

CITY OF HOBOKEN  
PLANNING BOARD

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REGULAR MEETING OF THE HOBOKEN : February 3, 2015  
PLANNING BOARD : 7:08 p.m.  
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Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman Gary Holtzman
- Vice Chair Frank Magaletta
- Commissioner Caleb D. Stratton
- Commissioner Brandy Forbes
- Commissioner Ann Graham
- Commissioner Caleb McKenzie
- Commissioner Rami Pinchevsky
- Commisioner Ryan Peene

A L S O P R E S E N T:

- David Glynn Roberts, AICP/PP, LLA, RLA  
Board Planner
- Andrew R. Hipolit, PE, PP, CME  
Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
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1           A P P E A R A N C E S:

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6                   Attorney for the Board.

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1 CHAIRMAN HOLTZMAN: Okay, everybody.

2 We are going to get started here.

3 It is 7:08 on Tuesday, February 3rd.

4 We are going to call the City of Hoboken, Hoboken  
5 Planning Board Meeting to order.

6 I would like to advise all of those  
7 present that notice of this meeting has been  
8 provided to the public in accordance with the  
9 provisions of the Open Public Meetings Act, and that  
10 notice was published in The Jersey Journal and on  
11 the city's website. Copies were also provided to  
12 The Star-Ledger, The Record, and also placed on the  
13 bulletin board in the lobby of City Hall.

14 Pat, please call the roll.

15 MS. CARCONE: Commissioner Holtzman?

16 COMMISSIONER HOLTZMAN: Here.

17 MS. CARCONE: Commissioner Magaletta is  
18 coming --

19 MR. GALVIN: He is here.

20 MS. CARCONE: -- he's here.

21 CHAIRMAN HOLTZMAN: Commissioner  
22 Magaletta is here.

23 MS. CARCONE: Commissioner Magaletta?

24 VICE CHAIR MAGALETTA: Here.

25 MS. CARCONE: Commissioner Stratton to

1 be appointed?

2 COMMISSIONER STRATTON: Here.

3 CHAIRMAN HOLTZMAN: Don't call him yet.

4 MS. CARCONE: Okay.

5 Commissioner Forbes?

6 COMMISSIONER FORBES: Here.

7 MS. CARCONE: Commissioner Doyle is  
8 absent.

9 Commissioner Graham?

10 COMMISSIONER GRAHAM: Here.

11 MS. CARCONE: Commissioner McKenzie?

12 COMMISSIONER MC KENZIE: Here.

13 MS. CARCONE: Commissioner Pinchevsky?

14 COMMISSIONER PINCHEVSKY: Here.

15 MS. CARCONE: Commissioner Peene?

16 COMMISSIONER PEENE: Here.

17 CHAIRMAN HOLTZMAN: I have for the  
18 first order of business a couple of administrative  
19 issues.

20 A letter from the office of the Mayor:

21 I have made the following appointments:

22 Planning Board: Caleb Stratton to replace Stephen  
23 Marks as the mayor's designee.

24 Mr. Stratton, if you could rise, Dennis  
25 will swear you in.

1 MR. GALVIN: Raise your right hand.

2 Do you solemnly swear that you will  
3 support the Constitution of the United States, the  
4 Constitution of the State of New Jersey, that you  
5 will bear true faith and allegiance to the same and  
6 to the governments established in the United States  
7 and in this State under the authority of the people,  
8 and that you will faithfully, impartially, and  
9 justly perform all of the duties of the office of  
10 the mayor's designee of the Hoboken Planning Board,  
11 so help you God?

12 COMMISSIONER STRATTON: I do.

13 MR. GALVIN: Congratulations.

14 CHAIRMAN HOLTZMAN: I also have a  
15 notice here, a memo, from Mr. Glenn Pantel from  
16 Drinker Biddle:

17 In response to your request, we are  
18 writing to confirm on behalf of the applicant, PT  
19 Maxwell, LLC, that we consent to the extension of  
20 time for the Planning Board to act on the above  
21 application to February 11th, 2015. Provided,  
22 however, that there is no quorum at the Planning  
23 Board meeting, then the extension shall run to the  
24 date of the next regularly scheduled meeting of the  
25 Planning Board.

1                   Okay. Then the first item on our  
2 agenda this evening is a review of Ordinance Z-230  
3 that we received from the City Council.

4                   Director Forbes, can you give us an  
5 introduction on this?

6                   COMMISSIONER FORBES: Sure.

7                   Chapter 44, as some of you Board  
8 members may recall from last year, that we had  
9 updated this ordinance. This is the Administrative  
10 Chapter of the Land Use Laws for the Planning Board  
11 and Zoning Board.

12                   In the course of the last year, there  
13 were a couple of things that have come up that we  
14 just wanted to make those adjustments to the  
15 ordinance to make it work a little bit more  
16 effectively and efficiently, and that is what this  
17 particular ordinance is going to do.

18                   It is going to make those amendments,  
19 and the major changes are that the notice provision  
20 has changed to comply with the Municipal Land Use  
21 Law. The corporation counsel have received some  
22 concerns. They had done research on case matter on  
23 that and wanted to make an amendment to have that,  
24 so it is just complying with the Municipal Land Use  
25 Law rather than something different.

1           In addition, we are looking at adding  
2           the wireless applications to the fee schedule, so  
3           that we can properly get the administrative and the  
4           escrow fees for those applications that come before  
5           us.

6           There were some changes to the  
7           checklist, you know, based on our flood plain  
8           ordinance and a few other things that had come up  
9           with that as far as like for LLCs under applicant  
10          information, traffic studies, when necessary, and  
11          neighborhood impact reports and such, so those items  
12          have all been included in this particular ordinance.

13          I know that Dave Roberts had done a  
14          report to review that ordinance.

15                   CHAIRMAN HOLTZMAN: Do any  
16          Commissioners have any specific questions on this?

17                  I did have one area of concern. It was  
18          with regard to specifically to the notice  
19          requirement. I don't know if everybody had a chance  
20          to read it.

21                  The current form that has been  
22          presented to us basically asks that the notice  
23          requirement just match up word for word with the  
24          MLUL statute. Basically what that eliminates, and  
25          this is what the key thing is that I think is

1 important, it eliminates the notice requirement for  
2 applicants requesting a variance to condominium  
3 owners specifically. There was only one notice that  
4 need be given to an entire condo homeowner's  
5 association, whether it is a condo or co-op  
6 association.

7 A little research this week turned up  
8 the fact that I had no idea that probably about 60  
9 percent of the properties in Hoboken are  
10 condominium, and even though we have got an  
11 ordinance request before us that matches up with our  
12 state statute, I think it would be nice if we could  
13 do better.

14 Right now we have a situation, for  
15 example, like in the Tea Building, where a developer  
16 might have to send 200 plus property owners in the  
17 Tea Building one letter with the hopes that their  
18 management company does the right thing and notices  
19 all of the other property owners and taxpayers in  
20 that association.

21 Any concerns from any of our  
22 Commissioners?

23 MR. GALVIN: Perhaps I should go over  
24 the procedure of this.

25 CHAIRMAN HOLTZMAN: Please.

1                   MR. GALVIN:  What normally happens,  
2                   because the Planning Board prepares the master plan,  
3                   what is supposed to happen is any time there is a  
4                   change in the zoning ordinance, that zoning  
5                   ordinance is supposed to be referred to the Planning  
6                   Board to get our input and suggestions, but  
7                   primarily to review any change based on the master  
8                   plan to comment on whether or not it complies with  
9                   the master plan.

10                   If we act, if we approve the ordinance,  
11                   the way it works -- the way the law works is after  
12                   there is a first reading at the governing body, the  
13                   matter gets referred to the Planning Board, and we  
14                   have 35 days to act.

15                   We either approve it, deny it, or maybe  
16                   either one -- maybe either one of those with a  
17                   recommendation.  But if we take no action at all,  
18                   even if we deny it, it doesn't prohibit the  
19                   governing body from proceeding on second reading and  
20                   still approving their own ordinance.  It's just a  
21                   way for us to get to comment on the ordinance.

22                   But normally what would happen is you  
23                   would probably approve -- you would probably  
24                   recommend that they pass what they are proposing as  
25                   long as you don't feel like it is way outside of the

1 mark.

2 Mr. Roberts provided a report. In that  
3 report he made one recommendation that he thought  
4 that we should include rehabilitation on the  
5 checklist, and we included redevelopment. I thought  
6 that was reasonable, so in my draft resolution, I  
7 included that.

8 VICE CHAIR MAGALETTA: I think it was  
9 three recommendations I thought.

10 MR. GALVIN: No. It is written that  
11 way, but I didn't read them as recommendations.

12 I read it as you were really  
13 explaining -- he was explaining the changes that  
14 were being proposed in the ordinance. Only the  
15 underlying portions really is a recommendation.

16 VICE CHAIR MAGALETTA: Right, because  
17 the other one just says I recommend.

18 MR. GALVIN: I know, but I read them  
19 and I drilled into them and they really weren't  
20 recommendations.

21 VICE CHAIR MAGALETTA: Okay.

22 CHAIRMAN HOLTZMAN: Any other questions  
23 or comments?

24 VICE CHAIR MAGALETTA: Well, actually  
25 no, I take it back. We're talking about Z --

1 Subsection C of -- when you incorporate what it  
2 means to do a neighborhood impact report, maybe we  
3 should specify what exactly they should be looking  
4 at. I mean, that is what the point of that was, as  
5 opposed to saying, well, give us a report on the  
6 impact.

7 Say, well, noise, recreation, air. So  
8 I think maybe put a little more specific things  
9 because I think that is a recommendation, and I  
10 would agree with that recommendation.

11 MR. GALVIN: All right. I may need  
12 some help wording that to add it.

13 VICE CHAIR MAGALETTA: All right.

14 CHAIRMAN HOLTZMAN: That was the  
15 neighborhood review or something like that?

16 MR. ROBERTS: Neighborhood impact.

17 CHAIRMAN HOLTZMAN: Neighborhood  
18 impact?

19 VICE CHAIR MAGALETTA: Yes.

20 MR. ROBERTS: It was really just to  
21 give some context as to what we were expecting in  
22 that, in its physical or other types of impact --

23 VICE CHAIR MAGALETTA: I don't think it  
24 would change the ordinance, but I think it would  
25 just make it more legible. I think you can go by a

1 second reading with that change, I don't think it is  
2 that significant, which would be helpful --

3 MR. GALVIN: Right. See what happens  
4 is, if we recommend the change, and they find it to  
5 be significant, if it's a significant change, then  
6 they have to reintroduce the ordinance.

7 If it is a minor change, they can make  
8 it.

9 VICE CHAIR MAGALETTA: That is a minor  
10 change, I think.

11 MR. GALVIN: So you agree that we  
12 should recommend -- and even if we put this in  
13 there, it doesn't mean they have to follow this.  
14 They could introduce a whole new ordinance.

15 VICE CHAIR MAGALETTA: That's right.

16 MR. GALVIN: So I have: 1. The  
17 checklist requirement should be amended to include  
18 areas in need of rehabilitation;

19 And 2: You want to say?

20 VICE CHAIR MAGALETTA: Well, just an  
21 explanation as what is referred to by the elements  
22 of a neighborhood impact report.

23 CHAIRMAN HOLTZMAN: Dave, didn't you  
24 offer up a couple sentences there as an example?

25 MR. ROBERTS: Right. I just pulled a

1 quote --

2 VICE CHAIR MAGALETTA: From the  
3 statute.

4 MR. ROBERTS: -- out of the statute  
5 that deals with -- it is actually for planned  
6 developments. It is planned development  
7 requirements include -- in general development plans  
8 include a neighborhood impact report, and mostly  
9 those consist of physical impact and other types of  
10 impacts. I just thought that the language might be  
11 helpful.

12 We are already asking for traffic  
13 impact studies now as a checklist item, so that is  
14 partially covered. So I just pulled some of the  
15 other things that they mentioned, such as things  
16 like infrastructure, noise, performance-related  
17 things, what is it that we are looking to get out of  
18 that neighborhood impact report, so it was really  
19 just pulling something out of the statute as a  
20 suggestion.

21 CHAIRMAN HOLTZMAN: So, Dennis, the  
22 recommendation then basically asks that it be a  
23 little bit more specific, and we can kind of give  
24 them Dave's language to get him to start?

25 MR. GALVIN: How about: The

1 neighborhood impact report should specify  
2 requirements, such as -- is that right, Dave?

3 MR. ROBERTS: Uh-huh.

4 MR. GALVIN: Why don't you set them  
5 forth?

6 MR. ROBERTS: The physical design of  
7 the proposed development, public services, and  
8 light, air, ventilation, noise, et cetera,  
9 performance type standards.

10 VICE CHAIR MAGALETTA: Recreation.

11 CHAIRMAN HOLTZMAN: Slowly, one more  
12 time.

13 MR. ROBERTS: And provisions for light,  
14 air, recreation and noise.

15 COMMISSIONER FORBES: Do we want to  
16 provide just that text that you have for Item C?

17 MR. ROBERTS: Yes. It's pretty close  
18 to the statutory language.

19 MR. GALVIN: Okay.

20 Such as the physical design, public  
21 services, provisions for light, air and open  
22 space -- light, air and ventilation, as well as  
23 provisions for recreation.

24 MR. ROBERTS: Just to make sure,  
25 actually we really could just take the language out

1 of my memo. It's probably pretty much standard --

2 MR. GALVIN: I will correct that  
3 tomorrow.

4 CHAIRMAN HOLTZMAN: Is there -- if I am  
5 the lone wolf on the notice for condo and co-op  
6 associations, I won't push my request, but I would  
7 like to send at least a request to the City Council  
8 that they perhaps try to examine some way to fully  
9 properly notice the 60 percent of our population  
10 that lives in condo and homeowner associations.

11 COMMISSIONER GRAHAM: I agree.

12 CHAIRMAN HOLTZMAN: I am not sure what  
13 the answer is to it. I don't know if we legally can  
14 do it, but I sure as heck think that we should try.

15 MR. GALVIN: Again, I want to say that  
16 I think the ordinance -- I appreciate what your goal  
17 is, Mr. Chairman.

18 I think the problem that the Council is  
19 facing is that they look closely at this matter.  
20 That is why they changed the ordinance. They tried  
21 to accommodate the other people who lived in the  
22 condos, and then they came up against the fact that  
23 the statute is so clear, and that we would probably  
24 be unsuccessful in a legal battle on this.

25 I mean, the answer is probably more

1 legislative, but not locally legislative on the  
2 state level. They need to lobby the State Assembly  
3 to change it --

4 CHAIRMAN HOLTZMAN: Great. Then we are  
5 not making it a conditional approval, but maybe we  
6 can just offer it as a recommendation --

7 VICE CHAIR MAGALETTA: Hold on.

8 What you are suggesting is giving more  
9 rights to a homeowner as opposed to -- so I think  
10 the statute is the minimum, and what you are  
11 proposing increases the rights --

12 MR. GALVIN: No, it is not going to  
13 work that way.

14 VICE CHAIR MAGALETTA: Okay.

15 CHAIRMAN HOLTZMAN: Normally it does,  
16 but for some reason it doesn't on this one. I would  
17 like to know.

18 VICE CHAIR MAGALETTA: Let's listen --  
19 okay.

20 MR. GALVIN: No. I'm saying sometimes  
21 you are right. Sometimes you can -- it is the  
22 reverse. We can't do more than the statute permits  
23 in this situation.

24 VICE CHAIR MAGALETTA: Okay.

25 MR. GALVIN: That is what we are

1 worried about, that we would be unsuccessful if we  
2 proceeded to court on this.

3 CHAIRMAN HOLTZMAN: So, Commissioner  
4 Graham, you're with me?

5 We should send some kind of a notice to  
6 our friends up at the City Council that we're not  
7 sure what it is, but they should try to do something  
8 more?

9 COMMISSIONER GRAHAM: Yes.

10 VICE CHAIR MAGALETTA: I agree with  
11 that also.

12 CHAIRMAN HOLTZMAN: Thank you.

13 MR. GALVIN: You want to put that some  
14 lobbying effort should be made to change the law?

15 CHAIRMAN HOLTZMAN: There you go.

16 COMMISSIONER PEENE: So it's always a  
17 lobbying effort being made for this one.

18 (Laughter)

19 (Board members confer.)

20 MR. GALVIN: All right.

21 CHAIRMAN HOLTZMAN: It should be  
22 homeowners, because it's more broad, because there  
23 are a small amount of co-ops.

24 CHAIRMAN HOLTZMAN: Great.

25 So that being said, we have three

1 recommendations that we have on our list. One is  
2 the addition of the rehabilitation.

3 The second is a little bit more  
4 definitive language on what the neighborhood review  
5 is.

6 The third is a request that some  
7 lobbying effort be made with regard to the increase  
8 in notice to homeowner associations.

9 So if that stands as it is, are there  
10 any other questions or comments, or do any other  
11 Commissioners offer anything else?

12 Is there a motion to accept this  
13 resolution as it is presented?

14 COMMISSIONER MC KENZIE: I make a  
15 motion.

16 CHAIRMAN HOLTZMAN: Great.

17 Is there a second?

18 VICE CHAIR MAGALETTA: Second.

19 CHAIRMAN HOLTZMAN: Thank you.

20 Pat?

21 MS. CARCONE: Commissioner Magaletta?

22 VICE CHAIR MAGALETTA: Yes.

23 MS. CARCONE: Commissioner Stratton?

24 COMMISSIONER STRATTON: Aye.

25 MS. CARCONE: Commissioner Forbes?

1 COMMISSIONER FORBES: Yes.

2 MS. CARCONE: Commissioner Graham?

3 COMMISSIONER GRAHAM: Yes.

4 MS. CARCONE: Commissioner McKenzie?

5 COMMISSIONER MC KENZIE: Yes.

6 MS. CARCONE: Commissioner Pinchevsky?

7 COMMISSIONER PINCHEVSKY: Yes.

8 MS. CARCONE: Commissioner Peene?

9 COMMISSIONER PEENE: Yes.

10 MS. CARCONE: Commissioner Holtzman?

11 CHAIRMAN HOLTZMAN: Yes.

12 Thank you, everybody, on that. Great.

13 The second item this evening --

14 COMMISSIONER FORBES: Mr. Chair, I am

15 going to have to leave to go to the City Council

16 meeting.

17 CHAIRMAN HOLTZMAN: Thank you, Director

18 (Commissioner Forbes excused)

19 (Continue on the next page.)

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CITY OF HOBOKEN  
PLANNING BOARD

- - - - - X  
 RE: 122 WILLOW AVENUE : February 3, 2015  
 BLOCK 33, LOT 23 : 7:30 p.m.  
 Minor Site Plan Review, Conditional :  
 Use Approval and C Variance :  
 - - - - - X

Held At: 94 Washington Street  
Hoboken, New Jersey

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- Vice Chair Frank Magaletta
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1                   CHAIRMAN HOLTZMAN: The second item on  
2 this evening's agenda is 122 Willow Ave.

3                   Mr. Matule, are you and your team ready  
4 for us?

5                   MR. MATULE: Yes, we are, Mr. Chairman.

6                   CHAIRMAN HOLTZMAN: Thank you.

7                   It's good to see Mr. Minervini within  
8 the municipality of Hoboken this evening.

9                   (Laughter)

10                  MR. MATULE: Good evening, Mr.  
11 Chairman, Board members.

12                  VICE CHAIR MAGALETTA: One time.

13                  CHAIRMAN HOLTZMAN: One time, right.  
14 You're never living it down.

15                  (Laughter)

16                  MR. MATULE: Robert Matule appearing on  
17 behalf of the applicant.

18                  Just a brief overview for the record:  
19 We submitted our jurisdictional proofs already to  
20 the Board Secretary.

21                  This is an application to convert the  
22 property that is currently known as Antique Bakery  
23 on Willow Ave between First and Second Street into a  
24 cafe trattoria type of restaurant and bar.

