

1 SHREWSBURY PLANNING BOARD  
2 Sycamore Avenue  
3 Shrewsbury, New Jersey  
4 April 21, 2010

5 IN THE MATTER OF:  
6 K. Hovnanian Shore Acquisitions  
7 Owner: D/Three  
8 445 Shrewsbury Avenue  
9 B1: 2 Lots: 1 & 3

10 B E F O R E:

11 M.G. Bell, Chairman  
12 T. Moran  
13 E. Waterbury  
14 T. Cooperhouse, Mayor  
15 J. Martinelly  
16 G. Carroll  
17 D. Derasadourian  
18 S. Gardella  
19 D. Teller  
20 E.M. Siciliano

21 A L S O P R E S E N T:

22 Lorraine Kelleher, Board Secretary  
23 Michele Donato, Esq., Board Attorney  
24 David Cranmer, PE, PP, CME, Board Engineer

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1 with this project.

2 MR. MORAN: I understand. I just wanted to  
3 make sure for the record it was clear.

4 MR. MACANINCH: Once again, Michael  
5 Macaninch here again on behalf of the applicant.  
6 Tonight we are going to present our environmental  
7 testimony. With me is Vajira Gunawardana from Najarian  
8 Associates. I'll just go through his qualifications  
9 shortly. That's the only witness we have for tonight.  
10 As the Board is aware we have a special meeting for next  
11 Tuesday and we're proposing two witnesses.

12 The one change I actually wanted to make, I  
13 had originally stated I think in my letter as well we  
14 were going to do architecture which I'm still proposing  
15 to do. We were also then going to have Tim Holmes  
16 testify to some of the outstanding planning issues, some  
17 of the changes that have come up through the course of  
18 the hearings. And I think maybe it makes more sense for  
19 us to save Tim until the May meeting and I think Mr.  
20 Cranmer had suggested this, submit revised plans which  
21 hopefully address all of your Board's, some of the  
22 concerns and things we've agreed to, get a clean review  
23 from Mr. Cranmer and then have Tim testify to the clean  
24 plans, hopefully the clean-ish review letter and go  
25 through --

1                   CHAIRMAN BELL: And that will be the  
2 architectural plans in May?

3                   MR. MACANINCH: Architecturals will be next  
4 week and what I'd like to do is have the planner testify  
5 next week on the proofs and then hopefully finish up  
6 with Tim in May and then hopefully from our respect  
7 we're done and I can send a letter to that effect if  
8 you'd like.

9                   CHAIRMAN BELL: Mrs. Siciliano?

10                  MS. SICILIANO: Have you heard from RSIS  
11 about the sidewalk?

12                  MR. MACANINCH: Have we heard from? I'm  
13 sorry.

14                  MS. SICILIANO: You had submitted a request  
15 for a waiver about the sidewalk. Have we received that?

16                  MR. CRANMER: No, that's part of this  
17 process. We would have to create that exception.

18                  MS. SICILIANO: And you have yet to submit a  
19 written response to Mr. Cranmer's letter. You had  
20 promised a written response. We have your oral response  
21 in the thing, but it isn't in detail enough for some of  
22 those responses.

23                  MR. MACANINCH: Understood. I think that  
24 was in the initial, very first meeting that I handled  
25 and there was discussion how we were going to structure

1 all of these hearings. My take away was actually that  
2 we wanted to just break it down, have the testimony of  
3 each witness in each of the subject areas and I think  
4 probably what we'll do is we'll meet with Mr. Cranmer,  
5 we'll submit revised plans. From that he'll generate  
6 his review letter.

7 MS. SICILIANO: Then you'll have another  
8 review?

9 MR. MACANINCH: He will, yes.

10 MR. CRANMER: Yes.

11 MS. SICILIANO: I just wanted to clarify  
12 that because the minutes state that you were going to  
13 submit a written response to that letter.

14 MR. MACANINCH: Correct.

15 MS. SICILIANO: And I was wondering when we  
16 were going to get it. So we'll do it, revision, another  
17 letter, okay.

18 MR. CRANMER: Right.

19 CHAIRMAN BELL: Could I have you spell --  
20 actually when you get sworn in could you spell your  
21 name, please? I'm sorry.

22 MR. MACANINCH: We're also going to mark as  
23 an exhibit his resume. And the only other bit of  
24 housekeeping, this is my intention to follow, we did say  
25 we were going to speak to Mr. Amorelli regarding the

1 access under the driveway. I have not yet had contact  
2 with Mr. Amorelli, that's my fault there so we're  
3 willing to have that done before the next meeting so we  
4 can give you some follow-up on that. So I think that  
5 was the only outstanding issue.

6 MAYOR COOPERHOUSE: While we're doing  
7 housekeeping, fire, first aid?

8 MR. MACANINCH: We met with them. We had  
9 that meeting -- Tim Holmes can testify to that when he  
10 comes up. He attended the meeting and Mr. Wood from our  
11 company attended as well.

12 MS. WATERBURY: I think we have the one  
13 letter from the fire.

14 MAYOR COOPERHOUSE: That's from fire  
15 prevention, not the fire company.

16 MS. WATERBURY: Fire prevention.

17 MR. MACANINCH: There's two separate  
18 meetings in the same day. I believe they met with  
19 three, all three.

20 MAYOR COOPERHOUSE: Great, thanks.

21 CHAIRMAN BELL: And I'm pretty sure that we  
22 will have a letter from -- I'm not sure we will have one  
23 from the fire department, but we'll have one from the  
24 first aid squad probably -- we will as will you probably  
25 by Friday.

1 MR. MACANINCH: Great, okay.

2 CHAIRMAN BELL: That's when I was told we  
3 would have it. Okay, good.

4 MR. MACANINCH: Okay, great. With that I  
5 will call Mr. Gunawardana.

6 BY MR. MACANINCH:

7 Q. Vajira, let's just maybe start -- you have your  
8 resume? And just as I'm handing this out can you just  
9 briefly go through your qualifications and your  
10 background?

11 A. Good evening, my name is Vajira Gunawardana. You  
12 can either call me --

13 MS. KELLEHER: Can you pull the microphone a  
14 little closer so the people in the back can hear you?

15 MR. GUNAWARDANA: Okay.

16 MAYOR COOPERHOUSE: Can you shut those doors  
17 in the back? That may help you. Thanks.

18 A. My name is Vajira Gunawardana. You can either  
19 call me Vaji or call me G or whatever. I'm used to that  
20 so that will make your life easier. I am director of  
21 environmental engineering at Najarian Associates. I've  
22 been with the company for the past 30 years and I am  
23 responsible for all the environmental investigations and  
24 reports at Najarian and all the submissions made  
25 pertaining to the environmental investigations with the

1 corporation. I have done similar kinds of projects  
2 throughout the state of New Jersey. In fact, in the  
3 recent past we received No Further Action letters from  
4 DEP on similar projects. Some of them are the Four  
5 Seasons at Manalapan, the Four Seasons up in North  
6 Jersey and also Society Hill at Droyers Point in Jersey  
7 City. The reason I bring up those sites in particular  
8 is because of the nature of the sites where we have  
9 groundwater contamination and national arsenic in some  
10 of those sites which we have addressed so that I can  
11 tell you that we have done this kind of work before.

12 I have two new exhibits I guess we need to mark  
13 them up.

14 Q. We will, but first let's just in terms of your  
15 qualifications, what I have handed up to the Board  
16 members, is this a current copy of your resume?

17 A. Yes.

18 Q. Okay. And I think we're up to A-10, I believe.  
19 Mark that as A-10.

20 (Exhibit A-10 was received and marked into  
21 evidence.)

22 MR. MACANINCH: Just before any Board  
23 questions, I just move for his acceptance as an expert  
24 in the field of civil and environmental engineering.

25 CHAIRMAN BELL: Anybody have any questions?

1 Dave? There being none, the Board will accept Mr. G.  
2 as an expert.

3 Q. Okay, with that Vajira, can you go through --  
4 let's just take it in order. Can you go through what  
5 your scope of investigation was for the project?

6 A. Yeah, let me just put the boards up.

7 Q. Yeah, sure. Put them up.

8 MR. MORAN: Are these pre-existing exhibits?

9 MR. MACANINCH: These are new exhibits. 11  
10 and 12.

11 CHAIRMAN BELL: Are we going to get copies  
12 of them?

13 MR. MACANINCH: You are, right now.

14 (Exhibits A-11 and A-12 were received and  
15 marked into evidence.)

16 Q. Vajira, before going through the exhibit could  
17 you just identify the exhibit by title and just confirm  
18 that what's being handed to the Board members, the 11 by  
19 17 is the same as what's up on the Board.

20 A. Yes. This map is an existing conditions map but  
21 the title of this map is referred to as Area of Concern  
22 map prepared by Najarian Associates dated August 14,  
23 2009.

24 Q. And what the Board is receiving is the same?

25 A. That's correct.

1 Q. Okay.

2 MS. WATERBURY: What was the exhibit number?

3 MR. MACANINCH: A-11.

4 MS. WATERBURY: Thank you.

5 MS. DONATO: And you call this an existing  
6 conditions map or area of concern?

7 MR. MACANINCH: Area of concern, existing  
8 conditions, yes.

9 MR. GUNAWARDANA: Area of concern map.  
10 That's its title on the map.

11 MS. DONATO: Okay, thank you.

12 MR. MORAN: And this is based on a Phase I?

13 MR. GUNAWARDANA: This is based on all the  
14 investigations we have conducted today and essentially  
15 what this does is I'm trying to present to you what the  
16 site looks like and the areas of environmental concern  
17 as they exist today. We all know that this site has a  
18 long history of industrial operations and in addition to  
19 the fact that there are industrial operations, there  
20 have been numerous remediation activities that have  
21 occurred on the site. For example, there are numerous  
22 underground storage tanks on the site. They have all  
23 been removed and they have received No Further Action  
24 letters from the New Jersey Department of Environmental  
25 Protection.

1           Just to explain what a No Further Action  
2 letter is, when you remove an underground storage tank  
3 what you have to do is you have to sample -- once you  
4 remove the tank you have to make sure both the soil and  
5 the groundwater underneath the tank are clean. So you  
6 submit that information to DEP and DEP shoots you a  
7 letter saying there's no further action required on this  
8 particular area of concern. So all the underground  
9 storage tanks have been removed from the site.

10           There are some background storage tanks  
11 remaining on the site which are part of the operation  
12 until the site is closed. So those tanks still remain  
13 and as part of Hovnanian's remedial action work plan,  
14 those tanks will also be removed and they will also  
15 receive No Further Action letters from DEP.

16           Now I have shown here on this site four  
17 areas of concern. If you look at the map and I will  
18 outline what those areas of concern are -- now these are  
19 the areas of concern that still remain today that need  
20 to be addressed. The first one is area of concern one  
21 is defined on the top right-hand corner as a lead  
22 exceedance. If you look on the right-hand side you will  
23 see a box and how did we come up with this area of  
24 concern? We have a DEP procedure which you investigate  
25 a site. The first step is a preliminary investigation

1 that identifies potential areas of contamination. We do  
2 that and then based on that you do a site investigation.  
3 Site investigation essentially is you poke around with  
4 soil and groundwater sampling to determine what kind of  
5 contaminants are there. Then having done that, the  
6 third phase is what is called a remedial investigation.  
7 The remedial investigation is essentially to delineate  
8 the extent of the contamination and then the final stage  
9 is what is referred to as a remedial action work plan.  
10 So once you delineate the extent you have to present to  
11 DEP how are you going to address that. I'm going to  
12 walk you through all the steps, but first now we have  
13 come to the stage of completing the remedial  
14 investigation. In other words, we have delineated all  
15 of the contamination on the site. Now I have not shown  
16 you all of the sampling that's done on the site. It's  
17 in the reports that we have submitted to DEP and you  
18 have copies of them. And how do we determine how to  
19 sample that? That's clearly outlined in the DEP's  
20 technical requirements for site remediation. It's not  
21 something that we do, it's something that's clearly  
22 spelled out in the regulations. And those are reviewed  
23 by DEP. We have done that. And then now we are at the  
24 stage where we know exactly what the contaminants are.

