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1 MS. BIGOS: Here.

2 MS. CARLTON: Mr. Hurley?

3 MR. HURLEY: Here.

4 MS. CARLTON: Mr. Nalbantian? (No
5 response.)

6 Chairman Nicholson?

7 CHAIRMAN NICHOLSON: Here.

8 MS. CARLTON: Mayor Pfund?

9 MAYOR PFUND: Here.

10 MS. CARLTON: Mr. Riche?

11 MR. RICHE: Here.

12 MS. CARLTON: Ms. Ward?

13 MS. WARD: Here.

14 CHAIRMAN NICHOLSON: Thank you,
15 Barbara.

16 As we always do at this point in our
17 meeting, we ask for comments from the public on items
18 that are not listed on tonight's agenda.

19 Is there anyone here for that purpose?
20 (No response).

21 CHAIRMAN NICHOLSON: Seeing no one,
22 we'll move on to our main agenda item, which is
23 further consideration of the proposed amendment to
24 the Master Plan as it relates to the H-Zone.

25 Ladies and gentlemen, let me repeat
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1 what I felt compelled to say a little earlier this
2 evening.

3 We are all here because we love the
4 place in which we live. And although we may differ
5 with one another, either in absolutes or in degree on
6 any certain issue, we all must continue to treat one
7 another civilly.

8 This is a Planning Board hearing
9 conducted under the auspicious of the state Municipal
10 Land Use Law. That means that speakers have an
11 opportunity to speak, when the Chair recognizes them.
12 I expect tonight that only the person that I
13 recognize to speak will be speaking.

14 If you cannot abide by these rules, I
15 am going to ask you to leave.

16 Tonight we have three or four items
17 that we want to accomplish. The first is to answer
18 for the record those questions that have been asked
19 by speakers from the public during the past four
20 hearings that we were not able to answer that night,
21 either because the professional to whom they were
22 directed was not present or that the answer required
23 research or reference to material not available that
24 night.

25 The board attorney, Ms. Price, to my
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1 right, will ask the questions, the appropriate party
2 will put the answer on the record.

3 The second is to give the board members
4 opportunity to ask follow-up questions of our
5 professionals that may have been elicited by things
6 they heard during the public comment process or that
7 had come to their mind as they reviewed all the
8 material in preparation for tonight.

9 Third, Ms. Price, the board attorney,
10 as is our custom prior to making any kind of
11 decision, will give the board instruction relative to
12 the law and other matters pertaining to our
13 deliberations.

14 If we have time after she has completed
15 that presentation, the board will commence
16 deliberations.

17 It is my intention to ask the board to
18 consider the matter in three steps:

19 The first is whether or not the board
20 has heard sufficient testimony, has commissioned and
21 accepted the appropriate reports to make a decision.

22 And if that vote is a positive one, we
23 will go on to consider whether any board members wish
24 to make amendments to the proposed amendment.

25 And after that process, we will move on
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1 to consideration of the main matter, which is whether
2 or not this board should adopt the proposed amendment
3 to the Master Plan.

4 I'm going to ask Ms. Price to give a
5 summary of that process in detail, that is to say,
6 what happens after we vote, with respect to our
7 resolution, with respect to whatever steps may follow
8 with counsel and this Planning Board in the future.

9 And I do not expect that we will
10 complete the process tonight.

11 Certainly, having considered the matter
12 for three years, I am not going to cut off the board
13 members in their deliberation. I want every member
14 to have an opportunity to express to the members of
15 the public and for the record their rationale for
16 their vote.

17 So it comes to the issue of where we
18 meet next.

19 In recognition of the conditions at
20 Village Hall and in response to many communications
21 that we've had this evening or, rather, during the
22 day today, we are not going to consider this matter
23 tomorrow night. Our next meeting, rather than
24 tomorrow, will be a week from today, in this venue
25 (applause).
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1 So that there is ample opportunity for
2 everyone to be physically present with the board, as
3 we decide this matter.

4 I want to reiterate to everyone that
5 this is not a political rally. This is a
6 quasi-judicial proceeding. Gail is going to get into
7 that a little bit more later. And the board is
8 charged with considering the record, the evidence,
9 not how many people showed up tonight, not how many
10 people showed up yesterday, not how many people
11 showed up in November of 2008, nor how loudly you can
12 shout, nor the placards that you may raise above your
13 head, that's not how we operate. We operate on the
14 record. So, please, let us conduct our business in
15 an orderly and civil fashion.

16 Gail, I'm going to turn it over to you.

17 MS. PRICE: Okay.

18 First, the first order of business will
19 be the questions. All of our experts have already
20 been sworn, and they remain under oath this evening.

21 We have the Village Planner, the
22 Village Engineer, our expert in geotechnical
23 engineering, our traffic engineer, and our hospital
24 planning expert, are all in attendance and the record
25 should reflect that attendance.

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1 setback for certain buildings, in other words, they
2 could have been brought forward as much as possible,
3 which would have increased visual impact. If I had
4 made a single setback that was way farther back, then
5 it would have frustrated Option Six. So either way,
6 it would have been contrary to the board's directive.

7 So the Master Plan, as proposed, has
8 different setbacks for different sections of the
9 property in recognition of its unique and singular
10 nature.

11 MS. PRICE: Okay. The second question
12 asks for your opinion on what the intended definition
13 of a "green roof" is, and what is intended
14 specifically in the amendment where the verbiage
15 "where practical" is utilized?

16 MR. BRANCHEAU: "Green roof" is a roof
17 that has vegetation on it, as opposed to hard
18 surfaces. "Green" in this sense is used not in the
19 common usage, which would include solar panels and
20 things like that; it means vegetation.

21 In the Master Plan where the word
22 "where practical" is used, it's talking about
23 planting trees and shrubs on green roofs. And I
24 think the questioner, I don't know who it was, had
25 asked to have that removed.

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1 The first set of questions were raised
2 at the June 7th hearing and, Blais, there are three
3 questions directed for your answer. The first deals
4 with the issue of setbacks, and the question posed
5 would like an answer as to why the amendment includes
6 multiple and varying setbacks for front, side and
7 rear yards, rather than a uniform setback which might
8 be referenced in other zoning districts within the
9 Village ordinance?

10 B L A I S L. B R A N C H E A U,
11 P.P., having been previously sworn, testified as
12 follows:

13 MR. BRANCHEAU: All right.

14 Two points on that.

15 Firstly, this plan amendment is based
16 upon Option Six, which shows buildings with different
17 setbacks.

18 This is a single site zone, a single
19 use zone, with existing buildings, so those all sort
20 of force the location of any new buildings that are
21 proposed, combined with the board's analysis, that
22 led it to put forward Option Six.

23 I did consider a single setback, front,
24 side and rear. The problem with that is if I chose a
25 low setback number, that wouldn't provide enough

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1 It's not practical or even desirable,
2 in many cases, to have shrubs and trees on some green
3 roofs, because either there's insufficient soil or
4 because the green roof is right next to a building.
5 There's a whole host of reasons why that would not
6 work in all situations, so that's why the words
7 "where practical" were used.

8 MS. PRICE: Okay. And the last
9 question from the June 7th hearing was contained in
10 what was marked as O-32 for the record, which was a
11 statement and question from Janet Daly. I provided
12 you with a full copy of that, because it's probably
13 about 20 lines long or so, and at the end, it has a
14 single question: Do you see the factors which cause
15 a blight condition are already present in this
16 proposed Master Plan?

17 MR. BRANCHEAU: Right.

18 MS. PRICE: So I ask that you review
19 that, and whether you can answer any type of question
20 contained in that statement?

21 MR. BRANCHEAU: There's a number of
22 statements that precede the question, and I just
23 would like to state for the record, I do not agree
24 that those statements are representative of my prior
25 testimony.

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1 As to whether the plan before the board
2 would cause a blight condition in this neighborhood,
3 I wouldn't support this if I thought it did.
4 MS. PRICE: Okay. So that takes care
5 of June 7th.
6 On June 1st, there was an e-mail that
7 was provided by Ms. Tuomey, and before I ask Chris to
8 weigh in on this, I'd like to just take a minute and
9 address the legal side of the issue that was raised.
10 Ms. Tuomey presented the e-mail, which
11 was based on a purported response on an environmental
12 review that was given indicating that perhaps the
13 board had overlooked requiring certain approvals from
14 outside agencies. And upon an examination of the
15 query that was postured in that e-mail, what the
16 e-mail failed to mention was what the board is
17 currently undertaking is a Master Plan amendment, and
18 not a site plan review. So had the question been
19 postured that it was a Master Plan amendment, it's my
20 opinion that the response, in all likelihood, would
21 not have been that the board was overlooking outside
22 agency approvals, because under the Municipal Land
23 Use Law, outside agency approvals are only required
24 as ancillary approvals to the site plan process.
25 That being said, the issue of
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1 environmental impact statements is also not a
2 conventional tool to use at the time of Master Plan
3 amendments under the Municipal Land Use Law. Both
4 experience-wise and pursuant to the statute, absent a
5 fully engineered plan, you don't have the benefit of
6 what is necessary to make a comprehensive, efficient,
7 and all-serving analysis via stormwater, sanitary
8 sewer, topographic, and other issues that the board
9 has heard numerous concerns from members who have
10 spoken at these hearings.
11 The likely and proper time at which an
12 environmental impact statement must, in my opinion,
13 be required and must be detailed as required is:
14 A), at the time of any ordinance
15 drafting, and that must be done with specificity, not
16 generality, and then that would be reviewed for
17 compliance at the time of any site plan submission.
18 And if in fact a plan was then filed, the board and
19 its professionals would have the basis upon which to
20 make a reasonable and non-arbitrary review as to
21 whether that environmental impact was in fact
22 accurate. It certainly is something that the board
23 should consider and not turn a blind eye on at all.
24 It's just a question of timing.
25 And if the board wants to get a most
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1 accurate view of an environmental impact statement,
2 that's always done at the time of ordinance and site
3 plan.
4 And, Chris, as the Village Engineer,
5 and, Blais, as the Village Planner, to that end, if
6 you have any opinion to the contrary or supplementing
7 what I just said.
8 MR. BRANCHEAU: No, I agree
9 100 percent. I think the plan does speak to
10 environmental impacts, some of them have been
11 explored in more detail than others, such as traffic.
12 We've also explored issues of groundwater and
13 dewatering and noise and light and a whole host of
14 environmental impacts at a basic level. But I agree
15 100 percent that until you have a detailed plan
16 before you, it's impossible to accurately address the
17 environmental impacts.
18 Furthermore, you don't sacrifice
19 anything by delaying the environmental review until
20 later, because if you write your ordinance properly
21 to require such an impact, and if the development at
22 the time of site plan does not comply with the
23 requirements of either the local code for the
24 environmental impact or the state regulations or
25 federal regulations, whichever apply, the board still
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1 would have the ability to deny the application at
2 that time, so you're not really losing anything by
3 not including it in the plan right now.
4 CHRISTOPHER J. RUTISHAUSER,
5 P.E., C.P.W.M., having been previously sworn,
6 testifies as follows:
7 MR. RUTISHAUSER: Gail, I concur also
8 with what you had said. I feel an EIS at this
9 juncture in the process is premature.
10 I do agree that an EIS should
11 definitely be required as part of any site plan
12 review, when we have a more detailed understanding of
13 what would be proposed by the hospital.
14 MS. PRICE: Okay. Ray, the next
15 question is directed at you or for you. I think that
16 this actually came up at a couple of the meetings
17 when you were asked about other similar hospital
18 locations. And I think that you spoke at one hearing
19 about other locations, and then you indicated that
20 you were going to go back and look into it some more.
21 Have you been able to do that?
22 RAYMOND SKORUPA, having been previously
23 sworn, testifies as follows:
24 MR. SKORUPA: Yes. We did, Gail.
25 No two communities are exactly alike;
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1 however, there are two other hospitals which we think
2 have some similarity to the Valley Hospital and its
3 relationship to the Village of Ridgewood. The
4 Chilton Memorial Hospital in Pompton Plains, New
5 Jersey is similar, because it has the township high
6 school directly across the street. Its location is
7 suburban, less dense than Ridgewood, with single
8 families on three sides and light commercial on the
9 fourth side. It has about 260 beds and has all of its
10 functions on its main campus.

