

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
APRIL 15, 2021
7:30 PM**

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Board Chair, Mr. Flanagan called the regular meeting of the Board of Adjustment to order at 7:30 and announced that adequate notice of the meeting had been made in accordance with the New Jersey State Open Public Meetings Act and State Executive Order 103.

ROLL

Ms. Taglairino called the roll. It went as follows:

Mr. Cammarata	Present	Mr. Newlin	Present	Mr. Maselli	Present
Mr. Addonizio	Excused	Ms. Sovolos	Present	Mr. Boyan	Present
Mr. Rosenbaum	Present	Mr. Symonds	Present	Mr. Flanagan	Present

Mr. Hall, Board Attorney, Mr. Fox, Board Engineer, Ms. Mertz, Board Planner and Ms. Taglairino, Board Secretary were present as well.

REGULAR MEETING

MINUTES

Mr. Flanagan made a motion to approve the March 18, 2021 minutes as written. It was seconded by Mr. Newlin. On a voice vote all eligible members voted to approve the March 18, 2021 minutes.

ADMINISTRATIVE—Mr. Flanagan

None

RESOLUTIONS—Mr. Flanagan

Application BOA# 13-20 Gregory & Christine Ihnken
Tempe Wick Road, B34/L3, RR-Zone

Mr. Newlin made a motion to adopt Resolution BOA#13-20 Ihnken as written. The motion was seconded by Ms. Sovolos. A roll call vote went as follows:

For: Mr. Newlin, Mr. Symonds, Ms. Sovolos, and Mr. Cammarata

Not eligible: Mr. Rosenbaum, Mr. Boyan Mr. Flanagan and Mr. Maselli

The resolution is appended to the minutes.

SPECIAL MEETING SCHEDULING

Mr. Flanagan suggested a special meeting for April 22, 2021. Mr. Flanagan made a motion to hold a special meeting. It was seconded by Mr. Symonds. On a voice vote all were in favor.

Mr. Flanagan noted that the following applications will be carried until the April 22, 2021 meeting with no further notice:

<u>Application BOA# 01-21</u>	Abhinov Singh & Catherine Roure 216 Village Road, B12/L20.01, R-1 Zone
<u>Application BOA# 02-21</u>	Dr. James Wittig 34 Kitchell Road B1/L5 R-1 Zone
<u>Application BOA#03-21</u>	Jack Lankford Wade 203 Blue Mill Road, B4/L27, R-1 Zone
<u>Application BOA# 04-21</u>	Eugene Zhang 46 Laura Lane, B5/L11
<u>Application BOA# 05-21</u>	Colin and Susie Ford 114 Lees Hill Road, B5/L11

Mr. Hall noted that there is an application being reviewed completeness for an administrative appeal to a Zoning Officer decision for 529 Waterfront Properties, LLC for a fence permit on 579 Van Beuren Road.

Mr. Hall reported that 529 Waterfront Property is trying to settle the litigation for the Tree Officer decision.

Mr. Hall also noted for the record that the completeness for Application BOA# 14-20 Murphy is ongoing.

<u>Application BOA# 17-18</u>	New York SMSA Limited Partnership d/b/a Verizon Wireless 8 Millbrook Road, B17/L1, PL Zone Applicant requesting variance relief for use, per NJSA 40:55D-70(d) for a cell tower.
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Presenting:

Richard Schneider, Attorney

William F. Masters Jr., Planner

Dr. Eisenstein, RF Specialist

Mr. Mlenak is acting Board Attorney for this application.

Robert Simon is an objecting attorney for this application.

Mr. Masters continued testimony.

Mr. Simon questioned the Planner testimony.

There was a break from 9:23 until 9:32.

Ms. Taglairino called the roll for the Board Members after the break and the following were present:

Mr. Boyan, Mr. Newlin, Mr. Flanagan, Mr. Maselli, Mr. Rosenbaum Mr. Symonds, Ms. Sovolos, and Mr. Cammarata.

The application is carried to the May 20, 2021 meeting with no further notice.
Shot clock extended until May 20, 2021.

A transcript of the testimony is appended to the minutes.

OTHER BUSINESS

None

ADJOURNMENT

Mr. Flanagan adjourned the meeting at 11:05

Lori Taglairino

Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION

Grant of (d)(3) Variance & Conditional Use/Minor Site Plan Approval Gregory & Christine Ihnken - Application No. 13-20 524 Tempe Wick Road - Block 34, Lot 3 Adopted April 15, 2021

WHEREAS, Gregory and Christine Ihnken applied to the Harding Township Board of Adjustment for a (d)(3) variance from the 6 acre minimum lot size conditional use requirement and for conditional use/minor site plan approval pursuant to Section 225-178 of the Land Use and Development Ordinance, to permit an addition and interior modifications to create an accessory residence in a portion of the ground floor of an existing barn/garage that is accessory to the principal residence on property that has a lot size of 5.192 acres located in a RR Zone at 524 Tempe Wick Road and designated on the Township Tax Map as Lot 3 in Block 34; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at virtual meetings using the Zoom platform on January 21, 2021, February 18, 2021 and March 18, 2021, for which public notice and notice by applicants were given as required by law; and

WHEREAS, the Board of Adjustment conducted a noticed site inspection of the property on January 30, 2021; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the virtual meeting on March 18, 2021, the Board of Adjustment adopted an oral resolution approving the application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 15th day of April 2021, that approval of the application of Gregory and Christine Ihnken for a (d)(3) variance and conditional use/minor site plan approval to permit creation of an accessory residence in a portion of an existing accessory structure is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The property is located at 524 Tempe Wick Road in a RR Zone. It has an area of 5.192 acres.
2. The property is improved with a single-family residence and a garage/barn structure with an attached silo. The current improvements on the property were shown on a variance plan prepared by H2M Architects & Engineers, initially dated November 4, 2020.
3. The applicants proposed to undertake interior modifications of the ground floor of the accessory structure and construct a one story addition to create a one bedroom accessory residence for the elderly mother of one of the applicants, along with some exterior renovations to the accessory structure, as shown on the variance plan and on architectural plans prepared by Arturo Palumbo Architecture, initially dated December 22, 2020.
4. The proposed accessory residence requires conditional use and minor site plan approval pursuant to Section 225-178 of the Ordinance, which governs accessory residences.
5. The proposed improvements would conform with all conditional use criteria applicable to accessory residences in Section 225-178, except for the lot size of 5.192 acres that is less than the 6 acre minimum requirement in Section 225-178(A), thus requiring a (d)(3) conditional use variance.
6. The garage/barn structure is nonconforming to a minimum setback of 94.2' vs. the applicable minimum of 100', and a height of 28.21' versus the applicable maximum of 25', for the attached silo. Although these nonconforming conditions would not be altered, construction of the modest conforming addition requires a variance from Section 225-115(B) to permit enlargement of a nonconforming structure.

7. The applicant was represented in proceedings before the Board of Adjustment by David C. Scalera, Esq.
8. No neighbor or member of the public objected to the application. One resident who attended the site inspection expressed an interest in having a public access easement across the property to connect Tempe Wick Road and the Jockey Hollow property to the rear.
9. The Township Historic Preservation Commission issued a memorandum dated January 11, 2021 that noted that the property is in a Historic District and recommended approval of the application.
10. The Township Department of Health issued a memorandum dated December 23, 2020 that indicated the absence of any objection, subject to review and approval of a plumber riser diagram and approval of a complete application prior to submission of an application for a building permit.
11. Board Planner McKinley Mertz, P.P./A.I.C.P., issued a memorandum, dated February 9, 2021, that commented on the application.
12. Board Planner Mertz and Township Engineer Fox both attended the public hearing and responded to oral questions.
13. Testimony in support of the application was provided by applicant Gregory Ihnken, engineer/planner Richard Schommer and architect Arturo Palumbo.
14. Applicant Gregory Ihnken testified that property had been purchased based on the specific goal of creating living space in the existing barn for his elderly mother-in-law so that she could be near family, while still having a separate living space. He disclaimed any interest in any other use of the proposed accessory residence.
15. Architect Arturo Palumbo testified concerning the architectural plans. He indicated that the proposed accessory residence would comply with all applicable size criteria. He noted that it would be limited to one bedroom (less than the 2 bedroom limit) and the 1,200 square foot living space limit would not be exceeded. A garage area for one car and some storage area would be retained at the west end of the ground level. A portion of the current garage area proposed to be converted to a study as part of the accessory residence would have the appearance of a garage door on the front façade, thus retaining the current appearance of this accessory structure. The addition to the east end would be a solarium providing outdoor views, which would be important due to the limited number of windows. The proposed solarium would be located to the rear of the non-functional silo, thus minimizing visibility from the front of the property. An entry door for the accessory residence would be provided in the connector between the accessory structure and the silo. There would be no interior connection between the accessory residence and the upper level.
16. Richard Schommer testified as a professional planner. He emphasized the unique character of the applicants' property and the surrounding area, including the large undeveloped portion of Jockey Hollow National Historic Park to the rear of the applicants' property, as shown on an aerial photo. Mr. Schommer also noted that the property is in a historic district and that the proposed adaptive re-use of the barn would result in renovation of the structure while retaining its exterior appearance that contributes to the rural/historic character of the property. He opined that under the particular circumstances of this property and proposal, the lot size of 5.192 acres, rather than 6 acres, would not impair the propriety of this conditional use.
17. The Board of Adjustment deliberated at length on this proposal, expressing concerns as to possible density and adverse precedent. In response, the applicants agreed to various conditions, including elimination of a proposed shower serving the game room on the upper level, prohibiting any rental, limiting occupancy to family members of the occupant of the principal residence who are at least 70 years of age, prohibiting future expansion of the accessory residence to add a second bedroom or increase the living area, and recording in the chain of title a deed notice including a copy of this resolution and the conditions and restrictions in order to provide notice of these restrictions to any prospective purchasers of this property.
18. A majority of the Board of Adjustment ultimately concluded that variance relief is appropriate pursuant to N.J.S.A. 40:55D-70(d)(3) to permit creation of an accessory residence in a portion of the existing accessory structure on property with a lot size of 5.192 acres notwithstanding the 6 acre minimum based on the determination that the proposed accessory residence would be appropriate based on the unique collective context of all of the specific circumstances as follows:
 - a. The proposed accessory residence would be provided in a portion of an existing accessory structure that would be renovated and devoted to adaptive reuse, thus maintaining its appearance that contributes to the historic character of this property.
 - b. The lot size deviation and the resulting technical departure from the permitted density will be offset by the extensive public open space to the rear that is part of the Jockey Hollow National Historic Park and thus is not subject to residential development.
 - c. The extent of residential use of the accessory residence will be limited by the applicants' agreement to an express condition and restriction prohibiting any rental and limiting occupancy to family members of the occupant of the principal residence who are at least 70 years of age. This will have the benefit of providing senior housing, while minimizing any density impacts.
 - d. The applicants agreed that the accessory residence will be limited to one bedroom, and that any expansion of the living area will be prohibited.
 - e. The improvements for the proposed accessory residence will not result in any environmental impacts.
 - f. The proposed accessory residence will be served by existing on-site septic improvements.
 - g. The accessory residence improvements will not materially alter the appearance of existing accessory structure will not have any impact on neighboring properties.
 - h. A deed notice of this resolution will be recorded, thus providing all prospective future owners of this property of the specific conditions and restrictions.
 - i. Under these particular circumstances, the proposed accessory residence use will be consistent with the purpose of the accessory residence conditional use regulations notwithstanding the deviation from the minimum lot size requirement.
19. The requested variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Harding.

20. Subject to compliance with all conditions in this resolution, the applicants' proposal complies with all requirements for conditional use and minor site plan approval for an accessory residence.

Description of Development Approvals

1. A variance is hereby granted pursuant to N.J.S.A. 40:55D-70(d)(3) from the 6 acre minimum lot size requirement in Section 225-178(A) of the Land Use and Development Ordinance to permit creation of an accessory residence in a portion of the ground floor area of the existing accessory structure and construction of a one story solarium addition to the east end notwithstanding a lot size of 5.192 acres, as shown on a variance plan prepared by H2M Architects & Engineers, initially dated November 4, 2020 and revised thru December 22, 2020, and on architectural plans prepared by Arturo Palumbo Architecture, dated December 22, 2020, as required to be further revised as a condition of this approval.

2. A variance is hereby granted from Section 225-115(B) to permit enlargement of a nonconforming structure to permit construction of a conforming addition to the garage/barn structure as shown on the plans, as required to be revised.

3. Conditional use and minor site plan approval is hereby granted pursuant to Section 225-178 of the Ordinance to permit creation of an accessory residence in a portion of the ground floor of the existing accessory structure and construction of a one story solarium addition to the east end on the applicants' property, as shown on the variance plan and architectural plans, as required to be revised.

Approval Conditions

1. The applicants shall obtain Health Department approval, a building permit and any other necessary approvals for the accessory residence.

2. Any outstanding property taxes and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.

3. These approvals are granted based on the specific proposed improvements as set forth in the testimony and plans. New or amended variance relief may be required for any materially different improvements.

4. These approvals are granted subject to the specific conditions that:

a. Occupancy of the accessory residence shall be limited to family members of the occupant of the principal residence who are at least 70 years of age.

b. Rental of the accessory residence is prohibited.

c. The accessory residence will be limited to one bedroom, and any expansion of the living area will be prohibited.

d. The architectural plans shall be revised to show elimination of a proposed shower in the proposed bathroom serving the game room on the second floor.

5. The applicants shall submit revised plans reflecting the agreed upon conditions and a deed notice for review and approval by the Board Attorney. Evidence of recording the approved deed notice shall be submitted prior to issuance of a building permit for the improvements to the accessory structure.

6. This conditional use variance approval shall expire if construction of the authorized improvements is not commenced within 2 years of the date of this resolution.

Vote on Resolutions

For the Oral Resolution: Newlin, Symonds, Sovolos, Addonizio & Cammarata.

Against the Oral Resolution: Flanagan & Maselli.

For the Form of the Written Resolution: Newlin, Symonds, Sovolos & Cammarata.

Against the Form of the Written Resolution: None.

<div> <div>Page 1</div> <div> <div>HARDING TOWNSHIP BOARD OF ADJUSTMENT</div> <div> <div>IN THE MATTER OF: : TRANSCRIPT</div> <div> <div>CASE: BOA# 17-18 : OF</div> <div>New York SMSA Limited Partnership:</div> <div>d/b/a Verizon Wireless : PROCEEDINGS</div> <div>8 Millbrook Road :</div> <div>Block 17; Lot 1; PL Zone :</div> <div>X</div> </div> </div> <div> <div>Thursday, April 15, 2021</div> <div>Zoom Remote Videoconference</div> <div>Commencing at 7:44 p.m.</div> </div> <div> <div>BOARD MEMBERS PRESENT:</div> <div>MIKE FLANAGAN, Chairman</div> <div>ALF NEWLIN</div> <div>DAN MASELLI</div> <div>HUGH SYMONDS</div> <div>ELIZABETH SOVOLOS</div> <div>ARIC ROSENBAUM</div> <div>GEORGE BOYAN</div> <div>MICHAEL CAMMARATA</div> </div> <div> <div>ALSO PRESENT:</div> <div>LORI TAGLAIRINO, Board Administrator</div> <div>PAUL D. FOX, P.E., CME</div> <div>McKINLEY MERTZ, PP, AICP</div> <div>DR. BRUCE EISENSTEIN, Cellular Communications Consultant</div> </div> <div> <div>PRECISION REPORTING SERVICE</div> <div>Certified Shorthand Reporters</div> <div>(908) 642-4299</div> </div> </div> </div>	<div> <div>Page 2</div> <div> <div>1 APPEARANCES:</div> <div>2</div> <div>3 GREENBAUM, ROWE, SMITH & DAVIS, LLP</div> <div>BY: STEVEN G. MLENAK, ESQUIRE</div> <div>Attorneys for the Board</div> <div>4</div> <div>5 VOGEL, CHAIT, COLLINS & SCHNEIDER, ESQUIRES</div> <div>BY: RICHARD SCHNEIDER, ESQUIRE</div> <div>Attorneys for the Applicant</div> <div>6</div> <div>7</div> <div>8 HEROLD LAW, PA</div> <div>BY: ROBERT F. SIMON, ESQUIRE</div> <div>Attorneys for the Objectors: SGSL, LLC; Harsh and</div> <div>9 Nina Bansal; Michael and Susan Koenke;</div> <div>David and Eunice Conine; Brian and</div> <div>10 Christina McKittrick; Livio Saganic and</div> <div>Christel Engel; James M. Carifa and</div> <div>11 Sarah G. Conine; Ted Cotton</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> </div>
<div> <div>Page 3</div> <div> <div>1 INDEX</div> <div>2</div> <div>3 WITNESS: PAGE</div> <div>4 WILLIAM F. MASTERS</div> <div>By Mr. Schneider..... 9</div> <div>5 By Mr. Mlenak..... 37</div> <div>By the Board..... 43</div> <div>6 By Mr. Simon..... 67</div> <div>7</div> <div>8</div> <div>9</div> <div>10 EXHIBITS</div> <div>11</div> <div>12 IN EVD. DESCRIPTION PAGE</div> <div>13 No new Exhibits are marked</div> <div>14</div> <div>15</div> <div>16</div> <div>17 NO PUBLIC MEMBERS ARE SWORN</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> </div>	<div> <div>Page 4</div> <div> <div>1 CHAIRMAN FLANAGAN: We're going to move</div> <div>2 onto Verizon. Gary, is there anything else that we</div> <div>3 need to do tonight?</div> <div>4 MR. HALL: I think that's all. I'll see</div> <div>5 everyone next week.</div> <div>6 CHAIRMAN FLANAGAN: All right. Thank you,</div> <div>7 Gary.</div> <div>8 Steve, you're here. Mr. Schneider, you're</div> <div>9 there. Mr. Simon, all three -- you're all three lined</div> <div>10 up in one row. That's nice.</div> <div>11 Welcome back, Mr. Schneider, Mr. Simon.</div> <div>12 MR. SCHNEIDER: Good evening, Mr. Chairman.</div> <div>13 MR. SIMON: Good to be here.</div> <div>14 CHAIRMAN FLANAGAN: Good evening.</div> <div>15 Mr. Schneider, as I recall we had a little</div> <div>16 bit more of your planner's testimony tonight --</div> <div>17 MR. SIMON: Mr. Chairman, may I interrupt</div> <div>18 for just one second? I'm sorry. I just want to make a</div> <div>19 statement or bring up an issue with regard to the</div> <div>20 notice for this evening's hearing. So I was informed</div> <div>21 by Mr. Mlenak today that I guess there was an issue</div> <div>22 with the Zoom link that had been, I guess, since</div> <div>23 corrected that was on the agenda. Then there was a</div> <div>24 revised agenda that said revised, but actually the</div> <div>25 correct link was on the original agenda. And there was</div> </div> </div>

<p style="text-align: right;">Page 5</p> <p>1 also I guess a Zoom notice that was sent to all 2 participants, I guess, from the last meeting who Lori 3 had their e-mail addresses notifying them earlier today 4 via e-mail that the hearing was canceled, but of 5 course it was for the March hearing that was canceled. 6 So I will submit that there was a bit of confusion. 7 I'm not suggesting that the hearing be put 8 off tonight by any means. I just wanted to raise that 9 issue so that it's of record. I also at the time when 10 Mr. Mlenak brought this issue to my attention I had 11 made my recommendation putting on my municipal attorney 12 hat for a moment that under the circumstances that 13 maybe it would be wise to, you know, first of all, make 14 this issue known for the record, and also whether the 15 applicant would be willing in the event that there was 16 a member of the public who was confused and didn't log 17 on or did not log on correctly for this evening's 18 hearing to have an opportunity at the following hearing 19 possibly to ask questions of Mr. Masters if that member 20 of the public was not present this evening. 21 So I just wanted, again, I'm not suggesting 22 that the hearing be adjourned by any means, but just to 23 get those issues on the record. Thank you. 24 CHAIRMAN FLANAGAN: Okay. Mr. Schneider, 25 are you amenable to the idea of allowing the member of</p>	<p style="text-align: right;">Page 6</p> <p>1 the public who wasn't here tonight ask questions of Mr. 2 Masters in the event they weren't able to be here 3 tonight? 4 MR. SCHNEIDER: I'm not clear there was a 5 defect based on what I understood from Mr. Mlenak and 6 Lori that the incorrect link issue was immediately 7 resolved by notice to everyone. So I'm not clear that 8 would serve as the basis, but all that being said, I 9 want to be practical here. I still have some time with 10 Mr. Masters, and then the logical process would be Mr. 11 Simon would cross-examine Mr. Masters. 12 With all due respect to Mr. Simon, that's 13 never quick. So I anticipate we're going to end up 14 still having Mr. Simon cross-examining us late into the 15 evening. So I don't know that we would get to the 16 public tonight in any event. 17 MR. MLENAK: And Mr. Chairman, so the Board 18 is also aware of the conversations I've had with both 19 Counsel and with Lori reviewing it back and forth, I 20 agree with Mr. Schneider that I don't believe there is 21 a defect in notice. That the hearing can continue 22 tonight and on a belt and suspenders-type basis if Mr. 23 Schneider is amenable to bringing Mr. Masters back at 24 the next hearing that would resolve any doubt as to 25 whether there's any defect or not.</p>
<p style="text-align: right;">Page 7</p> <p>1 CHAIRMAN FLANAGAN: So you're comfortable 2 that if this decision was appealed that we would be on 3 the side of angels here, given that we're going to have 4 Mr. Masters back next month, or Mr. Schneider, I think 5 you did offer to bring Mr. Masters back; is that 6 correct? 7 MR. SCHNEIDER: We'll certainly agree to do 8 that, although, I suspect that he's probably returning 9 in any event. We'll agree to do that even though 10 there's no legal issue as to any members of the public 11 that did not get a chance to -- 12 MR. SIMON: And Mr. Chairman, I'm not 13 suggesting that there is a defect. I actually agree 14 with Mr. Mlenak and Mr. Schneider, but certainly it's 15 better to err on the side of caution in these 16 circumstances and that's why I made the recommendation. 17 CHAIRMAN FLANAGAN: Rightfully you raise it 18 as a potential issue. I just want to make sure that 19 the Board is on solid ground here if we proceed 20 tonight, and Steve your view is that we are okay to 21 proceed? 22 MR. MLENAK: That is my view, Mr. Chairman. 23 CHAIRMAN FLANAGAN: Okay. Fair enough. 24 All right. Mr. Simon, is that it? You can just nod. 25 You're on mute.</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. SIMON: Yes. 2 CHAIRMAN FLANAGAN: Okay. Thank you. All 3 right. Mr. Schneider, so as I recall, Mr. Masters was 4 to begin the second portion of his testimony. I think 5 you said you had maybe a half an hour left, that was an 6 estimate; is that correct? 7 MR. SCHNEIDER: We'll see. Hopefully, I'll 8 try to take things along. I think we took a break or 9 we concluded, I should say, at a good breaking point 10 just by way of very, very brief recollection we provide 11 a lot of background materials through Mr. Master's 12 testimony and where we took the break once we were 13 about to start to address the importance of what is the 14 statutory criteria and how it satisfied in its regard. 15 So with that background I'll proceed on 16 that basis. 17 Mr. Masters, I see you're on, you're 18 unmuted, and I'll just remind you that you're still 19 under oath. 20 CHAIRMAN FLANAGAN: Mr. Schneider, can I 21 interrupt for one second? So as I understand, Mr. 22 Simon, you're going to have a cross-examination, some 23 questions for Mr. Masters after this. Were you 24 estimating an hour on that; is that correct? 25 MR. SIMON: No. I was estimating more than</p>