25                   Going back to AOC-1, we found that there was

1 an area where there was lead contamination. Lead in an  
2 industrial site like this is to be expected. It can be  
3 an old battery discharge, it can be anything, paint  
4 solvents. So we had an obligation to delineate that and  
5 we have done that. So we have an area of this box which  
6 is AOC-1 which has lead contamination. We have  
7 determined the extent. We have sampled around it, we  
8 know the depth and the horizontal extent of that depth.  
9 And we have in our remedial action work plan, we said we  
10 are going to excavate that and remove it off site.  
11 That's AOC-1.

12 Now AOC-2 is soil vapor.

13 MR. MORAN: Excuse me, I'm sorry. Have you  
14 submitted the RAP to DEP yet?

15 MR. GUNAWARDANA: Yes. The remedial action  
16 work plan DEP actually submitted that a year ago and in  
17 fact we just got a call a few weeks ago from DEP.  
18 Because of the back log they just started looking at it.  
19 So we are expecting approval of the remedial action work  
20 plan this summer. So once we get the approval then  
21 that's the only approval we need from a contamination  
22 standpoint for us to go ahead and do the clean up.

23 Then AOC-2 is soil vapor. Now this is  
24 normally not done in a site like this because the reason  
25 we did this, Hovnanian has a history of being proactive.

1 We have groundwater contamination on this site. The  
2 groundwater contamination is originating from an  
3 off-site source. DEP has accepted that and we have  
4 demonstrated that it's coming from an off-site source.  
5 So when you have a contamination, a groundwater plume  
6 coming from an off-site source, this property owner has  
7 no obligation to clean it up. It is the responsibility  
8 of the off-site source to clean it up. However, the  
9 potential impact of that groundwater contamination  
10 should be addressed on this property.

11 Now the groundwater contamination can impact  
12 in two ways. One is if you use it for irrigation or  
13 portable sources, we are neither using it for irrigation  
14 on this site nor are we using it as a portable source.

15 Then the third thing is that the groundwater  
16 contamination can potentially create vapors on this  
17 site. So Hovnanian wanted us to investigate. So what  
18 we did was we had a grid of where the sampling was at  
19 the locations where the proposed buildings were and that  
20 grid is shown on the remedial investigation report. We  
21 gridded the site and we sampled the vapor and of all the  
22 sampling locations that we did, we only found one  
23 location where the benzene vapor was exceeded. And that  
24 is AOC-2. We had a benzene concentration of about I  
25 believe 6 parts per billion. I'm sorry, 6.8 parts per

1 billion where the standard is 5 parts per billion.  
2 Again, that is a residential standard 5, but if it's on  
3 the commercial use you have a different standard, a less  
4 stringent standard. The commercial use for using on  
5 existing conditions the standard is 8 parts per billion.  
6 So we were below the commercial, but we were above the  
7 residential. So how do you address that? We have  
8 proposed to address that using vapor mitigation. In  
9 other words, all the buildings on this site we have  
10 detailed in our remedial action work plan. The slab,  
11 the sub slab will have a solid vapor barrier. It's  
12 referred to as Liquid Boot. It's a very thick membrane  
13 that wraps the entire subsurface of the building.  
14 That's our first level of protection.

15           Now the second level of protection is  
16 assuming that some of the vapor can get through, you  
17 have between the sub slab and the top of the slab you  
18 have your typical gravel layer. We have what is called  
19 an active venting system. In other words it's like an  
20 enhanced radon irrigation system. The only difference  
21 is that we have an active fan operating all the time.  
22 So in other words, even if there is no vapor that's  
23 coming in, this fan will be running 24 hours all the  
24 time. So the system is designed as it has two levels of  
25 safety. The first is a barrier and by the way, when you

1 install a barrier we as engineers have to inspect. It  
2 has to be monitored during construction. We have to  
3 certify to DEP that it is installed properly. We have  
4 the smoke test and so that is the first level and the  
5 second level is the venting.

6 MAYOR COOPERHOUSE: The remedial action plan  
7 is just going to be for that one specific building in  
8 that AOC or are you doing it for every single building?

9 MR. GUNAWARDANA: That is a very good  
10 question. We are doing it for all the buildings because  
11 you can never know, you know.

12 MS. MARTINELLY: Each room unit will have  
13 its own fan?

14 MR. GUNAWARDANA: Each building will have  
15 its own fan because the way the buildings are designed  
16 we have hooked up a network so that it goes up to the  
17 attic.

18 MR. MORAN: VG, can you explain, you said  
19 that the source is an off-site source yet the hit is  
20 right in the middle of this property. Wouldn't we see  
21 higher hits coming in from the source?

22 MR. GUNAWARDANA: Well, we have no  
23 obligation to investigate where the source is coming  
24 from. The only thing we know is that it is on our site.  
25 It is coming from an off-site source. The groundwater

1 is moving in a northeasterly direction. So we know it's  
2 coming from this area. We know the kind of  
3 contamination. We know the extent of the contamination.  
4 We know the concentrations on our site. So we are  
5 addressing that contamination on our site.

6 MR. MORAN: Wouldn't your up gradient well  
7 show a high -- if it's an off-site source I don't  
8 understand why an up gradient well wouldn't show a  
9 higher --

10 MR. GUNAWARDANA: The up gradient wells do  
11 show higher concentrations.

12 MAYOR COOPERHOUSE: But not under 5.

13 MR. GUNAWARDANA: No, it could be about 5.  
14 It could be about five.

15 MAYOR COOPERHOUSE: You still only have to  
16 remediate at 5.

17 MR. GUNAWARDANA: That's correct, that's  
18 correct. Let me get back. Let me clear that up. We  
19 have no obligation to remediate this plume because we  
20 are not the responsible party, but we have an obligation  
21 to make sure that these homes are safe for the  
22 residents.

23 MR. MORAN: I understand your prophylactic  
24 approach toward this but I guess I'm just looking at it  
25 from a source point. I mean, I don't understand why if

1 it's coming from an off-site source, your hit, your AOC  
2 is in the middle of this site.

3 BY MR. MACANINCH:

4 Q. You tested where the buildings were, correct?

5 A. Yes. There's nothing to say that off-site there  
6 are higher concentrations.

7 MAYOR COOPERHOUSE: No, his question is why  
8 the AOC is almost smack in the middle of the property.  
9 The question is why aren't there other areas that have  
10 higher concentration of TC or whatever it is?

11 CHAIRMAN BELL: Or even the same.

12 MR. GUNAWARDANA: That's a good question.  
13 Now, I'm sorry.

14 MAYOR COOPERHOUSE: That's what he's asking.

15 MR. GUNAWARDANA: The reason is these are  
16 referred to as volatile organics. And the  
17 volatilization depends on the soil, kind of soil between  
18 the groundwater and the surface. So if you have a sandy  
19 soil you can sample the sandy soil and you can get a  
20 hit. Right next door if you have a clay or material  
21 right next to it you might not get a hit. So that is  
22 based on the soil, but that's why that's a variation.

23 MR. MORAN: The remedial investigation plan,  
24 do we have a copy of that?

25 MR. GUNAWARDANA: Yes, we submitted it to --

1 engineer should have it.

2 MR. MORAN: And then that has the  
3 delineation?

4 MR. GUNAWARDANA: Exact sampling locations,  
5 the resolves. By the way all of this is going to be  
6 reviewed by DEP.

7 CHAIRMAN BELL: How do you know that that  
8 benzene is not from something that happened on that  
9 property?

10 MR. GUNAWARDANA: That's a very good  
11 question. The reason how we do that is we sample the up  
12 gradient wells. We install wells up gradient and we  
13 sample the wells down gradient. And if you find the  
14 same contaminants in the up gradient wells as well as  
15 the down gradient wells, that's how we know that that's  
16 the same contaminant that's coming onto the site as the  
17 one that's going down. And secondly, if the  
18 concentrations are going down then we know that it's  
19 from an off-site source. That's the reason that DEP  
20 signed off on that.

21 MAYOR COOPERHOUSE: We know where the source  
22 is. The Borough is aware of where the source is.

23 MS. MARTINELLY: But what happens if that  
24 source is developed and all that contamination is moving  
25 around and how is it going to effect -- is your site

1 protected by any -- once that off-site is developed?

2 MR. GUNAWARDANA: That's exactly the  
3 remedial action work plan that we have designed.

4 MS. MARTINELLY: So that your fans and that  
5 venting system and everything will protect no matter  
6 what happens in any future development?

7 MR. GUNAWARDANA: Absolutely. In fact, the  
8 design that we are implementing is called -- actually  
9 the DEP rules do not even require us to put that Liquid  
10 Boot because the levels are so low and we can have just  
11 a passive venting system. That's allowed. But we have  
12 been more aggressive by putting that for the very reason  
13 that you brought up. Say for instance down the road the  
14 concentration is increased. We want to be protected.  
15 So this Liquid Boot barrier underneath and the fan  
16 venting system is the solution.

17 MS. MARTINELLY: Are you responsible to do  
18 any ongoing testing in the future?

19 MR. GUNAWARDANA: Yeah, now that's another  
20 good question. Once we complete this site we have to  
21 record what is called a deed notice. So every homeowner  
22 and the condominium association will be subject to the  
23 conditions of that deed notice. And one of the  
24 conditions of that deed notice is that these fans have  
25 to be maintained. There's a O&M manual that goes with

1 it. There's an inspection protocol that goes with it  
2 and they have to submit that to DEP. And if they don't  
3 submit that to DEP they are in violation. But there is  
4 a monitoring program for perpetuating actually. I mean,  
5 that's what we have done in all of our other sites with  
6 similar groundwater contamination.

7 CHAIRMAN BELL: The individual units, the  
8 buildings are going to be individual townhouses that are  
9 going to be fee simple?

10 MR. MACANINCH: No, it's condominium.

11 CHAIRMAN BELL: The whole building is going  
12 to be condominium?

13 MR. MACANINCH: We'd have to look at  
14 specifics, but it's going to be condominium. We'd have  
15 to look in terms of maintenance in terms of the roofs  
16 and those things how it's broken out, but yeah, these  
17 are condominiums.

18 CHAIRMAN BELL: I thought you guys had  
19 testified that they were going to be individual.  
20 There's going to be a condominium association, but  
21 you're going to own your individual unit.

22 MR. MACANINCH: How it works even in a  
23 condominium, you own your unit in fee simple. It's just  
24 however it's defined. It's generally within the  
25 interior of the walls, the dry wall in is what you own.

1 The roof it depends on how the condominium is going to  
2 be set up if it's going to be a shared roof or if you  
3 own your own roof. It just depends.

4 CHAIRMAN BELL: The grounds underneath these  
5 units, will the homeowner own it or the association own  
6 the ground under it?

7 MR. MACANINCH: That would be the  
8 condominium association.

9 CHAIRMAN BELL: So then the fans, the fan  
10 system is actually going to be owned and be maintained  
11 by the association, not by the individual homeowner?

12 MR. MACANINCH: Correct, we would put that  
13 on the association.

14 CHAIRMAN BELL: Okay.

15 MS. WATERBURY: So with each of these fans  
16 coming through each of the buildings it's grabbing the  
17 vapor from beneath that and taking up it up through the  
18 roof and venting it above the buildings?

19 MR. GUNAWARDANA: That's correct.

20 MS. WATERBURY: What if any impact would  
21 there be to the neighboring developments that don't have  
22 -- that right now it's not being vented in that area?

