

1 A P P E A R A N C E S :

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1 TRANSCRIPT of the stenographic notes of the
2 proceedings in the above-entitled matter, as taken by
3 and before LISA NORMAN, a Certified Court Reporter
4 and Notary Public of the State of New Jersey, held at
5 the Shrewsbury Borough Hall, Sycamore Avenue,
6 Shrewsbury, New Jersey, on Wednesday, May 19, 2010,
7 commencing at 7:30 p.m.

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3 WITNESS DIRECT CROSS REDIRECT RECROSS

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MARK TOCONITA, AIA

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BY MR. MACANINCH 8

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E X H I B I T S

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1 MR. MACANINCH: Thank you and good
2 evening. Mike Macaninch on behalf of K.
3 Hovnanian. We have one witness tonight, Mark
4 Toconita, who is going to testify to the
5 architecture of the building, the elevations,
6 the materials and the floor plans. I just
7 received tonight the letter from the first aid
8 squad. It's difficult for me to respond just
9 having seen it tonight. It's something we are
10 going to have to consider. Perhaps even talk to
11 them.

12 The one question we would need to know
13 is, they are saying the stairs -- they don't
14 provide any suggestion of building
15 reconfiguration. They are just saying what
16 equipment they would need. I don't know if that
17 is an issue. Secondly, with regard for the same
18 hydraulic pots, I assume it's the same dimension
19 as a regular pot. I don't know how that would
20 change the accessibility for emergency. We need
21 to look into those issues.

22 MR. BELL: Once you do -- I just happen
23 to be wearing this shirt, because I was in CPR
24 training all day. I was not part of the
25 committee, and I normally would be part of the

TOCONITA - Direct

1 committee but I recused myself from the
2 committee because I didn't want to have a
3 conflict. The person that you met with was Tony
4 Pellegrino, who is the president of the squad,
5 along with a number of other people. I know he
6 would be more than happy to talk again.

7 MR. MACANINCH: Okay. With that, I
8 would like to call Mr. Toconita.

9 MS. DONATO: Would you please state your
10 full name and address and spell your last name?
11 Mark Toconita, T-O-C-O-N-I-T-A.

12 MS. DONATO: Your business address?

13 THE WITNESS: 110 Fieldcrest Avenue,
14 Edison, New Jersey.

15 (Whereupon, Mark Toconita, AIA is sworn
16 and testifies as follows:

17 DIRECT EXAMINATION BY MR. MACANINCH:

18 Q. Mark, can you go through your experience
19 highlighting your experience as an architect?

20 A. Sure. I've had 34 years as a licensed
21 architect, initially licensed in Pennsylvania, in
22 1976, and in New Jersey in 1979. I've had a
23 continuous license since '79, and have been
24 practicing in New Jersey from that time until now.

25 Q. And what I had previously handed up to

TOCONITA - Direct

1 the Board, is this a current copy of your resume?

2 A. That's correct.

3 MR. MACANINCH: I believe we are up to
4 A-14. I had A-13 was Mr. Liota's resume. I
5 don't think he had any other exhibits. A-14
6 would be Mark Toconita's resume.

7 (Whereupon, Exhibit A-14 - Resume of
8 Mark Toconita, AIA, was received and marked into
9 evidence.)

10 MR. MACANINCH: I would offer Mr.
11 Toconita as an expert in architecture.

12 MR. BELL: Does anybody have any
13 questions or comments?

14 MR. BELL: We will accept you as an
15 expert witness.

16 Q. Mark, can you go through your background
17 and involvement in this project?

18 A. Yeah, I believe, very early on I had
19 some input into the recommendations for housing types
20 to the Hovnanian people that were driving this in the
21 beginning, so they asked me for suggestions. I know
22 a number of site plans were created with various
23 housing configurations that were maybe not formally
24 presented, but informally presented. It was my part
25 of it to give the various housing types, that we

TOCONITA - Direct

1 either had or we built before, or some new designs
2 that we were contemplating.

3 MR. MORAN: Were you the internal
4 architect?

5 MR. TOCONITA: Yes. I am the internal
6 architect.

7 MR. MORAN: And you were at the time
8 that you just described?

9 MR. TOCONITA: Yes, I was.

10 A. And I developed the housing types that
11 are in front of the Board right now today.

12 Q. Mark, what I'd like you to do maybe, by
13 way of overview for the board's benefit, we are going
14 to through elevations of two buildings. One is a
15 market rate building and one is one of the affordable
16 buildings. There will be a number of exhibits. We
17 have two sets, one for the audience and one for the
18 board's review. We will also have reduced exhibits.

19 Just at the outset, I want to make
20 reference to Exhibit A-3. Mark, can you identify on
21 Exhibit A-3 the two buildings?

22 A. We will be looking at elevations and
23 floor plans for two building types. We will call
24 that Building Number 1 and Building Number 9.
25 Building Number 1 is here. Building Number 9 is

TOCONITA - Direct

1 here.

2 Let's start with Building Number 1. I
3 guess, Michelle, we will mark as we go. It's for
4 each -- there are two or three elevations for each
5 building and there are three or four separate floor
6 plans for each building.

7 MS. DONATO: If you want him to identify
8 them and mark them all at once, it may be
9 quicker.

10 MR. MACANINCH: I think that is a better
11 way to go.

12 A. The first elevation is the front
13 elevation of Building 1.

14 MR. MACANINCH: We will make that
15 Exhibit A-15.

16 (Whereupon, A-15 - Front Elevation of
17 Building 1, is received and marked into
18 evidence.)

19 A. The second exhibit is the rear
20 elevation.

21 MR. MACANINCH: That is A-16.

22 (Whereupon, Exhibit A-16 - Rear
23 Elevation of Building 1, was received and marked
24 into evidence.)

25 Q. Just also do the floor plans.

TOCONITA - Direct

1 MS. DONATO: Are each of these exact
2 copies of what you are presenting?

3 MR. MACANINCH: They are.

4 MS. DONATO: Instead of Lorraine having
5 to deal with the foam boards, I'll just mark
6 those.

7 MS. KELLEHER: Yes.

8 MS. DONATO: Lorraine can mark a set.
9 You have the numbers, Lorraine? We have A-14 is
10 what, the architect's C.V.? A-15 --

11 MS. KELLEHER: A-14 is the resume.

12 MS. DONATO: Yes. A-15 is the front
13 elevation of Building 1. A-16 is the rear
14 elevation of Building 1. A-17 is the floor plan
15 for Building 1.

16 MR. TOCONITA: This is marked, "Plan
17 A-2." It's titled, "Ground Floor."

18 MR. MACANINCH: That would be A-17.

19 (Whereupon, Exhibit A-17 - Floor Plan
20 for Building 1, titled, "Ground Floor.")

21 MR. TOCONITA: A-18 is the second floor
22 plan for Building 1.

23 (Whereupon, Exhibit A-18 - Second Floor
24 Plan for Building 1, was received and marked
25 into evidence.)

TOCONITA - Direct

1 A. Drawing A-4 is the third floor plan for
2 Building 1.

3 MS. DONATO: A-19.

4 (Whereupon, Exhibit A-19 - Third Floor
5 Plan for Building 1, was received and marked
6 into evidence.)

7 MR. TOCONITA: This exhibit is the
8 optional attic plan of Building 1.

9 MS. DONATO: A-20.

10 (Whereupon, Exhibit A-20 - Optional
11 Attic Plan of Building 1, was received and
12 marked into evidence.)

13 A. Drawing A-1 is the front elevation of
14 Building 1.

15 MS. DONATO: That is A-21.

16 (Whereupon, A-21 - Drawing A-1, Front
17 Elevation of Building 1, was received and marked
18 into evidence.)

19 Q. Mark, in making use of the exhibits by
20 reference, for the record, can you go through --
21 let's start with the elevations. Describe what's
22 being proposed.

23 A. Sure.

24 Q. The front elevation is an elevation of
25 Building 1, which is a string of town homes with five

TOCONITA - Direct

1 individual town homes. These are configured into
2 three separate floor plan styles with an end home, a
3 24-foot wide interior home and an 18-foot wide
4 anterior home. All of these homes have two-car
5 garages. The 18-foot wide has a tandem, two-car
6 garage, so that the garage doors obviously is a
7 one-car garage door. The others have, in some cases,
8 two doors and in some cases a wider door, a two-car
9 door.

10 The architectural intent here was to
11 create an elevation where every home has an
12 individual look within a building, so thereby will
13 interchange siding colors and brick and also
14 architectural features, like the metal roofs, will
15 have a complimentary color to correspond with the
16 siding or the trim. In addition, there will be an
17 occasional bay window, on some of the end units,
18 where there is extra air and light. Some of the
19 homes that are closer together won't have the bay,
20 but will have put bays on areas where we have more
21 room and more light at the end of a building stream
22 that is open to more open space and places like that.

23 In addition, when an optional attic is
24 chosen, there will be dormers to bring in additional
25 light for that area.

TOCONITA - Direct

1 MR. MORAN: That's only when the
2 purchaser chooses to go with that?

3 MR. TOCONITA: That is an optional item.

4 MR. GARDELLA: I guess it would be
5 Number 4 that could have a dormer?

6 THE WITNESS: If they chose it, it would
7 end up with a dormer, correct.

8 A. On the end, we would pick up the window
9 in the dormer up here, rather than put it up front,
10 because we have frames already existing here. You
11 can also see that there is stoops, that are
12 approximately a half a level above the garage level,
13 which is the entry level, so that once you are inside
14 the home, there is only about a half of stair flight
15 to get to the living level. That happens on all of
16 the homes. You can see the end condition where there
17 is a small roof and some columns a half a flight up
18 to the stoop.

19 MR. MORAN: Is that only a half a
20 flight?

21 MR. TOCONITA: That is the proportion.
22 It's a half a flight.

23 MR. GARDELLA: The end unit is not a
24 half a flight, though.

25 MR. TOCONITA: What I'm pointing to now

TOCONITA - Direct

1 is a half a flight. It's a little distorted,
2 but in fact it's a half a flight of stairs.

3 A. I'll quickly go over the rear elevation
4 of Building 1.

5 MR. BELL: Just to follow on Mr. Moran's
6 question --

7 MR. TOCONITA: Sure.

8 MR. BELL: -- the roofing, it will be
9 the buyer, assuming the whole building is sold
10 and you are not building on spec, the buyer
11 would make the decision of whether they are
12 going to expand into the attic and have the
13 attic as whatever space, so that would demand
14 having a dormer. Whose decision is it of what
15 the exterior looks like?