<p style="text-align: right;">Page 9</p> <p>1 that.</p> <p>2 CHAIRMAN FLANAGAN: More than that. Okay.</p> <p>3 And then you also had mentioned you had some witnesses</p> <p>4 you planned on bringing. I think two you mentioned at</p> <p>5 the last meeting, potentially more.</p> <p>6 MR. SIMON: Yes. The last meeting, Mr.</p> <p>7 Chairman, I believe I stated that by this meeting I</p> <p>8 guess as we get to housekeeping toward the end of this</p> <p>9 hearing that we would discuss scheduling, which would</p> <p>10 include witnesses that I would present at a future</p> <p>11 meeting, certainly not tonight.</p> <p>12 CHAIRMAN FLANAGAN: Okay. Mr. Schneider,</p> <p>13 apologies, but please go ahead.</p> <p>14 MR. SCHNEIDER: No problem.</p> <p>15 WILLIAM F. MASTERS, having</p> <p>16 been previously sworn, testifies as follows:</p> <p>17 EXAMINATION BY MR. SCHNEIDER:</p> <p>18 Q. Mr. Masters, can you review -- let's start</p> <p>19 off your testimony this evening. Can you review for</p> <p>20 the Board the statutory criteria which governs this</p> <p>21 application?</p> <p>22 A. Yes. The application before the Board is,</p> <p>23 of course, for a use variance of the D-1 variety due to</p> <p>24 the fact that the proposed use is not a permitted use</p> <p>25 in the subject zone district in which we're located,</p>	<p style="text-align: right;">Page 10</p> <p>1 the Public Land PO Zone. The Applicant's burden of</p> <p>2 proof relative to that type of variance relief in terms</p> <p>3 of the statutory criterion is to satisfy both the</p> <p>4 positive as well as the negative criteria.</p> <p>5 In terms of the positive criteria, I would</p> <p>6 note that the courts in New Jersey while stopping short</p> <p>7 of declaring wireless telecommunication facilities</p> <p>8 inherently beneficial uses they have, however, adopted</p> <p>9 somewhat of a hybrid analysis or format for the</p> <p>10 consideration of a use variance for a wireless</p> <p>11 telecommunications facility.</p> <p>12 With respect to the so-called positive</p> <p>13 criteria or special reasons criteria it would be my</p> <p>14 position that the proposed use serves and satisfies the</p> <p>15 general welfare. Because the site is particularly</p> <p>16 suited I will go through the particular suitability</p> <p>17 characteristic of the site in a moment.</p> <p>18 The Courts have also found based upon prior</p> <p>19 decisions involving wireless telecommunications</p> <p>20 facilities that generally the issuance of an FCC</p> <p>21 license should suffice for a carrier to establish if</p> <p>22 the use serves the general welfare. I would point out</p> <p>23 to the Board that Verizon Wireless maintains not one</p> <p>24 but multiple FCC licenses and multiple frequency bands,</p> <p>25 and as such satisfies that particular purpose or</p>
<p style="text-align: right;">Page 11</p> <p>1 special reason in terms of promoting the public and</p> <p>2 general welfare.</p> <p>3 Q. And that conclusion was established and</p> <p>4 reaffirmed in numerous court cases, including the Smart</p> <p>5 versus Borough of Fair Lawn decision. That principle</p> <p>6 being that if you hold an FCC license your use as a</p> <p>7 matter of law serves the general welfare; is that</p> <p>8 correct?</p> <p>9 A. That's correct. And then it was also</p> <p>10 reaffirmed in the New Brunswick Cellular versus the</p> <p>11 Borough of Plainfield decision, and several other New</p> <p>12 Jersey Supreme Court decisions.</p> <p>13 Q. And just in that regard, your testimony in</p> <p>14 that regard is entirely consistent with the conclusion</p> <p>15 that was reached by the Township Planner in her report;</p> <p>16 is that correct?</p> <p>17 A. That is correct. McKinley Mertz in her</p> <p>18 report of January the 10th, 2019, mentions the fact</p> <p>19 that, in terms of addressing the negative criteria,</p> <p>20 that the Sica balancing test applies which is the</p> <p>21 correct application of the proofs, in this particular</p> <p>22 case, and that again is a function of prior New Jersey</p> <p>23 Supreme Court decisions, wherein they have allowed for</p> <p>24 the use of the Sica balancing test as part of the</p> <p>25 negative criteria analysis, that being a process that</p>	<p style="text-align: right;">Page 12</p> <p>1 had previously been reserved solely for inherently</p> <p>2 beneficial uses. So again, the hybrid, if you will,</p> <p>3 approach to the analysis here where they -- they have</p> <p>4 not determined these uses to inherently beneficial, but</p> <p>5 they have provided us the negative criteria analysis</p> <p>6 would follow the protocol for an inherently beneficial</p> <p>7 use.</p> <p>8 Q. But relative to the positive criteria, Mr.</p> <p>9 Masters, McKinley does make the point which bears</p> <p>10 probably emphasis that the provision of wireless</p> <p>11 telecommunications service has been found to promote</p> <p>12 the general welfare and provides a public benefit which</p> <p>13 satisfies the first prong of the positive criteria. So</p> <p>14 in that regard when you indicate and have testified</p> <p>15 that as a matter of law the use serves the general</p> <p>16 welfare your opinion in that regard consistent with the</p> <p>17 case law is entirely consistent with the conclusion</p> <p>18 that she has reached; is that correct?</p> <p>19 A. Absolutely.</p> <p>20 Q. Okay. Now, notwithstanding the fact that</p> <p>21 as a matter of law Verizon's licensing as a</p> <p>22 telecommunications provider by the FCC establishes that</p> <p>23 the use serves the general welfare. Are there other</p> <p>24 aspects of this application in your opinion which would</p> <p>25 further buttress or support the conclusion that the use</p>

<p style="text-align: right;">Page 13</p> <p>1 serves the general welfare as applied to this 2 particular case?</p> <p>3 A. Yes. The other aspect of the positive 4 criteria here is to indicate that the site is a site 5 that is particularly suited for a wireless 6 telecommunications facility. So that would more or 7 less be the second aspect of the proofs required 8 relative to the special reasons or positive criteria.</p> <p>9 Q. Understood. Before we get to the variance 10 element which you might opine as to why the site is 11 particularly suitable for the proposed use I want to 12 just spend one more moment, if I can, on this issue of 13 the use serving the general welfare.</p> <p>14 In that regard have you given appropriate 15 consideration or would you give appropriate 16 consideration to Mrs. Boschulte's testimony as it 17 specifically relates to the providing of important 18 service to the Harding Township Elementary School, 19 other places of public assembly, and to what extent if 20 any, do you feel it's important in the regard of 21 relative to serving the general welfare the specific 22 testimony of Chief Heller?</p> <p>23 A. Yes. Both Ms. Boschulte with regard to her 24 radio frequency testimony and the testimony of Police 25 Chief Heller, both indicated issues at the Harding</p>	<p style="text-align: right;">Page 14</p> <p>1 Township school on Lees Hill Road with respect to 2 reliable uninterrupted wireless telecommunications 3 service. And Mrs. Boschulte further stated that in 4 order to provide that continuous uninterrupted wireless 5 service at that location that she would require a pole 6 of, or a structure at a height of 120 feet.</p> <p>7 Chief Heller indicated in his testimony 8 that his officers had also experienced, as well as 9 himself, issues relative to maintaining reliable 10 coverage, actually not only inside the building but 11 outside the building.</p> <p>12 Q. So with that background both in terms of 13 the use satisfying the general welfare test as a matter 14 of law, and the testimony of Ms. Boschulte and in part 15 Chief Heller, let's turn our attention to what I would 16 consider the second prong of the positive criteria. 17 And the way I would ask you to assess it is you've 18 given your opinion as to the first prong, that is 19 whether the use serves the general welfare. So now our 20 obligation to the Board is to demonstrate satisfaction 21 of the statutory criteria by indicating by what means 22 you believe that the site is particularly suitable for 23 the proposed use.</p> <p>24 So I would ask you in your capacity as a 25 professional planner and having heard the testimony of</p>
<p style="text-align: right;">Page 15</p> <p>1 proceeding witnesses, do you have an opinion as to 2 whether the site is particularly suitable for the 3 proposed use, and if so what are the elements which 4 make the site particularly suitable?</p> <p>5 A. I do. I believe there are several 6 characteristics of the site that render it particularly 7 suitable for a wireless telecommunications solely.</p> <p>8 First and foremost, there was extensive 9 testimony provided by Ms. Boschulte over numerous 10 hearings relative to the radio frequency issues and the 11 radio frequency objectives for Verizon Wireless for 12 this particular area of Harding Township. She 13 established the fact that the subject site achieves the 14 technical objective for Verizon Wireless for the 15 identified area of Harding Township. It satisfies the 16 coverage objective for Verizon Wireless for the 17 identified area of deficient and currently unreliable 18 service, and as such would correct those issues, 19 provide for reliable uninterrupted wireless 20 telecommunications coverage for the identified service 21 area.</p> <p>22 She also noted during her testimony in that 23 regard that the permitted uses in the Harding Township 24 Zoning District for wireless telecommunications 25 facilities, specifically the OB Zone and the B-2 Zone,</p>	<p style="text-align: right;">Page 16</p> <p>1 specifically on the eastern side of Route 202, would 2 not be locations geographically that would be able to 3 correct this issue in this particular area of the 4 township.</p> <p>5 Secondly, the subject site is located 6 proximate to major crossroads in Harding Township, 7 Village Road, Blue Mill Road, Glen Alpin Road, Lees 8 Hill Road, Millbrook Road, Pleasantville Road. So 9 major roadways are primary generators of wireless 10 telecommunications service. These are the roads that 11 crisscross Harding Township in all directions: East, 12 west, north, south. This is essentially where they 13 intersect. And really one of the only two traffic 14 lights in Harding Township. The other one being out at 15 Glen Alpin Road and 202. There is a signal at Spring 16 Valley and Blue Mill Road, but that happens to be a 17 blinker light. So clearly this is a hub, if you will. 18 We're not talking about, you know, freeways here or on 19 Mount Kemble Avenue Route 202, but these are the 20 primary roadways that service traffic throughout the 21 township and this is where they intersect. So it's 22 proximity to that location is important. It's critical 23 in terms of providing in-car service within that area.</p> <p>24 Third, the subject DPW yard is the only 25 portion of the designated New Vernon Village</p>

<p style="text-align: right;">Page 17</p> <p>1 Redevelopment Plan area. This is outside the state and 2 National Register New Vernon Historic District. I 3 would also note on page ten of the New Vernon Village 4 Redevelopment Plan it states that the lot is very 5 irregularly shaped, somewhat like an hour glass which 6 provides the opportunity to consider the two 7 development areas, Tunis-Ellicks and DPW, as somewhat 8 separate entities. I think that's again a critical 9 characteristic of the configuration of this property, 10 and is a characteristic that contributes towards 11 particular suitability.</p> <p>12 Fourth, the -- again, the location, the 13 public works yard situated within the New Vernon 14 Village is at the central crossroads at the heart of 15 the community. Most importantly it is at the center of 16 citizen interaction within the mixed uses in the 17 central core of the community, including institutions 18 such as Kirby Hall, the Municipal Building, Bayne Park, 19 the Post Office, the New Vernon Fire Department, the 20 New Vernon Volunteer First Aid Squad, two houses of 21 worship, the Harding Township Elementary School, and 22 the Harding Township Library. So all of those 23 governmental uses, religious uses, uses that generate a 24 traffic both vehicular and pedestrian, contribute to 25 the suitability of this particular location.</p>	<p style="text-align: right;">Page 18</p> <p>1 Fifth, the existing use of the property at 2 the Municipal Public Works Yard is a use that's 3 compatible with a wireless telecommunications facility, 4 evidenced by the fact that the -- these types of 5 facilities, wireless facilities are in fact often 6 located at municipal public works yards. I mentioned 7 at the last hearing that two of the adjoining 8 municipalities, Chatham Township and Long Hill Township 9 have wireless telecommunications facilities at their 10 DPW yards.</p> <p>11 There's numerous other municipalities in 12 New Jersey that have wireless communications facilities 13 at their public works yards. Up in Bergen County, 14 Ramsey, Hillsdale, Fair Lawn, Green Township in Sussex 15 County, Maplewood in Essex County, and many more. I 16 think if you were to look at all 565 municipalities in 17 New Jersey I think you would find that there are many 18 who host wireless facilities at their DPW yards.</p> <p>19 Moving on. The subject DPW yard at this 20 location has sufficient space to accommodate future 21 collocation by additional wireless carriers, and we've 22 built that into our design of our facility. The 23 subject structural will be designed to accommodate 24 additional carriers. Also sufficient ground space 25 within the compound area for additional equipment for</p>
<p style="text-align: right;">Page 19</p> <p>1 the wireless carriers.</p> <p>2 Last -- well not last, but the next item, 3 certainly a critical aspect of this particular site is 4 the fact that we have a willing landlord, that being 5 the Township of Harding as a result of a municipal bid 6 that was awarded to Verizon Wireless. I think this is 7 a critical consideration the fact that the landlord 8 here happens to be the Township. It's certainly -- the 9 governing body, the Township Committee who awarded this 10 bid are obviously familiar with their public works 11 yard, as well as the surrounding land uses, and I think 12 this is a critical component in considering the 13 suitability characteristics of this site, and then the 14 fact that this site is located in a nonresidential zone 15 district. The PL Public Land Zone, I believe, is also 16 a characteristic important to its particular 17 suitability.</p> <p>18 MR. MLENAK: Mr. Masters, can I ask you a 19 question on one of the things you just said? Steve 20 Mlenak, if you can see me. The consideration that 21 you're asking the Board to make with respect to the 22 fact that this is subject to a lease by the 23 municipality is a consideration? You're not suggesting 24 that that is dispositive on site suitability, correct? 25 THE WITNESS: I am not.</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. MLENAK: Okay. Because you've got many 2 a list. Okay. I just wanted to be clear.</p> <p>3 BY MR. SCHNEIDER:</p> <p>4 Q. Mr. Masters, let me follow up on both Mr. 5 Mlenak's question, but also the relevance of the 6 Township making available this site pursuant to the 7 local lands and buildings via the public bid. While 8 you're certainly not an attorney, given your experience 9 you would be aware that Verizon, or for that matter any 10 other wireless carrier, would have no legal ability to 11 compel the township to issue a public bid. Verizon, or 12 for that matter any other carrier, has no condemnation 13 rights or other legal ability to compel the township to 14 issue a bid, the township in its wisdom, or the 15 Township Committee I should say in its wisdom, chose to 16 make that determination; is that correct?</p> <p>17 A. Yes, that's absolutely correct.</p> <p>18 Q. Mr. Mlenak asked you whether it was 19 dispositive and you answered that while it was not 20 dispositive you have an opinion as it relates to 21 particular suitability as to the significance of any of 22 the township making available the site?</p> <p>23 A. Yes. I think the fact that they chose this 24 particular site, I mean, the Township owns other 25 properties that they could have possibly put out to bid</p>

<p style="text-align: right;">Page 21</p> <p>1 for such a facility, but they chose the public works 2 yard.</p> <p>3 Q. Okay. On that basis, Mr. Masters, do you 4 have an overall opinion in your capacity as a 5 professional planner as to whether this site -- or 6 strike that. As to whether this application satisfies 7 the positive criteria of the statutory criteria?</p> <p>8 A. Yes. I believe it absolutely does satisfy 9 the positive criteria both with regards to the 10 Applicant's burden to show that the site is a 11 particularly suitable site, as well as their FCC 12 licenses that they maintain, which the Courts have 13 found that the use serves the general welfare.</p> <p>14 Q. Okay. Having rendered your opinion as to 15 the satisfaction of the positive criteria let's turn 16 our attention to the negative criteria, and you started 17 to address that when you referenced the Township 18 Planner's report, but let's spend some more time on 19 that. Having sat through three year's worth of 20 hearings before the Board where other applications were 21 considered I have a reasonably good understanding that 22 this is for the most part an experienced Board, and I 23 think they have a very solid understanding of the 24 different standards for use variances, including the 25 Medici standard. And with that background you began to</p>	<p style="text-align: right;">Page 22</p> <p>1 in the beginning of your testimony allude to a 2 different analysis of the negative criteria, not 3 withstanding the fact that the use here is not 4 technically an inherently beneficial use.</p> <p>5 Normally, in most cases subject to certain 6 exceptions, when their use is not an inherently 7 beneficial use, the Board is required to apply what we 8 commonly refer to as the Medici enhanced quality of 9 proof. Is that Medici enhanced quality of proof 10 applicable in this case?</p> <p>11 A. It is not. The Medici standard is not 12 utilized when the Sica balancing test is utilized.</p> <p>13 Q. Okay. And given the fact that the Medici 14 enhanced quality of proof is not applicable here what 15 is your understanding of the analysis that the Board 16 should undertake in establishing whether the applicant 17 satisfies the negative criteria?</p> <p>18 A. The analysis that the Applicant is required 19 to take with regard to a use variance for a wireless 20 telecommunications facility is to satisfy the Sica 21 balancing test. That's the standard that previously 22 had been reserved solely for the negative criteria 23 analysis for an inherently beneficial use, but not 24 withstanding the fact that the Courts have found that 25 wireless facilities are not inherently beneficial uses,</p>
<p style="text-align: right;">Page 23</p> <p>1 shows to utilize the four-step Sica balancing test for 2 the negative criteria analysis.</p> <p>3 Q. All right. And can you in that regard take 4 us through the four-prong Sica balancing test and how 5 that may or may not be satisfied in the content of this 6 application?</p> <p>7 CHAIRMAN FLANAGAN: Mr. Schneider, can I 8 just interrupt you, and Mr. Masters, I'm sorry, can I 9 interrupt you for one second?</p> <p>10 Steve, the Sica balancing test, is that the 11 correct standard in this case?</p> <p>12 MR. MLENAK: Yes, that is correct. For 13 these cell towers it is not technically inherently 14 beneficial use, but the Courts have held that the 15 Medici standard doesn't apply. So the Sica balancing 16 test is the correct standard for the Board to consider.</p> <p>17 CHAIRMAN FLANAGAN: All right. So as Mr. 18 Masters goes through these four points here let us know 19 if you disagree with anything he says.</p> <p>20 MR. MLENAK: Will do.</p> <p>21 CHAIRMAN FLANAGAN: Thank you, Mr. 22 Schneider.</p> <p>23 BY MR. SCHNEIDER:</p> <p>24 Q. I'm glad Mr. Mlenak is in agreement. 25 Mr. Masters, let's -- having established</p>	<p style="text-align: right;">Page 24</p> <p>1 that the Sica balancing test is in fact the test that 2 governs this application -- and I'll just ask you to 3 keep your voice up. I may have had a little trouble 4 hearing you, so if you can just talk a little bit 5 louder, if you wouldn't mind.</p> <p>6 If you can take us through the four prongs 7 of the Sica balancing test, and indicate how each of 8 the respective prong is or is not satisfied in 9 conjunction with this application?</p> <p>10 A. Certainly. The first step in the four-step 11 balancing test is that the Board should identify the 12 public interest at stake. I would submit to the Board 13 that the public interest at stake here is significant. 14 The provision of modern state-of-the-art wireless 15 telecommunications is a use that provides a broad 16 benefit across the general public.</p> <p>17 Certainly here we have a situation where we 18 have heard testimony from the police chief that 19 wireless telecommunications has been sketchy at the 20 Township's public school. Obviously, that's a location 21 where reliable wireless telecommunications is extremely 22 important. Just, again, the fact that the carrier, 23 Verizon Wireless, holds several FCC licenses, in 24 multiple frequency bands, again supports the premise 25 that it is a use that satisfies the public interest and</p>

