

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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RE: HOBOKEN ZONING BOARD OF : SPECIAL MEETING
ADJUSTMENT OF THE CITY OF : Tuesday, 7 pm
HOBOKEN : June 9, 2015
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Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Acting Chair John Branciforte
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Diane Fitzmyer Murphy
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
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6 Attorney for the Board.

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1 CHAIRMAN AIBEL: Good evening,
2 everyone.

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

11 Would you please join me to salute the
12 flag?

13 (Pledge of Allegiance recited)

14 CHAIRMAN AIBEL: We will start with a
15 couple of administrative matters, and then just for
16 everybody in the room, we're going to start hearing
17 631 Washington first.

18 We have one application that will be
19 carried, so 1410 Grand Street will be heard second.
20 In the meantime we have a couple --

21 MS. CARCONE: We're going to do a roll
22 call.

23 CHAIRMAN AIBEL: -- oh, I missed the
24 roll call.

25 MS. CARCONE: Commissioner Aibel?

1 CHAIRMAN AIBEL: Here.

2 MS. CARCONE: Commissioner Greene is
3 absent.
4 Commissioner Cohen?
5 COMMISSIONER COHEN: Yes.
6 MS. CARCONE: Commissioner DeFusco is
7 absent.
8 Commissioner Grana?
9 COMMISSIONER GRANA: Here.
10 MS. CARCONE: Commissioner Marsh is
11 absent.
12 Commissioner Murphy?
13 COMMISSIONER MURPHY: Here.
14 MS. CARCONE: Commissioner Branciforte?
15 COMMISSIONER BRANCIFORTE: Yes.
16 MS. CARCONE: Commissioner Fisher?
17 COMMISSIONER FISHER: Yes.
18 MS. CARCONE: Commissioner McAnuff?
19 COMMISSIONER MC ANUFF: Here.
20 MS. CARCONE: Commissioner DeGrim is
21 not here yet.
22 CHAIRMAN AIBEL: Okay. So we have a
23 couple of resolutions.
24 A resolution of denial for 109-111
25 Monroe.

1 MR. GALVIN: Well, let me just jump
2 over that, Mr. Chairman.

3 The first one I want to bring to your
4 attention is 737 Garden Street. We are not going to
5 decide this case tonight because you might recall
6 that we were supposed to evaluate -- here is Mr.
7 DeGrim --

8 MS. CARCONE: Here he is.

9 (Commissoner Frank DeGrim present.)

10 MR. GALVIN: -- we were supposed to
11 evaluate the revised plan, and the renderings were
12 to be approved and reviewed by the Board at the time
13 of memorialization.

14 However, those plans just came in
15 today, so there was no opportunity for the
16 professional staff to look at it, so I recommend we
17 hold this one until at least a week and at least
18 give our team a chance to look at it, okay?

19 CHAIRMAN AIBEL: Do we need a motion?

20 MR. GALVIN: Unless you want to
21 override me, I think we are still within time, and
22 as long as that is the Board's pleasure, is that
23 okay?

24 CHAIRMAN AIBEL: Fine.

25 MS. CARCONE: Yes.

1 MR. GALVIN: Anybody disagree?

2 CHAIRMAN AIBEL: That's fine. Good.

3 We will carry that to next week.

4 MR. GALVIN: Now, which one do you want
5 me to do?

6 CHAIRMAN AIBEL: 109-111.

7 MR. GALVIN: All right.

8 109-111, Mr. Cohen, Mr. Grana,
9 Ms. Murphy, Mr. Branciforte, and Chairman Aibel
10 voted in favor -- voted to deny.

11 Do I have a motion?

12 COMMISSIONER GRANA: Motion to deny
13 109-111 Monroe.

14 MR. GALVIN: Is there a second?

15 COMMISSIONER MURPHY: Second.

16 MR. GALVIN: Mr. Cohen?

17 COMMISSIONER COHEN: Yes.

18 MR. GALVIN: Mr. Grana?

19 COMMISSIONER GRANA: Yes.

20 MR. GALVIN: Ms. Murphy?

21 COMMISSIONER MURPHY: Yes.

22 MR. GALVIN: Mr. Branciforte?

23 COMMISSIONER BRANCIFORTE: Yes.

24 MR. GALVIN: Chairman Aibel.

25 CHAIRMAN AIBEL: Yes.

1 MR. GALVIN: The next matter is 1101
2 Grand Street, and on that one, we have Mr. Cohen,
3 Mr. Grana, Ms. Murphy, Mr. Branciforte, Mr. McAnuff
4 and Chairman Aibel, and that was in favor.

5 Do I have a motion?

6 COMMISSIONER BRANCIFORTE: Motion to
7 accept.

8 MR. GALVIN: Thank you.

9 Do I have second?

10 COMMISSIONER GRANA: Second.

11 MR. GALVIN: Thank you.

12 Mr. Cohen?

13 COMMISSIONER COHEN: Yes.

14 MR. GALVIN: Mr. Grana?

15 COMMISSIONER GRANA: Yes.

16 MR. GALVIN: Ms. Murphy?

17 COMMISSIONER MURPHY: Yes.

18 MR. GALVIN: Mr. Branciforte?

19 COMMISSIONER BRANCIFORTE: Yes.

20 MR. GALVIN: Mr. McAnuff?

21 COMMISSIONER MC ANUFF: Yes.

22 MR. GALVIN: Chairman Aibel?

23 CHAIRMAN AIBEL: Yes.

24 MR. GALVIN: And then the final matter
25 is 704 Madison, resolution of approval.

1 Mr. Cohen, Mr. Grana, Ms. Murphy, Mr.
2 Branciforte, Mr. McAnuff and Chairman Aibel.

3 Do I have a motion?

4 COMMISSIONER COHEN: Motion to approve.

5 MR. GALVIN: Is there a second?

6 COMMISSIONER GRANA: Second.

7 MR. GALVIN: Thank you.

8 Mr. Cohen?

9 COMMISSIONER COHEN: Yes.

10 MR. GALVIN: Mr. Grana?

11 COMMISSIONER GRANA: Yes.

12 MR. GALVIN: Ms. Murphy?

13 COMMISSIONER MURPHY: Yes.

14 MR. GALVIN: Mr. Branciforte?

15 COMMISSIONER BRANCIFORTE: Yes.

16 MR. GALVIN: Mr. McAnuff?

17 COMMISSIONER MC ANUFF: Yes.

18 MR. GALVIN: Chairman Aibel?

19 CHAIRMAN AIBEL: Yes.

20 MR. GALVIN: There you go.

21 CHAIRMAN AIBEL: On 502-504 Monroe

22 Street, we have a letter from Mr. Matule requesting

23 to carry the meeting with no further public notice

24 because his professionals were unavailable on the

25 9th, so this will confirm that he consents to extend

1 the time within which the Board has to act through
2 July 21.

3 Pat, I take it we are going to hear
4 them on July 21, so we need a motion.

5 MR. GALVIN: Yes, to carry without
6 notice to that date.

7 COMMISSIONER BRANCIFORTE: What is the
8 date?

9 CHAIRMAN AIBEL: July 21st.

10 MR. GALVIN: Do we need a waiver of
11 time?

12 CHAIRMAN AIBEL: He gave that, too.

13 MR. GALVIN: Oh, he gave us that, too.

14 COMMISSIONER GRANA: Which one is this?

15 COMMISSIONER COHEN: 502-504 Monroe.

16 COMMISSIONER BRANCIFORTE: Motion to
17 carry 502-504 Monroe to the July 21st date, and Mr.
18 Matule has agreed to waive the time --

19 COMMISSIONER COHEN: Without further
20 notice.

21 COMMISSIONER BRANCIFORTE: -- with no
22 further notice.

23 COMMISSIONER GRANA: Second.

24 CHAIRMAN AIBEL: All in favor?

25 (All Board members answered in the

1 affirmative.)

2 CHAIRMAN AIBEL: Anybody opposed?

3 (No response)

4 (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 631 Washington Street : SPECIAL MEETING
 Block 217, Lot 10 :
 APPLICANT: Sprint Spectrum, LP :June 9, 2015
 Interpretation Application :Tuesday 7:15 pm
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Acting Chair John Branciforte
Commissioner Philip Cohen
Commissioner Antonio Grana
Commissioner Diane Fitzmyer Murphy
Commissioner Tiffanie Fisher
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11 Attorneys for the Applicant.

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I N D E X

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1 CHAIRMAN AIBEL: Okay. We are ready to
2 go. 631 Washington Street.

3 Mr. Gordon?

4 Ms. Gordon?

5 MS. GORDON: Good evening.

6 My name is Hadisha Gordon of the Law
7 Offices of Alan D. Zublatt.

8 Our firm represents Sprint Spectrum,
9 LP, and SCC, a licensed wireless telecommunications
10 provider.

11 Our application this evening is for an
12 interpretation to permit applicants to modify its
13 existing facility at 631 Washington Street.

14 We hope to show you that our
15 application fits plainly within the purview of
16 Section 6409 of the Middle Class Tax Relief and Job
17 Creation Act, as well as satisfies the requirements
18 of Section 46.2 of the MLUL, so that site plan
19 review and other zoning approvals are not required.

20 Sprint's application to upgrade its
21 existing facility consists of the installation of
22 three panel antennas mounted at the same center line
23 heights --

24 THE REPORTER: You are talking way too
25 fast.

1 MR. GALVIN: Yes, if you would just
2 slow down.

3 THE REPORTER: You're talking way too
4 fast.

5 (Laughter)

6 MR. GALVIN: You are doing awesome,
7 though. Just take it down, just take it down a
8 notch.

9 MS. GORDON: Sure.

10 MR. GALVIN: I would say for the record
11 that the challenge for me has been to understand
12 what was actually existing and what is proposed.

13 I have been over the federal law
14 several times, and I have been over the state law
15 several times, even just in the last half-hour, and
16 I am still not sure where we are at. So you just
17 keep going, and we are going to try to like figure
18 it out --

19 MS. GORDON: Sure.

20 MR. GALVIN: -- either we're sending --
21 the bottom line is we are either saying it is
22 compliant with the law, and then no site plan review
23 is required, or it doesn't comply with the law in
24 some regard, therefore, it needs a site plan review,
25 which isn't the worst thing in the whole world, but,

1 you know, so let's proceed, okay? Just meter
2 yourself a little bit, just kind of slow down a
3 little bit.

4 MS. GORDON: Okay. So the application
5 to upgrade will consist of the installation of three
6 panel antennas mounted at the same center line
7 heights and sector locations as the existing three
8 antennas. So there is currently three antennas
9 present on the site, and at the end of the upgrade
10 there will be six antennas. This upgrade will
11 mirror the original approval of six antennas.

12 As you may recall, the federal law
13 provides that the local government may not deny and
14 shall approve any eligible facility's request to
15 modify an existing tower or bay station that does
16 not substantially change the existing tower or bay
17 station.

18 So here, we are compliant in that we do
19 not change the physical dimensions substantially.
20 We will not be increasing the height. The height
21 will be -- the antennas will be mounted at the same
22 center line heights and sector locations as the
23 existing three antennas. We will not be increasing
24 the width of the structure, and we'll not be
25 increasing the compound area. The equipment will be

1 located inside the existing equipment room, which is
2 in the basement.

3 We comply with the state --

4 MR. GALVIN: Let me stop you there.

5 So because the compound is in the
6 building, this is strictly about the antennas.

7 MS. GORDON: Absolutely.

8 So the antennas, again, we will be
9 adding three antennas to the existing three
10 antennas, and there will be a total of six antennas
11 to remain.

12 We comply with the state collocation
13 statute as follows: It is a wireless support
14 structure because it has been previously approved by
15 the City of Hoboken to obtain all necessary
16 approvals --

17 MR. GALVIN: Let me say this. Were all
18 six antennas built?

19 MS. GORDON: All six antennas were
20 built previously according to the as-built
21 construction drawings. At some point three antennas
22 came down.

23 MR. GALVIN: Do you know when?

24 MS. GORDON: Not certain of when three
25 antennas were removed, but just last year Sprint did

1 an upgrade where we removed and replaced the
2 existing three antennas, and we put three new ones
3 in its -- I'm sorry -- that was not last year. That
4 was in 2013.

5 MR. GALVIN: Okay.

6 Keep going. I am sorry. That helped.

7 Thank you.

8 MS. GORDON: Okay.

9 So just to go, within the state law we
10 comply. We are an approved support structure. We
11 received approval by the City of Hoboken. We
12 received the first certificate of zoning compliance
13 in 1997, as well as a certificate of appropriateness
14 in 1996.

15 Additionally, as I mentioned before, we
16 will not be increasing the structure whatsoever
17 since the antennas will be mounted at the same
18 center line heights and sector location, so we are
19 not increasing the height of the structure. We're
20 not increasing the width of the structure, nor the
21 compound area.

22 And last, we comply with the final
23 approval of the structure, and that we do not create
24 a condition for a variance.

25 MR. GALVIN: Is that the end of your

1 argument?

2 MS. GORDON: Well, I have with me as
3 well Robert Marsac, architect, as well as David
4 Karlebach, who is the planner, who will be able to
5 put on testimony as well as answer any questions
6 that you may have.

7 MR. GALVIN: Okay.

8 COMMISSIONER COHEN: Can I ask her
9 questions or --

10 MR. GALVIN: Yes. You can ask counsel
11 questions.

12 COMMISSIONER COHEN: Okay.

13 You say that the height is the same as
14 was originally approved.

15 I am looking at the letter from Ann
16 Holtzman, dated May 14th, 2015, that was handed out
17 today, and it states that the height measurements --
18 this is the fourth paragraph:

19 Height measurements are not provided on
20 the drawings, but by my calculation, the stand
21 mounted antennas would be seven foot eight inches
22 above the roof slab, and the bulkhead mounted units
23 come in at 11 feet five inches above the roof
24 surface.

25 Have you seen that letter where she --

1 MS. GORDON: No, I did not. I have not
2 seen the letter from Ann Holtzman.

3 COMMISSIONER COHEN: This is a letter
4 that was written to the Chairman of the Zoning Board
5 and the Commissioners of the Zoning Board.

6 Maybe we can give a copy of it to
7 counsel, if she doesn't have it.

8 MR. GALVIN: Yes. Go ahead.

9 (Board members confer)

10 COMMISSIONER COHEN: So if you look at
11 the bottom of the fourth paragraph, there's --

12 MS. GORDON: Okay.

13 MR. GALVIN: I didn't expect anybody to
14 comment on it.

15 (Board members confer.)

16 COMMISSIONER COHEN: And in the
17 sentence before that, it says that the tripod mounts
18 increase the amount of roof cover from what was
19 originally approved. Original approvals further
20 limit the overall height of the equipment to seven
21 feet with no visibility from the street.

22 I just want to know if you agree with
23 what Ms. Holtzman wrote with respect to the height.

24 MR. GALVIN: Why don't we -- instead of
25 having counsel on the spot for that, let's have the

1 expert deal with that.

2 MS. GORDON: I was going to suggest
3 that I call my engineer who could speak to and
4 provide testimony to this.

5 MR. GALVIN: Awesome.

6 COMMISSIONER GRANA: Before doing that,
7 can I ask one question?

8 MR. GALVIN: Just remember you are
9 asking counsel questions about her opening
10 statement.

11 COMMISSIONER GRANA: How many antennas
12 are currently at the site?

13 MS. GORDON: Three.

14 COMMISSIONER GRANA: Thank you.

15 COMMISSIONER FISHER: And I just have a
16 question.

17 You mentioned that -- it sounded like
18 what you are saying is you were replacing what
19 weren't there any more with the same one. How do
20 they differ?

21 How do the three ones that you are putting
22 on differ from the ones that were there previously
23 and --

24 MR. GALVIN: Same thing. Let's let the
25 engineer respond to that or the architect respond to

1 that.

2 COMMISSIONER FISHER: Okay.

3 MR. GALVIN: Just before you start, I
4 think you were saying the state statute --

5 MS. GORDON: 46.2.

6 MR. GALVIN: Right.

7 In that one, it says basically -- just
8 for guidance for the Board, so they understand what
9 the framework is.

10 MS. GORDON: Sure.

11 MR. GALVIN: An application to collate
12 wireless communication equipment on a wireless
13 communication support structure or in an existing
14 equipment compound shall not be subject to site plan
15 review, provided the application meets the following
16 requirements.

17 So the first thing is: If they are
18 exactly replacing the antenna that is there, we
19 shouldn't be forcing them to go to a Board. We
20 should be saving them that step and Ann can issue
21 that permit.

22 Then the exceptions are the wireless
23 communication support structure shall have been
24 previously granted, all necessary approvals by the
25 appropriate authority, and they are suggesting that

1 with the final approval of the structure and all
2 conditions attached thereto and does not create a
3 condition for which a variance would be required."

4 Mr. Marsden suggests in his letter that
5 a variance may be required, so we are going to get
6 there. Okay?

7 Again, let's go to your -- so I wanted
8 you guys to hear what the -- do you disagree with
9 any of that?

10 MS. GORDON: No, I do not.

11 MR. GALVIN: Okay. Awesome.

12 All right. Raise your right hand.

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

16 MR. MARSAC: I do.

17 R O B E R T M A R S A C, having been duly sworn,
18 testified as follows:

19 MR. GALVIN: State your full name for
20 the record and spell your last name.

21 THE WITNESS: Robert Marsac,
22 M-a-r-s-a-c.

23 MR. GALVIN: All right.

24 Mr. Marsac, you are an architect?

25 THE WITNESS: I am an architect.

1 MR. GALVIN: Could you give us three
2 Boards you appeared before previously, just any
3 three New Jersey Boards.

4 THE WITNESS: Oh, God.
5 Belleville, Jersey City, and Bayonne.

6 MR. GALVIN: Okay.
7 Mr. Chairman, do you accept Mr.
8 Marsac's credentials as an architect?

9 CHAIRMAN AIBEL: We do.

10 MR. GALVIN: All right. You may
11 proceed.

12 THE WITNESS: Okay. This is the
13 existing roof plan of the building as it exists now.

14 Currently there are three panel
15 antennas, and currently there are two pipes that
16 used to hold the antennas. They are just pipes that
17 come out of the roof. It is a pipe mast, simply
18 it's where your antenna goes to. That encompasses
19 what the roof currently has.

20 The plan is to take those two pipes
21 down and to put up two new pipes with these ballast
22 mounts. That is what these triangle things are.

23 Now, those are eight inches high
24 because it holds a typical CMU block on it, and
25 there is a pipe that comes out of the middle that

1 holds the actual physical antennas.

2 The third antenna is going to be
3 mounted adjacent to the existing antenna onto the
4 existing bulkhead, and that is like a pipe mount
5 also with steel angles that are fastened to the wall
6 with Hilti fasteners, H-i-l-t-i.

7 MR. GALVIN: Wow. I thought you meant
8 healthy, h-e-a-l-t-h-y.

9 (Laughter)

10 THE WITNESS: When you put it in my
11 phone for an email, it correct spells it.

12 COMMISSIONER BRANCIFORTE: In Hudson
13 County, it is healthy, but --

14 (Laughter)

15 CHAIRMAN AIBEL: So excuse me --

16 THE WITNESS: Yes.

17 CHAIRMAN AIBEL: -- the unit that is
18 being put on the bulkhead, was that there before?

19 Is this the first time that you are
20 using the bulkhead?

21 THE WITNESS: Well, there is one there
22 now. Now, there was a sixth antenna on this site at
23 one point. I do not know what happened to that
24 third antenna mount.

25 Now, if we look back at the other

1 plans, it may show that there was an antenna there.

2 CHAIRMAN AIBEL: Okay.

3 MS. GORDON: So, Rob, if you could just
4 go over again and confirm what is existing, as well
5 as describe what is proposed, just so --

6 THE WITNESS: Again, existing, we have
7 three panel antennas on height masts.

8 In addition, we have two antenna masts
9 that come up out of the roof that are vacant.

10 The proposal is to remove those two
11 antennas masts and replace them with these two
12 ballast mounted antenna masts. Instead of the pipe
13 going into the roof, there will be a freestanding
14 ballast mount that rests on the roof with a pipe on
15 it.

16 In addition, there is this one pipe
17 mast that is going to be mounted on the bulkhead.

18 MS. GORDON: So are we increasing the
19 height of the structure in your professional
20 opinion?

21 THE WITNESS: No.

22 Can I just elaborate on that?

23 MS. GORDON: Okay.

24 THE WITNESS: Because currently these
25 three antennas are six feet high, 72 inches.

1 The proposed antennas are 55 inches
2 high, and they are at the same exact RAD center
3 line, R-A-D --

4 MR. GALVIN: Good.

5 THE WITNESS: -- center line. So in
6 other words, you got a difference between a couple
7 of inches.

8 MS. GORDON: Will we be increasing the
9 width of this structure at all?

10 THE WITNESS: No.

11 MS. GORDON: Okay. And the compound
12 area --

13 THE WITNESS: It is inside of the
14 building.

15 MR. GALVIN: Well, what about the
16 antennas compared to the other -- the existing three
17 antennas, are they being replaced?

18 THE WITNESS: No.

19 MR. GALVIN: Are the width of these new
20 antennas, does it take up more area? Are they
21 wider?

22 THE WITNESS: It is approximately the
23 same. I would need to refer back to the plans.

24 (Someone sneezed)

25 MR. GALVIN: God bless you.

1 THE WITNESS: I believe they are
2 approximately the same, because the ones that are up
3 there are the biggest ones that Sprint currently
4 uses. They have gone through three generations.
5 This is the third --

6 MR. GALVIN: Now, the sixth one that
7 basically doesn't exist --

8 THE WITNESS: Yes.

9 MR. GALVIN: -- where is the placement
10 of that one?

11 THE WITNESS: That one is placed on the
12 bulkhead.

13 This is the front of the building, so
14 this would be near the back of the building. There
15 is one antenna already attached to that bulkhead
16 that projects the signal out the back, and this one
17 is adjacent to that.

18 MR. GALVIN: And the two that were just
19 pipes, where are they located on the building?

20 THE WITNESS: The two pipes are right
21 here, and as shown by these circles as being
22 removed, and the two new ones.

23 MR. GALVIN: I don't know if the Board
24 follows that. I didn't follow it at all.

25 COMMISSIONER MURPHY: Do we have any

1 photos up there?

2 THE WITNESS: Yes. We have a planner
3 that has some. He has all photo simulations.

4 COMMISSIONER MURPHY: Okay. Maybe we
5 could look at the photos, and it might give us a --

6 THE WITNESS: You are going to really
7 have to look at it, though, at least that one,
8 but --

9 MS. GORDON: Just to be clear, as far
10 as the height or width of the antennas, from my
11 understanding of the state statute, I guess this may
12 have been what you were asking before, that the
13 statute speaks concerning the width as to increasing
14 the width of the entire structure, so which would be
15 the roof platform here, so the antennas or any
16 proposed installation will not be increasing the
17 entire structure. It is increasing --

18 MR. GALVIN: We may or may not agree
19 with that, okay, but that is all right. You are
20 entitled to make your argument.

21 MS. GORDON: Okay.

22 MR. MARSDEN: I have one question.

23 What is the size of the mounting
24 platforms that you are putting in?

25 The old ones were just pipes. The

1 previous ones were just pipes.

2 THE WITNESS: Correct.

3 MR. MARSDEN: The new one, the way I
4 understand it, and correct me if I am wrong, they
5 are pipes, but they have a mounting platform that is
6 a triangular shape on the base --

7 THE WITNESS: That's correct.

8 MR. MARSDEN: -- kind of like a pyramid
9 thing --

10 THE WITNESS: That's correct.

11 MR. MARSDEN: -- that comes up and
12 holds it in place?

13 THE WITNESS: That's correct.

14 And on that pyramid thing it has
15 standard concrete blocks that are eight inches high,
16 if you have seen something like this, called a
17 ballast mount. That's the ballister.

18 MR. MARSDEN: Correct.

19 And the way I scaled it, they are about
20 seven to eight feet in leg length, the mounting
21 platform?

22 THE WITNESS: That's correct, yes.

23 MR. MARSDEN: Okay. So you are adding
24 two of those?

25 THE WITNESS: That is correct.

1 MR. MARSDEN: Okay. Thank you.

2 COMMISSIONER GRANA: So what would that
3 do to the roof coverage now consumed by the
4 additional structure to mount the antennas?

5 MS. GORDON: You can speak to the
6 roof --

7 THE WITNESS: I need --

8 COMMISSIONER FISHER: But that is not,
9 according to Dennis' list, that doesn't sound like a
10 consideration, does it?

11 COMMISSIONER GRANA: Maybe I got it
12 wrong. Is there an impact, if we are increasing
13 roof coverage?

14 MR. GALVIN: Yes, because then a
15 variance -- if roof coverage is increased, but
16 doesn't necessitate a variance, then they are okay.

17 But if the roof coverage happens in a
18 way where we need a variance, then that would be one
19 of the prohibitions --

20 COMMISSIONER FISHER: The variance --

21 MR. GALVIN: -- would be -- does not
22 create a condition for which a variance would be
23 required. So if they, you know --

24 COMMISSIONER GRANA: Is there a
25 threshold? Is there a threshold about how much

1 additional coverage is --

2 MR. GALVIN: No.

3 What's the standard for roof
4 coverage --

5 MR. MARSDEN: I believe, correct me if
6 I am wrong, I believe in this case it would be 30
7 percent.

8 COMMISSIONER GRANA: 30 percent.

9 Okay. Thank you.

10 MS. GORDON: Yes.

11 MR. MARSDEN: Typically we use ten
12 percent for roof coverage, but I believe in the
13 letter I received from Mister --

14 MS. GORDON: Per the wireless ordinance
15 section, we are allowed up to 30 percent of roof
16 coverage for wireless communications, which we do
17 comply with, and Rob can testify to right now we are
18 at 21 percent.

19 THE WITNESS: We are at 21 percent.

20 This table here, if anybody -- I can
21 pass this around. I would like to explain it.

22 MR. GALVIN: We all have it I think.

23 THE WITNESS: Oh, okay.

24 MR. GALVIN: Just keep going. No, no.
25 Don't stop. You are doing good. We need to --

1 really, legitimately, the problem with this case has
2 been it just hasn't been clear. It just wasn't
3 clear enough, so make it clear for us, okay?

4 COMMISSIONER MURPHY: What page is
5 that?

6 THE WITNESS: This is on page A-1.

7 MS. GORDON: Just so you know, there
8 was a set of plans that you all received, and this
9 roof calculation table was submitted to your Board
10 Engineer subsequent to us submitting the plans, so
11 there should be an additional slit sheet, which
12 shows the roof coverage table located at the bottom.

13

14 COMMISSIONER MURPHY: Thank you.

15 THE WITNESS: She has it.

16 Okay. If we look at that table, it
17 simply has the three sectors alpha, beta, gamma, and
18 alpha and gamma are the ones that are going to have
19 these triangular platforms. So the areas that you
20 see there, the increased areas on the increase of
21 the area from this structure right here, this
22 proposed triangle, so it is -- it increases it from
23 four square feet to 61.15 square feet.

24 CHAIRMAN AIBEL: Is that per pod or is
25 it the entire --

1 THE WITNESS: That is per pod, so it is
2 approximately 122.3 square feet.

3 CHAIRMAN AIBEL: So it's four feet to
4 122 --

5 THE WITNESS: And then also the
6 calculation was done for the area of this antenna,
7 and that increases from 4.03 square feet -- oh, no,
8 excuse me -- 4.66 square feet to 7.43 square feet.

9 COMMISSIONER FISHER: What is the
10 square footage of the roof?

11 THE WITNESS: Square footage of the
12 roof --

13 COMMISSIONER FISHER: I was told it was
14 21 percent.

15 THE WITNESS: I will --

16 MS. GORDON: The square footage of the
17 roof -- I'm sorry --

18 MR. MARSDEN: No. I did a rough
19 calculation that's presented in my letter. It says
20 about 1188 square feet when you scale the diagram
21 that we received, the roof plan that we received.
22 And using their numbers, on item number five on my
23 letter, they are going from a total of 6.5 existing,
24 and what I did was I eyeballed their numbers,
25 checked them, and my calc was close to what he said

1 or what they presented. And when you add the
2 channel, you know, for the cabling and stuff, it is
3 slightly over 20.6 percent or 21 percent --

4 THE WITNESS: 21 percent.

5 MR. MARSDEN: -- right. So I can
6 confirm that from what my review indicated.

7 CHAIRMAN AIBEL: Let me ask you this
8 question:

9 Putting aside the roof coverage, is the
10 increase in the width or square footage of the
11 mounting materials from four feet to 122 square feet
12 a substantial change?

13 THE WITNESS: The totals are on the
14 bottom actually of this chart.

15 The existing with the cable tray and
16 the existing antennas is 76.8 square feet, and we
17 are increasing that to 175.8 square feet.

18 CHAIRMAN AIBEL: So you are more than
19 doubling it?

20 THE WITNESS: Yes.

21 It is approximately a hundred and
22 something.

23 MS. GORDON: So we are increasing the
24 square footage on the roof to about a hundred square
25 feet, correct?

1 CHAIRMAN AIBEL: 175.

2 COMMISSIONER GRANA: 175.

3 MR. GALVIN: He's talking about the
4 pole verus --

5 THE WITNESS: Approximately --

6 MS. GORDON: A hundred?

7 THE WITNESS: -- a hundred and one.

8 (Everyone talking at once.)

9 MS. GORDON: Rob, maybe you can just
10 briefly explain to the Board the change of mounting,
11 just for my understanding, it is for structural
12 purposes, just for structural integrity to go from
13 the pipe mast to the tripod, so --

14 THE WITNESS: That's correct. That is
15 the reason why they are changing to these mounts
16 because this new antenna weighs more than that
17 existing pipe can hold substantially.

18 This is sufficient to hold the weight
19 of the new assembly, and that is what it is designed
20 for.

21 You know, you have a wood frame roof that
22 the existing antenna is attached to, and this is a
23 much more sufficient structure for it to -- it is
24 what is needed to hold it.

25 COMMISSIONER MURPHY: Can I just say

1 that like, I don't know, maybe because I am a very
2 visual person, I am having a hard time understanding
3 what these mounts are like, that if we were able to
4 see the pictures a little.

5 MS. GORDON: We can put the planner on
6 now. That may help.

7 CHAIRMAN AIBEL: Why don't we --

8 MS. GORDON: We have the planner, and
9 he has pictures that he can show, which should
10 provide a better illustration.

11 COMMISSIONER GRANA: But the net result
12 of that conversation is the roof coverage is at 21
13 percent?

14 THE WITNESS: Correct.

15 COMMISSIONER GRANA: Thank you.

16 COMMISSIONER DE GRIM: Are the
17 triangles -- do they cover the roof solidly or is it
18 just --

19 THE WITNESS: No. Just steel angles,
20 but on --

21 (Everyone talking at once.)

22 COMMISSIONER COHEN: Wait a second. We
23 are losing a Commissioner.

24 CHAIRMAN AIBEL: John needs to excuse
25 himself.

1 COMMISSIONER BRANCIFORTE: I will have
2 to excuse myself from the rest of the hearing, but
3 I'll be back, okay? I'm sorry.

