

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

TOWN OF BARRINGTON PLANNING BOARD

PUBLIC HEARING IN RE:

PRELIMINARY PLAN/
COMPREHENSIVE PERMIT
APPLICATION: PALMER
POINTE NEIGHBORHOOD

The matter pertaining to **EAST BAY COMMUNITY DEVELOPMENT CORPORATION, APPLICANT** in the above-entitled cause, before Karen R. Ceseretti, RPR, a Notary Public in and for the State of Rhode Island, at Barrington Town Hall, 283 County Road, Barrington, Rhode Island on May 3, 2016, scheduled to commence at 7:00 p.m.

----- KAREN R. CESERETTI, CSR, RPR -----
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A P P E A R A N C E S

MEMBERS OF THE BOARD:

Lawrence P. Trim, Jr., Chairman
Paul C. Dulchinos, Vice Chair
Jean Burritt Robertson, Board Member
Anne Galbraith, Board Member
Edgar G. Adams, Secretary

ALSO PRESENT:

Philip Hervey, AICP Town Planner
Mary Ann Rosenlof, Admin Assistant

Andrew M. Teitz, Esquire ACIP
Ursillo, Teitz & Ritch, Ltd
Barrington Town Solicitor

FOR THE APPLICANT:

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TUESDAY, MAY 3RD, 2016
BARRINGTON TOWN HALL
BARRINGTON PLANNING MEETING
7:30 PM

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2
3
4 CHAIRMAN TRIM: Welcome to the Planning Board
5 meeting. We will have a call to order.

6 (ROLL CALL/DETERMINATION OF QUORUM)

7 CHAIRMAN TRIM: We have minutes to look at.

8 TOWN PLANNER HERVEY: I had a family issue so I
9 could not finish those up and I will have them for next
10 meeting.

11 CHAIRMAN TRIM: Excellent. Let's jump right into
12 the public hearing. All right. This is a continued
13 hearing and I think what we want to do is we want to
14 start with the Codder Group.

15 ATTORNEY HARSH: Thank you, Mr. Chairman.

16 CHAIRMAN TRIM: Want to use the mike. And bring it
17 over to you or set it up with the lector. Thank you.

18 ATTORNEY HARSH: I never thought of myself as soft
19 spoken. This is a surprise. I'm sure my wife would be
20 pleased.

21 You have in front of you -- can you hear me all
22 right? You have in front of you the agenda for what we
23 would like to present to the Board tonight in response to
24 the presentation that you have from EBCDC developer at
25 the last hearing.

1 As my way of just a quick introduction to what we
2 are going to do here, first we do have three expert
3 witnesses that I would like to question. And, I think
4 the most important points which we are going to make in
5 the course of the evening through these expert witnesses
6 include reasons why we submit to this Board that this
7 site is unsuitable for this particular development.

8 One reason that we will discuss is the presence of
9 serious contamination on the site presenting a threat to
10 human health and the environment. The unsuitability of
11 the site we feel is also noticeable as compared to
12 alternatives. This Town went through quite a battle over
13 Sweet Briar.

14 The Sweet Briar project, whether it was liked or
15 not, was much more in conformance with the kind of
16 standards that applied to the statutes and the
17 regulations for low income housing. And eventually the
18 Town was reversed on that, as you know.

19 We are noting in this case in addition to the
20 contamination issue that we think it is a noticeably and
21 unusually unsafe situation for residents who are required
22 to use public transportation. And we also feel that it
23 is a basically a violation of the Town's proposed Village
24 Zoning which is what the Board used to help get the
25 process to the initial approval with conditions.

1 Because, Village Zoning as it was conceptualized by
2 your consultant covered the entire Sowams Nursery study
3 and what we are doing here is taking the proposed density
4 for the entire site and putting it all on less than half
5 of the acreage.

6 There really are a couple of bases, major bases for
7 the position which we are taking. If we have -- can we
8 have the slides?

9 Exhibit A, which I think we will discuss in more
10 detail, does confirm the fact and you will find it all in
11 the front of the book, this is just a way of summarizing
12 the fact that Barrington is way out front of most
13 municipalities of this State in satisfying its obligation
14 under the low-mod housing program.

15 You are in a top group of those who have completed.
16 The only one who has completed the ten percent objective
17 is New Shoreham. The next group of four towns you guys
18 are leading it. So, it is not as if you have a situation
19 where you are playing catchup ball. The Town has done a
20 very credible job of meeting the statutory mandates.

21 There are also some findings which you will find as
22 Exhibit B in your book by the Zoning Board which sat as
23 the review board for conference permits back when Sweet
24 Briar proposal was going to review approval and open
25 objection process. I have extracted some of those

1 comments which I think may be instructive to this Board
2 tonight. Because, they do address some of the same
3 concerns that we will be expressing to you tonight.

4 The second concern, for example, the proposed road
5 would be a racetrack shaped oval which is not safe for a
6 family residential neighborhood but it so happens that
7 proposal before you has a race tracked shaped oval.

8 There was an insistence on a granite curbing for
9 example. There is a comment on density, all of which,
10 indicates where your predecessors had fought the major
11 issues away.

12 The plain language of the controlling statute, which
13 essentially sets the basic ground rule for everything we
14 do here, which is 45-53-4, expressly provides for or the
15 Board does have the freedom to reject proposals or
16 projects which involve significant negative environmental
17 impacts and present significant negative impacts with the
18 health and safety of current residents.

19 So, it is our position that you have before you
20 potentially a proposal which actually satisfies those
21 particular standards. One of our concerns and one of the
22 things that we want to suggest to the Board is that
23 although the process allows for permitting to be
24 completed in final, when this is before you for final
25 review, you did have a comment from a Technical Review

1 Committee that said the consideration permits and the
2 status of the potential for approval, and they mention
3 particularly CRMC and RIDOT should be the concern of this
4 Board at this level.

5 So if you want to take the suggestion you would be
6 looking more deeply at the stage permitting this process
7 then maybe the typical case in other instances where you
8 are not dealing with the kinds of issues this project
9 presents because of the location that has been chosen for
10 it.

11 I would now like to ask Ashley Hahn-Sweet, who is a
12 professional planner, to come forward and respond to some
13 questions that I have and obviously the Board may also
14 want to ask her some questions.

15 Ms. Sweet was accepted as an expert witness before
16 this Board at the Master Plan Hearing. You do have her
17 resume in front of you. If you would like me to qualify
18 her again as an expert witness I will be happy to do so
19 or if we may just begin, we can do that.

20 CHAIRMAN TRIM: I think begin is fine. If you
21 please have your expert state her name and address for
22 the record and to maybe state what she is witnessing to.

23 ATTORNEY HARSH: Okay. Ms. Hahn.

24 MS. HAHN-SWEET: Good evening.

25 ATTORNEY HARSH: You heard the Chairman's request.

1 If you could give your name, address and something about
2 yourself.

3 MS. HAHN-SWEET: Sure. My name is Ashley Hahn Sweet
4 and I live at 207 North Street, Warwick, Rhode Island. I
5 have my masters degree in community planning with a
6 concentration in environmental planning and I have almost
7 fifteen years of experience as a municipal planner and
8 five years experience as a consultant.

9 CHAIRMAN TRIM: Thank you.

10 ATTORNEY HARSH: May we proceed?

11 CHAIRMAN TRIM: Yes, please. Ms. Sweet? Ms. Hahn?

12 MS. HAHN-SWEET: Either one.

13 ATTORNEY HARSH: Let me take you through a few
14 questions that concerns my clients, and I expect the
15 Board will likely have some questions for you as well.
16 Have you reviewed the Conditions of Approval from Master
17 Plan and the responses provided by Fuss & O'Neil?

18 MS. HAHN-SWEET: I have.

19 ATTORNEY HARSH: Do you have any thoughts or
20 comments on these conditions and the responses that have
21 been given as they are now before this Court?

22 MS. HAHN-SWEET: I do. Specifically the Conditions
23 2 and 14 for reasons I would like to provide to you. It
24 is my feeling that these conditions are questionable as
25 to whether they have been satisfied.

1 TOWN PLANNER HERVEY: Can you bring the microphone
2 closer?

3 MS. HAHN-SWEET: Sure. Better? I don't think it is
4 working.

5 TOWN PLANNER HERVEY: Can you try the switch?

6 ATTORNEY HARSH: Talk louder.

7 MS. HAHN-SWEET: How about that?

8 TOWN PLANNER HERVEY: Better.

9 MS. HAHN-SWEET: So, Condition No. 2 was the Board
10 wanted to see Master Plan, wanted to see master bedrooms
11 on the first floor so that they would qualify somewhat as
12 senior housing, recognized that it wasn't prudent to deed
13 restrict in or age restrict in the housing. But you, but
14 the Board used the Village Guidance to justify the
15 position for the units and said that the Village Guidance
16 said that we should have 40 to 60 percent of the units
17 designed for seniors and we would like to see more one
18 bedroom units available for seniors so that we can
19 satisfy that requirement.

20 So the Applicant came back and reworded a few things
21 and they gave you seven units on the first floor that are
22 one bedroom units that would be senior accessible. And
23 it is my feeling that they didn't meet that condition
24 because the guidance that you used to justify your
25 position that you wanted that, was said that 40 to 60

1 percent of the units should be eligible for seniors.
2 They gave you seven which is seventeen and-a-half percent
3 of the development, and I don't feel that is an adequate
4 satisfaction of your requirement being that you used
5 language in your own plan that suggested a 40 to 60
6 percent rate and they gave you seventeen and-a-half
7 percent rate.

8 ATTORNEY HARSH: Would you give us your professional
9 opinion on the subject?

10 MS. HAHN-SWEET: My opinion is that the reason it is
11 not adequately satisfied as the Board presented it, you
12 know, using the language that you used in your own
13 document, seventeen and-a-half percent in my opinion
14 doesn't cut it because the Guidance called for more than
15 double that.

16 Additionally, I had some concerns about Condition
17 14. Your condition stated that they needed a completed
18 site assessment as part of their preliminary submission
19 and my feeling is that the site assessment is not
20 complete and that is by DEM's own letter. It doesn't
21 appear that they are finished, and in your finding and
22 conclusion of No. 4 you stated in your decision that the
23 applicant will be required to demonstrate that there will
24 be no significant environmental impact from the proposed
25 development. And being that the site assessment is not

1 completed and they have been told that additional work
2 needs to be done and additional materials need to be
3 submitted in terms of information on the site and what
4 needs to happen in terms of remediation that they cannot
5 guarantee you that there are no environmental impacts.
6 They don't know the answer to that yet. And they don't
7 have that answer from DEM or EPA or whoever is working on
8 this site assessment. It is not done, so I'm not sure
9 how they can tell you or guarantee you as one of your
10 conditions that there is no significant environmental
11 impact.

12 ATTORNEY HARSH: Your opinion is?

13 MS. HAHN-SWEET: Condition 14 is not satisfied
14 because of those issues that I raised.

15 ATTORNEY HARSH: In the book you will find the DEM
16 letter as Exhibit E and that is the letter to which
17 Ms. Hahn is referring where DEM gives preliminary
18 guidance on its views of the status of this application.

19 Ms. Hahn, does the file reflect that the status of
20 the Applicant satisfying Condition 14 regarding
21 environmental site assessment, in other words, do you
22 feel that we are reasonably close to any of this or that
23 there is a long way to go before the level of detail that
24 DEM is talking about and EPA standards and DEM
25 regulations would require?

1 MS. HAHN-SWEET: As you know the DEM letter has
2 pretty significant language about what they were looking
3 for in addition to what they had already been provided.
4 And they gave a deadline, 90 days from the date of their
5 letter, which would be May 24th. And as far as I can
6 tell there is nothing available that talks about what
7 their plan is to provide additional information and do
8 this additional site assessment work needed to be done
9 and that was a requirement of the letter. If it exists,
10 we have not seen it.

11 ATTORNEY HARSH: So it is your professional opinion
12 because DEM has requested this additional investigation
13 and report that we have a serious problem with the
14 submission to this Board at this time.

15 MS. HAHN-SWEET: That's correct. I would argue that
16 they cannot prove to you that there is no environmental,
17 negative environmental impact on the property or the
18 people to live in the property because DEM has said they
19 are not done.

20 ATTORNEY HARSH: To continue with the DEM question,
21 have you reviewed DEM's voluntary procedure letter which
22 we have been discussing, do you have any further comments
23 on that letter?

24 MS. HAHN-SWEET: I have reviewed it. So, again, I'm
25 not a soil scientist. I'm not an expert on chemicals.

1 But, there is definitely language in that letter that
2 would raise concerns for me looking at a development on
3 the site.

4 Specifically, they have language that talks about
5 that there is going to need to be remedial alternatives
6 that they need to know. In addition to that they need to
7 know future plans for their reviews or redevelopment of
8 the property, and that specific sentence raised an issue
9 for me why don't they know? Why doesn't DEM or EPA? It
10 seems that they are, they don't know what the use for the
11 site is in the future, and I think that would be
12 something that would be important information for them to
13 know while doing the site assessment.

14 It is a different situation, if you are going to be
15 using the property for something other than residential
16 development. It is looked at differently if people are
17 not going to be living there. So I just wonder if they
18 don't know, why they don't know, and if they did know,
19 would it change their outlook on the property in terms of
20 remediation issues?

21 ATTORNEY CAPIZZIO: I would like to object.
22 Christian Capizzo on behalf of the East Bay Community
23 Development Corporation. I am the attorney for them. I
24 would object to the line of questioning and ask that
25 testimony be stricken. Ms. Sweet? Mrs. Hahn-Sweet is

1 not an expert in environmental science. She has been
2 presented as a planning expert and town planner and this
3 is beyond the scope and appears they are reading from the
4 DEM letters which I believe the Planning Board has in its
5 possession as part of the application that Fuss & O'Neil
6 has provided.

7 So I ask this question be objected to and the prior
8 testimony as it relates to Ms. Hahn, by her own
9 admission, is not an expert in soil.

10 ATTORNEY HARSH: With due respect to my honorable
11 brother, I sat through their presentation without asking
12 a question. I would object to his objection strenuously.
13 I would ask for at least the courtesy that he allow me to
14 continue presenting my witness as I allowed him to
15 continue presenting his witness. I am nowhere near
16 finished with Ms. Hahn. One of my next questions is to
17 talk about her qualifications to express the opinions
18 that she just had.

19 CHAIRMAN TRIM: I have to ask a question of counsel
20 here to make sure, of Attorney Teitz. Is there such a
21 thing where we strike things from the record?

22 ATTORNEY TEITZ: No, no, there is not. We are not
23 operating under the strict Rules of Evidence. We don't
24 strike anything from the record, but counsel are entitled
25 to make objections. And I think, I think clearly we have

1 a planning expert here who should not be going too far
2 off course. And Mr. Harsh, you know, should get to the
3 point and I guess I just suggest going forward usually
4 better to present the qualifications as to what they are
5 going to talk about before they make the conclusions,
6 rather than after they make the conclusions.

7 ATTORNEY HARSH: We were headed in that direction
8 but I was interested in the position she was taking.

9 Ms. Hahn, you have heard the question, I think, that
10 people would like to know: Why it is that you are
11 qualified to express an opinion on environmental matters
12 and especially why you have familiarity with Rhode Island
13 Department of Environmental Management standards that
14 might apply in a situation like this?

15 MS. HAHN-SWEET: So I'm not standing up here
16 professing to tell you that there is something wrong with
17 what DEM is doing or something wrong with what they are
18 doing. All I'm expressing to you is if I was a planner
19 sitting in your position reviewing this application,
20 these are the things that cause me to see a red flag.
21 These are the things that create questions for me that as
22 a planner you are supposed to look at and get answers to.

23 These are the things that I would stand in front of
24 my planning board and say to them and point them to the
25 language in that letter concerns me. I think we need to

1 look into it. That is all. I'm doing -- I'm not
2 professing to be a chemist or soil scientist or any of
3 those things. I'm not trying to say there is something
4 wrong with the processes done here. I'm looking at the
5 language in the letter and I'm telling you it is raising
6 a red flag for me and I would be asking for more
7 information about what is going on in this issue.

