

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, December 14, 2017
Commencing at 6:23 p.m.

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

VICTOR M. GRULLON
MARGARITA GUTIERREZ
JOHN MEDINA
MIGUEL ORTIZ, (Arrived at 6:30 p.m.)
DAVID W. PRESSEY
JOSEPH D. BONACCI, Vice Chairman
LIBERO MAROTTA, Chairman

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

PETER C. DOUMAS, Alternate No. 4

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:

ALAIN MULKAY, ESQ.,
Attorney for Applicant, Edward Briosio

FRANK FERRARO, ESQ.,
Attorney for Applicant, T-Mobile Northeast, LLC
711-715 Sip Street

FRANK FERRARO, ESQ.,
Attorney for Applicant, T-Mobile Northeast, LLC
2707-19 Summit Avenue

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Lidia Sevillano

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Nirvana Realty, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, MBP Hoist and Crane, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, Franklin Medina

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, 111 35th Street, LLC

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

3 Please take notice that on Thursday,
4 December 14, 2017 at six p.m., a Regular Meeting
5 is scheduled for the City of Union City Zoning
6 Board of Adjustment, to be held in the Municipal
7 Chamber, located on the Second Floor, 3715
8 Palisade Avenue, Union City, New Jersey.

9 Notice of this meeting has been faxed and
10 provided as follow:

11 Notice of this meeting setting forth the
12 time, date, location, and the agenda, to the
13 extent known, was faxed to The Jersey Journal,
14 The Record, and The Hudson Reporter, has been
15 posted on the bulletin board in the City Hall,
16 and has been made -- made available to the public
17 in the Office of the Municipal Clerk.

18 Can everybody standing up for -- to salute
19 the flag, please?

20

21 (Whereupon, the Pledge of Allegiance was
22 said by all.)

23

24 THE SECRETARY: Thank you.

25

1 **ROLL CALL:**

2

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

5 Mr. Marotta?

6 CHAIRMAN MAROTTA: Present.

7 THE SECRETARY: Mr. Bonacci?

8 VICE CHAIRMAN BONACCI: Here.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Here.

11 THE SECRETARY: Ms. Gutierrez?

12 MS. GUTIERREZ: Here.

13 THE SECRETARY: Mr. Ortiz?

14 He's absent; he's on his way.

15 Mr. Pressey?

16 MR. PRESSEY: Here.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Here.

19 THE SECRETARY: Mr. Doumas?

20 Absent.

21 Let the record indicate there are six
22 present. We have a full quorum for tonight's
23 meeting.

24 * * *

25

1

2 **APPROVAL OF PREVIOUS MEETING MINUTES:**

3

4 (1) Regular Meeting held on November 2, 2017)

5

6 THE SECRETARY: Approval of Previous
7 Meeting Minutes from November 2nd, 2017.8 Can I have a motion to approve these -- the
9 previous meeting minutes?

10 MS. GUTIERREZ: I'm seconding.

11 THE SECRETARY: Motion by Mr. Bonacci.

12 Second by Margarita Gutierrez.

13 Roll call on the motion.

14 Chairman Marotta?

15 CHAIRMAN MAROTTA: Yes.

16 THE SECRETARY: Vice Chairman Bonacci?

17 VICE CHAIRMAN BONACCI: Yes.

18 THE SECRETARY: Ms. Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Mr. Grullon?

21 MR. GRULLON: Yes.

22 THE SECRETARY: Mr. Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: Mr. Medina?

25 MR. MEDINA: Yes.

1 THE SECRETARY: Six in favor, motion
2 carries.

3 Thank you.

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1 **ADOPTION OF RESOLUTIONS:**

2

3 (1) Sirius XM Radio, Inc., 114 33rd Street,
4 Block 201, Lot 1. Residential with wireless
5 telecommunication equipment. Applicant proposes
6 to install three panel antennas, one GPS antenna,
7 one equipment cabinet and cables/conduits.

8 **Approved**

9 (2) Delta Savings, LLC, 531 3rd Street, Block 9,
10 Lots 21, 22, 23, 24, 25, 29, 30, 31, 32.

11 Legalization of two apartments (sic) units with
12 an existing missed-use (sic) building. **Approved**

13 (3) Alfred J. Alvarez, 412 23rd Street.

14 Legalizing a basement apartment in a existing
15 three family to make a four family structure and
16 proposing a new parking space. **Approved**

17

18 THE SECRETARY: We are going to
19 Resolutions.

20 We have four Resolutions on tonight's
21 agenda; Resolution 1, 2, and 3.

22 Sirius XM Radio, Inc., 114 33rd Street.

23 Number 2.

24 Delta Savings, LLC, 531 3rd Street.

25 And the number - third.

1 Alfred J. Alvarez, 412 23rd Street.

2 Can I have a motion to adopt these
3 Resolutions?

4 Motion by Chairman -- Vice Chairman --

5 MS. GUTIERREZ: Second it.

6 THE SECRETARY: -- Bonacci.

7 MS. GUTIERREZ: Second it.

8 THE SECRETARY: Second by Mrs. Gutierrez.

9 Roll call on the motion to adopt -- adopt
10 these three Resolutions.

11 Mr. Marotta?

12 CHAIRMAN MAROTTA: Yes.

13 THE SECRETARY: Mr. Bonacci?

14 VICE CHAIRMAN BONACCI: Yes.

15 THE SECRETARY: Ms. Gutierrez?

16 MS. GUTIERREZ: Yes.

17 THE SECRETARY: Mr. Grullon?

18 MR. GRULLON: Yes.

19 THE SECRETARY: Mr. Pressey?

20 MR. PRESSEY: Yes.

21 THE SECRETARY: Mr. Medina?

22 MR. MEDINA: Yes.

23 THE SECRETARY: Six in favor, motion
24 carries.

25 * * *

1 **ADOPTION OF RESOLUTIONS:**

2

3 (4) Bhado & Bhado Development, 1705 Palisade
4 Avenue, Block 89, Lots 1, 2, 3. Propose a 12
5 unit multi-family building with 17 off-street
6 parking spaces. **Denied**

7

8 THE SECRETARY: Resolution number 4.

9 Adoption of denied Resolution, Bhado and
10 Bhado Development, 1705 Palisade Avenue.

11 This application was denied on November
12 2nd, 2017.

13 Can I have a motion to adopt the deny
14 Resolution?

15 MS. GUTIERREZ: I make a motion.

16 THE SECRETARY: The only person allowed to
17 vote in this Resolution is the Chairman and the
18 Vice Chairman.

19 And motion by Mr. Bonacci.

20 Second by Mr. --

21 VICE CHAIRMAN BONACCI: Libero?

22 Libero?

23 THE SECRETARY: Mr. Chairman?

24 CHAIRMAN MAROTTA: Yes.

25 THE SECRETARY: We have a motion on the

1 table to deny the -- to approve the deny
2 application of Bhado Bhado Development, 1705
3 Palisade Avenue, by -- by Mr. Bonacci.

4 CHAIRMAN MAROTTA: Yes.

5 THE SECRETARY: Want to second?

6 CHAIRMAN MAROTTA: Second.

7 THE SECRETARY: Second by Mr. Marotta.

8 Roll call on the motion.

9 Mr. Marotta?

10 CHAIRMAN MAROTTA: Yes.

11 THE SECRETARY: Mr. Bonacci?

12 VICE CHAIRMAN BONACCI: Yes.

13 THE SECRETARY: Two in favor, motion
14 carries.

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1 **Edward Briosso - 1304-06 Kennedy Boulevard:**

2

3 THE SECRETARY: We have first hearing on
4 tonight agenda, Edward Briosso, 1304-06 Kennedy
5 Boulevard.

6 Mr. Mulkay?

7 (Whereupon, there was a pause in the
8 proceedings.)

9 MR. PANEQUE: Thank you.

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

12 MR. PANEQUE: For the record, I've been
13 provided with the following documentation by Mr.
14 Mulkay:

15 I've been provided with a -- an Affidavit
16 of Service, which is dated December 14, 2017,
17 signed by a Teresa Pacheco, notarized by Mr.
18 Mulkay, indicating that notice of tonight's
19 hearing was served on all property owners within
20 the 200 foot radius of the property in question,
21 1304-06 Kennedy Boulevard, Union City, New
22 Jersey, on October 11, 2017.

23 I've also been provided with a copy of the
24 notice that was served on all owners within the
25 200 foot radius, as well as the copy of the

1 notice that was published in the newspaper, and
2 the Affidavit of Publication from The Jersey
3 Journal, indicating that notice was published in
4 The Jersey Journal on October 16, 2017, giving
5 notice of the hearing for December 14, 2017.

6 I've also been provided with a list of all
7 property owners within the 200 foot radius of
8 1304-06 Kennedy Boulevard, promulgated by the Tax
9 Assessor's Office, with a date of September 28,
10 2017. Said list consists of two pages.

11

12 (Whereupon, Miguel Ortiz arrived at 6:30
13 p.m.)

14

15 MR. ORTIZ: Good evening.

16 MR. PANEQUE: I've also been provided with
17 the certified mail receipts, as well as the green
18 cards that have come back to date.

19 Based on the documentation that's been
20 provided, this Board has jurisdiction to proceed
21 and hear this matter.

22 THE SECRETARY: May I have one second, Mr.
23 Paneque?

24 Let the record indicate that -- that Mr.
25 Ortiz arrived to the meeting at 6:30 p.m. We

1 have seven members now.

2 Go ahead, please.

3 MR. MULKAY: Members of the Board, Alain
4 Mulkay, M-U-L-K-A-Y, from Mulkay and Rendo, on
5 behalf of the applicant, Edward Briosso.

6 We have two witnesses tonight. We have the
7 architect and we have a planner, were both
8 available to testify. My client is also here.

9 This is an application to legalize an
10 existing basement apartment on a property on
11 Kennedy Boulevard, where in the ground -- in the
12 middle level is a commercial mixed use office
13 space.

14 Our first witness is Orestes Valella, who
15 has been previously recognized as an expert. I
16 would ask that he be sworn in and recognized as
17 an expert by the Board.

18 MR. DILLON: Please raise your right hand.

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

21 MR. VALELLA: I do.

22 MR. DILLON: State your name and spell it
23 for the record.

24 MR. VALELLA: Yes, of course.

25 Good evening.

1 My name is Orestes Valella, V-A-L-E-L-L-A,
2 a registered architect in the states of New York
3 and New Jersey. And my professional offices are
4 at 5809 Madison Street in West New York, New
5 Jersey.

6 MR. DILLON: Thank you.

7 MR. MULKAY: Does the Board recognize him
8 as an expert?

9 VICE CHAIRMAN BONACCI: We accept your
10 qualifications.

11 Mr. Chairman?

12 CHAIRMAN MAROTTA: Accepted.

13 VICE CHAIRMAN BONACCI: All right.

14 MR. MULKAY: Okay.

15 Thank you.

16 Mr. Valella, will you please explain to the
17 Board what currently exists there, what the
18 client is proposing?

19 MR. VALELLA: Sure. I'll be happy to.

20 This is an existing property facing Kennedy
21 Boulevard, between 13th Street and 14th Street.

22 It's Lot 18 on Block 68.

23 It's an existing mixed use building. It is
24 two stories in height, nice brick façade, facing
25 Kennedy Boulevard. And on the basement is the

1 apartment in question.

2 The second floor has a dwelling unit. The
3 ground floor has a commercial office. And then,
4 the apartment is on the lower level.

5 It's an existing studio apartment. It is
6 undersized. It is 367 square feet.

7 We do have storage space in the rear,
8 thankfully, so that we have -- we're making a
9 proposal to enlarge it within the building.
10 We're not expanding the building within the
11 footprint of the building. And we're bringing
12 the square footage up to 409 square feet, which
13 is -- you know, at the minimum of your -- your
14 Ordinance, which is 400 square feet per studio
15 dwelling units.

16 That gives me a couple of opportunities to
17 bring -- the apartment's been there forever. My
18 -- I think we can go into the history with the
19 planner, but that -- this is not a recent
20 occurrence. This has been there for decades.

21 It gives me the opportunity to refurbish
22 the apartment, build a new kitchen, add square
23 footage, upgrade the electrical, in the fire --
24 the fire ratings of the unit.

25 So you know, it's -- it's a little bit

1 | rundown, but should you grant this approval, it
2 | would give me the opportunity to bring it up to
3 | Code, which is an important thing.

4 | There is no -- there are no changes to the
5 | footprint of the building. It's a nice brick
6 | building, with lots of windows. There is an
7 | entrance directly from the street to the dwelling
8 | unit. It's a separate entrance.

9 | In addition to that, it has a second means
10 | of egress out through the main staircase to the
11 | street. So, this has two means of egress. It
12 | has good windows facing Kennedy Boulevard.
13 | There's a living room with a nice window. There
14 | is the dining room, the living area, dining,
15 | kitchen, sleeping area, which is what I'm
16 | expanding, and that has windows, as well. It has
17 | good ceiling height of seven feet.

18 | So, in effect, it was a -- it's a little
19 | small, a little rundown. It is vacant now, but
20 | my client's intent is to bring it up to Code and
21 | provide much needed help.

22 | CHAIRMAN MAROTTA: Any questions from any
23 | members of the Board?

24 | VICE CHAIRMAN BONACCI: Yeah.

25 | Just for clarification purposes. Okay.

1 MR. VALELLA: Um hum.

2 VICE CHAIRMAN BONACCI: So, you've got an
3 existing studio already.

4 MR. VALELLA: Yes.

5 VICE CHAIRMAN BONACCI: Is that vacant,
6 too?

7 MR. VALELLA: No, no.

8 MR. MULKAY: No.

9 MR. VALELLA: That's --

10 MR. MULKAY: That's the studio that's at
11 issue in this application.

12 VICE CHAIRMAN BONACCI: Okay.

13 MR. MULKAY: That's the studio that we're
14 trying to legalize. That's been there for over
15 40 years.

16 My client operates a business at both sides
17 of this -- of this block, and has been familiar
18 with this building for over 40 years. And that
19 apartment, studio apartment has -- has been
20 occupied for most of that time.

21 In '09, my client purchased the building,
22 and at that time it was vacant. He did not rent
23 it because he came to the town and found out that
24 it wasn't a legal apartment. And that's why
25 we're here today to legalize it.

1 VICE CHAIRMAN BONACCI: And that was --

2 MR. MULKAY: But that's the studio
3 apartment that you're looking at right now, that
4 you're referring to.

5 VICE CHAIRMAN BONACCI: That one's 367
6 square feet.

7 MR. VALELLA: Right.

8 MR. MULKAY: Correct.

9 MR. VALELLA: Now this --

10 MR. MULKAY: It will be brought up to 409.

11 MR. VALELLA: There's storage space in the
12 back of the basement that I can capture. And
13 also, it's an opportunity to provide a proper
14 kitchen. You know, there's a lot of good things
15 that can be done if we can -- if we can take that
16 step.

17 VICE CHAIRMAN BONACCI: So, you're
18 proposing to go from 367 to 409.

19 MR. VALELLA: Yes, sir.

20 MR. BONACCI: Okay.

21 MR. VALELLA: Yeah. Within the footprint.
22 Within the footprint.

23 MR. MULKAY: There's no changes to the
24 exterior of the building.

25 MR. VALELLA: No. The windows are a good

1 size. The building is in very good condition.
2 It's a nice brick building. We're not -- there's
3 no need to expand the footprint. Luckily, there
4 is some common space behind the apartment in the
5 basement that I could capture and increase the
6 footprint and make this a reasonable size.

7 MR. BONACCI: Okay.

8 Thank you.

9 CHAIRMAN MAROTTA: Any other questions from
10 members of the Board?

11 Any member of the audience have questions?

12 You have another witness, you said?

13 MR. MULKAY: I do.

14 Ms. Hartmann?

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

17 MR. MULKAY: Jill Hartmann, the planner, is
18 our next witness. I would ask that she be sworn
19 in, and again, recognized as an expert. I think
20 she --

21 CHAIRMAN MAROTTA: What field?

22 MR. MULKAY: In planning. As a planner.

23 CHAIRMAN MAROTTA: Okay.

24 Has she -- I don't know. Has she testified
25 before?

1 MR. MULKAY: She's testified before Union
2 City many times. She's the planner --

3 Well, I'll let her go through her
4 credentials --

5 CHAIRMAN MAROTTA: That's all right.

6 MR. MULKAY: -- if you like.

7 CHAIRMAN MAROTTA: If she --

8 MR. MULKAY: She's the planner in West New
9 York. She's the -- she's the --

10 CHAIRMAN MAROTTA: Okay.

11 MS. HARTMANN: Weehawken.

12 MR. MULKAY: I mean Weehawken, Guttenberg
13 and North Bergen.

14 CHAIRMAN MAROTTA: Accepted.

15 MR. MULKAY: Okay.

16 MR. DILLON: Please raise your right hand.
17 Do you swear the testimony you're about to
18 give this Board is the whole truth?

19 MS. HARTMANN: Yes.

20 MR. DILLON: State your name and spell it
21 for the record.

22 MS. HARTMANN: Jill Hartmann. It's
23 H-A-R-T-M-A-N-N.

24 MR. DILLON: Thank you.

25 MR. MULKAY: Ms. Hartmann, you've had an

1 opportunity to visit the property and review the
2 plans.

3 MS. HARTMANN: Yes.

4 MR. MULKAY: Is that correct?

5 MS. HARTMANN: Yes.

6 MR. MULKAY: And you formed an opinion as
7 to the impact that this proposal would have on
8 the Zoning Ordinance of Union City?

9 MS. HARTMANN: Yes.

10 MR. MULKAY: Can you please explain to the
11 Board?

12 MS. HARTMANN: Just as background.

13 It's -- this is an undersized lot that, at
14 some point in time, had a commercial use and it
15 had a residence on the second floor and a
16 basement apartment, as Mr. Alain has said, for
17 several years.

18 It was discovered that the -- the basement
19 apartment was not a legal apartment. So as a
20 result now, we're here for a D-2, an expansion of
21 a nonconforming use, because the commercial use
22 in the building is not a permitted use. So by --
23 by legalizing the basement apartment it, in fact,
24 will result in an expansion of a nonconforming
25 use.

1 Just to give you a little background.

2 I know you're probably all familiar with --
3 with the area, but this subject site is located
4 on the eastern side of Kennedy Boulevard, between
5 13th and 14th Streets. Directly south and
6 adjacent to the subject site, is a used car
7 dealership, which actually wraps around to -- to
8 the north side, as well.

9 And on the east, along 13th Street, are two
10 story residential buildings on both sides of the
11 street.

12 As you go further down from the subject
13 site, along the eastern side of Kennedy
14 Boulevard, there's a three story mixed commercial
15 and residential building, a two family residence
16 and a gas station on the corner of 12th Street.

17 Directly north and adjacent again is the
18 used car dealership, and a two story building
19 that houses offices, which appear to be a mixed
20 use of commercial and residential.

21 Then across the site, which is in North
22 Bergen, is a mixture of commercial uses that
23 include a car wash and another used car
24 dealership.

25 As stated, this is an application to

1 | legalize an existing basement studio. But in
2 | doing that, we're also upgrading the studio to
3 | make it modern and contemp -- with contemporary
4 | design, and meet all the Codes.

5 | The subject site is located in the R low
6 | density residential district.

7 | No changes to the exterior of this site
8 | will be made. No changes are going to be made to
9 | the second story two bedroom apartment. No
10 | changes are being made to the office. However,
11 | there will, again, be the legalization of the
12 | studio apartment and, in fact, improvements to
13 | that space.

14 | So, as a result, we need a D-2 expansion of
15 | a nonconforming use, and potential C variances.

16 | As you're all aware, the -- the D-2
17 | variance is to permit an expansion of an existing
18 | nonconforming use. Doesn't have to show that we
19 | would be entitled to the variance. What I need
20 | to demonstrate to this Board is both the positive
21 | and negative criteria.

22 | I reviewed the City's Master Plan and found
23 | several goals, objectives of the plan that I
24 | think fit this application quite well.

25 | One is to provide a balance of land uses

1 and balanced development patterns in appropriate
2 locations, in order to provide a broad range of
3 housing choices; to capitalize on the City's
4 proximity to Manhattan and its ideal location
5 within one of the largest financial, industrial
6 and cultural metropolises in the world; to
7 encourage mixed used development in the City's
8 commercial corridors; to discourage nonconforming
9 uses in residential, commercial and industrial
10 area -- areas; to ensure compatibility with all
11 land uses and neighborhoods; and to preserve
12 existing and create new housing opportunities for
13 middle income and working class families, while
14 also balancing an opportunity to attract all
15 market types.

16 By legalizing this apartment and allowing
17 the improvements to be done to it, it -- it's
18 more consistent with the -- the residential uses
19 in the district, as this is a residential use and
20 not a commercial use.

21 It -- the basement is -- is right now an
22 unused wasted space. So, I think it -- in
23 general, it -- it's supported by these goals and
24 objectives.

25 If I look at the Municipal Land Use Law, I

1 | would say that it -- that the -- the goals A, C,
2 | E, and G are supported by this.

3 | And A is to encourage municipal action to
4 | guide appropriate uses and development of all
5 | lands in a manner which promotes the public
6 | health, safety, and general welfare.

7 | It continues to provide adequate light and
8 | air and open space.

9 | It does promote the establishment of
10 | appropriate population densities.

11 | And it provides sufficient space for
12 | appropriate locations for a variety of uses.

13 | On the whole, the legalization and the
14 | conversion, if you will, of the basement to a
15 | studio apartment results in a more residential
16 | building with residential units and only one
17 | commercial use.

18 | It advances the general welfare by
19 | promoting the goals of the State Development and
20 | Redevelopment Plan, which has designated Union
21 | City as a planned area one metropolitan area.

22 | It is a major urban center, located within
23 | the priority growth investment.

24 | The conversion, again, is consistent with
25 | the surrounding neighborhood, which, in terms of

1 | scale and density, it contributes to the -- to
2 | the preservation of the mixed residential and
3 | commercial neighborhood, as well as just the
4 | residential aspects of it.

5 | And it provides for an additional
6 | residential land use at an appropriate density.
7 | Again, that's consistent with the State
8 | Development and Redevelopment Plan.

9 | So, on a whole, I would say that I --
10 | basically, that the proposed office, studio
11 | apartment, and two bedroom apartment are
12 | consistent with the various goals and objectives
13 | of your Master Plan, as well as Municipal Land
14 | Use Law.

15 | That it will result in a residential use
16 | that, again, is consistent with the surrounding
17 | neighborhoods.

18 | And as a result, I believe it can be
19 | granted without any -- it doesn't provide -- will
20 | result in any substantial detriment to the public
21 | good or impair the intent and purpose of your --
22 | your Master Plan or your Zone Plan.

23 | CHAIRMAN MAROTTA: Any questions from
24 | members of the Board?

25 | Any questions from the audience?

1 I -- I have one question.

2 You said that this satisfies Sections A --
3 what was it, A, C --

4 MS. HARTMANN: A, C, E, and G, I believe.

5 CHAIRMAN MAROTTA: A, C, E, and G --

6 MS. HARTMANN: Yes.

7 CHAIRMAN MAROTTA: -- of Title 40:55D-2?

8 MS. HARTMANN: Yes.

9 CHAIRMAN MAROTTA: A, C, E, and G.

10 Well, G is to provide sufficient space in
11 appropriate locations for a variety of
12 agricultural, residential, recreational,
13 commercial and industrial uses.

14 How does it fit that?

15 MS. HARTMANN: You have a space that was,
16 in fact, a -- a studio apartment. You have a
17 building that presently is a mixed commercial and
18 residential building. So, it is consistent with
19 that.

20 And you have a surrounding neighborhood
21 that is -- has both residential, commercial, and
22 mixed commercial and residential uses.

23 And it will provide a housing unit, which
24 is a relatively small unit, for a segment of the
25 population. So, in that regard, it's an

1 appropriate density and location for that type of
2 a residential use.

3 CHAIRMAN MAROTTA: And Section C is to
4 provide adequate, light, air and open space.

5 MS. HARTMANN: Yes.

6 CHAIRMAN MAROTTA: How does it do that?

7 MS. HARTMANN: It will meet all the Code
8 requirements, with regards to light and air. It
9 has the proper ceiling height and it has adequate
10 access to -- to egress.

11 CHAIRMAN MAROTTA: Okay.

12 Any other questions, anybody?

13 I'll make a motion to approve this, subject
14 to approval by the Building Department.

15 THE SECRETARY: Motion to approve the
16 application by Mr. Marotta.

17 Second the motion by Mr. Bonacci.

18 Roll call on the motion to approve this
19 application.

20 Mr. Marotta?

21 CHAIRMAN MAROTTA: Yes.

22 THE SECRETARY: Mr. Bonacci?

23 VICE CHAIRMAN BONACCI: Yes.

24 THE SECRETARY: Ms. Gutierrez?

25 MS. GUTIERREZ: Yes.

1 THE SECRETARY: Mr. Grullon?

2 MR. GRULLON: Yes.

3 THE SECRETARY: Mr. Pressey?

4 MR. PRESSEY: Yes.

5 THE SECRETARY: Mr. Medina?

6 MR. MEDINA: Yes.

7 THE SECRETARY: Mr. Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: Seven in favor, motion
10 carries.

11 MR. VALELLA: Thank you.

12 MR. MULKAY: Thank you, everybody.

13 Happy holidays.

14 THE SECRETARY: Thank you.

15 MS. GUTIERREZ: Happy holidays.

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1 **T-Mobile Northeast, LLC - 711-715 Sip Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, T-Mobile Northeast, LLC, 711-
5 715 Sip Street.

6 Mr. Ferraro, please?

7 (Whereupon, there was a pause in the
8 proceedings.)

9 CHAIRMAN MAROTTA: Mr. Paneque?

10 Tomas?

11 MR. PANEQUE: Yes, sir?

12 CHAIRMAN MAROTTA: It says on the notice,
13 new notice required.

14 What does it mean by that?

15 MR. PANEQUE: On the next application?

16 CHAIRMAN MAROTTA: On the --

17 MR. PANEQUE: Where are you reading that,
18 Mr. Marotta?

19 MR. DILLON: It's on the agenda.

20 MR. FERRARO: It's on the agenda.

21 MR. PANEQUE: On the agenda?

22 MR. DILLON: Mr. Paneque?

23 MR. PANEQUE: I see it.

24 THE SECRETARY: Yeah. There's a new notice
25 from --

1 MR. PANEQUE: Yeah. Thank you.

2 The -- the reason the new notice is
3 required is because this applicant came before
4 the Board and, at the conclusion of the hearing,
5 one of the public members brought to the Board's
6 attention that the notice that had gone out had
7 the incorrect address.

8 CHAIRMAN MAROTTA: So, it's been taken care
9 of?

10 MR. PANEQUE: Oh, yeah. They -- that
11 application was withdrawn, and they're filing --

12 CHAIRMAN MAROTTA: Okay.

13 MR. PANEQUE: They're coming back before
14 the Board with new notices. And that's what --

15 CHAIRMAN MAROTTA: Fine.

16 MR. PANEQUE: -- I'm reviewing right now.

17 CHAIRMAN MAROTTA: Okay.

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

20 MR. PANEQUE: For the record, I've been
21 provided by the applicant's attorney, Mr.

22 Ferraro, with the following documentation:

23 I have an Affidavit of Mailing, signed by
24 Mr. Ferraro, indicating that notice of tonight's
25 hearing was sent to all property owners within

1 the 200 foot radius on November 21st, 2017.

2 I've also been provided with copies of the
3 certified mail receipts, with a postmark date of
4 November 21st, 2017, as well as the list from the
5 Tax Assessor's Office, with a date of November
6 13, 2017, listing all property owners within the
7 200 foot radius of the property located at
8 2017-19 Summit Avenue.

9 I've also been provided with a copy of the
10 notice that was published in The Jersey Journal,
11 giving notice of tonight's hearing for the
12 property in question, 77 -- 711-715 Sip Street.

13 (Whereupon, there was a pause in the
14 proceedings.)

15 MR. PANEQUE: Mr. Ferraro?

16 MR. FERRARO: Yeah.

17 MR. PANEQUE: Can you step up a minute?
18 Your tax list is 2017 Summit Avenue.

19 MR. FERRARO: Um hum.

20 MR. PANEQUE: But this application is on
21 Sip Street.

22 Right? Seven --

23 MR. FERRARO: They're probably both
24 together, with the two of them --

25 MR. PANEQUE: Okay.

1 MR. FERRARO: Yeah. That's -- yeah.

2 MR. PANEQUE: Okay.

3 All right. A correction on the record.

4 The tax list that I mentioned before is for
5 the next application that the same attorney has.
6 The tax list for the property now -- is this the
7 next one -- 711-715 Sip Street was given by the
8 Tax Assessor's Office, also on November 13, 2017.

9 The notice that was published in the
10 newspaper indicates that it's in relation to the
11 property 711-715 Sip Street. Said notice
12 indicates that the hearing is tonight, December
13 14, and gives the correct address for the
14 location of the hearing at 3715 Palisade Avenue,
15 which was the reason we had to come back with
16 this applicant from the last time we were here.

17 Based on the documentation that's been
18 provided, this Board does have jurisdiction to
19 proceed and hear this matter.

20 Thank you, sir.

21 MR. FERRARO: Sure.

22 Good evening, everybody.

23 Frank Ferraro, attorney on behalf of the
24 applicant, T-Mobile Northeast, LLC.

25 Deja vu on this application, I know.

1 We went through the testimony last time.
2 We're bringing everybody back up to review it
3 again.

4 This is for a new rooftop wireless
5 telecommunication facility at 711-715 Sip Street.
6 This is in the C-G gateway commercial district.
7 It is a conditionally permitted use in the zone.
8 However, we're before the Board for conditional
9 use variances with respect to some of the
10 conditional use requirements.

11 Specifically, the antennas are being
12 located on top of the roof and screened behind RF
13 permeable material, that will match the building
14 façade, instead of flush mounting the antennas to
15 the building façade itself.

16 In addition, the antennas will be -- and
17 the antenna screen will exceed the permissible
18 height in the zone, as well as the existing
19 building currently exceeds the existing height in
20 the zone, thereby requiring a conditional use
21 variance.

22 There is equipment proposed on the rooftop
23 of the building. The -- the Ordinance requires a
24 maximum height of the equipment of 12 feet above
25 the roof line. The screening will be 13 and a

1 half feet above the roof line, and nine feet nine
2 inches above the parapet.

3 The parapet's fairly tall here. So, while
4 we have a variance with respect to the screen
5 height, only nine foot nine inches of the screen
6 will be visible.