4 (Commissioner Branciforte excused)

5 CHAIRMAN AIBEL: We have seven members.

6 MR. GALVIN: Okay. We are still good.

7 COMMISSIONER DE GRIM: Your 61.1.15
8 square feet, is that just the angles, or is that the
9 whole triangle?

10 THE WITNESS: No, that's the whole
11 triangle.

12 COMMISSIONER DE GRIM: Even though the
13 center of the triangle is open to the roof?

14 THE WITNESS: Well, those little
15 channels that you see, like this here, this is
16 basically solid, and this is solid, and that is
17 solid.

18 COMMISSIONER DE GRIM: Okay. The
19 interior of that triangle, though.

20 THE WITNESS: This part here is roof.

21 COMMISSIONER DE GRIM: Okay. But is --

22 THE WITNESS: The area is -- yes, the
23 60 square -- six by ten --

24 COMMISSIONER MURPHY: So how tall are
25 they?

1 COMMISSIONER COHEN: Can I ask some
2 questions?

3 THE WITNESS: Well, this triangle, this
4 piece here that you see, okay, is eight inches high,
5 okay? That is what the concrete block sits on.

6 Then out of the middle there is a pipe
7 that sticks up that holds the antenna, and these
8 three lines here are steel angles that come up.

9 COMMISSIONER DE GRIM: How high?

10 THE WITNESS: Well, they are shown on
11 the elevation. You can see, like two feet.

12 See, if you go to page A-3, and you
13 look at the drawing in the upper right-hand corner,
14 this shows those little angles, and this shows you
15 more of what -- this depicts more of what the
16 representation of that mount is.

17 COMMISSIONER GRANA: So -- excuse me --
18 let me ask a question.

19 So on A-3 --

20 THE WITNESS: Yes.

21 COMMISSIONER GRANA: -- the diagram, I
22 guess I'll call it, the upper right-hand corner
23 describes an antenna mount that is three feet in
24 height. Did I hear that correctly?

25 This structure is three feet in height?

1

2

THE WITNESS: No.

3

COMMISSIONER FISHER: Just the antenna

4

part.

5

THE WITNESS: The antenna is 55 inches

6

high and --

7

COMMISSIONER GRANA: From the bottom to

8

the top, what is the height?

9

THE WITNESS: Okay. I will tell you.

10

I am coming up -- that can't be

11

right --

12

COMMISSIONER MURPHY: I think it says

13

96 inches. On the left-hand side, the third point

14

down says the steel pipe, so cut to fit -- two and

15

seven-eighths by 96.

16

COMMISSIONER GRANA: Would you agree

17

that the entire structure is 96 inches high?

18

THE WITNESS: Yes. The height in the

19

center is correct.

20

COMMISSIONER GRANA: 96 inches.

21

Thank you.

22

COMMISSIONER MURPHY: Eight feet.

23

CHAIRMAN AIBEL: Mr. Cohen, do you have

24

anything?

25

COMMISSIONER COHEN: Yeah.

1 Isn't it true that the original
2 approval limited the overall height of the equipment
3 to seven feet, and this antenna is eight feet?

4 MS. GORDON: The original approval
5 limited it to seven feet. However, based on federal
6 and state collocation laws, we can increase. We
7 have the building to increase the structure. We
8 just cannot go beyond ten percent.

9 Here we are not increasing beyond ten
10 percent. We will be at the -- we will be at the
11 same height that we currently are at now.

12 COMMISSIONER COHEN: Counsel, let me
13 just get an answer to my question first before you
14 tell me why, you know, what your argument is.

15 MS. GORDON: Sure.

16 COMMISSIONER COHEN: Were you
17 originally approved for the height of seven feet for
18 this antenna?

19 MS. GORDON: Yes.

20 COMMISSIONER COHEN: And is this height
21 eight feet, that you are seeking approval for
22 tonight?

23 MS. GORDON: The height of the
24 antenna --

25 COMMISSIONER COHEN: Yes.

1 MS. GORDON: -- is eight feet or the
2 height from the structure up, because I believe what
3 they were just discussing was from the mount to the
4 top.

5 What I believe the antenna -- the
6 reference and the approval were for seven foot
7 antennas, which at the time were actually about six
8 foot antennas.

9 COMMISSIONER COHEN: Okay.

10 But I am looking at the August 27th,
11 1996 approval, which says that six antennas will be
12 54 inches high, six inches in width. When mounted,
13 they will be seven feet and not visible from the
14 street.

15 That is what I am looking at from an
16 original approval.

17 MS. GORDON: Right.

18 COMMISSIONER COHEN: So tell me how
19 this compares to that, because I think I just heard
20 testimony that this is an eight foot antenna that
21 you are looking to mount, right?

22 MS. GORDON: Well, from the mounting to
23 the top of the antenna would be roughly eight feet.

24 From my understanding of the approval,
25 it was even -- referencing seven foot antennas or

1 six foot antennas, which the difference of what I am
2 saying is from the mounting to the top, or whether
3 we are talking about the actual antenna size --

4 COMMISSIONER COHEN: The --

5 MS. GORDON: -- so the antennas size of
6 the ones that we are placing now is actually four
7 and a half feet. The antennas that are existing are
8 six feet antennas.

9 However, what the gentleman -- my engineer
10 was just discussing with the Commissioner here was
11 the base of the antenna, the mounting of the antenna
12 to the top.

13 Is that correct?

14 COMMISSIONER COHEN: So what does the
15 96-inch height -- let me just ask your witness.

16 You just gave us a measurement of 96
17 inches.

18 THE WITNESS: That is the pipe.

19 COMMISSIONER COHEN: And the pipe is
20 not the antenna?

21 THE WITNESS: No.

22 COMMISSIONER COHEN: Okay. So the
23 pipe, you are not installing that pipe. That pipe
24 is already there?

25 THE WITNESS: No. We are installing

1 the pipe, yes.

2 COMMISSIONER COHEN: Okay. So you are
3 installing a 96-inch pipe that wasn't there --

4 THE WITNESS: That's correct.

5 COMMISSIONER COHEN: -- and the antenna
6 is lower than the 96-inch pipe, is that right, or
7 about the same height as the 96-inch pipe --

8 THE WITNESS: A little bit -- I have to
9 run through the numbers --

10 COMMISSIONER FISHER: But I think it's
11 important where Phil or Commissioner Cohen is going.
12 I think that number is a really an important number.
13 I agree.

14 Everything like that you are reading
15 suggests that the peak of the structure previously
16 approved is seven feet.

17 COMMISSIONER COHEN: And while you are
18 looking at that, the other question I have for you
19 is: Will this be visible from the street, because
20 again, it appears that the original approval said it
21 was not going to be visible from the street, and the
22 letter that I have from Ann Holtzman that I handed
23 to counsel indicates that it would be visible from
24 the street, so those are my two questions with
25 respect to the height.

1 THE WITNESS: Okay. I will answer the
2 visible question, because that is the easy one
3 first. From certain parts of the street, it is
4 visible. It is absolutely visible. From certain
5 parts of the street, it is not visible.

6 COMMISSIONER COHEN: Show me from the
7 diagram which portions would be visible from the
8 street.

9 THE WITNESS: Sure. I will go back to
10 this.

11 Now, however, these are the original
12 height mounts that had antennas on them at one
13 day -- at one time.

14 These center lines of these pipes are
15 being moved back from the side into the building a
16 little bit. However, from the front we are at that
17 same center line, at least for this mount we are.

18 Now, this mount is further back.

19 I would like to refer to the planner's
20 photo simulations because they are going to show you
21 this, what it actually did look like, and what I it
22 is proposed to look like.

23 COMMISSIONER COHEN: Okay.

24 But can you show me from -- on that
25 drawing, can you tell me which portions of the

1 installation would be visible from the street, or do
2 you need the planner's --

3 THE WITNESS: No. The pipe and actual
4 antenna are the visible portion.

5 COMMISSIONER COHEN: So would the
6 entire nine foot -- I'm sorry -- eight foot pipe be
7 visible from the street --

8 THE WITNESS: No --

9 COMMISSIONER COHEN: -- or just the
10 top --

11 THE WITNESS: -- just the top of it.

12 COMMISSIONER COHEN: So would you say
13 half of the top of the pipe would be visible?

14 THE WITNESS: It depends where you are
15 standing. If you're standing far away, yes, sure.
16 If you were all the way down the street, you might
17 be able to see the entire thing, if you are far
18 away.

19 The closer you get, it diminishes. If
20 you're right under it, absolutely not.

21 COMMISSIONER COHEN: There is a
22 reference to antennas being mounted on the exterior
23 of the stair penthouse, which --

24 THE WITNESS: Yes.

25 COMMISSIONER COHEN: -- were not

1 included in the original approval.

2 Can you show me where the antenna
3 mounted on the exterior of the stair penthouse would
4 appear so I could just see what that is?

5 THE WITNESS: Okay.

6 This is the front of the building, and
7 these are the sides, and this is the stair
8 penthouse right here.

9 COMMISSIONER COHEN: I see it.

10 THE WITNESS: Okay. This is that
11 proposed antenna.

12 COMMISSIONER COHEN: Okay.

13 And what is the height of that antenna
14 that is going to be on the penthouse stairway?

15 THE WITNESS: It is the same exact
16 center line as the existing antenna.

17 COMMISSIONER DE GRIM: When you say
18 center line, are we talking across the top or --

19 THE WITNESS: No. Directly through the
20 center of the antenna, and the reason I say that is
21 because the existing antenna that is up there is six
22 feet high, 72 inches.

23 The proposed antenna is 55 inches,
24 so --

25 COMMISSIONER COHEN: So it is less

1 wide --

2 THE WITNESS: Less height. It is going
3 to be less than what is currently there now --

4 COMMISSIONER COHEN: Okay. That is
5 helpful.

6 THE WITNESS: -- outside of the...
7 (Laughter)

8 COMMISSIONER COHEN: I'm sorry, Frank.

9 COMMISSIONER DE GRIM: No, no.

10 The two that are shown on A-4, those
11 are remaining, those existing mounts on the --

12 THE WITNESS: Yes, yes. These two
13 here, this one and this one remaining.

14 COMMISSIONER DE GRIM: No. I mean on
15 the bulkhead --

16 THE WITNESS: No. There is only one on
17 the bulkhead.

18 COMMISSIONER DE GRIM: There's only one
19 down there? It looks like there's two --

20 THE WITNESS: These little boxes are
21 what they call remote radio heads, and that is just
22 a device that does something to the antenna to allow
23 it to operate.

24 COMMISSIONER DE GRIM: Then there is
25 the one antenna that is towards the edge of the

1 building there?

2 THE WITNESS: Correct --

3 COMMISSIONER DE GRIM: Okay.

4 THE WITNESS: -- well, it's really in
5 the middle of the building --

6 COMMISSIONER DE GRIM: No, the existing
7 one.

8 THE WITNESS: -- oh, yes. The existing
9 one is near the edge, correct?

10 COMMISSIONER DE GRIM: Okay.

11 Now, you say that these new ones weigh
12 much more than the old ones.

13 Are they denser or are they bigger?

14 THE WITNESS: It is just more items
15 inside, because this antenna is going to -- now, I
16 can tell you this: This antenna is going to provide
17 more service, so it needs more things inside of it,
18 basically more devices.

19 COMMISSIONER DE GRIM: But when you
20 look at it, you know, height, width, how high is the
21 antenna, and how wide is it, and I am not talking
22 about when it is mounted, but I am talking about the
23 actual item itself, because it looks like a big
24 triangle -- not a triangle, a rectangle --

25 THE WITNESS: It's 55 inches high, the

1 panel antenna, and it's 11.8 inches wide.

2 COMMISSIONER DE GRIM: And the old ones
3 that are up there?

4 THE WITNESS: They are 72 inches high,
5 and the width is about eight inches, ten inches.

6 COMMISSIONER FISHER: How are they
7 mounted? They are mounted like on the side --

8 THE WITNESS: There is a pipe --

9 COMMISSIONER FISHER: -- so this is the
10 perimeter of the roof?

11 THE WITNESS: Correct.

12 COMMISSIONER FISHER: So these are kind
13 of on a pipe, just one sticking up out of it?

14 THE WITNESS: Yes.

15 COMMISSIONER FISHER: This is now a
16 pipe in the middle of the triangle that has three
17 sticking out of it?

18 THE WITNESS: No. Those pieces that
19 are sticking out, they are just angled down to the
20 roof --

21 COMMISSIONER FISHER: Oh, that's right.
22 That's right. Yeah, that's right.

23 THE WITNESS: So from street, if you
24 are far enough away, you might be able to see the
25 top of that --

1 COMMISSIONER FISHER: The post.

2 THE WITNESS: -- that angle --

3 COMMISSIONER FISHER: And if you were
4 to measure from the base of the roof to the top of
5 the existing ones, the top of that structure, how
6 tall is that --

7 THE WITNESS: I have to look at the --

8 COMMISSIONER FISHER: -- and how does
9 that specific compare with the same measurement from
10 the roof to the top of this one?

11 THE WITNESS: Well, again, I can tell
12 you that the pipe, I would have to go do the
13 calculations for the pipe for you.

14 But as far as the antenna goes, the
15 existing one is six feet high, and this is 55
16 inches, four foot seven, so the center line is the
17 same, so you go from two foot three and a half --

18 COMMISSIONER FISHER: And the extra
19 eight inches lower --

20 THE WITNESS: -- above -- from three
21 feet to two feet three and a half inches.

22 COMMISSIONER FISHER: So in theory then
23 if it's like an eight-inch -- half of the difference
24 between 72 and 55 --

25 THE WITNESS: Correct.

1 COMMISSIONER FISHER: -- 17 divided by
2 two is eight and a half.

3 So if in theory the new ones are eight
4 and a half inches shorter --

5 THE WITNESS: Yes.

6 COMMISSIONER FISHER: -- yet on your
7 diagram, it is pretty close to 96 inches, pretty
8 close to eight feet, and it is shorter, then the
9 existing ones are close to eight feet, but we have
10 something that says they shouldn't be more than
11 seven feet.

12 THE WITNESS: I didn't understand that.

13 COMMISSIONER FISHER: Okay.

14 So all we are trying to understand is
15 we have something that says it shouldn't have been
16 more than seven. This looks like they are greater
17 than eight, and we are trying to understand that
18 specific thing.

19 And the last question, I asked this of
20 you in the beginning is: We are talking a lot about
21 how these compare to the ones that are there, but I
22 thought, and correct me if I am wrong, you made
23 reference to the fact that the original approvals
24 way back approved six, and three are just missing
25 somehow. We don't know -- we don't know where the

1 three went that are in the pole -- in the poles that
2 you mentioned.

3 But what were they -- they were exactly
4 like this, the same height or -- how did these
5 compare to the original ones that were approved way
6 back when, these new ones that are effectively
7 replacing the ones that had been part of the six --

8 MS. GORDON: These were probably all
9 the six footer antennas. Again, as technology
10 changes, the structures change. So antennas come
11 down or antennas are placed back up. So at some
12 point, it's just not exactly clear when, three
13 antennas did come down.

14 MR. GALVIN: But here is the problem.
15 You know, they can take them down, but you know,
16 they couldn't have changed them before this law went
17 into place before coming back to a Board and getting
18 another approval.

19 MS. GORDON: Well, again, I will remind
20 you that we performed an upgrade in about 2013 or
21 2012, which was approved through the zoning
22 department where --

23 MR. GALVIN: How many antennas were
24 there then?

25 MS. GORDON: Three antennas were there

1 at the time, and they swapped out those three
2 antennas and placed the three existing antennas now,
3 that we have now, those were the swap. That is what
4 we called the Network Vision Upgrade.

5 MR. GALVIN: Although we have six
6 approved, we don't know that all six were ever
7 really up there.

8 MS. GORDON: According to the actual
9 construction drawings that I reviewed, all six at
10 some time were up on the rooftop.

11 THE WITNESS: I have been to 1500, 2000
12 Sprint sites, and typically they started out with
13 six.

14 Then when they did this upgrade she is
15 talking about in 2013, they put these three new
16 antennas on. Sometimes they left three old
17 antennas; sometimes they didn't. It varied all over
18 the place.

19 MR. GALVIN: Well, we are trying to
20 figure out the proofs because it makes a difference
21 of whether we -- look, in the end, I just want
22 everybody to understand from a practical standpoint,
23 if you need the six antennas up there, you are going
24 to get them. We're either going to say --

25 COMMISSIONER FISHER: You don't need

1 site plan approval?

2 MR. GALVIN: -- you don't need a site
3 plan, and boom, and you've got them, or you're going
4 to do the site plan before the Planning Board, and
5 let's face it, you're going to get them at the
6 Planning Board.

7 So, you know, we are trying to figure
8 out is if this is tipping the scale and therefore
9 it's got to go for a site plan.

10 COMMISSIONER FISHER: Yeah. And I
11 think the limited information suggests way back when
12 there was an observation, it wouldn't be higher than
13 seven --

14 MR. GALVIN: Why don't you hold on one
15 second. Unless you are asking a question of this
16 witness, hold your deliberations until we
17 deliberate.

18 COMMISSIONER FISHER: But it's that
19 same set of questions, which is --

20 THE WITNESS: Sure.

21 MR. GALVIN: Maybe the planner can add
22 to it.

23 COMMISSIONER FISHER: Yeah, no. I
24 think this is the just the technical height
25 question, which is one on your list. It can't be

1 greater than ten percent, so --

2 MR. GALVIN: It can't go higher than
3 ten percent, and it can't get wider at all.

4 COMMISSIONER FISHER: Right.

5 MS. GORDON: So, again, we do comply
6 with the ten percent.

7 As I stated before, we are now --

8 COMMISSIONER FISHER: You have not told
9 us that you complied, other than those words, so
10 that is exactly what we are trying to understand
11 because this suggests the starting point of seven
12 feet.

13 What you are showing us exists doesn't
14 seem to suggest that it is seven feet at all what's
15 there -- would exist, and what you are putting in
16 new is closer to eight feet, and that is more than
17 ten percent of seven feet, if seven feet was the
18 original approval --

19 MS. GORDON: Well, to clarify, we have
20 seven percent to increase the entire structure, so
21 if the building is at 41, we could increase the
22 height of the antennas up to four feet, so we can
23 essentially --

24 COMMISSIONER FISHER: Is that right,
25 Dennis, what she's saying? Do you hear her?

1 MR. GALVIN: I'm sorry. I was having a
2 side bar.

3 COMMISSIONER FISHER: That's okay.

4 She is saying that the ten percent is
5 applied, which is our situation to the overall
6 structure, not just ten percent of the antenna,
7 so it's --

8 COMMISSIONER MURPHY: Of the building.

9 COMMISSIONER FISHER: -- so it is ten
10 percent of the 40 foot building.

11 MR. GALVIN: Oh, no. I am not agreeing
12 with that.

13 COMMISSIONER FISHER: I didn't think
14 so. That's why I asked.

15 MS. GORDON: We can increase the
16 existing structure up to ten percent of the
17 structure, so if we have --

18 MR. GALVIN: With all due respect,
19 Counselor, I don't agree with you, okay?

20 If we have to go to court over that, we
21 will go to court over that. There is no case law
22 that makes that clear. That is for a radio antenna.
23 This is -- I don't -- I respect your giving us your
24 opinion, and I am saying respectfully I disagree.
25 That's all I can say to you.

1 MS. GORDON: Okay.

2 So I don't know if I answered --

3 COMMISSIONER FISHER: Yeah, no. It is
4 helpful, but now let's -- we are all thinking like
5 what Dennis is thinking, so --

6 MS. GORDON: You will have to clarify
7 to me what it is --

8 COMMISSIONER MURPHY: Ten percent --

9 COMMISSIONER FISHER: -- the ten
10 percent of --

11 (All Commissioners talking at once.)

12 MR. GALVIN: Wait a minute, wait a
13 minute, wait a minute

14 I understand what the attorney is
15 saying. She is saying that the wireless
16 communication support structure is not to be
17 increased by more than ten percent, and you are
18 using your common sense and saying that the antenna
19 itself, that that pole is the antenna for this
20 purpose.

21 A wireless communication support
22 structure means a structure that is designed to
23 support or is capable of supporting wireless
24 communications equipment, including a monopole, a
25 self-supporting lattice tower, guide tower, water

1 tower, utility pole or building.

2 COMMISSIONER MURPHY: Oh.

3 COMMISSIONER FISHER: Right.

4 So the question is, is it ten percent
5 of five to the seven feet or is ten percent of five
6 the 40 feet, because if it is 40 feet, then we
7 really -- there is nothing for us to talk about.

8 I mean, the variance is so small. But
9 if it applied to the seven feet, then we are talking
10 about inches, and then it is a different issue --
11 then this focus on the difference between the
12 height --

13 MS. GORDON: So based on what the
14 attorney just read, it would be referring to ten
15 percent of the structure, which the structure here
16 would be the building.

17 So if we were discussing a monopole,
18 and the monopole was a hundred feet, then we have up
19 to --

20 COMMISSIONER FISHER: Ten feet.

21 MS. GORDON: -- ten feet to increase
22 the monopole.

23 But here, again, we are talking about,
24 you know, the structure of the building. We are at
25 40 feet, so we can go up to ten percent of that is

1 up to four feet, we can increase our wireless
2 structure.

3 Here, again, we are not increasing our
4 structure in height because we will be staying where
5 we are now.

6 COMMISSIONER MURPHY: Well, you are
7 going to go a little higher than where you are now.
8 That should be pointed out.

9 COMMISSIONER GRANA: I want to be
10 really crystal clear about the testimony.

11 It is your testimony that you can
12 increase the overall height up to ten percent, and
13 that is of the entire structure, which includes the
14 building?

15 MS. GORDON: Correct.

16 COMMISSIONER GRANA: Thank you.

17 MS. GORDON: Rob, would you --

18 THE WITNESS: Can I just interject
19 something else?

20 COMMISSIONER GRANA: And if that is
21 correct, then --

22 THE WITNESS: I know you want this --

23 MR. GALVIN: Hold on a second.

24 THE WITNESS: -- I know you want this
25 to be clear, so if we go back to this drawing again,

1 A-3, because I just did a couple simple
2 calculations. If you look at the building elevation
3 on the left-hand side, it says top of roof at 42
4 feet above grade level.

5 Then on the right-hand side it says the
6 center line of the antennas is at 46 feet. That is
7 four feet higher, correct?

8 COMMISSIONER FISHER: Uh-huh.

9 THE WITNESS: So now the existing six
10 foot antenna would be another three feet in addition
11 to that, so that is where you get your seven feet
12 from, right?

13 However, there is a pipe attached --
14 this antenna is attached to. Now, that pipe, that
15 little round pipe that is behind the antenna may
16 stick up a couple of inches above the top of that
17 antenna.

18 Now, it might not need to be. We could
19 have it cut down because the mount on the antenna
20 usually is down. It is not right at the top of the
21 antenna. It is like this with the top of the
22 antenna. The mount is usually down here, and the
23 only reason they stick that pipe up is for a safety
24 precaution, so that they have more room, so the
25 thing doesn't -- right, do you understand, just the

1 more room you have with the pipe sticking up behind
2 the antenna, the safer off it is because you really
3 don't want it to be like one inch above, and you
4 don't want that clamp to be right on the top of the
5 pipe.

6 MR. GALVIN: It doesn't matter what you
7 need because you can get what you need at a site
8 plan also.

9 THE WITNESS: I understand.

10 COMMISSIONER FISHER: But if -- maybe
11 this is where there is some confusion. Everything
12 that you just said, I get, like if we follow that.
13 You get up to seven feet.

14 But, again, if you now take the eight
15 and a half inches off that seven feet, right,
16 because the difference between the six foot
17 antenna -- the 55 inches and 72 inches, it is
18 existing at 72. It is going to go down to 55. They
19 are at center line, so in theory, your new structure
20 should be about eight and a half inches shorter --

21 THE WITNESS: Let's see. 72 --

22 COMMISSIONER FISHER: -- less 55 is 17
23 divided by two --

24 MS. GORDON: So essentially the top
25 height of the new antenna will be shorter --

1 COMMISSIONER FISHER: -- it should be
2 shorter by eight and a half inches.

3 MS. GORDON: -- than the -- I will let
4 Rob confirm the exact --

5 THE WITNESS: Yes. It's eight and a
6 half.

7 COMMISSIONER FISHER: Right.

8 So seven feet less eight and a half
9 inches is 64 inches. Yet, you have an eight foot
10 pole on our new one, and that is more than a foot
11 and a half difference. So for those of us that are
12 trying to reconcile the pictures, they don't make
13 sense.

14 THE WITNESS: Okay. All right. And
15 here is the answer, because after that 96-inch steel
16 pipe, it says cut to fit.

17 (Laughter)

18 COMMISSIONER FISHER: So it's shorter?

19 THE WITNESS: That's the length it
20 comes in.

21 COMMISSIONER FISHER: Got it.

22 COMMISISONER COHEN: So what will it be
23 cut to?

24 THE WTINESS: We can cut it to seven
25 feet, sure, absolutely.

1 COMMISSIONER COHEN: Seven feet.

2 THE WITNESS: Absotutely, because that
3 gives us eight inches of pipe before even the top of
4 the antenna, and I can tell you from my years of
5 doing this, that that is plenty.

6 COMMISSIONER GRANA: So what we're
7 testifying --

8 COMMISSIONER COHEN: It would be 84
9 inches instead of 96 inches.

10 THE WITNESS: Yes. It says "cut to
11 fit."

12 COMMISSIONER DE GRIM: But on A-3, the
13 image that's there, it would appear that you got
14 less than eight inches between the top of the pipe
15 and the top of the panel antenna, is that right?

16 THE WITNESS: Yes. I can tell you
17 eight inches. Sometimes I see it, but not too
18 often.

19 CHAIRMAN AIBEL: But the pipe is part
20 of the support structure --

21 THE WITNESS: It is the support
22 structure.

23 CHAIRMAN AIBEL: -- and a lot of the
24 language that I'm looking at here says --

25 THE WITNESS: That you cut it to seven

1 feet. I can tell you that.

2 MS. GORDON: The support structure is
3 what the actual facility sits on, so not the
4 mounting. So what you are referring to as a support
5 structure is actually what mounts the antenna, but
6 the actual structure that's supporting the wireless
7 facility is the building, the rooftop here.

8 CHAIRMAN AIBEL: Yeah. I am not sure I
9 read the statute that way, but I am not the lawyer
10 on this case, so --

11 THE WITNESS: Again, I can testify that
12 we can cut that pipe to seven feet because according
13 to the center line at 46 feet minus the 42 feet of
14 the rooftop, that's four feet, so that is -- the
15 center line of the antenna is four feet, so we are
16 another two foot three and a half inches above that.

17

18 MR. GALVIN: All right.

19 Does the Board have any more questions
20 of the architect?

21 COMMISSIONER MURPHY: Not at this
22 moment.

23 MR. GALVIN: Anybody from the public
24 have questions of the architect?

25 COMMISSIONER GRANA: Seeing none.

1 COMMISSIONER COHEN: Motion to close
2 public portion for this witness.

3 COMMISSIONER DE GRIM: Second.

4 CHAIRMAN AIBEL: All in favor.

5 (All Board members answered in the
6 affirmative)

7 MR. GALVIN: The next witness, Ms.
8 Gordon.

9 MS. GORDON: I will bring up Dave
10 Karlebach. He's the principal planner here.

11 He will have the depictions, so that
12 you can see it and what it exactly looks like as
13 opposed to the plans, which could be a little more
14 confusing.

15 CHAIRMAN AIBEL: Mr. Karlebach, raise
16 your right hand.

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

20 MR. KARLEBACH: Yes, I do.

21 D A V I D K A R L E B A C H, having been duly
22 sworn, testified as follows:

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

25 THE WITNESS: David Karlebach,

1 K-a-r-l-e-b-a-c-h.

2 MR. GALVIN: Mr. Chairman, Mr.
3 Karlebach has appeared before me many times as a
4 planner.

5 CHAIRMAN AIBEL: I will accept your
6 representation.

7 MR. GALVIN: Thank you.

8 You may proceed.

9 THE WITNESS: Thank you.

10 Before I get into the photo
11 simulations, I just wanted to remind the Board of
12 the purpose of the federal act, and that is just to
13 streamline this whole process. Whenever there is a
14 modification, a replacement of equipment,
15 modernization of equipment, so that applicants don't
16 have to come back before a local reviewing agency.

17 The whole idea of the act is to
18 encourage collocation on existing rooftops and allow
19 a streamlined process for carriers to modify their
20 equipment, so long as there is not a substantial
21 change in the physical dimensions of the bay
22 station.

23 I think we can all agree at this point,
24 especially after we heard testimony about reducing
25 the height of the pipe support structure, that this

1 does not represent a substantial change in the
2 support structure, not at all.

3 I could actually go through that
4 Section 6409 of what I am going to call the TRA,
5 which is the Middle Class Tax Relief and Jobs
6 Creation Act of 2012. I think certainly this
7 application meets all of those requirements, so what
8 I will do now is first hand out the photo
9 simulations. I have three exhibits that I am going
10 to present to the Board. I will pass them around
11 because they are difficult to see from back there.

12 Certainly the antennas are visible from
13 the street. There is no question about it. Just as
14 other antennas up and down Washington Street are
15 visible, I know that because I walk on Washington
16 Street every day. I live right here. I walked to
17 City Hall tonight, so I'm very familiar with the
18 town. I have been here 11 years.

19 Let me introduce these three exhibits.
20 The first one is a view from 7th Street
21 approximately 160 feet northwest of the site.

22 Now, each one of these exhibits has the
23 same format. The photograph on the left side of
24 this board represents the existing conditions of the
25 site, and the photograph on the right has been

1 altered using a photo editing program called Photo
2 Shop, and that shows the additional antennas.

3 If we could just mark this one.

4 Who is marking this?

5 MS. CARCONE: There's some stickers on
6 the table there.

7 MR. GALVIN: This is going to be A-1
8 and A-2 then.

9 (Two photo boards marked Exhibits A-1
10 and A-2.)

11 THE WITNESS: I am not going into a
12 detailed description of each and every photograph.
13 I will let them speak for themselves.

14 You can see there is very little change
15 in the physical appearance of the site.

16 2-A -- or excuse me -- A-2 is a view
17 from the vicinity of 626 Washington Street
18 approximately 120 feet southwest of the site.

19 The last exhibit is a view from 7th
20 Street approximately 130 feet northeast of the site.

21 So I will just pass these around.

22 While the Board is looking at these, as
23 I said, everything built above the ground is going
24 to be visible from somewhere, okay? There's no
25 question about it.

1 What I am concerned with as a planner
2 is what would this look like from the upper floors
3 of nearby buildings. That was my main concern.

4 All of the buildings in this
5 neighborhood are basically three stories except for
6 631 -- excuse me -- 627 Washington Street. That's a
7 five-story building.

8 By the way, that building also has
9 panel antennas on top of it, but there are no
10 windows facing north towards the subject site, okay?

11 So upon serving the area and knowing
12 the heights of the buildings, it was my opinion that
13 this really doesn't cause any harm to the neighbors
14 in the area --

15 MR. GALVIN: Let me stop you. Time out
16 for a second.

17 THE WITNESS: Sure.

18 MR. GALVIN: Unfortunately, I mean,
19 that would be good testimony if you were at the site
20 plan or if you were getting a variance, but since we
21 are trying to -- the case here is whether or not you
22 need a site plan.

23 THE WITNESS: No. I understand that.
24 I was responding to a Board member about whether or
25 not it would be visible from the street --

1 MR. GALVIN: I'm sorry.

2 That is a fair question, but it's not a
3 question of whether it would be -- just if it's
4 visible or it's not visible, not whether it would
5 have an impact.