16 MR. TOCONITA: That would be the
17 builder. K. Hovnanian will pre-determine all of
18 the elevations.

19 MR. BELL: Okay. If I come to you and
20 say, "I want this end unit, but I like the whole
21 thing brick," you are going to say, if you want
22 the end unit, assuming this is what's approved
23 by you, you are getting it with brick, with a
24 copper roof with siding on top. You are not
25 getting all brick, Mr. Bell?

TOCONITA - Direct

1 MR. TOCONITA: Correct. There may be
2 elevations within that building stream, like
3 it's shown here, that do have brick. They will
4 be pre-determined in their location. That's
5 how. It will be our aesthetic choice.

6 MR. GARDELLA: Is each building going to
7 be the same or different exteriors for different
8 buildings?

9 MR. TOCONITA: Because there are a
10 different number of homes in every building,
11 there will be some differences. I would expect
12 that we will -- if there is a five-unit next to
13 this, it would not be identical. The minimum
14 would be that we would switch around the colors.
15 There will be at least two brick styles, one in
16 stone and one in color.

17 Our intention is to alternate that, so
18 if we have a brick or wainscot here it will be a
19 stone. Maybe a full brick. Maybe not. Maybe a
20 full brick goes here. We don't know yet. We
21 are going to make that determination once we sit
22 down and really go over the whole plan. That is
23 the general concept, okay, and every one of
24 these homes in a string is different.

25 MR. BELL: How are you going to have a

TOCONITA - Direct

1 front rendering like this of the 7-unit?

2 MR. TOCONITA: Our intention wasn't,
3 but -- we were going to reserve that for our
4 people inhouse to create that.

5 MR. BELL: To stay on the front side,
6 rather than go back and forth, on the 7-unit,
7 which you have 1, 2, 3, 4, seven-unit buildings,
8 the internal 1, 2, 3 -- and for the public, I'm
9 referring to Exhibit A-3, the front of those
10 three units are flat or even. This rendering
11 here aesthetically, again, has been it's
12 everybody's choice, so this is real easy to see
13 where you have it different. If it's flat
14 across, how do you propose to get that same
15 visual difference?

16 MR. TOCONITA: There will be a different
17 facade treatment for all of those elevations, so
18 that some windows may change. Maybe the bay
19 window has a different look to it. It is in a
20 different location. One may have full brick.
21 One may have partial brick. One may have stone.
22 All of the colors of the siding will be
23 different, so that not one of them will look
24 like any one of the remaining two. There will
25 be distinct differences between each one of

TOCONITA - Direct

1 them.

2 MR. MORAN: Have you numbered these
3 buildings? I know you've told us 1 and 9. I'd
4 like to put numbers on these buildings, so when
5 we are referring to them --

6 MR. MACANINCH: They are numbered on
7 Exhibit A-3. They are in the top, right corner.

8 MR. MORAN: Okay.

9 MR. MACANINCH: It's very small.

10 MR. CARROLL: One quick thing. The end
11 unit, on the left with the large bay window
12 sticking out, it has the garage door facing off
13 and with its own drive. Now, I'm not seeing
14 that anywhere on the A-3 exhibit, that there is
15 a drive there.

16 MR. TOCONITA: That's correct. When
17 this rendering was produced we had some side
18 elevations. I think, as things transpired, we
19 lost the opportunity to do those. We do have
20 this condition on another building, but it
21 doesn't have all of the market rate homes in it.

22 MR. CARROLL: Okay.

23 MR. BELL: A true rendering of A-1 or
24 Building 1, rather, a true rendering, if this
25 depicts what's going to be there, the only

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1 difference is going to be the double doors are
2 going to be in the front rather than on the
3 side.

4 MR. TOCONITA: Correct.

5 MR. BELL: But the entrance is still on
6 the side?

7 MR. TOCONITA: The entrance for the end
8 homes are always on the side.

9 MR. BELL: Okay.

10 A. Any more questions on the front? I'll
11 go to the rear elevation. The rear will also show
12 the individual siding colors that correspond with the
13 front. In addition to that, we are showing where the
14 balconies -- the decks would come off of the rear and
15 that is accessed by sliding glass doors, as well as
16 another sliding glass door, and a transom light above
17 that for the lower level.

18 MR. BELL: I cheated, because I looked
19 ahead, which is what led to my question before.
20 When you look at the front rendering of what you
21 gave us before with the setbacks where the front
22 move back and forth, it really gives you a
23 differentiation and it looks like individual
24 houses. Whereas, in the back, which is the back
25 of the house, if that was on the front, it would

TOCONITA - Direct

1 just look like a solid where there was
2 different-colored siding.

3 MR. TOCONITA: The interior building has
4 that. If you look at the site plan, you will
5 see that there is, on the interior building,
6 strings a break, so there is an offset in the
7 rear as well as in the front.

8 MR. MORAN: Oh, okay.

9 MR. TOCONITA: You have to look at the
10 site plan.

11 MS. DONATO: I see what you are saying.

12 MR. MORAN: This square footage moves
13 up.

14 MR. TOCONITA: The is the same building
15 front.

16 MR. MORAN: As it moves up, it's going
17 to bring the back forward so you will have an
18 offset.

19 MR. TOCONITA: The offset on this
20 particular building is greater than on the
21 interior. In other words, for the perimeter
22 homes, that dimension there is six feet. On the
23 interior, it moves to four feet, because it slid
24 forward by two feet, approximately.

25 MR. BELL: What you were just saying

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1 about the interior buildings, which I think is
2 the question I asked about before where the
3 center three units are flat in the front and
4 there is some offset on the buildings next --
5 the units next to it. You've also had the
6 offset on the back of the building. Am I
7 reading -- I don't want to read into what you
8 are saying, but the intent to that is, as you
9 are driving through, you are seeing the back of
10 the buildings. You are not seeing a flat
11 building. Am I right on that?

12 MR. TOCONITA: That's correct.

13 MR. BELL: Does everybody understand
14 what I just said?

15 MR. MORAN: On the rendering behind this
16 one, it would look more like the front.

17 MR. BELL: For the center buildings.

18 MR. TOCONITA: For the internal
19 buildings, there are seven.

20 MR. MORAN: This is what that building
21 will look like in the rear. That square footage
22 is going to be different, based on some of the
23 offsets there.

24 MR. TOCONITA: No. The footprint of the
25 home remains the same. The foundation slides

TOCONITA - Direct

1 forward to create the offset.

2 MR. MORAN: Wouldn't that pull it back
3 in?

4 MR. TOCONITA: It does. It doesn't
5 change the square footage. If the foundation
6 moves forward on this end unit. For example, on
7 the end unit, if this foundation moves forward,
8 doesn't the back move forward?

9 MR. TOCONITA: No. The end unit is not
10 moving. It's the two interior -- it's this one
11 and this one that would move, the one next to
12 the end.

13 MR. MORAN: They are going to be
14 recessed, essentially?

15 MR. TOCONITA: Yes. They are going to
16 slide forward.

17 MR. BELL: They will be smaller units.
18 Those two units that you have recessed, those
19 two units are a little smaller square footage
20 than the two end units are.

21 MR. TOCONITA: Not much. Just a little
22 bit. They are both in and around 2,000 square
23 feet.

24 MR. CRANMER: I'm looking at the rear
25 elevation of Building 1 and on the ground level,

TOCONITA - Direct

1 the ground floor level, which is going to be
2 primarily the garage, I believe, the rear
3 elevation shows sliding doors to what appears to
4 be a patio and then either one or two windows
5 along the back walls of those units.

6 MR. TOCONITA: That's correct.

7 MR. CRANMER: What is the intent of that
8 space inside of those windows?

9 MR. TOCONITA: Initially, it's
10 unfinished space.

11 MR. CRANMER: It's going to be
12 essentially a basement.

13 MR. TOCONITA: A basement?

14 MR. CRANMER: With sliding glass doors
15 and a window or two.

16 MR. TOCONITA: So you can have access to
17 the rear.

18 MR. CRANMER: And what would you
19 contemplate the typical homeowner to do with
20 that space?

21 MR. TOCONITA: I think there would be an
22 offering for a finished area.

23 MR. CRANMER: Like a rec room or
24 something along those lines?

25 MR. TOCONITA: Yes.

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1 MR. CRANMER: And the decks, that are
2 shown on the exhibit, for purposes of
3 determining a scale, are they the 10-foot model
4 decks or the smaller-dimension decks?

5 MR. TOCONITA: These probably represent
6 an 8-foot.

7 MR. CRANMER: Okay. So, on all of the
8 buildings, the view from the rear would be the
9 three stories of living space per building?

10 MR. TOCONITA: On the market rate homes,
11 that's correct.

12 MR. MORAN: Are there any materials of
13 construction outside of the sliding glass doors,
14 like patios?

15 MR. TOCONITA: I believe there will be a
16 walk-out pad, a 4-by-4 stoop.

17 MS. MARTINELLY: Where does your AC
18 compressor go?

19 MR. TOCONITA: In the rear behind each
20 home.

21 MR. BELL: I would like to follow-up on
22 something Mr. Cranmer asked. I'm looking at, I
23 think, if you put the front rendering back up,
24 if I do some very rough -- if I look at the
25 first unit, the end unit that has that nice, big

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1 bay window on the end, this unit very
2 potentially is a four-story unit. There is a
3 finished rec area and you are going to have
4 sliding glass doors onto the ground. I'm just
5 asking a question. It's not a comment one way
6 or another. You have a sliding glass door in
7 the family room with a bathroom. The second
8 floor, which is the living space, has a living
9 room, dining room, great room and a bathroom.
10 The third floor is where the bedrooms are and
11 then there is an optional attic plan for a loft
12 with no bathroom, but a loft. Potentially,
13 there are four stories. If I add that up, it
14 comes out to roughly 2,700 square feet. You are
15 not going to count the garage?

16 MR. TOCONITA: If all of the options
17 were picked --

18 MR. BELL: Is that the biggest square
19 foot potential unit that you are proposing?

20 MR. TOCONITA: I would think this next
21 home, which is 24 feet wide, is comparable. It
22 may be less than 100 square feet one way or the
23 other. I don't know the exact number, but --
24 the next one over is 24 feet wide.

25 MR. BELL: The larger units we are

TOCONITA - Direct

1 looking at, you know, are roughly up to
2 2,700 square feet. If they don't do the fourth
3 floor, you take it down about 200 feet, so it's
4 about a 2,400-square foot house.