23 MR. GUNAWARDANA: Well, what we have is  
24 because of the low, very low concentrations in this,  
25 okay, and the fact that the way the system is designed

1 it is not just sucking up the vapor. It is drawing in  
2 fresh air into the gravel layer from outside, diluting  
3 the contaminant and then sending it out. So based on  
4 these low levels there should be no concern with respect  
5 to the contaminant concentration being exceeded because  
6 if it was significantly higher than the marginal levels  
7 DEP would have required us to have an air permit for  
8 that. So the low levels, I mean, that's what DEP looks  
9 at what concentrations are you looking at here.

10 MS. WATERBURY: So what concentration are  
11 you expecting it to be when it's vented?

12 MR. GUNAWARDANA: I would say for all  
13 purposes non detect. Because the sample, how we sample  
14 this is we send down a probe and we take, we suck up the  
15 gas from the source itself without any dilution at all.  
16 So we are getting a marginal exceedant without any  
17 dilution. So what happens is when you -- assume it  
18 breaks through that barrier and goes into the sub floor,  
19 it's going to be diluted by the fresh air that's sucked  
20 into that system and further diluting as it goes in. So  
21 based on those concentrations very unlikely to have any  
22 exceedance. So I think it will be nondetect.

23 MS. SICILIANO: Is the mitigation system  
24 going to go only in those buildings that are built on  
25 top of this area or is it all the buildings?

1 MR. GUNAWARDANA: All the buildings.

2 MS. SICILIANO: All the buildings.

3 MS. DERASADOURIAN: How large is this area  
4 that you're talking about, square footage?

5 MR. GUNAWARDANA: The entire site has  
6 groundwater contamination. Is that your question?

7 MS. DERASADOURIAN: It seems like it was  
8 concentrated in one area.

9 MR. GUNAWARDANA: We only got one hit when  
10 we sampled. We sampled under every building I'll show  
11 you on the next map. We sampled under every building  
12 and we only got one hit and that was a marginal hit of  
13 benzene.

14 CHAIRMAN BELL: And the one hit was that a  
15 hit above the 5 point whatever?

16 MR. MORAN: 6.8.

17 MR. GUNAWARDANA: 6.8 decibels where the  
18 standard is 5.

19 CHAIRMAN BELL: But any of the other  
20 buildings where you took a sensor there was a noticeable  
21 number, but not above 5.

22 MR. GUNAWARDANA: I have to take another  
23 look. If my memory is correct most of the others were  
24 non-detects.

25 CHAIRMAN BELL: Okay.

1                   MS. WATERBURY: How deep is the groundwater  
2 with the benzene?

3                   MR. GUNAWARDANA: I have to check but I  
4 think it's about 30 feet, 35 feet below grade. Is that  
5 right?

6                   MR. HOLMES: I thought it was 30, but I  
7 don't know.

8                   MR. GUNAWARDANA: It's more than 30 feet.

9                   MR. MORAN: So the benzene is from the  
10 groundwater, not from the soil; is that correct?

11                   MR. GUNAWARDANA: That's correct, yes. We  
12 sampled the soil and it's not in the soil.

13                   MS. DONATO: Did you also say there would be  
14 monitoring, a continuing monitoring program?

15                   MR. GUNAWARDANA: Monitoring?

16                   MS. DONATO: Just of the fan, but not on the  
17 benzene levels.

18                   MR. GUNAWARDANA: That's correct.

19                   MS. DERASADOURIAN: How does this affect the  
20 stormwater management system? Because I don't unless  
21 I'm incorrect, I don't think this area is connected to  
22 the main where they have the waters pumped out. In  
23 other words, now there's going to be a pump that the  
24 water is going to be connected to the main line on  
25 Newman Springs I believe someone testified to or is this

1 water now -- I don't believe that water is connected to  
2 drain anywhere.

3 MR. GUNAWARDANA: I said before the  
4 stormwater is at a much higher level. It's at grade.  
5 We're talking about groundwater 30 to 40 feet below.

6 MS. DERASADOURIAN: But I'm asking will it  
7 start to move in that direction at all?

8 MR. GUNAWARDANA: You mean the solid water  
9 movements have any effect on the groundwater movement?  
10 No. Is that your question? No.

11 BY MR. MACANINCH:

12 Q. Do you want to move onto the next area?

13 A. The next area of concern is something unique and  
14 interesting. It's referred to as naturally operate  
15 oscillating leaking soils. Now one of the things that  
16 we had to do as part of our site investigation is to  
17 sample for all contaminants throughout the site. And  
18 what we found was we found arsenic everywhere. The  
19 arsenic standard is 19 parts per million and we found  
20 marginal exceedance of about 20 and it went up to about  
21 40, 42 and it went to depths too. We found it at about  
22 15, 20 feet down. And the reason for that is that it's  
23 the geology of this area. It's a Tinton Formation that  
24 has natural arsenic found in the system. So when you  
25 have natural arsenic found in the system you cannot

1 remediate it. It's natural. If you dig outside here  
2 you'll find natural arsenic based on the Tinton  
3 Formation. So in instances like that the department has  
4 allowed you to leave the arsenic in place because it's  
5 naturally occurring. So with respect to that area of  
6 concern there will be no remediation done. However,  
7 however, if you look at the site plan I think this is a  
8 good time for me to overlay the next exhibit.

9 MR. MACANINCH: This will be A-12. Just  
10 identify it. Put it up and identify it.

11 MR. MORAN: Excuse me, did you say that the  
12 arsenic is ubiquitous across the site because you don't  
13 show it as an AOC.

14 MR. MACANINCH: Correct, it's all over the  
15 site. It's not a specifically demarcated area, but it's  
16 noted that it's number three.

17 MR. GUNAWARDANA: It's found not only on  
18 this side of the dry region, but geology.

19 MR. MORAN: Are you going to run the pipe up  
20 the front of the building up to the roof?

21 MR. GUNAWARDANA: Yeah.

22 MR. MORAN: On the roof?

23 MR. GUNAWARDANA: Yeah, it will be there.

24 MR. MORAN: It would be there.

25 MR. GUNAWARDANA: Yeah, going up, that's

1 correct.

2 MS. DONATO: And this document is the  
3 project rendering, Exhibit A-12?

4 MR. MACANINCH: Just identify it.

5 MR. GUNAWARDANA: It's titled project  
6 rendering. It's essentially the site plan with the AOCs  
7 all labeled on it.

8 MR. MACANINCH: And the 11 by 17 exhibit  
9 handed out to the Board members is the same as what you  
10 have up on the board?

11 MR. GUNAWARDANA: That's correct. So  
12 essentially it's the same AOCs and the reason I want to  
13 show this is that for AOC-3 the arsenic is throughout  
14 the entire region and what Hovnanian has proposed on  
15 this site in the green areas is to cap the arsenic as an  
16 added benefit although that is not a regulatory  
17 requirement with imported clean soil. So you will have  
18 the arsenic contaminated soil. By the way, the arsenic  
19 although prevalent in the site it's both depth and site  
20 plan and it's marginal exceedance. In other words, the  
21 standard is 19, 19 milligrams parts per million. And I  
22 have to tell you a story, that if you read the original,  
23 this number 19, it's a fascinating story. The logic of  
24 this came from EPA and it says that if a kid --

25 MR. MORAN: That's an oxymoron. I'm sorry.

1           MR. GUNAWARDANA:  If a kid eats this soil on  
2 a daily basis until the kid is 70 years old, if you had  
3 a million kids eat that, there's a chance that one of  
4 those kids will get cancer.  I mean, that's how  
5 stringent the standard is.  So now what has got, I mean,  
6 this is unique in New Jersey because in other states you  
7 don't have this kind of standard.  Most other states.  
8 For instance, Massachusetts you can do a risk  
9 assessment.  What are the chances of a kid doing that on  
10 a site like this.  If it's a daycare it's a different  
11 story.  But here on a site like this these numbers are  
12 ridiculous.  So that's why the DEP recognizes that and  
13 it is naturally operating throughout the site you can  
14 get DEP.  And we have a number of sites that we have  
15 plenty and of course this will be in the public offering  
16 statement, this information.  And so the arsenic will be  
17 left in place.  It will be covered by buildings for the  
18 impervious areas and for the pervious areas there will  
19 be sod, imported sod.  We will not be using the top soil  
20 from the site for this.

21           MS. WATERBURY:  So it will be top soil and  
22 sod or just --

23           MR. GUNAWARDANA:  That is correct.

24           MR. MORAN:  What's the depth, is it 6 inches  
25 of clean plus 4 inches of top soil?  What's the depth of

1 the cap?

2 MR. GUNAWARDANA: I would say total 6  
3 inches.

4 MR. MORAN: 4 and 2.

5 MR. GUNAWARDANA: 4 inches of top soil and 2  
6 inches of sod. So that is the last AOC. I believe the  
7 AOC-3, AOC-4 -- I'm sorry, I take it back. AOC-4 is  
8 what is referred to as a declaration of environmental  
9 restriction. On this existing site there were hydraulic  
10 lifts that were operating and DEP wanted them to  
11 investigate the contamination below the lifts. They  
12 investigated the contamination below the lifts. Just  
13 petroleum contamination and it was very deep. So  
14 instead of excavating all of that material which made no  
15 sense if you can get an alternate means of addressing  
16 that contamination, they had a concrete slab. It is  
17 below the concrete slab and the slab acts as a cap. So  
18 the intent is that you don't want any contact of that  
19 contamination below the cap. So there is an existing  
20 DEP approved cap and all we are doing with this project  
21 is modifying that cap to incorporate that cap into the  
22 new design. So you can see the extent of the cap. It's  
23 going, extending on the one building here -- I don't  
24 have the building number and it extends to the edge of  
25 another building. So that cap will be a concrete slab

1 essentially. You will excavate it up to about two or  
2 three feet, put gravel and have concrete slab as a cap.  
3 Again, this will also be part of the long-term  
4 maintenance. That will go as part of your deed notice.  
5 Again, that's another item that has to be maintained as  
6 part of --

7 MS. MARTINELLY: Is there a disclosure item  
8 for that particular building? It's building 5, I think.  
9 So do you have to disclose that in your POS?

10 MR. MACANINCH: It would be in the POS. It  
11 would be for the site as a whole.

12 MR. GUNAWARDANA: It would be in the deed  
13 notice of the entire site, as part of the deed to the  
14 entire site.

15 CHAIRMAN BELL: So the concrete cap that's  
16 over that right now in the center of the building that's  
17 currently there?

18 MR. GUNAWARDANA: Yes.

19 CHAIRMAN BELL: So if I understand you when  
20 the building gets torn down that cap is going to get  
21 ripped off, you're going to excavate down to some level  
22 below whatever the foundation of those two buildings are  
23 going to be and you're going to put stone, put a cap on  
24 it and then build on top of it?

25 MR. GUNAWARDANA: That's correct.

1                   CHAIRMAN BELL: But as far as maintenance  
2 because one of the things you said as far as this would  
3 be an ongoing, what would be the maintenance that would  
4 have to be done on it?

5                   MR. GUNAWARDANA: Well, the only maintenance  
6 is that you have to make sure that the slab doesn't  
7 crack. Now the good thing about this slab is under the  
8 buildings we already have that vapor barrier so that is  
9 already taken care of, that portion of the cap within  
10 the building. Again, the intent, the intent of this cap  
11 is to prevent human access to the contaminated soil  
12 below. So we are preventing that access.

13                  CHAIRMAN BELL: How deep is the  
14 contamination underneath that?

15                  MR. GUNAWARDANA: It goes all the way I  
16 believe to the groundwater. It's very deep.

17                  CHAIRMAN BELL: Just out of curiosity, the  
18 benzene you didn't have to remediate because that came  
19 from off-site. If this is down to the groundwater why  
20 don't you have to remediate it because as that leaches  
21 into the groundwater that potentially is going off-site.