7 We do -- we did note a side yard and rear
8 yard setback variance. Those are existing
9 conditions. They will not be exacerbated.

10 All the improvements in this application
11 are going on the roof. Nothing's going on the
12 ground. So that will remain the same.

13 In addition, the antennas are within a
14 hundred feet of a one family, two family, or
15 three family home. So, we do have that
16 conditional use variance, as well.

17 We have four witnesses, so unless there's
18 any initial questions, we call our RF engineer.

19 CHAIRMAN MAROTTA: Call your first witness.

20 MR. FERRARO: Thank you.

21 MR. FEEHAN: If I could just stand near
22 this.

23 (Whereupon, there was a pause in the
24 proceedings.)

25 MR. DILLON: Please raise your right hand.

1 Do you swear the testimony you're about to
2 give this Board is the whole truth?

3 MR. FEEHAN: I do.

4 MR. DILLON: State your name and spell it
5 for the record.

6 MR. FEEHAN: Adam Feehan, F-E-E-H-A-N.

7 MR. DILLON: F-E-E --

8 MR. FEEHAN: H-A-N.

9 MR. DILLON: -- H-A-N.

10 MR. FERRARO: And Mr. Feehan, could you
11 please review your background and qualifications?

12 CHAIRMAN MAROTTA: Excuse me?

13 MR. FERRARO: Yeah.

14 CHAIRMAN MAROTTA: Please keep your voice
15 up.

16 MR. FERRARO: Sure.

17 MR. FEEHAN: Yes. I have a Bachelors of
18 Science in electrical engineering from the New
19 Jersey Institute of Technology.

20 For the past four years, I've worked for my
21 current employer, PierCon Solutions. While I've
22 worked there, I've worked on many wireless
23 applications such as this and has been -- have
24 been accepted as an expert in municipalities
25 throughout New Jersey.

1 CHAIRMAN MAROTTA: Accepted.

2 MR. FERRARO: Including this Board?

3 CHAIRMAN MAROTTA: He's accepted.

4 MR. FERRARO: Thank you.

5 MR. FEEHAN: Including this Board, last
6 month, I believe.

7 MR. FERRARO: Okay. Okay. Great.

8 Mr. Feehan, T-Mobile's an FCC licensed
9 provider of telecommunication services.

10 Is that correct?

11 MR. FEEHAN: That is correct, yes.

12 MR. FERRARO: And could you just identify
13 what bands they are licensed in -- licensed in?

14 MR. FEEHAN: Yes. T-Mobile has licenses in
15 the 700, 1900 and 2100 megahertz frequency bands.

16 MR. FERRARO: Okay.

17 And have you performed a radio frequency
18 analysis of the existing T-Mobile network?

19 MR. FEEHAN: Yes, I have.

20 MR. FERRARO: And have you identified a
21 need for a new wireless telecommunication
22 facility at the subject site?

23 MR. FEEHAN: Yes. As I'll go into, the --
24 the need for the new facility is based on
25 capacity.

1 So, if we look to this first exhibit, we'll
2 call it Exhibit A-1. It's already marked from
3 last time.

4 MR. FERRARO: Pre-marked as A-1.

5 MR. FEEHAN: Because we marked them last
6 hearing.

7 MR. DILLON: Are you going to --

8 Sorry -- sorry to interrupt.

9 Are you going to submit the same --

10 MR. FERRARO: Yes.

11 MR. DILLON: -- exhibits as last time, in
12 the same order?

13 MR. FERRARO: We're going to try to do
14 that.

15 MR. DILLON: All right. We have -- because
16 we have them marked from last time, so if that
17 would be easier for you, it would be easier for
18 us, as well.

19 MR. FEEHAN: Yup.

20 MR. FERRARO: That's the -- that's the
21 idea.

22 MR. DILLON: Okay.

23 MR. FEEHAN: I have A-1 through 4 already
24 in a line here.

25 MR. DILLON: You ended up with eight last

1 time.

2 MR. FEEHAN: That's just my RF exhibits.

3 MR. DILLON: Oh, okay. Yeah, yeah.

4 MR. FEEHAN: There may be others.

5 MR. DILLON: Understood.

6 All right.

7 MR. FERRARO: Can I see that?

8 MR. DILLON: Yeah. If you want to compare
9 against our list.

10 MR. FERRARO: Thank you. I'll just follow
11 this.

12 MR. DILLON: Yeah.

13 MR. FEEHAN: Exhibit A-1 --

14 MR. FERRARO: A-1, this is a -- this
15 exhibit, is it fair to call Detailed Site Map of
16 Existing and Proposed Site, dated 5/1/17?

17 MR. FEEHAN: Yes, it is.

18 MR. FERRARO: Could you briefly discuss
19 what's shown on this exhibit?

20 MR. FEEHAN: Yes.

21 If we look to the exhibit, just to orient
22 what we're looking at for the Board's benefit, if
23 we look at the exhibit. It's an overview. It's
24 a -- provides a street map, simple, and some
25 triangles which represent existing T-Mobile

1 facilities, and a pink dot in the center
2 representing the proposed facility at 711 Sip
3 Street, and then abbreviated that way.

4 If you look to the top left of Exhibit A-1,
5 you can see Dell Avenue, or you can also see
6 Route 9 going off to the top left.

7 If you look in the top right, you can see
8 40th Street.

9 If you look to the bottom right, you can
10 see Peter Street, just kind of right above the
11 scale.

12 If you look to the bottom left, you can see
13 21st Street.

14 As I said, the symbols on the map --
15 there's the red triangles which represent one
16 sector of a T-Mobile facility. A typical
17 facility is made up of three or four sectors.
18 So, you'll see them grouped in three or fours.

19 There'll also -- some of those triangles,
20 which are highlighted in yellow, and we'll talk
21 about what that means in a minute, it relates to
22 the next three exhibits, which are -- which will
23 be the capacity exhibits.

24 You see the pink dot in the center
25 represents the location of our proposed site.

1 And, also, a pink outlined area representing the
2 -- the target area, or the search area. It's the
3 area we want to provide additional coverage to,
4 for the reasons of capacity.

5 MR. FERRARO: Okay.

6 And in this Exhibit A-1, is it showing the
7 proposed site centrally located between the on-
8 air sites?

9 MR. FEEHAN: Yes.

10 MR. FERRARO: Okay.

11 And is that important for minimizing the
12 number of sites we require?

13 MR. FEEHAN: Yes. It's important so that
14 you can try to achieve more than one objective
15 with one site. Instead of solving only one
16 sector's capacity problem, we're trying to solve
17 three.

18 MR. FERRARO: Okay.

19 MR. FEEHAN: That's why there's three
20 highlighted.

21 MR. FERRARO: Okay.

22 So, the next three exhibits that you
23 mentioned are capacity charts.

24 Is that correct?

25 MR. FEEHAN: That is correct.

1 MR. FERRARO: The first one pre-marked as
2 A-2. Is that LTE 2100 Capacity Chart NJ05604B
3 Beta, dated 5/1/17?

4 MR. FEEHAN: That is correct.

5 MR. FERRARO: Okay.

6 MR. FEEHAN: The -- what this capacity
7 chart is showing, there's a couple different
8 things to look at. The Y axis represents the
9 percentage utilization. Essentially, it
10 translates into how much out of 100 percent is
11 the site being used? Hundred percent is, of
12 course, the most it can be used. You can't go
13 over 100 percent.

14 The red line which goes across from left to
15 right represents the -- we call the -- the point
16 of exhaustion, or the capacity of the site.

17 The reason it's not at 100 percent is
18 because once you approach 100 percent and get
19 close to it, some problems start to occur within
20 the T-Mobile network.

21 The problems that can occur is the -- the
22 mobile device, whether it's your phone or a
23 tablet, or some other type of device that's
24 connected to the T-Mobile network, it can be
25 kicked off of the high speed 4G LTE network, back

1 down to 3G, which is about ten times as slow and
2 ten times as old.

3 You can get your connection cut off
4 completely. Or it can just give you an overall
5 slow down of speed on that same technology.

6 Lo and behold, what you want is to stay
7 below the -- the red line, to be able to maintain
8 fast connections for the users. And that's what
9 a user would want. If you experience any of the
10 problems which I described earlier, you can think
11 of it as you're on your phone, you see the little
12 loading circle come up, and just think, when
13 you're trying to refresh, whether you're looking
14 at email, whether you're looking at something
15 else that you need to update, you start to have
16 that problem. That's how you can identify it.

17 The yellow brownish line which goes across
18 represents the actual usage. As you can see,
19 most of it is up near that 100 percent. There's
20 a period where it drops down. I'm not sure what
21 happened. I believe it was some sort of
22 malfunction, but we looked at it today. This is
23 the same one we submitted from the -- the last
24 time we were here. The usage is up near that 100
25 percent.

1 And we'll see that on the other -- next two
2 exhibits, as well.

3 MR. FERRARO: Okay.

4 And the next exhibit is A-3, LTE 210
5 Capacity Chart, NJ05136E Beta, dated 5/1/17?

6 MR. FEEHAN: Yes.

7 MR. FERRARO: Is that correct?

8 MR. FEEHAN: That is correct.

9 And I'll go through these next two very
10 quickly, because they look very similar. It's
11 just the line moves a little bit up and down.

12 Although if we look to this one, Exhibit A-
13 3, you see the line is even more steadily up by
14 that 100 percent, representing that problem would
15 be occurring much more.

16 MR. FERRARO: And then, finally, you have
17 A-4, which is LTE 2100 Capacity Chart, NJ05461D
18 Gamma, and that's dated 5/1/17, as well?

19 MR. FEEHAN: Yes, that's correct.

20 And we see the same story here, the actual
21 usage line is right up near that 100 percent,
22 demonstrating that the problem would be occurring
23 in this region that these three sites are
24 providing coverage to.

25 MR. FERRARO: Okay.

1 Now, based upon your analysis and the
2 empirical data provided in these exhibits, do you
3 believe there's a need for this additional site?

4 MR. FEEHAN: I do. Yes.

5 MR. FERRARO: Is there anything that could
6 be done at those existing on-air sites to remedy
7 this capacity deficiency?

8 MR. FEEHAN: There is not.

9 MR. FERRARO: With respect to the
10 installation as designed, did you investigate the
11 potential for flush mounting the antennas?

12 MR. FEEHAN: Yes. We looked at that here.

13 I'm sorry. I missed my folder. One
14 moment.

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

17 MR. FEEHAN: I just don't want to get the
18 two sites mixed up here.

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

21 MR. FEEHAN: So, some sides of the building
22 had some windows which go all the way up to the
23 top of the building, which doesn't leave you room
24 to flush mount on those sides of the building.
25 That's why the antennas are not flush mounted on

1 | this building.

2 | MR. FERRARO: Okay.

3 | And we'll have our engineer come up later.

4 | Also, this building is on the property
5 | line. So, any antennas we would attempt to place
6 | would actually be over the property line.

7 | With respect to the height of the antenna
8 | that's being proposed in this application, is it
9 | the minimum antenna height necessary in order to
10 | address this deficient capacity?

11 | MR. FEEHAN: Yeah. The -- the factor that
12 | drives the antenna height in this application is
13 | simply to clear the roof which we're on. You
14 | don't want to be too close to the -- there's the
15 | parapet wall, which comes up, and you want to be
16 | able to clear that parapet wall, otherwise you
17 | could have some interference with your own roof
18 | and your antenna signals, the signals which come
19 | out of the antennas.

20 | MR. FERRARO: Okay.

21 | And that antenna height, at this point, is
22 | 80 and a half feet above grade.

23 | Is that correct?

24 | MR. FEEHAN: Yes.

25 | MR. FERRARO: Okay.

1 With respect to the facility itself, would
2 it cause any interference with any existing radio
3 frequency or electronic equipment in the area?

4 MR. FEEHAN: No, it would not. And by the
5 -- the rules of the FCC, if something like that
6 did happen, it would be the responsibility of T-
7 Mobile to remedy it.

8 MR. FERRARO: Okay.

9 And is this an unmanned facility?

10 MR. FEEHAN: Yes.

11 MR. FERRARO: So, any permanent employees
12 at the site?

13 MR. FEEHAN: No.

14 MR. FERRARO: Your firm also prepared an
15 inventory -- Inventory Map of Existing and
16 Approved Sites, dated 4/19/17.

17 MR. FEEHAN: Yes.

18 MR. FERRARO: This was in the Board's
19 packet, but I'm going to mark it as A-5.

20

21 (Whereupon, Inventory Map of Existing and
22 Approved Sites, dated 4/19/17 was received and
23 marked as Exhibit A-5.)

24

25 MR. FERRARO: This particular exhibit, Mr.

1 Feehan, shows all the existing T-Mobile on-air
2 sites in the -- in the City.

3 Is that correct?

4 MR. FEEHAN: Yes. And some outside of the
5 City, in a certain radius.

6 MR. FERRARO: Okay.

7 So, this is in the Board's packet, if the
8 Board was -- wanted to know. It's a requirement
9 of your Ordinance, so we do provide it, so you
10 can see where all of the on-air T-Mobile sites
11 are.

12 I believe that's it.

13 So, Mr. Chairman, questions of Mr. Feehan?

14 CHAIRMAN MAROTTA: Any questions from
15 members of the Board?

16 VICE CHAIRMAN BONACCI: Yeah. Just one
17 quick question.

18 MR. FERRARO: Sure.

19 VICE CHAIRMAN BONACCI: So, the height is
20 mentioned with regards to the antenna and the
21 equipment. But did you guys mention anything
22 about the weight?

23 MR. FERRARO: We did. Our next witness can
24 go through that.

25 VICE CHAIRMAN BONACCI: Okay.

1 MR. FERRARO: At the last -- we submitted a
2 structural report, signed and sealed by our
3 engineer, indicating that the facility -- all the
4 antennas, all the equipment, the building roof is
5 more than adequate to --

6 VICE CHAIRMAN BONACCI: Carry it.

7 MR. FERRARO: -- to carry the weight.

8 VICE CHAIRMAN BONACCI: Okay.

9 MR. FERRARO: And -- and the wind load, as
10 well. So, we could have him discuss it a little
11 more, if you'd like.

12 VICE CHAIRMAN BONACCI: Okay.

13 CHAIRMAN MAROTTA: Let me ask this
14 question.

15 MR. FERRARO: Sure.

16 CHAIRMAN MAROTTA: The Code permits an
17 antenna height of 50 feet and you're proposing 80
18 feet. Why?

19 MR. FEEHAN: The height -- the reason the
20 antenna is as high as it is, is like I said
21 before, it's just to clear the wall of the roof
22 that we're on. The highest point, which is in
23 front of the antennas on the roof, is the parapet
24 wall. You need to maintain a certain distance
25 between the bottom of the antenna and the parapet

1 wall, as to not cause any interference with the
2 signals coming out.

3 But to think of it this way, if we were to
4 mount an antenna and a building was right in
5 front of it, obviously, there would be a blockage
6 of signal in that direction. And that happens in
7 a -- in a same way, maybe not as big as a -- a
8 big building in the way, whether you could have a
9 small mount, whether it's metal, whether it's
10 some type of structure, some building that
11 provides a loss of the signal.

12 CHAIRMAN MAROTTA: Could you tell me what
13 building is there that's higher than 75 feet?

14 MR. FEEHAN: No, no, no. It's to clear the
15 rooftop that we're on, the parapet wall itself.
16 It's not a building that's across the street or
17 anything around it. It's the building itself.
18 The building that our -- our rooftop that we're
19 located on.

20 CHAIRMAN MAROTTA: In other words, if you
21 follow the Code, it wouldn't work?

22 MR. FEEHAN: Sorry, could you repeat the
23 question? I was coughing. My apology.

24 CHAIRMAN MAROTTA: If you put a 50 foot
25 antenna, it wouldn't work. Is that what you're

1 saying?

2 MR. FERRARO: Would 50 feet be sufficient
3 height in this area?

4 MR. FEEHAN: Is the building rooftop
5 height.

6 (Whereupon, there was a pause in the
7 proceedings.)

8 MR. FEEHAN: I mean, 50 feet on this
9 building is not possible. You have to go on the
10 side of the building. And you'd be close to the
11 windows, and you need to maintain a certain
12 distance away from the windows.

13 For one, you can't have somebody reaching
14 out their window and be able to touch the
15 antenna. And so, that's the main reason. For
16 safety reasons and for tampering reasons.

17 MR. FERRARO: And this building itself is
18 already 70 -- about 71 feet --

19 CHAIRMAN MAROTTA: It's 75 feet.

20 MR. FERRARO: -- tall. So, it's already --

21 MR. FEEHAN: Right.

22 MR. FERRARO: -- nonconforming as to
23 height.

24 CHAIRMAN MAROTTA: Yeah. Of course.

25 MR. FERRARO: That's really driving the

1 variance.

2 CHAIRMAN MAROTTA: Now, my question was
3 that if you put the 50 foot antenna on, would the
4 system work or would it not work?

5 MR. FERRARO: At -- at this site?

6 MR. FEEHAN: At a different location or --

7 CHAIRMAN MAROTTA: Yeah. At this site.

8 MR. FERRARO: At this location?

9 CHAIRMAN MAROTTA: Yeah.

10 MR. FERRARO: It wouldn't.

11 Our engineer will testify it wouldn't work
12 here because the building's built right up to the
13 property line. That's our next witness.

14 So, to put the antennas on the side of the
15 building, which is what you'd basically have to
16 do, they'd be over the property line.

17 VICE CHAIRMAN BONACCI: I'm sorry. Just a
18 real quick question.

19 MR. FERRARO: Um hum.

20 VICE CHAIRMAN BONACCI: So, the antenna
21 wouldn't go over the property line if you guys
22 had the height at 80.5.

23 MR. FERRARO: Correct.

24 VICE CHAIRMAN BONACCI: But if you had it
25 at 50, you'd have to put it on the side. Then,

1 | it would be over the property line.

2 | MR. FERRARO: Correct. And you would have
3 | the R -- the radio frequency issue that Mr.
4 | Feehan just explained, which is you have windows
5 | at that height.

6 | MR. BONACCI: Right. Got you.

7 | CHAIRMAN MAROTTA: Also, according to the
8 | report from our expert, four dish antenna are
9 | proposed where they're not permitted.

10 | Why are they being proposed?

11 | MR. FEEHAN: The dish antennas are required
12 | to bring the site online as fast as possible.
13 | The reason that they're proposed is they provide
14 | the back haul back to the rest of the T-Mobile
15 | network.

16 | Once fiber -- well, fiber will be
17 | contracted to go to the site, once the site is
18 | approved and starts -- you know, those approvals
19 | get through and it starts getting built. But
20 | once that fiber gets there, the dish doesn't need
21 | to be there anymore. It's to be able to bring
22 | the site online as fast as possible.

23 | If you looked at the capacity charts I was
24 | showing earlier, you're already in a point where
25 | problems are occurring. So, we're just trying to

1 solve that problem as quickly as possible.

2 MR. FERRARO: Yeah. So, those dish
3 antennas are temporary.

4 Correct?

5 MR. FEEHAN: Yes.

6 MR. FERRARO: So, they would be removed,
7 typically, within a six month period after --

8 MR. FEEHAN: That's typical.

9 MR. FERRARO: -- construction.

10 MR. FEEHAN: Yeah. It depends on region to
11 region. But I think Union City, that sounds like
12 it would be --

13 MR. FERRARO: And the --

14 MR. FEEHAN: -- six months.

15 MR. FERRARO: -- dish antennas, would they
16 be installed behind the screening?

17 MR. FEEHAN: Yes.

18 MR. FERRARO: So, you wouldn't see them?

19 MR. FEEHAN: No. They would not be
20 visible.

21 MR. FERRARO: Okay.

22 CHAIRMAN MAROTTA: Any members of the
23 audience have any questions?

24 Any other members, any comments?

25 I'll make a motion to grant this

1 application.

2 MR. PANEQUE: Are you done with your --

3 MR. FERRARO: I do have --

4 CHAIRMAN MAROTTA: Oh, you have more --

5 MR. FERRARO: -- a few more --

6 CHAIRMAN MAROTTA: -- witnesses?

7 MR. FERRARO: -- witnesses --

8 MR. PANEQUE: Yeah.

9 MR. FERRARO: -- Mr. Chairman.

10 CHAIRMAN MAROTTA: Okay.

11 MR. FERRARO: I'll try to be quick.

12 MR. FEEHAN: Thank you.

13 MR. FERRARO: Thank you.

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

16 CHAIRMAN MAROTTA: Excuse me, counselor.

17 You said you had a report from an engineer?

18 MR. FERRARO: Yes.

19 CHAIRMAN MAROTTA: That the -- the roof
20 will sustain this?

21 MR. FERRARO: Correct.

22 CHAIRMAN MAROTTA: All right.

23 MR. FERRARO: I have one more witness who's
24 going to testify to the radio frequency emissions
25 compliance report. And then we'll bring our

1 professional engineer up --

2 CHAIRMAN MAROTTA: Great. Okay.

3 MR. FERRARO: -- who can -- who can touch
4 on the structural.

5 So, our next witness is Dave Collins.

6 (Whereupon, there was a pause in the
7 proceedings.)

8 MR. DILLON: Please raise your right hand.

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

11 MR. COLLINS: I do.

12 MR. DILLON: State your name and spell it
13 for the record.

14 MR. COLLINS: David Collins, C-O-L-L-I-N-S.

15 MR. DILLON: Thank you.

16 MR. FERRARO: And Mr. Collins, could you
17 please briefly go through your background and
18 qualifications? I believe you testified in the
19 area of radio frequency emissions compliance
20 before this Board in the past.

21 Is that correct?

22 MR. COLLINS: Yes, on several occasions.

23 I have a Bachelor of Science degree in
24 industrial technology from the City College of
25 New York; 17 years experience working for my

1 employer, Pinnacle Telecom Group. Our primary
2 work is assessing antenna sites that they comply
3 with the FCC rules and regulations governing RF
4 emissions.

5 I have performed that assessment more than
6 7,000 times in the last 17 --

7 CHAIRMAN MAROTTA: His qualifications are
8 accepted.

9 MR. COLLINS: Okay.

10 Thank you.

11 MR. FERRARO: Thank you, Mr. Chairman.

12 Mr. Collins, I'm just going to mark your
13 report by Pinnacle Telecom Group, dated 4/11/17,
14 as A-6.

15

16 (Whereupon, Pinnacle Telecom Group Report,
17 dated 4/11/17, was received and marked as Exhibit
18 A-6.)

19

20 MR. FERRARO: This report -- if you can
21 please just briefly review the analysis and
22 conclusions contained in this report?

23 MR. COLLINS: Yes.

24 The Federal government sets a standard for
25 maximum permissible exposure to radio frequency

1 emissions. And they provide a mathematical
2 formula for determining that level, and then
3 comparing the results to the standard to see
4 whether or not you do comply or do you require
5 mitigation.

6 The standard itself is very conservative
7 and the mathematical formula is intentionally and
8 significantly set up to overstate the -- the
9 results, so you can rest assured that the -- the
10 actual level, should this Board approve the
11 grant, is significantly lower than what we are --
12 what we calculated.

13 We received the technical parameters for
14 the site from T-Mobile and put them into the
15 formula. And the simplest way to describe the
16 answer is in terms of a percentage, with 100
17 percent being the maximum level permitted.
18 Anything under a hundred percent you comply with
19 the rules and regulations.

20 We did perform the calculations and the
21 maximum level, at ground level, around this site,
22 would be -- calculate at 4.0683 percent. That
23 is, in terms of a factor of how many times below
24 the limit, it is 24 times below the limit. We
25 comply with the federal regulations by a wide

1 margin.

2 State of New Jersey also has a Radiation
3 Protection Act on its statute. It is five times
4 less protective, and this does not imply it is
5 not protective at all. It is amply protective.
6 Bear in mind that the federal standard is
7 extremely conservative.

8 So, because there's a factor of five to one
9 between the two, it's just a simple
10 multiplication. It would be 120 times below at
11 our maximum calculated level, than -- vis-à-vis
12 the Radiation Protection Act of New Jersey.

13 So, either at the state level -- state
14 statute or the federal statute, we comply by very
15 wide margins.

16 MR. FERRARO: Okay.

17 Thank you.

18 Mr. Chairman, questions of Mr. Collins?

19 CHAIRMAN MAROTTA: Any questions?

20 Any questions from the audience?

21 No questions.

22 MR. FERRARO: Thank you.

23 MR. COLLINS: Thank you.

24 MR. FERRARO: That concludes the testimony
25 for Mr. Collins.

1 Our next witness is our professional
2 engineer.

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

5 MR. IANNELLI: Okay.

6 MR. FERRARO: All set?

7 Could you please give your background and
8 qualifications for the Board?

9 MR. IANNELLI: Yes.

10 My name is Mario Iannelli.

11 I'm the manager of Land Development
12 Services at Dewberry. My office is located in
13 Parsippany, New Jersey.

14 My credentials include, I have a Bachelors
15 -- Bachelors in civil engineering in 1993 from
16 NJIT, a Masters in civil engineering in 2001.
17 I've been a licensed civil engineer in the state
18 of New Jersey since 1997.

19 CHAIRMAN MAROTTA: Accepted.

20 MR. FERRARO: Thank you.

21 And did your firm prepare the structural
22 report, I'm going to mark as A-7, and this is
23 dated April 26, 2017?

24

25 (Whereupon, Structural Analysis Report and

1 Design Calculations Dewberry, dated 4/26/17 was
2 received and marked as Exhibit A-7.)
3

4 MR. IANNELLI: Yes.

5 MR. DILLON: You should have me swear him.

6 MR. FERRARO: I'm sorry?

7 MR. DILLON: Swear him in.

8 Please raise your right hand.

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

11 MR. IANNELLI: Yes.

12 MR. DILLON: You already said your name for
13 the record.

14 MR. FERRARO: Okay.

15 MR. IANNELLI: Okay.

16 MR. FERRARO: So, once again, your firm did
17 prepare the report which was marked as A-7?

18 MR. IANNELLI: Yes.

19 MR. FERRARO: This is a structural report?

20 MR. IANNELLI: Yes.

21 MR. FERRARO: And dated April 26, 2017?

22 MR. IANNELLI: That is correct.

23 MR. FERRARO: Okay.

24 And you've had the chance to review this
25 structural report?

1 MR. IANNELLI: Yes, I have.

2 MR. FERRARO: Your firm has also prepared
3 the site plans, which are part of the application
4 packet.

5 Is that correct?

6 MR. IANNELLI: That is correct.

7 MR. FERRARO: Okay.

8 Could you briefly just review and note
9 which sheet number you're referring to, as you go
10 over the improvements?

11 MR. IANNELLI: Absolutely.

12 I'm looking at Sheet Z-1. I don't know if
13 everybody can see it. Just want to touch on a
14 couple of items, just to get you oriented.

15 This rectangle is the building in question.
16 Right? I'm highlighting on the top part of the
17 page of Z-1, is Sip Street. That's the front of
18 the building.

19 One of the things that you should
20 understand about this building is the -- and
21 north is up on the page, so to get everybody
22 oriented.

23 The northern property line along the street
24 frontage and the eastern property line is
25 basically what we call zero setback. The

1 building's right on the property line.

2 I believe it was referred to before about
3 flush mounting some antennas. If we had put that
4 on the north side or the east side, we would
5 actually be in violation of -- it would be over
6 the property line if we had done that.

7 The proposal is to have three, the corners
8 of the building to include antenna arrays and
9 equipment that will be completely concealed
10 behind -- it's basically a screen wall that's
11 designed to match the façade of the building.

12 The -- you will not see any of the
13 equipment. You will not see any of the antennas.
14 You will not see any of the dish. While it's
15 still temporary, you will not see it while it's
16 there because the screen will be -- it would look
17 like an extension of the building wall up and
18 that will actually mask the equipment behind it.

19 I don't know what else you want to touch
20 on.

21 MR. FERRARO: Is there any ground
22 disturbance associated with this installation?

23 MR. IANNELLI: No, there's not. There is
24 -- everything is accessed from the building
25 rooftop. There will be conduit that will run

1 down the side of the building, go into the
2 basement, and all electrical leadering (sic) or,
3 anything else that has to occur will be in the
4 existing utility room or near the existing
5 utility room in the basement.

6 MR. FERRARO: And as indicated on Z-6,
7 detail, be the main cabinet is about 800 pounds.

8 Is that correct?

9 MR. IANNELLI: That is correct.

10 MR. FERRARO: And the antennas, as
11 indicated on Z-7, on the sheet, are approximately
12 150 pounds each?

13 MR. IANNELLI: That is correct.

14 MR. FERRARO: And based upon the structural
15 analysis, marked as A-7, did the building have
16 adequate structural capacity to accept this
17 facility?

18 MR. IANNELLI: Yes, it does.

19 MR. FERRARO: And with respect to the roof
20 area that the proposed equipment is covering,
21 will it be less than 25 percent of the roof area?

22 MR. IANNELLI: Yes, it will. The Ordinance
23 allows up to 25 percent. As proposed, you're
24 looking at 16.5 percent coverage.

25 MR. FERRARO: And there will be no impact

1 on the existing setbacks to the building.

2 Is that correct?

3 MR. IANNELLI: No. Everything will be from
4 the façade in, so it will be the same or
5 unchanged.

6 MR. FERRARO: Okay.

7 And this facility would not require any
8 additional parking or generate any additional
9 traffic.

10 Is that correct?

11 MR. IANNELLI: No. As you said, this is an
12 unmanned facility. You may have once a month, or
13 once every so often a technician come out and
14 service it. But other than that, it's unmanned.

15 MR. FERRARO: Will it result in any dust,
16 noise, odor, smoke, glare, or any kind of
17 nuisance?

18 MR. IANNELLI: No, it will not.

19 MR. FERRARO: There's no generator proposed
20 with this facility.

21 Is that correct?

22 MR. IANNELLI: That is correct.

23 MR. FERRARO: Okay.

24 No need for municipal services?

25 MR. IANNELLI: Other than electrical power,

1 no.

2 MR. FERRARO: And this site, if
3 constructed, will comply with all applicable
4 Building Codes.

5 Is that correct?

6 MR. IANNELLI: That is correct.

7 MR. FERRARO: And does this site, in your
8 opinion, pose any kind of hazard to either the
9 building or the surrounding properties?

