

CITY OF HOBOKEN  
PLANNING BOARD

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REGULAR MEETING OF THE HOBOKEN : June 2, 2015  
PLANNING BOARD : 7:04 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 Jim Doyle  
Commissioner Ann Graham  
Commissioner Caleb McKenzie  
Commisioner Ryan Peene

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1                   CHAIRMAN HOLTZMAN: Mr. Vance, if you  
2 will allow us, we will get started.

3                   Good evening, everybody.

4                   It is Tuesday, June 2nd. It is 7:04  
5 p.m. This is the City of Hoboken Planning Board  
6 Meeting. We are going to come to order.

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

15                  Pat, please call the roll.

16                  MS. CARCONE: Commissioner Holtzman?

17                  CHAIRMAN HOLTZMAN: Here.

18                  MS. CARCONE: Commissioner Magaletta?

19                  VICE CHAIR MAGALETTA: Here.

20                  MS. CARCONE: Commissioner Stratton?

21                  COMMISSIONER STRATTON: Here.

22                  MS. CARCONE: Commissioner Forbes?

23                  COMMISSIONER FORBES: Here.

24                  MS. CARCONE: Commissioner Doyle?

25                  COMMISSIONER DOYLE: Here.

1 MS. CARCONE: Commissioner Graham?

2 COMMISSIONER GRAHAM: Here.

3 MS. CARCONE: Commissioner McKenzie?

4 COMMISSIONER MC KENZIE: Here.

5 MS. CARCONE: Commissioner Pinchevsky

6 is absent.

7 Commissioner Peene?

8 COMMISSIONER PEENE: Here.

9 CHAIRMAN HOLTZMAN: Thank you.

10 So we have two items that are going to  
11 be presented from the administration.

12 Stephen Marks, can you come forward and  
13 just let us know how you want to proceed on this?

14 I know you have two presentations for  
15 us. You have a presentation for the Southwest Park  
16 and also for the Washington Street Redesign or  
17 Revitalization.

18 MR. MARKS: Yes.

19 So thank you very much, Mr. Chairman,  
20 and Commissioners.

21 My name is Stephen Marks. I am the  
22 Municipal Manager for the City of Hoboken, and thank  
23 you very much for hearing our requests tonight.

24 The first matter before you is the  
25 Washington Street Revitalization Project. The City

1 of Hoboken about a year and a half ago engaged in a  
2 redesign plan or a master plan for Washington  
3 Street. Everybody is familiar with Washington  
4 Street being Hoboken's main street or central  
5 business district. It is also a historic district  
6 within the City of Hoboken.

7 Yes?

8 (Noise in the hallway)

9 CHAIRMAN HOLTZMAN: Please, could  
10 you -- I'm sorry.

11 MS. CARCONE: Yes. I tried already.

12 COMMISSIONER MARKS: Should I  
13 continue?

14 CHAIRMAN HOLTZMAN: Please.

15 MR. MARKS: Okay.

16 So Washington Street has been in  
17 existence from the very beginning of Hoboken. It is  
18 marked besides having a -- being a significant  
19 commercial corridor and a significant transportation  
20 and intermodal and transit corridor, it also carries  
21 and conveys the water main or a water main for the  
22 east side of Hoboken and has many laterals and  
23 services that feed most of the development and  
24 residential buildings east of Washington Street,  
25 east and west.

1                   The water main is approximately 120 to  
2                   130 years old. It is basically coming to the end of  
3                   its useful life.

4                   The sewers, the sanitary sewers along  
5                   Washington Street also date back to about the same  
6                   era.

7                   The traffic signals, nobody is quite  
8                   sure when the traffic signals were installed along  
9                   Washington Street, but I could tell you that in 1947  
10                  the New Jersey Department of Transportation stopped  
11                  allowing the type of traffic, the single pole,  
12                  monopole traffic signals that are at each  
13                  intersection along Washington Street, so it is safe  
14                  to say that the traffic signals, with the exception  
15                  of Observer and 14th Street, which are county  
16                  intersections, the traffic signals have not been  
17                  updated since at least 1947.

18                  So given the advanced age and  
19                  deterioration and the need for rehabilitation along  
20                  Washington Street, the city engaged in this master  
21                  plan process.

22                  We conducted approximately -- we hired  
23                  the firm of RBA, the RBA Group, which is a  
24                  well-known transportation, planning, engineering and  
25                  planning firm in the State of New Jersey.

1                   We had three public meetings, community  
2 meetings last year. We had an online survey, which  
3 had over 660 responses.

4                   Let me hand this out. This was  
5 actually the final presentation that the city  
6 conducted last year. Really there is nothing new to  
7 add, so I left it as is but if each Commissioner  
8 could take one and pass it down.

9                   The city through the robust public  
10 planning process gleaned that most residents want to  
11 see a strengthening of pedestrian activities, adding  
12 of bicycle facilities, replacement of the  
13 deteriorated and aging traffic signals, and there is  
14 a profound lack of green space along Washington  
15 Street, and the addition of rain gardens and  
16 bioswales would help capture stormwater runoff,  
17 which goes into Hoboken's combined sewer system and  
18 contributes to combined sewer overflows of untreated  
19 sewage out to the Hudson River.

20                   It also, during storm events,  
21 contributes to flooding on the western side of the  
22 town because of the nature of the sewer sheds within  
23 the town, so installing porous pavement, tree pits,  
24 rain gardens and bioswales would help capture  
25 stormwater upstream of the flood prone areas in town

1 and help beautify and make more inviting Washington  
2 Street as an environment, where people want to be,  
3 where people want to shop, where people want to  
4 recreate.

5 So also, I am going to hand out right  
6 now an engineer's estimate that was also -- if you  
7 don't mind taking one and passing it down -- an  
8 engineer's estimate that was developed by the RBA  
9 Group, and the RBA Group determined that --  
10 estimated that it would cost approximately \$14  
11 million to rehabilitate and resurface Washington  
12 Street from the entire length from Observer Highway  
13 up to 15th Street.

14 The City of Hoboken does not have \$14  
15 million laying around. We have been trying to  
16 figure out a game plan to fund raise for that, which  
17 brings us to why I am here tonight.

18 The US Department of Transportation --

19 CHAIRMAN HOLTZMAN: You are asking us  
20 for \$14 million, right?

21 MR. MARKS: Yes.

22 MR. GALVIN: That's what I was  
23 thinking.

24 (Laughter)

25 MR. MARKS: The US Department of

1 Transportation has a grant program called TIGER.  
2 TIGER stands for Transportation Infrastructure  
3 Generating Economic Recovery. Congress this year  
4 allocated \$500 million nationally for the program.

5 I just got an email today that there  
6 are only 60 applications filed so far. The  
7 application deadline is actually this Friday, and we  
8 are preparing an application. We are seeking  
9 endorsements, letters of support, resolutions of  
10 support from all quarters, and we are asking for \$14  
11 million from the US Department of Transportation.  
12 It requires a 20 percent local match.

13 What is not part of the application,  
14 but we are offering as our local match, is  
15 approximately \$5 million for the replacement of the  
16 water main, which is beneath Washington Street and  
17 all the water services.

18 So what I just handed out was the  
19 presentation. I covered it in my five-minute  
20 description.

21 You also have the engineer's estimate,  
22 which breaks down -- I mean, the engineer's estimate  
23 is basically your one-page synopsis of, you know,  
24 should we get the \$14 million, where the \$14 million  
25 would be going.

1                   Resurfacing, traffic signals, new  
2                   sidewalks, if funded, also street scape furniture.  
3                   As part of that, the last item we are looking to put  
4                   a conduit for the microgrid beneath Washington  
5                   Street. We were working with the US Department of  
6                   Energy and Sandia National Laboratory on a plan for  
7                   a microgrid, which would keep energy going, flowing  
8                   to 50 critical community facilities, should there be  
9                   another Sandy type event or blackout or brownout in  
10                  the future.

11                  If we are replacing the water main, it  
12                  is a unique opportunity while you are opening the  
13                  street to put in new conduit. We would also put in  
14                  dark fiber that would be necessary for the  
15                  microgrid, but you also could use the dark fiber for  
16                  a wireless, a free wifi community broad band type of  
17                  facility, and that would be again part of the grant,  
18                  should we be funded.

19                  I think that concludes my presentation.

20                  Are there any questions?

21                  VICE CHAIR MAGALETTA: What is dark  
22                  fiber?

23                  MR. MARKS: Dark fiber is basically --  
24                  you have light fiber and dark fiber. Light fiber is  
25                  already -- fiberoptics that are already in use by

1 utilities companies, communications, your Verizons,  
2 your Sprints, your AT&Ts.

3 Dark fiber has not been connected yet,  
4 so the main purpose of the dark fiber would be for  
5 systems architecture to connect the microgrid.

6 Basically your way of powering up --

7 VICE CHAIR MAGALETTA: Is it a data or  
8 power, I'm trying to figure out. Is it data or --

9 MR. MARKS: Oh, data, data. All fiber  
10 is data, so dark fiber is not owned by a  
11 telecommunications company. The fiber would be  
12 owned by the City of Hoboken. Its main purpose  
13 would be to control the microgrid. Its dual  
14 purpose, you could make each either light pole or  
15 traffic signal through wireless devices connected to  
16 the dark fiber, you know, wifi. You could light up  
17 the entire Washington Street corridor as a municipal  
18 wifi facility.

19 VICE CHAIR MAGALETTA: You said five  
20 million I think is the estimate to do the --

21 MR. MARKS: The water main.

22 VICE CHAIR MAGALETTA: -- the water  
23 main.

24 Does that include this \$14 million or  
25 is that --

1                   MR. MARKS: No. That would be the  
2 city's local match. The \$14 million is the city's  
3 ask of the DOT, and the \$5 million would count  
4 towards the city's local match.

5                   VICE CHAIR MAGALETTA: I thought you  
6 said the water main replacement. And just my final  
7 question is: If we approve the application, does it  
8 mean we are approving this plan or is it approving  
9 the concept of redoing the street?

10                  MR. MARKS: So technically, you're not  
11 approving the -- we are looking for an endorsement  
12 from the Planning Board for our application to the  
13 US DOT, so it is not yea or nay on the land use per  
14 se, but it is saying that the Planning Board as a,  
15 you know, quasi-governmental judicial  
16 semi-autonomous judicial body endorses the city's  
17 concepts for rehabilitating, resurfacing, and  
18 revitalizing Washington Street.

19                  VICE CHAIR MAGALETTA: Thank you.

20                  COMMISSIONER MC KENZIE: Will you be  
21 coming back or will you be having public discussions  
22 about this plan after you get the money?

23                  MR. MARKS: We look forward to working  
24 with the City Council Transportation Subcommittee.  
25 We would be happy to coordinate with the -- this is

1 a historic district, so there is not a hard  
2 requirement, but something that you want to do in  
3 terms of coordination with the Planning Board and  
4 the Historic Preservation Commission.

5 So, yes, we will be working -- it may  
6 not be in a formal setting like this, perhaps a  
7 subcommittee of the Planning Board. We will be  
8 engaging the Planning Board, the Historic  
9 Preservation Commission, and the City Council  
10 Transportation Subcommittee. There is a lot of  
11 wiggle room in the final design. These are kind of  
12 broad stroke concept plans that we are putting  
13 forth, but the devil is in the details.

14 MR. GALVIN: The thought that jumped to  
15 my head when you said that is normally, if the city  
16 or an entity like the fire department is going to do  
17 a project, they don't really subject it to the  
18 Planning Board's regular authority.

19 There is a provision under the law  
20 31(a) that would require them to at least expose us  
21 to what the plan is, to assess our comments.

22 I am not sure if this meeting isn't  
23 really close to it already, but if it's not, then  
24 you can always come back and tell us what your plan  
25 is.

1                   COMMISSIONER MC KENZIE: Well, the only  
2                   reason I am asking that question is because I live  
3                   on Washington Street, and there is an awful lot of  
4                   discussions by people who live uptown about how this  
5                   is actually going to work and what detrimental  
6                   effects it might have, especially between parking  
7                   and the bus lane because right now nobody who -- I  
8                   mean, parking and the bike lane. People who ride  
9                   bicycles do not stop for pedestrians, and I think  
10                  that that is one of the questions that everybody is  
11                  concerned with, so --

12                  MR. MARKS: One of the --

13                  CHAIRMAN HOLTZMAN: Steve, can you get  
14                  up us up to speed on the community meetings --

15                  COMMISSIONER MC KENZIE: That's what I  
16                  wanted to know.

17                  CHAIRMAN HOLTZMAN: -- and the  
18                  additional output, what has been done and what is  
19                  going to be done in the future?

20                  MR. MARKS: One of the loudest  
21                  complaints that we heard through the public opinion  
22                  survey and the community meeting process was that  
23                  pedestrians did not like bicyclists riding on the  
24                  sidewalk, and we heard from bicyclists that many  
25                  cyclists did not feel comfortable or safe riding in

1 the roadway, so a natural happy medium would be to  
2 create bicycle lanes without -- right? So dedicated  
3 bicycle lanes would remove the cyclists from the  
4 sidewalk, remove the cyclists from the roadway, give  
5 them a safe place to go. Cyclists have to obey all  
6 rules and regulations just like any other moving --

7 COMMISSIONER MC KENZIE: No, no.

8 MR. MARKS: -- they do.

9 COMMISSIONER MC KENZIE: No, no. I  
10 just wanted --

11 CHAIRMAN HOLTZMAN: Hang on.

12 MR. MARKS: -- it is the matter of the  
13 three "E"s of engineering, education and  
14 enforcement.

15 So by removing cyclists from the  
16 sidewalks, I think, and I would hope, would make the  
17 pedestrians who feel unsafe happy, and the  
18 bicyclists who don't like riding in the street, it  
19 would also give them a safe harbor to travel.

20 COMMISSIONER MC KENZIE: Okay. I  
21 didn't mean to bring up a big discussion. All I  
22 wanted to know is: Is there going to be another  
23 opportunity for people who are concerned to discuss  
24 it, not to discuss it here.

25 MR. MARKS: Yes, yes, sure.

1 CHAIRMAN HOLTZMAN: Thank you.

2 COMMISSIONER FORBES: I have a  
3 question.

4 For the TIGER grant, do they do -- is  
5 it a possibility that they might only fund a portion  
6 of it, and if so, does that mean a component gets  
7 pulled out, or does that mean like a segment might  
8 not get done, or have you determined that?

9 MR. MARKS: The grants begin at \$10  
10 million, so I can't envision us getting less.

11 If we were to get the grant, we  
12 wouldn't get less than \$10 million. I mean, I kind  
13 of wish we were in that kind of predicament of  
14 saying, oh, we didn't get the 14, but only got \$10  
15 million.

16 So if we get \$10 million instead of 14,  
17 there is actually, if you look at the engineer's  
18 estimate, there is a healthy 30 percent contingency  
19 built in, so we may be able to do it for, you know,  
20 the \$10 million.

21 COMMISSIONER DOYLE: We have to provide  
22 2.8 of that anyway, right, of the 14, if it is a 20  
23 percent match, right?

24 MR. MARKS: We have to provide a 20  
25 percent match. If they give us ten million instead

1 of 14, then they may only require \$2 million as a  
2 local match. The water main regardless will likely,  
3 you know, be about five million, so...

4 CHAIRMAN HOLTZMAN: Commissioner  
5 Graham?

6 COMMISSIONER GRAHAM: Is there a way of  
7 saying you want to go to the art museum or --

8 MR. MARKS: Directional signage --

9 COMMISSIONER GRAHAM: -- what kind of  
10 signage is it?

11 Is it those papers and that --

12 MR. MARKS: Well, today in the bus  
13 shelters, the bus shelters have the -- I forgot the  
14 name of the firm that does the -- they actually  
15 maintain the bus shelters, and they rent out the  
16 poster sized space, things of that nature. There is  
17 not going to be new billboards on Washington Street,  
18 but --

19 COMMISSIONER GRAHAM: But will people  
20 be able to put up those paper notices?

21 MR. MARKS: I think that is horrific  
22 and horrible and unsightly, and if I have anything  
23 to do with it, there will not be those --

24 COMMISSIONER GRAHAM: I do, too, so  
25 that's why I asked the question, but there has to be

1 some way for people to post messages --

2 MR. MARKS: In the age of the internet,  
3 they could post messages on the internet.

4 COMMISSIONER GRAHAM: Exactly. But how  
5 do we make that so it looks nice or that it's done  
6 correctly --

7 MR. MARKS: I think just removing those  
8 message boards would improve the appearance of  
9 Washington overnight --

10 COMMISSIONER GRAHAM: But then we still  
11 have --

12 MR. MARKS: My own personal opinion --

13 COMMISSIONER GRAHAM: -- ads all over  
14 the place, which aren't necessarily the best --

15 MR. MARKS: Yes.

16 CHAIRMAN HOLTZMAN: Any other -- yes,  
17 Commissioner Peene?

18 COMMISSIONER PEENE: Just a quick  
19 question.

20 I know how these grant applications  
21 work.

22 Do we have the federal  
23 representatives -- are two United States senators  
24 and --

25 COMMISSIONER MARKS: So we solicited

1 letters of support. We have been in communication  
2 with Senators Menendez and Booker.

3 I saw an email from their offices today  
4 that they are preparing a letter.

5 We have a letter from Congressman  
6 Sires, our congressman, a letter from County  
7 Executive Degise, a resolution from the City  
8 Council, a letter of support from Freeholder Romano,  
9 and there is probably -- we probably have 30 to 40  
10 letters of support from community organizations to  
11 businesses on the local level and on the regional,  
12 and even on the state level, the New Jersey Alliance  
13 for Action has endorsed the application, New Jersey  
14 Business and Industry Association, so we are  
15 soliciting letters of support from, you know,  
16 anybody who would be willing to offer a letter of  
17 support.

18 CHAIRMAN HOLTZMAN: You can go to the  
19 website and offer your own letter of support.

20 COMMISSIONER MARKS: It doesn't make  
21 the application. It doesn't break the application.  
22 It's icing on the cake.

23 COMMISSIONER PEENE: Right. DOT looks  
24 at every letter of support.

25 CHAIRMAN HOLTZMAN: So I was going to

1 say, Commissioner Marks, but Ex-Commissioner Marks,  
2 Stephen Marks has offered us up from the  
3 administration a resolution, which basically lays  
4 out the rough outline of the presentation for the  
5 Washington Street revitalization and asks the  
6 Planning Board for its support in going forward with  
7 making this application.

8 Are there any other questions or  
9 comments for Stephen?

10 Frank?

11 VICE CHAIR MAGALETTA: I have another  
12 question. This may be a detail.

13 The water main -- is there a place for  
14 sewer and -- and the water -- I mean because right  
15 now there is only one sewer water drainoff, right,  
16 is it going to stay that way?

17 MR. MARKS: So in the engineer's  
18 estimate that I just gave you, there is about \$2  
19 million for drainage improvement, so it's not whole  
20 set -- we will be working and coordinating with the  
21 North Hudson Sewage Authority, but we are  
22 anticipating about \$2 million worth of the  
23 improvements to the draining system, whether it is,  
24 you know, cleaning and enlarging the catch basins or  
25 things of that nature, making the pipes the right

1 size, you know.

2 Replacing the -- it is sticky, because  
3 Hoboken has a combined sewer system, so all of the  
4 stormwater goes into the catch basin, and it gets  
5 combined with sanitary sewerage, so that is the  
6 domain of the North Hudson Sewage Authority. We  
7 will coordinate with the North Hudson Sewage  
8 Authority. We envision about \$2 million worth of  
9 drainage improvements to be necessary as part of  
10 this project, and we will make it work, but it's  
11 not --

12 VICE CHAIR MAGALETTA: Part of this  
13 project.

14 MR. MARKS: -- it is not a wholesale  
15 replacement of the sewer system.

16 VICE CHAIR MAGALETTA: Thank you.

17 COMMISSIONER MC KENZIE: Can I ask just  
18 one last question?

19 MR. MARKS: Yes.

20 COMMISSIONER MC KENZIE: If you are  
21 planning on replacing the main water line that goes  
22 down the street, what about the out lines from the  
23 main to the houses --

24 MR. MARKS: I think it services  
25 basically to the -- what we are coordinating, it is

1 going to require a little bit of coordination with  
2 United Water. What most towns do is have like a  
3 junction box near the curb, so the property owners  
4 will be responsible, even though it is in the  
5 right-of-way, the property owners will be  
6 responsible for their line to the junction box, and  
7 the city will be responsible from the junction box  
8 to the main, the laterals.

9 COMMISSIONER MC KENZIE: The reason I  
10 asked that is because I think under a previous  
11 administration, they allowed United Water to charge  
12 from the main line all the way into the building  
13 instead of -- which is what it was before was from  
14 the curb to the house --

15 MR. MARKS: Right.

16 COMMISSIONER MC KENZIE: -- so and just  
17 all of the pipes that go into these houses from the  
18 main line are lead and about a hundred years old.

19 COMMISSIONER MARKS: So this would be  
20 replacing those --

21 COMMISSIONER MC KENZIE: Well, that  
22 would be great.

23 MR. MARKS: Yes. I don't trust them.

24 (Laughter)

25 CHAIRMAN HOLTZMAN: Commissioner Doyle?

1                   COMMISSIONER DOYLE: To follow up on  
2                   Commissioner Magaletta, I believe the federal law is  
3                   requiring by 2021 that all CSOs be no more.

4                   CHAIRMAN HOLTZMAN: CSO, what is that?

5                   COMMISSIONER DOYLE: Combined Sewer  
6                   Overflow, which is the dual system, where the  
7                   rainwater goes in with the sanitary sewerage, and if  
8                   there's too much of it, it goes straight to the  
9                   river because of the overflow.

10                   If it will be another 130 years before  
11                   we dig this up and fix it, wouldn't it be a good  
12                   time to, you know, design it with the non -- with  
13                   separate systems, even if they both go to the same  
14                   place until we --

15                   MR. MARKS: So what the DEP and the EPA  
16                   have ordered is that CSO events cease, or are  
17                   severely cut back to maybe five CSO events a year.

18                   So a CSO event is usually a rain event,  
19                   where you have discharge of untreated sewerage to  
20                   the -- the Hudson River is our nearest water body,  
21                   but, you know, whatever your nearest water body is.

22                   So the North Hudson Sewerage Authority  
23                   has estimated that it would cost between 500 million  
24                   and a billion dollars to separate all of Hoboken --  
25                   just for one square mile, that is Hoboken, anywhere

1 from \$500 million to a billion dollars to separate  
2 out the sanitary sewers from the storm sewers.

3           Again, nobody, just like we don't have  
4 \$14 million laying around, we don't have half a  
5 billion to a billion dollars laying around. So the  
6 North Hudson Sewerage Authority has several years to  
7 come up with a long-term control plan, and the  
8 long-term control plan will be their plan to reduce  
9 or eliminate CSO events, but that doesn't  
10 necessarily mean separating out the storm sewerage.

11           You can use green infrastructure around  
12 the city, which is things from, you know, things as  
13 small and simple as rain barrels, green roofs, blue  
14 roofs, cisterns, rain gardens, bioswales, porous  
15 pavement to larger things you are going to hear next  
16 about Block 12, where we are putting in chambers  
17 below Block 12 to catch about 200,000 gallons of  
18 stormwater during storm events.

19           We are also in the midst of  
20 negotiations with BASF. And when we purchase the  
21 BASF property, we are looking to employ the same  
22 methodology of underground chambers, and in the case  
23 of BASF, we will probably capture between a million  
24 gallons and two million gallons of stormwater, and  
25 that is a million or two million gallons that

1 doesn't go into the system and it doesn't contribute  
2 to the CSO events.

3 CHAIRMAN HOLTZMAN: What I'm going to  
4 ask, Stephen, is that obviously we have got a number  
5 of Board Commissioners who have a renewed interest  
6 in the Washington Street Revitalization Plan. I  
7 know there have been a number of meetings before.  
8 You will make sure that you keep us involved --

9 MR. MARKS: Absolutely.

10 CHAIRMAN HOLTZMAN: -- and notified of  
11 upcoming meetings, so the Commissioners can come and  
12 voice their opinions at a meeting that is  
13 specifically dealing with the details of the plan.

14 That being said, is there a motion on  
15 the floor to accept the resolution that is offered  
16 up by the administration in support of the TIGER  
17 grant here?

