

CITY OF HOBOKEN
HOBOKEN PLANNING BOARD

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HOBOKEN SUBDIVISION AND SITE PLAN : March 12, 2014
REVIEW COMMITTEE : 7:07 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman Gary Holtzman
Commissioner Frank Magaletta
Commissioner Dan Weaver

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

David Glynn Roberts, AICP/PP, LLA, RLA
Board Planner

Andrew R. Hipolit, PE, PP, CME
Board Engineer

Patricia Carcone, Board Secretary

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1 CHAIRMAN HOLTZMAN: Okay. We are going
2 to call the meeting to order. It is Wednesday,
3 March 12th, at 7:07.

4 This is the Hoboken Subdivision and
5 Site Plan Review Committee.

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

14 Pat, could you call the roll?

15 MS. CARCONE: Commissioner Holtzman?

16 CHAIRMAN HOLTZMAN: Here.

17 MS. CARCONE: Commissioner Magaletta?

18 VICE CHAIR MAGALETTA: Here.

19 MS. CARCONE: Commissioner Weaver?

20 COMMISSIONER WEAVER: Here.

21 CHAIRMAN HOLTZMAN: Terrific.

22 (Continue on next page)

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CITY OF HOBOKEN
HOBOKEN PLANNING BOARD
HOBOKEN SUBDIVISION AND SITE PLAN
REVIEW COMMITTEE

----- X
38-40 FIRST STREET, Block 224, Lot 1 : March 12, 2014
Applicant: New York SMSA Limited :
Partnership d/b/a Verizon Wireless :
Architect: FC Architects : 7:08 p.m.
Minor Site Plan :
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

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1 CHAIRMAN HOLTZMAN: Okay. The first
2 item that we have on our agenda tonight is the
3 holdover continuation of 38-40 First Street, Block
4 224, Lot 1. This was an application from Verizon
5 Wireless.

6 At the last meeting we had deemed this
7 application incomplete, and we were awaiting an
8 additional RF study.

9 Pat, did we receive anything in the
10 office from the Verizon folks?

11 MS. CARCONE: The only thing we
12 received was an OPRA request today.

13 CHAIRMAN HOLTZMAN: So no RF study has
14 been received by you, and the latest I spoke to the
15 engineering team on this from Remmington, they had
16 not received anything as well. Is that correct?

17 MS. CARCONE: That is correct.

18 CHAIRMAN HOLTZMAN: So we are going to
19 deem the Verizon application still incomplete, and
20 we are going to move along to the next item.

21 The next application that we have is 93
22 Grand Street,

23 MR. GALVIN: Why don't we take a
24 motion? Let's just have a roll call on that.

25 CHAIRMAN HOLTZMAN: Oh, sure, of

1 course.

2 On the Verizon application, did you
3 guys have any questions or comments that you wanted
4 to make?

5 VICE CHAIR MAGALETTA: My only concern
6 is that we have a written confirmation from the
7 applicant that the time for review is extended.

8 MR. GALVIN: No, it's not. If we deem
9 them incomplete, nothing starts to run until we deem
10 them complete, so we are fine.

11 CHAIRMAN HOLTZMAN: But we do need to
12 make a formal notice to him, which we will do in
13 writing to Mr. Stillwell, the attorney, that the
14 application is still incomplete, and that we are
15 still awaiting his RF study.

16 If he has any questions about it, he
17 can check the record, which he just put an OPRA
18 request in for, or he is certainly welcome to call
19 Jackie at Remmington.

20 Please provide her phone number to him,
21 so that there is no question as to what specific
22 information we are looking for.

23 MS. CARCONE: Okay.

24 CHAIRMAN HOLTZMAN: Did you have
25 anything on that, Dan?

1 COMMISSIONER WEAVER: Nope.

2 CHAIRMAN HOLTZMAN: So let's take a
3 vote.

4 MR. GALVIN: I just want to say one
5 more thing for the record. I'm sorry.

6 The OPRA request we received today was
7 a little surprising because based on the
8 conversation that we had a month ago, I would have
9 expected that OPRA request to be made within a day
10 or two of the hearing because he needed -- Verizon
11 needed the information from that OPRA request in
12 order to complete the -- to meet the concerns that
13 this committee had, so there is no way it could have
14 been complied with, if the OPRA request was made
15 today, so maybe they realized that they are still in
16 that position.

17 CHAIRMAN HOLTZMAN: Yes, I imagine they
18 do.

19 So with regard to the Verizon
20 application, let's make a motion to deem that
21 application still incomplete.

22 COMMISSIONER WEAVER: Motion.

23 VICE CHAIR MAGALETTA: Second.

24 CHAIRMAN HOLTZMAN: All in favor?

25 (All Board members voted in the

1 affirmative.)

2 COMMISSIONER WEAVER: Yes.

3 CHAIRMAN HOLTZMAN: Okay. So we are
4 covered there.

5 MR. GALVIN: Yes, very nice. Thank
6 you.

7 CHAIRMAN HOLTZMAN: Great.

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CSR, CRR

PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

This transcript was prepared in accordance with NJ ADC 13:43-5.9.

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CITY OF HOBOKEN
HOBOKEN PLANNING BOARD
HOBOKEN SUBDIVISION AND SITE PLAN
REVIEW COMMITTEE

----- X
93 GRAND STREET, BLOCK 20, LOT 12 : March 12, 2014
Applicant: Alfred D'Innocenzo :
Architect: Jensen C. Vasil : 7:15 p.m.
Minor Site Plan Conditional Use :
----- X

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Hoboken, New Jersey

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1 CHAIRMAN HOLTZMAN: So the second
2 application that we will hear tonight is 93 Grand
3 Street.

4 I understand that -- is it Mr. Vasil
5 who will be making the presentation?

6 MR. VASIL: Yes.

7 CHAIRMAN HOLTZMAN: Come on up.

8 Good evening.

9 MR. VASIL: Good evening, Board, and
10 Board professionals.

11 I my name is Jensen Vasil. I am the
12 architect representing the owner, Alfred
13 D'Innocenzo, of 93 Grand Street.

14 This application is before you tonight
15 for the conversion of an existing commercial
16 condominium from a change from a commercial
17 condominium to a coffee shop/light food use.

18 A little history on the space: The
19 space is a commercial condo since the mid '90s. Mr.
20 D'Innocenzo bought it in 2004. It had been an
21 antique store and a medical office during that time.
22 Sandy hit and did quite a bit of damage to that
23 first floor.

24 So in rebuilding, Mr. D'Innocenzo tried
25 once to convert it back to a residential use, which

1 is a permitted use, and unfortunately, the building
2 is fully built out to the lot lines. It's an
3 existing three-story building, and it is within
4 98.26 percent coverage, so there is no front yard,
5 rear yard or side yards.

6 Additionally, the third residential use
7 would have required a second means of egress, which
8 would not have been able to be provided on the lot.

9 So Mr. D'Innocenzo has been in the
10 commercial food industry for over 20 years, and he
11 looked at using the space to open up his own cafe.
12 He has worked closely with Lavazza, which is an
13 Italian cafe with a coffee maker, and also he has
14 got a few specialty gelatos and cakes that he
15 exclusively works with.

16 So this space is 553 square feet inside
17 of the building. It is -- we are proposing to have
18 a sidewalk cafe that is 130 square feet outside.
19 The existing space could not be changed
20 substantially from its current position. The layout
21 essentially maintains the same.

22 Currently the services are above the
23 flood plain, so we had no elevation study done, and
24 the HVAC system and the hot water heater are able to
25 be raised in their same location without any problem

1 and above the recommended BFE.

2 The one change or one of the major
3 changes to the space would be to create a new
4 entrance, where there was a circular window in the
5 front of the building.

6 So currently there is a planter that
7 extends beyond the property line, and there is a
8 casement window with a picture window in the middle
9 with a circular top. That circular top you see in
10 the photo.

11 So that would be converted into a
12 separate entrance, which would comply with 196-33
13 Section B, which is for building more than two
14 stories, that there is to be a dedicated exterior,
15 separate exterior entry way permitting access to
16 retail there.

17 Currently the access to the retail area
18 is through the residential main door into the space
19 through the public hallway, which is also
20 commingling of occupancies, which is not permitted.

21 Just to go back, the building on the
22 lot, it is nonconforming as far as lot width and lot
23 depth, lot area, and lot coverage. The building
24 height is -- it is also nonconforming in the front
25 yard and rear yard and parking.