<p style="text-align: right;">Page 25</p> <p>1 the general welfare. Of course, the other areas of 2 public gathering that I previously mentioned that also 3 exist within the service area, same thing would hold as 4 far as the municipal complex, the post office, the 5 houses of worship, fire department, volunteer ambulance 6 squad.</p> <p>7 Secondly, the Board should identify the 8 detrimental effect that will ensue from the grant of 9 the variance relief. I would remind the Board that 10 this is a use, a benign use from the standpoint that it 11 is an unoccupied, unmanned facility. It's routinely 12 visited once every four to six weeks for routine 13 preventive maintenance purposes. Other than that, it 14 generates virtually no vehicular traffic. Does not 15 produce many of the nuisances or annoyances associated 16 with some other land uses. Parking requirement is 17 minimal. Again, we're talking maybe eight or ten 18 visits over the course of the year. Does not generate 19 noise, odors, vibrations. A use that's really in the 20 nature of a public utility use. It's a benign use from 21 a land use impact standpoint.</p> <p>22 The primary focus from a planning 23 perspective with regard to potential detrimental impact 24 from these types of uses is visual impact. And I 25 discussed the visual analysis at the last hearing.</p>	<p style="text-align: right;">Page 26</p> <p>1 That again is the predominant focus when considering 2 these types of facilities from a planning perspective.</p> <p>3 The applicant here is attempting to 4 mitigate some of those detrimental impacts by the 5 alternative structures, reducing the height, things of 6 that nature, which segues into the third part of the 7 Sica balancing test. In some situations the local 8 Board may impose reasonable conditions on the use in 9 order to reduce the detrimental effect. Such 10 conditions such as the type of structure, the height of 11 the structure, a requirement to impose collocation so 12 that other carriers can collocate on the structure, 13 those are landscaping around the compound area, those 14 are all reasonable conditions that the Board might 15 consider relative to mitigating adverse impact.</p> <p>16 Q. And in that regard, Mr. Masters, does the 17 presented alternatives that you spent a fair amount of 18 time at the last public hearing as reflected 19 specifically in Exhibit A-29 and A-30, that being 20 either the tree monopole based on the Delbarton design, 21 or the so-called flagless flagpole. Do those represent 22 in your opinion material conditions affirmatively 23 offered by the Applicant to ameliorate any impact, 24 visual impact? 25 A. They do.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Okay.</p> <p>2 A. The fourth and final step in the Sica 3 balancing test is that the Board should then weigh the 4 positive and the negative criteria, and determine 5 whether on balance the grant of a variance relief will 6 cause substantial detriment to the public good. Key 7 word here being substantial.</p> <p>8 There are obviously going to be detrimental 9 impacts associated with the grant of variance relief 10 for these types of facilities, and again those are 11 primarily going to have to do with visual effects. And 12 whatever could be done to mitigate the visual impact I 13 think goes towards moving the balance in terms of the 14 four step towards the positive, as opposed to the 15 negative, and considering the positive benefits 16 associated with wireless telecommunications facilities, 17 the need for reliable uninterrupted coverage coupled 18 with the FCC licenses, I believe, in this case, and the 19 particular suitability of this particular site, in this 20 case the positives outweigh the negatives and satisfy 21 the Sica balancing test.</p> <p>22 Q. Therefore, Mr. Masters, do you have an 23 opinion in your capacity as a professional planner 24 whether the applicant has satisfied the negative 25 criteria as applied through the four-prong Sica</p>	<p style="text-align: right;">Page 28</p> <p>1 balancing test?</p> <p>2 A. Yes. I believe that in analyzing the 3 four-step process the Applicant's willingness to -- and 4 again the bid specs that the Applicant bid on were for 5 a 140-foot tall structure, a tree poll. The Applicant 6 is willing to provide a different type of alternative 7 structure, as well as reduce the height of the pole, 8 which actually would be consistent with the maximum 9 permitted height were this facility to be located in 10 one of the conditionally permitted zones, which is 11 120 feet.</p> <p>12 Q. Okay. So in your professional opinion, Mr. 13 Masters, do you believe applying the relevant statutory 14 criteria, that this application satisfies both the 15 positive and the negative criteria? 16 A. I do. I believe it satisfies the positive 17 criteria, particularly suitable. It satisfies the 18 negative criteria, such that the positive benefits of 19 this application outweigh the detrimental impacts.</p> <p>20 Q. Okay. I want to conclude your testimony by 21 going back in part to something that you touched on at 22 the prior hearing but go into a little more detail, and 23 then hopefully we'll conclude your testimony.</p> <p>24 You spent some significant time at the 25 prior public hearing taking us through the Harding</p>

<p style="text-align: right;">Page 29</p> <p>1 Township Wireless Telecommunications Ordinance, 2 specifically Section 225-175. And in the interest of 3 time essentially your testimony was consistent with 4 that ordinance that new wireless telecommunications 5 towers were only permitted as a conditional use in the 6 OB Zone and B-2 Zone on the easterly side of Route 202. 7 So those would be the only zone district and/or 8 locations where as a conditional use wireless 9 telecommunications tower would be continually 10 permitted; correct? 11 A. Correct. 12 Q. Okay. Now, under that ordinance you also 13 made a comment that the ordinance did have certain 14 conditional use standards which in your opinion would 15 only be applicable if, in fact, the tower was located 16 in any of the conditionally permitted zone district; do 17 you recall that testimony? 18 A. I do. 19 Q. Okay. Not withstanding the fact, and I 20 repeat, not withstanding the fact that the tower is not 21 located within either of the conditionally permitted 22 zones or locations, there are certain conditional use 23 standards which are technically not applicable to this 24 application, would be applicable if they were located 25 -- if the tower I should say is located in the</p>	<p style="text-align: right;">Page 30</p> <p>1 continually permitted zone. 2 If by way of some guidance those standards 3 were applied, which they're technically not by virtue 4 of the ordinance, if, underline that, if they were 5 applied to this application how would this application 6 comply or not comply with the specific requirements of 7 the conditional use band? 8 A. Well, there's about, I guess, eight or nine 9 conditional use requirement altogether in Section 10 225-175 of the Harding Township Zoning Ordinance that 11 deals specifically with wireless telecommunications 12 towers. I'll go through them. 13 And again, as you noted, this is assuming 14 that we were in either the OB Zone or the B-2 Zone east 15 of Route 202. First minimum lot size same as for 16 permitted uses. There is no minimum lot size 17 requirement in the PL Public Land Zone. There are no 18 standards within that zone, I should say, bulk 19 standards in that zone that pertain to lot coverage 20 setback, et cetera. And that would also apply in terms 21 of the minimum setback of the tower and equipment 22 compound from any property, no standard for permitted 23 uses in the PL Public Land Zone. The minimum tower 24 height -- 25 Q. Maximum tower height?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. I'm sorry. Maximum tower height -- no more 2 than necessary to provide service and in no case higher 3 than 120 feet. We can comply with the 120-foot height 4 requirement at this particular location. Maximum 5 number of towers per lot, one. We obviously can comply 6 with that, and of course are making available 7 collocation for additional carriers on this same tower. 8 It goes on to state that an equipment 9 compound may be erected to -- in connection with a 10 tower, provided that (A) it consists of no more than 11 2500-square feet. The proposed equipment compound is 12 1800 square feet, 30-foot-by-60 foot. And I would just 13 note as a side note, within that 30-by-60 1800-square 14 foot compound, Verizon's equipment is proposing to take 15 up 143-square feet total within that 1800-square foot 16 compound. 17 (B) it shall be situated behind any 18 existing structures, buildings or terrain features that 19 will help shield the compound from public view. We are 20 proposing to locate this behind the existing recycling 21 shed, and I believe as such satisfies that standard. 22 (C) The maximum height of all equipment 23 lockers, cabinets, or other structures other than the 24 tower within the equipment compound shall not exceed 25 12 feet. We will comply with that. None of our</p>	<p style="text-align: right;">Page 32</p> <p>1 equipment is higher than 10 feet. We also have a solid 2 wood fence that is proposed at 8 feet. 3 (D) When location at a public view is not 4 possible a landscape buffer of 20 feet in width shall 5 be provided around the compound to shield the facility 6 from public view. Landscaping shall include evergreen 7 trees at least 8 feet in height at the time of planting 8 and shall be planted in staggered double rows at 9 15 feet on center or screen that will provide 10 equivalent buffering. 11 We're proposing a buffer width behind the 12 compound that varies in width from 40 feet to 45 feet 13 in width with staggered landscaping that ultimately 14 would be presumably subject to the approval of the 15 Board's experts, the Board's Planner and the Board's 16 Engineer relative to species and heights at time of 17 planting, et cetera. 18 Three, the equipment buildings, cabinets or 19 lockers shall be located within the equipment compound 20 which shall be enclosed within a solid wood fence at 21 least 7 feet in height but not more than 8 feet in 22 height. The fence shall include a locking security 23 gate. We provided that. 24 Facilities installed according to these 25 provisions shall be suitably finished and/or painted so</p>

<p style="text-align: right;">Page 33</p> <p>1 as to minimize their visual impact of the landscape.</p> <p>2 Buildings and equipment that will be visible to the</p> <p>3 public should be designed in a manner and constructed</p> <p>4 of materials that are consistent with the surroundings.</p> <p>5 The tower for an equipment associated with the antennas</p> <p>6 shall be of such color or finish so as to blend with</p> <p>7 the surroundings.</p> <p>8 Again, we're offering some type of an</p> <p>9 alternative structure here. Again, the equipment is</p> <p>10 going to be contained inside the solid wood fence, will</p> <p>11 not be visible from off the premises.</p> <p>12 The one condition that we would not comply</p> <p>13 with and do not comply with is Section 5, "Wireless</p> <p>14 telecommunications towers shall not be erected within</p> <p>15 1,000 feet of any historic district or site listed on</p> <p>16 or eligible for listing on the National or State</p> <p>17 Register of Historic Places."</p> <p>18 As I noted at the last hearing, currently</p> <p>19 the pole at its closest point to the Historic District</p> <p>20 boundary line is 58.1 feet, compounded to closest point</p> <p>21 of the district boundary line is 93.6 feet.</p> <p>22 The next Section six --</p> <p>23 Q. Mr. Masters, let me just interrupt you</p> <p>24 there. With respect to that, since that's the only,</p> <p>25 the only provision that for guidance purposes don't</p>	<p style="text-align: right;">Page 34</p> <p>1 comply, would you as a professional planner believe</p> <p>2 that the intent of that provision was to address</p> <p>3 potential visual impact as to the national and/or state</p> <p>4 historic places?</p> <p>5 A. I would. I mean, I had nothing to do with</p> <p>6 drafting the ordinance, but I would say that that would</p> <p>7 be a logical conclusion, because again as I stated</p> <p>8 earlier, the primary impact or potential detriment</p> <p>9 associated with each use is visual impact.</p> <p>10 Q. And when you did your comprehensive visual</p> <p>11 analysis did you take representative views from</p> <p>12 locations in the Historic District?</p> <p>13 A. I did. Actually, seven of the eight</p> <p>14 photographs that I took were either within or virtually</p> <p>15 on the boundary of the State and Historic District</p> <p>16 boundary.</p> <p>17 Q. So would your detailed testimony as it</p> <p>18 relates to overall visual impact be equally applicable</p> <p>19 as it relates to the impact, if any, on the historic</p> <p>20 district?</p> <p>21 A. It would.</p> <p>22 Q. Okay. Go ahead. I'm sorry.</p> <p>23 A. The next section really deals with</p> <p>24 abandonment and the need for the carriers on an annual</p> <p>25 basis to provide a letter to the Township certifying</p>
<p style="text-align: right;">Page 35</p> <p>1 that the tower is still in use. That's obviously</p> <p>2 something that Verizon Wireless would be able to comply</p> <p>3 with, and certainly a reasonable condition that the</p> <p>4 Board might include in a resolution relative to the</p> <p>5 third step of the Sica balancing test. And then it goes</p> <p>6 on to say that if the tower is not in use for a period</p> <p>7 of six consecutive months that the site shall be</p> <p>8 removed and restored, et cetera.</p> <p>9 Last, the conditional use standards within</p> <p>10 the permitted conditional use zones, the OB and B-2</p> <p>11 states that "Collocation is strongly encouraged in</p> <p>12 order to avoid the construction of multiple towers.</p> <p>13 All wireless telecommunications towers and equipment</p> <p>14 compounds shall be built so as to facilitate</p> <p>15 collocation with additional service providers, provided</p> <p>16 that the height limits and other bulk restrictions of</p> <p>17 this chapter are not exceeded."</p> <p>18 As I mentioned earlier collocation is</p> <p>19 proposed as part of this application, and again</p> <p>20 certainly would be a reasonable condition that the</p> <p>21 Board might impose on the application.</p> <p>22 Q. Is there anything else that you would like</p> <p>23 to add in terms of your overall planning testimony here</p> <p>24 this evening, Mr. Masters?</p> <p>25 A. I think that's it.</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. SCHNEIDER: Okay. Chairman, I have</p> <p>2 nothing further on direct for Mr. Masters. I'll</p> <p>3 obviously reserve the right for any rebuttal after</p> <p>4 questions from the Board, public and/or Mr. Simon.</p> <p>5 CHAIRMAN FLANAGAN: Okay. Thank you, Mr.</p> <p>6 Schneider. Mr. Schneider, just a technical note, your</p> <p>7 microphone seems a little bit muffled tonight.</p> <p>8 Typically it's much more clear. I don't know if</p> <p>9 something is on top of it, but something is different</p> <p>10 tonight. I don't know if there's anything you can do</p> <p>11 to address it. But we can hear you, it's just a little</p> <p>12 muffled.</p> <p>13 MR. SCHNEIDER: I'm actually working out of</p> <p>14 my office today, because if you recall last time I</p> <p>15 worked from home and on page 38 of the transcript the</p> <p>16 dog howled, which is noted in the transcript. I</p> <p>17 figured rather than having the dog howling that Iris,</p> <p>18 our Shorthand Reporter noted, I tried to work from my</p> <p>19 office. Maybe I'll go back to the dog howling. Maybe</p> <p>20 that's the lesser of the two evils.</p> <p>21 CHAIRMAN FLANAGAN: Okay. Steve or Lori,</p> <p>22 just one thing. Mr. Masters suggested a whole bunch of</p> <p>23 conditions that he thought that the Applicant thought</p> <p>24 would be appropriate. Can someone just mark this</p> <p>25 Section or just make note?</p>

<p style="text-align: right;">Page 37</p> <p>1 MR. MLENAK: Mr. Chairman, I am keeping</p> <p>2 track. I do have a couple of questions, if now is the</p> <p>3 appropriate time, for Mr. Masters.</p> <p>4 CHAIRMAN FLANAGAN: Sure.</p> <p>5 MR. MLENAK: One of them, since you</p> <p>6 mentioned it, I know Mr. Masters has suggested that</p> <p>7 those conditions are reasonable. I just want the</p> <p>8 record to be clear that the Applicant is consenting to</p> <p>9 such conditions if the Board were so inclined to you</p> <p>10 include them.</p> <p>11 MR. SCHNEIDER: That would be correct.</p> <p>12 EXAMINATION BY MR. MLENAK:</p> <p>13 Q. All right. Mr. Masters, on the positive</p> <p>14 criteria, I want to go back to that. You spoke about</p> <p>15 site suitability. Could you speak about in your</p> <p>16 opinion the Applicant's obligation to investigate</p> <p>17 alternate sites and what they've done here to satisfy</p> <p>18 that obligation?</p> <p>19 A. Certainly. The Applicant's burden relative</p> <p>20 to the site suitability does not excuse the Applicant</p> <p>21 from investigating alternative sites, nor based upon</p> <p>22 the fact that in this particular instance the subject</p> <p>23 site happened to be the end product of a municipal bid</p> <p>24 that was awarded to Verizon Wireless. That does not</p> <p>25 either excuse the Applicant from investigating</p>	<p style="text-align: right;">Page 38</p> <p>1 alternative sites.</p> <p>2 I believe the Applicant through its site</p> <p>3 acquisition specialist, Diane Enright, did a rather</p> <p>4 extensive and exhaustive analysis of alternate sites.</p> <p>5 They included -- and anybody feel free to chime in for</p> <p>6 whatever ones I might forget, but they included the</p> <p>7 Township Municipal Building, the Kirby Hall property.</p> <p>8 Included the First Presbyterian Church, Christ the King</p> <p>9 Church, the New Vernon volunteer fire department and</p> <p>10 volunteer ambulance squad facility. What have I</p> <p>11 forgotten?</p> <p>12 BOARD MEMBER NEWLIN: The school.</p> <p>13 MR. SCHNEIDER: The school.</p> <p>14 THE WITNESS: Thank you. The Harding</p> <p>15 Township School. Any others?</p> <p>16 MR. SCHNEIDER: I believe those were the</p> <p>17 ones.</p> <p>18 THE WITNESS: Okay. For various reasons,</p> <p>19 many of which were related to landlord availability</p> <p>20 they were determined to be ineffective or would not</p> <p>21 work.</p> <p>22 The two church locations, there was an</p> <p>23 attempt to actually utilize the steeple of the</p> <p>24 Presbyterian Church. Radio frequency determined that</p> <p>25 the height was not sufficient to meet their coverage</p>
<p style="text-align: right;">Page 39</p> <p>1 objectives. I believe the church subsequently may have</p> <p>2 also -- I don't recall for sure, but I seem to recall</p> <p>3 that the church subsequently may have withdrawn as an</p> <p>4 interested candidate. Christ the King was not an</p> <p>5 interested candidate.</p> <p>6 The one other site that I thought was a --</p> <p>7 was actually a reasonable potential alternative site</p> <p>8 was the Kirby Hall, the municipal building site. That</p> <p>9 was not made available to Verizon Wireless. There were</p> <p>10 various issues pertaining to the firehouse ambulance</p> <p>11 squad property, although I do believe that given its</p> <p>12 location and its characteristics would have actually</p> <p>13 been more impactful to the historic district. I</p> <p>14 believe it was -- it's a more open site. Would have</p> <p>15 been a closer proximity to both Village Road and</p> <p>16 Millbrook Road, and as such would have, I think, had a</p> <p>17 greater effect on the viewshed within the designated</p> <p>18 historic district.</p> <p>19 The school ultimately was not a willing</p> <p>20 landlord. The potential for that site from a planning</p> <p>21 standpoint I believe may have had some possibility if</p> <p>22 perhaps a flagpole would have worked out front, out</p> <p>23 towards the Lees Hill Road frontage -- I myself on</p> <p>24 numerous occasions because I happen to travel through</p> <p>25 that area, I usually come up Lees Hill Road and am</p>	<p style="text-align: right;">Page 40</p> <p>1 making a left-hand turn out to Long Hill Road heading</p> <p>2 out towards Meyersville, and I have dropped calls on</p> <p>3 many occasions in front of the school. But the school</p> <p>4 property is a large piece of property. I'm fairly</p> <p>5 familiar with it since I spent nine years there. The</p> <p>6 back part of the property, the ground elevation drops</p> <p>7 off, so that would have probably caused RF issues.</p> <p>8 Again, I think the only place that it would have</p> <p>9 probably been most effective would have been out in the</p> <p>10 front there as perhaps a flagpole. But given the</p> <p>11 limited availability of alternate candidates I believe</p> <p>12 that at the end of the day the public works yard was at</p> <p>13 the top of the list.</p> <p>14 BY MR. MLENAK:</p> <p>15 Q. Okay. Thank you. With respect to the</p> <p>16 third -- this may be more of a question for Mr.</p> <p>17 Schneider.</p> <p>18 With respect to your comments on the third</p> <p>19 factor of the Sica test and reducing the height,</p> <p>20 because I note the application was originally filed for</p> <p>21 140 feet in height, and now the applicant is suggesting</p> <p>22 that they could satisfy the gap with 120 feet, there</p> <p>23 was talk at a prior hearing about some Federal law and</p> <p>24 some state law that gives the Applicant the right to</p> <p>25 increase that height notwithstanding the Board's</p>

