

CITY OF UNION CITY
HUDSON COUNTY, NEW JERSEY
ZONING BOARD OF ADJUSTMENT

REGULAR MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
:
:

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, July 14, 2016
Commencing at 6:21 p.m.

M E M B E R S P R E S E N T:

KHALED DARDIR
MIGUEL ORTIZ, (Arrived at 6:29 p.m.)
JOHN MEDINA, Alternate No. 1
JOSEPH D. BONACCI, Alternate No. 2
LIBERO MAROTTA, Alternate No. 3
VICTOR M. GRULLON, Vice Chairman,
(Recused at 10:12 p.m.)

M E M B E R S A B S E N T:

MARGARITA GUTIERREZ
HARLENNY E. JAVIER
DAVID W. PRESSEY
PETER C. DOUMAS, Alternate No. 4
ANDRES GARCIA, Chairman

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Board Attorney

DAVID SPATZ, Consultant
Community Housing and Planning Associates

A P P E A R A N C E S:

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, Kids Paradise, LLC

MARLENE CARIDE, ESQ.,
Attorney for Applicant, Ruth Slutsky

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, Paladin Homes, Inc.

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, Estate of Assunta Y. Scarinci

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Jaime Fuentes

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, P & F Hudson, II, LLC

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1 THE SECRETARY: May I have your attention,
2 please?

3 Please take notice that on Thursday, July
4 14, 2016, at six p.m., a Regular Meeting is
5 scheduled for the Zoning Board of Adjustment of
6 the City of Union City, to be held in the
7 Municipal Chamber, located on the second floor,
8 3715 Palisade Avenue, Union City, New Jersey.

9 Can everybody kindly rise to salute the
10 flag, please?

11

12 (Whereupon, the Pledge of Allegiance was
13 said by all.)

14

15 THE SECRETARY: Thank you.

16 Notice of this meeting has been provided,
17 follow -- as follows:

18 Notice of this meeting setting forth the
19 time, location, and the agenda, to the extent
20 known, was sent to The Jersey Journal, The
21 Record, The Hudson Reporter, has been posted on
22 the bulletin board in the City Hall, and has been
23 made available to the public in the -- in the
24 Office of the Municipal Clerk.

25

1 **ROLL CALL:**

2

3 THE SECRETARY: Roll call for tonight's
4 meeting.

5 Chairman Andres Garcia? Absent.

6 Vice Chairman Victor Grullon?

7 VICE CHAIRMAN GRULLON: Present.

8 THE SECRETARY: Margarita Gutierrez?
9 Absent.

10 Miguel Ortiz? Absent.

11 David Pressey? Absent.

12 Harlenny Javier? Absent.

13 Khaled Dardir?

14 MR. DARDIR: Here.

15 THE SECRETARY: John Medina?

16 MR. MEDINA: Here.

17 THE SECRETARY: Joseph Bonacci?

18 MR. BONACCI: Here.

19 THE SECRETARY: Mr. Libero Marotta?

20 MR. MAROTTA: Here.

21 THE SECRETARY: Peter Doumas? Absent.

22 Let the record indicate there are five
23 present.

24 Those absent tonight; Andres Garcia,
25 Margarita Gutierrez, Miguel Ortiz, David Pressey,

1 Harlenny Javier and Peter Doumas.

2 On tonight's agenda we have --

3 MR. PANEQUE: Mr. Vallejo?

4 THE SECRETARY: Yes, sir.

5 MR. PANEQUE: Before we proceed with the
6 agenda, if you could just make an announcement as
7 to the new Board member, Mr. --

8 THE SECRETARY: Yes.

9 MR. PANEQUE: -- Marotta?

10 THE SECRETARY: Yes, for the record, we
11 have a new Board member, Mr. Libero Marotta, has
12 been appointed a new alternate number 3.

13 Thank you.

14 MR. PANEQUE: Welcome, Mr. Marotta.

15 VICE CHAIRMAN GRULLON: Welcome, Mr.
16 Marotta.

17 MR. MAROTTA: I didn't hear.

18 MR. BONACCI: Welcome.

19 THE SECRETARY: Congratulations, Mr.
20 Marotta.

21 MR. PANEQUE: Welcome.

22 MR. BONACCI: Welcome.

23 MR. MAROTTA: Thank you.

24 * * *

25

1 **ATTORNEY RESOLUTION:**

2

3 (1) Resolution to appoint the Attorney for the
4 Zoning Board of Adjustment; commencing on July 1,
5 2016 through June 30, 2017.

6

7 THE SECRETARY: Okay.

8 We have the first Resolution to appoint
9 attorney for the Zoning Board of Adjustment,
10 commencing on July 1st, 2016 through June 30,
11 2017.

12 Can I have a motion to adopt this
13 Resolution?

14 VICE CHAIRMAN GRULLON: I make a motion to
15 adopt the --

16 THE SECRETARY: Motion --

17 VICE CHAIRMAN GRULLON: -- Resolution.

18 THE SECRETARY: -- by Mr. Grullon.

19 Any second?

20 Mr. Bonacci.

21 Roll call on the motion.

22 Victor Grullon?

23 VICE CHAIRMAN GRULLON: Yes.

24 THE SECRETARY: Khaled Dardir?

25 MR. DARDIR: Yes.

1 THE SECRETARY: John Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Joseph Bonacci?

4 MR. BONACCI: Yes.

5 THE SECRETARY: Libero Marotta?

6 MR. MAROTTA: Yes.

7 THE SECRETARY: Five in favor. Motion
8 carries.

9 Congratulation, Mr. Paneque.

10 MR. PANEQUE: Thank you.

11 VICE CHAIRMAN GRULLON: Welcome back.

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1 RESOLUTIONS:

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3 (1) 36 Associates, LLC - 546-548 35th Street.
4 Block 213, Lots 17, 18, 64-68. Resolution was
5 memorialized July 14, 2005. Applicants are
6 seeking for one (1) year extension. Approved.

7 (2) 3915 Bergenline Ave., LLC - 3915 Bergenline
8 Ave. Block 229, Lot 32. Resolution was
9 memorialized June 14, 2012. Applicants are
10 seeking for one (1) year extension. Approved.

11 (3) Union City Properties, LLC - 3811-13
12 Kennedy Blvd. Block 261, Lot 59. Resolution was
13 memorialized May 9, 2013. Applicants are seeking
14 for one (1) year extension. Approved.

15 (4) Miguel Miqueli - 4102-4106 New York Ave.
16 Block 241, Lot 2. Legalization of existing
17 retail spaces, stores 1 through 3. Approved.

18 (5) Joseph Gaudio - 509-511 18th Street. Block
19 91, Lots 10 and 11. Convert existing office
20 building into a two family house. Approved.

21 (6) Irmina Mondejar - 505 27th Street. Block
22 148, Lot 43. Legalize existing apartment on the
23 third floor. To go from a three family to a four
24 family. Approved.

25 (7) Renaissance Union, LLC - 535 30th Street.

1 Block 161, Lot 19. Modification of parking
2 variance previously granted in order to
3 rehabilitate the building. Approved.

4 (8) Peter and Andrea Yassa - 134-136 35th
5 Street. Block 212, Lots 7, 8. Proposed to
6 construct a new four family house with four off-
7 street parking spaces in the R zone. Approved.

8
9 THE SECRETARY: Right. We have eight
10 Resolutions, was previously approved applications
11 on the previous meeting.

12 First one is 36 Association (sic), LLC,
13 546-548 35th Street. Was seeking one year
14 extension, was approved.

15 3915 Bergenline Avenue, LLC, 3915
16 Bergenline Avenue. One year extension.

17 Union City Properties, LLC, 3811-13 Kennedy
18 Boulevard. One year extension.

19 Miguel Miqueli, 4102-4106 New York Avenue.
20 Legalization of existing retail space, store one
21 through three. Approved at the previous meeting.

22 Jose (sic) Gaudio -- Joseph, I'm sorry,
23 Gaudio, 509-511 18th Street.

24 Irmina Mondejar, 505 27th Street.

25 Renaissance Union, LLC, 535 30th Street.

1 And number 8, Peter and Andrea Yassa, 134
2 one -- 134-136 35th Street.

3 Can I have a motion to adopt these
4 Resolution?

5 VICE CHAIRMAN GRULLON: Motion to adopt --

6 THE SECRETARY: Motion by --

7 VICE CHAIRMAN GRULLON: Motion to adopt the
8 Resolutions.

9 THE SECRETARY: -- Victor Grullon.

10 MR. BONACCI: I'll second.

11 THE SECRETARY: May I have a second?

12 Second by Mr. Bonacci.

13 Roll call on the motion.

14 Victor Grullon?

15 VICE CHAIRMAN GRULLON: Yes.

16 THE SECRETARY: Khaled Dardir?

17 MR. DARDIR: Yes.

18 THE SECRETARY: John Medina?

19 MR. MEDINA: Yes.

20 THE SECRETARY: Joseph Bonacci?

21 MR. BONACCI: Yes.

22 THE SECRETARY: Motion carries. Four in
23 favor.

24 * * *

25

1 **CORRECTIVE RESOLUTION:**

2

3 (1) 2000 West Street, LLC, AKA 526 Monastery
4 Place, 2000 West Street. Block 109, Lot 26.

5 Proposed extension for existing two and a half
6 story, mixed use office/residential. Addition to
7 existing third floor and proposed fourth floor
8 addition. This Resolution was adopted on
9 November 12, 2015.

10

11 THE SECRETARY: We have one corrective
12 resolution.

13 2000 West Street, LLC, AKA 526 Monastery
14 Place. This Resolution was adopted on November
15 12, 2015.

16 Can I have a motion to adopt this
17 corrective resolution?

18 VICE CHAIRMAN GRULLON: Before we -- before
19 we move on the motion, can you explain, Counsel?

20 MR. PANEQUE: Yes.

21 The reason that a Corrective Resolution was
22 required in this application is because at the
23 time that the Resolution was done, the Resolution
24 indicated that there were four studios in the
25 second floor where, in fact, the plans that had

1 | been presented to the Board indicated that there
2 | were six actual spaces. Four were marked as
3 | studios, and then there were two marked with
4 | actual tenants.

5 | As an oversight, I -- in preparation of the
6 | Resolution, the -- the ones with the tenants were
7 | not noted in the Resolution, and the Construction
8 | Official Office picked up on that, and requested
9 | that we provide them with a Resolution that
10 | matched the plans that were approved by the
11 | Board.

12 | The present Resolution, which is the
13 | Corrective Resolution, provides for a detailed
14 | notation of exactly what was approved, pursuant
15 | to the site plan that was approved by this Board.

16 | I'll read a portion of the Resolution which
17 | is the pertinent portion.

18 | Resolution was passed by the Board
19 | described the project as site plan approval and
20 | necessary variances to construct a one and a half
21 | story addition over an existing two and a half
22 | story building, formerly used for charitable
23 | office purposes, and convert the building to a
24 | mixed use building as follows:

25 | Two commercial spaces and a recording

1 studio on the first floor; four commercial spaces
2 on the second floor; two residential apartments
3 and six recording studios on the third floor; and
4 eight recording studios and seven offices on the
5 fourth floor.

6 That's the way the old Resolution read, and
7 if you note, on the second floor, it says, four
8 commercial spaces on the second floor.

9 The plans clearly show that, aside from the
10 four commercial spaces that did not have tenants,
11 there were two additional spaces which already
12 had tenants inside those spaces, and those
13 tenants were marked on the plans.

14 And the Corrective Resolution provides for
15 a second floor, which shows six commercial spaces
16 on the second floor; one labeled J & L Dance
17 Studio and the other Femme Body Fitness.

18 The others are labeled tenant spaces three,
19 four, five and six.

20 In addition, there are two bathrooms,
21 electrical and janitor's closet on the second
22 floor.

23 So, this Corrective Resolution is just a
24 detailed explanation of what the site plan
25 provided for.

1 (Whereupon, Miguel Ortiz arrived at 6:29
2 p.m.)

3 MR. ORTIZ: Good evening.

4 VICE CHAIRMAN GRULLON: The Corrective
5 Resolution is going to reflect exactly as we
6 approved on the plans.

7 MR. PANEQUE: That is correct.

8 THE SECRETARY: Allow me one second to put
9 in the record that Mr. Ortiz joined the meeting,
10 6:30 p.m.

11 Can I have a motion to adopt the Corrective
12 --

13 VICE CHAIRMAN GRULLON: I make a --

14 THE SECRETARY: -- Resolution?

15 VICE CHAIRMAN GRULLON: I'll make a motion
16 to adopt the Resolution.

17 THE SECRETARY: Motion to adopt the
18 Corrective Resolution by Vice Chairman Victor
19 Grullon.

20 MR. BONACCI: I'll second.

21 THE SECRETARY: Second by Joseph Bonacci.
22 Roll call on the motion.

23 Victor Grullon?

24 VICE CHAIRMAN GRULLON: Yes.

25 THE SECRETARY: Miguel Ortiz?

1 MR. ORTIZ: I was in the back, but I
2 couldn't vote on this. I didn't hear the --

3 MR. SPATZ: He can abstain.

4 THE SECRETARY: Okay. You abstain.

5 MR. ORTIZ: I'll abstain.

6 THE SECRETARY: Khaled Dardir?

7 MR. DARDIR: Yes.

8 THE SECRETARY: John Medina?

9 MR. MEDINA: Yes.

10 THE SECRETARY: Joseph Bonacci?

11 MR. BONACCI: Yes.

12 THE SECRETARY: Mr. Marotta?

13 MR. MAROTTA: Abstain.

14 THE SECRETARY: Motion carries. Four in
15 favor, two abstain.

16 * * *

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1 Kids Paradise, LLC - 526 Monastery Place aka 2000

2 West Street:

3

4 THE SECRETARY: Okay.

5 First hearing on tonight's agenda, Kids
6 Paradise, LLC, 526 Monastery Place, A/K/A 2000
7 West Street.

8 Mr. --

9 MR. LOPEZ: Lopez.

10 THE SECRETARY: -- Lopez, always with Diaz.
11 Mr. Lopez.

12 MR. LOPEZ: I just want to make sure you
13 received the additional supplement.

14 These are not part of the plans, however,
15 they will be used by our planner in issuing the
16 testimony.

17 VICE CHAIRMAN GRULLON: Do we have the
18 plans here?

19 THE SECRETARY: Wait a minute. It's right
20 there on the table.

21 VICE CHAIRMAN GRULLON: Oh, plans.

22 MR. LOPEZ: That's -- no, no. That's the
23 -- this is the planner's exhibit.

24 THE SECRETARY: That the planner exhibit.

25 MR. LOPEZ: Yes. You have the -- these are

1 the plans.

2 (Whereupon, there was a pause in the
3 proceedings.)

4 MR. LOPEZ: Okay.

5 Good evening, Mr. Chairman, gentlemen of
6 the Board.

7 First, Adolfo Lopez, appearing on behalf of
8 the applicant.

9 Mr. Paneque, if we could just put something
10 on the record to indicate that we've previously
11 acquired jurisdiction over this Board at the last
12 meeting --

13 MR. PANEQUE: Yes.

14 MR. LOPEZ: -- when we submitted
15 jurisdictional documents. They were accepted,
16 and we requested an adjournment at that time.

17 MR. PANEQUE: That is correct.

18 Let the record reflect that on June 9, Mr.
19 Lopez's case was scheduled, at which time when he
20 appeared, he provided all of the jurisdictional
21 documents, and jurisdiction was established, and
22 the matter was carried until tonight, because I
23 believe his planner was not here on June 9th.

24 MR. LOPEZ: That's correct.

25 MR. PANEQUE: His request to carry the

1 matter to tonight, without further notices, was
2 granted by the Board.

3 MR. LOPEZ: Thank you.

4 Members of the Board, we have before you
5 tonight, a request for an application of a
6 conditional use, a D-3 conditional use variance.

7 At this site, it is an existing structure,
8 which has been modified. I will present Mr.
9 Arencibia to testify.

10 But very basically, it's a very large
11 structure, and we are seeking the use for an
12 educational center.

13 We tend to call these childcare centers,
14 but my planner will also address that issue.

15 This, by its nature, will be an educational
16 center.

17 My first witness is Mr. Albert Arencibia.
18 And Mr. Paneque, Mr. Arencibia has previously
19 appeared before the Board.

20 Is that correct, Mr. Arencibia?

21 MR. ARENCIBIA: Yes. A few times.

22 MR. LOPEZ: Have you been qualified as an
23 expert before the Board?

24 MR. ARENCIBIA: Yes, I have.

25 MR. LOPEZ: As an architect.

1 MR. ARENCIBIA: Yes.

2 MR. LOPEZ: Correct?

3 MR. ARENCIBIA: Correct.

4 MR. LOPEZ: And you continue to hold a -- a
5 license from the State of New Jersey as an
6 architect?

7 MR. ARENCIBIA: As far as I know, yes.

8 MR. LOPEZ: I would seek to move --

9 VICE CHAIRMAN GRULLON: Our pleasure, Mr.
10 --

11 MR. LOPEZ: -- Mr. Arencibia --

12 VICE CHAIRMAN GRULLON: -- Mr. Arencibia.

13 MR. LOPEZ: -- as --

14 MR. ARENCIBIA: Thank you very much.

15 MR. LOPEZ: -- as an expert witness.
16 Thank you.

17 MS. DILLON: Let me swear him in.
18 Please raise your right hand.

19 Do you affirm the testimony you're about to
20 give this Board is the whole truth?

21 MR. ARENCIBIA: I do.

22 MS. DILLON: Please state your name and
23 spell it for the record.

24 MR. ARENCIBIA: Albert Arencibia,
25 A-R-E-N-C-I-B-I-A.

1 MS. DILLON: Thank you.

2 MR. LOPEZ: Mr. Arencibia, could you give,
3 first, a general overview of the project, for the
4 benefit of the Board?

5 MR. ARENCIBIA: Yes.

6 Thank you very much, everyone on the Board.

7 Yeah. Basically, in essence, this is an
8 application to do, basically, a daycare center on
9 an existing structure, on the corner of Monastery
10 and West Street.

11 The building itself is quite geared toward
12 this type of a use. It was basically used for
13 office space before. So, it has nice large
14 windows throughout the exterior of the building
15 throughout, and has big floor to ceiling heights.
16 And the building is -- is a quite -- very
17 attractive building. It's actually a combination
18 of two different buildings; an older structure
19 that faces Monastery Place, and a newer addition
20 that was built years ago on West Street.

21 The application that we have before here is
22 basically to do a children's daycare on the
23 first, and the second floor.

24 The daycare will occupy part of the first
25 floor. The second floor will be -- the entire

1 second floor will be used for the daycare center.

2 Presently, right now, in the actual
3 building, there are two entrances to the -- to
4 the building.

5 There's one off of Monastery Place, and
6 there's one off of West Street.

7 What we -- in developing the plans, we
8 actually looked at the access and ingress, as far
9 as dropping off children and so forth for the
10 school.

11 And we decided, at that time, to basically
12 use the West Street entrance as the drop
13 off/pickup area, as the entire space there is
14 open. There's existing park -- car parking in
15 front of the house. So, basically, the building
16 -- excuse me.

17 So, there's a curb cut continues there, so
18 there will be no cars ever parked in that area.
19 So, there will be easy access, as far as for the
20 children. There will be drop off, and people
21 will come from the school, pick them up, and
22 bring them into the school itself.

23 MR. LOPEZ: Mr. Arencibia, let me interrupt
24 you for one second.

25 On the issue of this drop off, the building

1 has two entrances, as you indicated.

2 MR. ARENCIBIA: Yes.

3 MR. LOPEZ: Will it be the practice of the
4 center to actively discourage parents, who are
5 dropping off children by cars, to do so on
6 Monastery Place?

7 MR. ARENCIBIA: That is correct. Yes.

8 MR. LOPEZ: And that is for -- is it fair
9 to say that it's for the reason that you just
10 described, that there's such a wide area on West
11 Street, which ample -- amply accommodates
12 numerous motor vehicles at a time.

13 MR. ARENCIBIA: Ab --

14 MR. LOPEZ: Is that correct?

15 MR. ARENCIBIA: Absolutely.

16 MR. LOPEZ: So, if -- the center has
17 indicated to you that they will encourage parents
18 that are walking the kids to use either the
19 Monastery Place or the West Street entrance.

20 Is that right?

21 MR. ARENCIBIA: Correct, yes.

22 MR. LOPEZ: And the ones that are coming by
23 car, exclusively to use the West Street --

24 MR. ARENCIBIA: That is correct.

25 MR. LOPEZ: And in addition to that, have

1 | you discussed -- have you discussed with the
2 | center the actual process of receiving the
3 | children?

4 | Is it expected that a teacher will be
5 | outside to receive the children at drop off
6 | hours?

7 | MR. ARENCIBIA: That is correct.

8 | MR. LOPEZ: And where, if we can show on
9 | the photograph, if we could explain to the Board,
10 | where the teacher would be standing, generally,
11 | in this area?

12 | MR. ARENCIBIA: Yes.

13 | If you look on Sheet T-100, there's a
14 | picture of the existing elevation on West Street.
15 | And what you see there is you see an enlarged
16 | section in the middle. You see like a double --
17 | almost like a two story storefront glass doors
18 | and an adjacent stairs.

19 | And that will be the area. There's no car
20 | parking in that whole area. That whole area is
21 | completely open.

22 | So, the cars will pull up in front there,
23 | and the teacher will come out from there and pick
24 | up the child, right from the -- the car, and
25 | bring them right inside into the building itself.

1 MR. LOPEZ: And Mr. --

2 MR. ARENCIBIA: So, it's very safe, as far
3 as drop off area.

4 MR. LOPEZ: And in addition, I would ask
5 you to comment upon the width of the area in the
6 front.

7 Is it your belief that the -- the area is
8 wide enough where the children would not be
9 dropped off in the street, but rather on this
10 apron, all around the property?

11 MR. ARENCIBIA: Yes. Absolutely.

12 MR. LOPEZ: Is that correct?

13 MR. ARENCIBIA: That is absolutely correct.

14 MR. LOPEZ: All right.

15 MR. ARENCIBIA: Sure.

16 MR. LOPEZ: Now, addressing the interior
17 space.

18 Could you describe the sizes of the
19 classrooms that the center seeks to layout --

20 MR. ARENCIBIA: Sure.

21 MR. LOPEZ: -- and operate?

22 MR. ARENCIBIA: Basically, what we have is
23 we have a total of eight classrooms. We have two
24 classrooms on the first floor level, roughly 995
25 square feet, 955 square feet.

1 We also have -- on the first floor level a
2 teacher's lounge, and an additional toilet area,
3 and storage area for the actual school.

4 The rest of the space on the -- on the
5 first floor is occupied by another tenant.
6 However, we do have access directly to the street
7 and to the stairs, so we do have two means of
8 egress directly out from the space on the first
9 floor.

10 MR. LOPEZ: Mr. Arencibia, sticking with
11 the first floor, is that a handicapped accessible
12 space on the first floor?

13 MR. ARENCIBIA: Yes, it is.

14 MR. LOPEZ: And could you describe where
15 the handicapped access to the space originates?

16 MR. ARENCIBIA: Yes. On -- basically, it's
17 going to be on Monastery Place. We're actually
18 proposing on doing a new handicap accessible
19 ramp, in order to have a space so that any
20 children, in case of any emergency, would have
21 easy access to get in and out of the space.

22 MR. LOPEZ: And while I'll address the
23 issue of -- of the overall egress, by the
24 numerous staircases, but please describe the
25 second floor area first.

1 MR. ARENCIBIA: Sure. Okay. And you'll
2 see on Sheet A-100, what I have here is,
3 basically, it shows the first floor plan and the
4 second floor plan.

5 What we show, with the little arrows, the
6 dash arrows, that's sort of the -- the egress
7 plan for the entire space, so you could actually
8 see that there's plenty of exiting from the
9 space, except on the first floor, we have two
10 classrooms, and we have two means of egress
11 directly out from there.

12 We also have, on the second floor, we
13 basically have three means of egress out from the
14 second -- from the second floor, which is more
15 than what we need.

16 We have the additional six classrooms on
17 the second floor. Again, roughly 950 square
18 feet, in that -- in that vein.

19 We're also going to have a multi-purpose
20 room, 1400 square feet, where the children can
21 play, used as sort of like a little -- like for
22 the kids to eat during the day, so forth and so
23 on.

24 There's a little warming kitchen off of the
25 multi-purpose room.

1 And again, we're going to have the
2 associated facilities. A men's toilets rooms,
3 women's toilet room, a office with a sick room
4 for the children, janitor's closet to maintain
5 the space clean, and of course, a waiting area.

6 MR. LOPEZ: Mr. Arencibia, would you agree
7 that due to the numerous staircases, and numerous
8 ways to enter and exit the building, that this
9 provides a safe space, in the event of an
10 emergency for children?

11 MR. ARENCIBIA: Yes.

12 MR. LOPEZ: Okay.

13 MR. ARENCIBIA: Absolutely.

14 MR. LOPEZ: I'm also going to ask you to
15 describe something that you indicated in your
16 plans regarding an outdoor space that the school
17 intends to provide.

18 Can you please describe where that space
19 will be, and what accommodations are being made?

20 MR. ARENCIBIA: Yes.

21 There is -- on the east side of the -- of
22 the property, there's roughly an area that's 15
23 feet wide. And what we're proposing on having --
24 that's where we're going to actually add the
25 egress ramp, we're going to put in that area.

1 And we're also going to use the rest of this
2 space, roughly about -- I'd say about 150 feet
3 back, by 11 feet, for a play area.

4 We're going to fence it off, so basically,
5 the access to the area will be directly from the
6 classroom itself. And it will be completely
7 secured from the -- from the outside.

8 Of course, there will be a gate for egress,
9 in case of an emergency, if they have to go out.
10 But basically, the whole area will be for the
11 children to play outdoors in the -- in the yard.

12 MR. LOPEZ: And the intent to secure it is
13 by way of fences to provide both privacy and
14 safety for the children.

15 Is that correct?

16 MR. ARENCIBIA: That is correct. Yes.

17 MR. LOPEZ: All right.

18 Now, oh I'm going to ask you to just go
19 over the variances that are required, and -- and
20 distinguish between the active and passive
21 variances that we --

22 MR. ARENCIBIA: Shouldn't we have a --

23 MR. LOPEZ: -- indicate.

24 MR. ARENCIBIA: Why don't we have --

25 MR. LOPEZ: He will --

1 MR. ARENCIBIA: Yes.

2 MR. LOPEZ: -- but you'll -- you're just
3 going to describe them overall what we're asking
4 for.

5 MR. ARENCIBIA: Okay.

6 MR. LOPEZ: We need -- we need a parking
7 variance.

8 MR. ARENCIBIA: Correct.

9 MR. LOPEZ: Is that correct?

10 MR. ARENCIBIA: The real issue here is the
11 parking variance.

12 Basically, this is a conditional use. It's
13 permitted in the zone. So, everything else, as
14 far as any of the other variances, again, are
15 preexisting conditions.

16 Again, our tenant, basically, is leasing
17 space in the building. They do not have access,
18 they cannot change, or -- or make the building
19 smaller. It's an existing structure.

20 All we're doing is doing a fit-up within
21 the existing premise of the building, and
22 providing a safer access for the -- the children
23 coming in and out, via the handicap ramp.

24 MR. LOPEZ: Okay.

25 And -- and the specific issues will be

1 addressed by our planner.

2 MR. ARENCIBIA: Yes.

3 MR. LOPEZ: Is that correct?

4 All right.

5 MR. ARENCIBIA: Yes.

6 MR. LOPEZ: Unless the Board has any
7 questions, that completes the testimony of Mr.
8 Arencibia.

9 VICE CHAIRMAN GRULLON: No. Let's from
10 your next applicant (sic).

11 MR. LOPEZ: Okay.

12 Thank you.

13 VICE CHAIRMAN GRULLON: And then we have
14 questions --

15 MR. LOPEZ: Thank you.

16 VICE CHAIRMAN GRULLON: -- at the end.

17 MR. ARENCIBIA: Okay. Okay.

18 Thank you.

19 MR. LOPEZ: Mr. Izquierdo, if you can come
20 forward?

21 (Whereupon, there was a pause in the
22 proceedings.)

23 MS. DILLON: Mr. Izquierdo, please raise
24 your right hand.

25 Do you affirm the testimony you're about to

1 give this Board is the whole truth?

2 MR. IZQUIERDO: Yes, I do.

3 MS. DILLON: Please state your name for the
4 record.

5 MR. IZQUIERDO: Jose Izquierdo, New Jersey
6 planner 03385.

7 My office is at 207 60th Street, West -- in
8 West New York, New Jersey.

9 MS. DILLON: Thank you.

10 (Whereupon, there was a pause in the
11 proceedings.)

12 MR. LOPEZ: Mr. Izquierdo, you have, on
13 numerous occasions, provided testimony before
14 this Board and qualified as an expert.

15 Is that correct?

16 MR. IZQUIERDO: Yes, I have.

17 MR. LOPEZ: And your license as a planner
18 in the State of New Jersey, continues to the
19 present.

20 Is that right?

21 MR. IZQUIERDO: Yes, I am.

22 MR. LOPEZ: All right.

23 Have you had a chance to review and prepare
24 certain exhibits for purpose of today's
25 testimony?

1 MR. IZQUIERDO: Yes, I have.

2 MR. LOPEZ: And when you were advised of
3 this project, what were you told would be the
4 intent and purpose of the use?

5 MR. IZQUIERDO: Okay. Good evening,
6 members of the Board.

7 The Zoning Board gains jurisdiction of this
8 application because a school, as well as an
9 institutional use, are allowed -- are uses
10 allowed, conditional in the R zone.

11 The property, which is the site here, is at
12 the northeast corner of Monastery Place and West
13 Street. It lies right ahead of the Saint Michael
14 Monastery Church, which is actually the Historic
15 Preservation Overlay District of the zone.

16 There is a zone map here.

17 And there, actually, in this specific area,
18 all the zones of the new zoning ordinance are
19 active. There's the R zone. There's an R-N zone
20 above. There's the C-N, Commercial Neighborhood
21 District up Bergenline Avenue, as well as the
22 Commercial Neighborhood District off Summit
23 Avenue.

24 However, this site is very, very peaceful
25 building on the corner of Monastery and West.

1 What the applicant, which is the tenant, is
2 providing is an adapt -- adaptive reuse of an
3 existing building, not to be considered a
4 greyfield development, because this is not a
5 contaminated site. This is just the adaptive
6 reuse of -- actually of a building that is, as
7 the architect described, is a mixture of two
8 buildings, the old building that faces on
9 Monastery Place, and the new building, part of
10 like a -- looks like a Catholic school addition,
11 so to speak.

