



1 CHAIRMAN CHOFFO: Good evening,  
2 everyone. I'd like to call to order the meeting of  
3 the Hudson County Planning Board this evening,  
4 Wednesday, October 26th, 2011. Mr. Curley, has this  
5 meeting been publicly advertised?

6 MR. CURLEY: Yes, Mr. Chairman, the  
7 meeting has been publically advertised in accordance  
8 with the Open Public Meetings Act. Notice of the  
9 meeting has been posted on the Freeholder's Chambers  
10 and the County Clerk.

11 Mr. Marks. Role call, please.

12 MR. MARKS: Commissioner Arencibia.

13 COMMISSIONER ARENCIBIA: Here.

14 MR. MARKS: Commissioner Avagliano.

15 COMMISSIONER AVAGLIANO: Here.

16 MR. MARKS: Commissioner Bettinger,  
17 not present. Commissioner DiDomenico, not present.  
18 Commissioner Fitzgibbons.

19 COMMISSIONER FITZGIBBONS: Here.

20 MR. MARKS: Commissioner Holloway,  
21 not present. Commissioner Mehta.

22 COMMISSIONER MEHTA: Yes.

23 MR. MARKS: Commissioner Ng, not  
24 present. Commissioner O'Dea, not present.  
25 Commissioner Romano, not present. Chairman Choffo.

1 CHAIRMAN CHOFFO: Here.

2 MR. MARKS: Mr. Chairman, we have a  
3 quorum.

4 CHAIRMAN CHOFFO: Stand and salute  
5 the flag.

6 (Flag Salute.)

7 CHAIRMAN CHOFFO: Before we start the  
8 meeting, the recommendations from our counsel,  
9 Mr. Curley, are going to guide how this meeting is  
10 going to continue to take place. If people can  
11 please put their cellphones on vibrate or silent so  
12 we have minimal distractions, if possible. If you  
13 have to have a conversation, please take it outside  
14 so we have once again minimal disruptions. I would  
15 also like to ask that the doorways be cleared for  
16 fire purposes. There is a decent amount of people  
17 here tonight. God forbid anything happens, I want  
18 to make sure everybody gets out of here safe.

19 With that, Mr. Curley, would you to give  
20 us some guidance how to continue this meeting?

21 MR. CURLEY: The meeting left off  
22 with, I believe, Mr. Steck having completed his  
23 testimony on the direct and cross examination. I  
24 would then recommend that we would begin with  
25 Mr. Steck, any questions that would be asked of him

1 by members of the public. After that, we are going  
2 to, assuming that the opposition, the objectors have  
3 concluded their case, Mr. Lamb, is there anything  
4 more you would like to add?

5 MR. LAMB: I have several exhibits  
6 which I intend to mark into evidence, and I'll  
7 probably have Mr. Steck come back on redirect for  
8 about five minutes.

9 MR. CURLEY: After that we will ask  
10 whether the County Planning Board's consultants have  
11 any comments and testimony to give on the  
12 application. Following that, members of the public  
13 will be invited to comment on the application. One  
14 thing to bear in mind is there is a difference  
15 between asking a question and giving a comment or  
16 testimony. There will be a time to give comment or  
17 testimony. That time is not when you're asking  
18 questions. If a member of the public wants to ask,  
19 for example, Mr. Steck, a question, that's fine, but  
20 you'll have another opportunity to make a comment at  
21 the end of the case. If you please bear that in  
22 mind, I think it will save us some time.

23 CHAIRMAN CHOFFO: Yes.

24 MR. ALAMPI: Chairman, thank you. I  
25 don't know if I misunderstood Mr. Curley. We

1 completed the testimony. I did not initiate the  
2 cross examination, but it will be brief. Did I  
3 misunderstand?

4 MR. CURLEY: I thought you were  
5 completed with cross.

6 MR. ALAMPI: It was so swift, but I  
7 have cross examination and then with follow up as  
8 Mr. Curley has advised the Board. I will keep it  
9 brief, Chairman, specifically because we have such a  
10 large crowd, and I want to stick to the core issues.  
11 Thank you.

12 CHAIRMAN CHOFFO: The core issues  
13 that's the basis of our decision will be traffic?

14 MR. ALAMPI: Traffic, County drainage  
15 facilities and related issues that deal within the  
16 parameters of the County Planning Act.

17 And with that, Chairman, again for the  
18 record, my name is Carmine Alampi. This is the  
19 continuation and fourth hearing before this County  
20 Planning Board, the application for site plan review  
21 by Appleview, LLC. Again, this is a Special Meeting  
22 devoted solely to this application.

23 CROSS EXAMINATION BY MR. STECK:

24 Q Good evening, Mr. Steck. How are  
25 you?

1 A I'm fine. Good evening to you.

2 Q Mr. Steck, you recall giving your  
3 direct testimony approximately a month ago before  
4 this agency?

5 A Yes.

6 Q Upon review of your testimony, did  
7 you have an opportunity to review your notes since  
8 last meeting?

9 A Yes.

10 Q Can I direct your attention to  
11 several statutory provisions? Chiefly, I would like  
12 to address a section of the New Jersey Statutes,  
13 Chapter 58, the Water Quality Management Planning  
14 Act, are you familiar with the statute?

15 A I am familiar with a reference. I've  
16 reviewed parts of it, but because it is not a County  
17 standard, I clearly did not give it the attention  
18 that I did to County standards.

19 Q So do you have a working knowledge of  
20 the statute?

21 A I'm aware of it to the extent that the  
22 Planner Gruel relied upon it. It's also referenced  
23 in Mr. Burton's expert report.

24 Q Can you tell me briefly what your  
25 understanding is of this State Statute that is

1 promulgated through the DEP?

2 A My understanding is that the County site plan  
3 and subdivision regulations reference it as a, I'll  
4 call it a rational nexus for some of its standards.  
5 It essentially recognizes that there is linkage  
6 between disturbance of steep slopes and water  
7 quality and stormwater runoff. The expert reports  
8 of Mr. Burton and Ms. Gruel went further than that.  
9 They tried to adopt definitions that were in those  
10 State regulations as if they were reproduced in the  
11 County subdivision and site plan ordinance, and  
12 there are different definitions that are in the  
13 County subdivision and site plan ordinance, and  
14 consequently, I can't see a reason why someone would  
15 argue. There is no basis to say that the State  
16 regulations apply.

17 MR. ALAMPI: Chairman, if you would  
18 direct, I don't want to disrupt Mr. Steck. The  
19 question -- the answer should be confined to the  
20 question. I'm not asking him to regurgitate his  
21 whole testimony. I won't interrupt him, but from  
22 time to time, I might suggest that I would like to  
23 stick the question as posed.

24 Q For example, with regard to the act  
25 the State Statute promulgated through the DEP, is it

1 not a fact that this statute requires and charges  
2 the County government with the duty through its  
3 planning agency to monitor and regulate water  
4 quality?

5 A Yes.

6 Q And as a result of the mandate and  
7 obligation for the County to regulate water quality,  
8 are not these statutes and regulations incorporated  
9 into the land development ordinance of the County?

10 A There are not, the way I read the County  
11 ordinance.

12 Q Are you familiar the concept of  
13 developing a water management plan and a water  
14 quality management plan?

15 A In general I am, but not as an engineer, only  
16 as a planner.

17 Q Do you have any knowledge of the  
18 Hudson County Water Quality Management Plan?

19 A No. As I understood, I reviewed primarily  
20 the ordinance under which this site plan application  
21 is being heard.

22 Q Regarding the ordinance we're talking  
23 what we call the LDO, the Land Development  
24 Ordinance, that was adopted by the County  
25 Freeholders in 2008?

1 A That is correct.

2 Q Are you familiar with the various  
3 sections of that ordinance?

4 A Yes.

5 Q And specifically, I address your  
6 attention to Section 8 of the County development  
7 ordinance.

8 A One chapter has design standards for storm  
9 water management.

10 Q Are you familiar with this section?

11 A I have not reviewed it in detail, although I  
12 reviewed parts of it, for example, Section 8E.

13 Q I just asked if you're familiar with  
14 that section?

15 A I'm familiar with the parts of it that I  
16 consider relevant to this site plan application.

17 Q Now, State statutes regulate the  
18 water quality and management of water quality, and  
19 Section 8 of the County Land Development Ordinance  
20 deals with stormwater management, doesn't it?

21 A I think I just answered that, yes.

22 Q And throughout the Section 8, are  
23 there not references and incorporated within the  
24 various provisions replete through the article,  
25 references to the State DEP regulations and Chapter

1 7:15?

2 A That's correct. There are certain instances  
3 where they're referenced in Section 8.

4 Q Do you agree there are many instances  
5 throughout Article 8?

6 A I never counted them up, so the answer is  
7 there are several references.

8 Q Why do you think those references are  
9 there?

10 A Because the State is encouraging uniformity  
11 in the treatment of stormwater controls.

12 Q Are you familiar with an exhibit that  
13 was introduced during your testimony, I believe it  
14 was John's G exhibits. Are you familiar with G-4,  
15 which was introduced through your testimony?

16 A If you'll give me the title of it, I could  
17 tell you.

18 Q It was the State regulations, 7:15?

19 A Which State regulations?

20 Q The group introduced last month as  
21 part of your testimony?

22 A The State statute was labeled as G-7. The  
23 enabling legislation, is that what you're referring  
24 to?

25 MR. ALAMPI: No. Mr. Chairman, I'm

1 sorry. I don't have a table. I'm going to use this  
2 table in front of me. I don't want to drop my  
3 papers all over. Let me see if I could find it. It  
4 was marked as G-4.

5 Q I'm sorry, Peter. It was marked at  
6 the August 17th, 2011, meeting by your client. I'm  
7 not sure if it was during your testimony. Let me  
8 just show it to you.

9 MR. ALAMPI: Chairman, I'm just going  
10 to show him.

11 A I have not reviewed these in detail, the  
12 meeting prior to my tenure.

13 Q Weren't you in attendance at the  
14 August meeting preparing for your testimony?

15 A Yes, I was.

16 Q And weren't you here when Mr. Lamb  
17 had marked as G-4 the Water Quality Management  
18 Planning Regulations?

19 A If it happened at that meeting, the answer  
20 is, I was present during that marking.

21 Q Thank you. And your familiarity of  
22 these regulations is limited?

23 A I'm only aware of them to the degree that  
24 they were referenced in Mr. Burton and Ms. Gruel's  
25 reports.

1 Q Are you familiar with when these went  
2 into effect?

3 A No.

4 Q If I told you May 21, 2008, would you  
5 challenge that date?

6 A I have no reason to agree or disagree with  
7 it, not knowing the date.

8 Q Do you know when the Hudson County  
9 Land Development Ordinance was adopted by the Board  
10 of Freeholders in Hudson County?

11 A I do.

12 Q When was that?

13 A October 23rd, 2008.

14 Q Don't you think it would be important  
15 to know about these water quality and water quality  
16 management regulations promulgated by the State just  
17 four or five months earlier?

18 A Only to the degree that they relate to the  
19 specifics of the subject application.

20 Q Do you acknowledge that Section 8 of  
21 the land development ordinance makes references to  
22 these very regulations?

23 A I already said yes.

24 Q And yet it's your testimony that the  
25 State regulations are not part of the land

1 development ordinance of the County?

2 A It's my testimony that where there are  
3 definitions, for example, of impervious coverage,  
4 that are in the land development regulations, that  
5 they apply to the land development regulations of  
6 the County, and that it's improper to incorporate  
7 standards in another document unless they're  
8 specifically referenced. The drafters of the land  
9 development regulations could have in its definition  
10 section say we're adopting all of the definitions of  
11 the State stormwater management control, but they  
12 haven't done that, at least in the sections that are  
13 the subject of relief as part of the site plan  
14 applications.

15 Q But haven't they done that in the  
16 land development -- hasn't the governing body of the  
17 Freeholder Board adopted that in Article 8 of the  
18 land development ordinance?

19 A Do you mean specifically the definitions?

20 Q Article 8.

21 A Let me read it. Let me review it.

22 Q Article 8, a simple question, didn't  
23 the Board of Freeholders --

24 MR. LAMB: Excuse me, could he have a  
25 chance to read Article 8?

1 Q Go ahead and read it. It might take  
2 a little longer than I thought.

3 A There is in Article 8, there is no reference  
4 to the definitions in the State law. Section 2 --  
5 excuse me, in Section 8. Section 2 does have a set  
6 of definitions, as I read the land development  
7 regulations, apply to all of the land development  
8 regulations that have been adopted by the County.

9 Q Mr. Steck, I'm not limiting your  
10 answer. My inquiry is not limited to definitions.  
11 My inquiry is, is it not true that throughout  
12 Article 8, which regulates stormwater management,  
13 that the State DEP regulations are embedded and  
14 referred through the article? I'm not asking you  
15 about definitions.

16 MR. LAMB: I believe he's answered  
17 that question three times, that there are numerous  
18 references. He's acknowledged that.

19 MR. ALAMPI: I'm not asking for  
20 references. I'm asking if they're incorporated  
21 substantively in Article 8.

22 A Some of the standards are, but there is no  
23 reference to adopting the definitions that are in  
24 the State code.

25 Q Now, with regard to the development

1 regulations, the land development that's the County  
2 regulations and the County Waste Water Management  
3 Plan, have you had the opportunity to correlate and  
4 study the County's waste management, quality waste  
5 management plan and quality water plan to the terms  
6 of the land development ordinance?

7 A No.

8 Q Isn't it a fact that the County  
9 Planning Board is required by the these regulations  
10 to adopt a water quality plan?

11 A Yes.

12 Q And isn't that a function of both the  
13 State regulations and the County Land Development  
14 Ordinance?

15 A Yes.

16 Q We're going to move on, Peter, to  
17 another area. Here we are. Do you recall giving  
18 testimony with regard to a certain slope stability  
19 study that was commissioned a few years ago by  
20 Hudson County?

21 A Yes.

22 Q And for your ready reference and for  
23 the Board, I believe at the last meeting, Mr. Lamb  
24 had marked as G-9 at the September meeting, just the  
25 face sheet and a few select pages of this report.

1 Peter, are you familiar with the exhibit I'm talking  
2 about?

3 A I have it in my hand, yes.

4 Q This is not the whole report,  
5 correct?

6 A That's correct.

7 Q This report is more than 35 pages,  
8 and then has a series of appendixes tables that  
9 apply to it?

10 A That's my recollection.

11 Q Do you have and have you reviewed the  
12 table and appendixes and the attachments to this  
13 35-page report?

14 A Not in detail, I've only concentrated on what  
15 was relevant to the subject application.

16 Q Let's talk about what was relevant.  
17 Do you recall giving testimony specifically that  
18 there was a recommendation that pertained to this  
19 site, what they call Site No. 6, North Bergen MUA,  
20 comma, South 6?

21 A Yes.

22 Q Do you recall that? Do you recall  
23 your testimony saying that the recommendation was a  
24 gabion retaining wall at the site?

25 A Yes.

1           Q           Is there a reason that you did not  
2 read into the record specifically that the  
3 recommendation called for excavation and the  
4 installation of the wall?

5           A           Well, when you put in a gabion wall, my  
6 understanding is you have to have some foundation  
7 for it. You don't just put it on the dirt. You  
8 have to do some limited excavations to install the  
9 wall.

10           Q           You didn't testify about any  
11 excavation for this gabion wall recommendation, did  
12 you?

13           A           I believe that I fairly well represented it,  
14 fairly accurately represented the recommendations or  
15 the finding of the study.

16           Q           If I could direction your attention  
17 to -- I'm not going to go through your transcript.  
18 You feel that you accurately stated to the Board  
19 that there would be excavation to install this wall?

20           A           No, it's common sense that if you're going to  
21 install a retaining structure, that there has to be  
22 some subsurface preparation. I don't believe you  
23 have to go down ten feet, but the answer is, there  
24 has to be some subsurface preparation.

25           Q           How do you know what the excavation

1 would be?

2 A I don't, but my experience or viewing of  
3 gabion walls is that they typically do not go down,  
4 let's say, a story in height.

5 Q Do you know how tall this gabion wall  
6 would be?

7 A Well, it doesn't say in that paragraph how  
8 tall it would be. It could be a series of walls.  
9 It could be one wall. We don't know.

10 Q How far back into the slope could  
11 this gabion wall be installed, how much excavation  
12 would be involved?

13 A What your talking about is a specific  
14 engineering design, which I believe was further than  
15 what this report alluded to.

16 MR. ALAMPI: Mr. Chairman, I forget  
17 where we left off on the A Exhibits. We have the A  
18 Exhibits for ourselves and G for Galaxy. I'm not  
19 quite sure where I left off on the A Exhibits. I  
20 don't want to waste time. Can we mark it A-10 to be  
21 safe? I believe I was up to 8 or 9.

22 MR. LAMB: For the record this entire  
23 report is attached to my letter dated April 5th,  
24 2011, which was already separately marked. I  
25 believe it is in the record.

1 MR. ALAMPI: Do you know if the  
2 tables were part of it? I don't think anybody  
3 produced all the tables to this report. This is  
4 going to be marked as A-10. I have made 15 copies  
5 for distribution. I'll put the A-10 and today's  
6 date which is the 26th, I believe.

7 Mr. Chairman, if you don't mind, I've got  
8 about five or six for Mr. Marks to distribute.  
9 Mr. Chairman, I draw your attention and to the  
10 Board, last month this Marking of G-9, which was  
11 just a face sheet and three or four sheets of the  
12 report that was marked at the last month. If you go  
13 to page 2 or the second page rather of that G-9,  
14 you'll see that it has a list of tables and list of  
15 plates. From that exhibit from last month, I  
16 commissioned a review of the these tables, and so  
17 A-10 is being marked, and that is what we call -- is  
18 what we refer to in this exhibit. It's a sheet  
19 from -- it's a sheet from what would be Plate 6,  
20 Typical Gabion Wall Basket Types.

21 CHAIRMAN CHOFFO: This would be  
22 included in the 35-page report?

23 MR. ALAMPI: Yes. That 35-page  
24 report has dozens of pages of illustrations and  
25 plans and aerials, and they're broken down in here.

1 What I am referring to is what's called in the list  
2 of plates, Plate 6, Typical Gabion Wall Basket  
3 Types.

4 Q Peter, have you had a chance to take  
5 a look at what we have as A-10?

6 A Yes.

7 Q Is this familiar to you from this  
8 report, had you seen this before?

9 A I don't recall seeing the cut sheet of the  
10 sample gabion wall structure. I don't recall seeing  
11 that specific plate.

12 Q Can you read on the bottom legend,  
13 what it says?

14 A It says, typical gabion basket types.

15 Q What else does it say?

16 A Palisades Slope Stability Study, Hudson  
17 County, New Jersey.

18 Q Now, I know the rest of it is very  
19 hard to read as far as the date. This exhibit then  
20 shows the typical gabion wall type of construction  
21 by illustration as an appendix to that 35-page  
22 report?

23 A Well, it is appended, but you're missing the  
24 language in the paragraph on page 20. It says, We  
25 recommend excavation installation of a gabion

1 retaining wall along the toe of the slope to develop  
2 a buffer zone. So it's supposed to go after the  
3 slope disappears. That's where the wall is being  
4 recommended.

5 Q Does anyone know what the toe of the  
6 slope actually is?

7 A Yes.

8 Q Does anybody see that language in  
9 this illustration?

10 A This illustration is a typical engineering  
11 design like a cut sheet, and it does show, for  
12 example, there's an excavation two and a half feet.

13 Q You mean a typical illustration like  
14 Figure 14 of the North Bergen Land Use Ordinance  
15 that we went through last year at the North Bergen  
16 Planning Board?

17 A Yes, it helps explain. In this case this is  
18 an engineering standard, not a zoning interpretation  
19 standard. This is a cut sheet from an engineering  
20 design. It's clearly not site specific.

21 Q Well, you referred on page 20, to the  
22 reference to this Applevew site, and you see where  
23 it says, the recommended wall is identified as Wall  
24 No. 2 in Table 2?

25 A Yes.

1           Q           Do you know what Wall No. 2 in Table  
2   2 is?

3   A           No.

4           Q           Would you be surprised if it's the  
5   larger sized basket gabion wall that is recommended  
6   of the three?

