipally sponsored programs we find that there may be a way

in which we would be able to increase the number of units that we may have, whether it happens to be because of funding that becomes available, or if it happens to be because of another area that we were looking at some rehabilitation, where we would be able to reduce the number -- because it's 96 units that we're talking about on that property -- where we would be able to reduce the number of units on that inclusionary development. And if we reduced the number on the inclusionary development, that would reduce the number of market-rate units.

Would that be a possibility? So it wouldn't be as an intense development.

MR. STEIB: It's a possibility. I'm not a numbers cruncher. I don't know if --

DEPUTY MAYOR GRBELJA: But there could possibly be some shuffling?

MR. STEIB: -- if the property owner says, no, I would need to have that number of market units in order to support the affordable. I don't have a crystal ball on it.

DEPUTY MAYOR GRBELJA: Okay.

VICE-CHAIRMAN PEPE: Nancy, the infrastructure gets a little dicey, right. As it gets smaller, is it worth it for them to build a

package treatment, like at some point there's a fulcrum of these numbers that ultimately --

DEPUTY MAYOR GRBELJA: The package treatment plant is a lot of money.

VICE-CHAIRMAN PEPE: Yeah.

DEPUTY MAYOR GRBELJA: It's not -- it's not something that you want to be able to build because it's probably a $10 million cost.

VICE-CHAIRMAN PEPE: So, in theory, maybe if it got smaller you wouldn't end up with that. Maybe.

DEPUTY MAYOR GRBELJA: You wouldn't have to. But if you didn't have -- but the problem that we have in this area is that we have rental units so that we -- and which accounts for 96 credits. And the reason that we wound up with rental units there was because of the fact that our intervenor was complaining about the rental units being on our other municipally sponsored units. They found some case that they were challenging us. I don't know if it was -- I don't remember if it was deeds or whatever the heck it was, they were challenging it. So we had to change from rentals to for-sale units. And it was this constant going back and forth and shuffling that he wound up with the

rental units, which gave us the 96 units.

So that is why that wound up being the way it was. And it was really towards the end when we were trying to maximize -- maximize the number of units that we had.

So again, with the project being approved and getting that group out, they're no longer interested in destroying our municipally sponsored units, there may be something that we would be able to look at. And we would have to continue to have conversations with our affordable housing partners as far as the structure and some housing and the development. And we continue to have those but --

MR. ZINER: But that's a wonderful hypothetical but we're not here with this today. Today we need to vote on this particular plan.

DEPUTY MAYOR GRBELJA: I understand that, Jeff. But I'm just saying that this -- I'm just telling you how we got there.

I'm, you know, I know -- look, this is what we have today and, you know, you can either vote for it or you could not vote for it.

MS. PINNEY: I see around this whole question a tremendous amount of infrastructure that

is needed just to administer this whole thing, not only locally but statewise and federally.

This is a major thing. And then there is this business of shifting from this to this to this, and get approvals for that, or don't you get approvals for that. It's an industry in and of itself.

How strongly -- I always -- I always have the question of, okay, you have all this, you decide to do this, who is going to enforce it? And is there any chance that there will be some weakening in the fair housing law or something?

I mean, it's a little -- does anybody have any ideas about that?

DEPUTY MAYOR GRBELJA: You have to call your legislators.

MR. STEIB: The legislature has done zero in putting COAH back in business. So we're stuck with the courts.

MS. OXLEY: Stuck with the courts?

MR. ZINER: Ain't happening.

MR. STEIB: For the foreseeable future.

MS. OXLEY: And you're saying that -- and we understand that the courts are very

pro-builder and you know from -- based on some of the decisions they've made?

MR. STEIB: From what I have seen of the courts they are less pro-municipality if you are resisting and not cooperating and not acting in good faith to put in a plan.

MS. OXLEY: Okay. So we need to put in a plan for them to say you're in?

MR. STEIB: That's what we worked on to say that we're doing the best that we can to have a plan together.

If the plan doesn't work properly then they're going to expect us to go back to the drawing board and to come back with a better plan.

MS. OXLEY: At least they're going to give us a chance to go back to the drawing board without us having to lose our --

MR. STEIB: Immunity.

MS. OXLEY: -- immunity. Okay. So at least there's -- that's hope there. We're being forced.

DEPUTY MAYOR GRBELJA: Well, the only thing you can do is beat up on your legislators and talk about it.

When it's in the court the only thing

that they're concerned about -- they're not concerned about the environment. They're not concerned about the sensitivity in the environment. They don't care that we're a Planning Area 4b. They don't care that we have five water sheds. They could care less.

The only thing that they're concerned about is the fact of what the income level of Millstone happens to be, period. That's it. And that's how the numbers were basically come upon. And that's what -- that's how it was determined throughout the entire state.

So if there's going to be anything that is going to change and that's going to be taken from the courts, it's going to have to be done legislatively. And I don't see that happening now. And I don't see a push from the municipalities and I don't see a push from the residents.