8 ATTORNEY HARSH: In your professional opinion?

9 MS. HAHN-SWEET: That is what I would be doing with
10 my planning board.

11 ATTORNEY HARSH: This is consistent with your
12 training?

13 MS. HAHN-SWEET: Absolutely. It is part of our job.

14 ATTORNEY HARSH: Let's go to the traffic issue, and
15 perhaps with Mr. Teitz's suggestion you can explain why
16 you have the capability to comment on traffic questions?

17 MS. HAHN-SWEET: So, again, I'm not a traffic
18 engineer and I don't write traffic reports or do traffic
19 counts. But I get them all of the time and read them all
20 of the time from a planning prospective. I look those
21 documents and have to see if there are things in there
22 that cause me concern, that raise questions for me and my
23 job is to present those questions and ask for additional
24 information from the applicant and that is what I have
25 done in this position. I have looked through the traffic

1 report. I'm not telling you that their methods were
2 wrong. I'm not telling you that their traffic engineer
3 was wrong. I'm telling you when I see things that cause
4 me a concern or raise a red flag for me, it is my job to
5 make sure those questions are answered.

6 ATTORNEY HARSH: What are the red flags that you see
7 in the traffic report in your capacity as planner?

8 MS. HAHN-SWEET: The first thing, and it has been
9 mentioned before, is the counts were done the week of
10 Christmas. If you want to do traffic counts you want to
11 be representative of your full year, your full sample.
12 It is not the best idea to be doing them on a holiday
13 weekend or Monday holiday, whatever, you want to do them
14 during general routes and not on the holiday weekends for
15 the best results. I'm not saying results are wrong but
16 certainly it is a question, you know, why it wasn't done
17 on a regular week.

18 ATTORNEY HARSH: Do you find it reasonable that this
19 study projects zero present growth when immediately down
20 the street are two schools?

21 MS. HAHN-SWEET: I think it is an unusual thing to
22 do. It is not something you see very often. I'm sure
23 they have their reasons for it. That would be an issue
24 for me that I would look further into and question where
25 that came from, why are we doing it that way. Are we

1 really looking at zero growth rate.

2 VICE CHAIRMAN DULCHINOS: You are saying school was
3 out during the time they took the study?

4 MS. HAHN-SWEET: I believe it was between the 21st
5 and the 23rd, if school was still in during the beginning
6 the week but it was a holiday week. People do travel for
7 the week. I just think it is not the best choice of
8 times to be doing a traffic study for an accurate count.
9 That is something that would raise a question for me.

10 ATTORNEY HARSH: You mentioned a citation that you
11 wanted to bring to the Board's attention regarding
12 traffic studies.

13 MS. HAHN-SWEET: Right. So there seems to be a huge
14 discrepancy and I'm not claiming one is right and one is
15 wrong. I am pointing out there seems to be discrepancies
16 between the Applicant's study estimates of 29 am trips
17 and 30 pm trips. On Page 57 of your report entitled
18 Housing for Barrington's Future, Housing Land View Study
19 there is the following wording and this is word for word,
20 "with Village Zoning at the Sowams Nursery site between
21 235 and 251 vehicle strips would be generated on an
22 average weekday as indicated in Table 5. Although
23 sidewalks are proposed within development streets,
24 currently there are no sidewalks on Sowams Road.
25 Pedestrian access to any destination would be limited,

1 although many destinations include RIPTA Route 6 within
2 half mile radius, most trips would require the use of
3 private automobiles."

4 That is a direct quote from your own document and
5 that quote gets to the heart of my issue with traffic.
6 My issue with traffic is not what this development is
7 going to do with the existing traffic. My issue with
8 traffic is what the existing traffic is going to do to
9 the people who live in this development.

10 Your own language recognizes that a majority of the
11 people that live here would be automobile dependant and
12 these are low income units. So the likelihood they will
13 all have cars to be dependant on is much less than if we
14 were talking about market rate homes. So we are talking
15 about a group of individuals, a group of individuals at
16 least partially who are going to be pedestrians.

17 You are introducing a new pedestrian population to
18 the area, and we have a lot of information that has been
19 talked about that discusses the unsafe pedestrian
20 conditions in the area. The traffic study, as most
21 traffic studies do, looks at the impacts of this
22 development on existing traffic.

23 I think you need to reverse direction and look at it
24 the other way. Because this development likely is not
25 going to put a whole lot of cars on the road, but it is

1 going to put a whole lot of people with those cars that
2 already exist and a half mile walk before they get to a
3 bus stop and that is the approach that I think needs to
4 be looked at. Nobody has answered that question. The
5 entire traffic study has been one direction and that has
6 been what are these, what are the few cars that this
7 development is putting on the road going to do to the
8 general traffic of the area and I think that is the wrong
9 direction to be looking at it from.

10 ATTORNEY HARSH: In regard to the subject of storm
11 water and storm water management, did you review the
12 report provided by the Applicant.

13 MS. HAHN-SWEET: I did.

14 ATTORNEY HARSH: Again, you limited yourself to
15 saying you are not an engineer or storm water designer
16 but you do regularly review such documents as part of
17 your daily work as a planner and assisting the attorney?

18 MS. HAHN-SWEET: I do.

19 ATTORNEY HARSH: Would you care to comment on the
20 storm water report from that point of view?

21 MS. HAHN-SWEET: Sure. So, obviously, this a unique
22 situation. It is a constrained site. It is densely
23 developed. There is very little existing vegetation for
24 the interior of the site so there is a lot of what
25 appears to be a sheet flow across the plane. It is flat

1 and slopes down to the river and back and again. This is
2 an issue because of the permit, state permitting is not
3 required until the end, until final review. And so, I
4 understand the reasoning behind that, but I think it puts
5 you in an awkward position because of the unique features
6 of the site, being it was a former nursery site and
7 contaminated site and has the river frontage. And there
8 are questions about storm water that you will have
9 trouble answering because you don't have, you don't get
10 to see permitting until the end.

11 ATTORNEY HARSH: In a normal planning situation,
12 would you see storm water in the process?

13 MS. HAHN-SWEET: You would be seeing it now.

14 ATTORNEY HARSH: Let's turn to the subject of market
15 rate homes. The proposal calls for taking two existing
16 homes, essentially separating them from the project and
17 selling them as an individual market rate home. I
18 understand in order to do that and in order to give a
19 project enough room to do the development that is
20 proposed, they reduced the lot size of these homes.
21 Would you comment on the propriety really of taking
22 market grade units and reducing lot size by way of
23 variance granted by this Board?

24 MS. HAHN-SWEET: So the two homes sit on two
25 separate parcels. One parcel being very close to

1 conformance of 25,000 square feet and one well over
2 excess of three acres. As a planner I feel strongly that
3 the variances and the waivers that are given in a
4 comprehensive permit should only be given to units
5 providing affordable housing to the Town. These two lots
6 do not contribute to affordable housing. They actually
7 knock back two units that are being provided and they are
8 getting dimensional variances that nobody else would get
9 before a zoning board. And I think that it is a bad
10 practice to be providing dimensional variances to market
11 rate units. They are a by-product of the affordable
12 housing but they don't contribute. They are a detriment
13 to what you are getting and I think, like I said, it is a
14 bad practice.

15 Dimensional variance, lot size variances are almost
16 unheard of. They don't happen often. They should only
17 happen in special circumstances and in this case they
18 shouldn't happen at all. Those two houses should sit on
19 standard lots. They should not be creating substandard
20 lots for market rate units.

21 ATTORNEY HARSH: Is that your professional opinion?

22 MS. HAHN-SWEET: It is.

23 ATTORNEY HARSH: Let's move onto the relevant
24 density of the development on the site. I know we have
25 had some provisional expressions on this subject but I

1 think your prospective as a planner is different from
2 that which was before the Court in the most recent case.
3 With that in mind, as a planner would you express your
4 professional opinion on the layout of the proposed
5 development.

6 MS. HAHN-SWEET: So the first, I would start with a
7 question first and that would be if somebody could
8 clarify the developable acreage. The Planning Board
9 states 5.64 acres and the Applicant is stating just over
10 6 acres. So you are talking about a difference of about
11 an acre of developable land. I think it is important
12 everybody is on the same page in terms of what that
13 number is because it sets density and you are justifying
14 your density bonuses and you want to have this in
15 numbers.

16 So the Planning Board, as you know, used two
17 mechanisms to rationalize the number of 42. One was the
18 Developer Guidance that identified the site to be zoned
19 as Village Zoning, which states the density shall not
20 exceed five units per acre. In addition to that, the
21 Planning Board used one step up density increase for
22 comprehensive permits. That is provided in your
23 Affordable Housing Plan and that allows you to step up
24 the density for any project that provides for over 50
25 percent affordable housing and allows you to give up to

1 50 percent of density bonus.

2 It is my opinion in looking at the language of both
3 of those provisions that is essentially double dipping.
4 That, the Developer Guidance set out a plan for the
5 property. It identified the density for the property and
6 this density included Sowams East and Sowams West. It
7 went into great detail about how the property should be
8 developed and now we are looking at double density, and
9 we are looking at the entire site's density on one parcel
10 and it is two different mechanisms were used to get there
11 and my argument would be that if, my opinion, would be
12 that if --

13 ATTORNEY HARSH: Your opinion?

14 MS. HAHN-SWEET: My opinion would be in drafting the
15 Developer Guidance if the desire was to have double the
16 density, then you would have proposed double the density.
17 Because, what you give to East you should be prepared to
18 give to West, which means you will get double what you
19 originally proposed for East and West potentially.

20 ATTORNEY HARSH: When you say you, are you talking
21 about the planning drawn by a consultant for the Town and
22 included in the Comprehensive Plan?

23 MS. HAHN-SWEET: That's correct.

24 ATTORNEY HARSH: So it is a Town document?

25 MS. HAHN-SWEET: It is a Town document drafted for

1 the Town at their request and like I said it was very
2 specific. It went into great detail about both sites
3 East and West, how they were to be developed, what the
4 density was to be. And, it is my professional opinion
5 that taking that Developer Guidance and stepping up on
6 top of that is essentially double dipping and increasing
7 the density double to what it was proposed to be.

8 ATTORNEY HARSH: And it is violating the Town's own
9 road map for this?

10 MS. HAHN-SWEET: I would agree, yes.

11 ATTORNEY HARSH: To what extent do you think you can
12 comment on the relative importance in a community like
13 Barrington or any other community in Rhode Island as to
14 relative need of elderly housing and owner occupied
15 housing as suitable housing.

16 MS. HAHN-SWEET: I mean every community is slightly
17 different but I think throughout your Comprehensive Plan
18 you have discussed the need for elderly housing. For the
19 most part that is most of the language that I saw
20 stressed elderly housing. Obviously your housing stock
21 is mostly single-family homes, but they are mostly
22 single-family homes out of the realm of affordable.

23 So, I think it is fair to say that your own document
24 stresses home ownership and they stress elderly housing.

25 ATTORNEY HARSH: By comparison this is a proposal

1 for housing with a relatively low standard for elderly?

2 MS. HAHN-SWEET: That is correct.

3 VICE CHAIRMAN DULCHINOS: I have a question. Based
4 on your analysis of our Comprehensive Plan what was
5 the -- it was very descriptive -- there was also a
6 description as to whether it was rental or owner occupied
7 for that particular parcel. Did it specify that?

8 MS. HAHN-SWEET: It was majority of it was single
9 family.

10 VICE CHAIRMAN DULCHINOS: What percentage was
11 affordable?

12 MS. HAHN-SWEET: I believe it was 25 or 35. I have
13 to go back to make sure. It was in the realm of 25 to
14 35.

15 VICE CHAIRMAN DULCHINOS: Whereas this project is
16 essentially --

17 MS. HAHN-SWEET: 100 percent.

18 ATTORNEY HARSH: Did you listen to the portion of
19 the presentation on the activities on site that would be
20 the responsibility of DPW or that would be inconsistent
21 with the normal standards that apply to projects which
22 the DPW is responsible?

23 MS. HAHN-SWEET: So, I was very surprised to see a
24 loop road like that for rental house with a parking lot
25 for houses off of it that would then become a public

1 street. Typically when you see developments by non
2 profits in the realm of one hundred percent
3 affordability, they are typically privately owned roads
4 with privately owned parking areas and the maintenance is
5 part of whatever the group is that develops the project.

6 I noticed also in the TRC minutes that there were a
7 couple of questions from DPW where it seems like, and I
8 can't verify this for sure but it seems like the scenario
9 is going to be that the road will be maintained by the
10 Town's DPW but the parking lots will be privately
11 maintained. I can't imagine how that works out in
12 snowstorms and plowing and such. That is just odd. I'm
13 not sure how that works.

14 ATTORNEY HARSH: How do you feel about the reduced
15 size of the road and the curbing to the extent that they
16 do or were they inconsistent with the applicable Town
17 standards? Is that a normal variance?

18 MS. HAHN-SWEET: I see roads with variances
19 occasionally. I think as long as public safety is
20 satisfied I think road width is not so much of an issue.
21 I know in the TRC minutes there was references about the
22 DPW about the dislike for asphalt curbing. It is
23 problematic and that it causes maintenance issues and it
24 is a thing they have to go back later, and, in fact,
25 their preference was for granite curbing to avoid those

1 issues.

2 ATTORNEY HARSH: The DPW as reported is to take
3 maintenance of the storm water system both surface and
4 subsurface. Do you find that unusual in this, a project
5 like this?

6 MS. HAHN-SWEET: The reason I find it unusual is for
7 the reasons that I gave you before. Typically with a
8 rental structure you don't see -- it is a rental
9 development. You don't see public roads. It is just not
10 something that I have come across before. I think it is
11 an unusual dynamic and I'm not sure how that is going to
12 work out.

13 ATTORNEY HARSH: Could it work out as a precedent
14 that if you do it in one Town Housing that the Town is
15 looking at other roads doing it.

16 MS. HAHN-SWEET: I think you are hard pressed to say
17 no after you have done it once.

18 ATTORNEY HARSH: You mentioned in your review of the
19 other conferences and permits you had expected to see a
20 population projection; is that correct?

21 MS. HAHN-SWEET: Yes.

22 ATTORNEY HARSH: Is there one in this proposal?

23 MS. HAHN-SWEET: Not that I am aware.

24 ATTORNEY HARSH: Is a population projection
25 important? Can you describe it.

1 MS. HAHN-SWEET: I tie population projection to
2 impact statement which is something that I would want to
3 see for any application, certainly one of a forty-two
4 unit magnitude. The Planning Board should have the
5 information so they are aware because there is a
6 financial impact associated with every residential
7 development that you approve and it is a negative
8 financial impact.

9 You should know how many kids you are potentially
10 putting in the school. You should know the tax burden
11 that you are taking on for the town and improving the
12 development. It is essential information that you need
13 on every application that you have so that you have
14 knowledge of the burden. It is a burden. Every
15 residential development is a burden. And, without that
16 information, without knowing the population of
17 school-aged children and without knowing the tax burden
18 of the financial impact you don't have the information
19 that you need to make an educated decision.

20 ATTORNEY HARSH: Let me take you back to the Sweet
21 Briar project. Are you familiar with it and did you at
22 my request review the Sweet Briar documents?

23 MS. HAHN-SWEET: I did.

24 ATTORNEY HARSH: Would you explain to the Board what
25 there is about Sweet Briar that makes it noticeably

1 different from this one?

2 MS. HAHN-SWEET: This all goes back to location. I
3 think the location of Sweet Briar clearly is a better
4 location than Sowams. And there is nothing wrong with
5 one location being better than another location. The
6 difference here is that Sweet Briar was denied. Sweet
7 Briar was fought in Court and I would say probably a lot
8 of money went into doing so. And, I find that it is an
9 unusual position to take to fight against an application
10 that goes a lot further than this one does to meet the
11 requirements of your Affordable Housing and Comp Plan and
12 developer house and all of the documents that talk about
13 this particular site. And I see, you know, a project in
14 a much desirable or less desirable location that makes a
15 whole lot less sense than Sweet Briar. And I see a
16 combination in flexibility. It is just a strange
17 dynamic.