25                  I have three witnesses for you tonight:

1       Our architect, Mr. Minervini; our planner, Mr.  
2       Ochab, and one of the principals of the applicant,  
3       Joseph Castelo, who can talk a little bit about the  
4       vision they have for the use of the space and the  
5       operating hours.

6                       So on that note, if we could have Mr.  
7       Minervini sworn.

8                       MR. GALVIN:  Raise your right hand.

9                       Do you swear to tell the truth, the  
10       whole truth, and nothing but the truth so help you  
11       God?

12                      MR. MINERVINI:  I do.

13       F R A N K   M I N E R V I N I, having been duly  
14       sworn, testified as follows:

15                      MR. GALVIN:  State your full name for  
16       the record and spell your last name.

17                      THE WITNESS:  Frank Minervini,  
18       M-i-n-e-r-v-i-n-i.

19                      MR. GALVIN:  Mr. Chairman, do we accept  
20       Mr. Minervini as a licensed architect?

21                      CHAIRMAN HOLTZMAN:  Yes.

22                      THE WITNESS:  Thank you.

23                      CHAIRMAN HOLTZMAN:  Mr. Matule, maybe a  
24       nice recap from the owner of the property would be a  
25       little introduction for everybody.

1 MR. MATULE: Sure.

2 Mr. Castelo, why don't you come up and  
3 be sworn.

4 MR. GALVIN: Raise your right hand.

5 Do you swear to tell the truth, the  
6 whole truth, and nothing but the truth so help you  
7 God?

8 MR. CASTELO: I do.

9 J O S E P H C A S T E L O, having been duly sworn,  
10 testified as follows:

11 MR. GALVIN: State your full name for  
12 the record and spell your last name.

13 THE WITNESS: Joseph Castelo,  
14 C-a-s-t-e-l-o.

15 MR. GALVIN: Okay.

16 Is it your intention to make us hungry  
17 before the meeting starts?

18 THE WITNESS: Yes.

19 (Laughter)

20 MR. GALVIN: Okay. We're going to mark  
21 that exhibit.

22 MR. MATULE: So, Mr. Castelo, before  
23 you start speaking, I am just going to do two  
24 things.

25 I see you have an exhibit in your hand

1 with some great attractive photos on it. We are  
2 going to mark this A-1.

3 (Exhibit A-1 marked.)

4 Could you just describe for the record  
5 what this is and who prepared it?

6 THE WITNESS: These are photographs of  
7 various dishes that would be served in this  
8 restaurant, and it was prepared by Frank Minervini  
9 and his office.

10 MR. MINERVINI: The photographs were  
11 given to me by --

12 THE WITNESS: By myself.

13 MR. MATULE: Okay.

14 MR. GALVIN: Right. You didn't make  
15 the food?

16 (Laughter)

17 MR. MINERVINI: No, or the photographs.

18 MR. MATULE: There is a second exhibit  
19 here, and we will mark it A-2.

20 (Exhibit A-2 marked.)

21 I believe we had previously provided a  
22 couple of copies of this at the work session.

23 But could you just, again for the  
24 record, describe what that is?

25 THE WITNESS: This is a handout with

1       some pictures of the actual bakery now, and then how  
2       we would sort of adapt the look and the heritage of  
3       the bakery into a restaurant with a description of  
4       the restaurant, and it also has hours inside of the  
5       handout as well.

6                   MR. MATULE:   So if you wish, I could  
7       pass these around while Mr. Castelo is discussing  
8       it.

9                   So, Mr. Castelo, why don't just explain  
10      to the Board what your vision for the repurposing of  
11      this space is and what you anticipate the operation  
12      of the restaurant will be?

13                   THE WITNESS:   Well, what we are so  
14      excited about, you know, with this building and the  
15      business that is there is the heritage, the history,  
16      and the community tradition of Antique Bakery.

17                   So what we are really trying to do is  
18      look for a restaurateur, and we have one, who wants  
19      to enhance that and bring it out.  So the whole feel  
20      of the place is from farm to table, rustic, cozy,  
21      the kind of place you would want to go to on a night  
22      like this.

23                   It's a chef-driven restaurant.  The  
24      chef that is coming on board is from the Daniel  
25      Ballou Group (phonetic).  We're very excited about

1 the oven, because of the personality of the oven.

2 And as far as the bar, we are talking  
3 about mixology, so autismal cocktails, you know, to  
4 put it in a certain way, it is a very grown-up  
5 restaurant, and it is about the food. The food is  
6 what is featured.

7 We want also to continue to provide  
8 bread on a retail scale for the locals, because we  
9 can't not have the bread, as we all know, and that's  
10 basically it.

11 Do you want to pass this around?

12 MR. MATULE: You are going to continue  
13 the retail operation --

14 THE WITNESS: That's right.

15 MR. MATULE: -- of the bakery using the  
16 existing oven?

17 THE WITNESS: That's correct.

18 And then in the mornings, it would  
19 serve to be a cafe. So in the morning you might be  
20 able to go in and get -- actually we talked about  
21 bagged lunches when people are on their way to work,  
22 they can go in and grab a bagged lunch, get a  
23 coffee, espresso, cappuccino, so that is basically  
24 the idea.

25 CHAIRMAN HOLTZMAN: Okay. Great.

1 Thank you.

2 F R A N K M I N E R V I N I, having been  
3 previously sworn, testified as follows:

4 MR. MATULE: Mr. Minervini --

5 THE WITNESS: Mr. Matule.

6 MR. MATULE: -- would you just describe  
7 for the Board the existing site and the operation  
8 there, and as always, if we are going to refer to  
9 any exhibits that are not part of the submitted set  
10 plan, we have to mark them for the record.

11 THE WITNESS: I don't have anything  
12 that is not part of the submitted plan.

13 122 Willow Avenue is an existing  
14 three-story building.

15 Currently the ground floor commercial  
16 space is, as Joe just mentioned, was the Antique  
17 Bakery. It has been in Hoboken for 60 years, I  
18 believe --

19 MR. CASTELO: At least, yes.

20 THE WITNESS: -- and the oven, the coal  
21 oven that Joe described has been there for a hundred  
22 years, so one of the driving forces of them  
23 purchasing this particular property was that  
24 specific oven.

25 As I go through the plans, it will make

1 more sense, and I'll talk about where the location  
2 is.

3 What Joe and his group are proposing to  
4 do is, as he had mentioned, construct within the  
5 existing walls a restaurant cafe, bakery and bar, so  
6 all of these uses in a very grown-up fashion, as Joe  
7 mentioned, are proposed within that space.

8 The front facade in terms of the  
9 storefront will be redesigned.

10 I should probably go through the floor  
11 plans to get a real sense of what the proposal is.

12 So sheet number one has our zoning  
13 tabulation sheet, and I'll go through that, but we  
14 do have Ken Ochab, the planner, who will go through  
15 the zoning tabulation chart in much detail.

16 Our property is within 200 feet. So  
17 this drawing gives you a sense of the depth of the  
18 building relative to adjacent properties.

19 So our building is one of the few on  
20 the street that goes back to the rear lot line. As  
21 it exists, it covers 94 and a half percent. We are  
22 proposing to add a small little corner section that  
23 is carved out now for our walk-in box, and actually  
24 we'll make that more clear.

25 This is an elevation of existing

1 conditions.

2 Sheet Z-2: Z-2 has the property survey  
3 as it exists, and the floor plan as it exists. So  
4 currently the actual bakery is on the southern half  
5 of the building. There is a residential entry in  
6 the center of the building.

7 On the southern portion is the front  
8 section of the bakery. The rear, this entire  
9 section, is the kitchen that exists. No customer  
10 service area there.

11 And as I talked about, the actual  
12 100-year-old oven is this section here.

13 So the building as it exists covers 94  
14 and a half percent lot coverage.

15 There is an open yard here. It's  
16 really a courtyard, because it has a seven-foot high  
17 brick wall at its northern property line section and  
18 its western property line section.

19 This area, we are proposing to enclose  
20 and add a roof that would become a walk-in box, a  
21 walk-in freezer box for cold storage, so that  
22 describes the existing first floor.

23 The existing basement is storage now,  
24 and it also --

25 MR. GALVIN: I'm sorry.

1                   You were saying something was being  
2 enclosed. Doesn't that change to 94.5 percent?

3                   THE WITNESS: Yes, it does, and all of  
4 our drawings describe that, and in essence, we are  
5 increasing the lot coverage to 100 percent.

6                   MR. MATULE: And that is one of the  
7 variances?

8                   THE WITNESS: And that is one of the  
9 variances we are here for tonight.

10                  Now, I should discuss that in more  
11 detail.

12                  To the neighbors, it already covers 100  
13 percent lot coverage, because we got a seven-foot  
14 high brick wall here. Just by a matter of fact, it  
15 doesn't have a roof section on it. We're proposing  
16 to introduce a roof section there.

17                  CHAIRMAN HOLTZMAN: That is an already  
18 existing condition that has been there for decades.

19                  THE WITNESS: For longer than any of us  
20 have been here.

21                  MR. GALVIN: Then you should move  
22 along, all right?

23                  THE WITNESS: Sheet Z-3 describes our  
24 lighting plan, and I will get into that to make more  
25 sense on the facade in some detail, and the front

1 section of the restaurant slash bar.

2 So, again, here is that residential  
3 hallway, no proposed -- no change.

4 This will be our main entry, and I  
5 guess for lack of a better term, a restaurant lobby  
6 area.

7 Bakery counter, this is where most of  
8 the action will happen during the morning.

9 This is where the cafe will be, and you  
10 can get hot meals.

11 The bar behind it on the northern  
12 section, this is new construction. The handicapped  
13 bathroom is directly adjacent to that, also new  
14 construction.

15 What was a garage, we are proposing to  
16 have seating. It also serves as our ADA compliant  
17 entry.

18 We are only one step up, but this area  
19 allows us to construct a ramp, which turns out to be  
20 one -- in terms of its pitch, and the standard for  
21 ADA compliance is 1:12, so it is a very, very, very  
22 gradual ramp, that will also act as our handicapped  
23 bathroom -- handicapped access. Both of our  
24 bathrooms are also ADA compliant.

25 On the street, there is an existing

1 curb cut, which was meant for accessing this garage.

2 We are proposing to construct a new  
3 curb, and the end result of that is one parking  
4 space will be brought back to the neighborhood,  
5 because currently you can't park where that curb cut  
6 is. We are removing the curb cut, and we will  
7 regain one parking space.

8 Z-3 is our flood plan management plan.  
9 It describes how we are proposing to handle the  
10 potential flood.

11 The commercial space, it doesn't have  
12 to be raised up to 12 feet as a residential space  
13 would have to be in this area, but we do have to go  
14 through some efforts to make it safer in terms of  
15 water mitigation, I should say.

16 So what we are proposing simply is at  
17 this entry and this entry, flood panels, which will  
18 be dropped in manually by the property owner or  
19 management company, that is in essence dry flood  
20 proofing, so that will stop any water from entering  
21 the building.

22 We got walls all around the other three  
23 sides. No water can enter that way. Water can  
24 enter the residential lobby, and this is what we  
25 were required to do by FEMA regulations. So water

1 can enter, and at this front door there is a vent  
2 just in order to keep egress possible.

3 So if water is in here, someone can  
4 egress from the two residential apartments above and  
5 still open and close that door --

6 CHAIRMAN HOLTZMAN: Right. Just to  
7 jump in there for a second, Frank.

8 The idea on that is basically that -- I  
9 just want to correct you for the record.

10 You said there would be no water  
11 entering the building, and that is actually  
12 inaccurate, because what we need to do from a safety  
13 standpoint for the residents in the apartments  
14 upstairs, is there needs to be egress, and they  
15 can't come down the stairs, and then be confronted  
16 by a flood proof gate that they would have to  
17 hurdle.

18 THE WITNESS: Yeah. There will be no  
19 water entering the commercial space, I should  
20 correct that.

21 CHAIRMAN HOLTZMAN: Correct.

22 THE WITNESS: Thank you.

23 We are allowing water to enter the  
24 residential hallway, as the Chairman mentioned, and  
25 that allows us to still open and close the door in

1 terms of egress.

2 We are also proposing a watertight  
3 cellar access door. Right now -- currently there is  
4 a standard access door -- well, I guess at one  
5 time -- but now we can possibly bring storage  
6 through, where food stuffs will be, and that would  
7 be watertight. So the existing one would be removed  
8 as part of the new sidewalk construction, and a  
9 watertight hatch will be installed, and it is  
10 detailed on one of the plans here.

11 Z-4, this has the floor plan in its  
12 entirety.

13 So drawing number one shows the full  
14 lot in its 25 foot width and its 100 foot depth, and  
15 that area that I discussed before that is going to  
16 be enclosed, where we are proposing to put the  
17 walk-in freezer box is this.

18 So this is at the northwest corner of  
19 the property. There is an existing seven-foot high  
20 wall there already, so in terms of the impact to the  
21 adjacent properties, it is minimal. We are  
22 proposing this, to enclose that with a prefabricated  
23 panelized walk-in box.

24 We're back to the front of the  
25 building, Willow Avenue, the main entry here. There

1 is a bakery counter, a small bar. The main seating  
2 is what is the existing kitchen, where the existing  
3 kitchen is, so this is the main seating.

4 There is counter seating here, and with  
5 a new small kitchen line, so you can actually see  
6 the workings of the kitchen. That's part of the  
7 idea here.

8 So it is counter seating. You can see  
9 what is going on at the kitchen, as well as this  
10 existing coal fired oven, which is to be completely  
11 rehabilitated.

12 MR. GALVIN: Mr. Matule, we will have  
13 to mark it.

14 THE WITNESS: Because I drew on it?

15 MR. GALVIN: Yes. That's okay. You  
16 should do that, but we still have to mark it.

17 MR. MATULE: All right. We will mark  
18 that A-3, and that is Sheet Z-4.

19 THE WITNESS: Z-4.

20 MR. MATULE: Thank you, Mr. Galvin.

21 (Exhibit A-3 marked.)

22 MR. GALVIN: No problem.

23 THE WITNESS: Again, as I mentioned  
24 before, the cellar is not to be used for any of the  
25 cooking or preparation, just for storage.

1                   Drawing number three is our occupancy  
2 plan, and that describes how the space will be used  
3 in terms of the number of occupants.

4                   There is a discrepancy on our  
5 drawing -- on our zoning chart. We called it 87,  
6 but it is actually 85. This is correct.

7                   CHAIRMAN HOLTZMAN: Mr. Minervini,  
8 could you also tell us what is being removed from  
9 the basement, because I believe you are doing some  
10 utility work there.

11                  THE WITNESS: Yes, and I was going to  
12 get into that, and I will certainly do it now as I  
13 got into the residential portion.

14                  The existing utilities in the building,  
15 the electric service, the water service, as well as  
16 gas, are all in the basement in this area here.

17                  We are now required, because of DEP  
18 regulations, and they're common sense regulations,  
19 to relocate that above the flood plain level.

20                  We don't have an opportunity to do it  
21 within the space, because it would be at ceiling  
22 level approximately, and no access would be  
23 possible, so I will skip right to the residential  
24 floor plan, which is -- I may have passed it  
25 already.

1           I have a small residential floor plan  
2       diagram. Basically we're introducing -- here it  
3       is -- I'm sorry -- so back to Z-3A, here is a  
4       residential hallway. There is one unit per floor,  
5       so there's two in the building, floors two and  
6       three. All of them would be moved on to the second  
7       floor and raised up out of the flood plain.

8           The front elevation, we are proposing a  
9       new awning, new signage. It is described later on  
10      in the drawing set in the detail, so here is the  
11      drawing of the existing facade and the new facade.

12           Glass is going to stay on the southern  
13      portion of the building, a new entry door, new  
14      residential entry door, and where the garage door is  
15      now, we are proposing what looks to be a glass  
16      garage door, but within it, if that is fixed, within  
17      it will be a customer door that we will use as our  
18      second means of egress, as well as an ADA compliant  
19      entry.

20           The facade will be repointed and  
21      cleaned.

22           Some details are on the sheets over  
23      here. There is a detail of the watertight cellar  
24      hatch that I described, and some details of the  
25      prefabricated walk-in cooler box at the back of the

1 building.

2 Z-5A, a detailed drawing of what the  
3 awning is proposed to be, as well as two doors that  
4 I mentioned, and the signage. So the signage will  
5 be placed above, and the detail shows a reclaimed  
6 wood backdrop, so it would really fit with the  
7 concept that Joe had mentioned --

8 CHAIRMAN HOLTZMAN: Could you just walk  
9 us through the lighting on the signage in a little  
10 bit more detail?

11 THE WITNESS: Yes.

12 So we are not proposing any lighting on  
13 the sign. The lighting that we are proposing are  
14 two compact fluorescents at the residential entry,  
15 and then one LED at the entry -- at the residential  
16 entry door ceiling, so these will actually light up  
17 the sidewalk section, although they're framing the  
18 residential entry. We are not proposing any  
19 lighting for the actual Antique Bakery signage at  
20 this point.

21 CHAIRMAN HOLTZMAN: So the word  
22 "Antique" that we see there, that's on the awning,  
23 is that correct?

24 THE WITNESS: No. That's on the wood  
25 signage.

1 CHAIRMAN HOLTZMAN: Oh, okay.

2 THE WITNESS: Yeah. The awning is  
3 beneath that, and that says "122 Antique Bakery &  
4 Grill."

5 (Counsel confers with witness)

6 THE WITNESS: Yes, yes.

7 Mr. Matule just mentioned that there is  
8 another detail for that Sheet Z-5A that I had  
9 described.

10 So here is a section of the signage.

11 Thank you, Bob.

12 You reminded me that we did revise this  
13 and add a small LED section that cannot be seen from  
14 the street, that will illuminate the sign, so  
15 there's strips of LEDs.

16 So that is a frame section that  
17 conceals the LED lighting, and here is the reclaimed  
18 wood, and in the section the actual letters will be  
19 like this. That describes how we are replacing the  
20 existing garage door, and this is the main customer  
21 entry --

22 CHAIRMAN HOLTZMAN: Just hang on one  
23 second.

24 THE WITNESS: I'm sorry.

25 COMMISSIONER MC KENZIE: Just a

1 question.

2 On your strip LED lighting, do you have  
3 any controls on that?

4 I know it is going to be behind, I'm  
5 assuming --

6 THE WITNESS: Yes.

7 COMMISSIONER MC KENZIE: -- so it is a  
8 back-lit letter, but are there any controls?

9 THE WITNESS: We haven't designed any  
10 controls now, but we certainly will, can and will  
11 for the construction drawing set.

12 Are you thinking of colors or just in  
13 terms of --

14 COMMISSIONER MC KENZIE: No, no, no.  
15 Just control, dimming.

16 THE WITNESS: Yes. We can fully  
17 control it to whatever lighting --

18 COMMISSIONER MC KENZIE: The only  
19 reason I bring that up is there has been a lot of  
20 problems with new LED signs that are too bright and  
21 get a lot of complaints from neighbors. And even  
22 though it is a back-lit situation, you know, you  
23 don't want glare.

24 THE WITNESS: Thank you.

25 That was one of the reasons why we did

1 the back-lit design, so we certainly make it, and I  
2 can correct the drawing and revise the drawing to  
3 say --

4 COMMISSIONER MC KENZIE: I think it is  
5 a good idea.

6 THE WITNESS: -- absolutely.

7 CHAIRMAN HOLTZMAN: So is there a lumen  
8 standard that we are looking for here, guys?

9 MR. HIPOLIT: Yes. They have to  
10 conform to the city ordinance in lighting the front  
11 of the building and not over lighting, and then  
12 really --

13 COMMISSIONER MC KENZIE: That would do  
14 it.

15 MR. HIPOLIT: -- right.

16 They should look at, and I think you  
17 have a great point, is just because you conform with  
18 the city ordinance, glare can be -- especially when  
19 you're back lighting something, you have an LED on  
20 to lighting a certain area, so --

21 MR. GALVIN: Can we make it so that you  
22 go out there and consult or go take a look?

23 THE WITNESS: If I may, the backdrop to  
24 the signage is reclaimed wood, so there is really  
25 very little reflection.

