

1           BOROUGH OF SHREWSBURY, NEW JERSEY  
              PLANNING BOARD  
2           419 Sycamore Avenue  
              August 19, 2009

3

4 IN THE MATTER OF:

5 K. HOVNANIAN SHORR ACQUISITIONS:

              Owner: D/Three  
6           445 Shrewsbury Avenue  
              B1:2 Lots: 1 & 3

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9 B E F O R E:

10    Michael Bell, Chairman  
          Thomas Moran, Vice Chairman  
11    Dave Teller, Secretary  
          Terel J. Cooperhouse, Mayor  
12    Libby Waterbury, Zoning Board Representative  
          Steve Gardella  
13    Grant Carroll  
          Emilia Siciliano

14

15 ALSO PRESENT:

16    James Gorman, Esq., Board Attorney  
          David A. Cranmer, PE, PP, CME, Board Engineer  
17    Michael A. Jedziniak, Jeffrey R. Surenian and  
          Associates, LLC

18

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

20 LEWIS S. KURLAND, ESQ.  
          Legal Counsel  
21 Delaware Valley Division  
          K. Hovnanian Companies, LLC  
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25 Job No: 211493

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1 (Matters unrelated to this application were  
2 held off the stenographic record.

3 MS. KELLEHER: Mr. Bell?

4 CHAIRMAN BELL: Here.

5 MS. KELLEHER: Mr. Moran?

6 MR. MORAN: Here.

7 MS. KELLEHER: Mayor Cooperhouse?

8 MAYOR COOPERHOUSE: Here.

9 MS. KELLEHER: Mr. Dodge will be out. Mr.  
10 DiBello will be out. Mr. Teller?

11 MR. TELLER: Here.

12 MS. KELLEHER: Ms. Waterbury?

13 MS. WATERBURY: Here.

14 MS. KELLEHER: Mr. Gardella?

15 MR. GARDELLA: Here.

16 MS. KELLEHER: Mr. Martinelli will not be  
17 here. Mr. Carroll?

18 MR. CARROLL: Here.

19 MS. KELLEHER: Ms. Siciliano?

20 MS. SICILIANO: Here.

21 MS. KELLEHER: Ms. Donato will be out. Mr.  
22 Gorman?

23 MR. GORMAN: Here.

24 MS. KELLEHER: Mr. Cranmer?

25 MR. CRANMER: Here.

1 MS. KELLEHER: And I guess Mr. Jedziniak?

2 MR. JEDZINIAK: Here.

3 CHAIRMAN BELL: Just for everyone in the  
4 public, there's a lot of people here tonight which is  
5 nice to see, but things get picked up on microphones so  
6 if you need to talk, if you have your cell phones, turn  
7 your cell phones on vibrate or turn them off. If you  
8 need to talk, please go outside and talk. If you have  
9 any questions, there is a time during the meeting for  
10 public questions. When we open, when we open the  
11 meeting to the public, any questions you have are  
12 general in nature. It's not specific to any application  
13 before the Board. This isn't a general open meeting  
14 session. So when we open the meeting to the public, if  
15 you have any questions about anything about the town,  
16 whatever, feel free to ask, but it can't be about an  
17 application in front of the Board.

18 Also, as far as the application also, as far  
19 as the application in front of the Board tonight, it's  
20 the same as any application. Applicant is going to come  
21 in front of us and present their case. They're going to  
22 present witnesses. At the end of every witness'  
23 testimony or 10:00 at night because that's when we cut  
24 off testimony, the public will be given the option or  
25 opportunity to ask questions specific of that witness of

1 the testimony that they present. It's not a time for  
2 general comments, you like the project, you don't like  
3 the project. If it's testimony on traffic, you can ask  
4 questions about traffic. You will be given an  
5 opportunity to ask questions after every expert witness  
6 has testified.

7         If anybody has a question on this when we  
8 have the open part of the meeting, you know, feel free  
9 to ask, come up and state your name and your address if  
10 you want clarity on it. But the reason for it is it  
11 keeps the meeting going and it's specific on what's been  
12 testified to.

13         The application that is going to be coming  
14 in front of us tonight is a pretty complex and large  
15 application. It's going to go over several meetings.  
16 It's not going to be concluded tonight. If what you're  
17 here for doesn't get presented tonight, it will get  
18 presented at the next meeting or the following meeting.  
19 If we have testimony tonight and I don't know that the  
20 applicant is going to be doing a traffic study, but  
21 let's just say they're doing a traffic study and at  
22 10:00 we say testimony is over, but they have a lot more  
23 to present, you'll be given an opportunity to ask any  
24 questions about the testimony that's been given and then  
25 the next meeting when they continue their testimony

1 you'll have additional time to ask questions about what  
2 gets testified to. So, minutes?

3 (Matters unrelated to this application were  
4 held off the stenographic record.)

5 MS. SICILIANO: Mike, I think it's  
6 appropriate to mention that the Master Plan was amended  
7 and adopted on last November of 2008 and it's been  
8 published, and then the council had the opportunity to  
9 review it I think in December, was that true, Mayor?

10 MAYOR COOPERHOUSE: Yes.

11 MS. SICILIANO: And so that there has been  
12 movement on the planning, I mean, the Planning Board has  
13 amended recently the master plan. I'm not quite sure  
14 just what that question, what the gentleman wants to  
15 know.

16 CHAIRMAN BELL: On the question, the master  
17 plan is incredibly -- I mean, we can spend all night  
18 just going over the master plan. The master plan is on  
19 record. It's upstairs. Anybody can come and get a copy  
20 of it, anybody can look at it. Is there something  
21 specific that you're looking for under the master plan  
22 that you'd like to get an overview of?

23 MR. WICKLUND: Okay, I'm trying to keep it  
24 very general because you said keep it general so let me  
25 get specific. In terms of number of residences,

1 building and zoning, in regards to any applicant coming  
2 before the Board looking to add in as many residences as  
3 any applicant that might come before the Board and how  
4 that would be handled?

5 CHAIRMAN BELL: I think that we are -- I  
6 think that's going to be encompassed pretty much --

7 MR. CRANMER: I think I can address that. I  
8 think what you're asking, I think -- my name is David  
9 Cranmer, I'm the engineer and the planner for the  
10 Borough of Shrewsbury. The master plan document that  
11 you asked about is a planning document --

12 MS. SICILIANO: Can they hear you back  
13 there?

14 MR. CRANMER: It's a planning document that  
15 is prepared by municipalities under the Municipal Land  
16 Use Law and it spells out the way the Borough or  
17 municipalities in general are to be developed, where  
18 industrial land uses shall occur, where industrial land  
19 uses will occur. It has a period reexamination of every  
20 six years. That's spelled out in the MLUL, the  
21 Municipal Land Use Law. What you asked I think relates  
22 more to the zoning ordinances which specify densities  
23 and how many acres a lot has to have for development.  
24 Those ordinances are found in Chapter 94 of the Borough  
25 of Shrewsbury Code and again, they're upstairs. We have

1 a number of different residential and nonresidential  
2 zones in the Borough that are shown on the official  
3 zoning map. Examples would be the R1 zone, the R3 zone,  
4 they would have different lot sizes. Density is  
5 controlled through the specification of a minimum lot  
6 size. So, for example, if you had a two-acre parcel  
7 that you wanted to develop and the minimum lot size was  
8 one acre, you would end up with two residential units.  
9 So we have a zoning map which tells you what zone any  
10 piece of property in the Borough is in.

11 MR. TELLER: Mr. Cranmer, can you speak up?

12 They're having a hard time in the back.

13 MR. CRANMER: We also have the zoning  
14 ordinance which specifies all of the bulk standards and  
15 the zoning standards for each zone and then we have the  
16 master plan which speaks in very broad stroke terms  
17 about where the Borough would anticipate development and  
18 redevelopment and where new streets would have to be  
19 added, things like the affordable housing and fair share  
20 element plan. Those are all contained in the master  
21 plan. It's a document that's adopted by the Planning  
22 Board and it's reexamined every six years by statute.  
23 The zoning ordinances are adopted by the governing body  
24 and they are amended from time to time, as warranted.  
25 Did I answer your question?

1 MR. WICKLUND: Yes, thank you.

2 CHAIRMAN BELL: Okay, any other questions?

3 There being none can I get a motion to close the meeting  
4 to the public?

5 MR. TELLER: Motion to close the meeting to  
6 the public.

7 CHAIRMAN BELL: Mr. Teller, seconded by  
8 Mayor Cooperhouse. All those in favor?

9 (Multiple Board members respond "Aye.")

10 CHAIRMAN BELL: Opposed? There being none,  
11 unfinished business?

12 (Matters unrelated to this application were  
13 held off the stenographic record.)

14 (Exhibit A-1 was received and marked into  
15 evidence.)

16 CHAIRMAN BELL: The next new business is K.  
17 Hovnanian Shorr Acquisitions, 445 Shrewsbury Avenue.  
18 This is for completeness for subdivision, preliminary  
19 and final site plan. While the applicant is coming up,  
20 I think this piggybacks a little bit to what one of the  
21 members of the public asked. Mr. Cranmer, it's been a  
22 long time with the master plan changes and how we've  
23 gotten to where we are today with affordable housing and  
24 rezoning and overlays. Could you give us a little  
25 overview, take us a step back so that the public can see

1 where we were and how we got to where we are today?

2 MR. CRANMER: Certainly, Mr. Bell. The  
3 application of K. Hovnanian, the application for K.  
4 Hovnanian is the first one that we've seen in the  
5 Borough of Shrewsbury that has an affordable housing  
6 component.

7 A VOICE IN THE PUBLIC: We cannot hear you.

8 CHAIRMAN BELL: Okay, okay, you don't have  
9 to be nasty.

10 A VOICE IN THE PUBLIC: I don't mean to be  
11 nasty. I'm speaking for the group.

12 MR. CRANMER: The application that's before  
13 the Board tonight by K. Hovnanian represents the first  
14 application we've seen in the Borough that includes an  
15 affordable housing component or an inclusionary  
16 component. And the reason that that application is  
17 before us is really a product of the affordable housing  
18 fair share plan that was adopted by the Borough. We've  
19 all talked about over the last several years -- as a  
20 matter of fact the code process according to my notes  
21 began back at the end of 2004. And it's been a rather  
22 long and sometimes difficult road in formulating  
23 affordable housing plan, complying with the affordable  
24 housing laws of the state of New Jersey and getting to  
25 the point where we have a plan in place and we have

1 certain zoning ordinances that are in support of that  
2 plan.

3           Seated to my left is Michael Jedziniak. He  
4 is the special counsel for affordable housing that was  
5 retained by the Borough to handle the legal aspects and  
6 I think he can give a very clear, concise time line of  
7 how we got from point A to where we are tonight and  
8 point A being when we started the legal process  
9 basically for COAH. So I'm going to ask Mr. Jedziniak,  
10 if he would, to just give us an overview.

11           MR. JEDZINIAK: Thank you, Mr. Cranmer.  
12 Thank you, Chairman Bell. My name is Michael Jedziniak.  
13 As Mr. Cranmer said, my firm that I work with is Jeffrey  
14 R. Surenian and Associates and we are based in Brielle.  
15 And a quick synopsis about our firm is that we are  
16 special counsel to the Borough of Shrewsbury, but we are  
17 also special counsel for roughly 45 or 46 other towns in  
18 New Jersey. It's all we do, Mount Laurel work. We  
19 represent municipalities only and we are what you would  
20 consider to be a specialist in the area because that's  
21 the only type of law that we practice. We practice  
22 Mount Laurel law representing municipalities, several  
23 municipalities in Monmouth County as a matter of fact.  
24           Now what I'd like to do tonight is I'm going  
25 to try not to bore you with too much detail, but I think

1 it's important for the members of the Planning Board and  
2 the members of the public in Shrewsbury to understand  
3 the process that the Borough has gone through to get us  
4 to where we are tonight. So I'm going to talk about the  
5 past and obviously this application will be more catered  
6 towards the future, but I think like I said, I think  
7 it's important that everybody understands that this has  
8 been a long process. A lot of actions and a lot of  
9 blood, sweat and tears have been shed to try to get to  
10 this point. So I'll try to be as succinct as possible,  
11 but there's some areas that I'm going to need to go into  
12 of detail to create context so you can understand what  
13 I'm talking about.

14           Now, the Mount Laurel doctrine has been  
15 around since 1975. It was a Supreme Court decision that  
16 basically says that every town in New Jersey has to  
17 provide its fair share of affordable housing. Fast  
18 forward to 1987 is when COAH's initial set of  
19 regulations were adopted, COAH being the Council on  
20 Affordable Housing. It's a state agency in Trenton. As  
21 most people have probably heard, they've been in the  
22 news quite a bit and I'm going to talk about that in a  
23 minute.

24           So at least since 1975 and certainly from  
25 1987 on, municipalities have been exposed to legal

1 action if they don't get their affordable housing house  
2 in order. In other words, if they don't get a plan  
3 together that's approved either by COAH or the court  
4 that says that you have indeed satisfied your affordable  
5 housing obligations.

6 Now towns throughout New Jersey don't  
7 satisfy these obligations or don't put a plan together  
8 for several reasons and we do represent plenty of shore  
9 towns. And one of the most common reasons why a shore  
10 town won't have their plan adopted or won't have their  
11 plan approved is because they figure, correctly so in  
12 most cases, that they have no vacant land left in town  
13 so where are we going to put all this affordable  
14 housing? That's typically the question that gets asked  
15 and that's typically why a municipality would not have a  
16 plan approved.

17 So in late 2004 I believe we were contacted  
18 by the Borough to start discussing the idea that we  
19 would be retained by the Borough to try to get  
20 Shrewsbury into a position that they were protected from  
21 what is commonly known as the builder's remedy lawsuit.  
22 I need to talk about the builder's remedy lawsuit a  
23 little bit. For towns that don't have an approved plan,  
24 that don't have a judicial or an agency declaration that  
25 you've satisfied your fair share, the Supreme Court

1 created this judicial, this cause of action where a  
2 developer can file a lawsuit against a town that  
3 basically alleges that they haven't satisfied their  
4 obligations and they always ask for an increase in  
5 density. They find a piece of property. They say to  
6 the town, you have not satisfied your affordable housing  
7 obligations. I'm going to create affordable housing in  
8 your town, but the quid pro quo or the deal for the  
9 developer is they take a piece of property at a low  
10 density typically and they get an order from the court  
11 raising that density way up. For instance, you know, to  
12 use this application as an example, instead of 77 units  
13 or 75 units, whatever the application is for, the  
14 Borough of Shrewsbury may have faced an application or  
15 an order from the court that basically said they can  
16 build 277 units. We've seen some very draconian, very  
17 harsh orders for towns that don't get their affordable  
18 housing house in order. And that would have been why,  
19 exactly why the Borough would have retained us. And I  
20 believe we were retained in the beginning of 2005 to  
21 help them, to help them get their affordable housing  
22 house in order.

23         Now, what is the first thing that we do when  
24 we're retained by a town like Shrewsbury? The first  
25 thing that we do is we try to get protection against

1 builder's remedy lawsuits and we did that here. And not  
2 to get into too much detail, but what we did was we  
3 filed an action in court to kind of head any developer  
4 off at the pass and asked for a protection from the  
5 court. And what it's called is an immunity order.  
6 Basically what it means is that we're immune temporarily  
7 from any builder's remedy lawsuits until we have a  
8 chance to get our housing element and fair share plan  
9 adopted and then ultimately approved.

10           So in the beginning of 2005 I believe it was  
11 April of '05 we filed this action in court and we asked  
12 the judge, please give us immunity from any builder's  
13 remedy lawsuits while we get the action going here. And  
14 another thing that the Borough did which we almost  
15 always recommend is the Borough Council would have  
16 adopted a resolution formally committing to satisfying  
17 your affordable housing obligation. So if you can  
18 imagine, we have a formal commitment from the Borough  
19 Council, we take that formal commitment and we send that  
20 over to the court and we ask for temporary immunity or  
21 temporary protection from builder's remedy lawsuits.

22           Now we got that order, the judge I don't  
23 remember -- I think it might have been Judge Coogan --  
24 signed that order in May of 2005. So now at least we  
25 are protected from any builder's remedy lawsuits and now

1 we can work through the Planning Board process and  
2 through the governing body process of getting our plan  
3 developed and approved. We didn't just do that, though.  
4 In addition to starting to draft our affordable housing  
5 plan, we adopted what is called a development fee  
6 ordinance and some of you may be familiar with that.  
7 And basically what a development fee ordinance is is  
8 that whenever any development occurs in town, a fee is  
9 paid by the developer whether it be a residential or  
10 nonresidential, that money goes into a trust fund that  
11 the Borough would hold in trust and any money that's  
12 collected has to go to satisfying the affordable housing  
13 obligations. It's a little money that you can use  
14 without having to spend taxpayer money to satisfy your  
15 affordable housing obligations.

16 We also adopted what is known as a growth  
17 share ordinance. I don't need to go into that right  
18 now. And also importantly we created what is called the  
19 Mount Laurel subcommittee in town. And we almost always  
20 recommend a Mount Laurel subcommittee because you have  
21 to understand the process. It's a two-step process to  
22 get your plan adopted or to get your plan submitted to  
23 COAH. The Planning Board has to adopt amendment to your  
24 housing element and fair share plan and then it needs to  
25 be endorsed by the governing body. So it's really a

1 two-step process. And one of the reasons why we create  
2 these Mount Laurel subcommittees is so the Planning  
3 Board members and the governing body members work  
4 together so the right hand knows what the left hand is  
5 doing. So in this case I know that we had a number of  
6 governing body members were on the committee, I know a  
7 number of Planning Board members were on the committee.  
8 Ms. Donato from the Planning Board attorney, Mr.  
9 Cranmer, my firm was on the committee and there may have  
10 been other members of the committee that, you know, that  
11 when we created it back in 2005 and the idea was for us  
12 to start discussing how is the Shrewsbury plan? What is  
13 it going to look like?