18 COMMISSIONER MC KENZIE: I move.

19 CHAIRMAN HOLTZMAN: Is there a second?

20 COMMISSIONER PEENE: Second.

21 COMMISSIONER DOYLE: Second.

22 CHAIRMAN HOLTZMAN: Pat, please take  
23 the vote.

24 MS. CARCONE: Commissioner Magaletta?

25 VICE CHAIR MAGALETTA: Yes.

1 MS. CARCONE: Commissioner Stratton?

2 COMMISSIONER STRATTON: Yes.

3 MS. CARCONE: Commissioner Forbes?

4 COMMISSIONER FORBES: Yes.

5 MS. CARCONE: Commissioner Doyle?

6 COMMISSIONER DOYLE: Yes.

7 MS. CARCONE: Commissioner Graham?

8 COMMISSIONER GRAHAM: Yes.

9 MS. CARCONE: Commissioner McKenzie?

10 COMMISSIONER MC KENZIE: Yes.

11 MS. CARCONE: Commissioner Peene?

12 COMMISSIONER PEENE: Yes.

13 MS. CARCONE: Commissioner Holtzman?

14 CHAIRMAN HOLTZMAN: Yes.

15 Mr. Marks, I see you are number two on  
16 the agenda with your Southwest Park. Please  
17 proceed.

18 MR. MARKS: Yes.

19 Mr. Chairman, for the last, just about  
20 two years, the City of Hoboken has been working with  
21 Starr Whitehouse, a landscape architecture firm out  
22 of New York City.

23 We came upon Starr Whitehouse through a  
24 very competitive RFP process. Starr Whitehouse is  
25 recognized as experts at green infrastructure and

1 using parks and open spaces in New York City to  
2 capture stormwater runoff, so it was the city's  
3 desire to the newly acquired Block 12 Park in the  
4 southwest quadrant of Hoboken, the city wanted to  
5 install -- we didn't want to make it a regular park  
6 or a playground, active recreational park. We  
7 wanted to make it something that would actually  
8 contribute to solving the flooding and stormwater  
9 crisis within the city and the CSO crisis, so  
10 through this competitive RFP process, the City  
11 Council approved a contract with Starr Whitehouse.

12 Last year they came up with a concept  
13 plan. There were four community meetings that were  
14 had. We had a fifth community meeting on December  
15 18th per City Council requirements for either new  
16 parks or changes to existing parks.

17 We most recently had a sixth community  
18 meeting or a public meeting. That was a requirement  
19 of the New Jersey Environmental Infrastructure Trust  
20 Fund. The City of Hoboken is applying for \$4.7  
21 million from the New Jersey Environmental  
22 Infrastructure Trust Fund, which is a financing  
23 agency for water infrastructure projects, so I have  
24 Mr. Stephen Whitehouse here with me, if I could  
25 introduce him, and he will go over the city's plans

1 for the park.

2 CHAIRMAN HOLTZMAN: I also just want to  
3 be specific in terms of what is -- the scope of the  
4 presentation here is something that already has been  
5 vetted out through the public process, is that  
6 correct?

7 MR. MARKS: So we have had similar to  
8 the Washington Street Redesign Plan, we had more  
9 community meetings with the Block 12. It was a  
10 robust public planning process.

11 We also had several online community  
12 surveys, similar to Washington Street, where we had  
13 over 660 responses. We had -- it is not coming to  
14 me -- I lost it -- I could safely say over 600  
15 responses to the online community survey for Block  
16 12 Southwest Park.

17 So the concept plan was approved by the  
18 City Council in January of this year. We are  
19 preparing an application to the New Jersey  
20 Environmental Infrastructure Trust Fund. They are  
21 looking for concurrence from local, regional and  
22 state authorities and permitting when necessary.

23 To date we have received our approvals  
24 from the Hudson-Essex Passaic Soil Conservation  
25 District, the Hudson County Planning Board, because

1       this site is on a county road, Paterson Avenue --  
2       Paterson Street --

3                   CHAIRMAN HOLTZMAN:   Paterson Plank  
4       Road.

5                   MR. MARKS:   -- Paterson Plank Road.

6                   Also, we are looking for concurrence  
7       from this Board, and we would love to, similar to  
8       Washington Street -- I don't have a formal  
9       resolution for you to consider, but, you know, a  
10      stamp of approval or an endorsement for this project  
11      to show the NJDEP that this has robust local  
12      support.

13                  CHAIRMAN HOLTZMAN:   So the scope of  
14      what we are talking about this evening, though, is  
15      we are not getting into the details of the dog park  
16      should be bigger, or the swing should be smaller.  
17      It is more also just a -- it's like a 10,000-foot  
18      view of that this plan is also not inconsistent and  
19      further the master plan, is that --

20                  MR. MARKS:   That's correct.

21                  CHAIRMAN HOLTZMAN:   -- that's kind of  
22      where we are going here?

23                  MR. MARKS:   That is correct.

24                  CHAIRMAN HOLTZMAN:   Thank you.

25                  MR. MARKS:   So, Mr. Chairman, I have

1 Stephen Whitehouse from the firm of Starr  
2 Whitehouse.

3 MR. WHITEHOUSE: Good evening,  
4 Commissioners.

5 CHAIRMAN HOLTZMAN: Good evening.

6 MR. WHITEHOUSE: My name is Stephen  
7 Whitehouse from the Starr Whitehouse Landscape  
8 Architects and Planners.

9 We picked up the process that the City  
10 of Hoboken started several years before us,  
11 involving planning the southwest corner of the city  
12 and the designation of this parcel on Block 12 to  
13 become a city park, and the acquisition of that land  
14 separately by the city administration and the  
15 approvals, local approves necessary to do it, and we  
16 ended up with a site, and I have this handout, and  
17 I'm just going to -- it has a few more images than  
18 we have here. I'll flip you through it for  
19 orientation. The site is Block 12, which is bounded  
20 by Paterson, Jackson, Observer and Harrison.

21 The city ownership includes the whole  
22 paved parking lot and the vacant lot between them.  
23 There are three out parcels and private ownership  
24 still, and for the immediate future certainly, and a  
25 city owned triangle here at the intersection of

1 Harrison and Paterson Plank Road.

2 The lots constituting the main body of  
3 the park are just under one acre. When you look  
4 into the drainage area of the sidewalks and the  
5 adjacent roadways, it is over an acre.

6 All of the grading and drainage here  
7 goes to that city sewer system. The site itself is  
8 almost a hundred percent impervious, and it is part  
9 of the CSO system as well, and it is an area like  
10 most of southwest prone to flooding.

11 The FEMA elevation there now is  
12 elevation 10, and the average ground elevation in  
13 the park is about FEMA elevation 5, so there is a  
14 hundred-year flood elevation there of five feet  
15 above existing grade.

16 That drove a lot of the concern that  
17 this park not only had to be a place that would  
18 enliven the social life of the people and citizens  
19 in southwest Hoboken, but also performed at a very  
20 high environmental level, and so the main body of  
21 the park catches water in many different ways.

22 There is grass, where there used to be  
23 pavement. The majority of the pavement is a  
24 permeable pavement. The overland runoff beyond that  
25 is going to the surface, to surface rain gardens,

1 and then overflow drains there go to an almost  
2 11,000 cubic feet storage system underneath the park  
3 between the level of the park and the very shallow  
4 water table.

5 We have about five or six feet to play  
6 with there to put in this detention system. The  
7 idea being that we have enough capacity in the park  
8 to hold the volume of a ten-year storm, about five  
9 inches of rain over 24 hours, and that would then  
10 slow release into your treatment system, into your  
11 collection system and into your treatment system,  
12 and reduce the peak flows to the treatment plant and  
13 reduce CSOs.

14 It would do two things: Both hold  
15 water that would otherwise be running up and down  
16 the streets in that part of town, and secondly,  
17 improve the performance of your municipal sewer  
18 system or your regional sewer system.

19 There are several features of this park  
20 that we talked about not having the Lucini process,  
21 not having permanent concessions, but mobile food  
22 carts and events were considered good, like farmer's  
23 markets. The administration has been talking to the  
24 libraries about the ability to put after school  
25 programs into there, a dog run, and then not a

1 playground, but lots of elements that are playful  
2 and would engage family members.

3 The second image is the overall plan of  
4 the park. At the end of the conceptual plan, and  
5 there have been modifications to the plan since  
6 then, which we will get to, but just really  
7 refinement and tinkering.

8 In the center of this park is a  
9 performance area, nowhere near the scale of Frank  
10 Sinatra Park, but a more neighborhood scale  
11 performance area. Other main features along  
12 Observer Highway, there is a widened sidewalk that  
13 would support impromptu flea markets, small markets,  
14 and occasionally were you to close off that black  
15 above zero highway, larger scale community  
16 festivals, whether that was a few times a year.

17 The dog run as noted. Tables and  
18 chairs, lush plantings and a variety of play  
19 features throughout.

20 There is a utility storage building  
21 there that has moved in the final plan, but the idea  
22 of that is to bring in the park utilities, water  
23 supply, electric, all of the equipment there and get  
24 it up over that elevation 10 flood plain within the  
25 buildings, so that the idea being that you can --

1 the park can flood, and you don't have to  
2 immediately replace all of your utility  
3 infrastructure because we can design it smart, but  
4 we can't stop what nature is going to do just in the  
5 design of this park.

6 We have the images now looking in the  
7 park. The first is an image prepared in the concept  
8 plan of the entrance in from the corner of Paterson  
9 and Jackson. There is this lawn. It's showing an  
10 early image of some sort of interactive structure,  
11 the rain garden, the second entrance, which is the  
12 entrance off of Harrison Street past the edge of the  
13 dog park going in towards that central plaza. The  
14 unit pavement shown in these illustrations is a  
15 permeable pavement.

16 Actually the second image -- excuse me,  
17 my mistake, is on the southwest entrance, which is  
18 facing Observer Highway. There is a parking curb  
19 there. The notion that you could have concessions  
20 pull up on the street there, food trucks, et cetera.

21 There is, in addition to the residents  
22 in the neighborhood, there are businesses to the  
23 south, and then west of here there is a potential  
24 lunchtime crowd that could be there as well.

25 The next page, the image of the

1 entrance next to the dog run into the central area.

2 And the last image on that following  
3 page, that view of the central space in the middle  
4 of it, we have produced lighting plans, drainage  
5 plans, engineering plans, and to show you just a  
6 sort of sneak peak of what is going to be a 30 or 40  
7 page set of construction drawings, which we are  
8 about 90 percent done with right now.

9 The 90 percent drawing is what has been  
10 already forwarded to the NJDIT for their review.

11 So the first plan there is very close  
12 to -- this is the surface view of this indicating  
13 the different types of paving, the alignment of the  
14 rain gardens, that amphitheater area that has become  
15 a little more variegated and interesting,

16 It indicates all of the trees, all of  
17 the light posts, et cetera.

18 And then the next -- a new bus stop,  
19 improved bus stop location at Paterson Plank Road  
20 and Harrison, the closer of that stub street owned  
21 by the city as now a pedestrian area, and also an  
22 area that we are collecting rainwater, and the  
23 introduction around the perimeter of the site of a  
24 number of street bioswales that in addition to  
25 collecting the water that lands on the park will be

1 collecting a portion of the water that runs along  
2 the street curb that is part -- similarly to the  
3 prototypes in the first phase of bioswales that the  
4 city has started to build.

5 The next drawing is a drainage basin  
6 drawing. This is sort of like the view from the  
7 surface down under five feet showing all the points  
8 of collection. There is one direct point of  
9 connection to the city sewer system. New Jersey has  
10 suggested that the dog run area go directly to the  
11 sanitary sewer.

12 We have also been requested to add a  
13 comfort station, a prefabricated comfort station on  
14 that edge, too. That was an additional request of  
15 the City Council after the inclusion of the concept  
16 planning process, and as you can see here, there are  
17 three large fields of -- those indicate parallel  
18 underground pipes that are the storage system that  
19 all of the surface drains overflow to those, and  
20 that gives us about 11,000 cubic feet of storage  
21 underneath the park in addition to the water that's  
22 held at the surface, so that is where we are with  
23 the park.

24 As Stephen indicated, the funding  
25 application through NJEIT, which is being reviewed

1 by New Jersey Department of Environmental Protection  
2 does look for indications of support by the planning  
3 authorities, the effective planning authorities, and  
4 so we would be looking to this body for a statement  
5 of support in these plans and support of the  
6 application of Hoboken to the New Jersey EIT.

7 CHAIRMAN HOLTZMAN: Any questions?

8 Commissioner Graham?

9 COMMISSIONER GRAHAM: If I was reading  
10 this correctly, it talked about in the first phase  
11 you would put in a dog run --

12 MR. WHITEHOUSE: Yes.

13 COMMISSIONER GRAHAM: -- even though  
14 people liked and disliked, it wasn't clear whether  
15 it was a hundred percent favorability for the dog  
16 run.

17 But then in the second phase, the dog  
18 run space would be changed into a playground. How  
19 do you change a dog run space that has been --

20 MR. WHITEHOUSE: Clean it up and --

21 COMMISSIONER GRAHAM: Yeah. How do you  
22 clean it up I guess, how do you clean it up?

23 MR. WHITEHOUSE: Call it water and  
24 scrubbing, and if it became a playground, you would  
25 be putting in a new play surface over it as well.

1                   But I wanted to say, just to be  
2                   completely clear at this point in the concept  
3                   planning process, and to be completely clear, right  
4                   now the only part of this park that is going forward  
5                   is the park currently in city ownership excluding  
6                   these three lots here, and that is what our  
7                   application is for.

8                   In the concept planning process, we  
9                   were -- thought it appropriate to address the city's  
10                  stated planning documents that all of this block  
11                  would in some time in the future be acquired for a  
12                  park, and we wanted to make sure that the design  
13                  could be expanded into to this area, ripping up as  
14                  little as possible of what you put in in the first  
15                  phase, so that is what that reference is to in that  
16                  document, is that that once you -- were you to  
17                  obtain this portion of land, that putting the dog  
18                  run probably makes better sense in the corner,  
19                  putting the children closer to the center --

20                  CHAIRMAN HOLTZMAN: But this is also  
21                  something that would be much further down the line.

22                  MR. WHITEHOUSE: It's not the subject  
23                  of this current application at all.

24                  CHAIRMAN HOLTZMAN: Mr. Roberts, this  
25                  is obviously something that we are concerned with

1       that it is meshing up with our master plan, which it  
2       seems to most obviously be, since this is an area  
3       that is called out for a park very specifically in  
4       our master plan.

5                Is there anything that you can offer up  
6       for the Board on that?

7                MR. ROBERTS:  Just that in addition to  
8       that, most recently the 2010 reexam report, which  
9       you know effectively emphasized the need for parks  
10      in all parts of the city.

11               We had obviously the super storm Sandy  
12      event, which has raised the awareness of the desire  
13      for recovery, resiliency being designed into those  
14      parks, and we had the infrastructure plan and the  
15      Rebuild by Design, which would factor into all of  
16      the redevelopment plans, and this would certainly be  
17      a component of all of that.

18               VICE CHAIR MAGALETTA:  I have a more  
19      fundamental question.

20               Right now it is passive park, passive  
21      space.  Why can't we make it an active space, unless  
22      the master plan, it's a preference to one another --

23               CHAIRMAN HOLTZMAN:  I'm going to take  
24      that.  I participated in every single one of these  
25      meetings.  I have been in the neighborhood a long

1 time, and it was debated incredibly heavily as to  
2 what would be the best use of the space, and because  
3 the initial space that can be acquired is relatively  
4 small, the people that participated in this really  
5 cool workshop, where they literally gave us a  
6 diagram of what the size space was, and how much you  
7 needed for a soccer field, and how much you needed  
8 for a baseball field, and how much you needed for  
9 swings or something like that --

10 VICE CHAIR MAGALETTA: Or the  
11 basketball courts.

12 CHAIRMAN HOLTZMAN: -- and you tried to  
13 shove the ten pounds of meat into the five-pound  
14 bag, and it didn't work. So that is when it was a  
15 really good workshop program for the community to  
16 kind of flush it out, and there is a need for, since  
17 there is obviously a tremendous amount of people  
18 moving into the neighborhood, for active open space  
19 as well. Through this community process, though, it  
20 was absolutely decided from the people that  
21 participated in it, that it made sense to roll out  
22 it this way, and in the future when additional land  
23 be acquired that some of those additional active  
24 components could be added.

25 VICE CHAIR MAGALETTA: Is there any

1 sense of where those spaces are, those future spaces  
2 are going to be?

3 CHAIRMAN HOLTZMAN: Literally it is  
4 attached to the property. This is like one small  
5 piece of a very larger triangle that potentially  
6 could be as much as six acres, so we are starting  
7 with a one-acre park of potentially six, so there is  
8 great opportunity in the future.

9 MR. WHITEHOUSE: And at such time as  
10 those additional acres are aggregated, the lots are  
11 larger, the dimensions broader.

12 They start to give you the flexibility  
13 to have playing fields that are suitable for people  
14 above the age of five to play in and give you a lot  
15 more flexibility.

16 Quite literally, the session that we  
17 started, we had a little league baseball field  
18 dimensioned here that takes up all of this and  
19 doesn't even meet criteria, and I sat there without  
20 prompting and watched every single table start their  
21 session by bringing that piece of paper out, putting  
22 it over the park, and then putting it aside, and we  
23 very much wanted -- and so I can't say that we, as  
24 designers, generated this program. We worked with  
25 the city to set up a process, where the citizens



1 on that.

2 MS. CARCONE: Commissioner Magaletta?

3 VICE CHAIR MAGALETTA: Yes.

4 MS. CARCONE: Commissioner Stratton?

5 COMMISSIONER STRATTON: Yes.

6 MS. CARCONE: Commissioner Forbes?

7 COMMISSIONER FORBES: Yes.

8 MS. CARCONE: Commissioner Doyle?

9 COMMISSIONER DOYLE: Yes.

10 MS. CARCONE: Commissioner Graham?

11 COMMISSIONER GRAHAM: Yes.

12 MS. CARCONE: Commissioner McKenzie?

13 COMMISSIONER MC KENZIE: Yes.

14 MS. CARCONE: Commissioner Peene?

15 COMMISSIONER PEENE: Yes.

16 MS. CARCONE: Commissioner Holtzman?

17 CHAIRMAN HOLTZMAN: Yes.

18 Thank you, folks.

19 MR. MARKS: Thank you very much, Mr.

20 Chairman, and Commissioners.

21 (Continue on next page.)

22

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24

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CITY OF HOBOKEN  
PLANNING BOARD

- - - - - X  
 RE: 420 ADAMS STREET : June 2, 2015  
 Block 60, Lot 15 : 7:35 p.m.  
 Applicant: Al Croce :  
 Condition Use Approval for 1070 :  
 square feet of commercial office:  
 space in the R-2 zone :  
 - - - - - 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 Brandy Forbes
- Commissioner Jim Doyle
- Commissioner Ann Graham
- Commissioner Caleb McKenzie
- 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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(732) 735-4522

## 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.

7                   NICHOLAS J. CHERAMI, ESQUIRE  
8                   236A Newark Avenue  
9                   Jersey City, New Jersey 07302  
10                  Attorney for the Applicant.

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1                   CHAIRMAN HOLTZMAN: Next up on the  
2 agenda, we have 420 Adams.

3                   Mr. Al --

4                   UNIDENTIFIED VOICE: Are you going to  
5 be discussing 350 --

6                   CHAIRMAN HOLTZMAN: Not yet.

7                   COMMISSIONER DOYLE: We're going  
8 backwards.

9                   MR. GALVIN: Everybody is here for you,  
10 so --

11                  MR. CHERAMI: Thank you.

12                  CHAIRMAN HOLTZMAN: -- are you ready  
13 for us, Nick?

14                  MR. CHERAMI: Yes, sir.

15                  All right. My name is Nicholas  
16 Cherami. I am the attorney working with the  
17 applicant, Al Croce, on a conditional use  
18 application at 420 Adams Street.

19                  Just a little bit about where the  
20 project is located. 420 Adams is about mid block on  
21 Adams Street between Fourth and Fifth Street.

22                  The particular space is a storefront  
23 location of about 1,070 square feet, and it extends  
24 from the street towards the back of the lot.

25                  The applicant is requesting to convert

1        what is now an existing nonprofit meeting hall space  
2        slash children's play gym into a proposed office  
3        space.

4                    The proposed office space is currently  
5        a permitted use, not approved on the particular  
6        property, but it is a permitted use in the  
7        neighborhood. We are not looking to propose any  
8        dwelling or any parking at the location.

9                    There is no renovation proposed on the  
10       site as well, and we are just looking for what I  
11       hope is a straightforward approval.

12                   I have with us this evening the  
13       applicant -- God bless you -- I have with us this  
14       evening for testimony the applicant, Al Croce, and  
15       the proposed tenant as well, who can field questions  
16       about the property and particularly the proposed  
17       use.

18                   CHAIRMAN HOLTZMAN: Okay.

19                   Mr. Roberts, do you have a report for  
20       us?

21                   MR. ROBERTS: Yes, Mr. Chairman.

22                   Dated May 26th, this is really a  
23       summation of a similar report that was provided to  
24       the Site Plan Subdivision Committee.

25                   The main concern the committee had was

1       whether there would be any issues with flood zone  
2       compliance or noncompliance with the flood damage  
3       prevention ordinance and a couple of other concerns  
4       that the subcommittee expressed.

5               The applicant met with the Flood Plain  
6       Manager, the Flood Plain Administrator. It was  
7       determined that the level of renovations that were  
8       required would not trigger the mandatory compliance,  
9       so the subcommittee urged voluntary compliance.

10              One of the things in our letter was  
11       just to ask the applicant to explain to the full  
12       Board to what extent they were willing to go with  
13       the voluntary compliance, so that would be really  
14       setting the stage.

15              The only other issue that came up --

16              CHAIRMAN HOLTZMAN: The other part of  
17       that was also to -- I'm sorry to interject there --  
18       but was also to make the applicant aware of what the  
19       new flood plain regulations are --

20              MR. ROBERTS: Right.

21              CHAIRMAN HOLTZMAN: -- and even though  
22       he might not be required to meet them 100 percent,  
23       that if he was going to be doing any upgrades to the  
24       property, that he might want to at least make sure  
25       that they are in compliance with what the standard

1 is.

2 MR. ROBERTS: Right.

3 And part of that was for the  
4 applicant's own benefit in terms of their flood  
5 insurance rates and also to help the city's overall  
6 objective of them improving its CRS rating, so that  
7 was the nature of the second Subcommittee meeting  
8 with the applicant.

9 The only other issue that we talked  
10 about was ADA compliance, which the applicant  
11 responded to, and that should be on the record as  
12 well.

13 CHAIRMAN HOLTZMAN: Just take us  
14 through the ADA compliance, Andy, if you would.

15 MR. HIPOLIT: They are making  
16 renovations to the building to change the use, and  
17 because of that, the applicant has to evaluate  
18 whether the Americans With Disabilities Act of 2010  
19 applies to their improvements or not.

20 We reviewed it, but it's irrelevant,  
21 and the applicant has testified on the record of how  
22 it applies or does not apply to their use in the --

23 THE REPORTER: I can't hear you.

24 MR. HIPOLIT: -- and that should be  
25 done on the record.

1 CHAIRMAN HOLTZMAN: Okay.

2 Are there any questions for the  
3 attorney or for the applicant, or we even have the  
4 potential tenant here.

5 Any of the Commissioners?

6 No questions, no comments?

7 We will open it up to the public.

8 Mr. Vance, I see you had a question.

9 MR. VANCE: Hum, well --

10 CHAIRMAN HOLTZMAN: Sure. Come on up  
11 and just give us your name.

12 MR. VANCE: I'm Jim Vance. I live here  
13 in Hoboken.

14 Will this office front the street?

15 MR. CHERAMI: Yes. I mean, you know,  
16 I can put that on the record, or I can call one of  
17 the --

18 CHAIRMAN HOLTZMAN: That's good.  
19 You'll answer it.

20 MR. VANCE: Will there be -- is there a  
21 photograph?

22 You say you have a --

23 COMMISSIONER DOYLE: You can borrow  
24 that.

25 MR. CHERAMI: I can submit a colored

1 one as well.

2 MR. VANCE: I don't need a colored one.

3 One of my -- as the Planning Board  
4 knows, the city's master plan wants as much life on  
5 the street as we can get, and so I would think that  
6 as a stipulation that we would look at this from the  
7 standpoint, have, you know, planners, people who  
8 know what we are talking about look at this  
9 storefront -- or I'm sorry, not storefront -- but  
10 office space, and make sure that there is going to  
11 be indeed life on the street, that we don't just  
12 shutter this thing in.