11 To our knowledge, there are no other
12 support or clinical functions located off-site.

13 The second hospital is St. Francis
14 Hospital in Roslyn, New York. It is similar because
15 it is a regional, national hospital, noted for its
16 heart services, mainly serving patients from outside
17 the town of Roslyn. It is located in a suburban
18 location, bounded on three sides by single family
19 residences abutting directly against the hospital
20 property and on the fourth side by a four lane
21 divided boulevard.

22 It has 336 beds, with both on-site and
23 off-site support facilities, and it has both above
24 grade garages, below grade garages; the below grade
25 is three levels below grade.

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1 Hospital site; the below grade decks, that is.
2 The Village permits parking decks in
3 the Walnut Street redevelopment area. They permit
4 them in the B-1 zone. I believe they're permitted in
5 other zones as well, not named specifically.

6 I believe that parking decks, where
7 permitted, would be regulated the same as both
8 buildings and would be regulated the same as applied
9 to parking areas at surface grade, when it speaks
10 about dimensions of spaces and aisles and so forth.

11 But as to what I said at that prior
12 hearing, I said the regulations are fairly open on
13 that, and we don't really address decks in much
14 detail at all because we don't have any.

15 MS. PRICE: Okay. The next question
16 was: Were you able or are you able to provide a
17 review concerning the Kraft Center located at the
18 Valley Hospital site? And what, if any, effect
19 maintaining that building on the property would have
20 on the bulk regulations?

21 MR. BRANCHEAU: Well, the Kraft Center
22 building was, I believe, torn down as part of a prior
23 development application. I don't have detailed
24 figures as to what effect it would have. I do know,
25 obviously, that it would have a larger floor area

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1 MS. PRICE: All right. So that covers
2 June 1st. Now we're going to switch to May 24th.

3 Blais, there's a series again for you.
4 The first question actually goes back and speaks to,
5 I believe it was the initial proposed amendment, and
6 asks for questions concerning the placement of
7 accessory uses and garages in the front yard. And
8 the question was asked with regard to allowance for
9 parking decks in the front yard. Have you had an
10 opportunity to review prior testimony in that vein?

11 MR. BRANCHEAU: Yes, I did.

12 MS. PRICE: Can you answer the
13 clarification that was asked?

14 MR. BRANCHEAU: Right.

15 At May 12, 2008, I stated on the record
16 that accessory buildings, including parking decks,
17 are not permitted in the front yard.

18 I then also was asked and responded to
19 questions about the current zoning regulations for
20 parking decks.

21 The Village's zoning regulations say
22 very little about parking decks, specifically I
23 stated that on the record at that meeting. They are
24 permitted in a few zones in the Village, although the
25 only existing parking decks are at the Valley

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1 ratio than it would have without it, but as far as
2 the detailed numbers, I didn't research those, I
3 never testified concerning the Kraft Building, and I
4 don't know what the relevance would be as to the
5 precise numbers involved, but it obviously would have
6 increased the FAR on the site, if it were to remain.

7 MS. PRICE: Okay.

8 And the last question from that meeting
9 for you, Blais, is: Do you know what the height of
10 the chimney tower is located on the hospital site?

11 MR. BRANCHEAU: I asked the
12 Construction Official this. He did some research,
13 and he reported back that the height of the chimney
14 is approximately 96 feet.

15 MS. PRICE: Okay.

16 Joe, the next couple of questions are
17 for you.

18 J O S E P H S T A I G A R, having been previously
19 sworn, testifies as follows:

20 MS. PRICE: Joe, the first question is,
21 that you were asked to provide certain information
22 from your traffic report as to the number of
23 accidents at North Van Dien and Linwood at the
24 intersection.

25 MR. STAIGAR: Yes.

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1 MS. PRICE: Is that accurate?
 2 MR. STAIGAR: Correct.
 3 We did a very thorough accident
 4 analysis of the intersections, and it was all
 5 provided in the reports that were presented to the
 6 board and are public record.
 7 But to summarize them, for the
 8 three-year period from 2005-2007, there were two
 9 rear-ends, one side-swipe, two right angles, one
 10 head-on, and three left turns, a total of nine
 11 accidents in that three-year period within 50 feet of
 12 the intersection.
 13 There is obviously other accidents that
 14 happened beyond that 50-foot, but essentially that
 15 provides the experience at that specific
 16 intersection.
 17 As you can see from the different types
 18 of accidents, there was no definitive pattern or
 19 action that could alleviate the accident rate that
 20 occurs at that intersection, only because there was
 21 no exact pattern happening at that intersection.
 22 MS. PRICE: And then the other question
 23 involved your opportunity to review the information
 24 that may have been supplied relative to the amount of
 25 traffic that Valley Hospital may be providing for its
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1 use at the property.
 2 MR. STAIGAR: Yes.
 3 We compared the trip generation, how
 4 much traffic is generated by the current Valley
 5 Hospital, based on typical trip rates for hospitals.
 6 The Institute of Transportation Engineers does have
 7 trip rates for hospitals established by actually
 8 studying existing hospitals actually throughout the
 9 United States.
 10 Valley Hospital is generating traffic a
 11 little bit higher than what the average trip rate is.
 12 The trip rates range anywhere from .88 trips per
 13 thousand square feet on the lower end, up to 5.7
 14 trips per thousand square feet.
 15 Valley Hospital is generating traffic
 16 at 1.8 trips per thousand square feet. The
 17 mathematical average of all the rates, Valley
 18 Hospital is a little bit higher than the average, but
 19 as I said, the ranges are anywhere from .88 up to
 20 5.7; Valley Hospital is at 1.8. So although it is a
 21 little bit higher than the average, it's certainly
 22 not higher than what the maximum trip rates are found
 23 at certain hospitals.
 24 MS. PRICE: Okay. Thank you.
 25 MR. STAIGAR: That's it.
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1 MS. PRICE: Ray, you're back up.
 2 Two questions from this particular
 3 hearing, Ray. The first is, the person asking the
 4 question would like to know whether you could
 5 summarize the difference in the occupancy rate at the
 6 Valley Hospital at the present time compared to the
 7 time when Pascack Valley was opened. It's a broad
 8 range question, and I believe you picked a particular
 9 date or thereabouts.
 10 MR. SKORUPA: Right.
 11 It's our understanding that Pascack
 12 Valley Hospital closed in November of 2008.
 13 According to statistics given to us by the Valley
 14 Hospital, its occupancy rate in 2008 was
 15 79.34 percent and was 82.14 percent in 2009, the
 16 difference being 2.8 percent between those two
 17 figures.
 18 MS. PRICE: Okay. So those percentages
 19 are for the calendar years 2008 and 2009?
 20 MR. SKORUPA: Yes.
 21 MS. PRICE: And the second question,
 22 the three hospitals that you referenced in your prior
 23 follow-up, can you just provide the acreage for those
 24 particular sites?
 25 MR. SKORUPA: Right.
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1 Northern Westchester Hospital is about
 2 15 acres.
 3 St. Vincent's Hospital - Westchester is
 4 about 25 acres.
 5 South Shore Medical Center is about
 6 nine acres.
 7 And these areas were calculated by us
 8 from aerial photographs.
 9 MS. PRICE: Okay. Thanks, Ray.
 10 Chris, this question is directed at the
 11 issue of sanitary capacity and specifically the
 12 question reads: How does the hospital sanitary
 13 effluent volume compare percentage-wise to the
 14 overall volume of effluent? And how much of a fee
 15 does the Valley Hospital pay in comparison to the
 16 operating budget for the facility?
 17 MR. RUTISHAUSER: The Valley Hospital
 18 is billed for every gallon of sewerage they discharge
 19 to our treatment plant.
 20 For those who are not aware, the
 21 Village of Ridgewood has its own wastewater treatment
 22 facility, it's operated as a division of the
 23 Department of Public Works.
 24 Valley's daily water consumption from
 25 their metered flow from Ridgewood Water Company
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1 averages 158,571 gallons per day.
2 If you calculate that all of this is
3 going into our wastewater collection system, it's
4 approximately five percent of the sewerage system's
5 average daily dry weather flow. That is an important
6 consideration, because our flow lines go up when we
7 have a rain event, considerably up.

8 In 2009, the cost to the Village for
9 operating the Water Pollution Control Division were
10 approximately \$3,666,617.

11 In 2009, Valley Hospital was billed
12 \$205,617 for their wastewater treatment.

13 The Valley Hospital was billed
14 approximately 5.6 percent of the operating costs of
15 the Water Pollution Control Division.

16 Please note for the record, it's
17 important that our expenses for water pollution
18 includes items such as the capitalization of fixed
19 assets, administrative expenses, and contributing
20 efforts with other Village divisions.

21 For water pollution, Valley is an
22 excellent customer, they pay their fair share. And I
23 personally wish other entities in the Village paid
24 this fairly for what they contribute to water
25 pollution.

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1 items, the percentages would change, and I believe
2 that the hospital in its different figures had
3 included some of those items, so that's the reason
4 for the difference.

5 MS. PRICE: Okay. Now, Blais, just
6 staying with you for a second, you testified already
7 concerning the Kraft Building, that you had not
8 specifically looked at its removal and compliance
9 with bulk regulations, but there were two questions.

10 One, were there specific conditions
11 placed on the 1996 approval by the Zoning Board of
12 Adjustment when it acted on an application?

13 And No. 2, was removal of the Kraft
14 Building a specific condition?

15 MR. BRANCHEAU: I went back and I
16 looked at the resolution, and there were six general
17 conditions and there were 34 additional conditions.
18 I'm not going to list all of those.

19 In looking specifically as to the
20 removal of the Kraft Building, technically speaking
21 the board did not require the Kraft Building to be
22 removed. The hospital, during the process, proposed
23 the removal of the Kraft Building prior to the board
24 voting on the application. The board did speak to
25 the Kraft Building removal, and I'd like to quote

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1 MS. PRICE: Okay. So now switching to
2 May 3rd, Blais, there's one question from that
3 hearing. Can you just briefly discuss the
4 differential in what might appear to be a difference
5 in the number of coverage percentages between the
6 calculation that you prepared and what the Valley
7 Hospital indicated relative to that particular bulk
8 regulation of coverage?

9 MR. BRANCHEAU: Yes.

10 I believe the difference is largely due
11 to how you define "coverage" and what's included in
12 the definition.

13 The 60 percent coverage in the Master
14 Plan only includes buildings and parking decks that
15 are located above grade, surface parking and
16 driveways, and that's at the completion of Phase II.

17 The Master Plan does not include in
18 that figure other areas, including green roofs
19 located over the loading area or over subsurface
20 parking areas or subsurface building areas; doesn't
21 include fire lanes on the premise that they would be
22 designed with grass pavers; doesn't include
23 sidewalks, canopies, atriums and sunken gardens,
24 buffers or landscaped areas.

25 If you were to include any of those
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1 from the board's resolution:

2 They require that it be demolished
3 prior to the issuance of the certificate of occupancy
4 for the fourth floor of the Bergen Building. And the
5 resolution commented and I quote: "The hospital
6 campus is already tight, and without the removal of
7 the Kraft House, it might not accommodate any added
8 enlargement."

9 So the board was cognizant of the floor
10 area ratio at the time, and they viewed with favor
11 the removal of the Kraft Building by the hospital,
12 because it reduced the volume and the intensity of
13 the use at that time.

14 MS. PRICE: Okay. Thank you.

15 Next question also for you, Blais, is:
16 Why latitude given to hospitals per se by law -- I'm
17 going to strike that from your question because
18 you're not an attorney, but I'm going to change it to
19 in your capacity as a planner, in light of their
20 status presumably as an inherently beneficial use?

21 MR. BRANCHEAU: Well, the Municipal
22 Land Use Law was recently amended to add a definition
23 for inherently beneficial use, and included within
24 the uses that are defined as an inherently beneficial
25 use are hospitals. So that's pretty straightforward.