7   A           Well, if that was at the toe of the slope,  
8   that would be probably catch rocks that came down  
9   from the Palisades.

10          Q           The question is, are you surprised  
11   that it's the largest basket type of gabion wall  
12   being recommended?

13   A           This is not obviously an engineering design.  
14   This is just an observation in the report that the  
15   Palisades are an unstable geologic feature, and  
16   they're recommending a gabion wall that is excavated  
17   two and a half feet to have a foundation.

18          Q           You just said it's not an engineer  
19   design, and two minutes ago you said it was?

20   A           It's a cut sheet from an engineering  
21   standard. You wouldn't take this into the field and  
22   build a retaining wall. You would need to have an  
23   accurate engineering drawing, where the wall is  
24   going to go, what the excavation is. This is  
25   clearly not an engineering plan, but it's a cut

1 sheet.

2 Q Do you see that this cut sheet shows  
3 that this wall is embedded deeply into the slope,  
4 the illustration?

5 A There is -- the cut sheet shows some -- shows  
6 excavation for the wall.

7 Q Thank you. Now, with regard to the  
8 gabion wall style of construction, do you know why  
9 that was recommended as opposed to a concrete wall  
10 or other type of construction?

11 A No. I assume cost had something to do with  
12 it.

13 Q Don't you think in the report when  
14 they referred to the cost, and they also have a  
15 table and cost analysis, they were trying to find  
16 the most inexpensive way to develop some type of  
17 barrier or stability support, isn't that in the  
18 report?

19 A I don't recall the specific, but I wouldn't  
20 be surprised if a government agency wanted to  
21 minimize the expenditures.

22 Q Now, with regard to the Appleview  
23 building, would not the rear wall of the building  
24 structure itself serve this very same purpose?

25 A You mean the apartment units? I would

1 suggest that the apartment unit shouldn't be used to  
2 hold --

3 Q I said the rear wall, the foundation  
4 wall, the rear wall, wouldn't it serve this purpose?

5 MR. LAMB: I'm going to object. Mr.  
6 Steck has indicated although he has a civil  
7 engineering degree, he was not qualified as a civil  
8 engineering expert. Whether that wall works from  
9 the engineering standard point --

10 CHAIRMAN CHOFFO: I'll have to agree.  
11 Continue, please.

12 Q With regard to the discussion  
13 regarding excavation disturbance, new disturbance,  
14 et cetera, are you familiar with those sections of  
15 the State regulations that deal with a limitation on  
16 new disturbance?

17 A To the degree that they are referenced in  
18 either Burton or the Gruel report, yes.

19 Q How about to the degree that it's  
20 reference in G-4, the State regulations I showed you  
21 a little while ago?

22 A I told you that I did not review the entire  
23 regulations. I read them to the extent they were  
24 referenced in those two studies.

25 MR. ALAMPI: Chairman, I'd like to

1 show Mr. Steck the G-4 Exhibit, and bring his  
2 attention to Paragraph 6, which is a subsection of  
3 Paragraph G of the 7:25. I think it's 7:15-25.

4 Q For the purposes of Paragraph C  
5 Subsection 6?

6 A Which section do you want me to review?

7 Q It's actually 7:15-5.25. That would  
8 be the last page. I put a little highlight on it.  
9 My question, Peter, just to give you a chance, are  
10 you familiar with this section?

11 A I'm going to read it, and I'll tell you. I'm  
12 not -- I haven't seen the specific wording because  
13 this wording was not included in either of your  
14 experts' report.

15 Q It wasn't, are you familiar with  
16 Ms. Gruel's report?

17 A I read it again this evening.

18 Q And you don't see that referenced  
19 specifically word for word in her report?

20 A Let me look and I'll tell you. I take it  
21 back. I did read it this evening, and at this  
22 reproduced word for word on page 7 of Ms. Gruel's  
23 report.

24 Q You still maintain that these  
25 regulations promulgated by the State, adopted by the

1 State and the County in anticipation of these  
2 adoptions four months later, adopted its land use  
3 development ordinance, incorporating these in  
4 Article 8, are not a basis of the Water Quality  
5 Management Act, a mandate of the Water Quality  
6 Management Act, regulating the County's land  
7 development ordinance?

8 A This definition of steep slopes and  
9 impervious coverage has not been adopted in my  
10 opinion in the County development ordinance.

11 Q In your opinion, and the last thing,  
12 Peter, since you continue to cling to definitions,  
13 are you familiar with page 17, in the land  
14 development ordinance, that is the County Land  
15 Development Ordinance on page 17, the definition of  
16 disturbance?

17 A Yes.

18 Q Can you read it for us read? Read it  
19 to yourself first, and then read it to us.

20 A Can I do both at the same time?

21 Q I want to give you a chance to absorb  
22 it.

23 A I'll just read it.

24 Q You're smarter than me. Go ahead.

25 A Disturbance, colon, the addition of

1 impervious surface, parenthesis, example, pavement,  
2 close parenthesis, exposure or movement of soil or  
3 bedrock, example, grading, comma, excavation, in  
4 parenthesis, or clearing, cutting or removing  
5 vegetation. I believe I testified to that during  
6 the last meeting.

7 Q You testified to?

8 A That definition.

9 Q What was your conclusion in your  
10 testimony?

11 A I'm saying it is different. This is the  
12 definition that applies to the implementation or the  
13 interpretation of the County regulations.

14 Q And isn't it true that clearing,  
15 cutting or removing of vegetation would constitute  
16 by definition a disturbance of the steep slope?

17 A Well, I think you have to read it with a  
18 degree of common sense. It's clarified to say -- it  
19 does say removing of vegetation is disturbance.  
20 That doesn't mean that it's impervious coverage, and  
21 that doesn't mean that once you cut the grass, that  
22 means you can excavate everything on the site. That  
23 would be absurd.

24 Q So when the County doesn't include  
25 something or includes something in your opinion it

1 was very specific, when they include that language  
2 in this definition, we should disregard it and use  
3 common sense?

4 A No, I think you have to read it in  
5 combination with the other standards in the  
6 ordinance. If you're trying to get me to say  
7 because the applicant went in and removed trees, he  
8 now can excavate the rest of the site, that doesn't  
9 make sense.

10 Q Let's not talk about the applicant.  
11 Let's talk about the findings in the Burton report  
12 of removal, of crushed stones, of impervious  
13 coverage, of gravel, of gabion walls and of  
14 vegetation that was removed long ago, how does that  
15 affect the definition of the fact that this area had  
16 been previously disturbed?

17 A First of all, it's not clear what portions  
18 are disturbed and what were disturbed. Mr. Burton,  
19 if I recall his testimony, referenced individual  
20 items like the remnants of a driveway and the  
21 deposition of gravel, and then he concluded that all  
22 of this area was disturbed. The other issues is the  
23 ordinance does not have a timeline on it. This  
24 could have been disturbed a hundred years ago. At  
25 one time there might have been the Hudson River

1 obviously carved away some of the area. That's  
2 disturbance. It seems to me there are no exceptions  
3 from those long-ago disturbances that are in the  
4 town ordinance.

5 Q So you deny that these are previous  
6 phenomenon or happenings, do not constitute a  
7 disturbance as the ordinance is written?

8 A I think you have to read this definition in  
9 concert with the other definitions and standards.

10 Q So the question simply is, isn't that  
11 by this definition proof that the area in question  
12 was previously disturbed?

13 A In my opinion the most -- first of all, the  
14 applicant is in my opinion, disturbing sections that  
15 have had vegetation on them. There maybe some rock  
16 deposited on it, but the answer is there maybe a  
17 talus slope underneath that rock. So it's not  
18 clear.

19 Q When you use a term like that, just  
20 define it for the Board what that means.

21 A That's during, as I understand it, during the  
22 normal deterioration of a rock face, there is rubble  
23 that falls at a certain angle before you get to  
24 horizontal land, and that triangular cross-section  
25 area would be that talus slope.

1 MR. ALAMPI: Mr. Chairman, I have no  
2 further questions because my question, I'm  
3 satisfied. I made two points. I'm satisfied with  
4 that. I'll conclude. I think the Board understands  
5 it will be judges of the facts.

6 MR. LAMB: I think it's the  
7 appropriate time if the Board wants to ask any  
8 questions, I have a four or five minutes of  
9 redirect.

10 CHAIRMAN CHOFFO: You can do your  
11 redirect.

12

13 REDIRECT EXAMINATION BY MR. LAMB:

14 Q Mr. Steck, you were given A-10 by  
15 Mr. Alampì?

16 A Yes.

17 Q Do you have it in front of you?

18 A I do.

19 Q Could you tell me what the date at  
20 the bottom right-hand corner is, as best as you can  
21 make it out?

22 A It appears to be June 26th, 2008.

23 Q Would you look at the left-hand  
24 margin, there's also a date in the left-hand margin.

25 Could you tell me what that date is?

1 A Plotted -- first of all, it's copyright LGA  
2 Engineering, 2008, and it says it was plotted  
3 September 5th, 2008, at 8:06 in the morning.

4 Q And you indicated that you were  
5 advised by Mr. Alampi, in one of the questions, when  
6 did the County regulations that prohibited steep  
7 slopes disturbance go into effect?

8 A That is October 23rd, 2008.

9 Q So is it fair to say that this  
10 diagram based upon the exhibit given to you was  
11 prepared before there was a steep slope prohibition  
12 in Hudson County?

13 A Yes.

14 Q Now, I'm going to give you --  
15 actually I guess, we'll mark this G-10. It's the  
16 development review checklist. It's my only copy  
17 because I wasn't planning on asking a question about  
18 it. Is that part of the application in your record  
19 review?

20 A Yes.

21 MR. LAMB: I don't have another copy  
22 of this. It's the development review checklist  
23 attached to the County development application.

24 CHAIRMAN CHOFFO: Our checklist?

25 MR. LAMB: Yes, that's correct. Your

1 checklist. I'm going to mark it G-10, with the date  
2 10/26/11.

3 Q Mr. Steck, I'm going to turn or  
4 direct your attention to Section G, Item No. 72.

5 A I have it in front of me.

6 Q Can you just read it out?

7 A The title is G, Deeds and Easements, and the  
8 column -- excuse me, the row is No. 72, and it says  
9 copy and description of any existing or proposed  
10 deed restrictions or covenants, and in the next  
11 instead of a check there in the next box, it's TBD,  
12 which I presume is To Be Determined, and there's a  
13 blank column in the final column that says, being  
14 finalized with Transco and the MUA.

15 Q Now, you've had a chance to review  
16 the County application file?

17 A Yes.

18 Q And the County plans?

19 A Yes.

20 Q In connection with that review, have  
21 you ever seen the proposed Transco easement being  
22 finalized, is it in any document that you've seen in  
23 connection with this application?

24 A No.

25 Q Are you aware of whether that Transco

1 pipeline easement has been executed, or have you  
2 seen an executed copy or heard that one exists?

3 A I haven't, and all I have heard in these  
4 proceedings is that it's in the process. I don't  
5 believe there's any evidence that it's been  
6 finalized.

7 Q So is it fair to say it's a checklist  
8 item, I believe you're correct, that it hasn't been  
9 provided, and that's an outstanding item in this  
10 application?

11 A Yes, it would be an incomplete item because  
12 the applicant indicated it's in process, but  
13 apparently it is not here yet.

14 MR. ALAMPI: I'm just objecting to  
15 your conclusion. The County element review team  
16 deemed the application complete. Just note my  
17 objection.

18 MR. LAMB: I'll also note just for  
19 the record, my letter dated April 5th, 2011, pages  
20 14 to 18 have four pages of items that were not  
21 complete. When I first appeared before the Board, I  
22 specifically indicated that one of my comments was  
23 that the application was not yet complete. So we've  
24 maintained throughout this that there are missing  
25 items or deficient items in the application.

1           Q           Now, Mr. Steck, there is a lot that  
2 has been discussed about steep slope prohibition,  
3 has there been any reference in any of the Hudson  
4 County development regulations, the reexamination  
5 report, any of the other studies that Ms. Gruel, the  
6 developer's planner, discussed or you had raised,  
7 that indicates that steep slopes that were  
8 previously disturbed are an exception from the steep  
9 slope prohibition?

10          A           I could find no policy, statement or  
11 regulation that offered that standard.

12          Q           Is it fair to say that in reviewing  
13 the County regulations, it's your opinion that the  
14 steep slope prohibition applies, whether there was  
15 disturbance in the past, whether it was ten years  
16 whether it was fifty years, whether it was a  
17 thousand years?

18          A           Yes. Again, well, there are only a few, for  
19 example, vacant sites along the Palisades. Even  
20 looking at the study of the Palisades that the  
21 County produced, the County was clearly aware of the  
22 characteristics of the sites yet to be developed.

23          Q           In fact, when these County  
24 regulations were enacted, as you testified, in  
25 October 2009, is it fair to say that the current

1 tennis court or recreational facilities without any  
2 buildings existed at that time?

3 A Yes.

4 Q Is it also fair to say there was some  
5 discussion about the Palisade Slope Stability Study,  
6 that did not indicate buildings or anything on the  
7 property?

8 A That's correct.

9 Q Now, you've indicated in your  
10 original testimony, your direct testimony, you cited  
11 the purposes, one of the purposes of the Hudson  
12 County regulations was public safety?

13 A Yes.

14 Q Are you aware of that?

15 A Yes.

16 Q With respect to public safety, is not  
17 an item of public safety from a planning standpoint  
18 related to any adverse affect on water and drainage  
19 and the pipeline?

20 A Yes, I think that clearly --

21 MR. ALAMPI: Chairman, I'm going to  
22 note an objection. This is redirect. It's not an  
23 opportunity to create new issues and go into new  
24 areas. I didn't even go near those issues.

25 CHAIRMAN CHOFFO: You said five

1 minutes, and it would be a redirect.

2 MR. LAMB: With all due respect, Mr.  
3 Chairman, Mr. Steck never testified about those  
4 regulations. Those regulations were given to Mr.  
5 Burton on his cross, and I didn't say anything about  
6 Mr. Alampi going through that testimony. I'll move  
7 on though, Mr. Chairman.

8 Q Now, Mr. Steck, have you had  
9 occasion -- it's very tough to maneuver.

10 CHAIRMAN CHOFFO: As Mr. Lamb gets  
11 set up, I'll like the record to reflect that  
12 Commissioner Ng has joined the meeting.

13 Q Mr. Steck, with respect to your  
14 testimony concerning the Transco easement, have you  
15 had occasion to review the northwesterly portion of  
16 the property and that easement to better explain for  
17 the Board the affect of the easement on the adjacent  
18 lot of the subject property?

19 MR. ALAMPI: Chairman, again.

20 CHAIRMAN CHOFFO: Before you say  
21 anything, Mr. Alampi, Mr. Lamb, I want to stay  
22 focused on traffic and drainage. The Transco  
23 pipeline has come up. This is our fourth meeting as  
24 you know. I don't want to open that can of worms  
25 again and start talking about that. That's

1 something that's out of our jurisdiction. Right  
2 now, we want to stay focused on traffic and  
3 drainage.

4 MR. LAMB: I would like, for the  
5 record, to introduce this, at least mark it as A --  
6 excuse me, G-11. Mr. Steck, had testified  
7 concerning the easement, where it was located and  
8 the access. I wanted to clarify that because when  
9 he testified, Mr. Burton's plan was not mounted, and  
10 I wanted to make sure the Commissioners understood  
11 exactly what was happening there.

12 CHAIRMAN CHOFFO: We'll bring this to  
13 our counsel first. Mr. Curley.

14 MR. CURLEY: Mr. Lamb, may I see it,  
15 please.

16 MR. LAMB: Sure.

17 MR. CURLEY: Mr. Chairman, the  
18 exhibit is certainly outside the scope of redirect  
19 examination. It may be a clarification from direct  
20 examination that Mr. Steck gave. I would recommend  
21 in the interest the time excluding it.

22 MR. LAMB: I'm going to request after  
23 the redirect that I supplement the last witness. I  
24 will call Mr. Steck to address some things that we  
25 did not. If you recall, the testimony of Mr. Steck

1 ended late. I decided to cut off the questions. I  
2 would like to ask him a few more questions, however  
3 you want to categorize it. I think I should have  
4 that right. So after we finish this process, if you  
5 want me stick to just redirect, I would like to  
6 bring Mr. Steck to address some of these clean-up  
7 issues.

8 MR. ALAMPI: Chairman, just for the  
9 record, this is totally inappropriate redirect. We  
10 can go on and on and try to establish some new  
11 testimony and new evidence. I just feel that no one  
12 curtailed anyone from giving full testimony.

13 CHAIRMAN CHOFFO: Let's stay focused  
14 on redirect.

15 MR. LAMB: So I'm going to redo that  
16 afterwards?

17 CHAIRMAN CHOFFO: Mr. Curley?

18 MR. CURLEY: We'll cross that bridge  
19 when it reach it.

20 MR. LAMB: Because I'm finishing the  
21 bridge right now. I've finished it. So now I'm  
22 ready to recall Mr. Steck and ask him probably two  
23 more minutes of questions.

24 MR. CURLEY: I would think at this  
25 point members of the public may wish to ask

1 Mr. Steck questions.

2 MR. LAMB: That's fine, Mr. Curley.  
3 Whatever order you want to do it, that's fine.

4 CHAIRMAN CHOFFO: Is there anyone in  
5 the public that would like to ask Mr. Steck any  
6 questions? Please state your name first.

7 MR. RABIN: Jeremy Rabin. Mr. Steck,  
8 there are a number of objectives in the Hudson  
9 County Planning Board bylaws, and one of those  
10 objectives clearly stated, the general objectives,  
11 what is Section 2 on the Article 1, the general  
12 objectives of the Board are, and one of the things  
13 listed, including but not limited to health, welfare  
14 environmental, drainage, protective traffic and  
15 promote the public health, safety, convenience and  
16 general welfare.

17 We know that drainage and traffic have  
18 been discussed extensively here as the only areas  
19 where this Board seems to be willing to take  
20 questions, but should not the bylaws here have some  
21 bearing on the considerations of this Board?

22 MR. STECK: I think the -- I think an  
23 indication of the breadth the considerations that  
24 the Board can give under the heading of, for  
25 example, stormwater drainage, the regulations

1 clearly make a linkage between the disturbance of  
2 the steep slopes and stormwater quality, and because  
3 steep slopes are being disturbed, because of those  
4 broad purposes, it's my opinion that the Board can  
5 take things into consideration like the potential  
6 impact on, let's say, a high-pressure gas line.

7 MR. RABIN: And given that these  
8 bylaws specifically state, promote the public  
9 health, safety and general welfare, I think by any  
10 reasonable reading of that, one would assume that a  
11 massive pipeline on the property, Applevew  
12 property, would classify as a concern for public  
13 health and welfare. We just saw San Bruno happen.  
14 That's a smaller pipe in a much less densely  
15 populated area. Wouldn't that constitute a  
16 reasonable concern for a Board to at least hear some  
17 of the testimony on it or allow some testimony on  
18 such an important matter?

19 MR. STECK: The issue in my mind is  
20 the applicant needs relief from a standard, and the  
21 application is disturbing steep slopes, and the  
22 rationale for controlling them is multifaceted, and  
23 because the applicant is violating a standard, it  
24 seemed to me the Board is allowed to take a broader  
25 view of that. I think it's the applicant's burden

1 to demonstrate that by disturbing those steep  
2 slopes, it can do so without damaging the general  
3 public welfare. That's how I think the issue of,  
4 for example, the pipeline comes into play.

5 MR. RABIN: And on this property, the  
6 pipeline is on the steep slope, is it not?

7 MR. STECK: Yes, it is. It's in  
8 proximity to an area that would be excavated for the  
9 building.

10 MR. RABIN: And it is also this  
11 massive pipeline also goes under the County road,  
12 which is at the front of the Appleview property?

13 MR. STECK: Yes.

14 MR. RABIN: So knowing what we know  
15 about gas pipeline explosions and the hours of  
16 incredible heat they generate, San Bruno, the road  
17 in San Bruno was not available for use for many  
18 months of cleanup before it could be reused, the  
19 pipeline could not be reapplied through there until  
20 the area was cleaned up and the bodies removed and  
21 everything else. If this pipeline were to blow up a  
22 bigger pipeline and the County road was destroyed,  
23 and not to mention many high-rise buildings and  
24 thousands of lives, would that be something that the  
25 Board might want to look at before they made a

1 decision on a project of this nature, since it is  
2 steep slope and County-road related?