5 MR. TOCONITA: That's right.

6 MR. BELL: If the person were to take a
7 potential buyer -- if I came to you and said, "I
8 want that end unit and I want the finished room
9 on first floor and the loft on the second
10 floor," is that going to demand two compressors
11 for the air conditioner or is one unit going to
12 handle all of it?

13 MR. TOCONITA: It's right at that edge.
14 We generally figure 2,800 feet is about where
15 that cut off is. Because of the vertical
16 distance, you have to push the air, I would say
17 we would opt for two.

18 MR. BELL: Do you have room for the two
19 AC units?

20 MR. TOCONITA: On the end, we would,
21 because of the perimeter. On the narrow one,
22 the 18-foot, I don't think we would necessarily
23 need it, but maybe we will. I can't tell you
24 right now, because we really haven't gotten that
25 far into the technical end of developing the

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1 drawings. Any more questions on the front or
2 rear elevations?

3 MS. DERASDOURIAN: If someone opts for
4 that attic space, where you have a dormer on the
5 back --

6 MR. TOCONITA: No. We would only have
7 one in the front.

8 A. Okay. I think I'll move to the floor
9 plans for Building 1. I'll start with the garage
10 level. The first thing I would like to point out is
11 the entryway and each home depicts a stoop. It looks
12 like five risers up to the landing of the stoop and
13 then the remainder of the risers will go up to the
14 living level. Next to that is the garage and on the
15 end unit it is about a 21-foot square -- the finished
16 area in the rear is 20-by-18. There is an option for
17 a powder room, a mechanical space and then a landing,
18 that is kind of like a scissor stair there, if you
19 understand what that means.

20 A two-car garage, with a little bit of a
21 crazy configuration, with some storage on the side, a
22 separate stair from that garage level to bring you up
23 to the living level. There is really two ways to get
24 into that house, one from the inside of the garage
25 and one from the exterior. That also has an option

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1 for a powder room when it's a finished space. The
2 18-foot wide has the single garage door and almost
3 37-foot deep garage, which can accommodate two cars.
4 That's a sacrifice off of the rec space. It gives
5 you a 17-by-10 foot space in the back.

6 MR. CRANMER: When we are reading the
7 drawings, I'm going to use the powder rooms.
8 They are drawn in a dashed line type. That is
9 an option?

10 MR. TOCONITA: That's correct.

11 MR. BELL: Are you counting the two cars
12 in each garage as part of your parking
13 requirements?

14 MR. MACANINCH: Yes.

15 MR. BELL: Are you going to have any
16 type of homeowner's association condition which
17 would prevent homeowners from converting their
18 garages into additional space? In particular,
19 it would be the 18-footer where you are doing
20 the two deep, so that somebody looks and says, I
21 need a one-car garage. I would like to move
22 that wall in, so I have a big great room.

23 MR. TOCONITA: That would be part of the
24 association bylaws.

25 MR. MACANINCH: It's not something we've

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1 thought about. I don't see why that couldn't be
2 a requirement in there.

3 MR. BELL: Okay. Early on, we talked
4 about parking. I don't believe you haven't
5 asked for a waiver on parking.

6 MR. MACANINCH: No. I think we are over
7 parked. I don't think we have a parking issue.

8 MR. CRANMER: Those garage stalls are
9 necessary to meet the RSIS parking demand. They
10 would have to be regulated that they remain a
11 garage.

12 MR. BELL: We wouldn't have a situation
13 like we have in town where we have garages
14 converted?

15 MR. CRANMER: That's correct.

16 MR. BELL: And we have the parking
17 issues that we have.

18 MR. CRANMER: There would have to be
19 language in the bylaws saying a homeowner cannot
20 convert a garage into living space.

21 MR. MACANINCH: Not a problem.

22 MS. MARTINELLY: An optional family room
23 in the narrower unit, you are measuring through
24 the mechanical room to get to that 17?

25 MR. TOCONITA: That would be correct.

TOCONITA - Direct

1 MR. BELL: Realistically, that's --

2 MR. TOCONITA: Probably 10-by-12. I'll
3 move to the next plan, if there are no other
4 questions.

5 A. The next plan I'm going to put up is the
6 second floor living level. I'll describe the end
7 home. Coming up from the front door, there is that
8 stair and it is a half a flight up from the front
9 door. To the front, there is a combination living
10 room/dining room and when it occurs there is that bay
11 window in the corner. Towards the rear is an
12 L-shaped kitchen, with a nook area, and an informal
13 family room space. Off that nook area is a sliding
14 glass door which will access a deck.

15 In addition, there is a powder room,
16 which is off the circulation space, and the stair as
17 well as a coat closet.

18 MR. MORAN: What is the width of the
19 common walls?

20 MR. TOCONITA: That's going to be
21 11 inches. It's 2 inches of gypsum and 2 inches
22 of air space and then 2-by-4 stud and another
23 2-by-4 stud on the other side. So, it totals up
24 to, in the rough, 11 inches.

25 MR. BELL: David, is that enough for a

TOCONITA - Direct

1 fire wall?

2 MR. CRANMER: I'm not sure, Mr. Bell.

3 That is a construction code issue.

4 MR. TOCONITA: It will meet a two-hour

5 fire wall separation.

6 MR. BELL: It will?

7 MR. TOCONITA: Yes.

8 MR. BELL: Okay. How deep are the decks
9 proposed to be extended out off of the building?

10 MR. TOCONITA: I would estimate these
11 were drawn at eight feet, but --

12 MR. MACANINCH: Mr. Bell, maybe this is
13 a good point. Following the last hearing, when
14 we had the testimony on the variances for the
15 decks, what we have done there is what's going
16 to be in our revised plans, we've brought the
17 decks back to comply with the ordinance. So, on
18 the supermarket side, we are going to be 6 feet.
19 On the Paterson Avenue side, they are going to
20 vary between 6 and 8 feet, depending on the
21 setback. So, we will not have the 10-foot deck
22 situation.

23 MR. BELL: Okay. Do you know if there
24 will be any limitation or any need to have a
25 limitation on the decks, as proposed here, none

TOCONITA - Direct

1 of them are the full width of the building. Is
2 there anything to prevent a homeowner from
3 having a deck the full width or is there a need
4 to do that? The extension of 6 foot that we
5 granted, it would be the whole width?

6 MR. CRANMER: In the ordinance that was
7 created for this zoning overlay, there was no
8 restriction to the width of the deck, just the
9 extension into the required buffer area.

10 A. I will move onto the adjacent home.
11 It's 24 feet wide. Once again, there is a half a
12 flight up from the front door. You will be landing
13 into the living room/dining room combination space
14 and going through that there is a circulation stairs,
15 either that can take you down to the basement or up
16 to the sleeping area.

17 MR. GARDELLA: How deep are the homes
18 from front to back?

19 MR. TOCONITA: Oh, the end home, well, I
20 believe that's 50 feet, if you include the bay.
21 I think the interior is a few feet deeper than
22 that.

23 A. Continuing on, passed the stair into the
24 informal space is a U-shaped kitchen, a nook and
25 another family room type of informal room. The same

TOCONITA - Direct

1 as with the other home, there is a sliding glass door
2 with access to that, as well as a powder room and a
3 coat closet. Moving over to the 18-foot wide one,
4 again, same type of entryway. You will come up into
5 another living room/dining room combination space.
6 Because of the configuration of the home, it doesn't
7 have quite the great room feel as the other homes do.
8 This one will have a kitchen with the sliding glass
9 door to the kitchen to the deck. This is the
10 smallest home. This will be the least expensive of
11 the homes.

12 MS. SICILIANO: Is the smallest home
13 included in all of the buildings? I mean, in
14 all of the --

15 MR. TOCONITA: Yes, it is. With the
16 exception of the two buildings that have the
17 affordable homes in them.

18 MR. BELL: The center buildings,
19 Building 6 where there is three buildings in the
20 center, they are three, 18-footers.

21 MS. WATERBURY: Are the two units around
22 the perimeter -- I see that they have the direct
23 vent fireplaces on the exterior wall. That is
24 allowed to be within the 50-foot --

25 MR. CRANMER: Ordinarily, the

TOCONITA - Direct

1 architectural projection up to 6 feet is
2 permitted.

3 MR. BELL: Is that a fireplace or a T.V.
4 with rabbit ears?

5 MR. TOCONITA: That is a T.V. with
6 rabbit ears.

7 MR. BELL: I'm showing my age. Is that
8 supposed to be a fireplace?

9 MR. TOCONITA: No. It's a T.V.

10 MR. BELL: It is a T.V. Okay.

11 MS. WATERBURY: I think the fireplaces
12 are the rectangles by the decks that are dashed.

13 MR. BELL: The wider units all have an
14 option for a gas fireplace. The 18-foot unit
15 doesn't have the option for a fireplace?

16 MR. TOCONITA: At this point, it
17 doesn't.

18 MR. BELL: Okay.

19 A. I will move onto the next level. I will
20 be referring to the third floor plan of Building 1,
21 which is A-4. I will start again with the end home.
22 This is the sleeping level. This has three bedrooms.

23 The master bedroom is to the front, 21-by-14, almost
24 15, a walk-in closet and master bath with a shower
25 and a tub, double bowl vanity, a laundry and two

TOCONITA - Direct

1 secondary bedrooms approximately 10 feet by 11.

2 Now, in the case of homes that do have
3 the attic, that stair will continue up to the attic
4 level.

5 MR. BELL: If people don't take the
6 option for the attic space, is that floor space
7 incorporated someplace in the unit or is it just
8 a dead space?

9 MR. TOCONITA: Just dead space. As in
10 any ordinary stair that would work this way,
11 there is a rail that would go over the portion
12 that goes down the landing. So, you wouldn't
13 cover that over. There would be a rail there.
14 You would see a stair going down. It's a split
15 stair.

16 MR. CARROLL: You would go with some
17 sort of pull-down staircase. If they weren't
18 doing the option, there would be access up
19 there?

20 MR. TOCONITA: There will be access,
21 yes, whether it's a pull-down stair or not.

22 A. The next home is the 24-foot interior
23 home. Once again, this is the three bedroom. The
24 same program as what was in the end home with a
25 master bedroom. This is 12-by-17. It has a large

TOCONITA - Direct

1 master bath, two walk-in closets, the laundry and
2 then two secondary bedrooms and a hall bath. Once
3 again, that same scissor stair would be utilized.

4 MS. SICILIANO: I see no tub in the
5 18-foot.

6 MR. TOCONITA: In the master there is.
7 We are looking to rework some of that area. It
8 may not be shown on the plan yet. We see some
9 extra space in the hallway there. Once we get
10 in, we are looking to seriously do the work in
11 the drawings and we are going to be looking at
12 some minor redesign up there.