14 Now another thing that we started doing at  
15 that point is we started taking stock of what available  
16 land the Borough included, what vacant land was there  
17 and again, not to go into too much detail, but one of  
18 the reasons why you would do a vacant land analysis is  
19 because COAH allows municipalities like Shrewsbury that  
20 has very scarce vacant land to adjust their affordable  
21 housing obligation downward to deal with the reality  
22 that you simply don't have enough property in town to  
23 maybe satisfy or vacant property to satisfy your  
24 obligations. The obligation doesn't go away, but it's  
25 just adjusted downward.

1           So in order to -- now I said that in May of  
2 2005 we got that temporary immunity order from the  
3 court. In order to maintain your immunity, the next  
4 step is to adopt the plan, develop and adopt the plan.  
5 Now in 2005 COAH had a deadline for all towns in New  
6 Jersey. They had to have a plan adopted to comport with  
7 their new regulations by December 31, 2005. So my  
8 office was swamped with work from the whole year of  
9 2005, but certainly towards the end of 2005. No  
10 different in Shrewsbury. We went through the Planning  
11 Board process. There was a public hearing. It was  
12 obviously publicly noticed. The public was given the  
13 opportunity to comment and sometime I believe in  
14 November or in December of 2005, Shrewsbury adopted  
15 their housing element and fair share plan. It went over  
16 to the Borough governing body, to the council and it was  
17 formally endorsed which was another public hearing. It  
18 was formally endorsed by the Borough council. What I do  
19 now or what my firm does then is we then file the plan  
20 with the court because you can choose to either go  
21 through the COAH process or the court process. We chose  
22 the court for several reasons I don't need to get into.  
23 We sent it to the court, we filed the plan with COAH  
24 also as a formality and then we got into a situation  
25 where we filed -- again, I'm trying to be careful not to

1 go into too much detail -- we filed another complaint  
2 and we asked for an extension of our immunity because  
3 now at this point we could say to the judge, Judge, in  
4 May of 2005 you gave us temporary immunity. Look what  
5 we've done. We adopted a fee ordinance. We adopted a  
6 growth share ordinance. We adopted the plan. The  
7 governing body endorsed our plan. Please give us  
8 additional immunity from builder's remedy lawsuits as we  
9 have our plan reviewed by the court.

10 Now another thing that I forgot to mention  
11 was around the same time, the Borough requested that the  
12 judge appoint a special master, what is known as a  
13 special master and if you can imagine a judge is very  
14 busy. It's hard for a judge to be able to look at every  
15 single plan that gets submitted and also typically  
16 there's planning issues involved in the review and the  
17 adoption and amendment of plans. And a special master  
18 in most cases is somebody who's expert in planning  
19 issues, a professional planner. In this case the judge  
20 appointed a gentleman named Frank Banisch who is a  
21 pretty well-known special master and planner,  
22 professional planner throughout New Jersey.

23 So now this is into early 2006 when all of  
24 this is taking place. Now, I mentioned before about the  
25 vacant land analysis and this affordable housing

1 obligation that gets adjusted down, but doesn't go away.  
2 And I believe at that point the vacant land analysis --  
3 I'm sorry, your affordable housing obligation at that  
4 point under COAH regulations, it's assigned by COAH, was  
5 294 affordable housing units. Now, based on the vacant  
6 land adjustment that we did, we argued and I think it's  
7 still a valid argument, that that number should be  
8 adjusted down to zero. But you can't forget it. You  
9 have an obligation again under COAH regulations to  
10 consider any proposals that come from any developer to  
11 try to address what is a term of art called the unmet  
12 need. When your affordable housing obligation gets  
13 adjusted down to zero especially, you have a 294 unit  
14 unmet need. What I'm trying to say is when you have  
15 that situation, you have to listen to any proposals that  
16 a developer may come forth. That doesn't mean you have  
17 to accept it, but you have an obligation to at least  
18 listen to any proposals that come down the pike. And I  
19 will stop for a second. Did I miss anything along the  
20 way there, Dave?

21 MR. CRANMER: No, you didn't, but there is  
22 one thing I want to add to that is when we formulated  
23 the vacant land analysis, what that really means is we  
24 basically looked at every piece of property in the  
25 Borough of Shrewsbury if it was vacant to see if it were

1 suitable for an affordable housing development or any  
2 development which could have an inclusionary component.  
3 And as part of that process our vacant land analysis  
4 indicated that the -- I'm going to call this the Borough  
5 bus site because that's the way we've all been referring  
6 to it and I think that's the way we all know it. The  
7 Borough bus site certainly wasn't vacant and in our  
8 vacant land analysis we consider that to be a developed  
9 parcel and therefore excluded from our affordable  
10 housing plan. And in fact the affordable housing plan  
11 that was submitted in 2005 did not include this parcel.  
12 It was not part of our plan.

13           After the plan was filed and I'm sure Mr.  
14 Jedziniak will talk about this in a moment, there was a  
15 builder's remedy lawsuit filed at which point we then  
16 had to consider this parcel. So you didn't miss  
17 anything, I just want to make sure everybody understands  
18 that our initial vacant land analysis that was performed  
19 by the Borough indicated that this was not a vacant  
20 parcel. So it was therefore excluded from our first  
21 affordable housing plan.

22           CHAIRMAN BELL: Just want to add one thing  
23 so that everybody is clear on these units. In 2006 I  
24 believe the number was 289 units?

25           MR. JEDZINIAK: The unmet need?

1           CHAIRMAN BELL: The unmet need.

2           MR. JEDZINIAK: 294 is the number I had  
3 written down.

4           CHAIRMAN BELL: 294, the state told us and  
5 every town the same thing, different numbers, the town,  
6 you have -- you're short 294 units. And we want to see  
7 where you're going to build them. It's your -- the town  
8 which is around the state you see it all the time, you  
9 read about it in the paper where towns are forced to  
10 build affordable housing units, but they told us that we  
11 had a 294 unit need. So that's where we were. That's  
12 where we were then. What are we going to do? Even  
13 though we don't have the land to build 294 units, but  
14 there is building going on and there is some vacant land  
15 and there's properties that could be redeveloped which  
16 is where you are now.

17          MR. JEDZINIAK: Yeah, and I would want to  
18 add something also to that. Whenever we have a Mount  
19 Laurel committee convened in any of our municipalities,  
20 there's a balancing act going on. And the balancing act  
21 that always occurs is you try to put together a plan  
22 where you satisfy your affordable housing obligations to  
23 the extent it's possible, but you also minimize the  
24 impact on the community. I mean, that's the balancing  
25 act that goes on in every single town, Shrewsbury

1 clearly being another one because I did not attend all  
2 of the Mount Laurel subcommittee meetings, but the ones  
3 that I did attend, that was really the main concern or  
4 the two main concerns that were expressed that I noticed  
5 is that there was certainly a concern to do what we had  
6 to do to satisfy the affordable housing obligation, but  
7 also the discussion centered on how are we going to do  
8 that with a minimal impact on the community? And that  
9 is looking at different bonus credits that COAH offers.  
10 I mean, there's a lot of different ways to do that. But  
11 this, especially a town with a minimum amount of vacant  
12 land, you want to try to do what you can, but also  
13 minimize the impact on the community. And that is  
14 something that I can definitely say occurred in these  
15 Mount Laurel subcommittee meetings.

16 Now, we're in the beginning of 2006 on my  
17 time line here and like I said, we had filed our plan  
18 and we had submitted it to the court and we had an  
19 immunity order. Now at that point I think is when  
20 Hovnanian came into the picture and what they did right  
21 or wrong, they had filed a suit because I know that the  
22 Borough had adopted a steep slope ordinance around the  
23 same time and I think subsequent to the adoption of the  
24 steep slope ordinance Hovnanian challenged that portion  
25 of it. And in that suit there were I believe four

1 counts, two of them were associated with the steep slope  
2 ordinance and two of them were Mount Laurel counts.  
3 They were challenging our Mount Laurel compliance. Now  
4 I just said to you several times that we had an immunity  
5 order from the judge protecting us from exactly that.  
6 And what happened was we filed a motion not to dismiss  
7 their challenges to the steep slope ordinance because  
8 they had a right to do that under the Municipal Land Use  
9 Law, but we asked for the judge to dismiss the two  
10 counts of their complaint that had to do with the Mount  
11 Laurel doctrine and we were successful on that. I'm not  
12 sure exactly what the date was, but sometime towards the  
13 middle of 2006 I believe that the court dismissed those  
14 two Mount Laurel counts. So that allowed us to take our  
15 focus or maintain our focus on satisfying our affordable  
16 housing obligations and not on litigation.

17         So in retrospect, if nothing else, by hiring  
18 Mr. Surenian's firm, my firm, the Borough made a good  
19 move because what they've done is unlike many Monmouth  
20 County towns and unlike many towns throughout the state,  
21 they did not have to spend, in some cases, hundreds of  
22 thousands of dollars defending themselves against a  
23 builder's remedy lawsuit. They could spend their time  
24 and finite resources on trying to put together an  
25 affordable housing plan that works for the community.

1 So that ended up being a very fortunate decision by the  
2 governing body at that point.

3           Okay. I believe at this point in June of  
4 2006 and I may defer a little bit to Mr. Cranmer on  
5 this, in June of 2006 I believe that Hovnanian came  
6 before the Planning Board and informally proposed or  
7 presented I believe it was a 96 unit proposal for  
8 consideration. And I believe also that the way they  
9 ended up in front of the Planning Board was another  
10 function of the Mount Laurel subcommittee because I  
11 believe at that point we had already had discussions  
12 with Hovnanian and the Mount Laurel subcommittee and the  
13 subcommittee suggested that if you have a proposal,  
14 bring it informally to the Planning Board to get some  
15 feedback and to see whether there was any resistance or  
16 a comment from the Planning Board at that point.

17           So as early as June of 2006 I know that the  
18 Hovnanian group had come before the Planning Board and  
19 at least informally discussed the idea that they wanted  
20 to develop the property or redevelop the property and  
21 they presented certain ideas and certain concepts on  
22 what they had in mind at least in June of 2006.

23           Another thing that was going on  
24 simultaneously with all of this, middle towards the  
25 later part of 2006, if you recall I mentioned that the

1 judge had appointed a special master. Well, one of the  
2 main functions of a special master is to act as a  
3 mediator between the municipality and any developer. In  
4 most cases it's a builder's remedy, but in this case it  
5 wasn't. It was more of a friendly negotiation between  
6 the Borough and the Hovnanian people. And the master  
7 attempted at least one meeting here I believe and I know  
8 that he was -- oh, several meetings, and I know that he  
9 was intimately involved in the negotiation, the  
10 discussion, the back and forth talking about the details  
11 of the proposed project and to act as a mediator to talk  
12 about planning issues and densities and all those things  
13 that you talk about when you propose a project.

14 MR. CRANMER: A point that we should make is  
15 when we started formulating the affordable housing plan  
16 we submitted it at the end of '05. Hovnanian came  
17 forward with their builder's remedy lawsuit. We then  
18 had to negotiate with them and have an open discussion  
19 with them. When the discussion started we were of  
20 course at the lowest end of the density that we could  
21 possibly be in terms of units per acre under the  
22 affordable housing laws. And Hovnanian was of course at  
23 the higher end of the densities. I can remember opening  
24 the negotiations or opening discussions where they had  
25 plans that had over 100 units and then I think the

1 informal presentation made in 2006 had 96 units. So we  
2 were basically negotiating at one end of the spectrum  
3 with we're going to give you the density that COAH tells  
4 us we have to give you. And of course Hovnanian was  
5 looking for the density that they felt was the most  
6 economically feasible forum and that really was a  
7 negotiation. Mr. Banisch who was a special master  
8 appointed by the court who we had to listen to and we  
9 had to involve in the discussions, he really did serve  
10 as a negotiator or a mediator between the Borough and  
11 Hovnanian. Now there were no other developers that came  
12 forward on any other pieces of property in the Borough.  
13 The only reason that Hovnanian was the only one was  
14 because they were contract purchaser on the Borough bus  
15 site and realistically there are no other parcels of  
16 land in the Borough of Shrewsbury that are large enough  
17 and suitable for redevelopment as an affordable housing  
18 development.

19         So the Mount Laurel subcommittee which was  
20 comprised of the Planning Board and the governing body,  
21 we were all at the very low end of the spectrum in terms  
22 of density and impact to the community and naturally the  
23 foundation of our negotiations.

24         CHAIRMAN BELL: Dave, I just want to clarify  
25 one thing that you said. And this is an inclusionary

1 development, not an affordable housing development.

2 MR. CRANMER: Right, that's a good point.

3 This is not an entirely affordable housing development

4 and if anybody has that impression maybe I misspoke.

5 What an inclusionary development is under the affordable

6 housing laws, you would allow a multi-family development

7 if the developer were to agree to have a 20 percent set

8 aside or 20 percent of the units or whatever percentage

9 of the units that is negotiated between the developer

10 and the municipality, the set aside is the number of

11 affordable units. In this case it's a 20 percent set

12 aside or 17 or 16 of the units.

13 MR. JEDZINIAK: Okay. So in the latter part

14 of 2006 all these negotiations were going on and

15 evidently the negotiations had gone okay because towards

16 the end of 2006 I know the Borough had drafted an

17 amendment to their housing element and fair share plan

18 that had contemplated including the Hovnanian site, I

19 guess we're calling it the Borough bus site in the plan.

20 So as of at least December of 2006 there was a plan that

21 was going to be brought before the public that would

22 have included the Borough bus site. Something happened

23 on the way, though. One thing that I did not mention

24 before and is now relevant is that in the backdrop of

25 all this time COAH's regulations were being vigorously

1 challenged by several entities and while we were doing  
2 all of this work and all of these activities and all of  
3 this negotiation and all of this judicial stuff, the  
4 appellate division was hearing arguments and reading  
5 briefs and considering the challenges to COAH's  
6 regulations. And on January 27th of 2007 the appellate  
7 division released an opinion that invalidated large  
8 portions of COAH's regulations. And what the appellate  
9 division said to COAH was, come back to us in six  
10 months. In other words, you are ordered to adopt new  
11 regulations in six months. So we all figured that COAH  
12 would have a new set of regulations for us to abide by  
13 by July of 2007.

14 Well, July of 2007 went by and -- oh, let me  
15 just suggest that at this point Shrewsbury as did most  
16 towns in New Jersey, everything kind of went cold on the  
17 affordable housing front because we didn't know what the  
18 new regulations were going to say. So it didn't make  
19 much sense for towns to spend a lot of time and effort  
20 putting together new plans or cutting deals with  
21 developers or whatever would go on to settle lawsuits or  
22 whatever because everybody was wondering what COAH was  
23 going to come up with next. So July of 2007 goes by and  
24 COAH finally after getting a couple of extensions from  
25 the court, I believe they proposed their new regulations

1 in December of 2007, December 17th of 2007 they finally  
2 proposed regulations. Again, not to bore you, but when  
3 an agency proposes regulations, that goes through a  
4 public process that takes time. So long story short, it  
5 went through the initial public comment. They received  
6 5,000 comments, 4,900 of them which were negative. They  
7 repropose the regulations and long story short COAH  
8 finally adopted its newest current regulations in I  
9 believe it was June of 2008 and ultimately they became  
10 effective, meaning towns were now bound by these new  
11 regulations in October of 2008.

12         So what that meant was we now had to put  
13 together a new affordable housing plan and the new  
14 deadline was December of 2008. We had a deadline of I  
15 don't remember the exact date of December, I should  
16 remember that, but we had a new deadline. So once these  
17 new regulations came out, I believe that kind of  
18 rekindled the opportunity for the Borough and for the  
19 Hovnanian people to start discussions again and start to  
20 come closer to terms than we had been because I think we  
21 were a little bit -- we were kind of close in the end of  
22 2007, but things got sidetracked once COAH's regulations  
23 were invalidated.

24         One of the things that you should know is  
25 that COAH's new regulations included higher set asides,

1 affordable housing set asides because the former  
2 benchmark was a 20 percent set aside for non-rental  
3 units. So that means that if you had 100 unit project,  
4 20 of them would be affordable, deed restricted  
5 affordable units and 80 of them would be market-rate  
6 units. COAH raised that benchmark to 25 percent and one  
7 of the first things that we did through Mr. Surenian, I  
8 believe, was to request to the Hovnanian group that they  
9 abide by the COAH benchmark for 25 percent. And one of  
10 the underlying concerns about any project, and certainly  
11 in my world the affordable housing developments or  
12 inclusionary developments as Chairman Bell correctly  
13 pointed out, is that you have to make sure that these  
14 projects are economically feasible. And we spent a  
15 great deal of time and effort discussing this idea of  
16 raising the affordable housing set aside to 25 percent  
17 through the Mount Laurel subcommittee again. And in the  
18 end it was determined that what we wanted and what we  
19 could accept and what the Hovnanian group could do  
20 economically, it just didn't match. So what we did was  
21 instead of mandating a 25 percent set aside which may  
22 have jeopardized the economic feasibility of this  
23 development, we decided to go with the old COAH  
24 benchmark of 20 percent and ultimately we settled on I  
25 believe 77 units; is that correct? So let me just look

1 at my notes and make sure I didn't forget anything.

2 MR. CRANMER: Just a couple of very key  
3 points. The affordable housing plan, the first one that  
4 was generated in 2005, as I indicated did not include  
5 this site. And the reason that it didn't was because we  
6 had a real estate development potential, an REDP of zero  
7 which simply meant that we didn't have any land to allow  
8 affordable housing developments or any developments for  
9 that matter. What we were obligated to do was to take  
10 those steps that were reasonable to provide realistic  
11 opportunities for the creation of affordable housing in  
12 the Borough to address the unmet need of 294 units. And  
13 the affordable housing plan that we formulated included  
14 certain what we call overlay zone districts which means  
15 that we don't change the zone or when I mentioned the  
16 zoning ordinance a short time ago, we don't change the  
17 zone standards, but we allow an overlay ordinance to lay  
18 over top of the zoning that's on the zoning map and on  
19 the zoning ordinances. And if a developer chooses to  
20 develop a parcel for affordable housing they would abide  
21 by those standards. So we didn't rezone any parcels in  
22 the town for affordable housing. That didn't happen and  
23 it still hasn't happened. What we did was when we had  
24 to include the Borough bus site in our new plan, what we  
25 did was we created an overlay zone which simply means

1 that the Borough bus site has been historically zoned as  
2 LI or light industrial and that's the way it's been  
3 since the zoning map was created probably in the early  
4 '70s. We recently changed the zone from LI to what we  
5 call B3 and we did that as part of a master plan  
6 amendment and a reexamination because what we  
7 determined, and when I say "we" I mean the Planning  
8 Board, the governing body and the advice of their  
9 professionals, the determination was made that a light  
10 industrial use on that piece of property was not the  
11 appropriate land use for Shrewsbury. What would be a  
12 more appropriate land use would be a commercial zone  
13 which would be very similar to what you have on Broad  
14 Street. Broad Street is what we call B1 or the business  
15 district and it allowed for things such as The Grove. A  
16 development such as The Grove could be developed there,  
17 retail uses, nonresidential uses. So the zone of that  
18 property today is B3 over the entire tract.