<p style="text-align: right;">Page 41</p> <p>1 approval here. And I believe at one point, Mr.</p> <p>2 Schneider, there was some discussion about while the</p> <p>3 Board cannot impose conditions relative to those rights</p> <p>4 that certainly the landlord could. I was wondering if</p> <p>5 there was an update on that front.</p> <p>6 MR. SCHNEIDER: There's no update on that</p> <p>7 because I think it's premature, but I would answer it</p> <p>8 this way. That if at the end of the day the Board is</p> <p>9 inclined to grant an approval at 100 and hypothetically</p> <p>10 20 feet the Applicant is amenable to having those</p> <p>11 discussions with the Township Committee, whereas, a</p> <p>12 landlord acting in a proprietary fashion, the Township</p> <p>13 Committee can agree to limit the height of the tower to</p> <p>14 the 120-foot elevation, and I'm not unwilling to have</p> <p>15 that discussion with the Township Committee at the</p> <p>16 appropriate time, but that discussion may be premature</p> <p>17 at this stage.</p> <p>18 MR. MLENAK: One last question, I think it</p> <p>19 may sound a little silly because I think you can all</p> <p>20 recognize Verizon for what it is, but is there anything</p> <p>21 in the record that supports Verizon having an FCC</p> <p>22 license?</p> <p>23 MR. SCHNEIDER: The answer is, Ms.</p> <p>24 Boschulte provided testimony during numerous hearings,</p> <p>25 sworn testimony that they're licensed at four specific</p>	<p style="text-align: right;">Page 42</p> <p>1 frequency bands. I don't think there's anything more</p> <p>2 that needs to, and certainly with the able assistance</p> <p>3 of Dr. Eisenstein I don't think that should be an issue</p> <p>4 here. If it has any condition of approval they want us</p> <p>5 to actually submit face pages of the respective</p> <p>6 licenses we can certainly do that.</p> <p>7 MR. MLENAK: Okay. That's it for me, Mr.</p> <p>8 Chairman.</p> <p>9 CHAIRMAN FLANAGAN: Thanks, Steve. And Mr.</p> <p>10 Schneider, I think you said it but you can say it</p> <p>11 again. What does the lease currently read? Is it set</p> <p>12 to 140 feet?</p> <p>13 MR. SCHNEIDER: That is correct. That was</p> <p>14 consistent with the original bid. It said 140 foot as</p> <p>15 a stealth tree monopole.</p> <p>16 CHAIRMAN FLANAGAN: Great. Thank you, Mr.</p> <p>17 Schneider. McKinley, let's go to you first. Listening</p> <p>18 to Mr. Masters' testimony, do you have any comments,</p> <p>19 observations, any thoughts on what Mr. Masters just had</p> <p>20 to say?</p> <p>21 MS. MERTZ: Mr. Mlenak had asked the one</p> <p>22 question that I had was just to provide some additional</p> <p>23 testimony about the alternative sites, because that is</p> <p>24 also part of the statutory requirements. So my</p> <p>25 remaining question was answered.</p>
<p style="text-align: right;">Page 43</p> <p>1 Generally speaking, Mr. Chairman you had</p> <p>2 asked about the Sica test being the correct proofs to</p> <p>3 give here, and Mr. Mlenak agreed, as do I. When we get</p> <p>4 cell phone tower applications as a D-1, I agree with</p> <p>5 what Mr. Masters said. It is -- the burden of proof on</p> <p>6 the Applicant is slightly less than it would be for</p> <p>7 your traditional D-1 Use Variance, as the Courts have</p> <p>8 deemed them really one step under being inherently</p> <p>9 beneficial.</p> <p>10 Since my time with this Board we have not</p> <p>11 reviewed an inherently beneficial use before so that</p> <p>12 hasn't come across our tables, but again this really is</p> <p>13 deemed sort of one step beneath that. So we have the</p> <p>14 positive criteria, the first prong being met really by</p> <p>15 the fact that the Court has deemed this to be</p> <p>16 beneficial to the general welfare.</p> <p>17 Again, the second prong that was talked to</p> <p>18 was the site suitability of that place. And Mr.</p> <p>19 Masters gave a very good explanation of this site, but</p> <p>20 also -- and he did touch on this as well with Ms.</p> <p>21 Boschulte's testimony, that the Applicant has to</p> <p>22 demonstrate that the location of the facility is going</p> <p>23 to fill the gap in coverage, which I believe has been</p> <p>24 tested to at considerable length by Ms. Boschulte and</p> <p>25 was reinforced by Mr. Masters in his testimony tonight.</p>	<p style="text-align: right;">Page 44</p> <p>1 In addition to the various other site suitability</p> <p>2 points that he made, including the location near all of</p> <p>3 the major roadways, the fact that the DPW site that is</p> <p>4 a very common site that we typically see for cell</p> <p>5 towers to be placed. The fact that it is close to</p> <p>6 other commercial uses that are going to be using the</p> <p>7 site, that are going to need continuous cell service.</p> <p>8 That there is emergency issues associated with</p> <p>9 appropriate cell service that was testified to by the</p> <p>10 Police Chief. So he was relying on the testimony from</p> <p>11 the previous experts that I do agree support the</p> <p>12 positive criteria there.</p> <p>13 As he said, I do think the biggest issue</p> <p>14 that comes down to it are the visuals. That is always</p> <p>15 what we come across with these applications, how it's</p> <p>16 going to look, the aesthetics, how it's going to fit</p> <p>17 into the neighborhood. At the last meeting he provided</p> <p>18 the photo sims that showed the two different</p> <p>19 alternatives the Board had been talking about, the</p> <p>20 flagpole versus the stealth tree, as it were. Those</p> <p>21 two are very common. They're not as, for lack of a</p> <p>22 better word, ugly as some of the traditional antennas</p> <p>23 we see around. They're both used appropriately.</p> <p>24 They've been given examples about how they are better</p> <p>25 in terms of hiding some of the less favorable features</p>

<p style="text-align: right;">Page 45</p> <p>1 of an antenna. So the Board will need to consider</p> <p>2 whether those two alternatives, whether one over the</p> <p>3 other would ease any concerns that they have associated</p> <p>4 with the aesthetics, as I see that to be probably the</p> <p>5 biggest issues associated with a cell tower really in</p> <p>6 any application, but again specifically here given its</p> <p>7 proximity to residences and the historical features</p> <p>8 that he spoke about.</p> <p>9 And as I say, he did answer my only</p> <p>10 question, which was providing testimony about the</p> <p>11 alternative sites. So unless the Board has any</p> <p>12 questions for me I don't have anything else for Mr.</p> <p>13 Masters.</p> <p>14 CHAIRMAN FLANAGAN: Okay. Good. Do any</p> <p>15 members of the Board have any questions for Mr. Masters</p> <p>16 or McKinley or anyone?</p> <p>17 BOARD MEMBER SYMONDS: I have one question</p> <p>18 for Mr. Masters. Mr. Masters, you testified several</p> <p>19 times, you know, that the Township Ordinance is</p> <p>20 structured where permitted that a tower should allow</p> <p>21 for collocation, should provide space for collocation,</p> <p>22 other carriers. And you know, and we've also -- so the</p> <p>23 question -- my question is, do you have any information</p> <p>24 or testimony to provide, what is the expected number of</p> <p>25 carriers that we should provide collocation space for?</p>	<p style="text-align: right;">Page 46</p> <p>1 THE WITNESS: We are, as I recall,</p> <p>2 providing for three collocators, and given the recent</p> <p>3 activities in the industry relative to mergers and so</p> <p>4 forth I think that that would be sufficient to cover</p> <p>5 any potential future collocators.</p> <p>6 BOARD MEMBER SYMONDS: So do you think it's</p> <p>7 likely that there would be three, or is too more</p> <p>8 likely, or one? How many -- what is the market? You</p> <p>9 know, have other carriers been trying to get into the</p> <p>10 space, as far as you know?</p> <p>11 THE WITNESS: I did not have any knowledge</p> <p>12 of activities of other carriers. I currently am not</p> <p>13 doing any work for any of the other carriers. My</p> <p>14 experience in the industry, I've been doing wireless</p> <p>15 for about 27 years now, and my experience is if you</p> <p>16 build it they will come, but I have no specific direct</p> <p>17 knowledge with any of the other carriers relative to</p> <p>18 their desire to currently to collocate here.</p> <p>19 BOARD MEMBER SYMONDS: So we don't really</p> <p>20 know whether three carriers is too many or too few?</p> <p>21 THE WITNESS: I would not know that.</p> <p>22 BOARD MEMBER SYMONDS: Okay. Thank you.</p> <p>23 CHAIRMAN FLANAGAN: Mr. Masters, just on</p> <p>24 that theme. Are there any -- or Mr. Schneider,</p> <p>25 whomever. Are there any collocators at the Mendham</p>
<p style="text-align: right;">Page 47</p> <p>1 tower?</p> <p>2 MR. SCHNEIDER: There are -- to the best of</p> <p>3 my knowledge there is at least two. That tower was</p> <p>4 originally both T-Mobile and Verizon were the two</p> <p>5 original Applicants. I don't know if there was a third</p> <p>6 carrier that ultimately joined, but that was an initial</p> <p>7 joint application. And just to respond to the prior</p> <p>8 Board Member's question, and I'm not testifying as an</p> <p>9 expert but I'm testifying with the benefit of 31 years</p> <p>10 of experience. When we started out doing these you had</p> <p>11 essentially five different carriers who are seeking to</p> <p>12 integrate the market. You had Nextel, Sprint, at the</p> <p>13 time Omnipoint now known as T-Mobile, AT&T and Verizon.</p> <p>14 By virtue of mergers, and I can't predict what happens</p> <p>15 in the future, you are essentially down to</p> <p>16 realistically three because Sprint and T-Mobile are</p> <p>17 merging. I can't say that they wouldn't independently,</p> <p>18 but you can make a reasonable assumption that that</p> <p>19 would constitute one carrier, AT&T the second, Verizon</p> <p>20 the third.</p> <p>21 I don't know if that helps you, but provide</p> <p>22 you with some benefit of experience that they're</p> <p>23 realistically based on my experience three active</p> <p>24 carriers who are located in this market who are in the</p> <p>25 general business of providing wireless communication</p>	<p style="text-align: right;">Page 48</p> <p>1 services. There may be others in the future, there may</p> <p>2 be other types of carriers, nontraditional wireless</p> <p>3 communications carriers, but those are the general</p> <p>4 three that are seeking approval in the market as we sit</p> <p>5 here in 2021.</p> <p>6 BOARD MEMBER SYMONDS: And the pole, as</p> <p>7 proposed at 120-foot, that actually allows for four</p> <p>8 carriers. That's enough space for four carriers; is</p> <p>9 that correct?</p> <p>10 MR. SCHNEIDER: Subject to height issues</p> <p>11 that we bandied about for many, many hearings with the</p> <p>12 benefit of Mr. Eisenstein, but structurally I believe</p> <p>13 that is the case.</p> <p>14 BOARD MEMBER SYMONDS: Okay. Thank you.</p> <p>15 THE WITNESS: There are currently two</p> <p>16 carriers at the Mendham flagpole.</p> <p>17 CHAIRMAN FLANAGAN: Thank you. So just on</p> <p>18 that topic for a moment, Mr. Eisenstein, we would love</p> <p>19 to hear what you think, but we've had a lot of</p> <p>20 discussion, Mr. Schneider, as you just mentioned about</p> <p>21 the required height to get sufficient coverage.</p> <p>22 I think we've also said that each carrier</p> <p>23 takes 10 feet, 10 linear feet. Is that about right,</p> <p>24 Dr. Eisenstein?</p> <p>25 DR. EISENSTEIN: Yes. That's the way it</p>

<p style="text-align: right;">Page 49</p> <p>1 works.</p> <p>2 CHAIRMAN FLANAGAN: Then there's what, a</p> <p>3 gap between those carriers of 5 feet?</p> <p>4 DR. EISENSTEIN: It's 10 feet constitutes</p> <p>5 the gap.</p> <p>6 CHAIRMAN FLANAGAN: Okay. Fine. So at 120</p> <p>7 feet, you know, your fourth carrier is down at what, at</p> <p>8 80 feet?</p> <p>9 DR. EISENSTEIN: No. There is no fourth</p> <p>10 carrier. Mr. Schneider is correct.</p> <p>11 CHAIRMAN FLANAGAN: I'm sorry. So you're</p> <p>12 at 90 feet for the third?</p> <p>13 DR. EISENSTEIN: This area, as far as I</p> <p>14 know, and I'm pretty certain there are only three</p> <p>15 carriers left. So it would be 120, 110, 100.</p> <p>16 MR. SCHNEIDER: The only difference, Dr.</p> <p>17 Eisenstein, I certainly defer to your expertise, we did</p> <p>18 have a lengthy discussion about the need for two rad</p> <p>19 centers if we went to a flagpole design?</p> <p>20 DR. EISENSTEIN: Yes. So I don't know if</p> <p>21 your question was about a flagpole such as they have at</p> <p>22 Mendham from what I understand, or whether it's the</p> <p>23 towers originally proposed. There is a difference.</p> <p>24 Because on a flagpole because of the limited diameter</p> <p>25 of a flagpole they can't get enough antennas around</p>	<p style="text-align: right;">Page 50</p> <p>1 there to span the entire 360 degrees that they need for</p> <p>2 their coverage, so they have to take two levels on a</p> <p>3 flagpole. So if it was a flagpole design it can be</p> <p>4 accommodated, but what happens is it would be one</p> <p>5 carrier at both 120 and 110, and then the next carrier</p> <p>6 would be at 190 if you did not extend the height of the</p> <p>7 pole.</p> <p>8 And the third carrier would have trouble.</p> <p>9 I think 80 and 70 would be too low in this area for a</p> <p>10 carrier to operate.</p> <p>11 CHAIRMAN FLANAGAN: Right. So for purposes</p> <p>12 of this discussion, let's assume that the design is</p> <p>13 going to be a flagless flagpole where the antenna were</p> <p>14 in the inside. So I think that's what you were just</p> <p>15 describing where each carrier would need two levels;</p> <p>16 right?</p> <p>17 DR. EISENSTEIN: Correct.</p> <p>18 CHAIRMAN FLANAGAN: So then if we were to</p> <p>19 have three carriers here, and that's kind of my</p> <p>20 question, so you're down to 70 and 80 feet. And do</p> <p>21 we -- does the applicant think that's sufficient for a</p> <p>22 third carrier to get coverage at that point?</p> <p>23 DR. EISENSTEIN: I don't know what the</p> <p>24 Applicant's opinion is, but my opinion is that would be</p> <p>25 insufficient.</p>
<p style="text-align: right;">Page 51</p> <p>1 CHAIRMAN FLANAGAN: All right. So what</p> <p>2 does the Applicant think? Mr. Schneider, if you need</p> <p>3 Frances here again I apologize, but --</p> <p>4 MR. SCHNEIDER: I guess the answer, Mr.</p> <p>5 Chairman, is that would be difficult for this Applicant</p> <p>6 to indicate what another carrier's technical objectives</p> <p>7 are. The simple answer is they may find it unsuitable,</p> <p>8 but they may find that coverage at a lower height under</p> <p>9 those circumstances is the only available design</p> <p>10 alternative in order to provide some coverage. He who</p> <p>11 is third does not get the choice of the preferred</p> <p>12 elevation, I guess that's the best way I can answer.</p> <p>13 But I don't think even Ms. Boschulte would be in a</p> <p>14 position to indicate the technical objections out of</p> <p>15 fairness of a competitor of Verizon without knowing</p> <p>16 their entire layout, their technical requirement.</p> <p>17 CHAIRMAN FLANAGAN: Fair enough. So if we</p> <p>18 just spun it around for a minute, if Verizon was a</p> <p>19 third one to the party and let's say this was an AT&T</p> <p>20 application and you were presented the opportunity to</p> <p>21 be at 70 and 80 feet would you put your antennas at 70</p> <p>22 and 80 feet?</p> <p>23 MR. SCHNEIDER: That decision is way above</p> <p>24 my pay grade and my decision-making process. All I can</p> <p>25 tell you, Mr. Chairman, is that what Ms. Boschulte did</p>	<p style="text-align: right;">Page 52</p> <p>1 do, if you recall, was to actually show you the</p> <p>2 propagation actually at 80, if you recall. That was</p> <p>3 the subject of some decision making. So if they were</p> <p>4 the third carrier that determination would have to be</p> <p>5 made by someone at Verizon, whether they would be</p> <p>6 willing to accept that degree of coverage at 80 feet</p> <p>7 under these circumstances.</p> <p>8 With all that being said, Mr. Chairman, I</p> <p>9 would make this observation. One of the things that,</p> <p>10 and I understand -- I'm not going to speak for you, but</p> <p>11 I know you have seemingly indicated some initial</p> <p>12 preference to the flagpole design. And I don't take</p> <p>13 issue with that from an aesthetic perspective, but one</p> <p>14 of the things that I think that I and Dr. Eisenstein</p> <p>15 has at least indicated that the benefits of the</p> <p>16 flagpole from an aesthetic view needs to somehow at</p> <p>17 least be considered in the larger context of the tree</p> <p>18 pole hypothetically, which puts, which would allow the</p> <p>19 third carrier to be located at a hundred feet.</p> <p>20 So there's a tradeoff there. The tree pole</p> <p>21 design because of what Dr. Eisenstein indicated that</p> <p>22 you go at 10-foot elevation, in my opinion and my</p> <p>23 experience, and I think Dr. Eisenstein will confirm</p> <p>24 this, certainly provides for the greater collocation</p> <p>25 flexibility.</p>

<p style="text-align: right;">Page 53</p> <p>1 You would be able to accommodate three</p> <p>2 carriers, 120, 110 and 100 on a standard tree or plain</p> <p>3 monopole. You would not be able to achieve that</p> <p>4 objective on a flagpole. That's a balancing test, no</p> <p>5 pun intended, between the flagpole and the monopole.</p> <p>6 But I can tell you that as an advocate from a</p> <p>7 collocation perspective the tree pole does provide the</p> <p>8 greater collocation ability.</p> <p>9 DR. EISENSTEIN: If I can come in there for</p> <p>10 a minute. What I have advised Boards in the past is</p> <p>11 because when you go to a flagpole you have that lower</p> <p>12 profile, an extra 10 feet in elevation of the pole is a</p> <p>13 better tradeoff. If you're concerned about height and</p> <p>14 visual impact because the pole is very slim no one can</p> <p>15 notice, to be honest about it, no one can see an extra</p> <p>16 10 feet. So if you were going to go in that direction</p> <p>17 my recommendation would be to put the pole in at 130 so</p> <p>18 that way one carrier could be at 130 and 120, the other</p> <p>19 would be at 110 and 100. And then the other one would</p> <p>20 be at 90 and 80, which would be closer, much better</p> <p>21 than 80 and 70. It would just work out better, I</p> <p>22 think. And I don't think from a visual impact you</p> <p>23 would really notice an extra 10 feet on a flagless</p> <p>24 flagpole.</p> <p>25 MR. SCHNEIDER: Mr. Chairman, if I can,</p>	<p style="text-align: right;">Page 54</p> <p>1 just in that regard, that's exactly what Dr. Eisenstein</p> <p>2 and I went through in the King Shopping Center. The</p> <p>3 permitted height there was 120, and frankly, Dr.</p> <p>4 Eisenstein advocated for the same reasons he just did</p> <p>5 to have it even though a height variance would have</p> <p>6 been required he advocated for a 130-foot structure to</p> <p>7 accommodate three carriers, and in fact that tower is</p> <p>8 built at 130 feet. So it's the same scenario.</p> <p>9 DR. EISENSTEIN: Right. I think it's a</p> <p>10 fair tradeoff from the viewpoint of visual impact.</p> <p>11 CHAIRMAN FLANAGAN: Understood. Dr.</p> <p>12 Eisenstein, I was sort of thinking the other direction.</p> <p>13 Rather than 130 versus 120 I was thinking 110 versus</p> <p>14 120, or maybe 100 or maybe less, right. We have had</p> <p>15 lots of testimony. We'll discuss it later.</p> <p>16 You know, obviously keeping in mind, Mr.</p> <p>17 Schneider, I think we have a lot on the record that</p> <p>18 says it's possible to have these towers where we can</p> <p>19 tack on height in a subsequent date in the event that a</p> <p>20 collocator came along. And I know Dr. Eisenstein said</p> <p>21 co-ax cables are very stiff and it's challenging but</p> <p>22 it's not undoable, I think, right? No need to answer</p> <p>23 that question.</p> <p>24 DR. EISENSTEIN: But you do have to know</p> <p>25 this in advance, because the cables are so thick and</p>
<p style="text-align: right;">Page 55</p> <p>1 they occupy so much volume inside, if you want</p> <p>2 everything inside you have to design the diameter of a</p> <p>3 flagless flagpole initially wide enough to handle all</p> <p>4 the cabling from three providers. I mean, that has to</p> <p>5 all be decided in advance, whether or not you have the</p> <p>6 three. Right now you only have one applicant. But if</p> <p>7 you're going to have all three on there then the</p> <p>8 diameter of the pole has to be wide enough, otherwise</p> <p>9 you get this annoying thing where some of the wires,</p> <p>10 the cables have to spiral outside the flagpole and that</p> <p>11 does not look good.</p> <p>12 CHAIRMAN FLANAGAN: Understood, right. So</p> <p>13 that would come into the design at inception. Even if</p> <p>14 there are no collocators currently maybe we plan for</p> <p>15 possibly having collocators in the future, but we have</p> <p>16 talked about this and we can talk about it more later.</p> <p>17 But we don't need to talk about it anymore at my</p> <p>18 request.</p> <p>19 Does anyone else on the Board have any</p> <p>20 questions for Mr. Masters? You know what, Mr. Masters,</p> <p>21 one last question from me just out of curiosity.</p> <p>22 Why did you spend nine years at Harding</p> <p>23 Township school?</p> <p>24 THE WITNESS: That's where I went to grade</p> <p>25 school.</p>	<p style="text-align: right;">Page 56</p> <p>1 CHAIRMAN FLANAGAN: Oh, no kidding. Well,</p> <p>2 welcome home.</p> <p>3 THE WITNESS: I didn't stay behind. I</p> <p>4 included Kindergarten in those nine years.</p> <p>5 CHAIRMAN FLANAGAN: Gotcha. All right. Do</p> <p>6 any members of the Board have any other questions?</p> <p>7 BOARD MEMBER NEWLIN: I have a question,</p> <p>8 Mike.</p> <p>9 CHAIRMAN FLANAGAN: All right, Alf. It's</p> <p>10 all you.</p> <p>11 BOARD MEMBER NEWLIN: This is Alf.</p> <p>12 Mr. Masters, so a question on impact on the</p> <p>13 neighborhood. And you refer to the main impact being</p> <p>14 visual. But let me ask you this. Do you think there's</p> <p>15 any negative impact on surrounding properties for</p> <p>16 putting a 120-foot tower at DPW, negative in terms of</p> <p>17 property values?</p> <p>18 Do you think that's going to lower the</p> <p>19 property values of the neighboring properties, or do</p> <p>20 you think it wouldn't?</p> <p>21 THE WITNESS: Mr. Newlin, I've been doing</p> <p>22 this for 27 years and I've heard real estate appraisers</p> <p>23 testify on both sides of the issue. I myself am not a</p> <p>24 licensed real estate appraiser. I can tell you that I</p> <p>25 have not heard any dispositive testimony that says it</p>