3 MR. ALAMPI: Chairman, if I may I  
4 recall distinctly that Mr. Lamb would not offer this  
5 witness as an expert in pipeline safety, and of  
6 course, he shied away from that because he does not  
7 have credentials to give that testimony. I object.

8 MR. RABIN: All right. I guess I  
9 wasn't clear. My question was whether these areas  
10 of concern could be within the area of concern of  
11 this Board, which I think is related to planning  
12 issues and his understanding what the County Board  
13 has parameters to look at regarding steep slope and  
14 the County road. I wasn't asking him to critique my  
15 analysis of a pipe that's bigger than San Bruno.

16 MR. STECK: My response is, because  
17 the applicant is seeking relief from a standard that  
18 prohibits the disturbance of steep slopes, I think  
19 these broader considerations are proper for the  
20 Board to take into account.

21 MR. RABIN: I think the majority of  
22 the public feels that way also and is counting on  
23 this Board --

24 CHAIRMAN CHOFFO: Excuse me. Stay  
25 focused on the question for Mr. Steck. People in

1 the audience, please refrain until it's your turn to  
2 speak at the microphone. I don't want fighting in  
3 the audience. I'm going to have to have to ask  
4 Sheriff's officers to remove people if that's going  
5 to be the case, all right?

6 MR. RABIN: Thank you.

7 CHAIRMAN CHOFFO: One more, you're  
8 asking question. As our counsel, Mr. Curley said,  
9 there's a difference between asking Mr. Steck a  
10 question and giving your own opinion. It's either  
11 going to be one or the other. It's not going to be  
12 a two-way street or a one-way street. It's either  
13 one or the other.

14 MR. RABIN: I agree. I'll tighten it  
15 up. I understand. There was some questions from  
16 Mr. Alampi about the replacing the gabion wall that  
17 has been recommended by the Hudson County Slope  
18 Stability Study, replacing it with the actual  
19 building, the Applevew building. Am I correct in  
20 understanding that the first floor, the cement floor  
21 of that building is going to be below grade, and the  
22 that wooden structure, the floors of the wooden  
23 structure would be there for the gabion wall in  
24 question?

25 MR. STECK: Well, the gabion wall was

1 to be, at least in the slope study, was to be placed  
2 at the toe of the slope simply to protect the lower  
3 area from rocks coming down. It had nothing to do  
4 construction-ability. It was something that ought  
5 to be done today to help stabilize that area.

6 MR. RABIN: If this building in North  
7 Bergen required a 40-foot setback, there would be  
8 room for a gabion wall, wouldn't there?

9 MR. STECK: Yes, if the applicant  
10 stayed away from the steep slope, there would  
11 clearly be room to offer some protections.

12 MR. RABIN: And according to the  
13 Hudson County Slope Stability Study, this is an area  
14 highly at risk for rock fall, mudslides, sinkholes  
15 and other problems of that nature?

16 MR. STECK: Yes, by the very fact  
17 that it referenced the specific property, I think  
18 that's a fair conclusion.

19 MR. RABIN: I've also read that FEMA  
20 has a study, which is a study done mostly concerned  
21 with the minor earthquakes in the area. That found  
22 the same things, that this area is highly at risk  
23 for soil instability.

24 MR. ALAMPI: Excuse me, I have no  
25 recollection of that portion of the report being in

1 the case record, and I certainly object to this  
2 witness introducing it in this fashion.

3 MR. RABIN: I'm sorry. It was  
4 mentioned in the North Bergen hearings. I will back  
5 off of that.

6 CHAIRMAN CHOFFO: One other thing, we  
7 are going to start limiting questions to five  
8 minutes per person, so we'll give you two more  
9 questions at this point, and give the other people  
10 that want to come up.

11 MR. RABIN: I appreciate the  
12 latitude, thank you. I would imagine that a lot of  
13 people have not actually seen this property. I have  
14 brought some photographs showing the steep slope  
15 taken from off site, and these were taken in 2010  
16 and 2011. They're specifically concerned with the  
17 current conditions of slope stability and soil  
18 erosion and other conditions. I have, I think, six  
19 copies of these. I would appreciate --

20 CHAIRMAN CHOFFO: You can't introduce  
21 anything into evidence. This is you having  
22 questions for Mr. Steck. You're not an attorney.

23 MR. RABIN: If I present it to Mr.  
24 Steck and if he were to say that these photographs  
25 should be something that the Board consider in

1 evaluating the conditions of the slope during the  
2 six years that Applevew has been in control of that  
3 property, would you be willing to look at them?

4 MR. LAMB: I was going to suggest,  
5 right now we're having questions of Mr. Steck, but  
6 then Mr. Rabin can stand up after questions are over  
7 and make a comment and provide whatever evidence he  
8 wants. So I don't think you should preclude him,  
9 but the questions, we're not at the stage. As I  
10 understand it, this is only questions.

11 MR. RABIN: I was hoping to determine  
12 whether Mr. Steck felt that these were relevant. If  
13 he felt they weren't, then I wouldn't bother the  
14 Board with them.

15 CHAIRMAN CHOFFO: At this point I  
16 would rather see you proceed with question to  
17 Mr. Steck.

18 MR. RABIN: Well, there were in 2010  
19 and 2011, a considerable amount soil erosion that's  
20 been observed on the property.

21 MR. ALAMPI: Excuse me, it's boldface  
22 statement. These are boldface statements. There is  
23 no foundation. There is no basis. There is no  
24 corroboration.

25 COMMISSIONER FITZGIBBONS: Mr.

1 Chairman, we have own our pictures that our own  
2 people took. We know the site and what's going on  
3 there, all right?

4 MR. RABIN: I'm sure they're  
5 pictures. I don't know if somebody was there during  
6 heavy rainfalls.

7 CHAIRMAN CHOFFO: The comment that  
8 you don't think a lot of people are familiar with  
9 the site, we're all very familiar with the site.  
10 That's how you started your question.

11 MR. RABIN: I think what that was, I  
12 don't think everybody here, which includes many of  
13 people in the audience, I was not suggesting that  
14 the Board has no knowledge of the site. I assume  
15 that you do. I am there since it is my  
16 neighborhood. I observe this slope during heavy  
17 rainfalls. I observed that trees that have been  
18 falling over on the property, and they're all  
19 falling over above the area that was cut in 2007.  
20 So it seems very suggestive that the work that was  
21 done by Applevue in 2007, has led to the numerous  
22 trees that have fallen higher up in the slope, and  
23 that's precisely the sort of thing that the steep  
24 slope --

25 MR. ALAMPI: This is beyond

1 outrageous, and for the case record, impugning the  
2 applicant and inferring or making these boldface  
3 statements is an outrage. It's a total  
4 misappropriation of process and time. I put that on  
5 the record. I know the Board understands full well  
6 the procedure. I'm sure lay people are not fully  
7 familiar. I tried to not interrupt at every phrase,  
8 but it's very difficult.

9 CHAIRMAN CHOFFO: You have one more  
10 question of Mr. Steck, and we'll have to open it up  
11 to other people for questions of Mr. Steck.

12 MR. RABIN: If trees were falling  
13 over on the property every time there is a heavy  
14 rainfall, trees would sag and next time they would  
15 fall, soil can be seen eroding, would you consider  
16 that that was something that the steep slope  
17 legislation was designed to prevent and something  
18 that this Board can be concerned about given that  
19 Applevue has been in control of that property for  
20 six years?

21 MR. STECK: Well, that is obviously  
22 evidence of instability. I obviously can't comment  
23 on the specific reason why they're falling. If it  
24 has to do with past vegetation removal by the  
25 applicant, I just don't know. Clearly, the items

1 that you mentioned are the indices of erosion, which  
2 is sought to be prevented by the regulations.

3 MR. RABIN: Thank you again for the  
4 latitude. I know some of these questions were not  
5 the ones you wanted to be asked on this occasion,  
6 but I hope you'll understand, the public is very  
7 concerned about these issues, and we are seeking to  
8 uphold your zoning ordinance, which is different  
9 than what the developer is trying to do. We are  
10 fighting for our lives here, and we're not asking  
11 for something exceptional. We're just asking for  
12 safety and to stay within zoning limits in a very  
13 constrained lot. So we're not antidevelopment. We  
14 are not against anybody on the Board. We're not  
15 against the developer. We just want him to stay  
16 safe. That's all. Thank you.

17 CHAIRMAN CHOFFO: Anybody else have  
18 questions for Mr. Steck?

19 COMMISSIONER MEHTA: Chairman, we're  
20 supposed to have the planner asking him questions  
21 and testimony, so then ask him again rather than  
22 make a statement and another things.

23 MR. MARJAN: It's Bijan, B-i-j-a-n;  
24 Marjan, M-a-r-j-a-n, 8100 River Road, North Bergen.

25 CHAIRMAN CHOFFO: Before you start we

1 are going to limit questions now to five minutes.

2 MR. MARJAN: I have one question, a  
3 very simple question. It's more a public safety  
4 question if I may. As we know on this property  
5 there is a major transcontinental gas pipeline. As  
6 we know it is relatively -- the structure is such  
7 that it's very adjacent, very close by to other  
8 properties, namely the Galaxy and the sewerage  
9 treatment facility. In the event that a fire was to  
10 break out behind this facility that is being  
11 proposed, do you believe that emergency personnel  
12 would have enough access to get to that area to  
13 address the fire, especially, again, given the fact  
14 you're near a major transcontinental gas pipeline,  
15 and you know, things could happen?

16 MR. ALAMPI: Chairman, I'll object.  
17 I don't know what this gentleman -- I certainly know  
18 he hasn't been qualified as a fire safety expert.

19 MR. STECK: I'm not an expert.

20 CHAIRMAN CHOFFO: Mr. Steck is going  
21 to answer the question.

22 MR. STECK: I'm not an expert in the  
23 delivery of emergency services, but clearly putting  
24 this building there is more of an impediment than  
25 exists today.

1 MS. CARRIO: Heather Carrio, 7004  
2 Boulevard East, in Guttenberg. Mr. Steck, since you  
3 are not an expert in fire safety, would you feel  
4 it's appropriate under the purview of the Board to  
5 protect the public welfare and safety that a fire  
6 expert be allowed to enter testimony about the  
7 pipeline?

8 MR. STECK: Well, the Galaxy has  
9 already presented an expert in pipeline safety, so  
10 that evidence is on the record about the  
11 consequences of a catastrophic event. It's already  
12 there. It would be reasonable for the Board to have  
13 someone comment on how emergency services would have  
14 been to modified or potentially hampered by the  
15 applicant's design.

16 CHAIRMAN CHOFFO: Anyone else have a  
17 question?

18 MS. WONG: My name is Peggy Wong.  
19 I'm at 8550 Boulevard East, North Bergen, New  
20 Jersey. I'm actually here speaking on behalf the  
21 Coalition to Preserve the Palisades Cliffs. I have  
22 a question of Mr. Steck regarding a document or a  
23 study that was submitted to this Planning Board, as  
24 well I believe yourself and the two attorneys. It  
25 was a research document commissioned by our

1 conservancy to define Palisades Cliffs, and I wanted  
2 to know if you had read it and were familiar with  
3 it?

4 MR. STECK: I was aware of the  
5 testimony that was presented advancing the study,  
6 how we believe the cliffs should be defined.

7 MS. WONG: The definition,  
8 unfortunately, I did not bring the study with me,  
9 but it is a document that's been submitted as part  
10 of the submittals by the attorney here. So I'm  
11 going to do this from memory of you'll allow me.  
12 Mr. Steck, the definition of the cliffs was it  
13 included talus in the steep slopes and was not  
14 limited to the visible cliff face, is that your  
15 recollection?

16 MR. STECK: Well, first of all, the  
17 ordinance that governs these proceeding, which is  
18 the land development regulations has its own  
19 definition of steep slopes, and that's 20 percent or  
20 more, whether that is the cliff face or the talus  
21 slope. So there is already a definition that is  
22 operative and the applicant is violating. I think  
23 that the testimony that you referred to in the  
24 report or the report you referred to simply affirms  
25 the reasonableness of that standard, 20 percent.

1 MS. WONG: All right. I think that's  
2 all I have. I just wanted to establish the  
3 definition of the Palisade Cliffs in the view of  
4 myself and others as been researched, and it is in  
5 your files. Thank you.

6 CHAIRMAN CHOFFO: The gentleman in  
7 the front row raising his hand has a question.

8 MR. SHAW: Good evening. Herb Shaw,  
9 4402 Liberty Avenue, North Bergen. Concerning the  
10 portion of the hearing for stormwater, at the  
11 direction of the State, North Bergen added to its  
12 plan, the Planning Board enforces, State laws  
13 concerning the stormwater. Now, I don't want to  
14 take up all of your time telling you what it is  
15 because it's here for you to read, for this Planning  
16 Board to read, and it should be exactly the same as  
17 the State statutes in North Bergen and Trenton and  
18 Jersey City and everywhere else.

19 I'm going to give this to you so your  
20 attorney can tell you if it's meaningful, to advise  
21 you because at the present time, North Bergen has  
22 combined sewers, and they are especially when there  
23 is a storm, putting raw sewerage into the Hackensack  
24 River, and we are concerned with this situation with  
25 the Hudson River so it's all a communities in Hudson

1 County.

2 CHAIRMAN CHOFFO: Mr. Shaw, do you  
3 have a question of Mr. Steck?

4 MR. SHAW: Mr. Steck, you're advocate  
5 against this development, true?

6 MR. STECK: I'm a planner  
7 representing the Galaxy, reviewing the testimony of  
8 an applicant seeking exceptions from the County  
9 standard, and it's my conclusion after hearing the  
10 testimony, that the applicant has not met its burden  
11 of proof.

12 MR. SHAW: Thank you. That's all.

13 CHAIRMAN CHOFFO: Thank you. Anyone  
14 else? Mr. Curley, should we hear from our  
15 engineers?

16 MR. CURLEY: Yes, ask them if they  
17 have any questions for any of the witnesses or Mr.  
18 Steck.

19 MR. DOUKI: Excuse me, I raised my  
20 hand. My name is Inoah Douki. D-o-u-k-i, 76  
21 Boulevard East, North Bergen. These folks are  
22 neighbors. The guys here --

23 CHAIRMAN CHOFFO: Before you go any  
24 further, this is just to ask Mr. Steck any  
25 questions.

1 MR. DOUKI: Yes, our concern in North  
2 Bergen, we have fire experts the sewer experts, a  
3 lot of meters. You have to multiple properties in  
4 North Bergen. I have three kids myself. I'm  
5 concerned about the gas pipe that you're talking  
6 about. Can you educate me a little bit, just a  
7 little bit, where does this start and where does it  
8 end. It seems like to me that this pipe only  
9 resides under the slopes under the Galaxy and couple  
10 blocks away. There is a lot of people that are  
11 concerned about this gas pipe. The gentleman up  
12 front was saying catastrophic explosion if something  
13 happened, people are going to die.

14 Now, this pipe over here, who is in charge  
15 of it in case there is a leak, if there's anything  
16 happening with regard to development. Let's not  
17 talk about it like it doesn't -- let me finish my  
18 question, please. I speak on behalf of a lot of  
19 people. I'm also a realtor in the town. We go to  
20 these meetings randomly all the time. So the  
21 question is very plain and simple. This gas pipe,  
22 where does it start, where does it end? In case  
23 there is a leak and something happens, who is in  
24 charge and accountable, the developer, the town of  
25 North Bergen, Guttenberg or the County? That's one.

1           The second question so we don't have to  
2 ask you again, how many people in the Galaxy that  
3 are actually facing the view of New York, their view  
4 is going to be blocked by this project?

5           MR. LAMB: Let's have one question,  
6 sir.

7           MR. DOUKI: I asked a question.

8           CHAIRMAN CHOFFO: You have to direct  
9 your question to Mr. Steck, and rather than trying  
10 to get the crowd in an uproar. We're trying to  
11 avoid the situation.

12          MR. DOUKI: They're my neighbors. I  
13 have the same concerns like them. We share the same  
14 thing.

15          CHAIRMAN CHOFFO: This Board is going  
16 to conduct our meeting the way it should be  
17 conducted. You're going to address your question to  
18 Mr. Steck.

19          MR. DOUKI: Thank you so much, if you  
20 could answer that question.

21          MR. STECK: The Galaxy already  
22 presented an expert on pipeline safety, and there is  
23 my recollection, if a catastrophic event happens,  
24 the effects of it go beyond the subject site. It is  
25 a significant event that obviously affects

1 potentially the lives of many people.

2 I have a more narrow approach because I am  
3 examining the fact that applicant needs exceptions  
4 from the law, and when you're asking for exceptions,  
5 it seems to me that opens the door to a broad range  
6 of public purposes that ought to be evaluated,  
7 whether or not to grant those exceptions. In my  
8 judgment the very fact that it is unclear, at least,  
9 and there are multiple opinions about who is  
10 responsible, it seems to me that there is a degree  
11 of responsibility this evening because the applicant  
12 wants relief. The applicant is saying, I would like  
13 to get a waiver, get a exception from the law, so I  
14 remove more of the cliff than I am entitled to, that  
15 in my opinion does affect the issue of safety of the  
16 pipeline.

17 It's incrementally worse because the  
18 application is asking for relief, and in my opinion,  
19 the Board can take that into consideration in  
20 deciding not to grant that relief.

21 MR. DOUKI: Thank you.

22 MR. ASAD: Good evening. My name is  
23 Telvo Asad. I live at 7305 Boulevard East. I  
24 believe the question was raised, and I'm interested  
25 in knowing that answer. Can you please tell me the

1 origin of this pipe? Where does the pipe come from?

2 MR. STECK: I can't tell you that.

3 There was testimony on the record of our expert and  
4 I -- part of my concern was heightened by the  
5 testimony of that expert. I would hope that the  
6 Board's concern was also heightened.

7 MR. ASAD: You don't know at this  
8 point. The other question would be my understanding  
9 is that there is going to be a slope on or around  
10 the pipe, the gas pipe, that is the slope?

11 MR. STECK: Well, the pipeline  
12 crossed the subject property in the northwest corner  
13 in an area that isn't steep slopes. It also  
14 parallels the northern border of this property.  
15 Part of the application is to create an access  
16 around, the 20-foot access on the subject property,  
17 as well as the plan shows a maintenance area toward  
18 the top that, although the plans are inconsistent,  
19 they travel on the Lot 5.01.

20 There are several things happening. There  
21 is a pipeline there. They're constructing an  
22 access-way next to it. Part of the application is  
23 to construct a maintenance area that is accessed by  
24 that easement, and that maintenance area is actually  
25 underneath a parking garage of the high-rise. It

1 also extents, there's a dotted line on the plan that  
2 shows it extending onto Lot 5.01. So it's clearly  
3 part and parcel of the site plan application, as  
4 well as, in my opinion, the abutting properties that  
5 are also influenced by it.

6 MR. ASAD: In your opinion they have  
7 to deal with the fact that a pipe is there at this  
8 moment. So that steep slope is already disturbed?

9 MR. STECK: There was a disturbance  
10 at one time when that pipe went in in 1959. The  
11 answer is a lot of time has past since that.  
12 Vegetation has grown up, and unfortunately, more  
13 recently, some of that vegetation has been removed.  
14 So the public purposes of minimizing erosion are now  
15 being compromised.

16 MR. ASAD: In other words the gas  
17 pipe does not have any maintenance, cannot be  
18 maintained or checked once in a while?

19 MR. STECK: There was testimony by  
20 the expert about the issues of maintenance. That's  
21 not my area of expertise.

22 MR. ASAD: Thank you.

23 MS. KRONIG: Jeanette Kronig, 7855  
24 Boulevard East. The gentleman here just brought up  
25 a question, who is responsible on this line if

1 there's a leak or if something bad happened. Well,  
2 if there was a leak, there would probably be a very  
3 long lawsuit. Might take a year, somebody is going  
4 to nail it. Who is responsible if there were a  
5 disaster? If so many people were gone, who do you  
6 sue? The developer, the Board goes for the  
7 developer. I'm not finish with my question.