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1 The adoption of inherently beneficial
2 use is typically applicable to variance applications.
3 However, the courts have stressed whether hearing
4 variances or in other cases "to recognize legitimate
5 regional needs for hospitals and for other inherently
6 beneficial uses."

7 So while hospitals, schools,
8 governmental facilities, utilities, and other uses
9 that address a compelling need, such as health care
10 and other types of facilities that, while it isn't
11 unlimited, it does provide something of an
12 automatic -- at least there's no need to demonstrate
13 that there's a benefit with these uses, they're
14 almost defined as inherently beneficial.

15 MS. PRICE: Okay. Have you considered
16 any other town's Master Plan considerations?

17 MR. BRANCHEAU: I have not, other than
18 my own personal experience in preparing master plans.
19 As I mentioned before, I worked on Somerville's
20 Master Plan as their planner when they had Somerset
21 Medical Center within their boundaries. But each
22 town is unique, each town has its own goals and
23 objectives and its own character, and I didn't really
24 see the point in doing a lot of detailed research on
25 what other towns have done, because I'm sure there's

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1 Above grade today there's
2 405,000 square feet.
3 Under the Master Plan proposal, above
4 grade would be 831,000 square feet.

5 Below grade today there's
6 157,000 square feet.
7 Under the Master Plan, below grade
8 would be 339,000 square feet.

9 That doesn't include parking garages,
10 either above or below ground.

11 CHAIRMAN NICHOLSON: Ladies and
12 gentlemen, please.

13 Blais, did you finish?

14 MR. BRANCHEAU: I'm done.

15 MS. PRICE: Next question, can you
16 speak to the issue of level one trauma centers and
17 helipads. Does the proposed amendment address a
18 helipad?

19 MR. BRANCHEAU: The current Master Plan
20 amendment recommends that helipads be prohibited at
21 the hospital site. So to the extent that a level one
22 trauma center requires a helipad, it wouldn't be
23 permitted.

24 MS. PRICE: Okay. Is there any
25 safeguard with regard to the conversion of single

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1 a lot of variation in it, and I think the issues
2 involved in this situation are fairly well known, and
3 that additional research I don't think would show me
4 anything more than what we already know.

5 MS. PRICE: Okay. At the time that
6 this question was asked back in '09, the numbers in
7 connection with the amendment that was then pending
8 were different, but I'm just going to ask you to
9 update it in terms of current numbers. The request
10 was for a review of the square footage numbers, both
11 existing and proposed by way of the amendment.

12 So if you could review total floor
13 area, and then floor area at or above grade, and
14 floor area below grade.

15 MR. BRANCHEAU: Yes.

16 For each of these categories, I'm going
17 to give total floor area, and then I'm going to break
18 it down to how much is above ground, how much is
19 below ground.

20 Total floor area for everything, under
21 the Master Plan proposal, existing as it is today is
22 approximately 562,000 -- and all these numbers are
23 approximate -- 562,000 square feet.

24 The Master Plan proposal would allow
25 total of 1,170,000 square feet.

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1 beds into double beds in terms of the bed count?

2 MR. BRANCHEAU: Well, the Master Plan
3 does limit the number of beds at the hospital. It
4 doesn't specifically say they have to have all single
5 bedrooms versus double bedrooms, but you could not
6 increase the number of beds by converting single
7 bedrooms to double bedrooms at the hospital.

8 MS. PRICE: Okay. Can you just review
9 the types of uses that are contemplated in the
10 amendment for underground space?

11 MR. BRANCHEAU: Right.

12 My understanding is that underground
13 space would, in many ways, be similar to what is
14 above ground, perhaps with a higher emphasis on
15 mechanical space. But it's my understanding that the
16 underground would be used for treatment areas, for
17 support services, for mechanical space, for parking,
18 and for other uses as well.

19 MS. PRICE: And the last question from
20 that set of questions is: What is the time period
21 for construction, to the best of your knowledge, if
22 the construction were to go forward pursuant to the
23 Master Plan?

24 MR. BRANCHEAU: My understanding is
25 that Phase I is projected to take 6.8 years, that

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1 includes both interior work and exterior work. Not
2 all of that time period would be exterior work, only
3 a portion of that would be outside work.

4 I do not know the time period for Phase
5 II construction at this point in time. I don't
6 believe anyone has calculated that.

7 MS. PRICE: Okay. The next set of
8 questions, the first two questions are related to the
9 same issue that I addressed earlier concerning the
10 analysis of health and safety issues. There's
11 reference to the Board of Education. My answer
12 remains the same concerning the elements that I
13 raised on the environmental impact statement.

14 Larry, our geotech engineer is also
15 here.

16 Larry, I believe that you've testified
17 during the course of the hearings that it's
18 commonplace and it would be your recommendation that
19 certain confirmed elements be contained in any kind
20 of ordinance that would regulate an overview on these
21 type of issues, including dust and air quality and
22 air pollution. Is that accurate?

23 LAURENCE W. KELLER, P.E., having
24 been previously sworn, testifies as follows:

25 MR. KELLER: That is correct.

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1 As far as air pollution and dust, I was
2 referring to some of the language in the draft Master
3 Plan amendment, specifically that which requires a
4 developer's agreement that is monitored and enforced
5 by the Village.

6 Some of the specific language includes,
7 I'll just read it: "Any significant development
8 approval should be made subject to a developer's
9 agreement between the hospital and the Village. Such
10 agreement should include provisions to ensure that
11 the construction activity is conducted in a safe and
12 efficient manner and does not create hazardous
13 conditions or undue nuisance impacts to the
14 surrounding neighborhood. Such developer's agreement
15 should address at least the following issues."

16 It names a number of them, one of them
17 specifically is "prevention of poor air quality
18 resulting from construction activity, included but
19 not limited to dust, odors, fumes and contaminants."

20 It also provides a provision for
21 monitoring and enforcing the developer's agreement,
22 which was initially recommended in my report.

23 MS. PRICE: In your professional
24 experience, have you been involved in air quality
25 monitoring situations such as that contemplated by

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1 the Master Plan amendment?

2 MR. KELLER: From a construction
3 standpoint, I have current experience right now,
4 there's two sites that I'm working on, one is a
5 construction over a former municipal landfill where
6 there is air monitoring for methane and so forth.

7 Another is a former farm field that has
8 pesticide applications to it. And with the
9 pesticides, you see arsenic and so forth.

10 So there's an ongoing dust monitoring
11 program associated with that.

12 So, yes, I think it's common during
13 construction to monitor for dust and so forth.

14 As far as hazardous materials from the
15 building, it's also common construction practice
16 before a building is demolished, all hazardous
17 materials are removed from the building, must be
18 abated, or you can't go through the demolition
19 process.

20 MS. PRICE: Let me just see while
21 you're up -- okay.

22 Chris, just on that same question, I'm
23 not sure whether you had anything to add, because the
24 question was also directed to you, concerning the
25 issue of demolition and excavation and any controls

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1 that you would recommend?

2 MR. RUTISHAUSER: Yes.

3 One of the things I'd like to see
4 considered in the Master Plan amendment to assist in
5 keeping the air quality as best as possible is that
6 all the equipment engines utilized during any
7 construction meet the most current U.S. EPA and DEP
8 requirements. Those are like the diesel engines from
9 the 2007 requirements, that no old trucks, no old
10 motors be used, because they have a greater tendency
11 to put particulate exhaust into the atmosphere, and
12 that would be a detriment to the neighbors or Valley
13 Hospital.

14 I also recommended -- you had some
15 questions earlier on stormwater, do you want to go
16 through those?

17 MS. PRICE: Sure.

18 MR. RUTISHAUSER: There was also a
19 question posed about how increased coverage at the
20 site could affect the quantity of stormwater being
21 generated and also what would happen during a heavy
22 rainstorm.

23 The Village has a very extensive
24 ordinance known as Ordinance 30-35 that governs our
25 stormwater management. It was required that the

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1 Village adopt this and the Planning Board also adopt
2 it as part of our stormwater protection.

3 That ordinance itself would require any
4 applicant, be it Valley Hospital or anyone in the
5 Village, to manage stormwater so they'll be no net
6 increase in runoff. And on a site as large as this,
7 there would have to be pretreatment for any runoff to
8 take out any contaminants that are washed into it,
9 such as from parking surfaces.

10 Heavy rains may require Valley to
11 provide subsurface detention to attenuate the runoff,
12 releasing flow at the predevelopment rate.

13 These issues, though, are normally
14 addressed during site plan review.

15 MS. PRICE: Okay. Chris, let me just
16 stay with you, I'm going to skip ahead, and I'll come
17 back.

18 There were two other questions that
19 were directed to you.

20 The first being: What if any
21 infrastructure improvements would be required of the
22 Village to support the proposed Valley expansion and
23 who will pay for it? If the Village has to pay for
24 it, what is the impact on taxes and the tax rate?

25 The latter question, you can answer.

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1 Our water supply system is in good
2 shape for the hospital. Preliminary review of the
3 system with the water company engineer says they have
4 the capacity to supply what would be needed. The
5 same for the sanitary sewer system, our capacity is
6 adequate. Any generated flow from the hospital can
7 be conveyed down to the treatment plant.

8 Other than that, the H-Zone will not
9 have a significant impact on the Village's existing
10 infrastructure.

11 MS. PRICE: And the same question was
12 directed to you with regard to services, rather than
13 infrastructure improvements, and whether you're
14 capable of providing an answer to that as to whether
15 there were any additional services that would need to
16 be contemplated or employed?

17 MR. RUTISHAUSER: Services from the
18 Department of Public Works, wastewater I believe I've
19 discussed, we bill Valley for every gallon they
20 discharge.

21 Snowplowing, we don't do any plowing
22 specific to the hospital. We do plow the county
23 roads, as we are required to.

24 There may be additional service of
25 police and fire required. That would be up to the

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1 I'm going to indicate, though, that the impact on
2 taxes and tax rate is not an issue for the Planning
3 Board, and I'll address that later in my charges.

4 MR. RUTISHAUSER: Okay. There's two
5 intersections that we're looking at with Valley
6 Hospital to improve, that is Linwood and Van Dien
7 intersection, and also the Van Dien and Glen Avenue
8 intersection. For both those intersections, we're
9 looking at improved channelization, traffic signals
10 with timing that can assist crossing guard,
11 particularly at Van Dien and Linwood.

12 These designs have been reviewed by
13 professional staff of the Planning Board and
14 professional staff of Valley Hospital with the
15 county. Bergen County will have significant input
16 into anything that occurs at these intersections, as
17 that Linwood Avenue and Glen Avenue are both county
18 roads. Any design that's put forth has to meet with
19 their approval.

20 Other infrastructure improvements,
21 there may be some paving that's needed on Van Dien.
22 Currently the asphalt there is not in the greatest
23 condition. Linwood and Glen, as I just said, those
24 are both county roads, the county is responsible for
25 resurfacing of those.

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1 Village Manager and those departments to see if they
2 want to institute a billing program after a
3 percentage call, similar to what the Village has done
4 with ambulance services where the user pays for the
5 service provided.

6 MS. PRICE: Okay. There were a few
7 more, a couple for Joe and a couple for Blais.

8 Joe, this question actually has a few
9 subparts. Maybe I'm going to just read you the
10 subparts and you can answer it altogether, all right?

11 What happens when the traffic backs up
12 past the length of the turning lanes at North Van
13 Dien and Linwood? How will adding thousands of
14 construction vehicles at various times affect the
15 traffic flow, not only at Linwood Avenue and Paramus
16 Road but along the length of Linwood Avenue in
17 Ridgewood? Have the efforts of downtown businesses
18 to attract more customers been taken into account in
19 assessing overall effects on traffic? And have the
20 combined affects of ambulances approaching the
21 hospital, construction vehicles, hospital traffic,
22 routine traffic, etc., been collectively and
23 independently analyzed?