10 MR. IANNELLI: No.

11 MR. FERRARO: And in your opinion, can the
12 site accommodate this additional use?

13 MR. IANNELLI: Yes.

14 MR. FERRARO: Mr. Chairman, are there
15 questions?

16 CHAIRMAN MAROTTA: Any questions from the
17 Board?

18 Any questions?

19 Mr. Price?

20 MR. PRICE: Larry Price, 1006 Palisade
21 Avenue.

22 MR. DILLON: Please raise your right hand.

23 Do you swear the testimony you're about to
24 give this Board is the whole truth?

25 MR. PRICE: I do.

1 MR. DILLON: Thank you.

2 MR. PRICE: Question?

3 You say there are conduits that will run up
4 the side of the building from the power in the
5 basement --

6 MR. IANNELLI: Yes.

7 MR. PRICE: -- to the installation.

8 How large will those conduits be?

9 MR. IANNELLI: They're rather small. The
10 -- our communication line, the power -- I believe
11 -- I believe they're, and I'm going to check the
12 plans, they may be a couple of inches in size,
13 but they're not very large.

14 Let me double check. But I will have to
15 double check that for you.

16 The -- the conduits will be painted to
17 match the exterior color. I'm not seeing a size
18 of the actual conduit, but the -- the bank that's
19 feeding it is about 12 inches wide on the roof.
20 So, it's not -- it should not be any wider than
21 the bank. These -- the conduits run flat on the
22 roof between the equipment, and that same bank
23 that's tying in -- that's going down is 12 inches
24 on the -- on the roof.

25 I'm assuming, based on the -- the drawings,

1 | it would be that or smaller going down, which is
2 | basically three conduits.

3 | MR. PRICE: Is there one conduit or more
4 | than one con --

5 | MR. IANNELLI: There will be three
6 | conduits. And they're -- and they're small,
7 | totaling a foot. So they're about, I would -- if
8 | I had to venture to guess, they're about three or
9 | four inches each.

10 | MR. PRICE: Sounds like they're wider than
11 | they're thick, so they could be three inches
12 | thick, but a foot wide, each one --

13 | MR. IANNELLI: No. The bank of them, if
14 | you run them in parallel, meaning if they're
15 | running all next to each other, it would be
16 | considered a bank, like a bank of maybe four of
17 | them in a row.

18 | So, the bank is about one foot wide,
19 | meaning so four -- three of them together is
20 | about one foot wide.

21 | MR. PRICE: Okay.

22 | And then, how thick?

23 | MR. IANNELLI: They're circular. So, if
24 | they're three inches, they'll be three inches.

25 | MR. PRICE: Okay. Very good.

1 So four of them would be a foot wide and
2 three inches thick.

3 MR. IANNELLI: Three or four inches thick.
4 That is correct.

5 MR. PRICE: Okay.

6 MR. IANNELLI: And they'll be painted to
7 match the color of the building.

8 MR. PRICE: Paint fades, but --

9 MR. IANNELLI: Okay.

10 MR. PRICE: Thank you.

11 CHAIRMAN MAROTTA: I have one question.

12 Is there a written report from an engineer
13 that the roof can maintain these facilities?

14 MR. FERRARO: Yes.

15 CHAIRMAN MAROTTA: I want that submitted to
16 the Board.

17 MR. FERRARO: That's right here. It's
18 marked as A-7.

19 CHAIRMAN MAROTTA: Right.

20 MR. FERRARO: And we can provide additional
21 copies --

22 CHAIRMAN MAROTTA: Okay.

23 MR. FERRARO: -- if necessary, to the
24 Board's professionals.

25 CHAIRMAN MAROTTA: Are you through with

1 your witness?

2 MR. FERRARO: Yes.

3 We have one final witness, unless there's
4 questions.

5 CHAIRMAN MAROTTA: Okay.

6 MR. FERRARO: Our final witness is our
7 professional planner, Dave Karlebach.

8 (Whereupon, there was a pause in the
9 proceedings.)

10 MR. DILLON: Please raise your right hand.

11 Do you swear the testimony you're about to
12 give this Board is the whole truth?

13 MR. KARLEBACH: I do.

14 MR. DILLON: State your name and spell it
15 for the record.

16 MR. KARLEBACH: David Karlebach,
17 K-A-R-L-E-B-A-C-H.

18 MR. DILLON: Thank you.

19 MR. FERRARO: Okay. Mr. Karlebach, can you
20 briefly go through your background and
21 qualifications?

22 MR. KARLEBACH: Yes.

23 I have a Masters Degree in city and
24 regional planning from Rutgers University. I'm a
25 licensed professional planner, and I have been

1 for 23 years.

2 I've previously qualified and testified
3 before this Board on multiple occasions.

4 CHAIRMAN MAROTTA: Accepted.

5 MR. FERRARO: Thank you.

6 Initially, I'd like to mark as A-8. This
7 is the Photographic Simulations, consisting of
8 seven pages, dated 4/22/17.

9 Is that correct?

10

11 (Whereupon, Photographic Simulations (7)
12 Pages, dated 4/22/17 was received and marked as
13 Exhibit A-8.)

14

15 MR. KARLEBACH: Yes.

16 MR. FERRARO: And this prepared by you, or
17 under your supervision.

18 MR. KARLEBACH: I --

19 MR. FERRARO: Is that correct?

20 MR. KARLEBACH: I prepared it personally.

21 MR. FERRARO: Okay. And this was in the
22 Board's packet.

23 Mr. Karlebach, you've done a planning
24 analysis of the subject application.

25 Is that correct?

1 MR. KARLEBACH: Yes.

2 MR. FERRARO: Could you please just review,
3 or note some of the materials you looked at in
4 preparation for your testimony?

5 MR. KARLEBACH: I reviewed all of the
6 application materials, including your site plan
7 drawings. I've reviewed the Municipal Zoning
8 Ordinance and Master Plan. I have visited the
9 site and the surrounding areas. I photographed
10 the site and prepared the photo simulations of
11 what this facility would look like, if it were
12 approved and installed.

13 MR. FERRARO: And could you please share
14 your opinion regarding the relief requested in
15 this application?

16 MR. KARLEBACH: Certainly.

17 This property is located in the CG, which
18 is the gateway commercial zone. And pursuant to
19 Section 223-44, of the Zoning Ordinance, wireless
20 communications facilities are a conditionally
21 permitted use on existing buildings or structures
22 in the CG zone.

23 And I think Mr. Ferraro had actually
24 outlined all of the relief that was being sought,
25 or all the deviations from the conditional use

1 criteria. There's no need to repeat that.

2 In terms of the proofs that are required
3 for a conditional use variance, the use, per se,
4 is not at issue. The governing body has already
5 determined that this use is appropriate in this
6 zone, subject to conditions. So, instead, the
7 focus is on the site, and whether or not the site
8 continues to be appropriate for this use, not
9 withstanding the deviations from the conditional
10 use criteria.

11 And I believe the site does remain
12 appropriate for the use. The site is centrally
13 located within a service gap area that exists for
14 T-Mobile. And it represents one of the few
15 opportunities to provide service to this area
16 utilizing an existing structure.

17 This site possesses all of the requisites
18 for the successful deployment of a wireless
19 communications facility.

20 You have adequate access, tall structure,
21 sufficient space for rooftop antennas. The site
22 requires minimal modification. There's certainly
23 no additional building area required. There's no
24 regrading or tree clearing. All of the work is
25 contained on the rooftop. So, it's an extremely

1 efficient deployment.

2 This building easily accommodates all of
3 the antennas and equipment without effecting the
4 functionality of the building, and without
5 changing the visual quality of this site.

6 And of the five conditional use criteria
7 that need to be addressed, two of them relate to
8 the height of the antennas above the rooftop, and
9 one relates to the height of the equipment
10 screen. And the application substantially
11 complies with those sections.

12 There's no opportunity to flush mount the
13 antennas at the two locations on the building
14 because they would -- it would encroach upon the
15 right-of-way line and property lines.

16 The height of the antennas above the
17 rooftop does not frustrate the intent of the
18 height regulation, because one, they're suitably
19 screened; and two, they're minimally higher than
20 the height of the tallest rooftop appurtenance,
21 which is the penthouse structure. And these
22 antennas exceed the structure by five feet.

23 The height of the equipment screen
24 substantially complies because it exceeds the
25 height of the parapet by nine feet nine inches,

1 | where 12 feet is permitted.

2 | So, visually, the height of the screen is
3 | lower than 12 feet. So, thus, it meets the
4 | Ordinance objective.

5 | And although microwave antennas are not
6 | permitted, they are located behind screened
7 | walls, and they are invisible to the public.

8 | Regarding the height variance, you heard
9 | testimony that this height of the antennas at
10 | this location is the minimal height necessary to
11 | effectuate the use.

12 | So, if that height can't be achieved, then
13 | T-Mobile cannot fulfill its mandate of providing
14 | seamless and reliable coverage to the area.

15 | And the height of the architectural
16 | screening is only minimal -- minimally higher
17 | than the penthouse. Residents and passers-by are
18 | already acclimated to the presence of a 70 foot
19 | high structure at this location. The addition of
20 | the screen walls will not significantly change
21 | the perception of the site.

22 | There's no substantial detriment to the
23 | public good. I don't believe there's any
24 | substantial visual impacts, as evidenced by the
25 | photo simulations.

1 All four sectors of antennas, the radio
2 head units, the dish antennas, the mounting
3 hardware, cables and conduits are all shielded
4 from view by the concealment walls.

5 The equipment cabinets are also behind
6 screened walls and they are also invisible to the
7 public.

8 And the concealment devices are treated to
9 match the color of the building. These
10 concealments help to visually harmonize the
11 building with the neighborhood. It's not
12 recognizable to the general public as a
13 telecommunications facility.

14 So, this proposal does not change the
15 visual quality of the site, or cause damage to
16 the character of the area.

17 Additionally, this facility is unmanned, so
18 there's no increase in population or employment
19 at the site. It requires very little in the way
20 of municipal services, only electric service and
21 telephone service, similar to a single family
22 home. Certainly no need for water supply or
23 sewer service. So, it's a very passive use.

24 This facility will not generate any noise,
25 vibration, odors, glare, dust, fumes, or any

1 other objectionable influences.

2 And I don't believe there's any substantial
3 impairment of the zone plan. It's a
4 conditionally permitted use. It's a first
5 priority location. And although it's not fully
6 compliant, the application, nonetheless,
7 satisfies some important Ordinance objectives.
8 One of them is that the antennas are camouflaged
9 so as to blend in with their background and to
10 minimize their visual impact. And I'm citing
11 Section 223-44, Paragraph C, Subparagraph 3,
12 Subparagraph C.

13 And the proposed wireless technology is
14 located to avoid being visually prominent when
15 viewed from residential areas.

16 So, those are two important Ordinance
17 objectives that are achieved.

18 I reviewed the Master Plan. I don't
19 believe this application conflicts with any of
20 the recommendations in that plan. So, I think
21 the Board should feel very comfortable in
22 granting the D-3 conditional use variance.

23 MR. FERRARO: Mr. Chairman, questions of
24 Mr. Karlebach?

25 CHAIRMAN MAROTTA: Any questions from the

1 Board?

2 Any questions from the audience?

3 Okay.

4 I make a motion to approve this
5 application.

6 THE SECRETARY: Motion to approve the
7 application by Mr. Marotta.

8 Any second?

9 Second by Mr. Pressey.

10 Roll call on the motion to approve this
11 application.

12 Mr. Marotta?

13 CHAIRMAN MAROTTA: Yes.

14 THE SECRETARY: Mr. Bonacci?

15 VICE CHAIRMAN BONACCI: Yes.

16 THE SECRETARY: Ms. Gutierrez?

17 MS. GUTIERREZ: Yes.

18 THE SECRETARY: Mr. Grullon?

19 MR. GRULLON: Yes.

20 THE SECRETARY: Mr. Pressey?

21 MR. PRESSEY: Yes.

22 THE SECRETARY: Mr. Medina?

23 MR. MEDINA: Yes.

24 THE SECRETARY: Mr. Ortiz?

25 MR. ORTIZ: Yes.

1 THE SECRETARY: Seven in favor, motion
2 carries.

3 Thank you.

4 MR. FERRARO: Thank you.

5 Thank you.

6 (Whereupon, there was a pause in the
7 proceedings.)

8 * * *

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1 **T-Mobile Northeast, LLC - 2017-19 Summit Avenue:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, T-Mobile Northeast, LLC, 2017-
5 19 Summit Avenue.

6 Mr. Ferraro, please?

7 MR. PANEQUE: For the record, I've been
8 provided with the following documentation by Mr.
9 Ferraro:

10 I have an Affidavit of Mailing, indicating
11 that notice of tonight's hearing was sent to all
12 property owners within the 200 foot radius of the
13 property in question, 2017-19 Summit Avenue.
14 Said Affidavit is signed by Mr. Ferraro.

15 I also have been provided with a list of
16 all property owners given by the Tax Assessor,
17 dated November 13, 2017, as well as the certified
18 mail receipts, noting that the post office marked
19 them on November 21st, 2017.

20 I also have an Affidavit of Publication
21 from The Jersey Journal indicating that notice of
22 tonight's hearing with respect to the property at
23 2017-19 Summit Avenue was given for tonight's
24 hearing, December 14, 2017, with the proper
25 address of the hearing location.

1 Based on the documentation that has been
2 provided, this Board has jurisdiction to proceed
3 and hear this matter.

4 MR. FERRARO: Good evening, again, Mr.
5 Chairman, members of the Board.

6 Frank Ferraro, on behalf of the applicant,
7 T-Mobile Northeast, LLC.

8 This particular application is for a
9 stealth rooftop wireless telecommunication
10 facility, 2017-19 Summit Avenue.

11 This particular property is located in the
12 R residential zone. As a result, the applicant
13 is requesting a use variance, as well as a height
14 variance, and preliminary and final site plan
15 approval.

16 Similar to the previous application, there
17 are 12 panel antennas being proposed. There is
18 also rooftop equipment, all behind stealth
19 screening which will mimic the façade of the
20 building.

21 Specifically, the antennas will be at three
22 corners of the property, 61 feet to the top of
23 the antenna screen wall, which is nine foot four
24 inches above the parapet.

25 We do have four witnesses for you on this

1 application, as well. So, unless there's any
2 initial questions, we would call our radio
3 frequency engineer.

4 CHAIRMAN MAROTTA: Call your first witness.

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

6 Our first witness is Mr. Feehan.

7 (Whereupon, there was a pause in the
8 proceedings.)

9 MR. DILLON: He's still sworn from the
10 previous case.

11 Right?

12 MR. PANEQUE: Yes.

13 MR. DILLON: Yeah. You're good.

14 MR. FERRARO: Okay.

15 So, Mr. Feehan, you obviously testified in
16 the previous application. You remain under oath.

17 Correct?

18 MR. FEEHAN: Yes.

19 Thank you.

20 MR. FERRARO: Okay.

21 Mr. Feehan, T-Mobile is an FCC licensed
22 provider of telecommunication services.

23 Is that correct?

24 MR. FEEHAN: Yes. They are licensed for
25 three frequency bands, the 700, 1900 and 2100

1 megahertz frequency bands.

2 MR. FERRARO: Okay.

3 And have you done a radio frequency
4 analysis of the existing T-Mobile network?

5 MR. FEEHAN: Yes, I did.

6 MR. FERRARO: Okay.

7 And have you identified the need for a new
8 rooftop wireless facility at the subject site?

9 MR. FEEHAN: Yes, I have. The need will be
10 due to capacity, which I'll discuss in a couple
11 minutes.

12 MR. FERRARO: Okay.

13 And you've prepared a report dated June 23,
14 2017, which indicates the need for this
15 particular facility.

16 Is that correct?

17 MR. FEEHAN: That's correct. Yes.

18 MR. FERRARO: Okay. I'll mark this as A-1.
19 It is in the Board's packet.

20

21 (Whereupon, Report Prepared by Adam Feehan,
22 dated 6/23/17, was received and marked as Exhibit
23 A-1.)

24

25 MR. FERRARO: With respect to this report,

1 | could you speak to the site that was identified
2 | and proposed in this application?

3 | MR. FEEHAN: Yes.

4 | The exhibits I will present will be the
5 | same that are in the report, they're just
6 | increased to a larger size, for presentation
7 | purposes.

8 | MR. FERRARO: Well, let's -- to be
9 | consistent with the last application, I'll mark
10 | this as A-2.

11 | And A-2 is NJ09822A Detailed Site Map,
12 | Existing and Proposed Sites, dated 6/2/17.

13 |
14 | (Whereupon, NJ09822A Detailed Site Map,
15 | Existing and Proposed Sites, dated 6/2/17, was
16 | received and marked as A-2.)

17 |
18 | MR. FERRARO: Is that correct?

19 | MR. FEEHAN: Yes, that's correct.

20 | What's shown in the Detailed Site Map is a
21 | couple of different objects shown over a street
22 | view map of the region of our proposed site and
23 | surrounding sites.

24 | The red outline triangles represent sectors
25 | from existing T-Mobile facilities. The pink dot

1 represents the proposed T-Mobile facility. The
2 outlined pink area represent the target or the
3 search area, and are also -- some of those red
4 sectors, which are highlighted in yellow, which
5 will correlate to the following exhibits on
6 capacity, which we'll discuss.

7 If we look to the Exhibit A-2, I'll just
8 orient the Board briefly. One or Tonnelle -- at
9 Tonnelle Avenue, can be seen in the top left; 30th
10 Street can be seen in the top right; Gregory
11 Avenue can be seen in the bottom right, just
12 can't really see the label, but this is Gregory
13 Avenue right above the scale; 10th Street can be
14 seen in the bottom left.

15 As I described earlier, proposed site is
16 represented by the pink dot in the center of the
17 exhibit, located at 2017 to 2019 Summit Avenue.

18 If we look surrounding the facility, we can
19 see existing T-Mobile facilities represented by
20 those red outlined sectors, and some of them
21 being yellow.

22 The ones which are highlighted in yellow
23 are as follows: NJ05456B, that's to the north;
24 NJ06906A, that is to the northeast; and NJ05993F,
25 that is a site to the east. All three of these

1 | surrounding sites, which I just identified,
2 | provide coverage to the area and are currently
3 | experiencing capacity problems, which the
4 | following exhibits will show.

5 | What happens when the capacity problem is
6 | experienced, the 4G LTE technology is the fastest
7 | wireless technology available right now, and it's
8 | what everybody wants to use when they use their
9 | phones. You can use it to do data transmission.
10 | Then, you also use it to make voice calls over,
11 | technology called voice over LTE or VoLTE.

12 | What happens when a sector has a capacity
13 | problem, there's one of -- one or more of three
14 | things.

15 | The first thing that can happen is the --
16 | the technology, the network can kick you off of
17 | 4G LTE, back down to 3G, which is a ten years
18 | old, ten times as slow technology. It can slow
19 | your speed down overall, or it could stop your
20 | speed -- or stop your data transmission or that
21 | voice call all together.

22 | All these things, of course, are something
23 | our customer, or user of their phone would not
24 | want to happen to them, as I don't want it to
25 | happen to me, and assuming you wouldn't want it

1 to happen to you either.

2 These problems -- if you're looking at your
3 device, can be identified by if your signal looks
4 good, but still, you have that little spinning
5 circle, bubble thing telling you that something
6 is loading or something is buffering.

7 So, that's what you see when a capacity
8 problem is happening.

9 As you can see, the site is centrally
10 located between the five T-Mobile sites which are
11 located on Exhibit A-2, which is good because you
12 want to be equidistant as to provide coverage in
13 off-load, but not too close as to provide
14 interference.

15 It's also a good height as to not be too
16 tall to be interfering, but is a proper height to
17 be either a little bit taller or equal height of
18 the surrounding buildings around it.

19 MR. FERRARO: Now, with respect -- do you
20 want to go to the next exhibit, or you want to --

21 MR. FEEHAN: I was going to --

22 MR. FERRARO: -- go to the site selection?

23 MR. FEEHAN: We can do that -- leave the
24 site selection after.

25 MR. FERRARO: Okay.

1 MR. FEEHAN: We'll look at the capacity
2 charts, briefly. I know these are -- we just did
3 these in the last one, but on the flip side, you
4 have labeled Exhibit A-3.

5 You can describe it.

6 MR. FERRARO: And A-3, this is LTE 2100
7 Capacity Chart for NJ06906A, Beta.

8 Is that correct?

9 MR. FEEHAN: Yes, that's correct.

10 MR. FERRARO: And this is dated 5/31/17.

11 MR. FEEHAN: Yes. That's the site to the
12 northeast that I talked about on Exhibit A-2.

13

14 (Whereupon, LTE 2100 Capacity Chart for
15 NJ06906A, Beta, dated 5/31/17, was received and
16 marked as Exhibit A-3.)

17

18 MR. FEEHAN: If we look to the -- if you
19 look at Exhibit A-3, you can see a couple
20 different things to be identified on the Y axis.
21 We can see the percent utilization of that sector
22 of that specific facility. One hundred percent
23 is the most that it can do and -- well, actually,
24 it never quite gets to 100 percent, because then
25 the site would be totally loaded and there'd be a

1 big problem.

2 You have problems which start to occur as
3 you're up in that 80, 90 percent range. The
4 speed starts to slow down and you start to
5 experience those capacity problems, which I
6 talked about earlier.

7 The red line is shown at 70 percent
8 utilization, which is when you want to start
9 looking for a new site, because it takes time to
10 locate an area, locate a willing landlord, go
11 through the process of zoning, go through the
12 process of building a site. It just takes time.
13 And as you know, capacity use -- or data usage is
14 constantly growing, as more and more applications
15 are getting more and more data intensive, as the
16 demand keeps getting higher and higher.

17 So, as we look at Exhibit A-3, you can see
18 a yellow brownish line, which is very close to
19 100 percent. It gets a little bit of a break,
20 about -- at about April, but still very close, up
21 at that 90 percent. The reason it gets that
22 break is because this site, in particular, was
23 upgraded with an additional LTE channel. So now,
24 it has all available LTE channels to it, but it's
25 still experiencing that problem, there's a high

1 amount of data usage in this region of Union
2 City.

3 I have two more capacity charts, relating
4 to the other two highlighted sectors on Exhibit
5 A-2.

6 MR. FERRARO: Marking as A-4, this is 2100
7 -- oh, this is LTE 2100 Capacity Chart for
8 NJ05993F, Gamma.

9 And this is dated 5/31/2017.

10 Is that correct?

11 MR. FEEHAN: Yes, that's correct.

12

13 (Whereupon, LTE 2100 Capacity Chart for
14 NJ05993F, Gamma, dated 5/31/17 was received and
15 marked as Exhibit A-4.)

16

17 MR. FERRARO: Okay.

18 MR. FEEHAN: So, this is very similar chart
19 to what we just saw in Exhibit A-3.

20 The only difference is we're looking at a
21 different facility and this -- this chart tells
22 the same story. The usage is all the way up at
23 that 90, pretty much as close as we can get to
24 100 percent without being 100 percent. So, we
25 see that line is peaked right at the top. It

1 almost looks like a straight line. So, those
2 problems would be occurring for users who are on
3 this sector.

4 And just for the reference, this sector is
5 the site which is to the east.

6 MR. FERRARO: And I'm marking as A-5, LTE
7 2100 Capacity Chart for NJ05456B, Beta, dated
8 5/31/17.

9 Correct?

10 MR. FEEHAN: Yes, that's correct.

11

12 (Whereupon, LTE 2100 Capacity Chart for
13 NJ05456B, Beta, dated 5/31/17 was received and
14 marked as Exhibit A-5.)

15

16 MR. FEEHAN: So, same story. Exhibit A-5
17 just is the different sector. This is the one to
18 the north, on Exhibit A-2. And we see the same
19 thing. The yellow brownish line is peaked all
20 the way at the top. It has some drops. Usually,
21 when we see that, it usually means that there's
22 not as much usage on a weekend. So, Saturday and
23 Sunday, in this area, wherever the site is
24 covering, is just not covering as many -- or not
25 as many people are using on the weekend. But

1 during the weekdays, you can see we're very much
2 high at that 100 percent mark and would be
3 experiencing that problem.

4 MR. FERRARO: These exhibits that you --
5 you reviewed, A-2 through A-4, these were either
6 prepared by you, or under your supervision.

7 Is that correct?

8 MR. FEEHAN: Yes. I prepared all of them.

9 MR. FERRARO: Okay.

10 And this data that's being shown, is this
11 empirical data, taken from the T-Mobile network?

12 MR. FEEHAN: Yes. This is measured in real
13 time. In particular, the data which was shown on
14 those exhibits was from March up to May. Well, I
15 have the actual day. March up to May 28th is when
16 the data was taken for this.

17 MR. FERRARO: Okay.

18 And based upon your analysis, is this new
19 site required?

20 MR. FEEHAN: Yes.

21 MR. FERRARO: Is there anything that could
22 be done at the existing on-air sites to address
23 this capacity deficiency?

24 MR. FEEHAN: No. As I -- as I mentioned
25 earlier, the one facility which -- I'll just look

1 at it real quick just to describe it to you
2 briefly.

3 We look at Exhibit A-3, you can see that we
4 get -- the site gets a little bit of a break. It
5 drops down in usage a little bit. That's because
6 an additional LTE channel was added. And now
7 this site has all three LTE channels added to it.
8 The other two, which I showed you already have
9 all three, as well. So, nothing more can be done
10 at those existing sites.

11 MR. FERRARO: And is it the data demand
12 that's driving this need for these additional
13 sites, in your opinion?

14 MR. FEEHAN: It's -- it's the data demand.
15 But I mean, when I say data, I don't want to
16 exclude people using their phones to make voice
17 calls, as well, as T-Mobile does have technology,
18 as I said before, called VoLTE. And what that
19 means is they can use the data LTE 4G network in
20 order to make a voice call. And so, it's the
21 data, but it's also those voice calls being made
22 over that data.

23 MR. FERRARO: Okay.

24 And now the antenna screen height is 61
25 feet to the top.

1 Correct?

2 MR. FEEHAN: I will check, but yeah.

3 Sixty-one feet to the top. Yes.

4 MR. FERRARO: Okay.

5 And that is approximately nine feet four
6 inches above the building parapet.

7 Is that correct?

8 MR. FEEHAN: Yes, that's correct.

9 MR. FERRARO: Now, is this the minimum
10 antenna height for these particular antennas that
11 are being deployed?

12 MR. FEEHAN: Yes. It's the same -- similar
13 situation to what was in the last application.
14 The driving factor in the height of the antenna
15 is the distance from the bottom of the antenna to
16 the top of the nearest parapet in the direction
17 that it's facing.

18 If you notice, these antennas -- I'll just
19 turn to it -- these antennas, the azimuths
20 (phonetic) which were chosen to be able to remedy
21 the problems of the three surrounding sectors,
22 three surrounding sites, there's a distance which
23 is from the front of the bottom of the antenna to
24 the nearest parapet wall. The height is needed
25 to be able to clear that and not to interfere

1 with the own roof which -- which we're on, which
2 we're located on.

3 MR. FERRARO: Okay.

4 And the antenna orientation -- I might have
5 said before, three corners, but it's actually at
6 all four corners of the building.

7 Is that correct?

8 MR. FEEHAN: Yes. Yes.

9 MR. FERRARO: Okay.

10 And with respect to the design, did you
11 investigate the possibility of flush mounting the
12 antennas, instead of installing on top of the
13 roof?

14 MR. FEEHAN: Yes. In this location, if you
15 look at the street -- if you look at the street
16 and then, the nearby buildings, the surrounding
17 buildings are pretty much of equal height, or
18 maybe a little bit lower.

19 If you were able to find a location to
20 flush mount on this building, you'd be blocked by
21 the adjacent building. So, the need for the
22 antenna height on top of this building is to be
23 able to clear the tops of those adjacent
24 buildings across the street and down the road.

25 MR. FERRARO: Okay.

1 And there are dish antennas proposed in
2 this installation, as well.

3 Is that correct?

4 MR. FEEHAN: Yes. The dish antennas are a
5 temporary measure until fiber is brought to the
6 site, and hooked up to the T-Mobile equipment to
7 be able to -- to provide the back haul to the
8 rest of the T-Mobile network.

9 As I showed the three capacity charts,
10 there's a problem that's currently persisting in
11 this region of Union City, which needs addressing
12 as soon as possible. The microwave dishes allows
13 for the site to come on-air, or start
14 transmitting, and start performing as soon as it
15 can, to be able to provide -- to be able to
16 alleviate the problem right away.

17 MR. FERRARO: Okay.

18 So, once again, T-Mobile could agree to
19 remove those dish antennas once the fiber service
20 is -- is there on-site?

21 MR. FEEHAN: Yes.

22 MR. FERRARO: Okay.

23 And it will be behind the screen, as well,
24 similar to the panel antennas.

25 MR. FEEHAN: Yes. It would not be visible.

1 MR. FERRARO: Okay.

2 Did you investigate the surrounding area to
3 see if there are any co-location opportunities?

4 MR. FEEHAN: I -- I did. I did not find
5 any co-location opportunities within the search
6 area, that pink circle -- pink -- let me just
7 turn to Exhibit A-2, the pink outlined area. I
8 did not find any co-location opportunities within
9 that region, which is the area we want to be able
10 to provide service to, to offload those three
11 sectors, which are highlighted in yellow.

12 MR. FERRARO: Okay.

13 Did you also have a chance to look at the
14 Union City zoning map?

15 MR. FEEHAN: I did, yes.

16 MR. FERRARO: And during your analysis, did
17 you attempt to locate a site within one of the
18 first or second priority location zones?

19 MR. FEEHAN: Yes. There is one building
20 which was right across the street, which was in a
21 higher priority zone. I believe it was the MU
22 zone.

23 MR. FERRARO: Correct.

24 MR. FEEHAN: The building which is pretty
25 much of equal height. And so, interest was sent

1 to that -- letter -- the site acquisition team
2 sent a letter of interest to see if they would be
3 interested in allowing T-Mobile to lease rooftop
4 space there, because it would be a higher
5 priority location, according to your Ordinance.
6 They were not interested, so that location could
7 not be used.

8 There were no other suitable locations in
9 that zone that I could find that would be able to
10 address the capacity problem that we have.

11 MR. FERRARO: Okay.

12 And that alternative site, in the MU zone,
13 is actually directly across 21st Street from our
14 subject site.

15 Is that correct?

16 MR. FEEHAN: Yes.

17 MR. FERRARO: So, it's the -- the corner of
18 21st and Summit Avenue.

19 Is that correct?

20 MR. FEEHAN: Yes. Summit Avenue goes right
21 down the center of Exhibit A-2.

22 MR. FERRARO: Okay.

23 This facility, if approved, would it cause
24 any interference with existing electronic or
25 communication equipment in the area?

1 MR. FEEHAN: No, it would not. And the FCC
2 rules, they say that if T-Mobile did cause
3 interference, they would be required to remedy
4 it. It would be their problem to fix.