18 ATTORNEY HARSH: What is it about Sweet Briar that
19 as you read the documents you find is more consistent,
20 that is more suitable for low income housing?

21 MS. HAHN-SWEET: Well, all of your language when it
22 talks about affordable housing and development of
23 affordable housing talk about the same basic things that
24 everybody talks about. And it is number one location.
25 Location. Location to services. Location to

1 transportation and Sweet Briar is a, has sidewalks all of
2 the way. It is about a half mile walk which is similar
3 to the half mile walk that Palmer Pointe has to make but
4 it is a completely different kind of walk. There are no
5 sidewalks, no street lights, there is no --

6 ATTORNEY HARSH: You are talking Palmer Pointe?

7 MS. HAHN-SWEET: That is right. Sweet Briar has all
8 of those things. They have a bus stop and they have
9 street lights and it is a safe walk and Palmer Pointe is
10 not.

11 CHAIRWOMAN GALBRAITH: Can you tell me what services
12 that you were talking about with Sweet Briar?

13 MS. HAHN-SWEET: I don't know Barrington the way you
14 guys do, but if you drive past and you keep going there
15 is your downtown area and the bus runs that route and
16 drives that way, both directions. So you can go down and
17 stop anywhere but Sowams you have to walk half a mile to
18 get --

19 CHAIRWOMAN GALBRAITH: There is no bus within half
20 mile of Sweet Briar but there are three commercial units.

21 VICE CHAIRMAN DULCHINOS: I have a question.
22 Probably the biggest difference between Sweet Briar and
23 Palmer Pointe was at the time of Sweet Briar we did not
24 an approved Comprehensive Plan. Based on your expertise
25 and experience, have you been a part of towns

1 successfully defending its comprehensive plan, approved
2 comprehensive plan against a housing development that was
3 thought adverse or not in compliance with their
4 comprehensive plan?

5 MS. HAHN-SWEET: So I was part of a denial for a
6 comp permit. But I left there before they finished their
7 argument so I can't say that I have been directly
8 involved in a --

9 VICE CHAIRMAN DULCHINOS: What was the final outcome
10 of that? Or is it still in litigation?

11 MS. HAHN-SWEET: I know the units didn't get built.
12 So I'm not sure who gave up first. I would have to look
13 and find out what the decision was.

14 ATTORNEY HARSH: You do look at a lot of comp
15 reports?

16 MS. HAHN-SWEET: Yes.

17 ATTORNEY HARSH: Response?

18 VICE CHAIRMAN DULCHINOS: Thank you.

19 ATTORNEY HARSH: I would like you to turn to the DEM
20 letter and I notice in the letter there is a question of
21 the proposal Palmer Pointe says there is going to be
22 public access as part of the project. The DEM letter
23 appears to say there is an understanding that there will
24 be no public access so it is a little unclear what is
25 going on here. But, what I would like Ms. Hahn to

1 address is what are the complications and obligations
2 that would come with providing the kind of public access
3 that is being proposed?

4 ATTORNEY CAPIZZO: May we just have the date of that
5 letter for reference?

6 ATTORNEY HARSH: If you look in your book you will
7 find it in there.

8 MS. HAHN-SWEET: I heard in the presentation by the
9 Applicant, I don't know if they for some reason Parcel 6
10 comes to find as that parcel that runs along the Palmer
11 River. It is the east end of the site and so they have
12 indicated that they are going to designate or turn that
13 property over to the Town and it will be designated as
14 Open Space. And, immediately I start thinking of all of
15 the things that go along with Open Space. Liability. Is
16 there really access? Because it is, it is waterfront
17 property.

18 Is there parking provided for the public to come
19 into the development, park their cars, leave them there
20 and get out and, you know, use the property? There seems
21 to be, there is an indication that it is going to be
22 given over as public land with public access but public
23 land and public access comes from, runs the range from
24 nobody goes on and it is set aside and not used in any
25 way, all of the way to full recreation and there was no

1 indication either way as to what the intended public
2 access to the site is, what would be allowed by CRMC and
3 then what the Town's role becomes in that in terms of
4 those things that I mentioned with liability and who is
5 using it and are you going to provide parking for it and
6 all of the things that go along with providing public
7 access.

8 ATTORNEY HARSH: And there is an issue with the CRMC
9 regulation?

10 MS. HAHN-SWEET: Certainly CRMC would have to
11 approve it.

12 ATTORNEY HARSH: In looking at the content checklist
13 which I assume you have done?

14 MS. HAHN-SWEET: Yes.

15 ATTORNEY HARSH: We have an extensive checklist but
16 in numerous instances the checklist just has a
17 nonapplicable or this permit or this agency comment is
18 not due until final -- but in this particular situation
19 knowing this market and having looked at the documents,
20 is there a problem with all of these permits not coming
21 up until after this section has been finished and is that
22 consistent or inconsistent with the recommendation of the
23 technical review committee?

24 MS. HAHN-SWEET: Certainly it does create an issue
25 for you because part of the information that you need to

1 make a decision is not provided to you and unfortunately
2 that is what the State law gave you.

3 VICE CHAIRMAN DULCHINOS: Go off the checklist.
4 What is exactly, after you review that, is there anything
5 actually delinquent under law that is necessary in
6 preliminary for approval? You had said DEM study was
7 incomplete but most of the things you brought up they are
8 not required until finding, so sorting through all of the
9 things that you listed of which you had concerns, which
10 ones in your professional judgment are not complete for
11 purposes of this stage that we are at right now?

12 MS. HAHN-SWEET: So, I don't have a copy of the
13 actual billed out checklist in front of me. I have a
14 copy of the blank checklist.

15 ATTORNEY HARSH: We used a blank checklist because
16 in almost all instances they said no.

17 MS. HAHN-SWEET: Let me grab it.

18 ATTORNEY HARSH: The approvals that we are talking
19 about, the permits and throughout the checklist that
20 either are not applicable or not due until final, there
21 is not a single one of those that on the last page not
22 even filed out it says Planning Staff, Public Works
23 Building Official, Police Department, Fire Department,
24 School Department, Corporation Commission Conservation,
25 Recreation Commission, Town Manager and Solicitor. Those

1 are not even filled out.

2 VICE CHAIRMAN DULCHINOS: Filled out. How many of
3 those are required for the State at this stage? I think
4 sometimes when we want to manage risk we can require
5 things to be brought in for preliminarily but right now
6 as far as this being a comp permit approval are those,
7 should any of those be complete for us to even make a
8 decision at this point?

9 TOWN PLANNER HERVEY: Well, we have an environmental
10 review that was completed and it has a summary report on
11 that. And if the Planning Board wanted to seek
12 additional requirements that is their choice. Peer
13 review completed on behalf of the Town, that is what has
14 been completed.

15 VICE CHAIRMAN DULCHINOS: So it is more for risk
16 mitigation if we wanted additional information supplied
17 at this point?

18 TOWN PLANNER HERVEY: Correct.

19 ATTORNEY HARSH: Perhaps you can remind the Board
20 what the Technical Review Committee had to say at this
21 point in No. 4.

22 MS. HAHN-SWEET: They had concerns about the fact
23 that they, the information was not provided in terms of
24 DEM and CRMC and DOT.

25 ATTORNEY HARSH: They were suggesting that it be

1 provided at this point.

2 VICE CHAIRMAN DULCHINOS: That was an opinion from
3 our Technical Review Committee.

4 ATTORNEY HARSH: Uh-huh. I may have had the last
5 question. Members of this board, do you have questions
6 for this witness?

7 CHAIRMAN TRIM: I have a question for counsel first.
8 Andy, in terms of density, didn't we have a discussion at
9 the beginning of the application about the density of
10 this?

11 ATTORNEY TEITZ: Yes. Although, I wasn't here
12 personally last time, I think Aimee and I discussed it.
13 Essentially the density is an issue that has already been
14 developed in the previous litigation. The density is
15 something that you deal with in Master Plan and that has
16 already been there, done that as far as a court decision
17 on the density.

18 So, that is our opinion. That it is not something,
19 unless there is something that comes to light that
20 changes the density, it changes the effect of the
21 density, then that is not something for you to consider
22 now because there is something investigated in the Master
23 Plan and the court already reviewed it.

24 TOWN PLANNER HERVEY: I would like to clarify that
25 the West Side that was mentioned in testimony is no

1 longer in the Comprehensive Plan in the 2015 update so it
2 is not west side just the east side.

3 VICE CHAIRMAN DULCHINOS: Nothing to prevent a
4 developer to try to apply for a comprehensive permit?

5 TOWN PLANNER HERVEY: There is no Village
6 designation.

7 VICE CHAIRMAN DULCHINOS: Palmer Pointe was
8 designated 25 still?

9 TOWN PLANNER HERVEY: It was future range as
10 qualifying for the Village Zone so it was west side 2010
11 but 2015 is just the east side.

12 VICE CHAIRMAN DULCHINOS: I guess what I'm getting
13 at is there is nothing, if our Comprehensive Plan is not
14 defensible then there is nothing to stop any developer to
15 come in and override existing zoning or anything existing
16 that we, even though our intention was to take it off the
17 table or declare it agricultural or make it --

18 TOWN PLANNER HERVEY: I would counter that. Their
19 Comprehensive Plan is defensible.

20 VICE CHAIRMAN DULCHINOS: It is our own as, that was
21 one of the reasons I brought that up earlier. If, you
22 know, if they have had success in that because I was
23 always of the opinion that we have a plan, we should
24 defend our plan, otherwise, why have a plan. And if the
25 plan is not, is not defensible, if it can't stand up in

1 court in litigation we really don't have a plan. We are
2 just at the mercy of any development that comes into our
3 community.

4 ATTORNEY HARSH: The other issue that complicates
5 your situation is that the court decision rendered under
6 your old Comprehensive Plan. There is law that says that
7 once something vests, whatever the rules were that were
8 in place at that time continue to apply.

9 So, there is an argument that says the Village
10 Zoning that was in the foregone plan still applies to
11 this project.

12 VICE CHAIRMAN DULCHINOS: Because it was in place at
13 the time this application was submitted?

14 ATTORNEY HARSH: Yes. At the time that the Master
15 Plan Approval was granted.

16 TOWN PLANNER HERVEY: In that case so the property
17 has been and ownership of the property has changed since
18 then and the plan, the way it is written is disqualified,
19 that property and that Village under 2010 either way it
20 is not applicable. It is not applicable in the 2015 or
21 2010 plan on the west side.

22 ATTORNEY HARSH: As a lawyer I would disagree, with
23 respect.

24 VICE CHAIRMAN DULCHINOS: Well, I mean, I think that
25 was the issue which had George Street, although that is

1 still up, it is still pending. But it was a case where
2 they were citing older verbiage and the older version of
3 the comprehensive to give them leeway to justify.

4 TOWN PLANNER HERVEY: They were setting background
5 information that was related to the 2005 plan that was
6 completely irrelevant in my opinion, clearly irrelevant.
7 So that is, that was an ordinance really. So.

8 CHAIRWOMAN GALBRAITH: Just a question about the
9 Town Planner and Exeter.

10 MS. HAHN-SWEET: Yes.

11 CHAIRWOMAN GALBRAITH: I see on the item that you
12 submitted that you are making good progress on the
13 affordable project in Exeter. How much affordable
14 housing do you have in Exeter? How many total units do
15 you have in Exeter?

16 MS. HAHN-SWEET: How is that relevant to Barrington?

17 CHAIRWOMAN GALBRAITH: I was going to ask whether
18 those units are near sidewalks and bus lines? The
19 affordable units, just questioning your opinion that
20 everyone would be transit dependant.

21 MS. HAHN-SWEET: That was not my opinion. That was
22 written in your own language that it, most of the people
23 in this development would be automobile dependant. I
24 used your own language from your own document.

25 CHAIRWOMAN GALBRAITH: That they would be automobile

1 dependant.

2 MS. HAHN-SWEET: That is what you guys wrote in your
3 Housing For Barrington's Future.

4 CHAIRWOMAN GALBRAITH: But you were suggesting that
5 there was a problem that there is not sidewalks and it is
6 difficult to get to the bus routes but if people are auto
7 dependant, why is that an issue?

8 MS. HAHN-SWEET: Because you identified this site as
9 a site that would have a mix of housing everywhere market
10 rate single-family house all of the way up to affordable
11 units and you identified -- that is under the Developer
12 Guidance. It was a mix of different types of housing,
13 market rate up to affordable, and in that same language
14 you identified that a majority of the people that were
15 living in that site would be automobile dependant. Where
16 you run into a problem with that is low income residents
17 can't be automobile dependant because many of them can't
18 afford to own a car.

19 So you are putting low income residents that a
20 majority of may not have a car into a site that you have
21 already identified as an automobile dependant site and
22 there are unsafe walking conditions for them to get out
23 of that site to get to their services.

24 CHAIRMAN ADAMS: Are you aware of the minimum
25 requirement of low income housing?

1 MS. HAHN-SWEET: It is not low income housing. It
2 is low to moderate so there is a difference or less. It
3 might be at 60 percent. Anything under 80 is considered
4 low. Anything above 80 is considered --

5 CHAIRMAN ADAMS: You are saying people living there
6 can't afford a car?

7 MS. HAHN-SWEET: I assume a portion of the residents
8 in here will not have cars.

9 CHAIRMAN ADAMS: Based on your income calculation
10 for the people living here, based on the income
11 calculation you made that assessment?

12 MS. HAHN-SWEET: I didn't do the calculations.

13 CHAIRMAN ADAMS: How can you make the statement?

14 MS. HAHN-SWEET: They identified low income housing.

15 CHAIRMAN ADAMS: You haven't looked at income.

16 MS. HAHN-SWEET: Every unit has to be at 80 percent
17 or less. They identified 60 percent.

18 CHAIRWOMAN GALBRAITH: Doesn't mean you can't afford
19 a car. Certain people that meet that qualification that
20 can't afford a car --

21 MS. HAHN-SWEET: I am not claiming that none will
22 have a car but I think you will find that there will be a
23 population of people that live there that wouldn't have a
24 car and it is an unsafe pedestrian environment.

25 CHAIRWOMAN GALBRAITH: That is why I was asking

1 about your professional opinion in Exeter where you are
2 if you have affordable housing there, how do people in
3 those affordable homes get around?

4 MS. HAHN-SWEET: I think you are comparing apples
5 and oranges when you are comparing Exeter and Barrington.
6 Exeter is incredibly rural. It is one of the most rural
7 spots left in Rhode Island. Barrington is not as rural.

8 CHAIRWOMAN GALBRAITH: That median income is
9 probably the same to qualify.

10 MS. HAHN-SWEET: I have to look. I don't want to
11 speak.

12 CHAIRWOMAN GALBRAITH: We are in the same
13 metropolitan area so qualifying income level in Exeter is
14 the same as income level here, so, the point we are
15 making is just, you can't necessarily draw the conclusion
16 that you testified as to people's -- whether they are
17 able to own a car or not. There is no data showing
18 whether people who will be living in these homes can
19 afford a car.

20 MS. HAHN-SWEET: I'm sure there is data. I'm sure
21 there is. I would be happy to look for it and provide it
22 to the Board if the Board is interested in it.

23 ATTORNEY HARSH: Would you like it? We will pay for
24 it.

25 VICE CHAIRMAN DULCHINOS: What is the population of

1 Exeter?

2 ATTORNEY HARSH: 6,000.

3 MS. HAHN-SWEET: 6,000 around.

4 VICE CHAIRMAN DULCHINOS: So the number of
5 affordable units, ten percent, total of housing is much
6 lower.

7 MS. HAHN-SWEET: Barrington and Exeter --

8 VICE CHAIRMAN DULCHINOS: It is not it is far easier
9 to be achieved, to put affordable housing in Exeter and
10 meet that ten percent.

11 CHAIRMAN ADAMS: It is a percentage.

12 VICE CHAIRMAN DULCHINOS: If you have more open
13 space you can build more.

14 ATTORNEY TEITZ: Can I suggest, you can ask her
15 questions about her experience, about her belief
16 testifying about Barrington. I don't you want to get too
17 far off into other communities.