1 The physical space is not going to
2 change. The envelope of the building or the
3 envelope of the space is built out fully as it is,
4 and this proposed occupancy would actually make the
5 building more compliant by separating the egress
6 from the residential uses.

7 At this time I would like to show you
8 the floor plan.

9 MR. GALVIN: The only thing I wanted to
10 present, you know, it is a good point, but you don't
11 have an attorney on this case, right?

12 MR. VASIL: I do not.

13 MR. GALVIN: Okay. So you can present
14 architecturals at the hearing, but the case has got
15 to be presented by the applicant, okay?

16 MR. VASIL: Got it.

17 MR. GALVIN: I mean, what you are doing
18 now is fine, but I want to make sure you guys are
19 not taken off guard. So you are going to do
20 everything that you normally do with the
21 architectural plan, but the closing argument would
22 have to be by the applicant, and opening argument by
23 the applicant, and then you get up there and do your
24 schtick.

25 MR. VASIL: By Mr. D'Innocenzo?

1 MR. GALVIN: Yes.

2 MR. VASIL: Okay.

3 MR. GALVIN: Hopefully what you are
4 doing will be enough, but I am just saying you can't
5 make the closing argument. That's all.

6 MR. VASIL: Understood. Thank you.

7 MR. GALVIN: Okay.

8 MR. VAIL: So on the inside of the
9 space, we are maintaining the majority of the
10 restroom walls. We have reconfigured it, but it
11 does meet ADA requirements, 2010 ADA requirements.

12 When you walk in from the street, we're
13 cutting the existing planter bed to make it a
14 doorway and adding the windows on either side.

15 At the front there is a cuing area.
16 Then there is a serving area with a small service
17 counter. That has a three-compartment sink, a
18 dishwasher and a hand sink, and a cash register
19 behind the counter, and then the service counter is
20 approximately a one-foot, just a service counter for
21 the food.

22 This is very light cooking, so the
23 extent of the equipment is an electric panini
24 machine, an electric hot burner and a juicer and a
25 coffee machine, so they are all really residential

1 pieces of equipment.

2 In the back, in the open area in the
3 back, it would be a seating area, and in the front
4 there would be an eat-at counter.

5 The total proposed seating would be 31
6 persons. The occupant load as calculated using the
7 building code would be five and a half feet, six
8 feet, but you are allowed to expand that occupancy
9 as long as it doesn't exceed one over four, which
10 would be 138 persons.

11 MR. GALVIN: All right. I am kind of
12 stopping you. You don't want to make your whole
13 case. We just want to talk about whether or not you
14 are --

15 CHAIRMAN HOLTZMAN: Complete.

16 MR. GALVIN: Yes.

17 CHAIRMAN HOLTZMAN: Was there
18 anything -- you don't need to walk us through it.
19 You submitted, you know, the documents with the
20 application, so you don't need to really walk us
21 through every square inch of it. Save that it for
22 the hearing for sure. I am sure plenty of the
23 Commissioners will have questions for you.

24 Was there anything specific that you
25 wanted to highlight for us?

1 MR. VASIL: No, that is it.

2 CHAIRMAN HOLTZMAN: Dave, I know that
3 you had a couple of callouts on your letter?

4 MR. ROBERTS: Yes. I think that what
5 we tried to do was condense the engineering and
6 planning comments into one letter.

7 Just speaking for the planning points,
8 the first thing we look at is to make sure a retail
9 use in a residential zone, whether it's R1, R2, R3,
10 meets the three conditions, conditions of approval,
11 and we determine that it does.

12 There is a dry cleaner at one end of
13 the block and an office use at the other end of the
14 block fronting on Grand Street, so that was one of
15 the first things we looked at.

16 Probably the only other thing of note
17 is that there is parking, and that is something that
18 the Planning Board can weigh given the neighborhood.

19 It is predominantly a residential
20 neighborhood, but obviously this ground floor space
21 has been used for nonresidential purposes and has
22 probably never been used for residential purposes,
23 so it looks like a pretty straightforward situation
24 from a planning standpoint.

25 CHAIRMAN HOLTZMAN: Is there anything

1 that you think the applicant owes us for completion?

2 MR. ROBERTS: I don't believe that
3 there is. In fact, these are probably the most
4 complete plans we have seen in a long time for a
5 conditional use.

6 CHAIRMAN HOLTZMAN: Andy?

7 MR. HIPOLIT: You know, they're good
8 plans. We had nine comments, which were more for
9 the testimony. We need to look at your ADA access
10 as part of your testimony a little better. We will
11 want some preliminary details on your testimony on
12 that.

13 Your lighting, your signage, whether
14 it's gooseneck or not, you need to work it out with
15 the zoning officer.

16 As far as the sidewalk cafe, the
17 outside, that is another thing you need to sit down
18 with the zoning officer and also provide some
19 testimony on that.

20 Parking Dave covered, and then the same
21 noise is being produced because of the outside, and
22 I don't think it is an issue. But other than that,
23 this was a nice complete application.

24 CHAIRMAN HOLTZMAN: Was there a callout
25 on the size of the proposed outdoor cafe or was that

1 something else?

2 MR. HIPOLIT: No. We noted it. I
3 think they need to sit with the zoning officer and
4 make sure they meet the requirements.

5 CHAIRMAN HOLTZMAN: Okay.

6 MR. ROBERTS: It's well under a
7 thousand square feet.

8 MR. HIPOLIT: Yes. It seems to fit,
9 but they should still sit and talk about it.

10 CHAIRMAN HOLTZMAN: Okay.

11 Dan, did you have any questions or
12 comments or anything you were looking for from this
13 applicant?

14 COMMISSIONER WEAVER: I don't want them
15 to be caught off guard. It's a technical question
16 about changes made outside of the property line.

17 MR. HIPOLIT: If they are making
18 changes outside of the property line, and the Board
19 grants them approved, they will need to get them
20 approved by the mayor and council after your
21 approval.

22 CHAIRMAN HOLTZMAN: I think there were
23 some planters or something. Is that what you are
24 talking about?

25 COMMISSIONER WEAVER: Yeah. Making a

1 modification -- I mean, the planters shouldn't be
2 there, period, right, because they are on the --

3 CHAIRMAN HOLTZMAN: Public
4 right-of-way.

5 COMMISSIONER WEAVER: -- yes, the
6 public right-of-way. But now they are modifying it,
7 so it is just a question.

8 I mean, I don't want you guys to invest
9 a lot of time and effort and then wait 30 days and
10 wait to say this comment, but --

11 MR. GALVIN: I am following up on it.
12 No, no. I think it is fine. I think that is a good
13 issue for this committee. You are letting them know
14 that you have some concerns about them doing work in
15 the right-of-way.

16 CHAIRMAN HOLTZMAN: There are currently
17 planters, right?

18 MR. VASIL: Yes.

19 CHAIRMAN HOLTZMAN: Could you just
20 bring back that picture of the as-built current
21 conditions?

22 MR. VASIL: The plan or the photograph?

23 MR. GALVIN: Do you have a photograph?

24 CHAIRMAN HOLTZMAN: Right.

25 That is what it looks like now, is that

1 correct?

2 MR. VASIL: Yes, that's correct. There
3 is a planter that fronts there.

4 CHAIRMAN HOLTZMAN: And your plan is
5 obviously to redo that whole window, so you have
6 access right into the cafe, which means splitting
7 the planter, and then your plan is to modify the
8 planter?

9 MR. VASIL: Correct.

10 CHAIRMAN HOLTZMAN: So you understand
11 the question that Commissioner Weaver is asking,
12 right?

13 MR. VASIL: Yes.

14 CHAIRMAN HOLTZMAN: You have a planter
15 that is technically in the public right-of-way --

16 MR. VASIL: Correct.

17 CHAIRMAN HOLTZMAN: -- which we then
18 don't have the authority here, we would need to --
19 we could theoretically approve it, but you would
20 still need to go to the city council because you are
21 dealing with public property at that point.

22 MR. VASIL: That's correct.

23 CHAIRMAN HOLTZMAN: Okay.

24 Is your thought you want to go that
25 route?

1 MR. VASIL: Yes. We understood that
2 unfortunately, it's in the public right-of-way, so
3 we knew we would have to get to that at some point.