13 MR. BELL: That is in the 18-footer?

14 MR. TOCONITA: Yes.

15 A. Once again, this program is identical
16 with the exception it has a master bedroom and a
17 second bedroom only. It still has a laundry and two
18 bathrooms. This access would not be through the
19 split stair, but a regular straight stair. It would
20 continue up on the other side of the stair, if the
21 attic is chosen.

22 MR. CRANMER: The building
23 configurations, that you show on the plans, in
24 other words, this particular building has
25 five units in it?

TOCONITA - Direct

1 MR. TOCONITA: That's correct.

2 MR. CRANMER: Two end units, two,
3 24-footers and one 18. Are they going to be
4 built in that configuration or if you had more
5 than one person that wanted an 18-foot unit, in
6 this building, would the unit configuration
7 change or is it set on what we see on the plans?

8 MR. TOCONITA: It's set.

9 MR. CRANMER: The footprints that we see
10 on the architectural drawings, are these going
11 to be what the footprint is going to be or
12 various models that are available and the
13 prospective buyer would choose that model?

14 MR. TOCONITA: No. There will be three
15 models and you are seeing them.

16 MS. WATERBURY: The square footages,
17 that are listed on each one of those, are the
18 ones that would be not including finished
19 basement and not including finished attic.

20 MR. TOCONITA: That's correct. Is that
21 the core base square footage?

22 A. The next exhibit is the option of the
23 attic plan. Basically, it just shows the three
24 scenarios, which is the end attic, and then the
25 24-foot interior of the loft space, and I guess we

TOCONITA - Direct

1 are calling them loft spaces here and the 18-foot.
2 And these spaces, the end is 21-by-19, but it will
3 have a sloped ceiling involved in that. And the
4 dashed lines, that you see toward the front and the
5 rear walls, that's where the slope starts. That's
6 right now preliminary. That may actually encroach
7 more than what we are showing.

8 MR. TELLER: It has the regular ceiling
9 in the center at 8 feet?

10 MR. TOCONITA: In the flat portion of it
11 will be 8 feet. The same goes as the interior
12 home and that is indicated as 23 feet by 19'11".
13 These have a pair of dormers coming out. The
14 front and then the 18-foot interior home, which
15 has the straight stair and that space is 12'6"
16 by 22'5" on a single dormer.

17 MS. WATERBURY: Is that dashed line
18 labeled, "7-foot ceiling"?

19 MR. TOCONITA: That's correct.

20 MR. BELL: Is there a reason why --
21 well, the rendering right now doesn't show an
22 attic floor for the right two units which would
23 be 2089A and 2066A. Is that because it's not
24 offered on those or do you think --

25 MR. TOCONITA: This was produced to

TOCONITA - Direct

1 illustrate what each one could look like. It
2 may not happen in this order or any order if
3 it's not picked.

4 MR. BELL: You can pick it up or not.
5 Is the reason you are putting in the second unit
6 two front dormers? Is that because you are
7 limited on the amount of square footage you can
8 have on the attic without it being considered?

9 MR. TOCONITA: We looked at the way it
10 looked, the two dormers. That's why we have two
11 dormers.

12 MR. BELL: Isn't there a limitation as
13 to what the square footage you could have in the
14 attic?

15 MR. TOCONITA: That's correct. How we
16 will control that is with the slope of the
17 ceiling. The slope of the ceiling -- the square
18 footage only calculates to habitable space.
19 Anything under 7 feet is not considered
20 habitable space, so you can have a wall that
21 comes down to 5 and a half feet. You can put
22 whatever you want under that, a desk or
23 whatever. It's not habitable for the code
24 purpose.

25 MR. BELL: But where your two dormers

TOCONITA - Direct

1 are on the front, that has an 8-foot ceiling, so
2 that is considered habitable space?

3 MR. TOCONITA: Yes.

4 MR. BELL: If somebody said, I want to
5 have two dormers on the back, too --

6 MR. TOCONITA: We wouldn't do it. It's
7 not offered. We are only going to build dormers
8 on the front.

9 MR. CRANMER: The ordinance permits
10 garage level plus two and a half stories above.
11 So, the attic -- the four stories is the half
12 stories?

13 MR. MACANINCH: Yeah.

14 Q. Mark, the rec area, that is the basement
15 area?

16 A. Yes.

17 MS. WATERBURY: Does our ordinance
18 define a half a story?

19 MR. CRANMER: That is a good question.
20 I don't think we have a specific definition for
21 a half story. I think it's understood.

22 MR. TOCONITA: For building code
23 purposes, we must follow the habitable space.
24 That's going to dictate how that's going to be.
25 Otherwise, it's going to be a four-story

TOCONITA - Direct

1 building for the code. That has other
2 ramifications that we would like to avoid.

3 MS. WATERBURY: Even just from our
4 zoning standpoint, as it was indicated, you are
5 allowed two and a half stories.

6 MR. CRANMER: Yes. The garage, plus two
7 and a half. That's why I was wondering at what
8 point, from zoning purposes, that may be
9 considered more than a half, which could be
10 different.

11 MR. TOCONITA: I understand, yeah.

12 MR. BELL: If they offer the two and a
13 half stories above the garage, since it's above
14 ground, if they offer a basement to be, in your
15 words, a finished rec area, would that then be
16 considered a basement? In other words --

17 MR. CRANMER: I'm going to look through
18 the ordinance while we are continuing. I know
19 we had this discussion when we formulated the
20 standards. I think the basement had to be
21 partially below grade, if I'm not mistaken.

22 MR. MACANINCH: It says, "Basement above
23 grade, two and a half stories plus a basement
24 above grade."

25 MR. CRANMER: I know we went through

TOCONITA - Direct

1 this in creating this ordinance. I'll go
2 through it and have the answer momentarily.

3 MR. BELL: There was also something in
4 the ordinance, David, and I don't remember it
5 off the top of my head, about a certain amount
6 of storage space.

7 MR. CRANMER: Yeah. You had to have a
8 minimum square footage of storage space.

9 MR. MORAN: You are going to continue to
10 look?

11 MR. CRANMER: Yep.

12 MS. DERASADOURIAN: Is that something
13 that that finished basement area can't become a
14 home business with a separate entrance?

15 MR. CRANMER: There is some recent
16 legislation on --

17 MS. SICILIANO: An ordinance or --

18 MR. CRANMER: There wasn't an ordinance
19 saying that you couldn't restrict against home
20 occupation.

21 MS. DONATO: There have been various
22 versions of ordinances to kind of attempt to
23 allow home occupations, but I'm not familiar
24 with any of them being passed recently.

25 MR. CRANMER: It's not a permitted use

TOCONITA - Direct

1 in the zone. In other words, if a dentist moved
2 in and wanted to have his patients come to the
3 back that would not be permitted. The code
4 enforcement officer would issue --

5 MS. SICILIANO: That's prohibited in the
6 administrative code.

7 MR. CRANMER: That would be sent to the
8 municipal court.

9 MR. TOCONITA: I will move to Building
10 9.

11 MS. DONATO: We left off at A-21.

12 MR. CRANMER: "For the maximum number of
13 stories, each building shall be limited to two
14 and one-half stories plus a basement above
15 grade. Notwithstanding the definition of a
16 basement." Our definition, in 94-2 says, "A
17 basement must lie at least partially below
18 grade." Notwithstanding that provision, it
19 specifically permits basements above grade.

20 MR. GARDELLA: Maximum height?

21 MR. CRANMER: "Maximum height is 35 feet
22 for a mean building height with an absolute
23 maximum of 45 to the peak of the roof." It's
24 measured from the average point of the roof.

25 MS. DONATO: I didn't bring my ordinance

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1 this evening, because I couldn't fit it into my
2 briefcase. Do we have a definition? I was
3 looking, Mayor, for a definition in the general
4 zoning ordinance for a half story.

5 MR. TOCONITA: Okay.

6 MR. CRANMER: I'll take a quick look.

7 MR. MACANINCH: We're not seeking any
8 relief, you know, the ordinance allows for, you
9 know, its defined square footage and we will
10 stay within that.

11 A. I have up the next exhibit to be marked.
12 This is a rendering of front elevation with the view
13 from the right-hand end. I have also the elevation
14 view.

15 Q. Let's go with this one first.

16 A. The first exhibit will be the front
17 elevation with the end home left-hand view.

18 MS. DONATO: That will be A-22.

19 (Whereupon, Exhibit A-22 - Front
20 elevation of end home, left-hand view, was
21 received and marked into evidence.)

22 A. Next is the same front elevation from
23 the right-hand view.

24 MS. DONATO: These are all Building 9?

25 MR. MACANINCH: Right.

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1 (Whereupon, Exhibit A-23 - Front
2 Elevation of the end home in Building 9,
3 right-hand view, was received and marked into
4 evidence.)

5 MS. MARTINELLY: These will have the
6 side-entry garage?

7 MR. MACANINCH: That's correct.

8 A. The next exhibit is the rear looking
9 from the rear right.

10 (Whereupon, Exhibit 24 - Rendering
11 depicting view from the rear right, was received
12 and marked into evidence.)

13 MR. BELL: This rendering shows the
14 proposed knock out for the gas fireplace. The

15 other rendering didn't show that. Is that a
16 pretty accurate depiction of what that would be
17 on the back of that building?

18 MR. TOCONITA: That's right.

19 A. The next exhibit is B-2. After that --

20 MS. DONATO: A-25 is the ground floor
21 elevation.

22 (Whereupon, Exhibit A-25 - Ground Floor
23 Elevation, was received and marked into
24 evidence.)

25 (Whereupon, Exhibit A-26 - Rendering

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1 depicting Second Level of Building 9, was
2 received and marked into evidence.)

3 MS. DONATO: A-27 is the third floor
4 plan of Building 9.

5 (Whereupon, Exhibit A-27 - Third Floor
6 Plan of Building 9, was received and marked into
7 evidence.)

8 MS. DONATO: A-28 is the front elevation
9 of Building 9.

10 (Whereupon, A-28 - Front Elevation of
11 Building 9, was received and marked into
12 evidence.)

13 MR. MACANINCH: Just one clarification,
14 you had asked me about the side entry. That
15 exists in three of the four buildings.