18 VICE CHAIRMAN DULCHINOS: But the argument was made
19 that possibly we would have been better able to defend
20 our position because of the progress we have been making
21 as a community, we are in the very successful category.

22 MS. HAHN-SWEET: I think one of the things you have
23 to recognize now that you dragged Exeter into this is we
24 don't have services. We don't have sewer. We don't have
25 water. We don't have a downtown. We don't have police.

1 They have volunteer fire. You are comparing apples and
2 oranges when you try to say that if Exeter is doing it,
3 well, we are doing it. It is a completely different
4 world.

5 ATTORNEY HARSH: So you have been a Town Planner in
6 Charlestown for years which is again a different
7 community but I would say halfway between Exeter and
8 Barrington.

9 MS. HAHN-SWEET: Something like that. Anymore
10 questions from the Board?

11 CHAIRMAN TRIM: All set.

12 ATTORNEY HARSH: Thank you very much.

13 ATTORNEY CAPIZZO: Can I ask a couple of questions?

14 CHAIRMAN TRIM: Should we do that now?

15 ATTORNEY TEITZ: How did you do it in the first step
16 when the Applicant was presenting their case?

17 ATTORNEY CAPIZZO: I believe we did it,
18 Mr. Chairman.

19 CHAIRMAN TRIM: What was the question?

20 ATTORNEY TEITZ: How did you do it last month after
21 the Applicant?

22 CHAIRMAN TRIM: The applicant made a complete
23 presentation before we had any questions. I'm saying
24 that only because we have experts.

25 ATTORNEY TEITZ: Mr. Harsh, you indicated that you

1 did not request to question their witnesses along the
2 way. Is that correct?

3 MS. HAHN-SWEET: That's correct.

4 ATTORNEY TEITZ: I think it makes sense to allow the
5 attorney to question the expert witnesses while they are
6 up here now. They will have a chance for rebuttal, but
7 if there is a particular cross-examination probably makes
8 sense to do it right now while it is fresh in our minds.

9 ATTORNEY CAPIZZO: Very limited scope. I just
10 wanted to ask Ms. Sweet your name?

11 ATTORNEY HARSH: Sweet.

12 ATTORNEY CAPIZZO: What documents did you review in
13 preparation for your testimony today, if you can tell us?

14 MS. HAHN-SWEET: I didn't make a list but I know I
15 reviewed both Comprehensive Plans, the 2009 and the 2015.
16 Parts of your Subdivision Regulations. Gees, your
17 Developer Guidance that was part of your Comprehensive
18 Plan, your Housing for Barrington's Future document,
19 everything in your Application, portions of the Zoning
20 Ordinance.

21 ATTORNEY CAPIZZO: Which portions did you review of
22 the Zoning Ordinance?

23 MS. HAHN-SWEET: Anything having to do with zoning,
24 you know, R25 land and there is a section comp permits
25 and I didn't note every section that I looked at.

1 ATTORNEY CAPIZZO: Is that all of the documents that
2 you reviewed in preparation for your testimony?

3 MS. HAHN-SWEET: I'm sure not but that is everything
4 I can think of off the top of my head.

5 ATTORNEY CAPIZZO: Did you speak with anyone from
6 Fuss & O'Neil?

7 MS. HAHN-SWEET: I looked at the R Peer Review. I
8 looked at Fuss & O'Neil Storm Water Report and Traffic
9 Study. No, I didn't speak to anybody.

10 ATTORNEY HARSH: You sat through the presentation.

11 MS. HAHN-SWEET: And I sat through --

12 ATTORNEY TEITZ: Excuse me, Mr. Harsh. Let the
13 witness answer for herself and not answer for her.

14 ATTORNEY HARSH: Okay.

15 ATTORNEY CAPIZZO: Did you speak with anyone from
16 Fuss & O'Neil who represented at the last hearing based
17 on the questions and answers that you had provided to
18 you.

19 MS. HAHN-SWEET: No.

20 ATTORNEY CAPIZZO: Did you speak with anyone from
21 the park corporation?

22 MS. HAHN-SWEET: No.

23 ATTORNEY CAPIZZO: You were present for their
24 presentation?

25 MS. HAHN-SWEET: Yes.

1 ATTORNEY CAPIZZO: Did you meet with anybody prior
2 to today in preparation for your presentation today?

3 MS. HAHN-SWEET: I met with Mr. Harsh.

4 ATTORNEY CAPIZZO: When did you meet with Mr. Harsh?

5 MS. HAHN-SWEET: The dates are on my bill. I can
6 bring it to you if you want.

7 ATTORNEY CAPIZZO: How many times have you met with
8 Mr. Harsh for your testimony?

9 MS. HAHN-SWEET: For this part of the application I
10 believe three or four.

11 ATTORNEY CAPIZZO: When was the last time that you
12 met with Mr. Harsh in regards to your testimony,
13 Ms. Sweet?

14 MS. HAHN-SWEET: Last week and I spoke to him on the
15 phone today.

16 ATTORNEY CAPIZZO: Did you prepare written testimony
17 for preparation for tonight.

18 MS. HAHN-SWEET: I made notes for myself. Sure.

19 ATTORNEY CAPIZZO: I don't have any further
20 questions. Thank you.

21 MS. HAHN-SWEET: Thank you.

22 ATTORNEY HARSH: Thomas Nickelson. He testified
23 after the hearing of this Board. I will ask him to
24 describe his credentials and the Board has them in front
25 of them, his resume.

1 TOWN PLANNER HERVEY: Mr. Harsh, excuse me, can you
2 use a microphone. We are trying to record this. It is
3 not picking up.

4 ATTORNEY HARSH: Sorry.

5 TOWN PLANNER HERVEY: We are not picking your voice
6 up in our microphone.

7 MR. NICKELSON: I am Thomas Nickelson. I am
8 president of C&E Engineering, address 342 Park Avenue
9 Woonsocket, Rhode Island. I'm a licensed professional
10 engineer in the State of Rhode Island. I'm an
11 undergraduate and have a degree in civil and modern
12 engineering from Northeastern University and graduate of
13 Worcester Polytech. I have also been a consultant for
14 the last 34 years primarily in the State of Rhode Island.

15 CHAIRMAN TRIM: Thank you.

16 ATTORNEY HARSH: Mr. Nickelson, in earlier -- in the
17 earlier hearing on this project, you expressed concerns
18 regarding the site and its previous use as a commercial
19 nursery. You stated that the historical use and
20 agricultural chemicals, pesticides may have led to site
21 contamination.

22 Since that time have there been environmental
23 investigations of the site and have you reviewed those
24 investigations?

25 MR. NICKELSON: Yes, I have. I, during the

1 comprehensive permit process, I was asked to give
2 testimony regarding this project. And, a lot of the work
3 that I do in the State has got to do with the development
4 of land and the potential contamination from previous
5 uses. And the first thing that jumped out at me and I
6 informed my client is the fact that this is a former
7 nursery site is a red flag for a potential urban site and
8 pesticide contamination. Somehow, I'm not claiming
9 because of me, but it was brought up here in this process
10 and there was an environmental investigation that was
11 done up there by a company called Nobis which is a, which
12 is a contractor for the regional EPA and they did an
13 environmental assessment on site and found, sure enough,
14 they did find remnants of agricultural chemicals from the
15 nursery operation.

16 The primary contaminants concerned were dieldrin,
17 which is an organic chloride insecticide banned from use
18 in 1974. It was primarily used back in the 50's as an
19 insecticide and also arsenic, arsenic is a compound. It
20 is an element that is natural occurring in soils also
21 used extensively as an insecticide as well. These two
22 compounds were found.

23 The notice of investigation, the previous witnesses
24 said that the investigation is not complete and I would
25 have to agree to that. This is a, this is a 9.7 acre

1 site. Now, the Nobis investigation included 24 two-inch
2 borings which breaks down to about one two-inch hole for
3 every 17,600 feet or .4 acres they put one hole in the
4 ground and that is what they used to determine whether
5 the site was impacted or not.

6 They did say it had been impacted, but I would say
7 as a professional that I can't say that the work that has
8 been done to date would tell you the extent of the
9 examination up there. Again, you have to have one, one
10 soil sample taken for every 17,600 square feet of soil
11 how can you make an assessment and say that okay, that,
12 that, that half acre of soil I can classify, and that is
13 essentially what Nobis site did.

14 But the two compounds we are dealing with are with
15 dieldrin and arsenic, just dieldrin was banned in 1974.
16 It has been linked to Parkinson disease, breast cancer,
17 immune reproductive as well as a mutagen in unborn fetus.

18 So this is a compound that is, that the developer,
19 that the developer's consultant found onsite. The
20 highest range is almost between three and four times the
21 State mediation standard.

22 ATTORNEY HARSH: Let me ask you, is that particular
23 chemical persistent in the environment?

24 MR. NICKELSON: It is extremely persistent in the
25 environment. Again, it has not been used since 1974, not

1 sold as a commercial product since 1974 and it is still
2 being found onsite today. It was primarily used back in
3 the 40's and 50's before more biodegradable compounds
4 were found like they used to.

5 ATTORNEY HARSH: Do you want to talk about arsenic?

6 MR. NICKELSON: Arsenic is another compound.

7 CHAIRMAN ADAMS: Are we going to be hearing from a
8 chemist as well this evening?

9 ATTORNEY HARSH: Yes.

10 CHAIRMAN ADAMS: So I'm confused why the engineer is
11 talking about compounds.

12 ATTORNEY HARSH: Mr. Nickelson is an environmental
13 engineer and perhaps you can speak to the point.

14 MR. NICKELSON: Well, the point is not the compound
15 in the ground but where the investigation process stands
16 today. This is something that I do.

17 CHAIRMAN ADAMS: Not on the compound?

18 MR. NICKELSON: I didn't want to start talking about
19 the investigation compound not knowing there was an
20 understanding of what these compounds were so I want to
21 give you a brief understanding what the compounds found
22 on the site by the developer consultant were, the two
23 compounds were arsenic and dieldrin.

24 CHAIRMAN ADAMS: We have seen the report and heard
25 from Dr. Diebold and looks like we are going to hear from

1 him again so.

2 ATTORNEY HARSH: Okay.

3 MR. NICKELSON: So I will say the sites, the level
4 found of dieldrin and arsenic were above the State
5 remediation standards, and DEM in their site remediation
6 guidelines lists standards that were used that these
7 compounds could safely remain in the soil and not have to
8 be remediated. The dieldrin is the highest levels were
9 about three, between three and four times the levels that
10 we safely use soil.

11 The arsenic, the remediation level for arsenic is
12 seven parts per million. The levels that were found
13 across the site, again in these twenty-four sample
14 borings, they are forty-two percent of the samples they
15 selected for mediation standard. The forty-two percent
16 has arsenic levels that were about that is shallow sill
17 levels, deep soil levels, sixty-three percent of the
18 samples had arsenic levels higher than, arsenic is
19 another compound, it is stained in the soil and it is
20 also linked to skin cancer, cancer of the lung so.

21 ATTORNEY HARSH: In your professional life are you
22 called in to do environmental surveys and analysis of
23 contaminated sites and to assist remediation?

24 MR. NICKELSON: For the last twenty-five years I
25 have done site remediations with compounds similar to

1 these, arsenic, led, yes, I have, I've done numerous
2 remediations in DEM standards.

3 ATTORNEY HARSH: So you are familiar with the DEM
4 regulations applied to contamination in the environment
5 and you are familiar with the EPA standards and in the
6 case of Barrington, you are sufficiently familiar with
7 their own standards.

8 MR. NICKELSON: Yes, I am.

9 ATTORNEY HARSH: How many years have you been
10 practicing?

11 MR. NICKELSON: Thirty-four years.

12 ATTORNEY HARSH: You have commented on the Nobis
13 study. Were there other evaluations done by
14 environmental consultants such as yourself on the site?

15 MR. NICKELSON: I don't know of any. Nobis is
16 environmental.

17 MR. TEITZ: Can you talk into the mike as indicated
18 so both the people in the audience, so they can hear and
19 so we can pick it up on recording. I know Mr. Harsh you
20 have a loud voice any way. You may need the mike. We
21 want to get it on the recording.

22 ATTORNEY HARSH: I won't be able to run for office
23 again, I guess. Sorry about that. My wife will be
24 pleased. I think my question is, you have looked at the
25 DEM letter that we have as an exhibit in the book.

1 MR. NICKELSON: Yes, I have.

2 ATTORNEY HARSH: What sort of procedure is required
3 to satisfy the standards in the DEM letter.

4 MR. NICKELSON: What has been done today is site
5 screening to determine whether the site A has this
6 compound or doesn't have this compound and that has been
7 done, not -- now the next step is do a complete site
8 assessment and find out where these compounds are and
9 what has to be done about them to allow them, whether
10 they have to be removed or stay on the site. The Nobis
11 thoughts are remediation and alternatives. It is
12 premature to go by these, these statements to date in the
13 Nobis report, because again we only have 24 samples on
14 each site, ten acre site. That is not the level of
15 information that you need. You have to do a complete
16 site investigation report which will identify all of the
17 contamination, identify all of the receptors out there
18 and migration paths. None of that has been done to date.

19 Once the complete site assessment is done, all
20 migration happens and potential receptors are identified.
21 Then the work plan has to be made and that is
22 particularly identified in the DEM letter, site
23 investigation, work plan says all right, this is the
24 level of contamination, these are the, these are the
25 receptors that can be exposed to it and this is what has

1 to be done to get the site remediated.

2 CHAIRMAN TRIM: Can I interrupt. For our knowledge,
3 what is a receptor?

4 MR. NICKELSON: Receptor is someone who would be
5 effected by the contamination, so it could be a person,
6 could be wildlife, could be --

7 CHAIRWOMAN GALBRAITH: I have a question as well.
8 The process that you are describing seems to be what DEM
9 is requesting in the letter, seems to be the standard
10 operating procedure, right? An applicant will do
11 preliminary testing and sit with DEM and figure out what
12 needs to be done and looks like DEM is saying this is
13 what needs to be done to complete the work and come up
14 with a remedial work plan. Doesn't seem like anything
15 that has been done in the process is out of the ordinary
16 that you might do in the process?

17 MR. NICKELSON: I said in, in testimony in the
18 comprehensive permit telling what is going on that site
19 and remediation on numerous sites like this with
20 contamination like this and I'm still in a quandary to
21 determine if I was an environmental engineer how I would
22 address this site because there are a lot of terms thrown
23 out there. We are talking about hauling the material off
24 site. We are talking about encapsulation and then we
25 have these turns, things even environmental --

1 CHAIRWOMAN GALBRAITH: That is the next step that
2 the Applicant will do to answer these questions?

3 MR. NICKELSON: Those are the next steps that you do
4 and I'm telling you, if I had to go to this project now,
5 I don't know if that is possible to do those the steps
6 the way the development is being proposed. Because,
7 because I am looking at --

8 CHAIRWOMAN GALBRAITH: You are saying it is not
9 possible to remediate or come up with --

10 MR. NICKELSON: I don't think it is economically
11 feasible to get this contamination -- costs. Remember we
12 talked about receptors. Residential habitation is one of
13 most sensitive receptors that you can have. You have the
14 most sensitive population of children living there 24/7
15 that can be exposed to these things. These are the
16 receptors that are going to be looked at and you have to
17 work with.

18 CHAIRWOMAN GALBRAITH: So, we are going to get these
19 questions answered in the next phase, right, before the
20 Applicant moves forward?

21 MR. NICKELSON: There may not be answers to these
22 questions.

23 CHAIRWOMAN GALBRAITH: Then they won't move forward.

24 VICE CHAIRMAN DULCHINOS: Then they won't move
25 forward. So the risk is on the Applicant so they can get

1 a favorable preliminary but then further down the road
2 they can go out and discover it is not economically
3 feasible to mitigate the environmental situation.

4 MR. NICKELSON: That is probable based on what I'm
5 looking at on this site.

6 VICE CHAIRMAN DULCHINOS: Not having these recorded
7 preliminarily is a double edged sword. It is an unknown
8 for us but it is a heavy risk on the applicant and
9 investing more money in their design work and engineering
10 to discover then later on it may not be economically
11 feasible.