13 We need everything, as much as we can  
14 possibly get, with open views in and out of such  
15 buildings.

16 Thank you.

17 CHAIRMAN HOLTZMAN: So, Mr. Vance, I am  
18 not sure I understand your question.

19 So do you think what the applicant is  
20 proposing here to use this space, which has remained  
21 vacant for quite a number of years, are you saying  
22 that that is a good thing or --

23 MR. VANCE: That is a good thing. I  
24 think it is absolutely positive to use this space  
25 for the purpose discussed.

1                   I would rather see a retail space, but  
2                   that is difficult in these areas. But there needs  
3                   to be as much view in and out, in my opinion, to  
4                   help put more life on the street, and in the  
5                   stipulations here, you know, for instance, there is  
6                   a -- here on -- I think it is park and First Street,  
7                   where we had -- where we had an office building with  
8                   windows all the way around, and the next thing you  
9                   know, it's now a convenience store and  
10                  three-quarters of the windows are blocked off, so we  
11                  don't have any more life on the street or visual  
12                  interaction. It is just basically a blank wall,  
13                  which they now have shelves, and I would like to  
14                  hope that the Planning Board would make sure that  
15                  their approval includes words to the effect of  
16                  keeping this open.

17                  CHAIRMAN HOLTZMAN: Okay. Thank you.

18                  MR. VANCE: Thank you.

19                  CHAIRMAN HOLTZMAN: Is there anyone  
20                  else who wanted to speak with regard to 420 Adams?

21                  Okay. We will close the public  
22                  session.

23                  Any other questions or comments from  
24                  any of the Commissioners?

25                  Wow. So being that nobody has any

1           comments or questions, is there an acceptance of the  
2           resolution that has been prepared for us?

3                       Is there a motion to accept the  
4           resolution?

5                       COMMISSIONER DOYLE: I move,

6                       CHAIRMAN HOLTZMAN: Is there a second?

7                       COMMISSIONER GRAHAM: Second.

8                       CHAIRMAN HOLTZMAN: Commissioner  
9           Graham.

10                      Pat, call the vote.

11                      MS. CARCONE: Commisioner Magaletta?

12                      VICE CHAIR MAGALETTA: Yes.

13                      MS. CARCONE: Commissioner Stratton?

14                      COMMISSIONER STRATTON: Yes.

15                      MS. CARCONE: Commissioner Forbes?

16                      COMMISSIONER FORBES: Yes.

17                      MS. CARCONE: Commissioner Doyle?

18                      COMMISSIONER DOYLE: Yes.

19                      MS. CARCONE: Commissioner Graham?

20                      COMMISSIONER GRAHAM: Yes.

21                      MS. CARCONE: Commissioner McKenzie?

22                      COMMISSIONER MC KENZIE: Yes.

23                      MS. CARCONE: Commissioner Peene?

24                      COMMISSIONER PEENE: Yes.

25                      MS. CARCONE: Commissioner Holtzman?

1                   CHAIRMAN HOLTZMAN:  Yes.

2                   Thanks, Nick.

3                   MR. CHERAMI:  Thank you.

4                   MR. CROCE:  Thank you.

5                   CHAIRMAN HOLTZMAN:  Thanks, Al.

6                   MR. GALVIN:  Good luck.

7                   MR. CROCE:  Thank you very much.

8                   MR. GALVIN:  See you now.

9                   (The matter concluded.)

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C E R T I F I C A T E

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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 testimony 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: June 3, 2015  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

CITY OF HOBOKEN  
PLANNING BOARD

----- X  
REGULAR MEETING OF THE HOBOKEN : June 2, 2015  
PLANNING BOARD : 8 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 Brandy Forbes
- Commissioner Jim Doyle
- Commissioner Ann Graham
- Commissioner Caleb McKenzie
- 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 SHORTHAND REPORTER  
CERTIFIED REALTIME REPORTER  
(732) 735-4522

1           A P P E A R A N C E S:

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3                   730 Brewers Bridge Road  
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5                   (732) 364-3011  
6                   Attorney for the Board.

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1 CHAIRMAN HOLTZMAN: All right.

2 Next up on our agenda is we've is  
3 Ordinance Z-350, which is a review of Chapter 196.

4 Do you want to start us off, Dave?

5 MR. ROBERTS: Sure.

6 I can summarize the letter that we  
7 provided. It is really just elaborating with some  
8 additional suggestions that Brandy provided.

9 Effectively this ordinance --

10 UNIDENTIFIED VOICE: We can't hear you.

11 COMMISSIONER GRAHAM: Yes. It's hard  
12 to hear you over here.

13 CHAIRMAN HOLTZMAN: Come up to the  
14 table, Dave. Don't be a stranger. Come on in.

15 MR. ROBERTS: Effectively -- my voice  
16 is starting to go -- but the ordinance has been  
17 prepared by the city staff and the council's  
18 ordin -- zoning subcommittee over a number of -- a  
19 period of time now, and it is really designed to do  
20 a lot of -- correct a lot of issues with the  
21 ordinance --

22 CHAIRMAN HOLTZMAN: I am going to  
23 just -- let's rewind for one second.

24 Director Forbes, could you give us a  
25 little bit of a recap as to how we got to this place

1       that we are, starting with the Zoning Board annual  
2       review letter and things like that? Get us up to  
3       that?

4                    COMMISSIONER FORBES: So the Zoning  
5       Board annually prepares their annual report,  
6       evaluates the applications that they have had over  
7       the course of the past year --

8                    (Loud noises in the hallway)

9                    CHAIRMAN HOLTZMAN: Voting is over.

10                   (Laughter)

11                   COMMISSIONER FORBES: -- and in that  
12       annual report, they make recommendations as to where  
13       there might be issues in the code that could be  
14       improved upon, perhaps their applications might be  
15       going to the Zoning Board that could --

16                   UNIDENTIFIED VOICE: Excuse me. It is  
17       very difficult to hear.

18                   ANOTHER UNIDENTIFIED VOICE: Can you  
19       come to the center and shout because we can't hear  
20       you.

21                   CHAIRMAN HOLTZMAN: Let's take a  
22       five-minute break. There you go.

23                   MR. GALVIN: Because we think they will  
24       be done downstairs.

25                   CHAIRMAN HOLTZMAN: So let's take a

1 five-minute break.

2 (Recess taken)

3 CHAIRMAN HOLTZMAN: All right. We are  
4 going to get started begin.

5 Director Forbes, you were giving us a  
6 little introduction on how we got to this evening.

7 COMMISSIONER FORBES: Yes.

8 So annually, the Zoning Board does a  
9 review of their applications over the prior year,  
10 and they evaluate whether a recommendation of some  
11 adjustments that could be made to the zoning code,  
12 and right now the city is looking at doing a larger  
13 zoning code update. However, this ordinance is to  
14 address those issues that came up in the 2014 annual  
15 report from the Zoning Board of Adjustment.

16 It is bringing the zoning code and the  
17 flood damage prevention ordinance into alignment  
18 right now, where height is measured from, it's  
19 different in the different residential zones, and it  
20 does not match up with what it would be for the  
21 flood damage prevention code, so that is addressing  
22 that, and as well it is just simplifying the  
23 approval process for some of the minor alterations  
24 that property owners are going to make on their  
25 properties.

1                   So with this actual -- the zoning code  
2                   amendment that we have before us, I know that  
3                   Councilman Doyle was the sponsor for that. He  
4                   worked hard on that with the City Council  
5                   Subcommittee. It was addressing the zoning  
6                   ordinances. You know, he and I can both speak to  
7                   the ordinance revisions, if there are any questions  
8                   regarding that.

9                   CHAIRMAN HOLTZMAN: Okay.

10                  COMMISSIONER FORBES: I didn't know if  
11                  you wanted to go through this, or if you wanted to  
12                  have our planner go through it.

13                  CHAIRMAN HOLTZMAN: Let's have Dave  
14                  give us an outline of the report that you have  
15                  prepared for us.

16                  MR. ROBERTS: Right. And I will try to  
17                  speak as loud as I can.

18                  I would say the majority of the changes  
19                  are, as Brandy mentioned, derived from the concerns  
20                  the Zoning Board brought up.

21                  The Zoning Board has and continues to  
22                  be flooded with applications to the point of -- I  
23                  know Dennis probably has a better sort of count than  
24                  I do as far as the backlog, but a tremendous number  
25                  of cases, many of which have to do with

1 nonconforming lots that are -- with the age of the  
2 city, there are a lot of lots that do not meet the  
3 lot size in the residential zones.

4 Most of those property owners when they  
5 are faced with --

6 UNIDENTIFIED VOICE: Wait, wait. What  
7 did you say?

8 ANOTHER VOICE: We can't hear you  
9 again.

10 MR. ROBERTS: Most of the property  
11 owners, and I'm not going to be able to shout  
12 because my voice will go like that. I will do my  
13 best.

14 Most of the property owners of many of  
15 these nonconforming properties, if they go to do  
16 anything with their property, have to go to the  
17 Zoning Board because of the way the ordinance is  
18 written.

19 So the changes to the ordinances is  
20 meant to allow for them to obtain either a zoning  
21 permit in many cases or, depending on the  
22 application, come to the Planning Board instead of  
23 the Zoning Board.

24 There are also issues with flood zone  
25 compliance. After the city amended its flood damage

1 prevention ordinance as a result of Super Storm  
2 Sandy, many property owners, especially of older  
3 buildings, are having issues with the height and  
4 other things that deal with compliance.

5 The city wants to make sure that it  
6 gets the best community rating, system rating as  
7 possible because the best CRS rating means the best  
8 flood insurance rates for everybody in Hoboken.

9 So these ordinance amendments are  
10 designed to facilitate flood damage prevention  
11 compliance without requiring variances, again  
12 leading to the backlog in the Zoning Board of  
13 Adjustment.

14 Another issue that has come up is  
15 there -- especially, it is related to the way you  
16 measure height from, given the flood -- design flood  
17 elevations, has to do with absolute height versus  
18 number of stories, and so one of the amendments in  
19 the ordinance, for example, was to only measure  
20 height based on absolute height and not necessarily  
21 by number of stories, because that has also  
22 generated, and some of that was based on recent  
23 court decisions, has generated more applications to  
24 the Zoning Board, which makes it very difficult for  
25 a lot of folks for relatively simple applications to

1 get approvals.

2 Another example I can give you that has  
3 to do with partial destruction and some of that is  
4 related to nonconforming buildings that are damaged  
5 to some extent and how you measure that.

6 The ordinance does not get into a  
7 specific percentage because there is a court  
8 decision and the -- they -- the -- effectively  
9 revised not to take that on at that point --

10 MR. VANCE: Because of what?

11 MR. ROBERTS: -- because of a court  
12 decision, that said that you can't assign an  
13 arbitrary number.

14 We would like to, and I know there was  
15 a lot of agonizing over this with the subcommittee,  
16 we would like to make the zoning ordinance match up  
17 with the flood damage prevention ordinance, because  
18 FEMA does have an absolute measurement, 50 percent  
19 of the market value of the building or the  
20 replacement value, something like that, but right  
21 now we are prevented from doing that based on legal  
22 advice.

23 So when we come up with the overall,  
24 there will be a proposed entirely new zoning  
25 ordinance, where we hope to take on some of these

1 issues. But for now, this ordinance will go a long  
2 way to help alleviate the pressure of folks having  
3 to go to the Zoning Board for so many small types of  
4 applications that can be handled much easier either  
5 administratively or by the Planning Board, and that  
6 is really the main focus of the ordinance change --

7 CHAIRMAN HOLTZMAN: So this is  
8 definitely not a comprehensive wholesale type of a  
9 thing --

10 MR. ROBERTS: No.

11 CHAIRMAN HOLTZMAN: -- what we are  
12 trying to do here is kind of an 80-20 rule, and that  
13 we are going to hopefully deal with an awful lot of  
14 the problems by looking at six or ten of the  
15 highlight problem areas, greatest hits of problems,  
16 that not only as Director Forbes said, have been  
17 highlighted in the Zoning Board's review report from  
18 this past year, but that any of us who have been  
19 keeping up on this have seen the same thing for the  
20 last decades.

21 It is same report, almost as a cut and  
22 paste, of what the highlighted problems are, what  
23 the reoccurring zoning requests are time and time  
24 again. So what we have is this overflow on the  
25 Zoning Board from these standard operating problems.

1 MR. ROBERTS: Right.

2 And a lot of it has to do with the age  
3 of properties in the city, the fact that these lots  
4 have been -- that they go all the way back to the  
5 origins of the city, so a lot of them don't conform.

6 I think one other way of looking at it  
7 is that ideally your Zoning Board should have fewer  
8 cases than your Planning Board, not the other way  
9 around.

10 If the Zoning Board is getting deluged  
11 with applications, and they are all the same kind,  
12 it means there is something wrong with the  
13 ordinance, and this is really an attempt to try to  
14 correct effectively the low lying -- the things that  
15 could be corrected simply and affect the property  
16 owners most extensively, relieve the pressure on the  
17 Zoning Board.

18 There is still more work to do, but  
19 this will address what the Zoning Board felt was the  
20 biggest issue.

21 And the only other thing, Mr. Chairman,  
22 I didn't mention is there are some things -- we  
23 talked about the popularity of roof decks and rear  
24 decks, rooftop decks, those are becoming -- they are  
25 very popular aspects of many applications, but there

1 is really not much in the ordinance to deal with  
2 that. So as a result, many of them have to go to  
3 the Zoning Board because they are not permitted, so  
4 this ordinance provides standards for them, so that  
5 they can -- if they meet the standards, they don't  
6 have to get variances. They can be part of site  
7 plan applications, so that is just another issue.

8 CHAIRMAN HOLTZMAN: Okay. Great.

9 Commissioner Doyle?

10 I know that you have been involved in  
11 this from the start at the City Council.

12 COMMISSIONER DOYLE: Thank you.

13 Just to -- I will speak for the  
14 committee and not for the administration certainly,  
15 but I will say that, and to echo what the  
16 Commissioners or the Chairman said, you know, I went  
17 back personally and looked at from 2007 through 2014  
18 at the annual reports, and I can say that I -- from  
19 my perspective, you know, the types of variances  
20 that were being sought, I would say this -- I don't  
21 frankly care what people are trying to get. In  
22 other words, if everybody is coming in seeking  
23 50-story buildings, I don't think -- and I don't  
24 agree to say, well, there seems to be a big demand  
25 for 50-story buildings, so we should change the

1 zoning law and allow 50-story buildings.

2 But that, in my view -- and I'm not  
3 suggesting that anyone was -- in my view, regardless  
4 of what there were -- if there were many  
5 applications for this or that or this or that type  
6 of relief, I think these revisions are the things  
7 that make sense, and I am sure there would be  
8 differing opinions.

9 But, for example, a nonconforming lot,  
10 if your home -- if your home is an 18 by 100 foot  
11 parcel, and that is nonconforming in the R-1 zone,  
12 it is 20 by a hundred, which is the conforming lot  
13 size. So if you have -- if there is nothing, no  
14 other reason why you are -- you are just trying to  
15 do anything on your 18 by 100 foot lot, you are  
16 discriminated against essentially because you don't  
17 have a two foot wider lot. So we have gotten rid of  
18 the notion that you have to go to the Zoning Board,  
19 if everything else that you are doing on your  
20 nonconforming sized lot, your lot coverage is okay,  
21 your height is okay, and your density is okay, then  
22 there is no reason for you, just because you happen  
23 to live on a street rather than an avenue, and you  
24 have a 62 foot lot, as opposed to a hundred foot  
25 lot.

1                   So those people, you know, I think the  
2                   committee was sympathetic why you would spend the  
3                   money and pay Mr. Matule to appear before the Zoning  
4                   Board --

5                   (Laughter)

6                   MR. MATULE: Yes.

7                   COMMISSIONER DOYLE: -- you know, and  
8                   go through the time and delay and frustration.

9                   But, you know, if it's something -- so  
10                  I don't think this embodies changes that are just  
11                  based on a lot of people are asking for it, so let's  
12                  give it to them.

13                  CHAIRMAN HOLTZMAN: Great.

14                  Thank you, Commissioner.

15                  MR. GALVIN: I just want to point out  
16                  that Mr. Matule will not be retiring any time soon  
17                  because even with these changes, we are going to  
18                  still have pretty heavy case load at the Zoning  
19                  Board.

20                  (Laughter)

21                  CHAIRMAN HOLTZMAN: Commissioner  
22                  Magaletta, did you --

23                  VICE CHAIR MAGALETTA: I do have a  
24                  question with respect to the section, first section  
25                  196.5.1(d)(1), and the question I have is, maybe

1 if --

2 (Loud talking in the hallway)

3 MR. VANCE: We can't hear you. I am  
4 afraid there is a huge amount of noise downstairs.

5 VICE CHAIR MAGALETTA: -- when that  
6 section talks about usage structure --

7 COMMISSIONER GRAHAM: Which section  
8 again?

9 MR. VANCE: Can somebody turn those  
10 people off? Maybe I will.

11 CHAIRMAN HOLTZMAN: You're hired.

12 (Laughyter)

13 VICE CHAIR MAGALETTA: So --

14 COMMISSIONER DOYLE: Just yell down the  
15 stairs to them, Jim.

16 CHAIRMAN HOLTZMAN: Go ahead.

17 So, Frank, where are we? 196 --

18 VICE CHAIR MAGALETTA: The first  
19 section, 196-5.1(d) --

20 CHAIRMAN HOLTZMAN: 5.1(d)?

21 VICE CHAIR MAGALETTA: -- (d)(1), where  
22 it goes: Any nonconforming use or structure  
23 partially destroyed by flood or casualty.

24 The question I have is it's still  
25 confusing when you say "use or structure" and then

1 later on it talks about how you do you repair a use.

2 I see how you can prepare a structure  
3 or building -- or a structure, not a building -- so  
4 the question is: Should use and structure be two  
5 different paragraphs.

6 That is all I want to know, if it makes  
7 sense.

8 COMMISSIONER DOYLE: You are saying you  
9 can't destroy a use.

10 VICE CHAIR MAGALETTA: The way -- you  
11 don't --

12 CHAIRMAN HOLTZMAN: Well, bring us up  
13 to speed on what a nonconforming use would be that  
14 could be reinstated.

15 MR. GALVIN: Well, I think what you  
16 have to grasp, you have to grasp these two different  
17 states of matter, structures, the building, and what  
18 goes on in the building. So if you lose the  
19 structure of the bar, you lose the right to reopen  
20 that bar.

21 In other words, if it's a hundred  
22 percent destruction, let's just say it was wiped  
23 away, and it was a valid preexisting nonconforming  
24 use, you lose it. You lose both the structure and  
25 the use that went there.

1                   So if there were other reasons for  
2                   demolishing -- I can't think of off the top of --  
3                   usually what happens with the use, it is either  
4                   terminated or abandoned, but it could be terminated  
5                   or abandoned by the total destruction of the  
6                   structure in which it's housed.

7                   VICE CHAIR MAGALETTA: Because right  
8                   now we have as a use -- 420, where you have the  
9                   property management, so that is a use, which unlike  
10                  a bar, it's pretty easy to replace it, you know.

11                  COMMISSIONER DOYLE: But they would  
12                  have to come back and get approval.

13                  MR. GALVIN: Well, what happened is and  
14                  what does happen in realty is even when you find  
15                  there is total destruction, then the person comes  
16                  back to the Zoning Board in every town and makes the  
17                  argument that -- oh, okay, I am sorry. I'm trying  
18                  to respond to you -- that in every town that would  
19                  go to the zoning Board and say, I know this bar just  
20                  burned down to the ground, but it has been an icon.  
21                  It's been here for a hundred years. It's a valid  
22                  preexisting nonconforming use and structure, we want  
23                  to build it.

24                  Then the Zoning Board would listen to  
25                  the arguments, and I mean in any town, and see if

1       there was validity to restoring this building in  
2       this location.

3                       But if has been a bad operation, one  
4       that has caused a lot of the hardship to the  
5       neighbors, I don't think a Board is going to be so  
6       inclined to reestablish it.

7                       Now, if they can show that it has been  
8       an icon and people like it, and it's always worked  
9       well with the neighborhood, I think there's a shot  
10      that the Zoning Board would grant them approval to  
11      rebuild a new structure.

12                      VICE CHAIR MAGALETTA: Thank you.

13                      CHAIRMAN HOLTZMAN: Commissioner  
14      Graham?

15                      COMMISSIONER GRAHAM: How many of the  
16      Zoning Board applications are specific to this  
17      issue?

18                      MR. GALVIN: Well, let me say this --

19                      COMMISSIONER GRAHAM: What percentage  
20      of time?

21                      MR. GALVIN: -- it's hard for me, I  
22      don't remember.

23                      What I try to encourage the Board,  
24      notwithstanding the fact that you guys looked at all  
25      of the reports that Ms. Vandor did, I was trying to

1 get them to focus in on just like give me five  
2 things that we could fix, and I think that the  
3 committee has done an outstanding job of picking up  
4 on that, but one that comes to my head that's the  
5 easiest is that --

6 CHAIRMAN HOLTZMAN: Let me interject  
7 for a second.

8 One of the things that you taught me,  
9 Dennis, is that what happens, Ann, is very often it  
10 seems like people come to the Board, and because of  
11 something like Jim described as a nonconforming  
12 piece of property that automatically triggers a  
13 variance, it ends up with this cascade of events, so  
14 they don't come just to solve that problem. They  
15 then come with a whole litany of things that get  
16 triggered, so it is hard to isolate it to just say  
17 it is just one --

18 MR. GALVIN: Well, I will give you one,  
19 one that is pending. It is one of Mr. Burke's, and  
20 I'm not the Zoning Board -- I am on the Zoning  
21 Board, so I can discuss it.

22 It is a property that has to be  
23 elevated in order to come into flood compliance.  
24 But in the process of doing that, not only did they  
25 ask to elevate the building, they also asked to add

1 an addition onto the back of the building.

2 It is only 144 square feet, which is a  
3 small area, but the Board found it, at least as to  
4 the first go-through, the Board has some trouble  
5 with that 144 square feet, and it is the point that  
6 the Chairman is making, that they had to elevate it.  
7 And you say, well, I'm going to elevate this, so how  
8 else can I improve my structure, or what can I  
9 afford to do possibly. I don't know what the whole  
10 analysis is.

11 So if you eliminate variances, then it  
12 is disincentive for them to come in and ask for five  
13 variances. You know, if we just allowed them to  
14 elevate it, it would have been a real pain in the  
15 neck to go to the Zoning Board to ask for the 144  
16 square feet, but since you have to elevate it  
17 because of FEMA, we may as well ask for the 144  
18 square feet. Okay?

19 And one of the things that this  
20 ordinance does is it recognizes the fact although we  
21 don't want the buildings to go bigger, bigger and  
22 bigger, we have to allow people who have existing  
23 homes to be able to raise it up so we can make them  
24 safe from the next flood, and the way the ordinance  
25 was written before, that required a variance, so

1 this is something that will be corrected.

2 And the other thing that I think that  
3 corrects it is: Every building in town is on its  
4 front lot line, it's on zero lot line, so every  
5 variance that is being sought before the Zoning  
6 Board is for this front yard setback of five feet,  
7 which is routinely granted, and this will just  
8 correct that, so it is little stuff like that that  
9 will eliminate the number of variances.

10 COMMISSIONER GRAHAM: Okay. But is  
11 there some kind of law with unintended consequences  
12 that could be working here?

13 I mean, what happens if people change  
14 this --

15 MR. GALVIN: Neither of those two  
16 examples that I just gave you --

17 COMMISSIONER GRAHAM: -- okay, but I  
18 don't know. I mean, are there other examples where  
19 we change it and it affects adversely --

20 MR. GALVIN: You know what, I got to --

21 CHAIRMAN HOLTZMAN: I think it is  
22 actually --

23 COMMISSIONER GRAHAM: -- I don't  
24 know --

25 CHAIRMAN HOLTZMAN: -- like from what

1 Jim was saying, it actually has the reverse. It is  
2 not that it requires people -- it doesn't allow the  
3 Jenne outside of the bottle. What it does is it  
4 incentivizes people to operate within the law  
5 because they have the ability that because of a  
6 setback or because of a lot size, they can build as  
7 of right without having to come for a variance.