<p style="text-align: right;">Page 57</p> <p>1 would. Obviously, the analysis would involve a</p> <p>2 comparable sales analysis between a property that was a</p> <p>3 transaction that occurred before the pole was built in</p> <p>4 that same property, a transaction after the pole was</p> <p>5 built, to actually make a definitive determination as</p> <p>6 to whether it would. I simply don't have the</p> <p>7 capability to make that comparison.</p> <p>8 BOARD MEMBER NEWLIN: Okay. Is it just</p> <p>9 fair to say you don't know or that's not your</p> <p>10 expertise?</p> <p>11 THE WITNESS: I would say both.</p> <p>12 BOARD MEMBER NEWLIN: Okay. Thanks. Next</p> <p>13 question for McKinley, just a detail question. You say</p> <p>14 it's very typical that you see cell towers installed on</p> <p>15 DPWs. Is it typical to have a DPW like we do in a</p> <p>16 residential zone?</p> <p>17 MS. MERTZ: I'm trying to think.</p> <p>18 BOARD MEMBER NEWLIN: Let me ask you this</p> <p>19 way to make it easier for you. That point has been</p> <p>20 brought up that this is pretty regular, but isn't it</p> <p>21 somewhat irregular that DPW is smack located in the</p> <p>22 thick of residential in a Historic Zone in Harding, and</p> <p>23 shouldn't we take that into account at least as a</p> <p>24 factor?</p> <p>25 MS. MERTZ: Yes. I mean, that's fair. A</p>	<p style="text-align: right;">Page 58</p> <p>1 lot of times DPW sites are closer to where the Township</p> <p>2 Hall would be. I can't speak cohesively across the</p> <p>3 state, but sure, I mean, given my experience in various</p> <p>4 towns they are not usually abutting residential</p> <p>5 properties directly. There's typically a little bit</p> <p>6 more buffer.</p> <p>7 BOARD MEMBER NEWLIN: Okay. I'm just</p> <p>8 looking to say that's fair enough for us to take that</p> <p>9 into account.</p> <p>10 MS. MERTZ: Sure. Yes. Given its</p> <p>11 proximity. Sure.</p> <p>12 BOARD MEMBER NEWLIN: All right. Mr.</p> <p>13 Masters, I'm trying to go quickly to make it easy. But</p> <p>14 did you take into account, it's pretty clear we have</p> <p>15 testimony that ODAS units can be used or will be used</p> <p>16 actually to supplement coverage, although it's not easy</p> <p>17 to say, it's not linear and Dr. Eisenstein has given</p> <p>18 lots of caveats to which I certainly pay attention.</p> <p>19 But did you take into account the use of ODAS units in</p> <p>20 any of your planning analysis, or do you think it's not</p> <p>21 particularly relevant?</p> <p>22 THE WITNESS: The ODAS units that I took</p> <p>23 into account or the testimony, I should say, relative</p> <p>24 to the ODAS units that I took into account was that</p> <p>25 testimony from Ms. Boschulte because she's the radio</p>
<p style="text-align: right;">Page 59</p> <p>1 frequency engineer. Again, I am not a radio frequency</p> <p>2 engineer. Our testimony clearly was that the macro</p> <p>3 site is being the subject application was still needed</p> <p>4 even with ODAS sites.</p> <p>5 BOARD MEMBER NEWLIN: Sure. This is not</p> <p>6 really a trick question. I'm just trying to</p> <p>7 understand. Did you take -- ODAS units it does seem</p> <p>8 clear will be used under any circumstances, or at least</p> <p>9 any practical circumstances. And, okay, let's assume</p> <p>10 they require a cell tower to actually work. That seems</p> <p>11 pretty clear, too.</p> <p>12 Simple question. Did you take the use of</p> <p>13 ODAS units in your planning analysis? And you can say</p> <p>14 no if it's not relevant. I'm just asking.</p> <p>15 THE WITNESS: No. I took it into account</p> <p>16 based upon the extensive testimony, RF testimony that I</p> <p>17 heard from Ms. Boschulte.</p> <p>18 BOARD MEMBER NEWLIN: Okay. So this is the</p> <p>19 last one, and this is -- I'm just kind of going to plop</p> <p>20 this out in your lap. I'm not sure exactly what you do</p> <p>21 with it, but if you look at this application, at least</p> <p>22 from my perspective, it seems like there's lots of</p> <p>23 residents, members of the public that are opposed to</p> <p>24 this application. And I haven't yet seen any members</p> <p>25 of the public or resident that's in favor. And this</p>	<p style="text-align: right;">Page 60</p> <p>1 certainly doesn't mean there aren't any, and maybe</p> <p>2 we'll hear from some in the public comment. But you</p> <p>3 take that fact and you take the fact in the Harding</p> <p>4 Master Plan about one of the first objectives -- let me</p> <p>5 see if I can actually bring that up -- "Is to limit the</p> <p>6 impact to wireless telecommunications towers, antennas</p> <p>7 and facilities on residential and historic areas and</p> <p>8 the rural character of the township."</p> <p>9 So obviously this is one of the challenging</p> <p>10 things for the Board to deal with. But my question is</p> <p>11 a little bit simpler. And your testimony, and we'll go</p> <p>12 back and look at it in detail and go through the</p> <p>13 balancing test, do you think you've addressed that</p> <p>14 point, the impact? Because you know, DPW, yes, it's a</p> <p>15 PL Zone. It's one property surrounded by residential</p> <p>16 and historic properties. Do you think in your analysis</p> <p>17 you've addressed that particular point? Because that's</p> <p>18 going to be a major one we have to deal with.</p> <p>19 THE WITNESS: Great. I do believe that I</p> <p>20 have. And that was specifically taken into account in</p> <p>21 the third step of the Sica balancing test where it</p> <p>22 states that the Board may impose reasonable conditions</p> <p>23 on the use in order to reduce the detrimental impact.</p> <p>24 And again, this is -- it's a public works</p> <p>25 yard and it's a property that the township knows where</p>

<p style="text-align: right;">Page 61</p> <p>1 that public works yard is located in relationship to</p> <p>2 both the state and Federal Historic District, as well</p> <p>3 as the surrounding residential properties.</p> <p>4 BOARD MEMBER NEWLIN: Do you know why the</p> <p>5 Town wanted to offer this site, the DPW site?</p> <p>6 THE WITNESS: I have no idea. I was not</p> <p>7 involved in -- I came on board after that had already</p> <p>8 occurred.</p> <p>9 BOARD MEMBER NEWLIN: Okay. Thank you.</p> <p>10 Mike, that's it for me.</p> <p>11 CHAIRMAN FLANAGAN: Thanks Alf.</p> <p>12 Anyone else on the Board have any</p> <p>13 questions?</p> <p>14 BOARD MEMBER BOYAN: Mike, it's George. I</p> <p>15 just have one question, please, for Mr. Masters.</p> <p>16 CHAIRMAN FLANAGAN: Sure.</p> <p>17 BOARD MEMBER BOYAN: Mr. Masters, are you</p> <p>18 familiar within the state of New Jersey any other cell</p> <p>19 towers that are placed on -- in a historic district</p> <p>20 registered with the National Register of Historic</p> <p>21 Places?</p> <p>22 THE WITNESS: First of all, this is not in</p> <p>23 the state or Federal historic district, it's in the</p> <p>24 Township Historic District. It's within a thousand</p> <p>25 feet of the state and Federal Historic District. And</p>	<p style="text-align: right;">Page 62</p> <p>1 the answer to your question is, yes, I am aware of</p> <p>2 other sites in New Jersey that are located proximate to</p> <p>3 either state or Federal Historic Districts, or</p> <p>4 designated historic properties.</p> <p>5 BOARD MEMBER BOYAN: I guess then, a follow</p> <p>6 up to that is for the Board attorney. Can we get</p> <p>7 clarification? Because I was under the impression that</p> <p>8 literally this property was listed on the Register of</p> <p>9 Historic Places. So it may be a take away for the</p> <p>10 attorney, please.</p> <p>11 BOARD MEMBER NEWLIN: This property,</p> <p>12 George? You mean the Tunis-Ellicks.</p> <p>13 BOARD MEMBER BOYAN: Yes.</p> <p>14 CHAIRMAN FLANAGAN: For what it's worth --</p> <p>15 BOARD MEMBER BOYAN: It's a historic</p> <p>16 property, right?</p> <p>17 CHAIRMAN FLANAGAN: I believe, that the DPW</p> <p>18 and the Tunis-Ellicks House is one piece of property.</p> <p>19 I think it's one tax lot. It's hour-glass shaped, as</p> <p>20 Mr. Schneider described. It gets skinny right there by</p> <p>21 the exit from the post office, but we'll confirm, but</p> <p>22 I'm pretty certain it's one property.</p> <p>23 THE WITNESS: If I may, it's one property.</p> <p>24 That's absolutely, correct. However, when it comes to</p> <p>25 the state and Federal Historic District it is two</p>
<p style="text-align: right;">Page 63</p> <p>1 separate properties. The Tunis-Ellicks portion of the</p> <p>2 property is in the state and Federal Historic District.</p> <p>3 The DPW portion of the property is outside of the state</p> <p>4 and Federal Historic District -- which is why I had</p> <p>5 indicated last month in my testimony the distances from</p> <p>6 both the monopole and the compound to the Historic</p> <p>7 District boundary line, that being 93.6 feet for the</p> <p>8 monopole, and 66.6 feet for the compound.</p> <p>9 Both properties, I should say both portions</p> <p>10 of the property, including the DPW are located in the</p> <p>11 historic New Vernon Village Historic District, but the</p> <p>12 DPW was specifically excluded, and that's noted in your</p> <p>13 redevelopment plan, historic district element, that the</p> <p>14 DPW was excluded from the state and Federal Historic</p> <p>15 District.</p> <p>16 MS. MERTZ: Mr. Chairman, it's McKinley. I</p> <p>17 have to agree with Mr. Masters. And if anyone is</p> <p>18 interested you can look up the boundaries on the State</p> <p>19 site LUCY, L-U-C-Y. It's the state and Federal</p> <p>20 District cut the property basically at that hour glass</p> <p>21 location. So the DPW site is not within the state or</p> <p>22 Federal, but the eastern half is.</p> <p>23 CHAIRMAN FLANAGAN: And Mr. Masters, I hate</p> <p>24 to do this to you in little pieces here, but it just</p> <p>25 occurred to me, are you still a resident of Harding</p>	<p style="text-align: right;">Page 64</p> <p>1 Township?</p> <p>2 THE WITNESS: Not as of now. I lived in</p> <p>3 Harding Township between the years of 1957 and 1974.</p> <p>4 And my mother lived in Harding Township up until last</p> <p>5 year when she passed away.</p> <p>6 CHAIRMAN FLANAGAN: Oh, I'm sorry to hear</p> <p>7 that. I'm sorry to hear your mother passed.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 CHAIRMAN FLANAGAN: Do you still own</p> <p>10 property in Harding Township?</p> <p>11 THE WITNESS: Not anymore.</p> <p>12 CHAIRMAN FLANAGAN: Okay. And how recently</p> <p>13 did you sell that property?</p> <p>14 THE WITNESS: That property was conveyed on</p> <p>15 January the 18 of this year.</p> <p>16 CHAIRMAN FLANAGAN: Okay. And where was</p> <p>17 that property?</p> <p>18 THE WITNESS: 508 Spring Valley Road in</p> <p>19 Green Village.</p> <p>20 CHAIRMAN FLANAGAN: 508 Spring Valley Road</p> <p>21 in Green Village. Near the -- where is that, is that</p> <p>22 down towards the Green Village Fire Department sort of</p> <p>23 down by the deli that way?</p> <p>24 THE WITNESS: No. It's as you come around</p> <p>25 where Dixon Hill Road intersects Spring Valley there,</p>

<p style="text-align: right;">Page 65</p> <p>1 and then it increases up a small hill there it was the</p> <p>2 property on the right-hand side up towards Spencer</p> <p>3 Place.</p> <p>4 CHAIRMAN FLANAGAN: Okay.</p> <p>5 THE WITNESS: Up in that area.</p> <p>6 CHAIRMAN FLANAGAN: Thank you for that.</p> <p>7 All right. Anyone else from the Board have any</p> <p>8 questions? (No response.)</p> <p>9 Okay. How about this. Mr. Simon, you're</p> <p>10 up next. I imagine you're going to have a few</p> <p>11 questions here. I know everyone likes to take a break.</p> <p>12 Why don't we take a break now before you get started so</p> <p>13 as to not interrupt you. All right. Thumbs up.</p> <p>14 Why don't we call it a ten-minute break.</p> <p>15 We'll reconvene at 9:33. Does that sound good? All</p> <p>16 right. We'll see everybody back here at 9:33.</p> <p>17 (Whereupon, a break is taken at 9:23 p.m.)</p> <p>18 (Back on the record at 9:33 p.m.)</p> <p>19 CHAIRMAN FLANAGAN: Okay. Lori, it's 9:33.</p> <p>20 SECRETARY TAGLAIRINO: Okay. Hope everyone</p> <p>21 had a good snack. A little fortification till the end.</p> <p>22 All right. Let's go. Mr. Boyan?</p> <p>23 BOARD MEMBER BOYAN: Here.</p> <p>24 SECRETARY TAGLAIRINO: Mr. Maselli?</p> <p>25 BOARD MEMBER MASELLI: Here.</p>	<p style="text-align: right;">Page 66</p> <p>1 SECRETARY TAGLAIRINO: Mr. Symonds?</p> <p>2 BOARD MEMBER SYMONDS: Here.</p> <p>3 SECRETARY TAGLAIRINO: Mr. Newlin?</p> <p>4 BOARD MEMBER NEWLIN: Here.</p> <p>5 SECRETARY TAGLAIRINO: Mr. Rosenbaum?</p> <p>6 BOARD MEMBER ROSENBAUM: Here.</p> <p>7 SECRETARY TAGLAIRINO: Mr. Flanagan?</p> <p>8 CHAIRMAN FLANAGAN: I'm here.</p> <p>9 SECRETARY TAGLAIRINO: Ms. Sovolos? Oh,</p> <p>10 you're on mute, Elizabeth. I'll come back.</p> <p>11 Mr. Cammarata?</p> <p>12 BOARD MEMBER CAMMARATA: Here.</p> <p>13 SECRETARY TAGLAIRINO: Ms. Sovolos? I</p> <p>14 can't hear you.</p> <p>15 BOARD MEMBER SOVOLOS: Can you hear me now?</p> <p>16 Sorry. It was my headphones, probably.</p> <p>17 SECRETARY TAGLAIRINO: Okay. We're good.</p> <p>18 The recording's going. We can go.</p> <p>19 CHAIRMAN FLANAGAN: All right. Welcome</p> <p>20 back everyone. So Mr. Simon, I think you'll probably</p> <p>21 have some questions for Mr. Masters.</p> <p>22 MR. SIMON: I do. Can you hear me okay?</p> <p>23 CHAIRMAN FLANAGAN: We hear you well. Mr.</p> <p>24 Masters, can you hear okay?</p> <p>25 THE WITNESS: I can.</p>
<p style="text-align: right;">Page 67</p> <p>1 EXAMINATION BY MR. SIMON:</p> <p>2 Q. Mr. Masters, good evening.</p> <p>3 A. Good evening.</p> <p>4 Q. And if I call you Rick by accident I do</p> <p>5 apologize.</p> <p>6 A. No need to apologize.</p> <p>7 Q. And you can call me Rob any time.</p> <p>8 Mr. Masters, you just mentioned in response</p> <p>9 to a question by a member of the Board that you became</p> <p>10 involved with this project for the first time after the</p> <p>11 public bidding process; is that correct?</p> <p>12 A. I believe that's correct.</p> <p>13 Q. Okay. When you say you believe that's</p> <p>14 correct were you consulted at any point prior to</p> <p>15 Verizon being awarded the bid, public bid with regard</p> <p>16 to this wireless telecommunications facility at the DPW</p> <p>17 yard?</p> <p>18 A. No. I had no involvement whatsoever in the</p> <p>19 public bidding process.</p> <p>20 Q. So you were not involved at all in terms of</p> <p>21 the determination of the height of the monopole, or any</p> <p>22 type of stealthing technique that was going to be used</p> <p>23 for this monopole; correct?</p> <p>24 A. That is correct.</p> <p>25 Q. And do you recall how soon after the</p>	<p style="text-align: right;">Page 68</p> <p>1 bidding process or the award of the bid were you</p> <p>2 retained?</p> <p>3 A. Actually, I'm looking at the date of when</p> <p>4 the land lease was executed. Yeah, the bid date was</p> <p>5 back on November 22, 2016. I was retained by Verizon</p> <p>6 Wireless in August of 2017.</p> <p>7 Q. And since the time that you were retained</p> <p>8 did you provide any opinion to your client with regard</p> <p>9 to what the winning bid consisted of by way of height</p> <p>10 or stealthing technique?</p> <p>11 A. No.</p> <p>12 Q. And did you submit a written report in</p> <p>13 connection with this application or prepare one?</p> <p>14 A. I did not.</p> <p>15 Q. And what's the percentage of professional</p> <p>16 -- and by the way, you're not a radio frequency expert;</p> <p>17 correct?</p> <p>18 A. I am not.</p> <p>19 Q. And you don't have any type of engineering</p> <p>20 degree?</p> <p>21 A. I do not.</p> <p>22 Q. And we heard earlier you don't have any</p> <p>23 type of appraisal degree; correct?</p> <p>24 A. Correct.</p> <p>25 Q. And as a professional planner what's the</p>

<p style="text-align: right;">Page 69</p> <p>1 percentage of work that you currently receive from</p> <p>2 wireless carriers?</p> <p>3 A. I would say probably about 90 percent of my</p> <p>4 overall workload.</p> <p>5 Q. And what is the other ten percent consist</p> <p>6 of?</p> <p>7 A. Public utility work, PSE&G.</p> <p>8 Q. And when you say PSE&G work, what does that</p> <p>9 entail, is it locating like PSE&G poles?</p> <p>10 A. No, not locating them. The same thing that</p> <p>11 I do in the wireless telecommunications industry,</p> <p>12 testifying before Planning and Zoning Boards relative</p> <p>13 to PSE&G facilities, substations, metering stations,</p> <p>14 things of that nature.</p> <p>15 Q. And so for how long have you been doing the</p> <p>16 PSE&G professional planning work?</p> <p>17 A. I would say about ten years.</p> <p>18 Q. And in the ten years that you've done the</p> <p>19 PSE&G work have you ever turned down an application</p> <p>20 that was presented to you where you would be presenting</p> <p>21 professional planning testimony in support of the PSE&G</p> <p>22 project?</p> <p>23 A. No.</p> <p>24 Q. And how many applications have you</p> <p>25 testified to on behalf of PSE&G in the last ten years,</p>	<p style="text-align: right;">Page 70</p> <p>1 approximately?</p> <p>2 A. I would say less than a hundred, somewhere</p> <p>3 between 50 and 100, say.</p> <p>4 Q. So other than between the 50 and 100 PSE&G</p> <p>5 projects that the rest of your applications are for</p> <p>6 wireless carriers; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And currently with regard to your 90</p> <p>9 percent wireless carrier work how much of that is</p> <p>10 Verizon work?</p> <p>11 A. Right now it's entirely Verizon work.</p> <p>12 Q. So a hundred percent of your wireless</p> <p>13 telecommunications work is on behalf of Verizon;</p> <p>14 correct?</p> <p>15 A. At the present the time; correct.</p> <p>16 Q. And in the last, let's say, 27 years since</p> <p>17 you started working for the wireless industry you've</p> <p>18 worked not just for Verizon but also for other carriers</p> <p>19 as well; correct?</p> <p>20 A. I have.</p> <p>21 Q. And in the last ten years other than</p> <p>22 Verizon have you worked for any other carrier?</p> <p>23 A. Yes. I would say I have, yes.</p> <p>24 Q. And in the last ten years what's the</p> <p>25 percentage of work that you've done for Verizon?</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Of the wireless work?</p> <p>2 Q. Yes.</p> <p>3 A. I would say probably 90 percent.</p> <p>4 Q. And the other ten percent of that work in</p> <p>5 the last ten years is what, for AT&T and T-Mobile?</p> <p>6 A. Sprint, correct.</p> <p>7 Q. Sprint. And with regard to -- have you</p> <p>8 ever testified, or actually been retained by a local</p> <p>9 Planning or Zoning Board as a professional planning</p> <p>10 consultant in connection with a wireless</p> <p>11 telecommunications application or project in the last</p> <p>12 20 years?</p> <p>13 A. I have not.</p> <p>14 Q. And what about on behalf of a municipality,</p> <p>15 have you ever been retained on behalf of the</p> <p>16 municipality in the last 20 years for a wireless</p> <p>17 telecommunications project?</p> <p>18 A. I have not.</p> <p>19 Q. And with regard to your testimony in the</p> <p>20 last ten years which is exclusively on behalf of</p> <p>21 Verizon how many times have you testified for Verizon</p> <p>22 in the last ten years in connection with a monopoly</p> <p>23 application?</p> <p>24 A. Number-wise I would have no idea.</p> <p>25 Q. What's that, Rick?</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Many, many, many times.</p> <p>2 Q. So well over 200; correct?</p> <p>3 A. I would say that that's safe to say, yes.</p> <p>4 Q. And you've never testified in opposition to</p> <p>5 a wireless application ever; correct?</p> <p>6 A. That is correct.</p> <p>7 Q. And have you ever declined to take -- in</p> <p>8 the last ten years, let's say, have you ever declined</p> <p>9 to take a Verizon application that was presented to you</p> <p>10 to provide professional planning testimony for?</p> <p>11 A. Not to my recollection, no.</p> <p>12 Q. So in the last 10 years every time Verizon</p> <p>13 contacted you to serve as their professional planning</p> <p>14 expert for a wireless telecommunications application</p> <p>15 you agreed to take the case; correct?</p> <p>16 A. Correct.</p> <p>17 Q. And with regard to the -- and of those</p> <p>18 cases that you've taken where you have provided</p> <p>19 professional planning testimony, many of them involved</p> <p>20 the need for a use variance; correct?</p> <p>21 A. Correct.</p> <p>22 Q. And those were for monopoly cases; correct?</p> <p>23 A. Some were monopoly cases, but I've done</p> <p>24 rooftops, water tanks, electric transmission towers.</p> <p>25 Q. And in the last ten years, let's say, how</p>