6 THE WITNESS: Well, no. If you don't
7 mind, Counselor, I would like to elaborate on that
8 question because I think it is important for the
9 Board to hear.

10 I know there has been lengthy
11 discussion about what this facility is going to look
12 like, and I think that those photographs deserve a
13 certain amount of explanation. But I was actually
14 finishing my testimony about the visibility of the
15 antennas anyway.

16 I think that it is a very modest
17 change, and to me at least, I don't think it is
18 going to be very noticeable to casual observers, and
19 I am talking specifically about residents and
20 passers-by.

21 Now, in terms of whether or not this
22 complies with all of the sections of the federal
23 collocation law, I can review that with the Board
24 and tell you why I think that this represents an
25 eligible facility, which is exempt from local zoning

1 authority.

2 MR. GALVIN: Let me ask you a question
3 before you get into it.

4 Are you going to tell me that the whole
5 building is the support structure?

6 THE WITNESS: Yes.

7 MR. GALVIN: Okay. I don't think I
8 agree with you. I read 6409, and I don't read it
9 that way, you know.

10 THE WITNESS: Okay. That is fine.

11 MS. GORDON: Just to interject, 6409
12 does classify the bay station for rooftop
13 specifically as a facility that currently houses
14 antennas at the time that the application was filed
15 with the Board, and that is per the new FCC order
16 issued, I believe it is in April of this year, so it
17 defines the bay station or wireless support
18 structure as the entire facility, the rooftop here.

19 MR. GALVIN: Okay. I am looking at
20 something different.

21 THE WITNESS: Okay. Well, I will just
22 review it with the Board, and forgive me for
23 reading, because I don't want to misstate the law,
24 and I want to read it --

25 MR. GALVIN: And what are you citing

1 from?

2 THE WITNESS: Well, I am citing from
3 the Middle Class Tax Relief and Job Creation Act of
4 2012.

5 MR. GALVIN: Okay.

6 THE WITNESS: And what the law says is:
7 Notwithstanding Section 704 of the
8 Telecommunications Act of 1996 or any other
9 provision of law, a state or local government may
10 not deny and shall approve any eligible facility's
11 request for a modification of an existing wireless
12 tower or bay stations that does not substantially
13 change the physical dimensions of such tower or bay
14 station.

15 The eligible facility's request means
16 any request for modification of an existing wireless
17 tower or a bay station that involves (a) collocation
18 of new transmission equipment; (b) removal of
19 transmission equipment, or (c) replacement of
20 transmission equipment.

21 Now, 6409 does not define what
22 constitutes a substantial change in the dimension of
23 a tower or bay station is.

24 In a similar context under the
25 nationwide collocation agreement with the Advisory

1 Council on Historic Preservation and the National
2 Conference of State Historic Preservations Officers,
3 the commission has applied a four-prong test to
4 determine whether a collocation will affect a
5 substantial increase in the size of a tower.

6 And actually, I reviewed those
7 guidelines, that four-prong test, and I believe that
8 it does not represent a substantial change in the
9 physical dimensions. It meets all four prongs of
10 the test.

11 CHAIRMAN AIBEL: What are those four
12 prongs?

13 THE WITNESS: Well, I can review them
14 right now.

15 COMMISSIONER FISHER: And this is -- if
16 it's applied to not what's there right now, but what
17 was approved a long time ago, so the fact that --
18 what seems obvious in all of these pictures is that
19 it looks like you are doubling, right?

20 MR. GALVIN: No. I think one of the
21 things, and again, I just hope everybody understands
22 that I am trying to be fair. I don't really know
23 what the right answer is from the moment we started
24 this thing, and one of the things that Mr. Karlebach
25 just mentioned is that they can add, too, as long as

1 they don't go against the original approval.

2 So they can remove and they can add.

3 So if they removed it some time, maybe that's okay,
4 but we don't know that all six were ever really
5 constructed.

6 COMMISSIONER FISHER: But we have --
7 it looks like we have some sort of indication that
8 six were approved.

9 So my question was when you were saying
10 if there is a material change, like once they have
11 been removed, does that -- like is the change
12 relative to what exists right now or relative to
13 what was approved, because when you --

14 MR. GALVIN: But they can also
15 collocate. They can also add.

16 COMMISSIONER FISHER: But add back up
17 to six --

18 MR. GALVIN: I think so, because then
19 after that, they would be exceeding the original
20 approval.

21 COMMISSIONER FISHER: Yeah, if they
22 went to eight.

23 If there were four, then it would be a
24 different --

25 MR. GALVIN: And they would have to

1 comply with that approval.

2 So if they are in the same exact
3 location, then they did. But if they were going to
4 be in a different location, and they were going to
5 be visible, that would be another way that they
6 would have to come in for a site plan, okay?

7 But in 6409, there is a -- FCC has --
8 6409, wireless facility's deployment, facility
9 modification, one in general, notwithstanding being
10 Section 704 of the Telecommunications Act of 1996
11 and any other provisions, here is the FCC's comment
12 on the term substantially change the physical
13 dimensions, and then there is a substantial amount
14 going in there.

15 At some point towards the end, they
16 talk about: We further provide that the changes in
17 necessary height resulting from a modification
18 should be measured from the original support
19 structure in cases where deployments are or will be
20 separated horizontally, such as on building
21 rooftops. In other circumstances, changes in height
22 should be measured from the dimension of a tower or
23 bay station, inclusive of originally approved
24 appurtenances and any modifications that were
25 approved prior to the passage of the Spectrum Act.

1 Beyond these standards for what
2 constitutes a substantial change in the physical
3 dimension of the tower, a bay station, we further
4 provide that for applications covered by 6409,
5 localities may continue to enforce and condition
6 approval on compliance for general applicable
7 building structural, electrical, safety codes and
8 other laws codifying.

9 So I think, you know, I'm not so sure
10 I'm agreeing with you about the building, but the
11 question is, is it a substantial change, and if not,
12 then they shouldn't a have to --

13 COMMISSIONER FISHER: I think the --

14 MR. GALVIN: -- the site plan --

15 COMMISSIONER FISHER: -- I think the
16 math -- I think the math -- I think the math that we
17 just went through, whether it's from the roof or
18 from the ground -- from the ground, it's within the
19 four or five feet and ten percent.

20 From the roof, we were talking about an
21 inch difference. I mean, we got to where it said
22 you're going to cut the 96 down. When they went
23 through the math, it was very -- it was within a
24 couple of inches, and that is not ten percent
25 either --

1 MR. GALVIN: Okay. So --

2 COMMISSIONER FISHER: -- so height-wise
3 it doesn't look like there is a question.

4 And then have we solved the width
5 between whether it's the full structure or the
6 antenna, any change in the width?

7 She is saying it is the full
8 building --

9 MR. GALVIN: You know, there are still
10 things that have to be sorted out in this, and
11 unless somebody is going to litigate that, I am not
12 so sure we should be.

13 Jeff, do you have anything else about
14 roof coverage?

15 MR. MARSDEN: The language I was just
16 checking to see if there is a definition to the word
17 "tower," because I recall reading something about
18 this, you know, in the research of this case, that a
19 tower was described as a lattice monopole, not as a
20 building plus a roof mount --

21 MR. GALVIN: No, I have it.

22 It is 46.2, a wireless communication
23 structure" Means a structure that's designed to
24 support, capable of supporting wireless
25 communications equipment, including a monopole,

1 self-supporting lattice tower, guide tower, water
2 tower, utility pole or building.

3 And notwithstanding what that's saying, I
4 think that it could be just as simple as the --
5 those tubes that are coming up off the top of the
6 building might really be what the wireless
7 communication support structure is.

8 And if you read 6409, which I think is
9 where this is coming from, I think it says that.
10 But it is not going to matter, though, if it's not a
11 ten percent increase, so that, like a court, we
12 don't address an issue we don't have to reach.

13 The only thing I was asking you if you
14 thought the structures that were up there were
15 impacting roof coverage, because if we exceed 30
16 percent roof coverage, then they need a variance,
17 and this law says if you need a variance, you get a
18 site plan.

19 COMMISSIONER FISHER: Right. But we
20 did the math on that, too, and it sounds like we're
21 at 21 percent, not at 30, so they don't need a
22 variance for that either --

23 MR. GALVIN: So where are we going?

24 At some point, you know, that's what I
25 am saying to you, if we don't find any reason not to

1 let them go forward, then we don't find any reason
2 not to let them go forward, but it is close. So it
3 is not as easy as it looks.

4 CHAIRMAN AIBEL: But there's the other
5 problem, which says: The width of the wireless
6 communications support structure cannot be
7 increased. So I mean contextually, I am having a
8 little bit of a problem with that.

9 MR. GALVIN: But is the support
10 structure the antenna or the metal tube?

11 CHAIRMAN AIBEL: Well, I --

12 THE WITNESS: Well, excuse me, if I can
13 jump in --

14 CHAIRMAN AIBEL: Go ahead.

15 THE WITNESS: -- I think a prudent
16 person would conclude it's not --

17 MR. GALVIN: Wait, wait, wait, stop,
18 stop.

19 THE WITNESS: Yes.

20 CHAIRMAN AIBEL: I guess I'm not
21 prudent.

22 (Laughter)

23 MR. GALVIN: Don't do that.

24 I want your expertise.

25 THE WITNESS: My expert opinion is that

1 if you increase the width of an antenna from ten
2 inches to 11 inches, that shouldn't disqualify your
3 application from being an eligible facility. It is
4 such a minute difference, I mean, it is clear to me
5 what the legislative intent was.

6 When they talk about the width of a
7 support structure, I think they were talking
8 specifically about a tower, okay?

9 I don't think they were talking about
10 changing the width of a building. In other words,
11 if you had a --

12 CHAIRMAN AIBEL: Were they talking
13 about the feet of the tower --

14 THE WITNESS: -- if you had a lattice
15 tower that was like say 20 feet by 25 feet at the
16 base, something like that, and then you had to
17 reconstruct the tower to make it sturdier, so it
18 could hold more antennas, or you needed to increase
19 the height of the tower, then you are changing the
20 physical dimensions of the tower, meaning the width
21 of the tower, but not the width of the antennas.

22 CHAIRMAN AIBEL: No. You are maybe
23 misunderstanding my questions.

24 Are the tripod -- what do you want to
25 call them -- support structures that are triangles,

1 an increase because they have gone from four or two
2 foot to a 60 feet -- a 66 foot coverage of the roof,
3 why --

4 THE WITNESS: Well, I would have to --

5 CHAIRMAN AIBEL: -- why isn't that an
6 increase of the width of the structure?

7 THE WITNESS: I would have to work with
8 my own interpretation, because I don't think it is
9 specifically addressed, and the answer would be no.

10 It results to the size of a tower at
11 its base, not the size of the mast that is holding
12 the singular antennas.

13 First of all, that's -- we talked about
14 that little piece, the tripod. I think for the most
15 part, that is not going to be visible from the
16 street because you have -- how can I describe it --
17 you know, the parapet of the building, the facade of
18 the building is going to disrupt your view of the
19 bottom of the antenna support structure.

20 Now, if you were somehow elevated above
21 that antenna looking down on it, then you would
22 actually have a view of the base of the antenna.

23 But if you are on the second story --
24 a window of a second story building or at street
25 level, you are not going to discern whether or not

1 it is a pipe mast that is penetrating the roof or a
2 tripod or what we call a ballast mount. That is
3 going to be indiscernible.

4 CHAIRMAN AIBEL: But those are great
5 arguments for the Planning Board.

6 The question here is: Is the mount
7 substantially increased from what was there before,
8 and I am questioning whether that's --

9 MS. GORDON: Just going back to the
10 definition that counsel read before, which defines
11 the structure again as being a tower, lattice tower,
12 guide tower or a building, so the structure in my
13 understanding and the reading of the law would be
14 the building, the rooftop.

15 We are not increasing the width of the
16 entire rooftop.

17 However, just as I believe Dave was
18 trying to explain, that that definition -- that that
19 width issue may speak more to increasing towers as
20 opposed to increasing a whole rooftop, because it is
21 not likely that a wireless support structure mounted
22 on the rooftop in this way would increase the entire
23 rooftop.

24 However, mountings on towers may
25 because, you know, if you know about, you know,

1 platform mounts are different things. It could
2 extend a little wider or something of the sort.

3 However, here, we are talking about
4 going from, you know, I am not clear exactly on the
5 roof calculations, but increasing essentially about
6 a hundred square foot on the roof, so not
7 substantially increasing the dimensions.

8 MR. GALVIN: All right. Let me do
9 this. We don't need to have any more back and
10 forth.

11 Is that okay with the Board?

12 COMMISSIONER COHEN: Yes. We could
13 probably deliberate.

14 MR. GALVIN: All right. But I think we
15 need to know if anyone from the public, Mr.
16 Chairman, wants to be heard on this.

17 CHAIRMAN AIBEL: Does anybody from the
18 public wish to ask questions of the planner or have
19 comments?

20 MR. GALVIN: Seeing no one?

21 COMMISSIONER COHEN: Motion to close
22 the public portion.

23 COMMISSIONER GRANA: Second.

24 CHAIRMAN AIBEL: All in favor.

25 (All Board members answered in the

1 affirmative.)

2 MR. GALVIN: Do you have a closing
3 argument, Counsel?

4 MS. GORDON: Just, again, I believe
5 that the plans, as well as other supporting
6 documents that we have presented shows that we fit
7 clearly or squarely rather within the purview of
8 6409, and that we are not substantially changing the
9 physical dimensions of the rooftop facility.

10 The height again will not be increased.
11 The width of the structure will not be increased,
12 and what is really not up for argument here, but the
13 compound area as well will not be increased, and
14 again, we meet the requirements of Section 46.2. We
15 are an approved wireless facility. We've been
16 granted all necessary approvals by the City of
17 Hoboken.

18 Again, not increasing the structure -- the
19 antennas will be mounted at the same center line
20 height and separate locations as the existing
21 antenna there, and we not creating the condition for
22 a variance.

23 MR. GALVIN: Thank you so much.

24 MS. GORDON: Thank you.

25 CHAIRMAN AIBEL: Board members, anybody

1 want to start?

2 Mr. Cohen?

3 MR. GALVIN: Well, just before we --

4 COMMISSIONER COHEN: Yeah. Go ahead,
5 Counsel, why don't you give us some guidance.

6 MR. GALVIN: First of all, I want to
7 say that I think that Ms. Holtzman did a good job
8 here with the information --

9 COMMISSIONER COHEN: That is the first
10 thing I was going to say.

11 MR. GALVIN: -- yeah, with the
12 information that was --

13 COMMISSIONER COHEN: It was.

14 MR. GALVIN: -- provided, that is what
15 the zoning officer is supposed to do is when in
16 doubt, deny. And I think that there is -- we spent
17 a lot longer on this than I wanted us to spend, but
18 we had to in order to have an understanding of this.

19 I agree with Ms. Gordon that the
20 purpose of this law is to divert unnecessary cases
21 from having to file site plans to get what are
22 basically these days automatic approvals. I think
23 what is lacking, and I can't give you full guidance
24 on this, are these are recent enactments, only three
25 years old. There is no really good case law that I

1 have on these collocations.

2 I have had people before suggest that
3 they can put radio antennas for the first time on
4 buildings because it is considered a collocation
5 structure, which is absolutely ridiculous, and I do
6 think that the wireless companies, and I am not
7 saying in this instance, but they are trying their
8 best -- the reason why we are seeing them, I think,
9 the easy thing would have been to just submit and go
10 to the Planning Board and present your site plan,
11 because they would spend probably less time there
12 than they did here, but they are trying to enforce
13 their rights and privileges under 6409 and
14 40:55(d)-62. They don't want to be made to go for
15 unreasonable site plans.

16 So when you look at this, you have to
17 look at the standards.

18 The first question to ask is: Is there
19 a variance involved, was there an original approval,
20 are these antennas substantially, you know, do they
21 essentially comport with the original approval that
22 was granted.

23 If you find those things, you are
24 starting on your way to say basically that they
25 don't need a site plan, that it is a collocation

1 facility.

2 But there are other things. You guys
3 tested out the height, and you tested out the width,
4 and I would say, with all due respect to Ms. Gordon,
5 I disagree with her on whether or not the building
6 was the, you know, the collocation, the wireless
7 communication structure, but I don't think we have
8 to reach that, and you shouldn't reach that.

9 So what you basically should do is make
10 a determination, if you think that this needs to go
11 on for a site plan to the Planning Board, but if you
12 do, you are going to have to give me a good reason
13 and analysis for that.

14 Mr. Cohen?

15 COMMISSIONER COHEN: Okay.

16 First, I just want to reiterate, I
17 think that the zoning officer did an excellent job
18 on this. I think she got a lot of pressure to
19 approve this, to rubber stamp this going through,
20 and she raised legitimate questions, and I think she
21 should be applauded for doing what she did on this
22 file, number one.

23 Two: I think that this is clearly, you
24 know, I don't see this as a straight replacement of
25 existing equipment. I see this as an expansion of

1 existing equipment.

2 I don't see this as something that
3 requires a variance. I don't think it hits the 30
4 percent roof coverage, so I don't see that. I think
5 it is similar to what is there, although it is
6 smaller than what is there, what is proposed to be
7 built.

8 Then the question is, you know, is this
9 consistent with the original approval, and in my
10 mind I have some questions.

11 I mean, I am seeing in the file
12 references to the fact that the original
13 installation was not supposed to be visible from the
14 street reflected in the Historic Preservation
15 Commission's approval from 1996, and we have
16 testimony that it is clearly visible from the
17 streets. It is now, and it will be in the future.
18 Maybe it is not going to be dramatically more
19 visible from the street, but it suggests that maybe
20 it was not constructed in the way that it was
21 represented to the city at the time of its initial
22 approval.

23 So I think in my mind, this is a close
24 call, but I don't think this is the kind of
25 situation, where we should be assuming that the

1 spirit of the legislation, which is to permit
2 telecommunication carriers to replace their
3 equipment and upgrade their equipment without making
4 substantial additional burdens that this is not that
5 circumstance.

6 I think this is a circumstance where I
7 would err on the side of having regular site plan
8 approval through the Planning Board, and that is
9 where I would come down on this.

10 CHAIRMAN AIBEL: Anybody else?

11 COMMISSIONER FISHER: Yeah. I am happy
12 to go.

13 First, I do want to say because it was
14 mentioned that the zoning officer went and did a
15 great job, she did her job, and I just want to make
16 it a matter of record, that I don't think she should
17 be applauded for the job that she's supposed to do.
18 In light of the challenges that we had -- no, but
19 you know what?

20 You made a point of making it part of
21 the record that we should applaud her here because
22 she did her job. And you know what, she just did
23 her job.

24 COMMISSIONER COHEN: Well, some people
25 feel like taking shots at her when they --

1 MR. GALVIN: No, no, no. Let me
2 just --

3 COMMISSIONER FISHER: No. I'm making a
4 point --

5 MR. GALVIN: -- let's do this. Let me
6 just say this --

7 COMMISSIONER FISHER: -- listen, we had
8 a long --

9 MR. GALVIN: -- wait a minute.

10 I made a statement --

11 COMMISSIONER FISHER: Which was not
12 appropriate given your conflict -- given that you
13 have a conflict --

14 MR. GALVIN: No, no. Time out for a
15 second. I don't have a real conflict.

16 Number two: It's what I would say
17 every time, and every Board, and you can call any of
18 my Board members in the other communities, that I
19 would raise, I want us to understand that whether we
20 approve or deny an action of a zoning officer, in
21 this case I thought it was reasonable. This was not
22 an easy case. I think the statements I made are all
23 factually true. This was not an easy determination,
24 and so let's not get into the personalities of it.
25 I just want to be positive about the team, positive

1 about the people who work for the city.

2 COMMISSIONER FISHER: And I am not
3 disagreeing that we should be positive in general.
4 I just think it was inappropriate, so I want it to
5 be part of the record because of what you said.

6 But I would go on to therefore agree
7 with the rest of what Commissioner Cohen said. I do
8 think it is a close call.

9 It seems conceptually to be in the
10 spirit I think of the legislation in the various
11 acts, but I think you raise a really good point,
12 Commissioner Cohen, which is, you go back to what
13 the original certificate of appropriateness was, and
14 it says these were not visible, and I think the
15 thing that stood out the most when we were looking
16 at these pictures is how, in fact, they were
17 visible.

18 I mean, just the three of them are so
19 visible in doubling it to six makes really visible.

20 So I think the proper place to do kind
21 of the full review of this, I would agree, is with
22 the Planning Board.

23 CHAIRMAN AIBEL: Diane?

24 COMMISSIONER MURPHY: And I am still
25 kind of in a conflict because I really understand

1 the idea of the law making it easier for cell phone
2 businesses or to, you know, upgrade and stuff,
3 but part of the issue is it is also in our
4 historical area, and it is on a historical building,
5 and it is not clear to me that -- one of your
6 reports here says it wasn't to cover more than ten
7 percent. But if you were okayed for six towers at
8 ten percent before, and now we are going to have --
9 it went to three, and now we are going to do three
10 more, and it is going to be 30 percent, I am a
11 little confused, and I think it needs to have more
12 clarification.

13 COMMISSIONER GRANA: I had a question.

14 Was it your position, Commissioner
15 Fisher, and, Commissioner Cohen, that this should go
16 for site plan review?

17 COMMISSIONER COHEN: Yes.

18 COMMISSIONER FISHER: Yes.

19 COMMISSIONER GRANA: I just wasn't
20 clear.

21 CHAIRMAN AIBEL: Do you care to make a
22 comment? You don't have to.

23 COMMISSIONER GRANA: I will make the
24 comment that it was actually complicated testimony.
25 I think that -- I think I understand from all of the

1 parties the spirit of the law. I think that we seem
2 to not be in agreement around what actually the
3 structure represents, you know. I saw the visual
4 testimony, which really was nice, but that was more
5 like testimony about relief. That wasn't really
6 about whether this goes for site plan or not.

7 I think it is very close. The only two
8 real factual pieces of information I could get to is
9 whether or not this would increase the height more
10 than ten percent, which I think the math sorted out
11 it wouldn't, and whether we would cover more than 30
12 percent of the roof area, which it wouldn't. So
13 while I guess I tend to -- I have similar
14 sentiments, and at this time I am going to say that
15 I don't think this requires further site plan
16 review.

17 CHAIRMAN AIBEL: Anybody else?

18 COMMISSIONER MC ANUFF: I am good.

19 CHAIRMAN AIBEL: Mr. DeGrim?

20 COMMISSIONER DE GRIM: I am fine.

21 CHAIRMAN AIBEL: I guess the way I am
22 looking at this is that there is an issue in my mind
23 about the substantial change in the width of the
24 support structure.

25 The testimony, and I am not going to

1 get the figures correct, but I will refer to the
2 testimony. Our engineer says the roof coverage of
3 the support structure, as I see it, went from 76
4 square feet to a 175 square feet, and I would
5 question whether perhaps a modification in the
6 position of the support structure on the roof would
7 make it less visible from the street or invisible
8 from the street, and that to me is something that a
9 Planning Board can decide.

10 Anybody else?

11 Ready for a motion?

12 COMMISSIONER COHEN: So what is the
13 motion for?

14 COMMISSIONER GRANA: What is the
15 motion?

16 MR. GALVIN: I am sorry.

17 The motion would --

18 COMMISSIONER COHEN: Motion to refer it
19 for a site plan or to the Planning Board --

20 MR. GALVIN: -- yes -- to either refer
21 this matter to the Planning Board for a site plan,
22 or the motion is to not require a site plan in which
23 case the zoning official can issue the appropriate
24 permits.

25 COMMISSIONER COHEN: I will make a

1 motion to refer this matter to the Planning Board
2 for site plan approval.

3 COMMISSIONER DE GRIM: I'll second.

4 COMMISSIONER FISHER: I'll second --
5 okay.

6 MS. CARCONE: Who has the second?

7 COMMISSIONER FISHER: Phil or Frank --

8 MS. CARCONE: Frank, did you second?

9 COMMISSIONER DE GRIM: I did.

10 MS. CARCONE: Okay.

11 Commissioner Cohen?

12 COMMISSIONER COHEN: Yes.

13 MS. CARCONE: Commissioner Grana?

14 COMMISSIONER GRANA: No.

15 MS. CARCONE: Commissioner Murphy?

16 COMMISSIONER MURPHY: Yes.

17 MS. CARCONE: Commissioner McAnuff?

18 COMMISSIONER MC ANUFF: Yes.

19 MS. CARCONE: Commissioner Fisher?

20 COMMISSIONER FISHER: Yes.

21 MS. CARCONE: Commissioner DeGrim?

22 COMMISSIONER DE GRIM: Yes.

23 MS. CARCONE: Commissioner Aibel?

24 CHAIRMAN AIBEL: Yes.

25 MS. CARCONE: Okay. It goes to the

1 Planning Board.

2 CHAIRMAN AIBEL: Thank you, Counsel.

3 Thank you everyone.

4 MR. GALVIN: Do you want to take a
5 little recess?

6 CHAIRMAN AIBEL: Sure.

7 (Recess taken.)

8 (The matter concluded.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the 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.
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

- - - - - X
 RE: 1410 Grand Street/1405-1411 : SPECIAL MEETING
 Adams Street (Carried from 3-24-15) :
 APPLICANT: 1410 Adams Street, LLC :June 9, 2015
 Preliminary Site Plan Review and :Tuesday 8:30 pm
 C & D Variances :
 - - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel (recused)
 Acting Chair John Branciforte
 Commissioner Philip Cohen
 Commissioner Antonio Grana
 Commissioner Diane Fitzmyer Murphy
 Commissioner Tiffanie Fisher
 Commissioner Owen McAnuff
 Commissioner Frank DeGrim

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

Kristin Russell, Planning Consultant

 Jeffrey Marsden, PE, PP
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1 (Chairman Aibel recused)

2 ACTING CHAIRMAN BRANCIFORTE: Okay.

3 Attention, everyone. We are back in session. It is
4 8:47 on Tuesday night, and we are at the regular
5 meeting.

6 The next hearing is a continuation of
7 1410 Grand Street.

8 Ms. Gonchar?

9 MS. GONCHAR: Thank you.

10 Meryl Gonchar on behalf of the
11 applicant.

12 And as you indicated, we had started
13 this hearing back in April, and we were continued to
14 May 19th, and then it was adjourned until tonight.
15 I did submit a letter granting the extension of time
16 as requested by the Board that evening.

17 This evening we have a few of our
18 witnesses, including Mr. Marchetto, who had
19 presented last time we were before you. There were
20 some questions from the Board. We submitted some
21 items and follow-up to his testimony, and we will
22 call him again this evening to wrap that up.

23 We also have with us this evening, and
24 we would like to start with Mr. Pedro Fernandez, who
25 is from the Klaus Company, which is the

1 manufacturer, the provider of the automated parking
2 system. The Board had also asked if we could
3 provide some information on how that works.

4 So with the Board's consent, we would
5 like to start with his testimony.

6 ACTING CHAIRMAN BRANCIFORTE: Sure. Go
7 right ahead.

8 MR. FERNANDEZ: Good evening.

9 MR. GALVIN: Raise your right hand,
10 please.

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

14 MR. FERNANDEZ: I do.

15 P E D R O F E R N A N D E Z, Klaus America Parking
16 Systems, Inc, 100 Park Avenue, New York, New York,
17 having been duly sworn, testified as follows:

18 MR. GALVIN: You may proceed.

19 ACTING CHAIRMAN BRANCIFORTE: Can you
20 spell your name slowly for us.

21 THE WITNESS: Oh, my name is Pedro
22 Fernandez, F-e-r-n-a-n-d-e-z, and I'm with Klaus
23 Multiparking Systems.

24 So I am here today to explain a little
25 bit how the parking system works, what it looks

1 like, what the typical expectation would be from the
2 users, and then to go into a little bit more detail
3 on how it actually interacts with the electrical
4 components and the mechanical components and all of
5 those things.

6 I have a very short presentation because I
7 don't want to overwhelm anybody, but if you have any
8 questions, feel free to interrupt.

9 So what we are going to be doing here is a
10 double level parking system, the one you see here on
11 the screen, where all of the cars are independently
12 accessible.

13 Now, upper level cars are able up to go
14 down and up, and lower level cars move left and
15 right only one space to allow the top ones to come
16 down. A lot of people tend to think that this is a
17 rotating device. It is not.

18 The upper level cars only come down, and
19 lower level cars move left and right. The way this
20 looks in real life, it is more or less like this.

21 This is a natural installation that we have
22 in California, where you can see how upper level
23 cars are parked on those platforms, and the lower
24 level car is parked on a panel that slides over to
25 the left and to the right.

1 So in this case, this car right here always
2 goes in through this gate, and is only able to come
3 down and up.

4 This car right here moves to the left or to
5 the right to allow this or this car to come down and
6 be able to be accessed by the user.

7 These systems are designed so that any
8 normal person can use them. They do not need to be
9 severely trained. I mean, of course, there is some
10 guidance that you teach them how to use the system,
11 but basically it could be used by anybody, not a
12 valet person. That's what I'm trying to say.

13 ACTING CHAIRMAN BRANCIFORTE: A valet
14 person?

15 THE WITNESS: Any tenant can park his
16 car by himself on the parking system. There's no
17 need to be a professional valet person.

18 Now, this is what the system would look
19 like. You can see that the gates in front of the
20 car, those gates are there to protect the people
21 while the system is moving.

22 So a person will have a key weaver where
23 they will walk over to the -- you can't see it, but
24 there is going be a screen controller where the
25 person is going to go in with their key. They beep

1 it, push the green button, and the machine will open
2 up the space for their car to come down and unlock
3 that gate for the person to walk into the system,
4 get in their car and drive off. It's a very simple
5 mechanism.

6 We have also options to include electrical
7 car charging stations on the system. We have
8 options to do remote controls to the system. We can
9 also have electronic gates that will slide left and
10 right to make them more convenient.

11 COMMISSIONER MC ANUFF: How does the
12 gate slide, if it's not electronically controlled,
13 manually?

14 THE WITNESS: They open just like if it
15 were a closet door.

16 COMMISSIONER MC ANUFF: Just manually?

17 THE WITNESS: Just manually.

18 And the rails are mounted on the top,
19 so they are mounted underneath the beam that you see
20 on there, so there is really no tripping hazard when
21 you open the gate. They are very lightweight gates.
22 They just open very quiet.

23 COMMISSIONER FISHER: And they can't --
24 the system can't move unless the gate is shut?

25 Is that --

1 THE WITNESS: Exactly.

2 COMMISSIONER FISHER: -- like an
3 elevator, some of those, you know, like the home
4 elevators, where you have to shut the gate and then
5 it can move?

6 THE WITNESS: Yeah. The system will
7 not move unless the gate is closed.

8 COMMISSIONER FISHER: But every --

9 ACTING CHAIRMAN BRANCIFORTE: Guys, you
10 know, well, what let's hear his presentation. Maybe
11 the questions will be answered during his
12 presentation.

13 THE WITNESS: Well, this is a good time
14 to ask questions, because then I am going into the
15 technical detail on the next slide.