1                   CHAIRMAN HOLTZMAN:  So there's no  
2   reflective --

3                   MR. HIPOLIT:  That is great.

4                   CHAIRMAN HOLTZMAN:  It's nice.  
5   Thank you.

6                   MR. HIPOLIT:  I think the condition  
7   would read that they conform with the city ordinance  
8   and then that they put --

9                   MR. GALVIN:  But that's automatic.

10                  In my opinion, any time there is a city  
11   ordinance, you should comply with the city  
12   ordinance.  We can enforce it, if you go beyond it.

13                  CHAIRMAN HOLTZMAN:  Do you know off the  
14   top of your head what the city ordinance is, and I  
15   am not sure that it's current enough to take into  
16   consideration, you know, state of the art LED  
17   lighting, that I'm sure is going to get installed on  
18   this.

19                  COMMISSIONER MC KENZIE:  And actually I  
20   think I was asked specifically by the city, if I had  
21   any suggestions for doing that, and at this point  
22   with the IES, I don't think there are any  
23   guidelines.

24                  CHAIRMAN HOLZMAN:  So there is not a  
25   specific lumen standard or something we can give

1           them as guidance?

2                       MR. GALVIN:   It is called NITS.

3                       CHAIRMAN HOLTZMAN:   NITS.

4                       THE WITNESS:   We'd be happy to.

5                       Thank you.

6                       CHAIRMAN HOLTZMAN:   You were saying?

7                       THE WITNESS:   I don't think I have to  
8           any longer.  It has been said.

9                       CHAIRMAN HOLTZMAN:   Okay.

10                      MR. GALVIN:   Well, no, we are not  
11           addressing it.  We are hoping that it is going to  
12           work out right.

13                      It is a very sophisticated restaurant,  
14           but I have to tell you, I have seen a couple of them  
15           in Jackson, which doesn't count for anything, but  
16           their LEDs, they are exceptionally bright.  They're  
17           like bulbs around -- one is a pizzeria, and another  
18           one is a nail shop, and it is just like, wow,  
19           you know, someone is landing there.

20                      (Laughter)

21                      MR. MATULE:   May I suggest that when  
22           the plan is pulled together and designed, that we  
23           run it by Mr. Hipolit for his review?

24                      MR. GALVIN:   I know he doesn't want to,  
25           but I think that's what we should do.

1 MR. HIPOLIT: I can do that.

2 MR. GALVIN: I was going to say the  
3 intensity of the LED is to be adjusted in  
4 consultation with the Board's Engineer.

5 THE WITNESS: Perhaps it should be a  
6 post construction consultation, so this way we can  
7 determine together where the dimmer switch should  
8 go --

9 MR. GALVIN: I think the other thing,  
10 too, is I hope this is a very successful restaurant  
11 and you own it for a long time, but we always have  
12 to keep in mind, though, that you could sell it, or  
13 it will still be a restaurant, and the next person,  
14 their food may not be good as yours, and they think  
15 if the lights are brighter, more people would come  
16 in, you know, so --

17 (Laughter)

18 MR. ROBERTS: Mr. Chairman, just a  
19 thought.

20 It looks to me like because the light  
21 will be right behind the letters, that what you are  
22 really going to see is an outline around the letters  
23 themselves, so the impact of a full exposed LED is  
24 not going to be -- and normally -- I don't even know  
25 if you would pick it up --

1                   MR. HIPOLIT: With a wood background  
2                   it's minimal.

3                   MR. GALVIN: I'm not expecting this to  
4                   be a problem.

5                   CHAIRMAN HOLTZMAN: No.

6                   MR. MATULE: Rather be safe than sorry.

7                   CHAIRMAN HOLTZMAN: As we know,  
8                   sometimes the execution on your best proposed plans  
9                   don't always get done to a hundred percent.

10                  THE WITNESS: I am not disagreeing with  
11                  that.

12                  (Laughter)

13                  THE WITNESS: Okay. Z-5A that was.

14                  Z-6 has a rear facade drawing, so this  
15                  shows the height of the chimney as exists. It will  
16                  be repaired and relined.

17                  It also shows the -- that section that  
18                  I discussed and described that we are filling in, so  
19                  there is five or six courses of block on top of it,  
20                  with a parge coat to match the brick.

21                  This is a section drawing through the  
22                  actual space, the back kitchen space, so you get a  
23                  sense of the height relative to the existing  
24                  windows. We are not proposing any of that to  
25                  change. We are, however, showing in this drawing

1 the upper floor plan. The upper roof plan, we are  
2 showing this because our heating and cooling system  
3 for the actual restaurant will be located here.

4 And this is the back roof section  
5 showing an existing skylight there as well, and the  
6 existing skylight will be above our main seating  
7 area. Location of the up glass fan, and our makeup  
8 area. There are details on the makeup area --

9 COMMISSIONER PINCHEVSKY: I'm sorry to  
10 interrupt. That is already there, correct?

11 THE WITNESS: No. The kitchen exhaust  
12 is new, located in the center.

13 The chimney for the brick -- excuse  
14 me -- for the coal fired oven is here, and that is  
15 what this shows.

16 COMMISSIONER PINCHEVSKY: But there is  
17 a kitchen currently around the middle --

18 THE WITNESS: All of their cooking  
19 really happened through the oven. The cooking that  
20 they did had no exhaust. The actual gas fired  
21 cooking, it had no exhaust.

22 COMMISSIONER PINCHEVSKY: How far is  
23 the exhaust from the windows that are on the second  
24 floor?

25 THE WITNESS: Well, there are

1 measurements here, and we put them specifically  
2 because there are requirements how far they have to  
3 be from the property lines, so it is ten feet nine  
4 from the northern property line, and ten feet nine  
5 from the southern property, 20 feet five from the  
6 rear property line, and that 20 feet five, this is  
7 about 30 to 32 feet to the rear wall of the existing  
8 apartments.

9 COMMISSIONER PINCHEVSKY: From the  
10 existing apartments, 32 feet?

11 THE WITNESS: Yes.

12 COMMISSIONER PINCHEVSKY: So it is  
13 closer actually to the neighbors then?

14 THE WITNESS: Yes, and it still  
15 conforms with the requirements we must abide by in  
16 terms of --

17 COMMISSIONER PINCHEVSKY: But there are  
18 no windows?

19 THE WITNESS: There are four windows in  
20 the back of the building. Here you go.

21 COMMISSIONER PINCHEVSKY: For the  
22 neighboring buildings, are there any windows  
23 facing --

24 THE WITNESS: No. This is back much  
25 further in what would be their rear garden --

1 COMMISSIONER PINCHEVSKY: Okay. Got  
2 it.

3 Thank you.

4 MR. ROBERTS: Frank? I am sorry,  
5 Frank, before you get off that page, you had added a  
6 note and an outline of the refrigeration unit on top  
7 of the proposed walk-in freezer, I believe.

8 It is a small refrigeration unit --

9 THE WITNESS: Yes, so --

10 MR. ROBERTS: -- could you talk a  
11 little bit about that?

12 THE WITNESS: -- the freezer unit needs  
13 a condensing unit, and that compressor, condenser as  
14 proposed, goes right here.

15 Again, we tried to locate it as far  
16 away as possible from the existing residential, as  
17 well as the adjacent residential.

18 So it is about three or four feet off  
19 the back property line, and it works well in terms  
20 of efficiency, because it is right on top of the  
21 freezer box we've got.

22 MR. ROBERTS: Do you have any sound  
23 data on that?

24 THE WITNESS: I provided some here and  
25 it may --

1                   MR. ROBERTS: Is it on that one or just  
2 in the kitchen --

3                   THE WITNESS: It might be just --  
4 yeah -- I'm sorry, this is the kitchen --

5                   MR. ROBERTS: That was one of the  
6 questions that the subcommittee brought up.

7                   THE WITNESS: Yeah. We discussed that,  
8 and I am not sure if I actually did the  
9 specification on it and I certainly can --

10                  MR. ROBERTS: I am not expecting it to  
11 be a problem, but it might be something that we  
12 would want to make sure it complies with the city's  
13 noise ordinance.

14                  THE WITNESS: Certainly. I think Bob  
15 is looking to see if I missed it on another drawing,  
16 but yes, we can certainly do that.

17                  In my experience, they are smaller than  
18 the typical residential condenser unit, and with  
19 that in mind, it required a --

20                  (Board members confer.)

21                  THE WITNESS: -- on Sheet Z-7, which  
22 you have as well, and I have a colored rendition of  
23 it, it will give you an idea of the context.

24                  So here is our building. This is  
25 Willow Avenue. This is Second Street. The facade

1 as it exists -- I'm sorry?

2 MS. CARCONE: No. I was talking to  
3 Bob.

4 THE WITNESS: -- if you are looking  
5 south on Willow, looking north, it is actually right  
6 across the street. So if you have any questions  
7 about context, this sort of helps us.

8 The building's -- at the end of this,  
9 the conclusion is we will have I think a really,  
10 really well-received restaurant, that will be fully  
11 ADA compliant. It will meet all of the current  
12 construction codes, as well as all of the codes  
13 required for the new kitchen and oven. As it was,  
14 it didn't meet any of those standards, nor did it  
15 have to, because it has been there for so long. But  
16 when we took on the project, I was very happy to  
17 have met Joe, because we have been getting bread  
18 from Antique for years, and it would be nice to see  
19 that brought back.

20 I think that's it, save for any  
21 questions.

22 CHAIRMAN HOLTZMAN: Okay.

23 MR. MATULE: Just, if I could, a couple  
24 more details.

25 THE WITNESS: Yes.

1 MR. MATULE: You had submitted the  
2 plans to the Flood Plain Administrator for review?

3 THE WITNESS: Yes.

4 MR. MATULE: That is what precipitated  
5 moving the utilities up to the second floor?

6 THE WITNESS: Yes.

7 MR. MATULE: And otherwise, you have no  
8 issues with the Flood Plain Administrator's  
9 recommendation?

10 THE WITNESS: No. I think we satisfied  
11 all of the conditions and her recommendations.

12 MR. MATULE: All right.

13 And you also received Mr. Hipolit's  
14 review letters?

15 THE WITNESS: I have.

16 MR. MATULE: And you can address any  
17 concerns there?

18 THE WITNESS: Yes.

19 MR. MATULE: The property will have a  
20 grease trap?

21 THE WITNESS: Yes.

22 MR. MATULE: And there will be a  
23 scheduled maintenance program for it?

24 THE WITNESS: Yes.

25 MR. MATULE: One of the other things

1 that was raised in one of the reports is the Hudson  
2 County Planning Board approval.

3 Assuming Hoboken approves this project,  
4 the next step would be to bring it before the Hudson  
5 County Planning Board for their approval?

6 THE WITNESS: Yes, as part of it.  
7 Because we are -- I'm sorry, Bob, I was reading sub  
8 A -- we are on a county road, so subsequent to any  
9 approval we would receive here, we have to also go  
10 to the Hudson County Planning Board mostly for  
11 exterior work. They do want to know what is going  
12 on inside, though, but mostly for exterior work.

13 MR. MATULE: Where are you anticipating  
14 refuse storage?

15 I know that was one of the concerns  
16 raised by the Board professionals.

17 THE WITNESS: The basement will be used  
18 for storage. It's large, a rather large basement.  
19 We have no other use for it except storage.

20 MR. MATULE: And then it will be put  
21 out on the recycling collection days as most other  
22 restaurants in town?

23 THE WITNESS: Yes.

24 VICE CHAIR MAGALETTA: So how do you  
25 access the refuse? Like would you go through the

1 restaurant, or is there a trap?

2 THE WITNESS: We have, as I discussed,  
3 that watertight hatch --

4 VICE CHAIR MAGALETTA: Okay.

5 THE WITNESS: -- and that is one way.  
6 If it is done off hours, it will be done through the  
7 restaurant.

8 MR. MATULE: That's all I have for  
9 Frank, unless you have questions.

10 CHAIRMAN HOLTZMAN: Why don't we take  
11 the planner's report, and let's see if we can just  
12 sort of keep that lean?

13 THE WITNESS: Thank you.

14 COMMISSIONER GRAHAM: Am I correct in  
15 understanding, this is not a sports bar?

16 (Laughter)

17 MR. MATULE: I think that would be very  
18 fair to say.

19 COMMISSIONER GRAHAM: I wanted to make  
20 that clear.

21 MR. GALVIN: Raise your right hand, Mr.  
22 Ochab.

23 Do you swear to tell the truth, the  
24 whole truth, and nothing but the truth so help you  
25 God?

1 MR. OCHAB: I do.

2 K E N N E T H O C H A B, having been duly sworn,  
3 testified as follows:

4 MR. GALVIN: State your full name for  
5 the record and spell your last name.

6 THE WITNESS: Ken Ochab. That's  
7 O-c-h-a-b, as in boy.

8 MR. GALVIN: Mr. Matule, we want to  
9 mark this exhibit.

10 MR. MATULE: Oh, certainly.

11 MR. GALVIN: On the site plan that we  
12 marked, there were multiple pages where the  
13 architect marked them with pink, so that whole thing  
14 will be A-3.

15 MR. MATULE: All right.

16 So, Mr. Ochab, we will mark that A-4.

17 THE WITNESS: Okay.

18 (Exhibit A-4 marked.)

19 MR. MATULE: Could you just again  
20 describe for the record what it is, who took the  
21 pictures and approximately when?

22 THE WITNESS: Okay. These are  
23 photographs that I took in June of last year, and  
24 again, just a visual representation of what the site  
25 is and where it is located.

1                   The upper left photograph is a  
2                   photograph of the existing bakery, looking to the  
3                   south on the street.

4                   And then the upper right photograph  
5                   again, the existing bakery with the garage door  
6                   looking to the north.

7                   MR. GALVIN: I think the Board  
8                   basically has a pretty good comprehension.

9                   THE WITNESS: The lower streetscape and  
10                  the lower right is that area in the back that's  
11                  going to be used for --

12                  MR. GALVIN: You might just want to  
13                  touch the positive and negative criteria on the  
14                  variances.

15                  MR. MATULE: Just for the record, I  
16                  don't think we had Mr. Ochab accepted as a planner.

17                  MR. GALVIN: Could we?

18                  CHAIRMAN HOLTZMAN: Yes, we accept him.  
19                  Thank you, Mr. Ochab.

20                  MR. GALVIN: You are found to be  
21                  acceptable. I think that is good.

22                  (Laughter)

23                  MR. MATULE: So, Mr. Ochab, you are  
24                  familiar with the zoning ordinance and the master  
25                  plan?

1 THE WITNESS: Yes.

2 MR. MATULE: And you're familiar with  
3 the application, and you prepared a planner's report  
4 in support of it?

5 THE WITNESS: I did.

6 MR. MATULE: Can you go through the  
7 variances that are requested and give us your  
8 professional opinion regarding the variance relief,  
9 and whether or not you believe it can be granted  
10 under the applicable legal standards?

11 THE WITNESS: Yes.

12 We have actually two variances involved  
13 here with this application.

14 The first variance is for lot coverage,  
15 and that is for again this little rear area here  
16 that is going to be filled in for the walk-in  
17 freezer that was discussed by the architect.

18 This area is seven and a half feet in  
19 width by 18 feet in depth.

20 The lot otherwise has 94 and a half  
21 coverage, so the first floor pretty much covers the  
22 entire site, and it is only this one little section  
23 that is open and will be covered, as I said, with  
24 the freezer area.

25 This small area is not used for

1 anything in particular, other than some  
2 miscellaneous storage, some supplies, some brooms,  
3 some miscellaneous equipment, so it has no  
4 functional purpose with respect to open space or  
5 yard area, which could be enjoyed --

6 VICE CHAIR MAGALETTA: What is the  
7 ground cover in that section --

8 THE WITNESS: -- or certainly that is  
9 not being achieved by this in particular here.

10 VICE CHAIR MAGALETTA: -- what is the  
11 ground cover in that section?

12 THE WITNESS: Pardon me?

13 VICE CHAIR MAGALETTA: What's the  
14 ground cover in that section?

15 Is it concrete or is it grass?

16 What is it?

17 THE WITNESS: It is concrete, yes. So  
18 it is impervious right now. There is a small drain  
19 in the center of it. Again, it provides no sense of  
20 open space or open air, whatever.

21 So with respect to the lot coverage  
22 then, I would certainly say that this would be a C2  
23 variance in the respect that the retail use is going  
24 to be renewed. It's going to be a new space,  
25 improvements made to the property.

1                   This small area being used as a freezer  
2 helps in achieving that purpose, and that is  
3 certainly one of the public benefits to having this  
4 facility stay in this location here and serve as a  
5 neighborhood eatery and restaurant.

6                   The second variance is for actually a  
7 parking variance, and that comes into play because  
8 under the zoning ordinance we are technically  
9 changing the use of the site. When we change the  
10 use, it kicks in a parking requirement.

11                   That is sort of contradictory to the  
12 other section of the ordinance, which says unless  
13 you have 15 feet of frontage, you can't have a curb  
14 cut or off-street parking.

15                   So with respect to that, I think it is  
16 clearly here a hardship situation. Obviously, we  
17 cannot provide off-street parking. The building  
18 covers the entire site, nor would it be good  
19 planning to try to provide off-street parking  
20 because one of the key elements of certainly the  
21 master plan is to remove parking off site, remove  
22 curb cuts, which we are doing here, and remove  
23 garage doors and the like, so clearly there is a  
24 hardship here.

25                   This is a neighborhood facility. There

1 is on-street parking available on First, on Newark  
2 Avenue, Washington Street, which is not all that far  
3 from the proposed facility here. So with respect to  
4 that, I think we have a good positive criteria  
5 argument.

6 With respect to the negative criteria,  
7 of course, there are two prongs to the negative  
8 criteria. One is whether or not there is a  
9 substantial detriment to the public good with  
10 respect to granting the variances. What that means  
11 is what is the impact, is there a substantial impact  
12 in granting the variances here.

13 Again, looking at the rear yard, there  
14 is no adjacent building which is next to us. We  
15 have a yard area both to the rear and to the north,  
16 so with respect to that, again, we are just filling  
17 in an area that has already a seven foot wall that  
18 will be maintained there, so clearly no substantial  
19 impact to the surrounding properties.

20 And with respect to the zone plan, my  
21 view here would be that there would be no  
22 substantial impairment to the zone plan because the  
23 area is so small, it is really de minimis, and we  
24 have 94 and a half percent coverage already. This,  
25 again, helps to achieve the purpose of the

1 application which is to establish a neighborhood  
2 restaurant.

3 VICE CHAIR MAGALETTA: With the  
4 refrigeration unit, will it be higher than the seven  
5 foot wall or how tall will it go?

6 THE WITNESS: It is going to be higher  
7 than the wall. It will be as high as the first  
8 floor.

9 VICE CHAIR MAGALETTA: So how high is  
10 that?

11 THE WITNESS: I believe it's 12 feet,  
12 if I'm not mistaken.

13 MR. MINERVINI: There is a drawing to  
14 describe it.

15 VICE CHAIR MAGALETTA: And then on top  
16 of that, what's the use on top of that as well --

17 MR. MINERVINI: Just a flat roof and  
18 then a condensing unit, as I described before, just  
19 that space.

20 VICE CHAIR MAGALETTA: All right.

21 And then as far as the sound, what is  
22 the story on the sound?

23 MR. MINERVINI: It is a typical  
24 condenser. It's relatively quiet, a newer one, and  
25 this is smaller than the residential unit, because

1 the space is not so large. We located it toward the  
2 furthest point away from the adjacent properties.