24 So although there are subparts, they
25 kind of all go together.

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1 MR. STAIGAR: Right.
 2 I'll deal with the turning lanes.
 3 What's being proposed is a left turn
 4 lane traveling southbound on Van Dien, that would be
 5 the widening.
 6 If the queuing goes beyond that left
 7 turn lane, yes, then the left turn lane becomes
 8 ineffective for those vehicles beyond the turn lane.
 9 However, with the addition of the turn
 10 lane, the whole queue length will be shortened
 11 tremendously, substantially than what it is today.
 12 Right now it's a single lane, so everybody is lined
 13 up behind those left turning vehicles.
 14 In the future, when the left turn lane
 15 is built, many of the left turn vehicles will be in
 16 that lane, and then the rest of the vehicles can
 17 bypass those left turn lanes.
 18 We can manipulate the timing, the green
 19 time, to account for favoring those left turns or
 20 those approaches so that we can minimize the queuing.
 21 Essentially what happens by adding
 22 lanes, you substantially increase the capacity,
 23 reduce the queuing, and you can process many more
 24 vehicles through the intersection.
 25 So the queuing beyond the left turn
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1 lane, A), should not occur, and if it does occur,
 2 it's certainly not going to be as extensive, nowhere
 3 near as extensive as it is under existing conditions.
 4 In terms of construction traffic, from
 5 my understanding of what the proposal is is that
 6 there will be a loss of parking spaces. So,
 7 therefore, the current staff employees of the
 8 hospital during construction will no longer park on
 9 the site, they will be parking at a designated
 10 off-site location to be determined at some point.
 11 That means those staff employees will
 12 be no longer coming to the hospital, going through
 13 the intersections of Linwood, Van Dien, and the
 14 surrounding roadway network.
 15 From the traffic counts that we've
 16 taken, we've determined that approximately 730 staff
 17 employee trips are generated during that second shift
 18 change; from 2:30 to 3:30, there are 730 staff
 19 employees that are either coming in for their shift
 20 or leaving from their shift. Those 730 cars will now
 21 be removed from Van Dien and Linwood Avenue.
 22 In its replace, obviously we'll need
 23 buses. And based on the number of employees, and the
 24 shift change is relatively even in terms of the
 25 number of vehicles, there's 330 that come in that
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1 3:30-shift, and 400 that come out. So a bus coming
 2 in can certainly wait and stage and take staff out.
 3 So based on that, based on the 400
 4 maximum employee shifts, we anticipate in the order
 5 of about 15 buses that will be needed in order to
 6 transport the staff employees. So, therefore, there
 7 is a balance of the removal of over 700 cars from the
 8 roadway network that would be replaced by 15 buses.
 9 Now, obviously the car coming in is one
 10 trip, the car going out is a second trip, that's 730
 11 trips, related to 15 buses, but the 15 buses are
 12 doing a roundtrip. So the exact comparison is 730
 13 car trips to 30 bus trips. So that's where the
 14 balance will be.
 15 Overall, certainly using the 30 bus
 16 trips is much more efficient than over 700 car trips
 17 in and around the roadway network.
 18 In terms of construction employees, the
 19 maximum projected number of employees on the site at
 20 anytime during the entire phase will be 320
 21 construction workers. The vast, vast majority of
 22 construction workers will be doing the same thing,
 23 they're not going to park on the site, they're going
 24 to be parking in a designated off-site area. And
 25 those 320 construction workers can be accommodated by
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1 somewhere between 10 or 11 buses as well.
 2 They'll know if the buses for the
 3 construction workers are exactly going to occur in
 4 the same hour that the staff employees may change,
 5 but some of the buses may overlap. So there may be
 6 an additional 10 or 11 buses that will go in and out
 7 during the same hours that staff employees go in and
 8 out or offset maybe by an hour.
 9 So, again, there will be an additional
 10 of 20 to 22 bus trips during the peak hour.
 11 And in terms of construction equipment,
 12 a minimum of four trucks per hour but a maximum of 20
 13 trucks per hour are anticipated during the minimal
 14 construction activity, the maximum construction
 15 activity over the entire construction phase. And,
 16 again, that will be additional truck trips that will
 17 be on the site.
 18 But overall, if you compare the buses
 19 and the trucks, we're talking of 30 plus 20 plus 20
 20 trips, so we're talking in the order of about 70 bus
 21 and truck trips compared to 730 car trips that will
 22 be removed.
 23 CHAIRMAN NICHOLSON: Ladies and
 24 gentlemen.
 25 MR. STAIGAR: And that is my testimony.
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1 MS. PRICE: Can you just also --
 2 CHAIRMAN NICHOLSON: Ladies and
 3 gentlemen.
 4 Go ahead.
 5 MS. PRICE: Can you go back and
 6 re-define your opinion as to when the traffic
 7 improvements should occur relative to any site
 8 construction?
 9 MR. STAIGAR: Yes.
 10 The improvements to the roadway, to the
 11 intersection, particularly Van Dien and Linwood,
 12 should occur at the onset of construction or the very
 13 early phase of construction so that it can mitigate
 14 any of the impacts that these trucks and/or buses
 15 will incur.
 16 By widening the intersection, you're
 17 widening the ability for the turning radii of these
 18 larger vehicles as well.
 19 So my recommendation is that those
 20 intersection improvements be made at the onset or in
 21 the very early stages of construction.
 22 MS. PRICE: Okay. Thanks, Joe.
 23 MR. STAIGAR: Were there anymore
 24 questions?
 25 MS. PRICE: No, that's it.

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1 MR. STAIGAR: Okay.
 2 MS. PRICE: Then there were a few
 3 questions that have been asked and answered on
 4 several occasions relative to off-site alternatives,
 5 the COAH issues, the procedure required.
 6 Blais, the question here postured was:
 7 Did you provide a definitive answer as to whether or
 8 not there was a tipping point for the proposed Valley
 9 expansion?
 10 MR. BRANCHEAU: I believe that question
 11 is one that ultimately the board must decide. I did
 12 not.
 13 I will say that if I felt that this
 14 went too far, I would not have supported, put my name
 15 to the plan. But ultimately the board has to make
 16 that call.
 17 MS. PRICE: And the question that was
 18 asked concerning seeking a second opinion of an
 19 expert, this was asked on June 17th of '09, was prior
 20 to Ray being retained. So this question is moot?
 21 MR. BRANCHEAU: Right. Obviously the
 22 input of both Ray Skorupa and Larry Keller has
 23 assisted me in preparation of the amended amendment
 24 to the plan.
 25 MS. PRICE: And then the last question

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1 is concerning: Have you received detailed
 2 engineering from the Valley Hospital on traffic
 3 analyses based upon materials that reflect
 4 in-and-outpatient services?
 5 MR. BRANCHEAU: First of all, I really
 6 haven't done the traffic analysis for this, but I
 7 will say it's my understanding, I haven't seen any
 8 data that distinguished between patient traffic,
 9 inpatient traffic, outpatient traffic, versus all
 10 other traffic.
 11 MS. PRICE: That's it. That's the
 12 extent of the questions.
 13 CHAIRMAN NICHOLSON: Thank you.
 14 MALE AUDIENCE VOICE: I have a
 15 question.
 16 CHAIRMAN NICHOLSON: Ladies and
 17 gentlemen, we're going to take a 15-minute break, and
 18 come back and continue along the lines I described.
 19 We'll reconvene at 9:00.
 20 (A short recess is held.)
 21 CHAIRMAN NICHOLSON: Ladies and
 22 gentlemen, if you could take your seat, please, we'll
 23 get started.
 24 Ladies and gentlemen, please take your
 25 seats.

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1 Members of the board, please take your
 2 seats.
 3 Everyone, we're going to go back into
 4 session.
 5 A couple of folks have come up to me
 6 during our break concerned that their questions had
 7 not been answered on the record.
 8 It is possible that the question had in
 9 fact been answered when it was posed by another
 10 person on another night. And we were trying to cull
 11 through repetitive questions and only answer it once
 12 for the record. However, if you feel that that's not
 13 the case, I invite you to call Ms. Price's office,
 14 please be specific, it's important.
 15 MAYOR PFUND: 201 --
 16 CHAIRMAN NICHOLSON: It's important
 17 that it be a question that was asked on the record
 18 during your time at the podium, and Ms. Price will be
 19 able, I believe, to tell you when that question was
 20 answered and refer you to the appropriate record.
 21 We are going to move now to an
 22 opportunity for the board members to ask questions of
 23 our professionals. I don't think there's any
 24 specific order here. We're probably going to jump
 25 around a bit between our professionals. Anne, would

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1 you like to start us off.
 2 MS. WARD: Yes. I got a question for
 3 Mr. Brancheau.
 4 The proposed amendment includes a cap
 5 on the number of hospital beds. I think we've gone
 6 over this, but I just want to do it again. There's
 7 been a suggestion that Valley could just unilaterally
 8 rip out those beds and put in inpatient/outpatient
 9 services. I just want to know: What controls exist
 10 which would prevent that from occurring?
 11 MR. BRANCHEAU: Well, the Master Plan
 12 cap on beds is 454 beds, but it's not a hard cap. It
 13 states in the plan that the board could, under
 14 appropriate circumstances, allow additional beds or
 15 greater outpatient area, as long as there would be a
 16 corresponding reduction in the hospital's operation
 17 elsewhere on-site. The point being is that whether
 18 it's 454 beds and so much square feet of outpatient
 19 area, you could increase or reduce one or the other
 20 but you can't increase both. And if you increase
 21 one, you have to reduce the other or you have to
 22 reduce some other component of the operation to
 23 compensate.

24 If and when we get to an ordinance on
 25 this matter, more of the detail of that process is

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1 studies. And it's my understanding, from our
 2 professionals, is that the appropriate time is when
 3 there are plans.

4 I think the proposed amended plan -- I
 5 know -- talks about environmental studies. But I
 6 want to know in your opinion the teeth of that
 7 directive in the Master Plan, and the teeth of it
 8 that it needs to satisfy the reviewing board's
 9 satisfaction without being something that could be
 10 easily appealed, if in fact the board isn't satisfied
 11 with what is provided in those studies. Is that
 12 something you can tell us about?

13 MS. PRICE: Okay.

14 First of all, I think that if the board
 15 proceeds with the Master Plan amendment and finds
 16 that the issue of environmental impact analysis is a
 17 viable component of study at whatever time is
 18 appropriate as deemed required by the board, that it
 19 certainly is something that would be recognized as
 20 reasonable and within the discretion of the board to
 21 impose within the Master Plan, not in terms of having
 22 it done now, but recognizing the significance of
 23 environmental impacts and the balancing of those
 24 potential impacts on the neighborhood and the
 25 characteristics of the community.

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1 going to be spelled out, but the idea is that there
 2 would be no increase without a reduction elsewhere.
 3 The plan also calls for a limitation on
 4 certain square footage, various treatment areas
 5 within the hospital, that would be the primary areas
 6 for dealing with outpatients.

7 MS. WARD: All right. Thank you.
 8 CHAIRMAN NICHOLSON: Anything else,
 9 Anne?

10 MS. WARD: No.
 11 CHAIRMAN NICHOLSON: I'm going to move
 12 down to the other end of the table.

13 Morgan, any questions?
 14 MR. HURLEY: No questions, Mr.
 15 Chairman.

16 MR. RICHE: Not at this time.
 17 CHAIRMAN NICHOLSON: Nancy?
 18 MS. BIGOS: No, none, Chairman.
 19 MAYOR PFUND: I have a couple.
 20 CHAIRMAN NICHOLSON: Mayor.
 21 MAYOR PFUND: Gail, I want to ask you a
 22 few questions, if I could.

23 MS. PRICE: Okay.
 24 MAYOR PFUND: We've heard a lot of
 25 concerns and legitimate concerns about environmental

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1 So to that end, it definitely has teeth
 2 in the Master Plan.

3 The reason I mentioned with specificity
 4 before is that case law has clearly indicated that in
 5 order to be enforceable, things must be clearly
 6 defined in the ordinance. So at the time the
 7 ordinance is moved forward, if that were to happen,
 8 it would be critical that it wouldn't just say "an
 9 environmental impact statement has to be done," it
 10 would say "an environmental impact statement
 11 including the following," and then list, you know, as
 12 many, you know, five things or 25 or 35 things.