16 ACTING CHAIRMAN BRANCIFORTE: Okay.

17 COMMISSIONER FISHER: Okay. That's
18 fine.

19 ACTING CHAIRMAN BRANCIFORTE: Go right
20 ahead.

21 COMMISSIONER MURPHY: Okay. So when
22 the person gets in their car and then they pull out,
23 do they have to manually go back and close the gate?

24

25 THE WITNESS: If you have a manual

1 option, yes, yes, or you can do it with the clicker,
2 if you have the electronic clicker.

3 COMMISSIONER COHEN: So will this be
4 outfitted with an automatic closer, or will it be
5 the option of the tenants?

6 THE WITNESS: Yeah, I don't recall if
7 it will be -- probably manual gates.

8 (Witness confers.)

9 THE WITNESS: They are manual gates.
10 So a person -- with the automatic gate system, the
11 way it works is that the person who comes, opens the
12 gate, this open space. The gate opens.

13 At that time the person is inside
14 getting in their car, et cetera, and they are the
15 only ones who are able to close that gate. It is to
16 prevent that if somebody else comes with another
17 clicker and activates that system while that person
18 is inside, so that is the safety mechanism we had,
19 so that person when he leaves with his car, he
20 clicks it and the gate closes.

21 COMMISSIONER MURPHY: And what happens
22 if he forgets to click it, and he continues on?

23 THE WITNESS: Then there is a master
24 key that will have to be there at a convenient
25 location, and you just go and override it, and then

1 obviously the person gets --

2 COMMISSIONER COHEN: Is there someone
3 who is going to be there 24/7 to operate the garage
4 in case that happens or --

5 A VOICE: In the beginning.

6 THE WITNESS: Yeah, probably, but it is
7 not really necessary, particularly there is a key
8 pad in the location where they have it. There is a
9 key pad in a location and people know, so if you
10 want to go and open that, you just access that key,
11 and then you're trained to do it. It is not very
12 complicated to do that part.

13 COMMISSIONER COHEN: Okay.

14 THE WITNESS: Now, I was told to
15 specify exactly where the components are, so that in
16 case that there is a flood or, you know, that type
17 of problem, how we can operate the system, so this
18 here shows more or less how the system works.

19 We have an upper platform that is moved by
20 a hydraulic cylinder located on the back wall, so
21 this platform up here doesn't really have any sort
22 of motors. It's just a centralized power unit that
23 will pump in hydraulic fluid to that cylinder to
24 raise the platform up, and that platform is
25 synchronized to this with a chain, so you can't

1 really see when you're operating the system, because
2 it's right in here.

3 Now, the lower level system does have
4 an electrical motor. So when we look at the details
5 of the system, if you look here, Section E, I am
6 going to show you that. Here is where there is an
7 electric motor that is in charge of moving this
8 platform left and right. So if it were to be a
9 flood, this motor could potentially be damaged, but
10 it depends how long it is going to be, the water.
11 It doesn't really ever happen, but that is a
12 potential occasion.

13 COMMISSIONER COHEN: What is the flood
14 elevation of the garage, do you know?

15 MR. GALVIN: Does somebody else know
16 the flood elevation of the garage?

17 MR. SAVINO: It's 5.5.

18 MR. GALVIN: You can't holler out. Who
19 was it?

20 MR. SAVINO: Lenny Savino. The garage
21 is at 5.5.

22 MR. GALVIN: Did you get it?

23 THE REPORTER: Yes.

24 MR. GALVIN: Okay. Never mind. You're
25 good.

1 MR. GONCHAR: We will get him qualified
2 in. He's one of our witnesses tonight.

3 MR. GALVIN: Okay.

4 Our mime says you did good.

5 (Laughter)

6 THE WITNESS: Now, I would like to
7 mention that the pallets have a motion sensor on the
8 sides and also are released from the motor, so if
9 you need to move it manually, it is very easy to
10 release the motor from the chain and just push the
11 pallet sideways, or if you were to be standing there
12 next to it, and the pallet hit you on your ankles,
13 there is a sensor that would stop the pallet from
14 moving. That is in case if somebody wants to fool
15 the system and stay inside while the gate closes.

16 MS. GONCHAR: So that is a built-in
17 safety mechanism?

18 THE WITNESS: Yes. It's a built-in
19 safety mechanism.

20 ACTING CHAIRMAN BRANCIFORTE: But
21 during a power outage, you're saying --

22 THE WITNESS: Exactly, during a power
23 outage, we have two options. You can move the
24 system manually, which is possible because the lower
25 deck -- the upper level panels only come down by

1 gravity, so it just a matter of opening pallets, and
2 the lateral motion of the low level can be done by
3 disconnecting the motor and just pushing the pallet
4 by hand. It is very simple.

5 So going back to the slide, this really
6 concludes the mechanical part, and now I am open to
7 answer all of your questions.

8 COMMISSIONER FISHER: I have a
9 question.

10 Is this -- hum -- these are like
11 reserved spots, so when somebody comes in, they
12 have -- their key is programmed for a specific spot?

13 THE WITNESS: Yes. They are assigned
14 spots.

15 COMMISSIONER FISHER: So is there --
16 and it is anticipated that all of the spots will be
17 used?

18 There is no -- is there any type of public
19 aspect of this, or would it be available for spots
20 that are in use --

21 THE WITNESS: Typically this system is
22 designed for people who park the same car in the
23 same spot all the time. The car will be measured at
24 the beginning. There is an adjustable wheel stop on
25 the back, so when the person comes, you come with

1 your car, and you pull forward until you hit the
2 wheel stop. That will tell you that your car is
3 perfectly and correctly parked on the platform.

4 Obviously there's height limitations, so
5 even though this garage is really tall, and it's
6 going to be able to park SUVs on the bottom, there
7 is a potential that you can have, I don't know, a
8 bicycle on top of your car and then you raise it, so
9 people are trained to park the car always the same
10 way on the same platform.

11 So once your car is in the up position, for
12 example, up there -- let me show you another
13 slide -- any of those cars up there, nobody else can
14 bring that car down because you are only able to
15 retrieve your car, not somebody else's car.

16 COMMISSIONER FISHER: How long does it
17 take, if you had -- what is the longest it takes to
18 get one of the cars that are above out?

19 THE WITNESS: The three steps are going
20 to happen. Basically a car goes up, a car goes
21 over, and the other car comes down. Each of those
22 steps takes about 20 seconds.

23 When all of the low level cars are moving
24 at the same time, it is about 20 seconds as well.
25 They all move at the same time together.

1 COMMISSIONER MURPHY: So if you get a
2 new car, everything has to be recalibrated?

3 THE WITNESS: Every one should be
4 calibrated --

5 COMMISSIONER MURPHY: And when you have
6 an out-of-town guest, they can't really park in your
7 spot, and then you could park on the street since
8 you're are a resident, you can't really utilize it
9 that way?

10 THE WITNESS: Technically speaking, no.
11 You shouldn't. In practical terms people understand
12 how it works, and they know that if the car is
13 sticking out from --

14 COMMISSIONER MURPHY: So if you have
15 smaller car --

16 THE WITNESS: -- if it's, you know, if
17 you park a Honda Civic, and then the next day you
18 come with a Toyota Corolla, it's the same car pretty
19 much.

20 COMMISSIONER FISHER: How does -- just
21 say you are -- eight months in and the property is
22 open 90 percent of the spots are filled, and
23 somebody new comes. I think you said there isn't
24 going to be somebody on site, so if there isn't, how
25 does that new person figure out how to get their

1 car?

2 THE WITNESS: Well, speaking from my
3 experience if it is new apartments or new otherwise,
4 there's is a training, a little one-hour training
5 session, where we show them how to use the system.
6 They need to bring even the key to operate the
7 system. Their car would need to be recalibrated to
8 the platform.

9 COMMISSIONER DE GRIM: I have a
10 question.

11 ACTING CHAIRMAN BRANCIFORTE: Go right
12 ahead.

13 COMMISSIONER DE GRIM: Are they
14 basically in modules of, you know, two on top, and
15 one on the bottom, or do -- can you move the cars on
16 the -- how many cars across the bottom can you
17 move --

18 COMMISSIONER FISHER: Or how many
19 spaces?

20 THE WITNESS: Right. You can go as wide
21 as 15 cars wide.

22 In this particular one, it is only nine --
23 excuse me -- 14 cars wide, with 13 cars underneath,
24 so the whole thing has 13 cars, so you can do it
25 less narrow, it's two cars and one underneath --

1 COMMISSIONER DE GRIM: Right, yeah,
2 like you have in the illustration.

3 THE WITNESS: Right, exactly.

4 I just wanted to do that for, you know,
5 practical, but, yes, there's all nine or 13 cars all
6 move at the same time.

7 MR. MARSDEN: If I understand that,
8 though, wouldn't you need to leave two empty spaces
9 on the bottom because you have to load a center car,
10 you might have to move all cars one way, and then
11 the cars one space the other way to make that space?

12 THE WITNESS: Yes.

13 MR. MARSDEN: Okay. Let's --

14 THE WITNESS: If they move together at
15 the same time, but they are not connected to each
16 other. Each one has an individual motor that could
17 move the car, but a car can only move one space
18 over.

19 So my car, if I'm an upper level
20 person, my car is always going to be up there, never
21 over there. For the lower level cars, there's only
22 going to be one space here and one space there.
23 They are not going to be at the end of the row. So
24 then you always access the system through the same
25 gate.

1 ACTING CHAIRMAN BRANCIFORTE: You
2 always access the system through the same gate?

3 THE WITNESS: Yes. For instance --

4 ACTING CHAIRMAN BRANCIFORTE: So --

5 THE WITNESS: -- this car right here
6 always enters through this gate. The white car
7 always to this gate, and the black one always to
8 this gate --

9 COMMISSIONER FISHER: Okay.

10 THE WITNESS: -- and this car will
11 never come out this way.

12 ACTING CHAIRMAN BRANCIFORTE: Gotcha.

13 But when I look at the plans, now I am
14 getting into a problem that I have with the design.

15 If you look at the architectural plans,
16 the ground floor A-1A, if you have it.

17 THE WITNESS: I have it in my mind.

18 ACTING CHAIRMAN BRANCIFORTE: Well, I
19 mean I would like you to display it, so we can talk
20 about it.

21 MS. GONCHAR: A-1A modifying
22 architecture with the mezzanine, if you could put
23 that up.

24 ACTING CHAIRMAN BRANCIFORTE: Okay.

25 So point to the -- you can point to

1 the -- to that row.

2 Now the entrance to the -- not too far
3 in. Could you zoom out a little bit, please?

4 MR. TESTA: Yes.

5 ACTING CHAIRMAN BRANCIFORTE: So the
6 entrance is right there where the two arrows are on
7 the left.

8 So if my car is in the first or second
9 or third space, and I pull in, and I have to wait 20
10 seconds, and I have to wait for this garage to
11 shuffle all of the cars around. I guess, cars could
12 start backing up behind me.

13 THE WITNESS: I understand what you
14 mean.

15 Basically you are saying that this is
16 your spot --

17 ACTING CHAIRMAN BRANCIFORTE: Yes.

18 THE WITNESS: -- and you need to wait
19 for it to operate, and you drive in here with your
20 car --

21 ACTING CHAIRMAN BRANCIFORTE: Yes.

22 THE WITNESS: -- and you are going to
23 block everybody because you are going like this.

24 ACTING CHAIRMAN BRANCIFORTE: Right.

25 THE WITNESS: Well, the likely answer

1 is you just wait here, so if somebody wants to go in
2 this gate, the person is bypassing you and waits
3 right here, and then the other person can wait right
4 here.

5 So they don't access the gate -- now,
6 if this person here is waiting for this gate, it
7 doesn't affect anybody else coming from this way.
8 It is very common to do that. It is the same as if
9 you had a normal parking space, forget about the
10 machine.

11 Here you have to wait a minute, one
12 minute.

13 If you didn't have a parking system,
14 the person will come here and will start making the
15 turn, even probably for us at some point as well, it
16 is going to be less, but this person here waits and
17 then goes.

18 The same if the person is leaving, you
19 wait, and then you go.

20 ACTING CHAIRMAN BRANCIFORTE: Hum, the
21 other questions I have might not be for you
22 specifically, but I am wondering first if this is a
23 condo building or a rental building.

24 The second is: If these spaces are
25 deeded to individual units.

1 THE WITNESS: I can't answer that, but
2 what I can answer is that it has been done in all of
3 those scenarios. Here or not here. The system is
4 designed to live the life of the building with it --

5 ACTING CHAIRMAN BRANCIFORTE: Well, it
6 may have been done in different scenarios, I believe
7 you when you say that, rental, condo, deeded, not
8 deeded.

9 My question is: You know, has it been done
10 with a layout like this, where you have the entrance
11 and you have all of those other cars on the other
12 side, and four parking spaces before -- you have to
13 pass four parking spaces -- six, seven parking
14 spaces before you even reach the automated system,
15 so, you know, that's really my question.

16 The logistics of it, the little dance that
17 all of the cars are going to have to do at 7:30 in
18 the morning and five o'clock at night when everybody
19 is trying to get in and out at the same time.

20 THE WITNESS: Right.

21 Well, we have here 26 spaces of which
22 half are immediately accessible because they are on
23 the lower level, so you only need to wait for the
24 ones on top.

25 ACTING CHAIRMAN BRANCIFORTE: Well, the

1 reason I bring this up is it is going to be up to
2 the owner obviously to decide this, but I just want
3 to make sure that this isn't going to turn into a
4 big backup into the street, and people aren't going
5 to get frustrated and taking spots on the street
6 rather than waiting to get into the lot. That is my
7 point.

8 THE WITNESS: I understand your
9 question.

10 We do other types of systems, where you
11 actually do have just one single entry point for the
12 entire system, and in those cases, yes, you have to
13 wait for every single person because they all go
14 into one gate.

15 This is not the case. This is one where
16 you actually can go in all of these different gates.
17 And in my experience, people like parking on the
18 system, especially when you park on top because the
19 car is away from other people, so you can't touch it
20 or hit it with the next car.

21 It is much safer than putting it on the
22 street. That is what I am trying to say.

23 So in my experience, the backup that
24 you will have is really not significant compared to
25 other backups that you could have, and people do

1 appreciate the system. It is seen as an efficient
2 way of parking two levels of cars in the garage.

3 ACTING CHAIRMAN BRANCIFORTE: Okay.

4 Jeff?

5 MR. MARSDEN: I just -- maybe I just
6 don't understand it.

7 How many -- if the car can only move either
8 left or right on the bottom, it can't move two
9 spaces, then don't you need every third or fourth
10 space empty in order to operate properly?

11 THE WITNESS: No, no, because we only
12 have one empty space, so there are 14 cars on the
13 top and 13 cars underneath.

14 So say that the empty space is here, so
15 all of these spaces right here are occupied below,
16 and this car wants to come down.

17 The cars come here from left because
18 they all move over one space.

19 MR. MARSDEN: Oh, I see what you mean.

20 ACTING CHAIRMAN BRANCIFORTE: And they
21 move in unison, all eight spaces move in unison
22 together.

23 THE WITNESS: Yes, all move at the same
24 time. There is a slight delay if you look at them,
25 they move one, two, three, four, but they all move

1 at same time.

2 ACTING CHAIRMAN BRANCIFORTE: Any other
3 questions for this expert?

4 Phil?

5 Anybody?

6 Anyone, any other questions from the
7 Board professionals?

8 I am going to open it up to the public.

9 Is there anybody from the public that
10 would like to ask questions of this professional?

11 MS. GONCHAR: We --

12 ACTING CHAIRMAN BRANCIFORTE: Oh, I'm
13 sorry. Did you have anything else?

14 MS. GONCHAR: We do have a video that
15 shows an animation to show it moving. Would that be
16 helpful?

17 MR. GALVIN: Does it come with music?

18 (Laughter)

19 ACTING CHAIRMAN BRANCIFORTE: Not
20 Tractor Sweet for the ballet of cars moving?

21 (All Board members talking at once.)

22 THE WITNESS: This is an installation
23 that we have in San Francisco, and this video was
24 taken by me and I was inside of the system, so I was
25 actually breaking the law. I was not supposed to be

1 there when I took the video.

2 (Laughter)

3 But what this shows --

4 MR. GALVIN: I just want to point out
5 you are under oath.

6 (Laughter)

7 MS. GONCHAR: I was going to say I am
8 not sure I can represent you.

9 (Laughter)

10 THE WITNESS: I didn't mean it that
11 way. I brought my own lawsuit.

12 No. What I am trying to say is this is
13 the vision that you have if you were inside of the
14 system.

15 This is not the platform that you drive
16 onto. This is the other end. You drive from the
17 other side, so right here in the back, that's the
18 gate.

19 So what this car will do is that this
20 car will go up, and then this one here will move
21 over to allow the top one to come.

22 (Video played)

23 COMMISSIONER COHEN: 20 seconds, right?

24 ACTING CHAIRMAN BRANCIFORTE: Yeah. I
25 am going to time it actually.

1 (Laughter)

2 MR. GALVIN: What, are you waiting to
3 park, Phil?

4 COMMISSIONER MURPHY: Too bad it
5 already started.

6 ACTING CHAIRMAN BRANCIFORTE: I know.
7 He's going to have to run it again.

8 THE WITNESS: That person right there
9 was the person who activated the system.

10 (Video played)

11 THE WITNESS: Once the gate unlocks,
12 the lights go on to have better vision underneath
13 that.

14 ACTING CHAIRMAN BRANCIFORTE: Well, I
15 timed it at a little more than twenty seconds each.

16 (Laughter)

17 So the last two movements took 45
18 seconds. That's according to me. I mean, we can
19 run it again or try it again, but that is my --

20 THE WITNESS: It was one minute and ten
21 seconds.

22 ACTING CHAIRMAN BRANCIFORTE: One
23 minute and ten seconds?

24 COMMISSIONER GRANA: I have a question.
25 Can this system be keyed to have any

1 remote control functionality, so if somebody
2 requests a space to be available or the car to be
3 presented some time before they actually reach the
4 space?

5 THE WITNESS: Yes, of course. In fact,
6 we are working on an app to do that.

7 However, there is a little bit of an
8 impracticality with that, and it is if I'm in my
9 apartment, and I call for my car because I am going
10 to go there, and then I get on the phone, I start to
11 operate and somebody is going to be there and the --
12 so, yes, it can be done because there's a process to
13 do it, but we don't necessarily do it because of
14 just that, because it is impractical.

15 COMMISSIONER GRANA: There would have
16 to be some override for the next person who is
17 actually physically at their spot.

18 THE WITNESS: Yes. In fact, the
19 controller that we have at the lift, we could
20 actually have a second one at the lobby, if you
21 wanted to get out of the elevator and call your car
22 from there. That is also a possibility.

23 COMMISSIONER GRANA: Okay. Thank you.

24 ACTING CHAIRMAN BRANCIFORTE: So,
25 again, well, we are pretty sure that this place

1 flooded out during Sandy.

2 MR. MARSDEN: Yes.

3 ACTING CHAIRMAN BRANCIFORTE: We know
4 that the Biergarten flooded out next door, so when
5 we talk about the motors going in a flood, you know,
6 I'm concerned about --

7 MR. GALVIN: Can't be. They got to be
8 above base flood elevation.

9 ACTING CHAIRMAN BRANCIFORTE: That is
10 where I was going.

11 COMMISSIONER FISHER: He said
12 specifically that if they were in a flood, they
13 would be ruined --

14 MR. GALVIN: Right, but they shouldn't
15 be if they're above the base -- the way --

16 (All Commissioners talking at once.)

17 THE REPORTER: Wait a second.
18 Everybody can't talk at the same time.

19 COMMISSIONER COHEN: One at a time.

20 ACTING CHAIRMAN BRANCIFORTE: All
21 electronic -- all electric parts and whatnot are
22 supposed to be raised above base flood.

23 MR. MARSDEN: Correct.

24 ACTING CHAIRMAN BRANCIFORTE: So what
25 about these motors, these electric motors? I

1 mean --

2 MR. MARSDEN: Well, there is two
3 options. One of which is -- are you going to dry
4 flood proof it?

5 That is one question, if you are going
6 to dry flood proof it, that would probably solve the
7 problem.

8 The other thing is I am sure they make
9 hydraulic motors that could be fed from a pump up
10 top. I mean, you know --

11 ACTING CHAIRMAN BRANCIFORTE: The motor
12 on the bottom is not hydraulic. It's --

13 THE WITNESS: No. The motor on the
14 bottom is not in operation unless you activate it.

15 So if you have it under water, you
16 probably don't want to go operate the system.

17 (Laughter)

18 ACTING CHAIRMAN BRANCIFORTE: Well, I
19 don't know if that's --

20 (Everyone talking at once.)

21 ACTING CHAIRMAN BRANCIFORTE: Jeff, I
22 mean, I don't know how this would go.

23 Are we allowed to let them install
24 something at that elevation?

25 MR. GALVIN: Let me just --

1 ACTING CHAIRMAN BRANCIFORTE: Yeah, go
2 ahead.

3 MR. GALVIN: Negatory.

4 You are not going to be able to put
5 anything that is electrical below the base flood
6 elevation.

7 You can Park below the base flood
8 elevation because the assumption is you are on a
9 piece of concrete, and it doesn't matter, and you
10 can move the cars when the rain is coming.

11 MR. MARSDEN: This is the first time I
12 have ever seen the system.

13 They make electric sump pumps that can
14 take 15 feet of head on them sealed. I don't know
15 whether they have systems where the motors can be
16 waterproofed or like that --

17 MR. GALVIN: Do we know what the
18 elevation is right now?

19 MR. MARSDEN: They said the ground is
20 at 555, which means the flood is at 12, so the
21 electrical system would have to be at 13.

22 MR. GALVIN: Well, let's stop.

23 That's a problem. Meryl, that is a
24 problem. You guys have to give us a solution for
25 that.

1 MS. GONCHAR: This isn't the witness to
2 talk about the flood --

3 ACTING CHAIRMAN BRANCIFORTE: I
4 understand.

5 MR. GALVIN: No, I understand that, but
6 I think that we are identifying something that is
7 pretty simple, and you guys have to tell us how to
8 solve it.

9 ACTING CHAIRMAN BRANCIFORTE: Any other
10 questions then for the parking consultant?

11 Any other questions?

12 Are you done?

13 MS. GONCHAR: If you have no further
14 questions for this witness, we are done with him,
15 but we do have obviously other witnesses who will
16 deal with that.

17 ACTING CHAIRMAN BRANCIFORTE: Do we
18 want to open it to the public then?

19 MR. GALVIN: Yes.

20 ACTING CHAIRMAN BRANCIFORTE: Let's
21 open it to the public.

22 Anyone in the public who would like to
23 ask questions of the parking consultant?

24 Seeing none, can I have a motion?

25 COMMISSIONER COHEN: Motion to close

1 public portion for this witness.

2 COMMISSIONER GRANA: Second.

3 ACTING CHAIRMAN BRANCIFORTE: All in
4 favor?

5 (All Board members answered in the
6 affirmative.)

7 Okay. Go ahead.

8 MS. GONCHAR: All right. Matt Testa
9 has previously been sworn and was as introduced on
10 behalf of Bijou. He can address this. He has other
11 items that we will call him for later.

12 M A T T T E S T A, having been previously sworn,
13 testified further as follows:

14 THE WITNESS: Well, just a comment on
15 that.

16 So the idea was we priced out these
17 motors. They were approximately \$2,000 each, so our
18 idea for flood mitigation would be would be to have
19 somebody readily available, so if a flood did
20 happen, obviously the garage would be out of
21 service. The flood comes in, and it leaves, so we
22 were going to do wet flood proof, so let the waters
23 come in, and the waters go out, and then have those
24 motors readily available. We talked about having
25 that emergency response so, you know, within 48, 72

1 hours we would replace all of those motors.

2 So it actually wouldn't be an
3 electrical hazard per se, nothing would be on, and
4 all of those circuits would be, you know, GFCI, so
5 just like the receptacle in a garage, it would be a
6 similar type.

7 ACTING CHAIRMAN BRANCIFORTE: I will
8 let my engineer comment.

9 MR. MARSDEN: Typically DEP does not
10 allow electrical systems below grade.

11 The wet/dry option of that they found
12 under Katrina, that when they allowed electrical
13 systems to dry out and operate, including the wiring
14 and conduits and everything else, years down the
15 road there were fires, and that is one of the
16 reasons they changed the regulations, the laws on
17 the electrical system, not being allowed, and having
18 removed what got wet, and then removing it -- moving
19 above the flood elevation.

20 Typically I don't think DEP would
21 approve something where you have an electrical
22 system designed below the flood that would get wet
23 and have to be replaced.

24 I know FEMA doesn't like that, because
25 FEMA says that's a claim, so -- and they want to

1 eliminate all potential flood claims.

2 THE WITNESS: Unless we came up with a
3 way to do everything that's sealed tight, cable and
4 conduit, like you would use on the exterior. Maybe
5 that --

6 MR. MARSDEN: Well, if you have a
7 system that can be proven watertight, then that
8 might be an option they would approve. But as I
9 said, this is the first time I have seen this, and
10 it is pretty cool, but there are some issues.

11 MR. FERNANDEZ: There is a way that we
12 could fix that. If you right here -- the slide I
13 just had it -- we have only one -- no.

14 MS. GONCHAR: This one.

15 MR. FERNANDEZ: We only have one motor
16 right there that is powered underneath the base
17 flood. Everything else can be raised above.

18 MR. MARSDEN: Well, if I may, the
19 access panel, somebody is going to have to push
20 buttons on, correct, and you are going to have seven
21 feet of water, so it has to be above it.

22 MR. FERNANDEZ: This is a circuit
23 board. It will be located way up there, the circuit
24 board.

25 MR. GALVIN: No. I think we are making

1 a mistake. We are not going to be able to -- we
2 shouldn't be spit balling this. I think that we
3 raised an issue that you guys have to go back and
4 look at it and come back another night and tell us
5 how you are going to solve the problem, okay?

6 What we are pointing out, and I think
7 your system is intriguing, okay, but we want to, you
8 know, the point about the motor, and even the button
9 are valid concerns about if you are putting this
10 above base flood elevation, it is just a question of
11 do we think the system works. If we do, it does.

12 If it's below the base flood elevation,
13 we think you are going to have a problem getting
14 other approvals, and I think we can't go along with
15 anything that is going to like, we know something is
16 going to get destroyed in a flood.

17 THE WITNESS: I have one question.

18 Is it okay to dry flood proof the
19 garage?

20 MR. GALVIN: See, let me just tell you.
21 We are not going to answer that question. It's not
22 our job to answer that question. You guys have
23 professionals. You guys figure it out, okay?

24 Somebody didn't think about this and
25 should have thought about this, and you shouldn't be

1 getting caught by us, saying, you know, you can't
2 have the motor before the base flood elevation.

3 ACTING CHAIRMAN BRANCIFORTE: Just one
4 other question, and it might be for you. It might
5 be for Dean Marchetto.

6 How many spaces are you asking for and
7 how many are required?

8 THE WITNESS: 44 we are asking for.

9 ACTING CHAIRMAN BRANCIFORTE: You're
10 asking for 44, and how many are required?

11 MS. GONCHAR: 44.

12 THE WITNESS: 44.

13 ACTING CHAIRMAN BRANCIFORTE: 44, okay.
14 That is fine.

15 Dennis, anything else on that? Or I
16 guess we are good.

17 MR. GALVIN: Did we close this witness?

18 ACTING CHAIRMAN BRANCIFORTE: We did
19 close public session, right?

20 So your next witness?

21 MS. GONCHAR: I will call Dean
22 Marchetto.

23 (Board members confer)

24 D E A N M A R C H E T T O, having been previously
25 sworn, testified as follows:

1 MS. GONCHAR: Just as a matter of
2 housekeeping, there had been a number of items that
3 the Board requested when Dean last testified. One
4 of them was a plan showing the mezzanine level, and
5 that was submitted to the Board, and we also had
6 submitted a hard copy of the presentation that Dean
7 had made previously. We had the PowerPoint
8 submitted in hard copy, and we numbered the pages
9 for the Board's reference.

10 There was also a request for the
11 presentation of some more information on the
12 finishes and the materials, and that we will present
13 this evening.

14 ACTING CHAIRMAN BRANCIFORTE: Great.

15 So Dean is up?

16 MS. GONCHAR: He was previously sworn.

17 ACTING CHAIRMAN BRANCIFORTE: Yes.

18 You have been sworn, so you are still
19 under oath.

20 MS. GONCHAR: Dean, can you just
21 identify the plan that you have up and describe what
22 was submitted subsequent to your appearance in
23 April?

24 THE WITNESS: Yes.

25 This is our former Sheet A-1, which is

1 the ground level plan, and on this sheet there is a
2 mezzanine in this section that is above here, and
3 the Board asked if we could draw a floor plan
4 showing the mezzanine, so this A-1 is now A-1A and
5 A-1B.

6 On A-1A, we are looking at the ground
7 level, which is under the mezzanine. It's at grade.
8 You have the lobby, bike storage, and entry to the
9 elevator.

10 Now, A-1B, this is our mechanical space up
11 above.

12 So if you were to take a look at this
13 section, which we had at the last hearing, you can
14 see here, this is the ground level. It has a high
15 ceiling because it has the car system, two cars
16 high, so we are able to get a mezzanine in here, and
17 this is the whole first floor. But in this section
18 of the building facing Grand, you have the low level
19 with the bike storage and the upper level is where
20 our mechanicals are out of the flood zone,
21 so --

22 ACTING CHAIRMAN BRANCIFORTE: Well, you
23 just kind of -- the way you just kind of proved our
24 point about the electric motors.

25 THE WITNESS: I tell you, this is not

1 my system, but I imagine you can get submersible
2 motors.

3 ACTING CHAIRMAN BRANCIFORTE: Okay.
4 Well, we'll work on that later.

5 THE WITNESS: So that is the two new
6 plans that you now see, the lower mezzanine and the
7 upper -- below the mezzanine and the upper
8 mezzanine.

9 The other request made was for a
10 photolistic rendering.

11 I think it was John who asked for it.
12 Was that right?

13 ACTING CHAIRMAN BRANCIFORTE: It may
14 have been, yes.

15 THE WITNESS: Okay. So what we have, I
16 will go back to my PowerPoint. This is the
17 PowerPoint I presented at the last hearing, and I
18 added some more slides.

19 So here is a view. We are -- okay.
20 This is a view of the site from underneath the
21 viaduct. This is an actual photograph I took, and
22 this is currently under the viaduct. There is an
23 existing building over here that is completed. It
24 has windows out on the viaduct, and the purpose of
25 our plan, as I mentioned at the last hearing, was to

1 use this as an opportunity to activate that space.

2 You may recall, I talked about some
3 good energy happening here. There is a continuous
4 park that's planned for under the viaduct, and the
5 purpose is for these building that are on the edge
6 to activate the viaduct.

7 So if you remember the plan we
8 presented, there is a retail space and a children's
9 theater space down at the ground floor.

10 So that is the existing photo, and this
11 one here is the proposed rendering. You can see
12 here the retail on the ground level. You can see
13 the children's theater here, and this is our
14 building up above.

15 The ground floor of this building is
16 reinforced concrete done in an esthetic maneuver, so
17 it has a very cool looking esthetic concrete finish,
18 and then this is brick with a metal paneling up
19 above and black windows. But that gives you are a
20 sense of how we proposed this kind of under viaduct
21 retail will activate the space and become more of a
22 viable place for recreational purposes.

