

1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Gonzalez, Mr. Stern, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Isaacson, Mr. Meyer

3. SWEARING IN OF PROFESSIONALS

Mr. Terence Vogt, P.E., P.P., C.M.E. was sworn.

4. MEMORIALIZATION OF RESOLUTIONS

1. SP 1948C Yeshiva Orchos Chaim

410 Oberlin Avenue South Block 1600, Lot 12

Amended Preliminary and Final Major Site Plan for an addition to existing school

Mr. Jackson said the applicant had requested relief regarding sidewalks and he had done proposed alternative language. Mr. Sabel was not satisfied with that language, so it was changed to indicate ‘sidewalks shall be installed and completed near the school drop off location along the side of the building leading to the playground area.’ He listened to the audio and that is what the motion was and that is what the resolution says so it is his recommendation to adopt the resolution. He advised the applicant’s attorney that he can address it under correspondence or make an application afterward to modify the resolution if he comes forward with a transcript which shows different testimony and then they would consider it. The applicant was anxious to get the resolution adopted so it is his recommendation to adopt the first modified resolution that includes the language about the sidewalks as that is what the board voted on and that is what was approved.

A motion was made and seconded to approve the resolution.

2. SD 2383 Zissel Scheinerman

603 Ocean Avenue Block 189, Lot 173

Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

3. SD 2323 Yecheskel Piotrkovski

30 Gudz Road Block 11.30, Lot 13

Extension of Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

4. **SP 2255 Cheder Toras Zev**
1000 West Cross Street & 950 Cross Street Block 494, Lots 2.01, 3, & 4
Extension of Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

5. **SD 2337 Chaim Tzvi Herskowitz**
Towers Street Block 855.03, Lot 37
Extension of Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

6. **SD 2374 319 Cedar Bridge, LLC**
Stonewall Court Block 548.06, Lots 170.60 & 170.61
Minor Subdivision to adjust lot line

A motion was made and seconded to approve the resolution.

7. **SP 2316 Lakewood Township**
9th, 10th, and Lexington Block 113, Lots 1-5
Courtesy Site Plan review for a parking lot

A motion was made and seconded to approve the resolution.

5. PUBLIC HEARING

1. **SP 2309 Congregation Chayei Yisroel**
11 Gudz Road Block 11.04, Lots 4 & 18
Preliminary & Final Major Site Plan for a shul

A review letter prepared by Remington & Vernick Engineers dated March 27, 2019 was entered as an exhibit.

Mr. Meyer stepped down.

Ms. Morris said the board heard testimony at the last meeting and she believes the last item to discuss were concerns that a neighbor had about buffering. The applicant provided two alternative layouts to address those concerns which were reviewed by the board engineer.

Mr. Vogt said two concept layouts were provided, Layout A and Layout B. The proposed building design is not changed between the two different layouts. Both of the proposed layouts provide 55 off-street parking spaces, which would not require relief. Layout A proposes that the synagogue would be located 20 ft from the southerly side line, a 24 ft wide two-way access driveway from Gudz Road will be proposed on the north side of the property. In comparison, Layout B proposes a one-way circulation around the synagogue with the building centered between the side lines, two proposed one-way 14 ft wide access driveways from Gudz Road would form a clockwise loop around the site. As indicated in the review of Layout A, a variance is necessary from buffer requirements as well as parking which would be located within 5 ft to a side property line. Layout B would require a variance from buffer requirements only.

Mr. Herzl said Layout B would require less relief.

Mr. Vogt said that is correct.

Mr. Brian Flannery, P.E., P.P. was sworn. Layout A is considered the alternate plan, Layout B is consistent with what was submitted by the applicant. The plan shows a 6 ft fence with landscaping on the north and south sides on Layout B across the whole developed portion of the site. Layout A shows the fence and landscaping on the south side. Per the ordinance, if a 20 ft buffer is provided then a fence and landscaping is not required. Layout B, which is what was originally proposed, is similar to other shuls that are approved in town and his interpretation is that it requires no relief. In Layout B, they do not have 20 ft, so they are providing a buffer and a fence along the whole area. In his interpretation, that is compliant. He reviewed Layout A with the neighbor and he does like the layout unless they provide the fence and landscaping which is not required when the building is moved. The circulation, from the applicant's perspective, is better in Layout B as you come in one-way and you go out one-way and it separates the movements. His interpretation is the ordinance says they can have parking within 5 ft which is compliant as they have a parking drive within 5 ft, they provide the fence and shrubs required and he believes Layout B is compliant. Layout A does need relief as they pushed everything further away which made it 2 ft from the neighbors to the north who are not complaining. They would still get the fence and buffering but they are pushing everything towards other neighbors to get away from one neighbor, they are concentrating all of the movements and they are making the traffic circulation not work as well. Layout B is far superior, it does not need relief and it provides buffering. If the applicant leaves the existing 20 ft along the whole side, then that is probably 6 trees which doesn't do any good. The applicant would certainly ask for relief the board engineer says they need which they certainly have justification for as the plan proposed is far superior than leaving 20 ft of existing vegetation which is sparse.

Mr. Herzl asked him to discuss what is being proposed in Layout B.

Mr. Flannery said on the northern boundary, there is 275 ft of 6 ft high fence and landscaping in accordance with the ordinance. On the south side, they would be providing a 33 ft setback. He is on the south side, so they provided a buffer before the driveway of 8 ft. On the northside, they provided 5 ft which meets ordinance requirements, so the neighbor is getting 3 extra feet, the 6 ft fence and landscaping. They have agreed to provide 6 ft arborvitaes along the south side whereas the ordinance requires 4 ft. The applicant is going beyond ordinance requirements to appease the neighbor and providing a plan where the benefits outweigh any detriments.

Mr. Herzl asked if the Simcha hall will only be used for shul use and it will not be used for outside Simchas.

Ms. Miriam Weinstein, Esq. said that is correct. It is only for Shabbos use.

Mr. Herzl opened to the public, seeing no one come forward, he closed to the public.

A motion was made and seconded to approve the application with proposed Layout B.
All were in favor.

2. SP 2310 The Parke at Lakewood, LLC

752 & 688 Cross Street Block 524; 524.23, Lots 2.03 & 77.02; 1
General Development Plan for a Planned Unit Development

A review letter prepared by Remington & Vernick Engineers dated January 28, 2019 was entered as an exhibit.

Mr. Jackson said Mr. Herzl is stepping down for this application out of an abundance of caution. He does not necessarily believe he has a conflict but some of the principals of the applicant's shop in his grocery store, so he will step down being that this matter is being highly contested, and it is already in court. He has also had extensive discussions with Mr. Rennert and his employer requested that he not be involved in this case on the basis that it could cause problems with the bank he works with, so he will step down as well. Both Mr. Fuentes and Mr. Garfield live in the neighborhood in question and their association dues, in part, would be funding the objector of this application so on that basis he has determined that they should step down as well. He has had discussions with Mr. Sabel and he has indicated that he will not sit on this application as he got from him that there was a sense of general discomfort with the application based on the context and some of the controversy he felt that could influence his decision and he wanted to step down as well. He does not believe there are any issues with Mr. Flancbaum sitting on this application. He has recommended to Ms. Zografos that she not sit on this application on the basis that she is a named defendant in a case brought by the objectors in this case contesting her ability to sit on the board. Since Ms. Zografos is the Mayor's designee, he thought it be prudent to also recommend that the mayor also not sit on this case. Committeeman Ackerman has voted against zoning that would have enabled the applicant to go forward and he has received the advice of the municipal attorney that he has a conflict. Therefore, that would leave them with four members who are authorized and did not have conflicts which would prevent them from going forward. He asked that the Zoning Board secretary, in accordance with the statute, send the most senior Zoning Board member to sit on the case. The first senior member could not attend, so the second most senior member is present (Mr. Gonzalez). One of the ministerial duties they have to do is to appoint an interim chairman for purpose of this meeting. He asked for a motion to appoint Mr. Stern as acting chairman in connection with this matter.

A motion was made and seconded to appoint Mr. Stern as acting chairman for this matter.
All were in favor.

Ms. Morris believes Mr. Liston has questioned who is sitting on the board.

Mr. Edward Liston, Esq. representing the Fairways at Lake Ridge Homeowners Association. He has a conflict issue to raise with regard to Mr. Flancbaum. Mr. Flancbaum, as he understands it, served as the chairman of the Density Committee during the meetings that led up to the Master Plan and the zoning ordinance. It is his understanding that as a member of that committee, he very much was in favor of the zoning that was placed on this property which allows this application to proceed and that he voted in favor of as the chairman of the density committee. That being the case, if Mr. Ackerman is conflicted out because he voted against the zoning, certainly Mr. Flancbaum, who was very much in favor of that zoning as chairman of the density committee should also be subject to the same conflict of interest and he would ask that he step down and recuse himself.

Mr. Jackson asked Mr. Flancbaum if he believes his involvement in that committee would in any way prevent or hinder him in exercising his duties as a Planning Board member. Those duties would be to listen to the facts and the evidence and make the decision solely based on the facts and the evidence and the law.