4 MR. ROBERTS: They probably have to put
5 in for a sidewalk cafe approval --

6 MR. HIPOLIT: Yes.

7 When you meet with the zoning officer
8 on the sidewalk cafe issues, you should talk about
9 this planter and make sure that there was no
10 previous approval given on this or not, and then you
11 find out what you need to do to get approval here
12 and to get that approved --

13 CHAIRMAN HOLTZMAN: Because there is a
14 very specific measurement for the size of the
15 outdoor cafe --

16 MR. VASIL: Right.

17 CHAIRMAN HOLTZMAN: -- so I would think
18 that from the city's point of view, the outdoor cafe
19 should start at the edge of the building, and if he
20 wants to take up some of his outdoor cafe space with
21 the planter, then he is taking up some of his space.

22 MR. VASIL: That is how we measured it.
23 We assumed that that would be outside -- because we
24 took it from the property line.

25 MR. HIPOLIT: Yes. They took it from

1 the building line.

2 CHAIRMAN HOLTZMAN: Okay.

3 Frank, anything?

4 VICE CHAIR MAGALETTA: I just have a
5 question on the checklist. I mean, it wasn't
6 completely filled out. You didn't say whether you
7 had it or you were asking for a waiver.

8 Some of the stuff, because what you're
9 looking for, I can see why you didn't check it,
10 because you didn't think you needed to, but if you
11 could just fill it out, it is more complete. That
12 is what I would ask you to do.

13 I think what you didn't check, you
14 probably want a waiver, because you don't need it,
15 like soil testing and things like that, but it
16 should be complete for the record. That is all I am
17 asking.

18 COMMISSIONER WEAVER: Can I have one
19 more?

20 CHAIRMAN HOLTZMAN: Sure.

21 COMMISSIONER WEAVER: Can I have the
22 dimension from the edge of the tree pit to the
23 corner of the sidewalk cafe?

24 I don't need it right now, but --

25 MR. VASIL: Okay.

1 CHAIRMAN HOLTZMAN: Then just so that
2 you are also prepared, the Commissioners are always
3 very interested in the specific type of food
4 preparation and cooking, and so you should be
5 prepared to speak very specifically as to sort of
6 what the scope of that is going to be, if there is
7 going to be any type of open flame cooking with
8 ranges or frying or anything of that nature, because
9 that will be part of any kind of conditional
10 approval, because we are going to make specific
11 callouts regarding that, because we just want to
12 make sure that we are not getting into a situation
13 where then there needs to be venting and going that
14 path.

15 MR. VASIL: Understood.

16 CHAIRMAN HOLTZMAN: Then one thing that
17 I think I have on my list that I didn't see is where
18 the garbage and the trash will be stored and held.

19 MR. VASIL: It would have to be in the
20 mop room. You know, thankfully Hoboken has lots of
21 garbage pickups. It would have to be in the mop
22 room during the day. There's no other place to put
23 it on the site.

24 CHAIRMAN HOLTZMAN: Okay, all right.

25 VICE CHAIR MAGALETTA: Make sure you

1 show the taxes are current when you come before the
2 Board. That's all.

3 MR. VASIL: I will.

4 VICE CHAIR MAGALETTA: Thank you.

5 CHAIRMAN HOLTZMAN: Is there a motion
6 to deem the application complete, gentlemen?

7 VICE CHAIR MAGALETTA: Motion.

8 COMMISSIONER WEAVER: Second.

9 CHAIRMAN HOLTZMAN: All in favor?

10 (All Board members voted in the
11 affirmative.)

12 CHAIRMAN HOLTZMAN: Thank you, guys.

13 MR. VASIL: Thank you very much.

14 MR. GALVIN: Thank you.

15 So the next meeting, Pat, we can get
16 these --

17 MS. CARCONE: April 1st.

18 CHAIRMAN HOLTZMAN: -- the infamous
19 April 1st meeting.

20 (Board members confer about
21 scheduling.)

22 CHAIRMAN HOLTZMAN: We are going to put
23 you guys on the April 1st calendar. Is that good
24 for you?

25 I know there are a couple of quick

1 questions, so there's plenty of time to get all of
2 these issues sort of resolved and stuff.

3 MR. GALVIN: We will put them on first.

4 MS. CARCONE: Okay.

5 (Board members confer.)

6 MR. VASIL: Thank you very much.

7 (The matter concluded.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CSR, CRR

PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

Dated: 3/12/14

This transcript was prepared in accordance with NJ ADC 13:43-5.9.

CITY OF HOBOKEN
HOBOKEN PLANNING BOARD
HOBOKEN SUBDIVISION AND SITE PLAN
REVIEW COMMITTEE

----- X
300 OBSERVER HIGHWAY : March 12, 2014
Block 2/2.1, Lots 12-26/1-4, 9 & 10 :
Applicant: R. Neumann & Company :
Preliminary Major Subdivision : 7:45 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman Gary Holtzman
Commissioner Frank Magaletta
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1 CHAIRMAN HOLTZMAN: All right. Our
2 third application this evening is 300 Observer,
3 better known as R. Neumann.

4 MR. BUTLER: Good evening.

5 MR. GALVIN: Hi.

6 MR. BUTLER: Hi.

7 My name is Michael Butler. I'm from
8 the law firm of Eckert, Seamans, Cherin & Mellott on
9 behalf of R. Neumann.

10 I have a letter that I was submitting
11 to the Planning Board today, and I wasn't sure what
12 your procedure was. I have a copies for the
13 secretary. I can also hand them out, too.

14 CHAIRMAN HOLTZMAN: Okay. Sure. What
15 do you got?

16 MR. BUTLER: It is simply comparing
17 this application to a minor subdivision application.

18 What you have in front of you is we
19 filed an application for a preliminary final major
20 subdivision. And what we are doing out on the site,
21 it is a rather large site, we are consolidating a
22 number of lots. I believe the number of lots is 21
23 into two conforming lots for the zoning and a strip
24 of a public right-of-way for -- to dedicate it to
25 the city, and we are thinking that we would like to

1 dedicate the right-of-way to the city for use to
2 address flooding in the area.

3 As the sewers currently stand, it comes
4 down Clinton Street and hits a "T" at Newark, and it
5 goes around my client's property and out to a pipe
6 in Observer Highway and creates a lot of backup and
7 flooding there, which floods the streets with raw
8 sewage.

9 What we are proposing here is simply --
10 it's a preliminary major subdivision. It would be a
11 minor subdivision, but for that road that we are
12 proposing through the site to give to the city.

13 There are a number of waivers that we
14 are requesting, and we are requesting those because
15 we are not doing any major development on this
16 property. We are not going with the site plan
17 application at this point.

18 We understand that in the future when
19 we come back to the Planning Board, we will have to
20 provide that information, and we will provide that
21 information, but at this point we are simply looking
22 for a preliminary approval for our application.

23 There are no variances at all with this
24 application. They are simply waivers, and waivers,
25 as your Board Attorney knows, are to judged as to

1 the reasonableness of their request. We believe
2 that these requests are reasonable, because once
3 again, we are not proposing any development with
4 this application. We are simply moving lines on a
5 tax map.

6 CHAIRMAN HOLTZMAN: Is that the extent
7 of your presentation this evening?

8 MR. BUTLER: At this point, yes.

9 CHAIRMAN HOLTZMAN: Okay. Let's see.
10 Where shall we start?

11 Andy?

12 MR. HIPOLIT: Can we start with the
13 actual waiver versus variances?

14 CHAIRMAN HOLTZMAN: I am going to throw
15 the floor to you, Mr. Hipolit. You had a rather
16 extensive letter for us that you had updated a
17 number of times since we have seen this application
18 a couple of times before us, and it has been bounced
19 back and forth. Let's take it from the top.

20 MR. HIPOLIT: Well, I guess since you
21 are addressing the waiver versus variances --

22 MR. BUTLER: Sure.

23 MR. HIPOLIT: -- what happens if the
24 Board were to grant the major subdivision, what
25 happens to all of the buildings on the site?

1 MR. BUTLER: The proposal is these
2 buildings would be razed.

3 MR. HIPOLIT: When would they be razed?

4 MR. BUTLER: At some point in the
5 future. It has nothing to do with this application.

6 MR. HIPOLIT: You can't subdivide a lot
7 and maybe give the city a right-of-way and leave the
8 buildings across it. They would have to come down
9 right away.

10 MR. BUTLER: I don't disagree.

11 When the Board grants a minor -- a
12 preliminary, we can't file a deed or we can't file a
13 plat to subdivide the property.