8 CHAIRMAN CHOFFO: Is your question  
9 for Mr. Steck? We're going to have time for public  
10 opinion.

11 MS. KRONIG: Who goes after who?  
12 What is the time span we're talking about here, ten  
13 year, twenty years? Who takes responsibility if  
14 something really happened, the Board, the town, the  
15 developer? No, who goes after who? Who does it?

16 MR. STECK: First of all in my  
17 experience, attorneys go after everybody because you  
18 don't want to exclude anybody that might have some  
19 liability. What seems to be characterizing these  
20 proceedings, at least if I look at the applicant's  
21 presentation, is everybody is kind of talking about  
22 someone else is responsible. It would seem to me  
23 that at least this County Planning Board is -- bears  
24 a responsibility because it is aware of the  
25 pipeline, it's aware of the testimony, and the

1 applicant is seeking relief, which will  
2 incrementally, in my opinion, increase the issue of  
3 potential damage to the pipeline.

4 MS. KRONIG: And if these fine people  
5 were not on the Planning Board in the future if  
6 something happens, the Planning Board is still  
7 responsible?

8 MR. STECK: I don't know.

9 MS. KRONIG: Does anyone know?

10 MR. STECK: One of the problems is, I  
11 don't think there is a clear evidence on the record  
12 at least presented by the applicant, just the issue  
13 of an easement or access apparently is unclear.

14 MS. KRONIG: So any disaster  
15 responsibility is really vague, isn't it?

16 MR. STECK: It seem to be based on  
17 the evidence presented, it is vague at the moment.

18 MS. KRONIG: Thank you.

19 CHAIRMAN CHOFFO: At this point we're  
20 going to hear from our consulting engineer. These  
21 questions are going beyond the scope of Mr. Steck's  
22 expertise.

23 Mr. Reimon.

24 MR. REIMON: Mr. Chairman, we have  
25 the application from the year 2010. Through this

1 time we have had several reviews of information  
2 provided to us. Our letter was dated March 2011, we  
3 issued our last comments, and it's a letter we  
4 actually stated in bold, the letter that was  
5 distributed all the Members of the Board, what is  
6 the result of our review. We have different items  
7 in our review letter. The first item is a general  
8 item with regard to traffic control. We believe  
9 that the traffic control has to be addressed.

10 MR. CURLEY: If you're going to  
11 comment on the application, I believe you should be  
12 sworn to give testimony.

13 (The witness is sworn.)

14 MR. REIMON: So the comments with  
15 regard to vehicular traffic, the applicant provided  
16 a set of plans in regards to the maintenance of the  
17 traffic and how it is going to implement based on  
18 the issue of the drainage pipe that is going be  
19 connected to the manhole in the street, which is  
20 actually the County road, and also the installation  
21 of driveways and curbs on that side of the street.  
22 After two rounds of reviews, we were satisfied with  
23 the plans that were provided to us in relation to  
24 that.

25 We also have drainage comments. Now,

1 those drainage comments are basically for stormwater  
2 management. A lot of people asked in this meeting,  
3 talking about stormwater management. We as the  
4 engineer, we have to make sure that the applicant  
5 address not only the County regulations, but also  
6 the State regulations as part of the New Jersey DEP  
7 waste management practice. We also have several  
8 reviews of the plans provided to us and drainage  
9 reports. The last drainage report was revised at  
10 the beginning of 2012.

11 One point that I want to actually state  
12 here is the applicant tried to the first time he  
13 provided information to us, tried to install some  
14 sort of an open detention basin. We believe that  
15 the site was no appropriate for that, based on the  
16 water table elevations. As a result changes were  
17 made to the plan on an underground storage system,  
18 which is a structural device was implemented for the  
19 site. In relation to that, the applicant water  
20 quality control for the site, and a device has been  
21 being installed to control the quality of the water  
22 for the area that has been disturbed by the  
23 building. There is also a bypass for the area that  
24 has not been disturbed within the property.

25 We found a number of discrepancies in the

1 calculations. All of these discrepancies were  
2 actually corrected so we have no further comments in  
3 regard to drainage.

4 In regards to traffic, it was interesting  
5 to say or it is interesting to say that the  
6 applicant provided a traffic study that had  
7 information from the year 2006, and the year 2008.  
8 We found some numbers in the traffic information  
9 that we were not comfortable with, and we requested  
10 additional traffic counts at some of the  
11 intersections. As a result of that, we were  
12 provided with new counts. The counts were performed  
13 in March of 2011. We, again, reviewed the  
14 information provided, and we also reviewed an  
15 additional count analysis that was performed by the  
16 applicant at the intersection and the traffic  
17 signals. We are satisfied also with the results of  
18 the responses from the applicant in regards to  
19 traffic.

20 I can only say about the steep slope, that  
21 is part of the actual NJDEP regulations for water  
22 quality, and municipalities should have an ordinance  
23 in regards to steep slopes. That's what we have.

24 COMMISSIONER ARENCIBIA: Mr.  
25 Chairman, I have something. I have questions for

1 their engineer, Mr. Alampi, your engineer.

2 MR. ALAMPI: Chairman, although you  
3 did not request him, I do have Mr. Burton here  
4 because I thought it might be important for his  
5 presence at each meeting. He is here.

6 CHAIRMAN CHOFFO: We went through  
7 this at our last meeting. For attorneys, it's in  
8 your best interest to always bring your  
9 professionals with you because last meeting, we had  
10 to postpone one applicant because one of their  
11 professionals were not here. It's always a good  
12 idea.

13 MR. ALAMPI: We have to be like Boy  
14 Scouts, always prepared.

15 CHAIRMAN CHOFFO: Mr. Curley, is he  
16 still sworn in?

17 MR. CURLEY: Yes, you're still under  
18 oath.

19 COMMISSIONER FITZGIBBONS: Mr.  
20 Chairman, when this project is built, does it fall  
21 under the Uniform Construction Code?

22 MR. BURTON: Yes, it will.

23 COMMISSIONER FITZGIBBONS: Does it  
24 fall under the Uniform Fire Safety Code or the fire  
25 safety standards?

1 MR. BURTON: Yes, it will.

2 COMMISSIONER FITZGIBBONS: Does the  
3 North Hudson Regional Fire Department have  
4 jurisdiction over this?

5 MR. BURTON: Yes, it is does.

6 COMMISSIONER FITZGIBBONS: Does it  
7 have to create a fire lane to the site of the  
8 property?

9 MR. BURTON: We have sufficient fire  
10 access for the building. If you're referring to  
11 this access ramp that we're creating to benefit the  
12 Transco who operates the gas line, not for our  
13 benefit, but it can also serve as a fire lane.

14 COMMISSIONER FITZGIBBONS: You would  
15 say that the fire official of the North Hudson  
16 Township would have control of the fire safety at  
17 the building?

18 MR. BURTON: That is correct.

19 COMMISSIONER FITZGIBBONS: That's  
20 all.

21 COMMISSIONER ARENCIBIA: Mr.  
22 Chairman, I have some question for the engineer I've  
23 heard testimony from both sides about the  
24 instability of the current slope at the site, trees  
25 or drainage runoff. Exactly, your project will do

1 what measures, what kind of measures are you going  
2 to do to offset and improve drainage?

3 MR. BURTON: The PMK report that we  
4 talked about, the slope stability report, looked at  
5 the site and just it called it a site of concern  
6 because of the slope, not because of any identified  
7 condition, but it has steep slopes. In that report  
8 it recommended installing a gabion wall, I was cross  
9 examined about that quite a bit, into the slope, not  
10 at the toe of the slope, but into the slope. This  
11 building would basically replace that slope that  
12 just extends on the tennis court side of the  
13 property. The other side of the property, there is  
14 a retaining wall already. It would be up against  
15 that.

16 Behind the building there would be some  
17 regrading just to create a swale to direct drainage  
18 around the property and collect that drainage and  
19 convey it out to the street. Our intent was to  
20 minimize any disturbance beyond the back of the  
21 building except where it was necessary to do grading  
22 and create a swale. We did commit to this Board and  
23 to your office that we would do a study of the slope  
24 to see if there were other remedial actions that  
25 were required to stabilize any conditions. The

1 geotechnical engineer and myself have been on the  
2 slope. We did not see anything that was imminent  
3 danger, but of course as a condition of this  
4 approval should we get approval, we will conduct a  
5 more in-depth study.

6 COMMISSIONER ARENCIBIA: And once  
7 your study is complete, if it determines that some  
8 additional measures need to be taken to stabilize  
9 the slope, will the applicant implement those?

10 MR. BURTON: Yes, we would. Some of  
11 those stabilization methods would not be so invasive  
12 as to cause a lot of disturbance. For example, if  
13 we found the slope was stable, we could use a thing  
14 called soil nails. We would just drive anchors into  
15 the ground. We don't have to cut the face. To  
16 answer your question, the answer is yes.

17 COMMISSIONER ARENCIBIA: Right now,  
18 the site is undeveloped. There's a number of sites  
19 on River Road that are not developed, but they have  
20 a problem with drainage running off the steep slopes  
21 and onto the County road, River Road in this case.  
22 As far as draining issues for the roadway, all of  
23 those drainage problems will be addressed through  
24 your construction of your project?

25 MR. BURTON: Yes. As properties have

1     been developed, drainage infrastructure has been  
2     created to control stormwater runoff so you don't  
3     have water entering River Road uncontrolled, and  
4     this would implement those infrastructures.

5                   COMMISSIONER ARENCIBIA:  As far as  
6     the piles, how would the construction of the piles  
7     be done in this project?

8                   MR. BURTON:  We had discussed a  
9     couple of options on installing piles.  In the plans  
10    there are a series of notes that discuss  
11    construction and pile installation and monitoring  
12    methods that would be employed, vibration monitoring  
13    to see if there was any impact on the gas line.  We  
14    have two methods that we've identified.  One would  
15    be drilling piles into the ground, which would  
16    create no vibration.  There is also another method  
17    that we would predrill, set the piles down below the  
18    elevation of the pipe and then drive the piles.  So  
19    we have two methods that would be, I guess, both  
20    methods have been accepted in theory by your  
21    engineer and Transco, but our preference would be  
22    for the drilled piles that create no vibration, as  
23    your consulting engineer has recommended.

24                   COMMISSIONER ARENCIBIA:  You're still  
25    going to provide vibration monitoring or seismic

1 monitoring of certain locations, you mentioned the  
2 gas line?

3 MR. BURTON: Yes. Along the north  
4 property line, we would provide monitoring. That's  
5 where the construction is closest to the gas main.  
6 The building is twenty feet off the property line.  
7 The gas main is another five feet from there. All  
8 along the fence line or along the property line, we  
9 would install vibration monitoring stations. That  
10 would occur not only just when the piles are  
11 installed, but during any time there's any heavy  
12 equipment and moving on the site, say to dig the  
13 footings for example, or to excavate that riprap  
14 slope by the tennis courts.

15 COMMISSIONER ARENCIBIA: Will your  
16 monitoring continue all the way to the top by Ferry  
17 Road? There's a viaduct that extends from Boulevard  
18 East up to the Galaxy, would you be monitoring that  
19 far?

20 MR. BURTON: It was not discussed  
21 there, but if it's a condition, of course, the  
22 applicant will comply.

23 COMMISSIONER ARENCIBIA: I'm going to  
24 suggest that.

25 MR. BURTON: Then we will do that.

1 I'll just remind you, besides the pile-driving,  
2 there is really no anticipated excavation of rock,  
3 other than at the base of the footings into the hill  
4 where loose rock will be encountered. We've had  
5 many test pits done to study the rock before this  
6 project was even brought to this Board. By that,  
7 I'm saying there's not going to vibration created  
8 from hammering rock. There's definitely no  
9 blasting. There wouldn't be any vibration caused  
10 from removal of rock.

11 COMMISSIONER ARENCIBIA: As far as  
12 coordinating with the County Engineer's office with  
13 respect to road openings, work you're doing with  
14 respect to the piles, monitoring, you will contact  
15 our office?

16 MR. BURTON: Yes, you have a  
17 procedure. We have to obtain permits for that type  
18 of work, and you have inspectors that are out there  
19 on a regular basis. In addition to the Planning  
20 Board or County Engineer's office, there is also  
21 Soil Conservation. They're very keen on activities  
22 that happen along the road and the base of the  
23 Palisades, and they do make regular inspections.

24 COMMISSIONER ARENCIBIA: There was a  
25 lot of discussion about the gas line, and that's not

1 in this Board's jurisdiction to get other pipelines  
2 or entities or public properties, our role is  
3 limited to traffic and drainage with respect to  
4 County facilities and public safety, but have you  
5 reached out to the gas company?

6 MR. BURTON: Yes. We've had several  
7 years of correspondence with Transco to keep them  
8 informed of our activities, and we've received  
9 letters back and forth.

10 COMMISSIONER ARENCIBIA: Have they  
11 offered any comments or approvals or?

12 MR. BURTON: Their last letter was  
13 that they have no objection.

14 MR. LAMB: Mr. Chairman, for the  
15 record, I object. I've asked at the first hearing  
16 in a letter that I sent to the Board, the Board has  
17 the power to subpoena a representative of Transco,  
18 and their engineer can come in. We can't have the  
19 developer's engineer say Transco said it was okay.  
20 That is not appropriate.

21 MR. BURTON: I believe that we've  
22 submitted letters from Transco. You don't have to  
23 rely on my hearsay.

24 COMMISSIONER ARENCIBIA: If we have  
25 those documents, I'm sure the other side has them?

1 MR. BURTON: That's correct.

2 CHAIRMAN CHOFFO: We'll give you  
3 time, Mr. Lamb.

4 MR. REIMON: Mr. Burton, in regards  
5 to the piles, I believe our recommendation was  
6 precast auger piles. We did not make a  
7 recommendation in regard to opening the hole or  
8 putting the pile in and drive it through?

9 MR. BURTON: That's correct. You  
10 asked for auger piles.

11 MR. REIMON: Even though we didn't  
12 make any specific comments, in regards any NJDEP  
13 permits, can you make a statement in reference to  
14 waterfront development or flood permit application  
15 through the DEP, or this project if they apply or  
16 not?

17 MR. BURTON: The waterfront  
18 development application doesn't apply. I remember  
19 researching that. Besides that fact that we have  
20 road between us and the Hudson River, we're also  
21 more than three hundred feet from the top of the  
22 bank, so we do not require DEP permits.

23 MR. REIMON: You don't require them?

24 MR. BURTON: Whether it was three  
25 hundred or five hundred, I apologize, I think it is

1 five hundred, we exceed that.

2 MR. REIMON: And the flood hazard?

3 MR. BURTON: I believe we don't need  
4 any permits for flood hazard.

5 CHAIRMAN CHOFFO: Mr. Lamb.

6 MR. LAMB: Yes, I just have a couple  
7 questions. Good evening, Mr. Burton.

8 MR. BURTON: Hello, John.

9 MR. LAMB: Now, you originally said  
10 that you disagree with the Palisades Slope  
11 Disability Study with respect to the recommendations  
12 for this property, correct?

13 MR. BURTON: I never disagreed with  
14 it. I just said how it came about.

15 MR. LAMB: You did not disagree with  
16 the County Engineer recommendation that the slope  
17 should be stabilized by gabion walls?

18 MR. ALAMPI: Chairman, this is not  
19 going to be another cross examination that went on  
20 three months ago?

21 MR. LAMB: I've got about five  
22 questions.

23 MR. ALAMPI: I understand, and  
24 they'll be cross examination of matters that should  
25 have been or were covered previously. Respectfully,

1 and all due respect to my colleague, the Board  
2 called the witness for certain clarification. I  
3 understand Mr. Lamb has a right to --

4 CHAIRMAN CHOFFO: I'm going to defer  
5 that to our counsel.

6 MR. CURLEY: Mr. Lamb has a right to  
7 ask additional question within the narrow scope of  
8 what the Board Engineer has testified to, but I  
9 would ask Mr. Lamb to please try to keep it short.

10 MR. LAMB: Back to the question,  
11 Mr. Burton. You previously disagreed with the slope  
12 stability study recommendation on this property for  
13 the construction of gabion walls?

14 MR. ALAMPI: We just had that  
15 question.

16 MR. LAMB: He did not answer it.

17 MR. ALAMPI: He's not going to  
18 answer. That's not appropriate.

19 MR. LAMB: Of course, it's  
20 appropriate.

21 CHAIRMAN CHOFFO: I think the  
22 questions our engineer was asking Mr. Burton, that's  
23 where I thought we're going with your questions.

24 MR. LAMB: He just testified about,  
25 Mr. Chairman, the Palisades Slope Stability Study.

1 That's what he testified to, and I respectfully  
2 request the chance to ask that one question about  
3 the Palisades Slope Stability Study.

4 CHAIRMAN CHOFFO: Mr. Curley?

5 MR. CURLEY: Why don't you finish  
6 your question, and then we'll have a ruling?

7 MR. LAMB: Do you still disagree with  
8 your prior testimony where you indicated that the  
9 Palisades Slope Stability Study on this property  
10 that recommended gabion walls was something you  
11 disagreed with?

12 MR. BURTON: I never disagreed with  
13 it. I said what the study said, and I said what  
14 we're going to do.

15 MR. LAMB: Did you say you were going  
16 to do any of the remedial work recommended in that  
17 study?

18 MR. BURTON: The study recommended  
19 the installation of a gabion wall into the slope.  
20 This building in essence is almost identical to what  
21 that wall is.

22 MR. LAMB: But when that study was  
23 done -- nevermind. You are still not a gas pipeline  
24 safety expert, I presume?

25 MR. BURTON: I've done less testimony

1 than your planner has on gas safety.

2 MR. LAMB: Okay. Were you involved  
3 in some of the disturbance that occurred within the  
4 last ten days on the property?

5 MR. BURTON: No, I was not.

6 MR. LAMB: Do you know who was?

7 MR. BURTON: Yes, the geotechnical --  
8 I mean the environmental -- it was the environmental  
9 study.

10 MR. CURLEY: This is certainly beyond  
11 the scope of the additional examination.

12 MR. LAMB: Mr. Curley, respectfully,  
13 what he just testified to was we're going to be  
14 monitoring, vibration monitoring on that north  
15 property line. They just had a truck and test  
16 within the last ten days. That monitor is not on  
17 there now. There is no monitoring now on this  
18 property at that location.

19 MR. ALAMPI: I just believe in the  
20 limited questioning, that Mr. Lamb is going off on  
21 other issues. As such, it's totally inappropriate.

22 MR. CURLEY: Next question, Mr. Lamb.

23 MR. LAMB: What I'm going to do at  
24 the end of my case, with all due respect, when Mr.  
25 Steck is finished, I'm going to call Mr. Burton as a

1 witness if I can't get my questions answered. I  
2 don't know how else to do it. I can produce anybody  
3 that I want. Mr. Burton is here, and I respectfully  
4 request that he answer some of these questions. We  
5 argue more in duration about the questions that I  
6 would have had him finished three minutes ago.

7 MR. ALAMPI: This pretext to call my  
8 witness, who's certainly able to leave these  
9 chambers at any time, it is unbelievable to create a  
10 re-re-redirect of issues that this gentleman has  
11 reviewed with this Board, and it's not even -- it's  
12 a disingenuous conduct.

13 MR. LAMB: I'm going to ask, Mr.  
14 Chairman, that you strike any reference to this  
15 nonsense of a wooden wall that now all of a sudden  
16 is going to be the gabion wall. It is something  
17 that's concocted by the developer. That wasn't in  
18 any part of the main case in the last four years.

19 MR. ALAMPI: Certainly, what Mr. Lamb  
20 is saying, it certainly was.

21 CHAIRMAN CHOFFO: Please, I would  
22 like to get back on track where Mr. Burton was asked  
23 questions from the County Engineering Department and  
24 the consulting engineer. Is there anything else  
25 that at this point?