Mr. Flancbaum said he was chairman of the Master Plan advisory committee; he was not appointed the chairman of the density committee. The chairman of the Density Committee had to resign due to health issues and as chairman of the advisory committee, he acted as chairman of some of the density subcommittee meetings. There

were some public hearings which were specific to the density subcommittee where he did step in to chair as he was chairman of the advisory committee.

Mr. Jackson asked if he believes if his involvement could in any way affect or influence his decision.

Mr. Flancbaum said no.

Mr. Liston would like to ask some follow up questions.

Mr. Jackson said to move on.

Mr. Liston believes there is a clear conflict of interest. He asked Mr. Flancbaum to recuse himself based on his involvement with the zoning which he helped propose for this property.

Mr. Paul Schneider, Esq. representing the applicant. He asked since they are going forward, if the notice was properly given and in order.

Mr. Jackson does not give an advisory opinion on the notice. The board secretary is satisfied that the request proofs of service have been filed. The content and substance of the notice is not something they give an advisory opinion on.

Mr. Schneider asked if the board secretary received their notice package.

Ms. Morris confirmed.

Mr. Liston said he is not contesting the adequacy of the notice.

Mr. Schneider said they are here tonight for a general development plan (GDP) application and as noted, it is controversial. It involves the development of a portion of the Eagle Ridge Golf Course. He is not here all the time but if this board is like most Planning Boards, GDPs do not come before this board all that often. So, the question is, what is an application for a GDP. A GDP is in essence a prequel to an application for preliminary site plan and subdivision approval. It is not a short cut; it is an extra step. It is provided for in the Municipal Land Use Law (MLUL) for planned development which typically are larger developments expected to take a number of years to complete. While the MLUL seems to indicate it is optional with the developer, the Township's ordinance established GDP development in the R-40 zone indicates it is a necessary first step. Assuming this board were to grant the GDP approval, it would show the fundamental whys and wherefores of this plan and then they would still have to go through a full preliminary and final site plan/subdivision approval process. Under the ordinance, there are certain variances one can ask for at this phase 1 GDP stage, but this is an application which involves no variances whatsoever. It fully conforms with the PUD ordinance requirements in accordance with the ordinance adopted in late 2017. It is controversial, there are lawsuits and attempts to stop the board from hearing this case, but the judge decided to let the board do its job and consider this application on its merits in accordance with the ordinance and the MLUL. He is unsure where the objectors are headed but they have every right to pursue judicial relief and just like the court left it to this board to consider this application, he thinks all of the arguments that are being made in court should be left in court. Tonight, the board will hear testimony from John Palus, the site engineer, Justin Taylor, the traffic engineer and Brian Flannery who would testify as to its fully conformance with the ordinance and certain other planning related provisions.

Mr. Jackson said they have had some discussions about whether this GDP could be considered a by-right application or whether it was something that the board had the discretion and the authority to not grant. He asked what their position is concerning that issue.

Mr. Schneider said if the evidence establishes that all of the criteria in the ordinance are satisfied and there are no variances being sought then they would have the right to the GDP approval and then start the process of the preliminary and final site plan/subdivision approval.

Mr. Liston said this board under the statute definitely has the power to deny the GDP application under NJSA 40:55D-45 which states in order to approve a GDP, the Planning Board shall find the following facts and conclusions: 'a. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards; b. That the proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate; c. That provision though the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate; d. That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established; e. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interest of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.' He believes the board has discretion with regard to all of those criteria.

Mr. Stern asked what the interaction between the ordinance and the statute is.

Mr. Liston said the statute governs the ordinance. The statute is state law and it is paramount to whatever the ordinance says. If the ordinance conflicts with the statute, the statute governs.

Mr. Jackson thinks to the extent that the statute is more stringent, that they are both applicable. He believes you have to meet the standards of both if the ordinance is more stringent than the statute in this context because the statute specifically says the ordinance shall lay it all out.

Mr. Liston was about to point out, and he thinks it goes to the reason this room is full of citizens who are very unhappy with this proposal, 'd. that the proposed planned development will not have an unreasonably adverse impact on the area in which it is proposed to be established.' Based on his knowledge of this application, there is no way that the board can in good conscious, and consistent with good planning, ever make that determination on this application.

Mr. Schneider said the provisions of the MLUL have to be read in conjunction with the ordinance. The very first provision of NJSA 40:55D-45 Section a. refers to the ordinance. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards. They plan to offer evidence that this fully conforms with the zoning ordinance standards.

Mr. Stern said this is a procedural issue. The question is whether it is by-right that this board has to hear it, but he is looking at the ordinance which says 'shall' and then the statute lists all of these conditions. He questioned whether the board has to vote on whether they should hear this GDP.

Mr. Schneider said the board has to hear it, otherwise it would be automatically approved.

Mr. Jackson said the board does have to hear it. He has looked into this very closely and there are cases which talk about by-right applications in the context of site plans and subdivisions where the courts have ruled that when an applicant meets all of the criteria then the board is constraining to approve the application. He thinks that emanates from the principal that a board's action cannot be arbitrary or capricious. So, if an applicant meets all of the criteria, what the board would then deny an application when it meets all of the criteria would have to be arbitrary and capricious because they could not point to something which says they do not comply. He understands that with a site plan and a subdivision, because there are almost mechanical components of the application, it can

be objectively determined whether an application meets those criteria. He was unable to find any cases or a court order that there was a by-right approval for a GDP. He thinks when you analyze what a GDP is and the findings that the board makes, he thinks it is necessary a subjective finding that the board must make and since that is the case, he believes it is more akin to a judgmental call and particularly that the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established. In the case of a proposed development which contemplates construction over a period of years, the terms intended to protect the interest of the public, occupants and the total completion of the development are adequate. Whether the board wants to grant an approval which lasts for a number of years necessarily involves judgement on the part of the board that this will fit, and that it does not have an adverse impact. He thinks what the idea behind the ability to obtain a GDP is, when the board determines that there is a need for the type of facility, that the application proposes and that it is reasonable to give protection against zoning changes for a number of years so that there is enough time for all of the approvals to be obtained and to put in the infrastructure and improvements. He thinks there is a little more to it and the board has to look at the plan and decide that it is something the board is a good idea.

Mr. Stern said the board has to hear it.

Mr. Jackson said yes, the board has to hear the case. At the end of the case, the board will have to make that weighing and he thinks the board will have the discretion to grant a number of years for an approval. He is not saying whether they should or shouldn't, he is advising the board to think about that in the context of this case not in terms that the board has to but if they should in terms if it benefits the community at large.

Mr. Schneider said that has to be guided by the evidence in the record and the ordinance.

Mr. John Palus, P.E., P.P. was sworn. He listed his professional qualifications and was accepted by the board.

Mr. Liston questioned if he has worked for any public bodies.

Mr. Palus said no.

Mr. Liston asked if it has been related to land use development or other aspects of engineering.

Mr. Palus said land use.

Mr. Liston asked what other firms he has worked with over the course of his career.

Mr. Palus said Bohler Engineering and Dynamic Engineering.

Mr. Liston asked if he has ever worked on any plans which were the size and scope of this plan.

Mr. Palus confirmed he has been involved in a number of projects.

Mr. Liston asked if any of them were a GDP under the applicable statute.

Mr. Palus said he has worked on GDPs but not for residential.

Mr. Liston asked specifically which GDPs he has worked on.

Mr. Palus said the last one was for an Exxon facility.

Mr. Liston asked if it was a petroleum plant.

Mr. Palus said no, it was their offices.

Mr. Schneider does not see what this has to do with Mr. Palus's qualifications as a professional engineer.

Mr. Jackson agrees, he believes these questions are not necessary or appropriate.

Mr. Liston asked if this is the first and only GDP residential application he has worked on.

Mr. Palus confirmed.

Mr. Palus said exhibit A-1 is an aerial which is a colored version of what was submitted as part of the application, exhibit A-1 is an aerial overlay which includes an overlay of the land use plan on top of the aerial and it has been colored. He has been involved with the project from day one from when they went out and surveyed the overall property. Since that time, they have done a number of layouts, applied to the NJDEP for a CAFRA permit and designed a GDP which is here before the board. Regarding exhibit A-1, Cross Street would be to the north of their property. To the north of the property is the M-1 industrial zone which is comprised of commercial and office uses beyond, to the east is the R-40 zone which is residential with some additional M-1 industrial zone which includes both commercial and residential uses. Directly to the south, there is the border with the Toms River Township which is primarily R-200 residential zone and also Planned Retirement Community zone. Directly to the west is the New Jersey branch main line railway and beyond that is the A-1 agricultural zone and M-1 industrial zone which is comprised primarily of warehouse and office uses and some additional residential uses. The application before the board is for block 524 lot 77.02 and block 524.23 lot 1 with a total area of 166.44 acres. There is a small section of block 524 lot 2.03 which abuts Cross Street and is utilized for access to the subject property and that parcel is located in the M-1 zone. The subject properties are located in the R-40 residential zone. Unlike a standard site plan application, the GDP is little bit different as they do not go into the full engineering design, just the general layout and they look at various elements. So the board is aware, they do not go into heavy detail into the grading, stormwater management components, those are just simple elements of the GDP.