19 As part of the affordable housing plan we  
20 also created what we call the AH-MF8 overlay ordinance  
21 which stands for Affordable Housing Multifamily 8 units  
22 per acre. And there are zone standards under this  
23 overlay that would permit, not require, but permit a  
24 developer who wanted to develop the parcel as a  
25 residential development, it would have to have an

1 inclusionary component of 20 percent. And it had  
2 certain zoning and design standards built into that  
3 ordinance, things like how far apart the buildings have  
4 to be spaced. And I would also mention that there was a  
5 provision in that ordinance for age-restricted housing.  
6 So a developer could develop either age-restricted  
7 housing or non-age-restricted housing. And all this  
8 really was formulated with the -- I'm going to call it  
9 the oversight if that's the correct term -- of Mr.  
10 Banisch which was appointed by the court. And what I  
11 think is important for everybody to realize and to  
12 acknowledge is that we were under court order at that  
13 point. We had an order of protection and in order to  
14 keep enjoying the benefits of that order of protection  
15 we had to follow not only the COAH regulations, but what  
16 the court was dictating to us through Mr. Banisch. And  
17 he was part of this process from 2006 all the way  
18 through to when our plan was submitted in the end of  
19 2008.

20 MR. JEDZINIAK: Chairman, I don't have  
21 anything else. I think that's pretty much captured it  
22 all.

23 MS. SICILIANO: Personally I think if the  
24 audience really wants to know what they told you, go  
25 upstairs and ask for the master plan that was adopted in

1 December and it has in simple English exactly all the  
2 steps that were taken that you described here.

3 MR. CRANMER: Right, it was a very long and  
4 arduous process. I know that I personally have been  
5 before the Board giving updates throughout the years as  
6 we've gone along. And the reason for that is because  
7 the Borough, you know, I don't want to say we dug in,  
8 but we dug in at the lowest density that was possible  
9 that would result in the lowest impact or least impact  
10 to the community. And the discussion was with Hovnanian  
11 and when we looked at the plan, one of the steps that we  
12 took was we entertained concept layouts from them or we  
13 asked them to give us what they envisioned as the  
14 prospective developer of the site. And when we  
15 formulated our ordinance we formulated our ordinance  
16 with what they envisioned in mind and then we took that  
17 and filtered it into what we really envisioned. And we  
18 created an ordinance that they had to adhere to. We  
19 didn't craft an ordinance around their project, but it  
20 was a prudent step to take their input.

21 So what the Borough did in essence is take  
22 control over what was going to happen on that property  
23 and in the Borough. We were faced with a builder's  
24 remedy lawsuit and under a builder's remedy lawsuit the  
25 density could be substantially higher than 8 units per

1 acre and it would be taken away, the zoning would have  
2 been taken away from the Planning Board and from the  
3 governing body and it would have been dictated by a  
4 judge. So the Borough took the steps to retain control  
5 and to really control the destiny of what was going to  
6 happen there and to minimize the impact to the Borough.  
7 And that's why it really took as long as it did.

8           CHAIRMAN BELL: I'd just like to do an  
9 overlay on your overlay. Every municipality in New  
10 Jersey is unfortunately or fortunately, whatever,  
11 depending on where you look, bound by Mount Laurel.  
12 There are some municipalities that did nothing. They  
13 made a decision, I'm not going to do anything. I'm  
14 going to fight the builders. I have no property to  
15 develop and I'm going to fight the builders.

16           MR. CRANMER: We've read about cases in  
17 Rumson and Oceanport.

18           CHAIRMAN BELL: Absolutely. In our case we  
19 made a decision to fight -- not to fight, that's the  
20 wrong word. To take an offensive stance in that we're  
21 going to look at the master plan. We're going to be on  
22 the offensive. We don't want to be on the defensive.  
23 We don't really have any properties, but there are the  
24 residents in town, everybody out there, you know your  
25 Borough as well as everybody up here knows the Borough,

1 there are select pieces of property in town where  
2 somebody could build, but the last thing you want is to  
3 have a builder come in and say, "I want to buy a 7 acre  
4 piece of property right in the center of town, walking  
5 distance to the Borough school." I think it's 7 acres,  
6 8 acres.

7 MR. CRANMER: It's 9.6.

8 CHAIRMAN BELL: I'm not talking about this  
9 piece of property. And tear down the restaurant and I  
10 want to put a high rise, I want to put 20 units per  
11 acre. And if the town doesn't have an ordinance in  
12 place, if we don't have anything in place we have  
13 nothing to defend ourselves, it goes to court. We might  
14 win, but we might lose. And plenty of towns have lost.  
15 And what we did is we looked and we said we want to be  
16 on the offensive and we want to minimize it. And  
17 particularly this particular project or this particular  
18 site, this project is in front of us, it doesn't mean  
19 that it's going to get approved, but the property is  
20 zoned for 8 units per acre inclusionary. Somebody could  
21 have come in and I think the number, the last I heard  
22 from the last ruling was you could get up to 20. Was  
23 that right?

24 MR. JEDZINIAK: Well, there's no set number,  
25 but, for an example, we represented a municipality where

1 the municipality settled with the builder's remedy  
2 plaintiff for 43 units an acre. And that was more of an  
3 urban town, but it was a redevelopment site. So the sky  
4 is the limit on there and it's bound by planning  
5 considerations, but there is no upper limit to the  
6 densities that you could face.

7 CHAIRMAN BELL: So anyhow, if you want to  
8 look at the master plan, you look up -- this wasn't done  
9 overnight. It was done over a very long period of time  
10 with a lot of thought. A lot of people put their minds  
11 into it and this particular piece of property is 8 units  
12 per acre, but there's an overlay on the B3 on the  
13 overlay. There could be apartments on the second floor.

14 MR. CRANMER: That's correct.

15 CHAIRMAN BELL: So we looked at how we can  
16 achieve some affordable housing. And before you end,  
17 could you just explain affordable housing, what  
18 affordable housing is and who the people are or the  
19 families that would qualify for the units that would  
20 fall under whether it's this project or another project  
21 in this piece of property?

22 MR. JEDZINIAK: Sure, Chairman. Invariably  
23 the question is asked who are the people? Who are the  
24 affordable households that will be moving into this  
25 development? And before I came here tonight I was

1 looking at the spreadsheet that COAH releases every  
2 year. They come out with something called the Regional  
3 Income Limits sheet and that comes out every April. And  
4 I looked at this year's and I looked at our region which  
5 is Region 4, Ocean, Monmouth and Mercer counties. And  
6 what I pulled mentally from that was for a four-unit  
7 household -- I'm sorry, four person household, meaning a  
8 mom, a dad and two kids, the maximum moderate income  
9 that a person can show is roughly \$71,000. So we're  
10 talking about people who are not destitute. These are  
11 not Section VIII people, these are not people who don't  
12 hold jobs. These are people who must demonstrate before  
13 they can get certified to even move into any of these  
14 units that they are gainfully employed, that they have  
15 the ability to earn and that they do earn money. So,  
16 you know, to answer the chairman's question in another  
17 way, you know, the people who we're talking about are  
18 the teachers and the people that work at maybe even the  
19 Borough; your firemen, your police officers and people  
20 like that. You know, that's maybe even some of your  
21 children or, you know, these are people that you know  
22 that will be probably interested in the units. People  
23 that live in the Borough right now that will probably be  
24 interested in the units assuming that this development  
25 gets constructed. So I think that's a good question and

1 it's a question that I invariably have to answer and  
2 that's why I purposefully thought about that and looked  
3 at the sheet today. So we're talking about people, like  
4 I said, that are not destitute, people that earn money  
5 and can demonstrate that.

6 CHAIRMAN BELL: Okay. At the risk of having  
7 this get out of control and I don't want it to get out  
8 of control, I would entertain a motion to open the  
9 meeting to the public for questions specifically related  
10 to COAH, anything that you heard here. Not why we did  
11 this or why we did that or whatever or you like it, you  
12 don't like it, whatever, but anything specific to COAH.

13 MR. MORAN: I move that.

14 MR. TELLER: Second.

15 CHAIRMAN BELL: Mr Moran, Mr. Teller. All  
16 in favor?

17 (Multiple Board members respond "Aye.")

18 CHAIRMAN BELL: Opposed? Okay, anybody have  
19 any questions about COAH? Yes, come on up and state  
20 your name.

21 MR. HINES: Tim Hines, I live on Beechwood  
22 Drive, 81 Beechwood. I just had a quick question. You  
23 said you got it down to 20 percent affordable housing  
24 out of this project. Is that going to keep COAH off our  
25 back or --

1 MR. JEDZINIAK: Well, it's not a matter of  
2 keeping them off your back.

3 MR. HINES: I mean, like, originally in 2005  
4 you said it was like 290 units we had to have or  
5 something like that, now 77 is like 20 --

6 MR. JEDZINIAK: The way you have to look at  
7 this is that this would be a component or an element of  
8 your overall plan. Do you remember we were talking or I  
9 was talking about that unmet need, that 294 units?

10 MR. HINES: Right.

11 MR. JEDZINIAK: What COAH looks at, they  
12 look at for towns that lack vacant land, they want you  
13 to use your best effort. So the answer to your question  
14 is this is going a long way to keeping quote/unquote  
15 "COAH" off your back because you found a way despite the  
16 lack of land or developable land to create affordable  
17 housing on it.

18 MR. HINES: I understand your strategy, but  
19 they're not going to come back two years from now, "You  
20 don't have affordable housing" we're going to through  
21 this process again or is this going to be like --

22 MR. JEDZINIAK: That's a very good question,  
23 two answers. First of all, we are in front of a judge.  
24 We chose the judicial route so that means that COAH is  
25 not going to be reviewing the Borough's plan and I said

1 before that there's several reasons why we would choose  
2 to do that, one of which is that courts are typically a  
3 little bit more flexible with their decisions,  
4 especially when they're familiar with the typical -- I  
5 mean not typical, but the particular municipality. And  
6 COAH tends to be a little bit more rigid, a little bit  
7 more bureaucratic so we steer most of our towns that  
8 way.

9           The answer to the question that I thought  
10 was a good question is that you have to continue to do  
11 what you can to try to satisfy that unmet need.

12           MR. HINES: So it's just ongoing.

13           MR. JEDZINIAK: That number never goes away.  
14 So let's use an example. Let's say you're at 294 and  
15 you get it down to 274. You still have an obligation to  
16 consider proposals from any other developer or keep your  
17 eye out as a municipality on places that may redevelop  
18 or Borough owned properties that may be, you know, right  
19 for that type of development. So the obligation doesn't  
20 go away, but you remain protected as long as you show  
21 good faith in trying to capture affordable housing  
22 obligations --

23           MR. HINES: You're not a target or something  
24 like that?

25           MR. JEDZINIAK: Right. You're protected

1 from builder's remedy lawsuits and that's the main  
2 thing. And to finish the answer, Mr. Cranmer said  
3 before a term that I think is very important for you to  
4 remember, "controlling your own destiny." By being  
5 proactive and by taking the bull by the horns,  
6 Shrewsbury maintains control over its own destiny.  
7 There may be difficult choices, there may not be any  
8 good choices, but at least you're not at the mercy of a  
9 voracious plaintiff or a judge who just doesn't care.  
10 And that's what you've done is you've protected  
11 yourselves from those ramifications.

12 Mr. HINES: Okay, thanks.

13 CHAIRMAN BELL: Thank you. Yes, sir.

14 MS. QUIRK: Good evening, my name is  
15 Marianne Quirk and I live at 74 Garden Road and I do  
16 appreciate all your efforts. A couple questions. One,  
17 the four person household income is \$71,000. What is an  
18 affordable house? How much do you expect these people  
19 to pay?

20 MR. JEDZINIAK: Well, that's based on a  
21 calculation.

22 MS. QUIRK: What would that be or on  
23 average? You must have a good idea.

24 CHAIRMAN BELL: Mr. Kurland, weren't you  
25 going to -- that's going to be part of your

1 presentation?

2 MR. KURLAND: That's correct, Mr. Bell, we  
3 have a witness who will be talking tonight who will  
4 discuss the range of purchase prices for the affordable  
5 homes.

6 CHAIRMAN BELL: I'm not cutting your answer  
7 off because you can come right back and ask that  
8 question of the expert.

9 MS. QUIRK: And I will, don't worry. I also  
10 have another question, what about the possibility of  
11 selling -- I know in the past other towns have sold  
12 their affordable housing obligations to towns that need  
13 it.

14 MR. JEDZINIAK: Okay. That is the key.

15 MS. QUIRK: Has Shrewsbury pursued this?

16 MR. JEDZINIAK: The key term is "in the  
17 past" because the legislature on July 17, 2008 abolished  
18 what you're talking about. Your question goes towards  
19 regional contribution agreements and they used to be a  
20 very excellent tool for municipalities like Shrewsbury.  
21 As a matter of fact, in our 2005 plan we had I believe a  
22 6 unit RCA contemplated to try to help us satisfy our  
23 affordable housing obligation. That is no longer an  
24 option. Unfortunately the legislature decided to remove  
25 that compliance tool from municipalities.

1 MS. QUIRK: Okay, and then I also had a  
2 question because it sounds like we don't have an  
3 obligation to build unless current building is taking  
4 place, especially in this economic downturn. As a  
5 matter of fact, on January 14, 2009, Commissioner Doria,  
6 commissioner of the community --

7 MR. JEDZINIAK: Former commissioner.

8 MS. QUIRK: Well, at the time he was.

9 MR. JEDZINIAK: That's correct.

10 MS. QUIRK: And he said with regards to  
11 affordable housing, you only build it when other types  
12 of growth in nonresidential commercial development and  
13 market rate housing has taken place. The COAH process  
14 is tied to growth share method, so if no growth is  
15 taking place in your community and given these difficult  
16 times I would imagine limited growth has occurred, then  
17 your not responsible for building affordable housing.

18 MR. JEDZINIAK: Yeah, well Commissioner  
19 Doria is correct, but it needs to be explained. The  
20 growth share, again, as I said a couple of times before,  
21 I could have talked to you people for two hours on this.  
22 The growth share concept, generally speaking, is exactly  
23 that. Where as you grow in the third cycle, as you grow  
24 or develop your affordable housing obligation grows in  
25 proportion to that. And the current regulations are for

1 every four residential units, market rate units that are  
2 constructed, you have an obligation of constructing one  
3 affordable unit. And with every 16 jobs that are  
4 created, you have another 1 unit obligation. So the  
5 answer is that's correct that you have to provide  
6 affordable housing in proportion to your growth, but  
7 that's only a single element of your affordable housing  
8 obligation. And you have to be able -- you also have to  
9 remember that this 294 units I believe it's actually  
10 been adjusted down to 271, but this unmet need I was  
11 talking about, that doesn't go away either. So you have  
12 a growth share obligation which is what Commissioner  
13 Doria was talking about and you have a prior cycle  
14 obligation or an unmet need of 279. So you have to  
15 satisfy them both.

16 Now you talked about, you used the term  
17 "construct." I think that's really not the right term.  
18 I think the right term is you have to create a realistic  
19 opportunity for the construction of affordable housing  
20 based on your zoning ordinances and your development  
21 standards and that. So the municipality doesn't have to  
22 build the housing. It has to create a realistic  
23 opportunity for the construction of such affordable  
24 housing. And as Chairman Bell had said, every town in  
25 New Jersey is sitting in the same boat as far as that

1 goes.

2 MS. QUIRK: Understood. And then kind of  
3 getting back to the issue of affordability, well, A) can  
4 we assume that like when the new age-restricted  
5 community behind the library goes in that we're going to  
6 be required to have 25 percent of that be affordable  
7 housing?

8 MR. JEDZINIAK: No.

9 MS. QUIRK: Why is that, because that's new  
10 building?

11 MR. JEDZINIAK: It will generate a growth  
12 share obligation based on the ratios that I discussed  
13 before. So if it was a 100 unit -- I'm not familiar  
14 with it, oh, 66 units, I believe that was the project  
15 that was approved prior to these new growth share  
16 regulations coming out.

17 MS. QUIRK: So we're still required is my  
18 understanding we're still required --

19 MR. JEDZINIAK: Yeah, 66 divided by 4.

20 MS. QUIRK: We're still required to provide  
21 25 percent affordable housing, but not in that  
22 development?

23 MR. JEDZINIAK: That's correct.

24 MS. QUIRK: So we're going to have that many  
25 more developments going in, we can anticipate this

1 happening again in reference to that new development  
2 coming in?

3 MR. JEDZINIAK: Well, let me clarify it for  
4 you. There's going to be 66 units built there. If you  
5 divide 66 by 4 because that's the ratio, you'll come up  
6 with 14 or 15, 13 units. Unfortunately, the Borough is  
7 going to have to find another place somewhere in town or  
8 some way to secure credits for those 13 units, not on  
9 that site, that's correct. That is the way the  
10 regulations work. So the developer is going to be able  
11 to construct that project without creating any  
12 affordable housing on this site, but the Borough is  
13 going to be responsible for satisfying the obligation  
14 that he is creating.

15 MS. QUIRK: Okay. And then can I just make  
16 an assumption, since you can't answer my -- because I  
17 believe there is a category for Eastern Monmouth County.  
18 There is a price considered for Eastern Monmouth County  
19 that you choose not to tell me.