So if the residents get together and the municipalities get together and they start to really clamor and put pressure on people that are elected to our Assembly and our Senate and our Governor, then maybe we'll see some changes. But I don't see that happening, especially when we have a lot of people down there that are attached to the

builders association.

CHAIRMAN NEWMAN: Anything further? So then I would suggest, nothing more than a suggestion, that a motion be placed on the table.

And I can work with Mike to frame the motion, and then we would take a roll-call vote and -- obviously anyone can comment on the motion, but in the context of a roll-call vote, as anyone votes, they're also welcome to give the reasons for their vote if they would like for the purposes of just enunciating their thoughts or, as Chris previewed, perhaps to suggest others follow a course of action or a course of thinking. But there's no obligation to do that. It's a motion and you're just giving your vote on this process.

So, Mike, just to -- typically in these matters I would call for a motion. And the motion would be somewhat obvious because our motions typically involve site plan applications and, that's our bread and butter, or an extension of an approval. But in this case, this is one that we don't typically see.

So would a motion -- would this be a satisfactory motion, that the planning board has received the draft Housing Element And Fair Share

Plan. We have considered it tonight and we have considered the input of the public and our professionals. And the motion would be to determine that the Housing Element And Fair Share Plan, as presented, are consistent with the Settlement Agreement?

Would that motion be satisfactory for this process to continue?

VICE-CHAIRMAN PEPE: Wouldn't you have to define as it is? It is or isn't? Like, in other words, that motion doesn't -- well --

MR. STEIB: The motion, I mean you can talk about the semantics of the motion, but the motion it is to adopt the proposed Housing Element And Fair Share Plan.

How you characterize you got there as it being consistent with the Settlement Agreement or the process, I mean you have a resolution which the board has received from your planners that give the background of the Mount Laurel, how we got here, you know, basically through the court, through the guidance of Mr. Bolan, through a Settlement Agreement. And the court has directed this board to, in accordance with the settlement agreement, adopt a Housing Element And Fair Share Plan that is

consistent with it.

CHAIRMAN NEWMAN: So, just to get to Chris' subtle point, that motion sounds like it's in the affirmative so a "yes" vote to that motion would be to confirm the affirmative statement that the board is determining that this plan is consistent with the Settlement Agreement.

To the contrary, a "no" vote would be against that motion and against that concept.

MR. STEIB: Correct.

DEPUTY MAYOR GRBELJA: I don't know -- I don't know if that's really what it's saying. I think that we have to say that we're adopting the township's Amended Housing Element And Fair Share Plan.

CHAIRMAN NEWMAN: Okay, just that's the motion. That would be the motion?

DEPUTY MAYOR GRBELJA: That would be the motion.

CHAIRMAN NEWMAN: And you have been -- and you and Mike have been on the front lines of this.

DEPUTY MAYOR GRBELJA: Right.

CHAIRMAN NEWMAN: -- so we appreciate your guidance on that.

DEPUTY MAYOR GRBELJA: Because -- and it's consistent with what's in the Settlement Agreement, but I think that what the court is looking for is the planning board to adopt -- to adopt the township's Amended Housing Element And Fair Share Plan.

CHAIRMAN NEWMAN: Okay.

DEPUTY MAYOR GRBELJA: And I think that's what they're looking for.

CHAIRMAN NEWMAN: So that would be the sentence of the motion. And then the board members would be either voting "yes" in favor of that motion or --

DEPUTY MAYOR GRBELJA: Or "no".

CHAIRMAN NEWMAN: -- or "no". Okay. Does that address the questions you had, Chris?

VICE-CHAIRMAN PEPE: Yes.

DEPUTY MAYOR GRBELJA: And I'll make the motion, if there's no objection.

MS. PINNEY: I'll second the motion.

CHAIRMAN NEWMAN: Okay. So we have a motion and we have a second.

Before we call for a roll-call vote is there any other further discussion on that motion?

Seeing none, Pam, would you please

call the roll?

MRS. D'ANDREA: Yes. Deputy Mayor Grbelja?

DEPUTY MAYOR GRBELJA: Yes.

MRS. D'ANDREA: Ms. Pinney? I'm sorry, Ms. Pinney?

MS. PINNEY: Yes. I'm sorry.

MRS. D'ANDREA: Thank you. Mr. Beck?

MR. BECK: Yes.

MRS. D'ANDREA: Mr. Conoscenti?

MR. CONOSCENTI: Yes.

MRS. D'ANDREA: Ms. Oxley?

MS. OXLEY: Understanding that this allows us flexibility in the implementation, I'm going to say yes.

MRS. D'ANDREA: Mr. Pado?

MR. PADO: Yes.

MRS. D'ANDREA: Mr. Ziner?

MR. ZINER: No.

MRS. D'ANDREA: Chairman Pepe?

VICE-CHAIRMAN PEPE: No.

MRS. D'ANDREA: Excuse me, "Vice-Chairman Pepe."

VICE-CHAIRMAN PEPE: Take it either way. It's still a no.