5 MR. FERRARO: Okay.

6 So, in summary, once again, do you believe
7 that this site is required in order to address
8 the deficient capacity in the area?

9 MR. FEEHAN: Yes, I do.

10 MR. FERRARO: Okay.

11 Mr. Chairman, questions of Mr. Feehan?

12 CHAIRMAN MAROTTA: Any questions from
13 members of the Board?

14 The public have any questions?

15 Larry?

16 MR. PRICE: Yes. Larry Price.

17 Question?

18 Does T-Mobile have any facilities at 2017
19 Summit Avenue currently?

20 MR. FEEHAN: This facility? No.

21 MR. PRICE: No. Okay. This would be a new
22 facility.

23 MR. FEEHAN: Yes.

24 MR. PRICE: Okay.

25 But this facility is not needed for

1 service, as I understand it, it's needed for
2 capacity.

3 Is that correct?

4 MR. FEEHAN: I wouldn't say that's a
5 correct statement.

6 CHAIRMAN MAROTTA: Excuse me? Larry, your
7 back is --

8 MR. PRICE: Oh, sorry. Okay.

9 CHAIRMAN MAROTTA: We can't hear you.

10 MR. PRICE: This -- let me --

11 MR. FEEHAN: Could you repeat, yeah?

12 MR. PRICE: This -- this facility is not
13 needed for service. In other words, they don't
14 have a service vacuum, they need -- they need
15 this facility for capacity for the area. But
16 they could serve -- whatever. It would be bad
17 service, but you could serve -- you don't -- you
18 don't have a -- a blackout area here.

19 MR. FEEHAN: I believe the term you're
20 thinking of is a coverage gap.

21 MR. PRICE: Yes.

22 MR. FEEHAN: There is no coverage gap in
23 this region. There is what we call a capacity
24 gap.

25 Now, coverage gap, typically, what we show

1 | when we -- when we demonstrate a coverage gap
2 | will have either overlays or will have some
3 | different colors which overlay on the map to show
4 | this is where coverage is. Usually denoted by
5 | the color green or yellow. And then, in the area
6 | where that yellow or green is not located, that
7 | would be the area of the coverage gap.

8 | This area, if you were able to -- you know,
9 | go there with your device or measure with some
10 | equipment, you would see adequate signal
11 | throughout the area.

12 | The problem is there's just not enough
13 | capacity on the surrounding sites for people to
14 | use it. And so, I say that there is a capacity
15 | -- capacity gap, because when somebody wants to
16 | be able to use their phone, they should be able
17 | to use it, not have to wait in line, or their
18 | speed to be slowed down to what they're
19 | advertised to be and what the technology allows
20 | it to be.

21 | So, the reason for the site is there is a
22 | capacity gap. By building additional site, we
23 | would add more capacity to this area, essentially
24 | doubling it or more.

25 | MR. PRICE: Okay.

1 You refer to capacity in the area. How big
2 an area are we talking about?

3 MR. FEEHAN: The search area identified in
4 Exhibit A-2, this is the area I'm trying -- this
5 is our target area, we're trying to provide
6 additional options to, or additional service to,
7 so that is the area surrounded by Route 501,
8 Route 20 -- 22nd Street, 18th Streets and I don't
9 have the -- the other one labeled, but to the --
10 the other street abutting the park on the east
11 side.

12 So, that's the reason we're trying to
13 offload. The reason is because these three
14 sectors provide service in that area.

15 MR. PRICE: Okay.

16 And you're adding capacity in -- basically,
17 we're talking about an area of roughly a mile
18 across in both directions.

19 MR. FEEHAN: I don't think it's even that
20 big. I got a scale in the bottom right of
21 Exhibit A-2, it's a thousand feet across, the
22 border from east to west of the search or target
23 area. So, it's less than 2,000 feet.

24 So, it's a relatively small area. And
25 regions as densely populated as Union City, where

1 | there's lots of T-Mobile users, as shown by the
2 | capacity charts, I need more sites in a smaller
3 | area, as opposed to a -- like a rural area, where
4 | you could have one site every couple -- mile or
5 | two.

6 | MR. PRICE: Do you know how many --

7 | MR. FEEHAN: Just because so many more
8 | people use it.

9 | MR. PRICE: Do you know how many T-Mobile
10 | subscribers are in Union City?

11 | MR. FEEHAN: I don't have that number, no.

12 | MR. PRICE: Okay. Very good.

13 | Thank you.

14 | MR. FERRARO: And just as a follow up --

15 | CHAIRMAN MAROTTA: I have a question.

16 | MR. FERRARO: I'm sorry. Go ahead, Mr.
17 | Chairman.

18 | CHAIRMAN MAROTTA: The four dish antenna,
19 | is it similar to the other project, temporary?

20 | MR. FERRARO: The dish antennas?

21 | CHAIRMAN MAROTTA: Yeah. Are they
22 | temporary?

23 | MR. FEEHAN: They -- they can be temporary,
24 | yes.

25 | MR. FERRARO: Okay.

1 MR. FEEHAN: Once fiber is contracted,
2 they're no longer necessary to allow the site to
3 operate.

4 CHAIRMAN MAROTTA: Okay. And -- okay. I
5 have -- do you have another --

6 Are there any other questions?

7 MR. FERRARO: Just as a kind of follow up
8 to Mr. Price's comments, too. Just so the Board
9 -- I know the Board's aware of this, but this is
10 not a new phenomenon, the capacity issue.

11 The courts in New Jersey, specifically New
12 Brunswick Cellular versus South Plainfield, since
13 1999 in Ocean County Cellular Telephone versus
14 Lakewood in 2002 have accepted this type of
15 capacity gap as -- as unreliable service. A
16 situation where you have service coverage, but
17 you don't have the capacity of service for people
18 to use it.

19 So, that's the -- the case that's -- that's
20 being made for this new site.

21 MR. FEEHAN: As I described earlier, you
22 can think of it as looking at your phone. It
23 says your coverage is good, but you can't do
24 anything, which would be the same thing as if you
25 had no coverage.

1 MR. FERRARO: I have no --

2 CHAIRMAN MAROTTA: Call --

3 MR. FERRARO: -- further questions.

4 CHAIRMAN MAROTTA: Call your next witness.

5 MR. FERRARO: Yes.

6 Thank you.

7 We will move --

8 MR. FEEHAN: Thank you.

9 MR. FERRARO: -- to our next witness, Mr.
10 Dave Collins, who's our radio frequency emissions
11 expert.

12 (Whereupon, there was a pause in the
13 proceedings.)

14 MR. FERRARO: Mr. Collins, we'll have you
15 sworn.

16 MR. DILLON: You're still sworn.

17 CHAIRMAN MAROTTA: He's still sworn in.

18 MR. COLLINS: I'm still in? Okay.

19 MR. DILLON: Yes.

20 CHAIRMAN MAROTTA: He's qualified already.

21 MR. COLLINS: Thank you.

22 MR. FERRARO: Okay.

23 So, Mr. Collins, you'll be testifying as to
24 the radio frequency emissions compliance aspect
25 of the application.

1 Is that correct?

2 MR. COLLINS: That's correct.

3 MR. FERRARO: Okay.

4 And did your firm, Pinnacle Telecom,
5 perform analysis of this --

6 MR. COLLINS: Yes.

7 MR. FERRARO: -- facility?

8 MR. COLLINS: Yes, they did.

9 MR. FERRARO: And could you share the
10 analysis and conclusions contained in the report
11 dated June 12, 2017, prepared by your firm?

12 MR. COLLINS: Yes.

13 MR. FERRARO: I'll mark this as -- I
14 believe we're up to A5?

15 MR. COLLINS: This one. This one.

16 Oh you have it?

17 MR. FERRARO: Yeah, I have it.

18 MR. DILLON: I had A-5 already. I think
19 you're on A-6.

20 MR. FERRARO: So A-6.

21 MR. DILLON: Yes.

22 MR. FERRARO: A-6.

23

24 (Whereupon, Antenna Site FCC RF Compliance
25 Assessment and Report, dated 6/12/17, was

1 received and marked as Exhibit A-6.)

2

3 MR. DILLON: What's A-6?

4 MR. COLLINS: Again, the federal government
5 sets the standard for maximum permissible
6 exposure levels to radio frequency emissions.
7 They also provide the -- the mathematical
8 document -- formula, rather, to determine the
9 level which you then compare against the standard
10 to see where you stand compliance-wise.

11 T-Mobile has given us the operating
12 technical parameters for this site, which we
13 injected those quantities into the formula, and
14 performed the calculations and determined that at
15 its maximum level calculated, and again, this is
16 intentionally and significantly overstated due to
17 the nature of the calcu -- the formula itself, it
18 is skewed to give worst case, but in this case,
19 again, with 100 percent being the maximum
20 permitted level, we calculated a maximum calcu --
21 the maximum calculated level at 2.3015 percent.
22 In terms of a factor below the limit, we are 43
23 times below the federal limit. Again, the New
24 Jersey statute is five times less stringent. And
25 so, in regards to that, we are 215 times below

1 the New Jersey statute. And in either case,
2 state or federal, we comply with the rules and
3 regulations set forth.

4 Thank you.

5 MR. FERRARO: Mr. Chairman, questions of
6 Mr. Collins?

7 CHAIRMAN MAROTTA: Any questions?

8 Any questions from the public?

9 Next witness.

10 MR. COLLINS: Thank you.

11 MR. FERRARO: That brings us to our next
12 witness, Mr. Iannelli, who is our professional
13 engineer.

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

16 MR. FERRARO: And could you please state
17 your name for the record?

18 MR. IANNELLI: Yes.

19 My name is Mario Iannelli. I'm again, the
20 manager of Land Development Services --

21 MR. FERRARO: Hold it. Before you testify,
22 you -- you realize you remain under oath?

23 MR. IANNELLI: Yes.

24 MR. FERRARO: From your previous testimony.

25 MR. IANNELLI: Yes.

1 MR. FERRARO: Okay.

2 And you're a professional licensed engineer
3 in the State of New Jersey.

4 Is that correct?

5 MR. IANNELLI: Yes, I am.

6 MR. FERRARO: Okay.

7 And did your firm prepare the Structural
8 Report dated June 27, 2017 for this site?

9 MR. IANNELLI: Yes.

10 MR. FERRARO: And have you had a chance to
11 review this report?

12 MR. IANNELLI: Yes.

13 MR. FERRARO: Okay.

14 I'll mark this as A-7.

15

16 (Whereupon, Structural Report, dated
17 6/27/17, was received and marked as Exhibit A-7.)

18

19 MR. FERRARO: And once again, additional
20 copies of the Structural Analysis could be made
21 available to the Board's professionals for
22 review.

23 Now, Mr. Iannelli, could you please review
24 the site plan that was provided to the Board in
25 their packet, and indicate where the antennas and

1 equipment are proposed?

2 MR. IANNELLI: Yes.

3 The site is located on the corner of --

4 I'm referring to Sheet Z-1.

5 Again, I'm highlighting the actual building
6 located in the lower right hand corner of Sheet
7 Z-1.

8 You have 21st Street running along the
9 northern side. North is up on this plan. And
10 you have Summit Avenue that's running along the
11 east.

12 Similar to the last property we were
13 discussing, this property has zero lot line on
14 three sides. It has a zero lot line on 21st
15 Street, with that right-of-way. Then it has a
16 zero lot line at Summit and it has a zero lot
17 line on the southern property, next to Lot 7.

18 The proposal is to put, basically, antennas
19 on all four corners, utilizing screening.
20 There's basically three antennas at each corner,
21 with the dish, which you had heard, it'd be
22 temporary, behind the screening. The screening
23 is extended up from the parapet. It matches the
24 parapet in color and texture, so the screening
25 will look the same, feel the same as the

1 building.

2 There's also an equipment location for
3 this, on the -- I guess, the northeast corner.
4 That's basically an elevated platform that sits
5 on the -- on the roof. It's all part of the
6 structural analysis, and the equipment sits on
7 top of it. That's for ease of access and safety
8 for maintenance.

9 The -- all the equipment that's being
10 proposed, all the antennas that are proposed, are
11 below the screen level, so they will not be
12 visible at all from the street level.

13 MR. FERRARO: Okay.

14 And with respect to the cabinet that's
15 being proposed, that is indicated as being 800
16 pounds, on Sheet Z-7.

17 Is that correct?

18 MR. IANNELLI: That is correct. The
19 cabinets are 800 pounds each, and they were
20 factored in as part of the structural analysis.

21 MR. FERRARO: Okay.

22 And as shown on Sheet Z-8, the antennas
23 that are being proposed are 160 pounds each.

24 MR. IANNELLI: That's correct.

25 MR. FERRARO: And that, too, was factored

1 into the structural analysis, marked as A-7.

2 MR. IANNELLI: Yes.

3 MR. FERRARO: Okay.

4 If this facility were approved, would it
5 comply with all applicable Building Codes?

6 MR. IANNELLI: Yes.

7 MR. FERRARO: And as indicated in the
8 Structural Report, A-7, the building has
9 sufficient structural capacity to accommodate
10 this site.

11 Is that correct?

12 MR. IANNELLI: The building has adequate
13 capacity to structurally handle the proposed
14 improvements.

15 MR. FERRARO: Okay.

16 And now, with respect to -- do you have an
17 elevation view of the proposal, as well?

18 MR. IANNELLI: Yes.

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

21 MR. IANNELLI: I'm putting up on the easel
22 Sheet Z-6.

23 Basically, what this shows is a two
24 dimensional shot of each elevation. Where it
25 shows the screen wall being extended up, and the

1 equipment dashed behind it, where you can see
2 that you cannot see the screen wall.

3 Basically, as was discussed, this existing
4 building has an existing height nonconformity.
5 The existing parapet is roughly 51 feet, eight
6 inches. The proposed screen wall will be roughly
7 nine foot four inches above the parapet. It is,
8 again, designed to match the color. And I think
9 you'll see that in the photo sims that it is
10 actually designed to match the color and feel of
11 the building.

12 MR. FERRARO: And the overall height of the
13 screen is 61 feet.

14 Is that correct?

15 MR. IANNELLI: Over -- yes, 61 feet.

16 MR. FERRARO: And this building actually
17 has an existing penthouse on the rooftop with a
18 height of approximately 53 feet.

19 Is that correct?

20 MR. IANNELLI: Let me double check. I have
21 too many penthouses in my head right now.

22 The existing penthouse is ---

23 I'm going to double check the plan. Hold
24 on.

25 Yes, 53 feet above average grade.

1 MR. FERRARO: Okay.

2 And are there any improvements being
3 proposed at grade level?

4 MR. IANNELLI: No.

5 MR. FERRARO: Would this facility require
6 any additional parking?

7 MR. IANNELLI: No.

8 MR. FERRARO: Would it generate any
9 measurable level of traffic?

10 MR. IANNELLI: No.

11 MR. FERRARO: With respect to the use, will
12 it result in any noise, dust, glare, smoke, or
13 any other kind of nuisance?

14 MR. IANNELLI: No, it will not.

15 MR. FERRARO: Is there any generator
16 associated with the site?

17 MR. IANNELLI: No, there's not.

18 MR. FERRARO: So, will there be any noise
19 generated by it?

20 MR. IANNELLI: No.

21 MR. FERRARO: And any need for municipal
22 services associated with the site?

23 MR. IANNELLI: Other than power,
24 electricity, no.

25 MR. FERRARO: And does this site, in your

1 opinion, pose any hazard to the general public,
2 or to the people at the site?

3 MR. IANNELLI: No.

4 MR. FERRARO: And do you believe the site
5 can accommodate this additional use?

6 MR. IANNELLI: Yes.

7 MR. FERRARO: With respect to the design,
8 you mentioned the zero lot line. Is there any
9 way to flush mount the antennas, without going
10 over the property line?

11 MR. IANNELLI: On three sides, two being --
12 one being the right-of-way at 21st, one being
13 right-of-way with Summit and the southern
14 property line, anything you mount to the side of
15 the building, in essence, will cross the property
16 line.

17 MR. FERRARO: And now, the total of the
18 equipment being proposed on the roof, would it be
19 less than 25 percent of the roof area, as
20 required by the Ordinance?

21 MR. IANNELLI: As proposed, it will be
22 roughly 11.3 percent.

23 MR. FERRARO: And there will be no impact
24 on the existing setbacks to the building.

25 Is that correct?

1 MR. IANNELLI: That is correct.

2 MR. FERRARO: Okay.

3 Mr. Chairman, other questions?

4 CHAIRMAN MAROTTA: Any questions?

5 Public, any questions?

6 I have a question.

7 MR. IANNELLI: Sure.

8 CHAIRMAN MAROTTA: The inspection that is
9 made as to whether or not the roof could support
10 these facilities, was not a thorough inspection.
11 Correct?

12 MR. IANNELLI: Well, you have to
13 understand, when we do the inspection, we assess
14 that the building can -- for planning documents.
15 Right now, this is a planning board application.

16 We go out there, we assess the building, we
17 assess the roof to assure that it has capacity.

18 If this Board was to choose to move and
19 approve this, we then have to go ahead and create
20 construction documents, which will then detail
21 every fastener, every connection point.

22 So, it -- it goes in stages. So, the first
23 step is to make sure the building has capacity.
24 Can it handle it? And it can.

25 The next step, if this Board was to approve

1 | it, we then have to do a second -- we have to do
2 | a further design, because you don't detail all
3 | the -- like we get a building approved, we don't
4 | detail every connection. That comes on -- and
5 | that will be submitted to the Building
6 | Department, as part of the Building Department
7 | permit.

8 | CHAIRMAN MAROTTA: I don't know --

9 | MR. FERRARO: Mr. Chairman --

10 | CHAIRMAN MAROTTA: -- if you wrote this
11 | report.

12 | MR. FERRARO: This is the -- this is the
13 | structural.

14 | CHAIRMAN MAROTTA: I don't know if you
15 | wrote this report.

16 | MR. IANNELLI: I don't know what report
17 | you're referring to, sir.

18 | CHAIRMAN MAROTTA: Dewberry.

19 | MR. IANNELLI: Okay.

20 | CHAIRMAN MAROTTA: Structural Analysis
21 | Report.

22 | MR. IANNELLI: Okay.

23 | CHAIRMAN MAROTTA: All right. The report
24 | --

25 | MR. FERRARO: Go ahead.

1 CHAIRMAN MAROTTA: Excuse me.

2 In the report, the conclusion says this
3 report does not imply that a thorough inspection
4 of the existing structure has been performed.
5 And it also states, the results of this report
6 are based on assumptions that the existing
7 structural elements have been installed, per the
8 original design documents, have been well
9 maintained, and are uncompromised.

10 Now what this says to me is that should
11 that roof fall in, you're not responsible.

12 MR. IANNELLI: No. That's not what that
13 intention. The --

14 CHAIRMAN MAROTTA: That's what it says
15 here.

16 MR. IANNELLI: Well, no. What it says is
17 that, when we start doing construction, there's
18 additional inspections that you start to do.
19 When you start -- we're not going to open the
20 roof up right now. We're not -- we can't do
21 those kind of inspections on a plan that may or
22 may not happen.

23 So, what we do is, we do -- we say, okay,
24 it's adequate. It can handle it.

25 Then we -- it also says there that we

1 | reserve the right to provide additional
2 | calculations, because once we get into this, once
3 | we get into the design of the actual connections,
4 | the design of the actual structural, that will be
5 | submitted to your Building Department, and it
6 | will have all of those addressed.

7 | CHAIRMAN MAROTTA: I tell you why I raise
8 | the question.

9 | MR. IANNELLI: Sure.

10 | CHAIRMAN MAROTTA: Okay?

11 | Should -- should the roof cave in, okay, a
12 | year or two years from now, the City now is
13 | liable, because the City approves this. If --
14 | should we approve this application. And we're
15 | approving it without a thorough inspection.

16 | Let me ask you this.

17 | Has there been discussions with the owner
18 | of this building, with respect to putting this up
19 | there?

20 | MR. FERRARO: Oh, absolutely.

21 | CHAIRMAN MAROTTA: Is there an agreement
22 | with the owner?

23 | MR. FERRARO: Yes. Yes.

24 | CHAIRMAN MAROTTA: Well, all right. Now,
25 | I'm going to tell you what, I would like to have

1 the City waived of any responsibility from the
2 owner.

3 I'm sorry, but --

4 MR. FERRARO: Well --

5 CHAIRMAN MAROTTA: I'd be --

6 MR. FERRARO: I can -- I can tell you, Mr.
7 Chairman, just by virtue of the T-Mobile standard
8 lease, they are responsible for anything that's
9 put up on -- on the roof.

10 And nobody -- nobody's put -- nobody is
11 going to put something up there, wants to put
12 something up there that's not going to be
13 structurally sound or -- or unsafe.

14 There's probably -- I forget how many, I
15 have it written down -- I think there was
16 something like 35 or so of these type of
17 facilities in Union City, that T-Mobile alone
18 has, never mind the other carriers.

19 And they're predominantly all rooftop
20 facilities, because that's generally -- you
21 generally have buildings that are tall enough in
22 this area to support them.

23 A lot of these buildings not only have T-
24 Mobile on them, they have other carriers.
25 There's multiple carriers on these rooftops.

1 You have the abbreviated version of the
2 structural report that was supplied. The one I
3 marked in as A-7 has all the design calculations
4 behind it.

5 CHAIRMAN MAROTTA: Well --

6 MR. FERRARO: And we'd be perfectly willing
7 to provide a copy of that report to your -- you
8 know, your Board Engineer to review and to deem
9 it -- it's adequate.

10 And as we indicated before, if the -- if
11 it's approved, at that point, they'll do the roof
12 probe. They'll start going in the areas and
13 making sure that all the assumptions in that
14 report are correct.

15 But we can't -- we can't start opening up
16 the roof before we have this Board's -- you know,
17 we get the green light from this Board.

18 CHAIRMAN MAROTTA: Well, this -- this
19 creates --

20 MR. FERRARO: But I understand your
21 concern.

22 CHAIRMAN MAROTTA: -- a problem.

23 MR. FERRARO: I understand your concern.

24 CHAIRMAN MAROTTA: Okay?

25 MR. FERRARO: Well, I -- to be honest, it's

1 | really -- it's an issue for the Building
2 | Department.

3 | We have to provide them with structural
4 | calculations, with construction drawings,
5 | drawings that are going to be at a -- a little
6 | bit more detailed level than the zoning level
7 | drawings that you're getting.

8 | But we don't go to that extent because we
9 | just don't -- we don't have the right to go that
10 | far yet.

11 | So, with all these rooftop facilities,
12 | we're going to be complying and giving whatever
13 | the Building Department requires. And we always
14 | offer that if the Board wants us to provide the
15 | copies of those same documents to your Board
16 | Engineer for review, we'll do that, as well, just
17 | to make sure you get all the eyes on it that you
18 | want.

19 | CHAIRMAN MAROTTA: Okay.

20 | I'll wait for your next witness.

21 | MR. FERRARO: Okay.

22 | Thank you.

23 | CHAIRMAN MAROTTA: Anybody have questions?

24 | Any --

25 | Your next witness.

1 MR. FERRARO: Then, that brings us to our
2 final witness, our professional planner, Dave
3 Karlebach.

4 (Whereupon, there was a pause in the
5 proceedings.)

6 MR. FERRARO: Could you please state your
7 name for the record?

8 MR. KARLEBACH: David Karlebach.

9 MR. FERRARO: And Mr. Karlebach, you remain
10 under oath from the previous application.

11 MR. KARLEBACH: Yes.

12 MR. FERRARO: And you're a professional
13 planner in the State of New Jersey.

14 Is that correct?

15 MR. KARLEBACH: Yes.

16 MR. FERRARO: And could you please review
17 or mention some of the items that you looked at
18 in preparation for your testimony?

19 MR. KARLEBACH: I've reviewed all of the
20 application materials, including site plan
21 drawings. I have reviewed the City Zoning
22 Ordinance and 2009 Master Plan. I have visited
23 the site and surrounding areas. And I've
24 prepared a photo exhibit of what this facility
25 would look like if it were approved and

1 installed.

2 MR. FERRARO: Okay.

3 And I'm going to mark as A-8, a
4 Photographic Simulations Report, dated July 21st,
5 2017.

6
7 (Whereupon, Photographic Simulations
8 Report, dated 7/21/17 was received and marked as
9 Exhibit A-8.)

10

11 MR. FERRARO: Was this prepared by you? Is
12 that --

13 MR. KARLEBACH: Yes.

14 MR. FERRARO: Okay.

15 And this contains existing site photos, as
16 well as photo simulations of the proposed stealth
17 facility?

18 MR. KARLEBACH: Correct.

19 MR. FERRARO: Okay.

20 And you performed a planning analysis of
21 the subject use variance and height variance
22 application.

23 MR. KARLEBACH: I have.

24 MR. FERRARO: Could you please share that
25 analysis with the Board --

1 MR. KARLEBACH: Yes.

2 MR. FERRARO: -- and public?

3 MR. KARLEBACH: This property is located in
4 the R low density residential zone. And the
5 Ordinance does permit rooftop facilities in
6 certain zones, but not in this particular zone.
7 So, a D-1 variance is required.

8 Also, a height variance is required. The
9 maximum permitted building height is 40 feet.
10 The existing building height is 53 feet to the
11 top of the penthouse. And the proposal is for a
12 61 foot height at the top of the screen wall.

13 There are -- there may be bulk variances
14 required. The minimum side yard setback
15 requirement is six foot for one yard, 12 feet for
16 both side yards, where zero feet is existing and
17 proposed. So, there's no change. It's an
18 existing nonconforming condition proposed to be
19 continued.

20 The minimum front yard setback requirement
21 is ten feet. Zero feet is existing at Summit
22 Avenue and 21st Street, and zero feet is proposed.

23 So, again, another existing nonconforming
24 condition proposed to be continued.

25 Boards of Adjustment are directed to use a

1 four step balancing test when hearing and
2 deciding use variance applications for wireless
3 communications facilities. So, I'll briefly
4 review those four steps.

5 The first step is to determine public
6 interest at stake. And the New Jersey Supreme
7 Court also instructs us that the mere issuance of
8 an FCC license should suffice for a carrier to
9 establish that a general welfare purpose is
10 served.

11 And T-Mobile is the holder of such an FCC
12 license. So that, in and of itself, satisfies
13 the first step of the balancing test.

14 Beyond that, though, there's a manifest
15 need for improved wireless communications. They
16 play a vital role in preserving the health and
17 safety of all New Jersey citizens.

18 Wireless phones are typically used to
19 report traffic accidents, suspected criminal
20 activity, drunk drivers, medical emergencies, and
21 other types of emergencies to the proper
22 authorities.

23 What also must be proven is that the site
24 is particularly well suited for the use. And to
25 demonstrate particular suitability, the applicant

1 must show initially the need for the facility at
2 this location. And you heard prior testimony
3 from T-Mobile's radio frequency engineer
4 demonstrating the need for this site in order to
5 relieve their service inadequacy.

6 This site allows T-Mobile to deliver its
7 service utilizing an existing structure. This is
8 a far superior alternative to constructing a new
9 freestanding tower in this neighborhood, which
10 would have a far greater community impact.

11 And this site possesses all of the
12 requisites for the successful deployment of a
13 wireless communications facility. You have
14 adequate access, tall structure, sufficient space
15 for rooftop equipment. It requires little site
16 modification. There's certainly no additional
17 building area or impervious area required, no
18 regrading or tree clearing necessary. And all of
19 the work is contained within the confines of the
20 rooftop. So, it's a very efficient deployment.

21 The second step of the balancing test is to
22 identify any detrimental effects that would ensue
23 from the granting of the variance. And the
24 courts have found that generally the negative
25 criteria pertaining to telecommunications

1 facilities implicates aesthetics. And I don't
2 believe there are any substantial impacts
3 associated visually, as evidenced by the photo
4 simulations.

5 All four sectors of the antennas, the
6 remote radio heads, dish antennas, mounting
7 hardware, cables and conduits, are shielded from
8 view by those stealth concealment panels.

9 The equipment cabinets to be installed on
10 the lower rooftop are also enclosed by stealth
11 panels and are invisible to the public. And
12 those concealment devices will be treated to
13 match the color of the building.

14 The concealments help to visually harmonize
15 the building with the neighborhood. It is not
16 immediately recognizable as a telecommunications
17 facility to the casual observer.

18 They're meant to look like normal rooftop
19 appurtenance, such as an elevator penthouse, or a
20 stairwell penthouse, as you would see typically
21 throughout the city.

22 This proposal does not change the visual
23 quality of the site, or cause damage to the
24 character of the neighborhood.

25 You heard testimony from the engineer that

1 | this requires very little in the way of municipal
2 | services. Just electric service and telephone
3 | service. And it doesn't create any noxious
4 | influences, such as noise, vibration, odors,
5 | glare, dust or fumes.

6 | Regarding the height variance.

7 | You heard testimony that the height of the
8 | antennas at this location is necessary to
9 | effectuate the use. If that height cannot be
10 | achieved, then the system doesn't function as
11 | planned, and T-Mobile cannot deliver service to
12 | its users. It will not be able to fulfill its
13 | federal mandate of providing seamless reliable
14 | coverage to the area.

15 | The third step is the Board may impose
16 | reasonable conditions to mitigate any impacts.
17 | And I think the applicant has already offered up
18 | those mitigating measures, and in terms of the
19 | stealth panels that are screening all of the
20 | antennas and the equipment.

21 | And finally, the Board is to determine, on
22 | balance, whether the positive attributes of the
23 | application outweigh the negative. The public
24 | benefits are numerous. Availability to safe,
25 | secure, and on demand wireless communications

1 enhance public safety through improved
2 communications, and increased work productivity
3 and efficiency.

4 On the negative side, I see no substantial
5 negative impacts. I'm going to suggest to the
6 Board, those public benefits that are derived far
7 outweigh any perceived detriment.

8 There's no detriment to the public good
9 because there's no visibility of the proposed
10 facility. That harmonizes it with the
11 environment, and provides an essential service
12 with minimal intrusion onto the surrounding area.

13 There's no impairment of the zone plan.
14 There are no co-location opportunities available
15 in this neighborhood. The applicant made a good
16 faith effort to explore alternate sites. There
17 were several other buildings on 21st Street that
18 were investigated, with no interest on the part
19 of the property owners.

20 And although this property is located in an
21 R zone, it's located directly across the street
22 from the MU zone, where the use is permitted.
23 And this building itself is nonconforming and it
24 more closely identifies with the permitted uses
25 in the MU zone. Very important consideration.