22                  MR. GUNAWARDANA: Well, that's a good  
23 question. The kind of petroleum product under the soil  
24 that is under this cap, the concentrations of that are  
25 not a significant source of groundwater contamination.

1 That is why DEP agreed to that. And they all recognize  
2 that the groundwater is contaminated anyway. So for two  
3 reasons. One is the levels of the petroleum hydrocarbon  
4 underneath this and the fact that the existing  
5 groundwater is already contaminated they agreed that it  
6 makes no sense to just excavate huge quantities of soil  
7 and not achieve a significant objective of cleaning up  
8 the groundwater.

9 CHAIRMAN BELL: With all the potential or  
10 existing contamination that's in this, you have it where  
11 it's pinpointed into certain sites whether it's the lead  
12 or the high concentration of benzene or the petroleum,  
13 as you're digging the foundations of all these buildings  
14 and excavating, do you have any ongoing to test the soil  
15 to see if there's other plumes to make sure that this  
16 truly is all there is?

17 MR. GUNAWARDANA: All right, let me tell you  
18 about how the process works. We have a minimum protocol  
19 that we have to follow based on what we perceive to be  
20 areas of contamination and we have done that. But we  
21 also have another professional obligation, say for  
22 instance we hit one of the slabs. We are breaking one  
23 of the slabs and we find a crack. Of course we have an  
24 obligation to report that immediately to DEP to sample  
25 and address that. Similarly if we find stained soils we

1 have an obligation to sample and report to DEP and clean  
2 that up as part of our ongoing construction.

3           MAYOR COOPERHOUSE: Is there going to be an  
4 environmental engineer on-site during the excavation?

5           MR. GUNAWARDANA: During the excavation? I  
6 would think so.

7           MAYOR COOPERHOUSE: That's the only way --  
8 your contractors aren't going to stop.

9           MR. MACANINCH: Yes, the answer is yes.

10          MAYOR COOPERHOUSE: Okay.

11          CHAIRMAN BELL: During the excavation, the  
12 demolition excavation, will we have a borough engineer  
13 on-site?

14          MR. CRANMER: Probably, not necessarily  
15 during the foundation excavation. We would only inspect  
16 the public improvements which would be the roadways,  
17 pavement, curb, sidewalk, stormwater management  
18 facilities.

19          CHAIRMAN BELL: One of the things that and  
20 I'm not saying that it is, but that could be concerning,  
21 buildings like this, the fuel tanks, the gasoline, the  
22 diesel, whatever was in there before, you know, the  
23 tanks that were removed were certified.

24          MR. CRANMER: Yes.

25          CHAIRMAN BELL: It doesn't mean there's not

1 more tanks.

2 MR. CRANMER: You're absolutely correct.

3 CHAIRMAN BELL: And if we don't have an  
4 engineer on-site during -- because you would -- the odds  
5 are you're going to pick it up during the overall  
6 excavation. You might not, but how do we --

7 MR. CRANMER: We typically don't patrol the  
8 construction sites to monitor every activity. Again,  
9 what the borough's obligation is is to ensure that the  
10 public improvements are constructed in accordance with  
11 the approved plans and in accordance with the  
12 specifications up to borough standards. If there's a  
13 specific desire to have excavation on-site witnessed by  
14 the borough that certainly can be a condition of  
15 approval.

16 CHAIRMAN BELL: Because the fuel tanks, you  
17 testified that the fuel tanks that were there were  
18 removed and you have a certificate of no additional  
19 or --

20 MR. GUNAWARDANA: No further action.

21 CHAIRMAN BELL: Okay. Do you know if there  
22 was any contamination that had to be cleaned up?

23 MR. GUNAWARDANA: There was. They cleaned  
24 it up. They removed contaminated soil. Mr. Chairman,  
25 let me just explain to you one more thing. We are going

1 for a site wide No Further Action letter which means  
2 that we are certifying in our final remedial action  
3 report that we looked at every square inch of soil on  
4 this site and we inspect it as per the DEP tech regs  
5 that we are certifying that and then based on that the  
6 DEP shoots us a no further action letter. So if that's  
7 of some comfort to you, we have to adhere to that  
8 process.

9                   MAYOR COOPERHOUSE: And do you expect the  
10 case manager to be out on the site at all?

11                   MR. GUNAWARDANA: They do sometimes,  
12 sometimes they don't. We rely on certifications.

13                   MR. MACANINCH: But you have an independent  
14 obligation.

15                   MR. GUNAWARDANA: Absolutely. Our license  
16 is at stake, so.

17                   MAYOR COOPERHOUSE: Who's the responsible  
18 party? When you submit it to the DEP is it Hovnanian or  
19 is it the current owner?

20                   MR. GUNAWARDANA: It's not Hovnanian.

21                   MR. MACANINCH: Well, not currently, but  
22 again we'll take title and we're going to take title,  
23 obviously the work plan will be approved. We're going  
24 to take title and then because we wouldn't be doing work  
25 before we take title. We'll take title, the work would

1 be done before, so that's how it's going to go through.

2 MAYOR COOPERHOUSE: And you'll have your  
3 Remedial Action Plan before you take title?

4 MR. MACANINCH: Absolutely.

5 MAYOR COOPERHOUSE: When do you expect to  
6 get that RAP?

7 MR. GUNAWARDANA: This summer.

8 MAYOR COOPERHOUSE: It's been a year  
9 already? You expect to get it this summer?

10 MR. GUNAWARDANA: Yeah.

11 MS. SICILIANO: You have not received, you  
12 have submitted your plans to DEP according to this?

13 MR. GUNAWARDANA: About a year ago, more  
14 than a year ago.

15 MS. SICILIANO: So it has been submitted to  
16 DEP and you have not had a response yet?

17 MR. GUNAWARDANA: No, we've had  
18 conversations last -- I said two weeks ago and they  
19 finally said we opened your file and they started  
20 looking at it.

21 MR. MORAN: March 16, 2009 it was submitted.

22 MR. MACANINCH: But previous to that there  
23 had been meetings with the DEP regarding this.

24 MAYOR COOPERHOUSE: The application meeting.

25 MR. MACANINCH: Everything that had gone on.

1           MR. GUNAWARDANA: This is not a new site.  
2 They have had a long history of work at this site.

3           MS. SICILIANO: Do they normally send an  
4 investigator, someone to oversee the work?

5           MR. MORAN: No.

6           MR. GUNAWARDANA: Not normally, no.

7           MS. SICILIANO: They just do the review of  
8 the plans themselves. Okay.

9           MAYOR COOPERHOUSE: The onus is on the  
10 engineer.

11           MR. GUNAWARDANA: That's right. Just like a  
12 PE signing off on a structural integrity. I mean, he's  
13 responsible for that.

14           MS. MARTINELLY: So the present owner  
15 removed the underground tanks?

16           MR. GUNAWARDANA: I do not know if it is the  
17 person -- there's a long history there. The tanks have  
18 been removed over a long period of time through numerous  
19 owners.

20           MS. WATERBURY: How deep is the area of  
21 concern for because I see it straddles grass as well as  
22 the buildings?

23           MR. GUNAWARDANA: AOC-4?

24           MS. WATERBURY: Yeah, isn't that the area  
25 that you're going to recap? How deep will the cap be

1 into the grass?

2 MAYOR COOPERHOUSE: 3 feet below grade.

3 MR. GUNAWARDANA: Yeah, about 3 feet below  
4 grade.

5 CHAIRMAN BELL: 3 feet below the foundation.

6 MR. GUNAWARDANA: Yes.

7 CHAIRMAN BELL: 3 feet below the foundation  
8 of the building.

9 MR. GUNAWARDANA: No, no, the question was  
10 where the grass was. The grassed area was we will go 3  
11 feet below grade.

12 CHAIRMAN BELL: So it's going to go like  
13 this?

14 MR. GUNAWARDANA: No, no, no, below the  
15 grass. We'll have the grass and below the grass we will  
16 have the concrete slab. And so from the surface to  
17 about 3 feet you will have clean material.

18 CHAIRMAN BELL: But then what happens, so  
19 but it's still going to be -- because it's going -- half  
20 of that according to the schematic, half of that is  
21 under the building.

22 MR. GUNAWARDANA: Yeah, so the grading will  
23 be such that you're right. There will be a step. Is  
24 that your question? There will be a step, yes.

25 CHAIRMAN BELL: And it's going to be below

1 the footing of the building.

2 MR. GUNAWARDANA: That's correct.

3 MR. MORAN: VG, will you go through the  
4 remediation steps for that, for AOC-4 from the ground  
5 up? I mean, how are you going to attack AOC-4?

6 MR. GUNAWARDANA: All right, very  
7 straightforward. There is a building there right now.  
8 We strip the building. And the engineer has a design  
9 rate for the bottom of the new building. We excavate to  
10 that bottom and we go down 2 or 3 feet below that, clean  
11 up all the soil material and then put the cap and on top  
12 of the cap will be the vapor barrier.

13 MR. MORAN: Before you go there. You're  
14 doing your excavation. You're going down 3 feet. Now  
15 you just mentioned that if you have tainted soil you  
16 have to deal with tainted soil. So are you going to do  
17 -- post that are you going to do post that sampling and  
18 it's going to take that down?

19 MR. GUNAWARDANA: No, not in this area.  
20 Because in this area, the remedial strategy is the cap.  
21 If we are removing it, now that's to give you an  
22 example, AOC -- what's that, AOC-1 was it where we have  
23 the lead soils? That is completely delineated and taken  
24 off site. This one we are leaving the contamination in  
25 place. All we are doing is we are eliminating the

1 exposure pathway. That's all we're doing.

2 CHAIRMAN BELL: But the dirt, the dirt,  
3 assuming that that cap currently is probably at grade  
4 inside that building, probably reasonable to assume  
5 that?

6 MR. GUNAWARDANA: Yes.

7 CHAIRMAN BELL: That comes up. If you have  
8 to go down 6 feet at that level, 6 feet to get to where  
9 the cap is going to go, that soil that you're removing  
10 is going to go off site?

11 MR. GUNAWARDANA: Absolutely, absolutely.  
12 Absolutely. So those are the four AOCs that are  
13 remaining on this site that need to be remediated. So  
14 once we remediate that, then essentially we will submit  
15 what is called a remedial action report which will be  
16 after the site is completed saying that we have executed  
17 these steps and then we will have all our lab samples  
18 and signatures and certifications and then we submit to  
19 DEP and they will issue what is referred to as a No  
20 Further Action letter. And then we file that as part of  
21 the deed notice so that the long-term maintenance issues  
22 are addressed by whoever will manage the site, in this  
23 case the condominium association will have to file those  
24 certifications on a biannual basis.

25 MR. MORAN: Do you have a CEA for the

1 groundwater?

2 MR. GUNAWARDANA: No, the CEA for the  
3 groundwater, again, because we are not the responsible  
4 party we are not obligated to do a CEA. But it's a mute  
5 point because we are addressing the contamination anyway  
6 and the future owners of this will know that there is  
7 groundwater contamination on this site through the POS,  
8 right?

9 CHAIRMAN BELL: Just curious, I was  
10 reviewing as you were talking just glancing at the  
11 projects you've done before. And I sit here and I look  
12 at benzene, lead, petroleum and whatever else on here  
13 and this is going to be a residence. How common is this  
14 to build residences on top of a waste dump?

15 MR. GUNAWARDANA: Mr. Chairman, in this day  
16 and age, we have come up with ways to build anywhere.  
17 We just finished -- not just finished, a year ago  
18 finished constructing a residential development on  
19 hexavalent chromium in Jersey City. We excavated the  
20 chromium. We put sliding walls, barriers and you should  
21 go and take a look at that site. It's where the former  
22 Roosevelt Stadium was. It's a beautiful residential  
23 development. When you go over 1 and 9 you can see 1 and  
24 9 if you look to the left. We have the same systems in  
25 place. We have venting, vapor.