20 MR. JEDZINIAK: No, let me --

21 MS. QUIRK: What about houses that are  
22 already in town that are valued at that price level?

23 MR. JEDZINIAK: I'll answer that.

24 MS. QUIRK: That doesn't count as affordable  
25 housing?

1 MR. JEDZINIAK: Let me address the first,  
2 the comment that I chose not to discuss, that I chose  
3 not to answer.

4 MS. QUIRK: No, I understand that's coming  
5 up later and that's fine.

6 MR. JEDZINIAK: Yeah, it will come up later  
7 and the quick, the easy answer is it's a calculation  
8 that I have no way of doing in my head, so it's flexible  
9 and I'm sure the expert will talk about that. The  
10 second question is what about units that are already  
11 affordable in town? The problem is that COAH does not  
12 recognize units like that for credits unless they are  
13 deed restricted for 30 years to make sure that only  
14 certified affordable households live there. So believe  
15 me, you're not the only town or the only person that has  
16 said, "Wait a minute, our town is filled with houses  
17 that would qualify to be affordable." But the problem  
18 is is that COAH does not recognize them for credits  
19 because they're not deed restricted basically. So let  
20 me give you a good example, two good examples.  
21 Eatontown we represent and Farmingdale we represent.  
22 Those two municipalities when you look at their  
23 demographics are well over 40 percent affordable if you  
24 just look at the demographics, the people who live  
25 there, what do they earn. But COAH imposes -- well,

1 especially on Eatontown's case roughly 500 or 600 unit  
2 obligation even though when you drive around Eatontown  
3 you look at those houses, you know that they're  
4 affordable. So the answer to your question is  
5 unfortunately you're not going to get credit for those  
6 units.

7 MS. QUIRK: And then what happens in 20  
8 years or 30 years whenever the deed restrictions are  
9 lifted? I know I bought my house on Sickles Place for  
10 \$160,000. It's certainly not valued at that now. You  
11 know, I bought this 14 years ago. What happens in 20  
12 years when that gets lifted? Do you have any --

13 MR. JEDZINIAK: There's two things that can  
14 happen. One is the deed restriction expires and the  
15 town loses the credit or there's also an opportunity for  
16 a municipality to extend the deed restriction and COAH  
17 will grant you credit for that action.

18 MS. QUIRK: Okay, and then the B3 zone, the  
19 business with apartments above, is that also considered  
20 COAH compliant?

21 MR. JEDZINIAK: Yes.

22 MS. QUIRK: The rental apartments? Okay,  
23 thank you.

24 CHAIRMAN BELL: Thank you.

25 MR. CRANMER: Mrs. Quirk, it doesn't require

1 apartments above, it allows for apartments above.

2 CHAIRMAN BELL: Can we keep the questions  
3 very specific on COAH?

4 MR. TALSBERG: Edward Talsberg, Beechwood  
5 Drive. It's hard to know in advance, for a layman to  
6 know in advance whether the question is specific. I'll  
7 do my best. She asked some of the questions I had in  
8 mind, but just a few things I wanted to ask. You  
9 referred to a steep slope ordinance. What is that?

10 MR. CRANMER: The steep slope ordinance is  
11 part of the zoning ordinances in town as part of the  
12 first process where we looked at our zoning ordinances  
13 and compared them to what the suitability criteria was  
14 for the affordable housing requirements. We noted that  
15 the steep slope ordinance or it's called a preservation  
16 of natural features and it's found at 94-5.13. That  
17 ordinance says that any slope greater than 10 percent  
18 shall be considered a steep slope and therefore subject  
19 to certain regulations. The suitability criteria under  
20 the COAH regulations was 15 percent. So we amended the  
21 local ordinance to coincide with what the affordable  
22 housing regulations were. And that was done in April of  
23 2006.

24 CHAIRMAN BELL: Is the basic gist of this,  
25 Mr. Cranmer, so that if you have a piece of property

1 that has a steep slope, a developer doesn't come in and  
2 just level it all down?

3 MR. CRANMER: That's correct, Mr. Bell.

4 MR. TALSBERG: Do we -- currently how many  
5 affordable housing units exist in Shrewsbury?

6 MR. CRANMER: Zero.

7 MS. SICILIANO: None.

8 MR. TALSBERG: Another question. I was  
9 under the impression some years ago when the Thornbrooke  
10 development took place that some of the units built  
11 would be specified or specifically designed to  
12 affordable housing.

13 CHAIRMAN BELL: It didn't. I can answer  
14 that because I was on council and Planning Board.

15 MR. TALSBERG: That was one of the selling  
16 points at the time for approving it.

17 CHAIRMAN BELL: In the process of the  
18 approval that got deleted out.

19 MR. TALSBERG: As might have been expected,  
20 I guess, okay.

21 CHAIRMAN BELL: Yes.

22 MR. WEISMAN: Glenn Weisman, Patterson  
23 Avenue. I overheard you say --

24 CHAIRMAN BELL: Excuse me, could everybody  
25 -- we can't hear. You can't hear, we can't hear when

1 everybody is talking, so let's just let the gentleman  
2 talk.

3 MR. WEISMAN: I hope I'm within my right  
4 here of asking this question. I thought I overheard you  
5 say that Oceanport and Rumson chose to fight and they  
6 did away with affordable housing.

7 MR. JEDZINIAK: No, I did not, didn't say  
8 that. As a matter of fact I don't think I mentioned  
9 Rumson or Oceanport. I think what was said was that  
10 Rumson and Oceanport were both municipalities that were  
11 sued by developers under the builder's remedy theme or  
12 cause of action and that they -- I think the distinction  
13 was drawn between Shrewsbury and those two  
14 municipalities, Shrewsbury able to protect itself before  
15 it got sued and Oceanport and Rumson for whatever reason  
16 they were exposed to such lawsuits and they had to fight  
17 through the battle. And I know Rumson, we represented  
18 Rumson and Oceanport and Rumson was successful in  
19 fighting off the developers. Oceanport is still in the  
20 process of trying to settle the case and that case that  
21 was filed in Oceanport I believe was in 2005 also. So  
22 it's an expensive, time consuming, disruptive  
23 proposition to be a defendant in a builder's remedy  
24 lawsuit. Shrewsbury isn't, Oceanport and Rumson both  
25 were.

1 MR. WEISMAN: Thank you. I misunderstood  
2 what was said.

3 MR. JEDZINIAK: That's okay.

4 MS. BARNES: Hi, Lisa Barnes, 337 Sycamore  
5 Avenue. When you were talking about possibly 77 units,  
6 does that also then increase the amount of further COAH  
7 units we might be responsible for later?

8 MR. JEDZINIAK: No, it would actually --  
9 whatever growth share, whatever obligation is being  
10 generated by the project is being satisfied by the  
11 affordable housing units that are being created on the  
12 site. So it will not create an additional obligation.

13 MS. BARNES: Okay. And you said the maximum  
14 income for a four person household was \$71,000, correct?

15 MR. JEDZINIAK: It's 70 and change, I  
16 believe. It's something you can find it on the COAH  
17 website.

18 MS. BARNES: What's the minimum?

19 MR. JEDZINIAK: The minimum would be for a  
20 low income, I don't really focus in on that, but I would  
21 guess probably in the thirties, high thirties, probably.

22 MS. SICILIANO: It was 33 last year.

23 MR. JEDZINIAK: 33. It might be a little  
24 higher now.

25 MS. BARNES: Okay, thank you.

1 MS. KOSBERG: Sherry Kosberg, Beechwood  
2 Drive. I have a question. If the affordable housing  
3 provision could be eliminated or deleted I believe was  
4 the word you used, it seems to me the argument we're  
5 hearing and I know we haven't heard all the arguments,  
6 is that we should allow this or consider this housing  
7 because it will help satisfy our affordable or  
8 inclusionary housing requirements. But what guarantee  
9 is there that after it's approved it will not be deleted  
10 and then we're going to start this whole process again  
11 with another development and another development?

12 CHAIRMAN BELL: It won't be deleted. The  
13 properties are deed restricted.

14 MS. KOSBERG: And that wasn't the case with  
15 Thornbrooke?

16 CHAIRMAN BELL: No, it was never in, it was  
17 never in. About halfway through it got eliminated from  
18 the proposal.

19 MR. CRANMER: Mr. Bell, in addition to that  
20 the overlay ordinance that we created which is the  
21 ordinance by which this development is going to be  
22 judged against or compared against, that ordinance  
23 specifically requires a 20 percent set aside so it can't  
24 be deleted.

25 MS. KOSBERG: It can't be. And going back

1 even further, the development that's behind The Grove, I  
2 forget what it's called, but at one time wasn't that  
3 mentioned as also possible affordable housing?

4 CHAIRMAN BELL: I don't remember that, but  
5 that's also not specific to this, but I don't remember,  
6 to be honest with you.

7 MS. KOSBERG: Okay, thank you.

8 MS. DeSALVO: Hello, I'm Nora DeSalvo, 68  
9 Sickles Place and this is a crazy question, but  
10 elections are coming up in November. If Corzine loses  
11 and Christie gets in, he's campaigning that COAH is gone  
12 and he would like that.

13 CHAIRMAN BELL: I know, but it's not --  
14 thank you, but I can't -- nobody can answer that  
15 question.

16 MS. DeSALVO: Listen, hear me out. What I'm  
17 saying is obviously the COAH obligation in Shrewsbury  
18 has been delayed for years. Why can't we delay it  
19 another three to six months and see what happens?

20 CHAIRMAN BELL: Because we were sued and we  
21 have an ordinance in place now that allows the developer  
22 to present an application.

23 MS. DeSALVO: I'm just saying I don't  
24 understand what the rush is.

25 MS. SICILIANO: COAH first came to the

1 Borough in 1980 and they decided that -- Mr. Jedziniak,  
2 Mike said that Shrewsbury just -- they didn't count any  
3 of our homes as part of their affordable housing  
4 schedule. So the Borough took the decision to ignore  
5 them and we ignored them and we ignored them from 1980  
6 until we were sued in 2006. That's what happened.

7 CHAIRMAN BELL: We can't ignore it.

8 MR. GORMAN: I think there's something more  
9 important. It's not the governor and it's not the  
10 legislature that created the COAH, created the  
11 affordable housing obligation. I'm Jim Gorman. I'm  
12 sitting in tonight for Michelle Donato. It was created  
13 by the Supreme Court in the state of New Jersey. So  
14 regardless of who the governor is, unless the governor  
15 has the great fortune of replacing everybody on the  
16 Supreme Court or majority on the Supreme Court, you're  
17 not going to be able to change that too easily. It may  
18 be that somebody may be in favor of it or against it and  
19 it maybe a political decision that people running for  
20 office make, but ultimately this is a decision rendered  
21 almost 35 years ago by the State Supreme Court when  
22 Justice Wilentz was the chief justice. It has remained  
23 the law of New Jersey. The courts have enforced it  
24 vigorously and there has been really no erosion of that  
25 principle in 35 years in the courts. There's been

1 methods, COAH and others of trying to meet that  
2 obligation, but the obligation arises from a court  
3 decision of the State Supreme Court and they read into  
4 the New Jersey Constitution an obligation that says if  
5 you zone property in your town and everybody does  
6 obviously, if you zone property you have an obligation,  
7 an affirmative obligation to provide low and moderate  
8 income housing in your town. So we can't wait six  
9 months.

10 MR. DERASADOURIAN: Gregg Derasadourian,  
11 during list no, 33 Sickles Place. Just curious, with  
12 the COAH obligation does it say anywhere that they have  
13 to be attached homes or that they have to be town homes  
14 or is that basically for the benefit of the developer?

15 MR. JEDZINIAK: No, you have a choice of  
16 different housing types. You know, there's apartments.  
17 You have a requirement to provide a certain amount of  
18 apartments in every town, it's 25 percent, but, you  
19 know, you see detached units, town homes, condos, the  
20 full gamete.

21 MR. DERASADOURIAN: So single-family homes  
22 were proposed, that would be feasible as well?

23 CHAIRMAN BELL: Um-hum.

24 MR. DERASADOURIAN: And someone had asked a  
25 question earlier that these homes being built, the 77,

1 the 16 aren't going to help alleviate our COAH burden,  
2 it's just going to address the added burden for the 77,  
3 correct?

4 MR. JEDZINIAK: That is correct. Right now  
5 the way the plan is set up right now and you have to  
6 remember that your affordable housing plan is subject to  
7 amendment. So as the way the plan is right now it is  
8 going to satisfy the obligation that it creates and it  
9 will not -- that's basically it, yeah.

10 MR. DERASADOURIAN: And does COAH say  
11 anything about open space?

12 MR. JEDZINIAK: As far as being able to  
13 preserve open space?

14 MR. DERASADURIAN: Yeah.

15 MR. JEDZINIAK: The COAH regulations allow  
16 you to preserve 3 percent active and 3 percent passive  
17 and again, without getting into too esoteric of an area  
18 that's the answer to the question is that they allow you  
19 to do that. Above that they're not going to allow you  
20 to avoid your affordable housing obligations by  
21 preserving open space.

22 MR. DERASADURIAN: I was more thinking about  
23 recreational space, like ball fields or anything like  
24 that.

25 MR. JEDZINIAK: That would be active

1 recreation.

2 CHAIRMAN BELL: Thank you.

3 MR. FERNANDES: Louis Fernandes, 100 West  
4 End Avenue. I would like to know what is the COAH  
5 regulation pertaining to owner/occupied homes versus  
6 rental property? In other words, can a speculator come  
7 out and buy 20 of those units and rent them out to  
8 anybody who's willing to rent and sit on them until the  
9 property value --

10 MR. JEDZINIAK: In other words, could  
11 somebody take a for sale affordable unit, purchase it  
12 and then sublease or rent it out to somebody?

13 MR. FERNANDES: Right.

14 MR. JEDZINIAK: No, that would be in  
15 violation of the deed restriction and that would have to  
16 be monitored by -- the Borough is probably going to --  
17 in most cases the municipality hires what is known as an  
18 administrative agent and that administrative agent's job  
19 is to make sure that what you just said does not happen.

20 MR. FERNANDES: So at no time will there be  
21 renters in any of those properties?

22 MR. JEDZINIAK: Not in these, no.

23 MR. FERNANDES: Okay, thank you.

24 MR. WICKLUND: Mike Wicklund, Birch Drive,  
25 Shrewsbury. Regarding the master plan document and the

1 overlay that was adopted late 2008; is that correct?

2 MR. CRANMER: That's correct.

3 MR. WICKLUND: The overlay document, I want  
4 to know why that is so out of character for the rest of  
5 the town, 6 units per acre whereas the town normal  
6 master plan would have one town house per half acre; is  
7 that correct?

8 MR. CRANMER: The density varies in the  
9 various residential zones throughout the Borough. The  
10 density of the overlay ordinance was consistent with the  
11 COAH regulations and the minimum density that COAH  
12 regulates, Mike, is that the correct term? It would be  
13 the 8 units per acre?

14 MR. WICKLUND: So COAH dictated density.  
15 Okay. So with that being said --

16 MR. CRANMER: And that's based on the  
17 planning area that you're in and the planning area is  
18 off of the state development and redevelopment plan.  
19 The Borough of Shrewsbury happens to fall in what's  
20 known as a Metropolitan Planning Area or a PA-1. On the  
21 PA-1 the presumptive minimum density is 8 units per  
22 acre.

23 MR. WICKLUND: Okay. The second part to  
24 that is that we are now going to that 6 unit per acre to  
25 the apartments above to make it economically feasible

1 for the developer; is that correct? Is that what you  
2 were saying earlier?

3 MR. JEDZINIAK: Yeah, that's the idea is  
4 that you want to try to encourage someone to build  
5 affordable units and by providing that density, the  
6 idea, the concept is that you are encouraging or --  
7 yeah, encouraging is the best word -- someone to do that  
8 type of construction, yes.

9 MR. WICKLUND: So we're encouraging this  
10 type of development is what you're saying?

11 MR. CRANMER: Providing a realistic  
12 opportunity.

13 MR. JEDZINIAK: Yeah, realistic opportunity  
14 is really the bottom line.

15 CHAIRMAN BELL: Can I get a motion to close  
16 the meeting to the public?

17 MR. MORAN: So moved.

18 CHAIRMAN BELL: Motion Moran, Seconded  
19 Teller. All those in favor?

20 (Multiple Board member respond "Aye.")

21 CHAIRMAN BELL: Opposed? It's 9:00, I would  
22 suggest that we take a five-minute break and you can get  
23 yourself organized and we'll jump into the presentation.

24 MR. KURLAND: Fair enough.

25 CHAIRMAN BELL: Motion to take a five-minute

1 break? Mr. Teller, Mr. Cooperhouse. All in favor?

2 (Multiple Board member respond "Aye.")

3 (Brief recess was taken.)

4 CHAIRMAN BELL: Call the meeting back to

5 order. Can you take roll call, please?

6 MS. KELLEHER: Mr. Bell?

7 CHAIRMAN BELL: Here.

8 MS. KELLEHER: Mr. Moran?

9 MR. MORAN: Here.

10 MS. KELLEHER: Mayor Cooperhouse?

11 MAYOR COOPERHOUSE: Here.

12 MS. KELLEHER: Mr. Dodge is out. Mr.

13 DiBello is out. Mr. Teller?

14 MR. TELLER: Here.

15 MS. KELLEHER: Ms. Waterbury?

16 MS. WATERBURY: Here.

17 MS. KELLEHER: Mr. Gardella?

18 MR. GARDELLA: Here.

19 MS. KELLEHER: Mr. Carroll?

20 MR. CARROLL: Here.

21 MS. KELLEHER: Ms. Siciliano?

22 MS. SICILIANO: Here.

23 MS. KELLEHER: Mr. Gorman?

24 MR. GORMAN: Here.

25 MS. KELLEHER: Mr. Jedziniak? Mr. Cranmer?

1 MR. CRANMER: Here.

2 MS. KELLEHER: Oh, where is Mr. Jedziniak?

3 MR. CRANMER: He stepped out to the water  
4 fountain.

5 CHAIRMAN BELL: Mr. Kurland?

6 MR. KURLAND: Thank you, Mr. Bell. My name  
7 is Lewis Kurland, legal counsel for K. Hovnanian  
8 Companies. I am here to present the application of K.  
9 Hovnanian Shorr Acquisitions, LLC for numerous approvals  
10 for the Borough bus site as has been identified earlier  
11 in the evening.