23 ACTING CHAIRMAN BRANCIFORTE: Is that
24 it?

25 THE WITNESS: That is it.

1 ACTING CHAIRMAN BRANCIFORTE: Can I go
2 to questions of the Board or --

3 THE WITNESS: I have the materials as
4 well if you would like them presented, so --

5 MS. GONCHAR: Let me just ask you a
6 question, Dean.

7 The last two that you showed, the Adams
8 Street, the before and the after, those were not
9 part of the 52, the previously submitted
10 presentation, these are new?

11 THE WITNESS: These are new.

12 MS. GONCHAR: Okay. So they are not in
13 the packet, so we will need to have those marked or
14 identified as well. We were up to only A-2, and I
15 think we have a hard copy.

16 THE WITNESS: This is the same.

17 MR. GALVIN: Are you going to provide
18 us the pictures that you showed us of the cars, you
19 are going to provide that for evidence, right?

20 MS. GONCHAR: We will give you a hard
21 copy of that one.

22 Do you want to do all of those as A-3.

23 MR. GALVIN: That's fine, if that is
24 the next exhibit.

25 (Exhibit A-3 marked.)

1 MS. GONCHAR: That would make these
2 A-4.

3 The first one, can I see the one before
4 that, the existing Adams Street?

5 We have a slightly different angle of
6 Page 15, but we will get you that.

7 But we can present A-4. This is the
8 one, the next one is the one that you are looking at
9 for this one.

10 MR. GALVIN: Sure.

11 (Exhibit A-4 marked.)

12 MS. GONCHAR: And we will get the other
13 sheet.

14 THE WITNESS: Are there members here
15 who are voting members that weren't here last month?

16 Do I need to show this again?

17 ACTING CHAIRMAN BRANCIFORTE: Well,
18 that's a good question.

19 Did everybody fill out their --

20 MS. CARCONE: It was just Tiffanie.

21 COMMISSIONER FISHER: Yeah, just me.

22 I read the transcript. I just fill out
23 the form.

24 MS. CARCONE: You had filled --

25 COMMISSIONER FISHER: Oh, I filled it

1 last time when I was here?

2 MS. CARCONE: Yes.

3 COMMISSIONER FISHER: Then I filled it
4 out last time, because this was supposed to be heard
5 a month ago.

6 ACTING CHAIRMAN BRANCIFORTE: Right.
7 Okay.

8 MS. GONCHAR: In May.

9 ACTING CHAIRMAN BRANCIFORTE: So
10 everybody should be up to speed.

11 Now, what is your question? I'm sorry,
12 Dean.

13 THE WITNESS: My question was do you
14 want to see the PowerPoint again from the beginning
15 for the new members?

16 ACTING CHAIRMAN BRANCIFORTE: No,
17 that's quite all right. No problem with that.

18 THE WITNESS: Fine.

19 MS. GONCHAR: The only other thing we
20 have is the actual proposed materials to show you
21 that were requested.

22 THE WITNESS: So what we are proposing
23 on the brick is exactly the same brick we used on
24 the Edge Lofts. If you have seen them, it is common
25 brick. It's designed to mimic the old common brick

1 from the industrial buildings.

2 This is a sample of it. This is
3 exactly the same brick, if you look at the Edge
4 Lofts, and I showed you a photograph the last time,
5 it's common brick, and so it kind of matches what
6 those old warehouses used to be, and it's very
7 common brick, and it has a gray mortar.

8 Typically in a contemporary building we use
9 blend mortar, where we try to match the brick color
10 with the mortar, but as you see here, the historic
11 brick always had a gray mortar, and so did the old
12 factory buildings, and that is what we propose to
13 use here.

14 Now, the gray mortar happens to be very
15 good because it goes with our zinc. The metal that
16 we're using up top is a sustainable material. It's
17 made of pure zinc. It's got a 90-year life. It
18 requires no maintenance. It's beautiful. It has
19 been used on the Edge Lofts and the Garden Street
20 Lofts. It is a little bit of a signature for the
21 Bijou folks, and this is a material here.

22 This goes extremely well with the
23 standard brick gray mortar, so it is really
24 compatible.

25 And the concrete color is also a great

1 color, which is the base. It's a formed concrete
2 showing like a pattern on it. It's very
3 contemporary.

4 The windows are black. The windows are
5 black, so that is the pallet of materials, not too
6 dissimilar from the Edge Lofts, and I think there is
7 a nice industrial esthetic taking place in that
8 neighborhood, and we just want to continue it, so
9 that is our material pallet.

10 ACTING CHAIRMAN BRANCIFORTE: Okay.

11 Any questions from the Board?

12 Owen?

13 COMMISSIONER MC ANUFF: No.

14 COMMISSIONER DE GRIM: I just have one.

15 ACTING CHAIRMAN BRANCIFORTE: Go ahead,
16 Frank.

17 COMMISSIONER DE GRIM: You said that
18 there is a pattern in the concrete?

19 THE WITNESS: Yes. There's a form
20 pattern with the lines and the little tie marks.
21 You know, you see it when you have concrete forms,
22 they have ties inside, and they leave a little
23 pattern of dots in the concrete, which is an
24 industrial esthetic that we like.

25 COMMISSIONER DE GRIM: Okay. Thank

1 you.

2 ACTING CHAIRMAN BRANCIFORTE: Any other
3 questions, anyone?

4 Anyone in the audience that would like
5 to ask questions of the architect?

6 COMMISSIONER GRANA: Seeing none.

7 ACTING CHAIRMAN BRANCIFORTE: I'm just
8 going to give them a second.

9 Are you all set then, Dean?

10 THE WITNESS: What?

11 ACTING CHAIRMAN BRANCIFORTE: You're
12 all set? You're done?

13 THE WITNESS: Larry asked me to show
14 the Grand Street facade, which we showed last week,
15 and I will show it again, Grand Street.

16 ACTING CHAIRMAN BRANCIFORTE: Okay.

17 THE WITNESS: So here is the lobby
18 entrance. Here is the lobby entrance here, and this
19 is the bike storage, and the mezzanine is up top.

20 This is my brick with the zinc panels
21 and the black windows.

22 ACTING CHAIRMAN BRANCIFORTE: Gotcha.

23 And this is --

24 THE WITNESS: These two buildings are
25 built on either side of me. It's just in this

1 image. It is just a diagram, but I have photographs
2 in the PowerPoint that I showed from last week that
3 shows those buildings in place.

4 ACTING CHAIRMAN BRANCIFORTE: And this
5 is truly to scale now. There's no -- you're not
6 going to come back, and we are going to find out
7 that this is somehow --

8 THE WITNESS: Not me. You've never
9 seen me do that.

10 (Laughter)

11 ACTING CHAIRMAN BRANCIFORTE: Okay.

12 Any questions, Jeff?

13 MR. MARSDEN: Yes.

14 Dean, did you go through the letter,
15 my letter --

16 THE WITNESS: The engineer is here on
17 the letter, but I looked at Eileen's letter.

18 MR. MARSDEN: Right.

19 THE WITNESS: Is there a particular
20 concern that you want me to address?

21 MR. MARSDEN: Well, there are a number
22 of issues that haven't been addressed, and I wanted
23 to make sure that you had no problem addressing
24 these --

25 THE WITNESS: No. We will address all

1 of them. I know you said that at the last meeting.
2 We said we got your letter and we will comply with
3 all of your concerns.

4 MR. MARSDEN: Okay. Thank you.

5 ACTING CHAIRMAN BRANCIFORTE: Are you
6 all set?

7 MR. GALVIN: What is the date of that
8 letter?

9 MR. MARSDEN: The date of the letter is
10 November 17th, revised March 17th.

11 ACTING CHAIRMAN BRANCIFORTE: So,
12 again, there is no one in the public that wants to
13 speak, so can I ask for a motion?

14 COMMISSIONER GRANA: Motion to close
15 public portion.

16 COMMISSIONER MC ANUFF: Second.

17 ACTING CHAIRMAN BRANCIFORTE: All in
18 favor?

19 (All Board members answered in the
20 affirmative.)

21 ACTING CHAIRMAN BRANCIFORTE: Thank
22 you, Dean.

23 Your next witness?

24 MS. GONCHAR: I wanted to ask you a
25 question.

1 I don't know, Jeff, one of the items
2 that you had --

3 MR. MARSDEN: Yes.

4 THE REPORTER: I'm sorry. I can't hear
5 you.

6 ACTING CHAIRMAN BRANCIFORTE: Can you
7 speak up?

8 MS. GONCHAR: I just wanted to make
9 sure we say we will address them.

10 On one of them we asked -- Jeff asked
11 the question about the lighting, where it was going
12 to be mounted.

13 THE WITNESS: Well, the lighting
14 fixtures are cans, up and down like cans, that are
15 wall sconces that are located on the exterior facade
16 of the building and they're shown in the drawings on
17 the elevations.

18 MR. MARSDEN: Did you have -- I
19 thought the foot candles were very low on those. I
20 believe that was my concern.

21 THE WITNESS: Yes.

22 MR. MARSDEN: The pattern on your
23 Isolux --

24 THE WITNESS: Yes.

25 MR. MARSDEN: -- don't reach out to the

1 remainder of the sidewalk. It only shows a limited
2 amount of lighting from the building.

3 And the question I believe was: Is
4 there street lighting, and if there is, then that
5 would supplement it, and also any lighting on the
6 space that you want to activate underneath the
7 viaduct.

8 THE WITNESS: Well, we don't have any
9 lighting ourselves planned from the viaduct. There
10 are lights out there.

11 MR. MARSDEN: That is what I am
12 saying.

13 THE WITNESS: There are lights out
14 there. There is an existing street light shown
15 right here, and there's a street light here, and
16 there's a street light here, and I don't have those
17 Isoluxes on my plan, because I just did the
18 architectural, and my lighting is mounted to the
19 wall right in here. See?

20 All of these Isoluxes were mounted on

21 MR. MARSDEN: Okay.

22 THE WITNESS: -- lights, and they do.
23 They only reach out -- are not overlit. They reach
24 out halfway around the sidewalk. They go up and
25 then down on the sidewalk.

1 MR. MARSDEN: But your testimony then
2 is that, that in concert with the street lighting is
3 more than adequate?

4 THE WITNESS: Yes. These standard
5 spaced lighting poles.

6 MR. MARSDEN: Is that is what I was
7 looking for.

8 Thank you.

9 THE WITNESS: You're welcome.

10 ACTING CHAIRMAN BRANCIFORTE: Okay.

11 MS. GONCHAR: That was the only one?

12 THE WITNESS: Yes.

13 ACTING CHAIRMAN BRANCIFORTE: Are we
14 good?

15 MS. GONCHAR: We are good.

16 (Witness excused)

17 ACTING CHAIRMAN BRANCIFORTE: Your next
18 witness.

19 MS. GONCHAR: Lenny Savino, please.

20 MR. GALVIN: Raise your right hand.

21 COMMISSIONER COHEN: Can you turn on
22 the light?

23 ACTING CHAIRMAN BRANCIFORTE: Yeah.
24 We're all falling asleep in the dark.

25 MR. GALVIN: Lenny, raise your right

1 hand.

2 Do you swear to tell the truth, the
3 whole truth, and nothing but the truth, so help you
4 God?

5 MR. SAVINO: Yes, I do.

6 L E O N A R D D. S A V I N O, PE, Langan, 619
7 River Drive, Elmwood Park, New Jersey, having been
8 duly sworn, testified as follows:

9 MR. GALVIN: State your full name for
10 the record and spell your last name.

11 THE WITNESS: Leonard Savino, S-a-v, as
12 in Victor, i-n-o.

13 MR. GALVIN: Why don't you give us your
14 credentials.

15 THE WITNESS: Sure.

16 I am a civil engineer. I graduated
17 from NJIT.

18 MR. GALVIN: Okay. Let me stop you.
19 Give us three Boards you appeared before in the
20 recent past.

21 THE WITNESS: Oradell, Aberdeen and
22 Holmdel.

23 MR. GALVIN: Okay.

24 Mr. Chairman, do you we accept his
25 credentials as a licensed engineer?

1 ACTING CHAIRMAN BRANCIFORTE: Unless
2 there is an objection from the Board, yes.

3 Go right ahead.

4 MS. GONCHAR: Thank you for accepting
5 him as an expert in the field of civil engineering.

6 The plans that you are introducing,
7 these have already been submitted?

8 THE WITNESS: Yes, they have been
9 submitted.

10 MS. GONCHAR: So these are part of the
11 engineering plans that were previously submitted to
12 the Board unless you have -- do you want us to mark
13 them in some way --

14 MR. GALVIN: No, no, no. We are fine.
15 We're fine.

16 THE WITNESS: I have extra copies, if
17 you need them.

18 MS. GONCHAR: Do you want an 11-by-17
19 of them?

20 Does anybody want this in front of
21 them?

22 MR. GALVIN: Does anybody want an
23 abbreviated version, a smaller version?

24 ACTING CHAIRMAN BRANCIFORTE: Why don't
25 you pass up one copy.

1 (Document handed to the Board.

2 ACTING CHAIRMAN BRANCIFORTE: Thank
3 you.

4 MS. GONCHAR: Anybody else?

5 ACTING CHAIRMAN BRANCIFORTE: Anybody?

6 MS. GONCHAR: Okay.

7 Lenny, could you just identify the plan
8 by date and title that they are looking at now?

9 THE WITNESS: Certainly.

10 Drawing CS-101 has a site plan, dated
11 November 17th, 2014, last revised March 10th, 2015.
12 Actually that is the VT-101.

13 Do you want me to identify what they
14 have or the ones that are up here?

15 MS. GONCHAR: Do they not have the
16 same?

17 THE WITNESS: No. There's two
18 additional Exhibits 1 and 2 we are anticipating,
19 which would be this plan here, which is VT-101,
20 existing conditions plan, dated 23 of April 2015.

21 The second exhibit I have is CG-101,
22 grade and drainage plan, last revised March 10th,
23 2015.

24 MR. MARSDEN: If I may, were they
25 submitted to the Board previously?

1 THE WITNESS: They were part of the
2 package.

3 MR. MARSDEN: Okay.

4 MS. GONCHAR: Jeff, do you need another
5 one, a small one?

6 MR. MARSDEN: Yes. If you have an
7 extra small one.

8 Thank you.

9 (Board members confer)

10 MS. GONCHAR: All right.

11 Can you describe what is shown on the
12 existing conditions plan that the Board has before
13 them?

14 THE WITNESS: Certainly.

15 The site is 0.34 acres. It's bound by
16 Adams Street to the west, Grand Street to the east,
17 14th Street viaduct, and a multi-family building to
18 the south, and a vacant grade -- upgrade lot to the
19 north.

20 The existing site consists of six lots,
21 which currently include an existing two-story
22 building fronting on Grand, and a one-story garage
23 fronting on Adams Street, and the remainder of the
24 site is asphalt parking.

25 The site is generally flat with grades

1 of about one to two percent from generally the
2 center of the elevation 5.6 or so to Grand Street,
3 and also towards Adams Street.

4 Right now the existing condition is the
5 stormwater management is via sheet flow bulk to
6 Adams Street and to Grand into the city sewer.

7 And in the proposed development, which
8 we can jump to the next exhibit, CG-101, it should
9 be the second sheet that you have there in front of
10 you.

11 MS. GONCHAR: It's the third street.

12 THE WITNESS: Third sheet, right. I'm
13 sorry.

14 So grading and drainage plan, so
15 basically all stormwater management would be -- all
16 stormwater would be collected on the roof, and it
17 would be conveyed to Grand Street into the city
18 sewer.

19 The design also is proposing a green
20 roof and also a rooftop garden, a green roof, and
21 there is also a 5,000 gallon rainwater harvesting
22 tank to irrigate that.

23 Then on top of that, we are going to
24 have some rain gardens in the area at grade around
25 the perimeter of the building.

1 MS. GONCHAR: The discussion we were
2 having before with regard to the flood elevation.

3 THE WITNESS: Certainly.

4 The advisory base flood elevation map
5 shows in the NAVD 88 that the hundred-year flood is
6 at elevation 13, and the applicant is proposing the
7 finished floor for the residential at 25.5 as was
8 shown previously by Dean in the cross-sections.

9 The mechanical space would be a foot
10 above the 13 or 14, and as was previously discussed,
11 the parking and the retail is at grade at 5.5.

12 MS. GONCHAR: Now, what we have
13 proposed, the 20 foot -- the 5.5 clearly, we meet
14 all of the regulations?

15 THE WITNESS: Yes.

16 MR. GONCHAR: And we are an adequate
17 distance above the flood elevation for the design?

18 THE WITNESS: Yes.

19 Are you talking about utilities?

20 MR. GONCHAR: I was going to move on to
21 the sewer system --

22 THE WITNESS: As I had previously
23 mentioned, the anticipation is the connection to
24 Grand Street with the stormwater and also the
25 sanitary sewer. Both are conveyed up to 15, and the

1 sewer system in the city does have adequate capacity
2 obviously, and there are issues when it floods, but
3 it has adequate capacity during normal flow periods.

4 With respect to other utilities, such
5 as water, there is water service, and we anticipate
6 connecting an eight-inch line -- there is a
7 eight-inch line on Grand Street. We are connecting
8 a two-inch domestic and a four-inch fire off of
9 Grand. That is the anticipation, and there is
10 adequate capacity in the water system.

11 With respect to other utilities, such
12 as to telecommunications and gas service, there are
13 serviced in the street, and we anticipate providing
14 will-serve letters.

15 That is basically what we are
16 proposing.

17 MS. GONCHAR: That's all of our direct
18 for our engineer subject to recalling.

19 ACTING CHAIRMAN BRANCIFORTE: Thank
20 you.

21 Any questions from the Board members
22 for the engineer?

23 Jeffrey -- I'm sorry --- Phil, do you
24 want --

25 COMMISSIONER COHEN: Well, I mean, I

1 guess you heard the questions earlier with respect
2 to the electrical and the grade.

3 I assume you are not prepared to
4 address that now, but if you are, you know, that is
5 great. But if not, I guess we will wait to hear
6 from you at the next meeting.

7 THE WITNESS: You know, as a civil
8 engineer, we are addressing basically everything
9 outside of the building, so there wasn't
10 anticipation --

11 COMMISSIONER COHEN: Okay. That is not
12 your area.

13 THE WITNESS: Correct.

14 COMMISSIONER COHEN: Okay.

15 ACTING CHAIRMAN BRANCIFORTE: Anybody
16 else?

17 Jeffrey?

18 MR. MARSDEN: You have been to North
19 Hudson, and you have their approval?

20 THE WITNESS: We have spoken to North
21 Hudson.

22 MR. MARSDEN: Do you have an approval
23 letter?

24 THE WITNESS: No, not yet.

25 MR. MARSDEN: Okay. You will provide

1 that to us once you receive it?

2 THE WITNESS: Yes, we will.

3 MS. GONCHAR: Jeff, this is a
4 preliminary also. We are seeking preliminary --

5 MR. GALVIN: What's that?

6 ACTING CHAIRMAN BRANCIFORTE: Can you
7 speak up, please?

8 MS. GONCHAR: No, I'm just --

9 MR. GALVIN: But --

10 MS. GONCHAR: -- we applied for the
11 variances and preliminary.

12 MR. GALVIN: Right.

13 And what were you asking for?

14 MR. MARSDEN: The North Hudson
15 approval, if they had it, and when you get it,
16 forward it to us.

17 MS. GONCHAR: Certainly.

18 ACTING CHAIRMAN BRANCIFORTE: Anybody
19 else have a question of the engineer?

20 Go right ahead. Keep going, Jeff.

21 MR. MARSDEN: The other question is:
22 As far as your testimony, that you did not look at
23 the impact of the flood to the building?

24 THE WITNESS: Correct.

25 MR. MARSDEN: Okay. Will that be

1 addressed in the future?

2 THE WITNESS: The anticipation is that
3 subsequent testimony may be provided at a subsequent
4 hearing based on the information gathered.

5 MR. MARSDEN: Thank you.

6 ACTING CHAIRMAN BRANCIFORTE: Anything
7 else, Jeff?

8 MR. MARSDEN: No.

9 ACTING CHAIRMAN BRANCIFORTE: Any
10 questions in the audience from the audience members
11 for the engineer?

12 Seeing none, can I have a motion?

13 COMMISSIONER COHEN: Motion to close
14 public portion for this witness.

15 COMMISSIONER MC ANUFF: Second.

16 ACTING CHAIRMAN BRANCIFORTE: All in
17 favor?

18 (All Board members answered in the
19 affirmative.)

20 ACTING CHAIRMAN BRANCIFORTE: Thank
21 you.

22 MR. MARSDEN: One more thing.

23 ACTING CHAIRMAN BRANCIFORTE: Oh, sure.
24 Go ahead, Jeff.

25 MR. MARSDEN: You have seen my letter,

1 my review letter?

2 THE WITNESS: Yes, we have.

3 MR. MARSDEN: And you don't have
4 issues with addressing those issues?

5 THE WITNESS: No.

6 MR. MARSDEN: Okay. Thank you.

7 ACTING CHAIRMAN BRANCIFORTE: Thanks,
8 Jeff.

9 Yes, Ms. Gonchar, we are waiting. Your
10 ball.

11 MS. GONCHAR: Our next witness is Gary
12 Dean, who will testify with regard to traffic.

13 MR. GALVIN: Mr. Dean, raise your right
14 hand.

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

18 MR. DEAN: Yes, I do.

19 G A R Y D E A N, having been duly sworn, testified
20 as follows:

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

23 THE WITNESS: Gary Dean, D-e-a-n.

24 MR. GALVIN: Mr. Chairman, I ask that
25 we accept Mr. Dean's credentials as a traffic

1 expert.

2 ACTING CHAIRMAN BRANCIFORTE: Yes.

3 Sounds good, accepted.

4 THE WITNESS: Thank you.

5 MS. GONCHAR: Thank you for accepting
6 him as an expert in the field of traffic.

7 Okay. Could you describe for the Board
8 your involvement with the application, any studies
9 that you undertook in connection with this
10 application?

11 THE WITNESS: Yes.

12 As part of the application, we prepared
13 and submitted a traffic impact assessment, that's
14 dated March 6th, 2015.

15 That report sets forth the typical
16 parameters of a traffic study that outlines traffic
17 counts and activity on the streets surrounding the
18 site, but relative to the requested use variance, it
19 also includes a comparison of what we would
20 otherwise expect to be developed within the
21 industrial zone by a permitted or, as I will call
22 it, a by right use.

23 As you are aware the property has
24 access or would have access. You don't have the
25 exit any more to Adams Street, meaning all traffic

1 would then exit and proceed to the north and
2 intersect 15th Street.

3 Our counts included, I will say, the
4 entire two-block perimeter of the site. That was at
5 Adams and 15th, Adams and 13th, 15th and Grand, and
6 Grand and 13th Street. So we basically covered at
7 least a block north and south of the subject
8 property.

9 As the Board is aware, Hudson County
10 has essentially completed all of the viaduct
11 improvements, and there is a very small connector, I
12 will call it alley, that runs between Adams and
13 Grand in a westbound direction. That is
14 cobblestone, and it at least has the appearance of a
15 pedestrian mall.

16 I know Mr. Marchetto had it on his
17 exhibits, but it does not appear to be I'll say
18 regularly used by traffic. It appears to be more of
19 an emergency access, police, a recirculation
20 connector.

21 The traffic counts show, I would
22 characterize, fairly light activity on both of the
23 east and west -- or excuse me -- north-south running
24 streets. Adam -- Grand Street carries a little more
25 traffic in the southbound direction. At the time we

1 did our count, it was about a hundred vehicles per
2 hour to share a few numbers with you, and by
3 contrast Adams Street carried roughly 35 vehicles,
4 so a little contrast between the two streets.
5 Obviously 15th and 13th are busier streets.

6 Getting to the essence of the
7 application, in my opinion, we identified the
8 projected traffic associated with the apartments,
9 recognizing some of the unique characteristics of
10 Hoboken. And I forget where I read this, but I
11 think Hoboken may have the unique distinction of
12 having the highest mass transit usage in the
13 country, given the fact that there are at least six
14 different kind of transit opportunities for your
15 residents, all easily accessible from the site.

16 There is the local Hop service. There
17 is the light rail service. There are ferry routes.
18 There are I think at least seven different bus
19 lines -- excuse me -- yes, seven different bus
20 lines and through connections either via the bus or
21 the Hop, access to the New Jersey rail yards, which
22 has access to Path, New Jersey Transit lines, et
23 cetera.

24 As a result of that, and I believe I
25 previously testified before this Board for other

1 applications, we have actually done studies for some
2 of the newer buildings on the western part of
3 Hoboken, specifically Sky Club and Metro Stop by
4 evaluating their traffic patterns during peak hours,
5 and what we found through our counts is that it is
6 about a 30 percent automobile use for commuting or
7 off-peak hours, where as 70 percent of the residents
8 are walking, biking or using mass transit.

9 So the car traffic, the ins and outs
10 associated particularly with only 44 apartments or
11 dwellings would be exceptionally low, and I know
12 there are some questions regarding frequency of
13 traffic and the mechanized parking system.

14 At the highest peak hour, and I think
15 we conservatively estimated this, the total traffic
16 associated with the apartment use that would be of
17 the primary users of the parking spaces is 11.
18 Basically one car movement every five minutes.

19 With that type of low frequency, and my
20 expectation is it would actually be a lot less, but
21 we used that for modeling purposes. I am very
22 confident that the cuing or stacking with the
23 driveway apron, if there is one vehicle, that would
24 be typical.

25 We also added just for evaluation

1 purposes a small retail component is included with
2 the application. I expect that the overwhelming
3 majority of traffic associated for that type of use
4 would be for traffic originating from within the
5 neighborhood, but nevertheless we did include a car
6 count, if you will, for the retail. In aggregate,
7 the total traffic activity in either peak hour would
8 be 40 vehicle movements basically 22 in and 18 out
9 because retail is fairly a short duration.

10 By contrast, we have looked at the
11 industrial zone, and what would be allowed by right
12 under the zoning standards, and it would be about
13 39,000 square feet, 32,000, if it were office, and
14 the traffic generation of those uses would range
15 between roughly 30 per hour to upwards of 114.

16 So in terms of this use and its traffic
17 activity, I would submit that it is in line with
18 what is otherwise expected in terms of a conforming
19 use in the zone, and certainly not at variance.

20 I would also like to mention that the
21 permitted uses in the zone that include
22 manufacturing, light industrial, or warehousing, all
23 would have truck activity. Usually heavy trucks,
24 box trucks, and it is candidly maybe 15 to 20 per
25 day and maybe one or two per hour.

1 By contrast, the proposed use would
2 have no truck activity except for when somebody
3 moves in or out. So it would be -- in general I
4 would say it would be better for the neighborhood by
5 eliminating the nuisance of that type of activity.

6 We prepared the before and after
7 analysis looking at the impact of the additional
8 traffic. The term we use is "level of service." We
9 have very favorable levels of service surrounding
10 the site at levels of service A, B, and C.

11 None of those levels of service would
12 change with this application, and that underscores
13 the minimal traffic impact we would have. So in
14 general, I find that the use is certainly beneficial
15 in terms of its ability or potential to reduce
16 traffic, and in terms of what we have seen from
17 other similar buildings, I don't expect that this is
18 a traffic case per se, as I would like to summarize
19 it. Its impacts are minimal and conclusively we
20 found not going to create a detrimental impact on
21 the circulation in the couple of blocks surrounding
22 the site.

23 In terms of the access and circulation,
24 we have heard testimony on that.

25 We have a conforming number of parking

1 spaces. 44 are required, and 44 are provided, and
2 they are all, as I indicated, accessible from Adams
3 Street.

4 If there are any specific questions, I
5 would be happy to address those.

6 ACTING CHAIRMAN BRANCIFORTE: Are you
7 done with your testimony?

8 THE WITNESS: Yes, I am.

9 ACTING CHAIRMAN BRANCIFORTE: Anything?

10 MS. GONCHAR: Yes.

11 Now, you referred to, and I don't know
12 if this was submitted, you referred to the --

13 ACTING CHAIRMAN BRANCIFORTE: Could you
14 speak up? I'm sorry.

15 MS. GONCHAR: Yes.

16 Gary referred to a comparison between
17 the potential traffic generated from what is
18 proposed versus what would be permitted in the zone,
19 and I am not sure that was part of the original -- I
20 just want to see if we need to mark that and submit
21 it, the comparison.

22 ACTING CHAIRMAN BRANCIFORTE: Could you
23 please? Yes.

24 MS. GONCHAR: We can submit additional
25 copies, but I think we are up to A-5.

1 MR. GALVIN: Don't look at me.

2 (Laughter)

3 MS. CARCONE: Correct.

4 MR. GALVIN: Ms. Carcone said yes, you
5 are correct.

6 MS. GONCHAR: Thank you, Ms. Carcone.

7 MS. GONCHAR: Today is the 9th.

8 MR. GALVIN: Where as I like to call
9 her Dr. Carcone.

10 ACTING CHAIRMAN BRANCIFORTE: Oh, yes,
11 Dr. Carcone.

12 (Laughter)

13 (Exhibit A-5 marked.)

14 MS. GONCHAR: Again, as I marked it,
15 can you just identify what Exhibit A-5 is?

16 THE WITNESS: Yes.

17 It is a table that is the trip
18 generation comparison between the proposal for 44
19 residential units and a small amount of retail with
20 permitted uses in the I Zone, 1410 Grand Avenue.

21 MS. GONCHAR: And your conclusion was
22 that in that comparison, the proposed use is at
23 least as, if not more favorable, in terms of traffic
24 impact?

25 THE WITNESS: Correct.

1 ACTING CHAIRMAN BRANCIFORTE: You don't
2 have extra copies for the Board, do you?

3 MS. GONCHAR: No, we don't.

4 ACTING CHAIRMAN BRANCIFORTE: That's
5 fine. Don't worry about it.

6 COMMISSIONER FISHER: What are they
7 saying is the proposed use is within the zone, the
8 comparison? Is it --

9 MS. GONCHAR: The permitted uses?

10 COMMISSIONER FISHER: Yeah. What --
11 what -- what is the scenario --

12 THE WITNESS: Manufacturing, light
13 industrial, office and warehousing.

14 MS. GONCHAR: There are numbers for
15 each of those.

16 THE WITNESS: Yes, correct.

17 MS. GONCHAR: I have a second one if
18 you want to look at it. It just has holes in it
19 from my binder.

20 ACTING CHAIRMAN BRANCIFORTE: Could
21 you? Yes.

22 ACTING CHAIRMAN BRANCIFORTE: There's
23 holes in the traffic report, is that what you are
24 saying?

25 THE WITNESS: Not on my watch.

1 (Laughter)

2 ACTING CHAIRMAN BRANCIFORTE:

3 Anybody --Jeff --

4 COMMISSIONER GRANA: I have a question.

5 ACTING CHAIRMAN BRANCIFORTE: Oh, no.

6 I'm sorry. Go ahead.

7 COMMISSIONER GRANA: Mr. Dean, hi.

8 THE WITNESS: Hello.

9 COMMISSIONER GRANA: So I was
10 interested that when you did the comparison table,
11 you looked at potential trip generation of 114
12 vehicles if this was a development Class A office
13 space at approximately 32,000 square feet. Is that
14 correct?