Mr. Schneider said those would have to be gone through in a subsequent subdivision and site plan.

Mr. Palus said that is correct. Subject to approval, this applicant would have to come back for a preliminary and final site plan approval for each phase of that development. The two lots specified are presently developed with the Eagle Ridge Golf Course which is 18 holes and the clubhouse. There is an additional lot to the south which is not part of this application which is an additional 9 holes so that golf course overall has 27 holes. There are three small pockets of isolated wetlands that are located on the property throughout the golf course itself. There is also a small existing pine snake habitat located on the southern portion of the site adjacent to the Township of Toms River.

Mr. Schneider asked if there is any proposal for disturbing those wetlands and pine snake habitat.

Mr. Palus said under the CAFRA approval, which was obtained in January of 2018, the wetlands were identified, and they have a general permit #6 which will allow the filling of those three small wetlands pockets because they are isolated areas. The pine snake area will remain as is and untouched. The total area of all three is under 15,000 sf so they are very small. There is a small pocket on the western side of the property adjacent to the landfill and there are two small pockets all the way on the south side. That was all approved by the NJDEP, permit #1500-04-005.3. As far as the overall application, relative to the zoning, they are a variance free application and conforming to the zoning. They are proposing a total of 556 residential units, 517 of those units are duplex units located on individual lots, 39 units are duplex units located on common property. They also identify four separate community center buildings and the existing clubhouse on the golf course will remain as is.

Mr. Jackson asked how many total households are proposed. He knows in that zone basement apartments are permitted.

Mr. Palus said the question whether they can have basement apartments would come up at time of site plan and subdivision.

Mr. Jackson would still like to know the total number of units if basement apartments are proposed. As a general proposition, the board has typically viewed that with the idea that anyone in Lakewood can get a basement apartment on a permit. The board often likes to know how many potential households if the units were developed that way.

Mr. Stern said since 556 duplexes are proposed, they could have 1,112 units.

Mr. Palus said the overall impervious coverage on site is just over 30% whereas the ordinance allows 50% so substantially less than what the ordinance allows. There is an access point to Cross Street up at the northwest corner of the property which will be a proposed signalized intersection. They also will keep the access to the golf clubhouse which comes to Augusta Boulevard. They did prepare a full 3-D model which essentially is a visualization of a 3-D rendering of the plan that is depicted on exhibit A-2.

Mr. Jackson asked where the clubhouse will be located.

Mr. Palus said it is located at the northeast corner of the property.

Mr. Jackson asked who would retain ownership of that clubhouse and what is the vision for that facility.

Mr. Palus thinks it will remain as part of the golf course and he will get into the overall phasing of the overall golf course but through phase 1, he believes they may be able to keep all 27 holes open and they may be able to consolidate it within the driving range component. Those are all elements they would decipher a little bit more when they get into the site plan stage but phases 2 and 3, they may be able to keep 18 holes of the golf course open. That is going to extend the life of the full golf course and then at some point it may be reduced to the 9 holes that are at the southwest corner of the property.

Mr. Jackson said the plan calls for keeping 9 holes ultimately.

Mr. Palus said that is correct, those are located offsite.

Mr. Jackson asked if they are visible on the exhibits.

Mr. Palus said they are located at the southwest corner of the site, located just northeast of the corner of Jackson and Toms River.

Mr. Jackson asked if that will in any way be restricted for future development or will it always be a golf course.

Mr. Palus said it is not part of the application, so he cannot comment.

Mr. Palus detailed a video presentation which the applicant prepared. It has been marked as exhibit A-3.

Mr. Stern asked if the applicant will own the golf course.

Mr. Schneider believes the 9 acres and the golf course is leased.

Mr. Stern said 18 of the holes are owned by the applicant and the other 9 they do not own.

Mr. Schneider said that is correct.

Mr. Stern questioned the length of the lease.

Mr. Schneider does not know. They are not part of this application.

Mr. Vogt believes the 9 holes in question is what is known as the former Cross Street landfill so that is a Township facility. There is a solid waste landfill that has been closed using a 9-hole golf course as part of the closure plan which is currently under the Township in a 30-year post-closure phase and it is regulated by the NJDEP.

Mr. Stern asked who is currently running that golf course.

Mr. Vogt believes it is a private entity.

Mr. Schneider said that is correct, it is an affiliate of the applicant.

Mr. Stern said then an affiliate of the applicant will have control of that 9 acres which are leased from the Township.

Mr. Palus said the open space is defined by the Lakewood Unified Development Ordinance (UDO) and are areas not covered by building structures of any kind, streets or other surfaces paved with impervious materials. The ordinance requires a 50% maximum whereas they are proposing just over 30%. Final calculations would be provided as part of preliminary and final site plan review which would be submitted back to the board. As far as the open space plan presented to the board, it was prepared in accordance with the MLUL and the common open space areas designated for this development include stormwater management areas, deed restricted tree preservation areas, the four community centers and pedestrian sidewalks which total almost 18.5 acres. The stormwater management areas and the pedestrian sidewalks are to be turned over and maintained by the Township. All other designated areas are to be owned and maintained by the HOA which would be established while under construction. Regarding the local service and utility plan, water is through NJAW and they are proposing an on-site water service loop to run along the residential access roads and connect to the existing water main located within Cross Street. There were some comments from the fire official about location of fire hydrants which would be addressed as part of the preliminary and final site plan. The applicant would obtain the necessary permits from NJAW for the water service as well as the sewer service. On-site gravity sanitary sewer service lines are being proposed as well as a pump station and force main which would ultimately go to the Ocean County Utilities Authority (OCUA). They have confirmed with OCUA that they have the capacity to treat the sewer demand. Electric would be serviced by Jersey Central Power & Light (JCP&L) and they would be developing the site with underground electric connected to service within Cross Street. The gas would be serviced by New Jersey Natural Gas (NJNG) which would also be an underground utility service with the main connection out to Cross Street. Solid waste disposal would either be managed by Lakewood Township or a private carrier which is something they would work through during time of site plan. As for the stormwater drainage component, the development has been designed with the Lakewood UDO for stormwater management requirements. The overall design consists of an on-site conveyance system and three regional above ground basins that detain and infiltrate stormwater runoff from the overall development. They do include runoff that is coming from off-site on to their site and they are not discharging stormwater runoff off of their site. Each residential unit would be designed with a seepage pit to infiltrate the water quality design storm from the roof runoff. Regarding the environmental inventory plan, the proposed development has received the NJDEP CAFRA Individual Permit for development where extensive analysis was completed to show the project's compliance with department standards for all special areas onsite and within the surrounding proximity of the site including but not limited to habitat evaluations of threatened and endangered

species, existing wetlands, steep slopes, etc. The existing deed restricted tree preservation areas to remain on site are just over 41 acres. New deed restricted tree preservation areas associated with the CAFRA Individual Permit is just under 2 acres. The existing pine snake habitat is just over 1 acre and as identified earlier, the existing isolated wetland areas will be filled in accordance with the general permit #6. Regarding the community facilities plan, they are proposing four separate community buildings throughout the development. Referring to exhibit A-2, there is one located on the south side of the property which would be just north of the off-tract 9 hole golf course, there is one all the way at the south end of the property adjacent to the Toms River border, the third is located essentially internal to the site and the fourth is at the northwest corner of the property as well as the existing clubhouse which is at the northeast corner of the overall parcel. As part of the community facilities, they are providing sidewalks within the public rights-of-ways. There are existing pathways from the golf course which would be maintained with the common open space areas. Several school bus shelters have been located along the roadway network for safety concerns. Multiple playground areas, pocket parks and garden centers have been set up throughout the development. The specific design details of the overall community amenities and recreational facilities will be detailed further at time of site plan review. As far as the conceptual staging plan, they have broken the development into five phases for construction. Each phase is anticipated to take one to four years.

Mr. Stern asked him to describe each phase in detail.

Mr. Palus said if you start at the northwest corner of the property which is the closest proximity to Cross Street, phase 1 would be approximately 108 residential units, phase 2 would be 100 units, phase 3 would be 104 units, phase 4 would be 114 units and the final phase would be approximately 120 units. A phasing plan was submitted as part of the application which shows how the phases are broken down.

Mr. Vogt understands the circulation plan is conceptual right now but based on his knowledge and based on the number of units and the geometry, he asked if the circulation design is RSIS compliant.

Mr. Palus said that information would be provided in the traffic engineer's testimony.

Mr. Gonzales asked if the applicant has considered any other type of development in this area.

Mr. Palus said not to his knowledge.

Mr. Liston asked which lots and blocks are involved in this development.

Mr. Palus said block 524 lot 77.02 and block 524.23 lot 1 but they also included lot 2.03 because of the boulevard access to Cross Street.

Mr. Liston asked if lot 2.03 is part of the development.

Mr. Palus said they have an access driveway through it, so they did include it on the drawings.

Mr. Liston asked if the applicant owns the property over which the access driveway runs.

Mr. Palus said yes.

Mr. Liston asked if it makes up the entirety of lot 2.03.