1 MS. WATERBURY: How long has that been in  
2 place?

3 MR. GUNAWARDANA: We got the NFA about two  
4 years ago.

5 MS. WATERBURY: So we have about another 40  
6 before we know if it's a problem, health-wise?

7 MR. GUNAWARDANA: Well, again --

8 MAYOR COOPERHOUSE: Let's clarify waste  
9 dump. You know, is that your opinion? That's not the  
10 Board's opinion.

11 CHAIRMAN BELL: No, just telling the  
12 testimony on what we have. But if you do it you  
13 answered my question. It sounds like it's easily done.

14 MR. GUNAWARDANA: This is now the norm in  
15 New Jersey because there's no such thing as pristine  
16 land anywhere anymore. And even farm field, you have  
17 arsenic and pesticide. That's the property in Montvale  
18 we had to cap the site because there was building on a  
19 farm field.

20 MS. SICILIANO: But your report shows that  
21 even before construction what do they call it here, the  
22 soil conservation district gets involved.

23 MR. GUNAWARDANA: Yes.

24 MS. SICILIANO: And then you go on to say  
25 the soil erosion and sediment control panels require

1 various measures and that's all part of it even before  
2 you do start construction.

3 MR. GUNAWARDANA: That's correct.

4 MS. SICILIANO: So you're going to have  
5 another agency involved in this beside DEP?

6 MR. GUNAWARDANA: The soil erosion and  
7 sediment control is not only for this environmental  
8 issues, but also for the site plan issues so it's a  
9 combined approval from soil erosion and sediment  
10 control.

11 MS. DERASADOURIAN: How large is this area  
12 did you say earlier?

13 MR. GUNAWARDANA: The groundwater?

14 MS. DERASADOURIAN: The area that you're  
15 capping.

16 MR. GUNAWARDANA: The area that I'm capping?

17 MS. DERASADOURIAN: The square footage. I'm  
18 just curious.

19 MR. GUNAWARDANA: AOC-4?

20 MS. DERASADOURIAN: Yes.

21 MR. GUNAWARDANA: I got to pull out my  
22 report for that.

23 MS. DONATO: 1 inch equals 50 feet.

24 MS. SICILIANO: You even say you have a  
25 control --

1 MR. MORAN: I don't see that dimension.

2 MS. SICILIANO: Do you have a control plan  
3 that calls for filtering and throttling of stormwater  
4 runoff before it reaches the surface? That's another  
5 plan. You have three different plans here.

6 MS. WATERBURY: But this isn't dealing with  
7 the contamination.

8 MR. GUNAWARDANA: I got to scale this thing.

9 MR. MORAN: It's not in your report.

10 MR. HOLMES: It's a set dimension.

11 MS. MARTINELLY: It's like 100 by --

12 MS. SICILIANO: So you have no part in this  
13 at all as a borough engineer? You have no inspection or  
14 responsibility on this?

15 MR. CRANMER: Not in the contamination, no.

16 MR. GUNAWARDANA: I think it's more like 100  
17 by 30.

18 MS. DERASADOURIAN: I'm going to ask, I'm  
19 looking at an old report that said it was an 80 foot  
20 long hydraulic lift so --

21 MR. GUNAWARDANA: Yeah, it's 100 by 30 for  
22 this number.

23 MR. MACANINCH: In the former DER there's a  
24 summary soil within a 20 foot by 110 area ascended on  
25 two hydraulic lifts.

1                   MAYOR COOPERHOUSE: Good or bad we have to  
2 rely on the DEP.

3                   MR. MACANINCH: Correct, this is their  
4 product.

5                   MR. GUNAWARDANA: This is 110 by 20 feet.

6                   MS. DERASADOURIAN: Thank you.

7                   CHAIRMAN BELL: 2,000 square feet, roughly.

8                   MR. GUNAWARDANA: Approximately.

9                   MS. WATERBURY: So could you clarify  
10 something for me because I'm going back to where we were  
11 talking about the benzene vapor and so the benzene is in  
12 the groundwater and there's vapor that's created from  
13 that. Is that vapor venting now into the air and that's  
14 how you were able to locate by taking -- this is not my  
15 expertise obviously because I'm asking this simple  
16 question, but so was it air samples that you were  
17 taking, is this benzene now being vented or --

18                   MR. GUNAWARDANA: No, this is something when  
19 we sample we don't do a surface air sample. We shoot  
20 because we want to be conservative, so we drill down to  
21 about 10 to 15 feet and then we put in a tube and then  
22 we pump the gas out and we take a sample. So  
23 essentially you're sampling the vapor that's just above  
24 the groundwater. So, yes, so that's a sample.

25                   MS. WATERBURY: So it's down by the

1 groundwater which is underneath the earth and now we're  
2 going to -- when we go down we're going to be a little  
3 closer to this and the vapor could occur and now we're  
4 going to be venting this out that doesn't vent out now.  
5 Am I saying this correct?

6 MR. MACANINCH: No, barriers to prevent  
7 vapors.

8 MS. WATERBURY: But it's got a fan that's  
9 going to take whatever gets in that area and vent it  
10 out. Did I hear correctly? That's why I'm asking if  
11 I'm understanding correctly.

12 MR. GUNAWARDANA: First of all, I am not  
13 even sure that that vapor that we suck it from almost 34  
14 feet down is ever going to come up based on the geology.  
15 Assuming it does, in the worst case scenario, what it  
16 will do is it will hit the Liquid Boot. If it goes  
17 through the Liquid Boot it will get sucked up by the  
18 venting system and the venting system, that's where the  
19 dilution comes in because the venting system is designed  
20 as such that it sucks in fresh air into the gravel there  
21 and the pump sucks everything out which will be a  
22 combination of whatever benzene that comes up in the  
23 fresh air. So that's how we do that.

24 CHAIRMAN BELL: So the air that's coming out  
25 for all practical purposes, just assume worst case

1 scenario, at the bottom of every building at 6.6 billion  
2 parts per or parts per billion, the fans are going to  
3 pull it up. You're going to suck in fresh air and  
4 what's going to come out of the vents in the roof is  
5 basically going to be so diluted you're not going to be  
6 able to detect it. So basically you remediate it to  
7 virtually nothing.

8 MR. GUNAWARDANA: That's correct.

9 CHAIRMAN BELL: Taking worst case scenario  
10 and then looking at you're remediating the lead or  
11 you're getting rid of it all so there won't be anything  
12 there?

13 MR. GUNAWARDANA: That's correct.

14 CHAIRMAN BELL: The arsenic that's naturally  
15 found there in disturbing this building and so forth,  
16 even though you disturb it all you're going to remove  
17 all the top soil and put down fresh top soil and you're  
18 going to put down sod so that just any normal drainage,  
19 the rain, the water runoff that's going to go down into  
20 the detention basin won't have that if it was the other  
21 worst case scenario, the potential high concentration of  
22 arsenic because you've put top soil down and it doesn't  
23 have the high concentration of arsenic.

24 MR. GUNAWARDANA: That's correct.

25 CHAIRMAN BELL: And not the lead, the

1 petroleum you're excavating down below the building.

2 MR. GUNAWARDANA: That's correct.

3 CHAIRMAN BELL: Capping it off so that for  
4 anybody who lives there there's not going to be any  
5 chance of any contamination from within those buildings  
6 or groundwater or whatever the case may be.

7 MR. GUNAWARDANA: That's correct.

8 CHAIRMAN BELL: You're remediating what you  
9 need to remediate.

10 MR. GUNAWARDANA: That's correct.

11 CHAIRMAN BELL: Did I sum up?

12 MR. GUNAWARDANA: Yes, correct.

13 MR. MORAN: You mentioned something about  
14 the arsenic when it's being disturbed. I think you're  
15 going to go above the ground. You're not going to go  
16 into the --

17 MR. MACANINCH: The sod will obviously be  
18 above.

19 MR. MORAN: But in other words you don't  
20 intend to disturb the arsenic.

21 MR. MACANINCH: We strip the top soil  
22 anyway.

23 CHAIRMAN BELL: You're going to strip the  
24 top soil off. You're going to excavate. You're going  
25 to put new dirt around it, put the roads in and so

1    forth.

2                   MR. GUNAWARDANA:  Another point I want to  
3   clarify here is that the arsenic observed on the site we  
4   need another test.  It's called a leecher test.  The  
5   leecher test is to find out how much of the arsenic can  
6   dissolve in the groundwater or the surface water and we  
7   found that none of it dissolved and we did that for two  
8   reasons.  One is for the surface watering direction and  
9   the second reason is that in the event that somebody  
10  ingests it it's not bio available.  In other words, your  
11  system does not absorb it, it just passes right through.  
12  So it's another level of comfort for the residents that  
13  we can explain that this is not bio available or non  
14  soluble.

15                   MR. MACANINCH:  That description might not  
16  be in the POS.

17                   MS. MARTINELLY:  After they eat the dirt.

18                   MS. DONATO:  In 70 years.

19                   MR. TELLER:  I have a question.  Now I  
20  understand you're going to have this pipe going up with  
21  a blower on it to bring out the arsenic.

22                   MR. GUNAWARDANA:  The benzene.

23                   MR. TELLER:  The benzene.  Where is the air  
24  coming from that's going to mix with this as it goes up?  
25  I'm seeing a blow up here or a vent and I'm thinking

1 there's us going to be a suction. Where is the air  
2 coming from to mix with it?

3 MR. GUNAWARDANA: I tell you there is a  
4 diagram in the Remedial Action Work Plan but you can  
5 explain to you simply. We have two systems of pipes in  
6 the sub-flow. The first system is a fresh air suction,  
7 two fresh air suction pipes connected with a grid system  
8 in the ground that allows fresh air to come into it.  
9 The second system is a network of pipes independently  
10 connected to the fan in the attic. So what it does is  
11 for it to have a positive air it's sucking out from the  
12 gravel that's creating a negative head in the gravel  
13 which forces fresh air to come in through the vents into  
14 the gravel system. So that's how you force the fresh  
15 air to come in. That's the design.

16 MR. TELLER: Okay.

17 MAYOR COOPERHOUSE: And as you indicated DEP  
18 is not requiring any air permits for this property?

19 MR. GUNAWARDANA: That's correct. In fact,  
20 the DEP is not even requiring us to do this active  
21 system. We would have been just doing a typical radon  
22 review, but being proactive they wanted to put the  
23 system in.

24 MR. MORAN: The pathway it will work its way  
25 through the soil, get through the Liquid Boot and then

1 it's like a belt suspended system?

2 MR. GUNAWARDANA: Yeah.

3 MS. MARTINELLI: So the vent is actually in  
4 the attic, it's different from a radon system where it's  
5 above the pipes on a radon system and there are quite  
6 some high levels of radon in Shrewsbury. There's quite  
7 a few remediated homes, and that pipe is on the outside  
8 going up above the highest point of the roof. I don't  
9 think they go into the attic.

10 MR. GUNAWARDANA: Same thing.

11 MR. MACANINCH: The fan is in the attic.

12 MR. GUNAWARDANA: The fan is in the attic,  
13 but the pipe will go a few foot above the highest.

14 MR. GARDELLA: There's only one fan per  
15 building, though. One system is going to control the  
16 whole building?

17 MR. GUNAWARDANA: Yeah.

18 MS. WATERBURY: Is the benzene lighter than  
19 air?

20 MR. GUNAWARDANA: Yes.

21 MS. WATERBURY: So when it's venting --

22 MR. GUNAWARDANA: That's why you can't smell  
23 gasoline. It's volatile.

24 MS. SICILIANO: I had in my term as mayor a  
25 meeting with DEP about radon and they showed me a map

1 that 100 percent of Shrewsbury has radon.

2 MR. GUNAWARDANA: But I can tell you with  
3 this Liquid Boot there is no radon that's going to get  
4 into this system. And even if it gets in, just like the  
5 vapor it's going to be vented right out.