12 MR. LOPEZ: And when you say -- let me just
13 interrupt you.

14 When you use the word new building, newer
15 than the original building, but has been existing
16 on the site for quite some time.

17 Is that correct?

18 MR. IZQUIERDO: Yes. The one on West
19 Street is probably about 50 years old or so.

20 The building is totally vacant, and the
21 applicant, which is a tenant, plans to occupy a
22 portion of this building, as the architect
23 described.

24 According to our Ordinance, Section 1873.5,
25 a conditional use, a school is allowed in the R

1 District, which is actually, are educational
2 facilities on the second floor, are educational
3 in character.

4 And, actually, the -- the State legislature
5 has determined that schools and daycare centers
6 are inherently beneficial uses, both as a school
7 and as an institutional use, which is where we're
8 going to take care of the babies, which are two
9 and a half of age and less.

10 MR. LOPEZ: Now, let me stop you one
11 second, Mr. Izquierdo.

12 I just want the Board to be clear that the
13 -- the Union City Ordinance that you cited,
14 permits schools as a conditional use in the R
15 Zone.

16 MR. IZQUIERDO: Yes.

17 MR. LOPEZ: Is that correct?

18 MR. IZQUIERDO: Yes.

19 MR. LOPEZ: But is it true that both our
20 legislature, and it has been interpreted by our
21 courts to -- to equate these types of centers
22 with school.

23 Is that correct?

24 MR. IZQUIERDO: Correct, because they are
25 not custodial in nature. They're primarily

1 educational in nature.

2 MR. LOPEZ: So, even though our Ordinance
3 says school, this is, in essence, a school, for
4 purposes of this application.

5 Is that correct?

6 MR. IZQUIERDO: Yes. However, the
7 definition of school in our Ordinance
8 specifically does not include childcare centers.
9 So, for -- in terms of this Board, we are not
10 applying for a school, we're applying for a
11 childcare center that has -- it's going to have,
12 in terms of Building Code, educational
13 characteristics on the second floor, and
14 institutional characteristics on the ground
15 floor, both conditional uses. A D-3 gives
16 jurisdiction of this Board.

17 And, actually, the building meets all of
18 the conditions, with the exception of one, and
19 that pertains to parking.

20 MR. LOPEZ: Before we get into parking --

21 MR. IZQUIERDO: Okay.

22 MR. LOPEZ: -- Mr. Izquierdo, can you just
23 indicate, even though there are things that --

24 MR. IZQUIERDO: I'll go through the list.

25 MR. LOPEZ: -- the applicant is not in

1 control of, because he doesn't own the building,
2 but overall, are there -- is -- does the building
3 site, or the building structure, present certain
4 variances, which are passive? They are
5 preexisting? They are not being touched?

6 Can you go into those, please?

7 MR. IZQUIERDO: That is correct.

8 And actually, on the small sheet that
9 counselor distributed to you, there's on the --
10 on the right hand sheet is a zoning schedule of
11 compliance of what this application entails.

12 According to such, on 1873.5, being a
13 conditional use, we have to use the -- the site
14 determinations of the R zone.

15 So, a lot area, 5,000 is required, we have
16 22,391, which exceeds and complies.

17 The lot width required is 50 feet, we have
18 182.75 feet. We comply.

19 The lot depth is a hundred feet is
20 required. The building has existing 125 feet.
21 So, the building, which we're not the applicant
22 for the building, we're just the tenant, a part
23 of the tenants, the front yard required is ten
24 feet, or the prevailing setback. And that is a
25 preexisting variance condition.

1 And that is actually a condition that we
2 see all throughout West Street.

3 So, we are asking for a variance for these
4 14 parking spaces that are on the front of the
5 building. But what happens is, when we see the
6 map, 2020, 2018, 2016, 2014 has it, 2012 doesn't
7 have it, then 19 -- all of these have front yard
8 parking, which is parking in the front yard,
9 which is -- actually, it's not a variance. It's
10 a waiver of a site plan criteria.

11 And it is described in 1873.5I, wherein the
12 west, 15 feet is -- is the maximum, 12 feet one
13 is the minimum. But we're required to be five
14 feet away from the property line, to the first
15 parking space, and neither of these comply. Of
16 course, neither of all of those comply. So, it's
17 a preexisting condition.

18 The side yard required, six feet and 12
19 both. The rear yard required, 25 percent.

20 And the way I did this to show is that
21 actually, the building does not have a rear. The
22 building has two fronts. One front on West
23 Street, being the newer portion, and the old
24 historical building facing Monastery Place, being
25 the other front yard.

1 So, this is a side yard and this is a side
2 yard. But in those, we comply, as well.

3 The building coverage allowed is 60
4 percent, and we have 60.87 percent. That's a
5 de minimis condition, and it's actually
6 preexisting. We have no control over that.

7 And same for lot coverage, and -- and the
8 loading berth.

9 MR. LOPEZ: Now, the big issue here, can
10 you address the parking variance that is being
11 sought?

12 MR. IZQUIERDO: The parking requirements,
13 in our new Zoning Ordinance of March of 2012, on
14 Parking Schedule I, says that as a childcare
15 facility, I need to have one space per employee.

16 As an educational facility, I need to have
17 one space for employee.

18 So, the standard is that we need to have
19 one space for employee.

20 The State requires us to have two teachers
21 in every classroom, and one extra, in the event
22 that that teacher becomes undisposed (sic) and
23 has to -- to -- well, relieve herself or
24 whatever.

25 MR. LOPEZ: And you have calculated, based

1 upon the size of the center, and the proposed
2 number of classrooms, what it is that would be
3 required, in terms of employees and teachers?

4 MR. IZQUIERDO: This center, when fully
5 operational, would have 17 teachers, being eight
6 classrooms at two teachers each, plus the
7 additional teacher.

8 So, a minimum of 17 -- a maximum of 17
9 employees.

10 MR. LOPEZ: So, this would be maximum
11 conditions, based on the children that can be
12 accommodated.

13 MR. IZQUIERDO: And for the plans as
14 submitted, exactly in this Code, which is
15 actually a total of like 11,000 square feet.
16 It's -- yeah, 11,000 square feet.

17 MR. LOPEZ: And currently, how many spaces
18 are available on the -- on the West Street side
19 of the property?

20 MR. IZQUIERDO: Six and eight.

21 MR. LOPEZ: So, 14 spaces.

22 MR. IZQUIERDO: Yes.

23 MR. LOPEZ: And has the client expressed to
24 you that he has discussed this issue with the
25 landlord, and they agree to be cooperative with

1 each other, depending on the tenants at the site.

2 MR. IZQUIERDO: Yes. I believe that to be
3 so. Yes.

4 MR. LOPEZ: Now, relating to the -- the
5 balancing test that needs to be applied, based on
6 -- on this type of usage, can you describe what
7 is required for this Board to balance in making a
8 determination?

9 MR. IZQUIERDO: Yes. Absolutely.

10 In having a determination by the State
11 legislature that we are an inherently beneficial
12 use, it satisfies the special reasons, the
13 purposes of zoning, and the positive criteria.

14 Specifically, in Sica versus Board of
15 Adjustment of the Township of Wall, and that is a
16 case from 1992, the court describes that the
17 process and the applicant need to go through a
18 four step analysis, which is called the Sica
19 balancing test.

20 And it -- the first prong of the test is to
21 identify the public interest that is generated by
22 the proposed use.

23 The use is not an issue here. The use is
24 allowed in nonresidential zones. It's allowed by
25 the zoning and it's inherently beneficial.

1 Everybody wants to have a nice daycare.

2 Specifically, in this case, we have a very
3 peaceful, nicely developed area. A lot of old
4 trees. This is all historical. This is
5 absolutely gorgeous.

6 And actually, what the architect has done,
7 which is a very smart development, is generating
8 a playground here for the -- for the children.

9 So, the public interest is served
10 positively by the use.

11 However, since we have this issue that the
12 -- the Master Plan and the -- and the Zoning
13 Ordinance says that we need to have one parking
14 space for employee, and I'm required to have 17
15 parking spaces.

16 So, we cannot provide the 17 parking
17 spaces. Actually, I don't know, but it seems to
18 me that the Board should have some sort of
19 testimony from the operator of the facility, in
20 terms of how many of their employees, they have a
21 car.

22 I, specifically, I don't have a car. I
23 enjoy public transportation.

24 But the at risk consequences of having a
25 parking lot here for 17 cars would be actually --

1 | would be -- all of this would have to be a
2 | parking lot.

3 | And, actually, in all of this area, there
4 | is this garage, for the dentist, at this corner;
5 | there's another garage here; there are two
6 | garages here; there are no garages. The Oritani
7 | Bank has a parking lot here, but there's a vacant
8 | lot here.

9 | MR. LOPEZ: So, it is your --

10 | MR. IZQUIERDO: There's no parking lot.

11 | MR. LOPEZ: Is it your opinion to now
12 | impose a parking lot in this area would be out of
13 | character with the neighborhood?

14 | MR. IZQUIERDO: If -- if, I, as a planner,
15 | balance the positive criteria of having a parking
16 | space for 17 employees, which would just be a
17 | parking lot, as opposed to this condition, maybe
18 | the employees, because the Board -- the
19 | legislature also allows and recommends that the
20 | Board examine local conditions. The availability
21 | of public transit there.

22 | Bergenline Avenue, with the jitneys and
23 | N.J. Transit, is wonderfully served. And so is
24 | Summit Avenue and Kennedy Boulevard.

25 | MR. LOPEZ: Now, Mr. Izquierdo, one other

1 question regarding the -- an issue that you
2 brought up.

3 Now you have been -- is it fair to say that
4 you have been involved with the establishment and
5 planning of daycare centers throughout Union City
6 and West New York in the past?

7 MR. IZQUIERDO: For 32 years. Yes.

8 MR. LOPEZ: And -- and is it, in your
9 experience, have you seen that many of the
10 employees that are typically hired are local
11 people?

12 MR. IZQUIERDO: Yes, they are local people.
13 Actually, in -- in every single consideration,
14 the owner typically has a car or the manager has
15 a car, because has to go get errands and
16 everything, but the teachers that -- that --

17 I mean, the Board should get testimony --

18 MR. LOPEZ: Yes.

19 MR. IZQUIERDO: -- in terms of how the --
20 the planners.

21 However, the -- the Board should also
22 consider imposing some conditions that will
23 mitigate the variances of the -- of the variance.

24 So -- so, if -- maybe if there's an
25 applicant that comes, how many of the -- of the

1 employees of the -- of the owner have cars; how
2 many -- you know, and then, the Board has to
3 balance.

4 Would I prefer to see a parking lot for 17
5 cars here, of paving all these areas, just to
6 satisfy this daycare, or -- or the conditions as
7 they are here, balancing the interest? It is a
8 positive impact, and it would not cause such an
9 adverse consequence that would actually impair
10 the intent of the Zoning Plan and Master
11 Ordinance.

12 MR. LOPEZ: Anything else that you need to
13 address regarding the test?

14 MR. IZQUIERDO: No, just that the Board
15 should balance these interests in -- in its
16 determination.

17 MR. LOPEZ: Now, and one additional
18 question.

19 Relating to the area as a whole, is it fair
20 to say that as far as Union City is concerned,
21 this is not a particularly dense area, given that
22 the Monastery across the street takes up so much
23 room, and it is a lower density usage at that
24 point?

25 MR. IZQUIERDO: Whoa. Density in Union

1 City. That's a question, because no, I mean, the
2 -- the areas are pretty much fully developed. I
3 mean, they have --

4 MR. LOPEZ: Yes.

5 MR. IZQUIERDO: -- two stories, three
6 stories. It's a very low key area.

7 You'll start getting some five stories
8 here.

9 MR. LOPEZ: When you say here, could you
10 just put for the record where you're talking?

11 MR. IZQUIERDO: Oh, that would be on the
12 northwestern intersection of 21st and West, which
13 is a multi-family building, five stories high.

14 And actually, what is the viable use of
15 this? Well, it's -- it's a historic section of
16 -- of Union City and this is actually a very,
17 very good use, very compatible with the --

18 MR. LOPEZ: So, in your expert opinion, a
19 daycare center at this site is a very compatible
20 use in this area?

21 MR. IZQUIERDO: Yeah, because you're going
22 to have children here, playing on the playground,
23 and -- and jumping on the swings, and everything.
24 And actually, the City has built a number of
25 facilities that also these kids can enjoy. On

1 Palisade Avenue, the pools, all the water parks
2 that we have. It's -- it's a great place.

3 MR. LOPEZ: Okay.

4 So, that concludes -- unless there are
5 questions by the Board, that concludes the
6 testimony of our planner.

7 VICE CHAIRMAN GRULLON: Mr. -- Mr. Lopez,
8 before we start -- the Board start questioning
9 your professional, could you please give us an
10 overview of this application?

11 Because we just -- we just approved a
12 Resolution for a -- for a different application
13 for the same site.

14 Could you please give us a --

15 MR. LOPEZ: Yes. The site -- as Mr.
16 Paneque described, the site is actually being
17 used, or was approved, I believe, for other
18 usages.

19 It is currently, I believe, empty. The use
20 has not been implemented. The -- the Building
21 Department had requested the amended Resolution
22 that Mr. Paneque described earlier today. So,
23 nothing is going on at the site, but there is, I
24 believe, a proposed recording studio, mainly on
25 the ground floor.

1 Other than that, there is a small band
2 studio, and that is the only usage of the site.
3 There are a very minor, small apartments
4 upstairs.

5 VICE CHAIRMAN GRULLON: How will this new
6 application on this site affect the old
7 application, and the Resolution? Would that be
8 affected?

9 MR. LOPEZ: I don't believe it would be
10 affected. They're two independent Resolutions.

11 The first Resolution covered what was, in
12 essence, the actual usage at the time. The
13 daycare center had not been planned. It came
14 about after the -- the original approval.

15 And the original approval is by the
16 property owner, or principals of the property
17 owner, who intend to operate a recording studio
18 at the site. That's the primary purpose why the
19 site was purchased.

20 But the -- the site is so big, as our
21 planner indicated, it is -- it is being re-
22 purposed from what was the original use, as part
23 of the operations of the Monastery, for religious
24 purposes, it sat vacant for quite awhile, and it
25 is now being re-purposed.

1 And we believe these to be very much
2 applicable uses, given the needs in Union City,
3 and -- and a use for this site.

4 I don't think they conflict at all.

5 MR. IZQUIERDO: Compatible.

6 MR. LOPEZ: Yes. They're -- they're
7 business uses --

8 VICE CHAIRMAN GRULLON: Mr. Spatz, --

9 MR. LOPEZ: -- in nature.

10 VICE CHAIRMAN GRULLON: -- could you please
11 help me out --

12 MR. SPATZ: Sure.

13 VICE CHAIRMAN GRULLON: -- a little?

14 MR. SPATZ: I think -- I think the question
15 -- the approval that they did, the Corrective
16 Resolution, was to construct additions to this
17 building, and then convert portions of it to
18 music studio, some other office space, and a
19 number of apartments.

20 I think the question is, is the parking.

21 I know that they received parking variances
22 for the apartments, but I think the question is,
23 is how much of the limited amount of parking on
24 the site was dedicated to the expanded building,
25 and how much of that is still available for use

1 by the daycare center.

2 VICE CHAIRMAN GRULLON: Yes.

3 MR. LOPEZ: It's a -- it's a fair question.
4 It's difficult for me to -- to comment further on
5 it, because I don't know exactly what
6 requirements were approved in that prior
7 variance.

8 Perhaps our --

9 Were you involved in it?

10 I'm going to call up Mr. Arencibia again,
11 who was involved with that --

12 VICE CHAIRMAN GRULLON: Yeah, because if I
13 --

14 MR. LOPEZ: -- presentation apparently.

15 VICE CHAIRMAN GRULLON: If I -- if I
16 recall, on the previous application, they -- they
17 were showing the same 14 parking spaces --

18 MR. LOPEZ: Yes.

19 VICE CHAIRMAN GRULLON: -- that we are
20 showing now, but --

21 MR. LOPEZ: No.

22 VICE CHAIRMAN GRULLON: -- are they going
23 to be used by the recording studio, or they are
24 going to be used by --

25 MR. LOPEZ: No. We -- the agreement that

1 my client has, he has three assigned parking
2 spaces now, for the daycare center, as per the
3 lease.

4 That is included in what was presented to
5 you by our planner.

6 Their overall agreement is to cooperate
7 with each other, to the extent possible, so all
8 tenants cooperate with the use of the available
9 parking.

10 There is no additional parking. We have 14
11 spaces. Three are assigned to the school. The
12 rest are for the landlord and the operation of
13 the other --

14 VICE CHAIRMAN GRULLON: Of the other
15 business.

16 MR. LOPEZ: -- issues. We -- we've been
17 lead to believe that as far as the dance studio,
18 which is actively being used at the site, they
19 really don't have a need for parking. It's all
20 local kids that are coming there.

21 But Mr. Arencibia can further address
22 these, because he was --

23 VICE CHAIRMAN GRULLON: If you could come
24 forward --

25 MR. LOPEZ: Yes.

1 VICE CHAIRMAN GRULLON: -- Mr. Arencibia?

2 MS. DILLON: Just in front of the mic, Mr.
3 Arencibia.

4 MR. ARENCIBIA: Okay. Sure.

5 MR. LOPEZ: Could you address some of the
6 issues that the Chairman was -- had indicated,
7 relating to parking, please?

8 VICE CHAIRMAN GRULLON: Yes. We have 14
9 parking spaces.

10 MR. ARENCIBIA: Correct.

11 VICE CHAIRMAN GRULLON: And according to
12 the variance that you requesting here, you are
13 proposing 14 parking spaces, but you actually
14 only have three for the daycare?

15 MR. LOPEZ: Three specifically assigned for
16 the daycare. That's why we're seeking a
17 variance.

18 VICE CHAIRMAN GRULLON: Is this application
19 a combination of both application or just --

20 MR. ARENCIBIA: No.

21 MR. LOPEZ: No.

22 MR. ARENCIBIA: This is a standalone
23 application.

24 VICE CHAIRMAN GRULLON: This is just a
25 daycare.

1 MR. LOPEZ: Yes. It stands on its own.
2 We're only tenants on the property. We -- we can
3 on -- we only have use of the space that has been
4 assigned.

5 VICE CHAIRMAN GRULLON: No, because what
6 confuse me is that we show 14 parking spaces.

7 MR. ARENCIBIA: Yes. You're correct.

8 VICE CHAIRMAN GRULLON: You are saying that
9 only three spaces are assigned.

10 MR. LOPEZ: Yes, the 14 parking spaces was
11 meant to indicate the overall size of the parking
12 available for the site, overall.

13 VICE CHAIRMAN GRULLON: Okay.

14 MR. LOPEZ: If you look at the chart which
15 was provided by the planner, there is an
16 indication -- this other chart --

17 VICE CHAIRMAN GRULLON: Yeah.

18 MR. LOPEZ: The last item, at the bottom,
19 there's an indication to you that --

20 VICE CHAIRMAN GRULLON: Yeah. There's
21 this.

22 MR. LOPEZ: -- by lease agreement, we have
23 three parking spaces specifically assigned for
24 the daycare center, as per the lease.

25 Thus, we are requesting the required

1 variance, based upon the needs, as described by
2 the planner, and what we are able to provide.

3 VICE CHAIRMAN GRULLON: Okay. I understand
4 that.

5 MR. LOPEZ: Okay.

6 VICE CHAIRMAN GRULLON: Mr. Arencibia, also
7 --

8 MR. ARENCIBIA: Sure.

9 VICE CHAIRMAN GRULLON: -- could you -- you
10 know, go over again the construction inside?

11 You're going to be doing construction on
12 the second floor to create classrooms?

13 MR. ARENCIBIA: Yeah. There will be non-
14 bearing partitions within a space. Yes. So,
15 we'll be building classrooms within the space
16 itself. Yes.

17 VICE CHAIRMAN GRULLON: Okay.

18 MR. LOPEZ: But not the exterior walls in
19 any way.

20 MR. ARENCIBIA: No. The only thing we'll
21 do on the exterior is adding the -- the access
22 ramp, ADA ramp to access on the -- for the first
23 floor.

24 VICE CHAIRMAN GRULLON: And I know it's a
25 proposed daycare. Do you know the -- the

1 | children age that are going to be -- I mean that
2 | question is for you.

3 | MR. LOPEZ: Yes. They intend to -- to
4 | serve children of all ages, starting even with
5 | infants, at some point, they are approved. These
6 | plans have been reviewed by the State, and they
7 | have been approved as such.

8 | Is that correct, Mr. Arencibia?

9 | MR. ARENCIBIA: Yes.

10 | MR. LOPEZ: So, they -- they want to
11 | provide services to children of all ages. It's
12 | not only for school aged children, even for
13 | infants is the intended use.

14 | MR. MEDINA: How many -- how many
15 | classrooms?

16 | MR. LOPEZ: As the planner and -- and the
17 | architect has said, there are a total of eight
18 | classrooms. Each classroom has the ability to
19 | accommodate 15 children.

20 | MR. MEDINA: Okay.

21 | MR. LOPEZ: And there's also a large multi-
22 | purpose room, which can accommodate up to ninety-
23 | some odd students.

24 | MR. ARENCIBIA: Correct.

25 | MR. LOPEZ: Is that correct?

1 MR. ARENCIBIA: Yes.

2 MR. LOPEZ: And that is for joint
3 activities of the school.

4 MR. MEDINA: This daycare is going to be
5 under Abbott program?

6 MR. LOPEZ: Yes, it is. That is the
7 intent. It's -- it's an Abbott program, intent.
8 And it has been approved as such by the State of
9 New Jersey.

10 MR. MEDINA: I have a -- question that just
11 confused to the -- I see this here. What is
12 this? It's a tank. Underground oil tank.

13 MR. LOPEZ: I'm sorry. Say that again.
14 Where? I'm sorry? The last page? Oh.

15 MR. MEDINA: It's page --

16 MR. ARENCIBIA: Oh.

17 MR. DARDIR: Second page?

18 MR. MAROTTA: Page one oh one?

19 MR. MEDINA: One oh one.

20 MR. ARENCIBIA: Okay.

21 MR. MEDINA: Do you see this is underground
22 oil tank? This means that it's still there?

23 MR. ARENCIBIA: Well, this is a survey.
24 So, I don't know what the status of that tank is.

25 MR. MEDINA: Here.

1 MR. ORTIZ: One oh one.

2 MR. MEDINA: One oh one.

3 MR. LOPEZ: Yes. No. We see it.

4 MR. MEDINA: Okay.

5 MR. LOPEZ: It's -- it's described on the
6 rear part of the property.

7 MR. ARENCIBIA: Right.

8 MR. MEDINA: Yeah.

9 MR. DARDIR: He was going to say something.

10 MR. MEDINA: That's --

11 A VOICE: It's going to be removed by the
12 owner.

13 MR. MEDINA: That's what I want to know.

14 MR. LOPEZ: Right. Well, we'll get him up
15 here.

16 MR. MEDINA: If it's still there it must be
17 --

18 MR. LOPEZ: Yes.

19 MR. MEDINA: -- removed.

20 MR. ARENCIBIA: Yeah. Well, this --

21 MR. MEDINA: Right?

22 MR. ARENCIBIA: Yeah. This -- this would
23 have nothing to do with this applicant at all.

24 MR. MEDINA: Oh, okay.

25 MR. ARENCIBIA: Because the applicant here

1 is not the owner of the building.

2 MR. MEDINA: All right. All right.

3 MR. LOPEZ: Yeah. That is --

4 MR. ARENCIBIA: That will be something the
5 applicant would have to do in order when he's
6 going to secure his permits for the rest of the
7 building, and so forth.

8 MR. LOPEZ: Right.

9 MR. MEDINA: All right. All right. That's
10 --

11 MR. LOPEZ: It's part of the -- the
12 construction on the exterior portion, which is
13 really the owner's responsibility.

14 MR. BONACCI: I have just a quick question.
15 The owner of the building is going to be
16 your client, who has the recording studio?

17 MR. ARENCIBIA: Correct.

18 MR. BONACCI: And he's leasing out part of
19 the property to the school.

20 MR. ARENCIBIA: Correct.

21 MR. BONACCI: Okay.

22 I'm just a little confused on how these two
23 things are going to fit in the same space, being
24 that we already approved for the recording
25 studio.

1 MR. ARENCIBIA: Right. But the main thing
2 with the recording studio is what happens was, we
3 did get approval to do four add -- additions to
4 the building itself.

5 What happened was, if you notice, the plans
6 that were approved before the previous
7 application, there were tenant spaces.

8 So, what happened was, this tenant came in,
9 and they wanted to occupy the space. My client
10 said, well, you have to go before the Board to
11 see if they'll let you -- you occupy the space
12 and get an approval for it, because it's -- you
13 know, it's not permitted, so forth.

14 So, that's what we're here to get that
15 done, so he can rent out this space to that -- to
16 fill in the tenant spaces.

17 The recording studios typically need like a
18 higher space, floor to ceiling. Like roughly, 14
19 feet is what they really need.

20 So, the main thrust in the application that
21 we had initially, the recording studio -- most of
22 the recording studio is going to be on the upper
23 floors. And that's still going to be the case.

24 MR. BONACCI: Yeah. I remember a few
25 months ago, the whole testimony about the

1 | recording studio. And it's just that now, I'm a
2 | little confused because back then, there was
3 | never any mention of renting it out.

4 | MR. ARENCIBIA: No, but there was -- there
5 | was, and on the application that we actually did,
6 | it showed other tenants. So, that's basically --

7 | MR. BONACCI: Okay.

8 | MR. ARENCIBIA: -- in essence, the same
9 | thing as this.

10 | MR. DARDIR: So, they're expecting 120
11 | students?

12 | MR. LOPEZ: That's maximum capacity.

13 | MR. DARDIR: Okay. But the babies -- I
14 | think infants, their space would be very -- there
15 | wouldn't be 15 --

16 | MR. ARENCIBIA: Right.

17 | MR. DARDIR: -- in the same space.

18 | MR. ARENCIBIA: There's different
19 | guidelines depending on the age groups, and so
20 | forth and so on.

21 | MR. DARDIR: So how young are they planning
22 | to go?

23 | MR. ARENCIBIA: I'll let the operator --

24 | MR. DARDIR: Oh, okay.

25 | MR. ARENCIBIA: He's here. He'll be able

1 to discuss it.

2 MR. LOPEZ: Yes, Mr. Marotta?

3 MR. MAROTTA: You're required to have 17
4 off-street parking spaces.

5 MR. LOPEZ: That's correct.

6 MR. MAROTTA: And you only have three.

7 MR. ARENCIBIA: Assigned to us.

8 MR. LOPEZ: There's only three assigned.
9 Correct.

10 MR. MAROTTA: In other words, you're only
11 providing maybe 20 percent -- less than 20
12 percent of what the Ordinance requires.

13 MR. LOPEZ: That's correct.

14 MR. MAROTTA: Is that correct?

15 MR. LOPEZ: That's correct, Mr. Marotta.

16 MR. MAROTTA: I'd like to ask Mr. Izquierdo
17 to come up here. He's the planner.

18 MR. LOPEZ: Yes.

19 MS. DILLON: Just in front of the
20 microphone, Mr. Izquierdo, please.

21 MR. IZQUIERDO: Very well.

22 MR. MAROTTA: Do you have your mic?

23 MR. LOPEZ: Right here.

24 MR. MAROTTA: Okay.

25 Thank you.

1 Mr. Izquierdo, are you familiar with Union
2 City?

3 MR. IZQUIERDO: Yes, I am.

4 MR. MAROTTA: We have a serious parking
5 problem in Union City.

6 MR. IZQUIERDO: Yes.

7 MR. MAROTTA: You're aware of that?

8 MR. IZQUIERDO: Yes.

9 MR. MAROTTA: Let me ask you this. As a
10 planner, is parking an important part of
11 planning?

12 MR. IZQUIERDO: Yes, it is.

13 And it actually presents a challenging
14 question for this Board, because you have a
15 building that I don't know how many square feet
16 it has. It has close to 30,000 square feet.

17 Am I incorrect?

18 Because just this entry is 11,000 square
19 feet. So, I mean, I understand the question of
20 what -- what adaptive reuse can you give to a
21 building such as this, that has that amount of
22 square footage?

23 So, in an analysis, you almost come to
24 which one is the less intensive use.

25 If I take the 11,000 square feet and I

1 | treat it as an office or retail, or anything like
2 | that, where the standard is one for every 300
3 | square feet, I'm going to generate -- I have a
4 | need of 34.

5 | So, we have a -- the real -- the real
6 | question that is challenging for the Board, and I
7 | -- I understand your concern in that case, is
8 | what adaptive reuse can we have for this building
9 | that sits there?

10 | MR. MAROTTA: Mr. Izquierdo, I'm concerned
11 | with parking.

12 | MR. IZQUIERDO: I understand, Mr. --

13 | MR. MAROTTA: Okay?

14 | MR. IZQUIERDO: -- Marotta.

15 | MR. MAROTTA: Now, counsel asked you to
16 | speculate earlier about your experience with
17 | daycare centers, and asked you a question, do
18 | they hire local people.

19 | Remember that question?

20 | MR. IZQUIERDO: Yes. For the centers that
21 | I have been involved in, the 32 years --

22 | MR. MAROTTA: How many --

23 | MR. IZQUIERDO: -- of practice.

24 | MR. MAROTTA: -- different daycare centers
25 | were you involved with?

1 MR. IZQUIERDO: In 32 years, I'm going to
2 say no less than 25 or 30.

3 MR. MAROTTA: And -- and did you check out
4 to see where the employees came from?

5 You didn't do that, did you?

6 MR. IZQUIERDO: No, I didn't, but actually
7 --

8 MR. MAROTTA: Okay.

9 MR. IZQUIERDO: -- in the -- in the
10 daycares that I have -- and speaking --

11 MR. MAROTTA: Well, let me ask you to
12 speculate again.

13 Part of this building is going to be for a
14 recording studio.

15 Correct?

16 MR. IZQUIERDO: I have nothing -- I -- I
17 just found this out right now.

18 MR. MAROTTA: But you know now that part of
19 the building is for a recording studio.

20 MR. IZQUIERDO: Apparently on the upper
21 floor, yes.

22 MR. MAROTTA: The recording studio takes
23 care of musicians who come there -- or singers
24 who come there to record.