14 So prior to us subdividing the
15 property, we have to physically -- "physically"
16 meaning if you are filing a deed or a plat, we have
17 to come back to this Board for another approval.

18 MR. HIPOLIT: My understanding of the
19 way it works and, Dennis, you can weigh in, is if
20 the Board were to grant you subdivision approval
21 contingent upon taking the buildings down, you have
22 180 days to file your deeds.

23 If you don't do that, it expires, and
24 in the same time the buildings would have to come
25 down, so you have to bond the full value of the

1 removal.

2 MR. BUTLER: If we were -- not for a
3 preliminary. If you are granting final, then I
4 would agree with you.

5 MR. HIPOLIT: I am not sure I agree
6 with that, but I'm not an attorney --

7 MR. GALVIN: I can't answer that
8 tonight.

9 MR. ROBERTS: The closest thing I could
10 think of to this kind of a situation is when you
11 have, whether it's an office park or a large
12 development with multiple buildings on it, where the
13 site plan is approved, and then there is an
14 application for a subdivision to create -- for
15 financing purposes to create separate parcels for
16 every building, so they could be financed separately
17 as far as a larger project, you create lot lines
18 that are really just for finance purposes only, but
19 they always normally create variances.

20 In this case, your over line existing
21 building with a new street, that is not part of the
22 master plan. It is not part of any kind of
23 initiative of the city creating lots that create a
24 couple of problems.

25 One is the buildings there, you

1 technically require variances of setbacks of these
2 new lots, because these buildings are still there.

3 Secondly: There could potentially be
4 issues with things like, right now it is one
5 complete block, and there is parking that is there
6 as an accessory to the principal use of those
7 existing buildings.

8 If you put that parking on a separate
9 lot, you have now created an accessory use on its
10 own lot that is a violation of zoning as well.

11 So when we did our letter, we were
12 looking at the completeness issues, not the
13 substantive issues that we are now talking about.
14 But I am not sure we would agree that the proposal
15 with the lot lines that are shown would not require
16 variances, especially with these buildings still
17 there, and nothing in the application, no
18 information at all about what the detention is with
19 these buildings, and how this all would take place
20 for a street that raises a lot of questions about
21 traffic circulation, infrastructure, stormwater with
22 no -- with waivers being requested of all background
23 information that we would need in order to evaluate
24 whether the street would even make sense.

25 MR. HIPOLIT: A preliminary major

1 subdivision, usually what is provided is a
2 preliminary site plan, because that is going to tell
3 the Board what is proposed and whether there are any
4 variances, what buildings will come down or not,
5 whether a road is to be put here or not. You nicely
6 threw across that we are going to help the city with
7 drainage problems with this right-of-way. It might
8 not work at all. You're not saying anything --

9 CHAIRMAN HOLTZMAN: Yes.

10 Am I reading this correctly, Dennis,
11 Andy, and Dave, this is Chapter 34, Subdivision Of
12 Land. It is 34-6, subdivision of preliminary plat
13 of major subdivision for tentative approval?

14 I took a read on this, and there were a
15 couple of things that sort of certainly jumped out
16 at me here, a 34-10 preliminary plat. Item number 4
17 is --

18 MR. GALVIN: A4 --

19 CHAIRMAN HOLTZMAN: I'm sorry --

20 MR. GALVIN: A4.

21 CHAIRMAN HOLTZMAN: -- A4, correct.

22 Sufficient elevations or contours to
23 determine the general slope and drainage of the
24 land, that seems to be something that is
25 specifically at the heart of the applicant's -- one

1 of their justifications for this proposal is that it
2 is going to somehow improve flooding and drainage in
3 the area, so without that, I don't know how any
4 judgment could sort of be even assessed on that.

5 A6 actually has here another item,
6 which again jumped out at me as sort of being key to
7 making any kind of logic on this would be plans of
8 proposed utility layouts, sewers, storm drains,
9 water, gas, electricity showing feasible connections
10 to existing or any proposed utility systems when a
11 new water supply and/or sewerage disposal system is
12 proposed, the plan for such systems is to be
13 approved by the appropriate local, county and state
14 health agencies.

15 It goes on: Any subdivder or part
16 thereof, which does not meet with the established
17 requirements of this chapter or applicable
18 regulations shall not be approved.

19 MR. HIPOLIT: Right.

20 The other problem you have on that is
21 when you are taking a major subdivision separating
22 out of these properties, maybe making a street,
23 taking the applicant's testimony about drainage
24 improvements, you really need to -- this Board
25 really needs to see it in an environmental impact

1 statement, which is required as part of a major
2 subdivision to see what that is and whether you
3 would even entertain splitting this site into two,
4 and allowing water to flow through there, let alone
5 utilities, and what then happens to the traffic?

6 Now, you're going to have --

7 CHAIRMAN HOLTZMAN: You know what I
8 would like to do now I think at this point, Andy,
9 what I would like to do is to basically start with
10 your letter and go through the items that we think
11 are -- that we did not receive in the application,
12 and that we think are required to deem this
13 complete, so that we can potentially move this to
14 the full Board at some time. But I want to make
15 sure that the applicant has a public hearing here
16 this evening, where we are formally presenting to
17 them the list of items that we feel are deficient
18 and required.

19 MR. BUTLER: Mr. Chairman, may I just
20 circle back?

21 You know, what we are doing here is a
22 first step. There are going to be other steps
23 involved. We understand there are other steps
24 involved. We understand we have to talk to the
25 city. We have to get approval from the city, so

1 that we can put this road in. We understand that we
2 have to talk to -- I'm sorry -- to dedicate the
3 road, so everybody understands it, and it makes
4 sense.

5 We understand that we have to go to the
6 county. We understand that we have to talk to the
7 county, not only about other improvements, but how
8 this is going to mesh with the Observer Boulevard
9 project, and those discussions are starting, so this
10 is a first step, and we understand that.

11 What we are asking for with this
12 application is simply preliminary approval, and what
13 we are saying is that we are going to come back when
14 we come back with the final, we understand that
15 those items are going to be addressed, and at this
16 point --

17 CHAIRMAN HOLTZMAN: And the purpose of
18 the hearing this evening is to make a formal
19 presentation to you of what it is that we require
20 and perhaps your history here in town with regard to
21 the Planning Board is different, but the Planning
22 Board is a rather persnickitive group these days,
23 and they really read every application and every
24 word on the application.

25 We have a lot of different

1 professionals from a great many different types of
2 industries, not just building trades, and they are
3 really interested in these types of things now,
4 especially when it comes to flooding and everything
5 that this town has suffered in the last couple of
6 years.

7 So I think, so that we are not wasting
8 your time and any more of our time, and my entire
9 Board's time, that we need to have these things put
10 together properly before we can get you to the full
11 Board, and we are happy to bring it to the full
12 Board, but we are going to need this information.

13 So with that, Andy, the floor is yours.

14 MR. GALVIN: I just want to add, if you
15 want to get to the Board, you have to comply with
16 the checklist. If you don't comply with the
17 checklist, you are not going to be able to advance.

18 MR. BUTLER: I understand that.

19 MR. GALVIN: Fine.

20 MR. BUTLER: And checklist waivers are
21 based on reasonableness, and as I said, I believe --

22 MR. GALVIN: Let me tell you, in this
23 case, I think we have a lot of good reasons why we
24 think that -- more than -- almost most of what our
25 professionals are requesting is really necessary in

1 this case. Creating a new roadway is a very, very
2 big deal in the City of Hoboken, and I think, you
3 know, so I think we are pointing out to you that we
4 were making a reasonable request. Why wouldn't you
5 comply, if you want to advance?

6 MR. BUTLER: Once again, I understand
7 the requests, and what we are putting forward is
8 that that information will come when we get to
9 final.

10 MR. GALVIN: No. It is not happening
11 that way.

12 Go ahead, guys, tell them what you
13 have.

14 CHAIRMAN HOLTZMAN: Gentlemen, Andy,
15 the floor is yours.

16 Feel free, Michael, to have a seat, if
17 you would like. There is a long list.

18 MR. BUTLER: I will stand.

19 CHAIRMAN HOLTZMAN: Great.

20 MR. HIPOLIT: If you go to my August
21 30th, 2013 letter, comments one and two just state
22 who the applicant is and what is proposed and the
23 major subdivision.

24 Comment three, which is broken down --

25 VICE CHAIR MAGALETTA: Andy, one

1 question: Do you want to look at your August 30th
2 letter or your February 7th letter?