1 So, I'll just conclude by saying that this
2 application does meet the statutory criteria for
3 the granting of the D-1 use variance and the D-6
4 height variance. It does advance several
5 important purposes of the Wireless Ordinance,
6 even though it does require a use variance.

7 The antennas are camouflaged so as to blend
8 with their background and minimize their visual
9 impact, as required by the Ordinance. And the
10 proposed wireless telecommunications technology
11 is located to avoid being visually prominent when
12 viewed from residential areas.

13 So, I'll conclude by saying I think this is
14 a very good application, and it warrants
15 approval.

16 MR. FERRARO: Okay.

17 Thank you, Mr. Karlebach.

18 CHAIRMAN MAROTTA: Any questions from
19 members of the Board?

20 Larry?

21 MR. PRICE: Larry Price.

22 CHAIRMAN MAROTTA: We want to hear you,
23 Larry. Sorry, but we want to hear you.

24 MR. PRICE: Okay.

25 You need a D-6 height variance.

1 Correct?

2 MR. KARLEBACH: Yes.

3 MR. PRICE: Okay.

4 The existing building to the roof of the
5 penthouse is 53 feet.

6 Correct?

7 MR. KARLEBACH: Yes.

8 MR. PRICE: The height -- proposed height
9 would be to 61 feet.

10 MR. KARLEBACH: Yes.

11 MR. PRICE: Okay.

12 Question?

13 In the 200 foot zone, within the -- within
14 the R zone, how many other buildings are either
15 50 -- 53 feet high or 61 feet high?

16 MR. KARLEBACH: I didn't undertake that
17 study. I know the building directly across the
18 street is a similar height.

19 MR. PRICE: There's only one building.

20 MR. KARLEBACH: Again, I didn't undertake
21 that study, but as I said, the building directly
22 across the street is a similar height.

23 MR. FERRARO: That's 2101 Summit Avenue.

24 MR. KARLEBACH: Yes.

25 MR. FERRARO: Across the street.

1 MR. PRICE: Okay.

2 MR. FERRARO: That was the -- that was the
3 building that was approached by T-Mobile, but the
4 landlord was not interested in leasing it.

5 MR. PRICE: This is 2017.

6 MR. FERRARO: Yeah.

7 MR. PRICE: So, 21st Street would begin --
8 begin the MU zone?

9 MR. FERRARO: Correct. Correct.

10 MR. PRICE: Okay.

11 MR. FERRARO: It's directly across the
12 street. Directly across 21st Street.

13 MR. PRICE: Okay, but the -- okay. But I'm
14 asking within the R zone, how many buildings are
15 53 feet high?

16 MR. KARLEBACH: Well, probably not many
17 because -- you know, the Ordinance only permits a
18 40 foot building height. So, the applicant, in
19 this instance, sought out a nonconforming
20 building because of its superior height. That's
21 what makes it so attractive for this type of use,
22 the fact that it's nonconforming.

23 And again, I think the applicant did its
24 due diligence by seeking out alternate sites,
25 specifically in the MU zone. And they were

1 rebuffed, and that's how we arrived at this site.

2 You know, it's --

3 This is the type of use that's -- it's
4 different from other types of what I'm going to
5 call quasi-public utilities, or even public
6 utilities.

7 You take an example of, say, a water tank,
8 or an electric generation plant, it can be
9 situated at one location, and through cables and
10 conduits and pipes, it can deliver its service to
11 the end user miles away.

12 This type of use is very different. Each
13 site is planned, considering a location of
14 contiguous sites. They have to be able to
15 communicate with those sites, without being so
16 close as to cause interference, but not so far
17 away as to cause a gap in coverage.

18 So, it has much more stringent locational
19 requirements than other types of public
20 utilities.

21 MR. FERRARO: That's the answer.

22 MR. PRICE: Okay.

23 The reason I ask the questions I do, the
24 legal test for a D-6 height variance stems from a
25 decision, the Grasso decision. Mr. Spatz can

1 | enlighten if you --

2 | But essentially, what that decision said
3 | was, a D-6 height variance could be granted if it
4 | were consistent with the neighborhood.

5 | So, I'm saying, well, what would be
6 | consistent with the neighborhood? And the answer
7 | is, of course, there's nothing in the
8 | neighborhood that's consistent with a 61 foot
9 | building.

10 | On the other hand, the reason this building
11 | -- there's a technological reason for going to
12 | the tallest building in the neighborhood, that
13 | doesn't have -- you want the tallest neighborhood
14 | in the -- in -- whatever.

15 | So, there's -- there's a conflict here
16 | between the legal requirement and the practical
17 | requirement, which could be explored by a court
18 | someday. But that's the reason I ask the
19 | question.

20 | Essentially, there's -- there's a very
21 | practical reason for granting a D-6 height
22 | variance, but no legal justification for it.

23 | MR. KARLEBACH: Well --

24 | MR. PRICE: Mr. Ferraro will I'm sure --

25 | MR. FERRARO: Yeah.

1 MR. PRICE: (Indiscernible).

2 MR. FERRARO: I disagree.

3 MR. PRICE: -- join --

4 MR. FERRARO: I disagree with that
5 conclusion.

6 CHAIRMAN MAROTTA: I take -- I take issue
7 with your conclusion that because across the
8 street is the MU zone, and this might be a
9 permitted use in the MU zone, then it should be a
10 permitted use in this zone. That's what you
11 said.

12 MR. KARLEBACH: I said it more closely
13 identifies with the permitted uses in the MU
14 zone.

15 CHAIRMAN MAROTTA: Because my understanding
16 is that we're concerned with the zone we're in,
17 not with the zones that are adjacent to us.

18 So, I take issue with that. I don't think
19 that's correct.

20 MR. FERRARO: Mr. Chairman, just don't want
21 to offend anyone, I think what Mr. -- what we're
22 trying to say with respect to this building, on
23 this particular property, it's in a residential
24 zone. It's -- it's a taller resident -- multi-
25 family residential building than you typically

1 find in this R zone.

2 So, that's what I think Mr. Karlebach is
3 saying, that it might identify with the
4 surrounding zone.

5 CHAIRMAN MAROTTA: What was the special
6 reason?

7 MR. KARLEBACH: The special reason?

8 CHAIRMAN MAROTTA: Yeah.

9 MR. KARLEBACH: Well, that would be the
10 first step of the balancing test, which is to
11 identify the public interest at stake.

12 That -- that most closely identifies with
13 what applicants for non -- I should say
14 applicants that -- that don't have to go through
15 the exercise of the four step balancing test,
16 would be required to show special reasons.

17 So, step one of the balancing test would
18 closely equate with the special reasons. And the
19 Supreme Court said if you produce an FCC license,
20 you automatically satisfy the first step of the
21 balancing test --

22 CHAIRMAN MAROTTA: What case is that?

23 MR. KARLEBACH: -- that the public interest
24 --

25 What case?

1 CHAIRMAN MAROTTA: You said the Supreme
2 Court. What case?

3 MR. KARLEBACH: Yes. Smart SMR versus
4 Borough of Fair Lawn.

5 CHAIRMAN MAROTTA: And what did it hold?

6 MR. KARLEBACH: It held that boards of
7 adjustment are directed to use a four step
8 balancing test and that they're different from
9 other types of use variance applications.

10 MR. FERRARO: The case stands for, by
11 virtue of the fact that T-Mobile, Verizon,
12 whoever it may be, has an FCC license to provide
13 this service, it demonstrates that that service
14 advances the public welfare.

15 CHAIRMAN MAROTTA: Let me ask you this.

16 Are you saying this promotes the general
17 welfare?

18 MR. KARLEBACH: Yes.

19 CHAIRMAN MAROTTA: How?

20 MR. KARLEBACH: By its very existence.

21 CHAIRMAN MAROTTA: By its very existence?

22 MR. KARLEBACH: Absolutely.

23 CHAIRMAN MAROTTA: All right.

24 Now, we seem to have quite a few throughout
25 the City of these communication -- I mean, I ride

1 the City today, all I see are these big high
2 wires on rooftops.

3 When will we become saturated with it that
4 it's no longer a benefit to the welfare?

5 MR. KARLEBACH: Well, that's for the Board
6 to decide with each application. I mean, you
7 have to judge each application individually and
8 decide. Does it fit in well with the context of
9 the neighborhood? Okay? Does it meet the
10 negative criteria?

11 So we do that on an ad hoc basis. We don't
12 just decide at some point we've reached our
13 tipping point. This is too many sites. We're
14 not going to allow any more sites. We judge them
15 independently.

16 Now, as far as -- I just want to get back
17 to the special reasons, because I don't want to
18 try and -- you know, bulldoze the Board and say,
19 well, we automatically satisfy the balancing
20 test, or the first step of the balancing test.
21 And I went on to say that cell phones are
22 routinely used to report accidents, drunk
23 drivers, so on and so forth.

24 President Obama, when he was talking about
25 his broadband initiative, gave a very specific

1 | example of what he'd like to see, and that is to
2 | have firefighters have access to wireless
3 | devices, where they can download floor plans of
4 | burning buildings before they enter the building
5 | and put their lives in peril. Okay?

6 | Wireless devices are used by police
7 | departments. Now, with the old 3G technology, in
8 | order to get a report from a criminal -- you
9 | know, sometimes, it would take minutes to get
10 | that information. Now, with the 4G technology,
11 | that information comes ten times faster, and now
12 | it takes seconds, not minutes.

13 | So, with -- with the advanced technology
14 | that's available to us today, it makes everybody
15 | safer. It's used by firefighters, emergency
16 | responders, police, and even individuals. And
17 | you don't have to be a T-Mobile -- you don't have
18 | to have T-Mobile service to benefit from -- you
19 | know, to benefit from T-Mobile.

20 | For instance, I'll give you an example.

21 | Say you have Verizon, you have a Verizon
22 | phone service, and you get into a traffic
23 | accident. And I drive past you, with my T-Mobile
24 | phone, and I see the accident and I call 9-1-1.
25 | You've benefited from T-Mobile service, having

1 not been a subscriber.

2 CHAIRMAN MAROTTA: If -- let me ask you
3 this.

4 If I were to ride out now, and you're not
5 over there, and I have my cell phone, and the
6 situation that you just described happened, you
7 mean I can't call on my cell phone and get
8 assisted?

9 MR. KARLEBACH: Not if you're
10 incapacitated.

11 CHAIRMAN MAROTTA: Well, if you're
12 incapacitated, you can't do it even for T-Mobile.

13 MR. FERRARO: Mr. Feehan's testimony on the
14 RF need is that the sites that are currently
15 servicing that area are at exhaustion. So, at
16 any particular moment, when you need to make your
17 -- may -- may need to make a phone call, or use
18 your device, there's no guarantee that it's going
19 to be reliable. The service in that area has
20 become unreliable.

21 It's not -- it's not T-Mobile initiating
22 these sites, Mr. Chairman. It's -- it's driven
23 by the need -- like how people are using their
24 devices.

25 If nobody in that area was using their

1 device, we wouldn't have capacity issues. The
2 fact that you're seeing that all the existing on-
3 air sites are almost 100 percent utilization, it
4 just reflects the way people use their wireless
5 devices today, versus ten years ago.

6 People use their phones for everything now.
7 And every time you do something on your phone, it
8 -- it creates a demand on the network.

9 CHAIRMAN MAROTTA: I have problems with
10 this.

11 MR. KARLEBACH: I just -- I just want to
12 make one more statement.

13 MR. FERRARO: On what basis, Mr. Chairman?

14 MR. KARLEBACH: I want to make one more
15 statement about the -- the height variance
16 because it's -- I should have touched on it
17 earlier.

18 But what also must be shown is that the
19 height deviation doesn't frustrate the intent of
20 a height regulation.

21 Now, the Ordinance specifically doesn't
22 tell us what is the intent of a height
23 regulation. So, we have to infer that it's for
24 the penetration of light and air onto adjoining
25 properties, and what else?

1 I mean, I would say that's the primary
2 reason, not -- not to interfere with the
3 penetration of light or air.

4 Now, in this particular case, we're not
5 adding an entire story or three stories to a
6 building. Okay. These deployments occur at
7 locations along the perimeter of the building,
8 but they're only small in size.

9 Like I said, probably the size of a rooftop
10 -- you know, penthouse or an elevator penthouse,
11 something like that.

12 So, it can't be said that it's going to
13 frustrate the height or the intent of the Height
14 Ordinance, because it's only in specific
15 locations along the building. You're not adding
16 significant mass to the building, which could
17 create those negative effects.

18 MR. FERRARO: If I can ask, Mr. Chairman,
19 what -- what particular issues do you have, if I
20 may? Perhaps we can offer some additional
21 information.

22 CHAIRMAN MAROTTA: I'll tell you what, I
23 would approve this -- make a motion to approve
24 it, but I would subject it to a different report,
25 analysis, without the assumptions that the

1 existing elements are there.

2 MR. FERRARO: I would --

3 CHAIRMAN MAROTTA: You understand,
4 counselor? I -- that's got to come out.

5 MR. FERRARO: Sure. Mr. Chairman, could we
6 offer to provide a copy of the final structural
7 that we're going to be submitting to the Building
8 Department, to your Board Engineer, for review
9 and approval?

10 Would that be sufficient?

11 CHAIRMAN MAROTTA: Subject to that, yes.

12 MR. FERRARO: Yeah?

13 Okay.

14 CHAIRMAN MAROTTA: Okay.

15 MR. FERRARO: We can certainly do that.

16 CHAIRMAN MAROTTA: Okay. That's my motion.

17 THE SECRETARY: Motion to?

18 CHAIRMAN MAROTTA: Excuse me?

19 THE SECRETARY: Yes. Go ahead, Mr.
20 Chairman.

21 Motion to?

22 Do you have a motion?

23 CHAIRMAN MAROTTA: I made a motion to
24 approve, subject to receiving the report that
25 counselor said.

1 THE SECRETARY: Motion to approve the
2 application by Chairman Marotta with a condition.

3 Any second on the motion?

4 Mr. Bonacci second the motion.

5 Roll call on the motion to approve this
6 application.

7 Mr. Marotta?

8 CHAIRMAN MAROTTA: Yes.

9 THE SECRETARY: Mr. Bonacci?

10 VICE CHAIRMAN BONACCI: Yes.

11 THE SECRETARY: Ms. Gutierrez?

12 MS. GUTIERREZ: Yes.

13 THE SECRETARY: Mr. Grullon?

14 MR. GRULLON: Yes.

15 THE SECRETARY: Mr. Pressey?

16 MR. PRESSEY: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Ortiz?

20 MR. ORTIZ: Yes.

21 THE SECRETARY: Seven in favor, motion
22 carries.

23 Thank you.

24 MR. FERRARO: Thank you for your time.

25 MR. PRESSEY: Thank you.

1 MS. GUTIERREZ: Thank you.

2 MR. PRESSEY: Have a good holiday.

3 MS. GUTIERREZ: Have a good holiday.

4 MR. FERRARO: Thank you.

5 CHAIRMAN MAROTTA: At this time, I think
6 we're going to take a break. It's 8:30. We'll
7 take a ten minute recess right now, and I want
8 people to know, we will terminate at ten o'clock.
9 So, judge for yourself.

10 THE SECRETARY: Ten minute break.

11 Thank you, Mr. Marotta.

12

13 (Whereupon, the Board recessed from 8:31
14 p.m. to 8:43 p.m.)

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1 111 35th Street, LLC - 111 35th Street:

2

3 THE SECRETARY: Tonight's agenda --

4 Ready?

5 MR. DILLON: Yes.

6 THE SECRETARY: May I have your attention,
7 please?

8 We are going to change a little bit the --
9 the order of tonight's agenda --

10 CHAIRMAN MAROTTA: Okay?

11 THE SECRETARY: Next application --

12 Hello?

13 May I have your attention, please?

14 Thank you.

15 Changing a little bit the order of
16 tonight's agenda by the Chairman, next
17 application, 111 35th Street, LLC, 111 35th
18 Street.

19 Mr. Alonso, please?

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

22 MR. PANEQUE: For the record, I've been
23 provided with the following documentation by Mr.
24 Alonso:

25 I have an Affidavit, which has been signed

1 by Mr. Alonso, indicating that notice of
2 tonight's hearing, with respect to the
3 application for property at 111 35th Street in the
4 City of Union City, was given to all property
5 owners within the 200 foot radius of said
6 property on December 1st, 2017.

7 I've also been provided with a copy of the
8 notice that was published in the local newspaper,
9 The Jersey Journal, as well as an Affidavit from
10 The Jersey Journal, indicating that notice was
11 published on December 1st, 2017, giving notice of
12 tonight's hearing for the -- the site at 111 35th
13 Street.

14 I've also been provided with a copy of the
15 notice that went out to all property owners, and
16 a list from the Tax Assessor's Office, with all
17 property owners within the 200 foot radius. Said
18 list is dated November 28, 2017.

19 The last things I've been provided with are
20 the certified mail receipts, which have a
21 postmark date of December 1st, 2017.

22 Based on the documentation that has been
23 provided by Mr. Alonso, this Board has the
24 jurisdiction to proceed and hear this matter.

25 MR. ALONSO: Thank you, Mr. Paneque.

1 Members of the Board, this is an
2 application to construct a new 12 unit, multi-
3 family building at 111 35th Street.

4 I have three witnesses this evening. I'm
5 going to start off with Mr. Pereiras, who is our
6 architect.

7 MR. DILLON: Please raise your right hand.
8 Do you swear the testimony you're about to
9 give this Board is the whole truth?

10 MR. PEREIRAS: I do.

11 Manny Pereiras, P-E-R-E-I-R-A-S, with
12 Pereiras Architects Ubiquitous, 1116 Summit
13 Avenue, Union City.

14 MR. DILLON: Thank you.

15 MR. ALONSO: Mr. Chairman, Mr. Pereiras has
16 been before the Board in the past.

17 CHAIRMAN MAROTTA: He's qualified.

18 MR. ALONSO: Thank you very much.

19 MR. PEREIRAS: Thank you.

20 MR. ALONSO: Mr. Pereiras, did you prepare
21 the plans that are before the Board?

22 MR. PEREIRAS: I have.

23 MR. ALONSO: Okay.

24 Can you please, first, review with the
25 Board, what is the existing condition? And then,

1 we'll get into the proposal.

2 MR. PEREIRAS: Absolutely.

3 For purposes of the presentation, I have
4 the same drawings that were submitted to the
5 Board. The easel kind of disappeared, so I hope
6 you don't mind that I'm -- I'm -- I'll be holding
7 the board today.

8 I'll stand here so that the audience could
9 see, as well.

10 Right now, on Sheet Z01, you could see the
11 existing condition on the site, on the left hand
12 side, and what we propose to do on the right hand
13 side.

14 On the left hand side, we could see that we
15 have an existing one story commercial building
16 there. It reaches the property line along the
17 front. It's two feet five inches away from the
18 property side on the -- on the east side. It's
19 less than ten inches away from the property line
20 on -- on the west side. And in the rear, it's
21 less than three foot eight inches away from the
22 property line on the back.

23 So, it covers the whole site. There's no
24 grass or impervious area there. So there's a
25 hundred percent lot coverage currently on that

1 site.

2 MR. ALONSO: Okay.

3 And what is the proposal?

4 MR. PEREIRAS: We propose to -- to
5 significantly reduce all the setbacks from a
6 planning standpoint; sides, front, rear. And I'm
7 going to walk you through how we came across that
8 design, and how we -- how we managed to do that.

9 First and foremost, I would love to compare
10 this to what can be done here as of right, so
11 that we understand what is a -- what is a typical
12 condition that we could approve on this site.

13 We have a site that's 75 feet wide, it's a
14 hundred feet deep. These are three sites that
15 are typical sites in Union City, 25 by 100, all
16 put together.

17 On a 25 by 100 lot in Union City, we're
18 permitted to have a three family house. That
19 three family house, which we typically provide
20 and present here, it wouldn't come before this
21 Board. It would actually come before the
22 Planning Board. And we do this on a typical
23 basis. There's always three family houses on the
24 agenda.

25 And what we typically see on these three

1 family houses is a house with a driveway on one
2 side, a door entrance on the other, or stairs
3 leading up to the entrance on the second floor on
4 the -- on the side. There is typically parking
5 inside the front of the house, two cars, side by
6 side. There's an apartment in the rear of it.
7 And then, on the next two floors, there's three
8 bedroom apartments, one on each of them.

9 What happens under that situation is that
10 we would have, on this site 75 by 100, three
11 separate curb cuts occupying the site, in which
12 case it eliminates any possibility of having
13 parking on the street. So, we would stop the
14 neighborhood and we would eliminate a lot of
15 parking.

16 This is something that's as a -- you know,
17 practically as of right. Something that would go
18 before the Planning Board.

19 In addition to that, we're granted nine
20 units. But those nine units are very different
21 than the units we're presenting today. Those
22 nine units would have three bedrooms each on the
23 upper floors.

24 So, you're having larger families moving
25 into these units. Typically, larger families

1 | that may have more cars. Yet, the parking that
2 | is satisfied in a typical three family house,
3 | it's typically two cars and potentially two more
4 | on the -- on the driveway that would be in tandem
5 | with the back.

6 | So, no matter what, you have three units,
7 | and one of those units is not --

8 | CHAIRMAN MAROTTA: Excuse me?

9 | MR. PEREIRAS: -- going to have the
10 | opportunity for parking.

11 | CHAIRMAN MAROTTA: Excuse me?

12 | He's an architect. He's -- his expertise
13 | is architecture.

14 | MR. ALONSO: That's correct.

15 | CHAIRMAN MAROTTA: He's not -- he's not
16 | talking architecture.

17 | MR. ALONSO: No. He's talking about the
18 | design, and how he came up with the design. So,
19 | one of the things that they looked at were the
20 | possible alternatives or basically --

21 | CHAIRMAN MAROTTA: When is he going to get
22 | into the architecture?

23 | MR. ALONSO: Well, he's going to get into
24 | that, but he wants the Board to understand that
25 | based on what the zone permits, we're permitted

1 to construct three three family houses, so --

2 CHAIRMAN MAROTTA: Well, the zone also
3 permits a one family house on each lot. Not only
4 three. It permits a one or two or a three.

5 MR. ALONSO: I understand that.

6 CHAIRMAN MAROTTA: Okay. Right now, he's
7 limited to three.

8 MR. ALONSO: Because it's permitted.

9 CHAIRMAN MAROTTA: Go ahead.

10 MR. PEREIRAS: Mr. Marotta, I'm glad you
11 pointed it out. We could build a --

12 CHAIRMAN MAROTTA: Go ahead.

13 MR. PEREIRAS: -- one family there as of
14 right. We could build a two family there as of
15 right. We could build a three family there as of
16 right.

17 CHAIRMAN MAROTTA: Yeah.

18 MR. PEREIRAS: So, we're talking about the
19 most that we could do. Okay? That's why we're
20 before this Board.

21 So, our client is looking to do the best
22 condition, the highest and best use of his
23 property.

24 So, what we're allowed to do, legally, and
25 respectfully, is a three family house. Okay?

1 And that's the condition we would have. The
2 three of them, side by side, the architecture --
3 and I'll speak strictly to the architecture of
4 it, you have three stories. Each of the three
5 houses have big three driveway cuts in front of
6 them. The units have three bedrooms each.
7 You're talking about a very different product, a
8 very different family size going in there.

9 And what we're proposing to do is something
10 totally different, that is hopefully a much
11 better planning alternative to three three family
12 houses.

13 And so, first and foremost, let's talk
14 about the front yard setback. We have adjacent
15 to us a restaurant building there, on Park
16 Avenue, that's Vale. The -- their backyard and
17 their wall goes right up onto the property line.
18 So, they're touching -- we have no front yard
19 there.

20 So, we're proposing a building, and in
21 order to respect them so it doesn't look like a
22 missing tooth and that the building makes sense,
23 even though -- and there's something that
24 everyone talks about, prevailing side yard --
25 front yard setback, instead of being on zero,

1 we're pushing our building back three foot seven
2 along that side.

3 Then, on the other end of our building,
4 towards the -- towards the west, we have a house
5 that is set back further. It's set back eight
6 feet five inches. So, in order to maintain that
7 frontage, and make it look nice, what we do is we
8 step our building back, pretty quickly, and we
9 maintain that eight foot five setback all the way
10 to the adjacent house, so that we're matching the
11 houses next to us as front yard, and we're
12 matching -- we're -- we're reducing, actually,
13 the front yard setback to the commercial towards
14 Park Avenue. So, it makes a perfect transition
15 that makes perfect sense from a planning
16 standpoint, where and how we step back our
17 building.

18 On the side yards, we're giving five feet
19 total. So, Code requires 44 inches. We're
20 providing five feet in order to have ample side
21 yard, so that when we present windows there,
22 there's nice space between that and the adjacent
23 properties, and it's also safe for firemen to
24 come through the site. So, we're proposing five
25 feet on each side.

1 And then, the rear yard, we're proposing a
2 rear yard setback, and the site is slightly
3 skewed, so it becomes nine foot 11 inches, at the
4 worst case scenario. At best case, it's at 11
5 foot five inches at the other end.

6 And there's a very clear and simple reason
7 why it's that setback at that location. The rest
8 of it is grass. But the reason we have that is
9 because in Union City, we care -- we all care
10 very much about parking.

11 So, it's an important thing to provide as
12 much parking in this building as possible,
13 because remember, the alternative we had in those
14 three family houses, where you have -- you know,
15 nine units that are three bedrooms each, with
16 only -- let's see, how many is it -- six parking
17 spaces that are actually tandem, it's much better
18 to have what we propose. Two bedroom apartments,
19 and yet we have a total of 13 parking spaces --

20 CHAIRMAN MAROTTA: Excuse me again?

21 MR. PEREIRAS: -- so that every single one
22 --

23 CHAIRMAN MAROTTA: He's -- he's testifying
24 as a planner.

25 MR. ALONSO: No, he's --

1 CHAIRMAN MAROTTA: Yes, he is.

2 MR. ALONSO: He's not testifying as a
3 planner, he's testifying as an architect.

4 CHAIRMAN MAROTTA: No. When he says three
5 family houses, compared to what they want to do,
6 he's testifying as --

7 MR. ALONSO: No.

8 CHAIRMAN MAROTTA: -- a planner.

9 MR. ALONSO: It's talking about -- he's
10 talking about the design --

11 CHAIRMAN MAROTTA: All right.

12 MR. ALONSO: -- and the use of --

13 CHAIRMAN MAROTTA: Okay.

14 MR. ALONSO: -- the property.

15 CHAIRMAN MAROTTA: All right.

16 MR. ALONSO: Go ahead.

17 MR. PEREIRAS: All right. So, just for the
18 Board to be clear, I'm not a planner. I'm an
19 architect and I'm speaking strictly on
20 architectural terms.

21 We are proposing, in this building, 13
22 parking spaces. That allows for every one of the
23 total apartments that we have to have their own
24 individual parking space. Nothing tandem, like
25 you would in an alternative scheme. It would be

1 strictly 13 spaces that are clear, head on. And
2 included in those 13 spaces, something that's
3 very important to understand, is that there's
4 going to be handicap compliance.

5 So, one of those spaces meets the criteria
6 for someone in a wheelchair, someone who has a
7 disability, for them to be able to park in this
8 building, something that is totally not possible
9 in a three family house.

10 What that means is that this parking space
11 is ten feet wide, and then adjacent to the
12 parking space, there's an additional five feet of
13 space, so that that wheelchair and that person
14 could come out.

15 These are critically important things that
16 make this proposal much better than the
17 alternative that this Board could consider.

18 So, what we designed is very simply the
19 front left corner of the building is a vertical
20 circulation core. We have a small lobby,
21 mailboxes, an elevator and a stairwell. That
22 stairwell, from a technical standpoint, extremely
23 safe. It leads directly into -- into a public
24 right-of-way. In case there's any emergency in
25 the building, it dumps right out to the outside.

1 The second stairwell, located at a safe
2 distance, is over here where I'm pointing to
3 here, and then adjacent to that, a trash room, so
4 that it maintains all the trash. Where we have a
5 three family house, you'll have the trash along
6 the side, you'll have the trash in the front.
7 All of that gets eliminated. It's enclosed
8 within the building, in a room. A much, much
9 better alternative for all the neighbors and
10 everyone around, where we're enclosing trash
11 structure -- enclosure within the building.

12 And what is also extremely beautiful and
13 very different from what's permitted, if you have
14 a three family house, there's no opportunity for
15 landscaping. You have the driveway. You have
16 your front door.

17 In this alternative, it frees up our front
18 yard so that this entire portion here, which is
19 18 feet wide by eight plus in depth, becomes
20 beautiful landscaping that we could have flowers,
21 we could have bushes, we could have nice planting
22 to beautify the neighborhood.

23 And in front of the vertical circulation,
24 there is additional planters. So, we have three
25 foot deep by -- by a good seven feet on one end

1 and another planter over there, that introduces
2 landscaping into the neighborhood, which is a
3 much more beautiful condition than the
4 alternative.

5 As we go upstairs to the building, we
6 propose four apartments per floor. And each of
7 these four apartments, three of them are two
8 bedroom apartments, and one of them is a one
9 bedroom plus den.

10 And just to walk you through, these are
11 nice size units. And I'm -- I'm going to start
12 from the left and walk my way around.

13 Apartment B, which is on the top left
14 corner, is a two bedroom. It's 1,313 square
15 feet. So, these are nice size units.

16 You walk into the apartment, there's a
17 modern contemporary open floor plan design, where
18 you have living room, dining room, and kitchen
19 all open. You have all the materials, the
20 laundry, the stacked laundry there, furnace.

21 And then, you go to the private sector of
22 the -- of the house, where you have a master
23 bedroom suite, which has a bathroom and a walk-in
24 closet. And the bedroom, just so you understand
25 the sizes, it is 11 foot three by 17 foot three.

1 So, these are nice big bedrooms.

2 And then the secondary bedroom, which is
3 small, a kid's bedroom, is 11 by 12 foot three.

4 Walking through, the next one on the side
5 is apartment D. Apartment D, again, you walk
6 into a nice big open space. The entire square
7 footage of this apartment is 1,224 square feet.
8 And then, we have the two bedrooms to the side.
9 The two bedrooms share one bathroom in between.

10 And I guess this is a great example to say,
11 note, that that bathroom, and all the conditions,
12 the kitchen and everything, is ADA compliant.

13 The difference between a three family house
14 and a building like this is that we're providing
15 accessibility. So, somebody that's disabled,
16 somebody in a wheelchair has the ability to use
17 this bathroom, has the ability to use these
18 bedrooms, because there's an elevator in the
19 building, because of the dimension of our
20 criteria that's required by Code, in order to
21 build something like this.