25 Right?

1 MR. IZQUIERDO: Apparently, yes.

2 MR. MAROTTA: And they come with their
3 cars, because they carry their instruments in
4 their cars.

5 MR. IZQUIERDO: I have nothing to do with
6 the -- with the recording studio, Mr. Marotta.
7 Nothing. I have not spoken to them. I don't
8 know --

9 MR. MAROTTA: Would you agree --

10 MR. IZQUIERDO: -- how they operate.

11 MR. MAROTTA: -- with me that if this Board
12 were to approve this application, that would be a
13 severe impact on parking in that area?

14 MR. IZQUIERDO: My balancing of --

15 No, I don't agree with that statement at
16 all.

17 MR. MAROTTA: It's a minimum impact?

18 MR. IZQUIERDO: It's less intensive impact,
19 when you consider the requirements of parking, as
20 opposed to say, office use. If I used this as
21 office use, I need 34 parking spaces. And the
22 reality of the matter is that even though this
23 site is like larger than everything else around,
24 it has a large building on it.

25 MR. MAROTTA: Mr. Izquierdo, let me ask you

1 | this.

2 | Are you saying that when 17 -- when you
3 | could provide only 20 percent of what is
4 | required, that's a minimum impact? Is that what
5 | you're saying?

6 | MR. LOPEZ: Mr. Marotta, I think he
7 | distinguished the answer that it can't simply be
8 | placed in terms of --

9 | MR. IZQUIERDO: A vacuum.

10 | MR. LOPEZ: -- a maximum or -- or a
11 | minimum. You have to consider the overall usage
12 | as a whole.

13 | And if we have an existing commercial
14 | building, I think what Mr. Izquierdo fully
15 | explained is that there are -- there are even
16 | more intensive uses.

17 | So, if we weigh those, and that's how he --
18 | he chooses.

19 | Is it an impact? It's always an impact.

20 | MR. MAROTTA: I'm not going to speculate as
21 | to what that building could be used for.

22 | I remember when that building was fronting
23 | the magazine for Saint Michael's.

24 | MR. LOPEZ: Correct.

25 | MR. MAROTTA: Okay?

1 My point is this, you're going to give us
2 only 20 percent of what we require, in an area
3 where we already have a big problem with parking.

4 Is that good planning?

5 Yes or no?

6 MR. IZQUIERDO: It's the only planning that
7 is available to us at this time --

8 MR. MAROTTA: Is that good --

9 MR. IZQUIERDO: -- in Union City.

10 MR. MAROTTA: -- planning?

11 Yes or no?

12 MR. IZQUIERDO: Yes, it is. Given the --

13 MR. MAROTTA: It is.

14 VICE CHAIRMAN GRULLON: All right. Mr. --

15 MR. MAROTTA: In your opinion, it's good.

16 MR. IZQUIERDO: Given the --

17 VICE CHAIRMAN GRULLON: Mr. Marotta, okay.

18 MR. IZQUIERDO: Given the circumstances
19 where we are --

20 MR. MAROTTA: Okay.

21 MR. IZQUIERDO: Yes, it is good planning,
22 because it --

23 MR. MAROTTA: Okay.

24 MR. IZQUIERDO: -- minimizes the impact
25 when I balance the requirements for other

1 comparable uses of this very large structure of
2 which we're occupying maybe a third.

3 MR. MAROTTA: Let me ask --

4 VICE CHAIRMAN GRULLON: Mr. Marotta?

5 MR. MAROTTA: -- you this question.

6 I'm sorry.

7 VICE CHAIRMAN GRULLON: Mr. Marotta?

8 MR. MAROTTA: Let me ask you this question.

9 Will you consider over parking or not
10 enough parking spaces a safety factor?

11 MR. IZQUIERDO: I'm not testifying as to --
12 as to parking or traffic or --

13 MR. MAROTTA: Well, look --

14 MR. IZQUIERDO: -- anything like that.

15 MR. MAROTTA: -- in Union City, right now,
16 the city adopted an Ordinance to permit parking
17 in bus stops.

18 Okay?

19 MR. IZQUIERDO: I didn't know that.

20 MR. MAROTTA: In other --

21 I'm telling you.

22 MR. IZQUIERDO: Okay. I believe you.

23 MR. MAROTTA: Now, we have an Ordinance
24 that that permits parking in bus stops. We have
25 to -- we -- I drive the city every day. We have

1 vehicles parking in crosswalks. Okay? We have
2 vehicles parking in fire zones in the city. And
3 you want to put more vehicles here.

4 Is that good planning?

5 MR. IZQUIERDO: Given the circumstances, it
6 is the best planning for this building at this
7 moment in time.

8 MR. MAROTTA: Okay.

9 Thank you.

10 MR. IZQUIERDO: You're welcome.

11 MR. MAROTTA: No more questions.

12 VICE CHAIRMAN GRULLON: Mr. Izquierdo, your
13 testimony, you mentioned the characteristic of
14 this proposed site is part educational, part
15 institutional.

16 MR. IZQUIERDO: Correct.

17 VICE CHAIRMAN GRULLON: Could you explain
18 that again, please?

19 MR. IZQUIERDO: The institutional use is
20 assigned to a daycare center, when the occupants
21 are children that are two and a half years or
22 less, being I-2 use. And the Code equates that
23 institutional use as, for instance, an invalid in
24 a hospital that cannot manage themselves.

25 So, the requirements for exits in the

1 institutional uses are more stringent because
2 they are people that cannot fend for themselves,
3 in the event of an emergency.

4 VICE CHAIRMAN GRULLON: Is this the case,
5 Mr. Lopez? Is it proposed to be used for
6 children under two years old?

7 MR. LOPEZ: In part.

8 MR. IZQUIERDO: Correct.

9 MR. LOPEZ: Correct.

10 MR. IZQUIERDO: On the ground floor. Yes.

11 MR. LOPEZ: Correct.

12 MR. IZQUIERDO: Correct. On the ground
13 floor, and that's accessible.

14 MR. LOPEZ: And I would remind the Chairman
15 that this is not a determination that my client
16 makes in a vacuum. He needs approval from
17 Trenton before he could operate this kind of
18 center.

19 So, any proposed use, such as for infants,
20 and for children overall, it has to be approved
21 by DCA.

22 Correct?

23 MR. IZQUIERDO: And the educational
24 component is in the second floor, or the upper
25 level of this facility, where the children are

1 | older than two and a half years.

2 | So, it is not by Code considered
3 | institutional. It is educational because the
4 | courts in New Jersey have determined that a
5 | daycare center is not custodial in nature, where
6 | particularly under the Abbott program, where
7 | there are State guidelines for the educating of
8 | children.

9 | So, is the use inherently beneficial? Yes.
10 | Is the site accommodated to that? The inherently
11 | beneficial satisfies all those prongs. The
12 | negative criteria is that we're required to have,
13 | by Ordinance, 17 parking spaces.

14 | The question is, are the employees of this
15 | center going to be 17 or so, generating that
16 | impact? I do not know.

17 | I know what the -- what the reality of the
18 | situation is and that is the application.

19 | MR. LOPEZ: And Mr. Izquierdo, if I may, is
20 | it my understanding of the point that you made
21 | before, that in a commercial building, there are
22 | other uses which would require even a more
23 | intense parking effect.

24 | Is that correct?

25 | MR. IZQUIERDO: Correct, because we're not

1 building this building. This is the adaptive
2 reuse of a very large structure in Union City.

3 MR. LOPEZ: So, for example, just go over
4 the -- the example that you gave before for, what
5 would --

6 MR. IZQUIERDO: For an office --

7 MR. LOPEZ: -- be the requirements for an
8 office use, for example?

9 MR. IZQUIERDO: One per 300, so that would
10 be about 34 parking spaces, just for this site.

11 MR. LOPEZ: So, in -- in answering Mr.
12 Marotta's question --

13 MR. IZQUIERDO: It is the least --

14 MR. LOPEZ: -- will there not be a balance
15 between 17, as opposed to 34?

16 MR. IZQUIERDO: Correct.

17 Where we have only three, or where we have
18 what we have.

19 MR. LOPEZ: Correct.

20 MR. IZQUIERDO: And no control over that
21 either.

22 MR. MAROTTA: Are you saying there could
23 not be occupancy of that building that requires
24 less than 17 parking spaces?

25 Is that what you're saying?

1 MR. IZQUIERDO: It would have to be
2 industrial, where it's one to a thousand.

3 MR. MAROTTA: Are you saying that there
4 cannot be?

5 MR. LOPEZ: Let him answer the question,
6 Mr. Marotta.

7 MR. IZQUIERDO: No, actually, there's none,
8 because even when I go to the industrial, that's
9 one for every thousand. Okay. And, okay. We're
10 going to put this whatever --

11 MR. LOPEZ: A factory.

12 MR. IZQUIERDO: -- cargo factory here.
13 Okay. We'll do our thousand park -- okay. So,
14 we need now 30 parking spaces for the whole
15 building.

16 And not only do I have now 14 spaces only,
17 now I have 60 foot riggers -- you know, moving
18 stuff here.

19 So, I have this building. There's nothing
20 that the applicant can do.

21 MR. BONACCI: I just have a quick question.

22 It's more related to the use of the overall
23 building, than it is to the -- to the parking.

24 So, the recording studio, correct me if I'm
25 wrong, is on the first floor.

1 MR. ARENCIBIA: There's -- right now, it's
2 on the first floor. And there's going to be
3 others on the third and the fourth floor. We'll
4 be adding on to it.

5 MR. BONACCI: And the second floor is where
6 the school goes.

7 MR. ARENCIBIA: The school. Yes. And
8 there's -- and there's another tenant as well,
9 too.

10 MR. BONACCI: Do the kids and the teachers
11 have to go through any parts of the recording
12 studio to get up to the --

13 MR. ARENCIBIA: No.

14 MR. BONACCI: -- school?

15 MR. ARENCIBIA: They're completely
16 separate.

17 MR. BONACCI: Okay.

18 MR. DARDIR: I thought the infants were on
19 the first floor.

20 MR. ARENCIBIA: There's two entrances.
21 Entrance on the first floor. There's entrance on
22 the second floor, too.

23 MR. DARDIR: Okay.

24 MR. ARENCIBIA: So, there's two different
25 levels of entrances.

1 MR. DARDIR: So, the infants and the studio
2 are on the same floor.

3 MR. IZQUIERDO: In the lower level.

4 MR. ARENCIBIA: Yes. But there's --

5 MR. LOPEZ: But different entrances.

6 MR. ARENCIBIA: Well --

7 MR. LOPEZ: Is that correct?

8 MR. DARDIR: Oh, different entrance.

9 MR. ARENCIBIA: Well, there's an entrance,
10 but there's a common corridor. So the --

11 MR. DARDIR: Yeah.

12 MR. ARENCIBIA: -- students go to one
13 place, and the studio is separate off a common
14 corridor.

15 No different than any office building.

16 MR. DARDIR: And -- and they said this is
17 an Abbott program.

18 MR. ARENCIBIA: Yes.

19 MR. DARDIR: So, provides a benefit to the
20 community.

21 MR. ARENCIBIA: Absolutely. Yes.

22 MR. DARDIR: In the sense of families could
23 use it, and if not -- you know, it'd be like
24 Hoboken prices.

25 MR. ARENCIBIA: I don't know about that,

1 | but I mean, that's one of the things that I know
2 | our client really wanted that multi-purpose room,
3 | because they want to be able to have some of the
4 | -- the parents, they have a little birthday
5 | party, whatever --

6 | MR. IZQUIERDO: Art shows.

7 | MR. ARENCIBIA: -- for the children.

8 | MR. IZQUIERDO: And everything.

9 | MR. ARENCIBIA: Art -- all that kind of
10 | stuff.

11 | MR. IZQUIERDO: Yeah.

12 | MR. ARENCIBIA: Open it up to the
13 | community, to be able to have a space so
14 | everybody can come in and share.

15 | MR. DARDIR: That multi-purpose room is for
16 | this tenant or --

17 | MR. ARENCIBIA: For this tenant. Yes.

18 | MR. DARDIR: Tenant. Okay.

19 | MR. ARENCIBIA: Yes, no other tenant.

20 | MR. LOPEZ: Fully enclosed within our
21 | space.

22 | MR. IZQUIERDO: Yeah. For talent shows, or
23 | for graduation ceremonies. It is a school.

24 | VICE CHAIRMAN GRULLON: Is the -- is the
25 | studio operating right now?

1 MR. LOPEZ: Partially, but it's my
2 understanding that based upon the variance that
3 was previously granted, they intend to occupy --
4 the actual recording facilities will be upstairs,
5 I believe --

6 MR. ARENCIBIA: Upper floor.

7 MR. LOPEZ: -- Mr. Arencibia?

8 MR. ARENCIBIA: Yes. On the upper floors,
9 yes.

10 MR. LOPEZ: And that's what was pending
11 development on the revised Resolution that this
12 Board adopted as its first order of business this
13 evening.

14 MR. PANEQUE: Mr. Lopez, I have a question
15 for your architect, Mr. Arencibia.

16 MR. ARENCIBIA: Yes.

17 MR. PANEQUE: Mr. Arencibia, the Corrective
18 Resolution that was approved reflected what was
19 done here back in November and October.

20 MR. ARENCIBIA: That's correct.

21 MR. PANEQUE: Now, the plans that were
22 submitted back then provided for six tenant
23 spaces on that second floor. Two of them were
24 demarcated with tenants, and my recollection of
25 those plans were that you noted tenant spaces 3,

1 | tenant space 4, tenant space 5, tenant space 6.

2 | MR. ARENCIBIA: Yes.

3 | MR. PANEQUE: When that Resolution was
4 | approved, it was approved for the parking
5 | requirements for those tenants.

6 | MR. ARENCIBIA: Yes.

7 | MR. PANEQUE: Okay.

8 | So, basically, you're coming before the
9 | Board today and asking that in where we have
10 | those tenant spaces that don't have tenants, that
11 | we now place this tenant, which is the daycare --

12 | VICE CHAIRMAN GRULLON: Daycare.

13 | MR. PANEQUE: -- facility.

14 | VICE CHAIRMAN GRULLON: Daycare facility.

15 | MR. ARENCIBIA: Yes.

16 | MR. PANEQUE: So, all you're asking this
17 | Board is, basically, approval to fill those
18 | tenant spaces which have already been approved by
19 | this Board.

20 | MR. ARENCIBIA: That is correct.

21 | MR. PANEQUE: Which were blank -- not
22 | blank, strike -- vacant when the application was
23 | presented.

24 | MR. ARENCIBIA: That's correct.

25 | MR. PANEQUE: And that's because you did

1 not have tenants at that time for those spaces.
2 But it was foreseen that you would have a tenant
3 some time down the future, so your application
4 requested approval for those tenant spaces.

5 Correct?

6 MR. ARENCIBIA: That is correct.

7 MR. LOPEZ: And -- and just one point of
8 clarification for the Board.

9 Mr. Paneque indicated six tenant spaces.
10 Well, in essence, this one tenant will be
11 occupying all of that space, as opposed to six
12 separate tenants.

13 MR. PANEQUE: So, just to be clear, this
14 Board already approved the landlord having six
15 different tenants on the second floor.

16 MR. ARENCIBIA: Right.

17 MR. PANEQUE: And you're asking that those
18 six spaces, or at least five of them, right,
19 because one tenant is remaining?

20 MR. ARENCIBIA: Yes. Correct.

21 MR. PANEQUE: Okay.

22 MR. ARENCIBIA: Yes.

23 MR. PANEQUE: So, five of those spaces are
24 now going to be occupied by this --

25 MR. ARENCIBIA: By single tenant.

1 MR. PANEQUE: By the single --

2 MR. ARENCIBIA: Yes.

3 MR. PANEQUE: -- tenant, the daycare
4 facility.

5 MR. ARENCIBIA: That is correct.

6 MR. PANEQUE: As well as a portion on the
7 first floor.

8 MR. ARENCIBIA: That is correct.

9 MR. PANEQUE: All right.

10 So, there's -- there's no more expansion
11 here. It's just what was already there.

12 MR. ARENCIBIA: Exactly. And again, the
13 expansion will be when we do the addition for the
14 building above.

15 MR. PANEQUE: And this Board already took
16 into consideration that those tenants that would
17 be occupying those spaces would require parking.

18 MR. ARENCIBIA: That is correct.

19 And the 17 spaces were determined to be
20 adequate for the project that we presented
21 previously.

22 MR. PANEQUE: Okay.

23 So, it's not like we're adding a new tenant
24 on top of those six tenants and adding more of --
25 of a use. It's --

1 MR. ARENCIBIA: That is --

2 MR. PANEQUE: We're filling in --

3 MR. ARENCIBIA: We're --

4 MR. PANEQUE: -- those spaces.

5 MR. ARENCIBIA: That is correct. Yes.

6 MR. PANEQUE: Thank you, sir.

7 MR. ARENCIBIA: Thank you.

8 VICE CHAIRMAN GRULLON: Thank you, Mr.
9 Paneque, for the clarification.

10 MR. LOPEZ: And I have nothing further.
11 That would be the extent of our --

12 VICE CHAIRMAN GRULLON: Now, going back to
13 the parking area. This is -- this is going to be
14 a daycare, and there's going to be a lot of drop
15 off and in the morning -- you know, 128 students.
16 They're going to be, most of them, they usually
17 get there by car -- car, before they go to work
18 and they're going to need an area for park -- to
19 drop off these -- the students.

20 Do you have one that you're proposing?

21 MR. ARENCIBIA: Well, yeah. The idea was
22 to drop off the children on West Street. So,
23 what happens, if you go to T-100, that whole
24 front of that building, the whole thing is all
25 open. It's all curb cuts out to the street.

1 So, the center section of the building is
2 roughly like a 20 foot area, right by the front
3 entrance.

4 So that front entrance, they'll be able to
5 pull up there, the teachers will come out, pickup
6 the children, and bring them inside from there.

7 And it gives you enough ample room for
8 queuing along the back side of the -- the
9 building itself.

10 MR. LOPEZ: Is it -- is that the case
11 because the building is, in essence, so wide on
12 West Street, that multiple cars can be
13 accommodated --

14 MR. ARENCIBIA: Yes, it can.

15 MR. LOPEZ: -- at one point?

16 MR. ARENCIBIA: Absolutely. Yes.

17 VICE CHAIRMAN GRULLON: Another question
18 is, the hours of operation of both businesses, do
19 you know?

20 MR. LOPEZ: Yeah. If we can bring up --
21 Pedro Faringthon is one of the managers at the
22 center.

23 MS. DILLON: Sir --

24 MR. LOPEZ: Mr. Faringthon?

25 MS. DILLON: -- right in front of that

1 microphone, please.

2 Raise your -- no, no.

3 MR. LOPEZ: Right here. Raise your right
4 hand.

5 MR. FARINGTHON: Okay.

6 MS. DILLON: Please raise your right hand.

7 Do you affirm the testimony you're about to
8 give this Board is the whole truth?

9 MR. FARINGTHON: Yes.

10 MS. DILLON: Could you please state your
11 name and spell it for the record?

12 MR. FARINGTHON: Pedro Faringthon,
13 P-E-D-R-O, Faringthon, F-A-R-I-N-G-T-H-O-N.

14 MS. DILLON: I'm sorry. F-A-R --

15 MR. FARINGTHON: I-N-G-T-H-O-N.

16 MS. DILLON: T --

17 MR. FARINGTHON: H --

18 MR. LOPEZ: H-O-N.

19 MR. FARINGTHON: -- O-N.

20 MS. DILLON: Okay.

21 And I'm going to ask you to keep your voice
22 up for me.

23 MR. FARINGTHON: Okay.

24 MS. DILLON: Thank you.

25 MR. LOPEZ: Now, Mr. Faringthon, you, the

1 applicant, already operates other daycare
2 centers.

3 Is that correct?

4 MR. FARINGTHON: Yes.

5 MR. LOPEZ: So, you are familiar with the
6 operation.

7 MR. FARINGTHON: Yes.

8 MR. LOPEZ: Is that fair to say?

9 MR. FARINGTHON: Um hum.

10 MR. LOPEZ: And you are one of the onsite
11 operators at the daycare center, as you will be
12 here.

13 Is that right?

14 MR. FARINGTHON: Yes.

15 MR. LOPEZ: All right.

16 Can you -- the Chairman asked us this --
17 asked us to provide testimony as to the hours
18 that the center is going to operate.

19 Can you give a general overview as to the
20 hours you expect to be open?

21 MR. FARINGTHON: Normally, is eight --
22 eight to four. But some -- we have some
23 aftercare. Some kid come at seven o'clock and
24 leave at six o'clock. Not all of them, but some
25 kids. That we have a daycare right now, Grove

1 Street in Jersey City, that's the way we operate.

2 VICE CHAIRMAN GRULLON: Okay. I mean, my
3 question is more for the -- for the studio, for
4 the recording studio.

5 MR. LOPEZ: Oh.

6 VICE CHAIRMAN GRULLON: Because that would
7 be -- are those hours going to be conflicting
8 with the students?

9 MR. LOPEZ: Mr. Arencibia, I guess was --
10 is --

11 MR. FARINGTON: Mr. Arencibia.

12 MR. ARENCIBIA: Yeah. Typically, the --
13 the recording studio hours are different.
14 Basically, for my clients -- you know, he's been
15 doing it for many, many years.

16 And the thing is, it depends on --
17 typically, the way he breaks it down, most jazz
18 musicians record during the day, whereas most
19 rock and rollers, R and B record at night.

20 So, the times of recording are completely
21 different.

22 Now, just so you know, those recording --
23 each one of the recording studios, there will be
24 no conflict, there will be no noise. All these
25 things are completely sealed. I mean, it's very,

1 very tightly sealed, so nobody's going to hear
2 any noise out of here.

3 As a matter of fact, there's a recording
4 studio immediately right next door to this
5 building. So, this will be the second recording
6 studio in the same block.

7 So, but yes. The recording studio times
8 are -- are different, depending on the artist,
9 recording artist.

10 VICE CHAIRMAN GRULLON: Mr. Spatz, I know
11 when it comes to daycares, they have to get
12 permits before -- you know, doing anything.

13 MR. SPATZ: They need approval from the
14 State.

15 VICE CHAIRMAN GRULLON: They need --

16 MR. SPATZ: Yes.

17 VICE CHAIRMAN GRULLON: -- approval from
18 the State. Knowing that they're going to have
19 children, like very early age -- you know --

20 MR. SPATZ: Um hum.

21 VICE CHAIRMAN GRULLON: -- and there's
22 going to be a recording studio there, would that
23 affect the -- the permit that they get?

24 MR. SPATZ: It would probably be something
25 that the State would have to take a look at, but

1 -- but they -- they may -- you know, certainly
2 still approve it.

3 If this Board were to approve the
4 application, you would do it conditioned on them
5 receiving State approval. So, if the State
6 doesn't approve it, or put conditions on it that
7 affects what you're doing now, then they'd have
8 to come back here again.

9 MR. MEDINA: I have a question for the
10 manager. You're the manager, right? Mr. --
11 what's your last name?

12 MR. FARINGTHON: Faringthon.

13 MR. MEDINA: Faringthon. Okay.

14 Do you have -- do you have a daycare?

15 MR. FARINGTHON: Yeah, we do.

16 MR. MEDINA: Where?

17 MR. FARINGTHON: On Grove Street, Jersey
18 City.

19 MR. MEDINA: Jersey City? And now you open
20 another one in Union City. Why?

21 MR. FARINGTHON: We doing that for the
22 community and then we're expanding the daycare
23 that we have right now is not big, and right now,
24 we have waiting list. And we need to -- we need
25 to expand.

1 MR. MEDINA: Okay.

2 VICE CHAIRMAN GRULLON: I don't have any
3 more.

4 Any other member of the Board?

5 No member of the Board?

6 At this point, I want to open it to the
7 public.

8 No one from the public?

9 MR. ORTIZ: Anybody from the public want to
10 make a comment?

11 VICE CHAIRMAN GRULLON: Close -- close --
12 close to the public.

13 You know, taking in consideration that we
14 hear the clarification from the -- from Mr.
15 Paneque, stating that this is not an expansion.
16 You're not adding any additional parking to what
17 we -- what we approve before.

18 And we heard the Resolution that it was
19 approved in last October/November.

20 And -- and this is going to be something
21 that, in a way, is going to be beneficial for the
22 community. I mean, a daycare facility. And it's
23 going to be attached to approvals from the State,
24 the safety of the children -- you know, knowing
25 that they're going to be small -- small children

1 | there. They're going to have to be approved by
2 | the State, as well, but I make a motion to grant
3 | the application.

4 | THE SECRETARY: Motion to grant the
5 | application by Mr. Grullon.

6 | Second by Mr. Dardir.

7 | Roll call on the motion.

8 | Mr. Grullon?

9 | VICE CHAIRMAN GRULLON: Yes.

10 | THE SECRETARY: Mr. Ortiz?

11 | MR. ORTIZ: Yes.

12 | THE SECRETARY: Mr. Dardir?

13 | MR. DARDIR: Yes.

14 | THE SECRETARY: Mr. Medina?

15 | MR. MEDINA: Yes.

16 | THE SECRETARY: Mr. Bonacci?

17 | MR. BONACCI: Yes.

18 | THE SECRETARY: Mr. Marotta?

19 | MR. MAROTTA: No.

20 | THE SECRETARY: Motion carries. Five in
21 | favor, one against.

22 | MR. ARENCIBIA: Thank you very much.

23 | THE SECRETARY: Thank you.

24 | MR. LOPEZ: Thank you.

25 | MR. ARENCIBIA: We do appreciate it.

1 (Whereupon, there was a pause in the
2 proceedings.)

3 * * *

1 **Ruth Slutsky - 727 32nd Street:**

2

3 THE SECRETARY: May I have your attention,
4 please?

5 Next application on tonight's agenda, Ruth
6 Slutsky, 727 32nd Street. Appeal on zoning
7 determination letter and interpretation. This is
8 a continuation.

9 Mrs. Caride, please.

10 MS. CARIDE: Thank you.

11 Counsel, before we begin I have some more
12 cards, that I just -- letters that I just want to
13 --

14 MR. PANEQUE: Thank you, Ms. Caride.

15 MS. CARIDE: -- give to the Board. I know
16 that jurisdiction was entered last month.

17 MR. PANEQUE: Yes.

18 MS. CARIDE: Good evening, Chairman,
19 members of the Board.

20 This is a continuation of our appeal with
21 regard to the property at 727 32nd Street.

22 Last month when we were here, I had my
23 client, Joanne Sanowitz testify that the property
24 had been -- the first floor had been converted
25 into two apartments back in 1966, '67, prior to

1 the -- the Ordinance for the zoning here in the
2 City of Union City.

3 We did take direction from the Board last
4 month, and we do have an architect, with sketches
5 of the property.

6 I'd like to call up Mr. Pereiras.

7 MS. DILLON: Please raise your right hand.

8 Do you affirm the testimony you're about to
9 give this Board is the whole truth?

10 MR. PEREIRAS: I do.

11 MS. DILLON: Please state your name for the
12 record.

13 MR. PEREIRAS: Manny Pereiras,
14 P-E-R-E-I-R-A-S, with Pereiras Architects
15 Ubiquitous, 1116 Summit Avenue, Union City.

16 MS. DILLON: Thank you.

17 MS. CARIDE: And counsel, Mr. Pereiras has
18 appeared before this Board on numerous occasions.
19 We'd like to ask that he be accepted as an expert
20 at this particular -- on this particular matter.

21 MR. PANEQUE: Yes. He is recognized as an
22 expert by the Board.

23 VICE CHAIRMAN GRULLON: Always --

24 MR. PEREIRAS: Thank you --

25 VICE CHAIRMAN GRULLON: -- our pleasure.

1 MR. PEREIRAS: -- very much.

2 MS. CARIDE: Mr. Pereiras, did you have an
3 opportunity to go out to 727 32nd Street?

4 MR. PEREIRAS: I did. I both visited the
5 site personally, and I had staff measures go and
6 measure the entire -- the entire space.

7 MS. CARIDE: And you're aware that our
8 application for an appeal was based on the fact
9 that the first floor had been converted back in
10 1966, '67.

11 MR. PEREIRAS: Completely aware of that.
12 Yes.

13 MS. CARIDE: And can you go through the
14 sketch that you prepared here for the Board?

15 MR. PEREIRAS: I'd be very happy to. It's
16 actually an interesting lot. It's -- it's 50
17 wide.

18 The portion of the building that -- the
19 portion that we're talking about is actually only
20 on half of the site that's -- that's been
21 constructed.

22 Right now, I'm pointing to a document
23 called Z01. The documents were already submitted
24 to the Board. I believe you have the same copy
25 of it.

1 On the right hand portion of the site, we
2 see that there's a preexisting building. That
3 preexisting building consists of a commercial
4 space in the front, that -- and then, two
5 apartments in the back.

6 The two apartments in the rear were already
7 renovated. So, I can't attest to them being
8 existing. However, there are lots of
9 characteristics in this building that do lead me
10 to believe that these are existing units.
11 Primarily, the exterior of the building.

12 As you could see, the main entrance to
13 these two units are along the side of the
14 property. There are steps that lead up, and have
15 an entryway into the building.

16 There's a photograph taken of that over
17 here. In that photograph, you see that there are
18 two existing doors, side by side. Apartment one
19 and apartment two.

20 Both those doors are preexisting and
21 original to the structure, clearly. They have
22 all wood frames. They've been outfitted with
23 storm doors in front of them, but the original
24 doors are existing doors. They have the -- the
25 markations of apartments there. It's clear and

1 | evident that both those doors, of both
2 | apartments, were there, as primary entrances to
3 | these units for well over 30 years. I'd say even
4 | longer, 40 years.

5 | So, based on that evidence alone, I could
6 | say comfortably that it looks like these -- both
7 | these units have been there for a significant
8 | amount of time.

9 | To walk you through the units, they are two
10 | apartments. Apartment number one has an area of
11 | 318 square feet. That's below what the Ordinance
12 | requires. However, this is a preexisting
13 | condition.

14 | It is a one bedroom unit. Very small
15 | kitchen; a bedroom that's nine foot one by 11
16 | foot nine.

17 | And then, apartment number two has 415
18 | square foot, one bedroom apartment, with bedroom
19 | dimensions about the same. We have nine foot on
20 | one side, by 11 foot six on the other side.

21 | So, the bedrooms themselves are compliant.
22 | The apartments are small, 415 square feet and
23 | 318, but we're dealing with a preexisting
24 | condition.

25 | MS. CARIDE: And Mr. Pereiras, based on

1 | what you had seen, and what you testified here,
2 | it would be fair to say that those -- that this
3 | property was converted, or could have been
4 | converted back before 1974?