16 MR. MACANINCH: Three of the four end
17 units.

18 A. The reason we created these two views is
19 one on the end of the building we have a side entry
20 and the other we don't. On the right-hand view, we
21 have the side-entry garage. And, on the left-hand
22 view, you can't see the side entry, but you can see
23 the windows on the far end, which will face the
24 front. I will just address the basic elevation using
25 the view from the right-hand side. What's being

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1 shown here is two of the end homes book-ending four
2 modules, which contain eight homes for the
3 affordable. The affordable are designed as
4 individual -- call it modules, because there will be
5 firewalls between each pair, so they are stacked.
6 It's a town house configuration over top a smaller,
7 one-story flat or ranch. This is similar to the
8 other affordable buildings, in that it contains
9 four pairs of affordable homes.

10 Now, the biggest difference is that
11 there are no garages. You see an extra front door.
12 So, along that pair, there is eight front doors to
13 make up for the eight homes. Each one of the
14 residences will have its own separate entrance.
15 Again, the same concept for the exterior treatments
16 will hold true here. The individual colors for each
17 one of the modules for the affordable for one of the
18 end homes will have their own individual colors,
19 different brick colors and the stone all mixed
20 together in addition to the various treatments. You
21 can even notice the window treatments for the
22 affordable homes are different for the modules.

23 MR. BELL: Is this a fairly accurate
24 rendering? The question I asked before about
25 the 7-unit building, where you have three of the

TOCONITA - Direct

1 18-foot, this would give you an idea how you
2 would separate out the difference.

3 MR. TOCONITA: If you thought of three
4 of these in a row as being that kind of a
5 situation where they are all flat, yes. The
6 affordable will have more features, like bay
7 windows. It will have articulations --

8 MR. BELL: The market homes?

9 MR. TOCONITA: Yes.

10 MR. BELL: The dormers --

11 MR. TOCONITA: They are decorative.
12 They are not working.

13 MS. WATERBURY: There is no eating area?
14 I'm sorry. I'll wait.

15 A. I'm going to move to the rear. The rear
16 elevation. The distinction here is that the
17 affordable are only two stories in the back. We
18 didn't need to use the entire third level. We only
19 needed to use half of it, so we brought the roof down
20 to two stories in the rear. There are small
21 balconies off the affordable homes. They are created
22 in a recess in the plan, so they don't protrude out
23 onto the open space. They are contained within the
24 building footprint.

25 MS. MARTINELLI: They are off the

TOCONITA - Direct

1 bedrooms?

2 MR. TOCONITA: Right. Once again, we
3 are carrying through the individual siding
4 colors that would be complimentary to the front.
5 I think this particular building is flat across
6 the back. It has a protrusion in the front.
7 It's just the opposite where it protrudes out
8 the back and it is offset in the front.

9 A. I'm going to start with the ground
10 floor. We have already talked about the end. We
11 will address the ground floor which all four of these
12 ranch homes are identical. The State regulates us to
13 make the ground floor of these homes accessible. So,
14 all of these homes are designed to be accessible,
15 with accessible bathrooms, kitchen, entryway.

16 MR. CRANMER: They are barrier-free
17 accessible?

18 MR. TOCONITA: Exactly.

19 A. You can see where we have some
20 indications of some of the criteria, which is the
21 five-foot circle. It's indicated on the plan.

22 MR. CRANMER: Do you construct it as
23 accessible or adaptable?

24 MR. TOCONITA: One and the same. The
25 code says those two words are interchangeable.

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1 When you say, "adaptable," you can say,
2 "interchangeable."

3 MR. CRANMER: Thank you.

4 MR. TOCONITA: Just describing this,
5 this is one door taking you to the home above.
6 The door entering in, and I apologize the door
7 swing is incorrect, it will swing the other way
8 moving into the living space. This is an
9 L-shaped kitchen, here is a furnace unit,
10 laundry area, bathroom and two bedrooms in the
11 rear. All of them are identical.

12 Moving to the next plan, second floor,
13 this is the two-story dwelling. You enter that
14 from grade and you come up a full flight of
15 stairs. The layout on the front is very similar
16 to what happens -- actually, the whole floor
17 plan is very similar to the lower level. All we
18 did was add an additional bedroom on the level
19 for a bigger home. We wanted to also have the
20 three-story look.

21 MR. BELL: How wide is the staircase?

22 MR. TOCONITA: It's 3'1", if we use our
23 normal dimension for a staircase.

24 MR. BELL: Does that meet ADA?

25 MR. COOPERHOUSE: It's a second floor.

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1 MR. BELL: You have done the 5-foot
2 circle?

3 MR. TOCONITA: It's a copy of the same
4 thing. It's not required. It's what's
5 happening down below. It's not required to be
6 accessible.

7 MR. CRANMER: I know the first aid
8 commented they would have practical difficulty
9 maneuvering a person.

10 MR. TOCONITA: I read the letter. Not
11 knowing what their needs are, it would be
12 difficult to respond to what they want.

13 MR. BELL: Does that take into account
14 the railing on the outside of the wall?

15 MR. TOCONITA: Yes. The railing is not
16 counted. The railing can be part of the 3 feet.

17 MR. BELL: It might be 2'10" or 2'9".
18 I'm talking about the actual usable space.

19 MR. TOCONITA: Correct. Yeah.

20 MR. CRANMER: Would there be a way to
21 increase the staircase, if that is the request
22 of the first aid squad?

23 MR. TOCONITA: There is not loads of
24 room. We can accommodate it to some degree.

25 MR. CRANMER: I think the landings would

TOCONITA - Direct

1 present the biggest challenge, not putting words
2 in their mouth, if we can increase the size of
3 the landings.

4 MR. TOCONITA: Whatever the requirement
5 is. We would have to look and see. I think
6 that would work. Obviously, we would be willing
7 to accommodate when we can.

8 A. The next floor indicates that additional
9 bedroom and then the unusable attic space. It will
10 possibly only have an access panel and not have the
11 ability to put storage in there. It's a nice-sized
12 bedroom. It's 13-by-16. It's got its own bath.
13 That is a nice room.

14 MR. BELL: Do you know if there is going
15 to be affordable -- are they going to be trusses
16 or stick frame?

17 MR. TOCONITA: It will be trusses.

18 MR. BELL: Is that the same for the
19 market?

20 MR. TOCONITA: Correct.

21 MR. MORAN: The core wall will be the
22 same?

23 MR. TOCONITA: Yes. The only
24 differentiation is that the core wall will
25 happen at every module and not every home. We

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1 have a stack situation. When you have the
2 affordable, there will be two homes between
3 two pairs, as opposed to every townhouse will
4 have core walls on each side.

5 MS. SICILIANO: Back in 2007, the
6 Planning Board received a letter from the
7 attorney representing the Borough on all COAH
8 affairs. At that time, I'm referring to a
9 statute, that was adopted on October 2006, and I
10 could give you a number of that statute, but
11 what I'm getting at is, in this letter he
12 states: "Based on this particular Construction
13 Code Act, the first floor of all of the
14 townhouses, dwelling" -- I'm talking about COAH.
15 "The first floor dwelling units and all other
16 multi-story dwelling units, for which affordable
17 housing credit is sought, on or after above the
18 referenced state, and for which an application
19 for a construction permit was not declared
20 complete, must be subject to the technical
21 design standards of a barrier-free sub code and
22 must include the following features:" I want to
23 read them. I think you have included them.

24 "An adaptable entrance to the dwelling
25 units," which you said you are going to change

TOCONITA - Direct

1 the door.

2 MR. TOCONITA: Correct. The door swing
3 was incorrectly drawn.

4 MS. SICILIANO: Right. "Adaptable full
5 service bathroom on the first floor."

6 MR. TOCONITA: Yes, we have that.

7 MS. SICILIANO: "An adaptable kitchen on
8 the first floor."

9 MR. TOCONITA: Correct.

10 MS. SICILIANO: "An accessible interior
11 route of travel."

12 MR. TOCONITA: We have that as well.

13 MS. SICILIANO: I didn't know what that
14 meant.

15 MR. TOCONITA: The doors into all of
16 your spaces need to meet the requirements of
17 36-inch wide.

18 MS. SICILIANO: A bathroom with a door
19 or a casing where a door can be installed which
20 may be used as a bedroom on the first floor.

21 MR. TOCONITA: Right. In our case, we
22 have two bedrooms.

23 MS. SICILIANO: I wanted to make sure,
24 for the record, that you are in compliance with
25 this particular statute.

TOCONITA - Direct

1 MR. TOCONITA: Okay.

2 A. The next thing I will list for you is a
3 list of materials we intend to use here. I'll start
4 with the roof. We have a single color, throughout
5 the community, and there will be a 25-year
6 architectural fiberglass shingle. The siding is
7 going to be vinyl and, as I described earlier,
8 various colors coordinated with each building so
9 there is individuality.

10 For the masonry, there will be two types
11 of masonry, brick and stone, with two color choices
12 for brick on each elevation string.

13 MR. BELL: Whose choice is that?

14 MR. TOCONITA: It will be our choice.
15 We are going to pick the brick. We are going to
16 assign the location based upon our aesthetics.

17 MR. CRANMER: You wouldn't want five
18 purchasers wanting brick.

19 MR. TOCONITA: No.

20 MS. SICILIANO: How are these homes
21 sold? I mean, if there are five units or
22 seven units or whatever, are they sold -- I
23 mean, when you build them, you are not going to
24 build them all at one time. If a customer comes
25 in and says, I like that particular style, every

TOCONITA - Direct

1 unit has a similar style?

2 MR. MACANINCH: We will have selling
3 phases, obviously. We're not going to start
4 buildings --

5 MS. SICILIANO: Of course not. I
6 understand that. If I come in and I see this
7 outline, and I say, "I like that house," would
8 they have to wait until that unit is built to
9 get that house?

10 MR. MACANINCH: Yeah. If they are
11 looking for a specific unit, they would.

12 MS. SICILIANO: I was curious how. We
13 are looking at all of this, but we don't know
14 exactly what the first building is going to look
15 like that you plan to build. I was just curious
16 how a customer would select a home they want.

17 MR. CRANMER: Do you have to sell all of
18 the units?

19 MS. MARTINELLY: You are not putting all
20 of the foundations in?

21 MR. MACANINCH: No.

22 MS. MARTINELLY: All of the roads would
23 be done?

24 MR. MACANINCH: That will be phased as
25 well. We will work our way throughout the site.

TOCONITA - Direct

1 Something will need to be done, so we can speak
2 to the specifics. That would be phased.

3 MS. DONATO: We do recommend that your
4 engineer work with Mr. Cranmer, so there is an
5 understanding as to what infrastructure is
6 necessary to service, for example, to have the
7 dual access, et cetera.