3 VICE CHAIR MAGALETTA: Do you have a  
4 sense of the dimensions of that unit approximately?

5 MR. MINERVINI: About 30 inches square.

6 VICE CHAIR MAGALETTA: Okay.

7 THE WITNESS: Well, that would conclude  
8 my testimony.

9 CHAIRMAN HOLTZMAN: Any other specific  
10 questions for Mr. Ochab on the planning report?

11 MR. ROBERTS: Mr. Chairman, just a  
12 note.

13 The lot itself is 24.57 feet, where 25  
14 feet is required, which means that the lot area is  
15 also less than 2500 square feet. They're  
16 preexisting conditions.

17 The footprint is being enclosed in the  
18 back by that extra six percent, so we had indicated  
19 that, you know, maybe -- even though the preexisting  
20 conditions, it may be the Board's practice that that  
21 would be another additional variance that would be  
22 required.

23 So just to make sure the record is  
24 complete, I am just pointing it out. It is a  
25 preexisting non conforming lot that is being

1 modified, so I just wanted to make sure --

2 MR. GALVIN: I routinely keep track of  
3 all of those, and Mr. Matule knows that. That will  
4 go into the resolution as an existing condition --

5 MR. ROBERTS: I just wanted to make  
6 sure --

7 MR. GALVIN: -- that can't be mod -- we  
8 can't obtain any additional property almost ever in  
9 Hoboken, so...

10 MR. ROBERTS: Okay.

11 CHAIRMAN HOLTZMAN: I think we are good  
12 with Mr. Ochab.

13 Thank you.

14 Dave, since you have got the floor, why  
15 don't you just continue. You have a couple other  
16 points on your review letter.

17 MR. ROBERTS: I think one of the ones I  
18 had asked for Frank to clarify, probably the only  
19 other one that we thought was worth talking about,  
20 was the space in the bar, which Frank had described  
21 with the ramp-up for the handicapped access.

22 It is described on the floor plan as  
23 basically being sort of standing, bar standing and  
24 seating area. And our -- I guess what we wanted to  
25 see clarified for the record was just the fact that

1       it potentially could have fairly high occupancy that  
2       is devoted to the bar, just to clarify that this is  
3       a -- that this bar is not being the principal use,  
4       and I think that that is one of the reasons why in  
5       the presentation the applicant made, they provided  
6       some indication of how this space is going to be  
7       used as a restaurant. I think it is pretty clear  
8       that it is a restaurant, but I thought we wanted a  
9       little bit more -- in fact, it's the shaded area,  
10      Frank, right by where the garage door is now.

11                   CHAIRMAN HOLTZMAN: Right.

12                   In our previous meeting, we had asked  
13      also there be some specific numbers on the table  
14      counts and things like that, and you guys were just  
15      kind of working that through, so can you get us up  
16      to speed on that?

17                   MR. MINERVINI: I've got it all here.

18      F R A N K       M I N E R V I N I, having been  
19      previously sworn, testified further as follows:

20                   THE WITNESS: Yes.

21                   Sheet Z-4, which you have as well,  
22      showed that, and the area that you are speaking  
23      about, Dave, in the front here has high top tables,  
24      so there is no room for standing, but this is also  
25      our egress, our second egress.

1 MR. ROBERTS: Okay.

2 THE WITNESS: So we have high top  
3 tables on the two sides, an egress path in between  
4 it, and that is reflected here as well as on the  
5 occupancy plan.

6 MR. ROBERTS: And then because I also  
7 noticed in your parking calculation you added an  
8 additional occupancy of 60 people, and I was looking  
9 at that, and I thought that may be where it was  
10 coming from. So it was on a note on the cover sheet  
11 I believe where the parking calculations --

12 THE WITNESS: I will certainly look at  
13 that.

14 This is our proposed occupancy, 85,  
15 which conforms to this diagram.

16 So here we specifically pointed out  
17 what the use of each of these spaces would be. A  
18 and B is table seating. H is the kitchen.

19 CHAIRMAN HOLTZMAN: Doesn't A also have  
20 the counter seating that looks into the kitchen?

21 THE WITNESS: Yes, but that is separate  
22 from A. The counter seating is counted and showed  
23 on Z-1 through 10, so that is along the counter.

24 A is the fixed seating, as is B, the  
25 bar area we kind of changed. We are showing, of

1 course, the bar stools.

2 G and F are the high tops, and E is a  
3 small area of standing area.

4 So this is really only the standing  
5 area at this point on the side of the bar between  
6 the high tops and --

7 MR. ROBERTS: So those high tops are  
8 going to be fixed?

9 THE WITNESS: They're not fixed to the  
10 ground, but they --

11 MR. ROBERTS: Because, again, it was on  
12 your cover sheet, it says increased occupancy  
13 divided by four, and it just had 60 divided by four  
14 was the 15 spaces, so that added into your overall  
15 total that Ken was just talking about in his  
16 presentation, so I just wanted some clarification on  
17 how much standing space.

18 THE WITNESS: Yes. This 15 is the max  
19 requirement for the International Building Code, so  
20 15 square feet per person in the fixed seating area,  
21 that is what it refers to.

22 MR. ROBERTS: Okay.

23 COMMISSIONER PINCHEVSKY: You said F  
24 and G are table tops or high tops?

25 THE WITNESS: They probably are going

1 to be high tops. They don't have to be. They are  
2 two-person tables, so whether or not they are high  
3 or not has yet to be determined, but probably high  
4 tops.

5 COMMISSIONER PINCHEVSKY: You said  
6 there's not a standing room area.

7 THE WITNESS: No.

8 If you look at -- well, F and G shows  
9 it just in terms of its area for the calculation.

10 Drawing number one shows those tables  
11 up against the walls and the space between it, you  
12 can't use as standing because that is part of our  
13 egress path.

14 COMMISSIONER PINCHEVSKY: Are the  
15 people actually -- all right. So they will be  
16 standing or sitting at around the high tops -- in  
17 between --

18 THE WITNESS: Yeah. We got a table and  
19 two seats at each one of those points --

20 COMMISSIONER PINCHEVSKY: So it's not  
21 the length of the bar --

22 THE WITNESS: Correct, correct.

23 There is a small table and two seats  
24 with it, and whether they are high or not I guess is  
25 yet to be determined.

1                   COMMISSIONER PINCHEVSKY: And the width  
2 between, let's say, high top four and three, right,  
3 is only three feet?

4                   THE WITNESS: No. It is more than  
5 that. It will be minimally 44 inches.

6                   COMMISSIONER PINCHEVSKY: At least 44?

7                   THE WITNESS: At least 44. 44 is the  
8 minimum requirement and so it would an egress  
9 path --

10                  COMMISSIONER PINCHEVSKY: So I guess  
11 diagram three --

12                  THE WITNESS: -- I have to correct  
13 that. It will be 44 inches.

14                  COMMISSIONER PINCHEVSKY: -- it says  
15 three feet.

16                  THE WITNESS: Three feet eight it has  
17 to be.

18                  COMMISSIONER PINCHEVSKY: Three feet  
19 eight?

20                  THE WITNESS: Yes.

21                  COMMISSIONER PINCHEVSKY: I mean, what  
22 is your typical width of a wheelchair?

23                  THE WITNESS: Three feet is the  
24 requirement for a wheelchair. Three feet is the  
25 requirement just based on our occupancy number,

1 because we are more than 50. I might be wrong about  
2 that. We might be able to get away with three feet.  
3 I'll check, but for now for this discussion, I'll  
4 revise the plan to make it wider.

5 COMMISSIONER PINCHEVSKY: But that's  
6 what your typical width -- I don't know the answer,  
7 the typical wheelchair is about three feet wide?

8 THE WITNESS: Yes. The requirement is  
9 three feet for a typical wheelchair, but a  
10 wheelchair is less than that.

11 COMMISSIONER PINCHEVSKY: Less than  
12 that?

13 MR. HIPOLIT: It's 30 inches.

14 MR. ROBERTS: Just to finish up, Mr.  
15 Chairman, I think the applicant has been working,  
16 revised the plan a couple times, and has been  
17 working with us to address a number of our concerns.

18 Just for the record, from a conditional  
19 use standpoint, they calculated 989 square feet of  
20 customer floor area, so it is under the thousand  
21 feet, and they met the other two conditions for the  
22 conditional use requirement for a restaurant in the  
23 residential zone, and I think we have had -- they  
24 have addressed the concerns that we raised in our  
25 prior letters through the subcommittee meeting, so I

1 think we are in pretty good shape.

2 CHAIRMAN HOLTZMAN: Great.

3 Andy, you had had a couple things in  
4 your letter, but it sounded like we got them all  
5 crossed off.

6 MR. HIPOLIT: I did. When we had the  
7 complete -- our letter, dated January 29th, when we  
8 had the completeness hearing, they clearly came and  
9 addressed those issues, so he has testified to the  
10 few questions we had tonight, and so we are fine.

11 CHAIRMAN HOLTZMAN: All right.

12 COMMISSIONER PEENE: Yes. Through the  
13 Chair, referencing your letter, Andy, number 20,  
14 regarding any particular outdoor dining that may be  
15 proposed, do you have any plans for that right now,  
16 or will you in the future?

17 MR. COSTELO: We would like to have  
18 some outdoor seating.

19 COMMISSIONER PEENE: The sidewalks  
20 there are wider than most parts of town.

21 THE WITNESS: About 16 feet.

22 MR. MATULE: No. I think the intention  
23 is to get the place up and running, and then go  
24 through the process with the zoning officer for any  
25 outdoor cafe license that would be appropriate.

1                   MR. HIPOLIT: Currently you would not  
2 be approving outdoor dining?

3                   COMMISSIONER PEENE: No. I know that.

4                   THE WITNESS: Thank you.

5                   CHAIRMAN HOLTZMAN: Any questions or  
6 comments, Commissioners?

7                   COMMISSIONER STRATTON: I have a  
8 question.

9                   CHAIRMAN HOLTZMAN: Sure, Commissioner  
10 Stratton.

11                   COMMISSIONER STRATTON: Have you  
12 considered bicycle parking for the restaurant?

13                   CHAIRMAN HOLTZMAN: Can you speak up a  
14 little bit?

15                   COMMISSIONER STRATTON: Have you  
16 considered bicycle parking for the restaurant?

17                   MR. MATULE: I don't think we have, but  
18 I'm sure when we go to the county, it will probably  
19 be raised. That's typically one of the things they  
20 like us to try to do is put one of those serpentine  
21 type of bike racks somewhere.

22                   The fact that we are taking the curb  
23 cut away and the existing driveway and putting a  
24 tree pit there, I don't know, I will leave it to the  
25 architect, but I think we can certainly find some

1 room for a bike rack.

2 CHAIRMAN HOLTZMAN: Is there a standard  
3 that you guys are working with in the Transportation  
4 Department these days?

5 COMMISSIONER STRATTON: We are. If you  
6 could seek out either myself or Ryan Sharp who's  
7 working with the planner --

8 THE WITNESS: I would be happy to do  
9 that.

10 COMMISSIONER HOLTZMAN: Great.

11 COMMISSIONER PINCHEVSKY: What are the  
12 current hours of operation for the bakery, the  
13 current bakery?

14 MR. COSTELO: They are up very early.

15 (Laughter)

16 COMMISSIONER PINCHEVSKY: I heard that  
17 of bakers.

18 MR. COSTELO: I think that they close  
19 around three.

20 I mean, they are in there at three in  
21 the morning baking and they close around three in  
22 the afternoon.

23 COMMISSIONER PINCHEVSKY: So the  
24 proposed -- the application you are proposing  
25 essentially --

1                   MR. MATULE: I know the retail store is  
2 open later than that. The retail store is open  
3 until seven o'clock.

4                   COMMISSIONER PINCHEVSKY: Oh, is it?

5                   MR. MATULE: Yes, just from personal  
6 experience.

7                   COMMISSIONER PINCHEVSKY: Great.

8                   Thank you.

9                   CHAIRMAN HOLTZMAN: Andy?

10                  MR. HIPOLIT: I just want to go back to  
11 the bike rack, just for approval purposes, if you  
12 were to get an approval tonight, am I hearing from  
13 the applicant that they would provide a bike rack  
14 that the city recommends?

15                  MR. MATULE: Well, the difficulty is we  
16 are on a county road, so as long as there is no  
17 conflict between what the city standard is and what  
18 the county standard is --

19                  MR. HIPOLIT: I am more concerned about  
20 the payment of it, so if the city or county -- you  
21 will pay for it?

22                  MR. MATULE: I will say this. Even if  
23 the county doesn't require a bike rack, we will  
24 provide one in front of the building.

25                  MR. HIPOLIT: Okay.

1                   CHAIRMAN HOLTZMAN: Mr. Stratton is  
2 going to give us a little insight on this bike rack  
3 issue.

4                   COMMISSIONER STRATTON: There are two  
5 standards we are using. We have bike corals, and  
6 then we have bike racks on bollards depending on the  
7 future use or the outdoor seating, I would  
8 potentially recommend biking on a fixed bollard that  
9 is closer to the curb line with a circle, and you  
10 have seen it maybe on Washington Street. But I  
11 would be -- obviously whatever the Board would  
12 consider and also --

13                  CHAIRMAN HOLTZMAN: The coral is  
14 something that they do in the street typically?

15                  COMMISSIONER STRATTON: It is in the  
16 street, and I don't think I would recommend it in  
17 this location.

18                  CHAIRMAN HOLTZMAN: Right. It often  
19 works on corners and things like that, right?

20                  COMMISSIONER STRATTON: Right.

21                  MR. GALVIN: So what do you call it, a  
22 bike bollard?

23                  CHAIRMAN HOLTZMAN: Bike bollard.

24                  COMMISSIONER STRATTON: I don't know if  
25 that is the specific term for it, but I know what I

1 am trying to reference.

2 CHAIRMAN HOLTZMAN: Okay.

3 MR. MATULE: What I would suggest the  
4 architect does, assuming this Board approves the  
5 application, is to be proactive and show that on any  
6 plans that we submit to the county and see what  
7 their feedback is.

8 CHAIRMAN HOLTZMAN: Good. Okay.

9 VICE CHAIR MAGALETTA: Public comments?

10 CHAIRMAN HOLTZMAN: Yes, we are going  
11 to do that. Sure.

12 I see that there are a number of  
13 members of the public here. Is there anybody that  
14 wants to get up and speak on 122 Willow?

15 Sure. Come on up and just give us your  
16 name.

17 MR. GALVIN: Raise your right hand.

18 Do you swear to tell the truth, the  
19 whole truth, and nothing but the truth so help you  
20 God?

21 MR. BRANHAN: I do.

22 MR. GALVIN: State your full name for  
23 the record and spell your last name.

24 MR. BRANHAN: Arthur Branhan,  
25 B-r-a-n-h-a-n,

1 MR. GALVIN: And your street address?

2 MR. BRANHAN: 120 Willow.

3 So I have actually two questions. Am I  
4 allowed to ask them?

5 MR. GALVIN: Yes, fire away.

6 CHAIRMAN HOLTZMAN: Sure. Just speak  
7 up, so we can all hear you and take your time.

8 MR. BRANHAN: Sure.

9 So are there any noise control measures  
10 to be put in place within the building, so that the  
11 adjacent building, such as 120 Willow, are not  
12 subject to like residential noise?

13 MR. GALVIN: I thought Mr. Minervini  
14 already gave us an explanation of that, but I'll let  
15 him do it again.

16 MR. BRANHAN: Within the building?

17 MR. GALVIN: I don't know. He will  
18 answer --

19 CHAIRMAN HOLTZMAN: Your specific  
20 question is about noise --

21 MR. BRANHAN: Music within the  
22 restaurant.

23 CHAIRMAN HOLTZMAN: Oh, music, I'm  
24 sorry. Go ahead.

25 THE WITNESS: There will be no speakers

1 outside the restaurant. Anything, any noise  
2 generated will be contained, of course, within our  
3 walls, and there is no plan to have any of the doors  
4 open.

5 CHAIRMAN HOLTZMAN: And there are no  
6 speakers outside, Mr. Minervini, because there are  
7 no speakers allowed outside in the City of Hoboken.

8 THE WITNESS: We are not proposing any  
9 outdoor speakers.

10 CHAIRMAN HOLTZMAN: Thank you.

11 THE WITNESS: The walls are masonry, so  
12 I don't imagine that any sound would be emitted  
13 through those.

14 You are at 120, so the only concern  
15 would be if the door is open, and there's loud  
16 music, that's not the type of establishment, as Joe  
17 had mentioned, that they are proposing.

18 MR. GALVIN: But it is a fair  
19 question --

20 THE WITNESS: Absolutely.

21 MR. GALVIN: -- because, again, we  
22 don't know what happens in the future, so we want to  
23 make sure it doesn't happen.

24 THE WITNESS: Yes.

25 MR. BRANHAN: I mean, there are windows

1 in the back of the bakery as well, which open up  
2 into our yard, so --

3 THE WITNESS: I should address that.  
4 They have to be closed. We have to close all of  
5 those windows because now with the amount of  
6 construction, we have to conform to the newest  
7 construction codes, which means that those windows  
8 can no longer be there, so they will be masonry, and  
9 that will, of course, stop sound.

10 MR. BRANHAN: And I guess this  
11 concern --

12 CHAIRMAN HOLTZMAN: And let me just  
13 jump in also.

14 If you are looking at the pictures, Mr.  
15 Minervini originally drafted, where the garage door  
16 currently is, as a garage that was actually going to  
17 be operable, so that the whole front of the cafe  
18 could open up, but there was a revisit on that and  
19 even though it is going to look like a roll-up glass  
20 garage door, it is actually going to be a fixed  
21 unit.

22 MR. BRANHAN: Okay.

23 I guess the other concern I have is my  
24 bedroom is facing, so if there is outdoor seating  
25 and that time of stuff, or people speaking outside,

1 cigarette smoke, how is that going to be handled?

2 CHAIRMAN HOLTZMAN: Yes. Well, they  
3 would have to comply with two city ordinances.

4 One is the city's outdoor cafe  
5 ordinance, which limits the hours of operation to 11  
6 p.m., and the other thing that they would need to  
7 comply with is the city's noise ordinance, so if for  
8 some reason things were out of control outdoors,  
9 they would be subject to the same noise ordinance  
10 that anybody else would, and you could call City  
11 Hall or you can call the police department, and you  
12 know, they would have to be sanctioned accordingly.

13 MR. BRANHAN: Okay.

14 And I guess the last question is:  
15 Based on the diagram of the seating within the  
16 garage area, if those are high tops, is there  
17 anything that permits them from like flipping that  
18 and just turning it into a, you know, DJ dance party  
19 type of thing?

20 I mean, I know this is like completely  
21 against what he described, but businesses can  
22 change, right?

23 CHAIRMAN HOLTZMAN: No, it is a great  
24 question, yeah, and I think that goes to your  
25 occupancy that --

1                   THE WITNESS: Yes. We have to provide  
2 to this Board, as well as the construction office,  
3 an occupancy plan --

4                   CHAIRMAN HOLTZMAN: And the fire  
5 department.

6                   THE WITNESS: -- and the fire  
7 department, and the fire department especially will  
8 confirm that we follow those regulations.

9                   So if the next owner, not Joe, were to  
10 remove those tables, they would be caught -- they  
11 would be fined.

12                  MR. HIPOLIT: They also have, as he  
13 said before, on A-4, they have a specific aisle way  
14 they have to keep clear. They have to provide not  
15 only access in and out of the building with a  
16 handicapped access required. Z-4 I mean.

17                  So let's assume on Z-4 between F and G,  
18 this aisle way always has to be maintained opened,  
19 so let's say somebody decided to turn it into a  
20 little nightclub in there, they couldn't. The  
21 police or fire department could come in and say,  
22 hey, time out, you don't have emergency access for  
23 handicapped, and you can't do this, and they would  
24 shut it right down --

25                  THE WITNESS: It's not just

1       handicapped, it's also a second means of egress  
2       because of the occupancy number --

3                   MR. HIPOLIT:  -- there could be in  
4       really an issue of fire, if they didn't do that --

5                   MR. BRANHAN:  Okay.

6                   MR. GALVIN:  And the nature of this  
7       building itself is only a thousand square feet, so  
8       that really limits how many people you can have in  
9       there.