5 | MR. PEREIRAS: I think it's safe to assume
6 | that.

7 | MS. CARIDE: I don't know if any members of
8 | the Board has a question of the architect?

9 | VICE CHAIRMAN GRULLON: The Building
10 | Department is considering this as being two
11 | units? Two -- could you explain that to me,
12 | again?

13 | They say it's one commercial and two
14 | residential?

15 | MS. CARIDE: Yes. Back -- back when the
16 | family had the property, they had an apartment
17 | upstairs, which exists.

18 | VICE CHAIRMAN GRULLON: Yes.

19 | MS. CARIDE: And they had apartment on the
20 | first floor, behind the commercial store.

21 | VICE CHAIRMAN GRULLON: Okay.

22 | MS. CARIDE: At one point, when Ms.
23 | Slutsky's mother inherited the property, she then
24 | converted the first floor into two apartments,
25 | and she moved downstairs to one of the apartments

1 downstairs, and they rented out the other
2 apartment.

3 And as Ms. Sanowitz testified, last month,
4 she lived upstairs.

5 At some point, for whatever reason, the
6 City of Union City never classified it as three
7 apartments with a commercial, even though it had
8 been existing as a three apartment with
9 commercial, going back to roughly '66, '67. And
10 I believe last month, when Ms. Sanowitz
11 testified, she had a list of all the tenants that
12 had been -- had lived at that property, going
13 back to the late '60s.

14 Now, I do have Ruth Slutsky here with me,
15 and she's ready to testify based on her Affidavit
16 that was submitted to the Board.

17 Again, taking direction from the Board, we
18 had retained the services of Mr. Pereiras, so he
19 can go out there and review the property, and do
20 sketches for the Board, as well as bring Mrs.
21 Slutsky here, who recalls, also, and would
22 testify exactly to how her daughter had
23 testified, that she recalled when her own mother
24 moved downstairs, divided the first floor
25 apartment --

1 VICE CHAIRMAN GRULLON: Yeah.

2 MS. CARIDE: -- and -- and lived down
3 there.

4 If the Board wishes, I can bring her up and
5 she can testify to that.

6 VICE CHAIRMAN GRULLON: Yes, please.

7 MS. CARIDE: She is a little bit -- you
8 know, we need to speak up louder, though, for
9 her.

10 VICE CHAIRMAN GRULLON: Yeah. We just want
11 to hear a little bit of history of the --

12 MS. CARIDE: Absolutely.

13 VICE CHAIRMAN GRULLON: -- of the site.

14 MR. PANEQUE: She can stay in the chair.

15 (Whereupon, there was a pause in the
16 proceedings.)

17 MS. DILLON: All right. Please raise your
18 right hand.

19 MS. CARIDE: Raise your right hand.

20 MS. DILLON: Do you affirm the testimony
21 you're about to give this Board is the whole
22 truth?

23 MS. SLUTSKY: I do.

24 MS. DILLON: Okay. Can you please state
25 your name and spell it for me?

1 MS. SLUTSKY: Ruth, R-U-T-H, Slutsky,
2 S-L-U-T-S-K-Y.

3 MS. DILLON: Thank you very much.

4 MS. SLUTSKY: You're welcome.

5 MS. CARIDE: Ms. Slutsky, we're here
6 talking about 727 32nd Street.

7 MS. SLUTSKY: Yeah.

8 MS. CARIDE: And you lived on that
9 property.

10 Correct?

11 MS. SLUTSKY: Oh, yes.

12 MS. CARIDE: And at one point, you
13 inherited that property from your mother.

14 MS. SLUTSKY: When she -- when my mother
15 died, my grandfather left it to her.

16 MS. CARIDE: So, your grandfather owned
17 that property.

18 MS. SLUTSKY: Yeah, for, I don't know, a
19 hundred years.

20 MS. CARIDE: Okay. Yes. I know it goes
21 back to 1916, the family had it. I know.

22 MS. SLUTSKY: Yeah.

23 MS. CARIDE: So, now, when your mother
24 inherited the property, what did she do with the
25 first floor?

1 MS. SLUTSKY: She didn't need all that room
2 for herself, so she divided it into two
3 apartments.

4 MS. CARIDE: Do you recall, roughly, what
5 year it might have been when she did that?

6 MS. SLUTSKY: Yeah. I think it was '66 or
7 '67.

8 MS. CARIDE: Okay.

9 And did they rent out the other half of it?

10 MS. SLUTSKY: Other half, yeah. My mother
11 lived in the front of it and they loved it.
12 They've lived in the back of it.

13 MS. CARIDE: So your mother lived in the
14 front apartment, and they rent out the back
15 apartment.

16 MS. SLUTSKY: Yeah.

17 MS. CARIDE: Okay.

18 Do you recall who did the -- the division
19 down there? Who did the work?

20 MS. SLUTSKY: Yeah. It's Freddie and
21 Kenny. They were firemen, but they -- Freddie
22 was the father, and Kenny was the son.

23 MS. CARIDE: And you said they were
24 firemen, where?

25 MS. SLUTSKY: Union City.

1 MS. CARIDE: Union City.

2 MS. SLUTSKY: Yeah.

3 MS. CARIDE: Oh, does the Board --

4 VICE CHAIRMAN GRULLON: Yes.

5 MS. CARIDE: -- have any further questions
6 of --

7 VICE CHAIRMAN GRULLON: No. You --

8 MS. CARIDE: -- Mrs. Slutsky?

9 VICE CHAIRMAN GRULLON: You say it was
10 divided in 1967, more or less.

11 MS. SLUTSKY: I'm sorry, but I don't hear
12 good.

13 MS. CARIDE: He said that it was divided
14 some time around 1967?

15 MS. SLUTSKY: Yeah.

16 VICE CHAIRMAN GRULLON: Yeah. Okay. No.
17 That's all -- that's all we want to hear.

18 Thank you, Mrs. Slutsky.

19 MS. SLUTSKY: Yeah.

20 MS. CARIDE: Thank you so much.

21 VICE CHAIRMAN GRULLON: Thank you.

22 MS. SLUTSKY: I'm sorry, I don't --

23 VICE CHAIRMAN GRULLON: No, no. Thank you.
24 Thank you.

25 MS. CARIDE: No, you did very well. You

1 did very well.

2 Let me -- I'm just going to take this off
3 of you, right here. Okay?

4 MS. SLUTSKY: All right.

5 MS. CARIDE: Hold on.

6 MS. SLUTSKY: Thank you very much.

7 MS. CARIDE: I'm going to take this.

8 MS. DILLON: Thank you very much.

9 MS. SLUTSKY: Thank you.

10 MS. CARIDE: I took this off. I'm sorry.

11 MS. DILLON: No. That's okay.

12 MS. CARIDE: Okay.

13 And if I can, I'd like to call the
14 architect back up? He wants --

15 VICE CHAIRMAN GRULLON: Yes.

16 MR. PANEQUE: Yes.

17 VICE CHAIRMAN GRULLON: Yes.

18 (Whereupon, there was a pause in the
19 proceedings.)

20 VICE CHAIRMAN GRULLON: Mr. Pereiras --

21 MR. PEREIRAS: Okay.

22 I'd like to expand a little bit, my
23 testimony.

24 VICE CHAIRMAN GRULLON: Oh.

25 MR. PEREIRAS: I brought up the point of

1 the doors. But it's the whole concept of that
2 entire entryway that's important to take into
3 account.

4 It's not only the doors, but as you can
5 see, the steps that are leading up to the doors,
6 and there's a photograph of it here, are brick
7 steps. They're obviously well over 50 years old.
8 The brick steps are actually in decay and they
9 need repair, but it's clear that they were 50
10 years. And they were designed in a way that had
11 the capacity to have a front stoop for both
12 doors.

13 So, it's clear that both these entry doors
14 to these two apartments have been there for well
15 over 50 years.

16 And the testimony of 1967 sounds --

17 VICE CHAIRMAN GRULLON: Yes.

18 MR. PEREIRAS: -- head on.

19 VICE CHAIRMAN GRULLON: And I was going to
20 ask you, since you visit the site, were you able
21 to take the opportunity to look inside the -- the
22 kitchen? Like the stuff and --

23 MR. PEREIRAS: There was no possibility of
24 doing that, because they have been renovated.
25 They were new apartments. They were cleaned up

1 by -- but -- but the outside is what I think is
2 the clear testimony -- the clearer description of
3 it being an existing nonconformity. An existing
4 -- preexisting apartment.

5 VICE CHAIRMAN GRULLON: Yes. Then, what
6 we're asking here is for one commercial and three
7 residential units.

8 MS. CARIDE: Correct. We're asking that
9 the City recognize this building as one
10 commercial, the commercial store in the front,
11 and three apartments. Two on the first floor and
12 the one on the second floor.

13 VICE CHAIRMAN GRULLON: And as per your
14 testimony, there are two on the first floor.

15 MR. PEREIRAS: That seems absolutely --

16 VICE CHAIRMAN GRULLON: Are --

17 MR. PEREIRAS: -- accurate.

18 VICE CHAIRMAN GRULLON: Are these
19 preexisting since the Ordinance?

20 MR. PEREIRAS: Yes.

21 VICE CHAIRMAN GRULLON: 1971?

22 MR. PEREIRAS: It predates our Ordinance.
23 It predates our Building Code. They have been
24 there since, and -- and I would agree with the
25 testimony that it would be around 1967.

1 VICE CHAIRMAN GRULLON: Any question from
2 the members of the Board?

3 Questions?

4 MR. ORTIZ: During that time, does the --
5 the tax record --

6 MS. DILLON: Please speak up, Mr. Ortiz.

7 MR. ORTIZ: During that time, does the tax
8 record reflect the payment as a --

9 MS. CARIDE: As a matter of fact, Union
10 City never picked up on it, so it -- the City has
11 always reflected it as a commercial with two,
12 even though it was three and the commercial
13 store.

14 And the hands changed from mother to
15 daughter, and they just kept paying their bills,
16 but they never went to the City to see if they
17 had recognized the changes.

18 As Mrs. Slutsky said, it was -- the work
19 was done by people from the City, so they had no
20 reason to believe that the City wasn't aware that
21 it had been done. The contractors themselves.

22 MR. ORTIZ: Right.

23 Thank you.

24 MS. CARIDE: The firemen that they
25 mentioned. The father/son firemen.

1 VICE CHAIRMAN GRULLON: Okay.

2 MR. ORTIZ: Thank you.

3 VICE CHAIRMAN GRULLON: Thank you.

4 Want to open it to the public, at this
5 time.

6 Open to the public.

7 No one from the public.

8 Closed to the public.

9 Taking in consideration that -- by the
10 testimony of the architect, Mr. Pereiras, and
11 also, the testimony of the owner of the property,
12 Ms. Slutsky, I make a motion to grant this
13 application. This is existing condition,
14 preexisting condition, to our Ordinance.

15 Thank you.

16 THE SECRETARY: Motion to --

17 MR. PANEQUE: Motion to approve.

18 THE SECRETARY: -- to grant the appeal --

19 MR. SPATZ: Right. To -- right.

20 THE SECRETARY: -- by Mr. Grullon.

21 Second by Mr. Bonacci.

22 Roll call on the motion.

23 Mr. Grullon?

24 VICE CHAIRMAN GRULLON: Yes.

25 THE SECRETARY: Mr. Ortiz?

1 MR. ORTIZ: Yes.

2 THE SECRETARY: Mr. Dardir?

3 MR. DARDIR: Yes.

4 THE SECRETARY: Mr. Medina?

5 MR. MEDINA: Yes.

6 THE SECRETARY: Mr. Bonacci?

7 MR. BONACCI: Yes.

8 THE SECRETARY: Mr. Marotta?

9 MR. MAROTTA: I recuse myself on this
10 because I was involved in the past in this
11 matter.

12 THE SECRETARY: Five in favor, one recuse.
13 Motion carries.

14 MS. CARIDE: Thank you everyone. Have a
15 wonderful evening.

16 MR. PANEQUE: You, too.

17 (Whereupon, there was a pause in the
18 proceedings.)

19 * * *

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25

1 | **Paladin Homes, Inc. - 1300 Manhattan Avenue:**

2 |

3 | THE SECRETARY: Next application on
4 | tonight's agenda, this is a continuation of the
5 | previous meeting, Paladin Homes, I-N-C, 1300
6 | Manhattan Avenue.

7 | Mr. Alonso, please?

8 | MR. ALONSO: Thank you.

9 | Good evening, Mr. Chairman, members of the
10 | Board.

11 | For the record, Alvaro Alonso, Alonso
12 | Navarette, on behalf of the applicant.

13 | The Board may recall --

14 | MR. MAROTTA: I have -- I have a motion,
15 | Mr. Chairman.

16 | VICE CHAIRMAN GRULLON: Yes.

17 | MR. MAROTTA: I understand we're going to
18 | hear from a traffic expert this evening.
19 | However, this is a use variance and there should
20 | have been a traffic report submitted to the
21 | Board, so that we would have enough time to
22 | review that. And I understand there's been no
23 | traffic report submitted.

24 | So, I'm going to move that this matter be
25 | adjourned until the next hearing, and that we be

1 provided with the traffic report.

2 MR. ALONSO: Mr. Chairman, there's no
3 specific requirement that a traffic report be
4 submitted.

5 The Municipal Land Use Law requires that
6 any documents or plans that are going to be
7 relied on by the applicant be filed at least ten
8 days before.

9 However, the Municipal Land Use Law further
10 states that testimony can be presented, and in
11 the event that additional documents are required,
12 for purpose of supplementing that testimony, that
13 can be presented the day of the hearing.

14 There is no traffic report that's been --
15 that's been prepared. There is no requirement
16 that a written traffic report be prepared and
17 submitted.

18 So, therefore, I don't believe that there's
19 any basis for -- for the motion to adjourn this
20 application.

21 VICE CHAIRMAN GRULLON: But if I recall, we
22 requested for a traffic -- traffic expert to be
23 here.

24 MR. ALONSO: He's here.

25 VICE CHAIRMAN GRULLON: Okay.

1 MR. ALONSO: And he can testify as -- as to
2 what findings are, and his opinions.

3 VICE CHAIRMAN GRULLON: Oh --

4 THE SECRETARY: Should I call the motion?

5 MR. PANEQUE: Should I what?

6 THE SECRETARY: He has a motion to adjourn.

7 MR. PANEQUE: Yeah. We have to call the
8 motion first.

9 Well, before you call the motion, I think
10 there's discussion on the motion now.

11 VICE CHAIRMAN GRULLON: I mean I just want
12 to be clear first what we request at the last --
13 at the previous meeting, whether we request for
14 them to bring a traffic expert, or to submit a --
15 or to submit a report.

16 MR. ALONSO: The -- the request was that we
17 provide testimony from a traffic engineer.

18 I had indicated to the Board that there was
19 a traffic engineer when the application was
20 originally approved. That we don't believe that
21 there was a need, based on what we're presenting,
22 because the number of units didn't change.

23 And so that we felt that the testimony
24 would be pretty similar, and we were asking the
25 Board to rely on the -- the prior findings from

1 the Board.

2 The Chairman, at that time, requested that
3 we do provide the -- at least a traffic engineer
4 to come in and testify, which we did.

5 So, we have Mr. Staigar. Mr. Staigar was
6 the traffic engineer who was -- who testified at
7 the original application, some years ago. He's
8 here again to testify with respect to his new
9 findings, with respect to the current conditions.

10 So, Mr. Staigar is here and he's available
11 to testify this evening. There is no requirement
12 that a written report be filed.

13 MR. MAROTTA: Mr. Paneque, --

14 MR. PANEQUE: My recollection --

15 MR. MAROTTA: -- the fact that there was,
16 in 2005, an application before the Planning Board
17 that was approved is completely irrelevant.

18 This is a new application. This is for a
19 use variance. I think we're entitled to get a
20 report as to traffic.

21 We're not dealing with a small matter here.
22 We're dealing with 55 units on the -- on the
23 cliffs.

24 So, I think that -- we're entitled to get
25 that, and that this should be adjourned.

1 MR. PANEQUE: Your comments are noted for
2 the record, Mr. Marotta.

3 My recollection of what transpired at the
4 last hearing was that the applicant was requested
5 to provide testimony from a traffic expert.

6 To my recollection, there was not a request
7 for him to provide a traffic report ten days in
8 advance.

9 Now, I don't have the transcript in front
10 of me, but that was my recollection.

11 I don't know if that was -- you had a
12 different recollection --

13 MR. ALONSO: No, no.

14 MR. PANEQUE: -- Mr. Alonso?

15 MR. ALONSO: That's exactly the
16 recollection that I had, just present it to the
17 Board.

18 MR. PANEQUE: Okay. And Mr. Grullon was
19 here --

20 VICE CHAIRMAN GRULLON: And that's -- and
21 that's the recollection that I have, as well.

22 MR. PANEQUE: So --

23 MR. MAROTTA: Mr. Paneque, I have the
24 transcript.

25 MR. PANEQUE: Okay.

1 MR. MAROTTA: I'll take a look.

2 MR. PANEQUE: If you have it --

3 MR. MAROTTA: Yes, I have it.

4 MR. PANEQUE: Take a -- take a second and
5 go through it.

6 VICE CHAIRMAN GRULLON: We take five
7 minutes? Or do we have to do it on the record?

8 MR. PANEQUE: Well, we can take a five
9 minute break.

10 VICE CHAIRMAN GRULLON: Yes.

11 MR. PANEQUE: Yeah.

12 MS. DILLON: Off the record?

13 MR. PANEQUE: Off the record.

14 THE SECRETARY: Five minute break.

15

16 (Whereupon, the Board recessed from 7:53
17 p.m. to 8:01 p.m.)

18

19 MS. DILLON: Okay.

20 On the record.

21 THE SECRETARY: May I have your attention,
22 please?

23 Go back in business.

24 There a motion to adjourn this application
25 by Mr. Marotta.

1 Any second to the motion?

2 No second?

3 Motion fails.

4 Go ahead, Mr. Chairman.

5 MR. ALONSO: Thank you, Mr. Chairman.

6 The Board may recall that we presented
7 testimony at the last -- the last meeting.

8 Testimony was presented by Mr. Carballo,
9 the architect.

10 His testimony was concluded, subject to
11 some revised plans that needed to be filed.

12 Specifically, one of the variances that we
13 were requesting was a parking variance. We were
14 deficient by one space.

15 Mr. Carballo indicated that he would be
16 able to make up that one space, to eliminate that
17 -- that variance.

18 He will testify that not only did we
19 eliminate that -- that variance, but we actually
20 exceed by five spaces now.

21 Primarily, we're also back here because, as
22 Mr. Marotta indicated, we needed to provide
23 testimony from our traffic engineer.

24 So, I also have Mr. Staigar, who I will be
25 presenting once Mr. Carballo is concluded with

1 his testimony, with respect to the traffic
2 issues.

3 I also want to indicate to the Board that I
4 see some of the residents that are here. At the
5 last meeting, there was some discussion as to
6 whether or not we should be meeting.

7 I present -- I provided a number of them
8 with my business card. My client also provided
9 the business card.

10 We asked them to please contact us with any
11 dates of availability, whoever was interested; we
12 would facilitate them at any location, whether it
13 was my office or somewhere else.

14 And neither myself nor my client received
15 any -- any request for a meeting. But we were
16 always available to -- to meet.

17 So, with that said, I would have Mr.
18 Carballo sworn in.

19 MS. DILLON: Certainly.

20 Please raise your right hand.

21 Do you affirm the testimony you're about to
22 give this Board is the whole truth?

23 MR. CARBALLO: Yes, I do.

24 MS. DILLON: Please state your name and
25 spell it for the record.

1 MR. CARBALLO: Jose Carballo, C-A-R-B as in
2 boy, A-L-L-O.

3 MS. DILLON: Thank you.

4 MR. CARBALLO: You're welcome.

5 MR. ALONSO: Mr. Carballo, as a result of
6 the testimony last week, you provided and filed
7 some revised plans.

8 MR. CARBALLO: That -- that is correct.

9 MR. ALONSO: Okay. I'm just going to ask
10 you to just review those revisions with the
11 Board.

12 MR. CARBALLO: Certainly.

13 At the last meeting, we -- we found out
14 that we were short one parking space and that
15 required a variance for that.

16 At that meeting, I stated that I was going
17 to get rid of a variance, and we actually did
18 that.

19 We submitted revised drawings with date
20 6/20/2016.

21 And those revised drawings now show an
22 increase of six parking spaces from the last --
23 the last submission.

24 So, instead of 110 parking spaces, now we
25 have 116 parking spaces. What we actually did is

1 we extended this deck towards this side, towards
2 the south, with the six parking spaces. And this
3 was one -- drawing one of five, was one of the
4 drawings that was submitted, as well as if you
5 look at drawing three of five, where it says
6 level seven parking, we extended the deck on that
7 side. So we had another six parking spaces.

8 The total number of parking spaces for this
9 application is 116 parking spaces. So, we don't
10 have a parking space variance anymore.

11 MR. ALONSO: Were there any other revisions
12 that were made to the plans?

13 MR. CARBALLO: No. That was the only
14 revision that was made.

15 MR. ALONSO: Mr. Chairman, I have no
16 further questions of Mr. Carballo.

17 VICE CHAIRMAN GRULLON: And Mr. Carballo,
18 now that you -- you increase the parking -- the
19 parking count by one --

20 MR. CARBALLO: No. I increased it by six.

21 VICE CHAIRMAN GRULLON: By six. Now you up
22 to Code, you're not requiring any variance.

23 MR. CARBALLO: We're not requiring any
24 variances at all. The parking spaces are nine
25 by 18, just like the other parking spaces are.

1 And the drive aisle is 24 feet.

2 So, we mirror the standards of the RSIS,
3 not just for the parking count, but also the
4 requirements for parking dimensions and such.

5 MR. ALONSO: And we actually have five
6 extra parking spaces --

7 MR. CARBALLO: Right.

8 MR. ALONSO: -- than what's required.

9 VICE CHAIRMAN GRULLON: Oh, no, I don't
10 have any more question for Mr. Carballo.

11 You want to bring your expert for --

12 MR. ALONSO: Sure.

13 Mr. Staigar?

14 VICE CHAIRMAN GRULLON: -- the traffic
15 expert?

16 MS. DILLON: Jose?

17 (Whereupon, there was a pause in the
18 proceedings.)

19 MS. DILLON: Please raise your right hand.

20 Do you affirm the testimony you're about to
21 give this Board is the whole truth?

22 MR. STAIGAR: Yes, I do.

23 MS. DILLON: Please state your name and
24 spell it for the record.

25 MR. STAIGAR: Yes.

1 My name is Joseph Staigar, S-T-A-I-G-A-R.

2 MS. DILLON: Thank you.

3 MR. ALONSO: Mr. Chairman, Mr. Staigar, has
4 been here for a number of years --

5 VICE CHAIRMAN GRULLON: Yes. Yes.

6 MR. ALONSO: -- presenting testimony. I
7 would ask that his qualifications in the field of
8 traffic engineering be accepted.

9 VICE CHAIRMAN GRULLON: Yes. It is our
10 pleasure. We accept his qualification. He's
11 been here many times.

12 MR. STAIGAR: Thank you.

13 VICE CHAIRMAN GRULLON: Thank you.

14 MR. ALONSO: Thank you.

15 Mr. Staigar, you were the traffic engineer
16 who testified in the original application, some
17 ten years ago.

18 Is that correct?

19 MR. STAIGAR: Correct.

20 MR. ALONSO: Okay.

21 And you also retained to come back before
22 this Board and provide testimony with respect to
23 the traffic conditions in this application.

24 Correct?

25 MR. STAIGAR: Correct.

1 MR. ALONSO: Okay.

2 Can you provide us the benefit of your
3 analysis?

4 MR. STAIGAR: Yes.

5 We had done a traffic assessment. By so
6 doing, we go out and we take traffic counts.

7 The key intersection nearest to this
8 intersection is the intersection of Mountain
9 Avenue -- Manhattan Avenue -- I'm sorry --
10 Manhattan Avenue with Mountain Road, with 16th
11 Street.

12 There is a two cycle, 90 second cycle
13 traffic signal there. What that means is that
14 it's 90 seconds for it to turn green, red,
15 yellow, so forth, until -- until the cycle starts
16 again.

17 And about half of the green time is for the
18 northbound approach of Manhattan Avenue, where it
19 can only go straight on Manhattan Avenue, or make
20 a right turn onto Mountain Road, or travel
21 eastbound on 16th Street, which you can turn left
22 through, or right on -- at the intersection.

23 Northbound gets the green, yellow, all red.
24 There's an all red phase, a clearance phase.
25 That turns red, and then the 16th Street gets the

1 -- the second phase of the cycle.

2 We took traffic counts and we took those
3 traffic counts during the typical peak hours of
4 the roadway peak, meaning when -- when rush hour
5 occurs. And coincidentally, the peak hour of a
6 residential development is at the same time
7 period. Between seven and nine in the morning,
8 four to six in the evening.

9 We have on -- on Mountain Avenue, in front
10 of the site, just to give the Board a relative
11 number of cars, about 650 vehicles, two way on --
12 on Manhattan Avenue in front of the site, in the
13 morning peak hour, and 750 in the evening peak
14 hour.

15 The -- the proposed use is a 55 unit
16 apartment building. And we're able to project
17 how much traffic those types of land uses will
18 generate, based on the ITE trip generation rates.

19 The ITE is the acronym for Institute of
20 Transportation Engineers. It's the bible that we
21 use, State DOT, the county, your -- your city
22 engineer, as well, projecting traffic volumes for
23 certain land uses.

24 Mid-rise apartments, which this falls under
25 in the definition of the ITE, we generate 17

1 | trips in the morning peak hour and 21 trips in
2 | the evening peak hour.

3 | Now, residential uses are such that one
4 | person may start six o'clock in the morning, go
5 | to work, and next person next door may -- may
6 | leave at nine o'clock, and you're going to have
7 | variations throughout the morning period, because
8 | people work at different times, start different
9 | times, work different places.

10 | It's not like morning bell rings and
11 | everybody is out the door. And the evening bell
12 | rings, and everybody's back again, similar to an
13 | office use, or -- or a commercial type of use.

14 | So, you do have about a three hour window
15 | when the majority of traffic will leave, and
16 | about a three hour window that they will arrive.

17 | So, on average, you'll have about 17 trips
18 | generated in the morning, 21 in the evening peak
19 | hour. Primarily leaving in the morning,
20 | obviously, and arriving back in the evening peak
21 | hour.

22 | We did a number of things. We -- we have
23 | traffic -- historical traffic data on Manhattan
24 | Avenue, from past traffic studies that we've done
25 | in the area, and particularly on Manhattan

1 Avenue. They're rather old data, as the
2 applications back then were about ten years ago.

3 But we most recently took them, and we --
4 and we took, also, a look at NJDOT growth rates.
5 So, what the traffic growth rate would be.

6 And in the -- this area in -- in Hudson
7 County, we're about one percent, two percent per
8 year.

9 So, we included that aspect in taking the
10 existing volumes. So, essentially, we -- we took
11 traffic counts, we increased them by -- by the
12 growth rate. And then, we superimposed those 17
13 and 21 trips, during those peak hours, to
14 reanalyze the intersection of -- of Manhattan
15 Avenue with Mountain and 16th Street.

16 We get level of service B and C. We're --
17 certain approaches, certain times, are in the
18 range of B -- B and/or C, just to give the Board
19 the -- the feeling of what the levels of service
20 are.

21 Levels of service, I'm sure you've heard me
22 and other traffic engineers, are -- are
23 classifications of average delay. And it range
24 -- just like in grade school, A being the best, F
25 being the worst. So, we're in that B/C range

1 during the peak hours, which is a very acceptable
2 level of service. Good level of service.

3 We have -- we have a lot of reserve
4 capacity that when we increase the volumes by the
5 growth rate, because we took a two year horizon,
6 meaning that we took traffic counts today, but we
7 increased them over the two year period. And
8 then, we superimposed the -- the site traffic on
9 top of that, and we remain within that B and C
10 range.

11 So, in terms of any traffic impacts on --
12 along Manhattan Avenue, that gives a clear
13 indication that the nearest intersection, which
14 will be the nearest bottleneck area, will not
15 have any detrimental impact associated with this
16 proposal.

17 Lastly, what we took out -- we took a look
18 at the access, ingress and egress of the site,
19 internal circulation, amount of parking, working
20 with the -- the site architect in laying out and
21 assessing how the site would work.

22 We have three driveways. Essentially,
23 three drive -- there's -- there's four --
24 actually, four curb cuts, but one -- one set of
25 curb cuts is an in and an out.

1 A two way driveway to the south, an in and
2 an out in the middle of the site, and a third
3 driveway that's also a two way driveway that will
4 service three different levels of the building,
5 because the building is on a -- an incline, or on
6 a -- on a grade differential. So, there's
7 entrances and there's exits on the three levels.

8 And we're able to analyze, similarly, using
9 the same methodology to establish the levels of
10 service of the driveways.

11 They operate at very good levels of
12 service. The in movement, left turn in, which
13 you have to wait for opposing traffic to make a
14 left turn, operates at level of service A. And
15 the exit movements, either making a left or right
16 from the driveway, all operate level of service
17 B.

18 So, the site will operate at good levels of
19 service, as well. There's sufficient gaps in
20 traffic on Manhattan Avenue to accommodate those
21 turning movements at the driveways.

22 As you heard from Mr. Carballo, our site
23 does comply with all the RSIS standards. We
24 exceed the parking requirements, per RSIS. And
25 those -- those standards are -- are standards

1 | that are developed throughout the whole State.
2 | They're -- they apply to Hunterdon County and
3 | Warren County, rural areas, as they do in urban
4 | areas.

5 | And we know that in urban areas, traffic
6 | generation, parking generation is much less
7 | because you have availability of mass transit,
8 | you have availability of be -- being able to be
9 | -- people able to carpool, where you don't have
10 | those luxuries in the rural -- rural areas.

11 | So, when we -- when we apply the RSIS
12 | standards for here in Union City, we are
13 | absolutely assured that we have more than
14 | sufficient parking to accommodate our needs.

15 | So, the site plan is well designed to
16 | operate safely and efficiently.

17 | MR. ALONSO: Thank you.

18 | I have no further questions.

19 | VICE CHAIRMAN GRULLON: Mr. Staigar, what
20 | -- do you recall the date when you made the study
21 | of this?

22 | MR. STAIGAR: Yes. We did the study on
23 | July 7th, because we --

24 | VICE CHAIRMAN GRULLON: July 7.