15 THE WITNESS: Correct.

16 There is no discount in that, and I
17 will be candid.

18 It is very easy for me to identify
19 residential use of mass transit, the reverse of
20 office employees. If they come from New York City,
21 obviously there might be counter flow using the
22 ferry. So that number, if there is a high mass
23 transit use for office employees that worked in
24 Hoboken, it could be 50 percent of that number, so
25 those numbers are unadjusted.

1 COMMISSIONER GRANA: You are reading my
2 mind.

3 So -- and that was my question. Would
4 there in effect be a discount. But even in that
5 scenario, let's say we used the 50 percent number,
6 then, in your opinion, we cut that in half, and that
7 is still 60 vehicles per hour roughly?

8 THE WITNESS: Correct.

9 Office is the most intense. It's just
10 more bodies per square foot.

11 COMMISSIONER GRANA: Understood.

12 From a manufacturing standpoint, would
13 we need to bring trucks into that area?

14 There is some reconfiguration of the
15 streets as a result of the viaduct. Do you think
16 that that would have anything -- and there's as --
17 one of the throughways, I believe, is closed. Some
18 of the streets have been restored with kind of a
19 cobblestone effect.

20 Would there be any impact on it to
21 larger vehicles, or is that a non factor?

22 THE WITNESS: I don't know what you
23 mean by impact. Trucks as we all know --

24 COMMISSIONER GRANA: Would it increase
25 congestion?

1 THE WITNESS: It depends on the size of
2 the truck, and as streets become narrower and have
3 built-in I'll say residential amenities, such as
4 cobblestones, and as you see on the plan, a bump-out
5 to make them more pedestrian friendly, that makes
6 them more challenging for trucks and larger
7 vehicles.

8 So it would have impact, but trucks
9 still need to -- if the site were developed for a
10 manufacturing, light industrial use, there would
11 still be the need to access, and candidly, coming up
12 Adams Street probably would be the most likely route
13 from the south.

14 COMMISSIONER GRANA: Thank you.

15 ACTING CHAIRMAN BRANCIFORTE: Thanks.

16 Any other questions?

17 Phil?

18 Any questions, Jeff?

19 MR. MARSDEN: Yes.

20 It just came to my mind when you said
21 44 are required and 44 are provided, I think the
22 testimony from the parking facilities guy indicated
23 that at least one space on the bottom on both of
24 those stacking would have to be -- remain vacant in
25 order for it to function. So therefore, you are

1 only providing 42. Is that correct?

2 THE WITNESS: No. I believe if you see
3 it on the plan there, I think they're labeled 26
4 spaces. If I recall the testimony, it would be 13
5 upper floor, upper level spaces that would be 100
6 percent occupied, and 14 spaces, if you will, on the
7 lower level, one of which would remain empty, so
8 that leaves 13 occupied on both levels, which is
9 what the plan shows, 26.

10 MR. MARSDEN: Oh, okay.

11 THE WITNESS: I think I heard that
12 testimony.

13 MR. MARSDEN: Okay. I just wanted to
14 clarify that.

15 MR. FERNANDEZ: 27 cars --

16 MS. GONCHAR: We actually had one more
17 space --

18 THE REPORTER: Wait. Who's speaking
19 from the audience?

20 MR. GONCHAR: Mr. Fernandez, who
21 previously from Klaus was clarifying that, in fact,
22 there are 27 spaces.

23 Mr. Marsden is correct that the --

24 MR. FERNANDEZ: 14 cars on top and 13
25 cars below.

1 MS. GONCHAR: Right.

2 So, in fact, the number is incorrect,
3 but we took one off that should have been there as
4 opposed to adding one that we weren't entitled to,
5 so there is actually 27 usable spaces.

6 MR. MARSDEN: Okay. Thank you.

7 ACTING CHAIRMAN BRANCIFORTE: Okay.

8 COMMISSIONER FISHER: Is there --

9 ACTING CHAIRMAN BRANCIFORTE: Sure. Go
10 right ahead.

11 COMMISSIONER FISHER: -- is there --
12 you may have said this already and my apologies as I
13 was scanning through some of this, but where --
14 where -- where do delivery trucks go to deliver to
15 this building, and how does that impact the traffic?

16 THE WITNESS: Either on Grand through
17 the lobby, and I will have to defer to Mr. Marchetto
18 in that I am sure he had a very clear vision -- had
19 a very clear vision as to which side would be
20 accessed for delivery trucks.

21 MR. MARCHETTO: Well, there is no
22 trucks coming in the building.

23 THE WITNESS: In the building, of
24 course.

25 MR. MARCHETTO: It is a typical Hoboken

1 residential building, which would be trucks, anyone
2 delivering for a moving truck or something like that
3 would be parked in the street.

4 COMMISSIONER FISHER: And is the
5 bump-outs that are at the corners, both on the
6 corner of Grand and 14th, and 14th and Adams, are
7 they there already, or is that contemplated as part
8 of this?

9 MR. SAVINO: They are existing on both
10 sides, yes.

11 COMMISSIONER FISHER: They exist
12 already?

13 MR. SAVINO: Yes, as shown on the
14 VT-101 plan before.

15 COMMISSIONER FISHER: Okay.

16 MR. GONCHAR: Mr. Savino, to clarify,
17 the VT-101 is existing conditions, and that is what
18 you are referring to?

19 MR. SAVINO: Yes.

20 MS. GONCHAR: Thank you.

21 ACTING CHAIRMAN BRANCIFORTE: Any
22 questions, Owen?

23 COMMISSIONER MC ANUFF: No, I'm fine.

24 ACTING CHAIRMAN BRANCIFORTE: Well, I
25 have some questions.

1 One is: Did your -- your traffic
2 study, did take into account Mr. Bijou's other
3 building that's coming online soon, 1415, I think
4 Park, 1450 Park?

5 THE WITNESS: Yes. I was the traffic
6 consultant for that project, and our study
7 incorporated, although it is a little far removed
8 from the site, but we included three other buildings
9 that are closer to the site that include the Advance
10 building at 1410 Clinton and Willow, Casablanca
11 Management, which is 55 units similar in scale.

12 I guess that runs between Adams,
13 Jefferson, 13th and 14th, and the Artisan, which are
14 49 -- 59 apartments at -- between Clinton and Grand,
15 so we took the collective traffic impacts of all of
16 those buildings into consideration.

17 ACTING CHAIRMAN BRANCIFORTE: You say
18 but not 1450 Park, or yes, 1450 Park?

19 THE WITNESS: I was aware of it because
20 I did the traffic study. I just -- we didn't in
21 that study send any traffic down Grand or Adams.

22 ACTING CHAIRMAN BRANCIFORTE: Okay. I
23 understand.

24 The bus terminal -- but the bus depot
25 that's there --

1 THE WITNESS: Yes.

2 ACTING CHAIRMAN BRANCIFORTE: -- do any
3 of the buses go down these roads, Grand, Adams on
4 their way in and out from the terminal for their
5 storage parking lot, whatever?

6 THE WITNESS: If they did, they are
7 included in our ambient traffic counts.

8 I just don't recall. I think they stay
9 on 15th to and from the yard. I can't tell you that
10 they never travel up and down Grand or Adams, but I
11 think they are principally restricted to 15th.

12 ACTING CHAIRMAN BRANCIFORTE: Well, I
13 am a little concerned by the number of -- well, one
14 question.

15 Do you know, is there going to be a
16 shuttle running from the building every day down to
17 the Path, you know, one of these resident shuttles
18 that goes back and forth?

19 THE WITNESS: I don't know because
20 there is not a parking space for it on the site, and
21 I don't know whether that is Mr. Bijou's intent.

22 ACTING CHAIRMAN BRANCIFORTE: Do we
23 know? I mean --

24 MR. BIJOU: I'm sorry. May I?

25 MR. GALVIN: He's still under oath.

1 MS. GONCHAR: Mr. Bijou, you've been
2 previously sworn.

3 MR. GALVIN: Sure, go ahead. Give us
4 the answer, Mr. Bijou.

5 MR. BIJOU: It is quite a small
6 building --

7 ACTING CHAIRMAN BRANCIFORTE: So no
8 commuter --

9 MR. BIJOU: -- you know, for larger
10 buildings like 1415, 900 Monroe, we have that, but
11 not for this building. It's quite small.

12 ACTING CHAIRMAN BRANCIFORTE: That is
13 fine.

14 My biggest concern is the number of
15 people. I know it is a small building, but we have
16 to look at the number of people living in the
17 building and how many are going to be getting on the
18 buses every morning, and how it is going to affect
19 bus service for people, you know, on 14th Street and
20 15th Street.

21 How is this going to -- how many people
22 are basically going to be going to mass transit
23 every morning from your building during rush hour?

24 THE WITNESS: That is more difficult to
25 answer.

1 I can tell you how many won't use a
2 car, which is 70 percent.

3 Of that, I can't give you a breakdown
4 between who walks, who bikes, who will walk to light
5 rail, who will walk to the ferry, and who may take
6 the bus.

7 ACTING CHAIRMAN BRANCIFORTE: Well,
8 light rail is, I mean, almost seven, eight blocks
9 away, so light rail is pretty much out.

10 So they are either walking to Willow
11 Ave to catch a bus downtown to the Path or the 126
12 into the city.

13 Even the ferry, you know, is a little
14 bit -- first of all, I never liked the idea of
15 including the ferry because it is a private
16 corporation that could go shut down tomorrow, and
17 everyone could be pushed onto the buses and the Path
18 train again, so I never like to include the ferry
19 when we talk about commuting.

20 That's my great concern. That we're
21 not -- between the 14th, 15th building that's
22 opening up, and this building, and everything else
23 that you included in your traffic study, that we are
24 not going to overwhelm the 126, but there is no way
25 to tell, you're saying, how many people are going to

1 get on the bus anyway.

2 That is fine. If you can't say, you
3 can't say.

4 THE WITNESS: 44 units, let's assume
5 it's all seven, eight percent that take the bus,
6 that's roughly 30 --

7 ACTING CHAIRMAN BRANCIFORTE: Okay.

8 THE WITNESS: -- or over commuting
9 hours, so you know, some people commute at six.
10 Some people commute at 8:30, so you know, seven or
11 eight per hour.

12 ACTING CHAIRMAN BRANCIFORTE: That's
13 fine.

14 If the Board doesn't need to discuss
15 it, I will drop it and move on.

16 COMMISSIONER FISHER: No. But I think
17 you raised a point that as we start looking at more
18 and more buildings, because I know you present to us
19 a lot, but, you know, anecdotally or not
20 anecdotally, we know that the buses are at capacity.
21 We can't have any more buses during rush hour.

22 And we know the recent Path train
23 service, that the Path trains are at capacity, and
24 we can't have any more trains.

25 So every time we say that 70 percent are

1 commuters on public transport, I guess the question
2 is: How do you incorporate the fact that our two
3 main sources of public transport are at capacity
4 during the peak hours?

5 Like it's -- from a congestion
6 standpoint, how do you think about incorporating
7 that into a traffic report?

8 THE WITNESS: Very good question in
9 that the typical focus from my perspective is
10 automobiles, and obviously Hudson County has grown
11 traffic, as a generic term takes on different
12 meanings in that there have been cases where we have
13 done pedestrian studies. There are models to figure
14 out levels of service and whether sidewalks are wide
15 enough.

16 In terms of transit capacity, it's
17 challenging because it is incumbent upon the
18 operator to look at whether riders are being left
19 and whether they need to increase the headway or add
20 more buses, so I can't predict that. It's really up
21 to the operator.

22 COMMISSIONER FISHER: Well, I guess
23 where -- I guess where the question is, we hear the
24 73/30 ratio quite a bit, and as we think about -- we
25 know that Port Authority buses are at capacity, and

1 we know that the Path is at capacity.

2 So the question is: Would you reconsider
3 the 70 and 30 percent, maybe, you know, maybe it's
4 50 percent people start using cars, or 50 percent,
5 maybe that 70 percent actually gets a little smaller
6 as we approach capacity on our mass transit and we
7 should be thinking more conservatively, and this I
8 think is a traffic issue --

9 ACTING CHAIRMAN BRANCIFORTE: Well, is
10 there a question? I'm sorry.

11 COMMISSIONER FISHER: -- No, that is
12 the question. Should we be thinking about going
13 from 70 to 50 or something like that?

14 ACTING CHAIRMAN BRANCIFORTE: If is not
15 possible for you to answer it, it's not possible to
16 answer.

17 THE WITNESS: That crystal ball gets
18 very hazy in terms of people will -- who
19 intentionally wish to live in Hoboken for all of the
20 amenities that the city offers, to suddenly make
21 that fundamental shift, to say I want to follow the
22 suburban model and take my car more often to commute
23 to other parts of Jersey City or Hudson County or
24 New York City, I just don't see that happening.

25 I see what happens is either a model

1 shift in that ferry usage increases or light rail
2 usage increases or a temporal shift, where people
3 will leave earlier because they know that the 7:20
4 train is too full --

5 COMMISSIONER FISHER: Got it, got it.

6 THE WITNESS: -- so it's a behavior
7 modification more than suddenly into automobiles.

8 ACTING CHAIRMAN BRANCIFORTE: Okay. We
9 may be getting out of the scope. But I think it was
10 important to discuss and bring up for the record
11 because I think that's something, if the public was
12 here tonight, would want to discuss.

13 MS. GONCHAR: Could you let Mr.
14 Bijou --

15 ACTING CHAIRMAN BRANCIFORTE: Mr.
16 Bijou, did you have something to say?

17 Do you want to add something?

18 MR. BIJOU: I'd just say, you know, I
19 grew up -- I was born in New York. It's always been
20 crowded. New Jersey has always been crowded. The
21 buses have always been crowded. There is no
22 question that, you know, we are crowded, but I don't
23 see it as a problem. It is just that people won't
24 move here, if they have can't get to work, number
25 one --

1 ACTING CHAIRMAN BRANCIFORTE: Well, you
2 better hope because --

3 (Everyone talking at once.)

4 MR. BIJOU: -- they will find a
5 different way to get there. There's a cluster of
6 bike shift for Hoboken, and there will be bikes
7 there --

8 ACTING CHAIRMAN BRANCIFORTE: I
9 understand --

10 MR. BIJOU: -- so 900 Monroe, the light
11 rail station is very close when you have a
12 bicycle --

13 ACTING CHAIRMAN BRANCIFORTE: -- I
14 understand --

15 MR. BIJOU: -- -- and if you want to,
16 you know, if you want to take the ferry, if you want
17 to go to 1415, you know, there is going to be lots
18 of bikes there, so I don't believe in it. I look to
19 the future and hopefully, you know, does everybody
20 like to drive, you know, on these roads today?

21 No.

22 Do you want more lanes?

23 No.

24 So you have to get out of your car, and
25 the future is better infrastructure and the public

1 transportation, and that will come, you know, but we
2 have been living in other --

3 ACTING CHAIRMAN BRANCIFORTE: -- all
4 right --

5 MR. BIJOU: -- on that side for a long
6 time and know what the infrastructure is, and it
7 can't keep up with the demand.

8 So, you know, I don't think it's for us
9 here to talk about --

10 ACTING CHAIRMAN BRANCIFORTE: I
11 understand. It might be out of the scope for
12 tonight.

13 MR. BIJOU: -- but we know the buses
14 have been crowded. They've been crowded for a long
15 time. I check on that. The Port Authority has been
16 crowded for years.

17 ACTING CHAIRMAN BRANCIFORTE: Well,
18 they -- let's put it this way: NJ Transit has
19 always made sure that they are at capacity on every
20 bus, so if they need more capacity, they would add
21 more buses.

22 COMMISSIONER FISHER: They can't.

23 ACTING CHAIRMAN BRANCIFORTE: Well, we
24 don't know that. We're not -- now we're really --
25 this is why I brought it up --

1 COMMISSIONER FISHER: But --

2 ACTING CHAIRMAN BRANCIFORTE: --

3 because I hope in the future the transportation
4 expert would understand -- would be more of a
5 transportation expert, not so much a traffic expert.

6 COMMISSIONER FISHER: -- the reason why
7 I'm raising it, though, there is a use variance for
8 residential, which is more, you know, which just
9 adds a lot of people into the area, and the density
10 that you're looking for is kind of -- or the density
11 using a 660 is like twice what we see in a lot of
12 other residential areas, so you are asking for a use
13 variance and you're asking for what seems to be
14 almost double the residential use --

15 ACTING CHAIRMAN BRANCIFORTE: Well, we
16 have not gotten to the planner yet, so the
17 planner --

18 COMMISSIONER FISHER: -- I know. But
19 I'm just saying the reason why I'm asking the
20 question --

21 MR. GALVIN: That's why she was
22 probing -- okay --

23 COMMISSIONER FISHER: -- the
24 question -- it is all tied together. It's all tied
25 together. It's all tied together.

1 MR. GALVIN: Okay.

2 MR. BIJOU: If I may, I was the first
3 person to build in this area, and it filled up
4 immediately, and the other three projects have
5 followed suit, and they filled up.

6 This is an in-fill site between two
7 buildings. I don't know what else you would think
8 would work there, but, you know ----

9 MR. GALVIN: Listen, Mr. Bijou, I know
10 it is your baby and whenever anything is said, that
11 you want to comment on it, but it is probably just
12 going to slow down the proceeding and --

13 MR. BIJOU: Okay. I got you.

14 MR. GALVIN: -- and I think Ms. Gonchar
15 should be telling you to sit down, but --

16 (Laughter)

17 ACTING CHAIRMAN BRANCIFORTE: Okay. So
18 if we are done with the questions from the Board,
19 the Board engineer -- do the professionals have any
20 questions?

21 Anybody from the audience have any
22 questions of the expert?

23 Seeing none, could I have a motion?

24 COMMISSIONER GRANA: Seeing none,
25 motion to close the public portion.

1 COMMISSIONER COHEN: Second.

2 ACTING CHAIRMAN BRANCIFORTE: All in
3 favor?

4 (All Board members answered in the
5 affirmative.)

6 ACTING CHAIRMAN BRANCIFORTE: Thank
7 you.

8 Next witness.

9 MS. GONCHAR: Our planner.

10 MR. GALVIN: Mr. Kolling, raise your
11 right hand.

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

15 MR. KOLLING: Yes, I do.

16 E D W A R D K O L L I N G, having been duly sworn,
17 testified as follows:

18 MR. GALVIN: State your full name for
19 the record and spell your last name.

20 THE WITNESS: Edward Kolling,
21 K-o-l-l-i-n-g.

22 MR. GALVIN: Mr. Branciforte?

23 ACTING CHAIRMAN BRANCIFORTE: Yes. We
24 will accept his credentials.

25 Thank you.

1 MS. GONCHAR: Thank you for accepting
2 him as an expert in the field of planning.

3 Just to be clear for the record, the
4 traffic report, other than the exhibit that we
5 marked, that's part of the record as well.

6 MR. GALVIN: Correct.

7 MS. GONCHAR: I don't remember. I
8 think he marked it. He told you the date of it.

9 So we also submitted a planning report,
10 and that is also part of the record.

11 MR. GALVIN: Correct.

12 MS. GONCHAR: Do you have any exhibits
13 you are relying on?

14 THE WITNESS: No.

15 MS. GONCHAR: Can you just start by
16 reviewing with the Board the current zoning for the
17 site, permitted uses and bulk standards, and then if
18 you will describe the uses that surround the
19 property?

20 THE WITNESS: The current zoning is I-1
21 Industrial. It's a district that permits
22 manufacturing and fabrication operations, office
23 buildings, research laboratories, warehouses and
24 essential utilities, so we are not a permitted use,
25 and we therefore need a use variance.

1 The bulk standards are minimum lot area
2 20,000 square feet. We are 15,000 square feet --

3 MR. GALVIN: Let me just say this also.

4 Since you are not permitted -- you can
5 keep going and do what you have to do, but if you
6 are not a permitted use in the zone, there are no
7 standards.

8 THE WITNESS: Okay.

9 MR. GALVIN: So....

10 MS. GONCHAR: Okay.

11 THE WITNESS: Okay.

12 So I guess the next thing, to talk
13 about the surrounding area then, what has been going
14 on in this area is it has been going through a
15 transition into mixed-use, residential and primarily
16 commercial districts.

17 Immediately next door is a building
18 very similar to what is being proposed, a six-story
19 building with some ground floor commercial space.

20 Let me just go to my notes.

21 Another lot down is another building
22 very similar that is being constructed to the same
23 height and scale.

24 I guess everybody is aware of the
25 Biergarten, which is a mixed-use office and

1 commercial building at the corner of 15th Street.

2 Across the street there is another
3 residential building that's six stories in height
4 that goes through to Clinton Street, and then you
5 have also office use. There is an architect's
6 office on 14th Street and other residential uses, so
7 you have a lot of transition for this commercial and
8 residential.

9 Really to the south is the viaduct,
10 which is under construction or almost nearing
11 construction and improvements, and what has resulted
12 is a park that's being developed underneath that
13 viaduct. It's a linear park, and it will have
14 recreation areas in there, some basketball courts,
15 activity areas, et cetera, and beyond that is the
16 northwest redevelopment area. There's a theater in
17 that area. There's a strip commercial mall. Most
18 of the residential there is also built to the same
19 scale as this, six stories, five stories over
20 parking and commercial, so again, this is an
21 emerging mixed-use area.

22 MS. GONCHAR: Okay. And can you
23 describe -- well, have you reviewed the ordinance
24 and the master plan?

25 THE WITNESS: Yes.

1 MS. GONCHAR: Okay.

2 And can you discuss briefly the history
3 of the site, the current uses?

4 THE WITNESS: Well, what's in this area
5 the -- back in 2004, the Hoboken master plan
6 recommended that it become what is called the
7 underbridge brick economic development.

8 So subsequently your reexamination
9 report was done, which basically reversed those
10 recommendations, and simply said that it should be
11 industrial.

12 In that reexamination report, it said
13 to eliminate the previously recommended underbridge
14 economic development zone district, maintaining an
15 Industrial I-1 Zone, and then it says: Council has
16 decided to proceed with a redevelopment
17 investigation of this area, rather than consider
18 changes using standard zoning.

19 So the idea now is to somehow create a
20 redevelopment zone.

21 Later in the reexamination report, in
22 the section dealing with the development plans and
23 investigation studies, it states that in 2004, again
24 the City Council authorized the Planning Board to
25 conduct such an investigation in the district north

1 of 14th Street.

2 Consultants were hired. However, other
3 priorities took precedent, and the study was not
4 completed.

5 The reexamination report goes on to say
6 that the City Council later carved out a portion of
7 the study area north of the light rail, and that was
8 studied separately.

9 According to the reexamination report,
10 the value of the study area was revised at least
11 twice more, and ultimately in 2009, the City Council
12 again authorized the Planning Board to conduct a
13 study of the north end study area, which was bounded
14 by 14th Street on the South, Park Avenue on the
15 east, 17th Street on the north, and Union City on
16 the west, 18 city blocks.

17 The Planning Board conducted a
18 preliminary investigation. That's now in May of
19 2013, and found insufficient evidence that it should
20 be an area in need of redevelopment.

21 It was then recommended that it become
22 an area in need of rehabilitation. The Council then
23 adopted this recommendation in 2013. However, to
24 date, no redevelopment plan has been adopted, so
25 they have a process here that's been going on for 11

1 years since 2004, without any adoption of a
2 redevelopment plan, and in all of that time,
3 transitioning from industrial to this mixed-use type
4 of residential and commercial area.

5 MS. GONCHAR: Can you go over the
6 nature of the relief that we are seeking this
7 evening -- let me just get some clarification.

8 Your comment about there being no
9 standards, we had had a slightly different
10 conversation I think at one of the ARC meetings.

11 We are going to identify the provisions
12 of the zone that we don't comply with --

13 MR. GALVIN: Sure, go ahead. I
14 understand that.

15 You know, we can always -- I think that
16 there is case law that says -- and I wasn't at the
17 ARC meeting --

18 MS. GONCHAR: The bulk standards
19 subsumed --

20 MR. GALVIN: -- yeah, because there are
21 no standards for that use in the zone. But the
22 standards you are going to give me are the standards
23 that would apply if you were going to build an
24 industrial building in this zone --

25 MS. GONCHAR: -- correct. But I just

1 want -- I want them on the record because that was
2 the discussion. I was taking your decision --

3 MR. GALVIN: Yeah, go ahead --

4 MS. GONCHAR: -- for the record --

5 MR. GALVIN: -- and you were told --

6 (Ms. Gonchar and Mr. Galvin talking at
7 the same time.).

8 MR. GALVIN: And you were told -- yes,
9 I know, I know.

10 But Ms. Banyra is not here, and Mr.
11 Gleason is not here, and you and I are, so --

12 MS. GONCHAR: Okay. Good.

13 Can you just through in terms of the --
14 they gave us what was permitted.

15 In terms of the total height that's
16 permitted in the zone, do we exceed the height
17 limitation in feet?

18 THE WITNESS: No, you don't. We are
19 complying with that height limitation.

20 MS. GONCHAR: Okay. And although
21 because we are seeking a use variance, the
22 individual bulk standards would not apply with
23 regard to height, is there a component of the height
24 that we don't comply with?

25 THE WITNESS: Yes.

1 In the Hoboken zoning code, it also
2 gives the height and the number of stories, which
3 the requirement is four stories, and we are
4 proposing six stories.

5 MS. GONCHAR: And is that consistent
6 with what's been -- both the height and the stories
7 in terms of what has been developing in what you
8 characterize as this mixed-use -- the developing
9 mixed-use area in this part of the town or the city?

10 THE WITNESS: Yes. They recently
11 developed in mixed-use buildings that have been
12 constructed are six stories, and the closest
13 district that permits the type of thing that we are
14 proposing is the northwest redevelopment plan, that
15 also permits six stories, so we're pretty consistent
16 with all of those.

17 MR. GONCHAR: And some of the other
18 standards that you don't comply with, in particular,
19 you started discussing lot area, and I think the
20 other one that we had noted at least for purposes of
21 our notice in the application was width.

22 Are those the existing conditions?

23 THE WITNESS: Yes. The lot is an
24 existing irregular lot, sort of L-shaped, and we
25 don't comply with the lot width or lot area.

1 MS. GONCHAR: And we are not doing
2 anything to further reduce the area or the width or
3 to exacerbate the nonconformity?

4 THE WITNESS: That's correct. Correct.

5 MS. GONCHAR: The yards, they were
6 characterized, those were also items that we are --
7 that we do not meet the standards for the I-1 Zone,
8 is that correct?

9 THE WITNESS: That's correct.

10 It's ten feet for both the sides and
11 the front, and I believe it's 20 feet different --

12 MS. GONCHAR: Okay. And the other
13 item that we noted was with regard to roof coverage.

14 You've heard testimony, did you not,
15 about the proposed uses, the roof gardens?

16 THE WITNESS: Yes.

17 MS. GONCHAR: Can you discuss how that
18 does or does not come within the intent of the
19 ordinance and what that limitation is?

20 THE WITNESS: Well, the roof coverage
21 criteria is really geared towards rooftop equipment,
22 that sort of thing, and that's really, I would say,
23 it is not applicable here, because what we are
24 really proposing is things like the green roof,
25 which is really consistent with the recommendations

1 of the master plan for better and a more green
2 design, and also to provide outdoor recreation
3 space, which is consistent with the family-friendly
4 type of housing units, the outdoor recreation space
5 would be used by the residents and promote that type
6 of family-friendly environment.

7 MS. GONCHAR: Now, could you discuss
8 the criteria, the statutory criteria, that in your
9 view support the requested relief with regard to the
10 variance for our proposed use?

11 THE WITNESS: Well, I think in terms of
12 the use variance, one of the things you have to do
13 is discuss how the site is well -- is particularly
14 well suited for the proposed use, and in my opinion,
15 this site is well suited for the type of use we're
16 proposing.

17 There are buildings on either side of
18 it that are almost identical in scale
19 and height of what we're are proposing. Certainly
20 it would be inappropriate to put an industrial use
21 in between that.

22 The park is immediately to our south, and
23 you wouldn't want to put an industrial use right up
24 against that. As I discussed, there other recent
25 developments that are very similar to what we're

1 proposing, and we are consistent with what is going
2 on in the northwest redevelopment plan, so I think
3 that the suitability of this site I think can be
4 well documented.

5 Then you have to look at does the proposed
6 use then therefore promote the general welfare or
7 promote the public good, and I would say that yes,
8 it does, because a residential use is consistent
9 with the emerging character, whereas the industrial
10 would not be.

11 The industrial use could result in truck
12 traffic that would have conflicts there for all of
13 the pedestrian traffic as well, and that would be
14 contrary I think to the public good, so this type of
15 use is really more consistent with the developing
16 character and it would be better suited here in
17 terms of being more consistent with a park which is
18 mainly to the south and the other types of uses that
19 are in the area, so I think that in that way we have
20 met the criteria for granting a use variance.

21 I would also point out that the fact we
22 are an undersized lot in terms of industrial use is
23 another indicator that the lot is not suited for
24 industrial development.

25 MS. GONCHAR: Can you briefly discuss

1 the difference in terms of the height variance for
2 number of stories, and why that might result -- why
3 the same 80 feet might generate six stories or
4 result in six stories of residential as opposed to
5 only four stories in the industrial use?

6 THE WITNESS: Well, I think as was
7 really just brought up recently in this conversation
8 is that, that criteria is geared towards industrial
9 use, and the fact that we have a residential use
10 would indicate that that type of bulk standard is
11 not really applicable to the proposed use.

12 Residential floor to ceiling heights
13 would be lesser than industrial, so although we have
14 a building of the same height, we would necessarily
15 have other additional floors within it, and so I
16 think when you look at the suitability of the site
17 to accommodate the additional stories, I think that
18 you can look at what the permitted height is, and
19 then see that reasonably, rationally six stories can
20 fit within the 80 feet without any substantial
21 detriment, because the scale of the building would
22 be the same with our four stories or six stories, so
23 I think the site can accommodate the additional
24 height without any detriment.

25 MS. GONCHAR: Now, you discussed the

1 appropriateness, and you heard the testimony, have
2 you not, about the children's theater space that is
3 proposed for this. Is that also something that is
4 beneficial to the area and works with the existing
5 surroundings in terms of what is proposed under the
6 viaduct?

7 THE WITNESS: Yes.

8 The use itself is something that I
9 would envision that residents in the immediate area
10 or in the community, residents of Hoboken would
11 utilize, and the fact that it is directly across the
12 street from a public park, I think is also very
13 consistent with what both are trying to provide.

14 People from the theater space could
15 also utilize the park, activate it, and I think it
16 helps to promote public safety and more eyes on the
17 street, and that sort of activity.

18 MS. GONCHAR: All right. And is its
19 proximity to the park and these other residential
20 uses among the things that make it if not completely
21 unique, but at least distinguishable from other
22 parcels in the general area?

23 THE WITNESS: Yes. Well, clearly
24 there's only a certain number of parcels that can be
25 immediately adjacent to a park, because once you get

1 moved away from the park, you are not really
2 adjacent to it, so the site does have that unique
3 characteristic.

4 MS. GONCHAR: Can you discuss then the
5 negative criteria?

6 You discussed how there is a benefit to
7 it, but is there anything that would constitute a
8 substantial detriment to the public good in the
9 relief that we are seeking?

10 THE WITNESS: No, because, you know,
11 the type of development that's being proposed here,
12 the types of uses that are being proposed here are
13 very similar to what is already evolving in the
14 area. They would be consistent with and compatible
15 with those uses, so you wouldn't have any conflicts
16 or, in my opinion, detrimental impacts in that
17 regard, so I don't see any substantial detriment to
18 the public good or general welfare whatsoever.