8 So what it normally does is it keeps  
9 them in the box of what are the permitted sizes,  
10 bulk, height and everything else.

11 There is actually one good intent --  
12 good consequence potentially, which is it might  
13 actually reduce the density and increase the  
14 apartment size, because people will build within the  
15 envelope, but they can't increase the density on  
16 their piece of property, so it is in keeping with  
17 continuing the idea of family-friendly or a larger  
18 sized apartment, because they are going to have to  
19 keep the density on their property the same, but  
20 they might be able to increase the square footage  
21 somewhat to build out to their bulk and height  
22 capacity.

23 COMMISSIONER GRAHAM: Well, okay, I am  
24 still thinking about it, so --

25 CHAIRMAN HOLTZMAN: Jim?

1                   COMMISSIONER DOYLE: I just have a  
2                   procedural question as far as how -- are we going  
3                   to -- at what point would the public --

4                   CHAIRMAN HOLTZMAN: We are going to get  
5                   there.

6                   COMMISSIONER DOYLE: -- no, I'm not  
7                   rushing to get there. I am just curious. I had  
8                   some questions for Dave, Mr. Roberts, and I didn't  
9                   know whether that would be after the public speaks  
10                  or before.

11                  CHAIRMAN HOLTZMAN: You have the floor.

12                  COMMISSIONER DOYLE: Oh, okay. I'm  
13                  not --

14                  MR. GALVIN: No. Let me just say this.

15                  What I usually recommend to all my  
16                  Boards is that the Board ask its questions first,  
17                  and then if there were objector attorneys here in an  
18                  application, the objector's attorney, and then the  
19                  public because hopefully one of us might have asked  
20                  a question and solved it for them without making  
21                  them get up.

22                  COMMISSIONER DOYLE: Okay.

23                  Mr. Roberts, I am looking at your May  
24                  26th letter, and I guess, you know, I heard from the  
25                  public as well with regard to concerns about this

1 proposed ordinance, and so one -- so I have a few  
2 questions.

3           Number one on your -- in your comments  
4 on page one, it deals with what we were just  
5 speaking about, the nonconforming uses, and it talks  
6 about maintenance and repairs are permitted when the  
7 nonconforming use is not changed or intensified.

8           One of the issues that we dealt with,  
9 and I think we tried to address it in the ordinance  
10 is that intensified is essentially any enlargement  
11 whatsoever bulk, not necessarily -- so if it is a  
12 nonconforming -- not a lot, but if it is a  
13 nonconforming structure because it's, you know 75  
14 percent lot coverage or too tall or whatever, you  
15 know, as a matter of public policy, it is my  
16 understanding that the city wants to get rid of  
17 nonconforming-whatever structures, you know.

18           And so as -- overtime, it is  
19 theoretically, that is why if it burns down, then  
20 they don't let you rebuild it because they don't  
21 want you to have it in the first place.

22           But to get to my point, the  
23 intensification do you read this, and I am going to  
24 ask for a resolution to reflect this, that it be  
25 reflected in the resolution, that any enlargement

1           whatsoever is an intensification of the  
2           nonconforming use --

3                       MR. ROBERTS:  If it's a nonconforming  
4           building, it's already overbuilt, yes.

5                       COMMISSIONER DOYLE:  Yes.  Say it is a  
6           two-story structure and they want to raise it to  
7           three, and they can go higher, but going to three  
8           from two of a nonconforming use is, in my view,  
9           intensifying the nonconforming use.  It's making it  
10          bigger, even though it is not necessarily --

11                      MR. ROBERTS:  Well, yeah.  You just  
12          threw "use" in your question, and that is clearly  
13          not allowed.  That would require a use variance.

14                      COMMISSIONER DOYLE:  Yeah.  I am  
15          talking about density -- or I'm talking about bulk,  
16          not density.

17                      MR. ROBERTS:  Yes.

18                      Okay.  Bulk would be, again if the  
19          building is already nonconforming in whatever  
20          measure, maybe it is coverage, that probably would  
21          be the most common one we would get is that that it  
22          exceeds, for example, in the residential zones where  
23          we have the 60, 65 percent I think it is coverage,  
24          and your building is already at 70 percent, and you  
25          wanted to go up another floor at 70 percent, that

1 would clearly not be allowed.

2 COMMISSIONER DOYLE: How about at 40  
3 percent?

4 MR. ROBERTS: I'm sorry?

5 COMMISSIONER DOYLE: How about the  
6 additional floor that you want is 40 percent?

7 MR. ROBERTS: If the building is  
8 already nonconforming, I would think that is  
9 intensification.

10 COMMISSIONER DOYLE: Thank you.

11 That is what I want to hear.

12 The goal was to make that clear in the  
13 ordinance, and I am looking for, you know -- it says  
14 in all -- where an alteration is proposed, which  
15 does not eliminate the nonconformity entirely, so if  
16 you are not ripping off, you know, the back 30  
17 percent --

18 MR. ROBERTS: To conform with the  
19 coverage --

20 COMMISSIONER DOYLE: -- yeah -- then it  
21 ain't good enough. All you can do is bring it into  
22 conformity or you need a variance, so --

23 MR. ROBERTS: I think that's what I  
24 would --

25 COMMISSIONER DOYLE: I would like that

1 point, because, you know, people who have contacted  
2 me reading that, and as written, because this is new  
3 language, as written it is less ambiguous -- or it's  
4 more ambiguous and less clear.

5 So -- because at the end of the first  
6 paragraph, you say: However, reconstruction of a  
7 nonconforming structure is not permitted except as  
8 legally required, and I don't know what "except as  
9 legally required" means.

10 MR. ROBERTS: Oh, in other words, if  
11 you lose the building completely, you can only build  
12 a conforming structure.

13 In other words, that gets to, you know,  
14 the idea of partial or total destruction. In this  
15 case you are rebuilding it from scratch, and it  
16 would have to be completely conforming.

17 COMMISSIONER DOYLE: But as worded, it  
18 says: "Reconstruction of a nonconforming structure  
19 is not permitted except," so the word "except" means  
20 you can build something that is a nonconforming  
21 structure as legally required, and I'm saying how  
22 could it be legally required?

23 MR. ROBERTS: Well, in other words, as  
24 allowed by existing bulk -- in other words, you  
25 would have to completely conform to the ordinance

1 requirements.

2 COMMISSIONER DOYLE: So it should just  
3 be period.

4 MR. ROBERTS: Yeah, I guess.

5 COMMISSIONER DOYLE: You know, I'm not  
6 trying to -- I just want to make sure I understood  
7 that, because that was the question --

8 MR. GALVIN: Time out for a second.

9 What you are saying is that you can  
10 build something that is conforming.

11 MR. ROBERTS: You can build something  
12 that's conforming.

13 MR. GALVIN: Right. But we are talking  
14 about the nonconforming. That might be something  
15 that we should look at some more.

16 COMMISSIONER DOYLE: Well, I think the  
17 ordinance says it properly. I am reading now from  
18 his comment letter.

19 MR. GALVIN: Well, that's not going  
20 to --

21 COMMISSIONER DOYLE: -- so I just  
22 wanted to make sure --

23 MR. ROBERTS: Yeah, but --

24 COMMISSIONER DOYLE: -- I am not trying  
25 to pick on you, Dave. I'm just --

1                   MR. ROBERTS: Correct. No, in other  
2 words, you can only rebuild a nonconforming building  
3 as conforming. That's what I was trying to say --

4                   MR. GALVIN: Right. You can't -- what  
5 you want to say is you can't build -- you can't --

6                   MR. ROBERTS: Rebuild a  
7 nonconforming --

8                   MR. GALVIN: -- nonconforming use, if  
9 it's totally destroyed. All you can do on that lot  
10 is build a conforming structure.

11                   MR. ROBERTS: Right.

12                   CHAIRMAN HOLTZMAN: Okay.

13                   So just to reiterate, Jim, on that one  
14 you are saying the ordinance language is okay --

15                   COMMISSIONER DOYLE: Yes.

16                   CHAIRMAN HOLTZMAN: -- Dave's callout  
17 was a little fuzzy. That's all, right?

18                   COMMISSIONER DOYLE: Well, I just want  
19 to make it --

20                   MR. GALVIN: And only the ordinance  
21 will control --

22                   COMMISSIONER DOYLE: -- crystal  
23 clear --

24                   CHAIRMAN HOLTZMAN: -- right. The  
25 ordinance controls, not Dave's report. No offense.

1 COMMISSIONER DOYLE: Yeah. I --

2 MR. GALVIN: It was a good report,  
3 though.

4 COMMISSIONER DOYLE: Yeah.

5 My second and last question, I'm sorry  
6 to monopolize --

7 CHAIRMAN HOLTZMAN: Take your time.

8 COMMISSIONER DOYLE: -- it's on Page  
9 405, and (b) at the top of the page, I don't know --  
10 is it 5(b) -- I was a little unclear as to -- you  
11 allude to the waterfront PUD standards with a ten  
12 percent rooftop coverage --

13 CHAIRMAN HOLTZMAN: Hang on one  
14 second --

15 MR. ROBERTS: Yeah.

16 What we had seen was that the only  
17 place where the ten percent actually is down in the  
18 ordinance is in the PUD section, but it has been  
19 interpreted as applying to all --

20 CHAIRMAN HOLTZMAN: Which is  
21 inappropriate --

22 MR. ROBERTS: -- right -- but the 30  
23 percent is recommended now as the standard that  
24 allows for roof decks and green roofs and all of  
25 that, so that will clear up any misunderstanding on

1 that.

2 CHAIRMAN HOLTZMAN: So the ten percent  
3 coverage is written into the waterfront PUD.

4 COMMISSIONER DOYLE: To just one  
5 isolated area in the city --

6 CHAIRMAN HOLTZMAN: Right --

7 COMMISSIONER DOYLE: -- and the rest of  
8 it --

9 CHAIRMAN HOLTZMAN: -- unfortunately  
10 what happened was because we didn't have any rules  
11 and regs governing roof decks, it became an  
12 unofficial default, oh, somebody said something  
13 about roof decks in a PUD, so let's go with that.

14 So it was being used, but it never was  
15 intended to be used outside of that PUD.

16 COMMISSIONER DOYLE: Okay. I  
17 understand that.

18 Thank you. I just wanted to confirm  
19 that. That's it for me then.

20 CHAIRMAN HOLTZMAN: Thank you.

21 Any other Commissioners, otherwise we  
22 will open it up to the public and we can certainly  
23 circle back.

24 COMMISSIONER DOYLE: Well, I apologize.

25 CHAIRMAN HOLTZMAN: Oh.

1                   COMMISSIONER DOYLE: I forgot one last  
2 thing.

3                   I want to make -- this is maybe a  
4 statement, but I am asking for you to confirm this.  
5 We heard this, I think the Chairman just pointed  
6 this out, by allowing -- by using elevation in feet  
7 only, we are not -- as opposed to stories, it would  
8 seem that four stories could be built in 40 feet as  
9 opposed to three stories, which is the current law.  
10 Three stories or 40 feet, whichever is less. But  
11 the density will not change.

12                  MR. ROBERTS: Correct.

13                  COMMISSIONER DOYLE: So, you know, 660  
14 divided by, you know, it stays the same, so we are  
15 not adding more apartments, as you pointed out, we  
16 are just making perhaps one apartment bigger, which  
17 as you pointed out, may be good for families. It  
18 may, you know, become a luxury unit, which may be  
19 unaffordable, but it still is --

20                  CHAIRMAN HOLTZMAN: But it doesn't  
21 increase density.

22                  COMMISSIONER DOYLE: -- but it does not  
23 increase density, yeah --

24                  CHAIRMAN HOLTZMAN: And that has been a  
25 concern that we heard from the public, so we wanted

1 to get out in front of you.

2 Okay. So we will open it up to the  
3 public.

4 Dan?

5 MR. THOMPSON: Yeah. This is a --

6 THE REPORTER: Can you state your name?

7 UNIDENTIFIED VOICE: Stand up and talk  
8 loud, please.

9 MR. THOMPSON: Okay.

10 CHAIRMAN HOLTZMAN: Keep him in line.

11 (Laughter)

12 MR. THOMPSON: My name is Dan Thompson.

13 Okay. Jim was alluding to the fact  
14 that the new version of the law that we are  
15 discussing here now allows you, if you are building  
16 above the flood elevation, you can go up 40 feet,  
17 and it says you can go four stories.

18 CHAIRMAN HOLTZMAN: It says 40 feet.  
19 It does not indicate the stories.

20 MR. THOMPSON: Excuse me.

21 But what it does do is that it  
22 indicates that a story can be ten feet and it does  
23 allow four stories.

24 CHAIRMAN HOLTZMAN: Correct.

25 MR. THOMPSON: Okay.

1                   My problem with that is the current law  
2                   is limited to three stories, and I don't think it is  
3                   a good idea to modify the law to allow four stories  
4                   because this will increase the density of the town.

5                   COMMISSIONER DOYLE: Well, you mean  
6                   bulk, I believe, Dan.

7                   MR. GALVIN: No. Density.

8                   MR. THOMPSON: No. Density in the  
9                   sense that where you could have three units in one  
10                  size --

11                  CHAIRMAN HOLTZMAN: Dan, lets just be  
12                  specific.

13                  The word "density" from a planning  
14                  point of view --

15                  UNIDENTIFIED VOICE: Describe  
16                  density --

17                  MR. GALVIN: No calling out.

18                  CHAIRMAN HOLTZMAN: I want it to be  
19                  specific so we get to the right answer here.

20                  So density refers to the amount of  
21                  people that can live per square foot. I don't think  
22                  that is what you mean. I think what you mean is the  
23                  size of the building.

24                  MR. GALVIN: Number of units.

25                  COMMISSIONER DOYLE: No. It's the

1 number of units, Gary.

2 MR. THOMPSON: No. It's the number of  
3 units, that's right, and for every additional -- and  
4 by the way, this is an incentive, and I have seen it  
5 in action, incentive to tear down existing buildings  
6 and create more floors --

7 CHAIRMAN HOLTZMAN: But let me just --  
8 let's take it step by step.

9 But this does not change the density on  
10 a piece of property. It potentially changes the  
11 size of the building, the amount of square footage,  
12 but it does not change the amount of the units that  
13 can be built on that piece of property.

14 MR. THOMPSON: Well, if you can have  
15 four floors where you only could have three, why  
16 does that not change the number of units?

17 CHAIRMAN HOLTZMAN: Because you still  
18 can't put more units on there.

19 If you can only put three units on that  
20 piece of property, you can now put --

21 (Audience talking at once.)

22 CHAIRMAN HOLTZMAN: -- well, it's one  
23 at a time, guys -- you can still put three units.  
24 You will have one single floor apartment, one single  
25 floor apartment, and one duplex apartment, but you

1 can't just sneak in an extra apartment.

2 MR. THOMPSON: Well, then what you are  
3 saying may be true, but what I am saying is that if  
4 you increase the number of floors to four, so one of  
5 them is the duplex, that is an incentive to increase  
6 the density of the town because you will still have  
7 more people in the duplex unit than you will in a  
8 single unit --

9 COMMISSIONER DOYLE: That is not what  
10 density means, but you are saying the population.

11 UNIDENTIFIED VOICE: The population --

12 COMMISSIONER DOYLE: That's what you're  
13 saying, correct?

14 MR. THOMPSON: I'm saying, yeah --

15 CHAIRMAN HOLTZMAN: Just one at a time,  
16 guys, because we have to get the court reporter --

17 MR. THOMPSON: -- that is going to be  
18 more density, and this is going to be -- as I said,  
19 I have seen this action, that the use, the 40 feet  
20 business, as an excuse to increase the number of  
21 floors. Of course, in that case, they were actually  
22 trying to get a variance. And here you can do it  
23 without a variance, and that is problematic to me,  
24 that is now expanding the zoning ordinance to allow  
25 density.

1                   I understand that you have to go above  
2                   the flood plain and all of that, but I don't see any  
3                   reason or excuse to allow more floors to be put into  
4                   the zoning ordinance.

5                   CHAIRMAN HOLTZMAN:   Okay.

6                   Dennis?

7                   MR. GALVIN:   You know, in the case I  
8                   was talking about earlier -- just let me -- in the  
9                   case I was talking about earlier, they have to come  
10                  like eight or nine feet out of the ground, so it is  
11                  an existing two-story, and now they have to come up  
12                  nine feet.  And when they do that, that project gets  
13                  to about 40 feet.  Nothing about that house changed  
14                  at all.

15                  I think that part of what we are  
16                  working with is we have to understand that we are  
17                  going to have to have a little bit more height  
18                  because we have to have these buildings out of the  
19                  flood --

20                  MR. THOMPSON:   No, no.  I understand  
21                  that --

22                  MR. GALVIN:   -- and then we're going to  
23                  lose -- but I'm saying we are starting from zero to  
24                  40 feet.  We are locked in, and when we have the  
25                  story regulation, that one project just won't work

1           because you are adding a theoretical story, an  
2           unused story.

3                         We are going to have a lot of spaces in  
4           town, where there is going to be six feet, eight  
5           feet, ten feet that cannot -- 13 feet -- talk to  
6           me --

7                         CHAIRMAN HOLTZMAN:   Yeah.  Not  
8           habitable space.

9                         MR. GALVIN:    So you're agreeing with  
10          me --

11                        (Everyone talking at once.)

12                        MR. GALVIN:    -- I mean, it's going to  
13          be -- the laws are very clear.  You could have  
14          parking or you could have storage, and in Hoboken in  
15          a lot of places we don't allow parking, so the only  
16          thing you can have in that space is storage, and  
17          then so the living space --

18                        MR. VANCE:    For a commercial?

19                        MR. GALVIN:    Huh?

20                        MR. VANCE:    For a commercial --

21                        COMMISSIONER DOYLE:  If allowed --

22                        CHAIRMAN HOLTZMAN:  Time out,

23                        COMMISSIONER DOYLE:  I'm sorry.

24                        CHAIRMAN HOLTZMAN:  We will get to  
25          that.  Let's save it, please, for a second.

1                   MR. GALVIN: Okay. So what I am saying  
2 is there might be somebody in town who is not in the  
3 flood zone, who could wind up with four stories, but  
4 they would still be limited by density, so they  
5 could have more luxurious surroundings --

6                   CHAIRMAN HOLTZMAN: It would still be  
7 limited by the 40 feet, period.

8                   MR. GALVIN: Yes.

9                   MR. THOMPSON: No. I understand that  
10 and have always understood that 40 feet is something  
11 which is a limit. But I am saying by adding -- by  
12 having four ten-story units, or even if you call two  
13 of the floors one unit, and it is a duplex, you are  
14 still adding to the number of people that are in the  
15 town, the number of services that are required, the  
16 stress on the infrastructure, and it is an incentive  
17 to move in that direction.

18                   MR. GALVIN: You -- I recognize --

19                   COMMISSIONER STRATTON: Can I ask --

20                   CHAIRMAN HOLTZMAN: Hang on one second,  
21 Caleb.

22                   MR. GALVIN: I'm sorry.

23                   CHAIRMAN HOLTZMAN: Dennis?

24                   MR. GALVIN: I just was going to say:  
25 I recognize where you be are coming from, but I

1 think when you look at this, you have to look at the  
2 need to elevate these homes. Like there is going to  
3 be this pressure to bring a number of our structures  
4 up this distance, seven, eight, ten feet, and it is  
5 not going to be usable space.

6 It will make for higher buildings in  
7 some places. In other words, in a neighborhood  
8 where the houses are right now 30 feet high, and  
9 they could be 40, when they get rebuilt because you  
10 have to rebuild them, you have to bring them up  
11 because of your flood insurance. When you spend  
12 that money and you elevate them, you are not going  
13 to be able to use the space on the bottom.

14 I understand your argument from a --  
15 from just filling the space, I understand your  
16 argument. But I think the reality of what is going  
17 on in Hoboken with the flood problems that we have  
18 in most of the city, it is not going to be like  
19 that. That space on the bottom isn't going to go to  
20 another dwelling unit. It is going to go to  
21 storage.

22 MR. THOMPSON: That's not what I am not  
23 talking about at all.

24 I'm saying the way the law is written,  
25 it says that you build up to that flood plain and

1           then above that you get 40 feet and up to four  
2           stories.

3                           UNIDENTIFIED VOICE:  Three stories --

4                           CHAIRMAN HOLTZMAN:  No.  You get 40  
5           feet.

6                           MR. THOMPSON:  No.  It says up to four  
7           stories because it redefines --

8                           CHAIRMAN HOLTZMAN:  It doesn't say  
9           four -- it doesn't say -- but I want to be specific  
10          about this, because one of the problems that we are  
11          dealing with and why we are here is because our law  
12          has been so disjointed, that in one part of our law  
13          over here, it said 40 feet, and in another part of  
14          our law, it said three stories.  So what we are  
15          trying to do is to simplify this thing, and it's  
16          just to make it 40 feet.

17                          You have the option of building 40  
18          feet.  Some people will put four stories in there.  
19          Mr. Ahmed, who builds fancy high-rise places, maybe  
20          he is going to put two stories in there that are  
21          each 20 stories high --

22                          COMMISSIONER GRAHAM:  20 feet --

23                          CHAIRMAN HOLTZMAN:  -- 20 feet high,  
24          right.

25                          COMMISSIONER GRAHAM:  -- not 20

1 stories.

2 CHAIRMAN HOLTZMAN: But it gives people  
3 the option to then design within the envelope of the  
4 40 feet.

5 MR. THOMPSON: Yes.

6 But what I'm saying is that something  
7 new that is now allowing you to pack more units  
8 into --

9 CHAIRMAN HOLTZMAN: And it is not more  
10 units.

11 UNIDENTIFIED VOICE: It's not more  
12 units --

13 MR. THOMPSON: Before you say no, it  
14 says four stories --

15 (Everyone talking at once.)

16 CHAIRMAN HOLTZMAN: Okay.

17 MR. THOMPSON: -- I'm not talking about  
18 base flood elevation. We all understand that there  
19 is a reason to go along the base --

20 CHAIRMAN HOLTZMAN: Okay. Just give us  
21 one second.

22 Caleb, did you have something that you  
23 wanted to jump in there now, and then we are going  
24 to get to Frank.

25 COMMISSIONER STRATTON: I will offer a

1 scenario, where you have a building that is in the  
2 flood plain that is three stories right now, and on  
3 the first floor there's a residential unit, and  
4 let's say there's two units per floor, so there's  
5 six units in the building.

6 I think the purpose of this amendment  
7 is so that people can elevate that structure, retain  
8 the existing amount of units in the building, but  
9 conforming to a height, there is non-consistency  
10 between the National Flood Insurance Program, FEMA,  
11 and the construction code on how floors are  
12 quantified and using that language becomes difficult  
13 in how we regulate it.

14 So I think that the intent of this  
15 amendment is to make it easier for existing units to  
16 comply and provide clear guidance for new  
17 construction on how to comply with the flood damage  
18 prevention. I do not think that the amendment is  
19 designed to --

20 MR. THOMPSON: Well, what I am  
21 saying --

22 CHAIRMAN HOLTZMAN: Dan, Dan, Dan.

23 COMMISSIONER STRATTON: -- I do not  
24 think that the amendment can provide additional  
25 density, because density is a foundation calculated

1 through zoning.

2 MR. THOMPSON: It's what?

3 COMMISSIONER STRATTON: The foundation  
4 for density is calculated through zoning --

5 CHAIRMAN HOLTZMAN: And there's no  
6 changes be made to it --

7 COMMISSIONER STRATTON: -- and, Dave,  
8 correct me if I'm wrong, there's no changes being  
9 made to the assignment of density per our --

10 MR. ROBERTS: That's correct.

11 COMMISSIONER STRATTON: So if I have a  
12 20 foot wide block that is a hundred feet, I am only  
13 allowed a certain density based on floor area and  
14 constructability of the site, and the change in  
15 height is not going to affect that calculation. Is  
16 that correct?

17 COMMISSIONER DOYLE: That's correct.

18 MR. ROBERTS: Yeah. And I would just  
19 add that what we are talking about is how you  
20 measure height, and some ordinances will give you,  
21 it is the absolute height in terms of feet measured  
22 from the ground or from the design flood elevation  
23 in this case, or it is the number of stories.  
24 In this case we are only measuring it now from one  
25 parameter and that is absolute height. The density

1 doesn't change.