12 ATTORNEY HARSH: If I may comment? That is one of
13 the reasons why your Technical Review Committee suggested
14 that this Board look at permits.

15 ATTORNEY HARSH: If you were going to,
16 Mr. Nickelson, put low income housing on the site, would
17 DEM's response look at it different than what you are
18 seeing in the preliminary letter?

19 MR. NICKELSON: I don't believe DEM would look at
20 low income different than residential housing. The
21 measure being restricted to a certain age group which
22 this doesn't appear to be and it is standard
23 construction.

24 VICE CHAIRMAN DULCHINOS: With that being said, is
25 it really relevant to the density of potential

1 development? What impact is the environmental
2 consideration? More significant, if you are putting in a
3 higher density development or more people are exposed to
4 it?

5 MR. NICKELSON: More people are exposed to it and
6 density makes dealing with it more difficult.

7 VICE CHAIRMAN DULCHINOS: Is there more
8 construction, more earthing?

9 MR. NICKELSON: If you turn around and I'm sure you
10 have all seen what the proposed site looks like, I mean,
11 I hate to say I don't think there is going to be a square
12 inch of earth not turned over on this site and we know
13 every inch of that square earth is contaminated.

14 CHAIRWOMAN GALBRAITH: It is your understanding that
15 is what the DEM is referring to in their letter of March
16 2nd, is actually going to spell out, can actually tell us
17 exactly potential restrictions on the use of the site?

18 MR. NICKELSON: That surprised me when I saw DEM
19 saying that DWR would be on the site. Because what the
20 reconstruction is, is saying that, that the mediation
21 standard in the site will not be met. If it is seven
22 parts per million for arsenic, we are going leave arsenic
23 on site above seven.

24 CHAIRWOMAN GALBRAITH: Restrict the land use
25 accordingly?

1 MR. NICKELSON: What the restrictions does is it
2 puts a line, it puts a line on the, on that property that
3 says there is contaminating soil on that site and also
4 supposed to be a forewarning to anybody that comes on and
5 has access to it that says they are coming on a side that
6 has contamination on it.

7 CHAIRWOMAN GALBRAITH: At this point we are
8 presupposing what the ELUR is going to say.

9 MR. NICKELSON: I am not going to tell you what it
10 is going to say. I am presupposing that the DEM
11 statement, the fact there is going to be one, states
12 there can be contamination left on that site and that,
13 because you wouldn't need a ELUR if it wasn't. So what
14 they are saying is, is arsenic should be remediated to a
15 level below seven except for this side, it doesn't have
16 to be that here. That is what is being said here and
17 same thing, dieldrin, dieldrin has a remediation standard
18 and I want to get this right because I don't have it
19 written down but I believe it is .4 micrograms per cubic
20 meter and they are saying that that level will not be
21 met. It will be higher than that on site and that will
22 require notification. Land use restrictions it is not so
23 much an active document or case, all right, don't dig
24 here and don't dig there. It more goes on the deed so
25 that in future years when this process is over and 50

1 years from now when this site gets sold and all of these
2 buildings get bulldozed and someone, they want to put a
3 nursery up there. They look for the deed of the property
4 and the deed to the property says back in 2016 when this
5 process was done, a land restriction was put on there
6 that says that contamination was left on site versus in
7 lieu of cleaning it up.

8 ATTORNEY HARSH: And, are you familiar with a
9 situation where the ELUR is used with a relatively dense
10 housing project or elderly and low income and children?

11 MR. NICKELSON: Honestly, like I said, I have been
12 doing this for thirty-four years, active site remediation
13 for twenty-four years. I only see ELUR's used on
14 residential properties on only a few cases and every time
15 it is used it has been used because it was an existing
16 structure that we damaged if the remediation could take
17 place, in other words contamination under a building, DEM
18 said we will make you take the building down but leave
19 the contamination under the building per the deed. But a
20 language reconstruction on saying there is contamination
21 under the building that is all, that is the only time I
22 have ever seen use of ELUR on a residential property.

23 Now, the notice report talks about, you know, gee,
24 we got onwards of contamination of soil. Let's put four
25 inches of soil on it and that what I think is not

1 practical, that is the first step of this environment
2 assessment it is not done and DEM will pick it up but the
3 first step says that, says we are going to use four
4 inches of soil on top of contaminated soil as a
5 protective barrier for people living there.

6 ATTORNEY HARSH: You don't think that process is
7 going to work out?

8 MR. NICKELSON: I don't think that process will work
9 out. When I look at the development scenario when every
10 bit of this site is developed, landscaping, building,
11 sidewalks, site utilities, all of these things cutting
12 through this contaminated soil and, there is, there are
13 hazards to the people living around there now, as far as
14 if you have been to a construction site you seen soils
15 being bulldozed, I mean this is a material that we are
16 dealing with out there.

17 VICE CHAIRMAN DULCHINOS: Will DEM have to approve
18 mitigation proposal or DEM require them certain
19 mitigation in order to, based on the use, you mentioned
20 four inch layer down as, is that something that DEM
21 approves as an appropriate mitigation for the proposed
22 use?

23 MR. NICKELSON: If they were able to convince DEM
24 and I don't know if they can, but if they were able to
25 convince DEM that we are going to be able to build this,

1 somehow manage all of this contaminate soil but leave it
2 on site and while this is left on site, we will, we will,
3 put this four inch layer, that is the case that will have
4 to be made by DEM and they will have to approve it. But
5 I don't think it is possible.

6 CHAIRWOMAN GALBRAITH: At this point.

7 CHAIRMAN ADAMS: Hypotheticals are a little busy
8 right now. I was just going to ask if the engineer had
9 found DEM to be diligent in their efforts to protect
10 Rhode Island citizens in working with them over the
11 years?

12 MR. NICKELSON: In the past I have found them fairly
13 diligent, yes.

14 ATTORNEY HARSH: So the ELUR, Nobis's idea, and the
15 proposal to DEM they have not endorsed ELUR for the
16 entire site, I take it?

17 MR. NICKELSON: They did not and they did mention it
18 in their letter but the fact that a mediation work plan
19 has not been prepared, they need to believe the
20 determination of whether a ELUR is appropriate on the
21 site or not has not been made.

22 ATTORNEY HARSH: Do you consider the likelihood that
23 it would be made?

24 MR. NICKELSON: If it was made it would be made
25 under special circumstances.

1 ATTORNEY HARSH: How about the soil coverage? If
2 you plant a tree, you dig down further than six inches.

3 MR. NICKELSON: That is the point I made. The way
4 you build a facility is you go in and box out the roads.
5 The road is not three inches of asphalt it is 24 inches
6 thick of subbase and all that material. All that
7 material space has to be taken out of the contaminated
8 soil and something has to be done with the contaminated
9 soil.

10 ATTORNEY HARSH: Let's talk about moving the
11 contaminated soil which is one of Nobis' suggestions they
12 put a price tag on of \$25,000 to remove 250 tons of
13 contaminated soil in so called hot spots. How do those
14 numbers strike you?

15 MR. NICKELSON: I stated when I first started, 24
16 samples over a ten acre site is not how you --

17 ATTORNEY HARSH: I'm asking you the cost of removal.

18 MR. NICKELSON: I don't think Nobis costs are
19 realistic at all.

20 ATTORNEY HARSH: What would your cost estimate be
21 for removing the 250 tons of contaminated material and
22 disposing of it?

23 MR. NICKELSON: Probably in the range of \$150,000.
24 It really, it would have to depend on how it would be
25 done, where it would be going. It is really costly and

1 you can't --

2 ATTORNEY HARSH: Your estimate off the top would be
3 \$150,000. Let's shift. You are an engineer. You read
4 the proposal among the variances requested. Were they
5 street width, on street parking, reduced curb radius, I
6 wanted to ask you what you think about not granite
7 curbing even though that is required in the ordinance?
8 What do you think of the viability, feasibility,
9 desirability, of making all those exceptions?

10 MR. NICKELSON: Well, I just reiterate my testimony
11 that I made during the comprehensive permit. I think all
12 those things contribute to public safety. All of those
13 items relate to first responders, narrow streets, on
14 street parking. All those things are being made to make
15 public safety out there an issue.

16 ATTORNEY HARSH: I'm referring to the curb radius,
17 do you think it is feasible to have a radius.

18 MR. NICKELSON: It is feasible the radius is set by
19 the type of vehicles that you want to make turns in the
20 street.

21 ATTORNEY HARSH: But the Town is way in excess of
22 this?

23 MR. NICKELSON: And the reason the radius are set
24 are for public safety vehicles to get around and radius
25 is not what public safety needs, needs they will not be

1 able to handle it.

2 ATTORNEY HARSH: Would this corner create hazards
3 for children and elderly?

4 MR. NICKELSON: It will make it much more difficult
5 to walk in the streets. No doubt about it.

6 ATTORNEY HARSH: So it is in your opinion, your
7 professional opinion it is a safety issue with the
8 ways --

9 MR. NICKELSON: Yes, I believe it is. That is what
10 I testified.

11 ATTORNEY HARSH: How do you feel about asphalt
12 curbs? What is your professional opinion?

13 MR. NICKELSON: They are not as effective as, as
14 standard granite curbs for districting and controlling
15 drainage, usually those end up where snow plowing asphalt
16 curb is damaged within the first ten years of distance
17 just a snow plow that is why we use granite curbing and
18 between granite curbing and the snow plow, no question
19 snow plow wins.

20 ATTORNEY HARSH: So the Town will take
21 responsibility for replacing the curbs?

22 MR. NICKELSON: Yes, to maintain drain systems you
23 have to have curbs and it is proven that asphalt does not
24 stand up.

25 ATTORNEY HARSH: How major of an undertaking would

1 it be for the Barrington Public Works Department to be
2 able to maintain the soils, to maintain retaining ponds
3 so that you have a surface drainage and subsurface
4 drainage?

5 MR. NICKELSON: For developments it is not that big
6 of a development but I know that the Town I live in
7 Warwick, Massachusetts, we have subdivisions like this.
8 I'm on the Conservation Commission, and this is the
9 constant problem with the Town having to take care of and
10 maintain because the Town doesn't have resources and what
11 happens is the Town because it becomes Town streets they
12 have to, you know, it is their responsibility, it is
13 their responsibility to clean them.

14 ATTORNEY HARSH: So there is a risk that soils and
15 the drainage system would not be maintained.

16 MR. NICKELSON: Exactly.

17 ATTORNEY HARSH: How much standing water if you
18 reviewed --

19 MR. NICKELSON: I read through drainage water.

20 ATTORNEY HARSH: How much standing water is there as
21 a result of the way they set the drainage water now with
22 substantial surface now?

23 MR. NICKELSON: I believe six to eight inches.

24 ATTORNEY HARSH: Six to eight inches in ponds?

25 MR. NICKELSON: Excuse me. That is what the berms

1 and soils are for.

2 ATTORNEY HARSH: Good place for mosquitos.

3 MR. NICKELSON: It will happen in standing water.

4 ATTORNEY HARSH: One minute, Mr. Chairman. We have
5 covered a lot of ground on storm water. Under the storm
6 water, Mr. Nickelson, does it appear to comply with the
7 2010 storm water supply regulations?

8 MR. NICKELSON: I didn't review the storm water
9 system for DEM.

10 ATTORNEY HARSH: But it would have to comply.

11 MR. NICKELSON: It would have to comply.

12 ATTORNEY HARSH: One of the discharges would be a
13 setback which I assume is not going to work?

14 MR. NICKELSON: Yes. That was one of the comments
15 in DEM correspondence which I questioned in my initial
16 testimony about allowing this, all this surface, all
17 drainage discharge in a coastal wetland whether it be
18 allowed.

19 ATTORNEY HARSH: Are there any questions from the
20 Board? Or from Counsel For the Applicant?

21 CHAIRMAN TRIM: One quick question about one of the
22 drainages, one of the surface drainage detention ponds.

23 MR. NICKELSON: Yes.

24 CHAIRMAN TRIM: How long would it hold water? You
25 said standing water?

1 MR. NICKELSON: It is tough to say. Because
2 initially retention ponds are not designed to be
3 impervious so they will drain out. Over time, a
4 relatively short period of time, they become silted up,
5 the bottoms don't drain and essentially they will hold
6 water for a period of time.

7 CHAIRMAN TRIM: You have to maintain them.

8 MR. NICKELSON: Essentially you should go in every
9 seven years.

10 VICE CHAIRMAN DULCHINOS: Your recommendation based
11 on the road and engineering, is it in the Town's best
12 interest that it remain privately owned by the
13 development?

14 MR. NICKELSON: Yeah, I mean, I really thought, I
15 was very surprised when I heard these were going to be
16 Town roads, yes.

17 ATTORNEY HARSH: Any other questions?

18 ATTORNEY CAPIZZO: Just a quick question. Christian
19 Capizzo for the record. Mr. Nickelson, can you tell us
20 what documents you referenced? A Nobis report. Were
21 there any environmental reports that you reviewed to form
22 your opinions today?

23 MR. NICKELSON: I reviewed my files from the
24 testimony that I made back in 2013. I had the
25 Comprehensive Report. I also reviewed the Nobis report.

1 I reviewed the Fuss & O'Neil Preliminary Drainage
2 Summary, but I know, and also some correspondence
3 Mr. Harsh sent to me.

4 ATTORNEY CAPIZZO: Correspondence, are you referring
5 to DEM letters?

6 MR. NICKELSON: Yes.

7 ATTORNEY CAPIZZO: Did you conduct any independent
8 review at DEM or filed with DEM regarding the site?

9 MR. NICKELSON: No, I didn't.

10 ATTORNEY CAPIZZO: Is that something you would have
11 done in your professional career if you were working on
12 the site yourself?

13 MR. NICKELSON: Depending on what I was doing for
14 the site. If I was doing the site investigation,
15 absolutely.

16 ATTORNEY CAPIZZO: Are you aware there was a phase
17 one conducted by Resource Control in 2014.

18 MR. NICKELSON: Yes, I am.

19 ATTORNEY CAPIZZO: Did you review that report?

20 MR. NICKELSON: No, I didn't.

21 ATTORNEY CAPIZZO: Did you speak with anybody at DEM
22 in regards to this site?

23 MR. NICKELSON: No I didn't.

24 ATTORNEY CAPIZZO: Do you have relationships with
25 individuals at DEM?

1 MR. NICKELSON: Yes, I do.

2 ATTORNEY CAPIZZO: Did you speak with anybody at EPA
3 with the regard to the work of Nobis?

4 MR. NICKELSON: No, I didn't.

5 ATTORNEY CAPIZZO: You are aware EPA contacted Nobis
6 to do the assessment?

7 MR. NICKELSON: I didn't know that.

8 ATTORNEY CAPIZZO: And DEM contacted Resource
9 Controls to conduct their Phase 1?

10 MR. NICKELSON: I was not aware of that.

11 ATTORNEY CAPIZZO: No further questions. Thank you.

12 CHAIRMAN TRIM: Thank you.

13 ATTORNEY HARSH: Mr. Nickelson, is there anything
14 unusual about the report that you reviewed that would
15 lead you to feel that you have not fully evaluated the
16 questions before this Board?

17 MR. NICKELSON: Well, the only questions that I did
18 some further research on had to do with the thought of
19 access with foot pedestrian traffic on Sowams Road. Mr.
20 Harsh asked me to take a look at that knowing that the
21 sidewalks within the proposed development, developers
22 saying there would be easy access to Town resources on
23 County Street, just about a 2700 foot walk, half mile
24 walk down Sowams Road. I took that walk down Sowams Road
25 the other day. It is not a road that is very conducive

1 to foot traffic as it stands now.

2 ATTORNEY HARSH: The option is to install a
3 sidewalk.

4 MR. NICKELSON: Yes, and the thought would be it
5 would safer within sidewalks, no doubt about it. That
6 would be a very, very expensive sidewalk. Sowams Road is
7 lined with trees, 16 to 36 inches of diameter, right on
8 the edge of the roadway. They could not exist with a
9 sidewalk. They have to be removed, very short shoulder.
10 I don't know where the Town road ends and the property
11 line starts but there is a good chance a land taking
12 would have to be gone through if a sidewalk, was put
13 there and just the fact that putting that sidewalk half
14 mile of sidewalk is not inexpensive.