10                   MR. BRANHAN:  I guess one final  
11       question about the kitchen exhaust, because I do  
12       have rear facing windows that are level with their  
13       rear roof.

14                   So in the past, you know, it does expel  
15       some black smoke when they are baking.  So if this  
16       is going to be happening all day, I am a little  
17       concerned about the exhaust blowing around the  
18       block.

19                   THE WITNESS:  Well, the bakery hours  
20       will be approximately the same, so I don't know how  
21       the bakery was run specifically.  I don't know how  
22       clean the combustion was.  I don't know how clean  
23       the lining was, or if it was clean.  That all has to  
24       be looked at, relined and conform to modern  
25       standards, so you should never see any black smoke

1 coming from anything like this.

2 CHAIRMAN HOLTZMAN: All of the exhaust  
3 systems that you are putting in also have to meet  
4 all of the current health code requirements, whereas  
5 basically it seems like what we got here is  
6 something that was built a hundred years ago and  
7 complies with no standard.

8 MR. HIPOLIT: They will actually comply  
9 with new standards, which is a good thing for you  
10 guys.

11 CHAIRMAN HOLTZMAN: I think it is going  
12 to improve from what it currently is or what it has  
13 been in the past.

14 THE WITNESS: It's certainly something  
15 that, you know, but for the Board, the chimney that  
16 we are discussing exits above the third floor here.  
17 So although it was done 100 years ago, there was  
18 some intent to keep the fumes as far away from the  
19 residential space as possible.

20 CHAIRMAN HOLTZMAN: And that chimney  
21 you said is being relined?

22 THE WITNESS: Yes.

23 I have a sense of how it has to be  
24 done, but we are going to have a specialist come in  
25 and tell us exactly what has to be done.

1                   COMMISSIONER PINCHEVSKY: The oven is  
2                   only to be used in the morning. It's not going to  
3                   be used in the evening during dinner.

4                   THE WITNESS: Joe can speak, but I am  
5                   pretty sure the oven will be used all of the time.

6                   COMMISSIONER PINCHEVSKY: Okay. I  
7                   thought you said that the baking would only be done  
8                   in the mornings --

9                   THE WITNESS: As it is now, I am sorry.

10                  COMMISSIONER PINCHEVSKY: -- now it is  
11                  only in the morning?

12                  THE WITNESS: Yes. But we are  
13                  proposing, of course, to use it as a restaurant --

14                  COMMISSIONER PINCHEVSKY: So if there  
15                  were black smoke, and that were to continue, it  
16                  would be continuously all day --

17                  THE WITNESS: If there were black  
18                  smoke.

19                  COMMISSIONER PINCHEVSKY: -- yes, but  
20                  we discussed that issue.

21                  THE WITNESS: Yes.

22                  CHAIRMAN HOLTZMAN: Are you satisfied?

23                  MR. BRANHAN: I'm all set.

24                  Thank you.

25                  CHAIRMAN HOLTZMAN: Thank you.

1                   Sure, come on up.  
2                   MR. GALVIN:   Raise your right hand.  
3                   Do you swear to tell the truth, the  
4 whole truth, and nothing but the truth so help you  
5 God?

6                   MR. GURSKY:   I do

7                   MR. GALVIN:   State your full name for  
8 the record and spell your last name.

9                   MR. GURSKY:   Matthew Gursky  
10 G-u-r-s-k-y.

11                  MR. GALVIN:   Your street address?

12                  MR. GURSKY:   119 Clinton Street.

13                  MR. GALVIN:   I just wanted to make sure  
14 she got it. You're fast.

15                  MR. GURSKY:   Sorry.

16                  MR. GALVIN:   It's all right.

17                  MR. GURSKY:   So I heard a lot  
18 throughout this, particularly during the design  
19 phase, about what it affected in the buildings  
20 nearby, but I haven't heard anything about the  
21 Clinton Street buildings that face from the back  
22 side. It has been all about the other buildings on  
23 Willow.

24                  THE WITNESS:   I mentioned those  
25 specifically, because they are closer, much closer

1 than the one on Clinton, I'm assuming your building  
2 is.

3 Sheet Z-1 has a diagram showing the  
4 outline of all adjacent buildings.

5 So which one are you?

6 MR. GURSKY: 119.

7 THE WITNESS: So you would be here.  
8 correct?

9 MR. GURSKY: Yes.

10 THE WITNESS: So you are one property  
11 to the south --

12 MR. GURSKY: Yes.

13 THE WITNESS: -- and then on Clinton  
14 Street.

15 So our chimney is at the back of the  
16 property just as it exists now.

17 What we are introducing is that the  
18 cooking fan, which is 20 feet off the property line,  
19 it is 20 feet five inches off the rear property  
20 line, which is here, and I can see that you have got  
21 probably 60 feet of yard here. So minimally, you  
22 are talking about 70 feet between the two. I don't  
23 know how much better we can do than that.

24 Is the concern the smells obviously?

25 MR. GURSKY: Smells from that, smells

1 from -- if you walk by any kind of -- obviously, you  
2 have to have it from some restaurants, but also  
3 smells from garbage.

4 I don't even understand how --if you  
5 are talking about keeping the garbage in the  
6 building all day, how is -- that's my concern  
7 because it's your restaurant, but how is it not  
8 going to stink in the restaurant, if they are right  
9 down the stairs?

10 THE WITNESS: It will be an enclosed  
11 space.

12 MR. HIPOLIT: It is a health department  
13 regulation, so they have to meet the health codes on  
14 that.

15 THE WITNESS: And I will tell you that  
16 the health department in Hoboken is pretty strict.

17 So if anyone walking by here can smell  
18 garbage from the basement, in a sealed cell, I don't  
19 how that is possible.

20 I understand the concern. We don't  
21 want that. Of course, that would ruin the  
22 restaurant. That is fair.

23 (Laughter)

24 MR. GURSKY: And the -- and I had a  
25 question on the refrigerator and the noise level on

1 the refrigerator.

2 THE WITNESS: I don't have the  
3 specifications. I can certainly provide it. I  
4 would just say, anecdotally speaking, that is  
5 certainly -- it is about the same as a standard  
6 residential condensing unit, which we all know.

7 MR. HIPOLIT: He is going to have to  
8 meet the noise ordinance, or they will have to come  
9 back here, so they have to be in compliance.

10 CHAIRMAN HOLTZMAN: Frank, you are  
11 going to obviously get this information for us, and  
12 you're going to make sure that you provide it to our  
13 Board Engineer who is going to review it, that it is  
14 within compliance?

15 THE WITNESS: Yes.

16 MR. ROBERTS: And those noise  
17 ordinances are measured to the property line, so in  
18 your case you have a yard area. You would not be  
19 able to -- it would have to -- the audible level  
20 would be at your back property line, which is not at  
21 your house, but at the property --

22 MR. GURSKY: Right.

23 MR. HIPOLIT: So in his case, it's 20  
24 feet. From the unit to the roof is about 20 feet  
25 where it would measure.

1 MR. GURSKY: Okay.

2 CHAIRMAN HOLTZMAN: And if he is in his  
3 yard, though, it is also going to be above, so if he  
4 is sitting hanging out in his backyard, I think it  
5 is going to be pretty tough for him to -- sound  
6 isn't going to travel around the corner of the  
7 building --

8 MR. GURSKY: That area of yard is about  
9 four yards that meet right between the glass shop,  
10 our yard and the two others. There is four yards  
11 that meet right there, and I could tell you that  
12 when the people are just -- they're not being  
13 loud -- talking in normal voices, the people right  
14 behind us, you can hear every word they are saying  
15 in the apartment building.

16 So any noise that is added there will  
17 be heard. Even if it is just a slight noise, that  
18 whole area echoes, and you can hear -- if they play  
19 even soft music, which is why I appreciate the music  
20 question as well, any music that bleeds out there  
21 will make it to those buildings, so that 11 p.m.  
22 thing that you were talking about, my understanding  
23 was, this is a bar. Bars in Hoboken, I guess, can  
24 let people in up until two and then stop serving at  
25 2:30 and kick everybody out by three.

1                   CHAIRMAN HOLTZMAN: I believe that  
2 sounds about correct, yes.

3                   MR. GURSKY: So would that be their  
4 regulations because you kept saying 11 to 12 --

5                   CHAIRMAN HOLTZMAN: That was for  
6 outdoor seating specifically.

7                   MR. GURSKY: Right.

8                   So if you -- well, I have too much  
9 experience in the bars in Hoboken.

10                  If you look outside of any bar at one  
11 o'clock in the morning, you are going to see five or  
12 ten people out there smoking cigarettes, talking and  
13 making noise. Sometimes they get in trouble for  
14 noise issues, and sometimes they don't. This is  
15 very much a residential block, not from First Street  
16 or something, if you going past what used to be the  
17 Poor House, it was expected that there would be  
18 noise here. Everybody there bought their apartments  
19 understanding that this was a residential block.

20                  What can be done to make sure -- you  
21 know, if there are people literally -- just 'cause I  
22 understand the intent of the restaurant is not to be  
23 like this, but at the end of the day, if you're  
24 getting a license or something, that's up to the  
25 user, so what is to restrict or stop literally just

1 smokers, because that's not --

2 CHAIRMAN HOLTZMAN: Well, the thing  
3 that we are trying to evaluate, right, and that we  
4 went over is that we are trying to establish here  
5 from the way that they have their seating laid out,  
6 that their intention -- they are telling us that  
7 they want to operate a restaurant. And we are  
8 basically making them prove to us that through their  
9 seating plan and their occupancy, that they are  
10 having a restaurant. So that is kind of like the  
11 first pass as to what we can do as opposed to  
12 somebody who comes in and has a big room and a bar  
13 that's 40 feet long, and you go, gee, I wonder what  
14 they are up to.

15 MR. GURSKY: Right.

16 CHAIRMAN HOLTZMAN: Okay. So that's  
17 not what this is, and we have kind of established  
18 that, and we went through that.

19 The second thing that we have is still  
20 we have control, and this Board, we are not an  
21 enforcement board, so the enforcement board is  
22 really the police department. And so if there is a  
23 noise ordinance, and there are people hanging out,  
24 whether it is in front of this place or if for some  
25 reason there were kids hanging out in front of

1       Antique Bakery tonight before it ever transitions to  
2       anything, you would call the police. That would be  
3       the answer. That is not to disparage it, but that  
4       is where the responsibility for the enforcement  
5       lies.

6                   Is there some noise that is generated  
7       from any type of establishment?

8                   Sure, yeah, there is definitely. There  
9       has to be some -- there is going to be some  
10      spillover for sure, so I don't want to, you know --

11                   MR. GALVIN: The use is permitted is  
12      what we are up against also. This use is permitted.  
13      It is not a question of whether we want this to go  
14      in this location or not.

15                   MR. GURSKY: Is there already a liquor  
16      license for this place?

17                   MR. MATULE: Yes.

18                   MR. GURSKY: That has already been  
19      approved?

20                   CHAIRMAN HOLTZMAN: Again --

21                   MR. GURSKY: I'm just asking if it was.

22                   MR. GALVIN: We don't do it.

23                   MR. GURSKY: Is there a liquor license  
24      already?

25                   MR. MATULE: They own the liquor

1 license. The place-to-place transfer has not  
2 occurred yet, because we don't have the approvals,  
3 and the police department will not process the  
4 application, you know, before the ABC Board until  
5 the site is approved.

6 MR. GURSKY: Okay.

7 MR. GALVIN: This is a conditional use  
8 for this location and it complies with the  
9 conditional use requirements, therefore, they are  
10 pretty much entitled to get this approval just for  
11 the record.

12 MR. GURSKY: What do you mean?

13 MR. GALVIN: They are entitled to have  
14 their approval for the restaurant. We can't deny  
15 them the right to have a restaurant in this  
16 location.

17 CHAIRMAN HOLTZMAN: We can make them  
18 prove to us that it is a restaurant. We can tell  
19 them they have to comply with the noise ordinance  
20 and remind them of that, and comply with the outdoor  
21 cafe rules and regulations, and then the outdoor  
22 cafe rules and regulations, we also do not permit  
23 smoking.

24 MR. GURSKY: Okay.

25 CHAIRMAN HOLTZMAN: Just because you

1 had mentioned something about smoking.

2 MR. GURSKY: Yes. Like I said, I seen  
3 people get yelled at outside of places like the Poor  
4 House many times for that reason.

5 And the other, I guess, which was sort  
6 of asked before and not fully answered, was I guess  
7 if people are coming in at three or four in the  
8 morning to start baking, and then you have a place  
9 that could potentially be opened as a bar until two  
10 or three in the morning, if you're planning on  
11 running everything 24 hours a day --

12 MR. MATULE: Why don't you explain what  
13 your hours are?

14 I think on the handout there were  
15 hours --

16 MR. GALVIN: Yes, but why don't you  
17 just tell us?

18 MR. CASTELO: I mean, basically with  
19 the baking, I mean, they are not going to be baking  
20 on a commercial level. Their baking is scaled down.  
21 It's on a retail level. So it is really for the  
22 community to have bread in the morning, so we can  
23 continue to provide bread.

24 MR. GALVIN: What time in the morning  
25 would you start your baking operation?

1                   MR. CASTELO: I wish I could tell you.  
2 I am not a baker. I don't know. I know those guys  
3 get in there early, but I don't know exactly when.  
4 I can get you an answer.

5                   MR. GALVIN: How late at night do you  
6 intend to operate your restaurant?

7                   MR. CASTELO: It says 11 p.m.

8                   CHAIRMAN HOLTZMAN: But also, the  
9 baking staff is going to be a minimal amount of  
10 people I would assume.

11                  MR. CASTELO: It's actually less  
12 because it is retail. It's not commercial.

13                  VICE CHAIR MAGALETTA: Less than  
14 currently?

15                  MR. CASTELO: Yes.

16                  So it's really to continue the heritage  
17 of Antique Bakery.

18                  MR. MATULE: The intent is not to be  
19 supplying restaurants all over northern New Jersey  
20 with bread.

21                  MR. GALVIN: It is not going to compete  
22 with Calandra's.

23                  MR. COSTELO: What he's saying about  
24 it, and he is making a comparison to the Poor House,  
25 this is a very totally different establishment. You

1 know, and to your point, I can't speak to the  
2 future, but we do not want that. That is not our  
3 intention.

4 MR. GALVIN: I think sometimes when we  
5 try to put the message out there, that we are being  
6 careful about the future, that sometimes we get  
7 people worried about the worst case scenario. We  
8 didn't mean to do that. We really do believe it is  
9 going to be a nice upscale restaurant, and you're  
10 going to enjoy having it, you know.

11 MR. GURSKY: That was my thought when I  
12 got the letter, which I don't know what the rules  
13 are when you're supposed to get these things. But I  
14 literally got a message like last Wednesday, and I  
15 finally was able to get the letter, because it was  
16 certified mail, on Friday for a meeting on Tuesday.  
17 This is first time I read the document, which was  
18 today, so --

19 MR. GALVIN: It's the normal procedure.

20 MR. GURSKY: That's normal procedure?

21 MR. GALVIN: Yes.

22 MR. GURSKY: Then I also heard that  
23 sometimes you can ask for an extension on that  
24 procedure.

25 MR. GALVIN: No.

1                   CHAIRMAN HOLTZMAN: But feel free to  
2 ask any questions you want. Whatever you want to  
3 ask, feel free.

4                   MR. GALVIN: That is how the Municipal  
5 Land Use Law works throughout the state. You get  
6 notice. Before ten days before the hearing, they  
7 have to get you -- mail a notice, and you receive it  
8 sometime between --

9                   MR. GURSKY: So seven days would be  
10 less than ten days then.

11                  MR. GALVIN: -- they have to get it out  
12 more than ten days in advance, but you don't have to  
13 receive it ten days in advance. You receive it  
14 sometime in that time period. Usually enough time  
15 for you to come to the meeting.

16                  If a request was made for an  
17 adjournment, it would be routinely turned down.

18                  MR. GURSKY: Maybe routinely here. I  
19 know of other Boards that don't --

20                  MR. MATULE: If I may, just as a point  
21 of information for future reference because --

22                  MR. GURSKY: -- in the state.

23                  MR. GALVIN: I do a lot of this work.

24                  MR. MATULE: -- we typically go through  
25 this, where people will call our office and say, I

1 got a notice in my mailbox to pick up a certified  
2 letter from you. What is it about?

3 And typically we are happy to, you  
4 know, we will look up their address and see what the  
5 application was, and we routinely either email or  
6 fax a copy of the notice to them, so they don't have  
7 to go to the post office, because I appreciate the  
8 fact that people are working. It is hard to do  
9 that.

10 MR. GURSKY: There's one part to get  
11 the letter, and there's the next part to actually  
12 get the documents to do any research, which is  
13 another step, which anybody who is working is  
14 working 9 to 4, which is the only hours you can  
15 actually get these documents, so that is why usually  
16 adjournments are honored.

17 CHAIRMAN HOLTZMAN: Did you have any  
18 other specific concerns or questions?

19 MR. GURSKY: No. That is it for now.

20 CHAIRMAN HOLTZMAN: Thank you.

21 COMMISSIONER PINCHEVSKY: Can I follow  
22 up with a quick question?

23 CHAIRMAN HOLTZMAN: Sure. Go ahead,  
24 Mr. Pinchevsky.

25 COMMISSIONER PINCHEVSKY: When you

1 say -- just attention to detail here -- when you say  
2 that you plan on operating the restaurant until 11  
3 p.m., does that mean you are closing the doors when  
4 folks are pretty much on their way out, or does that  
5 mean that the bar will maintain -- will continue to  
6 stay open until, you know, one in the morning or two  
7 in morning on a nightly basis?

8 MR. COSTELO: These hours were defined  
9 by the restaurateurs that we are working with.  
10 These are the hours of operation that they want,  
11 so --

12 COMMISSIONER PINCHEVSKY: So the hours  
13 of operation mean the bar closes down at --

14 MR. CASTELO: -- no one said anything  
15 about keeping the bar open, you know, because,  
16 again, it is a chef-driven restaurant and the  
17 feature is food, and even the drinks they plan on  
18 having a mixologist, so like quintismal cocktails.  
19 It's not like they're serving beer and --

20 COMMISSIONER PINCHEVSKY: Oh, sure.

21 But I mean, you actually caught my  
22 attention when you said mixology, because I am quite  
23 a fan, but there are plenty of places in New York  
24 City that have these wonderful, you know, attention  
25 to detail with the regards to the way they make

1 their drinks. It is really a phenomenal experience,  
2 and they are opened until two or three in the  
3 morning, and it's not pounding beers, so that why I  
4 was just curious if the hours of operation were  
5 inclusive of the bar as well, and I know things can  
6 change, but I think maybe some of the neighbors here  
7 would be perhaps appeased slightly, if it meant that  
8 at eleven o'clock, you know, folks are leaving the  
9 bar as well.

10 MR. COSTELO: There haven't been any  
11 discussions about keeping this open past 11 p.m.

12 COMMISSIONER PINCHEVSKY: Okay. Thank  
13 you.

14 CHAIRMAN HOLTZMAN: Is there anything  
15 else, Mr. Matule, that we haven't hashed out?

16 MR. MATULE: I think at this point,  
17 there's really not much I could add. I think it  
18 would be an improvement to the neighborhood. It  
19 will certainly be a wonderful thing to be able to  
20 keep the bakery there and access their bread.