<p style="text-align: right;">Page 73</p> <p>1 many monopole applications have you provided</p> <p>2 professional planning testimony for on behalf of</p> <p>3 Verizon?</p> <p>4 A. I really don't know.</p> <p>5 Q. But many, over a hundred?</p> <p>6 A. I don't catalog my work based upon whether</p> <p>7 they're monopolies or rooftops or water tanks.</p> <p>8 Q. And in this case the property that's in</p> <p>9 question is in the PL or the Public Land Zone; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. And it's also considered to be in the New</p> <p>12 Vernon Redevelopment Area; right?</p> <p>13 A. It's in the -- yeah, the Historic Vernon</p> <p>14 Village Redevelopment Plan.</p> <p>15 Q. And it's also considered in the New Vernon</p> <p>16 Historic District; correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Ms. Mertz actually -- and I'm going to be</p> <p>19 jumping around a little bit because in part some of the</p> <p>20 testimony you provided this evening.</p> <p>21 Ms. Mertz gave a distinction between this</p> <p>22 property in question being partially in the state and</p> <p>23 Federal Historic District, and partly in the New Vernon</p> <p>24 Historic District. Is that accurate based on your</p> <p>25 research on the project?</p>	<p style="text-align: right;">Page 74</p> <p>1 A. Yes, that is accurate.</p> <p>2 Q. And is the portion of the property that is</p> <p>3 in the state and Federal Historic District also</p> <p>4 contained within the New Vernon Historic District?</p> <p>5 A. I'm sorry. Could you just repeat that</p> <p>6 question?</p> <p>7 Q. Sure. Is the portion of the property that</p> <p>8 is where the, let's say, where the Ellis --</p> <p>9 A. Tunis-Ellicks House.</p> <p>10 Q. Tunis-Ellicks House is located, that side</p> <p>11 of the hour glass, as you call it, that's located in</p> <p>12 the state and Federal Historic District; correct?</p> <p>13 A. That is correct.</p> <p>14 Q. Is it also located within the New Vernon</p> <p>15 Historic District?</p> <p>16 A. It is.</p> <p>17 Q. And have you ever testified for any</p> <p>18 carrier, whether it's Verizon or Sprint, involving a</p> <p>19 proposed monopole installation where the monopole was</p> <p>20 proposed to be located within -- on property that's</p> <p>21 located within the state and Federal Historic District?</p> <p>22 A. On property within the district, no.</p> <p>23 Q. And what about on property located in a</p> <p>24 local historic district, such as the New Vernon</p> <p>25 Historic District?</p>
<p style="text-align: right;">Page 75</p> <p>1 A. Not that I recall.</p> <p>2 Q. And have you ever testified for a carrier</p> <p>3 on a monopole application for a site that is located --</p> <p>4 that was located within a designated redevelopment</p> <p>5 area?</p> <p>6 A. Yes.</p> <p>7 Q. And where was that, Mr. Masters?</p> <p>8 A. That was in the town of Newton in Sussex</p> <p>9 County.</p> <p>10 Q. And what type of redevelopment area was</p> <p>11 that, Mr. Masters?</p> <p>12 A. It was a downtown Historic District. It</p> <p>13 was an old -- I believe it was a shoe factory</p> <p>14 originally, an old brick industrial building that had</p> <p>15 been converted into residential condos pretty much</p> <p>16 just, within the basics downtown area of Newton.</p> <p>17 Q. So the cell tower that you provided</p> <p>18 professional planning testimony for was on the same lot</p> <p>19 as these condominiums?</p> <p>20 A. Correct. It was actually a -- it was</p> <p>21 actually a water tank.</p> <p>22 Q. It was not a 120-foot or a 140-foot cell</p> <p>23 tower correct, but it was a water tank; right?</p> <p>24 A. Correct.</p> <p>25 Q. So I asked you specifically for a monopole.</p>	<p style="text-align: right;">Page 76</p> <p>1 Have you ever provided professional planning testimony</p> <p>2 in the state of New Jersey, we have already discovered</p> <p>3 that you haven't done it for a historic district, and</p> <p>4 I'm asking you about any redevelopment area where you</p> <p>5 have provided planning testimony in support of a</p> <p>6 monopole to be located in the redevelopment area?</p> <p>7 A. No.</p> <p>8 Q. And that's in 27 years can you think of one</p> <p>9 instance when that happened?</p> <p>10 A. I cannot.</p> <p>11 Q. And what about providing professional</p> <p>12 planning testimony in support of a monopole</p> <p>13 installation less than a hundred feet to a residential</p> <p>14 property? In the last ten years on behalf of Verizon</p> <p>15 can you think of an instance where you provided</p> <p>16 professional planning testimony in support of a</p> <p>17 monopole installation where the monopole was located</p> <p>18 less than a hundred feet to a residence?</p> <p>19 A. I cannot think of any off the top of my</p> <p>20 head. There may have been, but I cannot think of any</p> <p>21 right now.</p> <p>22 Q. And with regard to -- you talked about both</p> <p>23 last time and this time, you said that certain, you're</p> <p>24 familiar with towers being located at DPW yards;</p> <p>25 correct?</p>

<p style="text-align: right;">Page 77</p> <p>1 A. Correct.</p> <p>2 Q. And you mentioned, for example, Chatham and</p> <p>3 Long Hill Township?</p> <p>4 A. Correct.</p> <p>5 Q. Do you know -- did you provide professional</p> <p>6 planning testimony in support of those applications for</p> <p>7 those towers?</p> <p>8 A. I was not involved in either one of those</p> <p>9 applications.</p> <p>10 Q. So, and tonight you talked about other</p> <p>11 ones. You said Ramsey, Hillsdale, Fair Lawn,</p> <p>12 Maplewood. Were you involved in any of those</p> <p>13 applications?</p> <p>14 A. No, I was not.</p> <p>15 Q. So with regard to any of those six</p> <p>16 applications, or six towers, I apologize, Rick, that</p> <p>17 are located in DPW yards, do you know whether the</p> <p>18 zoning of those particular properties allowed monopolies</p> <p>19 either as of right or conditionally?</p> <p>20 A. I do not.</p> <p>21 Q. Do you know when any of them -- so you</p> <p>22 don't know whether any of them required use variance</p> <p>23 relief; correct?</p> <p>24 A. I'm sorry. I was involved in one of those</p> <p>25 applications. I was the planner for the monopoly at</p>	<p style="text-align: right;">Page 78</p> <p>1 the Green Township DPW in Sussex County.</p> <p>2 Q. Green Township in Sussex County. That</p> <p>3 wasn't one of the ones you mentioned, but that's okay.</p> <p>4 A. I think I did mention it, actually, but --</p> <p>5 Q. If I missed it I apologize. That's my bad.</p> <p>6 So let's talk about the other ones first, then we'll</p> <p>7 talk about green township in Sussex County. So for any</p> <p>8 of the other ones you mentioned, Ramsey, Hillsdale,</p> <p>9 Fair Lawn, Maplewood, Chatham, Long Hill Township, you</p> <p>10 don't know whether use variances were required;</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. And you don't know the size of those</p> <p>14 properties?</p> <p>15 A. I do not.</p> <p>16 Q. And you don't know their proximity to</p> <p>17 residential homes; correct?</p> <p>18 A. Correct.</p> <p>19 Q. You don't know their proximity to historic</p> <p>20 districts; correct?</p> <p>21 A. Correct.</p> <p>22 Q. And you don't know the extent to which the</p> <p>23 public may be permitted to access any of those DPW</p> <p>24 yards, recycling or other purposes; correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. And with regard to Green Village in Sussex</p> <p>2 County, so that was an application --</p> <p>3 A. Green Township in Sussex County.</p> <p>4 Q. Yea, I said Green Township in Sussex</p> <p>5 County.</p> <p>6 A. No, you said Green Village.</p> <p>7 Q. I'm sorry. My bad.</p> <p>8 With regard to Green Township in Sussex</p> <p>9 County that was for a monopoly installation?</p> <p>10 A. Yes, it was.</p> <p>11 Q. And how large was that property?</p> <p>12 A. I do not recall the size of the property.</p> <p>13 It was a fairly large DPW facility.</p> <p>14 Q. And do you recall whether -- what zone that</p> <p>15 property was located in?</p> <p>16 A. I do not.</p> <p>17 Q. Do you recall if use variance relief was</p> <p>18 required for that application?</p> <p>19 A. It was.</p> <p>20 Q. And do you recall whether that property or</p> <p>21 its surrounding properties were located in any type of</p> <p>22 historic district, whether it was a local, state,</p> <p>23 Federal Historic District?</p> <p>24 A. No.</p> <p>25 Q. Do you recall whether there were</p>	<p style="text-align: right;">Page 80</p> <p>1 residential homes in the immediate vicinity to that</p> <p>2 tower?</p> <p>3 A. No homes adjacent to the DPW yard, but</p> <p>4 homes that did have visibility to the tower.</p> <p>5 Q. How far Mr. Masters, were those homes that</p> <p>6 are visibility to the tower?</p> <p>7 A. I would say probably 400, 500 feet away.</p> <p>8 Q. And when was that -- that project was</p> <p>9 approved?</p> <p>10 A. It was.</p> <p>11 Q. How long ago?</p> <p>12 A. Within the past ten years.</p> <p>13 Q. And do you recall whether there was a</p> <p>14 neighborhood opposition to that project?</p> <p>15 A. I recall some Objectors at the hearing.</p> <p>16 Q. And that hearing -- but it was approved;</p> <p>17 correct?</p> <p>18 A. It was.</p> <p>19 Q. Do you recall what the height was?</p> <p>20 A. I do not.</p> <p>21 Q. And on the -- and you're familiar with the</p> <p>22 zoning map for Harding Township; correct?</p> <p>23 A. I am.</p> <p>24 Q. And you're aware that there are other lands</p> <p>25 that are zoned PL or public lands in the surrounding</p>

<p style="text-align: right;">Page 81</p> <p>1 area; correct?</p> <p>2 A. Correct.</p> <p>3 Q. And those properties are much larger -- or</p> <p>4 I shouldn't say much -- they're larger than the DPW</p> <p>5 site, correct?</p> <p>6 A. I have not done any kind of analysis of</p> <p>7 what the specific lot sizes are of the other PL Zone</p> <p>8 properties within the Township.</p> <p>9 Q. But you testified at the last hearing that</p> <p>10 it was your understanding that Verizon actually came to</p> <p>11 the Township, correct, for the sighting of a wireless</p> <p>12 telecommunications facility?</p> <p>13 A. Correct.</p> <p>14 Q. And do you know whether Verizon</p> <p>15 specifically identified the DPW site as opposed to any</p> <p>16 other site that was publicly or township owned or</p> <p>17 controlled?</p> <p>18 A. I was not personally involved in the</p> <p>19 bidding process or the award of the bid or the lease or</p> <p>20 anything of that nature.</p> <p>21 Q. You stated that already. I'm just asking</p> <p>22 you based on your knowledge that Verizon came to the</p> <p>23 Township, whether you're aware of any circumstances of</p> <p>24 other public sites, township sites that were considered</p> <p>25 either by the Township or by Verizon?</p>	<p style="text-align: right;">Page 82</p> <p>1 A. I am not.</p> <p>2 Q. And you mentioned tonight, actually, about</p> <p>3 specifically Kirby Hall, the municipal site. Are you</p> <p>4 aware whether there was any effort by Verizon to</p> <p>5 investigate whether any portion of that property</p> <p>6 inside, outside or otherwise, was potentially available</p> <p>7 as a site for a wireless telecommunications facility?</p> <p>8 A. I know that Mr. Schneider had reached out</p> <p>9 to the Township, I believe the Administrator, regarding</p> <p>10 the municipal property during the course of this</p> <p>11 application.</p> <p>12 Q. And do you know when that was, Mr. Masters?</p> <p>13 A. I don't know the date of it, but it was</p> <p>14 back when the alternate site portion of the application</p> <p>15 was occurring. So we lost a year with the Pandemic. I</p> <p>16 would say that it was probably two years ago.</p> <p>17 Q. And are you aware of the nature of those</p> <p>18 communications with the Administrator?</p> <p>19 A. Only to the extent that the property was</p> <p>20 not made available.</p> <p>21 Q. And do you know why it was not made</p> <p>22 available?</p> <p>23 A. I do not.</p> <p>24 Q. And do you know whether the determination</p> <p>25 that the property was not available, was that made by</p>
<p style="text-align: right;">Page 83</p> <p>1 the Administrator or by the Township Committee, if you</p> <p>2 know?</p> <p>3 A. I have no idea.</p> <p>4 Q. Do you know whether the information that</p> <p>5 you just testified to, namely that the municipal</p> <p>6 building site where the Kirby Hall building is located</p> <p>7 was not available, was that reduced to writing or an</p> <p>8 e-mail or some other document?</p> <p>9 A. I don't know. I'm not aware of any.</p> <p>10 MR. SCHNEIDER: There were two -- just to</p> <p>11 assist, there were correspondences between me and the</p> <p>12 Township Administrator. I'd be glad to submit those</p> <p>13 for purposes of the record.</p> <p>14 MR. SIMON: Thank you, Mr. Schneider.</p> <p>15 MR. SCHNEIDER: I'll submit them in advance</p> <p>16 of the next hearing.</p> <p>17 MR. SIMON: Thank you. Appreciate that.</p> <p>18 And provide copies to me, please, as a courtesy.</p> <p>19 MR. SCHNEIDER: Absolutely.</p> <p>20 MR. SIMON: Thank you.</p> <p>21 BY MR. SIMON:</p> <p>22 Q. So Mr. Masters, you have not independently</p> <p>23 performed in a professional planning evaluation of any</p> <p>24 publicly owned or controlled site in Harding Township</p> <p>25 for the installation of a monopole; correct?</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Correct.</p> <p>2 Q. Ohm the DPW site?</p> <p>3 A. Correct.</p> <p>4 Q. And have you -- Mr. Schneider just talked</p> <p>5 about some communication that I was unaware of</p> <p>6 regarding the Administrator about the municipal</p> <p>7 building site.</p> <p>8 My question is whether you participated in</p> <p>9 any communications with anyone on the Township side</p> <p>10 regarding sighting of a wireless telecommunications</p> <p>11 facility anywhere in Harding including the subject</p> <p>12 property.</p> <p>13 A. I did not.</p> <p>14 Q. And with regard to this, the subject</p> <p>15 property, and we'll talk about it either as a bow tie,</p> <p>16 an hour glass, you know, that you believe that it's</p> <p>17 essentially split into two different properties, I</p> <p>18 believe that was your testimony?</p> <p>19 A. My testimony actually was that in reviewing</p> <p>20 the title work the total property area was actually</p> <p>21 conveyed to the Township as two separate parcels by two</p> <p>22 different entities. So in other words, at one time it</p> <p>23 existed as two separate lots, two separate properties.</p> <p>24 Q. And do you know when those lots were</p> <p>25 conveyed to the Township?</p>

<p style="text-align: right;">Page 85</p> <p>1 A. I don't have that in front of me, but I</p> <p>2 know who they were conveyed by, but I don't know when</p> <p>3 it was.</p> <p>4 Q. And at the time they were conveyed to the</p> <p>5 Township what zones were those properties located in?</p> <p>6 A. I don't know, because again I don't know</p> <p>7 specifically at what time they were conveyed to the</p> <p>8 Township.</p> <p>9 Q. So you did not investigate anything about</p> <p>10 the zoning for these properties that existed at the</p> <p>11 time they were conveyed to the Township; correct?</p> <p>12 A. Correct.</p> <p>13 Q. And they were conveyed to the Township at</p> <p>14 different times, though; right?</p> <p>15 A. I believe they were.</p> <p>16 Q. And subsequent to the second parcel being</p> <p>17 conveyed to the Township the two parcels were merged to</p> <p>18 create one lot; correct?</p> <p>19 A. Correct.</p> <p>20 Q. And that one lot is a single lot for</p> <p>21 purposes of metes-and-bounds description; correct?</p> <p>22 A. Correct.</p> <p>23 Q. And it's also one lot for purposes of the</p> <p>24 Township Tax Records; correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 86</p> <p>1 Q. And do you know when those properties were</p> <p>2 merged by the Township?</p> <p>3 A. I do not.</p> <p>4 Q. And do you know when these properties</p> <p>5 became zoned as PL zoned properties?</p> <p>6 A. I don't know for sure. The ordinance</p> <p>7 created in the PL Zone is dated April 20th, 2005.</p> <p>8 Actually, it was March 17th, 2004, amended 2005, but I</p> <p>9 do not know when the specific property was zoned PL,</p> <p>10 became zone PL.</p> <p>11 Q. And you don't know prior to 2004, let's</p> <p>12 say, what either side of this property was zoned for;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. And you're also aware that the Township</p> <p>16 could have subdivided these lots into two separate</p> <p>17 lots; correct?</p> <p>18 A. I would say they probably could since the</p> <p>19 PL Zone has no bulk requirements.</p> <p>20 Q. Right. But based on your research and</p> <p>21 investigation, including your review of the title work</p> <p>22 and the zoning ordinance, the Township apparently has</p> <p>23 chosen not to separate these lots as two separate lots,</p> <p>24 but to continue with the lots constituting one lot?</p> <p>25 A. The one observation that I would note in</p>
<p style="text-align: right;">Page 87</p> <p>1 regard to your prior question is that while the town</p> <p>2 could certainly, I guess, subdivide them as two</p> <p>3 separate lots, the lot upon which the DPW yard is</p> <p>4 situated on would effectively become a landlocked lot,</p> <p>5 use some type of access easement across the</p> <p>6 Tunis-Ellicks portion of the lot out to Millbrook.</p> <p>7 Q. You and I, I think I've been doing this too</p> <p>8 long because I'm getting a little Clairvoyant or you</p> <p>9 are, because that was my next question, which was, if</p> <p>10 in fact the property were to be subdivided then the DPW</p> <p>11 side as a landlocked parcel would certainly at a</p> <p>12 minimum require a planning variance because the lot</p> <p>13 would not abut a public street; correct?</p> <p>14 A. Correct.</p> <p>15 Q. Excellent. So the monopole and the</p> <p>16 equipment compound in this case are proposed to be</p> <p>17 installed on the, I'll call it, as you're looking at</p> <p>18 the tax map on the left site of the bow tie; right?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And the other side of the property</p> <p>21 with the Ellicks-Tully House (sic) is on the right</p> <p>22 side?</p> <p>23 A. Correct.</p> <p>24 Q. Have you done -- and I know that when I've</p> <p>25 looked at the site plan and the elevations for this</p>	<p style="text-align: right;">Page 88</p> <p>1 project, including recently, I noted that all the</p> <p>2 calculations appropriately on the zoning table were</p> <p>3 based on the entirety of the lot, the whole gestalt as</p> <p>4 a psychologist friend of mine says.</p> <p>5 Do you know if the lot was, in fact, two</p> <p>6 separate lots pursuant to what you've referred to as an</p> <p>7 hour glass or bow tie, what the building coverage, the</p> <p>8 current building coverage percentage would be within</p> <p>9 that left side of the bow tie where the DPW facilities</p> <p>10 are located?</p> <p>11 A. I do not.</p> <p>12 Q. Did he do an analysis of what the current</p> <p>13 lot coverage percentage is for that left side of the</p> <p>14 bow tie?</p> <p>15 A. I did not.</p> <p>16 Q. And with regard to the left side of the</p> <p>17 bow tie, what's the size of that property, do you know,</p> <p>18 that portion of the property?</p> <p>19 A. I don't.</p> <p>20 Q. And you started to talk about during your</p> <p>21 direct examination by Mr. Schneider some of the</p> <p>22 buildings and uses currently on that left side of the</p> <p>23 bow tie. So we have, what, two DPW garages; correct?</p> <p>24 A. Right.</p> <p>25 Q. And what are they used for?</p>