2 MR. THOMPSON: I am saying, though,  
3 that the --

4 MR. ROBERTS: I understand, but I think  
5 in this case --

6 MR. THOMPSON: -- that is an expansion  
7 allowing more floors to be built --

8 COMMISSIONER STRATTON: If there was  
9 not a change in the height, if you were to take away  
10 the design flood elevation, it would still be 40  
11 feet.

12 COMMISSIONER DOYLE: He is not asking  
13 for that.

14 MR. THOMPSON: I am not getting into 40  
15 feet. I understand --

16 (Everyone talking at once.)

17 CHAIRMAN HOLTZMAN: Thank you.

18 Mr. Ahmed?

19 MR. AHMED: Hanny Ahmed, Hoboken.

20 A couple of things that we need to  
21 clarify, what happened in the past with Sandy, and I  
22 think this will shed some light on what Dan was  
23 trying to get to, but you have structures in town  
24 that are three stories and four stories and 40 feet  
25 in height that were not in the flood plain prior to

1 2012. Now they are in the flood plain.

2 FEMA is raising that flood elevation on  
3 us. You have structures that are legal today, but  
4 are one foot away from not being legal, and this is  
5 the way it works. If you have a million-dollar  
6 property, according to the tax assessor, and the tax  
7 assessor says your property is worth 600,000 in  
8 land, 400,000 for the structure, if you get \$201,000  
9 of damage, that structure has to come into the  
10 current flood regulations and the current building  
11 code, so you lose that floor.

12 So if that is a condo owner, you are  
13 evicted. You are not allowed to go back in that  
14 unit. You are no longer allowed to reconstruct that  
15 unit. You have lost your right to that unit.  
16 This will fix that. This will allow that person if  
17 the condo board chooses to, to add that on the top  
18 and be measured accordingly.

19 The same with a single-family home,  
20 that has, you know, three stories or four stories,  
21 if it was brownstones, and it's going to happen.  
22 They're losing the ground floor.

23 When they bought that property and  
24 mortgaged that property, the bank thought they were  
25 getting four floors of a brownstone at whatever X

1       dollar amount it was of that unit. When that floor  
2       is lost, that is no longer the same structure. That  
3       is not what the bank bargained for in the loan.  
4       They can call that note. You gave us, you know,  
5       2000 square feet, sir. You are down to 1500. Do  
6       you have a 25 percent additional down payment?

7                 So this is a problem that's going to  
8       happen. You're going to get another storm event,  
9       and you are going to see this new regulation put  
10      into effect, and it is not then the time to scramble  
11      and try to figure out how to get your Planning Board  
12      together and the City Council to address this. This  
13      is what this is addressing. This is what spawned.

14                To the next part that Councilman Doyle  
15      spoke to with the bulk and the nonconforming lots,  
16      now this one is a little tougher.

17                Your Washington Street corridor, your  
18      retail corridor, is for the most part nonconforming.  
19      Your CVS is nonconforming. Your Carlos Bakery is  
20      nonconforming, all these structures are  
21      nonconforming, because they back to Court Street,  
22      and a lot of those structures were built a hundred  
23      years ago, and they are a hundred percent lot  
24      coverage.

25                What we don't want to see is that the

1 new store owners want to change it from a vegetable  
2 store to I don't know, to another store, and they  
3 want to do alterations. We don't want to see them  
4 all in the Zoning Board. That is ridiculous.

5 We are trying to be business friendly  
6 and say, okay, somebody didn't make it. We don't  
7 want to all of a sudden send them to the Zoning  
8 Board every time there is a turnover. That's not  
9 the intent here either.

10 So when you say the spirit of it is to  
11 bring structures into conformance, really what --  
12 think about what you're saying -- some structures  
13 are not going to be met for conformance. City Hall  
14 is not in conformance. So when you say this, you  
15 know, not to generate more applications, generate  
16 less applications, and when you do send all of these  
17 people into the Zoning Board, you are absolutely  
18 right, Chairman. We add a little more because the  
19 time is extra, the money is extra.

20 And you say, well, I might as well get  
21 that extra, you know, ten percent lot coverage. I  
22 might as well get that extra roof deck and something  
23 else and then add on.

24 These things get out of line and I've  
25 seen it first hand. I have gone to plenty of these

1 meetings over the years, and if the intent is to cut  
2 those down, then you are doing exactly what is  
3 right, to cut it down.

4 And the third part that I want to  
5 mention, and I understand, and I appreciate your  
6 efforts to go into the R-1, R-2, and R-3, and  
7 Councilman Doyle along with his committee, and Ann  
8 Holtzman has spent countless hours on this, and this  
9 is a big improvement. This is one step in the right  
10 direction. I know there is more coming, but we  
11 would urge you for the oldest district in the city,  
12 which is the industrial district, that goes back to,  
13 you know, over a hundred years in the pre-war  
14 efforts, when this district was created, to direct  
15 some attention to the district, and we are talking  
16 about, as you said, the little hanging fruit, Mr.  
17 Roberts, we are talking about the simple things,  
18 like restaurants, recreation, and retail, and they  
19 are not permitted in every single zone in Hoboken  
20 except the industrial zone.

21 They are never -- are permitted in the  
22 Industrial 2 Zone. They are permitted in I-1-W  
23 zone. They're just not permitted in the I-1. So we  
24 respectfully ask you that while you address that,  
25 that you also take that into consideration. It is

1 an easy one. There hasn't been much resistance for  
2 it. We call it the forgotten zone.

3 But we would appreciate if you would  
4 also spend that time and effort on it, and I urge  
5 you to move ahead with what you have done so far,  
6 because this will ease a lot of headaches in the  
7 future that you are going to get through flooding  
8 and other diasters that happen, some natural fire or  
9 anything else, whatever, to allow these structures  
10 to be rebuilt in a timely fashion and a legal  
11 fashion without putting more red tape on it.

12 Thank you.

13 CHAIRMAN HOLTZMAN: Thank you, Mr.

14 Ahmed

15 Commissioner Magaletta, did you have  
16 something that you wanted to show us in the code  
17 there?

18 VICE CHAIR MAGALETTA: I just wanted to  
19 ask Mr. Thompson.

20 Well, again, sir, let me ask you a  
21 question. Are you saying the ordinance as revised  
22 says stories or you're just saying because it is 40  
23 feet, it's ten feet to a story, it's four stories,  
24 because the ordinance itself actually strikes  
25 stories --

1 MR. THOMPSON: I know --

2 VICE CHAIR MAGALETTA: -- Okay. I'm  
3 trying to find out.

4 Okay. So your point is you are  
5 extrapolating by virtue of a story is ten feet --

6 MR. THOMPSON: Yes.

7 VICE CHAIR MAGALETTA: -- and you have  
8 40 feet, you have four stories?

9 MR. THOMPSON: Yes. You get four  
10 stories, yes --

11 VICE CHAIR MAGALETTA: -- Okay.

12 But you're just saying that the  
13 ordinance strikes stories --

14 MR. THOMPSON: -- and that is an  
15 extension that I just want to point out because this  
16 keeps being said that people lose a story because of  
17 this flood plain.

18 I am not getting into that. I'm not  
19 saying that there is anything wrong with the idea of  
20 saying that you can build 40 feet above the flood  
21 plain level. That's not what I am not talking  
22 about.

23 What I am talking about is within that  
24 40 feet, just like it was before, that it should be  
25 limited to three stories, not elevated to four

1 stories.

2 CHAIRMAN HOLTZMAN: Go ahead.

3 MS. ONDREJKA: I have a few things to  
4 say.

5 CHAIRMAN HOLTZMAN: Sure. Just  
6 introduce yourself.

7 MS. ONDREJKA: Oh, I'm sorry.

8 Mary, and the last name is  
9 O-n-d-r-e-j-k-a.

10 Okay. First of all, I wanted to  
11 understand about the garden apartments, because I  
12 was at the Chamber of Commerce meeting where the  
13 mayor spoke, and she said she did not want the  
14 garden apartments to go away that are obviously on  
15 the bottom, and I was wondering because of this  
16 raising up at the flood plain -- I mean at the flood  
17 level, is that going to obliterate some of the  
18 garden apartments just like that?

19 CHAIRMAN HOLTZMAN: Hang on.

20 MS. ONDREJKA: I have many questions.

21 CHAIRMAN HOLTZMAN: Do you want to do  
22 them one at a time?

23 MS. ONDREJKA: Yes. May you answer  
24 that one, please?

25 CHAIRMAN HOLTZMAN: Sure. Well, we

1 going to probably hand it off, but I will start. No  
2 problem.

3 The two things are related, but they  
4 are not necessarily linked, so the 40 foot building  
5 regulation doesn't specify where it starts. All of  
6 the ground zero starts where the flood elevation  
7 tells us we can start, so in different parts of  
8 town, it is very different --

9 MS. ONDREJKA: That is what she said,  
10 too --

11 CHAIRMAN HOLTZMAN: -- so let me --  
12 right?

13 MS. ONDREJKA: Yes. She said that.

14 CHAIRMAN HOLTZMAN: So if you're back  
15 in the southwest, a garden apartment is probably not  
16 a feasible thing, because it's going to be below the  
17 flood elevation, and it will be in what FEMA deems  
18 as a non-habitable space. Nobody can live there.

19 On the other hand, if you are on  
20 Washington Street or Hudson Street, it's very likely  
21 that those garden apartments are above what the base  
22 flooding elevation would be, and they would be okay.

23 MS. ONDREJKA: Okay. Let me ask this:

24 Does that mean that that flood level  
25 starts exactly where it was anyway on those?

1                   Like, for instance, on Bloomfield, some  
2 of Garden, Hudson --

3                   CHAIRMAN HOLTZMAN: It starts in a  
4 different place on every piece of property.

5                   MS. ONDREJKA: On every piece of  
6 property. Okay. That's clear.

7                   CHAIRMAN HOLTZMAN: So you can't -- you  
8 can't give it an overall sweeping statement,  
9 positive or negative. It depends upon the exact  
10 location.

11                   MS. ONDREJKA: Okay.

12                   And I am assuming that since this -- I  
13 have been here many years, and it came all the way  
14 up to Garden and 7th to the garden apartment at the  
15 corner there, I am assuming that that particular  
16 structure can no longer have a garden apartment?

17                   CHAIRMAN HOLTZMAN: I don't want to  
18 comment about a specific piece of property that I  
19 don't know anything about.

20                   MS. ONDREJKA: I'm not saying that one,  
21 but I meant in that example --

22                   MR. GALVIN: Let me just --

23                   CHAIRMAN HOLTZMAN: Dennis?

24                   MR. GALVIN: -- you know, there is a  
25 concept in the law that if you have preexisting

1 nonconforming --

2 MS. ONDREJKA: Grandfathered in?

3 MR. GALVIN: -- use or structure --

4 grandfathered is the way normal people use it.

5 You're allowed to continue that indefinitely --

6 CHAIRMAN HOLTZMAN: Until?

7 MR. GALVIN: -- well, there's two

8 reasons -- until it's destroyed or there is some act

9 occurs.

10 MS. ONDREJKA: Just let me interrupt.

11 I just want the landlord to say, oh,

12 you're living in a space that really could possibly

13 flood, so you are out.

14 MR. GALVIN: No --

15 MS. ONDREJKA: I'm asking --

16 MR. GALVIN: -- I can't eliminate all

17 possibilities, but it seems unlikely.

18 Based on zoning, that shouldn't happen.

19 MS. ONDREJKA: Okay. I didn't want

20 that to be a --

21 MR. GALVIN: But the other factor,

22 there is one other factor. It is the cost of the

23 insurance.

24 If you are living below the space -- if

25 you are living below where FEMA wants you to be,

1           then they charge more money for your flood  
2           insurance, a lot more money.

3                       MS. ONDREJKA: All right.

4                       The next thing I wanted to talk about  
5           was the roof decks.

6                       UNIDENTIFIED VOICE: Speak up.

7                       MS. ONDREJKA: The next thing I wanted  
8           to talk about is the roof decks.

9                       All of my years here, they were legal,  
10          and my understanding is they are not illegal, so  
11          obviously they didn't put them in because it is a  
12          noise issue. We live in a very tightly compacted  
13          area.

14                      I understand by roof deck that -- is  
15          there a designation that the deck would go on the  
16          very top level of the building, or as we have, like  
17          in my building, extensions out, and on the first  
18          floor you can put a deck, I suppose, and open that  
19          floor, so then is that a reality?

20                      CHAIRMAN HOLTZMAN: Okay.

21                      MS. ONDREJKA: Ohhhh.

22                      CHAIRMAN HOLTZMAN: We have a couple of  
23          different things. We have got decks on top of  
24          roofs. We have balconies, which I think is what you  
25          are also describing --

1 MS. ONDREJKA: I'm talking about  
2 balconies, too.

3 CHAIRMAN HOLTZMAN: -- and then there  
4 is also decks that are off the back of a building,  
5 but are below a certain height that are like almost  
6 like a --

7 MS. ONDREJKA: That's what I'm talking  
8 about, too --

9 CHAIRMAN HOLTZMAN: -- a deck porch  
10 king of a thing --

11 VICE CHAIR MAGALETTA: A terrace.

12 CHAIRMAN HOLTZMAN: -- and then there  
13 are patios --

14 MS. ONDREJKA: What is a patio?

15 CHAIRMAN HOLTZMAN: Like a concrete --

16 MS. ONDREJKA: I mean, I know what a  
17 patio is --

18 CHAIRMAN HOLTZMAN: -- something that's  
19 on the ground itself.

20 MS. ONDREJKA: Okay, okay.

21 CHAIRMAN HOLTZMAN: But these are all  
22 very specifically defined --

23 COMMISSIONER DOYLE: Flagstone.

24 CHAIRMAN HOLTZMAN: -- these are all  
25 very specifically defined now as different things,

1 so that each one of them has their own set of  
2 regulations as to how big they could be, how much  
3 they need to be set back from the property line or  
4 another building, so --

5 MS. ONDREJKA: Okay. What if those  
6 patios are already in place --

7 CHAIRMAN HOLTZMAN: Again, we get back  
8 to Dennis' answer --

9 MS. ONDREJKA: -- are they  
10 grandfathered in?

11 MR. GALVIN: Yes --

12 MS. ONDREJKA: All right. So then --

13 MR. GALVIN: -- unless they take them  
14 out.

15 MS. ONDREJKA: All right. So then you  
16 can have a balcony -- a deck rather on a one-story  
17 extension --

18 CHAIRMAN HOLTZMAN: You could.

19 MS. ONDREJKA: -- but then they would  
20 actually have to actually redo the roof to support  
21 that --

22 COMMISSIONER DOYLE: Well, the  
23 construction code would require that, yes.

24 CHAIRMAN HOLTZMAN: When they went for  
25 their building permits, they would have to show

1 proof to the construction office that they have had  
2 some type of an engineering report that showed that  
3 the deck and the roof could exist, and you know,  
4 that the building was designed and was sufficient  
5 for that. Sure.

6 MS. ONDREJKA: In my opinion, that will  
7 add a lot of people in close proximity to other  
8 people, but I can't do anything about that.

9 The setbacks, I am not clear on the  
10 setback rule, because right now there is a certain  
11 setback for each of the buildings. They are kind of  
12 all in line in with each other, except for some of  
13 the newer ones that are jutting out a little  
14 further.

15 Is the setback going to be totally  
16 eliminated, that it comes up to the --

17 CHAIRMAN HOLTZMAN: Lot line.

18 MS. ONDREJKA: The what? The property  
19 line?

20 Why in God's name would you do that  
21 because it would be looking like this. You know,  
22 some would be in and some would be out, and also the  
23 properties --

24 MR. GALVIN: Can I stop you there?

25 CHAIRMAN HOLTZMAN: Let's get an answer

1 to that. We'll address them one at a time.

2 MR. GALVIN: I think that one, it is  
3 the opposite. That one has deteriorated over a long  
4 period of time. In my view --

5 MS. ONDREJKA: What has deteriorated?

6 MR. GALVIN: -- what I mean is, you are  
7 talking about having broken teeth --

8 MS. ONDREJKA: Yeah, broken teeth.  
9 That's right.

10 MR. GALVIN: -- and I am saying to you  
11 is this corrects that, because everybody has been  
12 building at the zero lot line. Either it preexisted  
13 from ancient times or the Zoning Board routinely  
14 granted -- all of the Zoning Boards for the last  
15 decade or so granted that variance, so much so that  
16 that's not even currently a serious variance.

17 MS. ONDREJKA: Well, what if it  
18 currently is what, five feet, seven feet from the --  
19 the sidewalk, the --

20 CHAIRMAN HOLTZMAN: It can go from zero  
21 to ten.

22 MS. ONDREJKA: Okay.

23 What if it is a building that is at ten  
24 feet -- the window starts at ten feet, and say they  
25 redo that building, can it extend out now the ten

1 feet in front of it, if they want to?

2 Do they have to --

3 CHAIRMAN HOLTZMAN: Let me give it to  
4 you.

5 There are very specific answers to your  
6 question. It was a great question, because what  
7 they call this is prevailing on the block, the  
8 prevailing distance on the block, so there is a very  
9 specific rule that if your neighbors are at let's  
10 say five feet from the line and five feet from the  
11 line, if you are rebuilding or doing anything, you  
12 have to be five feet from the line, so there's some  
13 symmetry.

14 You can't be the guy to do the broken  
15 tooth, okay?

16 MS. ONDREJKA: Right. I don't want  
17 that. That is horrible.

18 CHAIRMAN HOLTZMAN: So there's  
19 specifically -- this is called the prevailing  
20 distance or the prevailing setback, so there are  
21 rules that now say you can't play games with that.

22 Also, if everybody is at the lot line,  
23 right at the curb -- not the curb -- but the  
24 property line, you can't be the guy to say, I want  
25 mine ten feet back.

1 MS. ONDREJKA: Okay.

2 CHAIRMAN HOLTZMAN: You can't break the  
3 teeth that way.

4 MS. ONDREJKA: All right.

5 So then I am assuming in the future  
6 that there wouldn't be that broken thing going on,  
7 but why would you say that you could start at the  
8 lot line?

9 What examples are there, and this is a  
10 whole block that's that way?

11 CHAIRMAN HOLTZMAN: There are about 55  
12 percent of the buildings in town that are at the lot  
13 line, so that means 55 percent of the properties in  
14 town are nonconforming.

15 MS. ONDREJKA: 55 percent --

16 COMMISSIONER DOYLE: But if I could  
17 point out, I think what you are thinking what the  
18 lot line is, it's not the lot line.

19 When you think of a gate in front of a  
20 house and there's a couple of steps down, and then  
21 there's a couple feet, and then there's the  
22 building, that building in many of the cases is on  
23 the lot line.

24 The curb to the building, so you attend  
25 enough City Council meetings to know that we get

1       these license agreements to get permission for  
2       people to do this stuff, that is because all of that  
3       area is city land to the house --

4                   MS. ONDREJKA:   To the house --

5                   COMMISSIONER DOYLE:  -- the house is on  
6       the lot line in many, many instances, so it is not  
7       as if people are going to be building structures  
8       right up to the sidewalk, which is three feet from  
9       the street.

10                   Whatever that distance is, I think t's  
11       about ten feet, is a city right-of-way.  The city  
12       owns it, and then that's why we have to give people  
13       permission to mess around with that when they're  
14       putting in a new fence or putting in a new  
15       staircase.

16                   MS. ONDREJKA:   I see.

17                   COMMISSIONER DOYLE:  So in your mind,  
18       you know --

19                   MS. ONDREJKA:   Yeah.  I was kind of  
20       worried that was going to be going on now --

21                   COMMISSIONER DOYLE:  -- yeah, they're  
22       not going to be coming forward --

23                   MS. ONDREJKA:   -- okay, it's bad enough  
24       as close as I am to the sidewalk --

25                   COMMISSIONER DOYLE:  -- so, as Gary

1 points out, Tenth and Bloomfield --

2 MS. ONDREJKA: Tenth and Bloomfield,  
3 what about it?

4 COMMISSIONER DOYLE: -- virtually all  
5 of those houses are on zero lot line. They are all  
6 nonconforming. Under the law as it exists today  
7 they should be five feet --

8 MS. ONDREJKA: Which one, the east or  
9 west side?

10 COMMISSIONER DOYLE: I'm thinking of  
11 the west side.

12 MS. ONDREJKA: They're all on zero --

13 COMMISSIONER DOYLE: They are all on  
14 zero, even though they are 12 feet away from the  
15 street --

16 MS. ONDREJKA: That's correct.

17 COMMISSIONER DOYLE: And if they want  
18 to do very simple renovations that do not include  
19 more people and more height and more anything, they  
20 are not complying with the current ordinance,  
21 because their building is on zero rather than a five  
22 foot setback.

23 So we are saying you don't have to be  
24 five foot set back, you have to be prevailing, like  
25 the rest of the block, and you cannot go -- you

1 know, if there was a place in Hoboken that had 60  
2 feet of uninterrupted frontage, then we are saying  
3 build on zero --

4 MS. ONDREJKA: Okay. That makes me  
5 feel better.

6 COMMISSIONER DOYLE: -- which is still  
7 12 feet back from -- yeah --

8 CHAIRMAN HOLTZMAN: So one of the  
9 things that is an interesting side effect, one of  
10 the more unusual pieces of property is like on Park  
11 Avenue between First and Second, across from the  
12 synagogue, where the houses are built all the way  
13 back, right?

14 MS. ONDREJKA: Right.

15 MR. THOMPSON: They were --

16 (Everyone talking at once.)

17 MS. ONDREJKA: They were --

18 CHAIRMAN HOLTZMAN: Well, there's one  
19 or two -- there is a couple left --

20 MS. ONDREJKA: There's a big  
21 alleyway --

22 CHAIRMAN HOLTZMAN: -- so what ends up  
23 happening is --

24 THE REPORTER: Wait, you can't talk  
25 when the Chairman is talking.

1 MS. ONDREJKA: I'm sorry.

2 CHAIRMAN HOLTZMAN: So what ends up  
3 happening is because those people are 50 feet from  
4 the property line, and they have created their own  
5 parking lots in front of their houses, what was the  
6 back of their house is often on the back property  
7 line.

8 So what does it do?

9 It takes up the whole inside donut,

10 MS. ONDREJKA: Right, that's correct.  
11 That's correct.

12 CHAIRMAN HOLTZMAN: So one of these  
13 things that this setback ordinance helps is that all  
14 of the people that are poaching into the donut, it  
15 will bring them back to the front street, and  
16 hopefully eventually over time open up the donut  
17 somewhat.

18 MS. ONDREJKA: All right.

19 Now, the bulk and density has been  
20 explained, and I understand that. But, of course,  
21 there is a lot of three-story buildings in town that  
22 don't fall under the 40 foot minimum -- maximum, so  
23 they -- there is a lot of three-story buildings that  
24 could go up. A lot, correct? Go up higher one more  
25 story to fit into that --

1                   CHAIRMAN HOLTZMAN:  There are some --  
2    yeah, --

3                   MS. ONDREJKA:  -- there's quite a few.  
4    In fact, I am kind of amazed at how many  
5    three-stories.

6                   Also, I have to say --

7                   MR. GALVIN:  We still have the  
8    adjacency rule, right?

9                   MS. ONDREJKA:  -- you mentioned --

10                  CHAIRMAN HOLTZMAN:  No --

11                  MS. ONDREJKA:  -- the industrial  
12    district that I know is not an issue here, but the  
13    I-1, the mayor clearly said at the Chamber of  
14    Commerce meeting, that it was important to actually  
15    worry about -- not worry about -- encourage more  
16    businesses or small industry to function in this  
17    town, because we are so overrun with people.  It  
18    shouldn't be just a place for crowding more people  
19    in here, so she was not favorable for that.

20                  And as far as restaurants and coffee  
21    houses, this is a small town, and if you are a  
22    couple of blocks in another district, you can walk  
23    at lunch a few feet, a few blocks, to a coffee house  
24    or restaurant, so I don't think that that is a  
25    serious thing that you need to look at, but that is

1 just my opinion.

2                   Lastly, let's see, I will hope that  
3 with these roof decks, because this is going to be  
4 an explosion on that level, that there will be  
5 restrictions somewhat within those rules for the  
6 decks that will specifically have damage control for  
7 the first floors -- the second floors, because that  
8 is really -- that's really infringing on people's  
9 space, hum, right now, because I know a lot of  
10 buildings where there is extensions in the back, and  
11 that is now going to be ripe for people to put a  
12 deck.