12 MS. KELLEHER: Excuse me, could we accept  
13 service first?

14 MR. GORMAN: I've reviewed the affidavit of  
15 publication and the affidavit of service and they're in  
16 order so the Board has jurisdiction.

17 MR. CRANMER: And, Mr. Bell, before we move  
18 into the application, I did review the submission  
19 requirements against the checklist and found that all  
20 the items that were required for administrative  
21 completeness have been submitted. There is a letter  
22 dated May 20, 2009 from my office indicating same in the  
23 file.

24 CHAIRMAN BELL: Thank you.

25 MR. KURLAND: Thank you. Okay. The

1 applicant is a contract purchaser of the property from  
2 D/Three, LLC. And we have submitted applications for,  
3 number one, a minor subdivision to create two parcels of  
4 land out of the Borough bus site and the property that  
5 is currently adjacent to the railroad tracks where an  
6 accountant's office is. We'll have more detailed  
7 testimony on that, but the application is to subdivide  
8 that parcel, those two tax lots into another  
9 configuration of tax lots to create a residential lot  
10 where the 77 homes will be built, if approved. And an  
11 approximate 9,500 square foot retail/office facility  
12 will be built along the frontage of the property along  
13 Shrewsbury Avenue.

14 In addition to the subdivision to create  
15 those lots, there is a preliminary site plan approval  
16 for the commercial portion, the nonresidential portion  
17 and there will be testimony on that. And finally there  
18 is an application for preliminary and final site plan  
19 with variances for a 77 home residential community that  
20 will include 16 affordable homes as has been discussed  
21 earlier, and 61 what is better referred to as market  
22 priced homes where the sales prices are not regulated by  
23 COAH.

24 (Mr. Jedziniak returns.)

25 MR. KURLAND: The history of Hovnanian's

1 involvement has been documented earlier in the evening  
2 and we appreciate the testimony and the information  
3 given by Mr. Jedziniak and Mr. Cranmer and various  
4 members of the Board to enlighten everyone on how we've  
5 gotten to this point.

6         This application is made, these applications  
7 are made consistent with the Borough land use code and  
8 in particular, the overlay zones that were adopted by  
9 the governing body in December of 2008. What we plan on  
10 doing, I just wanted to give an overview of how we plan  
11 on presenting our case. Number one, we will have  
12 numerous witnesses throughout the hearings on these  
13 applications. And as you indicated, Mr. Bell, after  
14 each witness there will be opportunity for the Board and  
15 for the public to ask questions specific of the  
16 testimony that was provided by that witness.

17         Let me give you a list of the witnesses or  
18 the disciplines where we will be presenting testimony,  
19 not in the particular order, but just this is what we  
20 will do. We'll have testimony by a professional  
21 engineer who will discuss the engineering design and  
22 site plan, both for the nonresidential and the  
23 residential component. There will be a landscape  
24 architect who will testify on the landscaping plan, the  
25 buffering plan and the lighting plan for the property.

1 There will be two architects, one who will testify as to  
2 the proposed buildings for the residential portion and  
3 another who will testify as to the retail commercial.  
4 We have a traffic impact witness and professional  
5 engineer who is an expert in traffic impact. We have --  
6 and this is someone who is here tonight, someone who is  
7 an expert in the administration and management of  
8 affordable housing homes throughout New Jersey. And  
9 you're going to hear him soon to describe and I think  
10 it's important that it piggybacks onto the discussion  
11 earlier this evening so the Board and the public can get  
12 a sense as to how the 16 affordable homes will be  
13 administered and managed in that case. We will have a  
14 witness who will testify as to fiscal impact and  
15 population projections for the site. We have a witness  
16 who will talk about the environmental issues surrounding  
17 the site, both in terms of the general requirements of  
18 the Borough's environmental impact report requirements  
19 as well as some remediation activities that have to take  
20 place on the property in compliance with NJ DEP  
21 regulations. We will also have a professional planner  
22 who will most likely wrap up the testimony who will  
23 provide the planning justification and support under the  
24 Municipal Land Use Law for the numerous variances that  
25 we have requested and for the consistency of the plan

1 with the Municipal Land Use Law and the COAH regulations  
2 as it pertains to inclusionary homes.

3         The fiscal impact statement is provided more  
4 to allow the Borough and its various governmental  
5 agencies to understand the impact. It's not a  
6 requirement, it's not a reason to approve or disapprove  
7 an application, but it allows those agencies involved to  
8 properly plan for the future potential impacts of this  
9 community.

10         As I indicated we will go through these  
11 witnesses as quickly as we can, but of course they will  
12 do their best to answer your questions and the questions  
13 of the general public. If a question is asked that our  
14 witness does not know the answer to, I have directed  
15 each one of them not to dance around the answer, but to  
16 indicate "We'll get back to you" or "I don't know."  
17 It's better, it's better to do it that way than to try  
18 to dance around the question.

19         Our first substantive witness will be the  
20 affordable housing expert, but to put everything in  
21 context and we've discussed this already, Timothy Holmes  
22 is a professional engineer who designed the site and is  
23 going to give a brief overview of the site plan so that  
24 the Board and the general public can understand the  
25 general design as we go forward. He will be testifying

1 on the details of the engineering plan at most likely  
2 the next hearing, but we thought it important before we  
3 get started to just give that general overview.

4           What we would ask of the Chair is that  
5 because Mr. Holmes will be testifying later on the more  
6 technical details, that after he gives his overview  
7 testimony that he not be subject to the questions  
8 knowing that he will be back at a later date.

9           CHAIRMAN BELL: He's just going to give an  
10 overview of what's going to be where, up and down and so  
11 forth and so on?

12           MR. KURLAND: That's correct.

13           CHAIRMAN BELL: I've got one question. On  
14 all the people that you say that you're going to have,  
15 is anybody from Hovnanian going to be here?

16           MR. KURLAND: Robert Hoffman, the area vice  
17 president is here. He's available to answer questions.  
18 At this point we didn't plan on him giving affirmative  
19 testimony, but if you have questions or anyone has  
20 questions that are better answered by an executive of  
21 Hovnanian, Mr. Hoffman will be sworn in and available to  
22 answer those questions.

23           CHAIRMAN BELL: Just as a project like this  
24 goes on, historically we've always had the developer  
25 here because there are questions specific of the

1 developer, what's your intent versus what the engineer  
2 is presenting or whoever.

3 MR. KURLAND: Well, Mr. Hoffman will be  
4 here. I guess, if appropriate, if it gets to the point  
5 where it appears as though there are questions better  
6 answered by him or another executive of the company, we  
7 will bring them forward and have them sworn. But at  
8 this point we were just going to go through with our  
9 roster of experts.

10 CHAIRMAN BELL: Chris?

11 MR. MORAN: Mr. Kurland, you said in no  
12 particular order the series of witnesses. Is there a  
13 way you can give us an agenda because obviously we're  
14 not going to cover it all tonight. Is there a way that  
15 you can give us an agenda so that we can be better  
16 prepared for the individual testimony and the public can  
17 be prepared to know what's going to be covered on what  
18 particular date?

19 MR. KURLAND: Sure, sure. What we know  
20 tonight is that the first -- after Tim Holmes gives his  
21 summary, his overview, the first witness will be Frank  
22 Piazza who is the affordable housing program expert.  
23 And the next witness will be Richard Redding who will  
24 discuss the fiscal impact and population projection.

25 One thing I forgot to mention, I neglected

1 to mention, earlier today we did receive a rather  
2 lengthy review letter from Mr. Cranmer and it contains a  
3 lot of issues that we have not had an opportunity to  
4 digest or discuss among ourselves and obviously review  
5 with Mr. Cranmer on that and that will require some  
6 discussion between our techno consultants and Mr.  
7 Cranmer. When our witnesses testify, the more technical  
8 witnesses testify and most likely not tonight -- not  
9 most likely, will not testify tonight, they will be able  
10 to as your rules and regulations suggest, that during  
11 their direct testimony they will respond to the  
12 appropriate comment by Mr. Cranmer so that we can get  
13 some understanding of where we are on those issues.  
14 Hopefully between now and the next meeting our experts  
15 will have had an opportunity to review those comments  
16 with Mr. Cranmer and we can come to some kind of  
17 consensus on that.

18 CHAIRMAN BELL: So by the end of the meeting  
19 tonight before we adjourn would you be able to tell us  
20 with relative certainty that the next meeting this is  
21 what my intention is, to go over this, this and this?

22 MR. KURLAND: That's correct.

23 CHAIRMAN BELL: Because just for the  
24 audience, this is how it starts. This is what we all  
25 have to look through which they have to present and if

1 we know what we can really focus on, then the audience,  
2 the public also knows rather than having it be  
3 everything for tonight.

4 MR. KURLAND: Sure. If we are fortunate  
5 enough to get through Mr. Piazza and Mr. Redding, we  
6 will have testimony by the environmental consultant as  
7 well, but if we don't reach her, at the end of the night  
8 I will give you the line up so-to-speak.

9 CHAIRMAN BELL: And just for the public, we  
10 will at the next meeting we will do the same thing so  
11 you'll know what to anticipate. If you want to listen  
12 to the whole thing, come out every meeting. If there's  
13 something particular you'll know when it's going to be  
14 heard.

15 MS. SICILIANO: Mr. Chairman? It has been  
16 customary of the Planning Board to determine the  
17 qualification of the developer. At what stage do we do  
18 that?

19 CHAIRMAN BELL: The developer as part of  
20 their application has to present a financial statement  
21 that they are financially capable of doing the project  
22 which then comes to us. It actually goes to -- I think  
23 it goes to the Borough engineer, the Borough attorney?  
24 It goes to the Borough attorney.

25 MS. SICILIANO: I don't know because the

1 last time Mrs. Donato was here, there was one applicant  
2 we had last year that went to the council and I was just  
3 wondering whether it's going to the council or whether  
4 it's --

5 CHAIRMAN BELL: It gets presented to us and  
6 then it goes to the council.

7 MS. SICILIANO: Does this Board review it?

8 CHAIRMAN BELL: We get a copy.

9 MS. SICILIANO: Because I have not seen  
10 anything.

11 CHAIRMAN BELL: We get a copy. We haven't  
12 gotten it yet. Have you gotten it yet, Mr. Cranmer?

13 MR. CRANMER: No, sir, Mr. Bell.

14 MR. KURLAND: What we submitted because it's  
15 difficult --

16 MS. SICILIANO: The ordinance -- to be  
17 specific for the record, Ordinance 924 requires the  
18 qualifications of the developer. It's one of the first  
19 items, that's actually Item B after the purpose of the  
20 ordinance. That's the first item on our ordinance.

21 MR. KURLAND: Well, we have submitted and  
22 Mayor, we are aware of that and in discussion it's  
23 difficult to really figure out what to do especially at  
24 a public company because there are disclosure  
25 requirements and we have limits on what information can

1 be. What we have submitted with our application was the  
2 most current corporate and annual report of the  
3 Hovnanian Enterprises parent.

4 MS. SICILIANO: But this specifically  
5 determines the financial qualifications of the  
6 developer. The Borough has made a specific effort to do  
7 that, before we have a developer come into this town, to  
8 make sure that they are in a position to spend, to  
9 develop that particular proposal.

10 MR. KURLAND: Um-hum.

11 MS. SICILIANO: And the last one went before  
12 council. Then I thought our Planning Board attorney, I  
13 thought that she had said it should come to the Planning  
14 Board and from the Planning Board to the council and I  
15 haven't seen anything. That's why I'm asking.

16 MR. KURLAND: Well, we submitted the  
17 information.

18 MS. SICILIANO: The Municipal Land Use Law  
19 is very specific. What you're submitting is showing  
20 your corporate structure.

21 MR. KURLAND: Yes, that's correct.

22 MS. SICILIANO: That's required by the  
23 Municipal Land Use Law. Municipal Land Use Law also  
24 requires a developer to show to the Board that they have  
25 the financial capability to finish completeness

1 development and this is a big development.

2 MR. KURLAND: We understand that.

3 MS. SICILIANO: And under these economic  
4 conditions we're living under now I think it's an  
5 important question.

6 MR. KURLAND: Well, there seems to be some  
7 question as to what --

8 MS. SICILIANO: Because we've already had a  
9 problem with one developer last year.

10 MR. KURLAND: I understand that.

11 MS. SICILIANO: I don't think this Borough  
12 needs another problem.

13 MAYOR COOPERHOUSE: Just clarify, what did  
14 you submit, the annual report?

15 MR. KURLAND: We submitted the annual  
16 report. August 7th we submitted six copies of the  
17 annual report. If after reviewing that the Borough  
18 attorney or the Planning Board attorney feels that  
19 additional information is necessary, we'll be glad to  
20 work with them to provide whatever comfort you need and  
21 whatever comfort we can provide at that point.

22 CHAIRMAN BELL: Okay. We will get it to  
23 Michelle, Michelle will talk to Marty and we'll get  
24 through it. That's how the last developer that took  
25 over the project, it came to us, then it went to

1 counsel. Because counsel is actually the one that has  
2 to determine that the entity is capable.

3 MR. KURLAND: I understand. We will work  
4 with Ms. Donato and the Borough attorney to make sure  
5 that sufficient information is provided.

6 CHAIRMAN BELL: Okay.

7 MR. KURLAND: All right. First I'd like to  
8 have Tim Holmes come forward. He should be sworn in.

9 T I M O T H Y H O L M E S, 1 Industrial Way West,  
10 Eatontown, New Jersey, 07724, was duly sworn and  
11 testified as follows:

12 EXAMINATION BY MR. KURLAND:

13 Q. Mr. Holmes, could you please indicate to the  
14 Board who your employer is, how long you have been  
15 employed there, your employment history and any  
16 professional licenses that you have?

17 A. Yes. I'm currently employed by Najarian  
18 Associates which is just down the street in Eatontown.  
19 I've been employed there for over 15 years and I've been  
20 licensed in the state of New Jersey and in the state of  
21 Pennsylvania as a professional engineer over 20 years  
22 and exclusively have been involved in land development  
23 designs over that 20-year period.

24 Q. And have you during your 15 to 20 years of  
25 experience testified before Boards such as this?

1 A. Yes, I have.

2 MR. KURLAND: Okay, I would ask that Mr.

3 Holmes be accepted as an expert in engineering.

4 CHAIRMAN BELL: Anybody have any problem?

5 There being none.

6 MR. HOLMES: Thank you, Mr. Chairman.

7 Q. Tim, I know you're just going to give an

8 overview, but just so the Board understands, in your

9 position at Najarian, were you responsible for the

10 preparation of the engineering plans or the supervision

11 of the preparation of the engineering plans that were

12 submitted to the Board for this application?

13 A. Yes, I was. I actually prepared the plans

14 myself.

15 Q. Okay. As we indicated really you are --

16 CHAIRMAN BELL: Excuse me just a second. Do

17 you happen to have two so that maybe if we can -- I hate

18 to do it, but if we put it behind maybe --

19 MS. KELLEHER: Are you going to mark that?

20 MR. KURLAND: It's been marked. I want to

21 get to that point.

22 CHAIRMAN BELL: I want to get it so that the

23 public can see it too.

24 MR. CRANMER: Everybody see it okay?

25 Anybody who can't see it?

1 CHAIRMAN BELL: Most of the public can. If  
2 maybe Ms. Siciliano, actually it's in your packet. Open  
3 your packet.

4 Q. Tim, could you please identify the board you have  
5 and it's marked as Exhibit A-1 and please indicate the  
6 title block what you have there.

7 A. Yes, this exhibit is listed as A-1 dated August  
8 19, 2009. It's titled Project Rendering and basically  
9 what it is, it's a 2007 aerial that we captured off NJ  
10 DEP's website and what we've done is we've overlaid the  
11 layout of the proposed community on that aerial. So you  
12 can see the surrounding uses as it existed in 2007.  
13 That was the most current we could get, plus the plans  
14 that you have in front of you today.

15 Q. Okay.

16 CHAIRMAN BELL: Can everybody in the back  
17 hear?

18 Q. Okay, Tim, if you could describe the site, the  
19 surrounding uses and describe the proposed community.

20 A. Okay. The site as everybody knows it now is the  
21 Borough bus site. It's located northeast of the  
22 intersection of Patterson Avenue and Shrewsbury Avenue.  
23 Currently it's the vacant Circle Auto Site, that  
24 building that's there now. The site contains slightly  
25 under 10 acres, about 9.7 acres plus or minus, consists

1 of two tax lots, lots 2 and lot 13 or lot 1 and lot 13,  
2 I'm sorry, of block 2. The site has access along  
3 Shrewsbury Avenue about 240 feet of frontage. The site  
4 has access about 100 feet or so on Patterson Avenue. So  
5 it's basically the site is rectangular, having frontage  
6 on Shrewsbury Avenue and having frontage on Patterson  
7 Avenue.

8       Some of the existing uses that are around it  
9 starting north is up on this so starting at the top of  
10 the page we have the Colex Auto Center, the auto body  
11 center that's currently operating now. The vacant Super  
12 Foodtown to the north, the railroad tracks along the  
13 eastern boundary and then residential uses further east  
14 of the railroad tracks. To the south the properties  
15 that front Patterson Avenue are a residential use with a  
16 mix of a couple of businesses. There's a barber shop, a  
17 doctor's office. Across Shrewsbury Avenue to the west  
18 is into Tinton Falls. The majority of the uses that  
19 front Shrewsbury on the Tinton Falls side are  
20 residential. There's a few commercial uses, ice cream  
21 shop, a tire center, a uniform center that's at the  
22 intersection of Patterson and Shrewsbury Avenue.

23       So basically what we have is a 9.7 acre piece of  
24 property. It was previously testified it's currently  
25 zoned B3. It has the overlay zone of the AH-MF8. So a

1 portion of the site is going to be developed as we had  
2 said as a commercial entity which will follow the B3  
3 zoning which is what it's zoned. The residential  
4 component of that will follow underneath the overlay  
5 zone.