19 MS. GONCHAR: And in terms of physical
20 impact, noise or pollution or any other kind of
21 physical -- is this use likely creating those
22 problems as compared, for example, to the permitted
23 uses?

24 THE WITNESS: Well, the other uses in
25 the area I was discussing are very similar, so any

1 noise that comes out of this use would be very
2 similar to what is already happening in the area.
3 You know, the normal noise that comes from living,
4 so that type of -- and that is what is going on now
5 in the area as opposed to having an industrial use
6 that may have truck deliveries or heavy equipment or
7 other things such as that, which would certainly
8 have a different sort of an impact, that would be
9 inconsistent with residential use.

10 MS. GONCHAR: Okay.

11 Are the physical characteristics of the
12 building also consistent, and again, I'm going back
13 to some of the bulk standards. Is this building in
14 terms of its design consistent in terms of setback
15 and in terms of the other physical characteristics
16 to what is in the area?

17 THE WITNESS: Yes.

18 When I was looking at the aerial photos
19 and looking at the plans and other things in this
20 immediate area, the building has a hundred percent
21 lot coverage of the first floor, but that is what is
22 happening on the other two properties that have been
23 developed in very close proximity and the other
24 properties that you find in the northwest
25 redevelopment area or just across the street and

1 towards Clinton. The lowest level is usually
2 constructed to contain parking and other uses.

3 Our ground floor would abut the ground
4 floor of the adjacent building on the corner, as for
5 a for instance. Their upper levels are set back
6 from their rear property line. We would similarly
7 set ours back to create an interior core of air and
8 light above the ground floor, and that is pretty
9 typical of what has been going in this portion of
10 Hoboken.

11 MS. GONCHAR: So would it would be your
12 testimony then that there is no -- that there would
13 not be any substantial impact, negative impact, as a
14 result of not meeting the setback requirements of
15 the I-1 Zone regardless of whether they are
16 specifically applicable?

17 THE WITNESS: Yes, that's correct.

18 MS. GONCHAR: Okay. And is it also
19 your testimony then that because we are providing
20 adequate air, light and open space, we are achieving
21 the objective of any setback type requirement by
22 virtue of the design of the building?

23 THE WITNESS: Yes. Obviously we are
24 doing that above the ground floor, but is
25 replicating what you would anticipate would be

1 provided in a typical area of Hoboken more or less
2 at the ground level, so we are replicating that in
3 how this building is designed and how it sort of
4 mirrors what is already in the area.

5 MS. GONCHAR: And you testified that
6 you thought that this proposed development would
7 further the general welfare and the purposes of
8 zoning.

9 Among the items that you heard
10 testimony about through the hearing in terms of the
11 sustainability elements, the LEED platinum, the
12 community facility that is proposed in the building,
13 the roof gardens, are those also elements that will
14 specifically further the various purposes of zoning
15 as set forth in the Land Use Law and various of the
16 city's planning documents?

17 THE WITNESS: Absolutely. There are
18 several recommendations in the master plan that deal
19 with creating family-friendly units, that deal with
20 creating a family-friendly environment.

21 The way this project is designed, the
22 community theater use are geared towards that.

23 There are recommendations in the master
24 plan that talk about more sustainable design green
25 architecture, things of that nature. This building

1 would obviously promote those recommendations as
2 well.

3 I think it is pretty much consistent
4 with some of the other design recommendations, in
5 terms of how the building adjoins the street,
6 activating the street scape, and how it creates a
7 continuous street line. I think all of those things
8 go to promote the recommendations of the master
9 plan.

10 MS. GONCHAR: Finally, you testified
11 that you think that the standards, the statutory
12 standards with regard to the negative criteria are
13 met. Does this meet the enhanced criteria that is
14 required for the use variance?

15 THE WITNESS: I do believe that it does
16 that as well.

17 The master plan or reexamination report
18 recognizes really that the area has to be rezoned.
19 It recognizes that the industrial zoning is
20 obsolete, in my opinion. They have taken steps, but
21 they have not gone to the point yet of adopting any
22 redevelopment plan.

23 I think if you look at -- but just
24 looking at the area and using common sense, the
25 emerging character is one of mixed use, and I think

1 that, you know, given that recognition of the
2 inappropriateness now of the industrial development,
3 that the fact that we are inconsistent with the
4 zoned plan, you know, that is a rationale for being
5 inconsistent.

6 MS. GONCHAR: I guess one of the
7 other -- would it be your testimony that the fact
8 that we will -- that we are proposing to provide
9 affordable housing as part of this development one
10 of the other benefits that flows from this, that
11 also furthers objectives set forth in the city's
12 master plan document?

13 THE WITNESS: It does, but I would
14 point out that the local ordinance sort of slaps you
15 on the hand and says, you really can't say that, but
16 from a practical perspective, yes, it does.

17 MS. GONCHAR: Okay. I think the only
18 other item again among the bulks, but not
19 necessarily related specifically or possibly
20 included within the use variance has to do with the
21 automated stacked parking system and the dimensions
22 of -- the fact that we are proposing the automated
23 system and the dimension of that. Have you reviewed
24 that with those characteristics?

25 THE WITNESS: Yes. The design

1 standards in the Hoboken ordinance and most
2 ordinances deal with self-parking at grade and at
3 certain minimum parking stall size and backup aisles
4 and things of that nature, which are not really
5 applicable to an automated system.

6 Automated systems are a more recent
7 occurrence, so therefore, it is not unusual for the
8 ordinance. The ordinance is not that caught up with
9 that, but at the same time I think having the
10 automated system does promote the public good
11 because it provides for a more efficient use of the
12 space. It is really a green element because you are
13 not driving through longer aisles or driving around
14 the park. You put it right into the machine, and
15 the machine parks it for you, so it is really less
16 pollution, less gas usage, and things of that
17 nature. So I think it does definitely promote the
18 green aspects, which would be consistent with the
19 statute, which is Paragraph 2(j) of the Municipal
20 Land Use Law, but also Paragraph 2(m) talks about
21 encouraging coordination of procedures and
22 activities, shaping land development with a view of
23 lessening cost of such development and to the more
24 efficient use of the land.

25 This type of parking structure would

1 obviously be a more efficient use of the land.
2 You're not wasting space. You are just basically
3 storing big hunks of metal. You know, that's really
4 what parking is. It is creating storage for big
5 pieces of metal, and the more efficient way you can
6 do that the better.

7 MS. GONCHAR: Just for the record, the
8 dimension we are speaking about for the vehicles
9 that are in the automated system are eight foot two
10 and a half by 17-9, instead of 68-6 by 18. That is
11 the --

12 THE WITNESS: Yes.

13 MS. GONCHAR: Anything else?

14 THE WITNESS: I think we covered
15 everything.

16 I just wanted to mention the particular
17 elements other than 2(m) of the -- I just wanted to
18 cover -- I think most of the major elements I
19 already discussed, but I will mention a couple other
20 paragraphs of the Municipal Land Use Law that I
21 think we are promoting, other than 2(j) and 2(m),
22 which I already discussed. I do think that we do
23 promote the general welfare, which is consistent
24 with subparagraph 2(a), because the proposed use is
25 consistent with development trends in the area.

1 It's consistent with the development of the new park
2 directly across 14th Street, and it's appropriate in
3 this location, given it's nice location, you're
4 surrounding land uses, its proximity to the
5 northwest redevelopment plan, and the fact that it
6 promotes other purposes or recommendations of the
7 mast plan, I think it promotes Paragraph 2(e) which
8 talks about an appropriate population density.

9 This project is very consistent with
10 the density and actually slightly less than you find
11 in the northwest redevelopment area and in buildings
12 that were recently developed.

13 Subparagraph 2(g) talks about providing
14 sufficient space in an appropriate location for
15 various types of uses, and I think this type of
16 mixed use is well appropriate for this lot and this
17 sized lot.

18 I think it also promotes a desirable visual
19 environment because the lot now is primarily vacant
20 with some one-story commercial or an industrial
21 structure on it, and I think that this building
22 would be a much greater improvement, so that would
23 promote subparagraph 2(j).

24 MS. GONCHAR: The fact that it's
25 proposed to be a LEED platinum building?

1 THE WITNESS: Yes, that promotes --

2 MR. GALVIN: That was already said,
3 guys.

4 ACTING CHAIRMAN BRANCIFORTE: Yes, we
5 discussed that.

6 You said there was only one final
7 thing, and then you kind of kept going.

8 MS. GONCHAR: He snuck in a second one.

9 ACTING CHAIRMAN BRANCIFORTE: Like a
10 third I think.

11 MR. GALVIN: No, no, no. Way more than
12 that.

13 ACTING CHAIRMAN BRANCIFORTE: He stuck
14 in a third or a fourth after one final thing.

15 (Laughter)

16 MR. GALVIN: It is your case. You have
17 to do what you have to do.

18 ACTING CHAIRMAN BRANCIFORTE: Yes.
19 Take your time.

20 MS. GONCHAR: That would complete our
21 direct testimony from our planner subject to
22 redirect or recalling him for further information or
23 answering questions.

24 ACTING CHAIRMAN BRANCIFORTE: Great.
25 Any questions, Board members?

1 COMMISSIONER GRANA: I have a couple of
2 questions.

3 Mr. Kolling, there is also proposed
4 a -- well, residential is not permitted in the zone.

5 There is also proposed a 1200 square
6 foot children's theater as well as commercial.

7 Do you know if those are permitted or
8 not permitted?

9 THE WITNESS: I believe those are not
10 permitted.

11 COMMISSIONER GRANA: So all of the uses
12 would not be permitted, okay?

13 MS. GONCHAR: I think Ms. Banyra had
14 asked that we check that, and I had a discussion
15 with her after the hearing. She thought that it
16 might be permitted or a permitted use, and we
17 checked and confirmed that it is not permitted.

18 COMMISSIONER GRANA: It's not
19 permitted. Okay.

20 MS. GONCHAR: And that is one of the
21 uses that we requested.

22 COMMISSIONER GRANA: Right. Okay,
23 good.

24 And Mr. Marchetto testified there is a
25 number of other buildings very similar, very close

1 right next door. These are also therefore in the
2 I-1 Zone.

3 THE WITNESS: Yes.

4 COMMISSIONER GRANA: Do you know how
5 they were approved?

6 THE WITNESS: Yes. I worked on one or
7 two of them, and they were all variances before this
8 Board.

9 COMMISSIONER MURPHY: This Board or the
10 Zoning Board in general?

11 How long ago?

12 THE WITNESS: I don't remember. In the
13 last five years or so.

14 COMMISSIONER GRANA: And then I have
15 one last question. I understand your comments about
16 the industrial use. Is there any reason that there
17 shouldn't be something like an office space at this
18 particular lot or some other use like that?

19 THE WITNESS: Well, it is a permitted
20 use in there. It would still require variances
21 because the lot is undersized for an industrial use,
22 so it is not permitted, so the lot doesn't meet the
23 criteria. And then there is the issue that I think
24 the traffic engineer brought up, the difference in
25 traffic characteristics.

1 People who commute away from their
2 home, if they are close to mass transit, would go
3 there depending on people coming in, it would depend
4 on whether or not they are close to mass transit as
5 well, and then you just have different
6 characteristics of different peaks of the traffic.

7 COMMISSIONER GRANA: Thank you.

8 Those are my questions.

9 ACTING CHAIRMAN BRANCIFORTE: Thanks.

10 Before I let you go on, Phil, one
11 question, it's more for Dean and you, Mr. Kolling.

12 Do we know what the floor to area ratio
13 is on this building compared to others, and I know
14 because it may take a minute to calculate, so you
15 don't have to answer right away until the
16 calculation is done.

17 THE WITNESS: I didn't calculate the
18 floor area, no.

19 ACTING CHAIRMAN BRANCIFORTE: Maybe,
20 Dean, do you think that is something --

21 MR. MARCHETTO: Yes. I will check the
22 drawings.

23 ACTING CHAIRMAN BRANCIFORTE: Okay.
24 Thank you.

25 Go ahead, Phil.

1 COMMISSIONER COHEN: Yes. I mean, we
2 talked about appropriate uses for neighborhood.

3 Given the development under the
4 viaduct, do you feel like having the Mile Square
5 Theater there in the area under the viaduct with the
6 other, I guess, like a commercial kitchen and the
7 other uses under the viaduct, that that use fits in
8 with the development of the way that that
9 neighborhood is shaping?

10 THE WITNESS: I think there is a way
11 that the park could be utilized. You have the movie
12 theater a couple blocks to the west, and we do have
13 some other commercial right off that. I think that
14 what you would have is that where people can
15 congregate. They can congregate there prior to
16 going into the theater or coming out. They could
17 socialize. It's a way for them to meet.

18 I think it was discussed by the witness
19 that he was going to operate the little theater that
20 is going to be there, that they could use it for
21 maybe little outdoor performances or things of that
22 nature. I think it is a very nice way, a good way
23 of getting a lot of utilization out of that space.

24 COMMISSIONER COHEN: And there are also
25 parks, there are county parks, I believe, under the

1 viaduct as well?

2 THE WITNESS: I think the park under
3 the viaduct I think is a county park. They built it
4 because their is property under there.

5 COMMISSIONER COHEN: Right.

6 And how many blocks is that from where
7 this proposed development is?

8 THE WITNESS: The park is directly
9 across the street.

10 COMMISSIONER COHEN: Directly across.

11 So the county park is right there?

12 THE WITNESS: Right there.

13 COMMISSIONER COHEN: Okay. Thank you.

14 ACTING CHAIRMAN BRANCIFORTE: Any
15 questions?

16 COMMISSIONER FISHER: I have.

17 ACTING CHAIRMAN BRANCIFORTE: Yes.

18 COMMISSIONER FISHER: Hum, I guess one
19 question to follow up on Commissioner Grana's is:

20 Was there any analysis done on building
21 an office building or something within the zoning?

22 I mean, we talk a lot about the
23 industrial zone, and we always refer to industrial
24 buildings, but commercial is viable. It seems to
25 be -- or in your mind, what are your thoughts about

1 commercial in general and the trends around
2 commercial in Hoboken?

3 THE WITNESS: I think when you have
4 office development of any scale, you should probably
5 be closer to mass transit, so people can -- as soon
6 as they get off it, they can get right to it. Not
7 to say that some office development cannot be
8 accommodated, because in the Biergarten, for
9 instance, above that facility, there are couple of
10 floors in former industrial buildings that have been
11 converted for some office use.

12 So it can occur, but I don't think it
13 is ever going to be a predominant use in that
14 particular area.

15 COMMISSOINER FISHER: And then I guess
16 I may have calculated incorrectly, but from a -- I
17 guess a density or a number of units, just taking
18 the simple 15,000 square feet over 660, I get 22,
19 and so the number of units seems to be double what
20 that calculation results, so can you talk to why
21 that's okay and justified?

22 THE WITNESS: Well, I think it's
23 because of the building type.

24 The density in like an R-1 or R-2 zone
25 I think is where we are going. I think it's about

1 66 units an acre or so divided by the 660 in lot
2 area.

3 The buildings that I looked at in the
4 immediate area, for instance, the northwest
5 redevelopment area, is about 130 an acre because
6 they are five, six stories tall.

7 An R-1, R-2 are three stories, so you
8 have taller buildings that are meant for different
9 types of, you know, higher density development, and
10 the ones that were constructed near by, we are at
11 127, so we are a little bit underneath the 130, and
12 the ones on Clinton Street -- no, fronting on Grand
13 that goes through to Clinton is at 121 an acre, so
14 it's about the same as what we are proposing.

15 The one that's a block to our north is
16 at 140 an acre.

17 So based on this building type, a
18 six-story building, you're going to get a density
19 about that number.

20 ACTING CHAIRMAN BRANCIFORTE: Is that
21 the number you came up with Dean?

22 MR. MARCHETTO: 3.9 is the FAR.

23 ACTING CHAIRMAN BRANCIFORTE: Okay.

24 COMMISSIONER FISHER: How does that
25 compare --

1 ACTING CHAIRMAN BRANCIFORTE: Yeah. I
2 mean, I think R-1 is four -- I'm not even sure.

3 Do you know?

4 MR. MARCHETTO: I don't think it is
5 four. I think your new redevelopment areas is
6 around 3.5.

7 MR. GALVIN: No. This isn't a
8 redevelopment area. He asked what the R-1 zone was.

9 COMMISSIONER GRANA: Comparison --

10 ACTING CHAIRMAN BRANCIFORTE: Yeah. I
11 mean, we need a comparison here, the number of units
12 over an area --

13 MR. GALVIN: I will look it up.

14 ACTING CHAIRMAN BRANCIFORTE: -- but We
15 are going to try to find it now. That's why we
16 asked, because it's important to know for comparison
17 sake.

18 You have no idea what R-1 is then?

19 MR. MARCHETTO: I don't, no.

20 There is no FAR in the R-1. FAR is not
21 a limitation in the R-1. It's only in the
22 industrial zones.

23 ACTING CHAIRMAN BRANCIFORTE: Okay.
24 Good.

25 MS. RUSSELL: That's true.

1 But R-1 would be regulated by the 660
2 calculation for density and also by lot coverage,
3 but there is no FAR in residential.

4 ACTING CHAIRMAN BRANCIFORTE: Got you.

5 So I mean, is that fair to say then?

6 You are saying it's what, 3.9?

7 MR. MARCHETTO: 3.9.

8 ACTING CHAIRMAN BRANCIFORTE: 3.9

9 probably would be a decent comparison to the
10 redevelopment zones, or do you know?

11 MS. RUSSELL: Yeah. I think the
12 redevelopment zones are, to the best of my memory,
13 between three and four.

14 ACTING CHAIRMAN BRANCIFORTE: Okay.

15 And then like Maxwell Place, you did
16 Maxwell Place. Do you know what Maxwell Place is?

17 MR. MARCHETTO: I don't remember.

18 ACTING CHAIRMAN BRANCIFORTE: You can't
19 remember. That's fine.

20 MR. MARCHETTO: But it is above three,
21 I can tell you that, but I don't remember exactly.

22 ACTING CHAIRMAN BRANCIFORTE: Tiffanie,
23 are you --

24 COMMISSIONER FISHER: I'm okay.

25 ACTING CHAIRMAN BRANCIFORTE: Other

1 questions from the Board members?

2 Anything, Phil?

3 COMMISSIONER COHEN: No.

4 ACTING CHAIRMAN BRANCIFORTE: Do your
5 experts have any questions?

6 COMMISSIONER COHEN: Public?

7 ACTING CHAIRMAN BRANCIFORTE: Well, no,
8 I just wanted to make sure.

9 You are asking for a variance, too, on
10 parking for the actual size of the spaces.

11 THE WITNESS: Yes.

12 ACTING CHAIRMAN BRANCIFORTE: I didn't
13 get to this with the parking consultant, but those
14 spaces that are going to be in this automated
15 system, if the expert is still here, if the
16 consultant is still here, are those going to be
17 standard size?

18 Are those going to be big enough for
19 people to get in and out of?

20 That's the question.

21 THE WITNESS: No, they're not. We were
22 discussing that because in a standard parking space,
23 when you are parking, you're getting in and out of
24 your car, or people are getting in and out of the
25 car, you have to worry about bumping into cars on

1 the side of you.

2 ACTING CHAIRMAN BRANCIFORTE: Right.

3 THE WITNESS: So that's why this is
4 designed. That's why the sizes -- the criteria is
5 the sizes.

6 When you are in a mechanical system,
7 you are not worried about that because it is moving
8 the car for you.

9 ACTING CHAIRMAN BRANCIFORTE: Okay.

10 MS. GONCHAR: But just if I can clarify
11 what the difference is.

12 The width of the space 8-6 is what the
13 requirement is, and we're eight two and a half, so
14 we are three and a half inches on the width.

15 ACTING CHAIRMAN BRANCIFORTE: Okay.

16 MS. GONCHAR: And the length is 18 and
17 we are at 17-9, so again --

18 ACTING CHAIRMAN BRANCIFORTE: Well, my
19 calculation -- I miscalculated it then because I
20 thought it was much more narrower than that. That's
21 fine.

22 MS. GONCHAR: So that's why I wanted to
23 get it. It is on Z-1, the plan sheet.

24 ACTING CHAIRMAN BRANCIFORTE: Well, I
25 think my question kind of tied into the number of

1 units you are asking for, but actually the density
2 seems to be in good comparison to everything else
3 that's going on, so the point is moot.

4 Okay. So no other questions from the
5 Board, I will open it up to the public.

6 Anybody from the public would like to
7 ask questions of the planner?

8 Seeing none, can I have a motion?

9 COMMISSIONER COHEN: Motion to close
10 public portion for this witness.

11 COMMISSIONER MC ANUFF: Second.

12 ACTING CHAIRMAN BRANCIFORTE: All in
13 favor?

14 (All Board members answered in the
15 affirmative.)

16 ACTING CHAIRMAN BRANCIFORTE: Can you
17 wrap it up?

18 MS. GONCHAR: There was a question --
19 there were a couple of questions with regard to the
20 lease with the theater.

21 COMMISSIONER COHEN: Yes, but you gave
22 us a copy of the lease.

23 MS. GONCHAR: Right.

24 Then subsequently Sabrina is here, who
25 spoke to it, if you want to hear from her.

1 We did submit the lease, and we
2 submitted a 15-year extension at the same -- no
3 rent, and then there were some other questions that
4 were raised by counsel, which we have addressed,
5 so --

6 ACTING CHAIRMAN BRANCIFORTE: Do you
7 want to bring up the affordable housing thing now?

8 MR. GALVIN: Well, I have a list of
9 conditions, so when you're ready, we'll get to it.

10 COMMISSIONER COHEN: I just have one.

11 ACTING CHAIRMAN BRANCIFORTE: Go ahead.

12 COMMISSIONER COHEN: I just want to see
13 if I understand your testimony.

14 MS. GONCHAR: It's not my testimony.
15 I'm just reflecting we submitted -- a document has
16 been submitted --

17 COMMISSIONER COHEN: That's fine.

18 The document -- I reviewed the lease.
19 I saw that it had a 15-year rent free. There were
20 other possible costs, but the rent itself was at no
21 cost to the tenant, the theater.

22 When you said a 15-year extension just
23 now, is that something different than the 15-year
24 lease?

25 I just wanted to make sure I understand

1 what you are saying.

2 MS. GONCHAR: Initially there was --
3 our witness testified that there was a lease for a
4 15-year term.

5 I believe you had raised the question
6 about what happens at the end --

7 COMMISSIONER COHEN: What happens at
8 year 16, right.

9 MS. GONCHAR: We have provided for an
10 extension of the lease on the same terms.

11 COMMISSIONER COHEN: Terrific. Thank
12 you.

13 MR. GALVIN: We reviewed it and my
14 associate dealt with Ms. Gonchar and we're satisfied
15 with the lease we got.

16 COMMISSIONER COHEN: Thank you. That's
17 great.

18 MS. GONCHAR: And then I think one of
19 the other questions just as a matter of cleanup was
20 there was a request for the LEED chart, which I
21 think we submitted --

22 MR. GALVIN: I'm going to tell you,
23 honestly I had a problem with it.

24 ACTING CHAIRMAN BRANCIFORTE: Yeah.
25 The layout wasn't really that great.

1 MR. GALVIN: Well, no. Here is what I
2 was looking for, but I didn't get.

3 I was looking for actual things that
4 were going to be done, that would be incorporated,
5 but I don't know that it is essential --

6 MS. GONCHAR: Okay. We will get you
7 the --

8 ACTING CHAIRMAN BRANCIFORTE: -- okay.
9 You are telling us that you're going to go -- you're
10 going to seek platinum LEED approval, and I think
11 that is good.

12 In other cases, just in case we do this
13 again, what I'm looking for, if somebody says we are
14 going to do solar arrays, I am going to do a green
15 roof specifically, that you provide me with those
16 five or six definite structural elements that you
17 are going to conclude.

18 But the way I looked at this, this was
19 your overall plan for getting LEED certification and
20 it wasn't really meeting what I was asking. But
21 we're going to make it part of the record and I
22 think we will just go with -- it doesn't need to be
23 more complicated than that. But I was looking for
24 five or six things that were like, you know, gray
25 water recharge or something like that.

1 ACTING CHAIRMAN BRANCIFORTE:

2 Cogeneration.

3 MR. GALVIN: Cogeneration, right.

4 ACTING CHAIRMAN BRANCIFORTE: Did you
5 have a quick question?

6 COMMISSIONER FISHER: Yeah. Just a
7 clarifying question to Mr. Kolling.

8 When you gave me that 1.27 number --

9 THE WITNESS: Yes.

10 COMMISSIONER FISHER: -- what does that
11 calculation -- is that the -- how --

12 THE WITNESS: 127 units an acre.

13 You determine what the lot area is in
14 acres, and then you can divide that into the number
15 of units, and it will give you overall units per
16 acre. Most municipalities use that for comparison
17 from zone to zone to zone, so it's used per acre --

18 COMMISSIONER FISHER: But in Hoboken --

19 THE WITNESS: -- not necessarily
20 dividing the lot area by another --

21 COMMISSIONER FISHER: -- in Hoboken --

22 ACTING CHAIRMAN BRANCIFORTE: Okay.

23 COMMISSIONER FISHER: -- but that's not
24 what we do in Hoboken, is it?

25 We do it for the 660 ratio --

1 ACTING CHAIRMAN BRANCIFORTE: They
2 would do it the same way in Hoboken, just shrink it
3 down to the number of square feet, which would be --

4 THE WITNESS: Yes. It comes out -- I
5 mean, you can do it either way to come up with the
6 number.

7 I kind of converted to R-1 or R-2
8 standards from dividing the lot area by 660 the same
9 way it would be on a per acre basis, which would be
10 about 66 units per acre.

11 ACTING CHAIRMAN BRANCIFORTE: Are you
12 okay with it?

13 Is our planner okay with the way it is
14 calculated?

15 MS. RUSSELL: Yes.

16 ACTING CHAIRMAN BRANCIFORTE: Okay.

17 COMMISSIONER FISHER: So once -- so let
18 me -- I guess my question is, and I apologize for
19 being dense.

20 The 1.27 is okay even though it's a
21 number that I am not familiar with, but when you do
22 the math and you take the 15,000 divided by 660, you
23 get to 22 units and they're building 44, so it
24 sounds like you're building double what is allowed
25 on the site.

1 So I'm trying to under -- in my head,
2 I'm just trying to reconcile that number --

3 MR. GALVIN: You mean what would be
4 allowed if it was in the R-1 zone?

5 COMMISSIONER FISHER: Yeah, if it was.
6 If we used that calculation 'cause I recognize -- so
7 just trying to think through the use of the site,
8 the amount on the site, et cetera, that ratio gets
9 me to 22.

10 MR. GALVIN: How many units would we
11 have on a single lot that was 25 by a hundred,
12 what's permitted?

13 MR. MARCHETTO: Four.

14 MR. GALVIN: Four.

15 So how many of those 25 by a hundred
16 into an acre?

17 THE WITNESS: It would be six of them.

18 COMMISSIONER FISHER: So you would be
19 24. I am at 23. They are building 44, so to me
20 that seems like it's a much higher number --

21 MR. GALVIN: Understood.

22 COMMISSIONER FISHER: -- whereas I am
23 not sure how to under -- I am not familiar enough
24 with 127 -- when he's saying 127 is the number, and
25 it's fine, and our density is fine, I'm like wait,

1 I'm coming up with this number that seems based on
2 how we look at often --

3 MR. GALVIN: That might be something
4 that you want to comment on in deliberations unless
5 you're asking --

6 COMMISSIONER FISHER: That's what
7 I'm --

8 MR. GALVIN: -- they're not going to
9 change the plan to reduce the numbers.

10 COMMISSIONER FISHER: -- well, that was
11 what I was asking when he -- I was asking how he got
12 to 127 because he made the -- he made the inference
13 that it was -- or the implication that it was
14 acceptable, and I am trying to understand how that
15 relates to the number that is not --

16 MR. GALVIN: Okay. That is fine.

17 ACTING CHAIRMAN BRANCIFORTE: Okay.

18 THE WITNESS: That units per acre was
19 comparable to what is on the other lots like right
20 next to us --

21 COMMISSIONER FISHER: Yeah.

22 THE WITNESS: -- and what is on the
23 other side of 14th Street. That's just as a way of
24 comparing apples to apples.

25 COMMISSIONER FISHER: Got it.

1 ACTING CHAIRMAN BRANCIFORTE: So are
2 you are done?

3 COMMISSIONER FISHER: Yeah. Thanks. I
4 appreciate it.

5 ACTING CHAIRMAN BRANCIFORTE: So we
6 closed public portion, and it is up to the attorney
7 to make a closing statement.

8 MS. GONCHAR: We have, I think,
9 presented on outstanding plan, which is -- that I am
10 proud to present because it is everything that I
11 think the city is actually looking for in your
12 planning documents in terms of sustainability, in
13 terms of the elements of the design.

14 It is in fact comparable in terms of
15 the intensity of use, which is what the measure of
16 density is in terms of what is existing in the area.

17 I think to the same extent that where
18 it's a use variance and the case law says that you
19 don't apply the bulk standards because the use
20 variance subsumes those C or bulk variances, I think
21 that's a fair statement also in terms of trying to
22 apply other zone criteria to this particular
23 development. Rather, I think it is appropriate to
24 look at what is around it and the intensity or
25 density of development that is around it.

1 The testimony has established that
2 there will not be a negative impact on traffic,
3 which obviously is one of the things that you look
4 at when you are asking for a use variance and
5 considering potential impact.

6 Frankly, I mean in terms of the
7 discussion with regard to mass transit, I am not
8 sure I understand that that is a concern in the
9 city. I am not minimizing it. I am not sure how
10 that actually factors in, in terms of the statutory
11 criteria. To some extent, I think it is almost akin
12 to existing off-site conditions, and any development
13 will have some impact, but I am not sure how that is
14 a factor appropriately in this consideration.

15 I think we have established that we
16 meet, as I said, many of the goals in terms of the
17 design. I think platinum residential developments
18 are still a rarity and a laudable goal, which this
19 developer has demonstrated they are more than
20 capable of meeting.

21 And the elements, such as the roof
22 garden, the open courtyards in the rear, which sort
23 of follows the design, historical design in the city
24 are all things that mitigate in favor of granting
25 the requested relief and granting the use variance

1 and other variances that we requested, and I think
2 the planner has established that we do meet the
3 standards required for a use variance both in terms
4 of the positive criteria, furthering the purposes of
5 zoning as set forth in the Municipal Land Use Law.

6 As far as the negative criteria, this
7 is sort of an area that has been considered
8 repeatedly. It's sort of hard to determine exactly
9 what the zoning goals or the master planning goals
10 are for this particular area, but certainly in terms
11 of what has been developed in the area, we are
12 completely consistent, and I don't think there are
13 any negative impacts.