Mr. Palus said it does not.

Mr. Liston asked if his client owns all of lot 2.03.

Mr. Palus said yes.

Mr. Liston asked if there is any other development other than that driveway access planned for lot 2.03 now or in the future.

Mr. Palus said not at this time.

Mr. Liston asked if that driveway currently exists.

Mr. Palus said as proposed, no.

Mr. Liston asked how the site access is now in its present condition.

Mr. Palus said the site is a golf course.

Mr. Liston asked if lot 2.03 was included in the notice.

Mr. Palus does not know.

Mr. Liston asked if lot 2.03 is listed on the plan.

Mr. Palus said yes.

Mr. Liston asked if he has ever been cited or fined by the New Jersey Professional Engineer Board.

Mr. Palus yes, he was given a referral. It involved creating an exhibit to the NJDEP representing an objector which was not signed and sealed. It also referenced a survey which was also not signed and sealed.

Mr. Liston asked if he is an expert in stormwater or groundwater hydrology.

Mr. Palus said he is not a geotechnical engineer.

Mr. Liston said he therefore does not have any real experience with soils and groundwater hydrology.

Mr. Palus said he is involved in stormwater management and he utilizes the geotech report.

Mr. Liston asked if there is anyone else in his firm who handles soils and groundwater hydrology.

Mr. Stern said since this is only a GDP application, he questioned if these questions are relevant.

Mr. Liston said yes because the crux of part of their objection is the fact that open space and groundwater is being disturbed under circumstances where it should not be disturbed and there are changes being made to the hydrology in this area which he thinks will be something they will argue very strongly and prevents this board from giving the approval that is being sought because it so massively changes hydrology, groundwater, and forest preservation areas.

Mr. Schneider would think those would be appropriate conditions in the GDP approval that any site plan or subdivision approval would have to demonstrate compliance with the Township's stormwater management ordinance, the NJDEP stormwater management ordinance and of course all stormwater management, site infiltration, hydrology, receiving requirements of the Township ordinance and of the NJDEP ordinance would all be

conditions of the GDP approval. Whether they added them as conditions or not they would have to satisfy them at the site plan stage anyway.

Mr. Jackson said under the statute, two of the findings are that the physical design of the development for public services, control over vehicular and pedestrian traffic and the amenities, air, light, recreation, and visual enjoyment are adequate but more importantly that the proposed development will not have an unreasonably adverse impact upon the area in which it is proposed to be established. He thinks that a broad view of the issues that Mr. Liston is raising are appropriate for the applicant to address at the GDP level because they go to whether the proposal would have an adverse environmental impact.

Mr. Liston asked Mr. Palus if he is aware that this site is located in a closed depression.

Mr. Palus said he is.

Mr. Liston asked if it is true that there is no outlet to relieve the site of stormwater runoff overflows.

Mr. Palus said in general, that is correct.

Mr. Liston asked if it is true that if the site stormwater facilities do not act as designed, flooding will occur and threats to health, safety and welfare to the public will also occur.

Mr. Palus disagrees with that statement.

Mr. Liston asked if the site stormwater facilities do not act as designed, flooding will occur and the threat to health, safety and welfare could be to the public.

Mr. Palus disagrees with that statement.

Mr. Liston argued then he is saying this will never fail.

Mr. Jackson stated that is not what he said, he said if it fails he does not believe it will be a threat to the health, safety, and welfare of the public.

Mr. Liston asked if he thinks if it fails, flooding will occur.

Mr. Palus said there are potential ponding areas.

Mr. Schneider objected, if anything fails there is going to be a problem. For example, the shul which was just approved by this board, if the supports for it fail and it collapses there is going to be a problem, but you don't approve or disapprove on the basis of what happens if it fails otherwise you can never approve anything.

Mr. Jackson said if it fails Mr. Palus does not think it will be a threat to public health or safety. It is fair to ask what the details of his opinion are as right now as it is a very broad question.

Mr. Palus said that is correct, under what scenario is it failing, how much rain is coming down. Those are all situations without quantifying he cannot really answer. He can say they have designed it in accordance with the UDO, NJDEP, and state statutes. The NJDEP has reviewed this application extensively and approved it based on the merits of their design.

Mr. Liston asked if the NJDEP required the 41.07 acres of existing forest preservation areas remaining to be undisturbed.

Mr. Palus said that is correct.

Mr. Liston asked if the NJDEP required 1.94 acres of additional forested areas be placed under a conservation restriction and remain undisturbed.

Mr. Palus said yes, he testified to that.

Mr. Liston asked if he is aware that the property owner has been pumping water from areas of the golf course and discharging it into the forest preservation areas.

Mr. Palus has no knowledge of that.

Mr. Liston asked if he has walked the forest preservation areas.

Mr. Palus said yes but not all of them.

Mr. Liston displayed photographs of parts of the forest preservation areas which were entered as exhibits.

Mr. Jackson asked where he is going with this.

Mr. Liston said he is trying to show that the owner of the property has been piping water into the forest preservation areas.

Mr. Jackson asked how that is relevant to this application.

Mr. Liston said it would destroy the forest preservation areas.

Mr. Jackson said that is the present owner, they are proposing a different development.

Mr. Liston said the present owner is the same owner that is proposing this development.

Mr. Jackson said this is not a body that punishes misdeeds or makes judgement.

Mr. Liston said if in fact water is being artificially discharged into forest preservation areas, he questioned if that would have any affect on the forest preservation area.

Mr. Jackson said to move on as it has no relevancy to this application.

Mr. Flancbaum said if the owner is doing something they are not supposed to do then they should call the NJDEP.

Mr. Liston asked if it is true that the development requires the installation of 3.69 miles of retaining walls.

Mr. Palus did not calculate it, so he cannot answer that question.

Mr. Liston asked if there are any retaining walls shown on the plan.

Mr. Palus said yes.

Mr. Liston asked that he calculate the length of the retaining walls for the next meeting.

Mr. Jackson said he does not know the answer to the question.

Mr. Liston said he did not see any retaining walls shown on the 3-D presentation. If they are to exist, would they have been shown on that or is it just an advertising gimmick.

Mr. Jackson said that is an unfair question.

Mr. Liston asked if retaining walls were shown on the presentation.

Mr. Palus believes they were.

Mr. Liston asked if some of the walls have heights of up to 25 ft.

Mr. Palus would stipulate that the current plan submitted does not have grading. The GDP proposal does not have that information.

Mr. Liston asked if some of the walls could ultimately be up to 25 ft.

Mr. Palus said that would be subject to the site plan application.

Mr. Liston said there are going to be retaining walls.

Mr. Palus expects that throughout the property there would be.

Mr. Liston asked if they would need to import any fill on this property in order to accomplish this plan.

Mr. Palus said they have not gotten to the site plan design phase.

Mr. Liston argued they have done preliminary engineering and must know whether they would be filling and cutting or not.

Mr. Palus said the ultimate grading and engineering design may change. When he has a site plan application before this board, he would provide that information.

Mr. Liston asked but right now, based on the plan designed, whether there would be any cutting and filling at all.

Mr. Palus did not perform that analysis as part of this application.

Mr. Liston asked if he knows the location of the retaining walls.

Mr. Palus said this plan does not show a grading design.

Mr. Liston said he had stated the plan shows retaining walls.

Mr. Palus believes there are some depicted but they are not designed.

Mr. Liston asked him to point out where the retaining walls are located on the plan.

Mr. Jackson said that Mr. Palus indicated he has not done the design which would include the design for the retaining walls.

Mr. Palus said the retaining walls are primarily located around some of the basins and also around some of the forested areas for protection.

Mr. Isaacson questioned why he is focusing on the retaining walls.

Mr. Liston said the purpose is they are changing the entire landscape of this property which in their position is property which should have been preserved and was ordered to be preserved.

Mr. Isaacson said the property is being developed whether there are retaining walls or not.

Mr. Liston argued it makes the development worse and more intrusive.

Mr. Schneider said the issue of whether this property has to be preserved is before the Superior Court and just as the Superior Court left it to this board to consider the GDP application under the statute and the ordinance, he thinks the board should leave the issues before the court and let the judge decide those issues. That is the key issue in their litigation.

Mr. Jackson agrees, that is not the concern of this board. He requested Mr. Liston refrain from making those comments as they are not relevant.

Mr. Liston asked if he knows what the retaining walls are going to be constructed of.

Mr. Palus does not.

Mr. Liston asked if this project will include a clubhouse facility with associated amenities.

Mr. Palus said there is an existing clubhouse which will remain.

Mr. Liston asked if the project also includes five community buildings and associated parking.

Mr. Palus said there will be four community buildings.

Mr. Liston asked if the project also includes a 23,387 sf retail building and associated parking.

Mr. Palus said no it does not.

Mr. Liston asked when they did their impervious coverage calculations, if they included the existing Township owned golf course property.

Mr. Palus said no.

Mr. Liston asked if there is a change to the state plan that required significant traffic improvements in this area as a result of this project.

Mr. Palus is unsure what he is asking, they do have a traffic engineer to provide testimony.

Mr. Liston said he indicated that there would be an emergency exit and asked that he point it out.