3 MR. ROBERTS: The February 7th letter
4 is really just an --

5 VICE CHAIR MAGALETTA: Update.

6 MR. ROBERTS: -- update, yes.

7 MR. HIPOLIT: It is an update. I don't
8 know if I have it.

9 MR. ROBERTS: Take mine.

10 MR. HIPOLIT: I'm sorry. Go to the
11 February 7th letter.

12 In the February 7th letter, the comment
13 three is broken down into Parts A through N. A
14 through N are waivers requested by the applicant in
15 their application on the checklist, and we wanted to
16 just kind of cover those in what our thoughts are on
17 those.

18 So 3(a) refers to the environmental
19 impact statement. There are applications that come
20 in front of this Board and receive a waiver from an
21 environmental impact statement. It would be a
22 situation where the site is not changing. The
23 existing building is remaining. There is no
24 proposed road. There's no proposed drainage.
25 There's no proposed utilities or changes to

1 utilities. There's no proposed changes to flooding.
2 There's no proposed changes to possible air, light
3 noise, and other things that could affect both
4 Hoboken, the city, and the residents surrounding it.

5 In this particular case, you have a
6 major subdivision, a proposal for a new road. As
7 the applicant said in their opening statement, a
8 possible roadway that could help with drainage,
9 notwithstanding the removal of all of these
10 structures and what that causes as far as debris and
11 dust and everything else that comes along with that,
12 let alone the construction and what might go there
13 to infringe on light, air, open space and drainage
14 and flooding throughout the city.

15 So in no case would, at least myself,
16 would I ever recommend to this Board to ever deem
17 this complete without having an environmental impact
18 statement to a very detailed manner, but that would
19 require them to prepare at least a preliminary site
20 plan to match a preliminary subdivision plan, so you
21 knew what was proposed, so that is kind of the basis
22 for a lot of the rest of the comments, in that if
23 you are going to take a major piece of property and
24 propose a major subdivision with a brand new road,
25 the effects it could have are traumatic.

1 CHAIRMAN HOLTZMAN: Just to be clear,
2 this is not a road that has ever existed. This is
3 not one of the situations, where we have this
4 unusual legal nonsense of a paper street or
5 something like that. This is something that's
6 completely brand new.

7 MR. HIPOLIT: It's not envisioned in
8 the master plan, no traffic circulation, no plans
9 have ever talked about the city ever envisioning a
10 road there, so it is going to be a major change that
11 can have - I don't know if it will - but can have
12 major impacts to Observer Highway, Newark Street and
13 the surrounding area on both traffic, flooding,
14 utilities, light, air, noise. You name it, it could
15 affect it. And we don't know if it can, because the
16 applicant is not telling us what they are going to
17 do --

18 MR. ROBERTS: It could be positive or
19 negative, but we don't know without the information.

20 CHAIRMAN HOLTZMAN: So that was
21 specifically the environmental?

22 MR. HIPOLIT: That was just the
23 environmental impact statement request for a waiver.

24 CHAIRMAN HOLTZMAN: Wouldn't the
25 history of the property also factor into wanting to

1 see such a document?

2 MR. HIPOLIT: Of course.

3 What the property is currently used
4 for, what it was used for before that, and what it
5 is proposed to be used for all factor into the
6 environmental impact statement on how it affects
7 both the city as an entity and the surrounding
8 residents and businesses and the traffic --

9 CHAIRMAN HOLTZMAN: Well, I am speaking
10 specifically to obviously there was for a great long
11 time, this was industrial property, and it has some
12 light commercial industrial uses currently, but
13 obviously it was a serious industrial property for
14 the better part of a century.

15 MR. HIPOLIT: Correct.

16 The property could be completely
17 contaminated and have utilities and traffic and
18 whatever was associated with that industrial
19 property, it could be converted to, I don't know
20 what, but whatever it is converted to could have
21 adverse impacts and might require major cleanup and
22 different traffic.

23 CHAIRMAN HOLTZMAN: Sure.

24 MR. HIPOLIT: It's all unknown. I
25 don't know, and that is the problem. That's why the

1 Board needs the environmental impact statement.

2 CHAIRMAN HOLTZMAN: Okay.

3 MR. HIPOLIT: Number 2 or 3(b) is the
4 traffic impact analysis.

5 Again, very different from other
6 applications, this is a major subdivision proposing
7 a new road.

8 I am an engineer. I can take some
9 guesses at it, but it is not my job. The applicant
10 has to present to you why they want to propose a
11 road, what the value of it is, and how that affects
12 the traffic circulation, for not only Observer and
13 not only Newark, but the entire surrounding area.
14 It could possibly affect Jersey City. It could
15 possibly affect other parts of the city. I don't
16 know if it's going to be a one-way street or a
17 two-way street. Never been in the master plan. Not
18 envisioned in any other plan of the city.

19 We are putting in a new road for some
20 purpose, I'm not sure what, but unless you have a
21 plan of what is proposed, is it going to have
22 driveway access on it, is it going to have parking,
23 I don't know. There are a lot of reviews that have
24 to happen, and they should really cover that and
25 submit a traffic impact analysis from a traffic

1 engineer. There are a lot of traffic engineers that
2 could do it showing what is proposed.

3 But, again, I think they want a waiver
4 probably because they don't want to provide a
5 preliminary site plan to match the preliminary major
6 subdivision, so there is no way to know what they
7 are providing. I don't know how the Board could
8 even make a decision on a preliminary major
9 subdivision without knowing what the traffic impacts
10 are going to be for a brand new road.

11 CHAIRMAN HOLTZMAN: Certainly our
12 traffic engineer on the Board is going to have more
13 than a fair share of his questions for it.

14 MR. HIPOLIT: The Board members and the
15 traffic engineer will have questions on this,
16 absolutely.

17 MR. ROBERTS: Mr. Hipolit, even if it
18 was a vacant piece of property now, a totally empty
19 block, with a street through it, the fact that it
20 even intersects with Observer Highway is enough of a
21 reason to need a traffic study to figure out whether
22 that's good or bad. It might be good; it might be
23 bad, we don't know.

24 So why would the Board be in a
25 position, where they have to make a judgment to

1 approve this subdivision or not, even if it is
2 preliminary, not knowing that?

3 COMMISSIONER WEAVER: Are you talking
4 about a curb cut?

5 MR. HIPOLIT: Curb cuts, intersection,
6 everything.

7 COMMISSIONER WEAVER: Yeah, I know.
8 But I mean, even if you put in just a curb cut, you
9 are not taking the road out, that would still --

10 MR. HIPOLIT: Yes --

11 MR. ROBERTS: Yes.

12 COMMISSIONER WEAVER: -- now you are
13 talking about a road --

14 MR. HIPOLIT: -- if you were putting
15 just a major curb cut on both sides that accessed
16 like say two huge parking garages, you would need to
17 see it. It is going to affect traffic flow on
18 Observer, and it's going to affect the traffic flow
19 on Newark and Clinton, so you are going to need to
20 see what that does, and you would want a traffic
21 study for that.

22 We always required that. We just had
23 another application in front of the Board where
24 they're putting up a new building, and we are
25 requiring a traffic engineer to come in and testify

1 on how the parking garage access is going to affect
2 Washington and Hudson.

3 COMMISSIONER WEAVER: And I know the
4 curb cut -- there's tons of wood chips to jump
5 through --

6 MR. HIPOLIT: And, you know, getting a
7 curb cut here is not going to be that easy. These
8 two streets are highly trafficked, backed up with
9 traffic, and getting curb cuts here is not easy --

10 VICE CHAIR MAGALETTA: What kind of
11 roads? Isn't Observer at that point a county road?

12 MR. HIPOLIT: Yes.

13 CHAIRMAN HOLTZMAN: Dennis?

14 MR. GALVIN: Yes. I was going to say,
15 yes, it could affect the county's thinking also by
16 making that intersection into Observer, but the kind
17 of comments about preliminary also really aren't
18 correct, because normally what you do is you get
19 preliminary approval, and then you go and you get
20 outside agency approval.

21 So what you could argue is, if we liked
22 your idea a real lot, and we thought this was a good
23 idea to put the road there, the county could still
24 say no. So what would happen is preliminary
25 approval, you grant them what they are looking for,

1 you grant the subdivision, and you grant the road,
2 and then between preliminary and final, they go off
3 to the county to get county approval, which they may
4 or may not get.