6 MS. SICILIANO: I just said the whole  
7 borough had radon.

8 MR. GUNAWARDANA: Yes, it does.

9 CHAIRMAN BELL: Any other questions?

10 MS. DERASADOURIAN: I still have a couple of  
11 questions. In a letter to the environmental  
12 Commissioner it says that there's potential of asbestos  
13 containing material was identified. Can you talk about  
14 whether it was a minimal amount or is it something that  
15 could be a concern when you take down a building? You  
16 need to elaborate on that.

17 MR. GUNAWARDANA: Actually we have not done  
18 a detailed asbestos survey, but with the walk there is  
19 potential for some of this floor tiles and some of the  
20 ducting to have asbestos-containing material, but part  
21 of the demolition they will have an asbestos contractor  
22 that takes care of all of that.

23 MS. DERASADOURIAN: Right, thanks. My other  
24 question was it looks like I read that the company is  
25 going to be implementing a company-wide stormwater

1 compliance program. Will we be given a copy of that and  
2 will that be meant for this project?

3 MR. MACANINCH: It's for all of our sites in  
4 terms of what our -- we have self-inspection  
5 requirements and certain documentation. You're saying  
6 will the borough get a copy of what we're going to be  
7 doing?

8 MS. DERASADOURIAN: Yes.

9 MR. MACANINCH: We can certainly share that.

10 CHAIRMAN BELL: The buildings, I don't know  
11 if this is your expertise or not, but all the buildings  
12 with the gutters and so forth, will they be feeding into  
13 dry wells and if they're feeding into dry wells is there  
14 any way that whether it's any of the benzene or the  
15 arsenic or anything that's going to be affected by that?

16 MR. GUNAWARDANA: No, I don't think we are  
17 proposing any infiltration on this site. All of it is  
18 going in the basin, right, Tim?

19 MR. HOLMES: Yes, that's why we did it.

20 CHAIRMAN BELL: Questions anybody? Any  
21 additional?

22 MR. MACANINCH: No, I don't.

23 CHAIRMAN BELL: Can I get a motion to open  
24 the meeting to the public for questions of Mr. G?

25 MR. MORAN: So moved.

1 CHAIRMAN BELL: Mr. Moran.

2 MAYOR COOPERHOUSE: Second.

3 CHAIRMAN BELL: Mayor Cooperhouse. All  
4 those in favor?

5 (Multiple Board members respond in the  
6 affirmative.)

7 CHAIRMAN BELL: Opposed? Meeting is open to  
8 the public for questions of Mr. G, the environmental  
9 engineer from Najarian.

10 MR. AMORELLI: Jeff Amorelli, Lot 2, Block  
11 2. There seems to be a high concentration of petroleum  
12 under AOC-4, right? You said it was like 40 feet down.  
13 That's into the groundwater; is that correct?

14 MR. GUNAWARDANA: There is a high  
15 concentration of petroleum hydrocarbons. As to the  
16 exact depth, I'm not sure right now.

17 MR. AMORELLI: The retention basin, at  
18 previous meetings it was told to me that the runoff goes  
19 northwest and runs into the -- I don't know if it's the  
20 Shrewsbury River or I don't know where it connects to.

21 MR. GUNAWARDANA: The Shrewsbury drainage  
22 basin.

23 MR. AMORELLI: Now if that petroleum is  
24 underneath the soil 40 feet down or so, isn't that  
25 leaching towards the drainage, going into the Shrewsbury

1 River?

2 MR. GUNAWARDANA: I mean, the existing  
3 groundwater plume is about 30 to 40 feet below so that  
4 groundwater contamination is going to the groundwater  
5 aquifer, not to the subject water of the Shrewsbury  
6 river.

7 MR. AMORELLI: And one more question. You  
8 said you did samples on the whole site, right?

9 MR. GUNAWARDANA: That's correct.

10 MR. AMORELLI: On AOC-2, behind that  
11 building there's a drop off, a big cliff. Was there any  
12 soil testing done at the base of that cliff?

13 MR. GUNAWARDANA: You're talking about the  
14 wooded area?

15 MR. AMORELLI: The wooded area.

16 MR. GUNAWARDANA: Yes, we did sampling,  
17 extensive sampling and we found arsenic. Like I said,  
18 we found arsenic. No contaminants other than arsenic.

19 MR. AMORELLI: In front of AOC-2 was there  
20 any contamination specifically behind the Auto Parts?

21 MR. GUNAWARDANA: Like I said, other than  
22 those four AOCs, we did not find any contamination above  
23 the DEP standard. Of course there are contaminants  
24 present, but nothing above action level.

25 MR. AMORELLI: Okay.

1           MAYOR COOPERHOUSE: Residential standards?

2           MR. MACANINCH: Residential standards.

3           MR. GUNAWARDANA: Yes, above residential  
4 standards.

5           MR. AMORELLI: Thank you.

6           CHAIRMAN BELL: Yes, sir.

7           MS. MINERVINI: Mrs. Minervini, 185  
8 Patterson Avenue. On this dry well, I wasn't aware you  
9 were going to have dry wells in this system.

10          MR. GUNAWARDANA: There are no dry wells.

11          MS. MINERVINI: I thought I heard somebody  
12 say there was going to be dry wells.

13          CHAIRMAN BELL: No, I asked if there were  
14 going to be and they said they testified there weren't  
15 going to be any dry wells.

16          MS. MINERVINI: Okay. That's good to hear.  
17 The other thing is the contamination source that you  
18 said that since this area here is the highest ground as  
19 I know it in Shrewsbury, am I correct on this  
20 environmental people?

21          MR. CRANMER: Probably close to it.

22          MRS. MINERVINI: It is about the highest,  
23 yeah. So everything else is going to be down lower.  
24 The source of contamination in here was unidentified  
25 basically?

1 MR. GUNAWARDANA: That is correct.

2 MRS. MINERVINI: Why?

3 MR. GUNAWARDANA: See, what it is is when  
4 you have regional groundwater contamination the  
5 obligation of delineating that entire plume is with DEP.  
6 Our obligation is to find out what's on the site, where  
7 it is coming from and then make sure that that does not  
8 impact future users of that site.

9 MS. MINERVINI: My question is where is it  
10 coming from?

11 MR. GUNAWARDANA: We have no idea.

12 MR. MACANINCH: You know it's coming from  
13 off-site.

14 MR. GUNAWARDANA: Off-site. It's coming  
15 from off-site.

16 MRS. MINERVINI: That's why I question  
17 because of the height of this particular land if it's  
18 coming from off-site, how is it getting there?

19 MR. GUNAWARDANA: Well, that's a good  
20 question. When it comes from groundwater it's slightly  
21 different than surface water. Surface water flow  
22 typically follows the surface topography, but  
23 groundwater flow typically follows a regional  
24 groundwater pattern. So in other words, you can have  
25 the surface water going in direction A and you can have

1 the groundwater going in direction B. But in this case  
2 I believe all the groundwater and the surface water are  
3 going towards the northeast. So you might have say, for  
4 instance, further southwest of the site if there's a  
5 contaminant that goes to the groundwater, maybe it is  
6 from a surface standpoint at a lower point, but when it  
7 goes to groundwater it can still be at a higher point  
8 further to the groundwater outside.

9 MRS. MINERVINI: I don't think I understood  
10 that very well, but I gather that Mother Nature planned  
11 it so that it would be beyond our control.

12 MR. MORAN: It's an off-site --

13 MRS. MINERVINI: Thank you.

14 MAYOR COOPERHOUSE: To kind of clarify that,  
15 their responsibility is to delineate their property and  
16 their property only. If they determine that there is an  
17 off-site contamination, their study stops at the  
18 property line.

19 MR. MACANINCH: That's correct.

20 MRS. MINERVINI: One more thing on that. If  
21 there is this contaminant and their obligation ends at  
22 their property, ought we not to find out where the  
23 original pollution is and correct that?

24 MR. GARDELLA: That's the responsibility of  
25 the DEP.



1 currently being implemented.

2 MS. DERASADOURIAN: Okay, thank you.

3 CHAIRMAN BELL: Just to clarify maybe if you  
4 can help with the public on the last question.

5 Groundwater does not flow the same as surface water?

6 MR. GUNAWARDANA: That's correct.

7 CHAIRMAN BELL: Surface water normally only  
8 goes downstream. It goes down. Water doesn't usually  
9 flow up to a higher elevation.

10 MR. GUNAWARDANA: Correct.

11 CHAIRMAN BELL: Groundwater, the way  
12 groundwater goes it can meander depending on the  
13 topography, depending on the quality of the soil, clay,  
14 whatever and the ground table on one property in a  
15 development may be at 30 feet and the groundwater on the  
16 other side of the development might be at 20 feet; is  
17 that correct?

18 MS. SICILIANO: Or in my basement.

19 MR. GUNAWARDANA: Well, it won't be such a  
20 drastic difference, but what drives the groundwater to  
21 go in the direction is what is referred to as the  
22 hydraulic gradient. Difference in the level of the  
23 groundwater between two locations. So you can have  
24 generally groundwater has a set flow pattern in a region  
25 and you find it going say towards the ocean obviously

1 long-term. But surface topography as you well know can  
2 change within a short distance. So your surface water  
3 hydrology can go north, south, east, west within a one  
4 square mile area whereas your groundwater flow direction  
5 generally does not change that much within a short area.  
6 So you have the regional groundwater flow direction is  
7 generally consistent within an area where the surface  
8 water flow direction can change. I don't know if that  
9 explains it any better.

10 MR. MORAN: Are you going to cover  
11 stormwater under a different session?

12 MR. MACANINCH: We had obviously the very  
13 first night Tim testified as far as stormwater we  
14 submitted the stormwater report. If there's specific  
15 questions on stormwater.

16 MS. SICILIANO: Can we stay on the impact  
17 for just a moment, please, this particular report  
18 specifically. Michelle?

19 MS. DONATO: Yes.

20 MS. SICILIANO: Do you have your Volume II  
21 with you?

22 MS. DONATO: You mean the --

23 MS. SICILIANO: The ordinances?

24 MS. DONATO: As a matter of fact, I always  
25 have it and tonight I couldn't fit everything in the

1 briefcase and I didn't want to take another briefcase.

2 MS. SICILIANO: Well, this is just a  
3 matter -- I don't understand our own ordinance here and  
4 how it affects this impact, at what point we have to  
5 adhere to the ordinance. The ordinance I'm referring to  
6 is 94815 and it's called Environmental Impact Report.  
7 And it states, "The Municipality shall either approve or  
8 disapprove the Environmental Impact Report as part of an  
9 underlying function as with respect to site plan  
10 review." And then in going on, "Upon approval" then it  
11 discusses "in reaching a decision, the municipal agency  
12 shall take into consideration the effect of the proposed  
13 projects upon all aspects of the environment as outlined  
14 in section A, as well as the sufficiency of the  
15 applicant's proposals for dealing with inner remedial of  
16 projected adverse environmental effects." What I'm  
17 really curious about is "Upon approval by the Planning  
18 Board, the Environmental Impact Report shall be marked  
19 or stamped as approved by the secretary" which would be  
20 Mr. Teller "of the Planning Board and shall be  
21 designated as the final Environmental Impact Report."  
22 So at what point, before we go onto stormwater, do we  
23 take action now or when?

24 MS. DONATO: May I look at the entire  
25 ordinance and get back to you on that?

1           MS. SICILIANO: Okay, yeah, that's why I  
2 want to bring it to your attention because obviously  
3 this has to be handled separately, completely separate  
4 from the stormwater review.

5           MS. DONATO: I'll have an answer for you.

6           MR. MORAN: Mr. Cranmer, didn't they  
7 actually not have to do an EIR because of some --

8           MR. MACANINCH: We were under 10 acres.

9           MR. MORAN: 10 acres, I think that's what it  
10 was, but they agreed to do it, correct?

11          MR. CRANMER: They did it anyway.

12          MR. MORAN: But again, I'm just talking  
13 about from an ordinance point of view does that impact  
14 that?