14 I think even when compared to permitted
15 uses, you heard testimony that one of the things
16 that is of concern is activating the neighborhood.
17 There were questions about how much activity or how
18 much light you are giving to the area, and I think
19 that it clear that the permitted uses in the zone
20 will not have a positive impact. Industrial uses,
21 manufacturing uses, and office uses are there during
22 business hours and tend to vacate in the evening,
23 and where you have a public park, and where you want
24 to have pedestrian activity, street activity, a sort
25 of life in the area, residential, and particularly

1 this type of residential with this community theater
2 certainly furthers those goals for the community in
3 a way that the permitted uses in this zone can't do
4 it and wouldn't do it in this area. In fact, it
5 would probably be counter productive to have that
6 type of use immediately proximate to the park area
7 and to the other theater and other kind of community
8 area -- community uses that are in the area.

9 So this site in particular I think
10 fulfills that goal, and this project, if approved,
11 would fulfill that objective, and based upon all of
12 those things, we would request that the Board grant
13 the approval.

14 ACTING CHAIRMAN BRANCIFORTE: Thank
15 you.

16 We'll open it up for discussion among
17 the Board members. Would anyone like to start?

18 COMMISSIONER GRANA: I will start.

19 ACTING CHAIRMAN BRANCIFORTE: Antonio?

20 COMMISSIONER GRANA: Okay.

21 So I agree, I think it is a very strong
22 application for a number of reasons, and I guess I
23 would start with use because if we can't get past
24 D-1, then the other items are not as important.

25 I do believe that when relief is being

1 sought on use, we have to take into account the
2 context, and the context of this area is, you know,
3 the county has made a significant investment in
4 infrastructure improvement in this area. And while
5 that is not directly within our purview, we are the
6 beneficiary, and that has been reconfigured as what
7 I'll call it a pedestrian area.

8 Cobblestone streets have been laid.
9 Pedestrian areas have been activated under the
10 bridge. It is a beautiful area, and a park has been
11 put here, and I don't think this would be a good
12 place to put things that were not commercial uses
13 that would activate in the corridor 14th Street or
14 residential, which would, you know, take advantage
15 of the park. I think that mixed used takes
16 advantage of all of that, and I think that's exactly
17 the right place where you want to put this kind of
18 use and not an industrial.

19 So for that reason principally, I mean,
20 there are a number of other reasons, but I think
21 that would be I think the strongest reason to grant
22 the use variance.

23 I think also that, you know, the
24 design, I understand there is a hundred percent lot
25 coverage that is consistent with the other

1 structures in the area, but I think it does one
2 thing here that's very useful, while it gives us
3 light and air above, that hundred percent lot
4 coverage use on the bottom floor, which gives us
5 that commercial activation of uses on 14th, which I
6 personally think is very important to the city as a
7 whole and to 14th Street in particular.

8 There are a number of real benefits I
9 think the community gets. I think the LEED platinum
10 stands on its own, but I think the Mile Square
11 Theater piece is really big. I don't know where
12 else we get a 15 and 15 for a nonprofit entity in
13 the City of Hoboken that is, you know, being
14 generously provided by a developer. I can't
15 classify that as anything else other than I think a
16 real benefit to the community.

17 As far as the architecture, I think the
18 architecture in this case is great. It is driving
19 what is quite clearly a consistent design in this
20 area, an emerging district I think is fair in this
21 case, and on this particular lot it applies. And I
22 think that, you know, while we could say that we
23 would like to have industrial or office use, I think
24 it would have a negative impact on the residential
25 units that are being built right next door, have

1 been built, and would eventually bring a lot more
2 traffic into the area.

3 So I think for a number of reasons, I
4 think we should approve this.

5 ACTING CHAIRMAN BRANCIFORTE: Thank
6 you.

7 Before we go on with the next comment,
8 I just want to ask: How are we going to handle this
9 electric garage motor?

10 MR. GALVIN: Well, I have conditions.

11 ACTING CHAIRMAN BRANCIFORTE: Okay.

12 MR. GALVIN: I have: The parking
13 garage would be automated as described to the Board
14 at the hearing of June 9th, 2015. However, the
15 Board noted that the garage electrical equipment
16 appears to be located below flood elevation and will
17 require either specialized equipment -- not
18 "Either" -- and will require specialized equipment
19 and DEP approval, both of which must be provided at
20 the time of final approval.

21 COMMISSIONER COHEN: Or alternative
22 placement of the flood --

23 MR. GALVIN: Time out for a second.

24 Since they are going to come back at
25 final, it is just enough that I'm kicking it up as

1 an issue. They will resolve that, because if they
2 can't get that DEP or make that specialized
3 equipment, they will have to come with Plan B and
4 they will amend the plan.

5 ACTING CHAIRMAN BRANCIFORTE: And if
6 the plan is amended and they lose those parking
7 spaces, obviously they have to come back --

8 MR. GALVIN: For an amended
9 preliminary, yes.

10 ACTING CHAIRMAN BRANCIFORTE: Now, I
11 want to make this clear.

12 Mr. Bijou, do you understand what we
13 are saying?

14 MR. BIJOU: Uh-huh.

15 ACTING CHAIRMAN BRANCIFORTE: Because
16 you, you know --

17 MR. BIJOU: Yes, I do.

18 ACTING CHAIRMAN BRANCIFORTE: You do?

19 MR. BIJOU: No, you are right. It has
20 to be addressed.

21 ACTING CHAIRMAN BRANCIFORTE: So you
22 understand you have to come back to the Board, if
23 the parking situation doesn't resolve?

24 MR. GALVIN: We are actually helping
25 him. You don't want to have a flood and have your

1 equipment not work, and it's all broken. You have
2 to have a plan for that, so --

3 MR. BIJOU: I guess I'll leave it up to
4 the --

5 MR. GALVIN: What's that?

6 MR. BIJOU: -- I guess I'll leave it up
7 to the term engineering.

8 ACTING CHAIRMAN BRANCIFORTE: Okay.

9 MR. GALVIN: Okay. Yeah. They have
10 submersible U-boats. It will go right in there.

11 (Laughter)

12 ACTING CHAIRMAN BRANCIFORTE: Phil, did
13 you want to go next?

14 COMMISSIONER COHEN: Yes.

15 I wanted to start with the architecture
16 and the planning of this.

17 You know, we have seen applications,
18 where their applicants have sort of a standard
19 design that they pop in in various neighborhoods.

20 I want to commend this applicant for
21 tailoring this design to this property. I mean, I
22 think there was a great effort made here to make a
23 unique project that matched the feel of the
24 buildings in the neighborhood, that worked in with
25 the viaduct.

1 I mean, you know, I want to compliment
2 Mr. Marchetto for the presentation.

3 I know Commissioner Fisher missed it,
4 and we didn't show it a second time, but we actually
5 saw what it would be like to come down the viaduct
6 to see how the rooftops align, how the heights match
7 going along the way, and that there was a feeling
8 that this is a neighborhood, an merging
9 neighborhood, with an emerging esthetic feel, where
10 it's interesting.

11 I think it is exiting. I think it is
12 vibrant, and I think it is really beautiful, and I
13 believe Mr. Bijou when he says that when he builds
14 these kinds of buildings, a lot of people are going
15 to want to move into them, because I think there's a
16 demand for interesting, not cookie cutter kind of
17 construction in the city, and I think this is the
18 kind of development that is appropriate for this
19 neighborhood, and I think it is not easily done.

20 I don't think that you can just spend a
21 few minutes and think, we'll build one like that one
22 and pop it in. I think it takes a lot of thought,
23 and I think it probably takes resources to do it as
24 well. So for that, I think the applicant should be
25 commended.

1 We have been burned as a Zoning Board
2 previously with a similar application in this
3 neighborhood, where the developer promised a public
4 performance space in the ground floor and did not
5 commit to a lease with that not-for-profit theater
6 group, and we raised that issue, and not only was it
7 addressed here, but it was addressed in writing for
8 30 years, so we are talking about a real public
9 benefit with a premiere not-for-profit theater
10 group, both for adults and for children, so that
11 we're going to have a long-term tenant both for
12 children, who are learning about the theater, and
13 for adults who will be able to appreciate a space
14 that's across from a county park, under the viaduct.
15 I mean, I think that the benefits are extraordinary.

16 I understand that there are some
17 Commissioners who were concerned about precedence
18 when it comes to approving residential development
19 in an industrial zone, but I think this is a unique
20 situation.

21 You have residential buildings on
22 either side that are the same height as this one.
23 That, you know, I think that to the extent there is
24 a concern that this is somehow precedent setting, I
25 really want to urge the Commissioners to look at

1 this project on its merits and not think that by
2 approving this project, that you are necessarily
3 approving any other project because you have to
4 judge each one on its merits.

5 With respect to the parking issue, I
6 think the Board has done a service to the applicant
7 by pointing out what is a serious issue, which needs
8 to be taken seriously by the applicant and needs to
9 be addressed, and obviously if you can't address the
10 fact that, you know, you've got electrical units for
11 an automated electronic parking garage, where you
12 have got submerged electrical units below the flood
13 plain, that's a problem that you want to solve, and
14 I trust that you will put the resources into that
15 project, as you have put into the rest of this
16 project.

17 So, you know, in sum, I think it is an
18 excellent project, and I'm enthusiastically
19 supportive of it, and, you know, I look forward to
20 seeing it fill that skyline that is right now
21 occupied by a one-story decrepit industrial piece,
22 where it could really be matched by something that's
23 beautiful and joins the neighborhood.

24 ACTING CHAIRMAN BRANCIFORTE: Thank
25 you, Phil.

1 As a matter of legal housekeeping, I
2 forgot to open it to the public, so I'm going to
3 open it up to the public.

4 Does anyone have comments to make about
5 the project?

6 Seeing none, can I have a motion to
7 close?

8 COMMISSIONER GRANA: Motion to close
9 public portion.

10 COMMISSIONER COHEN: Second

11 ACTING CHAIRMAN BRANCIFORTE: All in
12 favor?

13 (All Board members answered in the
14 affirmative.)

15 ACTING CHAIRMAN BRANCIFORTE: Thank
16 you.

17 Anyone? Anybody?

18 COMMISSIONER FISHER: I will go.

19 ACTING CHAIRMAN BRANCIFORTE: I am
20 looking at you, Owen.

21 COMMISSIONER FISHER: Go ahead, Owen.

22 COMMISSIONER MC ANUFF: No. Go ahead.

23 ACTING CHAIRMAN BRANCIFORTE: Go ahead.

24 COMMISSIONER FISHER: The contrarian.

25 I think there is a lot of positives

1 about the project, and I would agree with some of
2 what both Commissioner Grana and Commissioner Cohen
3 said.

4 You know, I guess the concerns that I
5 have are always changing zoning by variance because
6 that is not what we are supposed to do, and we take
7 the use variances very seriously.

8 And here, we spend a lot of time,
9 whenever we have buildings around this area talking
10 about industrial is really the alternative use, when
11 in fact commercial is really a viable use and not
12 only is a viable use, we're starting to see it more
13 and more of a focus, both the western edge
14 redevelopment zone, the draft plan really stresses
15 and encourages commercial use and discussions
16 around, you know, the northwest or the north end is
17 about commercial use as well.

18 So it's unfortunate I think that they
19 put forth a plan where they just didn't talk about
20 an alternative use. I actually disagree with their
21 attorney. I think a commercial use could be a very
22 interesting compliment to the area. It would give
23 use to that park during the day when residential --
24 maybe young children who go there, but there is not
25 a lot of, you know, adults walking around the park

1 during the day, so I actually think it could
2 potentially complement that.

3 I do have a concern generally about
4 density. It is just a big building. This is an
5 opportunity to have built something from scratch,
6 you know, have at grade open space. I know that
7 they are solving for 80 feet, maximum number of
8 units and required parking to support that, and you
9 know, they could cut the building in half. It could
10 have been smaller, less parking, less units, and
11 still been, you know, a really big contributing -- a
12 contributor to the area.

13 I don't think precedent should apply.
14 You know, we spent a lot of time saying, and
15 Commissioner Cohen said, you know, we really need to
16 look at this application individually. But when you
17 look at the area, all of the other buildings that
18 they refer to as, you know, the trend, they have all
19 been approved by variances. They have not, you
20 know -- and they have been approved a number of
21 years ago, not by most of the people -- some of the
22 people probably on this Board.

23 So -- and I think the Mile Square Theater
24 is a great benefit. As someone coming from the real
25 estate industry, a lease is as good as the tenant

1 that's in place, so we are hopeful that the tenant
2 continues to be excellent. But the second the
3 tenant decides not to be there any more, the lease
4 is broken, there's no deed restriction that says it
5 always has to be a public benefit.

6 So I say all of this -- I think there
7 are a lot of positives about the building, but I
8 don't see this as an easy justification for the use
9 variance, so I'm still interested to hear what other
10 people have to say.

11 ACTING CHAIRMAN BRANCIFORTE: Okay.

12 COMMISSIONER MURPHY: Not yet.

13 ACTING CHAIRMAN BRANCIFORTE: Not yet,
14 Diane.

15 Anyone down at the other end?

16 MR. GALVIN: You don't have to.

17 COMMISSIONER MURPHY: I might not.

18 ACTING CHAIRMAN BRANCIFORTE: Frank,
19 Owen?

20 You don't have to make comments, if you
21 don't want to. I would like something on the
22 record, though.

23 COMMISSIONER DE GRIM: Yeah. I think a
24 residential use is great in this location. You got
25 your park there.

1 I think the fact that you have the
2 lease with this non-for-profit, a very, very great
3 non-for-profit is a big positive, so I am in favor.

4 ACTING CHAIRMAN BRANCIFORTE: Owen,
5 anything?

6 COMMISSIONER MC ANUFF: I think I am
7 behind the project 100 percent. I think it is very
8 well designed. I think between the previous meeting
9 and this meeting, it has been very well presented,
10 and I have not heard anything that I feel would be a
11 detriment to the project, other than resolving the
12 issue with the car parking.

13 ACTING CHAIRMAN BRANCIFORTE: Okay.

14 Diane?

15 COMMISSIONER MURPHY: My issue still
16 lies within the fact that it is a -- you know, so
17 much of what they want to do is using the measures
18 of an industrial zone, and you want us to change it
19 to, you know, a variance for residential, and every
20 time we approve one of these really big buildings,
21 we're saying, okay, so now we can put a residential
22 building in what would have been an industrial-sized
23 building.

24 And, you know, I understand that
25 everyone thinks that the architecture was pretty

1 good, but when I walked around the site and drove my
2 car around a couple times, I was thinking about how
3 like the Pilsner building, which is the opposite
4 corner, is like all different heights and all
5 different -- it is not a box.

6 And I'm like, why do we keep putting up
7 boxes everywhere. To me, there is nothing
8 interesting about this building. I do appreciate
9 the fact that it is really like two buildings using
10 the hundred percent for parking and being able to
11 create a commercial space -- spaces, which I do
12 believe are benefits, so I think it's great that we
13 have that interest, but that's what Mr. Bijou does.
14 Every building he has, he has something that's good
15 for the community in it.

16 So I feel like I am kind of torn
17 because I feel like we've -- even though this is its
18 own little block, it is in an area that's going to
19 eventually have the City Council tell us what they
20 want there, and I am the kind of torn, so...

21 ACTING CHAIRMAN BRANCIFORTE: Okay.

22 Well, you know, at the last meeting I
23 kind of was a little bit upset that we saw a project
24 that had nothing but I think three and four-bedroom
25 units in it, and there was nothing there for single

1 people and whatnot.

2 This building, one thing I actually
3 like about it very much, is the fact that it's a
4 good mix. One studio, 19 one-bedrooms, 19
5 two-bedrooms, five three-bedroom units, and I look
6 at the 19 one-bedroom units and the one studio, and
7 I know that means that it's going to be young people
8 probably without kids, who are going to be going to
9 be out on the street at night at the restaurants
10 that are nearby.

11 If this was all families in this
12 building, I would probably object because I don't
13 think families would really add to the night life
14 and the kind of neighborhood we want to add there,
15 with a theater, with the Pilsner House, with the new
16 restaurant going in down the block. I see it, and I
17 think someone brought it up at the last meeting as
18 being more of a SoHo feeling of a meat market feel
19 to it, and you know, five, seven, eight, ten
20 four-bedroom units, families that are going to be
21 asleep at eight o'clock and do nothing but complain
22 about the noise on the street isn't what we want
23 there. So I mean, that's one thing I actually
24 really like about this building.

25 I am torn about the use, but the fact

1 is I think it's a fait accompli in that neighborhood
2 on that block.

3 A while ago we had an architect in here
4 that said, you know, if you put all of the roof
5 lines at one level, it starts to look like
6 Disneyland, and I have to agree. I think it would
7 be nice to break up the roof lines a little bit and
8 make the block look a little more interesting with
9 height variations and stuff, but it is not something
10 that the Board brought up, so it's not something
11 that I'm that concerned about.

12 If other people were concerned about it
13 earlier, we could have discussed it, but I think I'm
14 good, and I think we are ready to hear the
15 conditions.

16 MR. GALVIN: Okay.

17 ACTING CHAIRMAN BRANCIFORTE: If there
18 are no other comments, we'll hear the conditions and
19 then we will make a motion.

20 MR. GALVIN: Okay.

21 One: The applicant is to seek platinum
22 LEED approval.

23 Two: This approval is subject to the
24 attached theater agreement, which must be executed
25 and submitted to the zoning officer prior to the

1 issuance of the first certificate of occupancy.

2 I was trying to find a way to initiate
3 it, like do we record it, how do we make sure that
4 we get this, and that is one of the reasons why we
5 wanted the 15-year extension is because we wanted to
6 make sure that we are getting what you are offering
7 us. And some of the risk, too, I know you will
8 probably hold on to this for the next, whatever
9 amount of time, but what if you sold the property,
10 and the next person doesn't want to keep the
11 theater, so I'm trying to figure it out.

12 I think if we execute that theater
13 agreement before the first CO, then that is when it
14 will start to run from that standpoint.

15 MS. GONCHAR: It is signed.

16 MR. GALVIN: It is signed already?

17 MS. GONCHAR: Keep your condition, but
18 just so you know, they have gone ahead and done it
19 as an act of good faith with the extension on the
20 lease.

21 MR. GALVIN: Well, we will attach the
22 executed agreement. Okay. So that makes it
23 simpler.

24 COMMISSIONER FISHER: Dennis, maybe
25 there is a way to say that the approval, the Board

1 weighed a lot on the theater being a tenant, and
2 therefore -- you know, something like that because
3 if for some reason they find another space, and they
4 don't go into the space, it takes three years to
5 build --

6 COMMISSIONER COHEN: What if we say a
7 not-for-profit theater?

8 COMMISSIONER FISHER: Yeah. You know,
9 just something that basically as we think about how
10 we've been caught on a few other resolutions
11 recently, maybe just something that says very
12 specifically, the Board made its positive support
13 based on the fact that there is a nonprofit theater
14 with a long-term lease.

15 ACTING CHAIRMAN BRANCIFORTE: Well, I
16 think that --

17 MR. GALVIN: We should give them a
18 chance to respond to that.

19 ACTING CHAIRMAN BRANCIFORTE: Okay.

20 MR. GALVIN: Do you have a response,
21 guys?

22 MR. BIJOU: To the lease or to the
23 aspect --

24 MR. GALVIN: Yes. You know, what we
25 are worried about is we believe you, but I want to

1 make sure that we have captured it, so that it is
2 defensible down into the future.

3 MS. BIJOU: Right. I mean, we have
4 done this before with the Elysian Charter School,
5 and you know, I will be more than happy to make it,
6 you know, for a community based, you know,
7 organization preferably not for profit.

8 COMMISSIONER COHEN: That is good.

9 MR. GALVIN: There you go.

10 ACTING CHAIRMAN BRANCIFORTE: But one
11 thing is a big selling point for me is the fact that
12 this theater is going to add life, night life,
13 attract people to the area at night, and I know it's
14 a children's theater, but still --

15 MR. BIJOU: No, it's not a question,
16 but it will be a theater --

17 ACTING CHAIRMAN BRANCIFORTE: I mean,
18 it's still --

19 (Everyone talking at once.)

20 MR. BIJOU: -- but that movie theater
21 is really struggling, so --

22 ACTING CHAIRMAN BRANCIFORTE: -- it's
23 still a programming -- let's put it this way, it is
24 a programming -- it's an area for programmed
25 events --

1 COMMISSIONER COHEN: Arts.

2 MR. GAMAREKIAN: Arts.

3 COMMISSIONER MC ANUFF: Non-profit art
4 space --

5 COMMISSIONER FISHER: This is more of
6 an issue for us, where if for some reason something
7 happened with the theater --

8 MR. BIJOU: I understand.

9 COMMISSIONER FISHER: -- we want you --
10 we want to force you to come back.

11 MR. BIJOU: I am all for it.

12 ACTING CHAIRMAN BRANCIFORTE: You know,
13 I don't want you to turn this into a nonprofit
14 that's only nine to five.

15 MR. BIJOU: Fine. You know, we believe
16 in a mouth's worth here. They have a great
17 following, and they really have presence there.

18 The other retail we have there is the
19 cooking school. It fits right into that area, you
20 know, so we look for those kinds of things.

21 MR. GALVIN: How about, can we put a
22 deed restriction regarding the theater?

23 The Board found this to be a
24 significant facility, and the applicant is to record
25 a deed restriction designating that the theater will

1 be used as what, used as a nonprofit?

2 COMMISSIONER GRANA: Nonprofit
3 community event space --

4 ACTING CHAIRMAN BRANCIFORTE:
5 Programming space.

6 COMMISSIONER COHEN: Art space.

7 COMMISSIONER DE GRIM: Performance
8 space?

9 COMMISSIONER MURPHY: No. Community --

10 MR. GALVIN: Arts and performance
11 space?

12 COMMISSIONER FISHER: No.

13 COMMISSIONER MURPHY: No.

14 COMMISSIONER FISHER: Just community
15 arts --

16 MR. GALVIN: Woah, woah, woah --

17 (Laughter)

18 COMMISSIONER FISHER: Arts kind of --

19 COMMISSION MURPHY: No. But if you --
20 it may end up being something else that's community
21 oriented.

22 MS. GONCHAR: I'm thinking we don't
23 want to shoot ourselves in the foot that you're so
24 restricted that if you don't have it, then you can't
25 find something that fits in there to accomplish your

1 objective.

2 COMMISSIONER MURPHY: I think Mr. Bijou
3 said it, like it would be some kind of community
4 space, preferably nonprofit.

5 MR. GALVIN: That the theater will be
6 used only for what?

7 (Everyone talking at once)

8 MR. GALVIN: What did Larry say?

9 MS. GONCHAR: A performance space will
10 be used --

11 MR. BIJOU: A community-minded cultural
12 space.

13 COMMISSIONER FISHER: Yeah, something
14 like that.

15 (Everyone talking at once.)

16 ACTING CHAIRMAN BRANCIFORTE:
17 Programming? Why am I the only person saying
18 "programming" in this place?

19 COMMISSIONER FISHER: Programming is
20 not bad, because that could be an art gallery. It
21 can be --

22 (Everyone talking at once.)

23 COMMISSIONER COHEN: All right.

24 MR. GALVIN: We got it.

25 ACTING CHAIRMAN BRANCIFORTE: Great.

1 Next?

2 I was hoping to get out of here by
3 11:30. We are almost there. We're almost there.
4 Larry, we're almost there.

5 MR. GALVIN: We are going to make it.

6 As I already said, the parking garage
7 would be automated as described to the Board at the
8 hearing of June 9th. However, the Board noted that
9 the garage electrical equipment appears to below
10 flood elevation and will require specialized
11 equipment and DEP approval, both of which must be
12 provided at the time of final approval.

13 Four: All of the building's parking
14 spaces are to be assigned to unit owners.

15 Five: The applicant must construct the
16 building with materials because of the specialized
17 equipment. The people that use it have to be
18 trained.

19 COMMISSOINER FISHER: Wait. What did
20 you just say? They're assigned to unit owners, the
21 parking spaces?

22 MR. GALVIN: Yes.

23 COMMISSIONER MURPHY: With the
24 automated --

25 COMMISSIONER FISHER: I think

1 MS. GONCHAR: There are other spaces
2 that don't have those characteristics.

3 (Everyone talking at once.)

4 MS. GONCHAR: But the automated spaces
5 have to be.

6 ACTING CHAIRMAN BRANCIFORTE: One at a
7 time.

8 MR. BIJOU: I just don't really want to
9 open it to the public, in other words.

10 COMMISSOINER FISHER: For like monthly
11 parking or anything like that.

12 MR. GALVIN: Residents.

13 COMMISSIONER FISHER: Got it. Okay.

14 MS. GONCHAR: The automated do have to
15 be assigned.

16 COMMISSIONER GRANA: I think the word
17 that's being used here is "assigned," not deeded.

18 MR. GALVIN: I didn't use the word
19 "deeded."

20 COMMISSIONER GRANA: I'm sorry. I
21 misunderstood then.

22 MR. GALVIN: Not at all.

23 COMMISSIONER FISHER: I think residents
24 are --

25 MR. GALVIN: The automated spaces are

1 to be assigned to residents.

2 COMMISSIONER FISHER: Residents.

3 COMMISSIONER GRANA: Okay. There you
4 go. I think you have it.

5 ACTING CHAIRMAN BRANCIFORTE: Everybody
6 good with that?

7 MR. GALVIN: Yes.

8 The applicant must construct the
9 building with the materials shown to the Board by
10 Mr. Marchetto at the June 9th, 2015 meeting, right,
11 the gray grout with the traditional red brick.

12 The applicant will comply with the
13 Board engineer's letter, dated November 17, 2015, as
14 revised March 17th, 2015 --

15 COMMISSIONER COHEN: It should be 2014,
16 November 17th.

17 MR. GALVIN: That's correct.

18 I am going to add another condition
19 about the planner's memo, so just the same thing,
20 that you will comply with the planner's -- we
21 usually do the planner's and engineer's combined
22 letter. We are going to still do that. Okay?

23 I have certain standard conditions,
24 which you're not familiar with, but that's one of
25 them.

1 MS. GONCHAR: I will learn.

2 (Laughter)

3 MR. GALVIN: Trust me. They are fair,
4 and you won't have a problem with them.

5 A VOICE: Like it or not.

6 MR. GALVIN: Yeah. It's my resolution.

7 (Laughter)

8 The applicant must supply affordable
9 housing within the building as required by the
10 ordinance. The affordable housing plan is to be
11 provided to the city's affordable housing expert for
12 her review and approval.

13 Further, the affordable housing will be
14 rented in accordance with the ordinance under the
15 direction of the city.

16 Could you give me the affordable
17 housing makeup again?

18 Anybody?

19 ACTING CHAIRMAN BRANCIFORTE: Is it
20 four units?

21 COMMISSIONER FISHER: Four units?

22 (Everyone talking at once.)

23 MR. GALVIN: No, no, no.

24 What are they, one-bedroom,
25 two-bedrooms, three-bedrooms, what are they?

1 MS. GONCHAR: I will give it to you.

2 It's part of the application. We did a plan.

3 ACTING CHAIRMAN BRANCIFORTE: Keep
4 going and we can come back to it.

5 MR. GALVIN: Yes.

6 Well, the last thing I have is: The
7 conditions of preliminary approval shall attach to
8 the final approval unless satisfied.

9 ACTING CHAIRMAN BRANCIFORTE: Is
10 everyone okay with those conditions?

11 MS. CARCONE: It's one studio, two
12 two-bedrooms, and one three-bedroom.

13 COMMISSIONER COHEN: One studio, two
14 one-bedrooms, and one three-bedroom?

15 MS. CARCONE: One studio, two
16 two-bedrooms, and one three-bedroom.

17 COMMISSIONER GRANA: There you go.

18 MR. GALVIN: Thank you, Ms. Carcone.

19 MS. CARCONE: Is that correct?

20 MR. GALVIN: Don't tell me that. It
21 has got to be correct, right?

22 (Laughter)

23 COMMISSIONER COHEN: I'll make a motion
24 to approve.

25 ACTING CHAIRMAN BRANCIFORTE: Well,

1 let's double check on this affordable housing thing
2 before we go any further, to just make sure it's
3 correct.

4 Are we good on it, Dennis?

5 MS. GONCHAR: I don't have it.

6 COMMISSIONER COHEN: It says one
7 studio, slash one-bedroom dwelling unit and two
8 two-bedrooms dwelling units and one three-bedroom.

9 MS. CARCONE: Want to see what we have?

10 (Board members confer)

11 MR. GALVIN: Okay. I am just going
12 to -- I got it. I'm good.

13 Proceed. Let's go. I shouldn't be
14 holding you up for that.

15 MR. GONCHAR: No more than 20 percent,
16 one-bedroom, no less than 15 percent three-bedroom
17 is the COA reg, so that works out based on the
18 number.

19 ACTING CHAIRMAN BRANCIFORTE: Are we
20 good on that?

21 MR. GALVIN: Right. We got it.

22 ACTING CHAIRMAN BRANCIFORTE: So are we
23 ready for a motion then?

24 COMMISSIONER GRANA: Motion to approve
25 1410 Grand Street with Mr. Counsel's --

1 ACTING CHAIRMAN BRANCIFORTE: Mr.

2 Galvin's.

3 MR. GALVIN: It's late now.

4 (Everyone talking at once)

5 COMMISSIONER GRANA: -- Mr. Galvin's

6 conditions.

7 ACTING CHAIRMAN BRANCIFORTE: Do I have

8 a second for this motion?

9 COMMISSIONER MC ANUFF: Second.

10 ACTING CHAIRMAN BRANCIFORTE: Can we

11 call the roll, please, and everyone votes, correct?

12 Everyone at the table votes?

13 MR. GALVIN: You only have seven, and

14 all seven must vote.

15 ACTING CHAIRMAN BRANCIFORTE: And we

16 need five to pass.

17 MR. GALVIN: Correct.

18 MS. GONCHAR: And they have all read

19 the transcript?

20 MR. GALVIN: Yes, and the

21 certifications have already been done.

22 MS. CARCONE: Commissioner Cohen?

23 COMMISSIONER COHEN: Yes.

24 MS. CARCONE: Commissioner Grana?

25 COMMISSIONER GRANA: Yes.

1 MS. CARCONE: Commissioner Murphy?

2 COMMISSIONER MURPHY: No.

3 MS. CARCONE: Commissioner Branciforte?

4 ACTING CHAIRMAN BRANCIFORTE: Yes.

5 MS. CARCONE: Commissioner Fisher?

6 COMMISSIONER FISHER: No.

7 MS. CARCONE: Commissioner McAnuff?

8 COMMISSIONER MC ANUFF: Yes.

9 MS. CARCONE: Commissioner DeGrim?

10 COMMISSIONER DE GRIM: Yes.

11 MS, CARCONE: Five for yes.

12 ACTING CHAIRMAN BRANCIFORTE: Okay.

13 The motion passes then.

14 (Applause)

15 ACTING CHAIRMAN BRANCIFORTE: Do we

16 have any other business to take care of tonight?

17 Are we all set?

18 Motion to close.

19 COMMISSIONER MURPHY: Motion to close

20 the meeting.

21 COMMISSIONER MC ANUFF: Second.

22 ACTING CHAIRMAN BRANCIFORTE: All in

23 favor?

24 (All Board members voted in the

25 affirmative.)

1 ACTING CHAIRMAN BRANCIFORTE: Wait,
2 everyone. Hold on a second.

3 When is the next meeting, Pat?

4 MS. CARCONE: It's not for all of them.

5 Next week is Stevens at the Multi
6 Service Center. It's the continuation, just
7 Stevens.

8 (The meeting concluded at 11:35 p.m.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the 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: 6/11/15
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.