Mr. Palus did not testify to that.

Mr. Liston asked if there are two entrances to the project.

Mr. Palus said no, they have access from Cross Street to the residential development.

Mr. Liston asked if there is another access.

Mr. Palus said the existing access to the golf club facility which would remain.

Mr. Liston said that is Augusta Boulevard.

Mr. Palus said that is correct.

Mr. Liston said that is a limited easement which is a subject matter of a case in the Superior Court challenging his client's right to use it.

Mr. Palus said it is a limited easement, but he cannot speak to the court case.

Mr. Liston asked hypothetically, if they lose the right to use that easement, how that would change the plan.

Mr. Jackson questioned if one of the main access points is over an easement.

Mr. Schneider said no, they are building an RSIS compliant access point from Cross Street which would be signaled in conjunction with improvements and widening the County is doing for Cross Street. That is all they need for this residential development. Today, the golf course is accessed via August Boulevard which is an easement that allows access to the golf course and the clubhouse and the lawsuit says they cannot have access to the residential development, but they do not want or need access to the residential development from Augusta Boulevard.

Mr. Jackson asked if that easement may be extinguished at some point.

Mr. Schneider said it is possible, but he does think it would be due to the existing clubhouse and that is what they propose to use it for.

Mr. Jackson read from Section 18.3 Order of Presentation from the NJ Zoning and Land Use Administration book.

Mr. Liston asked if that easement is denied to the applicant, would that change in any way how they would design this property, would they have to find another access point some where if for no other purpose then for emergency purposes.

Mr. Palus said from his perspective, no.

Mr. Stern opened to the public.

Mr. Shlomo Klein was sworn. He said Mr. Herzl had to recuse himself because the principals of this application shop at his grocery store, but the principal listed on the ownership form does not shop at his grocery store. He questioned who the other principals are.

Mr. Palus does not know.

Mr. Ken Vaehny, 167 Skyline Drive, was sworn. He has pictures of the back of his property which has been flooded for four months. The pictures were marked as exhibits KV 1-8. He is concerned about this project causing additional water to go onto his property and flood his basement.

Mr. Palus has not specifically looked at where his individual lot is but when they submitted their application to CAFRA, they performed a groundwater mounding analysis to ensure that it would not impact offsite properties. He cannot speak about existing conditions and where water is ponding and where the soils are. If it is an existing problem, then it is not based on his design.

Mr. Stern closed to the public.

Mr. Justin Taylor, P.E. was sworn.

Mr. Liston questioned his professional qualifications. He asked if he has ever done a traffic engineering study for a residential project of this size.

Mr. Taylor confirmed he has in Montgomery and Tinton Falls.

Mr. Liston asked when he last worked on a residential GDP.

Mr. Taylor said about 10 years.

Mr. Liston said it is not something he does routinely.

Mr. Taylor said he works on residential development routinely.

The board accepted Mr. Taylor's credentials as a professional engineer and traffic expert.

Mr. Taylor said his responsibility as part of this project was to review the traffic impact of the proposed site as well as to determine whether its conformance lays out with the residential site improvement standards (RSIS). In order to accomplish that, they have conducted traffic counts to get background growth and reviewed the Master Plan and looked to generate traffic for the proposed project. Based on the Master Plan, the site is located within the Transportation Improvement District (TID) #1 within the Township. What that does is the municipality has determined that certain areas will generate traffic and they have associated a fee for each trip in order to account for the traffic impact of the site. This project will be subject to a TID contribution and the trips associated with the project have been quantified and will be assessed as the project is developed.

Mr. Stern asked if it is the fair share mitigation.

Mr. Taylor said no, that is the TID fee they would be charged at a rate of \$727 per trip for the site and it equates to about \$350,000. In the study they did do some fair share mitigation and showed that their fair share would actually be much lower than that. When looking at residential developments, they look to the RSIS to make sure that the roadways, sidewalks and driveways are all designed in accordance with standards set forth by the state. The roadways are classified into different types including major collectors, residential access and minor collectors so as they reviewed the site plan and worked hand in hand with the site engineer, they ensure that not only do they meet all of those standards, but they actually exceed some of the roadway widths as Lakewood has determined they prefer wider roadways and they were able to accommodate that. They are also providing sidewalks on both sides of the roadways throughout the entire development to ensure pedestrian connectivity between the parks proposed and the residents of the site. Also, looking to the Master Plan Circulation Element, look to reduce and minimum the number of cul-de-sacs throughout the development. They were unable to eliminate all of them due

to the unusual shape of the lot, but they have minimized them to promote good circulation throughout the site. The proposed access will be a boulevard from Cross Street following in the southwesterly direction. The reason it is a boulevard is because that it is their sole means of access. The residential parts of this development will not be using the access off of Augusta Boulevard so RSIS requires them, because there is a single point of access, to require what is called a boulevard each with a width of 20 ft to ensure that safe and efficient access can be maintained to the site. Based on that, the layout of the driveway meets the RSIS requirement. They have also looked at the design of the access point with Cross Street and have been working with the County. Based on the analysis provided and the traffic counts that were done, they are looking to propose a traffic signal there which the County is on board with and have started to incorporate within their regional network improvements. The intersection will be designed as a three phase signal and they would be providing a northbound left turn lane into the site, separate left and right turn lanes coming out of the site and a right turn into the site coming southbound. All of that is designed to handle the amount of traffic that is being proposed. The County has improvement projects throughout this area and they have been analyzing not only Lakewood, but the entire County and they have identified a cross section for Cross Street necessary to handle the traffic over the next couple of years. The County is proposing to put in a center turn lane, turning it from two lanes one-way in each direction to a three lane section which would then allow turn lanes at Augusta Boulevard, their driveway and all of the intersections between Route 9 and Veterans. The County is in the final stages of design and based on information provided by the County (exhibit A-4), these improvements will be coming across shortly. Currently the cross section for Cross Street between Route 9 and Augusta Boulevard is in design and approximately 60% complete.

Mr. Meyer asked when the County anticipates completion.

Mr. Taylor does not have that exact information. It is currently in design and they will probably be going to construction later this year or early 2020 as it is 60% complete.

Mr. Meyer asked if there is any possibility of an access on Faraday Avenue as well. He questioned why they are limiting access to just Cross Street.

Mr. Taylor said there is a rail line that runs along the western property border that they cannot cross to get to Faraday. There is a crossing at West Cross and Whitesville and they do not anticipate any ability to actually cross that line other than those two locations.

Mr. Jackson asked if the applicant is able to obtain approval to cross the railway.

Mr. Taylor said it is possible, but the chances are relatively slim given the proximity of those other two crossings.

Mr. Vogt said it is not a simple process and you typically have to contact the state who takes lead and you would go through a diagnostic process team meeting with all of the stakeholders involved. It could be very involved, and it could include signalization and it would have to comply with not only NJDOT standards but also applicable rail standards. Is it possible, yes but is it a given that it would be approved, no.

Mr. Meyer asked if this project is not viable without Cross Street being fully improved with the installation of a traffic light.

Mr. Taylor said in order to accommodate the traffic associated with the full build out of the project, a traffic signal would be necessary to exit the site.

Mr. Meyer said a traffic signal is not possible in current conditions, they would need that center turning lane.

Mr. Taylor said if hypothetically they were to fully build out prior to the County improvements then they would need to widen Cross Street along their frontage to accommodate that left turn lane. Based on the analysis, their improvements necessary to accommodate the traffic fall right in line with what the County is proposing for that three lane section.

Mr. Vogt asked how much of this project could be built without triggering the need for the County improvements.

Mr. Taylor said they have not done that analysis. They have done a worst-case full build out analysis but as part of every site plan application, there would be a traffic study associated with that analyzing the operation of Cross Street.

Mr. Meyer asked if they anticipate starting development before Cross Street is widened.

Mr. Taylor does not believe so.

Mr. Meyer thinks the applicant should begin the application process of getting a railway crossing approval in order to add access on Faraday Avenue as well. He thinks that amount of traffic coming out onto Cross Street is unreasonable.

Mr. Taylor said based on the analysis they have conducted following the ITE methodologies, they have shown that there actually is sufficient capacity.

Mr. Meyer understands but if there is another outlet to be had, he thinks it is fair to examine it and to start the application process.

Mr. Taylor said based on that and the rest of the analyses that most of the intersections along Cross Street are going to operate at a level of service 'D' or better based on these improvements. They do identify the existing issue at Route 9 and Cross Street as there is traffic there. In fact, the North Jersey Transportation Planning Authority has identified improvements along that whole corridor to improve traffic flow from Jackson up through Lakewood. They find what is going on there is line with what the findings of those studies are. Based on that, they find the traffic associated with this project would be mitigated based on the transportation improvements fees associated with the project.

Mr. Stern questioned if there is an increase in traffic, if those fees would mitigate it.

Mr. Taylor said the purpose behind this fee is the Township has gone through and determined future development in certain areas and then associated a fee with those trips and that's to be able for them to capture essentially from every developer as it is not always possible for each individual developer to finance the overall improvements necessary with these intersections so as each one comes through, a little bit more gets added to the pot so then the Township can then allocate that.