13 MAYOR PFUND: That was going to be my
 14 follow-up question, too, not to cut you off but just
 15 to clear up in my mind.

16 So in essence within that ordinance, if
 17 in fact it is recommended by this board, I would
 18 certainly anticipate that it would contain the
 19 specificity that any environmental studies would deal
 20 with with dust, the fumes, the noise --

21 MS. PRICE: Correct.
 22 MAYOR PFUND: -- the air condition,
 23 things of that nature?

24 And we could ask for a significant
 25 array, if you will, of environmental study to cover

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1 all of those areas?
2 MS. PRICE: Yes. And it would be set
3 up as a completeness checklist item, so that the
4 completion of the environmental impact study could be
5 identified in the ordinance in terms of what has to
6 be done, before the matter even gets scheduled for a
7 public hearing.

8 So, as the board knows, but I'm not
9 sure how many people in the public knows, before a
10 matter is actually listed for public hearing, an
11 application has to be reviewed for completeness and
12 an applicant has to be informed whether their
13 application is incomplete or complete.

14 So at that point in time, it would be
15 very wise to have all of those environmental impact
16 issues identified as a completeness item so that
17 before public hearing, one ever started, all of that
18 information would be in hand, reviewed by the experts
19 necessary on an application, and determined as to the
20 adequacy of same, and what, if else, would be
21 necessary during a hearing. So that both the board
22 and the public would then have an opportunity to be
23 fully heard.

24 MAYOR PFUND: Can we require in the
25 Master -- I realize that this Master Plan amendment
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1 is more detailed than any that we have, and for
2 obvious reasons it needs to be.

3 Do we go in the Master Plan a need for
4 independent construction managers, safety managers,
5 or is that something that would all be contained
6 within our ordinance and recommended in the ordinance
7 or somewhere else?

8 MS. PRICE: The latter. It could be
9 contained in the ordinance, and it would certainly be
10 A), it could be referenced in deliberations at this
11 point in time. All of these things could be
12 referenced in deliberations.

13 B), it could be referenced in the
14 ordinance. And certainly it would be embodied in any
15 type of developer's agreement, and then paid for out
16 of escrow and bonded for.

17 So there are like four levels of
18 protective devices on that end.

19 MAYOR PFUND: When you said paid for,
20 not by the Village?

21 MS. PRICE: Not by the Village, by the
22 applicant.

23 MAYOR PFUND: Although those
24 individuals that would be obtained by the Village as
25 an independent person?

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1 MS. PRICE: Correct, it would be paid
2 for out of any escrow accounts.

3 MAYOR PFUND: Mr. Skorupa, a question
4 for you.

5 Your testimony earlier on, and by the
6 way, I think we really have to give great tribute to
7 Ann Zusy, who I think was instrumental in seeing that
8 we had an expert such as yourself here, but one of
9 the threshold questions that we heard was that in
10 your opinion the square footage as being proposed was
11 appropriate.

12 Could you give us or explain to me the
13 basis of your opinion that would be appropriate?

14 MR. SKORUPA: When we issued the
15 report, we looked at several options.

16 The report that we had put together
17 looking at the square footage that would be required
18 for a modern 21st century hospital with 450 beds that
19 had some of its facilities off-site, for example
20 doctors' offices, support facilities, and things like
21 that. What we tried to do then was to look at the
22 functions that were critical to remain on the campus,
23 so that the hospital could do those things that in
24 our view were necessary for a modern hospital.

25 So the number that we came up with was
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1 a little bit more than a million square feet. That
2 was for clinical functions only. And we also said
3 that we thought it was appropriate, since hospitals
4 these days are public facilities, that there would be
5 some allowance for public amenities, such as lobbies
6 and circulation spaces, because these are really very
7 important public institutions, and the number that we
8 had I believe in Option Five was a million one
9 hundred thousand square feet.

10 MAYOR PFUND: But then going to six?

11 MR. SKORUPA: Six was a little bit
12 larger, because there were spaces that were -- you
13 know, it's about a five or six percent differential
14 in terms of the amount of square footage. So we were
15 very close.

16 When you look at the efficiency of the
17 hospital in terms of the sort of horizontal nature of
18 it, we felt as though putting the 1,170,000 square
19 feet for those beds in that configuration was an
20 appropriate number.

21 MAYOR PFUND: Okay. Thank you.

22 Mr. Staigar, you talked about numbers
23 of .88 to .56, and you lost me a moment for that, and
24 you talked about an average but I don't think you
25 said what the average was.

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1 MR. STAIGAR: Well, I think the
2 question that was posed, why does Valley Hospital
3 generate more traffic than all the other hospitals?
4 MAYOR PFUND: Right.
5 MR. STAIGAR: And it's not that they do
6 generate more traffic than all the other hospitals,
7 that the ranges that were documented, the ITE trip
8 generation ranged from .88 up to 5.7 or whatever, I
9 can't recall what the exact number was, and Valley is
10 at 1.8 trips per thousand. There are a whole other
11 set of hospitals that generate far more traffic on a
12 per thousand square foot basis than Valley Hospital.
13 The other reason maybe is that the
14 hospital is operating with too much in the square
15 footage that it's in. I've heard from the hospital
16 they're trying to right size, they're trying to adopt
17 or implement single bedrooms rather than recurrent
18 double bedrooms, which means more square footage. So
19 it's basically taking the existing operation or maybe
20 a modified operation and fitting it into a larger
21 square footage.
22 MAYOR PFUND: I think you talked about
23 the range, I might be a little off and I apologize,
24 .88 to 5.6.
25 MR. STAIGAR: Okay. The 5.6, yes.
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1 MAYOR PFUND: And Valley, you said, was
2 1.8?
3 MR. STAIGAR: Correct.
4 MAYOR PFUND: A little above average.
5 What is average?
6 MR. STAIGAR: 1.2.
7 MAYOR PFUND: You talked about nine
8 accidents. I think probably everybody in this room
9 can think of at least nine accidents. Over what
10 period of time was that?
11 MR. STAIGAR: It was three years. And
12 although we studied far beyond the intersection,
13 again the question posed was how many accidents
14 occurred at the intersection of Van Dien and Linwood?
15 And I interpreted that, well, let's say
16 within 50 feet of the intersection.
17 So within 50 feet of the four
18 approaches, there were nine accidents over that
19 three-year period.
20 Obviously on the whole length, along
21 the whole frontage of the intersection, there were
22 far -- excuse me, whole frontage of the hospital
23 there were far more accidents. But at the
24 intersection, there were nine over the three-year
25 period.
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1 MAYOR PFUND: I don't know if you can
2 answer this question, but for lack of another term,
3 like-minded, similar type intersections. There
4 aren't any similar type intersections, except the one
5 by the hospital, but is nine accidents over the
6 course of a three-year period, I'm trying to get some
7 perspective, is that a much greater number, an
8 average number, or something else?
9 MR. STAIGAR: That's three per year.
10 You have to take a look at it from the number of
11 vehicles that go through the intersection and compare
12 that to other intersections in the Village.
13 I think three per year, just from my
14 own gut feeling, is a rather low number.
15 MAYOR PFUND: Blais, you talked
16 about -- thank you, Mr. Staigar.
17 MR. STAIGAR: You're welcome.
18 MAYOR PFUND: You talked about Phase I
19 construction of approximately 6.8 years.
20 You did talk about exterior versus
21 interior.
22 Do you have any approximation of
23 exterior construction versus interior with regards to
24 timing?
25 MR. BRANCHEAU: Yes, I can give that to
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1 you in a second.
2 All right. The outdoor construction
3 activity I believe is going to -- there's a period,
4 the beginning of construction that would occur for
5 roughly a little over two years. And then there's
6 another period beginning at the end of year five,
7 carried over to about a third of the way through year
8 seven, so let's say another year and a half. So
9 about three and a half years out of the 6.8 total
10 would involve outdoor construction.
11 MAYOR PFUND: Now, where did you get
12 those numbers?
13 MR. BRANCHEAU: That information was
14 provided by the construction expert for the hospital.
15 MAYOR PFUND: Okay. Are those numbers
16 something that --
17 MR. BRANCHEAU: I'm sorry.
18 MAYOR PFUND: -- you would generally
19 agree with in your experience?
20 MR. BRANCHEAU: To be honest, and I'm
21 sorry, I quoted to you the wrong table. I have
22 tables for various options.
23 I need to restate that.
24 It's slightly different, but in looking
25 at it, it's slightly less, but it would be closer to
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1 three and a quarter years out of the total.
 2 I am not an expert in this type of
 3 construction as to how long it would take, so I
 4 really can't answer your question.
 5 MAYOR PFUND: Okay. Thank you, Blais.
 6 Gail, the legal issue of inherent
 7 beneficial use, you know, often walking on the
 8 streets we bump into a lot of people who have a lot
 9 of opinions about this and some are, you know, what
 10 does the hospital do for us? And I think it's kind
 11 of a threshold, you either think it's great that it's
 12 in town for the services it provides or you might say
 13 we don't want it in town. Can you tell us a little
 14 bit more about how the law defines its use?
 15 MS. PRICE: Okay.
 16 Under the Municipal Land Use Law,
 17 certain uses are clearly recognized as inherently
 18 beneficial uses. And as Blais said earlier, that
 19 category of use includes the hospital use.
 20 If this was a Zoning Board, what that
 21 would mean would be that an applicant for permission
 22 for that type of use or expansion of that type of use
 23 would have less of a burden than a non-inherently
 24 beneficial use for a variance.
 25 It has been recognized that certain
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1 uses such as those provide not only community-based
 2 services but regional-based services. And to that
 3 end, a certain section of the Land Use Act in the
 4 Master Plan itself at 28(b) recognizes that certain
 5 facilities are included outside of the land use
 6 element and in a community facilities element. And
 7 that includes hospitals, it includes libraries, it
 8 includes other type of public gathering spots like
 9 that.
 10 So although this is not a variance
 11 application, and I would counsel and I'm going to
 12 counsel you when I get to the charges that it's not
 13 proper to utilize the variance standards when
 14 considering this Master Plan amendment. Certainly
 15 the fact that the hospital is known as an inherently
 16 beneficial use can't be ignored by the board, it's
 17 not as if we have a purely commercial or industrial
 18 use as defined by the courts and has been defined by
 19 statute.
 20 MAYOR PFUND: Okay. I'm sorry to jump
 21 around.
 22 Blais, one other question for you. You
 23 talked about the coverage and the percentage of
 24 60 percent, not including, however, the green roofs,
 25 if you will.
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1 Are those just green roofs that are at
 2 ground level or is the loading dock another one which
 3 is at a higher level? And then why wouldn't that be
 4 counted?
 5 I can certainly see not counting them
 6 if they're ground level and you're looking from the
 7 street and it appears to be grass or whatnot. But I
 8 think I answered my own first question, I think it
 9 does include elevated roofs, not just surface roofs,
 10 if you will. Gail, am I right so far?
 11 MS. PRICE: Well, it depends on what
 12 the question is in terms of what it includes, but
 13 green roofs are identified in the back as well.
 14 MR. BRANCHEAU: Green roofs are not
 15 counted at all in the improvement coverage.
 16 MS. PRICE: In the improvement
 17 coverage, but the green roof is shown in the rear.
 18 MAYOR PFUND: As part of the percentage
 19 of coverage?
 20 MS. PRICE: Oh, no, not part of the
 21 coverage.
 22 MAYOR PFUND: That's my question, why
 23 wouldn't it be part of the coverage?
 24 Let me try to ask a better question.
 25 MS. PRICE: Okay.
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1 MAYOR PFUND: Green roofs are not
 2 included in the percentage of coverage, and I can
 3 understand that when it's at grade level. Why is it
 4 not counted as a percentage if it is an above grade
 5 structure that can be seen by someone looking onto
 6 the property?
 7 MR. BRANCHEAU: The intent is that what
 8 they would see would be mostly vegetation by a green
 9 roof. It could certainly be included, and we could
 10 adjust the numbers by whatever fractional percent it
 11 would be, but just when I did it, I just didn't
 12 include those.
 13 By the way, if someone were to put a
 14 green roof on top of a five-story building, that
 15 would be counted because there is no way that that
 16 green roof is going to camouflage that building.
 17 The only green roofs that we're looking
 18 at in that 60 percent are green roof over the loading
 19 dock, green roofs over subsurface parking areas,
 20 things like that that are basically at grade or
 21 slightly above grade. We're not talking about green
 22 roofs lifted 50 feet up in the air.
 23 MAYOR PFUND: Okay. And the FAR of
 24 square footage of 831 above ground, that includes
 25 what, Blais? I know it doesn't include the parking
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1 structures, but does that include Phase I? What does
2 that include?