21 It is somewhat of a unique application,  
22 and with all due respect to the neighbors who came  
23 up, that block of Willow Ave between Second and  
24 First is kind of a semi commercial block. There are  
25 a bunch of other retail stores and business offices,

1 and hair salons, so I mean --

2 CHAIRMAN HOLTZMAN: You are making them  
3 angry, Mr. Matule. Cut your losses.

4 MR. MATULE: It is a permitted use, a  
5 conditional use, and we meet the conditions.

6 CHAIRMAN HOLTZMAN: I'm sorry. There  
7 was a --

8 MR. MATULE: I think we met our  
9 conditions.

10 CHAIRMAN HOLTZMAN: -- I didn't realize  
11 that there might have been some people sitting  
12 behind the thing here.

13 Is there anybody else from the public  
14 who wanted to speak on this application?

15 No, we are good.

16 Okay. Great.

17 So then we will close the public  
18 portion. We will make sure we do that.

19 Are there any other questions or  
20 comments from the Commissioners?

21 No.

22 Seeing none, is there a motion on the  
23 floor to accept this application?

24 COMMISSIONER PEENE: So moved.

25 CHAIRMAN HOLTZMAN: Is there a second?

1 COMMISSIONER GRAHAM: Second.

2 CHAIRMAN HOLTZMAN: Ann Graham.

3 Pat, please call the roll.

4 MS. CARCONE: Commissioner Magaletta?

5 VICE CHAIR MAGALETTA: Yes.

6 MS. CARCONE: Commissioner Stratton?

7 COMMISSIONER STRATTON: Yes.

8 MS. CARCONE: Commissioner Graham?

9 COMMISSIONER GRAHAM: Yes.

10 MS. CARCONE: Commissioner McKenzie?

11 COMMISSIONER MC KENZIE: Yes.

12 MS. CARCONE: Commissioner Pinchevsky?

13 COMMISSIONER PINCHEVSKY: Yes.

14 MS. CARCONE: Commissioner Peene?

15 COMMISSOINER PEENE: Yes.

16 MS. CARCONE: Commissioner Holtzman?

17 CHAIRMAN HOLTZMAN: Yes.

18 Dennis did just bring to my attention

19 that we might have jumped the gun here --

20 MS. CARCONE: We didn't read the

21 conditions.

22 CHAIRMAN HOLTZMAN: -- a little quickly

23 that we did have four or five conditions that he had

24 listed.

25 Can you please go over those, Dennis?

1 MR. GALVIN: Sure.

2 The intensity of LED lighting is to be  
3 adjusted and set in consultation with the Board's  
4 Engineer.

5 The applicant is to comply with the  
6 Board's Engineer and Planner's letter.

7 The applicant is to obtain Hudson  
8 County Planning Board approval.

9 The plan is to be revised to show a  
10 bike bollard rack, and the chimney is to be relined  
11 as represented to the Board.

12 CHAIRMAN HOLTZMAN: Any problems or  
13 issues there, Mr. Matule, or you're comfortable with  
14 everything?

15 MR. MATULE: Fine.

16 CHAIRMAN HOLTZMAN: Great.

17 There were no changes or adjustments  
18 from the Commissioners to those conditions?

19 VICE CHAIR MAGALETTA: No.

20 So a motion to amend the resolution as  
21 just read with those conditions.

22 CHAIRMAN HOLTZMAN: So there is a  
23 motion to amend the resolution with the list of five  
24 conditions.

25 COMMISSIONER GRAHAM: Second.

1 MS. CARCONE: Are we doing another  
2 vote?

3 VICE CHAIR MAGALETTA: Another vote.

4 CHAIRMAN HOLTZMAN: Sure, why not.  
5 Thank you, Frank.

6 MS. CARCONE: Motion to amend.

7 CHAIRMAN HOLTZMAN: Thank you, Frank.  
8 Thank you, Mr. Matule.  
9 Thanks, Bob.

10 MR. MATULE: Thank you, Mr. Chairman.

11 CHAIRMAN HOLTZMAN: Call the vote on  
12 the motion to amend --

13 MS. CARCONE: Motion to amend the  
14 resolution --

15 CHAIRMAN HOLTZMAN: -- to include the  
16 conditions.

17 MS. CARCONE: Who made that?

18 CHAIRMAN HOLTZMAN: Frank.

19 MS. CARCONE: And a second by Ann?

20 CHAIRMAN HOLTZMAN: Yes.

21 MS. CARCONE: Okay. Commissioner  
22 Magaletta?

23 VICE CHAIR MAGALETTA: Yes.

24 MS. CARCONE: Commisisoner Stratton?

25 COMMISSIONER STRATTON: Yes..

1 MS. CARCONE: Commissioner Graham?

2 COMMISSIONER GRAHAM: Yes.

3 MS. CARCONE: Commissioner McKenzie?

4 COMMISSIONER MC KENZIE: Yes.

5 MS. CARCONE: Commisisoner Pinchevsky?

6 COMMISSIONER PINCHEVSKY: Yes.

7 MS. CARCONE: Commissioner Peene?

8 COMMISSIONER PEENE: Yes.

9 MS. CARCONE: Commissioner Holtzman?

10 CHAIRMAN HOLTZMAN: Yes.

11 We are going to just take a five-minute  
12 break for Phyllis.

13 We're off the record. Thank you.

14 (Recess taken)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
Notary Public of the State of New Jersey  
My commission expires 11/5/2015.  
Dated: 2/5/15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

CITY OF HOBOKEN  
PLANNING BOARD

----- X  
RE: 800-822 MONROE STREET : February 3, 2015  
BLOCK 87, LOT 1.01 : 8:45 p.m.  
----- X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman Gary Holtzman
- Vice Chair Frank Magaletta
- Commissioner Ann Graham
- Commissioner Caleb McKenzie
- Commissioner Rami Pinchevsky
- Commissioner Caleb D. Stratton
- Commisioner Ryan Peene

A L S O P R E S E N T:

- David Glynn Roberts, AICP/PP, LLA, RLA  
Board Planner
- Andrew R. Hipolit, PE, PP, CME  
Board Engineer
- Patricia Carcone, Board Secretary

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11                  BY: KEVIN J. COAKLEY, ESQ.  
12                  Attorney for 800-822 Monroe Street  
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I N D E X

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WITNESS

PAGE

ERIC BALLOU, PE

120 & 134

TODD POISSON, AIA

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1                   CHAIRMAN HOLTZMAN: We have one more  
2 item on our agenda this evening. It is 800-822  
3 Monroe Street.

4                   Mr. Coakley, how are you this evening,  
5 sir?

6                   MR. COAKLEY: Good evening.

7                   CHAIRMAN HOLTZMAN: Good evening.

8                   MR. COAKLEY: Good evening, Mr.  
9 Chairman, Commissioners.

10                  Kevin Coakley from the law firm of  
11 Connell Foley on behalf of the applicant.

12                  Just to give you a little bit of  
13 background, we filed this application for a 186-unit  
14 building at 800 Monroe on October 3rd.

15                  We submitted to the professionals  
16 copies of the application on November 7th.

17                  There was a completeness hearing held  
18 by the Subcommittee on or about November 12th.

19                  After that hearing, at which we were  
20 declared incomplete, we submitted additional  
21 information to the Board on November 14th.

22                  Then on January 15th, Mr. Galvin gave  
23 us the opportunity to come and discuss these matters  
24 again with the Board and asked us to reply to six  
25 matters of incompleteness, and we did that, and

1       there is a letter, dated January 26th. I hope you  
2       have it in your folder, so that is essentially where  
3       we are.

4                       There are three matters of  
5       incompleteness that deal with the documents. There  
6       are three matters that really deal with answers that  
7       we provided, and then there is the matter of whether  
8       we can make the application as being an applicant,  
9       even though we are not a redeveloper. We haven't  
10      been designated as a redeveloper, so that is a  
11      discrete legal issue at the end of this.

12                      If it is okay with you, Mr. Chairman, I  
13      thought we would address the six items that were  
14      raised by Mr. Galvin and see where we go from there.

15                      CHAIRMAN HOLTZMAN: Terrific. Please  
16      proceed.

17                      MR. COAKLEY: So the first item has to  
18      do with the survey. Basically, you know, the  
19      checklist has certain requirements. It is listed on  
20      Page 2 of our letter, Item 22. It says: "Present  
21      and proposed topography, based on NJ Geodetic  
22      Control Survey datum, at two-foot contour intervals,  
23      including 100 foot outside the site to show the  
24      relationship between adjoining properties."

25                      So we think we did that.

1                   Mr. Galvin has listed some other  
2 requirements that are -- that may be common to other  
3 places, or someone may have told him, but they are  
4 not on the checklist, that type of additional  
5 information that he has listed in paragraph one of  
6 his letter.

7                   We've recited what the checklist  
8 actually says on Page 2 when we start out with  
9 checklist Item 22.

10                   But, you know, we provided a  
11 topographic survey showing a hundred feet all around  
12 the side. We did spot elevations on that survey.  
13 You know, we tried to show the change in grade, but  
14 it is a very flat area, so you don't go from contour  
15 four to six. It is just not that dramatic of a  
16 relief there to have that type of contour. So  
17 anyhow, we believe we have complied with that.

18                   Mr. Ballou, whose firm was the site  
19 engineer and arranged for the survey is here, if you  
20 want to discuss that with him further.

21                   MR. GALVIN: Why don't we take these  
22 one at a time. We got one.

23                   What do you think?

24                   MR. HIPOLIT: It is typical that when  
25 you have a very flat site, you know, involving

1 two-foot contours, if it is within a hundred feet of  
2 this site, the requirement of a hundred feet, at  
3 those limits the contour doesn't cover, you provide  
4 spot shots, if not, locate curbs and drainage inlets  
5 and things to highlight for the Board, so when you  
6 evaluate an application, they can look at it,  
7 educate it with the data that's out there to see how  
8 the lack of topography, it's very flat, affects the  
9 proposed approval, so there is a reason for this  
10 requirement. I believe it is very easy to provide.  
11 I am just not sure whether the applicant can provide  
12 it. It's just a couple of extra spot checks. They  
13 probably have the data.

14 MR. COAKLEY: There were spot grades on  
15 the plans and that's --

16 CHAIRMAN HOLTZMAN: So the evaluation  
17 of this type of topography is also important when we  
18 consider our flood plain and any kind of stormwater  
19 issues that would be either affecting this site or  
20 also most importantly adjacent properties.

21 MR. HIPOLIT: Right.

22 As we saw the application for Hoboken  
23 Cove or the matter of Maxwell, they had an area that  
24 was very flat, and by making changes in the road,  
25 they actually were going to about less than a

1 hundred feet away, actually flooding sites on the  
2 door, if the flood actually would come, and that was  
3 a case where this checklist requirement was very  
4 valuable, and then they took some spot shots on some  
5 door sills and some areas out there to show that  
6 within the hundred feet, they weren't going to flood  
7 private property when they were done with the  
8 development.

9 In this case, the site is vacant  
10 basically. When they start building up, it fills up  
11 the flood plain, maybe, maybe not, depending, and in  
12 a flat area, it is even more important than in a --

13 MR. COAKLEY: Well, there is a  
14 difference between what is required to be on the  
15 checklist for submission of an application and what  
16 a board engineer might suggest during the course of  
17 an application, that the people can ask for more  
18 information, and it's usually provided.

19 But this is a matter of, you know,  
20 longstanding New Jersey law, that checklists are to  
21 be abided by, and I think we have complied fully  
22 with that checklist.

23 MR. GALVIN: Let me just say this: My  
24 advice to the Board and to our professionals has  
25 been that we should follow the checklist

1 steadfastly, and we are not trying to create  
2 additional checklist items. And if we are giving  
3 you that appearance in any respect, it is  
4 incorrect --

5 MR. COAKLEY: No. I am just  
6 recounting --

7 MR. GALVIN: -- and the other thing  
8 that I have to be careful how I choose my words, I  
9 just want to circle back to the issue of the fact  
10 that in my view, you are not properly before the  
11 Board because you have not been appointed the  
12 redeveloper --

13 (Chairman confers with Mr. Galvin.)

14 MR. GALVIN: -- I'm sorry -- but I  
15 needed to lay that down before I got to the next  
16 sentence, which was -- I want us to keep going.  
17 Let's put a box around this issue on Item 22.

18 You put your thought process, Andy put  
19 his thought process. We may not reach a meeting of  
20 the minds on that, but maybe we should go on to the  
21 next thing.

22 But I think if this was a different  
23 type of a case, you know, we might be saying you  
24 could do this or do that, or maybe you would just do  
25 it, just to get it completed. I don't know why you

1 are not saying, "Yes, we will do that."

2 I am not completely comprehending.

3 MR. HIPOLIT: It is literally a simple  
4 task.

5 MR. GALVIN: But if there were a  
6 different matter than this is, then everybody would  
7 be -- everybody, including yourself, Mr. Coakley,  
8 would be maybe more cooperative.

9 So let's go on to the next item.

10 MR. COAKLEY: All right.

11 Checklist Item 25, we have recited that  
12 there is a map showing the entire drainage area, and  
13 the drainage area contributing to each pertinent  
14 drainage structure along with drainage tabulation  
15 sheets showing calculations for each drainage area.

16 You know, as to that one, I think that  
17 in material respects what Mr. Galvin set forth is  
18 basically the same thing as we have outlined there,  
19 so we don't have any disagreement with how he has  
20 characterized what the checklist requires.

21 But we have provided the drainage areas  
22 from the site in the before and after. We have  
23 provided the calculations of the drainage areas in  
24 the before and after. We have also noted in the  
25 report that, you know, as you develop this site, you

1 are not going to have drainage going into inlets  
2 that you presently have, but you are going to  
3 have -- directly send the drainage into storm  
4 sewers, so that there is going to be a reduction in  
5 the amount of drainage going into inlets.

6 So, again, we think that we have  
7 provided the document that meets the checklist.

8 MR. GALVIN: Andy, anything on that?

9 MR. HIPOLIT: On Item 25, there is only  
10 one thing they didn't provide, which is the  
11 drainage --

12 CHAIRMAN HOLTZMAN: I'm sorry. One  
13 thing they did or did not?

14 MR. HIPOLIT: -- the one thing they did  
15 not provide is the drainage area maps attributed to  
16 their site, and from off their site, so the  
17 checklist requires to show the offset drainage  
18 coming on to your site or the inlets that surround  
19 the site, which they haven't provided.

20 CHAIRMAN HOLTZMAN: Again, this is more  
21 of a neighborhood in looking at the surrounding  
22 properties and the effect of the surrounding  
23 properties on this property, and this property on  
24 the surrounding properties.

25 MR. HIPOLIT: True.

1                   MR. COAKLEY: Well, we don't agree with  
2 that interpretation of the checklist --

3                   MR. GALVIN: And we're going to --  
4 right.

5                   MR. COAKLEY: -- I would like to call  
6 Mr. Ballou up on that one.

7                   MR. GALVIN: Sure.

8                   CHAIRMAN HOLTZMAN: Can we just find  
9 out who you have got for us for the court reporter?

10                  MR. BALLOU: Eric Ballou, B-a-l-l-o-u.

11                  So how we addressed --

12                  (Board members confer)

13                  CHAIRMAN HOLTZMAN: Can we just  
14 introduce Mr. Ballou, what his --

15                  MR. GALVIN: I don't think we have  
16 to -- do you want to put him under oath?

17                  It is not a hearing.

18                  CHAIRMAN HOLTZMAN: Let's put him on  
19 the record as to what his professional background is  
20 that he's going to contribute here.

21                  MR. COAKLEY: Mr. Ballou, what is your  
22 professional background?

23                  MR. BALLOU: I am a professional  
24 engineer in the State of New Jersey. I have  
25 testified in front of numerous Boards in regards to

1 urban redevelopment.

2 CHAIRMAN HOLTZMAN: Okay.

3 MR. COAKLEY: And you've heard the  
4 discussion --

5 MR. GALVIN: Wait a minute. Time out.

6 What do you think?

7 Do you think I should do it?

8 VICE CHAIR MAGALETTA: Yes. He's going  
9 to testify, right?

10 MR. GALVIN: Yes, but this is not a  
11 hearing, though.

12 Raise your right hand.

13 Do you swear to tell the truth, the  
14 whole truth, and nothing but the truth so help you  
15 God?

16 MR. BALLOU: I do.

17 E R I C B A L L O U, PE, having been duly sworn,  
18 testified as follows:

19 MR. GALVIN: Thank you.

20 Okay. Thank you.

21 MR. COAKLEY: You have heard the  
22 discussion that has gone on between the Board with  
23 respect to the drainage calculations.

24 Would you just elaborate to the Board  
25 what the plans you submitted provide?

1 THE WITNESS: Yes.

2 This is an exhibit, which is the  
3 predevelopment drainage map within the submitted  
4 reports. This is not a new exhibit.

5 This really shows this entire area  
6 about 1.4 acres, presently drains to two inlets on  
7 the southern end, so there is a large 1.4 acres of  
8 drainage.

9 Were we to follow this property, we are  
10 actually disconnecting, taking the 1.2 acre building  
11 and connecting that directly into the storm sewer  
12 system.

13 So by connecting this large area  
14 directly to the system and not to the inlets by the  
15 fall, we are actually decreasing the tributary areas  
16 to the inlets, so we chose to address it via  
17 verbiage within the report versus graphically on the  
18 plan, but we feel like the verbiage addressed that  
19 comment.

20 MR. HIPOLIT: I mean, this is really a  
21 hearing issue. That is not the requirement of the  
22 checklist. The checklist is the drainage area map.

23 CHAIRMAN HOLTZMAN: Mr. Ballou, is it  
24 possible that you could provide this to us in a  
25 graphic form?

1 THE WITNESS: Well, we feel that we --

2 MR. COAKLEY: Wait.

3 Was there a drainage area map provided?

4 THE WITNESS: Yes, there was.

5 MR. COAKLEY: Were their drainage area  
6 calculations provided?

7 THE WITNESS: Yes, there was.

8 MR. HIPOLIT: Again, there was a map  
9 provided and there were calcs provided, but the site  
10 existing drains into inlets, which has other areas  
11 that drain to them. They are only -- they're  
12 looking at their property as just inside of their  
13 bucket, so there is off-site drainage areas that are  
14 required to be provided.

15 Whether they are decreasing or  
16 increasing, it doesn't matter on the checklist, and  
17 that is the issue that they don't provide --

18 MR. COAKLEY: I am not sure that I see  
19 that verbiage that the engineer is referring to.

20 I mean, I know he thinks that is what  
21 the checklist says, but I don't read it as saying  
22 that.

23 MR. GALVIN: Okay. Let's move on to  
24 the next one.

25 MR. COAKLEY: All right.

1                   The next one is Item 28. It calls for  
2 "Streetscape elevations of proposed buildings and  
3 all adjacent buildings along the same block  
4 frontage."

5                   Mr. Galvin, your letter of January 15th  
6 in paragraph three addressed Checklist 28 in  
7 different terms than the checklist --

8                   MR. GALVIN: Oh, okay.

9                   MR. COAKLEY: -- and we believe that we  
10 have complied exactly with the checklist through  
11 Sheets A-400, A-401 and A-402 of the architectural  
12 plans that were submitted with the application.

13                   A-400 deals with the streetscape  
14 requirements regarding the applicant's property, 401  
15 regarding the Jackson side of the property, and 402  
16 regarding the Monroe side of the property.

17                   So we believe that we have (a)  
18 accurately stated what the checklist provides, and  
19 (B) complied with it.

20                   We have our architect here who can  
21 testify to that, if you think you need the  
22 testimony.

23                   Why don't you come up?

24                   MR. GALVIN: Raise your right hand.

25                   Do you swear to tell the truth, the

1 whole truth, and nothing but the truth so help you  
2 God?