22 And then, you keep on moving across. You
23 have a trash chute, so trash is contained by
24 using the trash chute by the stairs. And then
25 you have another apartment. Apartment C, which

1 is 843 square feet. And it's the same concept.
2 Open area, and then bedrooms.

3 And then the last apartment, which is along
4 the middle of the house, it's apartment A. It's
5 882 square feet. And that's a one bedroom plus
6 den.

7 So, we have -- we designed the one bedroom
8 and it's one bath, along the front. And then
9 there's a small office along the back of it, so
10 that it works as a good home office.

11 Moving towards the elevations.

12 Thank you.

13 This Board knows how I design. I'm very
14 conscious of the neighborhood, very conscious of
15 the way we build in Union City and how you build
16 in Union City.

17 So, one of the things that I think are very
18 important is --

19 MR. ALONSO: Mr. Chairman, I think this was
20 not submitted.

21 Correct?

22 MR. PEREIRAS: It was not.

23 MR. ALONSO: So, we'll mark this as A-1
24 with today's date.

25 And please identify for the record what A-1

1 is.

2 MR. PEREIRAS: A-1 is an Architectural
3 Rendering -- Rendering. It's my artistic
4 interpretation of what this façade is going to
5 look like, to the best of my ability.

6 Can I borrow a pen?

7 And for the record, I'm marking the back
8 rear corner as A-1.

9
10 (Whereupon, Architectural Rendering was
11 received and marked as Exhibit A-1.)

12

13 MR. ALONSO: Thank you.

14 MR. PANEQUE: Mr. Pereiras, just give the
15 public an opportunity to view it, please.

16 MR. PEREIRAS: And I'll try to step back so
17 that everyone could see. I hope I did a good job
18 before. I'm sorry if I didn't.

19 So, it's very important, when we're talking
20 about the scale of Union City. The typical scale
21 is a 25 by 100. Those three family houses that
22 we talked about.

23 But in order to make it into a neighborhood
24 and have a larger scale, which would be
25 appropriate, as a better planning alternative, is

1 | that we had to break up that façade by -- and
2 | these vertical elements, as well, to make it fit
3 | in.

4 | So, one of the ways we do that is by
5 | alternating materials and alternating the design
6 | and the projections of the building.

7 | So, this portion, which I described as
8 | matching more closely towards the Park Avenue
9 | side, increases -- goes across the entire
10 | building, and it's one material from top to
11 | bottom, and it's designed in a small scale.

12 | And then, it's broken up at equal scales,
13 | roughly, in order to meet that -- that criteria.
14 | And then, we play with the height and the depth
15 | of it, so that this portion, for example,
16 | projects 18 inches, and this portion is flatter.
17 | And then, the ceiling heights are alternating a
18 | couple of feet also. So, it adds that
19 | architectural character.

20 | Our main material that we're doing there is
21 | brick. We have two main colors of brick. We
22 | love brick in Union City. I love brick, as well.
23 | And that's brick, the large front, but we don't
24 | want a big brick mass. So, we're breaking it up
25 | with some metal siding that has a wood finish to

1 it. And those are the two portions that we call
2 out here.

3 The scale of it is very important also. As
4 you could see, I break up the pedestrian level
5 with the rest of the building. So, we try to
6 define that so that there's a visual line that
7 reads along here, that really reduces the
8 building size, so that it doesn't feel like a
9 large building, it feels like a more pedestrian
10 and user friendly.

11 So, these canopies are able to do that.
12 The scale of the windows, and the way we play
13 with the materiality, so that when you see this,
14 it fits in perfectly with the neighborhood, it
15 fits in perfectly with the scale of -- of the
16 pedestrian, and it fits in perfectly with the
17 scale of -- of what's there.

18 That concludes my testimony. I'm open for
19 questions.

20 MR. ALONSO: Okay.

21 Can you just identify where the mechanicals
22 are going to be located?

23 MR. PEREIRAS: Oh, I'd love to. Okay.

24 So -- so, the heating for each of the
25 apartments, it's going to be a split system, and

1 each of the apartments has mechanical systems
2 that contains the furnace. Then, the condensers
3 of that are located on the roof. And that roof,
4 the way we designed it, has a three foot six
5 parapet, so you can't see that equipment from
6 anywhere around.

7 So, the -- so, it's basically completely
8 blocked off and doesn't hinder or obstruct any
9 visually -- anything visually and definitely
10 can't hear it from the neighboring houses,
11 because it's on the roof and covered by the --
12 the three foot six parapet.

13 Beyond that, there's no real -- there's a
14 mechanical room along the ground level. This
15 houses our water heaters and sprinkler systems.
16 It's all contained within the building.

17 MR. ALONSO: Okay.

18 I have no further questions.

19 CHAIRMAN MAROTTA: Any questions by members
20 of the Board of the architect?

21 Any members of the public have a question
22 of the architect?

23 Come on up.

24 (Whereupon, there was a pause in the
25 proceedings.)

1 MR. DILLON: Please raise your right hand.

2 MR. SANCHEZ: Yes.

3 MR. DILLON: Do you swear the testimony
4 you're about -- you're about to give this Board
5 is the whole truth?

6 MR. SANCHEZ: Yes.

7 MR. DILLON: State your name and spell it
8 for the record.

9 MR. SANCHEZ: My named is Pedro, last name
10 Sanchez.

11 MR. DILLON: Thank you.

12 MR. SANCHEZ: And if I may, I'm an
13 architect, as well, and if I could give
14 professional testimony?

15 MR. PANEQUE: Mr. Sanchez, will you give us
16 your credentials, please?

17 MR. SANCHEZ: Yes.

18 MR. PANEQUE: And then, it would be up to
19 the Board to either recognize you or not, as an
20 expert in the field.

21 MR. SANCHEZ: Absolutely.

22 MR. ALONSO: But Mr. Paneque, is this for
23 --

24 CHAIRMAN MAROTTA: Speak a little louder,
25 sir.

1 MR. ALONSO: Is this for questioning or
2 comments?

3 MR. PANEQUE: Are you making --

4 MR. SANCHEZ: Both.

5 MR. PANEQUE: Both? Okay.

6 MR. ALONSO: Okay. Because usually you
7 have comments at the end or -- and I defer to the
8 Board, however you --

9 MR. PANEQUE: Yeah. You want to ask
10 questions first, or --

11 Well, let's -- let's have Mr. Sanchez's
12 credentials.

13 MR. ALONSO: Okay.

14 MR. SANCHEZ: My name is Pedro Sanchez.

15 I'm a licensed architect in the State of
16 New Jersey. For the record, my license number is
17 21AIO1439900. And it renews on 07/31/2019.

18 MR. PANEQUE: You have to give us some
19 educational background.

20 MR. SANCHEZ: Oh.

21 MR. PANEQUE: And your experience, Mr.
22 Sanchez --

23 MR. SANCHEZ: Sure.

24 MR. PANEQUE: -- in order for this Board to
25 recognize you as an expert.

1 MR. SANCHEZ: I apologize.

2 I -- I have a Bachelors in architecture
3 from NJIT. I graduated -- graduated in 1992. I
4 got my license as a registered architect in 1998.
5 And I'm also a LEED certified credit
6 professional.

7 MR. PANEQUE: And as you employed as an
8 architect?

9 MR. SANCHEZ: Yes. I work for Kajima
10 Architects. They're a design build company in
11 East Rutherford, New Jersey.

12 CHAIRMAN MAROTTA: Accept him as an expert.

13 MR. PANEQUE: Thank you, Mr. Chairman.

14 CHAIRMAN MAROTTA: Go ahead, sir.

15 MR. PANEQUE: You're recognized as an
16 expert.

17 MR. SANCHEZ: Okay. If I may ask a couple
18 questions?

19 MR. PANEQUE: Yes.

20 MR. SANCHEZ: Okay. And I apologize. I
21 came here a little late.

22 My question is, how many variances are in
23 this application?

24 MR. PEREIRAS: Well, we have a planner
25 that's going to actually testify to all the

1 | variances in detail.

2 | MR. SANCHEZ: Okay.

3 | MR. PEREIRAS: I think that question's
4 | better suited for him.

5 | MR. SANCHEZ: Okay. So, we'll leave that
6 | for that.

7 | My other question is, the -- the style that
8 | you have, I -- I appreciate you took the
9 | aesthetic, I guess, consideration. And I do
10 | think there was an effort there.

11 | My only concern is not so much the
12 | aesthetics. I like the way you broke up the
13 | building. My concern is the scale. The majority
14 | of the buildings there are two stories, that I
15 | think is three or four stories?

16 | MR. PEREIRAS: It's a four story building.

17 | MR. SANCHEZ: So, it's -- I'm -- I'm very
18 | concerned that you're essentially doubling the
19 | scale of 80 percent of the residential buildings
20 | that are there.

21 | I think Park Avenue, and I think there's
22 | another building built recently that I think only
23 | matches that. So, 80 percent of what is there
24 | does not match that scale.

25 | MR. PEREIRAS: Our planner is going to talk

1 more about the variances that we seek, and why it
2 fits in.

3 What's permitted in that district is three
4 stories, 40 feet.

5 Actually, I'll let the planner describe
6 that --

7 MR. SANCHEZ: Right.

8 MR. PEREIRAS: -- more appropriately.

9 MR. SANCHEZ: And -- and if I may, if I
10 could just, when the planner -- I won't give
11 professional testimony then, but when the planner
12 presents, if I could just make comments at that
13 point?

14 MR. PANEQUE: You could ask questions of
15 the planner at that point.

16 MR. SANCHEZ: Okay.

17 That's all I have for now. Then, I'll
18 reserve the rest of my questions when the planner
19 presents.

20 MR. PEREIRAS: Okay.

21 Thank you.

22 CHAIRMAN MAROTTA: Okay.

23 MR. SANCHEZ: Thank you very much.

24 CHAIRMAN MAROTTA: Any other members of the
25 public have questions?

1 Larry?

2 MR. PRICE: Larry Price. Still under oath
3 -- whatever.

4 Okay, couple question.

5 First, the commercial building next door,
6 what is the commercial building?

7 CHAIRMAN MAROTTA: Speak up, Larry.

8 MR. PEREIRAS: There --

9 MR. PRICE: Oh, sorry.

10 The commercial building.

11 MR. PEREIRAS: So, the commercial building
12 next door is a restaurant. It used to be the
13 Park Avenue Bar and Grill. And very recently it
14 was open, and now it's Vale.

15 So, it's a three story plus roof structure,
16 so it's a four story -- it's in essence, four
17 stories, because the stairs go up to a roof. And
18 all of them are used for commercial purposes.

19 MR. PRICE: Okay.

20 MR. PEREIRAS: It's a restaurant.

21 MR. PRICE: Okay.

22 Then, what's on the site today is also a
23 commercial building?

24 MR. PEREIRAS: What's on the site is also
25 commercial.

1 MR. PRICE: It's a warehouse?

2 MR. PEREIRAS: I'm not sure what it's
3 currently used for, was used for recently.

4 A CITIZEN: Ice cream. It's an ice cream
5 warehouse.

6 MR. PEREIRAS: It -- it's a warehouse.

7 MR. PRICE: It's a ware -- is it currently
8 in use?

9 A CITIZEN: Yes.

10 A CITIZEN: Yes.

11 A CITIZEN: Yes.

12 MR. PRICE: Oh, okay.

13 MR. PANEQUE: I'm just going to caution the
14 public, you're not sworn in, you're not
15 testifying. So, I understand you have the urge
16 to answer the questions, but we have a witness
17 here. He's testifying under oath. We can't have
18 you also just answer out, out of time.

19 Okay. You'll have your opportunity, if you
20 want to come up when the rest of the public comes
21 up, and then you could explain what's there.

22 Thank you.

23 MR. PRICE: Apartment C, 843 square feet.

24 MR. PEREIRAS: Yes.

25 MR. PRICE: Is that a one bedroom or a two

1 bedroom?

2 MR. PEREIRAS: It is, I believe, a two
3 bedroom and I'll pull up the plan to show you.

4 Apartment C is a two bedroom. You walk in,
5 open space, kitchen, dining room, living room.
6 And then, two bedrooms along the front.

7 MR. PRICE: Okay.

8 Okay. The last question I'll ask here, you
9 -- you're referring to the prevailing setback.
10 Okay?

11 MR. PEREIRAS: Yes.

12 MR. PRICE: How did you determine the
13 prevailing setback?

14 MR. PEREIRAS: I haven't determined the
15 prevailing setback and we are requesting a front
16 yard variance. The -- this isn't prevailing
17 setback because prevailing setback is --
18 typically the way it is designed and applied in
19 our Ordinance, is that you have a single front
20 yard setback that we're adhering to. We don't
21 meet that.

22 I'm saying that our building is stepping
23 back from the front yard setback that is zero
24 along the east, and it is matching the front yard
25 setback that is on the west.

1 Beyond that, it's still a variance and our
2 planner is going to speak more about that.

3 MR. PRICE: Okay.

4 So, you are requesting a front yard
5 setback.

6 MR. PEREIRAS: Yes, we are.

7 MR. PRICE: Okay.

8 Thank you.

9 MR. PANEQUE: Yes, ma'am?

10 MR. PRICE: Oh, excuse me. One last
11 question.

12 How tall is this building?

13 MR. PEREIRAS: I'll tell you exactly. It's
14 41 feet.

15 MR. PRICE: Forty-one feet.

16 Thank you.

17 CHAIRMAN MAROTTA: Any other members of the
18 public have any questions?

19 MS. BRANDES: Barbara Brandes --

20 MR. DILLON: You got to --

21 MS. BRANDES: -- B-R-A-N-D-E-S.

22 CHAIRMAN MAROTTA: Come up over here --

23 MR. DILLON: Hold on.

24 CHAIRMAN MAROTTA: -- please, miss.

25 MR. DILLON: Please raise your right hand.

1 Do you swear the testimony you're about to
2 give this Board is the whole truth?

3 MS. BRANDES: Yes.

4 MR. DILLON: State your name and spell it
5 for the record.

6 MS. BRANDES: Barbara Brandes,
7 B-R-A-N-D-E-S.

8 MR. DILLON: Thank you.

9 MS. BRANDES: Okay.

10 Just a question --

11 MR. DILLON: Can you stand by that
12 microphone?

13 MS. BRANDES: -- of clarification.

14 MR. DILLON: Ms. Brandes?

15 CHAIRMAN MAROTTA: Miss?

16 MS. BRANDES: Oh.

17 MR. DILLON: You got to stand by the mic.

18 MS. BRANDES: Okay.

19 CHAIRMAN MAROTTA: Got a microphone here.

20 MS. BRANDES: Of the 12 apartments, am I
21 correct that nine are two bedroom and three are
22 one bedroom?

23 MR. PEREIRAS: One bedroom plus den. You
24 are correct, ma'am. Nine two bedrooms and -- and
25 three one bedroom plus den.

1 MS. BRANDES: Okay, that's all for now.

2 Thank you.

3 CHAIRMAN MAROTTA: Any other members of the
4 public?

5 Come on up, sir.

6 MR. SOMMA: Sorry --

7 MR. DILLON: Please raise your right hand.

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

10 MR. SOMMA: I do.

11 MR. DILLON: State your name and spell it
12 for the record.

13 MR. SOMMA: Michael Somma.

14 CHAIRMAN MAROTTA: Address?

15 MR. DILLON: S-O-M-A?

16 MR. SOMMA: One -- yes. S-O-M-M-A. It's
17 two Ms.

18 MR. DILLON: Okay. Got it.

19 Thank you.

20 MR. SOMMA: I live at 122 35th Street.

21 My question is and my concern is the size
22 of the structure. I know you told me that it
23 would be better to build something of that size
24 with 12 units than have three two family houses,
25 which would be three families. And I kind of

1 disagree because it kind of fits in with the
2 architect of the City, of the street.

3 If you see the street, which he has, it is
4 all two family houses. The only big buildings
5 there are is at the end of the block, which is
6 basically facing Weehawken, Park Avenue. They've
7 been there for -- you know, 40 years.

8 The thing is that that is a massive
9 building. The house that's next to it is just a
10 two family. That's literally twice the height of
11 the building that's next to it, is a two family.

12 That's my concern.

13 I understand what you said, there's three
14 -- there would be -- would be 12 cars, really.
15 You said there's six cars tandem. If you built
16 three two family houses, there's two cars in the
17 front in the driveway, and two cars in the back.
18 So, you still have 12 parking spots.

19 And there's still smaller two family houses
20 kind of bring in a different type of -- of a
21 renter. And it's usually owner occupied, which
22 is another good thing about it.

23 They built two beautiful buildings. I'm
24 sure you've seen them, on Park Avenue across the
25 street from where the Pathmark is, it's an Acme,

1 they built two beautiful buildings there. I'm
2 telling you, they're gorgeous. Two two families,
3 they're really threes, but something like that
4 would definitely fit in.

5 The other thing is, you were asking before
6 about the building. There is a business that's
7 in there now. There's actually two businesses.
8 There is an ice cream -- the guy has ice cream
9 trucks. He's been in there for years, which --
10 you know, he's going to have to get displaced out
11 of there.

12 There's another business right next to it,
13 person makes tee shirts. It used to be a machine
14 shop warehouse. That's -- that's what they did
15 before. And that's only one -- it's just one
16 level, you know?

17 That's -- my concern is the size of the
18 building.

19 MR. PEREIRAS: Sir, just -- thank you. And
20 I thank you for the compliment, because I
21 designed those two buildings on Park Avenue.

22 MR. SOMMA: They're beautiful buildings.
23 They are.

24 MR. PEREIRAS: But let's talk about those
25 two buildings. Those two buildings are --

1 | neither of them are owner occupy -- actually, one
2 | of them is not owned occupied.

3 | MR. SOMMA: Um hum.

4 | MR. PEREIRAS: One of them is, at this
5 | point. He's looking to move.

6 | But those -- those have two cars in the
7 | pad, on the --

8 | MR. SOMMA: Right.

9 | MR. PEREIRAS: -- on the driveway, and two
10 | inside.

11 | MR. SOMMA: Inside.

12 | MR. PEREIRAS: And there's three units
13 | there. So --

14 | MR. SOMMA: Um hum.

15 | MR. PEREIRAS: -- one of the units has no
16 | parking whatsoever. They park on the street.

17 | So, that's the key difference and that's
18 | one of the main reasons I say it's a very
19 | different solution in this building.

20 | MR. SOMMA: Um hum.

21 | MR. PEREIRAS: Because even though we have
22 | the same number of parking, in this building,
23 | everybody gets their own parking spot. They
24 | could go into their own spot.

25 | Whereas there, one of the units, no matter

1 | how you cut it, is going to miss a spot. And
2 | you'll multiply that by three. So, three units
3 | without a parking spot that are going to be
4 | parking in the street. They're going to take
5 | away --

6 | MR. SOMMA: Well --

7 | MR. PEREIRAS: -- parking from the
8 | neighborhood.

9 | MR. SOMMA: They park in the driveway. I --
10 | I watch --

11 | MR. PEREIRAS: Right.

12 | MR. SOMMA: -- those buildings. I admire
13 | them. They're nice -- they're nice houses.

14 | MR. PEREIRAS: Right.

15 | MR. SOMMA: And --

16 | MR. PEREIRAS: Thank you.

17 | MR. SOMMA: They're really in an area where
18 | there's a lot of traffic going by.

19 | MR. PEREIRAS: Um hum.

20 | MR. SOMMA: But I -- I've gone by there
21 | more than a few times, and I seen just one car in
22 | the driveway -- you know, there's -- there's a
23 | GMC is parked in there. But those are nice
24 | buildings.

25 | But it's also more in scale with the area

1 and with the neighborhood. I mean, if that
2 building was one less story, and four less units,
3 I would say it probably -- it fit in a little
4 better. But my concern is the size of it,
5 especially across the street is only -- 108 is
6 only two stories. A ground level, garages, and
7 then two levels on top of it.

8 Thank you.

9 MS. GUTIERREZ: Thank you.

10 CHAIRMAN MAROTTA: Any other members of the
11 public?

12 MR. MEIS: Yes.

13 CHAIRMAN MAROTTA: Come on up.

14 MR. DILLON: Please raise your right hand.

15 MR. MEIS: My name is --

16 MR. DILLON: Do you swear the test -- do
17 you swear that the testimony you're about to give
18 this Board is the whole truth?

19 MR. MEIS: Yes, I do.

20 MR. DILLON: State your name and spell it
21 for the record.

22 MR. MEIS: Jacobo Meis, I'm retired.

23 MR. DILLON: What was your first name?

24 MR. MEIS: Meis, M-E-I-S.

25 Oh, my first name?

1 MS. GUTIERREZ: No.

2 A VOICE: Jacobo.

3 MR. MEIS: Si'. Jacobo. Yeah.

4 MR. DILLON: Can you spell that?

5 MR. MEIS: Si'. J-A-C-O-B-O.

6 MR. DILLON: Okay.

7 Thank you.

8 MR. MEIS: My concern is the symmetric
9 of the street. All the houses and the backyard
10 are symmetric. The architect has come now,
11 they're going to -- he's going to bring the whole
12 thing. I would like to see those two or three
13 family houses with two floors. And that's fine
14 to me, but that's a monster building. It's going
15 to go way higher and who the hell knows when the
16 -- we going to see the sunlight, at what time we
17 going to see the sunlight on that street.

18 That street is not -- is -- is wide, is --
19 is a normal street; two cars and -- and one car
20 going one way.

21 So, now, we got to put more heat in the --
22 in the houses in order to heat our houses.

23 This is my question and I don't like this
24 big building right in the middle of the block.

25 Thank you.

1 MR. GRULLON: Thank you.

2 MR. PEREIRAS: There is something I should

3 --

4 CHAIRMAN MAROTTA: Any other members of the
5 public?

6 MR. PEREIRAS: -- I think it's important to
7 say in response to that, that as of right, we're
8 allowed to build 40 feet. So, we're -- and --
9 and we can match that 40 foot height on our -- on
10 our building.

11 So, we're not asking for a variance on
12 height. If we had a three family house, we would
13 build it at 40 feet, because you want nice tall
14 ceilings. You want to have a nice space.

15 So, I understand the concern of the public.
16 The height, as far as number of feet, that's
17 going to be there no matter what. The real
18 question is number of stories.

19 And in this proposal, we have four stories,
20 which is not allowed. But if we were to do a
21 three family house, we would do a three story, 40
22 feet -- foot house, which is the same thing as
23 what you would have with this building, which as
24 far as height is something -- if that's your
25 concern, changing this and doing three family

1 houses is not going to change that concern. It's
2 still going to happen. It's still going to be
3 the same thing.

4 CHAIRMAN MAROTTA: Any other members of the
5 public?

6 Any other members of the Board?

7 I have a question.

8 With respect to the parking spaces, the
9 Code requires a width of nine feet and a
10 circulation aisle of 24 feet.

11 You have prepared four of the parking
12 spaces eight feet instead of nine feet wide. And
13 you have a circulation aisle of 22 feet instead
14 of 24 feet.

15 Could you explain to me why?

16 MR. PEREIRAS: I'd be happy to.

17 First, I'd like to correct you. We have a
18 drive aisle that is 24 feet throughout the
19 building, which is what is the recommendation,
20 and it's a recommendation.

21 The smallest point in which you travel that
22 there's a -- there's a reduction, and that's the
23 width of the stairwell, that's eight feet, that
24 portion of the drive aisle is reduced two feet.

25 But we have a 12 foot four -- or foot aisle

1 as is the recommendation -- State
2 recommendations.

3 And by the way, there's a traffic
4 consultant who's going to talk more at length.
5 But let me talk at least to the architecture on
6 this.

7 In addition to that, I'd like to correct
8 you. We have nine foot parking spaces, and we
9 have nine foot parking spaces throughout, except
10 for the first four that I show as eight foot.
11 Now, I could come to this Board and I could have
12 actually said that those are nine foot parking
13 spaces very easily. Why? Because I designed
14 them. I present a little bit differently.

15 I'm showing one foot six extra space along
16 the side of the parking space on one end. I'm
17 showing one foot six on the other side of the
18 parking space. I'm showing more navigation to
19 make these cars easier, and so that you could
20 open your doors.

21 I can actually come here and very easily
22 just change this to nine foot. Nothing changes
23 architecturally. And maybe I should do that just
24 to satisfy Mr. Marotta and say that these are
25 nine foot spaces. I actually feel that I should

1 have taken that approach.

2 But we have more than ample space. I'm
3 designing these things so that cars could easily
4 flow into them, easily open their doors. And
5 we're not reducing this parking dimension in any
6 way.

7 And maybe from now on, I'll -- I'll
8 dimension them like that. I'll dimension them
9 nine feet and not show the additional extra
10 spaces I show around the car.

11 CHAIRMAN MAROTTA: Anybody have any more
12 questions?

13 Call your next witness.

14 MR. ALONSO: Mr. Peregoy?

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

17 MR. DILLON: Please raise your right hand.

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

20 MR. PEREGOY: Yes, I do.

21 MR. DILLON: State your name and spell it
22 for the record.

23 MR. PEREGOY: Sure.

24 My name is Craig, C-R-A-I-G, Peregoy,
25 P-E-R-E-G-O-Y.

1 MR. DILLON:. Thank you.

2 MR. ALONSO: Mr. Chairman, Mr. Peregoy has
3 been before the Board in the past, accepted in
4 the area of traffic engineering.

5 I would ask that his qualifications be
6 accepted.

7 CHAIRMAN MAROTTA: Go ahead.

8 MR. ALONSO: Thank you.

9 Mr. Peregoy, were you retained as a traffic
10 engineer in this application?

11 MR. PEREGOY: Yes, I was.

12 MR. ALONSO: Okay.

13 And what was the scope of your -- of the
14 work that was performed?

15 MR. PEREGOY: We performed a traffic impact
16 assessment of how -- of the traffic impacts of
17 this project, and we also reviewed the parking
18 and onsite circulation and the access driveway.

19 MR. ALONSO: Okay.

20 I'm going to ask you to review your
21 analysis with the Board.

22 MR. PEREGOY: Sure.

23 As -- as has been established now, I think
24 you realize that the property is occupied by a
25 6,000 -- approximately 6,000 square foot

1 warehouse building. It's got a garage door onto
2 35th Street and a loading zone. So, there's no
3 parking along the frontage.

4 What we're proposing will have a single
5 ingress and egress driveway. So, you actually
6 pickup two on-street parking spaces. The loading
7 zone won't be necessary anymore. So that's an
8 improvement, in terms of the access and -- and
9 again, the ability to pickup some on-street
10 parking spaces.

11 In terms of traffic volumes, using the
12 Institute of Transportation Engineers trip
13 generation rates for this type of building, we're
14 looking for the peak hourly volumes, the morning
15 and evening peak hour volumes. That's where
16 you'd see this building generate its most
17 traffic, obviously commuting to and from work.

18 And based on the ITE data, this building
19 would generate a total of only four trips in the
20 morning peak hour, and six in the evening. That
21 translates to one in and three out in the
22 morning, four in and two out in the evening.

23 Now, we're on a one way street, so you --
24 all the traffic has to access via Park Avenue,
25 exit via Hudson.

1 So, the maximum impact that you have in an
2 hour at any intersection on either side is four
3 vehicles. That's an average of one car every 15
4 minutes, something that you would not even notice
5 if you were standing on the street today, versus
6 when this building's occupied. You're not going
7 to notice any traffic impact from this.

8 And that's without consideration of the
9 fact that this is right near Boulevard East.
10 Lots of mass transit, ample mass transit in the
11 area, which is one of the attractive features of
12 prospective tenants and the reason that they'd
13 move into this building is to avail themselves of
14 that mass transit.

15 So, I think you'll see even less -- less
16 traffic than that. In fact, a typical scenario
17 where you have what's called a significant
18 increase in traffic, where you'd want to perform
19 a full detailed traffic study, would be a hundred
20 or more trips in an hour. And again, here, we're
21 a maximum of six.

22 So, it's not something that's going to have
23 any impact on the traffic without even
24 consideration of the fact that you're removing a
25 warehouse that presumably has some truck traffic,

1 and many of these residents are going to use mass
2 transit and not drive to and from work.

3 I think there was a little discussion
4 earlier on the -- the on-site dimensions. I
5 think Manny covered that really well.

6 We really do, in effect, have nine foot
7 wide parking spaces throughout, but he took into
8 account where there was a pole for structure,
9 which obviously is necessary in a -- in a
10 residential garage.

11 But in terms of the actual space sizes and
12 door swings, we have nine feet. That's a
13 generous dimension. You don't usually see that
14 in garaged residential parking that's assigned
15 parking spaces and very low turnover. You can
16 get away with smaller dimensions. And in this
17 case, we're not -- it's -- it's a very nicely,
18 luxuriously sized garage for this type of
19 development.

20 We do have 13 parking spaces proposed for
21 the 12 units. So, each unit will get one space
22 and -- and theoretically, one could get two
23 parking spaces.

24 If I look at the census data for this
25 particular census tract in Union City, the

1 average vehicle ownership per household is at
2 0.67 vehicles per unit. So, that comes out to a
3 total of eight parking spaces.

4 And we've done surveys at similar buildings
5 in Hudson County. These types of -- these types
6 of newer rental apartment buildings, just -- just
7 like what we're proposing, and the most that
8 we've ever found is 0.9 spaces per unit. So,
9 invariably, we're always looking at less than one
10 space per unit demand. And here, we have a
11 little bit more than that, one space per unit
12 provided.

13 And again, in a section of town where you
14 have excellent access to mass transit, which I
15 think is really going to be the driving force for
16 -- for people to move into this building.

17 MR. ALONSO: All right.

18 Does that conclude your testimony?

19 MR. PEREGOY: It does.

20 MR. ALONSO: The only other issue raised by
21 Mr. Marotta was the aisle width. Mr. Pereiras
22 testified --

23 MR. PEREGOY: Yes.

24 MR. ALONSO: -- that it was 24 feet, with
25 the exception of the -- the one section where the

1 stair is.

2 MR. PEREGOY: It -- it goes down to 22
3 feet, which is more than adequate to -- to make a
4 swing in there. That 24 foot wide dimension is
5 the same dimension that you'd see at a
6 supermarket, a shopping center, a Walmart.

7 So, certainly, you can have a little bit of
8 relaxed dimensional requirements in a residential
9 parking garage; 22 feet for a typical passenger
10 vehicle is no problem, especially with a nine
11 foot wide space. The swing in and out will be --
12 will be very easy to do.