13                   And I think this is one of the things  
14 that will be incredibly abused, incredibly, so I  
15 hope that that will be carefully looked at and rules  
16 will be in place, because you know, I have seen them  
17 all around town already, but to have a proliferation  
18 of them and in all different places in the donut, it  
19 is going to make life pretty miserable for many  
20 people who want some peace and quiet sometimes in  
21 their life.

22                   So that's all I have to say.

23                   Thank you.

24                   CHAIRMAN HOLTZMAN: Thank you.

25                   Cheryl?

1 MS. FALLICK: Thank you. I just have a  
2 couple of questions.

3 CHAIRMAN HOLTZMAN: Just introduce  
4 yourself.

5 MS. FALLICK: Cheryl Fallick,  
6 C-h-e-r-y-l, F, as in Frank, a- double l, i-c-k.

7 Before I start, I just wanted to figure  
8 out who the -- not necessarily names, but players.

9 What is -- can you tell me your role  
10 here?

11 MR. GALVIN: Yes. I am the attorney to  
12 the Planning Board, and I am also the attorney to  
13 the Zoning Board.

14 MS. FALLICK: Can you tell me your role  
15 here?

16 MR. ROBERTS: Sure.

17 CHAIRMAN HOLTZMAN: He's Dave Roberts.

18 MR. ROBERTS: My name is Dave Roberts.

19 MS. FALLICK: Can I just start by  
20 saying before I get to a couple questions, that --  
21 well, actually the first question is: Did the  
22 master plan change like recently to say what we want  
23 to do is tear the whole town down and make it flood  
24 compliant?

25 Is there anything like that on our

1 current master plan, because that is surely what you  
2 were saying.

3 MR. ROBERTS: Well, no. What I think I  
4 said was that --

5 MS. FALLICK: That's what I heard. I'm  
6 sorry. Regardless of what you said.

7 MR. ROBERTS: -- the reason of what was  
8 done in 2010, obviously Sandy happened in 2012. But  
9 between 2012 and the present, the city has done a  
10 restructure plan and a rebuild by design, which was  
11 directly related to dealing with how do you rebuild  
12 in a way that will be more resilient to a future  
13 flood event.

14 So effectively those were all additions  
15 on to the master plan. There are planning documents  
16 that make recommendations that are related to the  
17 master plan.

18 MS. FALLICK: Okay. So there was the  
19 greener by design thing, and what was the other  
20 thing you said --

21 MR. ROBERTS: The green infrastructure,  
22 which is really more about the streets, the parks,  
23 effectively doing -- as ways to absorb stormwater  
24 that would help reduce runoff impacts and therefore  
25 reduce flooding.

1                   MS. FALLICK: Those were like public  
2 meetings on how to get rid of runoff and those  
3 things were all incorporated --

4                   CHAIRMAN HOLTZMAN: They were updated  
5 to the master plan.

6                   MS. FALLICK: They were?

7                   CHAIRMAN HOLTZMAN: Yes, they were.

8                   MS. FALLICK: Okay, so --

9                   MR. GALVIN: And the underlying purpose  
10 of every master plan in the State of New Jersey is  
11 that you are going to improve the public health,  
12 safety and welfare, and you are secure property from  
13 flood and fire, so it is always an underlying goal  
14 of zoning to make those kind of improvements, so I  
15 don't think those changes would be inconsistent with  
16 the master plan ever.

17                   MS. FALLICK: Okay. What about the  
18 part of the master plan that says we want to keep  
19 this historic character?

20                   Is that out the window because of these  
21 other things?

22                   MR. GALVIN: No. You always have to  
23 balance -- I am not disagreeing with you. I am  
24 saying you have to balance it, you know.

25                   MS. FALLICK: Okay, yeah. Thank you,

1 no, because I mean, if that's what you guys are  
2 doing, I just -- personal opinion, because of this  
3 infrastructure thing, this flood thing, I just have  
4 to say that it is pretty obvious to me that we are  
5 throwing, literally throwing as fast as we can our  
6 historic character out the window because we want to  
7 tear everything down, so that we can get cheaper  
8 insurance.

9 That is what I heard, and that's what I  
10 disagree with that. That is what I heard based on  
11 what everybody was saying here. We want to make  
12 sure that, you know, the insurance cost is not out  
13 of control --

14 MR. GALVIN: We also want to protect  
15 people. You want to protect people

16 COMMISSIONER DOYLE: Can I answer?

17 CHAIRMAN HOLTZMAN: It doesn't justify  
18 an answer.

19 MS. FALLICK: No, it does.

20 COMMISSIONER DOYLE: Well, I was going  
21 to state a fact actually.

22 MS. FALLICK: Okay, please.

23 COMMISSIONER DOYLE: That the historic  
24 district happens to be in an area where the design  
25 flood elevation is below grade. So to the extent

1       that these historic structures that are in the  
2       historic district, they are elevated up enough that  
3       the design flood elevation has nothing to do with  
4       that area, if you are talking about Hudson Street,  
5       Washington Street, Bloomfield Street, they're almost  
6       all --

7                   MS. FALLICK: Right. I am actually  
8       talking about Garden Street, Park and Willow -

9                   COMMISSIONER DOYLE: -- But you're  
10      saying those are not designated historic structures.  
11      I mean --

12                  MS. FALLICK: They are R-1, which is a  
13      historic community. It's a historic town. It has a  
14      look. It has a character. That is what I'm talking  
15      about. Maybe I don't have the exact right term,  
16      but --

17                  COMMISSIONER STRATTON: Can I offer  
18      that, different than what we are discussing tonight,  
19      what the city is undertaking post Sandy recovery  
20      planning, and two of the elements of that plan is  
21      specifically historic preservation, and second,  
22      design guidelines below flood elevation both with  
23      the purpose of preservation enhancement of the  
24      existing character of Hoboken --

25                  MS. FALLICK: That seems to be

1 completely -- okay -- well, thank you -- but let me  
2 just say --

3 CHAIRMAN HOLTZMAN: So what the  
4 practical application of that means is that not in  
5 every case that there is a historic building that is  
6 in a flood zone, where you couldn't live on the  
7 first floor or in the garden apartment, it doesn't  
8 mean that it is also not usable.

9 Mr. Vance alluded to that there is the  
10 ability to use that for commercial space, so  
11 somebody could put a doctor's office in or a regular  
12 office in, but you just can't live in that space,  
13 and there's nothing in anything if you -- and I know  
14 that you are a sincere person, but your provocation  
15 is unfounded in that all of the documents that have  
16 been presented tonight is there nothing that talks  
17 about tearing down any buildings or doing away with  
18 any historic zones whatsoever.

19 MS. FALLICK: Okay. Right now, if you  
20 live in a garden apartment -- garden level apartment  
21 on Garden Street, you are living below the flood  
22 plain.

23 CHAIRMAN HOLTZMAN: Most likely, yes.

24 MS. FALLICK: That is what I am talking  
25 about.

1                   When we talk about the property owners,  
2           by and large on Garden Street, I haven't seen what  
3           I've seen on Park Avenue with these taller  
4           buildings, so people are still living or have  
5           tenants or whatever, condos, that are 50, 40 percent  
6           below the sidewalk, which means they are below the  
7           grade, and oftentimes, very prominent on Garden  
8           Street above that garden level, you have three  
9           floors, right?

10                   Like not everywhere, but that is pretty  
11           consistent with the area that I live in, and it is  
12           elsewhere in town, too.

13                   So -- but right now, if somebody bought  
14           the property, paid a million-two, three, maybe four  
15           tomorrow, if they wanted to do -- if -- there is  
16           more motivation right now before we make this change  
17           of four stories, 40 feet, instead of three stories  
18           adding 40 feet, which when taken in their totality,  
19           they are not in one section of the ordinance, At  
20           some part -- one part of the ordinance says three  
21           stories, and another part of the ordinance says 40  
22           feet.

23                   But in the courtroom, there was a  
24           ruling that you sort of need to look at both of  
25           them, correct?

1 CHAIRMAN HOLTZMAN: Which is why --

2 MS. FALLICK: 3.79, I remember --

3 MR. GALVIN: One of the things that  
4 that ruling, and Mr. Evers left, but we are the only  
5 community out of 567 that interprets the -- that was  
6 interpreting the story requirement as a D variance.  
7 Nobody else has that requirement --

8 CHAIRMAN HOLTZMAN: Not one  
9 municipality --

10 MS. FALLICK: Okay. What was 3.79 --.

11 MR. GALVIN: -- it was a decision that  
12 was made by a judge --

13 COMMISSIONER DOYLE: That's the  
14 density --

15 MS. FALLICK: Yes.

16 MR. GALVIN: -- that the judge rounded  
17 it, and he's a very well respected judge. He's  
18 retired, but I --

19 MS. FALLICK: So you don't like the  
20 ruling.

21 MR. GALVIN: -- I totally disagree with  
22 the ruling --

23 MS. FALLICK: But that is -- right now,  
24 in order to get the fourth floor, you need 40 feet  
25 or whatever, you need to get a variance.

1                   MR. GALVIN: Not just a variance, you  
2 need a D-5 variance.

3                   MS. FALLICK: You need a D variance.

4                   So if we get rid of that, the adorable  
5 multi-family house with three stories and a garden  
6 legal, right now there is no motivation to tear that  
7 down and put up a luxury blah, blah, blah, blah,  
8 blah. There is no motivation --

9                   COMMISSIONER DOYLE: 40 foot high  
10 luxury --

11                   MS. FALLICK: -- three-story high  
12 luxury, blah, blah, blah, because you got four  
13 stories, including that garden level now. That is  
14 my concern.

15                   I am talking about the motivation,  
16 especially since by and large in the non historic,  
17 but R-1 district that is still completely livable,  
18 but maybe some places in the area were flooded  
19 maybe, maybe not, and quite frankly, your older  
20 buildings by and large weren't as flooded because  
21 nobody dug the basement deeper to put the fancy  
22 condo in.

23                   So right now, there is a whole bunch of  
24 existing residents that are living there, whether  
25 they are condo owners, tenants, a family with

1       whatever, that are living there happily and there  
2       are current residents.  But if we make it so that  
3       you can go 40 feet and four stories when -- 40 feet  
4       and four stories above the flood plain, now we don't  
5       have any reason to keep the building that is there  
6       because we can tear it down --

7                 MR. GALVIN:  Listen, one of the things  
8       that we're saying you are not accepting, and that is  
9       okay, you know, but it's that there is a density  
10      limitation.  So they might be able to do four  
11      stories, but it wouldn't necessarily result -- but I  
12      don't have a density calculation in front of me,  
13      so --

14                COMMISSIONER DOYLE:  I just did it.

15                MR. GALVIN:  -- okay.  I don't want to  
16      mislead anyone.

17                COMMISSIONER DOYLE:  Okay.

18                You take the size of the lot, and the  
19      one you are talking about is 25 by a hundred, which  
20      is the conforming lot in R-2 and R-3.

21                So you multiply that and you get 2,500.  
22      That is the area of the lot, okay, and you divide  
23      that by 660, and that is how many units you can  
24      build on that property, and that number is 3.79.

25                So it is rounded down, so if you have a

1 100 by 25 foot lot, you can build three units on  
2 that property period, without going to a variance.

3 But 20 by a hundred, it turns out to be  
4 3.03, so again, you can build three units on either  
5 of those lots. So whether you have a duplex and one  
6 floor, or three is all you have. That is why we are  
7 saying the density doesn't change. It is three  
8 whether today, it's three, and if this thing passes,  
9 it is three.

10 MS. FALLICK: If this thing passes, it  
11 says four floors.

12 COMMISSIONER DOYLE: No. It's four  
13 floors, but you can only have three dwellings in  
14 that four-story building, so if you choose to have a  
15 duplex and a one-story, and one-story -- you can't  
16 have four apartments in the building. You can only  
17 have three because you do the math, and three is  
18 what it divides up to.

19 MS. FALLICK: Okay. But right now a  
20 lot of our buildings actually have four, and that's  
21 what I'm saying --

22 COMMISSIONER STRATTON: Which is  
23 preexisting nonconforming --

24 COMMISSIONER DOYLE: That's a  
25 nonconforming --

1 MS. FALLICK: -- but I am saying I  
2 don't -- I don't think -- this is just my opinion,  
3 that anything that we do should be motivating  
4 anybody to tear down our beautiful historic  
5 character.

6 COMMISSIONER MC KENZIE: We're not just  
7 tearing anything down --

8 CHAIRMAN HOLTZMAN: And I don't think  
9 that it does, and we can decide to disagree about  
10 this, but what we think is more important is that  
11 for the building to be out of the flood plain and  
12 for the person living in the garden apartment in the  
13 future to not be in harms way.

14 So health and welfare is more of our  
15 priority than leaving the current conditions on the  
16 ground. However, let's review back to what Dennis  
17 said before --

18 MS. FALLICK: No, no, no. I just  
19 wanted to say if the Planning Board would rather get  
20 the folks out --

21 CHAIRMAN HOLTZMAN: -- if it's  
22 already --

23 THE REPORTER: Wait. You cannot talk  
24 when he's talking.

25 CHAIRMAN HOLTZMAN: -- that if it is

1 already existing, it stays until something happens  
2 that triggers a change that needs to take place.

3 Like the apartment got destroyed, at  
4 which point, no, you can't build back an apartment  
5 that is below the design elevation -- the flooding  
6 elevation, or if the whole building got destroyed,  
7 no, you can't build back the garden apartment.

8 MS. FALLICK: You are actually acting  
9 as if people don't tear buildings down because they  
10 want to make more money.

11 You are saying that, no, you don't have  
12 to do it unless something happens to the building.  
13 What I am saying is when you pass these laws, people  
14 will do it whether they have to or not. People will  
15 do it. That is what is happening even with the  
16 three stories. They are just going to the Zoning  
17 Board.

18 So anyway, just so I could have the  
19 last word on that.

20 (Laughter)

21 CHAIRMAN HOLTZMAN: Please. No  
22 problem.

23 MS. FALLICK: Because we are talking  
24 about -- we are looking at this in terms of property  
25 owners, potential property owners that purchased and

1       spent a lot of money instead of the people who are  
2       living here now, one way or another, because we are  
3       also not thinking now that we have gone up -- we are  
4       already going up above the plain 40 feet, which is  
5       going to six extra feet. We are going four floors  
6       or 40 feet above that, and I have not seen any  
7       changes that are looking to protect anything that  
8       exists now, like what is going to happen to people's  
9       windows all over town.

10                I just think it is a bad idea to create  
11       anything that is going to give people some sort of  
12       motivation and initiative to get rid of --

13                COMMISSIONER DOYLE: Incentive is the  
14       word you want.

15                MS. FALLICK: -- incentive -- and I  
16       know we are going to disagree. That is my opinion,  
17       and I am sticking to it.

18                CHAIRMAN HOLTZMAN: And you got the  
19       last word, so good for you.

20                MS. FALLICK: That's right.

21                (Laughter)

22                CHAIRMAN HOLTZMAN: Mr. Vance, did you  
23       have something for us?

24                MR. VANCE: Yes.

25                Jim Vance. I live in Hoboken.

1                   First of all, if I might, with regard  
2                   to Ms. Fallick's situation or discussion about  
3                   buildings being torn down, I live in 107 Monroe  
4                   Street that was built --

5                   MS. FALLICK:   Speak up.  I can't hear  
6                   you.

7                   MR. VANCE:    Pardon me?

8                   MS. FALLICK:   Speak up.  I can't hear  
9                   you.

10                  MR. VANCE:    Oh, I'm sorry.  That is  
11                  unusual.

12                  (Laughter)

13                  I live at 107 Monroe Street.  It is a  
14                  three-story residential building with a basement.  
15                  There were two of those buildings right next door to  
16                  us.  These building were built in the late 1800s.  
17                  They have a historic character about them.  They are  
18                  important to Hoboken, without any question.

19                  And the guy in 19 -- or in 2010 has the  
20                  two lots right to the north of ours, with these  
21                  types of houses on it, and bought it and tore them  
22                  down right away.  And the reason he tore them down  
23                  is because, in fact, he built another building there  
24                  and made a substantial amount of money.

25                  Now, I am a businessman, and I have no

1       problem making a substantial amount of money. The  
2       more money you can make, the better it is. But I do  
3       have a problem with setting up an incentive to tear  
4       down buildings, especially the older ones, which  
5       basically when you start tearing them down, you tear  
6       down the character of this town, so I have to concur  
7       with Ms. Fallick on that, which is unusual.

8                       (Laughter)

9                       (Everyone talking at once.)

10                      MS. FALLICK: If it's historic, yes --

11                      MR. VANCE: Let me go beyond that, the  
12       reason I came here tonight was to discuss 40 feet  
13       above base flood elevation.

14                      Many of the buildings in these zones we  
15       are talking about are 40 feet high. 40 feet above  
16       base flood elevation in my neighborhood is that base  
17       flood elevation is at seven feet. Some of the other  
18       neighborhoods, like they were talking about over by  
19       the park, it is ten feet.

20                      So we have a situation in much of  
21       Hoboken, where we have base flood elevation that  
22       will mean that we will have 47 or 50 foot high  
23       buildings. Now, I don't have a problem. I think  
24       that five stories or 50 foot high buildings are fine  
25       in cities. I really don't have a problem with them

1 especially on the north-south streets, where they  
2 are fairly wide. But I do have a concern, for  
3 instance, 107 Monroe Street, the folks who bought  
4 that lot and tore down those two buildings came in  
5 and wanted to build a 50-story tall building --

6 CHAIRMAN HOLTZMAN: 50 foot.

7 MR. VANCE: I'm sorry -- five-story  
8 tall building. They wanted to build a five-story  
9 building, and what it does, it would then be ten  
10 feet higher than 107 Monroe Street, and it dwarfs  
11 107 Monroe Street.

12 And if you look through this town, you  
13 have the broken teeth that you talked about on the  
14 frontage, well, you have broken teeth all along  
15 street, after street, after street.

16 And what I think is appropriate here is  
17 to allow to build 40 feet above base flood  
18 elevation. I think it makes a lot of sense. If you  
19 want to build three stories, one-story, four  
20 stories, you can't do more than four, because zoning  
21 doesn't allow the floor to roof -- floor to ceiling  
22 to be I think any less than -- anyway, four stories  
23 over parking in this particular case in Hoboken or  
24 in our neighborhood.

25 So what I am going to end up is with

1 47-story buildings next to this 40-story building,  
2 and an important 40-story building because many of  
3 the older buildings are important, not historic from  
4 a historic district standpoint, but historic from  
5 Hoboken's standpoint, and we don't want to lose  
6 them.

7           So my thought with regard to how to  
8 make this work for the street is to, yes, let's do  
9 40 feet above base flood elevation. I think it is  
10 fine to do.

11           But when we had -- we had a situation  
12 where they wanted to build on the two lots next to  
13 107, so when I went in, I said, look, before the  
14 Zoning Board, and they had to get variance -- I  
15 said, look, if they go to this additional 50 -- to  
16 go 50 feet, ten feet higher, it is going to be  
17 problematic for a variety of reasons that I just  
18 discussed.

19           So next to that, there is a developer  
20 who wants to build -- well, let me finish with  
21 that -- I went in and said this is going to really  
22 detract from the street and from the building here  
23 at 107, and I think that it shouldn't be allowed to  
24 go the additional ten feet. And by unanimous vote,  
25 it was turned down.

1                   It said no, you can't go 50 feet. You  
2 have to stick to what the zoning says.

3                   Well, we changed the zoning and  
4 suddenly we can go 47 feet, because we have seven  
5 feet above base flood elevation, and we have ten in  
6 some places. I mean, everybody knows how deep the  
7 water gets back there.

8                   So my position is this: Let's go the  
9 40 feet above base flood elevation, but on the top  
10 floor, let's set it back ten feet.

11                  And if you go look at the 300 block of  
12 Bloom -- I'm sorry -- of Monroe Street on the west  
13 side, I think it is 302, 304, and 308, they built --  
14 a structure was built there, and in fact, it had a  
15 ten foot setback. And when you walk down the  
16 street, you know, on the east side of the street,  
17 and look up, you see what looks like a cornice. It  
18 isn't a cornice. It is the additional story.

19                  I guess I need to talk about stories  
20 here. I'm not arguing about the stories -- and it  
21 makes it more comfortable, and it looks in relation  
22 to the other buildings on the block, it makes it  
23 more comfortable. It seems to work very well.

24                  In fact, there are folks here -- no,  
25 they're not here now -- there were some folks here

1 earlier this evening, who wanted to build a  
2 structure on I think it is 113 through 121, five  
3 blocks or five lots, 25 by a hundred, wants to build  
4 a structure there, and had to go in for a variance.

5 The neighborhood said, gee, we have a  
6 problem with this for the reasons I discussed and  
7 other reasons, but primarily for that reason. We  
8 also have a problem with roof decks for all of the  
9 reasons that were expressed here.

10 But we will support you guys with  
11 regard to 50 feet, if you will set that top floor  
12 back, and it does a couple of things when you do  
13 that.

14 One: When you set the top floor back,  
15 you really provide an outdoor area for the residents  
16 in that building or on the top floor, which I think  
17 is not a bad idea, but I really want this Board to  
18 consider recommending to the City Council that this  
19 ordinance be modified to say that once you get above  
20 your 40 feet base flood elevation, once you get  
21 above 40 feet above the sidewalk, then you have to  
22 set it back --

23 CHAIRMAN HOLTZMAN: Let me just be  
24 specific. 40 feet above base flood elevation, not  
25 40 feet above the sidewalk --

1                   MR. VANCE: No. 40 feet above the  
2 sidewalk --

3                   (Everyone talking at once.)

4                   COMMISSIONER DOYLE: He's saying what  
5 he's saying, yeah --

6                   MR. VANCE: What I'm saying is --

7                   CHAIRMAN HOLTZMAN: Which one?

8                   MR. VANCE: -- I am saying this: You  
9 should be able to build the base flood elevation 40  
10 feet. But what I am saying is if base flood  
11 elevation elevates your 40 feet to 47 feet above  
12 sidewalk or 50 feet above the sidewalk, I am  
13 suggesting that what we do is once you go over 40  
14 feet --

15                   COMMISSIONER DOYLE: Grade is the  
16 word --

17                   MR. VANCE: -- above the grade, then  
18 you need to set that additional area back ten feet  
19 for the reasons I have stated. That is what I  
20 suggest this Board --

21                   CHAIRMAN HOLTZMAN: Yes. It becomes  
22 rather problematic from a legal standpoint, because  
23 what ends up happening is it could be deemed  
24 potentially as a taking, if we enforce it and  
25 require it, because what we are potentially doing is

1 reducing the amount of square footage that somebody  
2 can built into their building.

3 So what we would be doing is the city  
4 would be passing an ordinance that would be taking  
5 from everybody that encounters compliance with the  
6 flood elevation --

7 MR. VANCE: Well, I am not attorney --

8 CHAIRMAN HOLTZMAN: -- what happened in  
9 your case in your neighborhood, I am very familiar  
10 with, and what happened was a good thing. What you  
11 had was you had a community that negotiated and had  
12 a conversation with somebody developing a property  
13 in their neighborhood, and you guys came to a good  
14 resolution that worked for everybody on the block,  
15 and that is an organic thing that is good and it  
16 should happen, and we still have the ability to do  
17 that because people are going to come to meetings,  
18 and you are going to have conversation with people  
19 offline.

20 MR. VANCE: But it only happened  
21 because they had to get a D variance. If they  
22 didn't have to get a D variance, if you got 40 feet,  
23 they wouldn't have bothered. They wouldn't have  
24 gone to the Zoning Board, because they wouldn't be  
25 required to, and then the resolution would be the

1 builder would do what he damn well pleases, and it  
2 detracts from the city scape, from the street scape.

3 Now, I don't know the legal end of it,  
4 but I think it should be carefully looked at. If we  
5 change zoning to require a setback, I am not so sure  
6 it is taking or not, and somebody who, you know, I  
7 appreciate your opinion, but I would really like to  
8 get a legal opinion about --

9 CHAIRMAN HOLTZMAN: We can send it up  
10 the chain of command.

11 MR. VANCE: I think I pretty well  
12 covered things.

13 Thank you so much for your attention.

14 CHAIRMAN HOLTZMAN: Thank you, Jim.

15 MR. JACOBSON: Tom Jacobson,  
16 J-a-c-o-b-s-o-n.

17 The first question is I heard of a lot  
18 of illusions to the specifics of the proposed  
19 regulation, but actually not heard it spelled out.