<p style="text-align: right;">Page 89</p> <p>1 A. Presumably storage and/or repair of 2 municipal equipment. 3 Q. Okay. And have you observed either the 4 storage or the repair that you just described? 5 A. I mean, I don't know that I've observed any 6 of the repair. I mean, I've been inside the garage. 7 Q. And then where -- and how big -- is it one 8 garage or two, Rick? 9 A. There's actually two garages. Then there's 10 the new building that was built I'll call it to the 11 southeast of the larger of the two garages. 12 Q. Is that the one that was added to the 13 offices of the Director and the lunchroom and the 14 locker room and the bathrooms? 15 A. That's correct. 16 Q. And the one that's housing the workers 17 overnight during emergency situations? 18 A. Correct. 19 Q. And when was that building constructed? 20 A. I want to say it was 2019, I believe he 21 said. I'm not positive of the date. I know it wasn't 22 there when I started this application. 23 Q. Was it there when you conducted your visual 24 impact study with the photographs? 25 A. No.</p>	<p style="text-align: right;">Page 90</p> <p>1 Q. And do you know how large it is? 2 A. I don't. 3 Q. Do you know its height? 4 A. I'm sorry? 5 Q. Do you know its height? 6 A. It's a one-story building. It's like a 7 prefab butler building. It's not very tall. 8 Q. And do you know what it accommodates by way 9 of sleeping arrangements? 10 A. I don't. I was in the Director's Office 11 and I saw the lunchroom. I did not venture into the 12 locker rooms or the bathroom. 13 Q. And do you know how many DPW workers are 14 within that facility at any one time? 15 A. At any one time, no. All I know is that I 16 was told that there's a total of eight employees, 17 including the Superintendent. 18 Q. And where -- well, I'll get to that in a 19 second. There's also -- you talked about, I think, a 20 salt shed? 21 A. Correct. 22 Q. Now, you also discussed a future salt dome, 23 I think. Is that replacing the salt shed or is that in 24 addition to the salt shed? 25 A. I'm not sure if that's replacing it or in</p>
<p style="text-align: right;">Page 91</p> <p>1 addition to. The Director said that it was still on 2 the table, though, that the plan was to still construct 3 a salt dome or shed of some sort. 4 Q. And do you know the timing of that 5 construction? 6 A. I do not. 7 Q. And Mr. Masters, do you know the dimensions 8 of the salt dome? 9 A. I do not. 10 Q. Do you know where it's proposed to be 11 located? 12 A. I do not. 13 Q. Have you seen any plans for it? 14 A. I have not. 15 Q. With regard to the one-story building that 16 was recently constructed for the offices and the 17 lunchroom and the locker rooms and bathrooms and 18 overnight accommodations, is this property serviced by 19 well and septic? 20 A. I don't know for sure. I would assume it 21 is. I don't believe it's serviced by public water or 22 sewer, but I don't know for sure. 23 Q. In your investigation of this property in 24 connection with this application did you determine 25 where any wells or septic system or septic field is</p>	<p style="text-align: right;">Page 92</p> <p>1 located within the DPW lot? 2 A. I did not. 3 Q. And I also noticed in looking at the plan 4 that there is both an above -- and this is all, by the 5 way, every building and property we're talking about so 6 far, that's all on this left side of the bow tie or hour 7 glass; correct? 8 A. Correct. 9 Q. And I also noticed that there is a -- what 10 appears to be an aboveground oil tank and a propane 11 tank. Did you notice those in your investigation of 12 the property? 13 A. I did not go to the backside, that backside 14 of the garage. So no, I did not physically see those. 15 Q. So you don't know where the aboveground oil 16 tank or propane tanks are located? 17 A. Well, I do based upon -- I know how to read 18 the drawings, so -- 19 Q. Right. But other than reading the drawings 20 you don't have any type of independent recollection of 21 seeing them? 22 A. I have not seen them myself. But now 23 you've got the new building which actually is 24 perpendicular to that garage and would further conceal 25 those particular facilities.</p>

<p style="text-align: right;">Page 93</p> <p>1 Q. And has that new building been depicted on</p> <p>2 any plan that you've seen in connection with this</p> <p>3 application?</p> <p>4 A. Not that I've seen.</p> <p>5 Q. And with regard to this property, there</p> <p>6 also appears to be what's identified as a gas station;</p> <p>7 correct?</p> <p>8 A. Correct. Well, you're right, a gas</p> <p>9 station, yes.</p> <p>10 Q. And what is the purpose of the gas station?</p> <p>11 A. I would assume to fuel Township vehicles.</p> <p>12 Q. And when the Township vehicles are not, you</p> <p>13 know, being used during a work day and are returned to</p> <p>14 the DPW site, have you observed where they are parked?</p> <p>15 A. I have not.</p> <p>16 Q. And in your investigation of this property</p> <p>17 did you identify or do you notice any parking spaces</p> <p>18 for DPW vehicles or trucks?</p> <p>19 A. I don't see any on the drawings.</p> <p>20 Q. Okay. Do you recall, Rick, that when you</p> <p>21 went to investigate the site that you observed any</p> <p>22 parked DPW vehicles or trucks?</p> <p>23 A. I don't recall seeing any, no.</p> <p>24 Q. And how many times have you been to the</p> <p>25 site?</p>	<p style="text-align: right;">Page 94</p> <p>1 A. I would say three or four times over the</p> <p>2 course of the past three years.</p> <p>3 Q. And were they all on days when the DPW yard</p> <p>4 was in operation?</p> <p>5 A. Yeah. They were all on -- I guess with the</p> <p>6 exception of the day we did the crane test they were</p> <p>7 weekdays.</p> <p>8 Q. Were any of the days on days when the</p> <p>9 recycling center was in operation?</p> <p>10 A. Yes. My last visit which was back in</p> <p>11 March, early March sometime, it was on a Wednesday when</p> <p>12 the recycling center was open.</p> <p>13 Q. Was that the only time you've been to the</p> <p>14 site when the recycling center was open?</p> <p>15 A. I want to say the day we did the crane test</p> <p>16 I believe was a Saturday, and I believe it was open</p> <p>17 that day as well.</p> <p>18 Q. And during the two times that you were</p> <p>19 there when the recycling center was open did you</p> <p>20 observe vehicles coming into the yard to drop off the</p> <p>21 recycling?</p> <p>22 A. I did.</p> <p>23 Q. And where do those vehicles park?</p> <p>24 A. They kind of pull around and queue up next</p> <p>25 to the recycling shed there, and drop-off the</p>
<p style="text-align: right;">Page 95</p> <p>1 recyclables and proceed out of the property.</p> <p>2 Q. When you say queue up, is there actually</p> <p>3 parking spaces for these vehicles?</p> <p>4 A. I didn't notice parking spaces. It was</p> <p>5 more of a line of cars. I mean, in both cases I don't</p> <p>6 recall an overwhelming volume of vehicles at the</p> <p>7 recycling center.</p> <p>8 Q. Do you remember how many there were while</p> <p>9 you were there?</p> <p>10 A. A handful at most.</p> <p>11 Q. And for how long were you there?</p> <p>12 A. You know, I did the crane test now three</p> <p>13 years ago. So I would say of the three or four times I</p> <p>14 was there that was the time I was there for the longest</p> <p>15 period of time.</p> <p>16 Q. When you did the crane test?</p> <p>17 A. Right.</p> <p>18 Q. And when you did the crane test was that</p> <p>19 when you drove around and you took photographs from</p> <p>20 different locations?</p> <p>21 A. Correct.</p> <p>22 Q. So you weren't actually at the DPW property</p> <p>23 that entire time because you spent time presumably</p> <p>24 driving around the area taking your photographs; right?</p> <p>25 A. Correct. But I was there for the duration</p>	<p style="text-align: right;">Page 96</p> <p>1 of the set-up of the crane, number one, to be sure that</p> <p>2 the crane was set up at the proper spot, and that the</p> <p>3 crane mast was up and completed at the proper height</p> <p>4 before I left the site.</p> <p>5 Q. How long did that process take, Mr.</p> <p>6 Masters?</p> <p>7 A. I would say probably roughly an hour. It</p> <p>8 usually takes about an hour.</p> <p>9 Q. And the recycling center's open for longer</p> <p>10 than that; right?</p> <p>11 A. Yes. It's open -- I'm trying to remember,</p> <p>12 it's two days a week it's open. One day I think it's</p> <p>13 open -- and I testified to this at the last hearing, so</p> <p>14 --</p> <p>15 Q. Yeah. Well, I think you testified, just to</p> <p>16 refresh your recollection, if I recall, that you said I</p> <p>17 think Wednesdays 7:00 a.m. to Noon, and then you said</p> <p>18 alternating Saturdays from 9:00 a.m. to Noon.</p> <p>19 Does that refresh your recollection?</p> <p>20 A. That does refresh my recollection.</p> <p>21 Q. Okay. Good. With regard to -- without</p> <p>22 jumping around too much. You mentioned the crane test.</p> <p>23 Is it your testimony that the crane was set up so that</p> <p>24 the top was in the precise location where the proposed</p> <p>25 monopole is to be located? Because to me, and I'm no</p>

<p style="text-align: right;">Page 97</p> <p>1 expert, but just from my eyes it appears that there's</p> <p>2 some inconsistency in the location between the top of</p> <p>3 the crane and the currently proposed location of the</p> <p>4 monopole?</p> <p>5 A. The crane was set up at the time the Public</p> <p>6 Works Department was proposing a salt dome in the</p> <p>7 vicinity of where the current recycling shed is, and</p> <p>8 originally Verizon Wireless was going to make</p> <p>9 accommodations for that salt dome.</p> <p>10 That subsequently changed actually after</p> <p>11 the application was filed. So the crane was set up at</p> <p>12 the original location that was depicted on the lease</p> <p>13 exhibits, which was slightly different from the new</p> <p>14 location when that location for the salt dome was</p> <p>15 scrapped. They decided that they were not going to</p> <p>16 build the salt dome at that location. So if I could</p> <p>17 just finish.</p> <p>18 Q. Yes. Please, go ahead.</p> <p>19 A. So what happened, the location from where</p> <p>20 the crane was set up for the crane test to where the</p> <p>21 monopole is currently proposed to be located moved</p> <p>22 1.5 feet, so it moved 18 inches closer to the property</p> <p>23 to the south, that's Lot 9.04, and it moved 27.3 feet</p> <p>24 closer to the lot line to the west, which is Lot 55</p> <p>25 from where the crane was originally located.</p>	<p style="text-align: right;">Page 98</p> <p>1 So the conclusion was that the change of</p> <p>2 18 inches movement to the south, and 27 feet to the</p> <p>3 west was insignificant in terms of its effect on the</p> <p>4 overall viewshed of the surrounding property. So yes,</p> <p>5 there's a difference of 18 inches in one direction and</p> <p>6 27 feet in the other direction.</p> <p>7 Q. And again, you don't know where the salt</p> <p>8 dome, if it's going to be relocated, where it's going</p> <p>9 to be?</p> <p>10 A. I have no idea where the current location</p> <p>11 is going to be.</p> <p>12 Q. And so is it fair to say with regard to the</p> <p>13 crane test, that if you looked at the -- your visual</p> <p>14 impact study, that the difference of the location of</p> <p>15 the monopole between what we're seeing on those various</p> <p>16 exhibits and what the neighbors would see if the pole</p> <p>17 were to be installed in terms of just purely location,</p> <p>18 forget about the height and forget about the style of</p> <p>19 the stealthing, that the difference would be</p> <p>20 approximately 27 feet?</p> <p>21 A. It would be 27 feet to the west, and 18</p> <p>22 inches to the south.</p> <p>23 Q. And with regard to the -- and when you say</p> <p>24 -- no -- okay. That's fine.</p> <p>25 In terms of the property itself, I also</p>
<p style="text-align: right;">Page 99</p> <p>1 noticed that there are monitoring wells at the</p> <p>2 property, at the DPW portion of the property?</p> <p>3 A. Right.</p> <p>4 Q. Did you notice them as well?</p> <p>5 A. I did notice them. I don't recall</p> <p>6 precisely where they were, but yes I do recall seeing</p> <p>7 those.</p> <p>8 Q. And do you know why there are monitoring</p> <p>9 wells on this property?</p> <p>10 A. I'm not sure, but I do know that the</p> <p>11 property next door which would be effectively the</p> <p>12 property to the east, well, I guess, more accurately to</p> <p>13 the northeast, at one time I believe it was called</p> <p>14 Village Coats Works previously. Prior to that it was</p> <p>15 Ortman's Garage. When it was Ortman's Garage they also</p> <p>16 used that property to park school buses there. And I</p> <p>17 believe there may have been some contamination</p> <p>18 resulting from the prior uses of that adjoining</p> <p>19 property. Now, whether that is why the monitoring</p> <p>20 wells are on this property also I don't know.</p> <p>21 Q. And do you know the status of any cleanup,</p> <p>22 environmental cleanup that has necessitated the need to</p> <p>23 install monitoring wells at this DPW property?</p> <p>24 A. I do not know what the status of the</p> <p>25 cleanup is, no.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. And I also noticed that there is a kind of</p> <p>2 a wood pole transmitter antenna on this property?</p> <p>3 A. I did not notice that.</p> <p>4 Q. Are you aware of whether there is an</p> <p>5 antenna of any way, shape or form on this property?</p> <p>6 A. I am not.</p> <p>7 Q. And I assume your position as a</p> <p>8 professional planner for this application is that all</p> <p>9 of the buildings and uses that we just went over are</p> <p>10 permitted uses and structures in the PL Zone?</p> <p>11 A. I would say so. In reading the one</p> <p>12 paragraph section of the Public Land Regulations,</p> <p>13 vis-à-vis the permitted uses in the PL Public Land Zone</p> <p>14 it permits administrative buildings and installations,</p> <p>15 garages that house municipal equipment or any other</p> <p>16 public uses, buildings and structures. That seems to</p> <p>17 be fairly comprehensive.</p> <p>18 Q. What is the tallest height of any building</p> <p>19 or structure currently at the DPW yard?</p> <p>20 A. I do not know that.</p> <p>21 Q. And you talked about the fact that you did</p> <p>22 not observe any vehicle, DPW vehicle, truck or</p> <p>23 otherwise, parked at the DPW site; correct?</p> <p>24 A. I don't recall seeing any, no.</p> <p>25 Q. Do you recall whether there's actually</p>

<p style="text-align: right;">Page 101</p> <p>1 parking spaces or a parking lot at the DPW site for 2 vehicles, whether it's cars or trucks? 3 A. I know there's parking, some parking spaces 4 over towards the area of the -- 5 Q. Of the historic building; right? 6 A. Well, that too. I figured we were just 7 talking about the, as you put it, the left side of the 8 bow tie right now. 9 Q. Okay. Go ahead. I'm sorry. 10 A. There are some parking spaces in the 11 vicinity of what's labeled as the gas station is. They 12 appear to be more for car parking. As far as truck 13 parking I don't recall seeing any delineated parking 14 spaces. A lot of the surface area is compacted gravel 15 and dirt, and I don't know that there's any 16 specifically striped parking spots for any of the 17 Township heavy equipment. 18 Q. And the spaces that you just identified 19 that appear to you to be more like car parking spaces, 20 how many spaces are we talking about? 21 A. I don't remember. There weren't many. 22 Maybe five or six. 23 Q. And there are eight, you said, DPW 24 employees, to your knowledge? 25 A. That's what I was told, yes.</p>	<p style="text-align: right;">Page 102</p> <p>1 Q. And that doesn't take into account spaces 2 for DPW visitors, or those who are taking advantage of 3 going to the recycling center; correct? 4 A. Again, I would question to what extent 5 folks park there vehicles when they go to the recycling 6 center. I know the recycling center that I go to in my 7 municipality, you park next to whatever dumpster you're 8 recycling this but you're not parking in a parking 9 space, per se. You're merely pulling up adjacent to 10 whatever bin or dumpster that you're depositing your 11 recyclables in and then you're hopping back in your car 12 and you're leaving. 13 Q. And when you in the municipality that 14 you're referring to, Mr. Masters, hop back in your car 15 and you leave, there's some form of driveway that you 16 loop around that leads you out of the center? 17 A. Yes. It's not paved or anything. It's 18 really nothing more than compacted dirt at my recycling 19 center. 20 Q. And do you recall based on your observation 21 at the DPW yard the circulation pattern for vehicles 22 once, as you say, they drop off their recycling 23 materials? 24 A. A pattern, did you say? 25 Q. Yes. In other words, what's the internal</p>
<p style="text-align: right;">Page 103</p> <p>1 circulation? 2 A. It's basically a one-way system. You drive 3 in the first driveway, and you stop at the gatehouse 4 there and tell the person what you've got, and then he 5 directs you to whatever bin he wants you to take your 6 materials to, and when you're done you continue in the 7 same direction and you pull out at the upper driveway. 8 It's basically a one-way system. 9 Q. At the DPW area? 10 A. The one that I go to in my town. 11 Q. What about this one in Harding Township? 12 A. Again, it appears to be a circular-type 13 arrangement where you pull in below the DPW garage 14 there and drive around to the left, go around the 15 circle there and pull up adjacent to the recycling 16 shed. 17 Q. Okay. And did you observe vehicles 18 circulating where -- at the DPW yard in Harding 19 Township where they would drop off their recyclables 20 and then loop around, as you say? 21 A. As I said, I saw maybe two or three cars 22 when I was there last month. 23 Q. And Rick, when those cars pull up and the 24 people get out to drop off their recyclables, this 25 equipment compound is going to be located next to one</p>	<p style="text-align: right;">Page 104</p> <p>1 of the recycling bins; correct? 2 A. Well, it's actually going to be located 3 behind it. 4 Q. Behind it? 5 A. Yes. 6 Q. And how far is someone, a person as they're 7 dropping off their newspapers, glass bottles, plastics, 8 et cetera, is going to be to the equipment compound? 9 You can say approximately within a couple of feet. 10 A. Well, the -- when I look at the engineering 11 drawings the fence compound is 30-by-60, which appears 12 to be very close in size to the size of the recycling 13 shed. And the compound is located about, looks like 14 about 10 feet in back of the recycling shed. The 15 vehicles go to the front of the recycling shed. They 16 don't go anywhere near the fenced wireless 17 telecommunications compound. That is -- it's entirely 18 behind the existing recycling shed. So they're not 19 going very close to it, really. 20 Q. But how far away are they going to be, 21 distance-wise? 22 A. Well, 10 feet -- I would say between the 23 fenced compound in the back of the shed and in the 24 shed, I would say is about another 40 to 35 feet. So 25 what 45, 50 feet away.</p>

<p style="text-align: right;">Page 105</p> <p>1 Q. So 45, 50 feet away. And when every four</p> <p>2 to six weeks a maintenance person is going to come out</p> <p>3 you stated, I believe, to check on the equipment</p> <p>4 compound; correct, give or take?</p> <p>5 A. Correct.</p> <p>6 Q. And when they do that they're accessing the</p> <p>7 compound from behind the recycling shed; correct?</p> <p>8 A. Behind it, but with regard to the compound</p> <p>9 it would be to the west, to the side.</p> <p>10 Q. Is there anything -- and I'm not trying to</p> <p>11 be cute here at all -- is there anything to prevent --</p> <p>12 you know, if I drive up on Saturday morning with my</p> <p>13 young kids to do the recycling in Harding Township, and</p> <p>14 I, you know, stop my car, I don't want to idle so I'm</p> <p>15 going to turn off my car and start going into the back</p> <p>16 of my Jeep to take out my recycling and I've got the</p> <p>17 kids and they jump out of the car, is there anything to</p> <p>18 prevent the kids from accessing behind the recycling</p> <p>19 shed toward the equipment compound?</p> <p>20 A. No. I mean, if your kids are left</p> <p>21 unattended I suppose they can access pretty much</p> <p>22 anything on the property.</p> <p>23 Q. Right. And other than what you just</p> <p>24 described as to the times that you were at the DPW</p> <p>25 yard, other than those four times there were no other</p>	<p style="text-align: right;">Page 106</p> <p>1 times that you were there; correct?</p> <p>2 A. Correct.</p> <p>3 Q. And, Rick, in the four times that you were</p> <p>4 there did the activities change that you observed?</p> <p>5 A. No.</p> <p>6 Q. And what are the hours of operation of the</p> <p>7 DPW yard to your knowledge?</p> <p>8 You did already testify as to the recycling</p> <p>9 center, but what about the other hours? I assume it's</p> <p>10 a 24-hour operation?</p> <p>11 A. Well, I assume at certain times it is,</p> <p>12 but --</p> <p>13 Q. So in the winter time it may be; correct?</p> <p>14 A. Right.</p> <p>15 Q. And in the summer time probably not?</p> <p>16 A. Probably not.</p> <p>17 Q. And you don't have any records or</p> <p>18 information as to the number of visitors to the yard</p> <p>19 per day approximately and what days and times; right?</p> <p>20 A. I don't.</p> <p>21 Q. And with regard to both the activities and</p> <p>22 also the structures that are at the DPW yard, you're</p> <p>23 familiar as a professional planner, and I know</p> <p>24 approximately 20 or 28 years ago you were in</p> <p>25 Parsippany, you're familiar with public entities</p>
<p style="text-align: right;">Page 107</p> <p>1 preparing a capital improvement project per Section 29</p> <p>2 in Municipal Land Use Law; correct?</p> <p>3 A. Correct. I was never involved with in</p> <p>4 that, but --</p> <p>5 Q. But as a professional planner in the state</p> <p>6 of New Jersey that's licensed you're familiar with what</p> <p>7 I'm talking about; correct?</p> <p>8 A. I am.</p> <p>9 Q. Where pursuant to the Master Plan the</p> <p>10 public entity prepares a program over the ensuing six</p> <p>11 years as to what they intend to do at various public</p> <p>12 properties in terms of programs or projects; right?</p> <p>13 A. Right.</p> <p>14 Q. Do you know whether the Harding Township or</p> <p>15 the DPW ever prepared a capital improvement program</p> <p>16 with regard to the DPW yard for Section 29 of the</p> <p>17 Municipal Land Use Law?</p> <p>18 A. I do not.</p> <p>19 Q. And are you aware whether at any time any</p> <p>20 capital project that concerned the DPW yard was ever</p> <p>21 reviewed by the Township Planning Board pursuant to</p> <p>22 Section 31 of the Municipal Land Use Law?</p> <p>23 A. I'm not aware of anything regarding any</p> <p>24 review process or construction process dealing with any</p> <p>25 of the facilities or infrastructure that currently</p>	<p style="text-align: right;">Page 108</p> <p>1 exists at the Harding Township DPW yard.</p> <p>2 Q. Are you aware of any DPW site in the state</p> <p>3 of New Jersey that is part of a local historic</p> <p>4 district?</p> <p>5 A. Not off the top of my head, no.</p> <p>6 Q. Are you aware of any DPW property which</p> <p>7 would include the right side of the bow tie, that is</p> <p>8 part of the state and Federal -- is registered as a</p> <p>9 state and Federally Registered Historic Place?</p> <p>10 A. Again, this is not art part of the state</p> <p>11 and Federally Registered --</p> <p>12 Q. Rick, I didn't ask you that question.</p> <p>13 A. Well, it's not part of. I mean, it's part</p> <p>14 of the property, but it's not part of the district.</p> <p>15 Q. That's what I asked you and I'll ask it a</p> <p>16 different way.</p> <p>17 Are you aware of any property which -- a</p> <p>18 DPW property, which includes the right side of the</p> <p>19 bow tie, that includes property that is part of the</p> <p>20 state and Federally Registered Historic Place?</p> <p>21 A. I do not. In fact, I'm not of aware of any</p> <p>22 other DPW facility located on a piece of property</p> <p>23 that's configured like a bow tie.</p> <p>24 Q. Thank you. With regard to this particular</p> <p>25 application I believe that pursuant to the application</p>