1 MR. LAMB: No, not at this time.

2 MR. RABIN: Can the public ask  
3 questions?

4 CHAIRMAN CHOFFO: Not at this time.

5 MR. CURLEY: Mr. Chairman, I think  
6 we're at point of public comment on the application.

7 MR. LAMB: Mr. Curley, with all due  
8 respect, I still have to ask Mr. Steck the question  
9 about the one exhibit.

10 CHAIRMAN CHOFFO: This is going to be  
11 how many questions?

12 MR. LAMB: Frankly, I'm going to  
13 limit it to one.

14 CHAIRMAN CHOFFO: Let Mr. Steck  
15 answer one more question.

16 MR. LAMB: Mr. Steck, I previously  
17 marked for Identification, G-11, which was the color  
18 rendering. I gave a copy to Mr. Alampi, and I have  
19 copies for the Board as well.

20 MR. ALAMPI: Mr. Chairman, I have a  
21 proffer of this G-11 with Mr. Lamb before -- I guess  
22 he could distribute but I have a proffer.

23 MR. LAMB: My proffer is he was just  
24 asked three or four questions from members of the  
25 public about the Transco gas easement, where it

1 went, where it was located and how it was situated,  
2 and this clarifies it even in color to make it very  
3 clear.

4 MR. ALAMPI: I'm going to do a voir  
5 deere on just this exhibit, its authenticity and  
6 what appears to be inaccuracy. That's the issues,  
7 and Mr. Lamb could continue.

8 MR. LAMB: That's fine.

9 MR. ALAMPI: Mr. Steck, this  
10 photograph is being distributed, what are we calling  
11 it, G-11, have you seen this before?

12 MR. STECK: I prepared it.

13 MR. ALAMPI: And is it  
14 computer-generated? I don't find this humorous.  
15 You generated this, you create this image?

16 MR. STECK: Yes.

17 MR. ALAMPI: This image is created by  
18 you by some computer technology?

19 MR. STECK: No, the aerial photograph  
20 is from Goggle Maps, and the color notations were  
21 drafted on it by me.

22 MR. ALAMPI: The color diagram, the  
23 blue, the purple, the orange, the green striping was  
24 superimposed by you?

25 MR. STECK: Yes.

1 MR. ALAMPI: Let me ask you  
2 something. With regard to the filed site plans and  
3 all the documents related to the same, is there any  
4 document that was certified by Burton Engineering as  
5 part of the application package in which the area in  
6 the north, I guess, it's the northwest corner of the  
7 property, that it overlaps into the Lot 5.01? Is  
8 there anything on the certified engineer plans that  
9 this applicant engineer filed?

10 MR. STECK: Yes.

11 MR. ALAMPI: Could you show me where  
12 that is?

13 MR. LAMB: Mr. Chairman, the voir  
14 deere is now exceeded. I would have gone into all  
15 of these question on my cross examination of  
16 Mr. Steck. Since Mr. Alampi asked the question, we  
17 can provide copies of the relevant portions of the  
18 site plans. I happen to have eighteen copies of  
19 several of the site plans, which we can mark as  
20 G-12.

21 CHAIRMAN CHOFFO: This began as one  
22 question, and we're turning it into another half  
23 hour to 45 minutes of rehashing a lot of details  
24 that Mr. Steck already discussed, so we're going to  
25 try to trim this as quick as possible.

1 MR. LAMB: I shouldn't be charged for  
2 Mr. Alampi's questions. He's the one who is asking  
3 them.

4 MR. ALAMPI: I'll indicate this.  
5 I'll make the representation to the Board based upon  
6 Mr. Burton advising me, this form has to do with the  
7 old application, not this application before this  
8 Board and not the application approved by North  
9 Bergen. This exhibit is based upon an application  
10 that was withdrawn. That is not this application.  
11 I challenge Mr. Lamb as whether what I'm saying is  
12 accurate or not.

13 CHAIRMAN CHOFFO: Before we go any  
14 further, I want some guidance. I think the Board  
15 wants some guidance from our counsel with regard to  
16 this photographic rendering from Goggle Earth.

17 MR. CURLEY: Maybe Mr. Lamb, could  
18 you just explain the purpose of your offering this  
19 exhibit.

20 MR. LAMB: Mr. Curley, with all due  
21 respect, I have repeated several times. I will  
22 address it again. If I can just cut through it and  
23 save some time, maybe I can address what Mr. Alampi  
24 is referring to.

25 MR. CURLEY: Just say why you want to

1 offer the exhibit.

2 MR. LAMB: I want to offer the  
3 exhibit because Mr. Steck's direct testimony talked  
4 about the Transco easement, how it crossed the  
5 property. He did not have the site plan exhibit in  
6 front of him when he testified. I wanted to make  
7 sure that the location of that easement, the  
8 location of the access, the location of the  
9 maintenance and staging area were all shown a very  
10 readable and visible plan. That's why there are  
11 colors to show those area.

12 MR. CURLEY: Are those areas shown on  
13 the site plan that was submitted?

14 MR. LAMB: Yes.

15 MR. ALAMPI: Mr. Curley.

16 MR. CURLEY: Mr. Alampi, please state  
17 your objection.

18 MR. ALAMPI: Chairman, I don't see  
19 why the Board would need a color rendering prepared  
20 by Mr. Steck to show what we already have seen on  
21 the site plan that was exhibited. I think the Board  
22 would agree.

23 MR. LAMB: We'll mark it in as G-12  
24 for identification and not introduce it as evidence,  
25 Mr. Curley?

1 MR. CURLEY: It's for identification,  
2 G-11 for identification.

3 MR. ALAMPI: I respectfully object,  
4 but the Board's made its decision.

5 MR. LAMB: I have nothing further  
6 from Mr. Steck. That's the last question at this  
7 point. As far as completion of our case, you've  
8 indicated you don't want Mr. Burton to come back as  
9 my witness. The only thing I would like as part of  
10 the record, there was if you recall at the beginning  
11 of the hearings, I made reference to the fact that I  
12 didn't have this Transco letter dated November 10th,  
13 2010. Mr Alampi gave me a copy of it. I would like  
14 that in the record. It's referenced in the  
15 engineer's report, but we didn't have it. We sent  
16 somebody down here, and either the engineer was kind  
17 enough -- I think your Board engineer got it for me.

18 CHAIRMAN CHOFFO: The engineer of the  
19 Hudson County Board or Mr. Reimon, the consulting  
20 engineer?

21 MR. REIMON: I might have. I can't  
22 deny it.

23 MR. LAMB: I want to mark it in  
24 because we discussed it. I want to make sure what  
25 was discussed, since it wasn't in the files, is now

1 the specific exhibit, G-12.

2 MR. REIMON: What is the date?

3 MR. LAMB: It's dated November 10th,  
4 2010.

5 CHAIRMAN CHOFFO: This was a letter  
6 that was referred to in Mr. Reimon?

7 MR. LAMB: No, this is a letter to  
8 Burton Engineering from Williams Gas Pipeline  
9 Transco.

10 MR. ALAMPI: I don't know it was  
11 referred to in any report. If he wants to mark it  
12 for identification, I concede its existence, but I  
13 can't possibly focus on where this will fit. I  
14 believe it's part of the package. We'll mark it for  
15 identification?

16 MR. CURLEY: I would have no  
17 objection to it going into evidence, but subject to  
18 the fact that it is hearsay, it may not be  
19 considered as proof of the matter.

20 MR. LAMB: For the record, I totally  
21 agree with Mr. Curley, but since we discussed it, I  
22 wanted to make sure that anything we discuss, it was  
23 put in the record.

24 CHAIRMAN CHOFFO: At this point I  
25 think we open up to the --

1           MR. LAMB: Having said that, I would  
2 move everything into evidence to the extent I have  
3 it, except for the two items that you ruled against  
4 me on, the Mr. Steck's plan and I believe the  
5 Galaxy's offer to purchase the property were not  
6 admitted. Other than those two, which you ruled  
7 against me, I request everything be admitted into  
8 evidence. Thank you.

9           MR. ALAMPI: Chairman, I concede the  
10 movement except for the two items Mr. Lamb  
11 identified. As well, we would, if we have not  
12 already, move all exhibits presented by the  
13 applicant and even the Board exhibits into evidence.

14           CHAIRMAN CHOFFO: Thank you. Now, at  
15 this time we'll finally open it up to the general  
16 public with some rules and regulations at this  
17 point. There will be a five-minute rule since there  
18 are so many people in attendance, and this would  
19 just basically be to address this Board. I would  
20 ask that members of the public don't start bickering  
21 back and forth. If that's going to be the case, I'm  
22 going to have the Sheriff's officers kindly have  
23 those people removed. We're going try to do this as  
24 amicably as possible.

25           MS HOFFMAN: My name is Gail Hoffman.

1 I live at 7000 Boulevard East, Guttenberg, New  
2 Jersey. I am a resident of the Galaxy in  
3 Guttenberg, and therefore a resident of Hudson  
4 County. I also attended the last hearing before the  
5 Hudson County Planning Board as well as some of the  
6 hearings in North Bergen. I recognize that the  
7 developer of this project has claimed there is a  
8 hardship of the steep slope prohibition applied to  
9 this project. The Board should lessen the impact on  
10 the Palisades Cliffs and avoid the disturbance of  
11 the steep slopes on the subject property.

12 This is not a case where there is only a  
13 small portion of the steep slopes proposed to be  
14 disturbed. It is a large portion of the cliffs  
15 located on the property. As a member of the public,  
16 I'm obviously aware that GTCA organization has  
17 offered to purchase the subject property for the  
18 fair market value. While I cannot comment on the  
19 legal issues involved, I think the hardship the  
20 developer has argued, which was also testified to by  
21 the developer's planner could be eliminated if the  
22 developer can obtain the fair market value for the  
23 property. The public is always looking for ways to  
24 avoid the disturbance of steep slopes, and this is  
25 one of the ways.

1           The alternative is for the developer to a  
2 build a smaller project. The developer admitted it  
3 could build a project about 75 percent of what is  
4 proposed. It could build 44 units where 59 units  
5 are proposed. The developer would have to reduce  
6 the project size by about 25 percent. It is  
7 interesting that the developer seeks to disturb the  
8 steep slopes by almost 25, the same amount. We  
9 think that since this decision comes down to either  
10 allowing the steep slopes to be disturbed by  
11 25 percent or reducing the size of this building by  
12 about 25 percent, that the decision of the Board  
13 should be to preserve the steep slopes and the  
14 cliffs, and instead of allowing the steep slopes to  
15 be disturbed, to allow the smaller building.

16           I would just like to acknowledge for the  
17 Board and anyone here, that for every person, that  
18 for every few people, there are hundreds here in  
19 agreement with us, but they could not make it  
20 because of the time or their situations. I would  
21 like also to ask -- well, I would probably like to  
22 beseech and beg you to look at all the facts  
23 presented by all the witnesses. I do not want to  
24 see my friends and neighbors in the Galaxy and  
25 Guttenberg and in North Bergen incinerated, and I

1 beseech you to not allow the application as it is  
2 stated now. Thank you.

3 MR. MARJAN: Bijan Marjan, I spoke  
4 before. Honorable Chairman, honorable Members of  
5 the Board, I'm not here because I'm going to lose my  
6 view. It has nothing to do with that. The Township  
7 and the County seem to be very keen on obtaining  
8 more ratables, but they don't seem to very keen on  
9 listening to their current taxpayers. I'm a  
10 taxpayer on three properties in this County. I've  
11 worked very hard to purchase those properties, and  
12 I'm very timely with my tax payments on those  
13 properties, and I would like to continue, believe it  
14 or not, to pay taxes on those properties.

15 Because two of them are very close to this  
16 development, I don't want these properties nor  
17 myself to be vaporized by this development. This is  
18 your opportunity to listen to your community and to  
19 your current taxpayers, which pay, in my case, tens  
20 of thousands of dollars in taxes a year. You can  
21 build this within acceptable limits, as your laws  
22 have already been dictating. There is no reason  
23 this building cannot continue to be profitable  
24 within those acceptable limits.

25 The Galaxy incurred the expense of paying

1 for an expert to do an assessment on the safety of  
2 this property specifically with a gas pipeline, and  
3 recommended not to proceed without additional  
4 expertise. Why do you have to put our lives at risk  
5 and the residents and taxpayers? What happens if  
6 the developer during the construction accidentally  
7 mishandles say a large cement block or some of the  
8 pillars, and a block of cement block falls on the  
9 pipeline? What happens in that scenario? It is  
10 extremely possible for it to happen.

11 We know that if the property adjacent to  
12 the other side of the sewerage retreatment plant,  
13 trees have fallen. Certainly, it's a smaller issue,  
14 but we never know what can fall down. Again, I ask  
15 the question, can we afford this risk? Why put our  
16 lives at risk?

17 MR. BLISS: My name is Scott Bliss,  
18 and I live at 7000 Boulevard East. I wasn't  
19 planning to speak tonight, but I am here to save my  
20 life. I was kind of as an observer, curious and  
21 interested in watching everybody's response, and I  
22 have two questions for each person up there.  
23 Basically, from the line of questioning I heard,  
24 when you're going to build this instead of "if," and  
25 no responsibility taken in terms of jurisdiction.

1 So my question for every Member -- I also saw people  
2 shaking their head when one side spoke and shaking  
3 it affirmatively when the other side spoke.

4 My question is for each person, first of  
5 all, do you think public safety is under your  
6 jurisdiction, and number two, how many of you have  
7 already made a decision before hearing about the  
8 lives of everybody else here? I would like to hear  
9 your answer because it's our lives that you're  
10 deciding.

11 COMMISSIONER FITZGIBBONS: Well, I'll  
12 make a statement. When a building is built, no  
13 matter where it is, there are rules and regulations  
14 governed by the State of New Jersey, the Uniform  
15 Construction Code. In that rule, there is aspects  
16 of fire safety that the builder has to go by. As  
17 far as construction there are laws and regulations  
18 that builder has to go by.

19 MR. BLISS: My dad is an engineer.

20 COMMISSIONER FITZGIBBONS: I'm sure  
21 that the fire official or fire subcode official or  
22 the fire department who has jurisdiction over that  
23 property is going to make every effort to make sure  
24 that that thing is properly built.

25 MR. BLISS: So I'm asking a question

1 from each of you. Do you think that public safety  
2 is under your jurisdiction, and how many of you have  
3 already made a decision before even hearing the  
4 case?

5 CHAIRMAN CHOFFO: Obviously, public  
6 safety is in our decision-making process. With  
7 regard to us making our decision ahead of time, that  
8 is not the case for myself, and knowing the Board as  
9 I do sitting on this Board since 2003, I've gotten  
10 to know these people. We listen to every  
11 application the same way. I don't think anyone  
12 makes a decision --

13 MR. BLISS: Can each person say that  
14 because I saw people shaking their head?

15 CHAIRMAN CHOFFO: If you let me  
16 finish, I'll explain to you why people are shaking  
17 their head, including myself. Because this is our  
18 fourth meeting on this applicant, an hours and hours  
19 of testimony from lawyers and experts. We've heard  
20 the same thing rehashed. We've explained to the  
21 attorneys and experts where our jurisdiction lies.  
22 They are touching on things we have no say, whether  
23 yeh or neh. That's why you saw some head nodding,  
24 and when we hear the same testimony over and over --

25 MR. BLISS: I'm still not clear.

1                   CHAIRMAN CHOFFO: Being regurgitated,  
2 what do you expect us to do?

3                   MR. BLISS: I still don't have an  
4 answer to my question whether each of you think  
5 public safety is under your jurisdiction.

6                   CHAIRMAN CHOFFO: I just answered.  
7 I just said yes.

8                   MR. BLISS: He said that water and  
9 sort of, not really. Okay, it is? Good, thank you.

10                  COMMISSIONER ARENCIBIA: Mr.  
11 Chairman, public safety is obviously a concern for  
12 this Board where it relates to the impact of the  
13 County's roadways, specifically with respect to  
14 traffic or drainage. So as the Chairman related to  
15 here, we're talking about the gas line that quite  
16 frankly, I don't know if this Board has any kind of  
17 justification on an application of anything outside  
18 of our responsibilities. So they there may be other  
19 things that may come up before this Board besides  
20 the gas line, water lines on properties, gasoline on  
21 the property. We've state that our responsibilities  
22 is to review the applications.

23                  MS. GLASS: Janet Glass, 8700  
24 Boulevard East. I'm here representing the local  
25 Sierra Club, the Hudson Meadowlands Group of the New

1 Jersey State Sierra Club. We brought this to the  
2 attention of the State, and on February 12th, of  
3 2011, the State drafted a resolution, which is two  
4 pages long. I'm not going to read it all, but it  
5 does talk concerns about the stability of the slope.  
6 It talks about the safety of the pipeline and  
7 concerns of flooding. I will read the very last  
8 sentence which says that the New Jersey Chapter of  
9 the Sierra Club urges the North Bergen Planning  
10 Board, the Hudson County Planning Board and the New  
11 Jersey Department of Environmental Protection to  
12 reject this application for the safety and wellbeing  
13 of the citizens of North Bergen and Guttenberg, and  
14 that's signed by the chapter chair of the New Jersey  
15 Sierra Club. That's my Sierra Club hat.

16 The other hat is flying into San Francisco  
17 less than a year ago viewing the explosion that  
18 happened in San Bruno, and 12 people died. It seems  
19 like a very bad idea.

20 MS. CARRIO: I'm back, hi. I do  
21 appreciate the opportunity to speak with you. You  
22 said that earlier, sir, that speaking about the  
23 pipeline and taking that into account is opening a  
24 can of worms. That can of worms constitutes our  
25 public safety, to which your bylaws hold you

1 accountable. As for public safety, dealing with  
2 roads and traffic, if the pipeline blows up, you,  
3 sir, will not have a road or any traffic to worry  
4 about.

5 Americans pride themselves on being the  
6 kind of people who fight and stand up for what is  
7 right. I ask you what is right about approving  
8 something that puts of thousands of lives at risk?  
9 There has been a lot of talk tonight about the New  
10 Jersey State rules. The Constitution of the United  
11 States states that I have an inalienable right to  
12 life. It warns about any form of government  
13 becoming destructive of that end, and says that  
14 government should lay its foundations on such  
15 principles and organize its powers in such forms as  
16 are most likely to affect the people's safety and  
17 happiness.

18 The fact is that by willfully ignoring the  
19 risks of building near a gas pipeline without any  
20 safety studies, Appleview is threatening our  
21 constitutional right to life, safety and happiness.  
22 The decision before you concerns the environment and  
23 public safety, but it's not just a decision about  
24 variances in the integrity of the land. You're  
25 being asked tonight to make a decision about your

1 own integrity. When it comes down to it tonight,  
2 you have to decide what kind of people you are, and  
3 are you the kind that are willing to gamble with our  
4 lives?

5 I've talk to hundreds of people in the  
6 last three weeks. Some aren't here to show their  
7 support because they can't believe you would approve  
8 this. That's insane, I've been told over and over  
9 again, the Board will never do that. They flat out  
10 refuse to believe that you good people would even  
11 consider making a decision that could put their  
12 lives in jeopardy. Hundreds of parents, children  
13 and senior citizens believe you in you. They  
14 believe in your ethics and integrity. They believe  
15 you have the guts to make a decision on your own,  
16 and not be influenced by decisions that were made  
17 before.

18 But Applevew believe differently. They  
19 believe nothing counts except the money they're  
20 going to make. They believe it's perfectly  
21 acceptable to gamble for that money with our lives.  
22 They believe that you're a bunch of pushovers, and  
23 that they've already got you in their pocket, which  
24 is why they were out digging around the pipeline as  
25 recently a week ago. Applevew is quite certain

1 that none of you have any ethics or balls. In fact,  
2 their counting on it.

3 My grandmother used to say, if you don't  
4 stand for something you'll fall for anything.  
5 Please, I am begging, you stand for sanity, for  
6 integrity and for our lives, and do not fall for  
7 Applevue.

8 MR. CARRIO: My name is Lange Carrio.  
9 I live at 7004 Boulevard East in Guttenberg, New  
10 Jersey. I have a prepared statement. Albert  
11 Einstein said, the world will not be destroyed by  
12 those who do evil, but by those what watch them  
13 without doing anything. You don't have to be an  
14 Einstein to realize that Applevue's developer is  
15 bent on the destruction of the Palisades Cliffs,  
16 while willfully knowing the potential risk to  
17 hundreds of human lives.