20 So if somebody could give a very brief  
21 summary in terms of the zone specifically where it  
22 applies, and also maybe a paraphrasing of the  
23 specific wording with regard to elevation above  
24 some --

25 CHAIRMAN HOLTZMAN: I am not sure I

1 understand your first question. The zone that what  
2 applies?

3 MR. JACOBSON: R-1, R-2, R-3. I heard  
4 of a lot of illusions to that, but I have not  
5 actually heard it spelled out in the regulation.

6 CHAIRMAN HOLTZMAN: It is not spelled  
7 out in the regulations that we are entertaining this  
8 evening. That's something that's been spelled out  
9 in the city's municipal code, and that is not  
10 changing.

11 COMMISSIONER DOYLE: Are you asking to  
12 summarize this?

13 MR. JACOBSON: Yes.

14 COMMISSIONER DOYLE: Okay. You know,  
15 it is 20 pages long.

16 MR. JACOBSON: Specific to the issue of  
17 elevation above base flood versus the --

18 CHAIRMAN HOLTZMAN: Caleb, what do you  
19 have?

20 COMMISSIONER STRATTON: Can I help out?

21 CHAIRMAN HOLTZMAN: Hang on a second,  
22 Tom.

23 COMMISSIONER STRATTON: Where you will  
24 be able to find some of where this will apply is  
25 called the special flood hazard area. It is issued

1 in a flood insurance map by FEMA, and this is going  
2 to apply to those maps and the design flood  
3 elevation from those maps, so it's specific to a  
4 zone. It's more specific to where flooding --

5 MR. JACOBSON: So if you're in the  
6 flood zone, it applies.

7 If you are not in the flood zone, there  
8 is no change to the current ordinance --

9 COMMISSIONER DOYLE: I don't think you  
10 are answering his question.

11 COMMISSIONER STRATTON: It's based on  
12 design flood elevation, and if you can meet that  
13 criteria, then it will apply.

14 CHAIRMAN HOLTZMAN: Jim, what do you  
15 got?

16 COMMISSIONER DOYLE: Okay. There are  
17 three residential zones in the city. This applies  
18 to all of them, so everywhere, where there is  
19 residential, which is about 85 percent of the  
20 city --

21 CHAIRMAN HOLTZMAN: Actually this  
22 applies to everywhere in the city.

23 COMMISSIONER DOYLE: Well, it doesn't  
24 apply to I-1 as Mr. Ahmed --

25 COMMISSIONER GRAHAM: Could I just

1 interject something?

2                   Could you define design flood  
3 elevation?

4                   CHAIRMAN HOLTZMAN: Yes.

5                   The design flood elevation --

6                   COMMISSIONER GRAHAM: Because that's  
7 not clear and I think that would be helpful --

8                   CHAIRMAN HOLTZMAN: -- a design flood  
9 elevation is the standard language that we sort of  
10 changed over because there is a lot of different  
11 names that have been thrown out.

12                   The design flood elevation is the ABFE,  
13 the Advisory Base Flood Elevation, plus one foot of  
14 what they call free board, so we take the -- FEMA  
15 offers different flood elevations. One is a base  
16 flood elevation, and one is an advisory base flood  
17 elevation.

18                   The city has decided to adopt the  
19 advisory base flood elevation and also added for  
20 another foot of wiggle room. That is the free  
21 board. So that is the DFE, the Design Flood  
22 Elevation, so that is like your starting point, no  
23 matter where you are, so that stays, that's like a  
24 constant language that we can start to adopt for the  
25 future.

1                   COMMISSIONER DOYLE:  And my  
2                   understanding is you were asking what we are doing  
3                   here.

4                   The design flood elevation standard,  
5                   which does, as you say, apply to the whole city, is  
6                   in a separate chapter of the code that was passed  
7                   two years ago --

8                   MR. JACOBSON:  Okay.  I used to live in  
9                   a flood zone so I am familiar with that --

10                  COMMISSIONER DOYLE:  -- so it's correct  
11                  to say, depending on where you live in this city,  
12                  there will be a number -- if you're on Castle Point  
13                  Terracce, it is zero, and if you are on --

14                  MR. VANCE:  On Monroe --

15                  COMMISSIONER DOYLE:  -- Mr. Vance is  
16                  seven feet, so that number will change depending on  
17                  where you are.

18                  But this amendment says a maximum  
19                  height of 40 feet is allowed above design flood  
20                  elevation as established pursuant to Chapter 104, so  
21                  you would have to hire somebody, and figure out you  
22                  are at seven and a half feet, you can build 47 and a  
23                  half feet of structure --

24                  MR. JACOBSON:  And that applies in all  
25                  zones with the exception of I-1?

1                   COMMISISONER DOYLE: Right.

2                   We plan to deal with I-1 in a more  
3 comprehensive --

4                   MR. JACOBSON: So you mentioned on  
5 Castle Point, it was Castle Point Terrace, a design  
6 flood elevation of zero.

7                   COMMISSIONER DOYLE: It's below --

8                   MR. JACOBSON: Well, is the number  
9 less than zero or is it zero?

10                  COMMISSIONER DOYLE: It is grade or  
11 design flood elevation --

12                  MR. JACOBSON: So FEMA does not -- so  
13 Castle Point Terrace, what Castle Point Terrace is:  
14 FEMA would not issue a design flood elevation  
15 because it's not located within the flood plain.

16                  So, for example, it's at 35 feet  
17 elevation, the design elevation for that area may be  
18 15 feet, so --

19                  COMMISSIONER DOYLE: 20 feet below  
20 grade --

21                  COMMISSIONER STRATTON: -- 20 feet  
22 below the grade, so there wouldn't be a point --

23                  COMMISSIONER FORBES: If I could --

24                  CHAIRMAN HOLTZMAN: Director?  
25 Just give us one second.

1 Director Forbes has something for us.

2 COMMISSIONER FORBES: -- I just want to  
3 read from the memo that we provided. This might  
4 clarify it for you.

5 The amendment affects the same  
6 identical changes to all three residential  
7 districts, R-1, R-2, and R-3 regarding building  
8 heights in yard dimensions.

9 The changes bring each portion of the  
10 code in line with the Flood Damage Prevention  
11 Ordinance by clarifying how the allowable building  
12 height is measured, either from the design flood  
13 elevation or from the average adjacent grade of the  
14 building, whichever is higher.

15 So that's what it's being measured  
16 from.

17 Approximately 80 percent of Hoboken has  
18 a design flood elevation above grade. This change  
19 will prevent a height variance from being triggered  
20 by buildings constructed in compliance with the  
21 flood prevention elevation requirements.

22 MR. JACOBSON: Okay. So I happen to  
23 live on the 1100th block of Garden, where there is  
24 no flooding.

25 So does this now mean that anybody can

1 rebuild their house to a maximum of 40 feet?

2 COMMISSIONER FORBES: From the average  
3 adjacent grade.

4 MR. ROBERTS: Because the flood  
5 elevation is above sea level, so if the average  
6 grade is above sea level, then you measure from  
7 the --

8 CHAIRMAN HOLTZMAN: But they could also  
9 build a 40 foot high building today also, so that  
10 doesn't change in your case.

11 MR. JACOBSON: Oh, unless adjoining  
12 properties are not that high --

13 MR. GALVIN: The adjacency still  
14 applies, right?

15 MR. THOMPSON: You can't do a  
16 four-story building.

17 MR. GALVIN: No. But what I'm saying  
18 is --

19 MR. JACOBSON: Well, I just heard  
20 whichever is greater ---

21 CHAIRMAN HOLTZMAN: One at a time,  
22 guys.

23 MR. GALVIN: No, no, no. You can't  
24 take it out of context.

25 Whichever is greater refers to how high

1       you could -- if you're not in a flood zone, and that  
2       would give you a very low standard, so you could  
3       have a crazy building, that's out the window.  
4       You're using the ground level of the ground, just  
5       keeping it simple, and you go 40 feet up.

6                        What I said is that there is another --  
7       we said that there are other provisions in the  
8       ordinance that protect. One of them is the density,  
9       but the other one is what is called adjacency, so if  
10      the buildings next to you are two 25 foot tall  
11      buildings, that would be an additional limitation  
12      requiring the variance to go up.

13                      MR. JACOBSON: Okay, okay.

14                      MR. GALVIN: Of course, I think if I  
15      were a developer, I would argue, well, you know, it  
16      is 40 feet, and I have it as a matter of right and  
17      blah, blah, blah.

18                      MR. JACOBSON: No. I have seen that in  
19      action.

20                      MR. GALVIN: No offense to our  
21      builders.

22                      (Laughter)

23                      MR. JACOBSON: Okay. So then the other  
24      is then what if your base flood elevation is say  
25      five feet --

1 COMMISSIONER DOYLE: The design --

2 MR. JACOBSON: -- Design flood  
3 elevation is five feet, so now the maximum height of  
4 the building can be 45 feet with nothing as  
5 habitable space until five feet, what are the  
6 allowed uses in the space from grade to five feet?

7 MR. GALVIN: Storage.

8 MR. JACOBSON: Okay.

9 COMMISSIONER DOYLE: Parking, if  
10 allowed.

11 MR. VANCE: Commercial? No commercial?

12 CHAIRMAN HOLTZMAN: Parking, if there  
13 are other constraints that are met, like the width  
14 of a property has to be a certain measurement before  
15 parking can be allowed on that property. The 25  
16 foot rule of a standard lot, there would be no  
17 parking that would be allowed. Fifty feet is  
18 usually the minimum starting point where that even  
19 enters into a possibility, so you could put parking  
20 on the first floor. You could have a building  
21 entrance, building storage, lobby, things like that.

22 There's one exception. You can also  
23 put non-habitable space. You could put an office on  
24 the grade level below design flood elevation. You  
25 could put an office.

1                   You have a certain threshold of  
2                   fortifying that space with wet flood proofing and  
3                   things of that nature that are required to make sure  
4                   that it is still a safe environment, but if you do  
5                   that, and you make it office space or some kind of  
6                   commercial space like that, merchantile space, it  
7                   counts as a floor.

8                   COMMISSIONER DOYLE:   Assuming you get a  
9                   use variance or there's --

10                  CHAIRMAN HOLTZMAN:   You might also have  
11                  to get a use variance because you are putting an  
12                  office in the middle of a residential zone, right,  
13                  that might trigger something else as well.  But if  
14                  you start using it as an office space or something,  
15                  now it counts as a floor.

16                  MR. JACOBSON:   Okay.

17                  CHAIRMAN HOLTZMAN:   It counts as your  
18                  40 feet.  It factors into your -- so if you decide  
19                  to put an office --

20                  A VOICE:   Commercial --

21                  CHAIRMAN HOLTZMAN:   -- absolutely,  
22                  absolutely --

23                  COMMISSIONER DOYLE:   No.  Well, that is  
24                  not what this says.  It's 40 feet from DFE.

25                  CHAIRMAN HOLTZMAN:   If you put office

1 space below DFE, it counts in your usage. That may  
2 not be spelled out clear enough in the ordinance,  
3 but it is definitely the way that the flood --

4 COMMISSIONER DOYLE: What do you mean  
5 by usage?

6 MR. GALVIN: I got to tell you, I hit  
7 the limit of my knowledge, okay?

8 (Laughter)

9 I mean, I know that storage and parking  
10 are permitted, but I am not that familiar with using  
11 the office space below it, so I'm --

12 CHAIRMAN HOLTZMAN: Director Forbes?

13 COMMISSIONER FORBES: I think we need  
14 to clarify. What you're talking about, Chairman, is  
15 it is allowed per our flood damage prevention  
16 ordinance, but this is spelling out where you are  
17 measuring height from, and this is what we'll be  
18 going forward with that.

19 You would be allowed to have the  
20 further flood damage prevention ordinance, if it's  
21 is a permitted use, the garage, retail, commercial,  
22 that nonresidential use.

23 That being said, if you have that built  
24 in there, if your design flood elevation is seven  
25 feet, you are going to need higher than seven feet.

1       You're already starting, you know, to tap into that  
2       40 foot in height in that first floor. But the  
3       point being is, you could have that there. That is  
4       what the flood damage prevention ordinance allows  
5       for. However, it would have to be a permitted use,  
6       you know, for it to be just something that there  
7       could be -- they could just build --

8                   CHAIRMAN HOLTZMAN: So it would trigger  
9       all types of Board review anyway.

10                  COMMISSIONER FORBES: Correct.

11                  MR. JACOBSON: Okay.

12                  So where I was going with my  
13       question --

14                  CHAIRMAN HOLTZMAN: Sorry about that.

15                  MR. JACOBSON: -- was in the scenario  
16       that it's actually a single-family home that is  
17       being constructed on that lot. How is the allowable  
18       use essentially going to be policed?

19                  What is to prevent somebody from  
20       building out that five foot space?

21                  I don't know if they are going to be  
22       able to go below grade as well for living space that  
23       is not approved. Yet, once things like flooring,  
24       dry wall and electric, which would certainly be  
25       allowed for storage, is installed, there is nothing

1 to prevent somebody from putting televisions,  
2 couches, carpet, all of the stuff that was damaged,  
3 in people's garden apartments will be damaged, yet  
4 again, and --

5 CHAIRMAN HOLTZMAN: So I think there  
6 are two things.

7 There's where somebody comes in, and  
8 they are going to do a new construction project, and  
9 they present a set of plans to the zoning office and  
10 to the construction office, and say, this is what I  
11 am going to do, and it all looks good on paper, and  
12 they build that, and then there are obviously  
13 approvals.

14 The construction office is in there on  
15 a regular basis approving all types of things. The  
16 zoning office goes in there at the end of the  
17 construction and signs off on it, and it becomes  
18 habitable space that is -- and issued a certificate  
19 of occupancy, right?

20 Then what I think you're saying is then  
21 after I got all of my approvals, I play some game,  
22 and I do something else to my property.

23 Is that what you are asking about?

24 MR. JACOBSON: Yes, because for  
25 storage, you could certainly have a finished floor.

1       You can have dry wall.  You can have electric, so  
2       the space is basically framed out --

3               MR. GALVIN:  Wait a minute.  We don't  
4       know that we have a consensus on that, okay?

5               You can use it for storage space, but  
6       it's still below the base flood elevation.  There  
7       are techniques and things --

8               A VOICE:  You can use dry wall.

9               MR. GALVIN:  You can't use dry wall.

10              And the other thing --

11              MR. JACOBSON:  Okay.  Because I used to  
12       live in a condo building where we did dry wall below  
13       base flood elevation, so --

14              MR. GALVIN:  -- and the other thing  
15       that I know, because one of my other towns is Point  
16       Beach, is that you won't be insured for whatever  
17       gets destroyed that's below that level.

18              So we already are worried there, too.  
19       I understand, but, you know, that is an additional  
20       risk that someone who is cheating is taking, that  
21       they are not going to get any insurance coverage.

22              MR. JACOBSON:  I understand that, but,  
23       you know, people's possessions in garden apartments  
24       weren't covered either.  Yet, they did get  
25       settlements from public sentiment, so I mean, things

1       happen.

2                   Thank you.

3                   You have answered my question.

4                   MR. GALVIN:  There will have to be some  
5       enforcement is the answer.

6                   MR. JACOBSON:  So I did just want to  
7       add two comments to building on things that other  
8       folks have said.

9                   To Mr. Vance's point about the  
10      setback --

11                  MR. VANCE:  Top or bottom?

12                  MR. JACOBSON:  -- the setback on the  
13      top -- I just wanted to think about, you know, your  
14      comment about a take away, that the new zoning of 40  
15      feet above design flood elevation might actually be  
16      a give relative to the current zoning in which case,  
17      if you're taking something off the top, it may still  
18      be a net gain, so I just need to go through the  
19      math.

20                  And unfortunately, she's not here,  
21      Mrs. Fallick's point about unintended consequences,  
22      and Commissioner Brand (sic) might have meant it as  
23      well, is this may create an incentive, and I didn't  
24      live in Hoboken in the '70s and '80s, but there was  
25      a movie made about what happened in Hoboken in the

1 '70s and '80s, and I think we would all hate to see  
2 a recurrence of that, so we need to think about  
3 that.

4 Thank you.

5 CHAIRMAN HOLTZMAN: Thank you.

6 MR. VANCE: Mr. Chairman, a couple  
7 points that were brought up that I didn't have a  
8 chance. May I make a quick statement?

9 MR. GALVIN: Usually there's no  
10 twosies, but go ahead.

11 (Laughter)

12 CHAIRMAN HOLTZMAN: Only for you, Jim.

13 MR. VANCE: Two. Two.

14 One, I think it is incumbent on having  
15 commercial space allowed simply because it is the  
16 character of Hoboken.

17 With all of the garages all over town,  
18 we end with up with blank walls that kill cities.

19 The other thing is that, as you said,  
20 Mr. Chairman, we had a wonderful opportunity, and  
21 the neighbors got together and worked on this five  
22 lot wide building.

23 Well, all of that now is out the  
24 window. As soon as you pass this thing, all of the  
25 work that went into it, developer's say, sorry,

1 ma'am we can go 47 feet, see ya.

2 The setback is really important to us  
3 all along that the neighbors worked on, and that  
4 this Board should say, boy, the neighbors worked on  
5 it hard, and they -- they should not and all over  
6 the city should not have this thrown out.

7 I don't know whether you're correct or  
8 not about the taking of it, but boy, we really  
9 looked into it every closely before we say, oh, we  
10 can't do it.

11 Thank you.

12 MS. ONDREJKA: Excuse me. I just have  
13 one question. May I ask you?

14 It's simple and I won't take time.

15 For years with the roof deck situation,  
16 I have been to Boards where they have denied roof  
17 decks, and since Mr. Doyle said it's not illegal,  
18 perhaps it has never been illegal, why were they  
19 something that was legal denied to the applicants  
20 that came all of these years?

21 MR. GALVIN: No. There is a theory in  
22 zoning that says if it's not permitted, it is  
23 prohibited, so I think, and again, I am not the  
24 expert. I have not been here forever, but I think  
25 the theory was that since the ordinance didn't

1 specifically allow it, it wasn't allowed. But the  
2 argument was made, let's look at this zone, where  
3 you have a ten percent coverage, and somehow over  
4 time it became an unofficial standard.

5 MS. ONDREJKA: So it wasn't allowed  
6 because --

7 MR. GALVIN: So it's not allowed, but  
8 now it will be allowed.

9 MS. ONDREJKA: Okay. Because it  
10 wasn't stated, but then how did they get built?

11 MR. GALVIN: They got built with  
12 variances. People came in to do a building, and  
13 they asked for permission and they were granted it.

14 MS. ONDREJKA: Okay. But then why were  
15 the new ones that came in asking for them, why were  
16 they denied it?

17 CHAIRMAN HOLTZMAN: That would be the  
18 roll of the dice of the Zoning Board.

19 COMMISSIONER DOYLE: Because you don't  
20 always get a variance.

21 MR. GALVIN: No, I think --

22 MS. ONDREJKA: That's true. That's  
23 true.

24 MR. GALVIN: -- the Zoning Board,  
25 again, in this instance, I think that what a

1 community desires changes over time, and if the  
2 community wants that -- if ten years ago, the  
3 community didn't want to have decks or they were  
4 worried about the impact of decks, now people are  
5 having a higher quality of living, and they want to  
6 have a little outside space to enjoy the weather  
7 when it's that time of year, and that is what the  
8 community wants to do, but the Zoning Board was  
9 trying to look at it -- the Zoning Board looks at  
10 every case as to what -- if we can -- what's the  
11 negative impacts on the surrounding property owners.

12 Sometimes, to be honest with you, some  
13 of the decks that we looked at, they didn't hurt  
14 anybody --

15 MS. ONDREJKA: No, I agree.

16 MR. GALVIN: -- they were in out of the  
17 way places, and they were nice spaces. I could see  
18 people getting in touch with nature. It was good,  
19 and if there was some other situation, where the  
20 decks were going to create like a noise element, or  
21 there was a situation where they could throw beer  
22 bottles or something, we were concerned with it.

23 We approved the deck on the Shipco  
24 building, and we made sure that it was set back a  
25 sufficient distance so you couldn't see it from the

1 street, and therefore, you wouldn't have this  
2 interaction with the deck and the street.

3 MS. ONDREJKA: Okay. So they will be  
4 looked at individually?

5 MR. GALVIN: There is a 30 percent  
6 limitation to the deck. There's criteria, and  
7 what's going to happen is unfortunately, we want to  
8 try to eliminate variances to the extent that we  
9 can, but every time we do something, there is always  
10 going to be other situations where there will be a  
11 variance. Like the person has a 30 percent  
12 limitation, and they will have a reason for looking  
13 for 35, so we will have to see what happens. We  
14 have to try --

15 MS. ONDREJKA: Okay. Yeah, I'm curious  
16 about that, because it was always said no, no, no,  
17 and I was just wondering --

18 MR. GALVIN: -- listen, I think Hoboken  
19 has been unwilling to make changes to their zoning  
20 ordinance. I think this is a big step forward to  
21 try to do something. I am always worried about  
22 unintended consequences, but the nice thing about  
23 the ordinance is you can change it back, and if we  
24 start to find a serious abuse --

25 MS. ONDREJKA: That's true. That's

1 true.

2 MR. GALVIN: -- and if we start to  
3 find -- if we find a serious abuse --

4 (Everyone talking at once.)

5 MS. ONDREJKA: No. I was curious about  
6 the history of that. That's all.

7 But thank you for answering that  
8 question.

9 MR. GALVIN: You're welcome.

10 CHAIRMAN HOLTZMAN: Commissioner Doyle,  
11 do you want to bring us home?

12 Do you want to give us a little wrap-up  
13 here?

14 COMMISSIONER DOYLE: I am done.

15 CHAIRMAN HOLTZMAN: You're done. Okay.

16 COMMISSIONER DOYLE: I've interrupted  
17 you enough.

18 CHAIRMAN HOLTZMAN: No interruptions.

19 Do the Commissioners have any other  
20 questions or comments?

21 I'm sorry. Are there any other members  
22 of the public?

23 No.

24 Okay. We will close the public portion  
25 then, unless Mr. Vance wants to go three for three.

1 (Laughter)

2 Jim?

3 COMMISSIONER DOYLE: I just did want to  
4 when Mr. Galvin starts reading, I guess we don't  
5 really have -- those two points that I wanted to  
6 make with regard to the density and the intensity.  
7 I just wanted them reflected in the comment within  
8 the resolution when we get there.

9 CHAIRMAN HOLTZMAN: Okay. Well, we are  
10 there, so let's start talking about that.

11 Are there any Commissioners that are  
12 interested in -- with the recommendations that we  
13 may put together for the City Council -- Jim, you  
14 had some specific language on your paragraph that  
15 you started with. Do you want to -- can you give us  
16 a synopsis of what you are looking to clarify?

17 COMMISSIONER DOYLE: Just I want to  
18 emphasize, I would describe it, that the provision  
19 with regard to nonconforming uses, that a change --  
20 that the term "intensify" includes any -- maybe I  
21 should think about this.

22 (Laughter)

23 CHAIRMAN HOLTZMAN: Okay. Let's move  
24 on to the next one then, and we will circle back.

25 Did you have another one?

1                   COMMISSIONER DOYLE: The other one was  
2 just emphasize that it's our understanding that  
3 the -- just to hit -- you know, hit home the point  
4 that this -- there is no intention to affect the  
5 density calculation with these changes, with the 40  
6 foot --

7                   CHAIRMAN HOLTZMAN: Just like a call  
8 out statement --

9                   COMMISSIONER DOYLE: Yeah.

10                  MR. GALVIN: You know what, let me say  
11 this: I think that what -- typically I think when I  
12 do this in other communities, what we are really  
13 doing is you got the ordinance. If you think that  
14 they should -- like if we spotted something that was  
15 wrong, then we should be pointing it out to them and  
16 saying, you know, that we are, like in one town  
17 we're going to recommend that the second floor  
18 somewhere is going to be 85 percent of the floor  
19 below it.