6 Now just moving into what the site is actually  
7 going to look like and I'm going to be back to give site  
8 plan detail testimony, but my testimony tonight is just  
9 to give you an idea how the site is laid out. We are  
10 going to do a minor subdivision as Mr. Kurland  
11 originally stated. Approximately a one acre lot that  
12 fronts mainly on Shrewsbury Avenue, that's going to be  
13 the B3 component of this. There's going to be one  
14 building. It's going to have retail and commercial use,  
15 associated parking, drainage, vehicle access, things  
16 like that all along Shrewsbury Avenue and that will  
17 border the Colex site. The main access will come along  
18 that between our proposed commercial site and the Napa  
19 Auto Center and that commercial, that access site will  
20 come in through the site and will connect into the rear  
21 of the Super Foodtown's road that's there now. So we're  
22 actually just sifting that down south on Shrewsbury  
23 Avenue.

24 The residential component of the site will be the  
25 remaining 8.7 acres where the 77 homes will be. And

1 within that area we have 12 buildings that the 77 homes  
2 will be situated in. 61 of the homes are the market  
3 rate homes, 16 of those homes are the affordable homes  
4 to make up the total of 77 units. There will be an  
5 internal circular road network that will provide vehicle  
6 access, pedestrian access through the site. There will  
7 be a secondary access coming out to Patterson where  
8 currently now the accountant's office is. That area  
9 that is adjacent to the train tracks, that intersection  
10 will line up directly across the street from the  
11 entrance of the professional offices that's south of  
12 Patterson. Basically this internal road pattern is  
13 going to have sidewalks that will provide pedestrian  
14 access. All the units obviously are going to be served  
15 by municipal sewer and public water from New Jersey  
16 American Water. The site will also maintain and control  
17 the stormwater by having a landscaped stormwater  
18 facility located adjacent to the railroad tracks.

19 Basically that's the layout of the site. The two  
20 components, residential and commercial and how it lays  
21 out within that property.

22 Q. Thank you, Tim.

23 CHAIRMAN BELL: Thank you. Questions?

24 MS. SICILIANO: At what point do you file  
25 your plan with the county?

1           MR. HOLMES: We will file the plan with the  
2 county probably in the next couple of weeks. We wanted  
3 to get input from the town to see if there were going to  
4 be any major changes required prior to -- we have a lot  
5 of other applications to submit. So what we like to do  
6 is to get the feedback from the town to see if there is  
7 going to be radical changes. Once we know the plans are  
8 pretty good, then we can release all the other  
9 applications.

10          MS. SICILIANO: Because the county can be  
11 pretty stiff too.

12          MR. HOLMES: We have and that may come up  
13 later with our traffic consultant, but we have had  
14 dialog with the county.

15          CHAIRMAN BELL: Okay, thank you. And just  
16 for the public, again, this is just an overview. He's  
17 going to be back to go through specifics. Any questions  
18 you have you'll ask when he's back.

19          MR. KURLAND: All right, thank you. Next  
20 witness is Frank Piazza.

21          MR. GORMAN: Before you sit can you give us  
22 your full name, please.

23          MR. PIAZZA: Frank Piazza, P-i-a-z-z-a.  
24 F R A N K P I A Z Z A, 216 Rockingham Road, Princeton,  
25 New Jersey 08540, was duly sworn by the Notary, and

1 testified as follows:

2 MR. GORMAN: Business address, please.

3 MR. PIAZZA: Piazza & Associates, 216

4 Rockingham Road, Princeton, New Jersey 08540.

5 MR. GORMAN: Thank you.

6 EXAMINATION BY MR. KURLAND:

7 Q. Mr. Piazza, could you please explain to the Board

8 what Piazza & Associates is and its role in the area of

9 affordable housing?

10 A. Our firm basically provides what's known in the

11 state as administrative agent services. I believe that

12 your attorney mentioned that service earlier. We assist

13 municipalities, developers and landlords in implementing

14 the affordable housing plan.

15 Q. And how long has Piazza & Associates been around

16 doing this work?

17 A. We've been providing affordable housing services

18 since 1994.

19 Q. Okay. And can you indicate who some of your

20 clients are, whether they're public or private clients?

21 A. Oh, sure. We do a number -- we're the

22 administrative agents directly for a number of

23 municipalities throughout the state. In total I believe

24 that we are in about 25 different towns. For example,

25 up north we are the administrative agents for Ramsey,

1 Roseland, Chatham, down toward Middlesex County, Mercer  
2 County. We are the administrative agents for Metuchen,  
3 Plainsboro, Cranbury, West Windsor, Edison, East  
4 Brunswick. Out here we're the administrative agents for  
5 Matawan. In addition to the municipalities, there are  
6 also municipalities in which we're the administrative  
7 agent just for particular developments or particular  
8 rental units as well. We do both rental and sale.

9 Q. All right. You're familiar with the proposal  
10 that Hovnanian has made in the Borough of Shrewsbury?

11 A. Yes.

12 Q. And it will include eight low income and eight  
13 moderate income homes equally split between two bedroom  
14 and three bedroom homes. Could you please explain the  
15 process and the program that you would use that would  
16 ultimately lead to a buyer being deemed qualified to  
17 purchase an affordable home?

18 A. Sure. In the affordable housing parlance,  
19 there's new regulations require that there be what's  
20 known as an affirmative marketing program. That  
21 affirmative marketing program is designed by our firm on  
22 the basis of both state regulations and local ordinance.  
23 It requires typically sort of from a menu of items,  
24 advertising in newspapers, specific types, as well as  
25 letters and notices sent to different organizations,

1 county and municipal agencies, posted in public  
2 libraries. And the basic premise of this affirmative  
3 marketing plan is to market to anyone specific -- anyone  
4 I guess with emphasis in the region. And this region  
5 would be the COAH region, Monmouth, Mercer and Ocean  
6 counties. But to market to as wide and diverse a group  
7 of people as possible as required by the regulations to  
8 obtain applications we use a preliminary and final  
9 application process, a two-stage process. But to obtain  
10 as many and as broad a spectrum of applications as  
11 possible we receive the application directly at our  
12 firm. We process them in a database and then we have  
13 what's known as a random selection process to prioritize  
14 those applications randomly. After that particular  
15 phase of the process we then send final applications to  
16 a number of the applicants on the list based on what's  
17 available and their priority number. We process final  
18 applications which require applicants to document in  
19 great detail I should say their income and their  
20 eligibility for the program.

21 Q. Not to interrupt you, question of priorities.  
22 You talked about random priority. So is there any  
23 priority given to purchasers who currently live in  
24 Shrewsbury or who currently work for the Borough or who  
25 currently live in Monmouth or work closer to the

1 facility?

2 A. The Supreme Court does not allow a preference for  
3 the municipality itself, but COAH regulations do allow  
4 for the preference to be given to people who live and  
5 work or live in the region, the three county region. So  
6 the only preference that could be given at that point  
7 would be to people who live in Monmouth, Mercer and  
8 Ocean counties.

9 Q. I'm sorry, Frank. You can go ahead.

10 A. I'm sorry, the final applications are processed.  
11 Again, we maintain very close watch on the preferences,  
12 the priority numbers and the -- we process the  
13 applications. We approve applicants on that basis. And  
14 during that process they have to demonstrate to us that  
15 they're eligible at least to that degree that they can  
16 afford a mortgage, but the final test comes then when  
17 the applicants actually have to apply to a mortgage  
18 provider, obtain their own mortgage financing for the  
19 property and then purchase the unit. We also then  
20 oversee the documentation process that is required by  
21 COAH to -- the restriction basically to ensure that the  
22 restrictions are in place each time a unit is sold.

23 Q. So your activities and the parameters within  
24 which you work are really set with COAH rules and  
25 regulations?

1 A. Yes, absolutely. There are guidelines that we  
2 have created over the years to help us implement those  
3 regulations that make it more specific and we will as  
4 part of this process provide those guidelines in detail  
5 to the municipality as part of a manual that we would  
6 provide.

7 Q. So after you are done, your qualification  
8 process, are the potential purchasers actually given a  
9 certificate I guess or some proof that they have been  
10 qualified?

11 A. Right, they're given a letter that they're able  
12 to purchase the unit. And again, that would be apart  
13 and aside from their need to obtain the mortgage  
14 financing.

15 Q. And just I wanted to add that Hovnanian and other  
16 developers who provide affordable housing will not allow  
17 buyers of affordable homes to go into contract unless  
18 they bring with them this certification that comes from  
19 Piazza & Associates or another administrative agent on  
20 that?

21 MS. SICILIANO: Mr. Kurland, will Mr. Piazza  
22 be reporting to Hovnanian, to you?

23 MR. KURLAND: Well, we will enter into an  
24 agreement with Mr. Piazza to provide those services, but  
25 as I believe Mike indicated earlier on, that the town

1 may want to have its own agent to ensure that what he is  
2 doing is correct and to make sure that the town --

3 MS. SICILIANO: That's why I'm getting a  
4 little confused, because when I was mayor I received a  
5 letter from COAH that the Borough is required to, by  
6 ordinance, appoint by resolution ordinance, I forget  
7 Mike, which administrator.

8 MR. JEDZINIAK: There's two positions that  
9 COAH requires. One is called a municipal housing  
10 liaison which is created by ordinance and also appointed  
11 by resolution and then also there's different ways to  
12 handle it, but that's correct. There's also likely  
13 going to be an administrative agent and I believe and  
14 Frank you may know this, but I believe that would be  
15 created by ordinance also.

16 MS. SICILIANO: Yes, by council.

17 MR. JEDZINIAK: That's correct.

18 MR. MORAN: Excuse me, so what you're saying  
19 is that this affordable housing would trigger our  
20 responsibility to hire these people?

21 MR. JEDZINIAK: No, not necessarily. Go  
22 ahead, Mayor.

23 MAYOR COOPERHOUSE: The Borough currently  
24 has appointed Tom Seman, I believe, as the current  
25 administrative agent to put us in compliance.

1 MS. SICILIANO: No, he has a different  
2 title, Mayor.

3 MAYOR COOPERHOUSE: But he's covering us  
4 currently.

5 MR. PIAZZA: If I may, if you have a  
6 municipal housing liaison, one of the functions of the  
7 municipal housing liaison is to act as the  
8 administrative agent for any property that does not have  
9 the administrative agent. That's not to say that I  
10 wouldn't -- however it's worked out logistically with  
11 you folks -- wouldn't provide all the information that  
12 you would need at any given time about the status of the  
13 project, because part of my working relationship whether  
14 it be directly for the municipality or with the  
15 developer would always be to provide that information.  
16 That's part of what we do as administrative agents.

17 MAYOR COOPERHOUSE: And that is totally at  
18 the discretion of the Borough.

19 MR. PIAZZA: Exactly.

20 MR. JEDZINIAK: And just if I might add,  
21 Chairman, that we have an obligation, the Borough has an  
22 obligation to conduct monitoring of all their affordable  
23 housing units that have to go through COAH. So we would  
24 need that information from Mr. Piazza and I'm sure that  
25 wouldn't be a problem.

1 MR. KURLAND: And Mr. Piazza's services are  
2 paid for by the developer for the initial resale or for  
3 the initial sale, not by the Borough. We will provide  
4 you with all that paperwork indicating that there are  
5 buyers who have been certified to be purchasers of these  
6 homes.

7 MS. WATERBURY: So the buyers would have to  
8 know to contact Hovnanian to be able to be screened to  
9 be put on because I know in some of the other  
10 communities, the communities keep their list. And how  
11 would that be coordinated with the community?

12 MR. KURLAND: Well, if a buyer comes into  
13 our sales facility indicating that they -- well, no --  
14 go ahead, Frank.

15 MR. PIAZZA: Although they can get to us  
16 from any direction, basically our firm would act as the  
17 direct contact with anyone who was interested in  
18 purchasing one of these units initially. At the end of  
19 the process because the list ultimately would be your  
20 list, if you choose to assign the task as administrative  
21 agent to someone in-house or to another entity or to the  
22 state for that matter, we would be able to provide you  
23 with that list of applicants that was not utilized  
24 during the initial sales process. We do this pretty  
25 much -- we do this often.

1           MR. KURLAND: And if someone came into our  
2 sales office interested in one of the affordable homes,  
3 we would direct them to the administrative agent for  
4 qualifications. We would say we won't sign an agreement  
5 with you until you come back to us with that  
6 certificate.

7           MS. WATERBURY: So if you get a list of  
8 let's say I'm just going to pick a number 30, 40 people  
9 and you're only going to allow through the screening  
10 process you only have 16 units for it, what do you do  
11 with the list that has remaining? Is that what you just  
12 turn over to the Borough as additional people signed up  
13 for Mount Laurel housing or excuse me, for COAH housing?  
14 Because it would seem to me that I know that there's  
15 some communities that keep a running list of people that  
16 are on it.

17          MR. PIAZZA: Correct, we would, that would  
18 be your list at that point.

19          CHAIRMAN BELL: For resale.

20          MR. PIAZZA: For resale or for other  
21 purposes. If you wanted to notify the people on the  
22 list, for instance, if another opportunity developed in  
23 town for affordable housing.

24          MR. GARDELLA: But it's the Borough's  
25 responsibility for obtaining application for resale on

1 these units.

2 MR. PIAZZA: Yes, to appoint someone to do

3 that.

4 BY MR. KURLAND:

5 Q. Well, you touched really on the next topic.

6 Frank, once a person or a family closes title to an

7 affordable home, could you describe the restrictions

8 that are imposed on that title including resale issues?

9 A. Yeah, I believe that Mr. Jedziniak if I didn't

10 mess up your name too badly, I apologize.

11 MR. JEDZINIAK: No, it was close. Mike.

12 A. Mike, I believe that Mike already mentioned that

13 you're not allowed to rent the unit out. And certainly

14 that is true without -- there are -- there is a hardship

15 waiver that would permit that on a very temporary basis,

16 say, for instance, if someone was called up to the

17 military for active duty and they had to go off for a

18 year or something like that, that would be possible to

19 get a -- but that's a very, you know, in all my years of

20 doing this I don't believe that I've seen a waiver,

21 hardship waiver granted once or twice.

22 The reality is that once a person or a household

23 owns an affordable unit, they are obligated to utilize

24 it as their primary residence. This is a very important

25 part of the project rules that they do that. Now their

1 household, their family can grow or shrink as long as  
2 the original folks are still there and it is still their  
3 primary residence.

4 Each year COAH publishes a percentage and that  
5 percentage becomes the maximum increase in the possible  
6 sales price that could be charged for that unit in any  
7 given year. Our firm as one of the services that we  
8 provide would provide folks with the opportunity to even  
9 log onto our website and to find out what the current  
10 resale value is of the home.

11 Q. So the resale price is not what the market will  
12 bear, it is based on COAH regulations, the same sort of  
13 regulations that were used to determine the initial  
14 sales price?

15 A. Correct.

16 Q. Okay.

17 A. And there's also a maximum refinance amount. So  
18 each time that unit owner wants to refinance that unit,  
19 they would have to go to the administrative agent and  
20 seek the permission of the agent or the municipality to  
21 refinance that. And the current regulations require  
22 that the refinance amount at any given time not exceed  
23 95 percent of the then current maximum resale price of  
24 the unit.

25 When someone who owns an affordable home wants to

1 sell, they would contact the municipality or the  
2 administrative agent in order to do that. One of the  
3 key rules is that the unit has to be available for sale  
4 to the general public. It cannot be sold from one  
5 friend or one family member to another family member or  
6 to another friend. It has to be sold through the  
7 program if you will, through the same program. And in  
8 addition to that so you have the maximum sales price and  
9 then when it is sold the people, the household who  
10 purchases it has to be qualified as the original  
11 occupants or the original purchasers of the unit that  
12 were qualified for the program whether it be low income  
13 or moderate. So there are two categories of ownership,  
14 low and moderate income.

15 Q. Is it possible to describe a typical buyer of an  
16 affordable home?

17 A. Mike also touched on that earlier as well. I  
18 want to thank Mike for answering a lot of my questions  
19 here. Again, if you start with the range of income  
20 that's possible in this program and adding to the  
21 maximum income the requirement that someone obtains a  
22 mortgage for the property, you really are looking at  
23 basically working folks who are the support folks that  
24 help every community. They're people that can be found  
25 everywhere. Everybody in this room would probably know

1 someone in that economic category who's looking for a  
2 place to live or looking for a home to purchase. So I  
3 don't believe that they're an anomaly, of course.

4 One of the interesting features too I think is  
5 that everybody is always concerned that if all of a  
6 sudden there are some affordable units say in my town,  
7 in Shrewsbury that become available, that people will be  
8 flocking from various points around the globe to be  
9 there. And the odd thing is that mainly because COAH is  
10 now such a prevalent force in the development of housing  
11 in our state, that really these units are more readily  
12 available in all communities or in many communities I  
13 should say now so that there isn't that kind of  
14 migration that people sometimes fear like from far  
15 distant lands. That typically people who purchase these  
16 units do not come from very far away, one way or  
17 another. They either live here, they work in the area  
18 or in the region or they in the case of seniors, maybe  
19 know people who are living there and maybe they're adult  
20 sons or daughters living in the area and they want to  
21 move close by. But people typically don't move from the  
22 world that they know if you will to affordable housing  
23 mainly because there are other affordable housing  
24 opportunities between here and there, wherever there is.  
25 The only difference I could say that because of where

1 you're located relative to the boundaries of the region  
2 that you would have to in addition to the region you  
3 might see some influx from just the county just to the  
4 north of here, I think --

5 Q. Middlesex.

6 CHAIRMAN BELL: Could you qualify what the  
7 selling price would be for a moderate priced house and  
8 the low priced house and also qualify what the income  
9 range is on the low income and on the moderate income?

10 MR. PIAZZA: I think Mike mentioned the  
11 chart. I have a chart if you all would like to take  
12 one.

13 MR. GORMAN: If this hasn't been marked, why  
14 don't we mark this A-2.

15 Q. Mark it A-2 and it's two sheets. We'll mark it  
16 as A-2 it's two sheets.

17 (Exhibit A-2 was received and marked for  
18 identification.)

19 Q. And Frank, could you please indicate what these  
20 sheets are, A-2.

21 CHAIRMAN BELL: For the public's  
22 information, these will be available tomorrow upstairs  
23 as well as they're being handed out. I do have a couple  
24 of copies. At the end of the meeting, anybody wants  
25 them for the B3 zoning and the AH-MF8 ordinance and the

1 letter which has been discussed several times, the long  
2 letter, the review letter from Dave Cranmer, that will  
3 be available tomorrow upstairs too, right Lorraine?