25 | MR. STAIGAR: Again, we -- in order to --

1 in order to meet the requirements being here
2 tonight, we took the counts then.

3 We're able to -- as I said, we have older
4 traffic counts, but they were not -- they were
5 not summertime. We know that July 7th traffic is
6 not the same as --

7 VICE CHAIRMAN GRULLON: Yes. School --

8 MR. STAIGAR: -- March, February --

9 VICE CHAIRMAN GRULLON: A school day.

10 MR. STAIGAR: Right. Mainly because of
11 school.

12 And the school day coincides with -- with
13 the morning hour, as opposed to the evening hour.
14 Schools start seven o'clock, eight o'clock, nine
15 o'clock, in that range, right when the peak hour
16 of -- of residential developments generate
17 traffic.

18 The afternoon hour is not so coincidental,
19 because schools let out around three o'clock,
20 3:30, but people aren't really coming home peak
21 hour. And what we found peak hour on the roadway
22 is between five and six. You have some after
23 school activities, but not that much.

24 What I'm -- what I'm getting at is that,
25 for one thing, we found that the volumes in the

1 morning and -- which is typical, morning --
2 morning rush hour traffic is usually less than
3 evening rush hour traffic.

4 So, that's one -- one factor that we -- we
5 felt we had the right numbers.

6 But we also able to establish, again, from
7 -- from NJDOT data, traffic data, as well as our
8 data, that there is about a ten percent
9 differential between what happens in July,
10 August, summertime -- summer months, seasonal
11 variation, versus the rest of the year. It's
12 about a ten percent. So, we bumped our numbers
13 up by ten percent.

14 When we took our counts in July, we
15 increased them by ten percent, see what -- what
16 would happen with the levels of service. We get
17 Bs and Cs.

18 Then we did the growth rate and then we put
19 our traffic -- our site traffic on it.

20 So, I think we felt -- we -- I'm confident
21 that we have that variation of a seasonal
22 adjustment.

23 So, you make a very good point, a very good
24 observation that, yeah, we took the counts not at
25 the opportune time --

1 VICE CHAIRMAN GRULLON: Yes.

2 MR. STAIGAR: -- that they may be actually
3 subdued.

4 VICE CHAIRMAN GRULLON: And I will say that
5 -- you know, considering that it's July 7,
6 there's a lot of -- you know, people out on
7 vacation.

8 MR. STAIGAR: Yes.

9 VICE CHAIRMAN GRULLON: And probably ten
10 percent be a little low --

11 MR. STAIGAR: Um hum.

12 VICE CHAIRMAN GRULLON: -- to say. I would
13 say more like -- like 25 percent of traffic
14 difference between a normal day and 7 of July.

15 MR. STAIGAR: And that's -- yeah. That --
16 but that doesn't show up on the DOT data that we
17 -- we took a look at.

18 Again, if I could -- and I -- I'm hearing
19 you, though. I -- I'm listening.

20 We did do -- when we have levels of service
21 B and C, when we took that ten percent, we have
22 what's called reserve capacity. How much
23 additional traffic could we put into that
24 intersection and still operate within good levels
25 of service? Down to a D range, let's say,

1 | because you still have the E and F. E is still
2 | acceptable. F is not acceptable.

3 | But if we got to a D range, we could
4 | increase that -- those traffic volumes by more
5 | than 25 percent and still get levels -- good
6 | levels of service.

7 | So, it's -- if I did take your analysis,
8 | and say, okay, let's bump them up 25 percent,
9 | what happens? We're in that C and D range.

10 | VICE CHAIRMAN GRULLON: Would you remain on
11 | the C --

12 | MR. STAIGAR: C and D.

13 | VICE CHAIRMAN GRULLON: C and D.

14 | MR. STAIGAR: So, but we're still within
15 | good levels of service.

16 | VICE CHAIRMAN GRULLON: The -- the speed of
17 | that road, do you know?

18 | MR. STAIGAR: I think it's 25.

19 | VICE CHAIRMAN GRULLON: Is it 25?

20 | MR. STAIGAR: Yeah. Twenty-five miles per
21 | hour.

22 | VICE CHAIRMAN GRULLON: And you say that
23 | the morning -- morning hours, at that -- in that
24 | day, morning hours were around 650 trips per --
25 | per hour?

1 MR. STAIGAR: That's what we counted on
2 July 7th. Yes. So, if we -- if we bump them up
3 by 25 percent, that's about another 150 vehicles,
4 we'll be in about 800 vehicles per hour.

5 A two lane -- again, just to give you a
6 level of comfort, a two lane roadway can handle
7 2700 vehicles both ways. And we would be -- even
8 at your 25 percent increase, in the range of
9 about 800 vehicles.

10 So, we'd be -- you know, less -- still less
11 than half than what the absolute capacity would
12 be.

13 VICE CHAIRMAN GRULLON: Have any question
14 for the traffic expert?

15 MR. BONACCI: I have a question.

16 Thank you for coming, because last month --
17 you know, some people that live in the town, they
18 had some legitimate concerns of what we thought
19 --

20 MR. STAIGAR: Sure.

21 MR. BONACCI: -- you know, in order to --
22 you know, we wanted to address their concerns,
23 which is why we thought it would be a great idea
24 to have you come and testify.

25 MR. STAIGAR: Sure.

1 MR. BONACCI: Give us a better idea of --
2 you know, how you see it.

3 So, in -- in looking at the data from July
4 7th, the level of service would be in your B/C
5 range.

6 MR. STAIGAR: Correct.

7 MR. BONACCI: Okay. But now --

8 MR. STAIGAR: Actually -- actually, in a B
9 range. When we bump them up to ten percent, they
10 were -- they -- B -- B and C. Some -- some
11 approaches were at C. Some were at B.

12 So, we did it both ways. We did based
13 strictly on existing volumes that we counted, and
14 them bumped them up by what we feel the seasonal
15 variation would be, ten percent.

16 But if we did the 25 percent, and again,
17 I'm just -- it's a -- it's an estimate, just from
18 the -- just by the sensitivity of -- of going
19 from the actual numbers to ten percent, we went
20 from B to B and C. If we bumped them up 25
21 percent, we'd probably be in the C and D range.

22 MR. BONACCI: Okay.

23 Now, you did this similar pattern, ITE,
24 your data, from the original application at the
25 same site?

1 MR. STAIGAR: We did this for -- yes, the
2 same exact -- the only thing that's different is
3 that we took counts back then.

4 MR. BONACCI: Right.

5 MR. STAIGAR: And then, we took counts
6 today.

7 MR. BONACCI: Have you noticed any
8 difference between then and now? Has it changed
9 a whole lot?

10 MR. STAIGAR: No. The traffic -- yes.
11 Well, traffic volumes -- we did compare the
12 traffic volumes at the intersection from back in
13 2005 versus today.

14 They are up about ten percent, which is
15 right about where they -- where that should be,
16 because about ten year differential, and we've
17 seen -- the DOT says you have about a one percent
18 increase per year. So, we're -- a ten percent
19 increase differential from -- from now and 2005
20 is about right.

21 MR. BONACCI: So, you would say that, in
22 another ten years, probably bump it up another
23 ten percent.

24 MR. STAIGAR: I would think so, unless
25 people change their means of -- of commutation.

1 Yes.

2 MR. BONACCI: Okay. That's all I got.

3 Thank you.

4 MR. STAIGAR: Sure.

5 VICE CHAIRMAN GRULLON: Any other member of
6 the Board?

7 No other from the Board?

8 Do you have any other expert?

9 MR. ALONSO: I have no further witnesses.

10 VICE CHAIRMAN GRULLON: At this time, I
11 just want to open to the public.

12 Mr. Price?

13 MR. PRICE: For all the experts.

14 Right?

15 VICE CHAIRMAN GRULLON: Yes.

16 Come forward, Mr. Price.

17 MS. DILLON: Mr. Price, please raise your
18 right hand.

19 Do you affirm the testimony you're about to
20 give this Board is the whole truth?

21 MR. PRICE: I do.

22 MS. DILLON: Please state your name and
23 address for the record.

24 MR. PRICE: Larry Price, 1006 Palisade
25 Avenue.

1 MS. DILLON: Thank you.

2 MR. PRICE: Mr. Staigar -- by the way, it
3 was July 7th, 2016 that you took the counts.

4 MR. STAIGAR: Yes.

5 MR. PRICE: Where did you take those
6 counts?

7 MR. STAIGAR: At the intersection.

8 MR. PRICE: At 16th Street.

9 MR. STAIGAR: Yes, 16, Manhattan, Mountain.

10 MR. PRICE: Okay. Okay.

11 Okay. So, you could conceivably, going
12 through then, you could come down 16th Street and
13 go down Mountain Road, you would count those
14 cars.

15 Correct?

16 MR. STAIGAR: Yes.

17 MR. PRICE: Even though they would never go
18 down Manhattan Avenue.

19 MR. STAIGAR: We got all -- whatever --
20 whatever vehicle went through the intersection,
21 we counted.

22 So, on 16th Street, you could make a left,
23 a through or a right. We counted --

24 MR. PRICE: Correct.

25 MR. STAIGAR: -- each one of those. The

1 | only other approach is -- is Mountain, going
2 | north, you can go through, or make a right.

3 | The other two roadways are one ways going
4 | away from the intersection.

5 | MR. PRICE: Okay. Correct. Okay.

6 | How many -- down 16th Street, going right,
7 | in other words, down Manhattan Avenue, how many
8 | cars was it?

9 | MR. STAIGAR: Over 300.

10 | MR. PRICE: Over --

11 | MR. STAIGAR: Three thirty-eight I think is
12 | the number.

13 | MR. PRICE: Three thirty-eight.

14 | MR. STAIGAR: Um hum.

15 | MR. PRICE: Okay.

16 | And would you know --

17 | MR. STAIGAR: In the morning -- morning
18 | peak hour. I'm sorry.

19 | MR. PRICE: Morning peak hour.

20 | MR. STAIGAR: Yeah.

21 | MR. PRICE: Out of 650.

22 | MR. STAIGAR: Yes.

23 | MR. PRICE: Okay.

24 | Would you know the number of cars going --
25 | going through that intersection, northbound?

1 It doesn't matter whether they go straight
2 or go right.

3 MR. STAIGAR: I'm going to have to take a
4 look. You're starting to stump me now.

5 I remember that right turn volume, because
6 it went past the site, but -- oh, northbound?

7 MR. PRICE: Northbound.

8 MR. STAIGAR: Oh, on -- on --

9 MR. PRICE: In other words, they could go
10 straight or go right.

11 MR. STAIGAR: It would be the -- it would
12 be the -- the inverse of the 650. So, 650 minus
13 338 would be the northbound volume.

14 The only volume that's going south, that
15 can go south from that intersection --

16 MR. PRICE: Is down 16th --

17 MR. STAIGAR: -- is 16th Street --

18 MR. PRICE: -- Street.

19 MR. STAIGAR: -- making a right turn.

20 MR. PRICE: Take right.

21 MR. STAIGAR: That number is 338. And the
22 two way volume is 650. You can do the math, the
23 subtraction and you got your numbers northbound.

24 MR. PRICE: Oh, okay. Okay. Very good.

25 Which is roughly 312.

1 MR. STAIGAR: Yeah.

2 MR. PRICE: Okay. Three -- okay.

3 The other quest -- do you remember the peak
4 hour in the morning?

5 MR. STAIGAR: Is 7:45 to 8:45. When we
6 take our traffic counts, we take them in 15
7 minute increments. So, we go from seven --

8 MR. PRICE: Okay.

9 MR. STAIGAR: -- to 7:15, and so forth.
10 And the highest out -- four -- highest four
11 consecutive 15 minute increments is our peak
12 hour. So, 7:45 to 8:45.

13 MR. PRICE: Okay. Okay.

14 The -- the other -- do you remember the
15 peak hour for the -- the evening hour?

16 MR. STAIGAR: Five to six.

17 MR. PRICE: Five to six. Okay. Very good.
18 Thank you very much.

19 MR. STAIGAR: That was it? Okay.

20 MR. PRICE: I have a question of the
21 architect, too.

22 VICE CHAIRMAN GRULLON: Is right there.

23 Mr. Carballo.

24 MR. CARBALLO: Sorry. I didn't hear you.
25 I'm still here.

1 MR. PRICE: Mr. -- Mr. Carballo --

2 MR. CARBALLO: Yes.

3 MR. PRICE: -- a question.

4 MS. DILLON: Just come to the microphone,
5 Mr. Carballo.

6 MR. CARBALLO: I'm sorry.

7 MR. PRICE: No.

8 MS. DILLON: You're good.

9 MR. PRICE: I'm good. Yeah.

10 You said you were going -- in adding the
11 six parking spaces, you were going to extend the
12 deck.

13 MR. CARBALLO: That is correct.

14 MR. PRICE: Okay. Are you extending the
15 building?

16 MR. CARBALLO: No. Not at all. The only
17 thing that I extended is this deck on this side,
18 which ended here. And this is the -- this deck
19 is above this deck here.

20 So, I just extended it over the deck in the
21 lower section.

22 So, no, I'm not extending the building.
23 Just the deck itself.

24 Remember, the -- the parking and the
25 building are two different structures.

1 MR. PRICE: Okay.

2 MR. CARBALLO: Okay?

3 MR. PRICE: Okay.

4 Okay. Could I ask Mr. Staigar one
5 question?

6 And this -- this goes to -- this is my
7 property here. Okay. So, I'm well acquainted
8 with -- and this curve in the road is pretty --
9 it's a lot -- it's a lot trickier. It's a lot
10 more curvy than would be indicated on this --

11 Okay. But my question is, you can end up
12 with blind spots there, is what I'm leading up
13 to.

14 MR. STAIGAR: Um hum.

15 MR. PRICE: My question is, you have really
16 three entrances and exits from -- where is the
17 southern most entrance here?

18 MR. CARBALLO: It's right here.

19 MR. STAIGAR: Oh, right there. Yeah, 22
20 feet.

21 MR. PRICE: Okay.

22 MR. STAIGAR: Yeah.

23 MR. PRICE: Okay. So, that -- just a
24 little testimony --

25 MS. DILLON: Can you come a little closer,

1 Mr. Price?

2 MR. PRICE: Oh, sorry.

3 That -- that gets a little tricky because
4 when you are coming up from Hoboken -- you know,
5 the road does this. And on the -- right beyond
6 that curve, you're going to have an entrance and
7 an exit.

8 That's going to be a little bit tricky, and
9 the Board might want to take that into
10 consideration that --

11 You know, luckily, I can tell you -- by the
12 way, the -- the speed trap of Union City is right
13 there. It is the most productive for the New
14 York -- the Union City Police Department because
15 cars speed down Manhattan Ave. It's -- it's
16 clear -- you know, no lights, no stop signs, no
17 bumps, no nothing between 16th Street and 9th
18 Street, and it's downhill. And they go fast.

19 Luckily --

20 MR. CARBALLO: Thanks for the info.

21 MR. PRICE: -- they don't go up the hill
22 fast.

23 MR. STAIGAR: Fast. Right.

24 MR. PRICE: So --

25 MR. STAIGAR: And -- and that's a

1 mitigating factor in the sense --

2 MR. PRICE: That's a --

3 MR. STAIGAR: -- because you're traveling
4 uphill, as you go through that curve that you
5 pointed out. Now, I may -- I was going to make
6 that point to -- to your comment --

7 MR. PRICE: Yeah.

8 MR. STAIGAR: -- about that.

9 MR. PRICE: Yeah, that whatever. But it --
10 it is -- you know, it is a blind spot. And it's
11 -- it's a little blinder than I think you might
12 think.

13 You know, if you're on the ground and
14 looking, it -- it can get a little -- get a
15 little tricky.

16 Okay.

17 Thank you.

18 VICE CHAIRMAN GRULLON: Any other member of
19 the public?

20 Please come forward.

21 MS. DILLON: Hi.

22 Sir, please raise your right hand.

23 Do you affirm the testimony you're about to
24 give this Board is the whole truth?

25 MR. LEHNBEUTER: Yes.

1 MS. DILLON: Could you please state your
2 name, spell it for the record, and give your
3 address?

4 MR. LEHNBEUTER: Cory Lehnbeuter, C-O-R-Y,
5 L-E-H-N-B-E-U-T-E-R.

6 MS. DILLON: And your address.

7 MR. LEHNBEUTER: 1210 Palisade Avenue.

8 MS. DILLON: 1210?

9 MR. LEHNBEUTER: Um hum.

10 MS. DILLON: Thank you, sir.

11 MR. LEHNBEUTER: Yeah. I just wanted to
12 ask about the traffic study.

13 It sounded to me like it's more of kind of
14 a statistical extrapolation of 2005 data as
15 opposed to --

16 MR. STAIGAR: No.

17 MR. LEHNBEUTER: -- was --

18 MR. STAIGAR: No. We went -- we took
19 traffic counts on July 7th. Now, we understand --
20 so, they're very current, but we understand that
21 July volumes are not the same as other times of
22 the year.

23 So, we did a seasonal adjustment to that.
24 We took the July 7th counts and increased them by
25 ten percent to -- to accommodate that -- what we

1 felt is a seasonal variation, based on DOT,
2 again, extrapolation, but based on historical
3 data.

4 MR. LEHNBEUTER: Do you know when the last
5 time the NJDOT data -- or what year that was
6 from, that you were using?

7 MR. STAIGAR: They do it -- well, what they
8 do is they don't do traffic counts on Manhattan
9 Avenue, but throughout Hudson County. And they
10 establish growth rates for -- for that -- but
11 they also -- they also establish seasonal
12 adjustments, as well.

13 They -- they publish the information.
14 They're constantly doing it. So, it is rather
15 current stuff.

16 I -- I couldn't tell you if it's a year
17 old, or two years old, but it is constantly being
18 updated.

19 MR. LEHNBEUTER: Um hum.

20 I guess, my concern with that is just
21 whether it considers -- or this study considered
22 the new schools in the area, since the last -- I
23 guess, time this was done, 2005, the Colin Powell
24 School and the Hudson School, that's actually
25 just opened in the past year.

1 So, I -- I'm not sure if the data has that,
2 but I feel like that should be looked at. And
3 particularly, since this was done over -- kind of
4 a holiday week -- week, when school's not in
5 session. I think it would be good, since this is
6 a revised plan --

7 MR. STAIGAR: Um hum.

8 MR. LEHNBEUTER: -- instead of a -- sounds
9 like a revised plan, instead of an amended plan.

10 MR. ALONSO: It's a new plan.

11 MR. LEHNBEUTER: It's a new plan. That --
12 you know, another study, a written study actually
13 should be -- be done during -- while school's in
14 session, particularly to capture, I think, the
15 data around those two schools, that didn't exist
16 last time, or probably aren't part of NJDOT's
17 data.

18 MR. STAIGAR: Well, I mean, the -- the
19 schools -- the children are there --

20 MR. LEHNBEUTER: Um hum.

21 MR. STAIGAR: -- and the -- the traffic
22 activity from the children is generated --

23 MR. LEHNBEUTER: Um hum.

24 MR. STAIGAR: -- whether they're at one
25 school or another school. So, they're in the --

1 MR. LEHNBEUTER: Um hum.

2 MR. STAIGAR: -- they're in the area.

3 I think the Chairman asked me a good
4 question. You know, maybe ten percent isn't
5 enough. What -- what if -- what would happen if
6 it was 25 percent differential?

7 And if we did that, we would still be at --
8 at acceptable levels of service.

9 If I was -- if I -- if I did my July 7th
10 counts, with no adjustments, and I was in the D
11 and E range, as I said, then I know we would be
12 -- we're at the cusp. And -- and yeah, if we
13 went up ten percent or -- or 25 percent, we'd
14 probably be in the F range.

15 But since we are at the -- at the B range,
16 with July 7th counts, at the B and C range, if I
17 adjust them ten percent, and if we were in the 25
18 percent increase, we would be in --

19 MR. LEHNBEUTER: Um hum.

20 MR. STAIGAR: -- the C and D range, but --
21 but still at acceptable levels of service.

22 So, I think that there's enough reserve
23 capacity to accommodate, say, a 25 percent, and
24 probably even a 35 percent increase from July
25 counts. And I -- and I have to say that that

1 absolutely it wouldn't be higher than that.

2 So, in that sense, I'm confident, from a
3 professional opinion, to -- to be able to say
4 that -- you know, I -- I believe we'll still be
5 within acceptable levels of service.

6 MR. LEHNBEUTER: Okay.

7 I guess my -- the one other point I make on
8 that is just that given the County level, kind of
9 guidelines for this type of data, as opposed to
10 the very unique location of this, and how -- and
11 the development around that, both in Weehawken
12 and Hoboken and in Union City, and how that might
13 impact, just because of the way it's on the cliff
14 and the curve in the road being different than
15 probably your average road and -- you know, on
16 average in New Jersey.

17 But in any case, since this was -- I guess
18 this is a new plan, I'm under the understanding
19 that David Spatz, who advises this Board, usually
20 has -- has recommended, in the past, a written
21 traffic study to be done, as opposed to just
22 testimony.

23 And I'd like the Board to consider having a
24 written traffic study done for this new plan.

25 MR. STAIGAR: Well, I can say I -- I've

1 testified before this Board dozens of times.
2 I've never submitted -- maybe once I've submitted
3 a traffic report, out of three, four dozen times
4 that I've been before this Board in the last,
5 over 20 years.

6 So, I -- I'd have to defer -- I defer to
7 Mr. Spatz, obviously, but I've never had a
8 comment from him asking me for a traffic report.

9 MR. LEHNBEUTER: Okay.

10 And then, one last point.

11 We did exchange some cards -- actually, I
12 think I had the developer's card, I did not have
13 your card, after last time.

14 We had not been able to figure out a time
15 that actually worked over the past month. I
16 think it's still worthwhile to meet with the
17 community.

18 And since we all had gotten notices, I
19 think within 200 feet, just about this Board
20 meeting, or the Zoning Board meeting. I know
21 there's other people in the community that were
22 interested to talk about this, that were not be
23 -- able to be present last time or today.

24 So, I think maybe a formal communication of
25 -- you know, presenting a forum to discuss that

1 would be --

2 MR. ALONSO: Mr. Chairman, with all due
3 respect, the opportunity to have that meeting was
4 between the last meeting and this meeting.

5 We're here this evening. We're concluding
6 our presentation. We're hoping that the Board
7 takes action this evening.

8 We are always willing to meet with the
9 neighbors down the road to explain our positions,
10 to -- to determine what their concerns are. If
11 there's concerns with respect to the -- the
12 construction of the project, the -- any
13 inconveniences during the construction, so that
14 we can -- you know, resolve those issues before
15 we even start.

16 But in terms of making changes to the
17 application or the plan, at this point -- you
18 know, we're -- we're not prepared, or we can't --

19 VICE CHAIRMAN GRULLON: Did you --

20 MR. ALONSO: -- do that.

21 VICE CHAIRMAN GRULLON: Did you make any
22 effort to communicate with the neighbors?

23 MR. ALONSO: We did. We actually -- we
24 offered it last -- at the last meeting, I --
25 myself and my client presented our business cards

1 to a number of them. And we said, whenever
2 you're available, we'll make ourselves available,
3 and we never got a call.

4 So, we were ready, willing and able to meet
5 at any time during this past month. So, now
6 we're here at the point where the Board is going
7 to have all the information that they need to --
8 to make a determination on this application.

9 So, I -- I just wanted to put that out.

10 And I -- and the reason why I said that at
11 the beginning was because there was discussion at
12 the last meeting as to whether or not we can meet
13 and I just wanted the Board to -- to know that we
14 were -- we made ourselves available, but nobody
15 reached out to us.

16 MR. LEHNBEUTER: That's all I have.

17 VICE CHAIRMAN GRULLON: Thank you. Thank
18 you.

19 MR. LEHNBEUTER: Thanks.

20 VICE CHAIRMAN GRULLON: Any other member of
21 the public?

22 MR. ALONSO: Can I just ask Mr. Staigar a
23 question real quick?

24 Mr. Staigar, you're aware that the original
25 application, back in 2005, was approved.

1 Correct?

2 MR. STAIGAR: Yes.

3 MR. ALONSO: And it was for 55 units.

4 MR. STAIGAR: Correct.

5 MR. ALONSO: That application had an
6 additional three or four driveways that this new
7 application has eliminated.

8 Correct?

9 MR. STAIGAR: Correct.

10 MR. ALONSO: And so, in terms of the
11 traffic volumes, and the traffic generation,
12 nothing has really changed. We just have
13 different entry points.

14 MR. STAIGAR: Absolutely. That's -- that's
15 a very good point.

16 In terms of any impacts beyond on -- onto
17 Manhattan Avenue or beyond the site are the same
18 as they would be for the previously approved
19 project.

20 MR. ALONSO: And if anything, it's actually
21 improved because you have less entry points and
22 exit points.

23 MR. STAIGAR: Yes. The more efficient
24 flow, given the less access points of the site.

25 MR. ALONSO: And by virtue of the Permit

1 Extension Act, and the recent extension of that
2 Act, those approvals are still valid. So, either
3 we'll build that application or this application,
4 which I believe Mr. Carballo testified at the
5 last meeting very thoroughly as to what the
6 improvements were, and how the -- how it
7 benefited, not only the developer, but also the
8 neighborhood with respect to those -- those
9 improvements, by downsizing it somewhat.

10 But in terms of the traffic, and you're
11 here for traffic, the Board wanted to hear what
12 the conditions were currently, because we're 11
13 years down the road from when the original
14 approval.

15 MR. STAIGAR: Right.

16 MR. ALONSO: So, your testimony is that
17 we're still within acceptable services -- levels
18 of service.

19 MR. STAIGAR: Yes. The only thing that has
20 changed is the -- the background growth --
21 background traffic has increased from our counts
22 that we took back in 2005 to today.

23 But even with that, take into account
24 seasonal adjustments, you still have the same 55
25 units. So, this site would generate the same

1 amount of traffic, either under the previously
2 approved project, or today's project, current
3 project. And -- and the findings were that the
4 impacts are negligible in terms of having any
5 negative impact on those surrounding traffic
6 conditions.

7 MR. ALONSO: Thank you.

8 VICE CHAIRMAN GRULLON: Thank you.

9 Sir, come forward, please.

10 MS. DILLON: Sir, please raise your right
11 hand.

12 Do you affirm the testimony you're about to
13 give this Board is the whole truth?

14 MR. REYES: Yes.

15 MS. DILLON: Okay. Just in front of the
16 microphone.

17 Please state your name and spell it for the
18 record.

19 MR. REYES: First name Ramon, R-A-M-O-N.
20 last name Reyes, R-E-Y-E-S.

21 MS. DILLON: And your address.

22 MR. REYES: 1216 Palisade Avenue.

23 MS. DILLON: Thank you.

24 Just -- I'm just going to ask you to keep
25 your voice up.

1 MR. REYES: To speak louder?

2 MS. DILLON: Speak a little louder.

3 MR. REYES: Okay.

4 One issue that was brought up at the last
5 meeting was the safety of that wall, the wall
6 that basically holds up Palisade Avenue.

7 I mentioned that several years ago the wall
8 did come down, right across from the Doric
9 Towers. And I'm still wondering about the safety
10 of that wall.

11 As a matter of fact, I know that several
12 residents on Palisade Avenue did receive letters,
13 alarming residents on top of that wall about the
14 safety of that wall, or the integrity of that
15 wall.

16 Yet, we're going to go ahead and build a
17 structure beneath this wall, and we don't know
18 yet how the building of this wall is going to
19 affect the future integrity of that wall, beneath
20 Palisade Avenue.

21 So, that's still an issue.

22 Secondly, I heard from my cohorts last time
23 we met that someone had distributed cards. I did
24 not get a card.

25 And I just want to say that I when I heard

1 | that they were given cards, and told -- and
2 | actually were told that we should call you, I
3 | thought that rather dismissive.

4 | I just want to say that you have the
5 | wherewithal and the ability, and -- and actually,
6 | the greater intent to be proactive about
7 | providing a forum for people to come and talk to
8 | you about this building.

9 | And it didn't happen.

10 | And what you're saying is that because we
11 | didn't call you --

12 | MR. ALONSO: Correct.

13 | MR. REYES: -- the community is not
14 | interested or vested in this building or in this
15 | structure --

16 | MR. ALONSO: I didn't say that.

17 | MR. REYES: -- and the consequences or
18 | outcomes of this building.

19 | MR. ALONSO: Mr. Reyes, I -- I didn't say
20 | that.

21 | What I said was, whoever was available over
22 | there, I provided everybody with a card. I
23 | indicated to whoever I provided a card to --

24 | MR. REYES: Right.

25 | MR. ALONSO: -- I said, if you want to have

1 a spokesman, you could have a spokesman.

2 MR. REYES: Right.

3 MR. ALONSO: If you wanted to meet with all
4 the --

5 A VOICE: He didn't get a card. They
6 didn't get a card.

7 A VOICE: We didn't get cards.

8 MR. ALONSO: Excuse me.

9 If -- if you want to meet with a -- with a
10 number of -- a group of people, I'll meet with a
11 group of people, say whatever your concerns are.
12 Speak together. Have all your ideas together.
13 Come in. Call us. We'll have a meeting.

14 MR. REYES: Sir?

15 MR. ALONSO: Where do I go?

16 MR. REYES: Sir?

17 MR. ALONSO: Do I knock on --

18 MR. REYES: Okay.

19 MR. ALONSO: -- every door?

20 MR. REYES: Let me -- let me make --

21 MR. ALONSO: No, no -- let me ask a
22 question.

23 MR. REYES: -- one more point.

24 MR. ALONSO: Do I knock on every door?

25 MR. REYES: No.

1 MR. ALONSO: Ask who wants to meet?

2 MR. REYES: I'd like to make one more
3 point.

4 MR. ALONSO: No. You want to meet with me.

5 MR. REYES: And then I could respond to
6 what you just said. Okay?

7 For years, I have lived in Union City and
8 I've always taken pride in that sign that exists
9 down the block from my -- from my home.

10 Union City values diversity and takes pride
11 in its diversity.

12 I'm always very proud of that sign when I
13 see it because there are very few communities who
14 really tout that.

15 Now, last time I spoke, I did mention that
16 I doubted very much if this building, built on
17 the outskirts of Union City, would truly
18 integrate itself with this community, and be
19 cognizant of how its building and its community
20 would -- would, in any way, benefit the -- the
21 community at large here in Union City. I did
22 mention that.

23 Now, I want to say this. I -- I was -- I
24 was seated there and at one point, the phrase
25 Hoboken Heights came up.

1 And I was quieted by -- when I heard that
2 phrase, I was actually quieted because to some
3 extent, I felt it was somewhat of an affront.