15          MS. SICILIANO: The ordinance does not  
16 reference size of property.

17          MR. MORAN: I know that they had agreed to  
18 do it because they were just shy of it.

19          MR. CRANMER: That will be stamped just as  
20 the plans are signed as part of our final approval.

21          MS. SICILIANO: That's fine. I mean, I  
22 didn't know at what point.

23          MR. CRANMER: We don't have to take a  
24 separate vote on the Environmental Impact Report if  
25 that's what you were asking.

1                   MS. SICILIANO: That's exactly the question  
2 I have.

3                   MAYOR COOPERHOUSE: Question, what happens  
4 then if they don't have their approval from the DEP by  
5 the time this application if everything goes ahead is  
6 stamped?

7                   MR. CRANMER: It's an outside agency  
8 approval that would be a condition of your site plan  
9 approval.

10                  MR. MACANINCH: We don't move forward  
11 without -- we need the NFA. Ultimately we need the NFA  
12 in hand.

13                  MAYOR COOPERHOUSE: But your impact report  
14 indicates what your remediation is. The DEP comes back  
15 and says you need to do X instead of Y, don't you need  
16 to revise your impact studies.

17                  MR. MACANINCH: No, what the DEP -- we  
18 submit the Remedial Action Work plan. They're going to  
19 review it and approve that. If we do X, Y and Z in the  
20 work plan, they're going to issue our NFA. That's kind  
21 of the covenant between us and the DEP. And obviously  
22 the nature of this work, sometimes you can do it before.  
23 We can't do it here before, you just do it in the course  
24 of construction and the nature of what's involved, then  
25 the NFA would occur.

1                   MR. MORAN:  What happens if DEP revises the  
2 work plan?

3                   MR. CRANMER:  There are two separate and  
4 distinct documents.  The Environmental Impact Statement  
5 that Mrs. Siciliano is referring to is an EIS that deals  
6 with threatening endangered species on site,  
7 environmental concerns, Phase I testing.  The  
8 remediation work plan, that is the DEP's preemptive  
9 jurisdiction.  So the EIS for the Borough that talks  
10 about community impacts, environmental impacts, how  
11 they're going to mitigate the dust during construction  
12 and noise levels, things of that nature, that's what's  
13 going to get stamped approved and signed by Mr. Teller.

14                   MR. MORAN:  Would we make a special  
15 condition that any changes to the Remedial Action Work  
16 Plan would have to be remediated or something like that?

17                   MR. CRANMER:  Well, the DEP is going to do  
18 that for us.

19                   CHAIRMAN BELL:  The DEP, the only way that  
20 would effect us is if the DEP said we don't agree with  
21 this remediation program.  We want you to do something  
22 drastic which would affect that they might not be able  
23 to build the buildings where they want to build the  
24 buildings and they've gotten -- and if this got approved  
25 they would then have to come back to us as a revised

1 plan because they can't build what was approved.

2 MR. CRANMER: That's correct. They would  
3 return for an amended preliminary and a final approval.

4 CHAIRMAN BELL: Which again is worst case.

5 MR. MORAN: No, I don't anticipate a problem  
6 with this plan.

7 MS. WATERBURY: So would there be a  
8 condition with any approval? Obviously we have the  
9 condition that they get approval of their plan, but then  
10 it would seem there would be a point that you wouldn't  
11 want anybody to be able to habitate this site until you  
12 had a No Further Action.

13 MR. MACANINCH: We need the NFA. DCA  
14 requires the NFA before we can actually -- I think it's  
15 before we can even sell.

16 MS. WATERBURY: But I wonder if that would  
17 also be a good thing for us to have in ours that there  
18 be no CO prior to us receiving a copy of the No Further  
19 Action letter.

20 MS. DONATO: There is a standard the way the  
21 resolution is ordinarily drawn up, as Mr. Cranmer  
22 explained, other governmental approvals are conditioned  
23 subsequent. The resolutions require that all of the  
24 various permits that are required to be obtained must be  
25 obtained prior to certification that the conditions of

1 approval are satisfied. So the No Further Action letter  
2 will be a condition of approval.

3 MS. WATERBURY: But they won't be able to  
4 have it until they have -- they have to take occupancy  
5 of the property and they won't be able to take occupancy  
6 -- well, I'm just assuming until the conditions of the  
7 site plan are all done and they can start building so  
8 this is more that No Further letter would be not  
9 necessarily associated with the conditions of the  
10 resolution to do site plan, but probably more with  
11 before occupancy, I'm assuming.

12 MR. MACANINCH: The NFA comes later  
13 obviously because we have to do all the work. All of  
14 that has to be done. We're not going to take title to  
15 the property until we get the Remedial Action Work Plan  
16 approved because we wouldn't do that.

17 MS. SICILIANO: I hope not.

18 MS. WATERBURY: But you're not going to have  
19 a No Further so it is almost like two separate  
20 conditions because one would be relating to in order for  
21 there to be a condition of the site plan, in order for  
22 them to sign off to be able to take title and then the  
23 second would be a condition prior to a CO which would be  
24 after everything was kind of done.

25 MR. MACANINCH: Well, the only thing I don't

1 want to tie you to this and again, obviously DCA  
2 regulates this.

3 MS. WATERBURY: But why would we want  
4 someone living there until we knew that it was  
5 considered a clean site?

6 MR. MACANINCH: With the NFA, you're just  
7 saying wait for the NFA.

8 MS. WATERBURY: With the No Further Action  
9 letter, right.

10 MAYOR COOPERHOUSE: Are you saying you're  
11 going to have the NFA before somebody moves in because  
12 it's my experience that they --

13 MR. MACANINCH: I was just going to say it  
14 was looking back --

15 MAYOR COOPERHOUSE: The NFA can take years  
16 for you to obtain.

17 MR. MACANINCH: Hopefully it doesn't take  
18 years. It could, but obviously the work will all be  
19 done and investigated obviously by the DEP. What we  
20 have to show the DCA is obviously the work is done or  
21 it's secured and the bond is posted. We've had this on  
22 other sites where you post financial security  
23 guaranteeing the completion of the work. That's what  
24 happens. So obviously as part and parcel though these  
25 vapor, the vapor mitigation system, all that has to be

1 done because that's part of the construction of the  
2 building. All of those things.

3 CHAIRMAN BELL: What is the standard? You  
4 know, we talked about the places in Jersey City. And  
5 were CO's, did people move in prior? Do you have an  
6 NFA? Do you know if they had it?

7 MR. MACANINCH: You're talking Jersey City.

8 MR. GUNAWARDANA: Jersey City we had CO's  
9 issued before the NFA.

10 CHAIRMAN BELL: I mean, is that --

11 MS. DONATO: You had the CO before the NFA?  
12 Because I must have misunderstood, because I thought  
13 that Mr. Macaninch stated that prior to the closing of  
14 title before the transfer of title you will have the  
15 NFA. That's not correct?

16 MR. MACANINCH: No, if I said that I  
17 misspoke.

18 MR. GUNAWARDANA: The approval for the  
19 remedial action work plan.

20 CHAIRMAN BELL: You have that approval prior  
21 to transfer of title, right?

22 MR. MACANINCH: I'm sorry, I missed that.

23 CHAIRMAN BELL: You said that you will have  
24 the approval for the remediation, Remediation Action  
25 Plan.

1 MR. MACANINCH: Will be approved.

2 CHAIRMAN BELL: Will be approved prior to  
3 you taking title of the property.

4 MR. MACANINCH: Correct, but we will have  
5 CO's and deliveries prior to an NFA being issued.

6 CHAIRMAN BELL: Correct.

7 MR. MACANINCH: Correct, I'm sorry if I  
8 misspoke.

9 MR. MORAN: Who actually owns the property  
10 itself?

11 MR. MACANINCH: Today or?

12 MR. MORAN: The homeowner? I mean, do they  
13 go all the way down?

14 MR. MACANINCH: No, it's going to be --  
15 well, it's the condominium association.

16 MR. MORAN: The association actually owns --

17 MR. MACANINCH: Technically in the  
18 condominium it's the individual unit owner has a  
19 percentage of ownership interest as opposed to an HOA  
20 where the association owns --

21 MR. MORAN: So the individual essentially  
22 owns the land underneath their condo?

23 MR. MACANINCH: They own a percentage of  
24 interest.

25 MS. MARTINELLY: No, you said it wasn't fee

1 simple, right?

2 MR. MACANINCH: What they own, all of it  
3 will be considered a common element. The individual  
4 unit owner will own -- we'll have to define what it is.  
5 That will be defined in the declaration or the master  
6 deed. They're going to own that fee simple. Then  
7 they're going to own a percent interest. If there's 78  
8 or 77 homes they're going to own 1/77 percentage  
9 interest of the common elements. Obviously they're non  
10 separately transferable. They go with their deed. They  
11 can't transfer them separately.

12 MR. CRANMER: So the condominium association  
13 will receive a tax bill for the mother lot let's call it  
14 and the individual unit owners will receive a taxable  
15 just for the condominium inside the four walls?

16 MR. MACANINCH: It actually depends. Really  
17 what should happen is each individual unit owner should  
18 receive a tax bill for their unit and their percentage  
19 interest because there is no separate standalone parcel.  
20 Everything is carved out. That's what happens. So  
21 technically that is what it's supposed to work and how  
22 it works at the local level itself depends.

23 MS. WATERBURY: So you said there's a bond  
24 posted until such time as the NFA. Who holds the bond?

25 MR. MACANINCH: DCA. We've done this in

1 other communities because again, if it's a planning  
2 community they want to ensure your very same concern,  
3 that an NFA is going to be issued and if there's any  
4 outstanding work. Just for an example here, one of the  
5 areas of concern, we're agreeing to put in the vapor  
6 mitigation system. To get an NFA it's going to have to  
7 be in every single building. Obviously we won't do 77  
8 spec ups. That's not how we would build.

9 MR. MORAN: Now would the deed state that  
10 there's no NFA at the point of sale?

11 MR. MACANINCH: The POS would state exactly  
12 that. We would go through we've got an approved plan  
13 and we're going through the process to receive an NFA.

14 MS. SICILIANO: As far as ownership of the  
15 various apartments or whatever you want to call them,  
16 according to the impact report it says the deed notice  
17 and I know this, we had this in another development, a  
18 deed notice will require ongoing maintenance and  
19 monitoring of the cap and the DMS system and other  
20 institutional and engineering controls. So it becomes  
21 part of the whole deed for the purchase, the purchaser  
22 has to recognize that deed. Because we had a lot of  
23 problems with this other development. I know, I was  
24 threatened up to here.

25 MR. MACANINCH: Since we're talking about

1 the Environmental Impact Report, obviously for point of  
2 clarification, obviously it's been submitted. Really  
3 the sum and substance is what we just testified to.  
4 We'd be happy to go through if there's any specific  
5 questions from the Board about the Environmental Impact  
6 Report, I think it kind of stands on its own. I think  
7 in the conclusion, if you want to state the conclusion  
8 from the impact report, I can read it for you if you  
9 like to make it easier, but in essence it's going to be  
10 -- where is the actual -- just the last two paragraphs.  
11 Just summarize the conclusion if there's any specific  
12 questions we have to respond, just want to make sure  
13 it's not left out.

14 MR. GUNAWARDANA: Okay, in conclusion this  
15 is to say the development of the site will permanently  
16 transform the existing vacant land and wooded areas to  
17 residential development. The wooded area as isolated  
18 will provide unique or valuable environmental habitat.  
19 Overall potential impacts associated with this project  
20 are those that would accompany any development scheme  
21 and have been minimized to the extent possible.