8 MR. MACANINCH: Yeah. We have a
9 construction phase plan. It's part of the
10 submission set.

11 MR. CRANMER: Do you have to sell all
12 the units, in a particular building, before you
13 finish that?

14 MR. MACANINCH: We don't have to. If we
15 were going to go for FHA, there are pre-sale
16 requirements. You would have to sell a certain
17 number of homes in a building, if you were going
18 to go building-by-building for the registration.
19 It depends. It's more internal.

20 MR. CRANMER: You wouldn't build half a
21 building?

22 MR. MACANINCH: We would build an entire
23 building at once. We would start with a model
24 building. That would be pre-sold. We would
25 start with that in a four or five-unit building.

TOCONITA - Direct

1 We would start there.

2 MR. GARDELLA: Would all of these units
3 be models?

4 MR. MACANINCH: Probably just two.

5 MS. MARTINELLY: How about the
6 affordable? Are you saving those last to build?

7 MR. MACANINCH: I think there is
8 probably a timing that it ties to your C.O.s.
9 We probably would do one building and later do
10 the second building.

11 A. I'll continue with the materials. I
12 left off with masonry. Next would be windows, vinyl,
13 double-pane glass, garage doors. We are going to
14 have the carriage-style garage door, in addition our
15 architectural millwork will be some kind of fypon.
16 We have dentil moldings and window heads and other
17 additional architectural and millwork elements shown.

18 On the accent roofs, they are going to
19 be coated aluminum, standing seam and they are going
20 to have various colors that will coordinate with the
21 siding and the individual facades.

22 MS. SICILIANO: If you have an aluminum
23 roof, when it rains, does it go ping, ping,
24 ping?

25 MR. TOCONITA: It's usually so flat

TOCONITA - Direct

1 against the siding that it won't ping.

2 MS. SICILIANO: It won't ping? Okay. I
3 can see myself watching television and hearing
4 ping, ping, ping.

5 MR. TOCONITA: It happens in all metal
6 buildings.

7 A. Handrails and balcony rails are going to
8 be powder-coated aluminum and white and treated
9 lumbar.

10 MS. MARTINELLY: The dormers on the
11 affordable, those are just dummy dormers on
12 that?

13 MR. TOCONITA: That's correct.

14 MR. MACANINCH: I have no further
15 questions for the witness.

16 MS. SICILIANO: One more question. I
17 think, on A-3, there is a small building in the
18 parking area towards Paterson Avenue. Do you
19 see that?

20 MS. WATERBURY: Is that the dumpster? I
21 don't know. We haven't discussed this yet.
22 That will be another question when it comes up.
23 That is a dumpster there? It's the pink
24 rectangle.

25 MR. MACANINCH: Yes. That is for the

TOCONITA - Direct

1 affordable.

2 MS. SICILIANO: Yeah, there is no
3 building there for storage of lawnmowers and
4 things like that?

5 MR. MACANINCH: No. The HOA would
6 obviously hire a contractor and a landscaping
7 company.

8 MS. SICILIANO: Oh, is that the policy?
9 I just didn't know. Okay.

10 MR. CRANMER: That is a permitted
11 accessory use to have a storage building on
12 site.

13 MS. DONATO: Is one of the questions
14 that I had --

15 MR. CRANMER: It is a permitted
16 accessory use under --

17 MS. SICILIANO: I thought what you
18 called the dumpster was this.

19 MR. CRANMER: Uh-huh.

20 MS. DONATO: Am I to understand the
21 proposal does not include maintenance building?

22 MR. MACANINCH: It does not.

23 MR. MORAN: You are bringing in outside
24 contractors?

25 MR. MACANINCH: We would.

TOCONITA - Direct

1 MS. DERASADOURIAN: Do you allow people
2 to add solar paneling or additional drains for a
3 rain barrel? I'm just wondering if anything was
4 put in the plans to help people go green, so to
5 speak, or if this is the plan?

6 MR. MACANINCH: This is the plan.
7 Nothing has been contemplated in terms of solar
8 panels on the roof. The difficulty in
9 condominium ownership is that the individual
10 doesn't own their own roof. It would be
11 difficult to allow that.

12 MS. DERASADOURIAN: Will each unit have
13 access to a drain spout to do their own rain
14 barrel or is that something not contemplated?

15 MR. TOCONITA: I don't think there will
16 be individual drains. It's probably going to
17 be -- the roof will be drained as a single
18 entity and where it's logical to bring a liter
19 down that's where it will be.

20 MS. DERASADOURIAN: Have you
21 contemplated an area perhaps to allow for
22 composting? A community compost?

23 MR. MACANINCH: No.

24 MR. BELL: Any other questions from the
25 Board?

TOCONITA - Direct

1 MR. TELLER: I have a question on the
2 downspouts and the gutters. I'm looking at
3 A-15. I see two downspouts, it looks like. Do
4 you expect the two downspouts are going to
5 handle the entire roof leak?

6 MR. MACANINCH: I think it hasn't been
7 specifically designed. It would be one liter
8 down.

9 MR. TOCONITA: We haven't really
10 addressed the location of the down spouts.

11 MR. GARDELLA: What is the length of the
12 driveway?

13 MR. TOCONITA: They will vary based on
14 the building break. The farthest break forward
15 would have the shortest driveway. The farther
16 back would be the longest.

17 MR. HOLMES: The minimum driveway width
18 is 20 feet from the back of the sidewalk. If
19 there is no sidewalk --

20 MS. DONATO: For the record, this is Mr.
21 Tim Holmes, the design engineer.

22 MR. HOLMES: The minimum driveway width,
23 if there is a sidewalk, it's 20 feet from the
24 back of the sidewalk to the garage door. If
25 there is no sidewalk in front of the unit, it's

TOCONITA - Direct

1 26 feet.

2 MS. DONATO: I have a couple of
3 questions. I wanted to confirm the balconies
4 will project no further than 6 feet beyond the
5 building. Is that what you stated?

6 MR. MACANINCH: They are going to comply
7 with the ordinance. We're not taking the
8 variance anymore. On the Paterson Avenue side,
9 we can go as far as 8 feet.

10 MS. DONATO: Okay. You will be
11 complying with that setback requirement?

12 MR. MACANINCH: That's correct.

13 MS. DONATO: And the balconies and the
14 decks, each unit, as I understand the ordinance,
15 requires a minimum of 50 square feet and either
16 balconies and decks. Does each unit have that
17 50 square feet?

18 MR. TOCONITA: I would think so. You
19 are going to have 60 feet.

20 MS. DONATO: I don't recall what the
21 current lot coverage is that you are proposing.

22 I know you have a 50 percent maximum. Do you
23 know whether or not if you had to add additional
24 air conditioning units that you might run into a
25 problem with your lot coverage?

TOCONITA - Direct

1 MR. MACANINCH: I think we are
2 substantially lower.

3 MS. DONATO: To the buildings, the
4 offsets, you know, of the facades, are they a
5 minimum of 4 feet?

6 MR. MACANINCH: In the front, yes.

7 MS. DONATO: They are. Okay. I have no
8 other questions. Thank you.

9 MR. BELL: Does the ordinance, and I
10 don't remember that -- the ordinance --

11 MS. DONATO: It's 4 feet on the facades
12 on the setbacks.

13 MR. BELL: The deck, the patio deck.

14 MS. DONATO: I went through it.

15 MR. CRANMER: We have a standard. They
16 have to have a minimum of 50 square feet.

17 MR. BELL: Is that for the affordable as
18 well?

19 MR. CRANMER: Yes. That is specifically
20 for the affordable. "Each multi-family
21 residential unit shall be constructed with and
22 shall maintain a private outdoor space which may
23 be designed as patio, deck and terrace
24 containing a minimum of 50 square feet."

25 MR. BELL: Your testimony is that the

TOCONITA - Direct

1 recessed patios there are 50 square feet?

2 MS. MARTINELLY: Five-by-10 has to be.

3 MR. TOCONITA: It looks close to
4 5-by-10.

5 MR. BELL: It might be something you
6 want to look at, too.

7 MR. TOCONITA: We will make sure it's
8 50 feet or 5 and a half by 9. We will comply.

9 MS. DONATO: I had one last question.
10 There were members or residents along Paterson,
11 and I believe you were here at the last meeting,
12 they expressed concerns about the balconies and
13 the fact that the unit owners would then be able
14 to look down into their rear yards. Has
15 anything been done to address that issue?

16 MR. TOCONITA: Yes. There was a meeting
17 before this. I met the residents.

18 MS. DONATO: That will be presented to
19 the Board in the future?

20 MR. MACANINCH: It's going -- basically,
21 we showed them revised landscaping plans. We
22 beefed up the landscaping, on Paterson Avenue,
23 and showed the line of sight from the residents'
24 homes and met with them before. We wanted to
25 get their input prior to submitting it. We are

TOCONITA - Direct

1 going to make those changes, so they are going
2 to come in. I think it was a very productive
3 meeting tonight.

4 MR. MORAN: That was the residents of
5 Paterson Avenue?

6 MR. BELL: Tied into that, is there
7 going to be any limitation -- well, are you
8 going to offer a deck off of any of the bedrooms
9 on the third floor for the market?

10 MR. MACANINCH: No. It's just the
11 second floor.

12 MR. BELL: Is there going to be any
13 limitation to prevent somebody from putting that
14 on afterwards?

15 MR. MACANINCH: I would imagine you
16 would need a permit from the Borough.

17 MS. MARTINELLY: You have to have an
18 approval.

19 MS. WATERBURY: We can have a Resolution
20 approval of the third floor.

21 MR. BELL: You need a permit, just for
22 everybody on the Board, you would need a permit
23 to put that. If there was no -- if there was
24 nothing in the association to prevent it,
25 anybody could go in and get a permit, because it

TOCONITA - Direct

1 would meet the code of 6 feet. You could have
2 another deck put on top of that, which would go
3 against. They would be looking right down.

4 MR. BELL: It's got to be --

5 MR. MACANINCH: We can put it in the
6 Association documents.

7 MR. COOPERHOUSE: I had a question on
8 the State instruction and the site work, the
9 site work is not all going to be done at one
10 time? Can you just explain that?

11 MR. MACANINCH: I'll let Bob answer
12 this.

13 MR. HOFFMAN: Robert Hoffman of K.
14 Hovnanian. With regard to phasing the site
15 work, it's a rather small site for us, after
16 all, compared to our other communities. We
17 still tried to keep the construction of the land
18 development and the infrastructure to a minimum
19 at each stage. Once we define where we are
20 going to start, which is most likely, I think,
21 towards the Paterson Avenue end, we've been
22 looking at the four-unit building, on that
23 building, which would be our model coming off of
24 Paterson. The amount of site work that we would
25 put in probably initially would be able to get

TOCONITA - Direct

1 to that building and maybe down three or four
2 buildings and tie into our phasing plan.