20                  If the Board thinks that it is a  
21 mistake, it would then say, the governing body, we  
22 think most of the changes in the ordinance are okay,  
23 but we are concerned with this 85 percent  
24 requirement, and we think it should be a hundred  
25 percent, or we think it should be 75 percent,

1 You know, I think --

2 COMMISSIONER DOYLE: Okay. I'll drop  
3 the density one, but I won't drop the intensity one.

4 MR. GALVIN: Okay. Tell me what you  
5 want me to say, and I'll say it, but we are not  
6 recommending them to make a specific change,  
7 though --

8 COMMISSIONER DOYLE: Also, I think I  
9 would like for the Board to consider Mr. Vance's  
10 suggestion as a recommendation or not, but that gets  
11 back to the question of taking, and I don't know the  
12 answer to that, but, of course, as a --

13 CHAIRMAN HOLTZMAN: Let's do one at a  
14 time. Do the intensity one, please.

15 COMMISSIONER DOYLE: So in section  
16 196-5.1(a)(2), the Planning Board would like to  
17 emphasize that -- I'm looking for the -- that where  
18 an alteration will intensify the nonconformity, it  
19 should be made clear that any increase in bulk is to  
20 intensify the noncompliance or the nonconformity,  
21 excuse me.

22 CHAIRMAN HOLTZMAN: So an increase in  
23 bulk intensifies and therefore is not permitted?

24 COMMISSIONER DOYLE: That's correct.

25 CHAIRMAN HOLTZMAN: Well, that was

1 easier.

2 Okay. Either way as long as we get  
3 there.

4 COMMISSIONER DOYLE: That's fine.

5 CHAIRMAN HOLTZMAN: Let's give Dennis a  
6 minute.

7 MR. GALVIN: Okay. So I have in  
8 Section 196-5.1(a)(2): The Planning Board would  
9 like to emphasize that where there is an increase in  
10 the intensity of the bulk, it is increased to the  
11 nonconformity.

12 VICE CHAIR MAGALETTA: Well, intensity  
13 of bulk in the nonconforming structure.

14 COMMISSIONER DOYLE: Well, that's what  
15 it is --

16 MR. GALVIN: Let's try it again.  
17 Say it again, Frank.

18 VICE CHAIR MAGALETTA: Well, you are  
19 fine. You say an increase in the nonconforming  
20 structure, you can increase the bulk. It doesn't  
21 matter. But if it's nonconforming to begin with,  
22 that's the problem --

23 COMMISSIONER DOYLE: That is what this  
24 section --

25 VICE CHAIR MAGALETTA: -- I know, but

1 the way he phrased it --

2 MR. GALVIN: Say it again, Frank.

3 An increase in the intensity of the  
4 bulk --

5 VICE CHAIR MAGALETTA: In a  
6 nonconforming structure.

7 MR. GALVIN: There you go. Okay.

8 Is an increase in the building's  
9 nonconformity.

10 VICE CHAIR MAGALETTA: Correct --  
11 intensity.

12 COMMISSIONER DOYLE: Well, intensifies  
13 the nonconforming --

14 CHAIRMAN HOLTZMAN: Right. That's the  
15 word that concerns Jim is the word "intensity," I  
16 think, so we want to make sure that that's defined  
17 or clarified.

18 COMMISSIONER DOYLE: Yes, right,  
19 intensify.

20 MR. GALVIN: Okay.

21 CHAIRMAN HOLTZMAN: Want to give it a  
22 quick road?

23 MR. GALVIN: No.

24 (Laughter)

25 I'm still working. Let's try to get on

1 to the second one.

2 COMMISSIONER DOYLE: The other one,  
3 maybe -- I don't know whether it should be a  
4 recommendation or --

5 CHAIRMAN HOLTZMAN: I would like to  
6 take that one. I'll handle that one.

7 COMMISSIONER DOYLE: Okay. Great.  
8 Thank you.

9 CHAIRMAN HOLTZMAN: So Mr. Vance has  
10 brought up, and we have had another citizen as well,  
11 Mr. Jacobson, is it, comments about the idea of a  
12 setback. It certainly sounds interesting. I think  
13 there are potentials for legal ramifications on it.  
14 Maybe there is some way that we can, and I would  
15 like to poll the Board first for sure to see if it  
16 is something that the Board is wanting to entertain,  
17 and then if it does want to entertain it as a  
18 recommendation, that we make it basically a kicking  
19 it back to the City Council to say, we would like  
20 you to examine this and see what the potential  
21 pitfalls and legal issues are surrounding it, so  
22 that you guys can vet it properly.

23 So I think we will go around just the  
24 Board real quickly, the Commissioners, if people  
25 want to add as a recommendation for the City Council

1 to investigate the potential for setbacks.

2 Mr. Magaletta?

3 VICE CHAIR MAGALETTA: I am fine with  
4 the recommendation making City Council, if it goes  
5 to 40 feet above grade, then you have a setback.  
6 The question is how far should the setback be.  
7 Should it be ten feet or five feet, and are they  
8 allowed then to go off the back. I think you can't,  
9 but --

10 CHAIRMAN HOLTZMAN: Again, we don't  
11 want to get into the weeds on this, but we want to  
12 just say, maybe we think it should be considered,  
13 but there is a lot of potential, whether it's legal  
14 or other construction issues that get into this.

15 Director, did you want to jump in  
16 there?

17 COMMISSIONER FORBES: No. I think that,  
18 I mean, I think that is fine to make that  
19 recommendation to the City Council, you know, to  
20 evaluate it, and it would be something that we do  
21 have an attorney working with the Council  
22 Subcommittee on doing the legal component of it.

23 CHAIRMAN HOLTZMAN: Great.

24 Mr. Peene?

25 COMMISSIONER PEEN: No comment.

1 CHAIRMAN HOLTZMAN: No comment.

2 Mr. McKenzie?

3 COMMISSIONER MC KENZIE: Are we voting?

4 CHAIRMAN HOLTZMAN: No.

5 Do you like the idea of sending such a  
6 recommendation to the City Council?

7 COMMISSIONER MC KENZIE: Yes. Yes, I  
8 do.

9 CHAIRMAN HOLTZMAN: Mr. Doyle?

10 COMMISSIONER DOYLE: Sounds fine.

11 CHAIRMAN HOLTZMAN: Mr. Stratton?

12 COMMISSIONER STRATTON: Fine.

13 CHAIRMAN HOLTZMAN: Ms. Graham?

14 COMMISSIONER GRAHAM: Yes.

15 CHAIRMAN HOLTZMAN: Great.

16 So it sounds like it is unanimous  
17 obviously. We will send a recommendation to the  
18 City Council asking them to investigate the  
19 potential and legal consequences of setbacks after  
20 40 feet above design flood elevation --

21 MR. GALVIN: The potential --

22 A VOICE: No. Above grade.

23 CHAIRMAN HOLTZMAN: -- above grade.

24 COMMISSIONER DOYLE: Might we use the  
25 verb "consider" rather than "investigate"?

1                   CHAIRMAN HOLTZMAN: Consider? Yes.

2                   It's "consider," not "investigate." Yes.

3                   MR. GALVIN: I already had the word  
4                   "consider."

5                   CHAIRMAN HOLTZMAN: He had it  
6                   "consider." We had it "consider."

7                   (Laughter)

8                   MR. GALVIN: That the City Council  
9                   consider the legal and potential --

10                  CHAIRMAN HOLTZMAN: Commissioner  
11                  Graham?

12                  COMMISSIONER GRAHAM: No. I am very  
13                  much concerned about the other issue that people  
14                  brought up about the height and the different  
15                  heights depending on what the design flood elevation  
16                  is, and the possibility of what happens to  
17                  buildings, if they must be -- if they are sold, what  
18                  happens to them because of that.

19                  So I am just very hesitant about all of  
20                  this, and I'm not -- I think it is great that we are  
21                  finally getting into zoning and taking care of some  
22                  of these issues, but I just think there is too many  
23                  questions, and I am unsure at this point about how  
24                  to proceed.

25                  CHAIRMAN HOLTZMAN: Okay.

1                   So we have two -- we have two --

2                   MR. GALVIN:   Let's fix the second one  
3                   first.

4                   The Board recommends that the City  
5                   Council consider the legal and potential impacts of  
6                   setting the highest floor back, or do you have  
7                   another way of saying it?

8                   VICE CHAIR MAGALETTA:   Setting back any  
9                   floor above 40 feet above grade -- or 40 feet above  
10                  grade --

11                  CHAIRMAN HOLTZMAN:   I think we want to  
12                  make it a generic thing, and they need to flush it  
13                  out.

14                  VICE CHAIR MAGALETTA:   Yes.

15                  MR. GALVIN:   That is why I am saying  
16                  the highest floor.   I mean, that's what we've been  
17                  doing at the Zoning Board, that if you give somebody  
18                  four stories, where three is permitted, we might  
19                  make them set it back ten feet.   Or if it's five  
20                  stories, we might make the fifth one set back, so it  
21                  has less of an impact on the street scape, and  
22                  usually we make them set it back ten feet when we  
23                  have that --

24                  COMMISSIONER FORBES:   As long as it is  
25                  mentioning above -- 40 feet above grade because

1 somebody may come in and only want to put two  
2 stories, you know, they're only okayed to do two  
3 stories --

4 MR. GALVIN: Okay. It's a great point.

5 COMMISSIONER FORBES: -- and we don't  
6 want to have to make them set that back 20 feet --

7 COMMISSIONER DOYLE: I think a ten foot  
8 setback is great because --

9 MR. GALVIN: Great point.

10 Setting back the highest floor  
11 beginning above 40 feet.

12 COMMISSIONER FORBES: No. It's  
13 above --

14 MR. GALVIN: No. What they were saying  
15 is you can't do that if they came in for two  
16 stories, they have to set back the second story --

17 COMMISSIONER FORBES: If it's above 40  
18 feet above grade.

19 MR. GALVIN: 40 feet above grade.

20 I doubt that they are going to use this  
21 exact language anyway, so --

22 MR. JACOBSON: But they -- that if the  
23 top of the building is at 40 feet above -- hold on a  
24 second -- I think you are right. I'm sorry.

25 CHAIRMAN HOLTZMAN: We got it. I think

1 we got it.

2 MR. JACOBSON: Withdrawn.

3 CHAIRMAN HOLTZMAN: Thank you.

4 MR. GALVIN: I want to say if any part  
5 of it is 40 feet above grade.

6 Okay. That is done.

7 On the Section 196-5.1(a)(2), the  
8 Planning Board would like to emphasize that where  
9 there is an increase in the intensity of the bulk of  
10 a nonconforming structure, it should be considered  
11 an increase in intensity --

12 CHAIRMAN HOLTZMAN: No. In density.

13 COMMISSIONER DOYLE: Get rid of the  
14 first "intensity," I'm sorry --

15 MR. GALVIN: That's okay --

16 COMMISSIONER DOYLE: -- where there is  
17 an increase in the bulk --

18 CHAIRMAN HOLTZMAN: The Planning Board  
19 would like to emphasize that where there is --

20 MR. GALVIN: -- it didn't sound right  
21 to me.

22 CHAIRMAN HOLTZMAN: -- an increase in  
23 the --

24 MR. GALVIN: Bulk of a nonconforming  
25 structure, it should be an increase --

1                   CHAIRMAN HOLTZMAN:  -- it should be  
2                   considered an increase in the --

3                   MR. GALVIN:  -- in the intensity of the  
4                   nonconforming structure.

5                   VICE CHAIR MAGALETTA:  Strike "should  
6                   be."  "Is."

7                   COMMISSIONER DOYLE:  It is considered,  
8                   but I guess we are making recommendations, so --

9                   CHAIRMAN HOLTZMAN:  So it should be  
10                  "should be."

11                  COMMISSIONER DOYLE:  -- "should be" is  
12                  appropriate.

13                  MR. GALVIN:  Yes.

14                  COMMISSIONER DOYLE:  Thank you.

15                  COMMISSIONER STRATTON:  Gary, I have a  
16                  question --

17                  CHAIRMAN HOLTZMAN:  Yes, Mr. Stratton.

18                  COMMISSIONER STRATTON:  -- about the  
19                  second recommendation to the Council, when you're  
20                  talking about one very specific instance regarding  
21                  design flood elevation in a residential zone at 40  
22                  feet above design flood elevation, it's not the  
23                  intent of this commission to recommend that all  
24                  stories above 40 feet with whatever zone and any  
25                  changes, this is only for -- are these

1 recommendations for a specific zoning district or  
2 all that are affected by --

3 COMMISSIONER DOYLE: R-1, 2 and 3 are  
4 the only ones --

5 COMMISSIONER STRATTON: -- I just want  
6 to make sure. I'm not as familiar with all of the  
7 new districts that there's not 70 feet above design  
8 flood elevation that's permitted, and if we are  
9 making a recommendation to the Council to --

10 CHAIRMAN HOLTZMAN: First of all, we  
11 are not making a recommendation. We are asking them  
12 basically to consider this and to invest -- to  
13 consider. We are not giving them a specific  
14 recommendation because we don't have the research,  
15 and you are correct that there may be other  
16 exceptions to it.

17 I think we are there, Jim.

18 COMMISSIONER STRATTON: Okay.

19 MR. VANCE: One quick thing to  
20 clarify --

21 CHAIRMAN HOLTZMAN: Three is the charm.  
22 Go ahead.

23 (Laughter)

24 MR. VANCE: To clarify that if it is  
25 you go 41 feet, in other words, you have one foot

1 above base flood elevation, then the Zoning Board --  
2 at some point will be limited -- those two things  
3 before the Zoning Board -- but once you go above 40  
4 feet above, as you said --

5 COMMISSIONER GRAHAM: 40 feet, period.

6 MR. VANCE: -- as you said, once you go  
7 above 40 feet, that if somebody wants 41 or 42, then  
8 it goes to the Zoning Board.

9 CHAIRMAN HOLTZMAN: That is not what  
10 our recommendation is, and I do not support that.

11 I think our recommendation to the City  
12 Council is good.

13 Would you agree, Mr. Councilman?

14 Are you happy with that, that your  
15 subcommittee will entertain this and flush it out?

16 COMMISSIONER DOYLE: Yes. I think I  
17 understand it, and I think I can communicate it, and  
18 I think it does that on its own.

19 (Board members confer.)

20 CHAIRMAN HOLTZMAN: Mr. Ahmed?

21 MR. AHMED: To Councilman Doyle's point  
22 about the structures that are not conforming, you  
23 mentioned that -- you were clear. You said, bulk  
24 alteration, so not for regular alterations. An  
25 alteration of a nonconforming structure can happen

1 without causing it to become conforming.

2 Is that the intent?

3 COMMISSIONER DOYLE: I was looking at  
4 that earlier.

5 MR. AHMED: That is how we read the  
6 intent.

7 COMMISSIONER DOYLE: It may undergo  
8 bulk alteration without a variance only in cases  
9 where the alterations will bring the structure into  
10 conformity -- I'm reading from --

11 COMMISSIONER MC KENZIE: A letter.

12 COMMISSIONER DOYLE: -- I apologize.

13 VICE CHAIR MAGALETTA: Well, you raised  
14 that. You wanted that in there because of the  
15 concern that it was leave to require. It was simply  
16 clarification. That's all I was trying to do,  
17 right?

18 COMMISSIONER DOYLE: No. I believe  
19 that Mr. Ahmed is raising a different issue than  
20 what we're talking about here, correct?

21 MR. ROBERTS: I think Hanny is saying  
22 if it's an alteration, that doesn't increase the  
23 square footage or hasn't increased any other --

24 COMMISSIONER DOYLE: Right. The CVS  
25 is --

1                   MR. ROBERTS:  -- that would be allowed,  
2                   but if it's decreasing the intensity, like your  
3                   example, Jim, where you are adding a floor, it might  
4                   have conformed with the building coverage, but the  
5                   rest of the building was not conforming.  I think  
6                   that would be considered an intensification.  But if  
7                   you're altering the building, and there's no  
8                   additional square footage being added, that should  
9                   not be considered in intensification, correct?

10                   VICE CHAIR MAGALETTA:  Correct.

11                   CHAIRMAN HOLTZMAN:  Right.  And people,  
12                   it says specifically, are allowed to maintain their  
13                   property as well because you don't want the building  
14                   just because it is a nonconforming situation to fall  
15                   into disuse.

16                   A VOICE:  Correct.

17                   MR. GALVIN:  We understood that you  
18                   have a right to fix it.

19                   CHAIRMAN HOLTZMAN:  You have a right to  
20                   fix your building, right.

21                   COMMISSIONER DOYLE:  Yes.

22                   Reconstruction (d) allows -- no existing premises  
23                   devoted to a nonconforming use or structure shall be  
24                   enlarged, extended, reconstructed, that is after it  
25                   is damaged, substituted, or structurally altered.

1                   So I mean if you are saying you want to  
2                   get inside of the building and move walls around, I  
3                   don't know if that falls under that.

4                   CHAIRMAN HOLTZMAN: That sounds pretty  
5                   inclusive to me.

6                   COMMISSIONER DOYLE: Right. So that  
7                   does not mean to me if you want to make the CVS into  
8                   a Rite Aid, and you're going to, you know, do stuff  
9                   in there, then it's not expanding it. It's not  
10                  enlarging it, so I think you can do that.

11                  MR. AHMED: Just if I may --

12                  CHAIRMAN HOLTZMAN: Okay. So, Dennis,  
13                  we have the two recommendations from the Board?

14                  MR. GALVIN: Correct. I already have a  
15                  draft resolution, so we can just pop those in.

16                  CHAIRMAN HOLTZMAN: Okay.

17                  Are there any other comments from the  
18                  Commissioners?

19                  So with the addition of Dennis' -- the  
20                  two recommendations, one about the specificity about  
21                  the intensity of a nonconforming situation, and the  
22                  second one for asking the City Council to consider  
23                  the impacts of setbacks, is there a motion to accept  
24                  the resolution for approval, or approval, yes, of  
25                  Chapter 196?

1 VICE CHAIR MAGALETTA: So moved.

2 CHAIRMAN HOLTZMAN: Frank is the first.

3 Is there is a second on the floor?

4 COMMISSIONER PEENE: Second.

5 CHAIRMAN HOLTZMAN: Mr. Peene seconds.

6 Pat, could you please call the vote?

7 MS. CARCONE: Commisioner Magaletta?

8 VICE CHAIR MAGALETTA: Yes.

9 MS. CARCONE: Commissioner Stratton?

10 COMMISSIONER STRATTON: Yes.

11 MS. CARCONE: Commissioner Forbes?

12 COMMISSIONER FORBES: Yes.

13 MS. CARCONE: Commissioner Doyle?

14 COMMISSIONER DOYLE: Yes.

15 MS. CARCONE: Commissioner Graham?

16 COMMISSIONER GRAHAM: I'm going to say

17 no.

18 MS. CARCONE: Commissioner McKenzie?

19 COMMISSIONER MC KENZIE: Yes.

20 MS. CARCONE: Commissioner Peene?

21 COMMISSIONER PEENE: Yes.

22 MS. CARCONE: Commissioner Holtzman?

23 CHAIRMAN HOLTZMAN: Yes.

24 I thank everybody. Thank you for the

25 public that participated for us tonight. Thank you

1 very much for coming out.

2 MR. VANCE: Is the meeting adjourned?

3 CHAIRMAN HOLTZMAN: No. We still have  
4 work to do, my friend.

5 Thank you.

6 We are going to take a quick minute  
7 recess for the Commissioners to run for the hills.

8 (Recess taken)

9 CHAIRMAN HOLTZMAN: All right. We need  
10 our team back to have a couple of memorializations  
11 here.

12 (Board members confer)

13 CHAIRMAN HOLTZMAN: Take it downstairs.  
14 You are out of here.

15 (Laughter)

16 COMMISSIONER DOYLE: He is entitled to  
17 stay if he wants.

18 CHAIRMAN HOLTZMAN: Then take your  
19 voice out of here.

20 (Laughter)

21 MR. GALVIN: All right. The first case  
22 is Tri-Pita, 732 Washington Street. Voting in favor  
23 are Mr. Magaletta, Mr. Stratton, Ms. Forbes, Mr.  
24 Doyle, Ms. Graham, Mr. McKenzie, Mr. Peene and the  
25 Chairman.

1                   May I have a motion?

2                   COMMISSIONER PEENE:   So moved.

3                   MR. GALVIN:    Can I have a second?

4                   COMMISSIONER FORBES:   Second.

5                   MR. GALVIN:    Thank you.

6                   Mr. Magaletta?

7                   VICE CHAIR MAGALETTA:   Yes.

8                   MR. GALVIN:    Mr. Stratton?

9                   COMMISSIONER STRATTON:   Yes.

10                  MR. GALVIN:    Ms. Forbes?

11                  COMMISSIONER FORBES:    Yes.

12                  MR. GALVIN:    Mr. Doyle?

13                  COMMISSIONER DOYLE:    Yes.

14                  MR. GALVIN:    Ms. Graham?

15                  COMMISSIONER GRAHAM:    Yes.

16                  MR. GALVIN:    Mr. McKenzie?

17                  COMMISSIONER MC KENZIE:   Yes.

18                  MR. GALVIN:    Mr. Peene?

19                  COMMISSIONER PEENE:    Yes.

20                  MR. GALVIN:    Mr. Holtzman?

21                  CHAIRMAN HOLTZMAN:    Yes.

22                  MR. GALVIN:    All right.   Then the next

23                  matter is PT Maxwell.

24                  CHAIRMAN HOLTZMAN:    Voting in favor is

25                  Caleb Stratton, Brandy Forbes, Ann Graham, Caleb

1 McKenzie, Rami Pinchevsky, not present this evening,  
2 and Ryan Peene, and Gary Holtzman.

3 Opposed: Frank Magaletta, Jim Doyle.

4 All those in favor of this  
5 memorialization?

6 COMMISSIONER DOYLE: May I ask a  
7 question?

8 MR. GALVIN: We need a motion -- go  
9 ahead.

10 COMMISSIONER DOYLE: How does this  
11 work, if one has voted against this?

12 MR. GALVIN: I will tell you.

13 COMMISSIONER DOYLE: Okay. Thank you.

14 MR. GALVIN: Whoever votes against the  
15 resolution does not vote when we memorialize it.  
16 Only people voting in favor of a resolution vote for  
17 it.

18 And at the Zoning Board, not to waste  
19 your time with this, but if it is that three people  
20 voted against it, so it defeats a D variance, those  
21 three people approve the resolution, not the full  
22 body of the Zoning Board.

23 COMMISSIONER DOYLE: Okay. So if --  
24 that's not the case, but if hypothetically I felt  
25 that this does not accurately represent what

1       happened, I would think -- I guess those people who  
2       voted in favor of it could vote --

3                   MR. GALVIN:  It is not your document  
4       because you voted against it.  That is the beauty of  
5       voting against it.

6                   COMMISSIONER DOYLE:  So if I vote  
7       against everything, then I won't ever have to read  
8       these?

9                   (Laughter)

10                  MR. GALVIN:  Yes.  Pretty much, yes,  
11       Councilman, if that works for you.

12                  (Laughter)

13                  CHAIRMAN HOLTZMAN:  Do you want to call  
14       that?

15                  MR. GALVIN:  Otherwise, tell me in  
16       advance of the meeting, and I'll try to make some  
17       changes.

18                  COMMISSIONER DOYLE:  No.  You are  
19       right, and I didn't get through it --

20                  MR. GALVIN:  No problem.  It is 21  
21       pages, too.  We did a lot of work on this.

22                  Do we have a motion?

23                  COMMISSIONER MC KENZIE:  I make a  
24       motion.

25                  MR. GALVIN:  Awesome.

1 Do we have a second?

2 COMMISSIONER PEENE: Second.

3 MR. GALVIN: Mr. Stratton?

4 COMMISSIONER STRATTON: Yes.

5 MR. GALVIN: Ms. Forbes?

6 COMMISSIONER FORBES: Yes.

7 MR. GALVIN: Ms. Graham?

8 COMMISSIONER GRAHAM: Yes.

9 MR. GALVIN: Mr. McKenzie?

10 COMMISSIONER MC KENZIE: Yes.

11 MR. GALVIN: Mr. Peene?

12 COMMISSIONER PEENE: Yes.

13 MR. GALVIN: Chairman Holtzman?

14 CHAIRMAN HOLTZMAN: Yes.

15 MR. GALVIN: There you go.

16 CHAIRMAN HOLTZMAN: Okay. That

17 concludes our meeting.

18 Is there a motion to close this

19 meeting?

20 VICE CHAIR MAGALETTA: Close.

21 CHAIRMAN HOLTZMAN: A second?

22 COMMISSIONER PEENE: Second.

23 CHAIRMAN HOLTZMAN: In favor?

24 (All Board members answered in the

25 affirmative.)

1                   CHAIRMAN HOLTZMAN:  Yes.  Thank you,  
2           everybody.

3                   (The meeting concluded at 10:30 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 testimony 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: 6-8-15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

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