3 MR. BRANCHEAU: That is build out at
4 Phase II. That's the entire development anticipated
5 in the plan.

6 MAYOR PFUND: Phase I, do you know what
7 the increase in square footage is?

8 MR. BRANCHEAU: I don't have those
9 numbers with me, but they would be less, I believe.

10 MAYOR PFUND: It would have to be less
11 if it was one, instead of two.

12 Gail, is that a number you guys can get
13 me?

14 MS. PRICE: Yes.

15 MR. BRANCHEAU: We can provide that
16 number.

17 MAYOR PFUND: Okay. That's all I have
18 for now. Thank you very much.

19 CHAIRMAN NICHOLSON: Tom?

20 MR. RICHE: Sorry for going out of
21 turn. This is a question probably for both Gail and
22 Blais.

23 With regard to the Master Plan
24 amendment, and I understand that this is probably the
25 most detailed plan with its 11 pages that we could

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1 some of them are referenced by our code, others are
2 not, but they apply whether we reference them or not.
3 If you don't comply with those rules, you don't move
4 forward.

5 It's only when I think you get into
6 areas where they involve subjective judgments that
7 you could create a problem whereby, you know, there
8 may be ways of complying with the standard, more than
9 one way of complying with the standard. You may like
10 one way of complying with the standard, the developer
11 may want another way, you may have a problem there,
12 unless there were some, you know, valid reason for
13 saying one reason had side effects that were
14 intolerable. But, generally speaking, if you don't
15 comply with the rule, as long as the rule is
16 reasonable, as long as the rule is based upon sound
17 criteria, the project doesn't move forward.

18 MR. RICHE: I'm not sure that answered
19 my question. Let me give you a hypothetical, if I
20 might -- did you want to say something?

21 MS. PRICE: Let me just add to that.
22 My reason for referencing the specificity, Tom,
23 before, and it was in the context of subdivision
24 rather than site plan, but the court in a case called
25 Pisomanton v. Randolph Township (phonetic) opined

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1 possibly have, it relies upon more specific plans in
2 the developer's agreement or site plan approval. So
3 let me just hypothesize for a second and let's say we
4 get to a site plan approval process or developer's
5 agreement process and the board cannot get agreement
6 from an applicant on the specifics for, let's say, an
7 environmental impact study, let's say we just can't
8 reach agreement on that. Have we created a legal
9 nexus for this board or future boards by not having
10 it so specific in the Master Plan document?

11 And I understand you can't cover
12 everything, but if it just says that the following
13 things should be required, and then you get to a
14 point where you can't reach agreement with a
15 particular applicant or, in this case, the hospital,
16 because it would be the only applicant, what legal
17 issues does that create for us or for some future
18 board?

19 MR. BRANCHEAU: Well, a couple things.

20 Just take, for example, the state has
21 wetland regulations. You don't comply with those
22 wetland regulations, you don't move forward. The
23 same thing with flood regulations, the same thing
24 with stormwater regulations, the same thing with
25 noise regulations. These are all state regulations,

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1 that a lack of specificity would be held against the
2 board and that an applicant had a right to know
3 basically what it was getting into when it came into
4 a town, and that a duty was owed to everyone in
5 attendance at an application to explain the
6 parameters of an application. So that in defining
7 the rules of the game, basically, with an
8 environmental impact statement, the time to do so is
9 in the ordinance when issues that are already in the
10 ordinance can be expounded upon, such as stormwater
11 management, sanitary sewer, lighting, noise under the
12 New Jersey Noise Control Act, I don't know if I said
13 light, landscaping. All of the subheadings that are
14 already controlled in the zoning ordinance, you would
15 take those standards, and then rationally and
16 reasonably apply those to a new ordinance standard.

17 To do that now could be deemed to be
18 perhaps inefficient and perhaps unreasonable by a
19 court, because you don't know what you're reviewing,
20 and you don't know whether that in fact is an
21 arbitrary or capricious act because you don't know
22 what you're regulating.

23 However, the board may make findings at
24 this point as to the necessity to ensure that those
25 steps are taken is absolutely something that's within

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1 this board's power.
 2 I don't know if I answered your
 3 question.
 4 MR. RICHE: Well, I think we're halfway
 5 there. Let me just expand on it a little bit.
 6 I'm not familiar with what the state
 7 regulations are with regard to environmental issues
 8 completely, but let's just take air quality
 9 monitoring. And let's say that the state regulations
 10 say that during the construction period while
 11 construction is active, that air quality needs to be
 12 monitored.

13 Let's say that this board in a
 14 developer's agreement or a site plan approval decides
 15 that we want it monitored 24 hours a day.

16 Is there an issue, if there's a denial
 17 because you can't get an applicant to agree to that,
 18 whereas the state statute would override it and say
 19 that's arbitrary, you're putting too much of a burden
 20 on the applicant? Does that create a problem for us
 21 by not having those kind of items really spelled out
 22 in either the Master Plan or the ordinance?

23 MS. PRICE: Well, it wouldn't matter
 24 whether those kinds of things were spelled out now or
 25 not, because to the extent that this board would be

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1 preempted by outside agency regulations, whether it
 2 was the county or federal, that issue of preemption
 3 would exist whether it was now or later on. So the
 4 issue of preemption would exist and does exist.

5 To the extent that the board wants to
 6 employ standards that can be applied, the test is
 7 always the reasonableness of that standard and can it
 8 be held to be non-discriminatory, rational, and
 9 reasonably applied, and can this board do it in a
 10 manner that is tantamount to sound planning and in
 11 its exercise of authority as vested by the Municipal
 12 Land Use Law.

13 To the extent that it can be done in
 14 concert with state and county regulations and to the
 15 extent that there's certainly case law that says you
 16 can exceed those regulations to the extent that, you
 17 know, you make rational findings, but, you know,
 18 there are certain areas that we're preempted on,
 19 like, you know, wetlands for instance.

20 MR. RICHE: Right, but I think I just
 21 heard you say, though, there are certain
 22 circumstances where you can exceed those standards
 23 and those have been upheld within court --

24 MS. PRICE: Yes.

25 MR. RICHE: -- cases.

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1 MS. PRICE: Yes. And that would be
 2 something that, you know, I would personally say
 3 whether it was this matter or any matter of this
 4 size, that all of the professionals would provide
 5 detailed counsel on those kinds of things in terms of
 6 both the regulatory standards in effect and the
 7 governing laws and then how best to create
 8 regulations on behalf of the Village.

9 MR. RICHE: Okay. Thanks.

10 CHAIRMAN NICHOLSON: Anne, you had
 11 another question?

12 MS. WARD: Yes, I have a question for
 13 Gail and/or Blais.

14 Let's assume this Master Plan amendment
 15 is adopted and that if in the future there is an
 16 environmental impact study done in connection with a
 17 site plan application, and those results show a
 18 danger which exceeds, let's say air quality, which
 19 exceeds that deemed acceptable by our ordinances,
 20 which I understand will be put in place afterward,
 21 will this Planning Board have the authority to simply
 22 deny the application, assuming those hazards can't be
 23 mitigated?

24 MR. BRANCHEAU: I'll defer to Gail.
 25 I'll answer it, but I think she's

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1 better qualified.

2 MS. PRICE: Thanks, Blais.

3 Well, first of all, I don't believe
 4 that the ordinance is necessarily, Anne, going to put
 5 in the standards of what the acceptable regulatory
 6 review is on the air quality, because I think that's
 7 going to have to be defined by DEP standards and
 8 other regulations that are deemed appropriate by
 9 Chris and any other experts that are employed by the
 10 Village, but if in fact there's a situation that
 11 cannot be mitigated and it's determined that a
 12 condition exists that is going to create a violation
 13 of the public health, safety or general welfare, I
 14 think that the board could be upheld in terms of
 15 denying an application.

16 That is certainly limited by, you know,
 17 a permitted use being compared with an application
 18 that has variance relief. But if there is something
 19 that's overwhelmingly in violation of a regulation or
 20 that creates a public safety issue, it's a matter
 21 that can be deemed, as long as it's not arbitrary or
 22 unreasonable, a matter for the board's consideration.

23 MS. WARD: Thank you.

24 MS. PRICE: And at this point, it would
 25 be very hard, you know, to fully opine on that, not

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1 having a full plan in place.
 2 MS. WARD: I understand.
 3 CHAIRMAN NICHOLSON: They'll be another
 4 opportunity, but I'm going to jump in and ask a
 5 couple of questions. This is for Gail.
 6 Gail, we've heard a lot of suggestions
 7 from the public about payments in lieu of taxes, to
 8 have the hospital essentially pay to help defray the
 9 cost the Village incurs other than sewer and water,
 10 which, as Chris talked about earlier, and you have
 11 said on at least one occasion that you thought it not
 12 appropriate to put that kind of requirement or even
 13 mention it, for that matter, in a Master Plan at all.
 14 MS. PRICE: Correct.
 15 CHAIRMAN NICHOLSON: Could you expand
 16 on that, please?
 17 MS. PRICE: Sure.
 18 First of all, the issue of taxes is not
 19 an issue that jurisdictionally falls within the
 20 Planning Board's purview by statute. Taxation is a
 21 consideration for the governing body of a
 22 municipality, so I don't believe it would be
 23 appropriate by law for this body to engage in
 24 recommendations or findings relative to the real
 25 property tax base or revenue generating mechanisms.

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1 with respect to floor area, with respect to parking
 2 spaces. It talks about two phases of a project.
 3 It's, as we have said, the most detailed Master Plan
 4 paragraph that we're going to have in our Master
 5 Plan.
 6 When it gets to council, what latitude
 7 will council have in dealing with its various parts,
 8 the issue of the phases, in considering this
 9 ordinance?
 10 MS. PRICE: Well, let me start with the
 11 fact that if the board adopts the amendment, the next
 12 step would be adoption of a resolution by this board,
 13 which would basically approve adoption of the
 14 amendment. And then there would be potential action
 15 by the governing body of an ordinance that would
 16 implement the recommended changes of the Master Plan.
 17 Council would be free not to act on the
 18 Master Plan, to act on part of the Master Plan, or to
 19 act on all of the Master Plan recommendations.
 20 If it chooses not to act on the Master
 21 Plan amendment, then there would be a situation under
 22 law where the zoning ordinance would be inconsistent
 23 with the Master Plan, the governing body would need
 24 to make an explicit finding and statement of reasons
 25 as to why -- well, let me back up. They just

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1 Furthermore, there's a line of case law
 2 that is out there that cautions boards against
 3 getting involved with what might be perceived as
 4 give-and-takes on applications and on matters, and,
 5 you know, monetary contributions in terms of payment
 6 in lieu of taxes has no rational nexus, to use Tom
 7 words, in terms of a nexus, to your charge in
 8 connection with the Master Plan amendment. It is
 9 something to be considered, if deemed appropriate, by
 10 the governing body but not by this board.
 11 CHAIRMAN NICHOLSON: Does this board
 12 have another way to indicate their opinion about that
 13 topic to council?
 14 MS. PRICE: Well, I guess this board
 15 could certainly indicate on the record that, if they
 16 deemed this was an appropriate subject matter for the
 17 governing body to investigate and look into, that
 18 would certainly be something that could be reiterated
 19 on the record, but I would counsel against it being
 20 included in any formal amendment.
 21 CHAIRMAN NICHOLSON: Okay. And another
 22 question about council's action, should this Master
 23 Plan amendment be adopted by the board.
 24 This plan has some specific numbers
 25 included in it in the text with respect to setbacks,

