

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, March 8, 2018
 Commencing at 6:36 p.m.

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

VICTOR M. GRULLON
 MARGARITA GUTIERREZ
 MIGUEL ORTIZ
 DAVID W. PRESSEY
 JOSEPH D. BONACCI, Vice Chairman

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

JOHN MEDINA
 PETER C. DOUMAS, Alternate No. 4
 LIBERO MAROTTA, Chairman

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

CARLOS VALLEJO, Secretary to the Board
 TOMAS R. PANEQUE, ESQ., Board Attorney

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

PETER T. DONNELLY, ESQ.,
Attorney for Applicant, My Lovely Days, LLC

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Hung Fat, Inc.

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 613 39th Street, LLC

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1 MS. DILLON: On the record.

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

4 Please take notice that on Tuesday,
5 February (sic) 8, 2018, at six p.m., a Regular
6 Meeting is scheduled for the Union City Zoning
7 Board of Adjustment, to be held in the Municipal
8 Chambers, located on the Second Floor, 3715
9 Palisade Avenue, Union City, New Jersey.

10 Notice of this meeting has been provided as
11 follow:

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

19 And can everybody kindly rise to Pledge
20 Allegiance, please?

21

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

24

25 THE SECRETARY: Thank you.

1

2 **ROLL CALL:**

3

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

6 Chairman Marotta? Absent.

7 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 MR. ORTIZ: Present.

15 THE SECRETARY: Mr. Pressey?

16 MR. PRESSEY: Here.

17 THE SECRETARY: Mr. Medina? Absent.

18 We have five members.

19 We have a full quorum for tonight's
20 meeting.

21 * * *

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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

2

3 (1) Regular Meetings (sic) held on February
4 8, 2018

5

6 THE SECRETARY: Approval of previous
7 meeting minutes from February 8, 2018.

8 Can I have a motion to adopt the meeting
9 minutes?

10 VICE CHAIRMAN BONACCI: I'll make a motion.

11 THE SECRETARY: No, you was -- you was
12 absent, Mr. Bonacci on -- oh, no. I'm sorry.
13 You was present.

14 VICE CHAIRMAN BONACCI: February 8 I was
15 here.

16 THE SECRETARY: My apologies.

17 MS. GUTIERREZ: I'm seconding.

18 THE SECRETARY: Second by Mrs. Gutierrez.

19 Roll call on the motion.

20 Mr. Bonacci?

21 VICE CHAIRMAN BONACCI: Yes.

22 THE SECRETARY: Ms. Gutierrez?

23 MS. GUTIERREZ: Yes.

24 THE SECRETARY: Mr. Grullon?

25 MR. GRULLON: Yes.

1 THE SECRETARY: Mr. Pressey?

2 MR. PRESSEY: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Five in favor.

6 Motion carries.

7 * * *

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1 **My Lovely Days, LLC - 156-160 19th Street:**

2

3 THE SECRETARY: First application on
4 tonight's agenda, My Lovely Days, LLC, 156-160
5 19th Street.

6 Mr. Donnelly, please?

7 MR. DONNELLY: Good evening, everyone.

8 My name's Peter Donnelly. I'm an attorney
9 in Morristown. My law firm is Donnelly, Minter
10 and Kelly.

11 I'm here tonight on behalf of the --

12 MR. PANEQUE: Mr. Donnelly, excuse me a
13 second, sir?

14 MR. DONNELLY: Yes, sir.

15 MR. PANEQUE: We need to establish
16 jurisdiction.

17 Have you presented your certified mail and
18 proof of mailing, and so forth?

19 MR. DONNELLY: I have.

20 MR. PANEQUE: May we see that?

21 Mr. Vallejo, do we have that?

22 MR. DONNELLY: Was going to get to that
23 next, counselor.

24 MS. DILLON: Do you have a card, Mr.
25 Donnelly?

1 MR. DONNELLY: I do.

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

4 MR. DONNELLY: I have the original
5 affidavit from the newspaper with me, in case the
6 Clerk wants that.

7 MR. PANEQUE: We do need that one. That's
8 the original from The Jersey Journal?

9 MR. DONNELLY: Yes.

10 MR. PANEQUE: Thank you, sir.

11 MR. DONNELLY: Yes, sir.

12 THE SECRETARY: We have everything.

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

15 MR. PANEQUE: Let the record reflect the
16 following:

17 I've been provided, by Mr. Donnelly, with
18 an Affidavit of Publication from The Jersey
19 Journal, indicating that notice of tonight's
20 hearing was published in The Jersey Journal -- my
21 eyes are out today --

22 Excuse me a second.

23 -- on February 2nd, 2018, giving notice
24 that an application, with respect to the property
25 at 156-19th Street in Union City, New Jersey is

1 coming before the Board at a hearing to be held
2 on March 8, 2018 at six p.m.

3 I've also been provided with an Affidavit
4 of Proof of Service, indicating that notice of
5 tonight's hearing was sent out to all property
6 owners within the 200 foot radius of the
7 property, 156-160 19th Street.

8 I've also been provided with copies of the
9 certified mail receipts, as well as a copy of the
10 notice that went out.

11 Notice indicates that a public hearing is
12 to be held on March 8th, 2018 at six p.m., with
13 respect to an application for a variance at 156-
14 160 19th Street, Union City, New Jersey.

15 Mr. Donnelly, you also provided a copy of
16 the 200 foot list from the Tax Assessor's Office.

17 Is that part of your application packet?

18 MR. DONNELLY: Yes, it is.

19 MR. PANEQUE: Okay.

20 MR. DONNELLY: Yeah.

21 We -- we actually had 200 foot list from
22 Union City and from Weehawken.

23 MR. PANEQUE: From Weehawken?

24 MR. DONNELLY: We presented them all.

25 MR. PANEQUE: Do you have the dates on

1 | those -- on those lists, by any chance?