13 Again, these are generous dimensions for a
14 residential garage.

15 MR. ALONSO: Right.

16 And based on your projected trips that will
17 be generated by this project, if approved, would
18 there be any degradation in the levels of
19 service?

20 MR. PEREGOY: Absolutely not. You -- you
21 wouldn't notice the difference from one day to
22 the next with -- with a small building, this
23 size, will not generate a substantial amount of
24 traffic.

25 MR. ALONSO: Thank you.

1 I have no further questions.

2 CHAIRMAN MAROTTA: Board members have any
3 questions?

4 MR. PRESSEY: When was the traffic analysis
5 done?

6 MR. PEREGOY: We didn't -- we didn't take
7 traffic counts, we just -- this is such a small
8 building, it generates such a little bit of
9 traffic, there's -- taking counts and doing a
10 level of service analysis is -- is pointless.
11 One car every 15 minutes isn't going to change
12 anything.

13 CHAIRMAN MAROTTA: Any other questions?

14 VICE CHAIRMAN BONACCI: I do. I do.

15 CHAIRMAN MAROTTA: Go ahead.

16 VICE CHAIRMAN BONACCI: Okay. I'm just
17 going over Mr. Spatz's memo. The RSIS standard,
18 it states here that it requires the provision of
19 1.8 parking spaces for each one bedroom, two
20 parking spaces for each two bedroom unit.

21 I'm just going over this because you talked
22 about parking spaces.

23 MR. PEREGOY: Yup.

24 VICE CHAIRMAN BONACCI: So that would mean
25 that a total of 23 parking spaces would be

1 required for the building. And the site plan
2 indicates that 13 parking spaces will be provided
3 on the ground floor.

4 So, my question, does that mean that you
5 guys are ten parking spaces short?

6 MR. PEREGOY: The -- the technical
7 requirement is the Residential Site Improvement
8 Standard. It's a statewide requirement that does
9 say that we need 23 spaces.

10 That's the same requirement that -- that
11 I'd be required if I was building a garden
12 apartment complex out in Sussex County, where
13 there's no mass transit, no place to park on the
14 street, nothing else.

15 The RSIS does indicate that -- that that
16 requirement can be relaxed based on certain
17 criteria, including availability of mass transit,
18 urban versus suburban location, household
19 characteristics. Again, I gave you the census
20 data.

21 So, the framework is in the RSIS to relax
22 it, but the technical requirement that's, like I
23 said, a statewide blanket requirement, whether
24 you're right next to Boulevard East or in the
25 middle of the woods, would technically be 23.

1 VICE CHAIRMAN BONACCI: So, technically, 23
2 parking spaces, you guys are providing 13. And
3 technically, ten parking spaces short.

4 MR. PEREGOY: Ten parking spaces short of
5 the technicality, but -- but where that comes
6 from does have a provision to reduce that
7 requirement.

8 And again, in -- in New Jersey, 86 percent
9 of people use a vehicle to drive to and from
10 work, which is where the -- it's a statewide
11 requirement.

12 In this census tract, 25 percent of people
13 use a vehicle to commute to and from work. So,
14 there's a -- that, the actual parking demand are
15 -- are all good basis for the lower requirement.

16 MR. ALONSO: Right. And you addressed that
17 as part of your testimony, when you indicated
18 that your analysis shows that actual demand is
19 less than one parking space per unit.

20 MR. PEREGOY: Actual demand from our
21 experience in buildings that we've counted that,
22 are similar less than one per unit. Census data,
23 I said it's .67 per unit. And again, you had
24 that 25 percent use a car versus 86 percent in
25 New Jersey, which is where that 23 number come

1 from, the statewide number.

2 VICE CHAIRMAN BONACCI: Thank you.

3 CHAIRMAN MAROTTA: Tell me, do you have
4 those reports with you?

5 MR. PEREGOY: The reports of --

6 CHAIRMAN MAROTTA: Reports with respect to
7 the response you gave to Mr. Bonacci?

8 MR. PEREGOY: The -- what reports? I don't
9 have --

10 CHAIRMAN MAROTTA: You said something about
11 --

12 MR. PEREGOY: The census? It's online.
13 It's on the internet.

14 CHAIRMAN MAROTTA: Yeah. You don't have
15 any of that with you?

16 MR. PEREGOY: I have the -- the website
17 printouts. The census data is on the internet.

18 CHAIRMAN MAROTTA: Any members of the
19 public have any questions of this gentleman?

20 You have a question?

21 MR. DILLON: Please raise your right hand.

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

24 MR. DOMENECH: Yes.

25 MR. DILLON: State your name and spell it

1 for the record.

2 MR. DOMENECH: My name is Victor Domenech,
3 D-O-M-E-N-E-C-H.

4 MR. DILLON: Thank you.

5 MR. DOMENECH: Okay. And like he said, he
6 didn't make a traffic analysis. This is a very
7 busy street. We have a school in the corner
8 between Palisade and -- and Hudson. There's a
9 school in there. And this is a very, very busy
10 street.

11 There's no 15 -- 15 minutes between car,
12 maybe 15 seconds is more appropriate than 15
13 minutes.

14 MR. PEREGOY: That -- that every 15 minutes
15 is how much building -- how much traffic this
16 building will generate. Yes, it's a busy street.
17 Park Avenue is very busy.

18 A CITIZEN: Not Park --

19 MR. DOMENECH: Not Park Avenue, 35th
20 Street.

21 MR. PEREGOY: We are --

22 MR. DOMENECH: Not Park Avenue.

23 MR. PEREGOY: -- 35th Street's a --

24 MR. DOMENECH: 35th Street.

25 MS. GUTIERREZ: One at a time.

1 MR. PEREGOY: The -- the traffic volume --
2 the extra volume that will come from this, which
3 actually may be nothing when you take away the
4 warehouse operation, won't make any difference.
5 It's not going to make it better, but it's not
6 going to make it any different.

7 A CITIZEN: It's more cars.

8 CHAIRMAN MAROTTA: Any other body -- any
9 other statement?

10 Any other public?

11 Any other comments or questions from the
12 Board?

13 VICE CHAIRMAN BONACCI: Do you guys have
14 any more witnesses?

15 MR. ALONSO: Yes.

16 VICE CHAIRMAN BONACCI: You do?

17 MR. ALONSO: A planner.

18 VICE CHAIRMAN BONACCI: I'll save my last
19 questions for --

20 MR. ALONSO: Okay.

21 VICE CHAIRMAN BONACCI: -- when you guys
22 are all done.

23 CHAIRMAN MAROTTA: Call your next witness,
24 please.

25 MR. ALONSO: Mr. --

1 A VOICE: I think McDonough's on his way
2 here. He should be here in like two minutes.
3 I'll call him and see if he's on his --

4 MR. ALONSO: Yes.

5 A VOICE: I'm going to call him right now.

6 CHAIRMAN MAROTTA: Who's your next witness?

7 MR. ALONSO: That's Mr. McDonough. He's
8 our planner.

9 We're just going to give him a call. He
10 should be outside just arriving.

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

13 MR. PANEQUE: Mr. Marotta, we're going to
14 go off the record.

15 CHAIRMAN MAROTTA: Yes.

16 (Off the record at 9:31:00 p.m.)

17 (On the record at 9:31:26 p.m.)

18 MR. PANEQUE: Are you calling the session
19 at ten o'clock?

20 CHAIRMAN MAROTTA: Yes.

21 MR. PANEQUE: Based on that, do you want to
22 make an announcement to the rest of the people
23 that are here, because there's no sense in having
24 everybody just wait another half hour if they're
25 just going to be sent home at ten.

1 MR. PRESSEY: Yeah.

2 CHAIRMAN MAROTTA: We're going to end this
3 session at ten o'clock. If there's any other
4 applicant here, we're not going to start that --

5 But I think these people here are on this
6 application.

7 MR. PANEQUE: No, these people, yes. I'm
8 just saying, a general announcement --

9 CHAIRMAN MAROTTA: Okay.

10 MR. PANEQUE: -- so that we don't have
11 people wait --

12 CHAIRMAN MAROTTA: Right.

13 MR. PANEQUE: -- another half hour to go
14 home.

15 MS. GUTIERREZ: We have four application
16 that are here.

17 CHAIRMAN MAROTTA: Ten o'clock we will
18 close.

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

21 MR. PANEQUE: Yeah. We're going to need to
22 call each case, so we'll do that in the next --
23 as soon as -- Carlos is back.

24 A VOICE: Yeah.

25 MR. PANEQUE: Let's call each -- Carlos,

1 while we wait for Mr. McDonough, let's take care
2 of housekeeping.

3 THE SECRETARY: Yes. For the record, we
4 check every single door of the building, every
5 single door is open.

6 MR. PANEQUE: Okay.

7 THE SECRETARY: Thank you.

8 MS. GUTIERREZ: Okay.

9 Thank you.

10 MR. PRESSEY: Oh, thank you.

11 MR. PANEQUE: All right.

12 Mr. Vallejo, if we can call the other cases
13 and adjourn them, because we're not going to get
14 to them.

15 THE SECRETARY: Every single one?

16 MR. PANEQUE: Well, let's -- let's start
17 with one at a time.

18 THE SECRETARY: All right.

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

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1 **Lidia Sevillano - 424 8th Street:**

2

3 MR. BONACCI: Number 4.

4 (Whereupon, there was a pause in the
5 proceedings.)

6 MR. PANEQUE: Want to start with number 4?

7 THE SECRETARY: Lidia Sevillano, 420 (sic)
8 8th Street.

9 Mrs. Pereiras?

10 MS. PEREIRAS: Thank you.

11 MR. PANEQUE: For the record, I've been
12 provided by Ms. Pereiras with the following
13 documentation:

14 A certification as to publication and
15 service, giving notice of tonight's hearing, for
16 all properties --

17 CHAIRMAN MAROTTA: Excuse -- excuse me?
18 We're taking another application now?

19 MR. PANEQUE: No, sir.

20 MS. GUTIERREZ: No.

21 MR. PANEQUE: We're taking jurisdiction
22 over the next application, so that we can adjourn
23 it.

24 CHAIRMAN MAROTTA: Okay.

25 MR. PANEQUE: And she won't have to

1 republish and renotice for the next meeting.

2 CHAIRMAN MAROTTA: Okay. Very good.

3 MR. PANEQUE: Okay?

4 Continuing on the jurisdictional proofs.

5 We have the certification of publication
6 and notice to all property owners within the 200
7 foot radius of 424 8th Street.

8 I also have been provided with a copy of
9 the newspaper article that was published on
10 December 2nd, as well as an Affidavit of
11 Publication, giving notice of tonight's hearing,
12 with respect to the property located at 424 8th
13 Street.

14 I've also been provided with the Tax
15 Assessor's list with a date of November 28th, all
16 properties within the 200 foot radius of the 424
17 8th Street.

18 I've been provided with the certified mail
19 slips, with a date of December 4th, postmarked, as
20 well as the green cards that have come back to
21 date.

22 Based on the documentation that's been
23 provided, this Board has the jurisdiction to hear
24 this matter. However, since we have a ten
25 o'clock curfew, Ms. Pereiras, it's going to be

1 adjourned.

2 Mr. Vallejo, which --

3 THE SECRETARY: January 11.

4 MR. PANEQUE: Okay. For anybody who's here
5 on the application regarding 424 8th Street, this
6 application is being adjourned to January 11th.

7 Okay?

8 MS. PEREIRAS: Thank you very much,
9 counselor.

10 MR. PANEQUE: Thank you.

11 No further notice will be required, Ms.
12 Pereiras.

13 MS. PEREIRAS: Thank you.

14 THE SECRETARY: Can I have a motion to
15 adjourn this application for January 11, 2018?

16 Motion -- motion by Mr. Bonacci.

17 MS. GUTIERREZ: Second it.

18 THE SECRETARY: Second by Ms. Gutierrez.

19 Roll call on the motion to adjourn this
20 application, no new -- no -- no new notice
21 required.

22 Mr. Marotta?

23 CHAIRMAN MAROTTA: Yes.

24 THE SECRETARY: Mr. Bonacci?

25 VICE CHAIRMAN BONACCI: Yes.

1 THE SECRETARY: Ms. Gutierrez?

2 MS. GUTIERREZ: Yes.

3 THE SECRETARY: Mr. Grullon?

4 MR. GRULLON: Yes.

5 THE SECRETARY: Mr. Pressey?

6 MR. PRESSEY: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Mr. Ortiz?

10 MR. ORTIZ: Yes.

11 THE SECRETARY: Seven in favor, motion
12 carries.

13 No new notice required.

14 Thank you.

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1 **Nirvana Realty, LLC -**

2 **2105 Bergenline Avenue:**

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4 THE SECRETARY: Okay.

5 The next application, Nirvana Realty, LLC,
6 2105 Bergenline Avenue.

7 Mrs. Pereiras, please?

8 MS. PEREIRAS: Bianca Pereiras, on behalf
9 of Nirvana Realty.

10 If the Board may recall, we had presented
11 at the last meeting. The only reason that it was
12 adjourned is because the Chairman wanted to
13 confer with the Board Planner and had a question
14 for him.

15 So, our presentation is complete and we're
16 ready for a vote.

17 CHAIRMAN MAROTTA: We're going to adjourn
18 that one, too. Aren't we?

19 MR. PANEQUE: It's going to be adjourned,
20 yes.

21 CHAIRMAN MAROTTA: Yes.

22 MR. PANEQUE: January 11th, Mr. Vallejo?

23 MR. SPATZ: Yeah.

24 THE SECRETARY: January 11, --

25 MR. SPATZ: Yeah.

1 MR. PANEQUE: Yes.

2 THE SECRETARY: -- is the next hearing,
3 yes.

4 VICE CHAIRMAN BONACCI: Eleven?

5 MR. PANEQUE: Is there a motion?

6 THE SECRETARY: Can I have a motion to
7 adjourn this application for January 11?

8 MS. GUTIERREZ: I make a motion.

9 THE SECRETARY: Motion by Ms. Gutierrez.
10 Second the motion?

11 Mr. Pressey.

12 Roll call on the motion to adjourn this
13 application for January 11, 2018.

14 Mr. Marotta?

15 CHAIRMAN MAROTTA: Yes.

16 THE SECRETARY: Mr. Bonacci?

17 VICE CHAIRMAN BONACCI: Yes.

18 THE SECRETARY: Ms. Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Mr. Grullon?

21 MR. GRULLON: Yes.

22 THE SECRETARY: Mr. Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: Mr. Medina?

25 MR. MEDINA: Yes.

1 THE SECRETARY: Mr. Ortiz?

2 MR. ORTIZ: Yes.

3 THE SECRETARY: Seven in favor, motion
4 carries.

5 No new notice required.

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1 **MBP Hoist and Crane, LLC -**

2 **1221 New York Avenue:**

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4 THE SECRETARY: And now, MBP Hoist and
5 Crane, LLC, 1221 New York Avenue.

6 Mrs. Pereiras, please?

7 MS. PEREIRAS: Bianca Pereiras on behalf of
8 the applicant.

9 MR. PANEQUE: For the record, I've been
10 provided by Ms. Pereiras with the following
11 documentation:

12 I have a certification as to publication
13 and service, indicating that notice of tonight's
14 hearing, with respect to the property at 1221 New
15 York Avenue, Union City, New Jersey, was sent out
16 to all property owners within the 200 foot radius
17 of said property.

18 I've also been provided with a copy of the
19 article that was published in The Jersey Journal;
20 date of publication is December 2nd, and it states
21 that notice of tonight's hearing, with respect to
22 the property at 1221 New York Avenue is to be
23 heard tonight.

24 I've also been provided with the tax list
25 from the Tax Assessor's Office for the property

1 | in question, 1221 New York Avenue, with a date of
2 | November 28, 2017.

3 | I've also been provided with the certified
4 | mail receipts, with a postmark date of December
5 | 4th, 2011 (sic).

6 | Based on the documentation that has been
7 | provided, this Board has jurisdiction to proceed
8 | and hear this matter.

9 | Ms. Pereiras, based on the fact that we
10 | also have the same curfew for ten o'clock, it is
11 | the decision of this Board to adjourn all
12 | matters, and therefore, this matter will be
13 | adjourned to --

14 | THE SECRETARY: February 8, 2018.

15 | MS. PEREIRAS: Is it possible to have it
16 | heard at the January 11th meeting?

17 | THE SECRETARY: We are already full. I'm
18 | sorry.

19 | MS. PEREIRAS: Again, the last meeting --
20 | the last application that was just adjourned is
21 | only a decision. It's already -- we've already
22 | presented testimony.

23 | THE SECRETARY: Mr. Chairman --

24 | MS. PEREIRAS: So it should take --

25 | THE SECRETARY: -- if we overbook --

1 MS. PEREIRAS: -- a max of three minutes.

2 THE SECRETARY: -- and it's going to happen
3 the same thing.

4 CHAIRMAN MAROTTA: What's that?

5 THE SECRETARY: We have enough applications
6 for January 11.

7 MS. PEREIRAS: Mr. Marotta?

8 THE SECRETARY: February 8, the next --

9 MS. PEREIRAS: What I would --

10 CHAIRMAN MAROTTA: I think we have to put
11 this in for January 11.

12 THE SECRETARY: All right.

13 MS. PEREIRAS: Thank you very much, Mr.
14 Marotta.

15 Just to confirm, without the notice.

16 MR. PANEQUE: Yes.

17 MS. PEREIRAS: Without need to renotice.

18 THE SECRETARY: All right.

19 MR. PANEQUE: It's being adjourned to
20 January 11.

21 CHAIRMAN MAROTTA: Yes.

22 MR. PANEQUE: No further notice
23 requirement.

24 MS. PEREIRAS: Thank you all.

25 MR. PANEQUE: Wait. We got to take a --

1 MS. PEREIRAS: Sure.

2 MR. PANEQUE: Is there a motion?

3 THE SECRETARY: Can I have a motion to
4 adjourn this application --

5 MS. GUTIERREZ: I'll --

6 THE SECRETARY: -- for January 11, --

7 MS. GUTIERREZ: I'll --

8 THE SECRETARY: -- 2018, no further notice
9 required.

10 MS. GUTIERREZ: I'll make a motion.

11 THE SECRETARY: Motion by Ms. Gutierrez.

12 Second by?

13 Mr. Pressey.

14 Roll call on the -- on the motion to
15 adjourn this application.

16 Mr. Marotta?

17 CHAIRMAN MAROTTA: Yes.

18 THE SECRETARY: Mr. Bonacci?

19 VICE CHAIRMAN BONACCI: Yes.

20 THE SECRETARY: Ms. Gutierrez?

21 MS. GUTIERREZ: Yes.

22 THE SECRETARY: Mr. Grullon?

23 MR. GRULLON: Yes.

24 THE SECRETARY: Mr. Pressey?

25 MR. PRESSEY: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Seven in favor, motion
6 carries.

7 No --

8 MS. PEREIRAS: Thank you all.

9 THE SECRETARY: -- new notice required.

10 MS. GUTIERREZ: Thank you.

11 MS. PEREIRAS: I wish you all a very Merry
12 Christmas.

13 VICE CHAIRMAN BONACCI: Merry Christmas.

14 MS. PEREIRAS: And a happy new year.

15 MS. GUTIERREZ: Thank you.

16 You, too.

17 MS. PEREIRAS: See you next year.

18 MS. GUTIERREZ: Bye.

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

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1 **Franklin Medina - 522 4th Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Franklin Medina, 522 4th Street.

5 Mr. -- Mr. Alonso?

6 This application was adjourned on July 13,
7 September 14 and November 2nd.

8 MR. ALONSO: That's correct.

9 We actually had two hearings on this
10 application already. Like Ms. Pereiras' other
11 application, we're here for a vote.

12 I think the Chairman adjourned it because
13 he may have had questions for Mr. Spatz, who was
14 not available at the last meeting. And then
15 subject to whatever questions you have, then I
16 believe you'd be ready for a vote.

17 CHAIRMAN MAROTTA: Is your witness here
18 ready?

19 THE SECRETARY: Let me give you a date.

20 CHAIRMAN MAROTTA: Is your witness here?

21 MR. ALONSO: My witness -- he's supposed to
22 be here. Let me -- I can just double check.

23 (Whereupon, there was a pause in the
24 proceedings.)

25 MR. PANEQUE: Mr. Marotta, may I make a

1 suggestion?

2 While we wait for Mr. McDonough, maybe we
3 can address application number 7, since it's just
4 on the issue of having a vote. I believe there
5 were some questions that --

6 CHAIRMAN MAROTTA: Okay.

7 MR. PANEQUE: And we could have one less
8 application --

9 CHAIRMAN MAROTTA: Number 7?

10 MR. PANEQUE: Yeah, that's Mr. Alonso's
11 application.

12 That's number 7, Carlos?

13 CHAIRMAN MAROTTA: Number 7 is --

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

16 CHAIRMAN MAROTTA: Which one? Number 7 was
17 the T-Mobile.

18 MR. J. MEDINA: No, no. It's --

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

21 CHAIRMAN MAROTTA: You know, if we hear
22 this application, we reach ten o'clock limit,
23 we'll cut you.

24 MR. PANEQUE: This is not a hearing, this
25 is just --

1 Right, Mr. Alonso?

2 MR. ALONSO: Right. Right. The only
3 reason it was adjourned was I believe the
4 Chairman said he may have questions of the --

5 MS. GUTIERREZ: For Mr. Spatz.

6 MR. ALONSO: -- Board Planner --

7 MR. PANEQUE: Yeah.

8 MR. ALONSO: -- who was not available at
9 the last meeting. And then was ready for a vote.

10 CHAIRMAN MAROTTA: Did we hear testimony on
11 this?

12 MR. ALONSO: Yeah. We had two -- two
13 hearings.

14 CHAIRMAN MAROTTA: Was I present?

15 MR. ALONSO: Yes.

16 CHAIRMAN MAROTTA: I don't remember this.

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

19 THE SECRETARY: Go ahead, Mr. Alonso,
20 please.

21 MR. ALONSO: Okay.

22 Mr. Chairman, members of the Board, the
23 Board may recall, we actually had two hearings on
24 this.

25 The first hearing we had testimony by the

1 architect, Albert Arencibia. The Board had
2 requested some more specific details on the
3 plans.

4 We came back at the second hearing. Mr.
5 Arencibia further testified as to the revised
6 plans.

7 We also had testimony by Mr. Karlebach,
8 who's here this evening, as the planner.

9 At the conclusion of the -- of the second
10 hearing, the Chairman had indicated that he may
11 have questions for your planner, Mr. Spatz, who
12 was not available at the last meeting. And it
13 was adjourned to today for any questions.

14 So --

15 CHAIRMAN MAROTTA: I don't remember this.

16 MR. PANEQUE: You want to set it aside
17 until the next meeting?

18 CHAIRMAN MAROTTA: I really don't remember
19 this.

20 MR. PANEQUE: I understand.

21 All right.

22 Mr. Alonso, I -- I believe the Chairman is
23 asking to have the vote at the next meeting, so
24 that --

25 MR. ALONSO: Sure.

1 MR. PANEQUE: -- we can -- he can have the
2 opportunity to look at the transcript --

3 CHAIRMAN MAROTTA: Yeah.

4 MR. PANEQUE: -- and recollect.

5 I saw that Mr. McDonough just walked in, so
6 --

7 MR. ALONSO: That's -- that's fine.

8 MR. PANEQUE: All right. So, we're going
9 to set aside number 7. It's going to be carried
10 to January 11 --

11 CHAIRMAN MAROTTA: Yeah, the 11th.

12 MR. PANEQUE: -- Mr. Vallejo?

13 MS. GUTIERREZ: Yeah. January 11th.

14 CHAIRMAN MAROTTA: And so, I just don't
15 remember it.

16 MR. DILLON: You need a motion.

17 Right?

18 MR. PANEQUE: Yes.

19 May -- may we have a motion to carry number
20 7?

21 CHAIRMAN MAROTTA: So moved.

22 MS. GUTIERREZ: I'm second.

23 THE SECRETARY: Motion to adjourn this
24 application for January 11, by Mr. Marotta.

25 Right?

1 Second by Mrs. Gutierrez.

2 Roll call to adjourn this application for
3 January 11.

4 Mr. Marotta?

5 CHAIRMAN MAROTTA: Yes.

6 THE SECRETARY: Mr. Bonacci?

7 VICE CHAIRMAN BONACCI: Yes.

8 THE SECRETARY: Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Grullon?

11 MR. GRULLON: Yes.

12 THE SECRETARY: Mr. Pressey?

13 MR. PRESSEY: Yes.

14 THE SECRETARY: Mr. Medina?

15 MR. MEDINA: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MR. ORTIZ: Yes.

18 THE SECRETARY: Seven in favor, motion
19 carries.

20 This application has been adjourned for
21 January 11, 2018.

22 Thank you.

23 * * *

24

25

1 **111 35th Street, LLC - 111 35th Street:**

2

3 MR. PANEQUE: Mr. Alonso, you have your
4 next witness?

5 MR. ALONSO: Yes.

6 Mr. McDonough?

7 MR. DILLON: Please raise your right hand.

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

10 MR. McDONOUGH: Yes, I do.

11 MR. DILLON: State your name and spell it
12 for the record.

13 MR. McDONOUGH: Sure.

14 Hello, everyone. My name is John
15 McDonough. That's spelled M-C -- sorry about
16 that.

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

19 MR. McDONOUGH: Got me okay?

20 MR. DILLON: Yes.

21 MR. McDONOUGH: So, it's M-C capital
22 D-O-N-O-U-G-H.

23 MR. PANEQUE: Mr. McDonough, excuse me just
24 a second.

25 Just for the record, so that we're clear,

1 we're going back to the application number 8,
2 with a continuation with now Mr. McDonough
3 testifying.

4 MR. ALONSO: Thank you, Mr. Paneque.

5 THE SECRETARY: 111 35th Street.

6 MR. ALONSO: Thank you.

7 Mr. Chairman, Mr. McDonough has been before
8 this Board also in the past, I would ask that his
9 qualifications in the field of planning be
10 recognized.

11 CHAIRMAN MAROTTA: Okay.

12 MR. ALONSO: Thank you.

13 Mr. McDonough, you were retained as the
14 planner for this application.

15 Correct?

16 MR. McDONOUGH: Yes, I was.

17 MR. ALONSO: I'm going to ask you to
18 identify what the variances were and provide your
19 analysis.

20 MR. McDONOUGH: Okay. So, we're here for a
21 use variance for multi-family in your R zoning
22 district, but we also are looking at what could
23 qualify under your Greyfield Ordinance as a D-3,
24 because we do meet the dimensional requirements
25 of the lot, and we would meet the -- the

1 Ordinance definition for -- for a Greyfield here,
2 and that we're dealing with a site that has two
3 nonconforming commercial uses. We know that
4 commercial uses are not permitted in the R zone.
5 I think that's paramount to the application
6 before you.

7 So, what I -- I'd like to do, Mr. Chairman,
8 with your permission, is to hand out the usual
9 batch of photo exhibit, just to paint a picture
10 of the character of the area and the condition of
11 the property.

12 MR. ALONSO: Yeah. We're going to mark
13 that as A-2.

14 MR. McDONOUGH: Okay.

15 MR. ALONSO: And just identify what the --
16 what the exhibit is.

17 MR. McDONOUGH: So, A-2, for the record, is
18 going to be a two page exhibit, file size of 11
19 by 17. We've got an aerial photograph that I've
20 simply outlined the subject property in yellow,
21 so you get a sense of the surrounding land use
22 context.

23 And second page is going to be ground
24 photographs that were taken within the last month
25 or so.

1
2 (Whereupon, Aerial Photograph and Ground
3 Photograph (2) Pages was received and marked as
4 Exhibit A-2.)

5
6 MR. ALONSO: Okay. Let me just hand this
7 out.

8 CHAIRMAN MAROTTA: Thank you.

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

11 MR. ALONSO: There's plenty.

12 MS. GUTIERREZ: Thank you.

13 (Whereupon, there was a pause in the
14 proceedings.)

15 MR. ALONSO: Okay, Mr. McDonough.

16 MR. McDONOUGH: Okay.

17 So, again, the key point here, which I'm --
18 sat at you is that we've outlined the subject
19 property in yellow. Got a pretty clear pattern
20 of -- of established neighborhood here, in terms
21 of street wall effect, and the overall -- overall
22 massing of the street.

23 We do have a nicely co-mingled mix of uses
24 and -- and forms here in the area. We do have
25 some four story buildings down towards the

1 corner. We've got multi-family across the
2 street. We've got the string of smaller lot
3 residential, as we work our way to the east, in
4 this particular photograph.

5 Importantly, another thing that jumps out,
6 I think you can see is that this site is entirely
7 covered by buildings and by pavement. The
8 applicant is actually going to make the site
9 greener by pulling more landscaping in to the
10 property. Try to blend the building with the
11 surrounding landscape and again, give it a softer
12 edge than that which we presently see.

13 Flipping over to the next page, again,
14 reminding the Board that we're here in an R
15 residential district, and what do we see but two
16 nonconforming uses that are nonresidential.

17 Buildings are in poor condition. We've got
18 the one in frame number one, in the left, and
19 frame number two in the right, recessed, breaking
20 up that street wall effect. And again, doing
21 absolutely nothing to add value to the community.

22 We have an applicant here that's willing to
23 put a substantial investment in not only the
24 site, but into the neighborhood as a whole. This
25 investment will bring up the image and -- and the

1 identity of the neighborhood.

2 We have compatible land use on the other
3 side of the street, in the form of that larger
4 multi-family development that you see in frame
5 number three.

6 And then, frame number four, it's a little
7 bit of a dark photograph, I apologize for that,
8 but what I found important here was that there's
9 no on-street parking in front of the site. So,
10 to the extent that the applicant is developing
11 and creating access points, there's not going to
12 be any loss of on-street parking here on the
13 street.

14 So, with that backdrop, we look at the
15 relief that the applicant needs. And I find a
16 nexus with the greyfield aspect of your
17 Ordinance, the conditional use relief that would
18 be warranted when we're dealing with 7500 square
19 foot lots, and again, dealing with nonconforming
20 commercial uses.

21 So, in the R residential district, which is
22 aimed at residential, the first good thing that
23 this application does, from a zoning standpoint,
24 is moves the site from discordant nonresidential
25 use to residential use. It's not a hundred

1 percent on point with your Ordinance, that's why
2 we're here. But again, the statute does allow
3 for some flexibility, some form of relief in that
4 regard.

5 So, this is what your own Ordinance says
6 about greyfield redevelopment. That it's a
7 permitted conditional use in the R zone, subject
8 to 223-43-D. And this is what it says, in terms
9 of the purpose.