3 MR. POISSON: Yes.

4 T O D D P O I S S O N, AIA, having been duly  
5 sworn, testified as follows:

6 MR. GALVIN: State your full name for  
7 the record and spell your last name.

8 THE WITNESS: Todd Poisson, P, as in  
9 Peter, o-i-s-s-o-n.

10 MR. GALVIN: Okay. And you are a  
11 licensed architect?

12 THE WITNESS: Yes.

13 MR. GALVIN: Okay.

14 You may proceed.

15 MR. COAKLEY: Have you heard the dialog  
16 with the Board in the last couple of minutes --

17 THE WITNESS: Yes, I have.

18 MR. COAKLEY: -- about these three  
19 sheets?

20 THE WITNESS: Yes.

21 MR. COAKLEY: Can you just explain to  
22 the Board what is on the sheets?

23 THE WITNESS: So on 400 is an elevation  
24 of the 8th Street elevation of our building. Our  
25 building is the only building on the block, so there

1 are no adjacent buildings shown.

2 A-401 is an elevation of our building,  
3 Jackson Street and the adjacent property here. The  
4 only other building on Jackson Street is this  
5 building. It says, no existing adjacent building,  
6 six-story residential.

7 And then on 402 is the third street  
8 elevation of Monroe Street, and this is our  
9 building, our design. The adjacent building here,  
10 existing adjacent building, six-story residential.

11 MR. GALVIN: What do you think?

12 MR. HIPOLIT: If they are going to  
13 disagree, the streetscape is not just the buildings.  
14 The streetscape refers to everything.

15 So on the street, there are things that  
16 exist, whether it be trees or benches or bike racks  
17 or whatever they are, or whatever they are going to  
18 propose, and all of that should be shown on the  
19 streetscape elevation.

20 It's, again, like the first two, it is  
21 very simple to provide. They're just not providing  
22 it, and I'm not sure why.

23 CHAIRMAN HOLTZMAN: Fire hydrants?

24 MR. COAKLEY: The checklist says:  
25 "Streetscape elevations of proposed buildings and

1 all adjacent buildings along the same block  
2 frontage." Buildings.

3 MR. HIPOLIT: Again, it is streetscape.

4 CHAIRMAN HOLTZMAN: And buildings.

5 MR. HIPOLIT: Right. The buildings are  
6 part of the streetscape.

7 MR. GALVIN: We have a friendly  
8 disagreement.

9 Let's continue.

10 MR. HIPOLIT: That's what the Board --  
11 the Board always gets it.

12 MR. GALVIN: We always get it?

13 MR. HIPOLIT: Always get it.

14 MR. GALVIN: Okay.

15 MR. COAKLEY: All right.

16 Number 34 calls for: "Cost estimates  
17 and proposed construction and maintenance bonds and  
18 construction time schedules related to building  
19 construction for any required improvements not  
20 proposed to be completed before the issuance of a  
21 certificate of occupancy."

22 And no disagreement with Mr. Galvin's  
23 characterization of 34.

24 We have provided as a note on one of  
25 the sheets, particularly it is Sheet Z-100, that

1       there will be no items that will be incomplete at  
2       the time of the CO.  So there is no cost estimates  
3       that we can provide for something that won't be  
4       needed.

5                   MR. HIPOLIT:  I think that is a really  
6       a Board decision, that that has never happened here,  
7       and to have no items at the time of CO is almost  
8       impossible.  So, again, the idea is all the  
9       applicant has to do is provide a cost estimate of  
10      what the public improvement portions are, and they  
11      would be complete with this item.  Again, it was a  
12      very simple thing to provide, and it was not  
13      provided.

14                   MR. GALVIN:  All right.

15                   Go ahead.

16                   MR. COAKLEY:  35 is:  "Requires plans  
17      for off-tract improvements, including cost estimates  
18      and calculations of the share to be borne by the  
19      developer."

20                   You know, we do not propose off-tract  
21      improvements, so there is no cost estimate required  
22      for something that we are not providing.

23                   MR. GALVIN:  Andy?

24                   MR. HIPOLIT:  I think this is kind of a  
25      bigger issue in that they are not proposing any

1 off-tract improvements, which may not be the result  
2 of an application, so in this one particular case  
3 this is one of the items, where the Board can say,  
4 we have to hear the application to see if there are  
5 any requirements.

6 So they are saying: We are not  
7 providing any or proposing any.

8 I doubt that is what will happen with  
9 the application, but that is one item where you  
10 probably could say, we will have to hear this as  
11 part of the hearing to determine that.

12 CHAIRMAN HOLTZMAN: One of the standard  
13 type of things that might be an off-tract  
14 improvement would be repaving of the surrounding  
15 streets and things of that nature?

16 MR. HIPOLIT: Drainage -- utilities,  
17 drainage, traffic signals, striping, crosswalks,  
18 landscaping, it could be -- there will be a lot with  
19 an application of this size, significant off-tract  
20 improvements.

21 MR. GALVIN: But under the  
22 circumstances, based on what they are representing,  
23 it could be deferred, and it wouldn't be a checklist  
24 item, and it wouldn't be something that would  
25 prevent them from proceeding to the Board. It might

1 be unrealistic, but it wouldn't be something that  
2 would keep them from going --

3 CHAIRMAN HOLTZMAN: Dave?

4 MR. ROBERTS: Just an observation that  
5 kind of goes to Mr. Galvin's original pie point, but  
6 that is something that is always addressed in  
7 redevelopment, off-tract, whether they're required  
8 or not, what they are, what the developer's  
9 contribution to them is, it is almost without  
10 exception in a redevelopment, so before it even gets  
11 to the Planning Board, so that is what I just wanted  
12 to point out.

13 CHAIRMAN HOLTZMAN: Okay.

14 Mr. Coakley?

15 MR. COAKLEY: The last one on Mr.  
16 Galvin's list was number 36, which requires "Copies  
17 of approvals of other governmental agencies as may  
18 be required" --

19 MR. GALVIN: Applications.

20 MR. COAKLEY: -- okay. Copies of  
21 applications --

22 MR. GALVIN: I agree with you on that.

23 MR. COAKLEY: -- "of other governmental  
24 agencies as may be required or an affidavit  
25 indicating that application has been made to such

1 agencies, i.e., NJDEP, Hudson County Planning, North  
2 Hudson Sewerage."

3 And you said to concentrate on, in your  
4 letter, Mr. Galvin, specifically on DEP, right?

5 You said specifically an affidavit  
6 indicating an application submitted to DEP.

7 MR. HIPOLIT: So really the issue is  
8 that on this site, sewer connection or North Hudson  
9 Sewerage Authority would be the -- or flood plain  
10 management at DEP because of where it is located and  
11 the elevation and the flood plain, so they are very  
12 crucial to this application, though the Board can't  
13 require them to get the permit at this time, they  
14 can require them to have an application filed  
15 pending approval or not approval at this Board,  
16 which is what the checklist gears it for.

17 MR. COAKLEY: In the real world, no  
18 one, almost ever does what your engineer just  
19 suggested be done.

20 That is, you get an application  
21 approved by a local Board, and then you go to DEP,  
22 and in this case in particular, you know, (a) you  
23 don't try to start tying up your sewer capacity if  
24 you have an issue with sewer capacity by getting a  
25 DEP permit before you have local approval.

1                   Secondly, where here you have a flood  
2 ordinance that requires a flood ordinance review,  
3 which after that, you would take that to DEP, so I  
4 mean obviously, the law is that you can't hold up an  
5 approval because of an approval from another  
6 agency --

7                   MR. GALVIN: We are agreeing with you  
8 on that. Just for the record, I am agreeing with  
9 you all day long on that.

10                  MR. COAKLEY: -- and you would have to  
11 find -- you would have to search high and low for an  
12 instance where someone was compelled by a Board to  
13 file applications with DEP before they heard an  
14 application.

15                  MR. GALVIN: That I don't know about.  
16 If our checklist says you have to make an  
17 application --

18                  MR. HIPOLIT: It says make the  
19 application --

20                  MR. GALVIN: -- it doesn't mean you  
21 have to get approval, but you have to make an  
22 application --

23                  MR. COAKLEY: The checklist says  
24 basically you have to have an affidavit, and we did  
25 file an affidavit, indicating the ones that we have

1 submitted and the ones that we didn't submit and  
2 why.

3 MR. GALVIN: So would you agree that  
4 that one may be satisfied?

5 MR. HIPOLIT: If the affidavits are  
6 okay with you, I would be fine with that. I have  
7 not seen the affidavits.

8 MR. GALVIN: And what does your  
9 affidavit -- let's talk about that.

10 Do you have an affidavit with you?

11 MR. COAKLEY: Well, it is part of the  
12 application --

13 MR. GALVIN: I know, but if you could  
14 help me --

15 MR. COAKLEY: -- I can tell you what it  
16 says.

17 It says that we filed an application  
18 with Hudson County. We filed an application with  
19 the Hudson -- North Hudson Sewerage. We filed an  
20 application with the Soil Conservation Service, and  
21 we have not filed with the DEP for the reasons I  
22 just outlined.

23 MR. GALVIN: I mean, I think that you  
24 are going to have to file with the DEP.

25 Do you think that that satisfies the

1 spirit of that checklist item?

2 It could be argued it does.

3 MR. HIPOLIT: It could be argued it  
4 does, but again, I think the most crucial issue out  
5 of all of the ones we mentioned is the DEP approval.

6 MR. GALVIN: But, again, it would have  
7 to be --

8 MR. HIPOLIT: In most cases because it  
9 is such a crucial issue here, I would think that the  
10 applicant would file there maybe first to get a  
11 determination and then move their application  
12 forward later on.

13 I don't agree that this is not common  
14 practice in the industry. Usually you take the  
15 crucial portions of the application for the State  
16 agencies, and you meet with them. You would meet  
17 with the DEP ahead of time, or you would meet with  
18 North Hudson Sewerage Authority ahead of time to  
19 kind of find out where their head is with respect to  
20 sewer passage and flood elevations, so you would  
21 have actually filed something with them to say, hey,  
22 we are proposing a new building, what do you think  
23 your base flood elevation is, where is it going to  
24 be. You would at least stay in front of it, because  
25 why would you propose a building of such a size and

1 not even have a discussion with them ahead of time?

2 It doesn't make sense.

3 CHAIRMAN HOLTZMAN: Is it because it is  
4 a thing that we've encountered numerous times, which  
5 is also --

6 MR. HIPOLIT: Right.

7 CHAIRMAN HOLTZMAN: -- we don't want to  
8 put an applicant and the Board and all of the  
9 professionals involved in this through an approval  
10 process or a hearing with a building that at the end  
11 of the day might need to be completely redesigned.

12 MR. HIPOLIT: Correct. It is common  
13 with that.

14 MR. COAKLEY: I would like to get some  
15 testimony from Mr. Ballou on this.

16 MR. GALVIN: Yes.

17 CHAIRMAN HOLTZMAN: Sure, sure.

18 E R I C B A L L O U, PE, having been previously  
19 sworn, testified further as follows:

20 MR. COAKLEY: Mr. Ballou, you have  
21 heard the dialog about going to DEP before you come  
22 to this Board for site plan approval?

23 THE WITNESS: Yes.

24 MR. COAKLEY: And what is your work  
25 experience as an engineer?

1           THE WITNESS: We always go to get local  
2 approval first because a lot of times with the local  
3 approval process, there is changes and modifications  
4 to the plans that will occur.

5           If we get a DEP permit, if you change  
6 anything, then you have to go back and resubmit back  
7 to them and get all of the changes that were made at  
8 the local level reapproved again through the State  
9 process. So we find it to be much more appropriate  
10 to get the local level approval and get the local  
11 modifications done, especially working with a Flood  
12 Plain Manager in your town, and work out all of  
13 those issues and then submit the completed product  
14 to the DEP.

15           MR. COAKLEY: And is your work practice  
16 to work with people who develop properties?

17           THE WITNESS: Yes, especially in flood  
18 plains in urban areas.

19           MR. HIPOLIT: We're not -- again, so  
20 the record is clear, we are not asking for DEP  
21 approval, nor is the checklist.

22           The checklist is asking for an  
23 application to be filed, and that --

24           THE WITNESS: We don't --

25           MR. COAKLEY: Well, did you file the

1 application --

2 THE WITNESS: -- we don't feel it is  
3 appropriate to file an application that we don't  
4 feel is going to be the final product. We think  
5 that is a waste of work effort and inappropriate.

6 MR. HIPOLIT: You know, you could apply  
7 for a waiver from the checklist requirement. That's  
8 not the checklist requirement. But they have not  
9 asked for a waiver.

10 CHAIRMAN HOLTZMAN: Dennis?

11 MR. GALVIN: No. I think there's no  
12 sense having any more back and forth, and that is  
13 where I was trying to get to. I want to be careful  
14 not to characterize this case, and that is where  
15 some difficulty for me is.

16 But if this were a typical case, I  
17 mean, this is something that you might likely waive  
18 and allow them to proceed and allow them to make  
19 that argument on a given case, it doesn't make any  
20 sense.

21 I mean, I think Mr. Hipolit's point is  
22 good. I mean, if we're going to -- I mean, I  
23 understand where everyone is coming from. If you're  
24 in a suburban municipality, and you were going to do  
25 wetlands, you could make a proposed development, but

1 if you didn't have an idea of where the wetlands  
2 line was going to be drawn, it could have a really  
3 big impact on what your yield is going to be.

4 In this situation, both the flooding  
5 and the sewerage should be pretty much  
6 straightforward based on the number of units that  
7 you have.

8 MR. HIPOLIT: It should be.

9 MR. GALVIN: Okay?

10 I can see both sides of it.

11 I understand the argument that you are  
12 making that, you know, why do double work, and let's  
13 see what the Board is going to find first and then  
14 go to the other outside agencies, and approvals are  
15 subject to outside agency approvals.

16 In this case we are talking about what  
17 the checklist requires, and I have to assume that  
18 whatever the checklist requires is reasonable. I am  
19 not supposed to ask for more than what the checklist  
20 requires.

21 MR. COAKLEY: Mr. Galvin, it is counter  
22 intuitive that the law by statute would prohibit you  
23 from denying an application where someone didn't  
24 have an approval, but would allow you to deny  
25 hearing the application because they hadn't made an

1 application --

2 MR. GALVIN: Again, my goal in life is  
3 to try to avoid as many conflicts as I can.

4 So on this particular item, I think  
5 this is something that we should avoid a conflict  
6 on. I don't think we need to stand on this issue.

7 I think that what they have provided,  
8 the affidavit that they provided meets the spirit,  
9 and I think if we were in a different setting, we  
10 would be comfortable with advancing them, so I don't  
11 think -- I think on Items 35 and 36 from what I have  
12 seen, I think that out of the six items we still  
13 remain at a loggerhead on 22, 25, 28 and 34. But as  
14 to 35 and 36, it is for the Board to decide, but I  
15 think those checklist items --

16 VICE CHAIR MAGALETTA: Well, I have one  
17 question that goes to Andy's point.

18 I mean, are they asking for a waiver?  
19 Is the waiver --

20 MR. GALVIN: Well, they should be. If  
21 we were cooperating, we would be -- you could  
22 easily -- if this was a different setting, and I  
23 said, hey, give me, you know, could you give me a  
24 request to waiver that we would probably grant, I  
25 think Mr. Coakley would do that.

1                   VICE CHAIR MAGALETTA: But they are not  
2           doing that?

3                   MR. GALVIN: I don't know.

4                   VICE CHAIR MAGALETTA: Okay.

5                   MR. GALVIN: You're not asking us to  
6           waive that --

7                   MR. COAKLEY: We believe we submitted a  
8           complete application.

9                   MR. GALVIN: Right --

10                  VICE CHAIR MAGALETTA: See, that's the  
11           trouble.

12                  MR. GALVIN: -- if we are going to  
13           fight over some things, we are going to fight over  
14           all of the interesting things we can fight over.

15                  VICE CHAIR MAGALETTA: Okay. Okay.  
16           Thank you.

17                  MR. COAKLEY: Okay.

18                  As far as the redeveloper issue, Mr.  
19           Galvin, you restated your opinion in your letter.

20                  MR. GALVIN: I think that is the right  
21           thing for me to do. You should know where I am  
22           coming from.

23                  MR. COAKLEY: You know, I don't  
24           conceive it likely that the Board is going to  
25           disregard your opinion, so I don't know whether it

1 makes sense to discuss the issue, but I am happy to  
2 if you would like.

3 MR. GALVIN: Listen, I think that,  
4 again, just like these other items, although there  
5 is two here that we just moved the ball on, I think  
6 that we are at a junction where we are at an  
7 impasse, and one of us is going to be right in this  
8 view, and one of us is going to be wrong, and I  
9 don't have a crystal ball. I don't know what the  
10 answer is going to be. But I think it would be  
11 valuable for you to give your opinion to the Board  
12 and give them a chance to see if they are moved by  
13 that.

14 MR. COAKLEY: All right.

15 Well, we discussed this to the  
16 committee previously, so I will be brief and shorter  
17 than I was at the time.

18 But the main issue here is whether or  
19 not there is some ordinance that requires a property  
20 owner to be a redeveloper before it can be an  
21 applicant for site plan approval on its own  
22 property, and in our view, there is no ordinance  
23 that so requires.

24 There is an ordinance creating a  
25 redevelopment plan, but that ordinance doesn't have

1 kind of requirement. And in those cases where  
2 courts have looked at this issue, they have always  
3 had instances where there has been something in the  
4 ordinance that directly addresses that requirement,  
5 like you have to go to the Council before you can  
6 submit to the Planning Board, or you have to be  
7 designated as a redeveloper, or you have to go to a  
8 Council committee before you can submit an  
9 application. There is all of those things in these  
10 cases that address that issue.

11 It just isn't present here, so there is  
12 nothing in that northwest plan that requires someone  
13 to be a redeveloper or to do any of those other  
14 types of things even before coming in to the Board.

15 The second thing is that this issue was  
16 addressed at the time that this property was  
17 purchased by this owner out of bankruptcy, and the  
18 Court's order in bankruptcy said that nothing in  
19 that order shall be deemed to create an obligation  
20 to be a redeveloper. And at the time counsel for  
21 Hoboken, you know, sought to have language in that  
22 order that would create the redeveloper first order  
23 of things, and that didn't happen, so those are  
24 legal issues.

25 Thirdly, and I think significantly, you

1 know, people say, well, you are getting the benefit  
2 of the redevelopment plan.

3 Well, in this case the municipality has  
4 taken the redevelopment plan and made it the zoning  
5 ordinance. So if you look at the map, it says as  
6 far as this area, it says Northwest Industrial  
7 Redevelopment Area, so the zoning ordinance has  
8 adopted the plan as the zoning for the property, so  
9 the redevelopment plan has superseded the zoning.

10 So anyhow, we are operating under the  
11 zoning ordinance for this area.

12 You know, finally, the law is generally  
13 that, you know, Boards are to follow ordinances, and  
14 you know, there is a case you probably had it when  
15 you've gone to school to be a Planning Board member,  
16 there is a Pizzo Manpin case. I don't know whether  
17 that rings a bell, which essentially says that  
18 Boards are not allowed to make it up as they go  
19 along. They have to follow the ordinances that the  
20 municipality has adopted. And in this case, again,  
21 there is no ordinance that requires or permits you  
22 to make this requirement of the applicant.

23 And then finally, you know, we have  
24 come a long way as far as how we look at people's  
25 rights as to property. You know, if you remember

1 back in 2005 or so the Supreme Court came down with  
2 the Kielo case, I don't know if that rings a bell,  
3 you know, where they use redevelopment powers to  
4 take people's properties from condemnation.

5 Well, that rang a bell throughout the  
6 country at large, and people started to say, what is  
7 this use of these powers to restrict people's  
8 properties.

9 And, you know, the New Jersey Supreme  
10 Court took it up on a couple of occasions of late,  
11 and they said, you know, you can't use blithe to,  
12 you know, trumped-up blithe to take people's  
13 property. You got to have -- give people notice if  
14 you are going to use those kind of powers to take  
15 people's properties.