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1 wouldn't act. They could just not act or they could
 2 say we're not acting. There's two different options.
 3 If they made a formal finding as to why
 4 they were not acting, those reasons would need to be
 5 explored and put on the record. If part of it was
 6 adopted by way of the ordinances, that's up to the
 7 council, they could choose to say, you know, we think
 8 Sections 1, 3, 8, 9 are rational, but we don't agree
 9 with the other parts of the Master Plan amendment,
 10 and to that end these are the reasons why we don't
 11 agree with it.
 12 Whatever they don't agree with, they
 13 would have to formally state the reasons and the
 14 findings, pursuant to law, or they could adopt all of
 15 it.
 16 So there's really, you know, a series
 17 of possibilities and what-ifs. And as I've said on
 18 prior occasions, any action by the council would need
 19 to be an introduction of an ordinance, that's not a
 20 public hearing, it's just an introduction. Then it
 21 would come back to the Planning Board, also not a
 22 public hearing meeting, it just comes back under the
 23 Municipal Land Use Law for review and recommendation
 24 as to whether it's consistent with the Master Plan,
 25 and then it goes back to council for a public

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1 hearing, which is open to the public for comments,
 2 testimony, evidence, the whole thing again.
 3 CHAIRMAN NICHOLSON: Thank you, Gail.
 4 MR. RICHE: Could I ask a question on
 5 that same issue?
 6 CHAIRMAN NICHOLSON: Go ahead.
 7 MR. RICHE: If this board
 8 hypothetically should vote to approve the Master Plan
 9 amendment, send it up to council, is one of the
 10 options that the council could say we like it except
 11 for the following, and send it back to the Planning
 12 Board for further review?
 13 MS. PRICE: No.
 14 MR. RICHE: We can't do that?
 15 MS. PRICE: No. The Master Plan would
 16 be adopted -- if the Master Plan is adopted here,
 17 it's done.
 18 MR. RICHE: At the Planning Board
 19 level?
 20 MS. PRICE: Right. Only the Planning
 21 Board adopts the Master Plan. Then the governing
 22 body would adopt any kind of ordinances.
 23 MR. RICHE: So they have to have
 24 findings of facts to say we don't agree with this
 25 because of the following?

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1 quite of bit of work actually has been done on the
 2 issue of traffic, in advance of any application. But
 3 if this amendment were to pass or, say, even if it
 4 didn't pass but the hospital pursued an expansion
 5 program by variance through the zoning hearing board,
 6 and a traffic study needed to be done for that
 7 specific proposal, I'm curious as to what additional
 8 material might be required, having had a lot of work
 9 done already? What could we expect to see?
 10 MR. STAIGAR: Well, I think we would
 11 see an update of all the material, the data that was
 12 collected, traffic counts, accident analyses, and
 13 additionally it would be a more defined traffic
 14 report, because again as you pointed out with the
 15 environmental impact statement aspect, you now have
 16 an actual site plan. So you have a very definitive
 17 means of what is going to be built, and now you can
 18 fine tune the analysis to that specific use.
 19 We've looked at the aspect of this
 20 proposal, not in general terms, but certainly not in
 21 finite terms as well. We've determined that yes,
 22 there are obvious deficiencies in the roadway
 23 network. The intersection of Linwood and Van Dien
 24 fails, we know we need to fix that today. And we've
 25 identified that the primary reason why it fails is

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1 MS. PRICE: Correct.
 2 CHAIRMAN NICHOLSON: I'm going to jump
 3 to, this is kind of a follow-up question to the
 4 Mayor's, but I'm going to ask Ray, because I think
 5 Ray might know the answer.
 6 The roof -- in the way the hospital's
 7 proposed this scheme that we've been using as a
 8 concept to structure our language, what is the
 9 elevation of the roof over the loading area vis-a-vis
 10 the elevation of the yards, the houses on Steilen?
 11 MR. SKORUPA: This is not exact number,
 12 but I think it's close. I think nominal grade is
 13 around 100 feet, for the nominal grade, varies from
 14 100 to 105 across the site. And I think we were
 15 anticipating being about 20 feet or so above grade
 16 level for the green portion of the roof. You have to
 17 have enough clearance so that trucks and so forth can
 18 clear the structure and the structure is going to be
 19 two or three feet deep, depending on the details of
 20 that. So that's sort of the range of where we were.
 21 CHAIRMAN NICHOLSON: Thank you, Ray.
 22 I had a question for Joe.
 23 Joe, as you have indicated, there was a
 24 rather extensive traffic study done by the hospital's
 25 traffic engineer and then you did your own. And

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1 the additional traffic generated by the hospital,
 2 plus the school, primarily.
 3 The hospital has identified that that
 4 will be their responsibility to make those
 5 improvements.
 6 There may be other aspects that we find
 7 during that additional traffic study as well. So it
 8 will be a much more defined and definitive analysis
 9 that's performed, because now there's an actual
 10 proposal that's before the board that they'll be
 11 analyzing and looking at.
 12 CHAIRMAN NICHOLSON: Thank you, Joe.
 13 MR. STAIGAR: You welcome.
 14 CHAIRMAN NICHOLSON: Anybody else?
 15 MAYOR PFUND: Not at this time.
 16 CHAIRMAN NICHOLSON: No?
 17 MAYOR PFUND: No.
 18 CHAIRMAN NICHOLSON: Gail, that means
 19 it's --
 20 MS. PRICE: Show time.
 21 CHAIRMAN NICHOLSON: -- your time.
 22 MS. PRICE: Joe, I missed, when I asked
 23 you the four sections before of the questions, one of
 24 the subsections related to the downtown businesses
 25 and whether anything had been taken into account in

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1 assessing the overall effects on traffic, and I'm not
2 sure whether that was answered.

3 MR. STAIGAR: Yes, it wasn't.
4 MS. PRICE: Okay.
5 MR. STAIGAR: Yes, it was. We applied
6 the appropriate annual growth rates in traffic. We
7 know from historical data, actual traffic counts of
8 years past, how much increases in traffic there are
9 on an annual basis, which is about 2.25 percent per
10 year. So that has been applied for the traffic
11 counts that were taken, up to what we figure is the
12 design year, which is 2013.

13 MS. PRICE: Okay.
14 MR. STAIGAR: So, in essence, it was
15 taken into account in terms of using actual
16 historical data of what traffic volumes are increased
17 here in Ridgewood and in Bergen County.
18 And the second question was about the
19 ambulances?
20 MS. PRICE: Yes. I don't think you
21 answered that.
22 MR. STAIGAR: I'll reiterate the
23 question, because it's been a while.
24 Have the combined affects of ambulances
25 approaching the hospital which causes traffic to

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1 stop, construction vehicles, hospital traffic,
2 routine traffic at present, and potential increases
3 in traffic in future years for downtown businesses
4 and other purposes then collectively and
5 independently analyzed?
6 And the answer to that is yes. The
7 ambulance calls are momentarily or temporary
8 emergency situations that exist today, it's not a new
9 entity that's going to be proposed. Construction
10 traffic will be offset, as I pointed out, by employee
11 off-site parking. And the traffic increases due to
12 local business increases or just general traffic
13 increases that occur in the future have also been
14 taken into account in the analysis.

15 CHAIRMAN NICHOLSON: It's all yours.
16 MS. PRICE: Okay.
17 All right. I'm going to try to take
18 you through a couple of different sub areas in what
19 your responsibility is in terms of reviewing the
20 Master Plan amendment, what the procedures are, what
21 the standards are, and other issues that come before
22 the board in connection with the Municipal Land Use
23 Law.
24 As we've said tonight and repeated over
25 and over again, the role of the Master Plan is that

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1 of a public policy statement. The Master Plan itself
2 is not a zoning ordinance, it provides the foundation
3 for the zoning ordinance, and that's been recognized
4 time and time again by our courts, particularly in
5 the Manalapan case by our Supreme Court that made
6 that very clear that the zoning ordinance is what
7 gives the actual regulations, but that the Master
8 Plan provides the policy.

9 So certain issues have come before the
10 board, and we need to look at that in connection with
11 the statute.
12 The statute, which is
13 N.J.S.A.40:55D-28, authorizes this board to adopt a
14 Master Plan or a Master Plan amendment, and I'm going
15 to read this because it's important, "to guide the
16 use of lands within the municipality in a manner
17 which protects public health and safety and promotes
18 the general welfare."
19 Taking that one step further, that's
20 read in concert with Section 62 of the Municipal Land
21 Use Law, that provides that before a municipality can
22 adopt the zoning ordinances, a land use plan must
23 have been prepared and adopted by a Planning Board.
24 And even though boards were given the
25 power before the Municipal Land Use Law dating back

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1 to 1963 to adopt and amend Master Plans, since the
2 Municipal Land Use Law came into effect in the '70s,
3 the importance of a Master Plan has been certainly
4 expanded upon and highlighted.

5 So tonight in -- well, maybe not
6 tonight, maybe Monday night, but as a wrap-up for the
7 past three years, there's a couple of things that you
8 need to bear in mind procedurally.
9 The first thing that happened was that
10 Blais prepared the amendment for consideration to the
11 Master Plan, and then we had various procedural
12 issues that occurred.
13 To that end, I'm going to go through
14 some of the procedural issues first.
15 I opined at the beginning of the
16 meeting several years ago that the public notice
17 requirements had been satisfied, and I also opined
18 similarly when the amendment was commenced, that
19 Barbara had satisfactorily complied with the
20 requirements of the act, and I want to reconfirm that
21 for the record this evening.
22 There is nothing to demonstrate that
23 notice has not been given as required, both
24 publication and to the county and as otherwise
25 required by Sections 13 and 11 of the Municipal Land

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1 Use Law.
 2 So that ticks off the first procedural
 3 requirement.
 4 If in fact this board moves on an
 5 amendment, the amendment would also similarly have to
 6 be published and provided to the county Planning
 7 Board. Unless the county Planning Board is provided
 8 with a copy, it doesn't take effect. So that's a
 9 critical thing to bear in mind.

10 If going forward tonight and on Monday
 11 the board decides to make any changes to the
 12 amendment that is pending, there's going to need to
 13 be a consideration given as to whether those changes
 14 are "substantial." Because if they're deemed
 15 substantial, we're going to have to give new notice
 16 and continue the hearings. And that's not my rule or
 17 my recommendation, that's required by statute.

18 And I would counsel the board that
 19 Blais' opinion on any potential amendments is
 20 necessary to that end. So we can address that as the
 21 board weighs in with their opinions.

22 The board members' attendance and
 23 certifications, as you all know from serving on other
 24 matters, board members need to be here in order to
 25 participate in the vote. Barbara has provided each

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1 of you with attendance records and, to that end, has
 2 advised you of meetings that you've missed and has
 3 provided copies, you've been all provided with copies
 4 of the transcripts as they have gone along. You've
 5 been provided with certifications that are required
 6 under the Municipal Land Use Law to be executed and
 7 on file attesting to the fact that you have read the
 8 transcript or listened to the sound recording that
 9 has been kept of the hearings, thus making you
 10 eligible to participate in the ultimate vote.

11 Whether we take that vote tonight, I
 12 doubt it at 10:00, start the deliberations, or
 13 whether that happens on Monday, before we do that,
 14 Mr. Chairman, I'd like just to confirm through
 15 Barbara that those certifications are in hand, but
 16 that's an issue that we need to do.

17 And there are six members here this
 18 evening, Charles is not here, but when Charles is
 19 here, we have seven, five members have constituted a
 20 quorum. The amendment can pass by simple majority
 21 vote, when it is entertained.