15 ATTORNEY HARSH: How much money to put in half mile
16 sidewalk.

17 MR. NICKELSON: Anywhere from two to maybe two and a
18 half million dollars depending on land taking.

19 ATTORNEY HARSH: Any other questions from the Board.
20 Thank you.

21 MR. NICKELSON: Thank you.

22 ATTORNEY HARSH: Professor Diebold.

23 Professor Diebold did testify at the last hearing that
24 you had as a citizen and I asked him back because he had
25 some very substantial credentials in the area of chemical

1 contamination as pointed out by a board member plus the
2 members of the Board have your resume.

3 Would you please briefly describe your training,
4 capabilities in evaluating subjects such as the arsenic
5 contamination at this site.

6 PROFESSION DIEBOLD: I have about 140 or 150
7 publications in journals, five I developed technology to
8 detect aflatoxin which are the most potent carcinogenics
9 known. We also developed techniques for detecting a
10 mycotoxin call zearalenone. I have done phototactic
11 trace detection of ethylene oxide which is a carcinogenic
12 and toxin and I have been for years involved in
13 developing trace detection in gases using the phototactic
14 effect.

15 ATTORNEY HARSH: How many years, Professor, have you
16 been in the field of chemistry and chemical science and
17 the detection of chemicals in the environment?

18 PROFESSION DIEBOLD: Been in the order of 35 years
19 or 40.

20 ATTORNEY HARSH: Present profession is?

21 PROFESSION DIEBOLD: Professor of chemistry at Brown.

22 ATTORNEY HARSH: Full tenured professor?

23 PROFESSION DIEBOLD: Quite tenured, yes.

24 ATTORNEY HARSH: I ask that the Board accept
25 Professor Diebold as qualified to testify as an expert on

1 the subject of arsenic contamination and other
2 contaminations on this site.

3 CHAIRMAN TRIM: Yes.

4 ATTORNEY HARSH: Please proceed. Mr. Diebold has a
5 presentation to begin with.

6 PROFESSOR DIEBOLD: What I like to do is show you
7 some of the characteristics of these compounds. So, if
8 you look at the Nobis Engineering report, they show
9 forty-two percent of the holes that they bored and
10 shallow holes exceeded DEM in depth sixty-three percent.
11 Those holes are much deeper may go on to ten feet or so.

12 And if you look at the Rhode Island Division of
13 Environmental Management they have limits of seven parts
14 per million which requires response.

15 So, the EPA does have exact regulations but four PPM
16 is what they give as a generic screening level. So,
17 there is a good question and it is kind of interesting to
18 look at this origin of seven parts per million limit. So
19 if you look at the report of Leo Hellstead, who is the
20 Chief Officer of Rhode Island Waste Management, his
21 report, a report to the Legislative Commission, looking
22 at arsenic and he says that the Rhode Island standard is
23 based on state background studies and is not, I wrote
24 that in red, a risk based standard.

25 What the seven parts per million limit comes through

1 is a, is by taking borings of larger sites across Rhode
2 Island and then they farm an average what they think was
3 one point seven parts per million and number seven parts
4 per million is ninety-five percent confidence limit that
5 you would not find something higher than that by accident
6 that would be in the soil. So what is really amazing, is
7 when you do a little research on arsenic, is you find
8 there are huge differences in what different states
9 determine to be dangerous.

10 If you look at the top, Wisconsin has the lowest
11 concentration they find acceptable and down to the bottom
12 you see Rhode Island is in the group with seven parts per
13 million. The real difference between these limits is the
14 ones at the bottom are based on natural background, which
15 is what I just told you about, drilling holes and taking
16 an average. It does not consider the actual risk. These
17 other states, the ones at the top are concerned with
18 whether or not there is going to be a toxic effect for
19 humans.

20 So just to remind you a little bit of what
21 Mr. Nickelson told you about where toxicity can enter can
22 come from drinking water supply and comes from
23 agricultural and industrial practices. It has
24 noncancerous effects including numbness in hands and
25 feet, paralysis, blindness and strangely thickening and

1 discoloration of skin. You may recall that years ago
2 women that wanted to have sort of, I don't know pale
3 looking skin would take this stuff.

4 So anyhow, it turns out it is a link to several
5 types of cancers, bladder, lung, skin, kidney, nasal
6 passages, liver and prostate. So this is a real wide
7 spectrum carcinogen. If you look at EPA drinking water
8 limits, arsenic is listed at 20 parts per trillion
9 whereas lead is two parts per billion. If you divide
10 these two, you come up with a factor of 10,000. So
11 arsenic is really a pretty dangerous compound to ingest.

12 It also can effect plants. So on the left these are
13 researchers who exposed plants at 20 parts per million,
14 100 parts per million, and 200 parts per million to a
15 bunch of different plants and I took some pictures here.
16 You can see if you expose them to 100 parts per million
17 it kills the plants. Over that it kills it really
18 quickly. The ones to the left were declared unaffected.

19 Now, the 20 parts per million arsenic in there
20 aren't to anybody ideal but the point I want to make here
21 is if look over on the right and look at the
22 accumulation, you go from these relatively small numbers
23 of 20 parts per million up to several thousand. So these
24 plants have, and lots of plants have this capability of
25 what is called biomagnification where they seek out the

1 arsenic in the soil and they bring it up through the
2 roots and into the leaves. So that presents a little bit
3 of danger especially if you are talking about putting
4 four inches of soil and plants roots go down much lower
5 than that.

6 Okay. You should be familiar with construction
7 sites. You know when they start building things, all
8 this earth is turned up. There will be rains and there
9 will be mud and a lot of this arsenic then seeps into the
10 rivers or goes down deeper into soil and they are talking
11 about covering this with 2000 cubic yards of soil which
12 seems like a fairly large amount.

13 If we look at dieldrin, it was an alternate to DDT
14 and it proved to be really effective but unfortunately it
15 turned out to be a toxin to a human spectrum of mammals
16 including human beings. It is considered to be a
17 persistent organic pollutant. That is it doesn't break
18 down. There are a lot of compounds that will break down
19 in the soil and cause bacteria that will attack it or
20 even in animals where your liver may break this down and
21 cause it to be nontoxic, this is not one of them.

22 It also biomagnifies, which means it increases in
23 its concentration that is passed along the food chain.
24 And then as you are already told, it is now banned in
25 most of the world.

1 So here is some information from the National Center
2 of Biotechnology Information. They did some mice
3 studies. They found dieldrin and aldrin, another
4 pesticide which is a carcinogenic in mice producing liver
5 tumors, hyperexcitability, there is hepatocellular
6 carcinomas in male mice. And the second to last study
7 showed the carcinomas as well and it showed dieldrin was
8 found to produce lung tumors.

9 So, so the characteristics are highly toxic to
10 organisms and can accumulate especially in the fat of
11 animals and it binds strongly to soil particles and not
12 broken down. And it said also in this article that
13 little seeps into the ground water so maybe that is
14 something positive to be said in favor of dieldrin, it
15 will stick with the soil instead of leaching down into
16 the ground water. It also unfortunately evaporates and
17 can travel considerable distances and it is considered
18 what is called a persistent organic pollutant or a POP.

19 What that means is it is resistant in the
20 biodegradation and it remains in the environment for a
21 long time. Given the fact that it was banned in the
22 1970's it doesn't come as much of a surprise to you this
23 stuff sticks around forever and in so far as animals are
24 concerned it is one of these compounds that keeps
25 accumulating and it is not easily broken down so that it,

1 it becomes more and more dangerous and more and more is
2 ingested.

3 The drinking water limit for this is even lower than
4 it is for arsenic, two parts per trillion which is really
5 quite small.

6 So, what Nobis found is ten out of twenty-for holes
7 bored which is in the order of half and some of them have
8 some really large level of 150 or 97 microgram per
9 kilogram which is higher than the DEM limit. And the
10 idea is that you have to remove 250 tons of soil. I
11 don't know what percentage of that whole acreage
12 represents but it seems like an awful lot.

13 So, my professional opinion is that these two
14 compounds are highly toxic and it doesn't seem that this
15 would be a really great place to put residential housing.
16 It may be something like the case of polychlorinated
17 biphenyls that were dumped into the Hudson River by the
18 State of New York, it was only far later that they were
19 found to have many terrible effects. So that is the end
20 of the presentation so.

21 ATTORNEY HARSH: I just want to ask your testimony,
22 Professor, you indicated that if there was some
23 substance, dieldrin onsite, without a lot of preparatory
24 measures being taken that substantial construction
25 activity, that there would be a lot of turning up of

1 these chemicals in the material at the surface during the
2 period of construction and in addition you indicated that
3 some of it could become airborne.

4 PROFESSOR DIEBOLD: Well, that is not so much a
5 chemistry question as it is sort of common sense. If
6 this stuff is all stirred up off it goes into the wind.
7 Just like lead, you are not supposed to grind it off one
8 house when you have an another house nearby, a small
9 amount of stuff that comes out can be responsible to get
10 into sandboxes for kids and end up with lead poisoning.
11 For these highly toxic compounds, this is a risk.

12 ATTORNEY HARSH: This is true of both compounds that
13 we are discussing?

14 PROFESSOR DIEBOLD: Both are actually frightening.

15 ATTORNEY HARSH: Both can be become airborne?

16 PROFESSOR DIEBOLD: Dieldrin is the one that I have
17 the documentation on. The other one can be in the soil.
18 Obviously there is, it does but I don't have information
19 specifically on that.

20 ATTORNEY HARSH: So if you inhale arsenic, you don't
21 think there is any likely harm?

22 PROFESSOR DIEBOLD: I didn't say that. No. I think
23 that would be, especially some of high levels this could
24 be, well, it depends on how much you get, it could
25 possibly be acute but I don't know what the acute levels

1 are for the symptoms they have out there. But, no, you
2 wouldn't want be to near this when they are turning this
3 up and turning it into dust.

4 ATTORNEY HARSH: Both can become airborne?

5 PROFESSION DIEBOLD: Yes.

6 ATTORNEY HARSH: What could you possibly grow on
7 this site after you built it and put down six inches of
8 top soil? What could you grow?

9 PROFESSION DIEBOLD: I would hesitant to grow
10 anything because what so many plants do is bring it up
11 from lower levels up into the surface, into the stalk and
12 into the leaves. And, in fact, it was just in the *New*
13 *York Times* two weeks ago that they reviewed a number of
14 reports on arsenic in rice and it was found that there
15 were high concentrations way above the recommended limits
16 for eating and this was because the rice plant has this
17 characteristic that it wants to concentrate arsenic. I
18 don't know all of the plants that do this, but there were
19 several common plants, corn, beans, and flowers and some
20 other vegetables that would do this.

21 ATTORNEY HARSH: You wouldn't be planting carrots?

22 PROFESSION DIEBOLD: No, I remember carrots was
23 actually in that article as well.

24 ATTORNEY HARSH: You can't have gardens or
25 substantial flower beds or you certainly can't have

1 trees?

2 PROFESSION DIEBOLD: Trees are going -- well, let's
3 see. Do I have information on trees?

4 CHAIRWOMAN GALBRAITH: Excuse me.

5 PROFESSION DIEBOLD: The roots are going to go way
6 down into areas of more concentration.

7 CHAIRWOMAN GALBRAITH: Excuse me, Mr. Harsh. Can
8 you please have the witness clarify what levels? You are
9 saying you can't plant or have trees? What level are you
10 talking about, the levels identified on site or in
11 general or higher levels? What levels are you talking
12 about?

13 PROFESSION DIEBOLD: Well, that is a question where
14 you have to look at an awful lot of data probably that
15 doesn't exist. What I showed you there is my point was
16 there is a concentration of arsenic. That is what they
17 found in the plant, the roots concentrate this element
18 and bring it up that some of those numbers were over a
19 thousand fold. So what different plants do, what does
20 grass do I don't have. Maybe I can do some research on
21 that. But, obviously those flowers and vegetables tend
22 to concentrate the material. You know if it is 20 parts
23 per million we have data on it. If it is one part per
24 million, I don't know if data exists on that. But on the
25 other hand, you would certainly expect it to concentrate.

1 VICE CHAIRMAN DULCHINOS: I am confused. You quoted
2 parts per million but then showed samples of the
3 different unit measure. So what of the forty-two percent
4 of the holes drilled in those reports indicated arsenic
5 levels above what would be natural occurring, is that the
6 natural occurring value that Rhode Island recognizes as
7 seven parts per million or?

8 PROFESSION DIEBOLD: This is a number they pick
9 based on drilling a bunch of holes. All right. So the
10 average for the whole State is one point seven parts per
11 million but then you want to ask, okay, was yours a toxic
12 waste dump? If it shows up over seven parts per million
13 there is a ninety-five percent chance there was some
14 addition or some unusual activity there to cause that
15 and, of course, it is pretty obvious it was farming in
16 this case. Right?

17 VICE CHAIRMAN DULCHINOS: So the forty-two percent
18 of the holes indicated arsenic above seven parts per
19 million and you showed how Rhode Island had one of the
20 more liberal explanations as far as compared to Wisconsin
21 or --

22 PROFESSION DIEBOLD: Right. Arsenic is not cancer
23 based. It was just on this background base thing.

24 VICE CHAIRMAN DULCHINOS: Is it possible that the
25 region has higher levels because arsenic is more natural

1 occurring and because of the industrial base and our soil
2 is more contaminated than other parts of the country?

3 PROFESSOR DIEBOLD: That is a good question, but I
4 don't know the answer to that. So --

5 ATTORNEY HARSH: These numbers are way above that?

6 PROFESSOR DIEBOLD: What they found is above the --

7 CHAIRWOMAN GALBRAITH: The standards that you showed
8 were for drinking water.

9 PROFESSOR DIEBOLD: You get some idea of the
10 toxicity of these things by looking at what a bunch of
11 very good environmental, what do they call them,
12 toxicologists recommend for the drinking water level.

13 At these levels it is very hard to determine
14 actually whether even one part per billion is going to
15 cause you cancer. Those are almost impossible questions.
16 They extrapolate, those numbers come from EPA which is a
17 good organization. They try to enforce or give you
18 guidelines.

19 CHAIRWOMAN GALBRAITH: So the chart you showed were
20 EPA standards for arsenic levels, levels for drinking
21 water?

22 PROFESSOR DIEBOLD: The chart was for the State with
23 all the different states. Those are for soil, which is
24 incredible they vary by a thousand.

25 CHAIRWOMAN GALBRAITH: The EPA was for drinking

1 water.

2 PROFESSOR DIEBOLD: EPA has 20 parts per trillion
3 with arsenic and the two parts per billion for lead is a
4 California number.

5 CHAIRWOMAN GALBRAITH: The question I was asking is
6 the chart that you showed, is it an EPA standard for what
7 they consider acceptable levels or guidelines they
8 consider for arsenic and soil when you are looking at
9 drinking water coming from the area of soil? That is the
10 chart? PROFESSOR DIEBOLD: The chart was for soil and
11 I can give you some EPA limits. These are all what the
12 State organization comes up with, just like
13 Mr. Hellstead, Rhode Island had a committee on this. So
14 they come up with this number of seven is what they are
15 setting as their limit.

16 CHAIRWOMAN GALBRAITH: For drinking water or to
17 build something? I'm wondering what the limit is for.

18 CHAIRMAN TRIM: Soil.

19 PROFESSOR DIEBOLD: This is for soil. I'm not sure
20 if the EPA sets the guidelines for soil. Evidently they
21 left it out for states as far as my information guides me
22 but in drinking water the EPA gives you actual numbers,
23 and I think I have found those 20 parts per trillion from
24 this EPA water standards and health advisors. That is a
25 2000 report. And the lead number is for California. So

1 some of this was left with the states and their standards
2 anyhow. I don't think they are laws. But I believe the
3 state is one that enforces these, but maybe a lawyer can
4 tell me more on that.