3 There are a couple of reasons we do
4 this. One, we certainly want to minimize the
5 disturbance of the overall property, from a
6 perspective of storm water management. As we
7 open up and begin, this obviously is going to be
8 a cleared site and demolition first. As we
9 expose more of the site construction, the
10 controls for the storm water conditions, the
11 levels that we have to maintain rise. We want
12 to keep the areas under construction to a
13 minimum.

14 Then, the other part is the cash flow,
15 obviously, for the project. We want -- although
16 we try to break it up in as many pieces as
17 possible, this site probably is two or three
18 phases. We have three phases that we would look
19 to face the road network. Now, the access
20 points, you know, the problem we have is to get
21 two access points up front, so we can have one
22 for construction vehicles and one for ultimately
23 the residents that would be living at the
24 community as they are moving in.

25 MR. COOPERHOUSE: Where will the

TOCONITA - Direct

1 construction access be after that first building
2 goes up? Can you continue to use Shrewsbury
3 Avenue?

4 MR. HOLMES: We were going to designate
5 Shrewsbury Avenue as the construction access and
6 not allow through Paterson Avenue.

7 MR. BELL: Any other questions from the
8 Board Members?

9 MS. DERASADOURIAN: We had talked
10 briefly about the storm water compliance
11 program. Is that something you will submit
12 before you see the supervised plans or will that
13 be coming with the revised plans?

14 MR. MACANINCH: We have to comply with
15 the Borough's requirements, the conservation,
16 the DEP in terms of storm water management.
17 That is part of our staging as part of the plan
18 set, too.

19 MS. DERASADOURIAN: I was reading
20 stating that you were going to have a
21 company-wide storm water compliance program?

22 MR. MACANINCH: We do. That's in place.

23 MS. DERASADOURIAN: You've received
24 copies of that?

25 MR. MACANINCH: It's our internal

TOCONITA - Direct

1 program to comply with storm water management.

2 MR. HOLMES: Every building we build has
3 what they call S.W.I.P. It's a Storm Water
4 Intervention Plan. That is a statutory
5 requirement for every community. The article
6 that you are referring on the issue that was, I
7 think, referred to in the Asbury Park Press, the
8 communities that were listed were not actually
9 communities that were apart of the overall issue
10 of settlement. Those communities are active
11 communities. Those weren't communities that
12 were identified with issues. There were other
13 communities throughout the country, individual
14 communities that we had to deal with.

15 I know you've referred to that before,
16 and specifically, that just listed every
17 community in New Jersey, I think.

18 MS. DERASADOURIAN: I was wondering if
19 there were changes since you first submitted to
20 the storm water --

21 MR. HOLMES: No. The law hasn't
22 changed.

23 MR. BELL: State your name for the
24 record?

25 MR. WOOD: Frances J. Wood, Land

TOCONITA - Direct

1 Development Manager for K. Hovnanian Homes.
2 We've instituted a national storm water program
3 for Walmart divisions throughout the United
4 States. We've also assigned to every community,
5 especially in our Delaware Valley Division, a
6 site storm water compliant representative, who
7 is the community construction manager. He's got
8 a responsibility once a week to do a site
9 inspection, fill out applicable forms, file
10 those forms electronically with our division
11 office which then gets filed with our national
12 office, which is in Red Bank, New Jersey.

13 Each division has a division
14 representative, which I am the compliant
15 representative for the Delaware Valley Division.
16 We are required, once a quarter, to do an
17 inspection of all of our sites, at which time,
18 we will process the paperwork through Red Bank
19 and once a year they file it with the Federal
20 Government to show they are in compliance with
21 the Federal Clean Water Act.

22 MS. DERASADOURIAN: Thank you.

23 MS. MARTINELLY: Is this as a result of
24 that million dollar fine?

25 MR. WOOD: It's a settlement agreement

TOCONITA - Direct

1 which we made with the Federal Government. In
2 the case of the million dollar fine, we are
3 probably the sixth or seventh builder in line
4 between other large builders of Home Depot and
5 Lowe's. What they've determined is throughout
6 the year, you know, what you've done may or may
7 not comply and they assess a fine accordingly.

8 As Mr. Hoffman said before, all of the
9 communities that were listed, in order to
10 safeguard ourselves, we've basically listed
11 every community that we are now presently
12 working on, as well as any community that we
13 have under, you know, control or worked on since
14 the beginning of the Clean Water Act. So,
15 basically it exonerates us from any wrongdoing
16 that may have potentially happened in the past.

17 MR. MORAN: As far as the Consent Order?

18 MR. WOOD: Correct.

19 MR. COOPERHOUSE: One last question on
20 the construction access, did you receive
21 approval from the County?

22 MR. WOOD: No. It's an existing curb
23 cut that facilitates commercial traffic now. We
24 would be doing nothing differently than what
25 exists today.

TOCONITA - Direct

1 MR. CRANMER: You mean specific approval
2 to permit construction?

3 MR. COOPERHOUSE: I understand for the
4 project. I have fears that -- I know this is
5 far fetched, but that the County says, you can't
6 use the County highway as a construction access,
7 because you are going to jam up traffic and then
8 I'm trying to avoid keeping them off of Paterson
9 Avenue. That's why I'm asking.

10 MR. CRANMER: That be would outside of
11 their jurisdiction to do that, in my opinion.

12 MS. SICILIANO: David said they were
13 using 70 trucks a day.

14 MR. CRANMER: Different site.

15 MS. SICILIANO: Different project. That
16 was how many acres?

17 MR. CRANMER: That project required an
18 immense volume of in fill. This project
19 doesn't.

20 MS. SICILIANO: According to the
21 environmental impact that we heard they are
22 going to remove a lot of soil and bring in a lot
23 of soil --

24 MR. CRANMER: I don't believe it will be
25 anywhere near what we faced at the Avenue of

TOCONITA - Direct

1 Commons.

2 MS. SICILIANO: To follow-up on Mr.
3 Cooperhouse's question, do we know how many
4 trucks will be going on Paterson Avenue?

5 MR. MORAN: Is there a zero cut fill?

6 MR. CRANMER: It is a zero cut fill.

7 MR. BELL: We had testimony all of the
8 topsoil will be new topsoil from off-site.

9 MR. CRANMER: We won't know that, Mrs.
10 Siciliano, until we perform an estimate, the
11 engineer's estimate, to arrive at the total.
12 It's going to be a substantial amount of
13 construction.

14 MR. COOPERHOUSE: I'm trying to avoid it
15 on Paterson Avenue.

16 MS. SICILIANO: If you can't use
17 Shrewsbury, you are going to use a State
18 highway, Route 35, with all of the traffic back
19 up?

20 MR. CRANMER: I believe it would be
21 outside of their jurisdiction.

22 MR. COOPERHOUSE: Good.

23 MR. BELL: Michelle, anything else?
24 David? Motion to open the meeting to the public
25 for questions for Mr. Toconita.

TOCONITA - Direct

1 MR. MORAN: I'll make a motion to open
2 it.

3 MS. WATERBURY: Second.

4 MR. BELL: Okay. The meeting is open
5 for the public for specific questions on the
6 testimony you've heard this evening. Come on
7 up, please, and state your name and address.

8 MS. CELLARY: Donna Cellary, 48 Frances
9 Street. My question is: Are the homeowners
10 going to be allowed to construct sheds?

11 MR. HOFFMAN: No. Probably in our
12 bylaws there won't be any reason to allow sheds.
13 We won't allow sheds.

14 MR. BELL: Next? Mrs. Mivervini, 185
15 Paterson Avenue. When the gentleman said the
16 side entry on the garage -- the side of the unit
17 where the steps are, I notice the garage door is
18 on the side. How will they get from this to
19 that into the garage? Here there is room.
20 There isn't in these.

21 MR. WOOD: There are no side-entry
22 garages.

23 MS. MINERVINI: Building Number 1 --

24 MR. TOCONITA: I had indicated the
25 rendering was an earlier drawing and the site

TOCONITA - Direct

1 plan had subsequently been changed. But, the
2 rendering hadn't been. The driveway will come
3 straight in.

4 MS. MINERVINI: Okay. The other
5 question was, these single units with one
6 garage, you said they are very deep. You can
7 put two cars in for the depth?

8 MR. TOCONITA: Correct.

9 MS. MINERVINI: You get two cars in and
10 somebody starts up the car in the rear. Do you
11 have any accommodations for fumes? You are
12 going to get an accumulation of fumes and these
13 fumes will rise and get to upstairs.

14 MR. TOCONITA: No. There is no
15 accommodation for that.

16 MS. MINERVINI: Do you think something
17 would be considered? I worked in garages all of
18 my life and I know it's bad. People will start
19 a car in the garage and the wind is blowing the
20 wrong way and it's going to bring it up.

21 MR. TOCONITA: I can answer that.

22 MS. MINERVINI: Think about it.

23 MR. TOCONITA: We will think about it.
24 Side-by-side or front-to-back, somebody could
25 leave their engine on at any time.

TOCONITA - Direct

1 MS. MINERVINI: Side-by-side is not so
2 bad. When you are talking depth, that is a
3 different thing. It's way back and there is no
4 way for the exhaust to get out.

5 MR. BELL: Other questions? There being
6 none, motion to close the meeting to the public.

7 MS. WATERBURY: So moved.

8 MR. COOPERHOUSE: Second.

9 MR. BELL: Any other questions or
10 comments?

11 MS. DONATO: The only comment I would
12 make, with respect to a concern about sheds or
13 storage areas, those are common areas. The
14 Association regulates what happens to them. If
15 you can put a specific limitation, if you --

16 MR. MACANINCH: We will.

17 MS. DONATO: I'm not talking about the
18 individual homeowner, but having some kind of
19 maintenance building, they will -- as a matter
20 of fact, I was involved with a K. Hovnanian down
21 in Hopewell where that issue came up.

22 MR. MACANINCH: Okay.

23 MR. BELL: I have one last question. It
24 actually piggybacks on the storage shed. Is
25 there any thought or provision or whatever for

TOCONITA - Direct

1 outside grills for people?