<p style="text-align: right;">Page 109</p> <p>1 form itself and the lease terms that the applicant is 2 required to obtain a preliminary and final site plan 3 approval in connection with this application; correct? 4 A. That is correct. 5 Q. And did you review as part of your 6 responsibilities in connection with this application 7 the site plan design standards that are contained in 8 the Harding Township ordinance for site plans? 9 A. I reviewed design standards. I'm not sure 10 specifically site plan. Maybe you could be a little 11 more specific. 12 Q. Sure. So let's start with stormwater 13 management. So you're aware that under the township 14 site plan ordinance that any applicant that does not -- 15 that is subject to site plan approval needs to comply 16 with the township's stormwater management ordinance; is 17 that correct? 18 A. That is correct. 19 Q. And in this case are you aware whether the 20 Applicant -- well, let me back up. Are you aware 21 whether this property, the property at issue, the DPW 22 property currently complies with the township 23 stormwater management ordinance? 24 A. I have no idea if it currently complies. I 25 do know this though, that monopolies, whether they're</p>	<p style="text-align: right;">Page 110</p> <p>1 tree poles or flagpoles, do not generate sewerage, and 2 they do not require potable water. So from that 3 standpoint it would be my position that they would have 4 absolutely zero impact on a stormwater management plan 5 whether the current facility is in compliance with a 6 plan or not within compliance with a plan. 7 Q. And you're familiar with this application 8 in that there is proposed to be an increase in 9 impervious coverage in connection with this 10 application; correct? 11 A. There is. 12 Q. And you're also proposing, I believe, the 13 removal of approximately 11 trees in connection with 14 this application; right? 15 A. Eleven trees. 16 Q. Right. And with regard to the 11 trees 17 that are proposed to be removed, do you have any idea 18 of what the diameter breast height is for any of those 19 trees? 20 A. I do not. 21 Q. Do you know what the heights are of those 22 trees? 23 A. I do not, but I believe our site plan 24 engineer conducted an analysis of that information. 25 With regard to the increase in the impervious coverage,</p>
<p style="text-align: right;">Page 111</p> <p>1 and again, of course, there's no maximum impervious 2 coverage requirement in the zone since there's no bulk 3 standards in the zone whatsoever, but I would note that 4 the existing impervious coverage is 42.65 percent, and 5 the proposed coverage with our facility will increase 6 to 43 percent. So that's an increase of 35 7 one-hundredths of one percent. And I would 8 respectfully categorize that as a de minimis increase 9 in the impervious coverage. 10 Q. Mr. Masters, the calculations that you just 11 made take into account both sides of the bow tie; isn't 12 that correct? 13 A. I believe so. 14 Q. Have you done the calculation as to the 15 increase in impervious coverage just on the left side 16 of the bow tie? 17 A. I have not. 18 Q. And with regard to -- let's complete the 19 line of questioning here. I'm asking rhetorically to 20 myself -- with regard to the trees. 21 So as a professional planner are you aware 22 of the heights of the trees that are being removed. 23 A. You asked that question. I answered that I 24 did not know. 25 Q. I apologize. I didn't hear your answer, or</p>	<p style="text-align: right;">Page 112</p> <p>1 your complete answer. 2 With regard -- do you know the types of 3 trees that are being removed, Mr. Masters? 4 A. I do not. 5 Q. And with regard to the 11 trees that are 6 being removed of unknown species, DBH height, et 7 cetera, are all those trees depicted -- that are being 8 removed, are they all depicted in the visual impact 9 study that you submitted to this Board in connection 10 with this application? 11 A. I did not depict the removal of any 12 existing vegetation on the property because -- 13 Q. Right. So all 11 trees that are slated to 14 be removed in connection with this application are all 15 shown invisible on the photographs submitted as part of 16 your visual impact study; correct? 17 A. They are. But I would note, too, that the 18 impact study was done in the Wintertime when there was 19 no foliage on the trees. So in terms of the ability to 20 see the crane mast in the before shots, or the pictures 21 of the existing conditions, the existing trees 22 regardless of their species or their height, albeit 23 deciduous, had no leaves on the trees. 24 Q. I understand that, yes. Thank you for 25 clarifying.</p>

<p style="text-align: right;">Page 113</p> <p>1 In the site plan design standards --</p> <p>2 actually, let me, before I ask this question.</p> <p>3 With regard to the trees that are shown on</p> <p>4 your visual impact study, Mr. Masters, the ones that</p> <p>5 are there, you know, in the photographs at that time,</p> <p>6 did you consult with an arborist or a forester to</p> <p>7 determine whether any of the trees that are slated to</p> <p>8 remain are dead, diseased or dying?</p> <p>9 A. I did not.</p> <p>10 Q. And with regard to the trees that are</p> <p>11 slated to remain if this application were to be</p> <p>12 approved, the site plan design ordinance, I think it's</p> <p>13 in Section like 225-78, talks about the fact that trees</p> <p>14 should be preserved and enhanced whenever possible in</p> <p>15 designing any site plan. So my question is whether any</p> <p>16 consideration was given by the Applicant is</p> <p>17 contemplated in the ordinance that trees that are to</p> <p>18 remain be placed or be subject to a conservation</p> <p>19 easement?</p> <p>20 A. Not to my knowledge, but I'm sure that's</p> <p>21 something in terms of the category of reasonable</p> <p>22 conditions that perhaps the Board might want to impose</p> <p>23 on the application.</p> <p>24 Q. And with regard to the trees that you do</p> <p>25 show in your visual impact study, it appears that some</p>	<p style="text-align: right;">Page 114</p> <p>1 trees may be located on the DPW property, and some</p> <p>2 trees may be located on an adjoining property; is that</p> <p>3 an accurate statement?</p> <p>4 A. I would say that's a strong possibility.</p> <p>5 Q. So with regard to my last question --</p> <p>6 excuse me -- as to a conservation easement, the</p> <p>7 Applicant with the consent of the municipality would</p> <p>8 only be able to agree to the imposition of a</p> <p>9 conservation easement on the property which it owns and</p> <p>10 controls; correct?</p> <p>11 A. That is correct. They would have no</p> <p>12 control over what an adjoining property owner might</p> <p>13 want to do to the trees that are located on their</p> <p>14 property.</p> <p>15 Q. And with regard to the site plan design</p> <p>16 standards that are set forth in the Township ordinance,</p> <p>17 I believe you would recall that those standards and</p> <p>18 requirements, including those for safe, efficient and</p> <p>19 convenient movement of vehicular traffic and parking</p> <p>20 within the proposed development; correct?</p> <p>21 A. I assume you're heading towards the</p> <p>22 500-foot length of road requirement?</p> <p>23 Q. Well, we'll get there in a minute.</p> <p>24 A. With the associated turn-offs and so forth</p> <p>25 involved with that?</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. Right. You want to address that?</p> <p>2 A. Sure.</p> <p>3 Q. Go ahead.</p> <p>4 A. The driveway that accesses the site from</p> <p>5 Millbrook Road, number one, already exceeds the</p> <p>6 500-foot length requirement. And I would note that I</p> <p>7 think it's important to remind everyone that that</p> <p>8 particular standard within the design standards is</p> <p>9 really prefaced on the concern over the Great Swamp</p> <p>10 Watershed overlay zone. It states that -- and it</p> <p>11 pertains to what's described as private roads, and the</p> <p>12 overall objective, planning objective of that</p> <p>13 provision, as far as the Township policy is concerned,</p> <p>14 is to encourage narrow low impact private roads within</p> <p>15 the watershed overlay zone.</p> <p>16 Now, as I read the Harding Township Zoning</p> <p>17 Map, and again everyone who wants to feel free to jump</p> <p>18 in if I'm interpreting this incorrectly, but it appears</p> <p>19 pretty much the entire Township of Harding is situated</p> <p>20 within the Great Swamp Watershed Overlay Zone. It</p> <p>21 appears that the only area outside of the Great Swamp</p> <p>22 Watershed Overlay Zone is the extreme northerly point</p> <p>23 of the Township, the northern end of Jockey Hollow. So</p> <p>24 essentially it governs the entire municipality, but its</p> <p>25 purpose is to lessen stormwater runoff relative to the</p>	<p style="text-align: right;">Page 116</p> <p>1 Great Swamp Natural Wildlife Refuge. And I would note</p> <p>2 that while the access road exceeds 500 feet, and my</p> <p>3 calculations show it to be at about 720 feet, that</p> <p>4 720 feet already exists. We're not building a 720-foot</p> <p>5 long access road off of Millbrook Road to get to our</p> <p>6 monopole.</p> <p>7 If you look on the site plan we're</p> <p>8 extending a small driveway off of that driveway that I</p> <p>9 calculate to have a total length of about 75 feet. And</p> <p>10 that wraps around the front or easterly side of the</p> <p>11 existing recycling shed back to the location of the</p> <p>12 compound so that service technicians can access the</p> <p>13 compound to service the equipment. And I would suggest</p> <p>14 that while the existing 720 give or take driveways</p> <p>15 being extended by an additional 75 feet, that that</p> <p>16 additional -- that number one, it's being extended over</p> <p>17 what, again, is compacted. It's not pavement from the</p> <p>18 standpoint of impervious surface, but it certainly is</p> <p>19 from a practical standpoint in terms of water</p> <p>20 percolation because it's compacted gravel.</p> <p>21 My conclusion would be that adding a</p> <p>22 75-foot driveway to that existing 720-foot long</p> <p>23 driveway would not have a significant impact on</p> <p>24 stormwater runoff to the Great Swamp National Wildlife</p> <p>25 Refuge.</p>

<p style="text-align: right;">Page 117</p> <p>1 CHAIRMAN FLANAGAN: Let me jump in here, 2 Mr. Masters. We have six minutes left tonight. Mr. 3 Simon, I imagine you're not quite done yet, right? You 4 have more than six minutes of questions? 5 MR. SIMON: I am not even remotely close to 6 being done, yes. 7 CHAIRMAN FLANAGAN: Why don't we take these 8 last few minutes here. I just wanted to talk about, 9 you mentioned some planning discussions we wanted to 10 have at the end of the night so why don't we have that. 11 And Mr. Schneider, I will say regarding the stormwater 12 runoff, I suggest you speak with -- Steve, speak with 13 Paul. I do know that in the Township when renovations 14 or modifications are made to properties they do need -- 15 and correct me if I'm wrong, Paul, and Steve, but they 16 need to be brought up to code regarding stormwater 17 runoff. 18 Personally I went to modify a patio which 19 required the installation of drywells and all that good 20 stuff. So just be cognizant of it because there is 21 something there. Anyway, Mr. Simon, you wanted to talk 22 about, or I wanted to talk about your plans. So I 23 guess you want to continue with your cross-examination 24 of Mr. Masters next month, and then you want to bring 25 in some witnesses?</p>	<p style="text-align: right;">Page 118</p> <p>1 MR. SIMON: So, let me just get -- I'm 2 assuming, or at least I have on my calendar, that the 3 next hearing is on May 20th; is that accurate. 4 SECRETARY TAGLAIRINO: Yes. 5 CHAIRMAN FLANAGAN: Lori, can you confirm 6 that? Okay. Yes, it is. 7 MR. SIMON: So with regard to May 20th, you 8 know, certainly a bulk of that will be taken up by my 9 continuing questioning of Mr. Masters. 10 CHAIRMAN FLANAGAN: Bulk of what? So how 11 many hours do you think? Are you assuming a full 12 meeting? 13 MR. SIMON: Yea, well, and again, I 14 explained this actually to Steve Mlenak earlier today 15 to try to help plan a little bit to assist the Board. 16 It's incredibly difficult admittedly to estimate, you 17 know, how long a cross-examination takes, because of 18 course it takes two to tango and answers may lead to 19 other questions, et cetera, et cetera. 20 I will tell you that I have well more than 21 an hour. Do I have two hours? I don't know, but I 22 have definitely more than an hour of questioning. You 23 know, maybe an hour and a half, but I don't want to the 24 be necessarily tied to that. That's my good-faith 25 estimate.</p>
<p style="text-align: right;">Page 119</p> <p>1 And then of course, Mr. Chairman, we have 2 questions, I'm assuming there's going to be some 3 questions from members of the public. There will be 4 maybe some additional questions from Board Members. 5 There will be, I assume, some redirect from Mr. 6 Schneider. 7 CHAIRMAN FLANAGAN: Let me -- so from where 8 I sit, I don't know what we're going to have next month 9 in terms of residential applications. I can tell you 10 it's picking up. We may end up doing something similar 11 -- and Lori is shaking her head yes. So we may end up 12 doing something similar to what we did this month. 13 SECRETARY TAGLAIRINO: We have three. And 14 it depends if we have any carryovers from the Special 15 Meeting and part of that is the appeal which that's 16 going to be a lot of work. 17 CHAIRMAN FLANAGAN: Right. If the appeal 18 begins that's going to be a lot of work. So we may end 19 up in the situation where we do what we did this month 20 again next month, where we have basically an entire 21 meeting for this application. And if I'm going to do 22 that I don't want to waste any time. And if your 23 cross-examination could take an hour, it could take 24 two, and I won't hold you to it, but that still leaves 25 time. So I'd like you to be prepared if you're going</p>	<p style="text-align: right;">Page 120</p> <p>1 to have witnesses have them with you tomorrow night -- 2 or next -- assuming that we're going to have a 3 dedicated meeting I'd like you to have one of your 4 witnesses with you so we can get into it in case we 5 have time at the -- well, assuming we will have time at 6 the end. 7 MR. SIMON: Of course. I expected that and 8 that's totally a reasonable request. You're correct. 9 CHAIRMAN FLANAGAN: Good. All right. 10 MR. SCHNEIDER: Before we do, out of 11 fairness, could we identify who the intended witnesses 12 are? 13 MR. SIMON: Well, I'm certainly going to 14 have a professional planning witness who will be here, 15 I believe, available next month. I was told he would 16 be here and available next month, barring any 17 scheduling conflicts. 18 I will also have at least one other witness 19 to authenticate some photographs that were taken of the 20 surrounding area. I also anticipate having clients 21 testify, you know, providing obviously factual 22 testimony with regard to the application. 23 So certainly between all of that that will 24 more than, you know, take up, plus my cross-examination 25 will more than take up the next meeting.</p>

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1 MR. SCHNEIDER: That's fine. I just wanted
2 to get an understanding of the nature of the witnesses.
3 MR. SIMON: Yes. More than fair.
4 CHAIRMAN FLANAGAN: So as I look down the
5 road a little bit here, we think we have next month
6 where Mr. Simon you finish your cross-examination of
7 Mr. Masters. You present some testimony, and it sounds
8 like maybe you probably won't finish your witnesses
9 next month?
10 MR. SIMON: No, probably not.
11 CHAIRMAN FLANAGAN: Which leads us into
12 June. And do you think it's feasible you'll finish
13 your witnesses in June, assuming you'll have another
14 full meeting?
15 MR. SIMON: Again, I don't want to be held
16 to it, but it's feasible, certainly. I mean, of
17 course, Mr. Chairman, it's subject to
18 cross-examination, rebuttal, all that kind of thing.
19 CHAIRMAN FLANAGAN: Of course.
20 MR. SIMON: But can I just bring to the
21 Board's attention. I think -- Lori, is the meeting
22 after that June 17th?
23 SECRETARY TAGLAIRINO: Hold on one second,
24 please.
25 CHAIRMAN FLANAGAN: Yes, it is June 17th.

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1 just so everybody knows, there was an exceptional case
2 today where I sent out the emails for the meeting. The
3 Agendas every month are found on the Harding web page.
4 They are under Documents and Forms and then there's an
5 Agenda tab, and they are there ten days before. If
6 it's nine days before it's only because I have to make
7 sure all the noticing is done properly for the
8 Applicants, but it's usually the ten-day mark they can
9 be found up on that web page.
10 You can always call me and ask me and I can
11 send you one personally, but they are up on the web
12 page.
13 CHAIRMAN FLANAGAN: Okay. Mr. Schneider,
14 or Mr. Simon, do you have any other thing you want to
15 share with us tonight?
16 MR. SCHNEIDER: No. I'll make two quick
17 comments. We'll grab the mutual extension of time of
18 the Shot Clock to the May meeting. For purposes of the
19 record we're carrying it to May 20th, I think is the
20 day?
21 CHAIRMAN FLANAGAN: Yes. The Board
22 consents to the extension and May 20th is the next
23 meeting.
24 MR. SCHNEIDER: All I would ask out of
25 respect for both Mr. Simon and Mr. Mlenak, if they're

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1 Lori, you confirm, but --
2 MR. SIMON: Yes. I am available that
3 evening. The only reason why I'm raising the date now
4 is that that is a graduation day for one of my kids,
5 high school graduation, which is currently scheduled to
6 take place earlier in the day, I think, because it has
7 to be of course outside and take into consideration
8 potential late afternoon thunderstorms. But if that
9 gets moved later, you know, in the day into early
10 evening I will be late. I don't anticipate it
11 happening, but I just wanted in fairness to Mr.
12 Schneider and the Board make you aware of that.
13 MR. MLENAK: I will add to that, Mr.
14 Flanagan. I did not anticipate bringing it up tonight,
15 but since we are talking about June I believe I will
16 have a conflict that night as well.
17 CHAIRMAN FLANAGAN: All right. I'll tell
18 you what. One month at a time. We'll worry about May
19 then we'll worry about June. But I hear you both.
20 SECRETARY TAGLAIRINO: No, go finish but I
21 have to say something before we wrap it up. That's
22 all.
23 CHAIRMAN FLANAGAN: Go ahead. I'm done.
24 SECRETARY TAGLAIRINO: All right. So there
25 was a question about notification. So going forward

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1 not going to be available for the scheduled June
2 meeting, and I agree we can deal with it in May, let's
3 just give some advance thought so we don't lose the
4 whole month to some alternate date for this
5 application. Maybe we can flip flop and put your
6 residentials on on the regular June meeting and
7 schedule a special for this at a date for both Mr.
8 Mlenak and Mr. Simon and I'll make myself available.
9 CHAIRMAN FLANAGAN: Thank you. That sounds
10 reasonable. We'll deal with it next month. But Steve
11 and Mr. Simon, if you can just let us know. Well, Mr.
12 Simon, you're not going to know until the day of. I
13 guess, right?
14 MR. SIMON: Yes, but I mean, Mike, to be
15 honest, I don't anticipate having a conflict in June,
16 but I just want to let you know that if there's
17 some crazy weather thing or COVID thing that's the
18 schedule.
19 CHAIRMAN FLANAGAN: Well, let me ask --
20 Steve, are you definitely not going to be available in
21 June?
22 MR. MLENAK: I have another meeting that
23 night. I would have to shuffle and somebody else will
24 have to cover one of the meetings for me, but I
25 mentioned it because Mr. Simon suggested he may have a

<p style="text-align: right;">Page 125</p> <p>1 conflict.</p> <p>2 CHAIRMAN FLANAGAN: Okay. We'll deal with</p> <p>3 it next month. But Mr. Schneider, fair enough, as soon</p> <p>4 as we can we will make any adjustments we need to.</p> <p>5 MR. SCHNEIDER: Okay. So we will see you</p> <p>6 next month then.</p> <p>7 CHAIRMAN FLANAGAN: All right. Is there</p> <p>8 any other business before the Board?</p> <p>9 SECRETARY TAGLAIRINO: It's McKinley's</p> <p>10 birthday.</p> <p>11 CHAIRMAN FLANAGAN: Happy Birthday,</p> <p>12 McKinley.</p> <p>13 MR. MLENAK: Just Mr. Chairman, we have to</p> <p>14 announce on the record this is being carried without</p> <p>15 further notice to May.</p> <p>16 MR. SCHNEIDER: Right. So the matter is</p> <p>17 carried to May 20th at 7:30 p.m. The public will not</p> <p>18 receive any additional legal notice.</p> <p>19 CHAIRMAN FLANAGAN: Carried without any</p> <p>20 further notice. Is that good for you, Steve?</p> <p>21 MR. MLENAK: Yes.</p> <p>22 CHAIRMAN FLANAGAN: Lori, what was that?</p> <p>23 SECRETARY TAGLAIRINO: Check the web site</p> <p>24 for the agenda.</p> <p>25 CHAIRMAN FLANAGAN: Thank you everybody.</p>	<p style="text-align: right;">Page 126</p> <p>1 We're adjourned.</p> <p>2 MR. SIMON: Thank you.</p> <p>3 MR. SCHNEIDER: Thank you.</p> <p>4 (Whereupon, the hearing for this</p> <p>5 application concludes at 11:04 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 127</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, IRIS LA ROSA, a Notary Public and Certified</p> <p>4 Shorthand Reporter of the State of New Jersey, do</p> <p>5 hereby certify that the foregoing is a true and</p> <p>6 accurate transcript of the testimony as taken</p> <p>7 stenographically by and before me at the time, place,</p> <p>8 and on the date hereinbefore set forth.</p> <p>9 I DO FURTHER CERTIFY that I am neither a</p> <p>10 relative nor employee nor attorney nor counsel of any</p> <p>11 of the parties to this action, and that I am neither a</p> <p>12 relative nor employee of such attorney or counsel, and</p> <p>13 that I am not financially interested in the action.</p> <p>14</p> <p>15</p> <p>16 IRIS LA ROSA, CSR, RPR</p> <p>17 Certificate No. 30XI 00162800</p> <p>18 Dated:</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

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