5 MR. HIPOLIT: Technically under -- I am
6 not a lawyer -- but technically they could come in
7 and get preliminary approval for a subdivision.
8 They could bond -- not want to bond their
9 improvements, because they don't want to spent
10 millions of dollars to bond, and they could say we
11 are going to permit, so they could go out and
12 install them, and they could come back in for final
13 and they are done.

14 So they could go out and install a
15 road, actually construct the road, put it in, and go
16 we're coming back for the final now. Our road is
17 already in. Now we don't have to bond them any
18 more. I mean, there are some glitches in the law
19 about that. You can build on preliminary approval.
20 You don't need final to build. That is where I
21 think another difference is.

22 They are going to go, hey, you approved
23 this for a road, they could circumvent you and go to
24 the council, we're going to put a road in. They're
25 going to go and put a road and a curb in and come

1 back and say, hey, the road is already in --

2 MR. BUTLER: Can I interject?

3 CHAIRMAN HOLTZMAN: Yes, Mr. Butler.

4 MR. BUTLER: I don't know if I am
5 allowed to interject --

6 MR. GALVIN: We are trying to do it
7 flexible. We are trying to do it flexible.

8 CHAIRMAN HOLTZMAN: Take your time.
9 Go ahead.

10 MR. BUTLER: One of your conditions of
11 approval for a preliminary could be that you are
12 not -- we are not going to put the road in without
13 coming back in for final or we are not going to
14 finalize the dedication to the city until coming
15 back in for preliminary final approval --

16 CHAIRMAN HOLTZMAN: Let's continue with
17 Andy's list.

18 MR. HIPOLIT: Item (c) is existing
19 structures. The checklist requires the designation
20 of existing structures to be removed, not removed.

21 The applicant has said tonight they are
22 going to remove all of the structures at some point,
23 but the maps don't indication that. You know, they
24 would have to be labeled individually how they are
25 going to move and what they are moving and what the

1 phasing is for it.

2 That, again, if we backed it back up to
3 the environmental impact statement, when you take a
4 structure down of these ages, you have things like
5 asbestos and lead paint and all kinds of things that
6 need to be covered in an environmental impact
7 statement.

8 So once you list the major buildings to
9 be removed, okay, what's inside of it?

10 How are you going to handle the
11 environmental contaminants that are in the building
12 or below the building?

13 They tie together, there's no saying
14 that they are removing them and we'll get background
15 on this, in my opinion, it is not a good thing.

16 Item (d) is probably a very big one,
17 which is proposed development. I don't know how the
18 Board can act on a major preliminary subdivision and
19 not know what the proposed development is, because
20 that may affect your approval. It may -- and as
21 Dave said, it could cause variances or not cause
22 variances. It cause the council to weigh in on the
23 road or not weigh in on the road. It could cause
24 issues with respect to drainage and traffic flow and
25 all of the other good things that we talked about

1 and was talked about already here at this Board at
2 the planning level, is it good planning or is it not
3 good planning, is it in accordance with the master
4 plan in the ordinances or the direction of the city
5 or is it not.

6 I don't know. There is no proposal for
7 what they are doing. So how does the Board act upon
8 a preliminary major subdivision without knowing what
9 is proposed for it?

10 CHAIRMAN HOLTZMAN: Right.

11 And as per Chapter 34 that I read
12 previously, again, it seems like it is very much
13 supposed to be as per the city ordinance as part of
14 the direction that we are supposed to have that, as
15 opposed to we are supposed to know what cart we are
16 putting before the horse.

17 MR. HIPOLIT: Correct.

18 CHAIRMAN HOLTZMAN: Okay.

19 MR. HIPOLIT: Item (i) is recreational
20 areas. This is a major subdivision, so it is highly
21 likely, if not definite, that they are going to have
22 recreational areas on the site, similar to say
23 Hoboken Cove or Maxwell or Shipyards. There will be
24 certain areas reserved for parks or walking areas or
25 whatever it may be, dog parks. They would need to

1 identify where they are, because there is going to
2 be a decision of whether the subdivision is there or
3 not.

4 MR. ROBERTS: Andy, we also had soil
5 erosion. That's basically (a) through (h).

6 MR. HIPOLIT: Yes. I forgot that, yes.
7 I'm sorry.

8 CHAIRMAN HOLTZMAN: Just cover that
9 real quick.

10 MR. HIPOLIT: I'm sorry. You know
11 what, I jumped a page. You know what, I went down
12 to (i). I have to go back to letter (e), I'm sorry.

13 CHAIRMAN HOLTZMAN: Take your time.

14 MR. HIPOLIT: Letter (e) is soil
15 erosion and settlement control plans, which again
16 will also go back to the environmental impact
17 statement, but they need to indicate how they plan
18 to provide soil erosion and sediment control of this
19 site for demo buildings and for the proposed
20 construction of the buildings.

21 Item (f) goes to utility layout. They
22 are now proposing again demo of a significant amount
23 of building and all of the utilities, and then
24 construction is something that we don't know, and a
25 new road, so that will require a whole new network

1 of water, sewer, gas, electric, telephone, cable TV,
2 and anything else that comes along with that.

3 They might want generators on site.
4 They want to raise, elevate the buildings because of
5 flooding in the area.

6 There are so many things that might be
7 proposed as far as utilities on the site, and to not
8 know that, and not even have a contract of it makes
9 it very hard to act on the proposed major
10 subdivision.

11 CHAIRMAN HOLTZMAN: You bring up
12 another thing, which may sound like an ancillary
13 item, which is, you know, we have our relatively new
14 ordinance Chapter 104, which deals with all of our
15 flood mitigation and stormwater management and
16 things of that nature as well.

17 There is nothing addressing that, and I
18 find that very interesting only because immediately
19 part of one of the first things that Mr. Butler was
20 telling us as to why this application is worthwhile
21 for us to want to move forward on it, that it is
22 going to somehow help with the flooding, and there
23 seems to be no testimony to that.

24 Is that correct?

25 MR. HIPOLIT: There's no testimony in

1 this area of town, and I don't need to explain it to
2 the Board, this is a bad area with respect to
3 flooding, and this area gets affected significantly,
4 so the elevation of these buildings in accordance
5 with both FEMA and the city ordinance may cause
6 significant problems with this site with respect to
7 handicapped access and building frontages and
8 loading docks, but we don't know. We don't know how
9 that could affect Observer, Newark or --

10 CHAIRMAN HOLTZMAN: Changing the whole
11 drainage on to Observer and everything like that.

12 MR. HIPOLIT: -- it could be another
13 disaster, or it could be a great thing --

14 MR. ROBERTS: Or it could be good, yes.
15 That's the problem. We don't have enough
16 information for the Board to make that judgment.

17 MR. HIPOLIT: -- that the city never
18 anticipated --

19 CHAIRMAN HOLTZMAN: I'm sorry, I
20 interrupted.

21 Please continue with your list.

22 MR. HIPOLIT: Item (g), which is
23 phasing and staging, again, we don't have a phasing
24 plan. We don't know what is proposed, but you don't
25 even have a phasing plan for removal of what is

1 there in the creation of a new road. We don't know.
2 And if you don't know, I'm not sure how you make a
3 decision on it.

4 If it was, again, just a single
5 building on a lot, nothing changing, the phasing
6 plan might not be necessary. It probably wouldn't
7 be.

8 In this case, you have a significant
9 area. You have what, three -- you have two and a
10 half acres of property, plus a road, which is
11 another half acre, so three acres, to put buildings
12 and have to take them down, how are you doing it,
13 how are you going to affect Observer Highway, how
14 are you affecting Newark, how are you affecting this
15 street, I don't know. I mean, I can come up with
16 guesses, but --

17 CHAIRMAN HOLTZMAN: And I would counter
18 that, that we just had an application hearing before
19 the full Board about Block E uptown, and in that
20 case part of their requirements or they need to come
21 back to us with a staging plan as to shutting down
22 streets and how that is going to work, and what the
23 timing is going to be on that, also in terms of
24 staging and location of any kind of required
25 equipment, so that we are, again, minimizing the

1 impact on the entire neighborhood and the community.

2 If you take Observer Highway and Newark
3 out of the egress out of the southwest end of town,
4 the place is going to come to a standstill in 30
5 seconds.

6 MR. HIPOLIT: Right, and those streets
7 can't be taken out of service for any period of
8 time, not even hours. They are major thoroughfares,
9 so there needs to be a staging plan that shows how
10 they are going to remove these buildings and not
11 shut those streets down, and then also the
12 sidewalks, and then reconstructed again to whatever
13 construction, which we don't know what that is.