18 The question is, are you, the Members of  
19 Hudson County Planning Board, going to watch him  
20 without doing anything? Worse, are you going to  
21 assist him in this act of destruction? The man does  
22 not need to build a building bigger than the one  
23 currently allowed. He is driven by greed. If this  
24 pipeline explodes during construction and Applevue  
25 can't assure us that it won't, it would be

1 apocalyptic. The destruction would be historic, not  
2 unlike Pearl Harbor, or God help us, the World Trade  
3 Center.

4 Manhattan would be thrown into absolute  
5 chaos as it loses half the gas it needs to heat its  
6 homes, feed its residents, run the businesses. The  
7 area surrounding the blast zone would have no water  
8 treatment or sewerage facility. The collateral  
9 damage after such a blast would be unimaginable, and  
10 this County would be sued for billions. Are you  
11 really willing to risk this? If you approve this  
12 project and that pipeline blows, how will you  
13 justify your decision to your own families, let  
14 alone the families of the people who are killed?  
15 How will you live with yourselves?

16 At the very least, this Board has both the  
17 mandate and the power to insist that a complete  
18 safety inspection of the pipeline and the  
19 surrounding area be carried out about Transco and  
20 independent pipeline experts. Your bylaws hold you  
21 accountable for public safety. You hold our lives  
22 in your hands. Do what needs to be done to keep us  
23 safe.

24 MR. McCULLEN: My name is William  
25 McCullen. I live at 101 74th Street in North

1 Bergen. It's my understanding that Hudson County  
2 Planning Board has not voted down an application for  
3 development in at least seven years. Applevew is  
4 possibly, probably the most dangerous and  
5 irresponsible development ever proposed in Hudson  
6 County. This should be an application you vote  
7 down. We have pointed out the potentially enormous  
8 environmental damage this construction will mean to  
9 the Palisades Cliffs, the 200-million-year-old  
10 natural wonder that has been assaulted and degraded  
11 in recent years with unceasing development. We've  
12 also discussed the increased population density,  
13 additional traffic, more air pollution and the  
14 threat to wildlife that will result.

15 For these reasons alone, this project  
16 should have been rejected by the North Bergen  
17 Planning Board and this Board, but the true insanity  
18 of this is that the proposed site is only feet away  
19 from this huge underground Transco gas transmission  
20 pipeline, which supplies almost 50 percent of New  
21 York City natural gas. Richard Kuprewicz, the  
22 president of Accufacts, Incorporated, a nationally  
23 recognized expert on pipelines and accidents, who  
24 has testified before Congress, told the North Bergen  
25 Planning Board that any construction anywhere near

1 this pipeline would be dangerous and irresponsible,  
2 particularly since a risk-assessment analysis has  
3 not been done at the site.

4 Mr. Kuprewicz pointed out numerous  
5 problems with the pipeline itself, including the  
6 facts that it is yet to be determined where the  
7 pipeline shut-off valves are, how corroded or  
8 damaged the pipeline may be, especially considering  
9 it is at least 50 year old; but most unbelievably,  
10 that no one is absolutely sure of the precise  
11 location of the pipeline itself.

12 I would like to read one statement by Mr.  
13 Kuprewicz, and this is about gas transmission  
14 pipelines. Gas transmission pipelines operate at  
15 substantially higher pressure, higher stress levels;  
16 upon rupture, fail quite differently from a failure  
17 of a gas main, which by the way, has been  
18 characterized by the developer and the engineer.  
19 They keep calling it a gas main. It is not a gas  
20 main. This is a transmission pipeline. It's like  
21 comparing an ant to an elephant. They're both  
22 animals but they are very different. Ruptures, the  
23 catastrophic fracture failure of a high-pressure gas  
24 transmission pipeline, unzipping in microseconds,  
25 can quickly release many hundreds if not thousands

1 of tons of gas in a form that can easily explode and  
2 burn at tremendously high heat fluxes.

3 Ruptures from large craters usually eject  
4 tons of pipe steel and shrapnel and release very  
5 turbulent gas clouds that can generate very large  
6 impact areas upon ignition. The laws of  
7 thermodynamics and fluid mechanics dictate that a  
8 transmission pipeline rupture event will take on a  
9 form that can readily explode or detonate without a  
10 flame ignition source, generating very height heat  
11 flux, fireballs and larger flames that will cause  
12 structures and people to combust, and whose  
13 survivability is highly limited. Such events are  
14 easily capable of vaporizing aluminum and liquefying  
15 steel and command much respect.

16 Now, of course, when all this was pointed  
17 out to the North Bergen Planning Board, one would  
18 have assumed that they would immediately call  
19 Transco before them to testify and fully address all  
20 these questions. Instead, however, they did not do  
21 this. The board simply went ahead and approved the  
22 project without demanding anything from Transco for  
23 the developer. The responsibility for investigating  
24 the safety of this project rested with the North  
25 Bergen Planning Board and the developer. They did

1 not do their job.

2 It is now up to you, the Hudson County  
3 Planning Board to do this job. My question to you  
4 now is, are you going to do your job? Are you going  
5 to risk the lives and property of thousands of  
6 Hudson County residents and taxpayers by allowing  
7 this development without a risk assessment analysis  
8 or any other demands of Transco and the developer?  
9 Are really willing to take this chance with our  
10 lives?

11 Palisades Medical Center is located  
12 directly across River Road from the Applevew site.  
13 There are 30 mid to high-rise buildings, hundreds of  
14 homes and thousands of residents within a half-mile  
15 radius of this propose side. We're putting the  
16 lives of all these people at risk. The half-mile  
17 radius includes 60th Street in West New York all the  
18 way to 82nd Street in North Bergen. Anybody living  
19 in that area and within four blocks of Boulevard  
20 East is in danger for their lives, including all the  
21 people along River Road, all the people in the  
22 Jacobs Ferry, Hudson Point, all this construction.  
23 They are going to be gone if this thing explodes.  
24 They'll be gone, and it will be your responsibility  
25 if they are. It will be your responsibility if you

1 allow this site to go ahead, each and every one of  
2 you.

3           The number of gas pipeline explosions in  
4 the United States and around the world are numerous,  
5 and it's extremely important that this Board  
6 understand what the explosion of this pipeline could  
7 do. In the last year alone, there have been dozens  
8 of such explosions in the United States. Some of  
9 them have been disastrous. Just to mention a few,  
10 this January a gas main being prepared, gas main,  
11 being prepared in Philadelphia exploded, killing a  
12 repairman and injuring six others. This February,  
13 five people were killed and eight homes destroyed in  
14 Allentown, Pennsylvania, in a gas explosion. In  
15 February, a 36-inch diameter gas transmission  
16 pipeline exploded near Lisbon, Ohio.

17           CHAIRMAN CHOFFO: You have about  
18 another minute.

19           MR. CARRIO: Fine, I have about a  
20 minute to go. In March -- let me see. And then, of  
21 course, the San Bruno, California explosion last  
22 September destroyed or damaged over 150 homes,  
23 killing eight and injuring many more. This  
24 explosion took place in a very low-density area. If  
25 that explosion with that pipeline, which is actually

1 smaller than the pipeline, than the Transco  
2 pipeline, if that explosion had occur here, it would  
3 have been thousands of people killed.

4 I'm just going to conclude by saying that  
5 it is clear that the lives of thousands of Hudson  
6 County residents will be put at risk if this project  
7 goes ahead. You have to realize that our lives or  
8 our property may be lost if this gas pipeline  
9 ruptures. Do you really want the responsibility of  
10 knowing that you could have prevented a catastrophic  
11 accident from happening? You must reject this  
12 application. Thank you.

13 MR. RABIN: Thank you. I appreciate  
14 this chance to speak to you, and I would like to  
15 first address a couple of points that Mr. Burton  
16 made which, I would have liked to ask him, but he  
17 said that drill piles create no vibration. Now, I  
18 think we all know that everything creates some level  
19 of vibration. So the question is, is it within a  
20 safe margin or not?

21 He also said that his building is almost  
22 identical to the gabion wall. The gabion wall, I  
23 believe, would be made either of steel or stone.  
24 His building, the floors along the slope are made of  
25 wood. Clearly, again, almost identical is hardly

1 accurate, and obviously a large falling rock could  
2 go through a wooden structure. A forest fire in the  
3 back of the property could go through a wooden  
4 structure. These are habitable floors. That's the  
5 reason why North Bergen has a zoning ordinance that  
6 you measure the 40 feet of the rear yard setback  
7 from the habitable floors because there are in part  
8 trying to protect people. Yet North Bergen did not  
9 care that this was a negative 30-something. I think  
10 it actually comes to a 70-foot negative because it's  
11 30 feet in front and 40 feet back. So it's about  
12 70-foot negative setback.

13           Moving beyond that, I would like to say  
14 that unfortunately, this is fairly typical of the  
15 kind of information that we've been receiving from  
16 Appleview. It's not really very accurate. It  
17 certainly doesn't take into the account the  
18 extraordinary situation that we have on this  
19 property. This is a highly constrained property.  
20 Fifty percent of it is Palisades slope, which means  
21 that just building on it, you're forced to overbuild  
22 the flat portion to use much of this lot.

23           Given all these constraints, the applicant  
24 is overbuilding. He's seeking multiple variances.  
25 He did not have the five acres, which was required

1 for the type of building he's building there, and he  
2 could have come in and said, I know I don't have the  
3 five acres, I have less than half of that, so I will  
4 stay within all of the limits. If this applicant  
5 had done that, he'd be built by now, I believe. The  
6 reason all this trouble, all of this commotion, six  
7 years of my life have been spent coming to these  
8 hearings, doing research, attending pipeline safety  
9 conference, the reason I've had to spend six years  
10 of my life is because this developer couldn't simply  
11 stay within the limits and do expert gas pipeline  
12 studies to prove that it was safe. If it is safe  
13 according to gas pipeline experts, and it is within  
14 the limits, he could be building right now.

15 The reason why all of these people are  
16 here panicking and fearful is because he's not doing  
17 that, and he's digging into the steep slopes, which  
18 is prohibited, and he's creating numerous problems  
19 in terms of drainage and potential damage to animal  
20 life, plant life and habitats. This is an area of  
21 Palisades where redtail hawks live and hunt. There  
22 are numerous other animals including raccoon and  
23 ground hogs that lives on this property. It is a  
24 living habitat. It will be not be after it has been  
25 torn apart by this project.

1           The most important thing here is, the most  
2 important thing here is this issue of the gas  
3 pipeline. We've heard some testimony about this.  
4 It seems that the Board is taking a position that  
5 you're really kind of helpless. Your hands are  
6 tied.

7           CHAIRMAN CHOFFO: You have one minute  
8 left.

9           MR. RABIN: Well, that you are kind  
10 of helpless here, and there's really nothing you can  
11 do. I wonder if a different noncompliant building  
12 were going to be built here, such as say a fireworks  
13 factory, would you say, well, it doesn't create  
14 traffic and it's not creating drainage, so I guess a  
15 fireworks factory can be 40 feet away from  
16 preexisting buildings? Wouldn't you step in there?  
17 It is a thousand times more dangerous if this  
18 pipeline ruptures, and you have to consider what is  
19 the chance of it rupturing.

20           Suppose it was one percent. If your child  
21 was eating poisoned food, a one-percent chance that  
22 it was poisoned, wouldn't you snatch it away from  
23 them saying there's no way I'm taking one-percent  
24 chance with my child's life? You're taking chances  
25 with thousands of lives right now, and you're doing

1 it simply because the developer doesn't want to stay  
2 within his limits and do the simple safety tests.  
3 North Bergen also should have required the safety  
4 test.

5 CHAIRMAN CHOFFO: Your time is up,  
6 sir.

7 MR. RABIN: I would like to show,  
8 this is the area. There are over 30 high-rise and  
9 mid-rise buildings within --

10 CHAIRMAN CHOFFO: What didn't you  
11 understand about your time is up? I gave you six  
12 minutes. There are 20 other people behind you.

13 MR. RABIN: I appreciate the time.  
14 The question is who is protecting this? It's three  
15 feet of soil is protecting this pipeline, and a dead  
16 body gets six feet of soil.

17 MR. MORRISON: My name is Ken  
18 Morrison, 1956 Palisade Plaza. Good evening,  
19 Chairman, Commissioners, zone officials of the  
20 Planning Board. I'm here of behalf of myself and  
21 other residents that live around this development,  
22 going up more of a northern direction. Many of the  
23 residents that wanted to attend obviously couldn't  
24 with their jobs and their commitments. One of the  
25 things I could truly state to the Board is if we

1 were holding this in a school, I can guarantee it  
2 would be jam-packed right now.

3           One of the things they had expressed to me  
4 was that we all know from the past few months there  
5 have been numerous hours of testimony from both  
6 sides on this matter. I'm not here to rehash any  
7 testimony or facts that haven't been presented  
8 already in front of the Board. A lot of previous  
9 speakers have brought up a lot of points that I was  
10 looking to bring up. One of main things that I am  
11 going to say this not as an individual, I'm going to  
12 say this as a father to a father, to your children,  
13 to family on a personal note that I'm not a  
14 specialist, and I don't proclaim to be, but there  
15 are major concerns that are going on with this  
16 development.

17           I ask everybody when it's time for your  
18 decision, there's a lot of factor obviously that  
19 both sides, you are going to address to make your  
20 decision, that you just take five minutes of your  
21 time, I implore everybody to please, take five  
22 minutes of your time and just put yourselves in  
23 everybody shoes just so you can understand the point  
24 that there is an extreme passion here that they will  
25 fight this development until it's defeated.

1           The people that I know in North Bergen  
2 are, we're not totally against development because  
3 development is part of life, it does occur. But the  
4 key thing is sensible development, whether it's  
5 detrimental to the community. Now, with this, it's  
6 meaning that all scenarios are addressed, whether  
7 it's environmental, safety or impact to the  
8 community for their immediate future.

9           We don't -- in addition, I can tell you  
10 that not only each site should be given in-depth  
11 review, but also to look at the developer in general  
12 also. This situation obviously as we all see is all  
13 or nothing. There is right now no compromise. I  
14 just -- it's hard to put the feelings that I have.  
15 I have a concern for my family, my family's safety,  
16 as for my neighbor, and I'm going to be very blunt.  
17 This is nothing political. This is something just  
18 for us. It's that certain things need to occur,  
19 whether it's a safety study and so forth, just to so  
20 when we go to bed at night, we can know that either  
21 this is safe or it's not safe.

22           Like I said we all respect our neighbors,  
23 and like I had said before, we're looking to make  
24 our voices heard. I can tell the Board this  
25 evening, I guarantee this matter is going to keep on

1 going until there is some resolution to this. In  
2 closing, I just implore all of the Commissioner and  
3 the Chairman to, please, just let's bring ourselves  
4 to a personal aspect and just put yourself in our  
5 shoes for five minutes when you make the decision in  
6 regards to this development. Thank you for your  
7 time. I know there is a long line behind me. Good  
8 night everybody.

9 MR. KIND: Good evening. My name is  
10 Dave Kind, 7855 Boulevard East. I want to thank the  
11 Board for their time and attention to a very  
12 important issue, the Applevew project, since it  
13 affects the lives of thousands of citizens, not only  
14 those who live, work and play in the area, but the  
15 many hundreds who pass through by bus and car on  
16 River Road and Boulevard East on a daily basis.

17 It's my understanding that this Board has  
18 many very important objectives, which also include  
19 the public health, safety and general welfare of the  
20 citizens of the County. No less important than your  
21 objectives is the historic preservation and  
22 conservation of lands and resources. I think we can  
23 all agree you have a formidable responsibility,  
24 especially in light of this project before you,  
25 since it clearly has to do with safety, actually

1 life and death.

2 It just so happens, in my opinion, this  
3 project flies right in the face of your objectives  
4 and responsibilities. To be specific, the  
5 development would clearly pose a very dangerous  
6 situation. As you heard before by others, it was  
7 brought out in a very thorough and comprehensive  
8 report by Richard Kuprewicz, a highly qualified and  
9 respected gas pipeline expert at a North Bergen  
10 planning meeting about a year ago. He said that  
11 without answers to his questions, I believe it could  
12 have been fifteen or twenty of them, this project  
13 should not be approved.

14 Clearly construction taking place within  
15 20 feet of the 36-inch, high-pressure gas pipeline  
16 could be an accident waiting to happen, and there  
17 have been many gas explosions in many place as  
18 you've heard from many people tonight. In New  
19 Jersey, Edison; last year San Bruno, and the  
20 population was nowhere near the 12,000 people per  
21 square mile in our areas. Keep in mind most  
22 explosions have been caused by human error. In this  
23 scenario there is really no room for an error in  
24 view of the mere 20-foot easement.

25 This project calls for five acres,

1 according to the Township regulations. The lot size  
2 is 2.3 acres. It required a variance of more than  
3 one hundred percent. Now, keep in mind within  
4 500 feet of where this development would take place,  
5 there is a hospital, two nursing homes. Can you  
6 imagine trying to evacuate that situation?

7 CHAIRMAN CHOFFO: You have about a  
8 minute left.

9 MR. KIND: I don't think I've been  
10 anywhere near five minutes.

11 CHAIRMAN CHOFFO: I'm clocking  
12 everyone to be honest with you.

13 MR. KIND: There's a townhouse  
14 community, a number of high-rises and apartment  
15 homes. If one was to conduct a risk analysis, we  
16 would ask why do we want to risk so many lives and  
17 property for a few hundred thousand dollars in  
18 ratables. It makes no sense whatsoever. Life and  
19 death considerations without a doubt is the  
20 overriding concern, unless we not forget your  
21 mandate concerning the historic preservation and  
22 conservation of land and resources.

23 Let's not overlook a few facts. You've  
24 heard the Palisades Cliffs is over 200 million years  
25 old, and it offers countless numbers of people who

1 live in the County and who visit here to see a  
2 geological wonder that I think rivals anything we  
3 have in the state. To me, that is my Grand Canyon.  
4 It's my Yosemite Park. That is one of the reasons  
5 why I moved to where I am, the Palisade Cliff. It  
6 provides us with trees that give us seasonal colors,  
7 trees that give us much-needed oxygen to counter  
8 increasing auto pollution, trees that help hold the  
9 soil in place so we don't have a mudslide as we've  
10 experiences in another development site a few years  
11 ago. The few remaining birds and mammals that live  
12 along the cliff provide us with a delightful  
13 surprise when we take the time to peak on them and  
14 look into the sky.

15 CHAIRMAN CHOFFO: I believe your time  
16 is up.

17 MR. KIND: Gentlemen, ladies and  
18 gentlemen, I really think you've got to dig deep  
19 down and reach out. Position yourself if you have  
20 family, relatives living in that area, how would you  
21 answer them if you make the wrong decision? Think  
22 hard and deep. This is a very profound and awesome  
23 responsibility. Thank you.

24 MR. BLACK: Hello. My name is Myron  
25 Black. I'm a No. 262 on the list of petitioners

1 against this project. In the comment window I had  
2 not written a single word, but now that I'm here, I  
3 would like to be heard. I live in the Galaxy close  
4 to the site where the proposed building has -- just  
5 a moment, I forgot a word, has up stirred up a  
6 fright. There's -- let me tell you, there is much  
7 to fear with a gas pipeline lurking so near. Can we  
8 possibly ignore the infamous word of Murphy's Law,  
9 if there's -- if anything can go wrong, it will.  
10 That includes a gas pipeline spill. Oops, sorry.

11           Endless loud construction noise could make  
12 me deaf. Maybe it's best if I just left. Could you  
13 find a safer use for the ground, avoiding such --  
14 such an unpleasant hair-splitting sound? Any rumble  
15 upon the surface of the land could disturb the  
16 pipeline under the ground. I think you decide by  
17 not building, you could save a life which may be my  
18 own. Thank you for the water.

19           MS. WONG: Thank you for the  
20 opportunity to address this distinguished Planning  
21 Board tonight, but before I do so, I would like to  
22 distribute the exchange of letters that I had in  
23 2009, with the DEP regarding steep slopes. If you  
24 don't mind, I just have four copies, so I'll  
25 distribute to you. I would like that entered into

1 the record. I have a brief statement. It will not  
2 take more than two minutes to read.