4 Let me explain.

5 There's a great disparity here in that --
6 that -- that your -- your contingent wants to
7 build a structure in -- in Union City proper, but
8 on the other hand, it, by name, wants to
9 disassociate itself from Union City, or exclude
10 itself from Union City, by calling itself Hoboken
11 Heights.

12 Let me finish.

13 MR. ALONSO: Okay.

14 MR. REYES: I think --

15 MR. ALONSO: I'm just --

16 MR. REYES: Let me say --

17 MR. ALONSO: Only --

18 MR. REYES: -- if we proceed with this --

19 MR. ALONSO: -- only because it was
20 supposed to be limited to the testimony by the
21 architect and the testimony of the traffic
22 engineer.

23 All this testimony is --

24 MR. REYES: I have a right to speak.

25 MR. ALONSO: And you did, and you spoke

1 about that last time.

2 MR. REYES: Okay.

3 MR. ALONSO: You're repeating yourself.

4 MR. REYES: But I want to -- no, no, no. I
5 want to make two more points.

6 Let me ask you a question.

7 And -- and I -- I really do believe that
8 the Board should have -- I really think that the
9 -- the spirit, the values, the ideals of Union
10 City should -- should really guide decisions
11 about planning.

12 I want to make this point.

13 Why is it that, as you proceed, you might
14 not consider naming that building Union City
15 Vistas?

16 MR. ALONSO: I'm trying to answer, but you
17 won't let me answer.

18 MR. REYES: Or Union City Bluffs.

19 MR. ALONSO: We inherited that name. My
20 client didn't name the building. That was the
21 prior applicant.

22 My client is a contract purchaser.

23 MR. REYES: Uh huh.

24 MR. ALONSO: That's the way it was
25 approved.

1 MR. REYES: Right.

2 MR. ALONSO: We inherited that name. We'll
3 change the name. We're not married to that name.

4 MR. REYES: Okay. I'll give you another
5 good example.

6 I'm absolutely sure that whatever you name
7 that structure, there will be a shuttle from the
8 Path train to that building. And I hope that
9 that shuttle is not for exclusive use of
10 individuals of -- of tenants in that building.

11 I would hope that that shuttle would also
12 allow other Union City residents to board that
13 shuttle and to take those --

14 MR. ALONSO: There's no proposed shuttle.

15 MR. REYES: Okay.

16 Well, what I'm saying is, as -- if this
17 building is going to go through, I -- I really
18 request that the Board really try to guide this
19 building so that the building is done to -- to
20 really fit inline with the overall ideals, values
21 and vision of Union City, namely to foster
22 integrity -- integration, unification and
23 diversity.

24 Now, I -- I'm saying this because right
25 now, nationally, we're having this major

1 conversation about -- about how disunited
2 ethnicities are in this country, and how classes
3 are in this country.

4 And I think it's important, since we pride
5 ourselves, Union City, since we pride ourselves
6 on this unity, on this diversity, that we guide
7 the -- the --

8 MS. DILLON: Just a little closer --

9 MR. REYES: -- the future development --

10 MS. DILLON: -- to the microphone, Mr.
11 Reyes.

12 MR. REYES: That we guide the future
13 development of this project.

14 That's it.

15 That's my piece.

16 VICE CHAIRMAN GRULLON: Thank you, Mr.
17 Reyes. Thank you.

18 MR. REYES: You're quite welcome.

19 VICE CHAIRMAN GRULLON: Thank you so much.

20 Before we come back, I need to take a two
21 minute break.

22 Two minute break, Mr. Price.

23 MR. PRICE: Two minute break.

24 THE SECRETARY: Two minute break, please.
25

1 (Whereupon, the Board recessed from 8:46
2 p.m. to 8:53 p.m.)

3

4 MS. DILLON: Okay, Carlos.

5 On the record.

6 THE SECRETARY: Mr. Alonso, please?

7 Mr. Chairman, back in business.

8 VICE CHAIRMAN GRULLON: We're ready.

9 Mr. Price, let's see if we have anybody
10 else from the public first.

11 Any other member of the public wants to
12 step forward.

13 You'll be last.

14 MS. DILLON: Right in front of the
15 microphone.

16 Please raise your right hand.

17 Do you affirm the testimony you're about to
18 give this Board is the whole truth?

19 MS. DeVITA: I do.

20 MS. DILLON: Could you please state your
21 name and spell it for the record?

22 MS. DeVITA: Sure.

23 It's Nicole, N-I-C-O-L-E, DeVita,
24 D-E-V-I-T-A.

25 MS. DILLON: And your address.

1 MS. DeVITA: 1210 Palisade Avenue.

2 MS. DILLON: Thank you.

3 MS. DeVITA: So, I had a question just, I
4 guess, starting with the traffic.

5 MR. STAIGAR: Yes.

6 MS. DeVITA: So, I know we addressed the --
7 the traffic considerations during regular -- just
8 regular course, after construction, but I wanted
9 to understand during construction the impacts,
10 because it is a two lane road. We did mention, I
11 think, the last time we were here that in the
12 weeks prior to the last hearing, that road was
13 closed, I think, due to some water main breakage,
14 and there was significant backups that were
15 leading onto Palisade Avenue, and then going down
16 to Hoboken, as well, as access was limited.

17 So, was that also considered in the study?

18 MR. STAIGAR: Construction --

19 MS. DeVITA: Traffic --

20 MR. STAIGAR: Well --

21 MS. DeVITA: -- during -- traffic analysis
22 during construction.

23 MR. STAIGAR: That's typically handled
24 during -- by the Building Department and the
25 Police Department, and mandating when -- when --

1 the times of construction, and when construction
2 equipment will be coming in and out of the site,
3 trying to schedule them not within the peak
4 hours, but outside the peak hours.

5 So, in terms -- and -- and if your
6 Construction Department, the City's Construction
7 Department and Police Department do a good job,
8 there should be no problem.

9 So, that's why we do not consider it in our
10 traffic study, because A, it's a temporary
11 condition, and something that's typically
12 handled, and -- and can be managed by the -- by
13 the City's officials.

14 MS. DeVITA: Okay. I wanted to understand
15 that.

16 The other point I would have, and it's not
17 for an expert, it's just going back on some of
18 the remarks that were raised in general, from
19 last time.

20 Just again, in the spirit of the Palisade
21 Preservation Ordinance, it was, again, my
22 understanding that there was no new high rises,
23 per Brian Stack's article that was in The Jersey
24 Journal, in 2012.

25 So, I'm still not sure that I understand

1 | that aspect, especially with just the ecological
2 | impacts overall of what's happening on the
3 | cliffs. And I don't know if that was addressed
4 | further.

5 | MR. ALONSO: I can address that only
6 | because this application was approved in 2005 and
7 | is still valid.

8 | The testimony by Mr. Carballo, the
9 | architect, and he had the plans, he showed you
10 | how the impact on the Palisades was actually
11 | reduced by this new application.

12 | So, we're actually improving on that
13 | condition.

14 | MS. DeVITA: That's a difference from the
15 | -- overall, from the building. It doesn't -- it
16 | doesn't take into account there's still a
17 | structure going there.

18 | So, it might be an improvement, and I think
19 | you --

20 | MR. ALONSO: It's -- it's -- yeah. It's a
21 | --

22 | MS. DeVITA: It was worded last time that I
23 | shouldn't really push it because it's a
24 | reduction.

25 | MR. ALONSO: It's a -- it's a four and a

1 half acre site.

2 MS. DeVITA: Um hum.

3 MR. ALONSO: And the impact on the site,
4 compared to what could be on there is probably
5 minimal, compared to what could go there.

6 MS. DeVITA: Right. But --

7 MR. ALONSO: And --

8 MS. DeVITA: -- compared to nothing.

9 MR. ALONSO: Well, you can't zone it out of
10 existence. It's a four and a half acre lot.
11 Something's going to go there.

12 Okay? And like I said, it was already
13 approved, so if what gets -- what was approved
14 gets constructed, it would have a substantially
15 larger impact, environmentally, than the new
16 application, which reduces the footprint and the
17 impact on the -- on the slope.

18 MS. DeVITA: But this is a new application.

19 MR. ALONSO: Correct.

20 So, it's either we build the one that's
21 approved --

22 MS. DeVITA: Um hum.

23 MR. ALONSO: -- which has a substantially
24 more --

25 MS. DeVITA: But the one that's approved --

1 MR. ALONSO: -- impact --

2 MS. DeVITA: -- goes against the -- the
3 variances, and it goes against these other
4 issues.

5 Right?

6 MR. ALONSO: We believe -- we believe it's
7 a worse -- it's a worse option than this one. We
8 believe, for the reasons stated, on the record,
9 by the architect, okay, and the planner --
10 because remember, Ed Kolling testified as the
11 planner also, that this is a better option for a
12 number of reasons.

13 It's smaller, it's reduced --

14 MS. DeVITA: Um hum.

15 MR. ALONSO: -- it's less impact, less
16 driveways.

17 MS. DeVITA: I know that you keep going
18 back to the old plan, but my understanding was,
19 again, that didn't fall within the variances, and
20 there were some approvals that that -- that
21 wouldn't meet. So, I think --

22 MR. ALONSO: Right. But it was approved,
23 and it's still valid today.

24 MS. DeVITA: But doesn't that go against
25 the variances?

1 MR. ALONSO: It doesn't matter. It was
2 approved.

3 That's what I'm saying. We could go
4 tomorrow to the Building Department --

5 MS. DeVITA: Is that a threat?

6 MR. ALONSO: No, no, no. I'm telling you.
7 We could go tomorrow to the Building Department
8 and pull permits.

9 MS. DeVITA: Okay.

10 MR. ALONSO: And construct that building.

11 So, the fact that there were -- there were
12 variances granted -- and actually, and it's
13 different, because at that time, the zoning was
14 different, and this was actually a permitted use.
15 The zoning changed, and that's why we're before
16 this Board and not back in the Planning Board.

17 But that approval, that application is
18 still valid.

19 MS. DeVITA: So, we're saying --

20 I'm sorry.

21 MR. DARDIR: I just -- can you clarify how
22 it's still valid, because it's like --

23 MS. DeVITA: Thank you

24 MR. DARDIR: -- over a decade.

25 Right?

1 MR. ALONSO: Correct.

2 MS. DeVITA: Thank you.

3 MR. ALONSO: The Permit Extension Act,
4 which was adopted in 2008, is retroactive to
5 January 1st of 2007.

6 So, anything that was valid as of January
7 1st, 2007 was automatically extended.

8 So, what happens is you get an approval for
9 a year or two years.

10 MR. DARDIR: Right.

11 MR. ALONSO: If you don't do anything
12 within that year or two years, depending on -- on
13 what the approvals are, it -- it expires. Okay.
14 Unless you come to this Board, and you -- and you
15 get an extension.

16 MR. DARDIR: So, this application was 2005.
17 When, exactly?

18 MR. ALONSO: Correct. And then there was
19 an extension.

20 MR. DARDIR: Okay. Oh, an extension.

21 MR. ALONSO: Into 2007.

22 MR. DARDIR: And then, the --

23 MR. ALONSO: So what happens is, the Permit
24 Extension Act tolls that. It stops the time from
25 ticking. Okay?

1 So, the time has stopped in 2008. And
2 then, in 2010, it was extended again to 2012. In
3 2012, it was extended again to 2016 -- no, 2015,
4 with an extension through June 30th, 2016. And
5 then, the State just --

6 MR. DARDIR: Because it's the same --

7 MR. ALONSO: -- extended it just again.

8 MR. DARDIR: Because the same application,
9 it got extended.

10 MR. ALONSO: Correct. So, as the -- the
11 State legislator -- legislature continues to
12 extend the Permit Extension Act, the time period
13 is still stopped.

14 MR. DARDIR: So, it --

15 MR. ALONSO: So, we're frozen in time back
16 to --

17 MR. DARDIR: And --

18 MR. ALONSO: -- 2005.

19 MR. DARDIR: Because it predates the
20 Palisade Preservation -- I guess, Act, whatever
21 --

22 MR. ALONSO: Right.

23 MR. DARDIR: -- it -- it's still valid. So
24 even though -- because it predates it.

25 MR. ALONSO: No. It's valid because that's

1 | what was approved at that time.

2 | MR. DARDIR: Yes. It predates the Palisade
3 | thing.

4 | MR. ALONSO: Correct.

5 | MR. DARDIR: When was that? When was that?

6 | MR. ALONSO: That was probably 2012, I
7 | think.

8 | MR. DARDIR: All right.

9 | MR. ALONSO: I think.

10 | VICE CHAIRMAN GRULLON: Yeah. March --
11 | March 2012.

12 | MR. DARDIR: And even though it was
13 | approved and went for extension, no one mentioned
14 | this Palisades Preservation.

15 | MR. ALONSO: I don't -- I don't believe --
16 | I think there was a -- there was a Steep Slope
17 | Ordinance.

18 | Am I right, Dave?

19 | MR. SPATZ: Yes.

20 | MR. ALONSO: There was a Steep Slope
21 | Ordinance in place at that time --

22 | MR. DARDIR: Okay.

23 | MR. ALONSO: -- which is different than the
24 | Palisade Preservation --

25 | MR. DARDIR: Yeah, yeah.

1 MR. ALONSO: -- that we have now. It's --

2 MR. DARDIR: Okay.

3 MR. ALONSO: It's different --

4 MR. DARDIR: Two different things.

5 MR. ALONSO: -- but the -- the intent both
6 times is to preserve the Palisades.

7 MR. DARDIR: Yeah. So when --

8 MR. ALONSO: So, whatever the stat --

9 MR. DARDIR: When you guys went to
10 extension, again, I guess was it last year?
11 2015?

12 MR. ALONSO: No, no. We didn't ask for
13 anything. The State --

14 MR. DARDIR: Oh, the State. Okay.

15 MR. ALONSO: The State kept extending the
16 Permit Extension Act --

17 MR. DARDIR: Okay.

18 MR. ALONSO: -- which basically froze that
19 approval so that it does not expire.

20 MR. DARDIR: Oh, okay.

21 MR. ALONSO: And it's currently extended
22 yet again.

23 So, those approvals are still valid. So,
24 we can -- and that's what I indicated at the last
25 meeting. You know, and again, not by way of

1 threat --

2 MS. DeVITA: Um hum.

3 MR. ALONSO: -- just by way of we're saying
4 -- you know, this is a better zoning alternative
5 --

6 MR. DARDIR: Yeah.

7 MR. ALONSO: -- for the reasons that we've
8 stated.

9 MR. DARDIR: And there's no --

10 MR. ALONSO: Something is going to --

11 MR. DARDIR: -- conflict.

12 MR. ALONSO: -- get built there.

13 MR. DARDIR: There's no conflict. So, if
14 it was a new application, it would be a conflict,
15 but as you're moving forward with it, there is no
16 conflict between --

17 MS. DeVITA: But it is a new application.

18 MR. DARDIR: -- this application.

19 MR. ALONSO: Well, absolutely. And what
20 happens is -- and just to be clear, and I said
21 this at the last meeting, there -- every town
22 treats applications a little differently once
23 they're approved.

24 So, for example, if you're familiar with my
25 building, my office building, it's glass. When

1 | it was originally approved, it was -- it was a
2 | brick structure.

3 | When I went to the Building Department,
4 | they indicated that changing it from brick to
5 | glass was more of a field change, and I didn't
6 | have to go back to the Board.

7 | Union City, the Building Department is
8 | different. If you don't build exactly what was
9 | approved on the plans by this Board, they require
10 | you to come back and make sure that the Board can
11 | review it and make sure that it's still something
12 | that they would approve.

13 | So, what happens is, my client is a
14 | contract purchaser and he's buying the approved
15 | plans. But he feels, because he has a different
16 | vision than -- than the prior applicant, that he
17 | could improve upon that for the reasons that we
18 | stated last time, he made certain changes.

19 | So when we get to the Building Department,
20 | to get our permits, says, no, you have to go back
21 | to the Board because you've made changes. You've
22 | reduced it. You've reduced the size of building,
23 | you reduced the driveways. You improved it.

24 | MR. DARDIR: Yeah.

25 | MR. ALONSO: But you still have to come

1 back to the Board.

2 So that's why we're here.

3 MR. DARDIR: Can I ask a hypothetical?

4 Basically, if -- let's say, --

5 I can't vote; I'm abstaining because I
6 wasn't here last week.

7 -- but if they vote no, you could just go
8 build the other one.

9 MR. ALONSO: Correct.

10 MR. DARDIR: And that's it. You didn't
11 have to come here.

12 MR. ALONSO: Correct.

13 MR. DARDIR: All right.

14 MS. DeVITA: And now so -- I'm sorry that I
15 keep sticking on this point because I'm still --
16 I'm still confused, but -- so, with a new
17 application, though, this does not violate PPOD?
18 Palisade Preservation Ordinance, because now it's
19 after post-2012.

20 MR. ALONSO: No. The -- the planner
21 testified as to that at the last meeting.

22 MS. DeVITA: And all the ecological surveys
23 have been done?

24 MR. ALONSO: Whatever the test -- whatever
25 he test -- and again, whatever he testified to.

1 MS. DeVITA: I just know that in what's
2 happening in Jersey City, I know that they're
3 going through something similar.

4 MR. ALONSO: Um hum.

5 MS. DeVITA: And I know the community
6 center there is -- is organizing and protesting.
7 So, I just was curious how we were overcoming
8 that here. So --

9 Okay.

10 VICE CHAIRMAN GRULLON: Thank you.

11 MS. DeVITA: I don't have any other
12 comments.

13 VICE CHAIRMAN GRULLON: Thank you.

14 MS. DeVITA: Thank you.

15 VICE CHAIRMAN GRULLON: Thank you.

16 Any other member of the public?

17 Mr. Price?

18 MR. PRICE: Larry Price.

19 Mr. Alonso, the questions are really --

20 By the way, June 30th all the State
21 extensions stopped. Correct? That was the final
22 deadline. There haven't been any more.

23 MR. ALONSO: No. There's -- it was
24 extended yet again.

25 MR. PRICE: It was?

1 MR. ALONSO: It was.

2 MR. PRICE: To when?

3 MR. PANEQUE: One year.

4 MR. ALONSO: One more year.

5 MR. PRICE: One year?

6 MR. PANEQUE: For a number of counties that
7 had been effected by the Sandy hurricane. Hudson
8 is one of them.

9 MR. PRICE: Okay. So, it's now --

10 MR. PANEQUE: So, we -- we're extending --

11 MR. PRICE: -- June 30, 2-17.

12 MR. PANEQUE: That is correct.

13 MR. PRICE: Okay.

14 Okay. I -- okay. That would change my
15 question.

16 My question is, on the June 21st meeting of
17 the Planning Board, Hoboken Heights --

18 MR. ALONSO: You mean 2005?

19 MR. PRICE: What?

20 MR. ALONSO: 2005?

21 MR. PRICE: No, no. June 21st, 2016. You
22 know, two weeks ago.

23 MR. ALONSO: I wasn't there. I wasn't
24 there.

25 MR. PRICE: I know you weren't there.

1 MR. ALONSO: So, then, don't ask me a
2 question --

3 MR. PRICE: Because --

4 MR. ALONSO: -- that I don't know what the
5 answer will be.

6 MR. PRICE: -- Hoboken Heights was there.

7 MR. ALONSO: Okay.

8 MR. PRICE: Okay. For this site, 1300
9 Manhattan Avenue.

10 MR. ALONSO: Okay.

11 MR. PRICE: And they requested a one year
12 extension of their approved plans.

13 MR. ALONSO: Okay.

14 MR. PRICE: The Board -- the Planning Board
15 adjourned it without action.

16 MR. ALONSO: Okay.

17 MR. PRICE: Okay. So, they didn't grant
18 the extension.

19 MR. ALONSO: Okay.

20 MR. PRICE: Okay. You're accepting that
21 approval -- I guess, they don't need an extension
22 now?

23 MR. PANEQUE: I --

24 MR. ALONSO: No.

25 MR. PANEQUE: I don't know where you're

1 going with this, Mr. Price, but they -- the PEA,
2 the Permit Extension Act just carried them for
3 another year.

4 MR. PRICE: Carried them for another -- so,
5 they don't -- that's -- that's a moot --

6 MR. PANEQUE: They don't need to go back to
7 the Board.

8 MR. PRICE: They don't even -- that's a
9 moot point.

10 MR. PANEQUE: It is.

11 MR. PRICE: So, it's still a good plan for
12 another year.

13 MR. PANEQUE: Yes, it is.

14 MR. PRICE: Okay. Okay.

15 Very good.

16 Takes -- otherwise, I was --

17 MR. PANEQUE: No. I -- I knew where you
18 were going but it's moot.

19 MR. PRICE: Okay. It's moot. Okay.

20 VICE CHAIRMAN GRULLON: Any other member of
21 the public?

22 Nobody from the public.

23 Closed to the public.

24 MR. MAROTTA: Mr. Chairman, I'd like to
25 address --

1 VICE CHAIRMAN GRULLON: I have a question
2 first of Mr. Spatz.

3 MR. SPATZ: Yes?

4 VICE CHAIRMAN GRULLON: Mr. Spatz, I know
5 we on the memorandum, we -- we been reviewing
6 sort of your topics here.

7 MR. SPATZ: Yes.

8 VICE CHAIRMAN GRULLON: And the testimony
9 from the traffic consultant was provide.

10 MR. SPATZ: Right.

11 VICE CHAIRMAN GRULLON: He just got that
12 here. But you also mentioned here that the 55
13 units multi-family development is not permitted
14 on that zone.

15 Could you please explain that a little bit
16 more?

17 MR. SPATZ: Well, the -- in 2012, when the
18 Zoning Ordinance was adopted, this zone was taken
19 from -- it was originally in the multi-family
20 zone, which is why the original application in
21 2005 went to the Planning Board, and they put it
22 in the low density zone.

23 And so, to do the exact same application,
24 they now needed to come to this Board, because
25 they needed a use variance, because multi-family

1 development is not permitted in the zone, and
2 they're before this Board.

3 VICE CHAIRMAN GRULLON: And that -- that
4 also, the -- the Palisade Preservation Overlay
5 District, would that also affect that?

6 MR. SPATZ: It does. They have to meet the
7 standards in that. That's how they came up with
8 the density that they -- that they have on -- on
9 this property. It really is a -- primarily
10 determines density that you're permitted, because
11 you can't use undevelopable lands in order to
12 create a total -- a total density.

13 The standards from the -- in the new zoning
14 are actually the same as they were in the old
15 Steep Slope Ordinance.

16 So, the calculations are the same.

17 VICE CHAIRMAN GRULLON: And just for the --

18 MR. SPATZ: There are some prohibitions
19 against where they can do developing. And from
20 our review, they don't violate those standards.

21 VICE CHAIRMAN GRULLON: And for the Board
22 -- in order for the Board know this, could you
23 tell us what's permitted on that zone there?

24 MR. SPATZ: It --

25 VICE CHAIRMAN GRULLON: Right now?

1 MR. SPATZ: It's -- it's one, two or three
2 family is what is permitted in that zone, as of
3 right. And in order to do a multi-family
4 development, they now have to come back before
5 the -- come to this Board.

6 VICE CHAIRMAN GRULLON: Yeah, do you have a
7 question, --

8 MR. MAROTTA: Yes.

9 VICE CHAIRMAN GRULLON: -- Mr. Marotta?

10 MR. MAROTTA: I'd like to -- I'd like to
11 address this application. Okay?

12 I want to thank Carlos for emailing me the
13 transcript, so I could go over it.

14 MR. PANEQUE: Mr. Marotta, before you
15 proceed, I just want to have something stated for
16 the record. And this is for the -- the
17 applicant, as well as the general public that's
18 here.

19 Mr. Marotta was provided with a full
20 transcript of the June 9th hearing. And Mr.
21 Marotta has provided --

22 THE SECRETARY: As per his request.

23 MR. PANEQUE: -- a certification to the
24 Board, which states that he has read the
25 transcript. And as such, become familiar with

1 | what transpired at the June 9th hearing.

2 | As such, Mr. Marotta does have the
3 | authority, as a member of the Board now, to ask
4 | question, make comments, and even vote on the
5 | application.

6 | MR. MAROTTA: Thank you very much.

7 | I've reviewed the transcript of the
8 | testimony given at the last hearing, at least
9 | twice. And I also reviewed Mr. Spatz's
10 | memorandum, and I reviewed the Zoning Ordinance.

11 | And initially, I could say that the
12 | applicant has failed to prove its case for a use
13 | variance.

14 | What I found very interesting, because the
15 | proofs don't come from a traffic engineer. And
16 | the proofs don't come from the architect.

17 | The proof for a use variance comes from the
18 | planner. Okay. And I submit to this Board that
19 | the testimony of the planner was insufficient to
20 | grant a use variance.

21 | What I found very interesting was that the
22 | transcript was a total of 116 pages. The
23 | testimony of the planner took six pages.

24 | What -- what I read at the last hearing was
25 | many references to the application that was

1 approved by the Planning Board in 2005, some 11
2 years ago, and the comparisons made.

3 We don't grant an approval because this
4 project might be better than that project.
5 That's not a reason for granting a use variance.

6 Let's get that straight. Okay.

7 But what we did find and what I found in
8 the transcript was the threat -- the threat from
9 Mr. Alonso that if this is not approved, they're
10 going to -- you're going to get stuck.

11 At one point, in answer to the resident --
12 the residents raised some very, very pertinent
13 questions. And when they presented their five
14 points, the answer was, from Mr. Alonso, if you
15 don't -- if this is not approved, you're stuck
16 with the other building, with the larger
17 building.

18 That's not so. We're not stuck with the
19 larger building.

20 I'm also concerned about whether or not Mr.
21 -- Mr. Alonso's client owns this property. I
22 don't think so, because when he made the initial
23 presentation last month, he said my client is in
24 the process of purchasing it. And tonight he
25 said he's a contract buyer.

1 So, if he's a contract buyer --

2 MR. ALONSO: It's the same thing.

3 MR. MAROTTA: -- he still didn't buy the
4 property.

5 MR. ALONSO: I never -- I never represented
6 --

7 MR. MAROTTA: No. Let me finish, please.

8 MR. ALONSO: Okay.

9 MR. MAROTTA: I didn't interrupt you, so
10 please don't interrupt me.

11 I see in the transcript -- let's go to the
12 planner.

13 The planner concludes -- he concludes that
14 there's a lot of multi-family here, so this
15 building is very much in keeping with the
16 character of the neighborhood.

17 That's not so. Okay.

18 The planner's testimony, and I'll read it
19 to you, first he testifies as to the location of
20 the property. Then he says, going north from the
21 property, there are two eight unit buildings,
22 then a four unit building and a five unit
23 building.

24 Well, a four unit, a five unit and two
25 eight unit buildings and a 55 unit building,

1 | they're not -- they're not similar. Nowheres
2 | (sic) near similar.

3 | So, what does the planner do to try to show
4 | that the neighborhood has a similarity? He jumps
5 | to Palisade Avenue. Okay. And he says, on
6 | Palisade Avenue, most of them are multi-family.
7 | Thirteen of the 16, including an 82 unit building
8 | at 1110 and a 42 unit building at 1300 Palisade
9 | Avenue.

10 | Well, what -- what the planner failed to
11 | inform the Board is that these buildings he
12 | referred to on Palisade Avenue are preexisting,
13 | nonconforming uses. Now, I, myself, did a survey
14 | from Palisade Avenue, from 20th Street to 2nd
15 | Street, I counted 26 preexisting, nonconforming,
16 | multi-family buildings.

17 | Does that -- now, if there's 26 in that
18 | area, that means every neighborhood on Palisade
19 | Avenue has a multi-family building.

20 | Does that mean that we could go against the
21 | Code, when they say it's low residential? No.
22 | We can't do that.

23 | Also, what he failed to inform the Board is
24 | that if one of these nonconforming, preexisting
25 | uses was destroyed or demolished, you can't build

1 | it again.

2 | So, that's not a proper example.

3 | And more importantly, and I say that the
4 | Palisade Avenue properties he referred to is not
5 | within the neighborhood.

6 | I looked up the definition of neighborhood
7 | in Webster's dictionary. And neighborhood is
8 | living close together.

9 | Well, you take 1112 Palisade Avenue, to get
10 | to 1300 Manhattan Avenue, there's only two ways
11 | to go. Either you go from 11th Street, down to
12 | past the park, past 2nd Street, then you go to the
13 | Doric, then you go down the hill, then you pass
14 | the viaduct, and you go up the hill.

15 | That's not the neighborhood.

16 | The other way is you go up to 16th Street,
17 | make a right turn, go east, and then go down a
18 | hill.

19 | That's not the neighborhood. So,
20 | therefore, they're lacking that.

21 | But more importantly -- more importantly,
22 | the planner testifies and -- and he refers to our
23 | Ordinance, okay, he says that it's consistent
24 | with the Municipal Land Use Law in subparagraph
25 | 2A.

1 Well, let's look at subparagraph 2A. In
2 fact, I have the Ordinance here.

3 The purpose of this Ordinance -- the
4 purposes of this chapter are to establish a
5 pattern for the use of land and buildings, based
6 on the land use element of the Master Plan to
7 implement the Master Plan.

8 The Master Plan doesn't say put a 55 unit
9 building on -- on the -- on the cliffs.

10 In addition to that, he says paragraph 2E,
11 promoting the establishment of an appropriate
12 population of density.

13 That's not so; 2E, in our -- the purpose by
14 2E -- I'll read that to you.

15 The preservation of the environment,
16 provide sufficient space for residential,
17 recreational, commercial and industrial uses and
18 open space.

19 And then, he goes to 2G. He says, 2G -- he
20 cites 2G is satisfied -- quote -- provide
21 sufficient space in an appropriate location for
22 this type of residential use.

23 That's not in 2G. 2G says promote the
24 conservation of open space, and valuable natural
25 resources, and to prevent urban sprawl and

1 degradation of the environment through improper
2 use of land.

3 Well, I tell our members of the Board, the
4 cliff is a natural resource. The Palisades has
5 been there before we were a country. And our --
6 and the intent -- the intent of our plan is to
7 preserve our natural resources, not to put a 55
8 unit building on our natural resources.

9 Now, Mr. -- Mr. Alonso, during the last
10 meeting, also gave testimony.

11 You know, one of the -- one of the
12 residents raised a question about during the
13 course of construction, the roadway is going to
14 be blocked.

15 Mr. Alonso said, that's not so, because he
16 said, during the course of construction,
17 everything is going to be on the site.