14 MR. ROBERTS: The only thing I would
15 add to that, Mr. Chairman, again, is that it is one
16 thing to say, we will address all of those details
17 later, final subdivision, site plan, whatever, but
18 how is the Board going to know if this new street is
19 going to work or not without having this basic
20 information, and you are basically asked to bless
21 the original layout of the street with the
22 subdivision.

23 It is kind of like you are being asked
24 to approve something and then defer all of that due
25 diligence until the end, when you may not want to or

1 may not feel that the street is a good idea to begin
2 with. So if you don't have the information, how can
3 you make the decision?

4 Generally the preliminary subdivision
5 should be when you make that decision --

6 MR. HIPOLIT: Right.

7 An example would be they're coming in
8 for a preliminary major subdivision, and they want
9 to give us a road. Maybe the Board looks at what
10 their proposal is and says, no, we don't want a
11 road. We want a detention basin, and we want you to
12 maintain it. We don't want a road. We want a
13 beautiful walking park that people from the northern
14 part of town can come to the south to get to
15 Observer and eventually work their way over towards
16 the mall on the other side in Jersey City.

17 You don't know what you are missing
18 because you don't know what's proposed. You can't
19 even ask or hypothetically guess what that is.

20 So, you know, I am throwing ideas out
21 there, but that is not my role. I shouldn't do
22 that, but I am just giving you an example of why you
23 need that.

24 That goes to the next two comments, one
25 I started to cover, which is open space locations

1 under (h), and then recreational areas that's under
2 (i).

3 If you knew what was proposed here, the
4 Board, very similar to Hoboken Block E, can work
5 with the applicant to come up with what is best for
6 the city and what's best with the areas and what's
7 best for the applicant, and what's best for
8 everybody to make the block with this new
9 configuration work, and based on recreation and
10 respect to the like, but we don't know what they
11 are, because they are not proposed.

12 Going to Page 4 of 4 or 4 of 5, Item
13 (J), existing or proposed covenants or deed
14 restrictions, there are on this map shown some
15 existing continuation deed restrictions. I don't
16 know what they are or what they mean that are shown
17 here. So we need to have them provide what they are
18 and provide testimony. Normally things of this
19 nature, the applicant would come in and say, we do
20 have some deed restrictions on this property. They
21 are X, Y and Z. They don't affect a major
22 subdivision. We don't know if it's included or it
23 doesn't include it --

24 CHAIRMAN HOLTZMAN: There were actually
25 in some of the additional documents that we were

1 provided in the application, there were some deed --

2 MR. BUTLER: I was going to say --

3 CHAIRMAN HOLTZMAN: -- there were some
4 deed restrictions, but they are not being called
5 out. I sort of found them on my own by reading, but
6 they weren't called out, and I know that it is part
7 of the requirement, that there are deed
8 restrictions, land use restrictions, and things like
9 that, that needs to be noted.

10 MR. HIPOLIT: Right.

11 Normally what the applicant would do
12 for both a major subdivision, you would have
13 existing and proposed deed restrictions. You would
14 come up and provide testimony on what they are, how
15 they actually affect the property, and what your
16 rights are, and then our attorney and you would go
17 back and forth on whether it is right.

18 Once you get through that, then we talk
19 about proposed. So are there going to be proposed
20 deed restrictions, covenants, like a road, a
21 detention basin, hydraulic improvements for the
22 city, and new sidewalks, I don't know what they're
23 going to do --

24 CHAIRMAN HOLTZMAN: Right.

25 One of the deed restrictions is that

1 you are not supposed to build a foundry here, which
2 I assume they are not proposing, but, again --

3 MR. HIPOLIT: We don't know that.

4 CHAIRMAN HOLTZMAN: -- we don't know
5 that, because they have not told us, right?

6 (Laughter)

7 MR. HIPOLIT: Right.

8 So the landscaping plan goes back to
9 the other comments. Whatever they are proposing,
10 the Board would want to see at least a preliminary
11 landscaping plan to see if it is in conformity with
12 what the city is looking for and the plan use
13 ordinance and the master plan, we don't have that --

14 CHAIRMAN HOLTZMAN: And that has become
15 a critical part of our flood management.

16 MR. HIPOLIT: Of course, it has. Those
17 landscape areas become areas where we can get flood
18 mitigation, storage under trees, storage under
19 curbs, water lines, very similar to what we are
20 doing on Block E.

21 Obviously, they are subdividing the
22 property. They are going to build buildings here.
23 The Board should have the benefit of seeing the
24 elevations of those buildings, which would be Item
25 (1).

1 You should be able to look and see what
2 is proposed, if you like it, or don't like it, its
3 impact on the surrounding areas, it should at least
4 be in the preliminary site plan portion.

5 Then (m) is drain systems, so under the
6 major subdivision requirements, what is proposed.
7 They are telling you they're proposing a road. I
8 don't know whether the Board saw that or not, but
9 how are you going to handle the drainage, and you
10 know, flooding is a problem in the area.

11 There is a new city ordinance that
12 deals with flooding and drainage. They're not
13 telling you how they comply with that, so they don't
14 meet those requirements at all, nor would we
15 recommend the waiver for that.

16 Then the last one, Page 5, which is
17 drainage area, is they really need to do a drainage
18 area map or a study to determine how this proposed
19 project will affect the drainage area of this
20 section of the city, which is a problem.

21 For a major subdivision of three acres
22 in the city, to not even deal with in the
23 preliminary version under the subdivision of how you
24 are going to deal with drainage and what you're
25 doing is crazy. It's absolutely absurd.

1 The city is having a problem. They
2 have a new ordinance that affects it. How are we
3 dealing with it?

4 We would not recommend a waiver for
5 that.

6 CHAIRMAN HOLTZMAN: So, Andy, is it
7 your -- it's really pouring outside --

8 MR. HIPOLIT: Speaking of flooding.

9 (Laughter)

10 CHAIRMAN HOLTZMAN: -- is it your
11 opinion then, obviously these are very specific
12 callouts, and you know, you spoke passionately about
13 your whole four or five pages there of the
14 professional letter that you submitted to us, is it
15 your opinion that these things can be waived?

16 MR. HIPOLIT: No. In this particular
17 case, I would not recommend waiver of any of the
18 items in my letter.

19 CHAIRMAN HOLTZMAN: Dave, did you have
20 some additional items for us?

21 MR. ROBERTS: No.

22 As we said in this and in previous
23 letters, it is real all driven by the proposed new
24 road. From that flows all of the need for that
25 information. I just don't see how a Board could be

1 asked to make a decision on a preliminary
2 subdivision, to create a new street, and create two
3 lots, when they have no idea of what the impact of
4 the new street would be. It is not anything that's
5 anticipated in any of the city's planning documents,
6 and the city has kept its master plan up to date.
7 It has a 2010 reexamination report, none of which
8 anticipated a street, and in fact, if anything,
9 recognized the significance of the property from a
10 historical point of view, and therefore, none of the
11 planning that has gone into the post Sandy recovery
12 strategy or anything else involves this street.

13 So for the Board to be asked, don't
14 worry about it, put everything off to the end and
15 just approve this new street with these two lots,
16 without having this information, you know, with the
17 waivers requested, it seems to me to be premature,
18 and I just don't see -- if at the end of the day,
19 the information that is supposed to be provided is
20 provided, and after a thorough examination of that
21 information, the Board determines that we think that
22 the street really helps the city, that is one thing,
23 but I don't see how you could make that
24 determination in the void of information.

25 MR. HIPOLIT: I think that I have been

1 in this city for a long time with this Board, I
2 think if we learned anything from other
3 applications, which I won't mention, when people are
4 required to do something that is in their approval
5 for a preliminary and final, they come back years
6 later and say they don't want to do that, let alone
7 to have something that you don't know what it is,
8 and they want to make a condition that says, hey,
9 don't worry, we will make a condition, even though
10 we won't build anything until we come back here, we
11 know based on the past couple of years that
12 something can go to a judge. And the judge will go,
13 hey, you gave them approval, they are allowed to
14 build, you can't stop them. It doesn't matter
15 whether there is a condition in there.

16 I don't think the city wants to be in
17 that position.

18 CHAIRMAN HOLTZMAN: Dave, is it your
19 opinion that any of these things that are in your
20 letter, Dave, that you endorsed as well, are able to
21 be waived or are they requirements that we need to
22 have --

23 MR. ROBERTS: I think they all relate
24 to each other, whether it's drainage, traffic
25 circulation, it all emanates from the road.