2 MR. HOLMES: They are usually not
3 allowed, because it is a condominium project.
4 One of the things that the Association, and we
5 place in our bylaws, there is a lot of
6 protection on the exteriors of the buildings.
7 Hence why, on the question about solar panels
8 and a rain barrel, all of the residents are
9 invested into this community together. They
10 want to protect their community together. By
11 allowing certain individuals to go in one
12 direction, for example, the community that we
13 are building now, the pop-up gazebos are banned.
14 Why? If a nice storm comes through, and they
15 get picked up, and they run across the back of
16 the building, they will destroy multiple units.
17 There are a lot of rules put in place about the
18 exteriors.

19 Just to comment on the third floor
20 balconies, we can put that in the bylaws, but
21 that would never be allowed. A resident could
22 never do it on their own. They would have to
23 honestly go through the Association, which never
24 would allow that to happen. Again, the whole
25 goal is to protect the aesthetics of the entire

TOCONITA - Direct

1 building and the entire community.

2 A comment on the maintenance sheds,
3 again, the aesthetics of the community having a
4 building where there is tractors stored or salt,
5 residents in that community don't want that.
6 You cut the lawn, bring it in and go away.
7 During a storm, you might leave some sand to
8 spread. Once the storm is done, they want it
9 cleaned up. You know, it's not that type of
10 environment. There isn't a lot of maintenance
11 that needs to be done with this community.
12 There is grass and streets. No need to have any
13 type of storage shed.

14 Even in our largest communities, our
15 Four Seasons communities, which are hundreds of
16 acres, we don't have storage maintenance sheds.
17 Again, material comes in and goes out. It's
18 maintenance. That's why it's dealt with that
19 way.

20 MS. DONATO: The situation, which I was
21 referring to, was after K. Hovnanian was out.
22 It was post-transition. The Association wanted
23 to have some ability -- not tractors, but some
24 small yard equipment and things like that.
25 Nobody ever wants it after the fact.

TOCONITA - Direct

1 MR. HOLMES: Were they single-family?

2 MS. DONATO: No. It was a mixed
3 development.

4 MR. MACANINCH: By way of preview, what
5 we are planning to do by next Thursday or
6 Friday, we will revise plans to Mr. Cranmer.
7 Tim met with him, I believe, today or yesterday
8 to go through the bigger issues. The goal has
9 been to work through the variances. Michelle
10 prepared a summary of the issues we received.
11 The revised plans address a lot of those things.
12 Hopefully, these issues have gone away. At the
13 June 16th meeting, which we hope is our last, we
14 will have Tim testify as to all of the changes.
15 That is the only witness. I will have all of my
16 experts there for specific Board questions.

17 For example, landscaping. I'll have Jay
18 there. I would like to run everything through
19 Tim. I think it would be easier. If there are
20 specific questions he couldn't answer, I will
21 call other witnesses. That would be our plan.

22 MR. BELL: Okay. We are going to carry
23 this to June 16th.

24 MR. TOCONITA: Right.

25 MR. BELL: We need an extension. Do you

TOCONITA - Direct

1 want to give yourself until June 30th or extend
2 it to June 16th?

3 MR. MACANINCH: June 30th is fine.

4 MR. BELL: At that time, you will have
5 your revised plans and your testimony. We will
6 put a notice out to the public that you are
7 looking for a vote on the 16th.

8 MS. SICILIANO: That's for preliminary.

9 MR. BELL: Preliminary and final. At
10 that time, the public will have the opportunity
11 to give their \$0.02 on the overall application
12 and comments.

13 MS. DONATO: You are going to
14 announce -- the application will be carried to
15 May 16th and there will be no further notice.

16 MR. BELL: June 16th.

17 MS. DONATO: June 16th. Excuse me.

18 MR. BELL: It will be put on the
19 website.

20 MR. MACANINCH: Thank you. Motion to
21 adjourn.

22 MS. SICILIANO: No. Can I say one
23 thing? This Planning Board spent a lot of
24 months going over the first development we had
25 in this town of 66 homes, the Thornebrooke. We

TOCONITA - Direct

1 went over and over and over again. We were very
2 fuzzy. You can tell. Do you know that from
3 that time on there has been no complaints to
4 come before the Planning Board? How many years
5 is it now?

6 MR. CRANMER: Which development?

7 MS. SICILIANO: Thornebrooke.

8 MR. CRANMER: I think it probably was
9 issued in 2005.

10 MR. BELL: It's over 10 years.

11 MS. SICILIANO: This Board took every
12 precaution and studied every element of their
13 plan before it was approved. I have to say it,
14 because it saved a lot of problems. It saved
15 Thornebrooke a lot of problems eventually and
16 all through their phasing. Everything just went
17 as smooth as it could go. That's why I wanted
18 to know if it was preliminary or final.

19 MR. CRANMER: Mike, have you submitted
20 to any outside agencies?

21 MR. MACANINCH: We've submitted to the
22 County. We've got their approval. We've
23 submitted to DEP.

24 MR. CRANMER: You have a County
25 conditional approval?

TOCONITA - Direct

1 MR. MACANINCH: Yes. We've submitted to
2 DEP, obviously, on the environmental documents.

3 MR. TOCONITA: You have Freehold Soil to
4 submit to and the Sewerage Authority.

5 MR. MACANINCH: Basically, now that our
6 plans are revised, we will send out those
7 submissions.

8 MR. CRANMER: We've had New Jersey
9 American Water. We've showed them the plans,
10 DOT, for the sidewalk crossing the railroad
11 tracks. We've had meetings with every agency,
12 but since the plans were kind of dynamic, we
13 didn't want to make submissions and pull back
14 and submit again. When we are finalized with
15 this last revision, all of the permits go on,
16 other than the County, because we wanted their
17 approval ahead of time. We do have conditional
18 approval. One of the conditions is these
19 revisions have to go back to the County. They
20 issued approval back in January.

21 MR. MORAN: Which County?

22 MR. CRANMER: Monmouth County Planning.

23 MR. COOPERHOUSE: If this application is
24 approved by the Board, when do you expect to
25 start construction?

TOCONITA - Direct

1 MR. HOFFMAN: We are planning on
2 probably closing September or October and
3 starting construction right about the same time.
4 We are looking at October. That would be the
5 land development. We would be starting our
6 first building, in November, and the grand
7 opening of the model in April of next year.

8 MS. DONATO: I have a couple of
9 procedural issues. I see there is another
10 report of Atlantic Traffic with some additional
11 information. Do you intend to present the
12 author of the report to address these issues?
13 There was a May 2010 report regarding the
14 accident analysis.

15 MR. MACANINCH: It was just a follow-up
16 to the Board question about the traffic analysis
17 that we submitted. Jeff will be here at the
18 next meeting. I think it speaks for itself.

19 MS. DONATO: You did review the
20 memoranda of Ms. Siciliano?

21 MR. MACANINCH: I have not seen either
22 of those.

23 MR. BELL: We gave them to you.

24 MR. MACANINCH: No. I didn't get it
25 yet.

TOCONITA - Direct

1 MS. DONATO: You will be prepared to
2 speak to those. With the Shade Tree Commission,
3 you have some open issues?

4 MR. MACANINCH: We have met with them
5 several times. I think we are waiting for a
6 final letter from them.

7 MS. DONATO: You will be submitting
8 revised landscape plans?

9 MR. MACANINCH: Yeah. I guess that's
10 true.

11 MR. CRANMER: You will meet with the
12 first aid squad?

13 MS. SICILIANO: The Shade Tree has the
14 final say. We can only move things around from
15 a planning point of view, but only the Shade
16 Tree Commission can approve landscaping.

17 MS. DONATO: Well, I think they are
18 advisory to the Planning Board, but I can double
19 check the ordinance.

20 MS. SICILIANO: Do you want me to read
21 it to you?

22 MS. DONATO: I'm sure you are right,
23 Emmy.

24 MR. BELL: There were a few waivers that
25 we will be talking about next month. We talked

TOCONITA - Direct

1 about sidewalks on one side and not on the
2 other.

3 MR. MACANINCH: Yeah. I will have the
4 list of design waivers.

5 MR. MORAN: Do you have this
6 correspondence from the Shade Tree Commission?

7 MR. MACANINCH: What is that dated?

8 MR. MORAN: April 30th.

9 MR. MACANINCH: Yes, I do.

10 MR. BELL: Motion to adjourn?

11 MR. CRANMER: I saw a letter from the
12 fire chief and not the fire marshal that had
13 some issues. Has that been resolved, that you
14 know of?

15 MR. MACANINCH: We met with them.

16 MR. CRANMER: On April 1st, we met with
17 the fire official and at the fire department.
18 They commented on some hydrant locations.

19 MR. HOLMES: Just to follow-up, we met
20 back on April 1st with the first aid, the
21 Borough's fire official for a host of things.
22 From my understanding of the meeting, the only
23 plan that changes from the fire department was
24 some hydrant locations.

25 MR. CRANMER: Will you have a letter

TOCONITA - Direct

1 from them saying it was okay?

2 MR. HOLMES: Should that go directly to
3 the fire company?

4 MR. CRANMER: Whoever you met with.

5 MR. HOLMES: The chief.

6 MR. BELL: It would go to Tony
7 Pellegrino, Captain.

8 MR. COOPERHOUSE: Can we make sure
9 internally with the Borough, whether there is a
10 Shade Tree Commission, fire, first aid,
11 environmental, that we make sure that we have
12 gotten to Hovnanian all of our documentation?

13 MR. CRANMER: Yes.

14 MR. COOPERHOUSE: Let's make sure we
15 have that well before next month's meeting.

16 MS. KELLEHER: As I get, Mr. Macaninch
17 gets them.

18 MR. CRANMER: I'd rather see an
19 affirmative request from a letter from them. If
20 the fire chief looks at the plans and sees no
21 objection, he may not send us a letter. I would
22 rather have a letter that everybody is okay.

23 MR. HOLMES: How about the Borough fire
24 official? We met with him and he had fire lane
25 comments. He's got to look at them and approve

TOCONITA - Direct

1 them. Should we go directly to him as well?

2 MR. CRANMER: I would.

3 MR. BELL: Motion to adjourn.

4 MR. COOPERHOUSE: Motion to adjourn.

5 MR. TELLER: Second.

6 (Whereupon, at 10:29 p.m., the hearing
7 was concluded.)

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CERTIFICATE

I, LISA NORMAN, a Notary Public and
Certified Court Reporter of the State of New Jersey,
do hereby certify that prior to the commencement of
the examination, the witness was duly sworn by me to
testify the truth, the whole truth and nothing but
the truth.

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

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

Notary Public of the State of New Jersey
License No. 30X100177700
Dated: May 29, 2010