10 The City has determined that greyfields, as
11 defined by this chapter, threaten the health,
12 safety and general welfare of the residents of
13 the City of Union City. Many of these properties
14 are contaminated with hazardous substances and --
15 and pose a health risk to nearby residences, a
16 threat to the environment.

17 The City finds that these properties should
18 be treated independently with the permitted
19 classification of uses with specific
20 redevelopment standards to encourage their
21 redevelopment and remediation where contamination
22 is present.

23 The project, as I look at it, complies with
24 most of the conditional use standards that would
25 apply to a greyfield development. Again, it

1 allows development as a mid-rise apartment
2 building, if it complies with the following
3 requirements. And there are eight of them, and
4 you'll see that they substantially conform.

5 Minimum lot area; 7500 square feet.

6 Application complies.

7 Minimum lot width; 75 feet. Application
8 complies.

9 Minimum front yard. It's either the
10 prevailing or ten feet. I would offer that the
11 application does comply here, in terms of the
12 overall prevailing. The applicant does have a
13 front yard setback of 3.7 feet. There are some
14 recessed buildings, as you can see as we work our
15 way to the east. But again, substantially on par
16 with the buildings that we would see to -- to the
17 west in that particular photograph.

18 Additionally, minimum side yard; five feet
19 or 15 feet. Application complies.

20 Minimum rear yard. We do need a variance
21 there; 25 feet is the requirement. Applicant is
22 proposing ten feet, but with the -- what the
23 applicant has proposed here and the -- the green
24 area in the back, we think that that's meeting
25 the spirit of the Ordinance, to provide for

1 adequate separation, adequate buffering, adequate
2 light and air between neighboring land uses.

3 Maximum height of the building; four
4 stories, 50 feet. The application complies with
5 that, as well.

6 Maximum building coverage; 50 percent or 70
7 percent when parking is provided in the building.
8 The application complies with that standard, as
9 well.

10 And then, of course, the overall maximum
11 lot coverage being at 75 percent or 90 percent
12 when parking is provided under the building.
13 That standard is met, as well.

14 So, with that backdrop, we're really
15 looking for D-3 relief related to the back of the
16 property and related to the front of the
17 property, to the extent that we don't meet the
18 strict or literal requirement of -- of ten feet.
19 We're at 3.7 feet, which I would offer is
20 substantially compliant with the prevailing
21 setback on the street.

22 So, the legal basis for this relief comes
23 from the Coventry Square case. We know that
24 that's a lesser standard than we see with that
25 Medici test, with that enhanced burden of proof

1 | that an applicant would need for a use that's not
2 | permitted in the zone.

3 | What Coventry tells us, in terms of the
4 | positive criteria, the use per se, is not at
5 | issue. It's not a question of whether multi-
6 | family is appropriate at this location or not.

7 | The site remains appropriate, not
8 | withstanding those deviations with respect to
9 | setback. And for the reasons that I stated, this
10 | is really minimal relief in terms of setback.
11 | There's adequate light and air and privacy,
12 | separation from the neighboring uses.

13 | And I think the spirit and the intent of
14 | the Ordinance is met, even though the literal
15 | requirement is not met.

16 | On the negative side, we have that new case
17 | that has come out of the Supreme Court, the TSI
18 | case, which also says, with respect to the
19 | negative criteria, the enhanced Medici proof of
20 | reconciliation with the omission of -- of the use
21 | from the zone is also not applicable.

22 | So, in terms of departure from the zone
23 | scheme, we are not seeing a substantial
24 | departure. Importantly, in terms of given what's
25 | here and how different this particular piece of

1 property is from the surrounding neighborhood.

2 It is a problem site. We have an applicant
3 here that is ready, willing and able to fix it.
4 And in that regard, that is consistent with good
5 planning and -- and will be proof positive as to
6 why the Board could move favorably in terms of
7 the application.

8 I would like to put some forth -- put forth
9 some proofs with regard to a D-1 variance, to the
10 extent that there is an interpretation in that
11 regard.

12 If we run this through the four parts of
13 the Medici test, we will find that this
14 application passes, as well.

15 Number one, site suitability. I know this
16 Board has heard this many times. This site is
17 particularly suitable for this use by virtue of
18 its context. We're staring at multi-family right
19 across the street. And also particularly
20 suitable by virtue of its condition, given the
21 fact that we are curing a presently
22 nonconforming, nonresidential use.

23 Second part of Medici looks at the
24 advancement of the Municipal Land Use Law. This
25 moves us away from the first part, which focuses

1 on the land. This now focuses on the land use
2 law and the purposes of zoning that are advanced
3 at N.J.S.A. 40:55D-2.

4 We see the advancement of Purpose A, that
5 the project will certainly promote the public
6 good with new housing stock. We know much of the
7 housing stock here in Union City is over 50 years
8 old. There's a number of planning policies and
9 master plan documents that talk about housing
10 stock at being over 50 years old as being aging
11 stock.

12 This is certainly going to improve the
13 living environment, not only for the people who
14 will live here, but for the overall appearance of
15 the -- the neighborhood, as a whole.

16 Additionally, the advancement of Purpose G,
17 the planning goal to provide for a variety of
18 uses in appropriate locations.

19 We know that the multi-family sector is not
20 only strong throughout New Jersey, but it's also
21 very strong here in Union City, where those
22 vacancy rates for multi-family are extremely low,
23 as low as anywhere in the County.

24 Additionally, the advancement of Purpose I,
25 to promote a desirable visual environment. I

1 think the photographs speak for themselves. It's
2 an ugly site. We're going to fix it up and we go
3 back to the -- the beautiful architectural
4 drawings and the building that you saw is
5 certainly going to improve the visual quality of
6 the area.

7 Lastly, the planning goal to promote
8 Purpose M, the efficient use of land. Taking a
9 site that's already developed and repurposing it,
10 redeveloping it, again, with a use that is more
11 on par with the zoning intent and the Ordinance.

12 The project will promote State policy and
13 of course, the State policy here is under our
14 State Plan. As a PA-1 Planning Area District,
15 where population is meant to be redirected,
16 advancement of State policy has been found to be
17 a special reason, by our courts, in the case
18 known as Anfuso versus Seeley.

19 Third part of Medici looks at the negative
20 criteria, or the impact on the surrounding
21 landscape or the surrounding properties.

22 From a planning standpoint, the project
23 will not create any detriment of a substantially
24 adverse nature.

25 We have expert testimony by a very

1 qualified and competent architect before me,
2 traffic engineer as well, that the site will
3 function safely and efficiently. And the site
4 has been adequately landscaped to provide a nice
5 edge around this property, give a soft edge and
6 better blend the building with its surroundings.
7 A lot better than what you see now. Very stark
8 walls, peeling paint, a development that is built
9 edge-to-edge.

10 This is going to be a significant
11 difference when we see the new development
12 manifest.

13 Last part of Medici looks at the zone plan,
14 the vision for the area. The project will
15 certainly bring the site more into conformance
16 with contemplated zoning under the zone plan,
17 given again the fact that we're dealing with a
18 nonresidential use and we're going to move it
19 towards residential.

20 In that regard, I think the Board can draw
21 a clear line around this property. You would not
22 be acting tantamount to a rezone and -- and
23 usurping the power of the governing body. But
24 again, use variance relates to one use on one
25 piece of property, not the zone as a whole. And

1 | this clearly relates to a specific piece of
2 | property that will effectuate positive change and
3 | improve the overall quality of the site, and the
4 | overall quality of the neighborhood.

5 | If -- if a pure D-1 use variance is found
6 | to be necessary here, likewise density relief,
7 | under D-5, would be met under the Grasso
8 | standard.

9 | The departure from the zone scheme is not
10 | substantial here. The applicant is looking for
11 | 12 units. I think we all know that the applicant
12 | could get nine units here, under a three three
13 | family scenario.

14 | No problems are associated with the
15 | additional density of three units. The testimony
16 | reflects that this site can accommodate any
17 | problems with that additional density.

18 | No problem with respect to parking.
19 | There's enough provided for a one-to-one ratio,
20 | which meets sound traffic engineering standards,
21 | particularly for this area.

22 | No problem with on-street parking. Going
23 | back to the visuals that I provided at the
24 | outset, we show that there is no on-street
25 | parking being lost whatsoever.

1 And certainly, having two driveway points
2 or access points, or if you want to call them
3 conflict points with the existing roadway is a
4 better alternative than having three driveways
5 for three families, channelizing or again,
6 conflicting with the roadway.

7 So, in that regard, we think the test is
8 met under D-5.

9 Likewise, for D-6, the height relief, 46
10 feet versus 40 feet would satisfy the Grasso
11 test. None of the purposes of height control are
12 violated, when we look at that additional six
13 feet. We are not seeing any substantially
14 negative shadow effects or the blocking of scenic
15 views.

16 The additional six feet will not give this
17 property an unfair height advantage over the
18 surrounding landscape.

19 There are other four stories in the general
20 vicinity. And the primary basis for this relief,
21 in getting that extra story, is to effectuate
22 off-street parking. There is one level that is
23 going to be entirely devoted to parking.

24 Inter-related; story relief. Four stories
25 versus three is justified for the same reason as

1 height. And I think the Board knows that a story
2 variance is not a D variance.

3 Lastly, the setback relief and the bulk
4 relief in the front yard; 3.7 versus ten feet is
5 generally consistent with the prevailing setback
6 in the area. I'll fall back on -- on the aerial.

7 The side at five versus six feet is de
8 minimis and provides, certainly, more separation
9 than is presently there. Also, separation that's
10 consistent with what we see on the street.
11 Falling back, again, on the aerial.

12 The rear setback is going to be a drastic
13 improvement over that which presently exists.
14 We've got warehousing and nonresidential uses
15 right up against the backyard of -- of
16 residences.

17 And then, finally, the coverage is a
18 drastic improvement over the existing. The
19 overall lot coverage complies, it's only the
20 building coverage that the relief is needed for.
21 But the more important control here, of course,
22 is the overall lot coverage, which complies.

23 I won't go into the relief for parking
24 supply. That's been addressed by our traffic
25 engineer. But the test would be met, in my

1 opinion, from the C-2 balancing test, why we look
2 at the benefits of the application as a whole,
3 outweigh against the detriments. We know we have
4 alternate means of transportation here. And
5 there are actually new planning trends that
6 recommend reduction or elimination of minimum
7 parking standards. We're seeing a planning
8 movement to eliminate that all together.

9 Promote the planning goals of walkability,
10 of transit ridership. And the trend is now to
11 actually impose parking maximum, not parking
12 minimums.

13 With all of that said, it's a very positive
14 in-fill development here. I think it's very
15 simple and straightforward, that this is going to
16 be a nice investment in a bad piece of property.
17 It will pick up the site and the neighborhood.

18 I think the Board could have stopped right
19 when I did the D-3 proofs, but if the Board is
20 inclined to carry it to the D-1, that test is --
21 is also met here, as well.

22 With that, I'll -- I'll rest. I think I
23 went over my ten o'clock limit, and I apologize.

24 CHAIRMAN MAROTTA: Any questions?

25 Go ahead.

1 VICE CHAIRMAN BONACCI: I just wanted to
2 address the people who live at or around 35th
3 Street, who have been here for the last four
4 hours.

5 I just want to thank you guys for your time
6 and your patience and your comments, because
7 ultimately, the decisions that we're going to
8 have to make here tonight, they're the ones that
9 are going to have to live with it.

10 So, I think that that holds a lot of weight
11 in the decisions that we make.

12 And with respect to the applicants, this is
13 a great project, beautiful, well thought out.
14 So, I wanted to -- you know, show you guys the
15 respect that you deserve for pleading your case.

16 We have to determine here what's best for
17 the people of the City, and not necessarily --
18 you know, what's financially convenient for
19 developers and -- and things like that.

20 And I just want them to understand that, as
21 well, because we're here every month, they're
22 not.

23 So, this might be their first rodeo. It's
24 not ours.

25 With that being said, just to look at the

1 application for itself, we're talking about an R
2 zone, low density residential. However, the
3 application is going to increase the total number
4 of families, total number of bedrooms, as well as
5 height. It's going to add more population to an
6 already densely populated area.

7 I just have a question for Mr. Spatz.

8 MR. SPATZ: Yes, sir.

9 VICE CHAIRMAN BONACCI: Mr. Spatz, 12 unit
10 multi-family, which would bring the total to 21
11 bedrooms and 23 required parking spaces.

12 MR. SPATZ: Correct.

13 VICE CHAIRMAN BONACCI: Would you -- would
14 you consider that to be low density residential?

15 MR. SPATZ: It's -- it's not because
16 they're here for the -- either the conditional
17 use variance or the -- or the use variance. So,
18 it does not -- you know, the zone is a one, two,
19 or three family zone, primarily.

20 VICE CHAIRMAN BONACCI: So, this would
21 exceed what we consider to be low density
22 residential.

23 MR. SPATZ: At low density, three separate
24 lots would allow three three family houses, at
25 the maximum, which would be nine units and this

1 proposes 12.

2 VICE CHAIRMAN BONACCI: And then,
3 ultimately, my -- my other concern is that I
4 think that overall, the application might price
5 out a lot of the residents of our neighborhood.
6 And I take that into consideration, too.

7 So, that being said --

8 MR. ALONSO: Well, Mr. -- well, Mr.
9 Bonacci, with respect to the density, you
10 indicated 21 bedrooms. The three three families,
11 which is permitted, would have 21 bedrooms.

12 So, if that's what you're using to make a
13 comparison, it's equal. This does not have more
14 bedrooms than what's permitted.

15 That -- that's the first point.

16 VICE CHAIRMAN BONACCI: Okay.

17 MR. ALONSO: The second point, in terms of
18 pricing out people, a price point has not been
19 established.

20 VICE CHAIRMAN BONACCI: Yeah. I understand
21 that.

22 MR. ALONSO: Right. So, we -- so, you
23 can't make the determination that people are
24 going to be priced out, if we don't know what the
25 price is.

1 VICE CHAIRMAN BONACCI: I think we pretty
2 much all know here that most of the people who
3 live in Union City are not going to be the people
4 that are going to be renting out those.

5 MR. ALONSO: Well, we don't -- we don't
6 know that. We don't know that, and I don't think
7 that that's legally a consideration that the
8 Board can make.

9 VICE CHAIRMAN BONACCI: I understand your
10 point.

11 MR. ALONSO: Right.

12 CHAIRMAN MAROTTA: Okay.

13 MS. GUTIERREZ: Mr. Sanchez; he would like
14 to talk.

15 CHAIRMAN MAROTTA: Any members of the
16 public?

17 MS. GUTIERREZ: Mr. Sanchez.

18 CHAIRMAN MAROTTA: Come up, please.

19 MS. GUTIERREZ: Remember that he wants to
20 talk.

21 MR. PANEQUE: Yeah, he's coming up now.

22 MS. GUTIERREZ: Yeah. Um hum.

23 CHAIRMAN MAROTTA: Keep your voice up,
24 also.

25 MR. SANCHEZ: Sure. No problem.

1 CHAIRMAN MAROTTA: He's been previously
2 sworn, I think.

3 MS. GUTIERREZ: Yes. Um hum.

4 MR. SANCHEZ: Out of respect for everyone's
5 time, I know it's late, we're over the ten
6 o'clock, so I'll make it really quick.

7 I'm a license architect and I provided
8 testimony before. And I think this gentleman
9 here already brought up half of what I was going
10 to say anyway, the concern of the density. The
11 fact that there's a rear yard variance, but the
12 parking is a -- the biggest consideration.

13 Another question I had is, very quickly, is
14 does the existing infrastructure of the utilities
15 support a building of that size? Gas and so on?

16 MR. ALONSO: Well --

17 MR. SANCHEZ: That study been done?

18 MR. McDONOUGH: Are you talking about the
19 existing building or -- well, I'm sure -- well,
20 I'm not the engineer, but absolutely.

21 That's the next step in the process. It
22 has to accommodate or we don't make it through
23 the next step.

24 MR. SANCHEZ: That will be part of the
25 construction drawings.

1 MR. McDONOUGH: That would certainly be a
2 condition of.

3 MR. SANCHEZ: Okay.

4 MR. McDONOUGH: Yes.

5 MR. SANCHEZ: One quick comment, too. You
6 mentioned that the building is in context what's
7 there.

8 Most of what's there is two story, so -- I
9 mean, 80 percent of what's there is two story, so
10 in my opinion, that's a false statement.

11 But in conclusion, I do want to say, as a
12 licensed architect, and this is -- this is -- I
13 spoke to the majority of my neighbors. I live on
14 the block. As a suggestion or a compromise, in
15 respect to the architect, it is an aesthetically
16 pleasing building. I think he did try to do as
17 much as he could to try to meet as much of the
18 variances as possible.

19 The way he broke up the façade -- the
20 façade at 25 feet intervals matches sort of the
21 -- the fabric.

22 Of course, we would prefer detached two
23 family, because it just meets it better. But I
24 think, collectively, as a massing, you broke it
25 up.

1 If there's some way, as a compromise, if
2 one level could be chopped off, it will be three
3 stories, I think that's something that'd be much
4 more acceptable, I think, as a consensus with my
5 community.

6 And I think -- you guys might not like it,
7 but I think it's a happy medium and I think it's
8 something that, speaking to the majority of the
9 people here, I think it's something -- we're just
10 putting it out there as a compromise, as a
11 gesture from the neighborhood to a developer.

12 MR. McDONOUGH: Well, the -- the planning
13 was --

14 Go ahead, Al.

15 MR. ALONSO: Well yeah, that's really not
16 planning testimony, but I can say that my client
17 is always open.

18 I know Mr. Pereiras has represented -- has
19 represented many applicants and a lot of times,
20 we come back based on comments and concerns from
21 both the Board and the public. And we try to
22 work with both the Board and the public.

23 So, given this date -- this late hour, I
24 would ask, then, that the matter be adjourned, so
25 we can consider that. And then, if there's any

1 other comments that the public has, we can
2 consider them all and then come back with a --

3 MR. SANCHEZ: Right. My only comment is
4 scale. I mean, everything else -- I mean, you
5 guys really made a really, really good attempt, I
6 think, to do your best. And as an architect, I
7 commend you guys.

8 MR. ALONSO: Thank you.

9 MR. SANCHEZ: It's just the overall scale
10 that's my concern.

11 I have nothing else to say.

12 MR. ALONSO: Okay.

13 MR. SANCHEZ: Thank you.

14 MS. GUTIERREZ: Thank you, Mr. Sanchez.

15 CHAIRMAN MAROTTA: Any other members of the
16 public want to be heard? Have any questions?

17 MR. DILLON: Please raise your right hand.

18 Do you swear the testimony --

19 MR. MOJEK: First name is Mark --

20 Go ahead.

21 MR. DILLON: Do you swear the testimony
22 you're about to give this Board is the whole
23 truth?

24 MR. MOJEK: Yes, I do.

25 MR. DILLON: State your name and spell it

1 for the record.

2 MR. MOJEK: First name Mark, last name
3 Mojek.

4 MR. DILLON: How do you spell that?

5 MR. MOJEK: M-O-J-E-K.

6 MR. DILLON: Okay.

7 MR. MOJEK: I own property on 525 35th
8 Street, which is down the block.

9 And I really can't understand why you're
10 not going to approve this project, when these
11 guys are coming in to clean up this neighborhood.

12 I would rather look at a new building than
13 looking on a old warehouses that even don't
14 comply with -- with the zoning.

15 And the City has to move forward. We can't
16 get stuck and you know, be left behind. We have
17 to clean up this -- the City and -- and you know,
18 keep up with rest of -- rest of the world. You
19 have to move forward. You can't stay on two
20 level houses right next -- you know, right next
21 to the City.

22 This is -- you know, I would give this guy
23 20 years tax abatement, because they're coming in
24 with good stuff. You know --

25 MR. GRULLON: Thank you.

1 MR. MOJEK: This is my opinion.

2 MR. GRULLON: Thank you.

3 MS. GUTIERREZ: Thank you, sir.

4 MR. MOJEK: You're welcome.

5 MS. GUTIERREZ: Thank you.

6 CHAIRMAN MAROTTA: Any other members of the
7 public?

8 MS. GUTIERREZ: Anybody else?

9 CHAIRMAN MAROTTA: Any --

10 MR. PRICE: I'm going to --

11 CHAIRMAN MAROTTA: Larry?

12 MR. PRICE: Let me make one legal comment.
13 Okay.

14 This site might qualify as a greyfield
15 development. As Mr. McDonough properly says --
16 you know, it gets close, but it's not there.

17 I don't think this Board can consider it as
18 a greyfield development. If you look at the
19 notice for this hearing, it says they're asking
20 for a D-1 use variance and parking and some bulk
21 requirements.

22 A greyfield development is a conditional
23 use. It's heard by the Planning Board. It would
24 come back to the Zoning Board if there are any
25 exceptions from the standards which would then be

1 D-3 -- you know, D-3 conditional use variances.

2 But with that notice, the only thing that
3 is properly before this Board is an application
4 for a D-1 use variance. And the rest of it is --

5 CHAIRMAN MAROTTA: Thank you.

6 MR. PRICE: They had a choice of
7 applications.

8 CHAIRMAN MAROTTA: Thank you.

9 MR. PRICE: They made a choice and --

10 CHAIRMAN MAROTTA: Any other member --

11 MR. PRICE: -- this Board is D-1. That's
12 it.

13 CHAIRMAN MAROTTA: Any other --

14 Thank you, Larry. I agree with you.

15 This is not being considered as a
16 greyfield. I agree with you.

17 I have a few questions for the planner.

18 The Code requires a front yard setback of
19 ten feet and there's -- what we're providing,
20 three feet seven inches.

21 My mathematics tells me that this is 35
22 percent of what the Code requires, or a 65
23 percent deficit.

24 Would you agree?

25 MR. McDONOUGH: It's pure math. Yes.

1 CHAIRMAN MAROTTA: That's substantial,
2 isn't it?

3 MR. ALONSO: That's only on part of -- part
4 of the building. The other part is set back --

5 CHAIRMAN MAROTTA: Wait a minute. Let --
6 I'm asking questions.

7 MR. ALONSO: I understand that, but -- but
8 as to that part, it's three feet seven inches,
9 yes, we agree, but the balance of the building is
10 set back further, so you --

11 CHAIRMAN MAROTTA: Let -- look --

12 MR. ALONSO: If you're going to do pure
13 math, then let's do the pure math.

14 MR. McDONOUGH: And I -- just in response
15 to the question, the case law is pretty clear.
16 It's supposed to be a qualitative review, not a
17 qualitative (sic) review. It could be a 90
18 percent deviation, and still be worthy of being
19 granted by the Board.

20 So, I don't stop just because it's 66 --

21 CHAIRMAN MAROTTA: Okay.

22 MR. McDONOUGH: -- percent non-compliant or
23 80 percent --

24 CHAIRMAN MAROTTA: Let's continue.

25 All right?

1 MR. McDONOUGH: Okay.

2 CHAIRMAN MAROTTA: Can I continue?

3 The rear yard requirement is 25 feet.

4 MR. McDONOUGH: Yes.

5 CHAIRMAN MAROTTA: You're giving ten feet.
6 That's a 40 percent deficit.

7 MR. McDONOUGH: Yes, it is.

8 CHAIRMAN MAROTTA: The lot coverage is 60
9 percent permitted, there's 71.72 percent, which
10 is 19 percent.

11 MR. McDONOUGH: Yes.

12 CHAIRMAN MAROTTA: Now, with respect to
13 off-street parking, providing 13 when 23 are
14 required, this is only 56 percent of what's
15 required, or a 46 percent deficit, which is
16 substantial; wouldn't you agree?

17 MR. McDONOUGH: From a pure math
18 standpoint, you -- one may interpret that. But
19 from a planning standpoint, in terms of the way
20 the test is supposed to work, the answer is no.

21 CHAIRMAN MAROTTA: Okay. Any other
22 questions?

23 MR. McDONOUGH: And the only thing I would
24 remind the Board, look at what's there.
25 Everything that you just asked me is being

1 improved than what's there.

2 CHAIRMAN MAROTTA: Any other questions?

3 Okay.

4 My position on this is this, I'm going to
5 make a motion to deny this application.

6 MR. ALONSO: All right. But Mr. Chairman
7 before you --

8 CHAIRMAN MAROTTA: And I'm going to --

9 MR. ALONSO: I had a -- I had a request to
10 adjourn this matter so we can consider what the
11 public was suggesting with my client, with the
12 architect.

13 That's not something we could do on the
14 fly. We have to -- we have to put --

15 VICE CHAIRMAN BONACCI: They want to try to
16 come to a compromise.

17 MS. GUTIERREZ: Exactly.

18 VICE CHAIRMAN BONACCI: Do you want to give
19 them an opportunity to come to a compromise?

20 MS. GUTIERREZ: Yeah. For the next
21 meeting.

22 MR. ALONSO: Because what will happen is --

23 CHAIRMAN MAROTTA: I want to tell you
24 something. I don't under -- compromise with
25 whom? With whom?

1 MR. ALONSO: With the -- with the
2 neighbors. Because what happens is, if --

3 CHAIRMAN MAROTTA: Look. Look.

4 MR. ALONSO: If the Board -- if the Board
5 were to --

6 CHAIRMAN MAROTTA: I heard the neighbors
7 come up and -- look, I heard the neighbors say
8 there's two family houses up there. On these
9 pictures, I didn't see any two family houses.

10 MR. ALONSO: I also heard Mr. Sanchez, who
11 is an architect, indicate that we could take off
12 a floor and that would be acceptable to the
13 neighbors.

14 MS. GUTIERREZ: Exactly.

15 MR. ALONSO: And what happens is, as a
16 courtesy to the neighbors, if the Board were to
17 deny us, okay, assuming you're going to deny us,
18 we're just going to --

19 CHAIRMAN MAROTTA: You know I want to tell
20 you something.

21 MR. ALONSO: We'll file another
22 application. They're going to have to come back
23 out again.

24 VICE CHAIRMAN BONACCI: Right.

25 MS. GUTIERREZ: Yes. Exactly.

1 MR. ALONSO: So, if we could compromise now
2 and save everybody's time.

3 VICE CHAIRMAN BONACCI: Mr. Marotta, we can
4 deny the application and they can come back with
5 another one. That's what he's saying.

6 So make your motion.

7 MR. ORTIZ: But Mr. Marotta --

8 MR. ALONSO: So, what I'm saying is, it's
9 going to inconvenience the public to have to do
10 that.

11 MS. GUTIERREZ: Um hum.

12 CHAIRMAN MAROTTA: I'm going to move to
13 deny the application and I'm giving my reasons.

14 We're told that this is good because we're
15 removing a nonconforming use. They're going to
16 destroy the building which is a nonconforming
17 use.

18 What they don't tell us is that they want
19 to replace it with a nonconforming use, because
20 this building is a nonconforming use.

21 We have a traffic expert come here who
22 didn't do a traffic analysis. He come here to
23 talk about the width of the -- of the parking
24 spaces.

25 I find there's a substantial detriment to

1 the Code, with the 65 percent, with the 46
2 percent, the parking.

3 Look. The parking situation is such in
4 this city -- I mean, you know, we waited, what,
5 15 minutes? Mr. -- counsel told us his client --
6 his client was -- his -- his witness was parking
7 the car. It took 15 minutes to get up here.

8 MR. McDONOUGH: GPS sent me the wrong way.

9 CHAIRMAN MAROTTA: All right?

10 To -- to permit off -- the amount of off-
11 street parking that there's going to be here,
12 with this project, okay, is going to create
13 significant -- significant congestion, and it can
14 also create a safety hazard.

15 So, I say that this project should be
16 denied.

17 If they want to come in with a new project,
18 with a different thing, okay.

19 VICE CHAIRMAN BONACCI: Mr. Marotta, just
20 so that you and I are clear, I asked Mr. Spatz if
21 12 unit multi-family, 21 bedrooms, 23 required
22 parking spaces, if he considered that to be low
23 density. Low density residential in the R zone.
24 He said no.

25 That's enough for me to make my decision.

1 CHAIRMAN MAROTTA: Another --

2 THE SECRETARY: All right. Is motion --

3 CHAIRMAN MAROTTA: Another thing that I
4 want to point out is that --

5 I had a note here.

6 We're not to be concerned with what --
7 we're concerned with the application. There's a
8 Supreme Court case -- I have it someplace, I
9 can't find it now, that holds that you're
10 concerned with the application, not what --
11 what's across the street, with what's before the
12 Board on this application.

13 I find this application to be to the
14 detriment of the City, to the detriment of the
15 neighborhood. That's why I move that it be
16 denied.

17 THE SECRETARY: Motion to deny the
18 application by Chairman Marotta.

19 Can I have a motion --

20 VICE CHAIRMAN BONACCI: I'll second.

21 THE SECRETARY: -- on the motion?

22 VICE CHAIRMAN BONACCI: I'll second.

23 THE SECRETARY: Second on the motion?

24 VICE CHAIRMAN BONACCI: Yeah.

25 THE SECRETARY: Second by Mr. Bonacci.

1 Roll call on the motion to deny this
2 application.

3 Mr. Marotta?

4 CHAIRMAN MAROTTA: Yes.

5 THE SECRETARY: Mr. Bonacci?

6 VICE CHAIRMAN BONACCI: Yes.

7 THE SECRETARY: Mrs. Gutierrez?

8 MS. GUTIERREZ: Yes.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Yes.

11 THE SECRETARY: Mr. Pressey?

12 MR. PRESSEY: Yes.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Seven in favor, the
18 application has been denied.

19 Thank you.

20 MR. ALONSO: Have a good evening.

21 THE SECRETARY: Good night, everyone.

22 MS. GUTIERREZ: Good night.

23 * * *

24

25

1 **ADJOURNMENT :**

2

3 THE SECRETARY: Be no other application on
4 tonight's agenda, can I have a motion to close
5 tonight's meeting?

6 Motion by Ms. Gutierrez.

7 Second by Mr. Pressey.

8 All in favor, say aye.

9

10 (Whereupon, there was a chorus of ayes.)

11

12 THE SECRETARY: The ayes have it.

13 Thank you.

14 Have a good night, everyone.

15 Let the record show the meeting has ended.

16 Thank you.

17

18 (Whereupon, the proceedings were concluded
19 at 10:21 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5

6 I, DEBRA A. KASZNIAK, assigned transcriber,
7 do hereby affirm that the foregoing is a true and
8 accurate transcript in the matter of the REGULAR
9 MEETING of the UNION CITY ZONING BOARD OF
10 ADJUSTMENT heard on Thursday, December 14, 2017
11 and digitally recorded.

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