1 The other thing I would just point out,
2 the statute recognized the importance of the road in
3 differentiating between a minor site plan -- a minor
4 subdivision and a major subdivision, which is how
5 the applicant started out with the presentation,
6 which is we need a major subdivision because of the
7 road.

8 The statute recognizes that when you go
9 from a minor to a major, the checklist grows
10 significantly, and the reason for that is because of
11 the street, and the statute anticipated that, which
12 is why you have a longer list for the major
13 subdivision --

14 CHAIRMAN HOLTZMAN: And the reason the
15 checklist grows is because of also the dramatic
16 increase on the entire environment. It is not just
17 your property any more. Now we are talking about a
18 macro story --

19 MR. ROBERTS: Right. It affects that
20 block and the traffic flow of the blocks around it.
21 It affects turning movements on Observer Highway.

22 You know, from a traffic standpoint
23 alone, it is significant, but then you got all of
24 these other factors that are compounding it with
25 drainage, and the fact that it is a flood prone

1 area, even if the road actually improves overall
2 drainage, because maybe it directs the drainage to a
3 spot where the city needs it to be directed, that
4 may be fine, but how can you make that
5 determination, if we don't have a drainage study,
6 and we don't have a traffic impact study, so I would
7 agree with Andy.

8 I think that these are all -- it may
9 seem like a simple matter to extend the street to a
10 block, but not at this location in this town. It is
11 not simple.

12 CHAIRMAN HOLTZMAN: So is it your
13 opinion then that the four-page document that you
14 folks offered as your professional review letter are
15 items that are absolutely required for completion?

16 MR. ROBERTS: Yes. We would strongly
17 recommend that they be submitted before the
18 application is reviewed --

19 MR. HIPOLIT: Or deemed complete.

20 CHAIRMAN HOLTZMAN: All right.
21 Dennis?

22 MR. GALVIN: I have nothing to add to
23 that. I think the law is very clear. Unless you
24 feel that you want to waive those requirements, then
25 it is deemed incomplete because the checklist items

1 have not been complied with.

2 CHAIRMAN HOLTZMAN: Yes. I think we
3 need to throw it out to the Commissioners here, but
4 I think, you know, what we had is difficulty with
5 applications, and when we have not gotten the
6 application really buttoned up on complete, and that
7 when it ends up going to the Board, it ends up
8 becoming a complete mess, and the application gets
9 pingponged back and forth, and we have these
10 applications that are going to stay on our docket
11 forever, because we get into a hearing, and now we
12 can't proceed without this piece of information, we
13 can't proceed without this piece of information, so
14 this is supposed to act as a clearing house, so that
15 we can actually present this to the Board in some
16 kind of a reasonable cohesive fashion.

17 VICE CHAIR MAGALETTA: We tee it up for
18 the full Board, and I think this is a complication.

19 When I saw it, I was struck by these
20 waivers that we were looking for, and I thought, oh,
21 you really can't, you know, you put a road in, in
22 this area of town, you know, when it rains, that
23 floods. You know, again, we don't know if it's a
24 good thing or a bad thing that a road would go in.
25 It may make it worse or alleviate the issue.

1 When I read the professionals' February
2 7th, 2014 letter, and I agree with all of those
3 points, each of those requirements that there be no
4 waiver for them, I think it is important. I mean,
5 especially the history of this property as well.
6 You know, you have environmental concerns. This
7 used to be a leather tannery. So, you know, what's
8 in the soil?

9 It could be heavy metals. You start
10 digging those things up, whatever happens to it, you
11 just can't -- you know, you have to be mindful of
12 what we have here, so that when the full Board gets
13 it, we know what we are dealing with.

14 I incorporate my position that this is
15 not complete based upon the letter and the testimony
16 of our professionals.

17 CHAIRMAN HOLTZMAN: Commissioner
18 Weaver, you looked like you had something for us.

19 COMMISSIONER WEAVER: I do.

20 Our engineer's point about the
21 conditions on it, and it goes to some difficulties
22 we are having with other applicants, right, where
23 they are agreeing to conditions, right, but then
24 they are not following them --

25 MR. GALVIN: Believe it or not, we just

1 has a case where someone came to us --

2 MR. HIPOLIT: Two.

3 MR. GALVIN: -- well, let's just talk
4 about one.

5 They came to us. They stood right
6 where you are standing, and they said, sure, we will
7 close at eleven o'clock at night. Sure, we won't
8 broadcast any music towards Hoboken. We'll
9 broadcast it towards Manhattan.

10 We imposed a few additional conditions
11 that they didn't suggest, but they appealed the ones
12 that they didn't agree to, and they also appealed
13 the ones that they did agree to, and the judge
14 basically is going to remand it to us on those two
15 issues for a further hearing, which I suspect
16 doesn't really put us in a very strong position.

17 So I think the Board is right to be a
18 little concerned about just saying, no problem, we
19 can just condition it this way or that way, when we
20 need to deal with it more carefully.

21 VICE CHAIR MAGALETTA: But I would say
22 even notwithstanding our history, I think on its
23 own, just looking at this application, regardless of
24 what other applicants have done, I think there is
25 not enough information to deem this complete to go

1 before a full Board.

2 MR. GALVIN: Let me talk about the
3 policy for that, too.

4 Just as an observation, in this case in
5 particular, it seems like the road is really major.
6 That is what I am getting from my professionals.

7 We have a very small window to hear
8 this case, if and when it becomes deemed complete,
9 and if we are missing this important information,
10 sure, we can take the position if you don't give it
11 to us at the time of the hearing, we can dismiss
12 you. But, again, it is going to be a mess. It's
13 smarter and more intelligent and better from a
14 professional standpoint for us to have all of the
15 information that we are requesting on this checklist
16 before we proceed and the Board starts to consider
17 it.

18 MR. ROBERTS: The only thing I would
19 add, Mr. Chairman, is that, again, I think Andy
20 touched on it before, if you think of a prototypical
21 preliminary, final process that was the run of the
22 mill, pretty common subdivision, where you would lay
23 out a whole subdivision, put in all new roads, go
24 for preliminary, you got preliminary approval, lock
25 in your roads. You put in your drainage, your road,

1 and build them all, and then you come back for
2 final. Okay? So now this is a situation where it
3 is a completely built out block. You are being
4 asked to approve two new lots and a new road at
5 preliminary.

6 So the case is when does that road get
7 built, and what -- it is how much can you defer to
8 final.

9 I don't even know if we can build a
10 road, so how can I put a condition in? How do I --
11 how do I vote to approve a subdivision that involves
12 a road, and I am not even sure that the city needs
13 or wants it or --

14 MR. GALVIN: I'm going to add to that.
15 I don't think you can do that. I think you have to
16 know what you approved at the preliminary. Final
17 isn't to decide important details like how the road
18 is going to be built. It's for determining whether
19 you can get outside agency approvals for it, right?

20 MR. ROBERTS: Correct.

21 VICE CHAIR MAGALETTA: So what's the
22 question? Do we make a motion at this point or do
23 we --

24 CHAIRMAN HOLTZMAN: Well --

25 VICE CHAIR MAGALETTA: -- I make a

1 motion that this application is not complete at this
2 point.

3 CHAIRMAN HOLTZMAN: Is there a second?

4 COMMISSIONER WEAVER: Second.

5 CHAIRMAN HOLTZMAN: Take a vote for the
6 three Commissioners that are voting to deem the
7 application incomplete pending the professional
8 review letter of --

9 COMMISSIONER WEAVER: Per the review
10 due to lack of information --

11 MR. HIPOLIT: -- due to the lack of
12 information, which was spelled out in the
13 professional's review letter.

14 All in favor?

15 (All Board members voted in the
16 affirmative.)

17 CHAIRMAN HOLTZMAN: So, Pat, please
18 communicate in writing to Mr. Butler and the
19 applicant, that the application is deemed
20 incomplete, and please make sure that there is the
21 latest copy of the professionals' report attached to
22 that, so that there is no question as to what items
23 it is that we are looking for.

24 MS. CARCONE: Yes.

25 CHAIRMAN HOLTZMAN: Thank you, Mr.

1 Butler.

2 MR. BUTLER: Thank you for your time.

3 MR. GALVIN: Thank you.

4 (The matter concluded at 8:35 p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CSR, CRR

PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

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