Mr. Stern asked how the money gets from Lakewood to the County as Cross is a County road.

Mr. Taylor said the Township has the ability to improve intersections throughout the whole Township even though they are County facilities. There will also be County contributions necessary, but they haven't reached that level with them. Based on the preliminary analysis, the cost would be approximately \$393,000 and when done with a fair share analysis, their fair share contribution towards that improvement would be \$86,000. Those two fees are separate from the TID contribution that is required.

Mr. Schneider asked what he was referring to when answering Mr. Stern's question.

Mr. Taylor said he was looking at the traffic impact study which was submitted as part of this application. They have determined that the site has been laid out in accordance with RSIS standards and have determined while there is traffic to be generated by the site, it is being contemplated by the municipality in their TID designation for this piece of property. Therefore, it is his opinion that the project can be constructed without a detriment to the surrounding roadway network and to operate safely and sufficiently as proposed.

Mr. Vogt asked if their interpretation being that the boulevard being essentially two separate cartways by means of a median provides two accesses.

Mr. Taylor said that is correct.

Mr. Vogt said per his interpretation that is consistent with RSIS standards as far as access.

Mr. Taylor confirmed.

Mr. Vogt said the interior layout, even though they do not have detailed designed plans, in his opinion meets or exceeds RSIS.

Mr. Taylor confirmed.

Mr. Vogt said this was a question in their review and it was referenced in one of the traffic studies, the intersection at Route 9 and Cross Street is operating at a level of service 'F' at certain times during the day.

Mr. Taylor said that is correct.

Mr. Vogt said without the long-term improvements, they do not know when they are going to be done, what impact on the existing conditions is part or full build of this project going to have.

Mr. Taylor said there will be degradation to the approaches especially to the eastbound approaches as traffic leaves the site. There would be more distribution between the north, south and the east as you return.

Mr. Vogt asked if that degradation is within acceptable industry standards. He understands it is certainly not ideal.

Mr. Taylor thinks degradation as part of that would be acceptable. What needs to be reminded here is that the traffic associated with this development has been contemplated by the municipality as that is why they are part of that TID because they understand they are going to have an impact to the surrounding roadway network and they have allocated a number which will mitigate that impact.

Mr. Stern said the first page of the traffic report states that the applicant proposes 278 duplex units with basement apartments. He asked when they were calculating the impact, if they were assuming 278, 556 or 1,112 units.

Mr. Taylor said the short answer to that is 556, however, Ocean County has developed their own trip generation rates for Lakewood and for residences with basement apartments. So, the rates they utilized in this study contemplate the possibility of basement apartments being there without individually generating for them. In order to do the County study, they require them to assume that each unit is going to have a basement apartment. So technically they are looking at 1,112 total units even though that is not broken down individually in this study.

Mr. Gonzalez said he has testified that at present, they are already at a level of service 'F' in that area at certain times of the day.

Mr. Taylor said that is correct.

Mr. Meyer asked how many cars they are calculating for based on the 1,112 units.

Mr. Taylor said when they analyze this, they look at the peak hours and knowing the characters of Lakewood, they analyze a Sunday instead of a Saturday peak hour. So, they would anticipate in the morning approximately 600 leaving and 200 coming back in and in the evening, 683 returning and 401 leaving and on Sunday there would be 593 entering and 547 exiting during the busiest peak hour of the site.

Mr. Jackson asked him to explain how these numbers are generated and why are these numbers are something his profession relies on.

Mr. Taylor said normally they would look to the ITE publication trip generation. That is the manual they would get to generate traffic for development and that is based on national studies and data presented by other traffic engineers, so you would look at the maximums and develop formulas for it. That being said, they have the ability because Ocean County has specifically developed rates for this type of unit in Lakewood, that instead of taking a national average, they are actually looking specifically at this type of development that they have studies and have come up with these rates.

Mr. Jackson asked if he is suggesting that Lakewood requires its own traffic criteria.

Mr. Taylor thinks they are obligated to utilize that based on the analysis that Ocean County has done.

Ms. Morris asked if there is a specific number, for example a single-family home, in any other town generates 'x' amount of trips whereas the numbers the County requires for a duplex with a basement are 'x' amount which is however much higher.

Mr. Taylor said that is correct, he cannot give the exact rate that the ITE would utilize for that but the rates they are required to use are definitely higher because they contemplate the traffic associated with that basement apartment.

Mr. Stern said per the report, traffic counts were performed between 7 and 9 am so if they are using the uniqueness of Lakewood as their standard, those are the wrong times. The peak time would be about 9:30 am.

Mr. Taylor said there may be a slightly later peak given the Orthodox nature that this development may have but there are also other people commuting through this area and those morning commuting, based on national studies, show that the peak hour for all commuting fall somewhere between that 7 and 9 am time period. That being said, they have taken the worst-case development trip generation that the County gave them and surcharged onto that because that is going to encompass both the tail end of the rush he is talking about as well as the through traffic that is traveling in the area. So, what they need to do as traffic engineers is pinpoint that peak time to give a worst case scenario.

Mr. Stern said that is 9:30 am.

Mr. Flancbaum said 2 to 3:30 pm as well.

Mr. Stern doesn't live in this area so he doesn't know the demographics now, but this is going to change the demographics.

Mr. Flancbaum said Lakewood has different peaks.

Mr. Taylor said what they need to do is take a look at that all as a whole and based on the analysis, he thinks they have done that.

Mr. Vogt said looking at Table V in the traffic report, focusing on Route 9 and Cross Street, there are calculations for no build, build and build with mitigation. The mitigation numbers appear to be better than the no build so the mitigation per his analysis shows an improvement in many of the cases.

Mr. Taylor said that is correct.

Mr. Vogt asked what the mitigation entails.

Mr. Taylor said it would be Route 9 improvements. The intersection geometry on Cross Street is already present at that intersection.

Mr. Vogt said to achieve the numbers with mitigation the Route 9 improvements must be implemented.

Mr. Taylor confirmed.

Mr. Stern questioned what would happen if that does not occur.

Mr. Vogt said that is a good question.

Mr. Stern said this project is being proposed in five phases. He asked if they would agree to make phase five contingent on some level of traffic improvements getting completed by the County or the State.

Mr. Schneider understands the request, and he thinks that is what a general development process is for.

Mr. Liston asked if there are 1,112 residential living units proposed in the study.

Mr. Taylor said no, there are 556 houses with a basement apartment.

Mr. Liston said there are 556 duplexes.

Mr. Taylor said there are 278 duplexes for a total of 556 units, each with a basement apartment.

Mr. Liston said the total units would therefore be 1,112.

Mr. Taylor said that is correct.

Mr. Liston said they did not use that number in their study.

Mr. Taylor said they did, they utilized the County trip generation standards that takes the unit and the basement apartment into one unit. The trip generation rates associated encompass that.

Mr. Liston asked if his numbers would be more if he worked off 1,112 residential units.

Mr. Jackson said there is a difference between a basement apartment on a single-family dwelling, which is a recognized land use configuration. That is different than two single family homes and he used the criteria based on what this product is and based on standards developed by the County according to the witness. So, in many ways to say what the numbers for full single-family homes are is an irrelevant question.

Mr. Liston asked how many people are generally in basement apartments in Lakewood.

Mr. Taylor does not know that.

Mr. Jackson argued he also would not know how many bedrooms are generally in a household. It varies on the house, it varies on the circumstance and as he knows, traffic engineers base their information on averages.

Mr. Liston asked when the traffic counts were taken.

Mr. Taylor said they conducted traffic counts at different intersections in January of 2017.

Mr. Liston said in the dead of winter.

Mr. Taylor confirmed.

Mr. Liston questioned if the traffic in the summertime get much more intense in Ocean County on main roads.

Mr. Taylor said yes, in certain areas.

Mr. Liston said if they were looking to create a best-case scenario for the developer, they would probably want to take the traffic counts in January.

Mr. Taylor does not believe so.

Mr. Liston questioned if there is more traffic on the roads in January then there is in July. If it were a possibility that there would be different traffic counts at different times of the year, wouldn't it be more appropriate to do traffic counts during another season.

Mr. Taylor said the purpose of the traffic study is to analyze the relative impact of the project so whether the background traffic is a little higher or a little lower, the relative impact of the project remains the same.

Mr. Liston asked if that has nothing to do with background traffic being higher or lower.

Mr. Taylor said the relative impact generally does not.

Mr. Liston asked what exact days they performed traffic counts.

Mr. Taylor said Sunday January 8, 2017, Tuesday, January 10, 2017, Wednesday, January 11, 2017, Thursday, January 12, 2017 and Sunday, January 15, 2017.

Mr. Liston questioned if they would have gotten a better read if they did two days in January, two days in April and two days in August. He asked if that would give them a better overall feeling for the overall traffic in the area in the course of, not just one month, but in the course of half a year or a year.

Mr. Taylor does not believe so because they are back to the relative impact of the project.

Mr. Liston asked if the relative impact of the project is what he is trying to keep down.

Mr. Taylor said no, his job is to identify the relative impact.