4 MS. KELLEHER: Yes.

5 CHAIRMAN BELL: Upstairs being Lorraine's  
6 office on the second floor.

7 Q. Now one thing we sort of passed over, Frank, and  
8 I think after your last half an hour we'd like to have  
9 Mr. Piazza qualified as an expert in affordable housing  
10 and affordable housing administration.

11 CHAIRMAN BELL: Does anybody have a problem?  
12 I don't have a problem, you're qualified.

13 MR. KURLAND: Thank you.

14 Q. Frank, if you can answer Mr. Bell's question  
15 about sales prices and income, give the Board and I know  
16 some members of the public asked those questions before.

17 A. First to the point of income, the cover page is  
18 simply a recap of the COAH regions that we utilize in  
19 the course. I'm also an instructor for the municipal  
20 housing liaisons and the administrative agents for  
21 Rutgers University. The second page is the sheet that  
22 Mike referenced earlier which are the 2009 regional  
23 income limits. And what I did for the Board is to  
24 highlight the relevant income limits. Half of the units  
25 that will be affordable are going to be affordable to

1 low income households, while half of the units that will  
2 be affordable are going to be affordable to moderate  
3 income households. Moderate income households in the  
4 state of New Jersey earn median income of between --  
5 they earn an income of between 50 and 80 percent of the  
6 median income. And low income households earn an income  
7 less than 50 percent of the median. So they're the  
8 maximum incomes and for the audience sake or the public  
9 sake I'll briefly recap. It goes by household size. So  
10 the maximum income is based on how large a household is  
11 applying for the unit. A two person household for  
12 moderate can make up to \$56,479 and again, this will be  
13 available afterward. And for low up to \$35,300. For a  
14 three person household those limits for moderate would  
15 be \$63,539 and for low up to \$39,712. For four person  
16 \$70,599 and for low income \$44,125. For 5 person,  
17 \$76,247, and for low income five person household would  
18 makeup to \$47 654. And finally, six person household  
19 could make up to \$81,895 for moderate and \$51,184 for  
20 low. And as there are both two bedroom and three  
21 bedroom units, half of the two bedroom and half of the  
22 three bedroom units will be provided at the low income  
23 range. But these are basically the income limits.

24 Q. Also I'm looking at this sheet, there's a  
25 regional asset limit so that the people who are applying

1 they may not make a lot of money, but they can't be  
2 sitting on \$2 million in their savings account?  
3 A. Well, the regional asset limit applies to a  
4 current residence of the applicant, but only if there is  
5 no mortgage, outstanding mortgage secured by that  
6 property. If there is a mortgage then the regional  
7 asset limit does not apply. Although any equity in  
8 their home does produce imputed income that's added to  
9 their income limit or to their gross annual income under  
10 the limit.

11 CHAIRMAN BELL: Okay, now what about the  
12 sales price of the houses?

13 MR. PIAZZA: The sales prices. We -- it's a  
14 bit early in the process to do the exact calculation for  
15 this particular project, but COAH does have a very good  
16 illustrative pricing chart on their website and I think  
17 that the easiest thing to do would be because each of  
18 the low and moderate have to be available at a variety  
19 of prices, they're not all one low or all one moderate  
20 price, so you're going to have of the 16 units, 10  
21 different prices. It's part of the regulatory  
22 requirement. Given that, the best thing to do would be  
23 to look at the average price if you will. The average  
24 price of the two bedroom units and half of the 16 will  
25 be two bedroom units, the average price between the low

1 and moderate is projected to be at this point anyway  
2 under these illustrative pricing, \$98,287. That would  
3 be the average. And again, the general average price we  
4 anticipate for the three bedroom would be \$113,576  
5 according to COAH's estimate. Now the maximum they can  
6 be which would also be an important part of this, the  
7 absolute maximum under this illustrative chart would be  
8 \$125,093 for a two bedroom and \$144,552, although I  
9 don't believe that any of those prices would get to be  
10 -- that's the 70 percent maximum because there's some at  
11 low and some at moderate, but also an average of 55  
12 percent maximum. That maximum is going to override  
13 those 70 percent units and probably bring them down.

14 CHAIRMAN BELL: Anybody have any questions?

15 MR. CRANMER: Is there a minimum price that  
16 they would have to be?

17 MR. PIAZZA: That's a good question. The  
18 minimum price? No, there's no minimum price. Minimum  
19 income which is a question that I believe came up  
20 earlier.

21 MR. CRANMER: So is the selling price a  
22 function of the income of the applicant?

23 MR. PIAZZA: No, the selling prices are set  
24 in advance of the program. There's two low income  
25 prices that are required and three moderate income

1 prices that are required for each unit type. That's why  
2 you have ten prices. The prices are set based on  
3 fictitious household size which becomes a little bit  
4 confusing. So a two bedroom unit is based on a  
5 fictitious household or an example household if you will  
6 of three persons, while a three bedroom is based on a  
7 household size of 4.5 persons. And really that's how  
8 you derive the price. It's not dependent on who's going  
9 to live there.

10 MR. CRANMER: Okay.

11 CHAIRMAN BELL: Questions? I have a couple.  
12 Historically when you see a project like this, there's  
13 16 homes, how many applicants would you say?

14 MR. PIAZZA: Well, we'd like to see at least  
15 20 per home. And the reason for that is that probably  
16 more important than a minimum income is the requirement  
17 that the folks be able to obtain the financing. So a  
18 lot of times when we're talking about preliminary  
19 applications, they could be very numerous. But the  
20 actual number of folks who can purchase the unit in the  
21 end especially under these current mortgage conditions  
22 is quite difficult.

23 CHAIRMAN BELL: Okay, you've been doing this  
24 since 1994. How often do you see a resale typically?

25 MR. PIAZZA: That's a good question.

1 Excluding the time from last, you know, October until  
2 now, I would say that the resale of these units is  
3 probably less than 10 percent per year. It's nominal  
4 relative to market units because even -- I know that  
5 these aren't rental, but even rental units are a  
6 fraction of what the turnover is in the market unit,  
7 market rental units. So the turnover of affordable  
8 units tends to be very low.

9 CHAIRMAN BELL: Is there any requirement  
10 when somebody comes in to buy the house that they have  
11 to put 5 percent down or put something down or is it if  
12 the bank will give them 100 percent you can get 100  
13 percent?

14 MR. PIAZZA: There is no requirement in the  
15 program that they have to put something down, but I can  
16 tell you that the programs that have no requirement for  
17 equity these days are very few and far between.

18 CHAIRMAN BELL: Okay. And is there anything  
19 once the program is up and running, is there a  
20 maintenance regulation where -- you have the luxury of  
21 being able to buy an affordable house. You move in, you  
22 do nothing, you don't manage it, you don't maintain it.  
23 Is there a way that the town can come through and  
24 basically exercise an option to get them out?

25 MR. MORAN: Do they have to be members of

1 the homeowner's group?

2 MR. PIAZZA: They're part of the condominium  
3 in this case so there's going to be as I understand it a  
4 master deed and a condominium set up. So I find that  
5 that -- and some of you mentioned single-family units  
6 and that, I find that the condominium set up is a  
7 perfect way to do this, mainly because the homeowners  
8 like the market homeowners in this development will have  
9 to pay a fee. The fee will be the same as the market  
10 unit fee, to help maintain the property. And that would  
11 automatically cover, I'm sure, the main property  
12 insurance as well as the -- correct me if I'm wrong, the  
13 landscaping and the exterior maintenance of the  
14 structure itself.

15 MR. MORAN: So did you say it's the same  
16 maintenance fee, market value and --

17 MR. PIAZZA: COAH requires the same  
18 maintenance fee be paid.

19 MR. KURLAND: That's right.

20 CHAIRMAN BELL: My question is, I've gotten  
21 involved with Habitat for Humanity where they give the  
22 mortgage, they hold the mortgage and if people don't  
23 maintain the house they foreclose and take it back which  
24 happens very rarely because people own it and they  
25 maintain the house, but there is a safety net.

1 MR. KURLAND: I don't think that would exist  
2 here, but as Frank indicated --

3 CHAIRMAN BELL: The association?

4 MR. KURLAND: The association and in the  
5 master deed there are -- not only does the association  
6 collect the same fee from all homeowners for the  
7 maintenance of the common elements, the exterior of the  
8 property and the building, there are requirements in the  
9 master deed which if properly enforced and you hope it  
10 would be because everyone has a vested interest, that  
11 the community be set up to prevent a homeowner from  
12 committing waste in the property and that means letting  
13 the property be destroyed. The association can come in  
14 and take over and fix up a property and the cost becomes  
15 a lien, but at this point there's no provision that  
16 would allow a third-party to come in and take the  
17 property back.

18 CHAIRMAN BELL: Okay.

19 MR. MORAN: Is the ability to pay for the  
20 maintenance fee part of the certification?

21 MR. KURLAND: It's all part of what their  
22 monthly housing costs are. That's built into that.

23 MR. PIAZZA: The mortgage company is going  
24 to be the main guardian of that particular feature  
25 because there's going to be a back end ratio that

1 they're going to be required to -- the state requires  
2 that the back end ratio be no more than 33 percent,  
3 meaning that the loan if properly exercised should  
4 not -- the payments for the mortgage and principle and  
5 the principle and interest on the mortgage as well as  
6 their HOA fee and insurance and property taxes should  
7 not exceed 33 percent of their income.

8 MR. GARDELLA: There's no income  
9 reevaluation, is there?

10 MR. PIAZZA: No, there's currently none. If  
11 there were it might be applied perhaps to rental units,  
12 but there's not even one for them at this time.

13 MR. CARROLL: What about if several people  
14 qualify for a single unit and they all get the  
15 financing, is it first come, first served as to who gets  
16 it?

17 MR. PIAZZA: No, absolutely not. We are the  
18 gate keepers of that priority order list. So the  
19 priority order will rule in that case. We make sure  
20 that no matter how many applications, because ultimately  
21 we send out more final applications than there are  
22 units, but one of the things that -- I mean, that's what  
23 we do. We make sure that the priority order is  
24 maintained throughout the process.

25 MR. MORAN: How do you prioritize?

1 MR. PIAZZA: It's done randomly. We can do  
2 it in different ways, but typically there's a program  
3 that's on the internet we utilize that's provided by a  
4 research organization that basically provides a random  
5 list of numbers.

6 CHAIRMAN BELL: Can I get a motion to open  
7 the meeting to the public for questions?

8 MR. MORAN: So moved.

9 CHAIRMAN BELL: Mr. Moran?

10 MR. GARDELLA: Second.

11 CHAIRMAN BELL: Second Mr. Gardella. All  
12 those in favor?

13 (Multiple member respond "Aye.")

14 CHAIRMAN BELL: Okay, meeting is opened to  
15 the public for questions. Come on up. Mr. Kurland,  
16 you're going to need to give up your microphone.

17 MR. KURLAND: Oh, sure.

18 MR. SCREEN: Martin Screen, I live next to  
19 the chief of police, new chief of police.

20 MAYOR COOPERHOUSE: Sorry, sir, where do you  
21 live?

22 MR. SCREEN: North Park Avenue, excuse me.  
23 There will be 16 units then apparently. That will be  
24 COAHs?

25 MR. CRANMER: Yes.

1 MR. SCREEN: Now is it possible that all of  
2 the units could be age-restricted?

3 CHAIRMAN BELL: The questions is the  
4 testimony. It's not a question for me, it's a question  
5 for Mr. Piazza who just testified over what affordable  
6 housing is and what qualifies.

7 MR. SCREEN: Oh, all right, okay, very good.  
8 No, because Hovnanian says there will be 25 school-aged  
9 children and if it's going to be open housing they say  
10 that their legal counsel has confirmed that school aged  
11 estimates are low --

12 CHAIRMAN BELL: I don't mean to interrupt  
13 you, but we haven't heard testimony on this yet, so the  
14 only questions that you're allowed to ask are specific  
15 questions of Mr. Piazza where the testimony he just gave  
16 about affordable housing, about income level, about what  
17 the cost of the housing is and how people are selected  
18 for it.

19 MR. SCREEN: Okay.

20 CHAIRMAN BELL: There will be time. There  
21 will be testimony on the fiscal impact on the town which  
22 you'll be able to ask those questions.

23 MR. MORAN: It's the next scheduled witness  
24 according to the agenda you just provided.

25 MR. KURLAND: Right.

1 CHAIRMAN BELL: So the questions will be  
2 specific as to how somebody is picked or how much money.

3 MR. SCREEN: Oh, okay. Oh, okay, very good,  
4 thank you.

5 MS. QUIRK: Hello, Marianne Quirk, 74 Garden  
6 Road. Now is this open only to current New Jersey  
7 residents?

8 MR. PIAZZA: No, it would be open to anyone  
9 who is a United States -- or is allowed to live legally  
10 in the United States. There would be the preference if  
11 the municipality required, there would be a preference  
12 for the three county area that I mentioned.

13 MS. QUIRK: Now can the municipality legally  
14 make that requirement?

15 MR. PIAZZA: Yes.

16 MS. QUIRK: That is a legal requirement --

17 MR. PIAZZA: Well, I'm not a lawyer so I  
18 can't say "legally," but it is in the rules that allows  
19 them.

20 MS. QUIRK: Okay, and also --

21 CHAIRMAN BELL: But just to be clear, I  
22 think the two of you said something different and I  
23 think Ms. Quirk asked could you make it a legal  
24 requirement to be the three counties and you said that  
25 the three counties could be a preference. There's a big

1 difference between the two.

2 MR. PIAZZA: You're right, it's a  
3 preference.

4 MS. QUIRK: So you can't state from the town  
5 of Shrewsbury, say that we want New Jersey residents  
6 only to live in these?

7 MR. PIAZZA: No.

8 MS. QUIRK: Okay, and then also is there a  
9 limit onto how many people per unit and how many adults  
10 per unit and how many children per unit?

11 MR. PIAZZA: That's a good question. We  
12 limit the units to two persons per bedroom. We try to  
13 stay clear of questions of whether they be big people or  
14 little people or this gender or that gender or what have  
15 you, but under fair housing laws we try to stay away  
16 from that, but we do limit it to two persons per  
17 bedroom.

18 MS. QUIRK: So conceivably you could have  
19 six adults living under one roof?

20 MR. PIAZZA: Yes.

21 MS. QUIRK: Okay, thank you.

22 MS. DERASADOURIAN: Hi, my name is Deirdre  
23 Derasadourian. I live on 33 Sickles Place. And I guess  
24 my question is -- this pertains a little bit -- I know  
25 it's coming later about the population as to what is for

1 school, but I guess this is sort of my question for  
2 these 16 units. It looks like in research I've done  
3 that when someone applies for a unit, you kind of have  
4 to -- I guess not have to, but you're supposed to try to  
5 make sure in the unit there's not more than one person  
6 per bedroom. So I guess what I'm ascertaining from that  
7 is that there is 16 units, there will be at least one  
8 person per room in those units unless you get written  
9 permission from COAH; is that correct?

10 MR. PIAZZA: That's correct that there is in  
11 the regulations a preference if you will to make sure  
12 that the minimum occupancy would be equal to one person  
13 per bedroom.

14 MS. DERASADOURIAN: Okay, and how often have  
15 you received written permission from COAH to have less  
16 than one person per available room?

17 MR. PIAZZA: The only time that we see that  
18 today is when there are age-restricted units. A lot of  
19 developers put together two bedroom age-restricted units  
20 and in those cases we find that sometimes one person  
21 will end up with two bedrooms, but other than that we  
22 don't see that at all.

23 MS. DERASADOURIAN: Okay, the other question  
24 I had kind of piggybacks on what Ms. Quirk just said it  
25 says here and again, this is coming off the state

1 website, but you're the expert. It's saying according  
2 to one of the regulations that you can't force a family  
3 to purchase or rent a unit, a large unit as long as it  
4 doesn't violate municipal regulations for overcrowding.  
5 So I know when you're saying you try not to have more  
6 than two people per room, but technically there could be  
7 more than two people per room. Am I reading that  
8 correctly or am I wrong?

9 MR. PIAZZA: We've never processed a unit  
10 with more than two people per bedroom.

11 MS. DERASADOURIAN: Okay, okay, I'm just --  
12 again, I'm just asking for later for when we talk about  
13 numbers of people, thank you very much.

14 MS. SICILIANO: Let me follow that up. You  
15 sell a house, you sell a unit to two people per bedroom,  
16 right? They find they have triplets.

17 MR. PIAZZA: And that could happen in any  
18 home in the town.

19 MS. SICILIANO: Exactly.

20 MR. PIAZZA: That's pretty much -- from our  
21 process onward it's pretty much whatever can happen in  
22 your house or my house.

23 MS. SICILIANO: But you don't evict them  
24 because they had triplets.

25 MR. PIAZZA: Right.

1 MS. SICILIANO: Okay.

2 MR. GORMAN: Let me add there are within the  
3 building codes, there are limits on and requirements per  
4 square footage per person in a household. And in that  
5 situation if someone moved in and they become octomom  
6 and they have all those children, technically within the  
7 code, within the building codes, there are minimum  
8 square footage per person in a house. I will tell you  
9 that I've never seen that really enforced because if you  
10 have different family situations where it works, doesn't  
11 work and it's crowded, but there are minimum  
12 requirements within the building code that becomes a  
13 building enforcement issue. My experience, towns  
14 generally as long as it's within the traditional family  
15 unit I haven't seen that really enforced. It gets  
16 enforced when you have 14 college kids or unrelated  
17 people living in a unit. That's when towns start to  
18 worry about that, but in general you have a big Irish  
19 Catholic family and you just have more and more and more  
20 and more, towns generally don't bother, don't enforce  
21 it.

22 MR. MORAN: So there's no language in the  
23 deed restriction as far as occupancy after the sale?

24 MR. PIAZZA: No.

25 CHAIRMAN BELL: Any other questions from the

1 public? Come on up.

2 MR. GORMAN: And only because I'm Irish  
3 Catholic. I wasn't trying to denigrate any particular  
4 nationality or religion.

5 MR. WEISMAN: Glenn Weisman, Patterson  
6 Avenue once again. It seems like it would be easy in  
7 this town to put more people in because we don't have a  
8 certificate of occupancy here, do we, when you move in?