5 I just put it up there to give you a prospective on
6 the toxicity of the materials. Right? So these are
7 really finer levels of parts per trillion level that
8 indicates it is pretty dangerous compounds to ingest.

9 ATTORNEY HARSH: Couple of quick questions, I would
10 like to now ask if you feel you can comment on
11 Mr. Frank Spinella's comment to the Barrington Technical
12 Review Committee where he said nothing has been found
13 that precluded development. Do you want to comment in
14 your professional position?

15 PROFESSOR DIEBOLD: Well, remember my background is
16 chemistry and I think --

17 ATTORNEY CAPIZZO: I object to that question. I
18 think it is beyond the scope of this witness' ability.

19 ATTORNEY HARSH: You can still answer.

20 ATTORNEY TEITZ: Wait a second. If there is an
21 objection, I think the Board you don't follow the strict
22 Rules of Evidence, remembering that the witness'
23 expertise is in chemistry, go ahead and answer. The
24 Board will give it the weight it deems appropriate.

25 PROFESSOR DIEBOLD: Does that mean I answer or not?

1 ATTORNEY TEITZ: Please answer.

2 PROFESSOR DIEBOLD: Okay. I think this is a totally
3 inappropriate site. I would let the place go to weeds
4 actually. Why would someone pick the place with all
5 these toxins in it when there are so many other places in
6 the State to build housing? Doesn't make good sense to
7 me at all.

8 ATTORNEY HARSH: One other comment, Mr. Hemeningway
9 commented in the same paper. It says he described the
10 contamination found at the site including low level of
11 arsenic characterized as "background" level as well as
12 the presence of pesticides. I would like you to discuss
13 this background business as to whether background means
14 safe.

15 PROFESSOR DIEBOLD: Well, two totally different
16 things. It is like if you would live next to uranium
17 bind where all the tailings are. That is background
18 right there. That doesn't have anything to do with
19 safety. These are two totally unrelated things and the
20 reason I brought up that chart with all of the different
21 states on it is, is that, that the different state boards
22 and people that look into this come up with very
23 different answers and so, safe, I think you want to take
24 a look at the possibility of who is going to be harmed
25 and what would harm you.

1 These are a protection from cancer in states like
2 Wisconsin and I'm not exactly sure what the thinking was
3 on the other states that tolerate a much higher level.
4 So I would, for sure, base my decision on whether
5 something is based on safety.

6 ATTORNEY HARSH: Any questions? Thank you all very
7 much. Thank you, Professor. And the last testimony that
8 I have to offer is from some of the neighbors of Sowams
9 Road and I'm going to limit their testimony strictly to
10 their own personal knowledge of the situation on that
11 road because it has become relevant in that case.

12 ATTORNEY CAPIZZO: Objection. I would expect this
13 is a repeat of the same witnesses that testified at the
14 last meeting.

15 ATTORNEY HARSH: What we are going to do --

16 ATTORNEY CAPIZZO: I'm objecting to the Chair.

17 CHAIRMAN TRIM: I'm a little confused myself.
18 Because, is it testimony? Or is it, or is it abutters
19 coming in giving their questions and concerns?

20 MR. COSTA: May I answer? I will provide some
21 information and give an overview of what the information
22 is about.

23 ATTORNEY HARSH: Let me answer that. The point is
24 that, the testimony is given by people who have their own
25 personal knowledge of the situation. As a comparable

1 standing to an expert, they can testify, testify as to
2 personal knowledge and because these people are next to
3 Sowams Road, they, I'm asking to lay on the record this
4 narrow question and not opinions on development, just on
5 the situation on Sowams Road.

6 CHAIRMAN TRIM: They are not testifying as quote one
7 of your experts?

8 VICE CHAIRMAN DULCHINOS: This is a open hearing so
9 they can speak anyway.

10 MR. TEITZ: I think the question is not so much what
11 they are speaking about as if they have already spoken.
12 You heard, I am assuming, I think that is the question if
13 you plan on putting on people that spoke last month on
14 again, unless there is something specifically new --

15 MR. COSTA: Yes.

16 MR. TEITZ: -- I think that is what the Board is
17 concerned about. Is it repetitive?

18 ATTORNEY HARSH: This is specifically new and
19 specifically narrow.

20 CHAIRMAN TRIM: Okay.

21 MR. COSTA: Thank you. May I approach.

22 ATTORNEY HARSH: Not that.

23 MR. COSTA: Less Costa, Three Colonial Avenue, if I
24 may approach.

25 ATTORNEY HARSH: Not this. Not this. We are

1 talking about Sowams Road only. That is a different
2 story when you are testifying as a citizen. Who is
3 testifying on Sowams Road?

4 ATTORNEY CAPIZZO: I object. I'm confused as this
5 is a public comment section?

6 ATTORNEY HARSH: No, it is not.

7 CHAIRMAN TRIM: We will leave it open.

8 MR. DOYLE: Good evening. Kevin Doyle, Ellis
9 Avenue. This is comment testimony from some of the
10 neighbors and some of the 500 people that signed the
11 petition.

12 ATTORNEY HARSH: You are to answer only the question
13 of your personal experience with that road.

14 MR. DOYLE: Very good. That road there, I came to
15 Town 30 years ago and built a home for all of the same
16 reasons a lot of other people came and built in
17 Barrington. The characteristic of the neighborhood,
18 single family home, pristine Palmer River, schools close
19 by.

20 Through the years I have checked on that road and
21 walked this road many, many times. I have had my life on
22 this road, found very dangerous situations on the S curve
23 heading down to County Road. I found it extremely
24 dangerous and seeing pedestrians which, I notice there
25 has been some debate as far as increased pedestrian

1 traffic with this power point proposal but I can tell you
2 when it snows and people are forced to walk into the
3 street, it is a very dangerous road.

4 So I witnessed a lot of close calls on my bike as
5 well as not a lot of room to move out of the way on this
6 road. So there is a lot of bike traffic and pedestrian
7 traffic increased and as a retired RIPTA bus driver, I
8 can tell you, that this road will be utilized by Palmer
9 Pointe neighborhood walking.

10 ATTORNEY HARSH: What is the condition of this road
11 now in terms of safety and traffic?

12 MR. DOYLE: A lot of traffic and safety is a big
13 issue and concern. Lighting is not good. No sidewalks.
14 If you are walking on that street at night it is very
15 hard visibly when you are driving in your car unless they
16 have a light flashing on and off, very bright clothing.

17 ATTORNEY HARSH: Mr. Chairman, that concludes what
18 we will do. These I will return for public testimony
19 when you are ready for them. All I wanted was comments
20 on Sowams Road. That being what it is.

21 Just so to close very quickly the presentation that
22 we have made to this Board, and I want to thank you for
23 your patience and giving everybody a chance to express
24 the information that I wanted very much to get across, I
25 think our conclusion and summary is that this proposal

1 fails to meet the conditions of Master Plan Approval,
2 that it presents serious planning and environmental
3 public health and safety issues. That, we are dealing
4 with a situation of intended occupancy by venerable
5 populations, low income, elderly, and children. That,
6 Barrington is not under such pressure in terms of
7 development of low income housing, low mod housing in
8 Rhode Island, that it has to take marginal chances, if I
9 can put it that way, you are performing a standing on
10 this sector of planning and development. The Proposal in
11 our view does not meet the standards noted for Village
12 Guidelines and the most egregious is placing all of the
13 development for the entire site on less than half of the
14 acreage.

15 And in our view and based on the evidence that we
16 presented is that it is both unsuitable and relatively
17 remote site as compared to other projects that have been,
18 that have taken place in this Town. Sweet Briar has been
19 mentioned. This site presents significant access
20 problems for its residents and a problem which is not
21 really mentioned again, the separation from the local
22 neighborhood and the inconsistency with the character of
23 the local neighborhood.

24 I have said before and I will repeat that I think
25 this project is certainly on a margin of those provisions

1 of Rhode Island General Law that speak about negative
2 environmental impacts and significant impacts on health
3 and safety of current and prospective. Based on the
4 evidence that is presented we are asking this Board to
5 find that the EBCDC and Palmer Pointe has not met the
6 conditions of Master Plan Conditional Approval and
7 therefore it is not entitled to be considered for
8 Preliminary Plan Approval. We ask that the Board find
9 that the EBCDC has failed to meet Condition 4 of the TRC
10 referral of the Board. We ask that the Board find that
11 the presence of the level of arsenic and other known
12 carcinogenics that constitute threats to public health of
13 the neighbors and any residents and the project site as
14 well as future residents to the area that the project
15 requires that the developer return to the Board with a
16 credible remediation plan based on performance of
17 additional testing as required by DEM.

18 We ask that upon return to this Board the Developer
19 be prepared to demonstrate specific and cross-justified
20 remediation options that address the threat of on site
21 contamination in consideration of human health and safety
22 of the environment. We ask that additional information
23 be provided by the developer on the Public Access
24 Proposal including the CRMC has been advised of the
25 Proposal.

1 We ask that the comments of the Barrington
2 Department of Public Works be solicited and provided to
3 this Board at this stage of the process concerning the
4 proposal that DPW assumed essentially all on-site
5 infrastructure and maintenance of building themselves.

6 Finally, we ask that the Board have the Developer
7 return to the Board with a plan for safe pedestrian
8 access to the nearest form of transit.

9 Thank you very much.

10 MR. COSTA: May I provide this.

11 ATTORNEY HARSH: It is up to the Chairman. We are
12 done.

13 CHAIRMAN TRIM: So the group gave testimony and
14 expert witnesses I feel we have to respond first before
15 we go to the other portion of the meeting?

16 ATTORNEY TEITZ: I think it is better just to let
17 the public speak now and let the Applicant respond to
18 everything all at once. So, and just caution that people
19 speaking that it should not be repetitive of what they
20 already spoke of last month.

21 CHAIRMAN TRIM: That makes sense. Okay.

22 MR. COSTA: So I can speak on this? Thank you.
23 Once again, I'm Less Costa, Three Colonial Avenue, 02806.
24 If I may approach to drop this off?

25 **(HANDING)**

1 Members, I will be very brief. Three minutes.

2 Thank you. The documents that I handed you -- can you
3 hear me right now? The documents that I presented are
4 concerning the Rhode Island State Initiative Promotion of
5 Clean Water. There have been a myriad of state agencies
6 and organizations supporting water runoff and promotion
7 of clean water. This happened back in 1990 when they
8 came up with the phase one system in the town, sorry the
9 City of Providence when they had huge underground tanks
10 made for water. Then that went down to lower levels of
11 municipalities in phase two came about 1999 in order to
12 control water runoff. Once again, when we look at Palmer
13 Pointe we are concerned about water runoff.

14 CHAIRMAN TRIM: Phase or something? Something
15 different? Are you talking about phase one
16 environmental?

17 MR. COSTA: Phase one and phase two. You are
18 familiar with them. I'm sure you are. Through some of
19 the research that I have seen there are several documents
20 that are looked at and I'm hoping that the Board is
21 familiar with them. There was a document entitled Rhode
22 Island Bays, Rivers, and Watersheds. And there was a
23 plan 2009 and 2013, and that essentially was a mission
24 statement once again for clean water initiatives, and I
25 will not bore you with the details. That entire document

1 is in this package. It is 14 pages long, will take you
2 all of ten minutes for you to read when you have the
3 time.

4 There are some other documents that are more action
5 related. One of them being 303 listing from -- that came
6 from US EPA. They sent down a charter to all the states
7 within the country to come up with a 303D listing and
8 that was to define the watersheds within the states and
9 determine what they are going to do to clean up the
10 problem. So that is that listing that is a description
11 in there and defined there is an attachment. There are
12 several attachments defined within the cover of there.

13 Next is Barrington's Watershed Plan. I don't know
14 who looked at it but there is a lot of, and I'm sure
15 Mr. Hervey is familiar with some of the actions that are
16 directed to the Town of Barrington, Warren, Bristol and
17 other East Bay Communities. Once again this community
18 toots the need for low impact development and talks about
19 clean water initiative. I will not bore you with the
20 details. There is an attachment in there, two pages
21 extracted from that there that will show you what some of
22 the actions are.

23 There are probably around four or five tables that
24 describe action that have to be taken in order to satisfy
25 clean water initiative. Like I said, the document is

1 about 100 pages long. It is online but you can peruse
2 the highlight. Everything that are done is on the
3 attachment. There are green highlights to go through
4 quickly and last, of course, and this has been around for
5 while, Rhode Island Storm Water Design Installation
6 Manual and that was developed back in the 1990's by Fuss
7 & O'Neil Engineering. There were the ones that initiated
8 that and I am sure they were responsible for our future
9 revisions. That manual is very interesting because it
10 describes the technical needs in order to come up with,
11 come up with a water runoff system, whatever it is to
12 make things work such as the case in Palmer Pointe. But,
13 once again, the philosophical side of this manual, low
14 income during site construction and identifies concern
15 regarding impervious surfaces. I will not go into detail
16 and it is all here and there are four pages out of that
17 manual that highlight some of those issues.

18 Lastly, Attachment No. 6, that is from CRMC though
19 updated the sea level policy rising, won't bore you with
20 the details, but over the span of 20, 30 years, 50 years,
21 they have increased that level and it is in there. We
22 won't go through the numbers for you but available all on
23 the last page and thank you for your time and I hope
24 that, and I thank you in advance for your corporation
25 that I will know that you will read this and for the

1 record for the stenographer once again, Less Costa. I
2 submitted this to Mr. Trim for distribution, a document
3 titled Rhode Island State Initiative Promotion of Clean
4 Water. Thank you again.

5 CHAIRMAN TRIM: This gentleman back here, you can
6 have the floor.

7 MR. MORRIS: Good evening. I spoke at great length
8 last meeting. David Morris, 35 Orchard Avenue.
9 Thirty-four year resident. Direct abutter to the
10 property but I'm going to discuss Sowmans Grove because I
11 discussed my concerns, you remember, last month.

12 So as far as the traffic study I just want to point
13 out in the last ten years there has been two major
14 accidents on the bend coming from Warren approaching
15 Sowams Road around the bend after you pass the street and
16 you go around the bend. The property owner, I know he is
17 a state trooper. It was the former Sid Barron house and
18 there was a stonewall constructed there since he brought
19 the property and a car has come around that corner and
20 wiped that wall out twice already in the last ten years.
21 Thank God nobody was walking on the street and I think we
22 should consider that as, you know, a detriment to what we
23 are proposing here for traffic study.

24 But I didn't hear anything about accidents in the
25 traffic study. I don't know if you have any report on

1 that, but I just want to bring that up, because that was
2 a major collision. It happened twice and I would just
3 say what are the odds of that, same odds as if we over
4 populate the area with people that don't have anywhere to
5 get the bus line. Thank God when we were there that
6 night nobody was there that night and didn't get killed.

7 And, second, we have a field at the top of the
8 street which does not have adequate parking at the top of
9 Orchard Avenue across the Sowams field is used for
10 recreation. I'm pro on that. I love to see kids get out
11 and play sports, but that does not have adequate parking.
12 So, the people that are parking there park on Sowams Road
13 now so now we have an even narrower Sowams Road which is
14 a standard road but it is narrower and no sidewalk there
15 and then the traffic from that recreational area spills
16 down onto Orchard Ave so sometimes when you leave Orchard
17 Avenue you take a right or left you have cars parked you
18 can't see anybody coming. So that is another thing that
19 concerns me. So I will leave it with that. Thank you
20 for listening to me.

21 CHAIRMAN TRIM: Anybody else? One more.

22 MR. BOIS: Dave Bois, 220 Washington Road and I am
23 on Barrington Conservation Commission. Just a little
24 frustration on the Conservation Commission part that we
25 have been asking about HUD's involvement in this project

1 and in the process for the commitments on behalf of HUD
2 for any financing for this project if and when that does
3 occur, we would anticipate a process be put in place by
4 HUD or by the designated agency in this State.

5 We reached out to the EBCDC and the Field Officer
6 Director of HUD and we did not receive a response. So,
7 presumably the developer is not requesting financing from
8 them. It is bothersome to us in that a good need for
9 review would be assisting all of you folks in your
10 planning initiatives in that it would be looking at this
11 project as it is proposed, looking for alternatives for
12 the project and bringing in all the different
13 environmental issues you have been hearing. Just a
14 statement on our behalf that we would like to be kept
15 notified of how this proceeds. Thank you.