Mr. Liston said the traffic counts were taken between 7 and 9 am, 4:30 and 6:30 pm and 11 am to 2 pm on Sundays and he heard testimony from one of the board members that the peak times are 9 to 10:30 am and 3:30 to 4:30 pm in the afternoon.

Mr. Taylor said yes.

Mr. Liston asked if it ever occurred to him to count those times as well just to get a feeling for the unique nature of the traffic horror that is Lakewood.

Mr. Taylor said they are looking at the aggregate impact of both Lakewood's unique traffic situation as well as other motoring commuting public that travels through the area.

Mr. Liston questioned how they capture that if they do not factor in Lakewood's unique peak hours.

Mr. Jackson asked if he is testifying that those are the peak hours in Lakewood.

Mr. Liston said that Mr. Taylor agreed with him.

Mr. Schneider argued that Mr. Taylor agreed that one of the board members said that, not that he agrees those are the peak hours.

Mr. Liston asked if he agrees that traffic wise, Lakewood is unique.

Mr. Taylor cannot answer that.

Mr. Liston asked if he has heard of those peak hours before, perhaps at the County.

Mr. Taylor said no.

Mr. Schneider objected as he is misrepresenting what Mr. Stern said.

Mr. Liston asked if he does not think it would have made a difference if they performed traffic counts between 9 to 10 am and 3:30 to 4:30 pm.

Mr. Taylor thinks the relative impact of the project would be the same.

Mr. Liston asked if he concedes that Route 9 and Cross Street is a bad intersection in terms of what the level of service is.

Mr. Taylor said the intersection is operating over capacity, yes.

Mr. Liston said if you double the number of trips to an 'F' that means it could result in delays that are double what they are now when it is 'F' without this project.

Mr. Taylor said that is not correct. There is not a direct one to one correlation in delay.

Mr. Liston asked if he is saying there could be more or there could be less.

Mr. Taylor said they have not analyzed that as part of this project.

Mr. Liston said he does not know then whether it would double it or whether it would not double or whether it would make it worse than doubling.

Mr. Schneider questioned what he is referring to.

Mr. Liston said the number of trips that this project adds to an intersection.

Mr. Stern said in the pm peak hours under no build, it states 339 trips and after build it is 829 so that is more than doubling.

Mr. Taylor said the delay there, yes.

Mr. Stern said that is a double 'F'.

Mr. Taylor said no, the formulas start to break down when you hit that point so 829 is really not an accurate representation of what is there. The formulas do not contemplate the analysis that's there given the traffic associated with it so the 829 is not an accurate representation of what the actual delay of that intersection will be.

Mr. Stern asked what it does represent.

Mr. Taylor said they need to look at the overall impact of the intersection and the fact that there is going to be some impact as things operate but it is not going to be represented by these numbers.

Mr. Stern asked him what it means in layman's terms.

Mr. Taylor said it means there is going to be an increase in delay on those approaches.

Mr. Stern questioned if it would be a factor of 5% or 10%.

Mr. Taylor said it is difficult to quantify that number, perhaps 10% to 15%.

Mr. Stern said then 829 is about a 10% increase in delay in his professional opinion.

Mr. Taylor said no it is not.

Mr. Stern asked what it is then, in his professional opinion.

Mr. Taylor said it is approximately three times the delay.

Mr. Jackson asked with the proposed development, how long the wait would be.

Mr. Taylor said without the improvements, 829 seconds and that is why the TID was put into place.

Mr. Vogt tried making this point earlier. The importance of the mitigation relative to this project.

Mr. Stern said the applicant is discussing money in an account, Mr. Vogt is referring to actual concrete, lights and turning lanes.

Mr. Jackson questioned what the actual fiscal impact of this application would be in terms of what it would generate through the fees discussed and then what those improvements actual cost. He asked what the odds are that the fees collected from this are actually going to result in those improvements being put in place.

Mr. Taylor said based on the analysis they have conducted as part of their traffic study, they have identified improvements there. They would modify the signal timing and phasing to allow the eastbound and westbound approaches to run concurrently with a protected left phase along with providing a left turn lane, a through lane and a right turn lane so they are going to end up widening the eastbound and westbound approaches.

Mr. Jackson said this is not building a whole new road or making six lanes.

Mr. Liston said it also is not widening Route 9.

Mr. Vogt asked if he is talking Cross Street approaches to Route 9.

Mr. Taylor said that is correct.

Mr. Jackson said they are talking about improvements to the intersection.

Mr. Taylor confirmed, these are improvements that were identified in the regional study that the North Jersey Transportation Planning Authority conducted in 2016 and the improvements they identified are essentially the improvements that they identify in their study as well.

Mr. Jackson asked if those improvements are feasible and likely to occur in his opinion.

Mr. Taylor thinks they are feasible.

Mr. Jackson asked how those improvements would affect the traffic counts.

Mr. Taylor said that 339 would go to 158 seconds so it would be cut into more than half which includes the impact of the development.

Mr. Meyer asked if the improvements were installed without this development, what would the level of service be.

Mr. Taylor did not run that analysis. They are estimating a level of service 'D' overall for those improvements with the development traffic, so it would probably be within that same range.

Mr. Meyer asked it would be the same with the development.

Mr. Taylor said yes, he would anticipate maybe it is upper level of service 'C' but most likely a level of service 'D'.

Mr. Liston asked if he has any knowledge of any state intention to make improvements to Route 9 in Lakewood particularly at this intersection.

Mr. Taylor said he does not.

Mr. Vogt said when you are talking improvements, he realizes there is some impact to Route 9. He asked if most of the improvements are Cross Street and signalization.

Mr. Taylor said yes, the improvements identified are mostly to Cross Street as that allows green time to be given back to Route 9 and helps the Route 9 corridor flow.

Mr. Vogt said then they do not necessarily need Route 9 to be widened, they need to modify the Cross Street approaches and change the signalization.

Mr. Taylor said that is correct.

Mr. Liston asked if it would help if Route 9 were widened.

Mr. Taylor did not look into that and cannot answer that question.

Mr. Shlomo Klein asked who he works for.

Mr. Taylor said the Parke at Lakewood, LLC.

Mr. Klein asked if he knows of an individual who works for that LLC.

Mr. Taylor said he works and was hired by Dynamic Engineering. Dynamic, LLC is a separate company and he was hired by them to conduct a traffic study.

Mr. Meyer questioned why it is relevant.

Mr. Klein said the affidavit of ownership may have been falsely represented to the board.

Mr. Schneider said it is offensive to suggest there is a false affidavit of ownership. It is not true, and it is offensive to slander his client in that way.

Mr. Liston asked Mr. Taylor if he indicated that they are going to be putting up a signal at the entrance to Augusta.

Mr. Taylor said no. If he said that earlier, he misspoke. The signal will be placed at the intersection of their new roadway and Cross Street.

Mr. Liston asked if there will be another signal near Augusta.

Mr. Taylor is unsure what he is referencing.

Mr. Liston asked if there is only one signal which will be at Cross Street.

Mr. Taylor confirmed.

Mr. Brian Flannery, P.E., P.P. was sworn. He presented his professional credentials to the board. He has done GDPs in other towns, but this will be his first in Lakewood. The last one he recalls in Lakewood was for Georgian Court which was many years ago. As Mr. Liston has pointed out with other experts who have come up, general development plans are a unique application that are not done very often.

Mr. Liston asked if he has any interest in the liquor license at the Eagle Ridge clubhouse.

Mr. Flannery said yes.

Mr. Liston asked how long he has held an interest.

Mr. Flannery said over a year.

Mr. Liston asked what percentage of the license he owns.

Mr. Flannery said he is an owner of an LLC that owns the liquor license.

Mr. Liston said then he owns the entire liquor license through an LLC.

Mr. Flannery confirmed.

Mr. Liston does not see how Mr. Flannery can be called as an expert witness when he has an interest in the property that is involved in this application.

Mr. Jackson asked him to show him a case that shows a witness is disqualified if they have an interest in the case.

Mr. Meyer questioned what he would have to gain by a residential project. He does not believe residents there are going to be buying liquor from the clubhouse.

Mr. Liston asked what would happen to his liquor license once it is approved.

Mr. Flannery said the liquor license remains. Professional planners when they come to testify get paid so nobody is coming here out of the goodness of their heart or coming here without a financial reason and the liquor license really has nothing to do with this general development plan application.

Mr. Schneider said it certainly has nothing to do with his qualifications as an expert.

Mr. Liston believes it goes to his credibility as an expert because he has a financial interest.

Mr. Meyer asked if he anticipates any financial gain with the approval of this project.

Mr. Flannery said he does not.

Mr. Stern asked the board if they accept Mr. Flannery as a professional witness.

The board was in general agreement to accept Mr. Flannery's qualifications to testify.