9 CHAIRMAN BELL: Only on the initial  
10 construction of the house.

11 MR. WEISMAN: Yeah, it seems like it would  
12 be pretty easy to move in and then have your cousins or  
13 somebody from across the border or something live in the  
14 house with you which is happening on the north side of  
15 Red Bank very often. So it would have to be regulated  
16 somehow and I would imagine strictly. I think you'd  
17 have to have somebody going through there from time to  
18 time.

19 MAYOR COOPERHOUSE: Hypothetically, if you  
20 have a situation like that with a condominium  
21 association, I'm sure that if you had a situation where  
22 you had the two bedroom or one bedroom you've got six  
23 people living in that house, I would assume that the  
24 condominium association would get involved.

25 MR. WEISMAN: Yeah, I hope so. Thank you.

1           MAYOR COOPERHOUSE: And then in turn contact  
2 the Borough.

3           MR. DURESADORIAN: Greg Duresadorian, 33  
4 Sickles. You had mentioned earlier that you'd like to  
5 have I believe it was at least 20 applications per unit  
6 and I was wondering if there's any type of studies of  
7 back-up information on if there's any increase in areas  
8 with stronger school districts rather than schools that  
9 don't have well performing school districts?

10          MR. PIAZZA: I'm not aware of any. I don't  
11 have that data.

12          MR. DURESADORIAN: Okay, it would seem that  
13 this would be a very attractive area to apply to and  
14 some areas would not be, so, no question, just a  
15 comment.

16          MR. PIAZZA: There is one thing that came up  
17 earlier and I forgot to address it. It came up I think  
18 as a question to Mike. Someone was concerned about when  
19 the restrictions burn off what we can do with the  
20 property or how much you can sell it for. And if you  
21 don't mind I'd just like to address that briefly.

22          CHAIRMAN BELL: Sure.

23          MR. PIAZZA: As Mike mentioned, at the end  
24 of the 30-year restriction, the unit can be -- the  
25 restriction can be extended by the municipality in which

1 case the municipality doesn't lose the unit. The  
2 alternative is that there is a second mortgage on the  
3 property. The second mortgage is in the amount -- there  
4 will be a second mortgage on each of the properties.  
5 The second mortgage will be in an amount equal to the  
6 difference between whatever that current owner paid and  
7 whatever the market price for that unit would be when  
8 that current owner purchased it. So if the current  
9 owner buys the unit the day before the 30-year deed  
10 restriction, whatever benefit they gain in that one day  
11 saying they sold the unit for the market price, the  
12 reality is that they would have to reimburse and that  
13 money goes to the municipality, the entire amount of  
14 their benefit that they originally received.

15       MAYOR COOPERHOUSE: Who holds the second  
16 mortgage?

17       MR. PIAZZA: The municipality.

18       CHAIRMAN BELL: So theoretically just taking  
19 an example, if the house sells for \$100,000 and the  
20 market value was \$400,000 at the day of the closing,  
21 there's a \$300,000 second mortgage, if over -- because  
22 you said that it increases every year a little bit and  
23 it probably goes by inflation or something I would  
24 assume. If at the end of the 30 years, \$200,000 of that  
25 \$300,000 mortgage has gone away and then they sold it,

1 would they have to pay the \$100,000 to the town?

2 MR. PIAZZA: Under the new system, under the  
3 third round rules, the exact amount that's considered  
4 the benefit is what they have to pay back. So whenever  
5 they purchase the unit, that benefit is set. So say if  
6 I purchased a unit for \$100,000 and the unit was worth  
7 \$200,000 as a market unit which we would need an  
8 appraisal at the beginning of this process, and each  
9 time the unit is resold there would be another appraisal  
10 but just say at the beginning, someone purchases the  
11 unit for \$100,000 and it's worth \$200,000, the second  
12 mortgage is \$100,000. At the end of the 30-year  
13 restriction, the first -- what's called the first  
14 nonexempt sale at the end after the restriction period  
15 ends, the unit is sold at market rate. That could be  
16 \$400,000, they would have to pay back the original, the  
17 original benefit which would be the \$100,000 back to the  
18 municipality. It's a little different than what it was  
19 under the old rules, but it's meant to set the benefit  
20 at whatever stage the person purchased the unit at.

21 CHAIRMAN BELL: Okay. Yes?

22 MR. KURLAND: Just clarify one thing. There  
23 was a question, there was a question before about  
24 maintenance of the interior of the units. Part of this  
25 submission, that stack of paper you have includes or

1 some -- maybe just the professionals got it, the draft  
2 master deed for the condominium.

3 CHAIRMAN BELL: We did not get that.

4 MR. KURLAND: It just went to your  
5 professionals, but I can represent to you that Section  
6 8.01 in that draft master deed includes specific  
7 obligations on all unit owners to maintain the interior  
8 of their unit. And it lists what has to be kept and if  
9 the homeowner does not maintain that, the association  
10 has a right to go in and do it. Because especially in  
11 an attached product, if one home in the middle is not  
12 maintained properly, that may affect the quality of  
13 living to the neighbors above or to the left or right.  
14 So the association has that interest to take care of any  
15 units that are not properly maintained.

16 MAYOR COOPERHOUSE: Ms. Quirk, can you just  
17 hold on one second? I have a question. I apologize to  
18 the Board and the public because I'm not following the  
19 second mortgage. Can we get a better explanation,  
20 please?

21 MR. PIAZZA: Yeah.

22 MAYOR COOPERHOUSE: Mike, do you have one?

23 MR. JEDZINIAK: Well, admittedly I don't  
24 know if I could do the explanation just because this is  
25 a very, very esoteric area and I would defer to Frank on

1 some of this stuff, but I think it's a fiction. In  
2 other words the COAH regulations have created this  
3 fiction to prevent purchasers of affordable housing  
4 units a windfall. And the way it's supposed to operate  
5 is whatever this so-called benefit is, whatever the  
6 number is, that money is supposed to go back to the  
7 municipality into the affordable housing trust fund.  
8 And because if you lose that deed restriction, you're  
9 also losing the credit. So the theory is that money  
10 goes back into the affordable housing trust fund to help  
11 the Borough to recoup a new credit at some other  
12 location or whatever. So Frank, is that accurate,  
13 Frank?

14 MR. PIAZZA: That's absolutely how it's  
15 supposed to work.

16 MAYOR COOPERHOUSE: How is the homeowner if  
17 they're in an affordable house, if they're just barely  
18 making it to get that first mortgage, who's securing the  
19 second mortgage?

20 MR. PIAZZA: Well, because it's not a  
21 mortgage that needs to be repaid.

22 MR. KURLAND: Only at the sale.

23 MR. PIAZZA: Until the sale, right. Then it  
24 does not impact on -- well, it shouldn't impact on their  
25 ability to obtain the first mortgage.

1 MS. QUIRK: Is there a paper on this  
2 mortgage?

3 MR. PIAZZA: Yes, it's a mortgage note. The  
4 mortgage is recorded.

5 MR. GORMAN: But there's no payment  
6 required.

7 MR. KURLAND: It's basically an IOU at the  
8 resale when the restriction comes off.

9 MAYOR COOPERHOUSE: Okay, thank you.

10 MR. KURLAND: And the creditor is the  
11 municipality.

12 MR. GORMAN: Can we clarify, is it the  
13 municipal option to renew and continue the restrictions?  
14 Because if that's the case, which I believe it is, then  
15 it would be assumed that as long as there's a Mount  
16 Laurel obligation 30 years from now the municipality is  
17 going to say well, we choose to continue that Mount  
18 Laurel restriction on this property. So can we just  
19 clarify what the obligation is and is it within the  
20 control of the municipality?

21 MR. JEDZINIAK: It is within the control of  
22 the municipality. It's an option currently. I mean,  
23 nobody can predict the future, but as of right now it is  
24 a municipal option. It's actually on COAH's menu of  
25 compliance techniques as a way to secure new credits

1 when old deed restrictions expire. It's a municipal

2 option.

3 CHAIRMAN BELL: Mrs. Quirk?

4 MS. QUIRK: Now I have a question regarding

5 that. If the town is able to put further deed

6 restrictions on an expired deed, are they limited or

7 released from any kind of legal action?

8 MR. JEDZINIAK: I don't understand the

9 question.

10 MS. QUIRK: Like say somebody buys a home, a

11 COAH compliance home and 30 years later they're thinking

12 oh, well, I'll be able to sell this at market value, but

13 then the town of Shrewsbury comes in at year 29 or year

14 30 just right before it expires. Are they free from any

15 legal action by the homeowner?

16 MR. JEDZINIAK: Is the municipality free?

17 Nobody is free from litigation under any circumstance,

18 but, you know, I'm not sure if -- this is a very

19 esoteric area.

20 MS. QUIRK: So speaking 30 years from now if

21 the town says we can't do anymore COAH housing, we're

22 maxed out, they can be open to legal action from

23 somebody stopping them keeping those COAH restrictions

24 on that mortgage? On that deed?

25 MR. JEDZINIAK: But don't forget there's a

1 regulation that the municipality would be able to rely  
2 on. If a lawsuit was filed all we would do is point to  
3 the regulation and say this is sanctioned by the agency  
4 that's entrusted with implementing the Fair Housing Act.

5 MS. QUIRK: Now is there a time frame that  
6 they have to make that legislation to extend that COAH  
7 compliant, that COAH deed?

8 MR. JEDZINIAK: Well, I don't have that  
9 regulation memorized, but there are restrictions, you  
10 know, as far as how you can go about doing that, yes.

11 MS. QUIRK: Okay. Can I go now?

12 CHAIRMAN BELL: Yes.

13 MS. QUIRK: I have questions regarding what  
14 are the requirements? Can one person -- does everyone  
15 on day one moving in, anyone that's moving into the  
16 home, this is going back to if there's more than one  
17 adult taking up residence in a home, does everyone have  
18 to declare their income or can one person declare their  
19 income and become compliant for this or become available  
20 for this?

21 MR. PIAZZA: No, the income that's required  
22 would be the income of all the occupants of the home and  
23 they would all have to be on -- anybody who's over 18  
24 would have to be on the deed basically.

25 MS. QUIRK: Okay, thank you. And then also

1 are these mortgages open to VA and FHA funding? Are  
2 these properties open to VA or FHA funding?

3 MR. PIAZZA: You know, I can't answer that  
4 for certain if they're going to be FHA approved or not  
5 approved, I really don't know.

6 MS. QUIRK: How about VA, can a veteran  
7 utilize their VA benefits for this?

8 MR. KURLAND: We attempt to qualify all of  
9 our community for as many mortgage programs as possible  
10 whether it's VA, FHA, Fannie Mae, we go through that  
11 process.

12 MS. QUIRK: And just playing devil's  
13 advocate, going back to all the adults, going back and  
14 say you have six adults show up on move in day, what  
15 happens then if you have six adults that are all working  
16 that haven't declared?

17 CHAIRMAN BELL: Then I think it goes to the  
18 town because it would be a boarding house which is not  
19 allowed and that would go back to the condominium  
20 association. Condominium association I'm sure will have  
21 -- the two condos I have specifically states the only  
22 people who can live in that house are the homeowner and  
23 direct family members.

24 MAYOR COOPERHOUSE: It would also be a  
25 violation of the COAH regulations.

1 MS. QUIRK: So would they automatically fall  
2 into illegitimacy? Can you knock them out on that  
3 alone?

4 MR. PIAZZA: There are under the deed and  
5 the mortgage and the note and there's a further  
6 certification that's required, the ability of the  
7 municipality to actually foreclose on a unit for not  
8 complying with the regulations.

9 MS. QUIRK: Okay, thank you.

10 MR. MORAN: Can we get a copy of the deed?

11 MR. KURLAND: The master deed? Sure. Want  
12 me to make some extra copies?

13 MS. KELLEHER: I'll make them.

14 CHAIRMAN BELL: Not right now.

15 MR. MORAN: I'm sorry.

16 MR. CRANMER: Mr. Bell, I can tell you that  
17 I received a copy of that. I forwarded my copy to  
18 Michelle to look at from a legal standpoint.

19 CHAIRMAN BELL: Yes.

20 MR. HINES: Tim Hines, Beechwood Drive.  
21 What kind of taxes do these people pay? Is this a  
22 relevant question? When they go to apply, I mean, if  
23 they buy a house for \$100,000 they're paying just a  
24 fraction of what everyone else is paying, right?

25 MR. PIAZZA: The taxes will be based on

1 the --

2 MR. HINES: It's not the market, it's the  
3 value of the place if it's \$100,000?

4 MR. PIAZZA: Because it's new construction  
5 the taxes would be based on what they're actually  
6 paying.

7 MR. HINES: Nice, thanks.

8 CHAIRMAN BELL: Any other questions? There  
9 being none, can I get a motion to close the meeting to  
10 the public?

11 MR. TELLER: Make a motion to close the  
12 meeting to the public.

13 CHAIRMAN BELL: Mr. Teller. Mr. Moran. All  
14 those in favor?

15 (Multiple Board members respond "Aye.")

16 CHAIRMAN BELL: Anybody else on the Board  
17 have any questions?

18 MAYOR COOPERHOUSE: Just if we can just  
19 clarify who the witnesses are going to be.

20 CHAIRMAN BELL: It's at 10:40 so we're not  
21 going to call the next witness, so if you could clarify  
22 for the public. And the meeting minutes will be posted  
23 on the board, Lorraine? The meeting minutes will be  
24 posted on the board by Monday, Tuesday?

25 MS. KELLEHER: These meeting minutes?

1 CHAIRMAN BELL: Yes.

2 MS. KELLEHER: Oh, yeah, sure.

3 CHAIRMAN BELL: Next Monday, Tuesday?

4 You'll do the transcripts? Can we post them on the

5 website? So for the public, on this meeting the

6 transcripts will be posted -- how long do you think

7 you'll be?

8 MR. KURLAND: We'll pay for expedited.

9 CHAIRMAN BELL: Like by middle of next week?

10 End of next week? My reason for the public if anybody

11 is not here they'll know they'll have three weeks notice

12 and for the next meeting and so forth.

13 MR. KURLAND: Sort of wrapping up, the next

14 meeting and when is the next meeting date?

15 CHAIRMAN BELL: Next meeting date is

16 September 16th.

17 MR. KURLAND: We will start off with the

18 witness on fiscal impact and then we will jump into the

19 engineering and site plan testimony and the landscape

20 buffering and lighting testimony. That should probably

21 use up a good portion of the evening.

22 CHAIRMAN BELL: Landscaping and lighting,

23 right?

24 MR. KURLAND: And if we have more time --

25 MR. MORAN: And site plan as well.

1 MR. KURLAND: After the fiscal witness, Mr.  
2 Moran, it would be the engineering and site plan  
3 witness. Mr. Holmes will be back and then after Mr.  
4 Holmes would be the landscape architect who will testify  
5 about the landscaping, buffering and lighting plans and  
6 if we have time at that meeting we would probably go to  
7 the architect, the residential architect.

8 CHAIRMAN BELL: Okay.

9 MR. KURLAND: Okay.

10 CHAIRMAN BELL: Anybody else have any other  
11 questions?

12 MR. CRANMER: Mr. Kurland, we spoke about  
13 some noticing questions. Were you going to renotice for  
14 the next hearing?

15 MR. KURLAND: I'm going to renotice because  
16 in Mr. Cranmer's review he indicated the possibility of  
17 some additional variances. I did not put into my notice  
18 the general language that after I listed the variances,  
19 "any and all other variances that may be determined  
20 during the review." So what I will do is send out a new  
21 notice for the 16th making sure the additional possible  
22 variances that Mr. Cranmer indicated are on the notice  
23 and I'll add the catch-all language as well. So I will  
24 for those who weren't here and perhaps those who have  
25 left already they'll be getting another notice just like

1 they got for this one.

2           MAYOR COOPERHOUSE: Just for the public's  
3 benefit, you submitted a 21 page letter.

4           MR. CRANMER: That's correct, Mayor.

5           MAYOR COOPERHOUSE: Can you just indicate to  
6 the public exactly what that letter was and the purpose  
7 of that letter?

8           MR. CRANMER: The review letter that was  
9 prepared by my offers is dated August 18, 2009 and what  
10 it is it's a comprehensive review of the application  
11 which states what the application is for, what zone it's  
12 in. Most of the content of the letter are comments  
13 which are technical in nature that describe the  
14 compliance of the development with the various zoning  
15 and design standards. And copies of the letter, of  
16 course, are part of the public record here and are  
17 available upstairs at Ms. Kelleher's desk.

18           CHAIRMAN BELL: That was the letter I was  
19 referring to earlier that will be upstairs.

20           MR. MORAN: If it isn't too much of an  
21 imposition, if you could have some copies of the  
22 rendering available next time, just small?

23           MR. KURLAND: Sure.

24           MR. MORAN: Just so people in the audience  
25 could follow along as we discuss it.

1 MR. KURLAND: An overall site plan just like  
2 what Mr. Holmes has there?

3 MR. MORAN: Rendering, just so people can  
4 follow along with us.

5 MR. KURLAND: Okay, we can do that.  
6 Anything else?

7 CHAIRMAN BELL: Well, this application is  
8 going to be carried until September 16th. The applicant  
9 is going to renote so there will be additional --  
10 there will be renote. And as we stated, all the  
11 records will be on-line by the end of next week. So if  
12 you have any questions, if you're looking for anything,  
13 go upstairs to Lorraine. She will be happy to help you  
14 out with anything and I just on a personal note I'd like  
15 to thank everybody for coming out and being as organized  
16 and calm and asking very good questions. So thank you  
17 very much. Can I get a motion to adjourn?

18 MR. KURLAND: I just have a question. Is it  
19 the practice of this Board to retain the exhibits that  
20 have been marked or do you want the applicant to keep  
21 them?

22 MS. KELLEHER: You can keep them. Bring  
23 them back.

24 MR. KURLAND: Fine. Some Boards want to  
25 keep them, so just checking.

1 CHAIRMAN BELL: Can I get a motion to

2 adjourn? Mr. Teller. Mr. Moran. All in favor?

3 (Multiple Board members respond "Aye.")

4 CHAIRMAN BELL: Opposed?

5 (Proceeding concluded at 10:42 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: August 26, 2009