3 MR. CURLEY: Why don't we mark it  
4 PB-1? PB-1 will be the June 23, 2009 letter from  
5 the State of New Jersey Department of Environmental  
6 Protection, and PB-2 will be the Coalition to  
7 Preserve the Palisades Cliffs, March 25th, 2009  
8 letter.

9 MS. WONG: And the reason I think  
10 that they're applicable tonight is the comment made  
11 by Peter Steck that this application violates the  
12 steep slope ordinance of the DEP. I think these  
13 letters are very timely. Having said that, I would  
14 like to read a statement, and I'm making this  
15 statement on behalf of the Coalition to Preserve the  
16 Palisades Cliffs. Beside the fact that I am a  
17 lifelong resident of Hudson County, I lived in North  
18 Bergen since 1972, and as I said previously, my  
19 address is 8550 Boulevard East, and my name is Peggy  
20 Wong.

21 If approved the Applevew development  
22 continues the recent planning board history of both  
23 Hudson County and the Township of North Bergen in  
24 allowing the destruction of the historic Palisades  
25 Cliffs for developments of questionable value to the

1 community. The Palisades Cliffs is known worldwide  
2 as a historic geological wonder. There is a very  
3 valuable and visible natural resource in a very  
4 densely populated urban Hudson County. Also, it is  
5 the last respite for indigenous wildlife and  
6 migrating birds along the Atlantic flyways.

7 Trees and vegetation, which are natural  
8 oxygen producers, will be replaced with more  
9 impervious surfaces that only add to our air and  
10 water pollution problems. This directly affects our  
11 citizens' health. Once destroyed, the Palisades  
12 Cliffs will not grow back as someone suggested that  
13 the Avak Development's County Planning Board hearing  
14 in June of 2009; another, cliff-destroying  
15 development that this Planning Board approved by  
16 mistake.

17 Despite proclamations and regulations by  
18 both the County and the Township that purport to  
19 preserve the Palisades Cliffs, which falls under the  
20 New Jersey DEP and Hudson County's steep slope  
21 definition, the public has watched with increasing  
22 dismay at the destruction of the Palisades Cliffs in  
23 North Bergen by developers of the Churchill and Avak  
24 developments. The developer backhoes and percussive  
25 have left their scars on the cliffs, and now we may

1 have Applevue to follow if you approve this project  
2 tonight.

3           We do not agree with Susan Gruel's  
4 testimony about the Applevue preserves the  
5 Palisades Cliffs, quite the opposite. With a copy  
6 of the nearest available dictionary, the Applevue  
7 developer's geotechnical engineer has attempted to  
8 redefine the Palisades Cliffs in a manner not seen  
9 heretofore in any land use text, geological text,  
10 DEP regulation, or the comprehensive PKM Palisades  
11 Cliffs Slope Stability Study, or even by the  
12 Palisades Interstate Park Commission itself, which  
13 we contacted for a definition of the Palisades  
14 Cliffs. Our geological consultant Robert Canif of  
15 Hatch, Mott, McDonald submitted a research report on  
16 how cliffs are defined by the geological seismic  
17 community, and a copy is included for you in John  
18 Lamb's submittals.

19           Not surprisingly, the developer's  
20 definition as being only the visible cliff face of  
21 the Palisades Cliffs allows them to build a larger  
22 development, blocking out views of the cliffs and  
23 removing more talus. A larger Applevue development  
24 brings construction closer to the nearby natural gas  
25 pipeline. Residents of both Guttenberg and North

1 Bergen are justly concerned that Hudson County and  
2 the Township of North Bergen have not required the  
3 testimony in person of a representative of the  
4 pipeline company, Transco, to address the fear of  
5 possible pipeline explosion during the construction  
6 work and to describe the inspection and maintenance  
7 schedule of this aging 60-year-old pipeline.

8           Notwithstanding the safety assurances if  
9 the County's engineering consultant at the August  
10 meeting, would you not take the same maintenance  
11 precautions for your own home for personal wellbeing  
12 with a medical checkup, especially if you are 60 and  
13 over? Safety of residents of Hudson County should  
14 be paramount, and this plan would sure require the  
15 testimony of Transco in person at a public hearing  
16 to assuage our fears and to reinforce any  
17 reassurances that we're getting from the developer.

18           Also paramount is preservation of one of  
19 the few remaining natural resources in Hudson  
20 County, the Palisades Cliffs. Two previous  
21 developments in the Township that have destroyed  
22 large sections of the Palisades Cliffs even  
23 though -- and even though Applevew's damage to the  
24 cliffs is less severe, it still continues the  
25 destruction and the impairment of the views of the

1 priceless natural resource. For these reasons, the  
2 Coalition to Preserve the Palisades Cliffs cannot  
3 support the Appleview development. Thank you.

4 MS. OLSEN: My name is Ruth Olsen,  
5 and I live at 7004 Boulevard East in Guttenberg. As  
6 I should have gotten on line a lot sooner because  
7 most of my words have already been taken by others  
8 who came before me, I was planning on reading  
9 Mr. Kuprewicz's statement about the gas pipeline,  
10 and it was read by Mr. McCullen very ably. What I  
11 was going to say after that is when you consider  
12 your decision, if any disaster such as could have  
13 happened could happen -- if any disaster could  
14 happen, consider what would happen to steep slope  
15 stability. Consider what will happen to storm  
16 drainage. Consider what will happen to the quality  
17 of our water. Consider what would happen to the --

18 COMMISSIONER FITZGIBBONS: Mr.  
19 Chairman, we have to postpone this one second. We  
20 don't have a quorum here.

21 CHAIRMAN CHOFFO: You can proceed.  
22 Sorry about that.

23 MS. OLSEN: That's all right. I'll  
24 start from that part. What will happen in the event  
25 of an explosion to steep slope stability? What will

1 happen to storm drainage? What will happen to the  
2 quality of our water? What will happen to traffic  
3 on River Road? What will happen to the health and  
4 welfare of those you are committed to protect?

5 Accidents happen. They're not planned.  
6 They're not malicious, but what is malicious is the  
7 refusal or the benign neglect to address the  
8 possibility, and these people, the developers, are  
9 not asking to build within the law. They are asking  
10 you to break the law, to grant them waivers, to  
11 grant them exceptions to laws and regulations that  
12 are in place for safety and for our protection and  
13 the protection of the land, and all you have to do  
14 is say to them, get Transco here to answer  
15 Mr. Kuprewicz's questions and prove that the  
16 pipeline is okay and build within the law, build  
17 within the regulations, build within what you and  
18 Hudson County have provided as safe. Thank you.

19 MS. SIHENG: S-i-h-e-n-g, I live 7004  
20 Boulevard East, Guttenberg. It's interesting to see  
21 the response of the engineer, and the Commissioner  
22 asked that question about the safety and the  
23 precautionary measures during construction. If you  
24 watched kids trying to get a candy, they will agree  
25 anything that the parents ask. To say that

1 Appleview is like a two-year-old kid trying to do  
2 that I think is an understatement.

3 This Board cannot rely on promises,  
4 absolutely. The stakes are too high especially  
5 since the developer has demonstrated a questionable  
6 regard for safety. A few examples, April 2007,  
7 Appleview was fined for illegal escalation of the  
8 site, and they were fined because they couldn't  
9 follow a simple rule of making one call in the one  
10 call system. At North Bergen's hearing, every  
11 time -- an engineer testified to this, every time  
12 there is excavation on site, Transco would be on  
13 site. Well, Transco wasn't there in 2007, and  
14 again, last Tuesday, Transco wasn't on site. The  
15 developer came as close as 15 feet from the  
16 pipeline, and you wonder why people are crying and  
17 almost having a panic attack. These, we live this.  
18 These are red flags. We knew this six years ago.

19 As simple as your engineer just said, even  
20 the data don't make sense. He had to correct the  
21 data. As simple as a traffic study, they had to  
22 take shortcuts and use the 2006 data to extrapolate  
23 2011 hearings. That's a red flag to us. Too many  
24 companies have taken shortcuts just to make a buck.  
25 This is very clear to us what's happening here. I

1 know your timing me. I'm trying to move along.

2 One other important issue, the engineer  
3 also said that they have not known of any case where  
4 Transco hasn't been on site because it's never been  
5 an issue in the past. I have been in touch with  
6 Transco engineers for many, many years and have  
7 spoken to many of them. On one occasion when I  
8 spoke with Mr. Jose Rodriguez, who is the engineer  
9 for the site, he has admitted on at least one  
10 occasion in the past recent few years that the  
11 pipeline was exposed because the pipeline was  
12 sitting on the steep slopes. The area that you guys  
13 are trying not to address, the pipeline was sitting  
14 on the steep slope and was exposed because of  
15 chronic water running. They had to do an emergency  
16 soil shore-up to avoid rupture. These are very  
17 dangerous signs to us, and you've heard many of us  
18 explain. I'm not going to go through all of that  
19 again.

20 All I wanted to say, my next point, please  
21 do not defer your position to other bodies because  
22 we have gone through many levels of discussion with  
23 senators, gone to the Pipeline Safety National  
24 Trust, we've gone to, you know, FINSA. Some of you  
25 may recognize those initials, but all of them have

1 said that planning issues near a pipeline is a local  
2 issue. It is the town and Hudson County.

3 And you, please use your judgment and  
4 please exercise your authority. You can easily  
5 solve this problem and all of our concerns by making  
6 them stick to the no variances, uphold your zoning  
7 regulations for our protection, and you can also  
8 make the developer consider the offer of the Galaxy  
9 to purchase the property. That would have been a  
10 very simple solution. There is no hardship involved  
11 for them to have. They can easily build either a  
12 compliant building, or they can sell the property at  
13 fair market value.

14 This chart didn't make it the last time,  
15 but I'm going to show this because there are many  
16 concerned people on this side who are interested in  
17 the pipeline. This is the impact zone of the  
18 community, and this is, you probably can't see that,  
19 the outer circle is half-mile radius and the inner  
20 circle is the quarter-mile radius. Why we do a  
21 half-mile, a half-mile is the typical impact zone on  
22 the pipeline, a transmission gas, high-pressure,  
23 36-inch typical impact zone rupture of a pipeline.  
24 Half a mile would mean about between 60th Street and  
25 82nd Street on Boulevard East on four blocks east

1 and west of the River Road.

2 Now, I'm going to quickly, you know, give  
3 you a senses what's within 500 feet of this  
4 pipeline, the Summit House, 50 feet from the  
5 pipeline, three hundred residents; the Galaxy, three  
6 hundred feet away, 2,200 residents; Hudson Point,  
7 two hundred feet away, three hundred residents;  
8 Jason's Ferry, 450 feet away, 900 residents; the  
9 Versailles, 800 feet, three hundred residents, a  
10 total of about 4,000 residents in 500 feet radius.

11 Finally, on behalf of these residents, I'm  
12 going to submit a petition. Thank you, No. 262;  
13 there are about 670 residents have signed this  
14 petition. I would like to submit this to you.

15 CHAIRMAN CHOFFO: You can give it to  
16 our attorney.

17 MR. ALAMPI: Before you do, I think,  
18 Mr. Curley, petitions, that's not appropriate.  
19 There's no way to question the people who purported  
20 execute it. I'll defer to Mr. Curley. I don't  
21 think it should be handled by the Board. There's  
22 case law about this point.

23 MS. SIHENG: Just read the comments.  
24 They want us to do an online petition because  
25 everyone wants express themselves. Not everyone can

1 be here tonight, but we want to put something down.

2 MR. CURLEY: I would say the petition  
3 will be marked for identification. It could not be  
4 submitted to into the evidence as part of the  
5 record.

6 MS. SIHENG: Thank you.

7 MR. CURLEY: We will mark the  
8 petition PB-3.

9 MS. GAFFNEY: Good evening. My name  
10 is Margaret M. Gaffney, G-a-f-f-n-e-y. I reside at  
11 6600 Boulevard East, which is the Versailles. There  
12 are three hundred apartment units in that building,  
13 but the actual population is between four and 500,  
14 and I don't know whether the other buildings were  
15 similarly understated as to the number of residents  
16 or not. I didn't prepare remarks, so if I get close  
17 to five minutes, just give me a hand signal.

18 I worked 30 years as an insurance  
19 liability underwriter, and we had a saying in the  
20 business, don't let the aroma of the premium mask  
21 the stench of the risk. To translate that into  
22 Planning Board terms I would say, please don't let  
23 the aroma of ratables disguise the stench of the  
24 stress on the County resources. These include not  
25 just easily measurable things like additional road

1 impact and water quality and waste treatment, which  
2 is within your purview; schools and the hospitals,  
3 which are not within your purview, but the public  
4 safety which is of paramount concern to us.

5 I live right on the border of the quarter  
6 mile, so I'm dead in a couple of seconds if this  
7 transpires. Is this a likely event? No, it  
8 probably has about the same probability and my dying  
9 of carbon monoxide in my apartment, but the State of  
10 New Jersey requires that I have a detector in my  
11 apartment, or my building will be fined if there is  
12 not one in there. We have to err on the  
13 conservative side. Mr. Carrio in his testimony  
14 mentioned the possibility of a billion dollars in  
15 liability suits. I submit that's grossly  
16 understated. That probably measures just in damages  
17 for life and loss of property in this County, not to  
18 mention the fact that you've lost a major, major,  
19 major portion of your tax base.

20 It is significant in view of the  
21 consequential loss that occurred in Manhattan.  
22 That's going to be the choices. Tens if not  
23 hundreds of billions of dollars, and while Applevew  
24 and the construction firm would obviously bear the  
25 primary liability, you have deeper pockets. I am

1 telling you, the lawyers go after the deep pockets,  
2 and you're going to be named, and Hudson County  
3 could be bankrupt if anything happens on this.  
4 Please, bear in this consideration. Thank you.

5 MR. SHAW: Herb Shaw, 4402 Liberty  
6 Avenue, North Bergen. I can't see how this would  
7 benefit Hudson County or North Bergen, not going to  
8 benefit the community. You heard from the people  
9 about the petition that you accepted. Don't --  
10 remember the Supreme Court had to give risk a  
11 decision already. They reversed themselves several  
12 times. The Constitution says that people have a  
13 right to petition the government. That what they're  
14 doing right now by appearing here and opposing this  
15 development.

16 It has been established that the Palisades  
17 are falling down. What's proof of that? North  
18 Bergen gets \$1 million to replace or repair the  
19 bridge on 77th Street. But it's just to examine the  
20 Palisades in that area because the bridges are  
21 falling down. There's more than one of them.

22 As far as the gas line is concerned,  
23 there's an election coming up in Jersey City,  
24 they're both falling for the challenger so far.  
25 Mayor Healey opposed it. One of the reasons is if

1 they put a gas line in, it's going to devalue the  
2 property. The people are going to file tax appeals  
3 because of that gas line devalues their property.  
4 Does it make sense? You don't want to get less  
5 taxes.

6 The area in question is subject to  
7 earthquakes. There is a fault, this is on the  
8 internet, anybody can get it, right by the North  
9 Bergen, Edgewater, Cliffside Park border. You just  
10 type in earthquakes of New Jersey, it will come up  
11 and show it to you. In 1962, it was published, a  
12 book, Geology of New York City and featured stories  
13 about the North Bergen quarry and all about the  
14 geology of the area. It shows the earthquake faults  
15 due to the Palisades.

16 Now, at the hearing before the North  
17 Bergen Planning Board, I asked, do you have a  
18 seismic study on the area? No, you don't know and  
19 you must know this before you can grant any  
20 permission to build. Now, this fault is a  
21 continuation of the 25th Street fault in New York  
22 City. Everybody should know about that from T.V.  
23 programs about it and everything else. What is  
24 going to happen, it's just a fault a couple days ago  
25 they caused a big earthquake in Turkey. This fault

1 exists. It's shown on this map. I tried to give it  
2 to you.

3 So it doesn't make sense to grant  
4 permission. It's a pipeline that's serves New York  
5 City. It doesn't serve New Jersey. It doesn't  
6 serve Hudson County. The one that exists in North  
7 Bergen, the same thing, it serves over 40 percent of  
8 the gas to New York City. It doesn't do anything  
9 for the citizens of this community or Hudson County.  
10 I don't need anymore time. That's it. There's  
11 going to be a lot of court cases. I'm telling you.

12 MS. KRONIG: Jeanette Kronig. A  
13 suggestion that that petition is not valid as  
14 evidence because you can't verify the names on it,  
15 you can do that. It's laborious. It would be very  
16 time-consuming, and you may not want to do it, but  
17 it can be done. So not accepting it because you say  
18 it cannot be verified, I'm sorry, gentlemen, it just  
19 doesn't flying. That petition is valid. So if you  
20 feel you should take the time to verify all the  
21 names, do it, and by that time, we can get another  
22 600, 1,800 or and 2,000 names, I assure you. Thank  
23 you.

24 MS. GESUALDI: Good evening,  
25 Chairman, Members of the Board, Maria Gesualdi, the

1 attorney, and I represent the Town of Guttenberg.  
2 We as a town have three comments and concerns with  
3 regard to the project. They entail our sewer  
4 easement, which presently exists on the site; two,  
5 the installation of a traffic control device in  
6 front of this project; and three, the safety of the  
7 pipeline as we've all heard vis-a-vis, this project  
8 as presented.

9 The Mayor of Guttenberg, Mayor Drasheff,  
10 was here earlier this evening, but he had to leave  
11 to another engagement. I know that he did  
12 distribute a prepared statement, and with the  
13 Board's permission I'd like to read it into the  
14 record on behalf of our town's mayor.

15 Good evening, my name is Jerry Drasheff,  
16 and I appeared tonight as the Mayor of the Town of  
17 Guttenberg in support of the concerns that have been  
18 expressed by many of Guttenberg's residents  
19 concerning this project. I have followed the  
20 progress of this application many years, and I want  
21 to go on record that I am not opposed to development  
22 in our area. As this project has evolved, many of  
23 the concerns that the Town of Guttenberg has since  
24 the inception of this project have been addressed.

25 This size of project has been reduced,

1 alleviating some of the town's concerns with respect  
2 to traffic. However, in light of the town's  
3 undertaking with North Bergen for the joint part  
4 which is going to be developed almost directly  
5 across from this project along the waterfront, it is  
6 a concern of ours, and we urge that the Board  
7 consider the installation of a traffic control  
8 device to facilitate the movement of traffic into  
9 and out of this complex safely.

10 Guttenberg's concerns over interference  
11 with the sewer easement, which we believe the town  
12 has on the property have been addressed by the  
13 applicant by moving that structure forward so as not  
14 to interfere with that easement, and we urge and we  
15 demand actually any approval that this Board may  
16 consider continue to recognize Guttenberg's claim to  
17 that easement. We ask that it be preserved by way  
18 of your approval, if any.

19 As indicated as Mayor of Guttenberg, I am  
20 not opposed to reasonable development. We encourage  
21 development in Guttenberg. We all want to see our  
22 towns improve and attract new residents to enjoy the  
23 many benefits the area has to offer; one of them  
24 being its proximity to New York City, and all that  
25 it has to offer. That proximity, however, also has

1 a downside. Our proximity to New York places with  
2 us in bulls-eye that exists around New York as a  
3 prime target of enemies of our way of life who would  
4 like to do harm to us. That fact would be my main  
5 concern with regard to the project, its proximity to  
6 gas pipeline and the impact of placing this project  
7 as proposed within 20 feet of that pipeline.

8 Obviously, the pipeline exists today, and  
9 is susceptible up to risks from both a structural  
10 standpoint during construction and from outside  
11 sources. Given that public safety is always a  
12 factor for you to consider in evaluating an  
13 application, a legitimate concern for this Board to  
14 consider is whether what is admittedly a risky and  
15 potentially dangerous situation today is made worse  
16 by the addition of this project as proposed on this  
17 site.

18 I have the dubious distinction of having  
19 narrowly escaped the two attacks on the World Trade  
20 Center. My concern over this project arises in the  
21 context of the first attack in 1993, which was  
22 carried out by the placement of a bomb laid in a  
23 vehicle in an underground parking garage at the  
24 World Trade Center. That attack was successful in  
25 part because there was nothing suspicious or unusual

1 about a van being parked in that garage. Contrast  
2 that with what occurred a few years ago in Times  
3 Square, where a similar attack was thwarted due to  
4 the fact that a vehicle parked in that location  
5 raised suspicions and concerns.