22 At the outset of the hearings, we had a
 23 review of conflicts. Three board members recused
 24 themselves.

25 The issue of conflicts is governed by
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1 common law, by the Municipal Land Use Law, and by the
 2 Local Government Ethics Law, none of which are
 3 drastically dissimilar in their parameters.

4 An issue was raised today by way of a
 5 letter that I received that I want to address. There
 6 was an allegation that perhaps board members were
 7 ineligible to participate in these proceedings based
 8 upon a failure to complete and file what is known as
 9 the Local Government Ethics Disclosure Form.

10 It's my opinion that that is not a
 11 disqualifying conflict or a reason for lack of
 12 participation or a bar to participation. The
 13 Planning Board is not the entity that has
 14 jurisdiction over the Local Government Ethics
 15 Disclosure regulations.

16 If in fact there is a failure to comply
 17 with the rules prescribed by those forms, the local
 18 ethics board or in the absence of a local ethics
 19 board, the state ethics board would be the
 20 appropriate forum, through the Division of Local
 21 Government Services of the Department of Community
 22 Affairs.

23 So I'm sure that a lot of issues were
 24 brought to Mrs. Carlton's attention today, I wanted
 25 to raise that issue formally on the record and

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1 address it to the extent that I found that it was
 2 relevant.

3 Okay. So that's procedural issues. I
 4 think that's all of them -- oh, no, let me just take
 5 a moment, an opportunity to be heard.

6 Also at the outset, the Chairman and I
 7 went through what's prescribed by law in terms of
 8 conducting these hearings and providing an
 9 opportunity to participate in these matters.

10 Law mandates that at any hearing, an
 11 opportunity to participate is deemed reasonable if a
 12 fair opportunity is presented. And there has been 11
 13 hearings conducted prior to this evening, all
 14 Sunshined, all conducted in accordance with the Open
 15 Public Meetings Act, and there has been a sign-in
 16 sheet since the beginning. Rules and regulations for
 17 the conduct of the meetings were announced at each of
 18 the meetings. Opportunities were provided to be
 19 heard. Some members of the public spoke two and
 20 three times. And if I were asked, I would not opine
 21 that there was a deprivation of any full or fair
 22 opportunity to be heard on any matter in connection
 23 with this.

24 One other issue on a procedural matter,
 25 and this really came up more so at the last meeting.

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1 The last meeting was more rambunctious
2 than any of the prior hearings, and some of the
3 statements that were made on the record, whether they
4 were implied or direct threats, should be discounted
5 by the board members.

6 Board members are provided by law with
7 immunity. And as the Chairman noted at the beginning
8 of the proceedings, this kind of hearing under the
9 Municipal Land Use Law, it's not a political forum,
10 it's a proceeding in which everyone is allowed to
11 provide their pros and cons on the matter, but the
12 board should not be put in a position or feel that
13 they're in a position of being held to account for
14 issues that they may be held personally liable,
15 because case law just is not so.

16 So to the extent that that questions
17 were asked during the hearings and demands for
18 answers were made, those were not proper.

19 Now, to the standard of review. This
20 is not a variance matter, as I said, so to that
21 extent, although we as a board typically hear things
22 in connection with what's known as the positive and
23 negative criteria, that is not the appropriate
24 standard. The positive criteria that the board
25 typically hears is whether there is an undue hardship

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1 the hospital in the H-Zone. I mean, in other
2 situations where the board analyzes an entire zone,
3 we look at multiple properties. In this case, you're
4 looking at one property, because it's the hospital
5 use.

6 So you are to look at all of that, and
7 you are to do it in connection with the record that's
8 been established here.

9 And the record constitutes the exhibits
10 that have been marked, which started with B-1 and
11 went through I think B-76. There was a series of
12 letters that were marked, which I think may have gone
13 through O-37; all of the statements that were marked,
14 there were proponent statements. The record is what
15 was actually marked during the public hearing, and
16 that's critical to remember. The record does not
17 constitute newspaper articles, editorials, letters to
18 the editor, paid ads, flyers, anything that is
19 outside the purview of what has transpired in this
20 room, pro or con. The board must limit its review to
21 the formal record. And it goes beyond just the hard
22 copies of the documents, you're free to accept the
23 testimony that has been given by all of the witnesses
24 that have come before the board to indicate what
25 their concerns are or what their statements in the

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1 to a particular applicant, based upon a unique
2 circumstance affecting the piece of property, based
3 upon topography or some other circumstance relative
4 to that property.

5 That's not the standard here.

6 Similarly, under what's known as the
7 "flexible C variance," where the board looks to see
8 whether the benefits substantially outweigh the
9 detriments of a given application, that's not the
10 standard either. Those are strictly variance
11 matters, and they should not be considered by the
12 board in terms of your deliberations.

13 What is considered for the board is, as
14 I said, whether the Master Plan can be deemed to be
15 an exercise of sound planning, whether it can be done
16 in a manner that protects and promotes public health
17 and safety, and promotes the general welfare.

18 There's not a lot of case law out there
19 on Master Plan amendments, and what does that mean in
20 terms of how far can you define those parameters?

21 There's no doubt that you need to look
22 at the subject property, the surrounding properties,
23 the potential impacts on the surrounding properties,
24 the impacts upon the subject property in the zone.

25 In this particular instance, there's
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1 affirmative are.

2 To that end, the board does not have to
3 accept the testimony from anyone as being credible.
4 It's the board's option to discount testimony from
5 any witness, as long as you do it in a reasonable
6 manner. That goes for experts as well. You can make
7 a finding that you do not necessarily agree with an
8 expert's testimony, but I caution you that in the
9 absence of expert testimony to the contrary, you
10 should make very specific findings as to why you are
11 discounting or disagreeing with expert testimony,
12 because you cannot base your opinion on speculation
13 or conjecture or the what-ifs.

14 So if you've heard testimony in terms
15 of what might happen or what will happen or what
16 could happen, unless those things have been
17 substantiated by hard evidence, it would be an
18 exercise that would be held to be arbitrary,
19 capricious and unreasonable by a reviewing court, if
20 you place reliance upon those type of things in your
21 deliberations.

22 So you need to be careful in terms of
23 what you rely upon in your review of the record.

24 And last week I had ruled already that
25 letters and the petition that the board was presented
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1 with were not evidentiary, that goes along the same
2 lines as the newspaper articles. Unless the author
3 of those documents were present for testimony and an
4 opportunity not necessarily for cross examination,
5 but an opportunity to be questioned, those documents
6 are similarly not part of the record.

7 So let me just see what else.

8 You also need --

9 MALE AUDIENCE VOICE: What about the
10 kids --

11 CHAIRMAN NICHOLSON: Excuse me, sir,
12 one more statement out of you and I'm going to ask
13 you to leave, sir, you do not have the floor.

14 MALE AUDIENCE VOICE: Just speaking for
15 the kids.

16 MS. PRICE: With regard to people who
17 have made statements as to their expert
18 qualifications, you need to make a determination as
19 to whether those witnesses are in fact experts, for
20 the purpose of accepting his or her testimony in
21 connection with your reliance upon their statements
22 for purposes of the record.

23 And to the extent that hypothetical
24 questions were asked of the board's professionals
25 during the course of the hearings, those hypothetical

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1 arbitrary, capricious or unreasonable, or has abused
2 its discretion in either amending the Master Plan or
3 refusing to amend the Master Plan, one way or the
4 other. So that would be a determination made by the
5 review in court.

6 A determination of a board is presumed
7 valid. So that's important to remember, that there's
8 a presumption of validity that is entitled on review
9 by the court.

10 And to the extent that there are
11 substantial consistencies or inconsistencies later
12 on, I think we addressed that. However, I should
13 just reiterate that the current Municipal Land Use
14 Law does demand the stricter conformity between the
15 Master Plan and the zoning ordinances. So there's no
16 doubt that the two have to work together. So the
17 failure for them to be consistent is a problem.

18 There's some leeway with the governing
19 body to be able to have some degree of inconsistency,
20 but where that inconsistency actually falls out is an
21 ultimate issue to see whether that's going to be
22 determined to be rational or not.

23 So I think you have to exercise your
24 authority carefully within the boundaries of the
25 Municipal Land Use Law.

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1 questions are absolutely permissible, because expert
2 witnesses that are proffered are allowed to answer
3 hypothetical questions in situations such as the
4 Planning Board meetings that were before us.

5 To the issue that the Chairman
6 referenced earlier about the head counting, clearly
7 it's not a matter of head counting on either
8 position, whether it's pro Renewal, against Renewal,
9 and that's a situation that has been recognized in
10 the leading zoning treatise that is written by Bill
11 Cox and he says, this is the quote: "The number of
12 objectors present or the number of proponents or even
13 the fact that no objections are made at all is of
14 slight importance. Decision-making is not a matter
15 of head counting. The board is a quasi-judicial body
16 whose function is to apply the facts adduced at the
17 hearing to the legal requirements of the statute, and
18 to decide on this basis whether or not the requested
19 relief can be legally granted or not."

20 So to that end, all of that should be
21 borne in mind in your final determination.

22 The action here would then be or could
23 be reviewed by a judge sitting in the Superior Court
24 by way of a prerogative writ lawsuit, and the judge
25 will be reviewing to see if this board has been

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1 I don't see any procedural defects in
2 this record.

3 We will need the certifications
4 confirmed on the record before the vote.

5 All of the testimony that you've heard
6 is for you to decide what is credible, what is not,
7 what you're going to accept, what is not. That
8 includes references to schoolchildren, it includes
9 everything, all the documentation that you've
10 reviewed. And it's a balance, it's a balance that
11 this board has to decide, if you're going to amend
12 the Master Plan, as the Chairman indicated before, do
13 you have sufficient information before you to do it
14 now, are there sufficient mitigating steps that can
15 be employed to ensure the protection of those
16 elements of the public safety, health and welfare
17 that need to be balanced against the expressed goals
18 of the hospital, and where does the hospital as an
19 inherently beneficial use as defined by the Municipal
20 Land Use Law and as a regional, not just a community
21 use, fall?

22 CHAIRMAN NICHOLSON: All done?

23 MS. PRICE: Yes.

24 CHAIRMAN NICHOLSON: Are there any
25 questions board members have of Gail on the

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1 instructions given?
 2 MAYOR PFUND: No.
 3 MR. RICHE: No.
 4 CHAIRMAN NICHOLSON: Given the hour, I
 5 am going to recommend that we call it a night and
 6 reconvene, as I said at the beginning of the meeting,
 7 a week from today, 7:30, in this auditorium, to
 8 continue our evaluation and consideration of the
 9 matter.
 10 Can I have a motion to adjourn?
 11 MAYOR PFUND: So moved.
 12 MR. RICHE: Second.
 13 CHAIRMAN NICHOLSON: All in favor?
 14 (All present Board Members respond in
 15 the affirmative.)
 16 CHAIRMAN NICHOLSON: Thank you,
 17 everybody, for joining us tonight and a personal
 18 thank you for abiding by my requests.
 19 (Whereupon, this matter will be
 20 continuing on a future date. Time noted: 10:20
 21 p.m.)
 22
 23
 24
 25

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1 C E R T I F I C A T I O N
 2
 3
 4 I, KIM O. FURBACHER, License No.
 5 XIO1042, a Certified Court Reporter, Registered
 6 Professional Reporter, Certified Realtime Court
 7 Reporter, and Notary Public of the State of New
 8 Jersey, hereby certify that the foregoing is a
 9 verbatim record of the testimony provided under oath
 10 before any court, referee, board, commission or other
 11 body created by statute of the State of New Jersey.
 12 I am not related to the parties
 13 involved in this action; I have no financial
 14 interest, nor am I related to an agent of or employed
 15 by anyone with a financial interest in the outcome of
 16 this action.
 17 This transcript complies with
 18 Regulation 13:43-5.9 of the New Jersey Administrative
 19 Code.
 20
 21
 22
 23 _____
 24 KIM O. FURBACHER, CRCR, CCR, RPR
 25 License #XIO1042, and Notary Public
 of New Jersey
 My Commission Expires:
 7/11/14

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| # | 2 | 5 | A | |
|--|--|---|---|---|
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