MRS. D'ANDREA: And Chairman Newman?
CHAIRMAN NEWMAN: Understanding that this is a court process and I feel the weight of the court on our shoulders, and I'm very concerned about the builder's remedy aspect to this and the loss of immunity, and further, understanding that, I believe, that we will have a significant and meaningful opportunity, with our professionals and our neighbors and the public, to give this a severe -- if that were to be used -- evaluation in all of the governmental agency review processes, including when and if it actually comes to this planning board, and also understanding that the costs outlined in the plan that were submitted as a draft by the builder are fairly tight, and I think that there will be plenty of opportunities where those costs will be exceeded and will give the developer pause as to whether this will proceed, so I think that there is plenty of opportunity for this to form and reform or not form at all. So with that said, and as I said at the beginning, with the weight of the court on our shoulders I will also vote yes.
MRS. D'ANDREA: And that's our nine and the motion carries.
DEPUTY MAYOR GRBELJA: What about

Stacie?
MS. CURTIS: No, I'm an alternate.
MRS. D'ANDREA: No, we have our nine. Sorry, Ms. Curtis.
MS. CURTIS: Oh, that's okay.
MRS. D'ANDREA: The motion carries.
CHAIRMAN NEWMAN: Thank you.
So, Mike, we have a resolution here that may not follow how the hearing went and how the motion was framed. So that may have to be revised?
MR. STEIB: If those who voted in favor of the action taken want to revise it, it would need to be revised.
CHAIRMAN NEWMAN: I believe it needs to be revised to reflect the simplicity of the motion, which was the planning board has determined that the attached plan -- has determined to adopt the attached plan, period.
MR. STEIB: It will have to be redrafted. It would have to be adopted at the next meeting.
MRS. D'ANDREA: Okay. And then our -- I have a question, if you don't mind.
CHAIRMAN NEWMAN: So is that a timing problem?

MRS. D'ANDREA: I have everything going to the Township Committee for their meeting on the 5th of --
MR. STEIB: We will talk. We will talk tomorrow.
MRS. D'ANDREA: Okay.
DEPUTY MAYOR GRBELJA: What, does that change what we voted on?
MRS. D'ANDREA: No.
MR. STEIB: No. It may change timing of what happens after. And again, that has also to to do with communication I had with Mr. Bolan.
DEPUTY MAYOR GRBELJA: That's not consistent with what we passed at the township meeting?
MR. STEIB: No, no, no. I think Pam is talking about something that is coming up.
DEPUTY MAYOR GRBELJA: Oh, okay.
MRS. D'ANDREA: I'm talking about something else.
DEPUTY MAYOR GRBELJA: Okay.
CHAIRMAN NEWMAN: So then that would be memorialized at our February 12th meeting.
MRS. D'ANDREA: 12th. And I'll send everybody information also that they have to review

the two meetings; right? So that we can -- we have the Patel application coming, and then a new one, Green, which is a minor subdivision, no variances.
CHAIRMAN NEWMAN: And, Mike, I would, when you are drafting a resolution -- I don't mean to tell you how to do anything, I apologize if it sounds --
MR. STEIB: Go ahead.
CHAIRMAN NEWMAN: -- you love it when I tell you stuff to do -- would you make sure to identify that the public, as well as The Watershed group and the neighboring town, spoke up either in -- and I would be direct, either in opposition or to lend guidance or to lend support to future efforts.
I just want the resolution to be as informative as it can, not just to the court but eventually to the applicant, kind of foreshadowing that there's a road here that they're going to have to go down.
MR. STEIB: Got it.
CHAIRMAN NEWMAN: We don't usually give Mike this kind of direction on the resolution, so I will, just to be fair, is there anyone else on the board that would like to weigh in on that? Or

I'm just the bad guy?

Thank you, Mike. Thanks for giving us the time on that.

And looking at our agenda, we don't have anything else under Old or New Business.

Is there anything else, Pam, that you want to bring to our attention?

MRS. D'ANDREA: No, just the February 12th meeting I have two items on and -- that's it, two items. I have two items.

VICE-CHAIRMAN PEPE: Thank you, Pam.

MRS. D'ANDREA: And I will be getting a hold of everyone and you are going to tell me if you can or you cannot attend.

MR. ZINER: I can vouch yes already.

MRS. D'ANDREA: There you go, do you see, I have one person already. Okay.

CHAIRMAN NEWMAN: With that said I would make a motion to adjourn.

Is there a second?

MR. ZINER: Second.

CHAIRMAN NEWMAN: All in favor say "aye".

BOARD MEMBERS IN UNISON: Aye.

CHAIRMAN NEWMAN: We are adjourned.

Thank you, everybody.

(Hearing adjourned at 10:38 p.m.)

C E R T I F I C A T E

I, ANGELA C. BUONANTUONO, a Notary Public and Certified Court Reporter of the State of New Jersey and Registered Professional Reporter, do hereby certify that prior to the commencement, the witnesses were duly sworn to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the hearing as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Angela C. Buonantuono, CCR, RPR, CLR
License No. 30XI00233100
Dated: February 7, 2020

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