18 Well, right now, on the site, a bunch of
19 trees and a lot of greenery. And Mr. Alonso is
20 not a -- a contractor. He's not an expert in
21 that field. So, any of his comments relating to
22 that have to be disregarded.

23 Incidentally, he was not under oath,
24 anyway. So, therefore, his comments have to be
25 disregarded.

1 MR. ALONSO: Technically --

2 MR. MAROTTA: You talk about the safety --
3 the safety of the -- of the residents.

4 That Palisades is loaded -- if you go down
5 there, is loaded with trees and greenery.

6 My understanding is that it's healthy for
7 the people to have trees. It's not healthy to
8 have a concrete jungle. Okay.

9 Now, one of the -- one of the residents, I
10 think it was Mr. Reyes, raised a very important
11 point. He raised a point about traffic.

12 He said that when he -- he said, number
13 one, he said he has a problem renting because
14 there's no traffic -- there's no parking. No
15 parking. No parking.

16 And he says, when he comes out of his
17 driveway, it's very difficult because a line of
18 traffic coming up Palisade Avenue is too much.

19 Well, let me tell you from my own
20 experience, I live on 9th Street, between Palisade
21 and New York Avenue. And it's a one way west.

22 When I come to New York Avenue, if I want
23 to go south, I have to go north, down 10th Street,
24 and then go south, because the cars are parked
25 right across the crosswalk, and sometimes vans

1 are there. I can't see the traffic coming from
2 the southerly direction.

3 Safety factor. This is what I'm talking
4 about. A safety factor.

5 We drive around the city. We see where
6 vehicles are parked in the city. They're parked
7 on sidewalks. They're parked in fire zones.
8 They're parked in bus stops. They're parked in
9 crosswalks.

10 And if you look at these vehicles, there's
11 no summonses issued by the police.

12 Why? Because there's no parking in the
13 city.

14 MR. ALONSO: We're not requesting a parking
15 variance.

16 MR. MAROTTA: I didn't finish.

17 I say that the plan presented substantially
18 impairs the intent and the purpose of the zone,
19 from the quotes that I gave you.

20 In addition to that, for a use variance,
21 the applicant must demonstrate that special
22 reasons are satisfied. That the project either
23 inherently serves the public good, or that the
24 proposed use promotes the general welfare,
25 because the site is particularly well suited to

1 the use.

2 There is absolutely no testimony presented
3 as to special reasons. It lacked it.

4 I tell the members of the Board I'm not
5 concerned, I'm not worried about the threat that
6 they're going to build the other project. They
7 didn't build it in 11 years, and they're not
8 going to build it in the next 11 years. Okay?

9 Another point I want to make. Mr. Carballo
10 -- Mr. Carballo did a calculation that if -- if
11 we were to build according to the zone, one, two,
12 or three families, where you got 15 lots, that
13 gives you at three family houses -- it gives you
14 75.

15 Well, according to the planner, he
16 testified that there are lots that are not
17 developable in this site.

18 Are some of those 15 lots non-developable?
19 Because if they are, then you reduce the 75.

20 For many of -- for these reasons, and many
21 other reasons -- yeah, Mr. Alonso said, if this
22 application should be denied -- denied, then
23 you're going to be stuck with the bigger
24 building.

25 I question that we're going to be stuck.

1 Incidentally, there was some talk before
2 about the extension.

3 The Act expired June 30th of this year.
4 The -- the present owner of this -- of this site
5 did not get an extension. So, on July 1st, it was
6 dead.

7 Subsequent to that, the Governor signed
8 into law extending the Act for an extra year to
9 certain counties, including Hudson County.

10 My question is whether or not it's
11 retroactive. Okay. So, it's not a clear cut
12 case that you're going to get stuck with the --
13 the larger project.

14 I tell you gentlemen on the Board, that's
15 not a reason to grant it. They have to prove
16 their case, and I tell you they did not prove
17 their case. And I will vote no on this
18 application.

19 VICE CHAIRMAN GRULLON: Thank you, Mr.
20 Marotta.

21 For the record, we don't have the other
22 application in front of us. We are only
23 considering the application that we have in
24 front. And --

25 MR. ALONSO: Mr. Chairman, I'm just going

1 to ask one -- one request.

2 VICE CHAIRMAN GRULLON: Yes.

3 MR. ALONSO: Because in -- I wasn't aware
4 that the Board member was not here last meeting.
5 So, I'm going to request that the application be
6 carried, for purpose of the vote, so that the
7 Board member can get a copy of the transcript,
8 like Mr. Marotta got, as well as I know there was
9 a number of members that were here last meeting
10 who are not here this meeting. If they could get
11 a copy of the transcript from this meeting, so
12 that I can get a full Board to vote on the
13 application.

14 So, I'm going to -- I'm going to make a
15 request that the application be adjourned to the
16 next meeting, to provide all the Board members
17 the opportunity to read whatever transcripts they
18 can for the meetings that they were not present,
19 sign the certifications, and then have a full
20 Board vote.

21 MR. MAROTTA: I'm going to object to that
22 request.

23 MR. PANEQUE: The request by Mr. Alonso is
24 -- is that based on the fact that since you're
25 asking a use variance, you need a super-majority

1 --

2 MR. ALONSO: That's correct.

3 MR. PANEQUE: -- vote?

4 MR. ALONSO: I need five affirmative votes.

5 So, I only have five members who can vote this
6 evening.

7 MR. PANEQUE: Correct.

8 MR. ALONSO: And I'm entitled to --

9 MR. MAROTTA: He's not going to get five
10 votes tonight. That's what he's saying.

11 MR. ALONSO: You know, I'm entitled --

12 MR. PANEQUE: Well --

13 MR. ALONSO: I'm entitled to have seven
14 members vote. I'm entitled to that.

15 MR. MAROTTA: We've got a quorum. We have
16 a quorum tonight. We could vote.

17 MR. PANEQUE: Mr. Dardir, you are recusing
18 yourself because you --

19 MR. DARDIR: I was not present --

20 MR. PANEQUE: -- left early.

21 MR. DARDIR: -- last time.

22 MR. PANEQUE: You left early.

23 MR. DARDIR: I left early --

24 MR. PANEQUE: Weren't you here?

25 MR. DARDIR: -- that day. Yeah.

1 MR. PANEQUE: You left early. Okay.

2 That leaves Mr. Alonso with only five
3 members of the Board.

4 The Chairman can entertain Mr. Alonso's
5 application, being that this is one where a use
6 variance is being requested and a super-majority
7 vote is required in order for a use variance to
8 carry.

9 He's entitled to make that application.

10 And then, the other Board members, which
11 would be members that were here at the June 9th
12 meeting, as well as the -- those that are not
13 here tonight, can do the reading of the
14 transcript, just like Mr. Marotta did.

15 And Mr. Dardir could also read the
16 transcript from June 9th. And then, whoever's
17 here at the next meeting, which will be in
18 September -- there's no meeting in August -- if
19 your application is approved, then you could have
20 the vote at that time.

21 VICE CHAIRMAN GRULLON: Let me ask you, Mr.
22 Paneque, with five members, can we still vote
23 tonight under the laws?

24 MR. PANEQUE: If Mr. Alonso's request to
25 adjourn is not granted, then there are five

1 members that are eligible to vote, and then the
2 answer is yes.

3 MR. DARDIR: Would I be able to vote on the
4 adjournment, or no?

5 MR. PANEQUE: Yeah. The first motion would
6 be to see whether the matter gets adjourned or
7 not.

8 VICE CHAIRMAN GRULLON: Mr. Alonso, we're
9 going to make a motion to deny the request for
10 carrying over the application, because I think we
11 heard enough on this matter, and we were hoping
12 that you and the neighbor got together and -- you
13 know, from the last -- from the last hearing to
14 now, and nothing happened.

15 But now, we already heard all the
16 testimony, and we have enough Board members here,
17 voting.

18 Make a motion to deny the request for --
19 for the -- to carry over the application.

20 I make a motion.

21 THE SECRETARY: Motion to?

22 MR. BONACCI: I'll second.

23 VICE CHAIRMAN GRULLON: To deny. To deny
24 --

25 THE SECRETARY: To deny the application.

1 VICE CHAIRMAN GRULLON: To deny the carry
2 over.

3 THE SECRETARY: To deny the carry over.

4 MR. SPATZ: Right.

5 THE SECRETARY: Motion to deny the carry
6 over by Chairman Grullon.

7 Any second?

8 Second by Mr. Bonacci.

9 Roll call on the motion.

10 Mr. Grullon?

11 VICE CHAIRMAN GRULLON: Yes, to deny.

12 THE SECRETARY: I just want to make very
13 sure. You're --

14 VICE CHAIRMAN GRULLON: To deny. Deny.

15 THE SECRETARY: You deny the application.

16 MR. PANEQUE: No.

17 VICE CHAIRMAN GRULLON: To deny the --

18 MR. ORTIZ: The request.

19 MR. SPATZ: The continuation.

20 VICE CHAIRMAN GRULLON: -- the carry.

21 THE SECRETARY: Deny the continuation.

22 VICE CHAIRMAN GRULLON: We are only voting
23 on the --

24 THE SECRETARY: Okay.

25 VICE CHAIRMAN GRULLON: -- voting on the

1 continuation.

2 MR. MAROTTA: What's the motion?

3 THE SECRETARY: Miguel Ortiz?

4 MR. MAROTTA: I didn't hear. What's the
5 motion?

6 MR. DARDIR: To deny the request.

7 MR. MAROTTA: To deny.

8 MR. ORTIZ: Yes, to deny the motion to --

9 MR. MAROTTA: Second.

10 MR. ORTIZ: -- carry over.

11 MR. MAROTTA: I second the motion --

12 MR. DARDIR: No.

13 MR. MAROTTA: -- to deny the request.

14 VICE CHAIRMAN GRULLON: It was already --

15 THE SECRETARY: That was second --

16 MR. DARDIR: They already did.

17 THE SECRETARY: -- by Mr. Bonacci already.

18 MR. MAROTTA: Excuse me?

19 MR. DARDIR: It was already second --

20 THE SECRETARY: Miguel Ortiz?

21 MR. DARDIR: -- already by Mr. Bonacci.

22 THE SECRETARY: Yes, you say. Right?

23 MR. ORTIZ: Yes.

24 THE SECRETARY: Mr. Dardir?

25 MR. DARDIR: I'm going to abstain from this

1 one.

2 THE SECRETARY: Mr. Medina?

3 MR. MEDINA: Oh, deny to the motion -- the
4 request.

5 THE SECRETARY: That means yes.

6 MS. DILLON: I'm sorry? What did you say?
7 Repeat that, please.

8 MR. MEDINA: Deny to the motion -- I mean,
9 to the request.

10 MR. PANEQUE: He's voting to deny the
11 request to adjourn.

12 MR. MEDINA: That's correct.

13 THE SECRETARY: Mr. Bonacci?

14 MR. BONACCI: Yes. I seconded it.

15 THE SECRETARY: Mr. Marotta?

16 MR. MAROTTA: Yes.

17 THE SECRETARY: Five in favor to deny the
18 carry over. Motion carries. One abstention.

19 VICE CHAIRMAN GRULLON: Now, Mr. Alonso, I
20 know that you have an approved application
21 previous to this application, but I wish that you
22 can get together with your client and try to
23 reduce that to fit the characteristic of the
24 neighborhood, something that is more inline with
25 what was approved in the new Master Zone Plan.

1 I know 55 units, in my opinion, is not --
2 is not -- it won't fit into that neighborhood,
3 per our -- our new Zoning Ordinance and new
4 zoning map. That only call for low residence.

5 I wish to see something that's more a build
6 -- build there. Maybe three small building, six
7 family each. Something like that.

8 But I doubt we are to you to discuss with
9 your client.

10 Would you -- would you try to consider to
11 withdraw -- withdraw the application and try to
12 come back with a new application, or -- or you
13 rather to have a vote tonight on this?

14 MR. ALONSO: I'm going to -- I'm going to
15 request that I have an opportunity to -- to
16 discuss this matter with my client. And then,
17 I'll notify the Board if the application will be
18 withdrawn, or if we'll ask for the Board to -- to
19 vote.

20 VICE CHAIRMAN GRULLON: Okay. But as -- as
21 of now, 55 unit is not -- will not be permitted,
22 only if you will come back with a smaller project
23 that would better fit into the neighborhood,
24 maybe we would consider that.

25 MR. ALONSO: Okay.

1 So, I'm going to ask that -- that I be
2 given that opportunity, and I'll speak with my
3 client.

4 VICE CHAIRMAN GRULLON: Okay. Okay.

5 MR. ALONSO: Thank you.

6 VICE CHAIRMAN GRULLON: We don't have -- do
7 we have to vote on that?

8 MR. BONACCI: Are we voting to deny the
9 application?

10 MR. PANEQUE: There -- we need a motion to
11 give them -- carry it, for him to come back with
12 an answer next time.

13 (Whereupon, there were multiple speakers.)

14 THE SECRETARY: Would you, --

15 MR. SPATZ: It's the same thing.

16 THE SECRETARY: This is the same?

17 MR. BONACCI: We vote to make -- you got to
18 vote to deny the application.

19 MR. SPATZ: We're back to square one.

20 MR. PANEQUE: We just did a -- a full
21 circle.

22 MS. DILLON: Okay. Wait. Wait. Wait.

23 You're not off the record, so --

24 VICE CHAIRMAN GRULLON: Let me repeat that
25 again.

1 MR. PANEQUE: Yes.

2 VICE CHAIRMAN GRULLON: We're not -- we're
3 not accepting the 55 unit.

4 I'm asking him to revise --

5 MR. PANEQUE: Well --

6 VICE CHAIRMAN GRULLON: -- plans and come
7 back with something smaller.

8 MR. PANEQUE: But if you're not accepting
9 the 55 units, then you need to --

10 MR. BONACCI: We're not accepting the
11 application.

12 MR. PANEQUE: -- you need to vote.

13 VICE CHAIRMAN GRULLON: Don't accept --
14 Mr. Alonso?

15 MR. PANEQUE: Mr. Alonso?

16 VICE CHAIRMAN GRULLON: Mr. Alonso?

17 MR. DARDIR: Mr. Alonso?

18 MR. ALONSO: Yes?

19 VICE CHAIRMAN GRULLON: I guess that's not
20 what I meant.

21 Actually, we're denying the 55 units.

22 MR. PANEQUE: But there's got to be a vote,
23 Mr. Grullon.

24 MR. ALONSO: You have to make a motion
25 then.

1 VICE CHAIRMAN GRULLON: Okay. Then, I make
2 a motion to deny the 55 unit, because they don't
3 fit in the -- on the characteristic of the
4 neighborhood.

5 THE SECRETARY: Motion to deny --

6 MR. SPATZ: To deny the application.

7 THE SECRETARY: Motion to deny the
8 application by Mr. Grullon.

9 MR. MAROTTA: Second.

10 THE SECRETARY: Second by Mr. Marotta.

11 MR. PANEQUE: Okay.

12 Mr. Vallejo, at this point, Mr. Alonso,
13 before they take the vote on the motion that's on
14 the floor, do you wish to withdraw your
15 application?

16 MR. ALONSO: Let me just --

17 MR. PANEQUE: Because that's how we should
18 have proceeded.

19 MR. ALONSO: All right. Let -- let me just
20 --

21 (Whereupon, there was a pause in the
22 proceedings.)

23 MS. DILLON: Tomas, why don't you tell me
24 to go off the record.

25 MR. PANEQUE: You want to come off the

1 record?

2 MS. DILLON: Yeah. You need to tell me.

3 THE SECRETARY: Two minute break, please.

4 Thank you.

5

6 (Whereupon, the Board recessed from 9:34
7 p.m. to 9:39 p.m.)

8

9 MS. DILLON: Okay.

10 On the record.

11 THE SECRETARY: Go ahead, Mr. --

12 MR. PANEQUE: Mr. Alonso?

13 THE SECRETARY: -- Alonso.

14 MR. PANEQUE: There's a motion to deny on
15 the floor, which has been seconded.

16 We took a couple of minute break in order
17 for you to let the Board know whether your client
18 wished to withdraw his application, or go ahead
19 with the vote.

20 MR. ALONSO: No.

21 MR. PANEQUE: What is your choice?

22 MR. ALONSO: We're -- we're going to go
23 ahead with the vote.

24 MR. PANEQUE: Okay.

25 THE SECRETARY: Motion on the floor to deny

1 | this application by Mr. Grullon.

2 | Second by Mr. Marotta.

3 | Roll call on the motion.

4 | Mr. Grullon --

5 | VICE CHAIRMAN GRULLON: Yes.

6 | THE SECRETARY: -- deny the application?

7 | VICE CHAIRMAN GRULLON: Yes, to deny.

8 | THE SECRETARY: Miguel Ortiz?

9 | MR. ORTIZ: Yes, to deny.

10 | THE SECRETARY: Mr. Dardir?

11 | MR. DARDIR: Abstain.

12 | MR. PANEQUE: Mr. Dardir, as a matter of
13 | legality, are you abstaining or you're recusing
14 | yourself because you weren't here for the last --

15 | MR. DARDIR: Oh, I'm --

16 | MR. PANEQUE: -- meeting?

17 | MR. DARDIR: -- recusing. I wasn't here.

18 | MR. PANEQUE: Okay. So, your vote is to
19 | recuse yourself.

20 | MR. DARDIR: Yes. Because I wasn't here
21 | last week.

22 | THE SECRETARY: Okay. Mr. Dardir recuse.
23 | Mr. Medina?

24 | MR. MEDINA: Yes, to deny.

25 | THE SECRETARY: Mr. Bonacci?

1 MR. BONACCI: I vote yes, to deny the
2 application.

3 THE SECRETARY: Mr. Marotta?

4 MR. MAROTTA: Yes.

5 THE SECRETARY: Motion carries. Five in
6 favor, one recuse.

7 MR. ALONSO: Thank you.

8 (Whereupon, there was a pause in the
9 proceedings.)

10 * * *

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1 **Estate of Assunta Y. Scarinci - 554 36th Street:**

2

3 THE SECRETARY: Ready?

4 Next application on tonight's agenda,

5 Estate of Assunta Y. Scarinci, 554 36th Street.

6 Mr. Alonso, please.

7 (Whereupon, there was a pause in the

8 proceedings.)

9 THE SECRETARY: Go ahead, Mr. Alonso.

10 MR. ALONSO: Thank you.

11 Mr. Chairman, members of the Board, for the

12 record, Alvaro Alonso, Alonso Navarette, on

13 behalf of the applicant.

14 I provided counsel with my proof of

15 publication and notices, which he will be

16 reviewing in a second, for jurisdictional

17 purposes.

18 (Whereupon, there was a pause in the

19 proceedings.)

20 MR. PANEQUE: Let the record reflect that

21 I've been provided with the certified mail

22 receipts, with a date of July 1st, 2016, as well

23 as the returned green cards, giving notice of a

24 hearing with regards to 554 36th Street, City of

25 Union City, for tonight's meeting.

1 There's also an Affidavit by Mr. Alonso
2 that said notices went out on July 1st.

3 I've also been provided with a copy of the
4 newspaper article that was published on The
5 Jersey Journal on July 2nd. Said notice indicates
6 notice for tonight's hearing, July 14th, with
7 respect to the property located at 554 36th
8 Street, Block 218, Lot 5.

9 Mr. Alonso has also provided me with a list
10 provided by the Tax Assessor, dated July 1st,
11 2016, listing all property owners within the 200
12 foot radius of 554 36th Street.

13 Based on the proofs that have been
14 submitted, this Board has jurisdiction to proceed
15 and hear this matter.

16 MR. ALONSO: Thank you, Mr. Paneque.

17 Mr. Chairman, members of the Board, this is
18 an application for a -- a D-2, expansion of a
19 preexisting, nonconforming use.

20 The property has been in my client's family
21 for approximately 60 years. It's been a four
22 family. It's been used as a four family.

23 There's an additional structure in the rear
24 yard, which was used by my client's family as
25 part of the -- the living space. But it was

1 independent and separate from the actual building
2 structure.

3 What my client did was construct walls and
4 a roof connecting that room to that apartment.

5 So, we're not increasing the number of
6 apartments. It's going to remain a four family.
7 All we're doing is that the Building Department
8 indicated that in order to have those walls
9 connected, we're basically expanding that
10 preexisting, nonconforming use, so we should have
11 come to the Board in order to do that.

12 So, I have two witnesses this evening, and
13 I have our architect, who is going to testify as
14 to the existing condition, other than what's
15 there now. We're not proposing any new or any
16 additional construction.

17 I also have our planner, who will be
18 testifying as to the justifications for the
19 granting of the variance.

20 So, with that said, I have the architect,
21 be sworn in.

22 MS. DILLON: Please raise your right hand.

23 Do you affirm the testimony you're about to
24 give this Board is the whole truth?

25 MR. DAHN: I do.

1 MS. DILLON: Please state your name and
2 spell it for the record.

3 MR. DAHN: William Dahn, D-A-H-N.

4 MS. DILLON: Thank you.

5 MR. ALONSO: Mr. Dahn, can you please
6 review your professional qualifications in the
7 field of architecture?

8 MR. DAHN: Licensed architect in the State
9 of New Jersey since 1983; President of Dahn and
10 Krieger Architects, from Hackensack, New Jersey;
11 Vice Chairman of the Board of Adjustment in South
12 Orange.

13 MR. ALONSO: Thank you.

14 Mr. Chairman, I ask that his qualifications
15 be accepted.

16 VICE CHAIRMAN GRULLON: Yes. We accept
17 your qualification.

18 Thank you.

19 MR. ALONSO: Thank you.

20 Mr. Dahn, the -- the conditions that we're
21 testifying to this evening, they're -- these are
22 all existing conditions.

23 Is that correct?

24 MR. DAHN: That's correct.

25 Drawing EX.1, which you probably have a

1 | copy of, is pinned to this Board here.

2 | We were retained by the client,
3 | essentially, to do an as built survey of what's
4 | currently on the site.

5 | I highlighted on EX.1 the area that's in
6 | question.

7 | As Mr. Alonso said, the small structure in
8 | the rear of the property is at least 50 or 60
9 | years old. The -- the main building, which sits
10 | toward the front of the property is probably a
11 | little older than that, but they're pretty --
12 | they appear to be pretty close in age.

13 | The space in between was under a roof, but
14 | has -- but within the last year, has been
15 | enclosed. So, the yellow area is the enclosed
16 | area. So, that's 40 square feet of new building
17 | area.

18 | MR. ALONSO: Okay.

19 | And the -- the existing room, what -- what
20 | was the -- have you spoken to any of the family
21 | members, any -- anybody who is familiar with the
22 | -- the use of that --

23 | MR. DAHN: It seemed --

24 | MR. ALONSO: -- room?

25 | MR. DAHN: -- to be a room to get away from

1 | whatever was going on in the house.

2 | MR. ALONSO: Okay.

3 | And -- and there's no proposed construction
4 | with respect to that room?

5 | MR. DAHN: That's correct.

6 | MR. ALONSO: Okay.

7 | And -- and can you testify with respect to
8 | the -- to the other apartments in the building?

9 | MR. DAHN: Yeah. There's two on the second
10 | floor and two on the front floor. This -- on the
11 | first floor.

12 | The rear apartment, on the first floor, is
13 | the one that connects to that -- that room in the
14 | back.

15 | MR. ALONSO: Okay.

16 | And in terms of the -- the zoning
17 | requirements, is there a zoning analysis on the
18 | -- on the sheet?

19 | MR. DAHN: Yes.

20 | MR. ALONSO: Okay.

21 | And -- and what, if any, requirements don't
22 | we meet that we need a variance for?

23 | And again, those are all existing
24 | conditions.

25 | MR. DAHN: Right. The only one that we're

1 technically increasing is the building coverage,
2 which is going from 70.4 to 72.4 percent, where
3 60 is permitted. All the other conditions, while
4 there's a number of nonconformities, they're
5 existing nonconformities. That's the only one
6 we're exacerbating.

7 MR. ALONSO: Okay.

8 And the -- the 40 square foot area that --
9 that's being constructed, is that just basically
10 a hallway?

11 MR. DAHN: It's a way to get from the main
12 house to the room in the back.

13 MR. ALONSO: Okay. And --

14 MR. DAHN: Without going outside.

15 MR. ALONSO: Without going outside.

16 Okay. Mr. Chairman, I have no further
17 questions of -- of this witness with respect to
18 this application.

19 VICE CHAIRMAN GRULLON: All right. Do you
20 want to bring your planner first?

21 MR. ALONSO: Sure.

22 (Whereupon, there was a pause in the
23 proceedings.)

24 MS. DILLON: Mr. Karlebach, please raise
25 your right hand.

1 Do you affirm the testimony you're about to
2 give this Board is the whole truth?

3 MR. KARLEBACH: I do.

4 MS. DILLON: Please state your name and
5 spell it for the record.

6 MR. KARLEBACH: David Karlebach,
7 K-A-R-L-E-B-A-C-H.

8 MS. DILLON: Thank you.

9 MR. ALONSO: Mr. Chairman, Mr. Karlebach
10 has appeared before this Board in the past.

11 VICE CHAIRMAN GRULLON: Yes.

12 MR. ALONSO: I'll ask that his
13 qualifications be accepted.

14 VICE CHAIRMAN GRULLON: We accept his
15 qualifications.

16 MR. ALONSO: Thank you.

17 Mr. Karlebach --

18 VICE CHAIRMAN GRULLON: Thank you.

19 MR. ALONSO: -- did you prepare a planning
20 analysis in connection with this application?

21 MR. KARLEBACH: Yes, I have.

22 MR. ALONSO: And can you please review that
23 with the Board?

24 MR. KARLEBACH: Certainly.

25 You heard the variances that are required.

1 It's an expansion of a nonconforming use. Even
2 though it's a very minimal expansion, technically
3 it still requires a variance.

4 There's a number of existing
5 nonconformities that are proposed to be
6 continued, but not exacerbating. So, there's six
7 in total.

8 And then, you heard the one variance that
9 actually is required that constitutes a bulk
10 variance, and that is the additional building
11 area, or building coverage on the site.

12 Otherwise, it's a fairly innocuous
13 application. As a matter of fact, I can't
14 remember a more benign D variance application in
15 my 22 years of planning. We're talking about 40
16 square feet of building area.

17 Normally, when we talk about expansion
18 cases, Board members are charged with evaluating
19 whether or not there's any increase in population
20 or employment at the site, whether or not there's
21 an increased demand on municipal services,
22 whether there's an increase in amount of refuse
23 generated, or an increase in parking demand,
24 whether there's an increase in density or
25 intensity of use.

1 With this application, we don't have to
2 worry about any of those things. You know, this
3 is just a very small area connecting a bedroom to
4 the main building. That's the extent of the
5 application.

6 We also, as planners, don't have to wrestle
7 with any of the site plan issues that we normally
8 contend with.

9 For instance, we're not involving ourselves
10 with evaluating access to the site, or drainage,
11 or utilities, or lighting, or landscaping, or any
12 of those things.

13 So, we really restricted our conversation
14 to this very small area of construction, this 40
15 square feet.

16 But technically, we do have to meet the
17 criteria for a D variance. So, I'm going to
18 first tell you what special reasons, or the
19 purposes of zoning that are advanced by virtue of
20 this application.

21 Purpose M of the Land Use Law talks about
22 shaping land development with a view of lessening
23 the cost of development and a more efficient use
24 of land.

25 And clearly, this is the type of in-fill

1 development that could be supported on this site.
2 It's going to be invisible to the public. You're
3 not going to be able to see it from the street.
4 Yet, it does provide an important resource, and
5 that is, it allows people to travel freely
6 between the main building and the bedroom,
7 without going out into the weather, and possibly
8 slipping on ice, things of that nature.

9 So, it's important in that regard.

10 With regard to the negative criteria, I'll
11 remind the Board, with expansion cases, the
12 negative criteria should be treated with greater
13 liberality. And that's because when you have an
14 expansion of a nonconforming use, it's less
15 likely to involve a substantial impairment of the
16 zone plan, than a wholly new nonconforming use.

17 So, what am I saying?

18 Right now, this project is an existing four
19 family dwelling. If this application is
20 approved, it will continue to be a four family
21 dwelling.

22 So, as planners, we don't have to look into
23 our crystal balls and imagine what would be the
24 impacts of this use at this location?

25 We already know what the impacts are,

1 | because it's existing.

2 | We're not creating any additional density.
3 | As I said, density's measured in dwelling units
4 | per acre. It's the same number of dwelling units
5 | per acre.

6 | Again, this a very innocuous in-fill
7 | development. It doesn't create any perceived
8 | visual or functional detriments. There's no
9 | substantial impact to the public or the zone
10 | plan.

11 | And I'll remind the Board, that's the --
12 | that's the test. It must be a substantial
13 | impact. And I can't imagine 20 square -- or 40
14 | square feet of construction at the rear of this
15 | property, outside of public view, being a
16 | substantial detriment.

17 | So, I believe the bulk relief is also
18 | justified under the C-2 balancing test, and that
19 | it enhances the site and provides that additional
20 | safety factor that I spoke of earlier. And it
21 | creates more livable space and enhances the
22 | functionality of the space.

23 | For all those reasons, I think the granting
24 | of the bulk variance is justified. So, we've
25 | proven special reasons, negative criteria, and we

1 | talked about the need for this particular
2 | construction at this location, again, are
3 | sufficient reasons for the granting of this D
4 | variance, and the bulk variance.

5 | VICE CHAIRMAN GRULLON: Thank you. Thank
6 | you for your testimony.

7 | Does that conclude your testimony?

8 | MR. KARLEBACH: Yes.

9 | VICE CHAIRMAN GRULLON: Yes.

10 | My first question is for the architect.
11 | Will you please come forward?

12 | When you create -- when you created this
13 | plan, did you get an opportunity to visit the
14 | site?

15 | MR. DAHN: Yes.

16 | VICE CHAIRMAN GRULLON: The -- the room,
17 | apartment on the back, did you get a chance to go
18 | inside --

19 | MR. DAHN: Yes.

20 | VICE CHAIRMAN GRULLON: -- and see?

21 | MR. DAHN: Yes.

22 | VICE CHAIRMAN GRULLON: Did you notice what
23 | the existing -- existing room in there? Any --

24 | MR. DAHN: Well, that -- that apartment is
25 | vacant. So, it's -- it's an empty room just like

1 --

2 VICE CHAIRMAN GRULLON: So, just an empty
3 room.

4 MR. DAHN: Right. And it has the same
5 finishes as the rest of the apartment. Wood
6 floor.

7 VICE CHAIRMAN GRULLON: Mr. Alonso say that
8 it's probably when they -- 60 years ago, they
9 build it.

10 MR. ALONSO: Correct.

11 VICE CHAIRMAN GRULLON: They build the
12 room.

13 MR. DAHN: Yeah.

14 It's -- it's weird, because it's not big
15 enough to be a garage. So, it clearly is -- was
16 some sort of room that was connected with a
17 covered walkway to the house.