22 MR. MACANINCH: And the report obviously is  
23 part of our application and has been submitted so if  
24 there's any specific questions, otherwise I don't want  
25 to beat it to death. It's on the record.

1           MS. WATERBURY: I just have one more  
2 question. I think you indicated earlier that there  
3 would be -- I always think from a stormwater standpoint  
4 which would be an operation/maintenance manual for your  
5 stormwater stuff but a similar type of thing that would  
6 relate to the systems that are in place for the  
7 homeowner association. Is that going to be part of the  
8 master deed or bylaws or the actual filed documents?

9           MR. MACANINCH: It will be. The plan is  
10 obviously going to be with the association. They're  
11 going to be the ones obligated to go through the process  
12 and follow the required documents with the DEP over the  
13 years. If it shows up in the master deed, the bylaws  
14 and that's where it specifically will end up, but  
15 obviously as part of the deed notice that's part of the  
16 requirement.

17           MS. WATERBURY: Because I think in many of  
18 the applications I'm aware of at least with the  
19 stormwater operation maintenance manual that becomes  
20 part of those documents so that it's right up front and  
21 right there. And I know for myself it would seem that  
22 being a similar type of thing for a different kind in  
23 the system like a logical place for it to be.

24           MR. MACANINCH: It certainly would be in the  
25 public offering statement that will set forth what the

1 obligations would be.

2 MR. MORAN: Isn't there an every two year  
3 inspection and report due?

4 MR. GUNAWARDANA: That's correct.

5 MR. MORAN: Every two years.

6 MS. WATERBURY: What is part of the bylaws  
7 and of the development that it's all -- it's right there  
8 in front of them. It's not just a separate thing that  
9 they have to remember to look at later on. It's just  
10 right part of that document right in front of them just  
11 like the operations and maintenance manual would be for  
12 the stormwater.

13 MR. MORAN: That would be part of the HOA.

14 MR. MACANINCH: Part of the public offering  
15 statement. It will be in there, yeah. Certainly an  
16 exhibit to the POS.

17 CHAIRMAN BELL: The ventilation system  
18 appears to the native eye or naked eye or whatever to be  
19 a pretty simple system. Is it as simple as it appears  
20 where it's just a flow through so that on an ongoing  
21 basis you have 11 buildings, you have 11 systems and the  
22 cost of maintaining it is very nominal, so just even in  
23 a long-term basis it's important for this system to work  
24 it's got to be maintained and if the cost is very  
25 reasonable, people maintain it. If it winds up being a

1 disaster or high cost, you know, associations as  
2 everybody they have budgetary concerns and they cut  
3 back.

4 MR. GUNAWARDANA: Actually the maintenance  
5 is no different than an active radon system. The only  
6 thing you have is the power cost associated with that  
7 small half horsepower pump that's running all the time.

8 MAYOR COOPERHOUSE: And the other difference  
9 is the DEP is monitoring it. It's not like it's a  
10 homeowner. The DEP doesn't normally have jurisdiction.  
11 They have jurisdiction on this property.

12 MS. WATERBURY: Are they going to be  
13 monitoring though the reports that are filed?

14 MR. GUNAWARDANA: When you say DEP  
15 monitoring, well, they can send inspectors out there,  
16 but really I don't know how often that happens.

17 MAYOR COOPERHOUSE: But you have to submit  
18 paperwork.

19 MR. GUNAWARDANA: Yeah, we have an  
20 obligation to monitor that every once in two years to  
21 DEP.

22 MS. WATERBURY: So that to me would almost  
23 be more the expense associated with the association for  
24 the maintenance and recording of this is going to be the  
25 expense of the professionals to send the information in.

1 MR. GUNAWARDANA: That's correct.

2 CHAIRMAN BELL: Questions?

3 MR. CARROLL: I just had a quick question.

4 The contaminant that's coming in from off site, is that  
5 an illegal contaminant or do you just assume it's a  
6 spill off from an industry or would it be something that  
7 possibly is being illegally put into the ground?

8 MR. GUNAWARDANA: Well, based on the kind of  
9 contaminants and the extent of contamination I can only  
10 say that it has been a result of some industrial  
11 activity in the past.

12 MR. CARROLL: Okay.

13 MR. GUNAWARDANA: It's not like a simple one  
14 shot discharge, I don't think so.

15 MR. CARROLL: Is there any way to know  
16 whether it's an ongoing situation or is that not your  
17 concern?

18 MR. GUNAWARDANA: The only way to find that  
19 out is to do a long-term monitoring and we have not done  
20 monitoring since.

21 MR. CARROLL: Now would the DEP, would that  
22 be something that would interest them as to why this is  
23 or where it's coming from or do they not really  
24 investigate that stuff?

25 MR. GUNAWARDANA: I mean, in this day and

1 age I don't think they will do that unless that's like  
2 you said, some other project that comes forward and then  
3 they have to investigate it.

4 MR. CARROLL: I mean, if it was something  
5 that was extremely hazardous obviously they would come  
6 in and want to find where it's coming from.

7 MR. GUNAWARDANA: Oh, absolutely. For  
8 instance when we submit in our report and if we found  
9 benzene in the thousands and hundreds they would send  
10 emergency response and they would have come up. I mean,  
11 this is less than commercial action level.

12 CHAIRMAN BELL: At some point there will  
13 probably be an application.

14 MS. DONATO: I have a very simple question.  
15 In some instances it's referred to as a RAP, like a  
16 Remedial Action Plan. I think you referred to it as a  
17 RAW, Remedial Action Work Plan in your CV. Which is it,  
18 what's the correct acronym?

19 MR. GUNAWARDANA: Remedial Action Work Plan.  
20 Some people call it a RAW, but it's actually RAWP.

21 MS. DONATO: RAWP. That's what I thought,  
22 okay.

23 MR. MORAN: Unless Work Plan is one word.

24 MS. DONATO: Well, it is because it keeps  
25 showing up in red when I made it two so I'm trying to

1 figure that out.

2 CHAIRMAN BELL: Okay.

3 MR. MACANINCH: That's it then. Of course  
4 it is the one night where I only have one witness.

5 CHAIRMAN BELL: Okay. Anybody else have any  
6 questions? There being none the application is going to  
7 be carried until next Tuesday night, the 27th, 7:30. No  
8 further notice is required. We will put it on the  
9 board, Lorraine? We will put it on the website and we  
10 will put it on the board. And at the next meeting you  
11 are planning to present --

12 MR. MACANINCH: Architecture and the  
13 planner.

14 MS. SICILIANO: When are we going to do  
15 stormwater?

16 MAYOR COOPERHOUSE: It was done.

17 MR. MACANINCH: We did stormwater. It was  
18 done. First meeting. Very first meeting.

19 MS. WATERBURY: We had asked him to look at  
20 some modifications to the basin and that kind of stuff.

21 MR. MACANINCH: We're going to do that.

22 MR. MORAN: When you do site plan? Is that  
23 when you're going to do that?

24 MR. MACANINCH: What we're going to do in  
25 the May meeting, we're going to submit revised plans to

1 Mr. Cranmer that is going to address the 12-foot high  
2 retaining walls. Those things will be addressed.

3 MR. CRANMER: When do you plan on  
4 resubmitting plans?

5 MR. MACANINCH: You obviously need them 10  
6 days before the meeting.

7 MR. CRANMER: Well, the Board needs my  
8 report basically 5 days before the meeting so I need  
9 more than a couple days to look at it.

10 MR. MACANINCH: We're not trying to -- what  
11 we're hoping to do is come in and meet with you.

12 MR. CRANMER: I think May is going to be  
13 pretty tight is the moral to my story. I'm not sure  
14 it's going to be feasible. If the plan is to make plan  
15 revisions, you know, Tim comes in and we meet, go  
16 through them, and then I issue a report to the Board and  
17 they have a relatively clean report for the May meeting,  
18 the plans will have to be submitted almost immediately.  
19 Are you close, Tim? No, by the look on his face I'm  
20 going to say no.

21 MR. MACANINCH: He's close. He's close.  
22 We're paying him, he's close.

23 MR. CRANMER: So May may be a little bit  
24 aggressive. I'll work with you.

25 MR. MACANINCH: I understand. Let's look at

1 it.

2 CHAIRMAN BELL: So architecture and --

3 MR. MACANINCH: And the planner, definitely.

4 MAYOR COOPERHOUSE: Mike, just for quorum  
5 purposes, I believe Bill Dodge and I are going to have  
6 to attend the Red Bank Regional Board of Education  
7 meeting next Tuesday as a result of the defeat of their  
8 budget so I know there's two of us that will probably  
9 not be here. So I don't know if anybody else is going  
10 to be absent or not.

11 MS. WATERBURY: I'm scheduled to be in  
12 another town that night as well.

13 MR. MORAN: I'm not sure that's going to be  
14 a good date.

15 MS. DONATO: The May meeting or what?

16 MR. MORAN: No, the special meeting.

17 CHAIRMAN BELL: Well, two people won't.

18 MAYOR COOPERHOUSE: Probably not. We're  
19 waiting to hear from the Board.

20 CHAIRMAN BELL: Dee Dee?

21 MS. DERASADOURIAN: I'll be here.

22 CHAIRMAN BELL: Judy?

23 MS. DERASADOURIAN: Yes.

24 MR. MORAN: Yes.

25 CHAIRMAN BELL: I will, you won't. You

1 will. You will. So we have a quorum and whatever gets  
2 -- I'm sure as long as we've got a quorum you don't want  
3 to put it off.

4 MR. MACANINCH: No.

5 MR. TELLER: When do we talk about the  
6 destruction of the building? Let me ask that.

7 CHAIRMAN BELL: The demolition.

8 MR. TELLER: When are we going to discuss  
9 the demolition of the current site?

10 MR. MACANINCH: I don't think we planned on  
11 specific testimony of the demolition of the building.  
12 It's going to be obviously done in accordance with the  
13 requirements. If you have specific questions we can  
14 respond to them.

15 MR. TELLER: I'm just wondering what the  
16 plans are, if it's going to be just bringing a dozer and  
17 just knocking it down, what's going to happen? Is that  
18 going to impact the environment when you do that?

19 MR. MACANINCH: Well, in terms of there is  
20 asbestos there and we have to remove it in accordance  
21 with the guidelines. I don't know, Vajira, if you have  
22 any demolitions in your areas?

23 MR. GUNAWARDANA: No, nothing, I mean, just  
24 make sure that there's no excess dust and that kind of  
25 thing, tip toe, but other than that that's nothing.

1                   CHAIRMAN BELL: The way it works, Dave,  
2 they'll come in for a permit, they'll get a permit?

3                   MR. CRANMER: Demolition permit, that's  
4 correct.

5                   CHAIRMAN BELL: And they have to --

6                   MR. CRANMER: Construction official.

7                   CHAIRMAN BELL: But they have to certify  
8 that there's no asbestos or any type of contamination.  
9 If there is asbestos that has to be remediated prior so  
10 there's a whole checklist and everything that has to get  
11 done. And then as far as you tear it down, you have to  
12 have a plan to the construction officer so that the  
13 construction code officer that you keep it, whatever,  
14 it's a whole system that you have to follow.

15                  MR. MACANINCH: Right, we would obviously  
16 follow all of the Borough criteria and DEP.

17                  CHAIRMAN BELL: And that may be when you  
18 demolition, when you demolish the building is when you  
19 may if there's another tank you may find the other tank;  
20 is that correct? Anybody else have any questions,  
21 comments? The application is carried until next  
22 Tuesday, the 27th, 7:30.

23                  MR. MACANINCH: Thank you.

24                  (Proceeding concluded at 9:37 p.m.)

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CERTIFICATE

I, NADINE M. GAZIC, a Notary Public and Certified Court Reporter of the State of New Jersey, License No. XI01883, do hereby 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.

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Notary Public of the State of New Jersey  
Dated: May 5, 2010