16 Well, this isn't a taking of property,  
17 at least it doesn't appear to be. Maybe it will be,  
18 but it doesn't appear to be. But still the whole  
19 thrust of where the law has been going is to stop  
20 this kind of we control your property just because  
21 we say so when there is no real reason to do that.

22 And so, you know, the decision, you  
23 know, that I think Mr. Galvin or the opinion he gave  
24 is contrary to the way the law is going in terms of  
25 restricting people's property, so I would suggest to

1       you that this is not the time to do it.

2                       And what is the good reason to do it?

3                       You have somebody who wants to build,  
4       and usually these redevelopment cases go off on the  
5       fact that somebody has not built,

6                       This company bought it out of  
7       bankruptcy, and they are ready to build. It is a  
8       single block. It's not a whole big area. It's a  
9       single block. They have come in with an application  
10      complying with the zoning without seeking a  
11      variance.

12                      So you put all of that together, and  
13      you say: What is the public purpose of me not  
14      hearing their application?

15                      I don't think there is one.

16                      So for that reason, we ask you to come  
17      to a conclusion that even though we have not sought  
18      redeveloper status, that we should be accorded the  
19      right as the owner of our own property to proceed  
20      with this application.

21                      MR. GALVIN: Want me to go, tell you  
22      what I think?

23                      CHAIRMAN HOLTZMAN: Please.

24                      MR. GALVIN: I have great respect for  
25      Mr. Coakley. I think he is putting forth a novel

1 argument, one of first impression.

2 My understanding of the land use law  
3 and the definitions of the land use law, a  
4 redeveloper would have to be appointed by the city  
5 government. That hasn't happened here.

6 I think that we have allowed this case  
7 to advance far more than I think we have had an  
8 obligation to. I think it has been done as a matter  
9 of cooperation.

10 We have been trying to -- again, I  
11 assume a Court is going to be looking at this -- but  
12 we have been trying to find our way on this. We are  
13 trying to be reasonable and fair to Mr. Coakley and  
14 Mr. Coakley's client, but we are left at the end of  
15 the day with our view of the law is it doesn't  
16 specifically say -- our law doesn't say what Mr.  
17 Coakley is saying that it says. It does not allow  
18 people to activate the redevelopment law without  
19 being appointed the redeveloper. So you can't  
20 advance a redevelopment case, if you are not the  
21 appointed redeveloper.

22 That is my view. That is my legal  
23 advice. I think we have taken this as far as we  
24 can.

25 At some point the only way to get a

1 determination on this is going to have to be in the  
2 courts, and the Board is not going to do that, so we  
3 will have to see what happens, and we will advance  
4 our arguments that they are not permitted to move  
5 forward, and they will advance their arguments that  
6 they should be permitted to move forward.

7 At this point I think we have a  
8 reasonable difference of opinion on four out of six  
9 of the checklist items. I wanted to try to get us  
10 as close to narrow down the issues that we would  
11 have, if we wind up in court, and I think we  
12 accomplished that, and I appreciate everyone's  
13 efforts and Mr. Coakley's efforts.

14 CHAIRMAN HOLTZMAN: Commissioner  
15 Magaletta, did you have something?

16 VICE CHAIR MAGALETTA: Yes, a few,  
17 because I mean, I definitely want to incorporate,  
18 you know, Andy's four points and say the other two  
19 that you said are not really worth the fight, put  
20 those aside, but I think those are important just  
21 for the reason to say it's not complete.

22 But, Mr. Coakley, I appreciate the  
23 gestalt of your argument of where you would go with  
24 the property and ownership rights and of zoning, in  
25 our country it is constitutional to have zoning

1 rights, zoning laws, and you know, it gives us the  
2 power and the authority to control how property is  
3 developed. And it's not a taking, and you  
4 acknowledge that, and I don't think we are even  
5 close to a taking.

6 You are right, we have to follow the  
7 ordinance, and we have to follow the law.

8 In the bankruptcy order, I think in  
9 that order, there was a provision which -- let me  
10 get it out -- I just want to quote it to be clear.

11 Page 15 of the bankruptcy order, where  
12 your client got the property at the sale, there's  
13 nothing in this sale order shall in any way  
14 diminish, limit or otherwise affect the  
15 applicability to the property of any of Hoboken's  
16 zoning, planning or construction requirements,  
17 specifically including provisions of Hoboken's  
18 Northwest Redevelopment Plan adopted by the Hoboken  
19 City Council on May 20th, 1998 as subsequently  
20 amended, or impose, or relieve a legal requirement  
21 or otherwise affect any existing legal requirement  
22 that a redeveloper, as defined in the LRHL of the  
23 property be designated by the City of Hoboken, or  
24 enter into a redevelopment agreement pursuant to  
25 LRHL.

1                   So by the very terms of that order, the  
2 Court is saying, that Court was saying you still  
3 have to follow the law. There is no agreement.  
4 The redevelopment agreement is gone. The plan is  
5 still in place, but you still have to follow the  
6 law.

7                   The ordinance says, as you cite, may  
8 not say -- I don't know what the plan says, if  
9 there's a provision -- a non provision, as you have  
10 said, but the LRHL says you have to be the  
11 redeveloper.

12                   And you left me a couple of papers that  
13 said that you are the redeveloper, and the law says  
14 that to be a redeveloper, you have to enter into an  
15 agreement with the redevelopment agency, which here  
16 is the City Council. So I think for that reason, I  
17 think standing is a problem for you, and that is  
18 really it.

19                   You know, I appreciate your arguments,  
20 I really do, but I think we have a problem here with  
21 jurisdiction for us to make a decision. We don't  
22 have the authority, because you're not the  
23 redeveloper. It is your property, but that doesn't  
24 make a difference because it is in the redevelopment  
25 zone.

1                   I made the point last time to say,  
2           look, you want it both ways. You know, I don't know  
3           if the zoning is now superseded and therefore, you  
4           take advantage of it, but I think in order to take  
5           advantage of it, you have to be the designated  
6           redeveloper.

7                   That's all.

8                   I know you disagree, and that is fine.

9                   MR. COAKLEY: I disagree.

10                   It's not a matter of taking advantage  
11           of anything --

12                   VICE CHAIR MAGALETTA: That is your  
13           position, and that is fine.

14                   MR. COAKLEY: -- and nobody quarrels  
15           with the fact that zoning exists, and it's legal.

16                   VICE CHAIR MAGALETTA: But you quarrel  
17           with the fact that the law requires you to be a  
18           designated redeveloper --

19                   MR. COAKLEY: You have to read what the  
20           law says --

21                   VICE CHAIR MAGALETTA: -- and the LRHL  
22           says that.

23                   MR. COAKLEY: Thank you very much for  
24           your courtesy.

25                   CHAIRMAN HOLTZMAN: Thank you,

1 Commissioner.

2 VICE CHAIR MAGALETTA: Thank you, Mr.  
3 Coakley.

4 MR. COAKLEY: You're welcome.

5 MR. GALVIN: Well, the Board has to  
6 decide if you want to do a motion.

7 CHAIRMAN HOLTZMAN: Well, let's see if  
8 there are any other questions or comments from any  
9 other Commissioners.

10 Anything that anybody has a question  
11 on, any of the four points where there was six  
12 points?

13 Two points seems to have been resolved  
14 to be close enough that they are not worth arguing  
15 about, but we still have four points that our  
16 professionals are telling us we could use some  
17 additional information, and then there is Mr.  
18 Galvin's and Mr. Coakley's point of designated  
19 redeveloper for the property.

20 So are there any other questions or  
21 comments from any of the Commissioners?

22 Okay.

23 Seeing none, go ahead, Frank.

24 VICE CHAIR MAGALETTA: Just to clarify,  
25 and I said this the last time as well, I don't want

1 the perception that because we are discussing the  
2 merits of what is lacking on the checklist, that we  
3 have waived the jurisdictional requirement, because  
4 the argument is, well, if you don't have  
5 jurisdiction, how can you decide those issues.

6 And my point is I am relying on both  
7 bases, so there is no jurisdiction, and those four  
8 points, so I am not waiving anything on either side.

9 MR. GALVIN: Do you have a motion to  
10 that effect?

11 CHAIRMAN HOLTZMAN: Do you have a  
12 motion?

13 VICE CHAIR MAGALETTA: I have a motion  
14 to what I just stated.

15 CHAIRMAN HOLTZMAN: Let's repeat it.

16 VICE CHAIR MAGALETTA: My motion is to  
17 deem this matter incomplete without waiver based  
18 upon lack of jurisdiction and also on the four  
19 points raised during this hearing, and I think that  
20 we are not waiving the jurisdiction by deciding on  
21 the four points.

22 CHAIRMAN HOLTZMAN: Okay.

23 Is there a second for Mr. Magaletta's  
24 motion?

25 COMMISSIONER GRAHAM: Second.

1 COMMISSIONER PINCHEVSKY: Second.

2 CHAIRMAN HOLTZMAN: Second from Ann  
3 Graham.

4 Okay. So, Pat, please call the vote  
5 for that.

6 MS. CARCONE: Commissioner Magaletta?

7 VICE CHAIR MAGALETTA: Yes.

8 MS. CARCONE: Commissioner Stratton?

9 COMMISSIONER STRATTON: Is the vote to  
10 accept his --

11 CHAIRMAN HOLTZMAN: His specific  
12 wording of his motion was that it is --

13 VICE CHAIR MAGALETTA: Incomplete.

14 CHAIRMAN HOLTZMAN: -- it is  
15 incomplete, so a yes --

16 COMMISSIONER STRATTON: I vote yes.

17 MS. CARCONE: Commissioner Graham?

18 COMMISSIONER GRAHAM: Yes.

19 MS. CARCONE: Commissioner McKenzie?

20 COMMISSIONER MC KENZIE: Yes.

21 MS. CARCONE: Commissioner Pinchevsky?

22 COMMISSIONER PINCHEVSKY: Yes.

23 MS. CARCONE: Commissioner Peene?

24 COMMISSIONER PEENE: Yes.

25 MS. CARCONE: Commissioner Holtzman?

1                   CHAIRMAN HOLTZMAN:  Yes.

2                   MR. COAKLEY:  Thank you.

3                   CHAIRMAN HOLTZMAN:  Thank you, Mr.

4           Coakley.

5                   (The matter concluded)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
Notary Public of the State of New Jersey  
My commission expires 11/5/2015.  
Dated: 2/6/15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

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CITY OF HOBOKEN  
PLANNING BOARD

----- X  
REGULAR MEETING OF THE HOBOKEN : February 3, 2015  
PLANNING BOARD : 9:25 p.m.  
----- X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

Chairman Gary Holtzman  
Vice Chair Frank Magaletta  
Commissioner Caleb D. Stratton  
Commissioner Ann Graham  
Commissioner Caleb McKenzie  
Commissioner Rami Pinchevsky  
Commisioner Ryan Peene

A L S O P R E S E N T:

David Glynn Roberts, AICP/PP, LLA, RLA  
Board Planner

Andrew R. Hipolit, PE, PP, CME  
Board Engineer

Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
CERTIFIED COURT REPORTER  
CERTIFIED REALTIME COURT REPORTER  
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1           A P P E A R A N C E S:

2                   DENNIS M. GALVIN, ESQUIRE  
3                   730 Brewers Bridge Road  
4                   Jackson, New Jersey 08527  
5                   (732) 364-3011  
6                   Attorney for the Board.

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1                   CHAIRMAN HOLTZMAN: Is there any other  
2 business before the Board this evening?

3                   Anything you got for us, Pat?

4                   MS. CARCONE: Next week's meeting, the  
5 11th, for Maxwell --

6                   CHAIRMAN HOLTZMAN: Oh, next week's  
7 meeting, the 11th, Maxwell streets.

8                   MS. CARCONE: -- I guess we are going  
9 to get some revised documents at some point?

10                  Are we going to get a revised plan  
11 or --

12                  CHAIRMAN HOLTZMAN: How are we doing  
13 over there?

14                  MS. CARCONE: -- is there anything?

15                  MR. HIPOLIT: We are meeting with  
16 Maxwell, the applicant, and his professionals  
17 tomorrow, so I anticipate finding out whether their  
18 plan will be ready, so we will know by late  
19 tomorrow, so I will let you know on Thursday.

20                  My inclination is yes, but it's being  
21 provided by them. We have a model they'll present  
22 to the Board, but they have a plan they need to  
23 revise.

24                  VICE CHAIR MAGALETTA: So it might be  
25 that it's not going to happen?

1 MR. HIPOLIT: What's that?

2 VICE CHAIR MAGALETTA: So it might be  
3 that it's not going to happen?

4 MR. HIPOLIT: I want to say it is going  
5 to happen, so --

6 MR. GALVIN: So the 11th is going to  
7 happen. We are going to figure out what we are  
8 doing, and we're going to get it done.

9 (Laughter)

10 MR. HIPOLIT: Our part is ready. We  
11 are waiting on their plan.

12 VICE CHAIR MAGALETTA: That's what I'm  
13 saying. If their plans are not ready in time, do we  
14 have sufficient time --

15 MR. HIPOLIT: As long as they do what  
16 we have asked them to do, there's plenty of time.

17 (Laughter)

18 CHAIRMAN HOLTZMAN: This is a little  
19 bit of a sticky issue.

20 At the end of four hours the last time,  
21 it was nowhere quick.

22 So what basically happened was the  
23 administration and our professionals got in the room  
24 and pretty much set out this is what Hoboken's  
25 standards are, and they should be overlaid in this

1 new area as well, as opposed to they were kind of  
2 coming in, and there was all of these questions with  
3 the loading zones, and they didn't want any parking  
4 anywhere, and it was all over the place, right?

5 VICE CHAIR MAGALETTA: It was. It was  
6 all private little roads --

7 CHAIRMAN HOLTZMAN: Exactly.

8 So we sat down with the professionals  
9 from the parking and transportation team, Director  
10 Morgan, Caleb was there, and Ryan was there, and  
11 they were able to give Andy and his team basically  
12 this is what the Hoboken standards are, there  
13 doesn't seem like there is any reason why it  
14 shouldn't apply here.

15 MR. HIPOLIT: It should apply.

16 VICE CHAIR MAGALETTA: Absolutely.

17 CHAIRMAN HOLTZMAN: Right.

18 There were other elements that they  
19 offered. For example. It is Maxwell Lane, which is  
20 the curved street that goes through the middle, and  
21 it is wide enough, and they did the research on it  
22 to say there, gee, there's no reason why there can't  
23 be one side of parking on there, so that's kind of  
24 where it was.

25 Then Andy's team went back to the Toll

1 Brother guys and said, this is where we are. This  
2 is where we think it should be, again, based upon  
3 the Hoboken standards.

4 Getting the Toll Brothers' team to get  
5 off --

6 VICE CHAIR MAGALETTA: The dime.

7 CHAIRMAN HOLTZMAN: -- and get it done  
8 has been another matter, so that is kind of where  
9 the rub is.

10 VICE CHAIR MAGALETTA: I definitely  
11 want to see that plan, because it is different than  
12 clearly from what they proposed.

13 MR. HIPOLIT: It's totally different.

14 CHAIRMAN HOLTZMAN: Yes. It can be, I  
15 think, you know, without trying to pass judgment on  
16 it, it is a much more comprehensive also.

17 MR. HIPOLIT: Absolutely.

18 CHAIRMAN HOLTZMAN: It's much more  
19 comprehensive.

20 COMMISSIONER GRAHAM: Which way does  
21 the street go?

22 CHAIRMAN HOLTZMAN: Andy's team has a  
23 model that they took all of the --

24 MR. ROBERTS: It is an animation.

25 CHAIRMAN HOLTZMAN: Right. It's an

1 actual --

2 MR. HIPOLIT: It's a traffic model. I  
3 mean, I don't know if you want to get into the  
4 merits of the application.

5 MR. GALVIN: No, we don't.

6 CHAIRMAN HOLTZMAN: We don't.

7 They created a model to be able to show  
8 us all of the options.

9 MR. HIPOLIT: Right.

10 The Board, if you remember, the Board  
11 had asked us particularly to do the traffic, so what  
12 we did was we created an actual traffic model, so we  
13 can run that model in a simulated mode and actually  
14 show you a planned view of the cars moving around,  
15 and actually show you all of the standards, one-way,  
16 one-way, the other way, two-way, and you, yourself,  
17 will be able to see it on the screen which way works  
18 better. It is great technology. It's great  
19 technology.

20 VICE CHAIR MAGALETTA: Why don't you  
21 have a track with Hot Wheels?

22 MR. HIPOLIT: It looks just --

23 CHAIRMAN HOLTZMAN: It looks scary like  
24 it.

25 MR. HIPOLIT: -- it looks just like

1 Track Robins.

2 VICE CHAIR MAGALETTA: Oh, so you keep  
3 playing different cars --

4 MR. HIPOLIT: You have different color  
5 cars and everything. It's unbelievable. You see  
6 them make turns --

7 VICE CHAIR MAGALETTA: All right.

8 CHAIRMAN HOLTZMAN: I think we can let  
9 Phyllis go home, unless somebody else has anything  
10 else.

11 MR. ROBERTS: The only thing I wanted  
12 to mention is that there was a question that came up  
13 since the last Maxwell meeting about the status of  
14 the ownership of the streets --

15 CHAIRMAN HOLTZMAN: Right.

16 MR. ROBERTS: -- that I think we were  
17 able to pin down that they are privately owned, and  
18 they are state property --

19 CHAIRMAN HOLTZMAN: Right.

20 MR. ROBERTS: -- Maxwell Place and the  
21 Frank Sinatra -- and the new Sinatra Drive --

22 MR. GALVIN: They are going to have to  
23 go file an easement and grant access to the city,  
24 and they are going to have to ask the Council to  
25 apply Title 39, so those two things they're going to

1 have to --

2 CHAIRMAN HOLTZMAN: Remind us what  
3 Title 39 is for all of us that --

4 MR. GALVIN: When you get a ticket, it  
5 comes out of Title 39. It is the section of the  
6 statute that involves motor vehicle law and private  
7 property can allow police officers to issue tickets,  
8 but they have to go to the governing body and ask  
9 them to make the application for Title 39 to apply  
10 to private roadways.

11 VICE CHAIR MAGALETTA: So technically  
12 the stop signs there are not enforceable?

13 MR. GALVIN: Correct, right. But they  
14 can still get you for careless and reckless driving  
15 even --

16 VICE CHAIR MAGALETTA: On private  
17 property?

18 MR. GALVIN: Yes. So blowing through a  
19 stop sign, you can still get a ticket.

20 MR. ROBERTS: It's treated like a  
21 public road, even though it is not.

22 CHAIRMAN HOLTZMAN: So the difference  
23 was that this is actually a PUD, a Planned Unit  
24 Development, as opposed to a redevelopment zone, and  
25 that is why this road jurisdiction thing changed, in

1 terms of what we thought it was originally.

2 VICE CHAIR MAGALETTA: So even when  
3 this is all said and done, it will remain private?

4 Who is going to take care of the snow  
5 removal?

6 MR. GALVIN: Well, the town and for  
7 maintaining the roads somehow in the future, because  
8 there is a law, there's a condominium law--

9 MR. HIPOLIT: The town says you have to  
10 reimburse them for it, or just do it -- it would be  
11 cheaper just to do it.

12 CHAIRMAN HOLTZMAN: Okay. Is there a  
13 motion?

14 VICE CHAIR MAGALETTA: Motion to close.

15 CHAIRMAN HOLTZMAN: Second?

16 COMMISSIONER GRAHAM: Second.

17 CHAIRMAN HOLTZMAN: All in favor?

18 (All Board members answered in the  
19 affirmative.).

20 (The meeting concluded at 9:35 p.m.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

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PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
 Notary Public of the State of New Jersey  
 My commission expires 11/5/2015.  
 Dated: 2/6/15  
 This transcript was prepared in accordance with  
 NJAC 13:43-5.9.