Mr. Flannery said they are before the board with a conforming general development plan application. Mr. Schneider indicated what a GDP was as he is sure some of the board members are not familiar with these. Basically, it is the first step in a preliminary approval and it is done on planned unit developments, larger tracts and it is stipulated in both the Lakewood ordinance and the MLUL which allows a larger project the opportunity to come in, present exhibits and have the board look at it. They have the criteria that were pointed out at the start of the meeting from the MLUL that they have to demonstrate and when the board listens to that and they satisfy the criteria in the ordinance and the criteria in the MLUL, the logical conclusion is the board is going to approve this because to not approve would be arbitrary and capricious unless they do not document that they have complied with both the Lakewood ordinance and the MLUL. Normally a general development application would not be this contentious but in this particular case it is because they have an adult community next to this project and the objectors mentioned early on about with this many people how it could not be an adverse impact. He should point out that the court room holds 200 people which is not full, and their community is close to 2,000 people and

Lakewood had 100,000 people. These are the same people that came to all of the Planning Board meetings when the Master Plan was being contemplated and they gave their opinions at that time. The Township and this board evaluated those opinions and they passed the Master Plan and ordinance that they are here tonight conforming with. This application, if granted, locks in the development rights of this property for an extended period of time which is needed for a property of this nature. The board asked a previous expert about getting a second entrance onto Faraday Avenue and certainly if the board acts favorably on this GDP, the applicant will contact the railroad to find out if an additional crossing can be made and they would analyze what makes sense. Does it make sense to put extra traffic out onto Faraday which is a local road, or does it make sense onto Cross Street which is a major collector road.

Mr. Jackson asked how they would get from the development over the railroad tracks to get across as it looks like there is a golf course and a lot of forest in between there.

Mr. Flannery said there is one particular location where there's houses so there is an availability to get across there. Additionally, anything that gets done here that is different than the CAFRA approval they would have to go back to get a modified CAFRA approval. He knows the board and public is concerned that if this gets approved and tomorrow they will start building and the traffic gets horrendous but that is not going to happen. This approval does not give the applicant the right to build anything. If the board acts favorably, it would give the applicant breathing room to prepare the detailed plans so that when they come back, and somebody asks how many rooms are in the basement or how many trips are there, they would have detailed plans and detailed reports and can give those specific answers. The point at this time is to go through the requirements in the ordinance and the MLUL and say they are fully compliant. They could have come here and asked for relief, but he thinks with a room full of people asking for relief would have been suicide, so they are here asking for something that completely conforms with something that was approved in late 2007 by the Master Plan, the Planning Board and the Township Committee.

Mr. Stern asked what the relevance of offsite traffic impact at the GDP level is.

Mr. Flannery said the GDP, and it calls it a bifurcated part of a preliminary, is the beginning of a preliminary and the offsite traffic impact typically if they were here with a conforming subdivision or site plan he would say it is a use that is permitted by the ordinance and you cannot take into account offsite traffic but they are not doing that. They have a CAFRA permit that says they should address the offsite traffic, they are going to the County who said they should address the offsite traffic and are here with a GDP saying they are going to address the offsite traffic. They are going to be giving to Lakewood Township \$343,000. They will be also be giving the County an additional huge sum of money. His experience is the County fee, off-tract traffic and drainage fees are typically larger than Lakewood's, so they will be giving between half a million and a million dollars to do the work. The money that the Township gets when there is a County project, the County asks the Township to put in some money so if the Township has to put in 20%, the County is going to put in 80% and they are going to get five times as much done as that \$343,000. He has been in Lakewood a long time and the reason they have the traffic problems is because the County roads and the State roads have been ignored for a long time which has changed. The list that was handed out shows that has changed. The County understands and it is unconscionably that a road with that much traffic is just two lanes. He does not think there is another road in Ocean County where you have that much traffic. The design plans in January were 60% completed and the county engineer told him in January when that list came out, they expect to put the project out to bid this year and it would be built next year. This project is going to be in court for a while, certainly before a shovel gets in the ground, Cross Street will have the three lanes and as indicating the intersections would have a five-lane geometry and that is where the capacity gets eaten up. The traffic capacity is a function more of the intersections than the lanes on the roads. The concern is that the roads get fixed and this application will be paying to fix the roads. Additionally, this property right now could be developed for schools which would make the traffic worse. He lived on Drake Road where they kept the properties at 1 acre and now that whole area is half schools and the traffic is worse. It could also be developed as an adult community at 4.5 units per

acre so its not like the only option is this, but the best option is this. Referencing the UDO with respect to the GDP, Section 18-606 states 'applicants of planned developments of at least 100 acres comprised of a minimum of 75 dwelling units or 150,000 sf of non-residential shall have the option of bifurcating preliminary approval into two phases'. That is what they are here to do this evening, rather than to come in with designed plans and then the comment concerning Faraday Avenue would not have come out and some of the other more detailed solutions would not be out. They are here bifurcating the preliminary and saying this conforms with the ordinance and it conforms with the MLUL. Give them this approval and they would work on the others and come back with plans that conform with both the UDO and the MLUL and it will have the technical details so that everybody will be comfortable that there is not an adverse impact. The MLUL under Section 40-55:D 45.1 GDP states 'the GDP shall set forth the permitted number of dwelling units, the amount of non-residential floor space, the residential density, the non-residential floor area in it's entirety according to a schedule which sets forth the timing of the various sections' which is what they have done. It goes on to say 'the planned development shall be developed in accordance with the GDP approved by the Planning Board, notwithstanding any provision of PL 1975 40:55D.1 where an ordinance regulation adopted pursuant thereto after the effective date'. That is the benefit that the applicant is getting if the ordinance changes afterwards and work has been done on this, the rug doesn't get pulled out from underneath them. The development will be in accordance with this scheme, it will have the drainage and it is going to be very locked in in this particular case because there is a CAFRA approval and CAFRA is not easy to get. People start talking about they are creating adverse environmental impacts and CAFRA whittled this project down quiet a bit and investigated over a long period of time before granting that and they'll have some minor modifications that they will have to make to the CAFRA if the board acts favorably on this and that will all be dependent on the detailed work they do after the board hopefully acts favorably on this GDP. Under Section 40:55D 45.3 submission of a GDP states 'any developer of a parcel of land greater than 100 acres in size which a developer is seeking approval of a planned development may submit a GDP to the Planning Board prior to granting preliminary approval'. It has not been done in Lakewood before because the projects were of a size where they didn't need that extended protection. This is a beautiful project with parks and open space. He has done a lot of work in Lakewood and this is by far the nicest and something he is proud to be apart of because it has open space, walking trails, forested areas for everyone to enjoy. The objectors are going to be throwing a lot of stuff at this application and will have experts that are going to have slightly different opinions but as indicated previously there is prior litigation that if all of their ideas that they have about why this isn't good, if they went in court all they did hopefully they spent only one night here presenting something that conforms with the ordinance and the MLUL and let this part of it go forward. Either way it is going to be litigated so let it go forward and hopefully as it proceeds down the road, the project will get better and when they come back with projects to actually develop it will have details that the board engineer can review that will show what the soils are like, that will show that the water is not going to flood. The rules on stormwater management that the state has and were reviewed by the NJDEP that also get reviewed by this board are very restrictive and comprehensive and are so much different than when he started doing this back in the 1980's. They require all kinds of reductions in runoff, they require all kinds of groundwater recharging, they require a lot of items so that the projects get built without a detriment to either the owners who move in or the adjacent people. GDP's are also required for adult communities and as indicated before this property could be developed as an adult community at 4.5 units per acre. They would be here for a GDP for that only instead of having the 556 units, they would have over 700 units. It would still generate traffic, it would still have the all other functions of tree removal and eliminating part of the golf course that this application has. Additionally, schools can be built on this property as it is zoned for schools. Lakewood needs schools, but he does not think this is the appropriate location for them as the traffic impact and the impact on the neighbors would be far worse. They heard during the Master Plan process that the property values were going to go down and that all of the open space in Lakewood was disappearing and there has never been any substantiation on that. With respect to the open space disappearing, the Master Plan of 2017 on page 22 under the environmental constraints indicates that there is an environmentally constrained areas in the town that can't be built on and it's 18.8% of the land area of the town. So, when people say all there is going to be is pavement and trees at least 18.8% is going to be the environmentally sensitive and the environmentally protected areas. Additionally, the recreation element on page 59 speaks to the open space and recreation area and that is another 14.9% so people talk about Lakewood

that it's all roads and houses then those people don't know Lakewood, they don't know the Crystal Lake Preserve, they don't know the parks. This board spent a lot of time preparing the Master Plan and spent a lot of time listening to public input when they prepared it. The Lakewood ordinance for both the adult communities and this planned unit development speak about open space and the Lakewood ordinance definition of open space is different than traditional open space. The definition clearly says 'open space shall mean for purposes of the ACP tract not covered by building structures of any kind, streets, other surfaced paved with impervious materials'. Basically, that means the grass areas, the ones that are not impervious surfaces, the existing ACP and this development will both be under 30% of impervious surface so it would be 70% which exceeds the 50%. The Lakewood ordinance when they talk about open space, they are not even close. The MLUL when it talks about open space, it talks about usable open spaces.

A motion was made and seconded to carry the application to the April 16, 2019 meeting.
All were in favor.

- 6. APPROVAL OF MINUTES**
- 7. APPROVAL OF BILLS**
- 8. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth
Planning Board Recording Secretary