6 This project that's proposed would place  
7 rather an enclosed structure, specifically a  
8 ground-level enclosed parking garage within 20 feet  
9 of this pipeline, a pipeline, which if destroyed  
10 would disrupt gas service to New York, create  
11 property damage and loss of life within a large  
12 radius, destroy the sewerage treatment plant, a  
13 facility critical to Guttenberg and North Bergen and  
14 destroy a portion of River Road, a major north-south  
15 County road. The similarity of this to 1993, are  
16 significant and should raise some concerns in your  
17 minds. A vehicle parked in a garage would not be  
18 cause for suspicion or alarm, and in all likelihood  
19 would go unnoticed or unreported.

20 Perhaps a consideration should be given to  
21 maintaining a sterile area around this pipeline  
22 where suspicious activity such as a parking of a  
23 vehicle would be observed and reported as occurred  
24 in Times Square, or to hardening the target by  
25 requiring the strengthening of the structure of the

1 garage to better protect the pipeline. The New  
2 Jersey State Office of Homeland Security includes a  
3 section that is responsible for critical  
4 infrastructure protection. That office has a staff  
5 assigned right here in Hudson County. This pipeline  
6 is part of the critical infrastructure of this state  
7 and country.

8 For the piece of mind of everyone who  
9 currently lives within a half mile of this pipeline  
10 and your own piece of mind, I urge you as a  
11 condition of any approval you may consider to  
12 require the applicant to reach out to the Office of  
13 Critical Infrastructure Protection and obtain their  
14 opinion and input in response to this simple  
15 question. To what extent is the risk of damage to  
16 the pipeline increased from what it is today by the  
17 placement of the proposed structure, which includes  
18 an enclosed parking garage within 20 feet of the  
19 pipeline, and what recommendations would they make  
20 to reduce or eliminate any increased risk?

21 This Board should also require as a  
22 condition of any approval that the applicant comply  
23 with any recommendations that agency may make to  
24 reduce any increased risk. A similar condition was  
25 included in the approval granted by North Bergen,

1 but as of now, there is no indication that the  
2 applicant has sought or received any such review by  
3 the Office of Homeland Security. The applicant  
4 should be questioned with regard to what steps if  
5 any they have taken to comply with that provision of  
6 the North Bergen approval with respect to this.  
7 Specifically, we believe it critical that a Homeland  
8 Security vulnerability assessment study report and  
9 its recommendations, if any, be made part of any  
10 approvals of this Board, similar to that condition  
11 that North Bergen granted.

12           There is a saying that the path to hell is  
13 paved with good intentions. Everyone that has had a  
14 role in reviewing this application recognizes that  
15 there is an 800-pound gorilla in the room. Thus  
16 far, no one has been prepared to step up to the  
17 plate and address the issue head-on. All have  
18 dodged the opportunity with the familiar excuse,  
19 it's not my job. I along with many of you listened  
20 to the litany of missed opportunities following the  
21 two attacks on the World Trade Center. You have the  
22 opportunity to avoid such Monday Morning  
23 Quarterbacking by requiring this applicant to seek  
24 review and recommendations concerning the potential  
25 risks created by this project and how to minimize

1 them.

2           You can require that the questions be  
3 asked and addressed now or wait and have them asked  
4 as some future congressional hearing that would  
5 follow any incident following that pipeline. If you  
6 require this applicant to make this request of the  
7 Office of Critical Infrastructure and to consider  
8 their response and advice about any possible  
9 recommendations they may make, no one will be able  
10 to say later on here there was another -- nobody  
11 will be able to say later, here was another missed  
12 opportunity to prevent disaster. The choice is  
13 yours. Thank you.

14           MS. SALVADORE: Good evening. My  
15 name is Teresita Salvadore. I'm a resident of North  
16 Bergen, and honestly, I was going to prepare a  
17 speech, but after listening to everyone, experts,  
18 I -- actually it's so overwhelmingly that just to  
19 add another comment to it, I just want to address  
20 the Members. You have to job to do up here, I mean,  
21 an unbelievable job. I'm commending you for it.

22           That being said, my mother lives in North  
23 Bergen. My brothers and sisters live in North  
24 Bergen. Those are family in North Bergen. My  
25 mother is two blocks away from the Galaxy. I live

1 six blocks away. Everyone here is talking about the  
2 consideration, the pipeline, the situation, the  
3 safety issue, too many issues. But I'm sure all of  
4 you knowledgeable Members will stick to the law and  
5 will follow it and the staff in ongoing meetings.  
6 All that said, I, myself, my family, my friends and  
7 the associates and the neighbors support this  
8 project.

9 This is panic. You know what is great  
10 about being an American, that you can voice your  
11 opinion, okay? And this is only place that you can  
12 come in and say whatever you want. We respect it.  
13 I was not born here, but to me to come to America, I  
14 am so proud of it. You don't have that slightest  
15 idea how far I am willing to go for this country.  
16 You Members out there tonight, you were here for  
17 more than three hours tonight, and I was at the last  
18 meeting. I look over your meetings, and everybody  
19 has to work over there.

20 They're all going to die, lawsuit,  
21 millions of dollars. Well, that all is well-taken,  
22 but you have a job to do as elected officials. They  
23 are all over here, the Galaxy and Guttenberg, they  
24 have a point of view and explaining greatly so.  
25 North Bergen residents, we have more than

1 Guttenberg, and we talk about life, our kids. I  
2 expect to get grandkids, and anybody that's here  
3 just question the pipeline, the explosion, that San  
4 Bruno, oh, my God. We just need to go back to the  
5 basic and stop the mumbo jumbo and the law, the  
6 statute here tonight I mean.

7 CHAIRMAN CHOFFO: Just lower you  
8 voice a little bit. You've got about one minute  
9 left.

10 MS. SALVADORE: I'm basically almost  
11 done. I would like to thank you for listening to my  
12 maybe let's say cackling voice for some that I have.  
13 I have a saying. I only answer to God, I don't  
14 answer to man. With that being said, our lives is  
15 not a pipeline. It's in God's hands. Thank you and  
16 good night.

17 MR. DOUKI: Good evening. One  
18 question, first of all, everyone is concerned for  
19 the safety of North Bergen or Guttenberg. The issue  
20 is about pipeline safety. I would like to thank  
21 everyone for taking the time and effort of  
22 researching this. We also have to believe, we also  
23 have to believe in the officials when they take  
24 matters into their hands, they're responsible and  
25 accountable for it. The people in North Bergen

1 before they approved this project, everybody  
2 attended every meeting, and everything was exposed  
3 out there. Everybody made sense of their concerns.  
4 That's why we have a City Engineer, and they go to  
5 the site, and they have to inspect it.

6 I have 57 members in my family that live  
7 in Guttenberg and North Bergen, so therefore I have  
8 three kid myself. My life is not worth less than  
9 anybody else over here. I live three blocks away  
10 from the Galaxy, but the only reason that the Mayor  
11 of Guttenberg is sending a letter with Maria  
12 Gesualdi, she's one of those local attorneys, to say  
13 to us the people in North Bergen and Guttenberg may  
14 live again the horrible dream in 1993, the World  
15 Trade Center, does this man know that the Galaxy is  
16 a few blocks from away from this office, a few feet  
17 away from this project? To talk about the  
18 underground parking, bombs exploding, the gas line.

19 It very plain and simple. When the Galaxy  
20 was built, that pipeline was there already. The  
21 tennis courtyard of the Galaxy, whoever lives in the  
22 Galaxy know Tower 3, they know the pipeline is not  
23 even hundred feet away from them. But they already  
24 bought their property, what can they do? This  
25 project will have one negative impact to the Galaxy

1 people, it may block the view of the city for some  
2 of us.

3           There is a traffic issue, okay? We all  
4 get in and address it. Again, I speak for myself.  
5 You will not inject the fear in me and my people by  
6 telling me a terrorist attack on the project will  
7 happen. If we're all going to believe that's going  
8 to happen, then whoever lives in the Galaxy should  
9 worry about the safety of their building because the  
10 Galaxy has the same thing. So what guarantee does  
11 the Mayor of Guttenberg is telling me, if this  
12 project gets built, someone will get a van in there  
13 and expose what happened, and this gentleman is  
14 going to go up the block and park it right in back  
15 of the Galaxy Tower. It doesn't make any sense.  
16 Let's stick to the simple obvious issues, which is  
17 the gas pipeline.

18           There is a gas pipeline company that  
19 they've probably been talking about it. There is an  
20 engineer in the town that inspects the place. These  
21 people are not going to let anybody touch that gas  
22 pipeline. It's worth money for them. They don't  
23 care about us. No one is going to touch that gas  
24 pipeline, not him, not whoever does the development  
25 there, until they make sure that place is nice and

1 safe.

2           Guys, again, whoever lives in Guttenberg,  
3 please let's again not inject us with that nonsense  
4 fear of terrorism because that doesn't the work for  
5 me. Whoever is going to die, only God knows when,  
6 and whoever gets on the plane -- and sorry, it's  
7 normal talking about death. Gentlemen, please.  
8 It's a minute. Thank everybody for coming here  
9 because that shows solidarity. Everybody cares  
10 about the town which is good. Environment is our  
11 main issues because this is land we're leaving for  
12 our kids. It's not for us. This lives or dies or  
13 goes or doesn't go. Thirty, forty years from now,  
14 most of us are going to be in this room, but our  
15 kids will be around. So we care for our children.  
16 Let's minimize the issue not that people are dying  
17 or kids are dying or fearing that something is going  
18 to happen. Thank you very much. Good night, guys.  
19 Thank you.

20           CHAIRMAN CHOFFO: The point is it's  
21 ten after ten. Our meeting is supposed to end by  
22 ten o'clock. At this point I'm going to ask the  
23 Commissioner to either make a motion to vote on this  
24 project or make a motion to adjourn the meeting.

25           COMMISSIONER FITZGIBBONS: I make a

1 motion to close the Public Hearing.

2 MR. LAMB: Mr. Chairman, can I just  
3 be heard on closing public portion? I would  
4 respectfully request a reasonable period of time to  
5 make a summation. After four hearings I want to  
6 wrap all that you've heard when the public portion  
7 is concluded.

8 CHAIRMAN CHOFFO: We have a motion  
9 and second to close the public portion.

10 MR. LAMB: Not allowing us to have a  
11 summation, I have to frankly, this Board has set the  
12 record of overruling me on issues in the last four  
13 months. I'm about ten percent successful. That  
14 doesn't mean everybody's got their decision, but a  
15 summation is standard practice on a large  
16 application.

17 COMMISSIONER FITZGIBBONS: Excuse me,  
18 Mr. Chairman. I have a motion on the floor.

19 CHAIRMAN CHOFFO: Mr. Marks.

20 MR. MARKS: Mr. Chairman, I have a  
21 motion to by Commissioner Fitzgibbons to close the  
22 public hearing. Who is the second? Mr. Chairman,  
23 there is a second on that.

24 Commissioner Arencibia.

25 COMMISSIONER ARENCIBIA: Aye.

1 MR. MARKS: Commissioner Avagliano.

2 COMMISSIONER AVAGLIANO: Aye.

3 MR. MARKS: Commissioner Fitzgibbons.

4 COMMISSIONER FITZGIBBONS: Aye.

5 MR. MARKS: Commissioner Mehta.

6 COMMISSIONER MEHTA: Aye.

7 MR. MARKS: Commissioner Ng.

8 COMMISSIONER NG: I vote aye.

9 MR. MARKS: And Chairman Choffo.

10 CHAIRMAN CHOFFO: Aye.

11 MR. MARKS: Mr. Chairman, the motion  
12 passes.

13 COMMISSIONER FITZGIBBONS: I make a  
14 motion to approve the application.

15 COMMISSIONER AVAGLIANO: Second.

16 MR. MARKS: Mr. Chairman, I'm sorry.

17 CHAIRMAN CHOFFO: There was a motion  
18 by Commissioner Fitzgibbons and second to approve  
19 the application.

20 MR. MARKS: Were there any  
21 conditions, the conditions?

22 COMMISSIONER FITZGIBBONS: We have  
23 our engineer.

24 COMMISSIONER ARENCIBIA: Did we go  
25 through those conditions?

1 MR. CURLEY: Let me suggest in order  
2 to approve this application, the Board would have to  
3 accept the traffic submissions and the drainage  
4 submissions made by the applicant as reviewed by the  
5 Board's consulting engineer. In addition to that,  
6 this application is requesting a waiver from steep  
7 slope regulations adopted in the land development  
8 regulations.

9 One of the arguments made by the applicant  
10 is that these regulations are waived under the DEP  
11 regulations. I do not agree with that  
12 interpretation under the DEP regulations. However,  
13 the Board does have the power under its own land  
14 development regulations in Section 1E to grant a  
15 waiver if it makes the findings that are set forth  
16 in the land development regulations. That would be  
17 that you would have to find that the rules,  
18 regulations or standards are onerous, impracticable  
19 or impossible to perform or cause unnecessary  
20 hardship.

21 In doing that, the authority to waive,  
22 modify or amend shall be exercised to achieve  
23 substantial favors to all parties concerned, so long  
24 as this power is not substantially, materially  
25 prejudice the rights of other bodies or interested

1 parties. I would recommend that you direct the  
2 discussion and findings towards whether or not such  
3 a waiver is appropriate in the circumstances here,  
4 and the Board is required to makes findings with  
5 respect to issues of fact and issues of law. Those  
6 findings will be incorporated into a resolution,  
7 whether it be a resolution approving or denying the  
8 application.

9 The conditions, I would suggest that most  
10 of those were engineer division's, and I believe  
11 there were only two or three that were announced.  
12 So if the Board were to approve the application, it  
13 would have to be subject to those conditions.

14 COMMISSIONER ARENCIBIA: They were  
15 engineer-related. We talked about the monitoring  
16 during pile-driving operation; also conditions from  
17 the obtaining of a road opening permit and  
18 coordinating with the office with construction.  
19 There is also a condition that was brought up by  
20 Guttenberg with respect to a possible traffic  
21 control signal at the driveway, which will  
22 necessitate a traffic study to be conducted in  
23 accordance with traffic control devices.

24 The sewer easement that belongs to  
25 Guttenberg needs to be addressed by the applicant to

1 maintain anything from the town, and as far as  
2 obtaining other approvals, there may be approvals  
3 necessary by the Office of Homeland Security and the  
4 Office of Critical Infrastructure, and any other  
5 agency for that matter with respect to DEP. Also,  
6 calling for a mark-out for utilities correlating to  
7 Transco, and those are were the only ones that I  
8 have conditions.

9 MR. CURLEY: Mr. Arencibia, you also  
10 mentioned a condition on there being a further study  
11 of the stability of the steep slopes?

12 COMMISSIONER ARENCIBIA: That is  
13 correct.

14 MR. CURLEY: And would you care to  
15 comment on the waiver request with respect to the  
16 hardship?

17 COMMISSIONER ARENCIBIA: With respect  
18 to the steep slope, the applicant -- there is an  
19 existing problem with the slope. The applicant  
20 through his project is addressing the drainage  
21 problems and the erosion problems through his  
22 project. As a result of that project, the soil  
23 erosion would be controlled, and I recommend as a  
24 result of those measures being taken, that we grant  
25 a waiver.

1 MR. CURLEY: Mr. Chairman, if anyone  
2 else wants to comment on the basis of a hardship  
3 waiver pursuant to the land development regulations,  
4 now is the time.

5 CHAIRMAN CHOFFO: Do any other  
6 Commissioners have any comments?

7 COMMISSIONER ARENCIBIA: With respect  
8 to -- I know there is a lot of opposition in terms  
9 of the gas line. Whether this project gets approved  
10 or not, there is a risk of an accident. As the  
11 Mayor of Guttenberg indicated, there is a risk  
12 regardless. Transco is the ultimate responsible  
13 party for maintaining that gas line. So in terms of  
14 dealing with Transco, that is paramount that the  
15 developer does that with Transco. With reference to  
16 the San Bruno's explosion, that was as a result of a  
17 lack of maintenance of that gas line.

18 AUDIENCE MEMBER: Edison.

19 COMMISSIONER ARENCIBIA: That was  
20 poorly inspected or poorly conducted. So again, the  
21 responsibility of the gas line is up to Transco.  
22 I'm offering my comments with respect to your  
23 concerns of the gas line. I respect everybody  
24 coming to the meeting to make that point to us, but  
25 the risk is there regardless of this project.

1 MR. RABIN: It's greater now. You  
2 know that that's true?

3 COMMISSIONER ARENCIBIA: The risk is  
4 immeasurable.

5 CHAIRMAN CHOFFO: This is  
6 Commissioner Arencibia's comments. It's his time.  
7 The Commissioners are allowed to speak already.

8 COMMISSIONER ARENCIBIA: We had  
9 debates. We had four meetings, lots of good  
10 comments from both sides. Again, our jurisdiction  
11 really is related to traffic and drainage and with  
12 with respect River Road and Ferry Road.

13 CHAIRMAN CHOFFO: Commissioner  
14 Fitzgibbons has a motion on the floor.

15 COMMISSIONER FITZGIBBONS: I'll  
16 accept it with the conditions.

17 CHAIRMAN CHOFFO: Commissioner  
18 Avagliano seconded.

19 MR. MARKS: Okay. Mr. Chairman,  
20 there is a motion to conditionally approve  
21 Application 2010-082-SP made by Commissioner  
22 Fitzgibbons, and seconded by Commissioner Avagliano.

23 Commissioner Arencibia.

24 COMMISSIONER ARENCIBIA: Aye.

25 MR. MARKS: Commissioner Avagliano.

1 COMMISSIONER AVAGLIANO: Aye.

2 MR. MARKS: Commissioner Fitzgibbons.

3 COMMISSIONER FITZGIBBONS: Aye.

4 MR. MARKS: Commissioner Mehta.

5 COMMISSIONER MEHTA: I vote aye, and  
6 I just want to make one comment. All the  
7 Commissioners that works with me definitely listen  
8 to each and every applicant on their merit. We also  
9 live in Hudson County. We don't live outside Hudson  
10 County. So we have a concern with each and every  
11 citizen who are coming in front of us and voicing  
12 their opinion. So I'm just saying, each and every  
13 aspect, I vote aye.

14 AUDIENCE MEMBER: Shame on you.

15 MR. MARKS: Commissioner Ng.

16 COMMISSIONER NG: I vote no.

17 AUDIENCE MEMBER: Thank you.

18 MR. MARKS: And Chairman Choffo.

19 CHAIRMAN CHOFFO: Aye. In accordance  
20 with the conditions stated by Commissioner Arencibia  
21 and the consulting engineering firm, Highland, I  
22 vote aye.

23 MR. MARKS: Mr. Chairman, the motion  
24 passes.

25 CHAIRMAN CHOFFO: There is a motion

1 to adjourn.

2 MR. MARKS: Motion to adjourn by  
3 Commission Avagliano. Second by Commissioner Ng.  
4 Commissioner Arencibia.

5 COMMISSIONER ARENCIBIA: Aye.

6 MR. MARKS: Commissioner Avagliano.

7 COMMISSIONER AVAGLIANO: Aye.

8 MR. MARKS: Commissioner Fitzgibbons.

9 COMMISSIONER FITZGIBBONS: Aye.

10 MR. MARKS: Commissioner Mehta.

11 COMMISSIONER MEHTA: Aye.

12 MR. MARKS: Commissioner Ng.

13 COMMISSIONER NG: I vote aye.

14 MR. MARKS: And Chairman Choffo.

15 CHAIRMAN CHOFFO: Aye.

16 MR. MARKS: Mr. Chairman, the motion  
17 passes.

18 (Whereupon the proceeding is then  
19 concluded at 10:24 p.m.)

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C E R T I F I C A T I O N

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I, SHARI CATHEY, a Notary Public and  
Shorthand Reporter of the State of New Jersey,  
hereby certify that the proceedings herein are from  
the notes taken by me of a Special Meeting of the  
Hudson County Planning Board, held on Wednesday,  
October 26, 2011; and that this is a correct  
transcript of the same.

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SHARI CATHEY, S.R.  
A NOTARY PUBLIC of the  
State of New Jersey  
I.D. No. 2283786  
Commission Expires 2/4/12

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