18 VICE CHAIRMAN GRULLON: Yeah.

19 MR. DAHN: But separate from the house.

20 VICE CHAIRMAN GRULLON: And the only
21 construction is that area to connect the two --

22 MR. DAHN: Correct.

23 VICE CHAIRMAN GRULLON: -- the room to the
24 building.

25 MR. DAHN: Correct. The area -- the area

1 on my plan that's circled in yellow.

2 VICE CHAIRMAN GRULLON: If we grant this
3 application, it's going to be five apartments in
4 this --

5 MR. DAHN: Four.

6 MR. ALONSO: No. Four. It stays as four.

7 VICE CHAIRMAN GRULLON: Stay -- stay at
8 four?

9 MR. DAHN: Yeah.

10 MR. ALONSO: Well -- well, there is a roof
11 already that -- that covers from the main house
12 to that -- to that room. All they're really
13 doing is just putting up the walls on the side,
14 just so you could walk in.

15 MR. DARDIR: The walls are put up already.

16 MR. DAHN: Yes.

17 MR. ALONSO: Yeah. Correct.

18 MR. DARDIR: So, basically --

19 MR. ALONSO: And it's to legalize it.

20 MR. DARDIR: Basically, now, they're going
21 to take it down. That's -- I mean --

22 MR. ALONSO: Correct.

23 MR. DARDIR: All right. So, that's the
24 way.

25 VICE CHAIRMAN GRULLON: Everything else is

1 existing --

2 MR. ALONSO: Everything's existing.

3 VICE CHAIRMAN GRULLON: -- on the plan,
4 that you're requesting, pre-existing.

5 I don't have any more question. Do you
6 have?

7 MR. PANEQUE: Open to the --

8 VICE CHAIRMAN GRULLON: At this point, I
9 want to open to the public.

10 Any member of the public?

11 Mr. Price, no?

12 Closed to the public.

13 Taking in consideration that this is a
14 preexisting condition, and all they're doing is
15 connecting a room to the main building, I make a
16 motion to -- to grant this application.

17 THE SECRETARY: Motion to grant the
18 application by Mr. Grullon.

19 MR. BONACCI: I'll second that.

20 THE SECRETARY: Second by -- by Mr. Dardir.

21 MR. BONACCI: No.

22 THE SECRETARY: Sorry.

23 MR. BONACCI: He wants to leave.

24 THE SECRETARY: (Indiscernible).

25 Roll call on the motion.

1 Mr. Grullon?

2 VICE CHAIRMAN GRULLON: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Mr. Dardir?

6 MR. DARDIR: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Mr. Bonacci?

10 MR. BONACCI: Yes.

11 THE SECRETARY: Mr. Marotta?

12 MR. MAROTTA: Yes.

13 THE SECRETARY: Six in favor. Motion
14 carries.

15 MR. ALONSO: Thank you very much. Have a
16 good evening.

17 THE SECRETARY: Thank you.

18 MR. DARDIR: You, too.

19 (Whereupon, there was a pause in the
20 proceedings.)

21 * * *

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1 **Jaime Fuentes - 307 47th Street:**

2

3 THE SECRETARY: Are you ready, Mrs.
4 Pereiras?

5 MS. PEREIRAS: I'm coming.

6 THE SECRETARY: Next application tonight's
7 agenda, Jaime Fuentes, 307 47th Street.

8 Mrs. Pereiras, please?

9 MS. PEREIRAS: Good evening, Mr. Chairman,
10 counsel, members of the Board.

11 May it please the Board, Bianca Pereiras on
12 behalf of the applicant, Jaime Fuentes, in regard
13 to the property located at 307 47th Street, also
14 known as Block 26, 269.02, Lot 17.

15 Counsel.

16 MR. PANEQUE: I've been provided by Ms.
17 Pereiras with a packet of certified mail
18 receipts, as well as some letters that came back.
19 The letters are postmarked July 1st, 2016.

20 I also have a certification as to
21 publication and service that indicates that
22 notice was sent out on July 1st to all property
23 owners within the 200 foot radius of the property
24 located at 307 47th Street, Union City.

25 Also, attached to the documents is an

1 Affidavit of Publication from The Jersey Journal,
2 indicating that notice for tonight's hearing,
3 July 14, 2016, with respect to the property
4 located at 307 47th Street, was published on July
5 2nd, 2016.

6 Also, attached is a list of all property
7 owners of the subject property, within the 200
8 foot radius. Said list is dated June 29th, 2016.

9 (Whereupon, there was a pause in the
10 proceedings.)

11 MR. PANEQUE: We're taking a few minutes
12 for the Chairman to review the 200 foot list to
13 verify whether he's within that 200 foot radius.

14 (Whereupon, there was a pause in the
15 proceedings.)

16 MR. PANEQUE: Okay.

17 Let the record reflect that the proofs are
18 satisfactory, and that jurisdiction has been met.
19 This Board can then proceed to hear this case.

20 MS. PEREIRAS: Thank you very much.

21 VICE CHAIRMAN GRULLON: Ms. Pereiras?

22 MS. PEREIRAS: The application before the
23 Board this evening is to legalize two units in an
24 existing two -- two family house.

25 Prior to my client purchasing this

1 | property, he purchased back in 2014, in November,
2 | he did his due diligence. He went, got an OPRA
3 | request, received some records from the Building
4 | Department, as well as the Tax Assessor's Office.

5 | All records indicated that this was a four
6 | family home. In fact, some of the records that
7 | we received from the Building Department -- one
8 | was an application for a certificate dated
9 | December 20th, 1996, which states, and I will
10 | provide this to counsel, Tax Assessor has
11 | property as four units, Building Department has
12 | records as three units. Applicant wants to bring
13 | up to Code a subdivided apartment on second
14 | floor.

15 | And I'll mark this A-1.

16 | MS. DILLON: What was that Ms. Pereiras?
17 | I'm sorry.

18 | MS. PEREIRAS: I'm going to make it A-1, is
19 | an Application for Certificate from the Building
20 | Department.

21 |
22 | (Whereupon, Application for Certificate
23 | from Building Department dated 12/20/1996 was
24 | received and marked as Exhibit A-1.)
25 |

1 (Whereupon, there was a pause in the
2 proceedings.)

3 MS. PEREIRAS: In response to that
4 application by that previous owner, a Certificate
5 of Occupancy was issued for four units.

6 I have a copy of that Certificate, which I
7 am marking A-2.

8 It is dated January 27, 1997.

9 And the Certificate states, four units, was
10 three.

11
12 (Whereupon, Certificate of Occupancy, dated
13 1/27/1997 was received and marked as Exhibit
14 A-2.)

15
16 MS. PEREIRAS: Regardless, we are here
17 before this Board to make sure that all records,
18 from now on, will continue to reflect that these
19 are four units.

20 I believe there was a discrepancy in the
21 Building Department records where they are not
22 recognizing these documents at this point. As
23 such, we are before this Board at this -- at this
24 juncture.

25 We have one expert to testify before the

1 Board this evening, and that is our architect,
2 Mr. Manuel Pereiras.

3 MR. PEREIRAS: Still Manny Pereiras, still
4 under oath.

5 MS. PEREIRAS: Mr. Pereiras, are you
6 familiar with 307 47th Street in Union City?

7 MR. PEREIRAS: I am.

8 MS. PEREIRAS: And did you prepare the
9 drawings that are before the Board this evening?

10 MR. PEREIRAS: I have.

11 MS. PEREIRAS: And can you please walk us
12 through the application?

13 MR. PEREIRAS: Be very happy to.

14 We have a slightly untypical Union City
15 lot. In -- we have 25 foot wide, but we're 98
16 point -- 98.4 feet. And that triggers our first
17 two existing nonconformities. One is for lot
18 depth. We have a hundred foot required in the
19 district. And the second is for lot area. We
20 are at 2,462 square feet. And those are two
21 existing nonconformities.

22 We have another existing nonconformity,
23 which is side yard.

24 The building has three feet along one side,
25 but it's right up against -- against the property

1 on the other.

2 And we have an existing nonconformity for
3 parking.

4 The site, the building, as is, we plan no
5 changes to it. It's a very well kept masonry
6 structure. It currently houses four apartments.
7 And I'm going to walk you through those
8 apartments right now.

9 I'm turning the documents to sheet Z02.
10 Sheet Z02, we have the existing floor plans as
11 are -- as they are on the basement, first floor
12 and second floor.

13 Currently, the Building Department
14 questions the validity of the basement apartment.
15 And they question the validity of the second
16 floor, even though documents from the Building
17 Department themselves say that there are existing
18 COs on them.

19 So, for our purposes of presentation, I
20 drew the existing conditions, and I'll walk you
21 through them.

22 The ground floor, or the basement apartment
23 has entry through the building. It also has
24 entry through the back of the building. And so,
25 it has two points -- well, actually, three points

1 of entrance.

2 One is through building, through the main
3 hallway; one is from outside the building, on the
4 three foot side -- side yard setback, into the
5 hallway of that basement; and another one is
6 through the rear yard.

7 And that area is divided into a kitchen in
8 the rear of the property, a long space that's
9 both dining and -- and living room, and two large
10 bedrooms. A ten by 11 foot six, and a ten by 11
11 foot -- ten -- ten foot ten by 11 foot six. Two
12 bedrooms with a walk-in closet, and they share
13 one bathroom.

14 The floor above is an existing two bedroom
15 -- three bedroom apartment, as well. This is a
16 three bedroom apartment.

17 You walk up the main steps of the front
18 entry, walk into the hallway, and you enter this
19 1,047 square foot apartment, where there's a
20 living room space, dining room space, kitchen
21 along the rear corner, just like the apartment
22 below, and then bedroom one, bedroom two and
23 bedroom three.

24 If you go to the floor above, you lead up
25 the stairwell into a small hallway, and that

1 hallway leads you to two separate apartments.
2 There's a studio apartment to the left, which is
3 450 square feet; and a studio apartment -- and a
4 -- and a one -- two bedroom apartment to the
5 right, which is 648 square feet. And the -- and
6 the layout is small. It has a small living room
7 space, dining room space, the kitchen is the same
8 as it is on the floors below, and the two
9 bedrooms.

10 We propose no changes to the -- to the
11 layout of these plans. We propose no changes to
12 the exterior. We're simply documenting this
13 existing condition. And as you could see with
14 the documentation that we have presented, we hope
15 that it holds.

16 I'm open for any questions you may have.

17 VICE CHAIRMAN GRULLON: Mr. Pereiras, did
18 you get the opportunity to visit the apartments?

19 MR. PEREIRAS: I did.

20 VICE CHAIRMAN GRULLON: And do you --
21 according to your professional experience, have
22 -- did you notice any recent construction in
23 those apartment?

24 MR. PEREIRAS: I mean, these are all new
25 apartments. It looks like the work that was done

1 | was in the -- in the late '90s. So, we're
2 | talking less than ten years ago, and -- and it
3 | seemed reasonable -- all the work was done and
4 | very well kept, and the apartments have been
5 | maintained.

6 | But it looks like in 1997, they -- they
7 | sought approval and they sought to get these
8 | valid COs on these apartments.

9 | VICE CHAIRMAN GRULLON: Yes.

10 | And the condition of the basement, and the
11 | height of the ceiling. Did you --

12 | MR. PEREIRAS: It was --

13 | VICE CHAIRMAN GRULLON: -- get a chance --

14 | MR. PEREIRAS: It was high -- it was -- I'm
15 | not sure if I documented it here, but it was
16 | high. It was -- it was close to eight feet.

17 | VICE CHAIRMAN GRULLON: Yeah. Okay.

18 | MR. PEREIRAS: It definitely meets Code.

19 | VICE CHAIRMAN GRULLON: It meet the
20 | requirement.

21 | MR. PEREIRAS: It meets Code requirements
22 | for height.

23 | VICE CHAIRMAN GRULLON: The egress to the
24 | basement, you have one means of egress?

25 | MR. PEREIRAS: There's -- there's egress --

1 | there's three means of egress to the basement, as
2 | is.

3 | One is through the internal stairwell that
4 | leads you to the hallway, just like the floor
5 | above; one is directly to the outside, through
6 | the side yard. There is a door that you can open
7 | and take that side yard out. And then, there's
8 | egress through rear of the property, as well.

9 | VICE CHAIRMAN GRULLON: And the windows in
10 | the bedroom. The bed -- on the bedroom.

11 | MR. PEREIRAS: The bedroom windows would
12 | not comply with today's Code, just like the --
13 | all the windows above either. Not whether --
14 | even the ones that the Building Department says
15 | are -- are legally recognized units. The ground
16 | floor apartment, the windows wouldn't be
17 | recognized, as well, because they're on the
18 | property line. And it's very normal for older
19 | houses to have windows being built on the
20 | property line.

21 | Code today says that the window has to be
22 | three foot one away from the property line. So,
23 | those are not compliant windows, which means that
24 | they are not used as egress windows. They are
25 | valid windows. You could bring them for air and

1 light, but not as an egress concept.

2 The egress, we would have to rely on the --
3 on the Uniform Construction Code, based on Sub-
4 Chapter 6, which is the Rehab Sub-Code, and deal
5 with this as an existing building, that doesn't
6 conform with current Codes, but it's an existing
7 building, and those are preexisting rooms, and
8 which case would exit through one of the three
9 other means of egress.

10 VICE CHAIRMAN GRULLON: Are you going to be
11 making any modification to the building at all?

12 MR. PEREIRAS: We're open to dialogue with
13 the -- with the Board. However, we feel that
14 this is a preexisting condition, and we're not
15 looking to make any -- any major changes to it.

16 VICE CHAIRMAN GRULLON: Can those windows
17 on the -- on the basement floor, can they be --
18 be brought up to Code or no?

19 MR. PEREIRAS: They physically cannot
20 because they're on the property line. So, it's
21 not a question of the size of the window, it's
22 not a question of the -- of the construction of
23 it, it's a question that once -- the way the Code
24 reads is that a -- an emergency escape, an egress
25 has to discharge to a public right-of-way. And

1 | in order to do that, you can't be going through
2 | someone else's property.

3 | So, from a Code standpoint -- and this is
4 | important on how the Resolution, should you grant
5 | this, how it would read.

6 | We have to approve this as an existing --
7 | as an existing use, as an existing apartment.
8 | Otherwise, those windows would not be valid.

9 | VICE CHAIRMAN GRULLON: As your testimony,
10 | you say that he has -- he has enough mean of
11 | egress to the -- to the ground floor.

12 | MR. PEREIRAS: Yes. It has three means of
13 | egress, which is more than sufficient, from a --
14 | from a reasonable safety standpoint.

15 | VICE CHAIRMAN GRULLON: Okay. I don't have
16 | any more question.

17 | You guy -- do you guys?

18 | MR. ORTIZ: Yeah.

19 | Since the taxes are being paid since '96 as
20 | a four unit?

21 | MS. PEREIRAS: It's even before then. It's
22 | been assessed as four units, and the property
23 | owner has paid four units.

24 | MR. ORTIZ: Thank you.

25 | VICE CHAIRMAN GRULLON: When did your

1 client acquire the property?

2 MS. PEREIRAS: He purchased it in November
3 of 2014.

4 VICE CHAIRMAN GRULLON: As a four unit.

5 MS. PEREIRAS: As a four unit. Did his due
6 diligence, went through the records. Everything
7 showed as a four unit.

8 MR. BONACCI: There are the documents to
9 back it up.

10 VICE CHAIRMAN GRULLON: Any -- any other
11 question, guys?

12 You don't have any other witness.

13 MS. PEREIRAS: I do not.

14 VICE CHAIRMAN GRULLON: This point, I just
15 want to open to the public.

16 Mr. Price?

17 MR. PRICE: No.

18 VICE CHAIRMAN GRULLON: No?

19 Yeah, taking in consideration that this is
20 a existing condition and no modification is being
21 made to the -- the building, and they -- they
22 provide us with enough proof that they been
23 paying taxes for four units, it's been on the
24 record for four units at least since 1996, I make
25 a motion to grant this application.

1 THE SECRETARY: Motion to grant the
2 application by Mr. Grullon.

3 Any second?

4 Second by Mr. Ortiz.

5 Roll call on the motion.

6 Mr. Grullon?

7 VICE CHAIRMAN GRULLON: Yes.

8 THE SECRETARY: Mr. Ortiz?

9 MR. ORTIZ: Yes.

10 THE SECRETARY: Mr. Dardir?

11 MR. DARDIR: Yes.

12 THE SECRETARY: Mr. Medina?

13 MR. MEDINA: Yes.

14 THE SECRETARY: Mr. Bonacci?

15 MR. BONACCI: Yes.

16 THE SECRETARY: Mr. Marotta?

17 MR. MAROTTA: Yes.

18 THE SECRETARY: Six in favor. Motion
19 carries.

20 MS. PEREIRAS: Thank you all very much.

21 THE SECRETARY: Thank you.

22 (Whereupon, there was a pause in the
23 proceedings.)

24 VICE CHAIRMAN GRULLON: I have to recuse
25 myself on the next application.

1 (Whereupon, there was a pause in the
2 proceedings.)

3 (Whereupon, Vice Chairman Grullon was
4 recused at 10:12 p.m.)

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1 **P & F Hudson II, LLC - 4510 Hudson Avenue:**

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3 THE SECRETARY: May I have your attention,
4 please?

5 Next application tonight's agenda, P and F
6 Hudson II, LLC, 4510 Hudson Avenue.

7 Ms. Pereiras, please.

8 MS. PEREIRAS: Thank you.

9 Again, Bianca Pereiras on behalf of the
10 applicant, PF Hudson, LLC, in regards to their
11 property located at 4510 Hudson Avenue, also
12 known as Block 273, Lot 6.

13 MR. PANEQUE: Okay.

14 Let the record show that Acting Chairman
15 Victor Grullon has recused himself from hearing
16 this application, on the grounds that he is in
17 the -- within the 200 foot radius.

18 Mr. David (sic) Bonacci is now stepping in
19 as the Acting Chairman, with respect to this
20 application.

21 Let the record also reflect that I've been
22 provided with certified mail receipts, indicating
23 that notices were sent out on July 1st, giving
24 notice of tonight's hearing with respect to the
25 property located at 4510 Hudson Avenue.

1 I've also been provided with an Affidavit
2 of Publication from The Jersey Journal,
3 indicating that notice of tonight's hearing for
4 this property was published on July 2nd.

5 I've also been provided with a list of all
6 property owners within the 200 foot radius dated
7 June 29th, 2016.

8 Based on the documentation that's been
9 provided by Ms. Pereiras, this Board has
10 jurisdiction, and may proceed to hear this
11 matter.

12 MS. PEREIRAS: Thank you very much,
13 counsel.

14 MR. ORTIZ: I will make a motion to make
15 Mr. --

16 MR. BONACCI: Bonacci.

17 MR. ORTIZ: -- to be the Chairman for this
18 application.

19 MR. PANEQUE: Thank you, Mr. Ortiz.

20 Is there a second?

21 THE SECRETARY: Second to the motion?

22 Second by Mr. Dardir.

23 Roll call on the motion.

24 Mr. Dardir?

25 MR. DARDIR: Yes.

1 THE SECRETARY: Mr. Marotta?

2 MR. MAROTTA: Yes.

3 THE SECRETARY: Mr. Medina?

4 MR. MEDINA: Yes.

5 THE SECRETARY: Mr. Bonacci?

6 MR. BONACCI: Yes.

7 THE SECRETARY: Mr. Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: Motion carries. Mr.
10 Bonacci is Acting Chairperson on this
11 application.

12 Mrs. Pereiras?

13 MS. PEREIRAS: Thank you.

14 The application before the Board this
15 evening is to legalize one apartment in this
16 multi-family building.

17 Right now, what we have on-site are five
18 residential units. If approved by this Board, we
19 will host six residential units on-site.

20 We have one expert to testify before the
21 Board this evening, and that is our architect,
22 Mr. Manuel Pereiras.

23 MR. PEREIRAS: Manny Pereiras. I recall I
24 am still under oath.

25 MS. PEREIRAS: Mr. Pereiras, are you

1 familiar with the property at 4510 Hudson Avenue?

2 MR. PEREIRAS: I am.

3 MS. PEREIRAS: And did you prepare the
4 drawings that are before the Board this evening?

5 MR. PEREIRAS: I have.

6 MS. PEREIRAS: And can you please describe
7 the application for the Board?

8 MR. PEREIRAS: There are a few very similar
9 things to the previous application, and a few --
10 and one drastically different thing.

11 These are all preexisting conditions.
12 However, in this application, there is no CO for
13 this unit. There was no CO, even though there's
14 been people living in it since the late '60s.

15 Since there is no CO, we are bringing it up
16 to Code completely, and we're making some huge
17 modifications.

18 Before we get there, let's talk a little
19 bit about the site.

20 We have a typical Union City site, of 25 by
21 100. The building is, again, on the -- on this
22 one side, which is the north side, it is -- has a
23 zero side yard setback. On the right hand side,
24 there's a small path that leads to an addition to
25 the back that has -- also has zero side yard

1 setback.

2 So, those are existing nonconformities.
3 That's the first existing nonconformity, which is
4 side yard.

5 The front yard, we have a porch that leads
6 up to a front yard. It's a preexisting
7 nonconformity.

8 And -- and that's it. Those are our
9 preexisting nonconformities, as well as parking.
10 We are, obviously, well under the requirement for
11 parking.

12 So, those are all existing nonconformities.
13 But parking, which we're actually expanding. We
14 have a -- a one bedroom unit that we're
15 proposing, which would require 1.5 spaces. We
16 round up to two more parking spaces, so we're
17 expanding the nonconformance for parking with two
18 units -- with two parking spaces.

19 Turning now to sheet Z02, we see the
20 existing conditions of the apartments above, and
21 --

22 MR. DARDIR: I think yours is different.

23 MR. PEREIRAS: There were -- actually, let
24 me clarify that.

25 We submitted this project originally, with

1 just the basement apartment --

2 MR. DARDIR: Right.

3 MR. PEREIRAS: -- as -- as the application,
4 which we've typically done, and we've been doing
5 for almost ten years now.

6 The Board has now higher standards, which I
7 agree completely with, and they make perfect
8 sense, that you want to see the apartments above.

9 So, we did a subsequent submission, so you
10 should have everything in your package. You
11 should have the current -- the original
12 submission, which just showed the apartment, and
13 you should have the updated submission that has
14 the -- the units above.

15 Mr. Board Secretary?

16 MR. BONACCI: I see existing site plan.

17 MR. SPATZ: Carlos, do you have --

18 There should be another sheet that they
19 submitted with this.

20 MR. PEREIRAS: You have the original
21 submission. So, you're missing the update.

22 MR. BONACCI: Zero-one, zero-two.

23 MR. SPATZ: There should be another --
24 there should be a third page that was submitted
25 separately.

1 THE SECRETARY: Let me see.

2 MR. PEREIRAS: I will bring this board a
3 little bit closer, and while the Board Secretary
4 could start looking, I could -- I could present
5 using this.

6 Is -- is this close enough for everyone?

7 MR. DARDIR: I'll come up so I can see it.

8 MR. PEREIRAS: I'll -- I'll walk you
9 through each of the steps. Okay?

10 This is the -- the primary entrance to the
11 apartment are -- is led up through steps leading
12 to a front porch.

13 You walk into the building, and you're in
14 the common vertical element, for stairwell.

15 You walk into the first unit, there's a
16 dining room, living room, kitchen along here, and
17 two bedrooms.

18 If you go up to the floor above, you walk
19 into two separate apartments. Apartment number 1
20 is to the rear. It has a one bedroom unit.

21 Apartment number 2 is in the front of the
22 building. It's another one bedroom unit.

23 If you keep on going up the stairs, you
24 have -- you have another one bedroom unit in the
25 front, same distribution as the floor below it,

1 and another one bedroom above.

2 So, we have five units in total that --
3 that the Building Department does recognize.
4 Front and back on the two upper floors, one full
5 unit on the -- on the first floor, and what we're
6 seeking to legalize is the basement unit, which
7 has been in use since -- since late -- yeah, late
8 '60s early '70s. It's been in use.

9 And it was actually the owner who -- it was
10 the -- the owner who sold the property, lived in
11 that -- continued to live in that unit. And now
12 they live in Florida.

13 But they -- this unit, we reconfigured
14 completely. We ripped it apart. It was two
15 bedrooms. We'll make it into a one bedroom. And
16 we reconfigured it to address all the concerns
17 that we had, that we were talking about earlier
18 today, primarily egress and fire safety.

19 So, first and foremost, we're bringing
20 everything up to Code. That unit will be
21 separated from the rest of the building with a
22 two hour fire separation. We're adding sheet
23 rock to that ceiling to make it completely
24 separated from the building above, from a fire
25 standpoint.

1 We're also addressing a domestic line
2 sprinkler system into that unit. So, we're
3 adding a sprinkler system to cover that entire
4 space.

5 We ripped out the bedrooms; the way they
6 were configured with zero setback on -- on the --
7 on the windows, and we recreated a room along
8 here, ample size room. It's 12 foot by ten foot
9 room, with an emergency egress window, so you
10 could escape in case of a fire.

11 In addition to that, we created access for
12 two means of egress. One through the back, and
13 one through the front of the property. In order
14 to do that, we created fire separations into a
15 utility closet, a mechanical closets, and we
16 separated them in order to provide that access.

17 So, we created what's called two hour exit
18 passageway that's part of the vertical
19 circulation. And this is all a protected two
20 hour fire rated safety passageway, so that our
21 apartment is divided completely like that, and in
22 case there were ever a tragedy of a fire, people
23 could get out and -- and escape well.

24 So, this apartment will meet every single
25 Code criteria required that is present in today's

1 Code, and both for safety and the welfare of the
2 -- of the residents of this building, and the
3 neighboring properties.

4 I'm open for questions.

5 MR. BONACCI: Okay. So, you're looking for
6 a D-1.

7 MR. PEREIRAS: Yes. We are.

8 MR. BONACCI: For the use.

9 MR. PEREIRAS: It's -- it's a D-2, it's an
10 expansion. Expansion of an existing
11 nonconforming use.

12 MR. BONACCI: Right. So it's already
13 existing, but you're going to bring it up to
14 Code.

15 MR. PEREIRAS: Right.

16 MR. BONACCI: And like we talked about with
17 the previous application, you're doing similar
18 things in the basement to make sure that people
19 can get in and out.

20 MR. PEREIRAS: Right. Actually --

21 MR. BONACCI: In a safe manner.

22 MR. PEREIRAS: More so than the previous
23 application. Significantly more so. We're
24 bringing it up to Code to -- to everything that
25 the Code requires, and today's Code. Not the

1 Code back then when it was first established, but
2 today's Code which is a big difference. Now
3 we're following the International Building Code
4 2016. So, it's -- it's the latest standard in
5 Codes.

6 It significantly improves the welfare of
7 the inhabitants, the other residents of this
8 building. It's creating a much safer structure,
9 and of course, neighboring properties.

10 MR. DARDIR: What is the height of the
11 basement?

12 MR. PEREIRAS: It -- it's eight feet.

13 MR. DARDIR: Eight feet?

14 MR. PEREIRAS: Comfortably.

15 MR. DARDIR: And they have their own
16 entrance?

17 MR. PEREIRAS: It has its own entrance.

18 It has -- there's three entrance -- there's
19 two entrances to this -- there's two exterior
20 entrances and one internal entrance.

21 MR. DARDIR: Two. Okay.

22 MR. PEREIRAS: So, you have the internal
23 entrance from the hallway that leads here into
24 same circulation, vertical circulation for the
25 rest of the building. You have an entrance to

1 the front, and you have an entrance to the back.

2 MR. DARDIR: So no construction -- I mean,
3 no exterior construction.

4 MR. PEREIRAS: We propose no exterior
5 construction and --

6 MR. DARDIR: But inside there will be in
7 the basement only.

8 MR. PEREIRAS: Correct. Correct.

9 MR. BONACCI: So, it's all internal and
10 nothing's getting done outside.

11 MR. PEREIRAS: That's what we're proposing.

12 MR. BONACCI: Okay. I don't have any more
13 questions.

14 Anybody else have any questions?

15 MR. ORTIZ: You want to open to the public?

16 MR. BONACCI: Does anybody from the public
17 wish to speak or step forward? Have any
18 questions?

19 MR. DILLON: No.

20 MR. BONACCI: Okay. We're going to close
21 it to the public.

22 Being that it's a -- you know, preexisting
23 dwelling, and they're just bringing it up to
24 Code, I'm going to, at this time, make a motion
25 to grant the application, approve.

1 THE SECRETARY: Motion to grant the
2 application by Acting Chairman Joseph Bonacci.

3 Second by Mr. Ortiz.

4 Roll call on the motion.

5 Mr. Ortiz?

6 MR. ORTIZ: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Mr. Bonacci?

10 MR. BONACCI: Yes.

11 THE SECRETARY: Mr. Dardir?

12 MR. DARDIR: Yes.

13 THE SECRETARY: Mr. Marotta?

14 MR. MAROTTA: Yes.

15 THE SECRETARY: Five in favor.

16 MS. PEREIRAS: Thank you all very much.

17 THE SECRETARY: One recuse.

18 Motion -- motion carries.

19 MR. PANEQUE: You need a motion to close
20 the meeting.

21 MR. PEREIRAS: Thank you, everyone.

22 * * *

23

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25

1 **ADJOURNMENT:**

2

3 THE SECRETARY: There not being another
4 application tonight's agenda, can I have a motion
5 to end tonight's meeting?

6 MR. BONACCI: I'll make a motion.

7 THE SECRETARY: Motion by Mr. Ortiz.

8 Second by?

9 MR. BONACCI: Second.

10 THE SECRETARY: Mr. Bonacci.

11 All in favor on the motion?

12

13 (Whereupon, there was a chorus of ayes.)

14

15 THE SECRETARY: The aye have it.

16 Thank you.

17 Good night, everybody.

18 Let the record show the meeting has ended.

19

20 (Whereupon, the proceedings were concluded
21 at 10:25 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5 I, DEBRA A. KASZNIAK, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the REGULAR
8 MEETING of the UNION CITY ZONING BOARD OF
9 ADJUSTMENT heard on Thursday, July 14, 2016 and
10 digitally recorded.

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