16 CHAIRMAN TRIM: Before we move to the next part,
17 Mr. Teitz, if it is after 10:00 we usually take a vote to
18 see if we continue? I'm thinking we should take a
19 response and have the applicant respond and see where we
20 stand after that?

21 ATTORNEY TEITZ: I think that is fine if you want a
22 vote to continue.

23 VICE CHAIRMAN DULCHINOS: Were there more people
24 that still wanted to speak? Just one.

25 CHAIRMAN TRIM: Sure. Come on up.

1 TOWN PLANNER HERVEY: Just want to say the work
2 session for regular council planning board meetings is
3 11:00 p.m.

4 CHAIRMAN TRIM: Thanks, Phil.

5 TOWN PLANNER HERVEY: Keep going. You have another
6 hour.

7 MS. BROOKS: Terry Brooks, 18 Louis Avenue in
8 Barrington. I live there for twenty-six years. Twenty
9 years ago I walked my son to Sowams School. I never
10 walked that street again. I drove my bike one time, got
11 hit, fell off the bike, twenty years I have been staying
12 off of Sowams Road. I drive my car, will not walk it. I
13 see people walk it, I cringe. I see carriages, I cringe
14 more. It is not a good road. That is it. Thank you.

15 ATTORNEY CAPIZZO: For the record, Christian
16 Capizzo. I guess my question would be at this point if
17 there are any other further public comments? If not, I
18 don't know what the Chair and Board's position is on if
19 the public comment session is closed or continued --

20 CHAIRMAN TRIM: As of now, no.

21 ATTORNEY CAPIZZO: I think what we were tasked at
22 the last meeting to take notes and we did and went
23 through those notes and we have received a lot of
24 information tonight and I think instead of doing it
25 piecemeal, if there is no further public comment, we

1 would like to go back based on the information presented
2 tonight and come up with the responses and answer any
3 questions that the Board may have, concern being that the
4 Board have an opportunity to deliberate, also the concern
5 being that going back and forth with public comment that
6 we are going to provide responses, and we are going to
7 get further public comment. It will be a back and forth
8 and never ending. We want to respond to all of the
9 concerns from the testimony of the last meeting and the
10 public comment as well as the testimony tonight.

11 CHAIRMAN TRIM: That seems reasonable.

12 ATTORNEY TEITZ: Yes, I think so. With everyone I
13 think we would allow Mr. Harsh a closing argument, both
14 attorneys closing arguments afterwards. But, I think we
15 would, that makes sense. It is a sensible thing that I
16 am going to request the time to decide on this is July
17 8th. And so if we are going to have you come back in
18 June, that means theoretically the Board will hear and
19 deliberate and draft a resolution that will be voted on
20 in July. But it is very close. Doesn't leave us any
21 slack.

22 So, I would ask that you would agree to extend the
23 time at this point to the August meeting of the Planning
24 Board which is August 2 so we know we are not up against
25 a hard deadline at the last moment.

1 ATTORNEY CAPIZZO: If I may for just one moment.

2 ATTORNEY TEITZ: Sure.

3 ATTORNEY CAPIZZO: Can we have one moment. We want
4 to make sure that the our team can get you, the team --
5 if there are concerns about the July --

6 ATTORNEY TEITZ: We are talking about June. You
7 come back here next month in June to respond and that is
8 what we are looking for and you need to have your stuff
9 really in about two weeks before that, May 20 or May
10 23rd, two weeks before that June meeting that you need to
11 have it. I'm saying we would still try to have a final
12 decision by July but not knowing -- if you can't be back
13 here in June then we need more time.

14 I want to make sure we have at least two meetings
15 beyond so we can get a decision drafted ahead of time
16 rather than voting on something on the fly.

17 ATTORNEY CAPIZZO: Certainly. We want to make sure
18 we can respond appropriately to the Board's questions and
19 so the next meeting would be?

20 ATTORNEY TEITZ: Next meeting will be June 7th so we
21 need everything back from you in writing by May 23rd.

22 ATTORNEY CAPIZZO: That will be responses to all
23 public comment and if there are questions that the Board
24 has, that they should be presented to us that we could
25 respond to as well.

1 ATTORNEY TEITZ: The Board is allowed to ask any
2 questions of any kind.

3 ATTORNEY CAPIZZO: Certainly. In preparation for
4 that meeting if there are questions or concerns they have
5 the right to ask questions at the next meeting as well it
6 would helpful for our development team to put those
7 responses together.

8 VICE CHAIRMAN DULCHINOS: Do they have to make a
9 request for extension?

10 ATTORNEY TEITZ: Yes, otherwise you have to vote on
11 it by July 5th.

12 VICE CHAIRMAN DULCHINOS: Right. Tonight was tough
13 to get a forum. Gets tougher in the summer.

14 ATTORNEY TEITZ: I still hope they come back in July
15 and have it for you in July but not have to use it but
16 just in case.

17 MR. MARTIN: Sean Martin, professional engineer at
18 Fuss & O'Neil, civil engineer. One thing that we would
19 ask is if there are any other staff reports that are
20 outstanding that we get those within the next couple of
21 weeks so we can respond to them. I'm sure the Board is
22 interested in hearing any comments. It is my
23 understanding that there have not been new comments
24 received by the DPW.

25 We received a no comments e-mail by the Fire

1 Department but we are interested if there any other
2 comments that we have the opportunity to address them
3 before the next meeting.

4 TOWN PLANNER HERVEY: I'm happy to file any
5 additional comments within the next week or two.

6 MR. MARTIN: Thank you.

7 VICE CHAIRMAN DULCHINOS: One thing that did come up
8 during the testimony today that I was surprised that
9 wasn't presented and I'm sure this is one thing that you
10 will answer to in the public, it was population and
11 expected numbers of potential children that might be
12 school aged. I know we had that with other permit
13 applications. That is one thing that I would want to say
14 if that information is available.

15 MR. SPINELLA: Frank Spinella. That was all done in
16 the Master Plan.

17 ATTORNEY CAPIZZO: Just so, one more second.

18 **(PAUSE)**

19 ATTORNEY CAPIZZO: June 7th will be the next meeting
20 so we will have the information to the Board, I believe
21 the request was by May 23rd in order for that meeting; is
22 that correct, Mr. Chair?

23 CHAIRMAN TRIM: Yes.

24 ATTORNEY TEITZ: Yes, and you would agree to the
25 extension of the overall deadline for decision until

1 August 2?

2 ATTORNEY CAPIZZO: Yes, assuming that public comment
3 is closed at this point?

4 ATTORNEY TEITZ: Yes. Public comment -- the
5 chairman closed the public comment section as I said
6 subject to the right of the Board to ask questions from
7 anyone at any time.

8 ATTORNEY CAPIZZO: Certainly.

9 ATTORNEY HARSH: Mr. Chairman, question, as long as
10 you are accepting written comment, I wonder if the Board
11 will accept a short memorandum from the intervenor at the
12 same time?

13 ATTORNEY TEITZ: Have it to us by May 23rd.

14 Any other items that the Board wanted to
15 specifically ask developers to address? You don't have
16 to, as I said, you have the right to ask anything at any
17 time, but if there is anything in particular.

18 CHAIRMAN TRIM: I think we are all set here for now.

19 ATTORNEY TEITZ: Do you want to recess the hearing
20 until June 7th?

21 TOWN PLANNER HERVEY: Edgar stepped out.

22 VICE CHAIRMAN DULCHINOS: I just need my memory
23 refreshed. I know we only did sidewalks.

24 TOWN PLANNER HERVEY: They provide the calculation
25 for that based on the waiver, the sidewalks along the

1 frontage of Sowams Road.

2 VICE CHAIRMAN DULCHINOS: How much was that? What
3 was the dollar amount?

4 TOWN PLANNER HERVEY: I have to check the file. I
5 don't know if the engineer has that.

6 VICE CHAIRMAN DULCHINOS: Closest bus stop is about
7 a half mile, I am curious how much sidewalk we could
8 actually buy?

9 TOWN PLANNER HERVEY: They would provide enough
10 money for a sidewalk.

11 VICE CHAIRMAN DULCHINOS: Based on frontage.

12 TOWN PLANNER HERVEY: The sidewalks are also in the
13 interior.

14 VICE CHAIRMAN DULCHINOS: They are on the interior.

15 CHAIRMAN TRIM: All right. We have to take a motion
16 to close the public hearing, public comment portion of
17 the hearing.

18 VICE CHAIRMAN DULCHINOS: I move a motion to close
19 the public comment section of the hearing.

20 CHAIRPERSON ROBERTSON: Second.

21 CHAIRMAN TRIM: All in favor.

22 **(MOTION VOTED AND PASSED)**

23 CHAIRMAN TRIM: Motion passes and I guess that that
24 is it for Item No. 4. Thank you very much.

25 ATTORNEY CAPIZZO: Thank you. Thank you everybody.

C E R T I F I C A T I O N

I, **KAREN CESERETTI**, Notary Public, do hereby certify that I reported in shorthand the foregoing proceedings, and that the foregoing transcript contains a true, accurate, and complete record of the proceedings at the above-entitled hearing.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of May, 2016.

KAREN R. CESERETTI, NOTARY PUBLIC/CERTIFIED
COURT REPORTER

MY COMMISSION EXPIRES: 6/21/16
IN RE: Town of Barrington Town Planning hearing
DATE: May 3, 2016

<p style="text-align: center;">\$</p> <p>\$150,000 [2] - 62:23, 63:3</p> <p>\$25,000 [1] - 62:12</p>	<p>2016 [5] - 1:14, 1:1, 59:4, 106:7, 106:14</p> <p>207 [1] - 6:4</p> <p>21st [1] - 16:4</p> <p>220 [1] - 97:22</p> <p>235 [1] - 16:21</p> <p>23rd [5] - 16:5, 101:10, 101:21, 103:21, 104:13</p> <p>24 [4] - 49:1, 53:13, 62:5, 62:15</p> <p>247 [1] - 55:14</p> <p>24th [1] - 10:5</p> <p>25 [3] - 24:12, 24:13, 36:8</p> <p>25,000 [1] - 20:1</p> <p>250 [3] - 62:12, 62:21, 77:10</p> <p>251 [1] - 16:21</p> <p>2700 [1] - 69:23</p> <p>272-1400 [1] - 2:16</p> <p>272-1403 [1] - 2:17</p> <p>283 [1] - 1:14</p> <p>29 [1] - 16:16</p> <p>2nd [1] - 57:16</p>	<p>5.64 [1] - 21:9</p> <p>50 [4] - 21:24, 22:1, 58:25, 95:20</p> <p>50's [2] - 48:18, 50:3</p> <p>500 [1] - 88:10</p> <p>536 [1] - 1:23</p> <p>57 [1] - 16:17</p> <p>5th [1] - 102:11</p>	<p>104:10</p> <p>Access [1] - 91:23</p> <p>access [14] - 16:25, 30:22, 30:24, 31:2, 31:16, 31:22, 31:23, 32:2, 32:7, 58:5, 69:19, 69:22, 90:19, 92:8</p> <p>accessible [1] - 7:22</p> <p>accident [1] - 73:5</p> <p>accidents [2] - 96:14, 96:24</p> <p>accordingly [1] - 57:25</p> <p>accumulate [1] - 76:10</p> <p>accumulating [1] - 76:25</p> <p>accumulation [1] - 74:22</p> <p>accurate [2] - 16:8, 106:4</p> <p>achieved [1] - 42:9</p> <p>ACIP [1] - 2:9</p> <p>acre [6] - 21:11, 21:20, 48:25, 49:12, 53:14, 62:16</p> <p>acreage [4] - 3:5, 21:8, 77:11, 90:14</p> <p>acres [4] - 20:2, 21:9, 21:10, 49:3</p> <p>action [2] - 94:4, 94:24</p> <p>actions [2] - 94:15, 94:22</p> <p>active [2] - 58:23, 59:12</p> <p>activities [1] - 24:19</p> <p>activity [2] - 77:25, 81:14</p> <p>actual [3] - 33:13, 73:16, 83:22</p> <p>acute [2] - 78:25</p> <p>ADAMS [11] - 39:24, 40:5, 40:9, 40:13, 40:15, 42:11, 50:7, 50:10, 50:17, 50:24, 61:7</p> <p>Adams, Secretary [1] - 2:6</p> <p>addition [6] - 2:19, 10:3, 11:6, 21:20, 78:2, 81:14</p> <p>additional [11] - 9:1, 9:2, 10:7, 10:8, 10:12, 14:23, 34:12, 34:16, 91:17, 91:22, 103:5</p> <p>additionally [1] - 8:16</p> <p>address [9] - 4:2,</p>	<p>5:21, 6:1, 31:1, 47:8, 54:22, 91:20, 103:2, 104:15</p> <p>adequate [3] - 8:3, 97:8, 97:11</p> <p>adequately [1] - 8:11</p> <p>Admin [1] - 2:8</p> <p>admission [1] - 12:9</p> <p>advance [1] - 95:24</p> <p>adverse [1] - 30:3</p> <p>advised [1] - 91:24</p> <p>advisors [1] - 83:24</p> <p>afford [5] - 39:18, 40:6, 40:18, 40:20, 41:19</p> <p>affordability [1] - 25:3</p> <p>Affordable [2] - 21:23, 28:11</p> <p>affordable [17] - 20:5, 20:6, 20:11, 21:25, 23:22, 24:11, 28:22, 28:23, 38:13, 38:19, 39:10, 39:13, 41:2, 41:3, 42:5, 42:9</p> <p>aflatoxin [1] - 71:8</p> <p>afterwards [1] - 100:14</p> <p>age [2] - 7:13, 56:21</p> <p>aged [2] - 27:17, 103:12</p> <p>agencies [1] - 93:5</p> <p>agency [2] - 32:17, 98:4</p> <p>agenda [1] - 1:22</p> <p>ago [4] - 74:1, 79:13, 88:15, 99:9</p> <p>agree [4] - 23:10, 48:25, 100:22, 103:24</p> <p>agricultural [4] - 36:17, 47:20, 48:14, 73:23</p> <p>ahead [2] - 84:23, 101:15</p> <p>AICP [1] - 2:8</p> <p>Aimee [1] - 35:12</p> <p>airborne [3] - 78:3, 78:15, 79:4</p> <p>aldrin [1] - 76:3</p> <p>allow [4] - 12:13, 44:4, 53:9, 100:13</p> <p>allowed [4] - 12:14, 32:2, 66:18, 102:1</p> <p>allowing [1] - 66:16</p> <p>allows [3] - 4:23, 21:23, 21:25</p> <p>almost [5] - 6:6, 20:15, 33:16, 49:20, 82:15</p> <p>ALSO [1] - 2:7</p>
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<p style="text-align: center;">1</p>	<p>1 [1] - 69:9</p> <p>10,000 [1] - 74:10</p> <p>100 [4] - 24:17, 74:14, 74:16, 95:1</p> <p>1080 [1] - 2:15</p> <p>10:00 [1] - 98:17</p> <p>11:00 [1] - 99:3</p> <p>14 [5] - 6:23, 8:17, 9:13, 9:20, 94:1</p> <p>140 [1] - 71:6</p> <p>150 [2] - 71:6, 77:8</p> <p>16 [1] - 70:7</p> <p>17,600 [2] - 49:3, 49:10</p> <p>18 [1] - 99:7</p> <p>1970's [1] - 76:22</p> <p>1974 [4] - 48:18, 49:15, 49:25, 50:1</p> <p>1990 [1] - 93:7</p> <p>1990's [1] - 95:6</p> <p>1999 [1] - 93:11</p>	<p>6 [4] - 17:1, 21:10, 31:9, 95:18</p> <p>6,000 [2] - 42:2, 42:3</p> <p>6/21/16 [1] - 106:13</p> <p>60 [5] - 7:16, 7:25, 8:5, 40:3, 40:17</p>	<p style="text-align: center;">7</p>	
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