2 | MR. DONNELLY: The Union City list was
3 | February 7th, 2018, of course.

4 | The Weehawken list was January 30th, 2018.

5 | MR. PANEQUE: All right. Let that be
6 | incorporated into the record.

7 | For the Board, based on the documentation
8 | that's been introduced and presented, this Board
9 | has jurisdiction to proceed and hear this matter.

10 | Thank you, Mr. Donnelly.

11 | MR. DONNELLY: Thank you --

12 | MR. PANEQUE: You may proceed.

13 | MR. DONNELLY: -- counselor.

14 | As counsel indicated, this is an
15 | application for a variance for 156-160 19th Street
16 | here in Union City.

17 | The property we're going to be talking
18 | about today is located in a residential zone.
19 | And the applicant wants to use it as an office
20 | use. It has been used in -- as an office use
21 | before, and you'll hear testimony on that
22 | tonight.

23 | First off, I'd like to present the
24 | applicant. The applicant is My Lovely Days, LLC.
25 | And that limited liability company is owned by a

1 gentleman named Steven Day.

2 Steven is a local resident. He actually
3 walked here tonight. And he would like to just
4 briefly explain to you his application and his
5 business.

6 First, you need to be sworn, though,
7 Steven.

8 MS. DILLON: Yes.

9 Right in front of that microphone right
10 there. Right there.

11 Please raise your right hand.

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

14 MR. DAY: Yes.

15 MS. DILLON: Can you please state your name
16 and spell it for the record?

17 MR. DAY: Steve Day, S-T-E-V-E, Day, D-A-Y.

18 MS. DILLON: Okay. And I'm going to ask
19 you just to stay right in front of that
20 microphone for me.

21 MR. DAY: So, I'm Steve Day. I'm the owner
22 of the animation studio that will be inhabiting
23 this building.

24 Yeah, I live 23rd and Park Avenue -- or
25 sorry -- 43rd and Park Avenue. Right now, been

1 | there for two and a half years. Before that, I
2 | lived at 23rd and Palisade, which is four blocks
3 | from the building.

4 | Rents went up in Brooklyn. My -- my
5 | animation studio's in Brooklyn right now, and
6 | when rents went up, I was like, we need to find a
7 | -- potentially find a new space. And to my
8 | surprise, we found this building where I live.
9 | And I've been living for the last seven and a
10 | half years.

11 | We're an animation studio so --

12 | MR. DONNELLY: So what does that involve on
13 | a day-to-day basis, so the Board can get a flavor
14 | of what an animation studio does. It's not the
15 | conventional movie studio, not lights and
16 | cameras.

17 | Tell us --

18 | MR. DAY: No. It's --

19 | MR. DONNELLY: -- how that works.

20 | MR. DAY: It's computers and clicking.

21 | MR. DONNELLY: Okay.

22 | MR. DAY: From my employees. It's a lot
23 | like a library.

24 | MR. DONNELLY: Okay.

25 | MR. DAY: Or -- or a -- an accountancy, I

1 would say.

2 MR. DONNELLY: Okay.

3 MR. DAY: So --

4 MR. DONNELLY: Do you have a lot of
5 visitors come to you?

6 MR. DAY: No. We -- we really don't. It's
7 -- it's my team clicking away, staring at
8 screens. They're introverts and that's why
9 they're amazing animators.

10 MR. DONNELLY: Okay.

11 MR. DAY: And so, yes, that's -- that's my
12 -- my day-to-day operations. It's -- we work
13 nine to five, Monday through Friday. Work really
14 hard not to do any overtime because who wants to
15 live like that? And we also work better.

16 MR. DONNELLY: Now, how many -- how many
17 employees do you currently have, Steve?

18 MR. DAY: So, we have 15 staff members and
19 -- yeah.

20 MR. DONNELLY: So, we were talking about
21 this before. You have 15 staff members and this
22 will -- I'm sure will come up, and the Board's
23 going to ask questions, where are we going to
24 park 15 cars?

25 MR. DAY: So, in Brooklyn -- my team skews

1 | younger. There's only two members that own cars.

2 | MR. DONNELLY: Okay.

3 | MR. DAY: So, they're -- they're all --

4 | MR. DONNELLY: Are you one of them?

5 | MR. DAY: I am one of them, but I will
6 | probably be bicycling to work, or taking the bus,
7 | because the bus stop is a block away.

8 | MR. DONNELLY: Millennials.

9 | MR. DAY: Millennials. Exactly.

10 | MR. DONNELLY: Okay.

11 | MR. DAY: But -- but all -- not only that,
12 | but just mass transit is -- the bus stop is a
13 | block away and that's how I commute to work every
14 | day. I don't -- I don't drive through New York
15 | City. So --

16 | MR. DONNELLY: You brought some pictures
17 | with you today.

18 | MR. DAY: I did. I did --

19 | MR. DONNELLY: Can you show the Board some
20 | pictures?

21 | MR. DAY: Yes.

22 | MR. PANEQUE: You're going to have those
23 | pictures marked?

24 | MR. DONNELLY: We're going to mark them.

25 | MR. PANEQUE: Okay.

1 MR. DONNELLY: Yeah. This will be, I
2 guess, applicant's exhibit 1, do you want to do?

3 MS. DILLON: Yes. I'll mark it.

4 MR. DAY: How do you that? One?

5 MR. PANEQUE: B-1.

6 MS. DILLON: A-1.

7 MR. DONNELLY: You want me just put a one
8 on here?

9 MS. DILLON: A-1.

10 MR. PANEQUE: A-1.

11 MR. DONNELLY: A-1.

12

13 (Whereupon, Photo Board was received and
14 marked as Exhibit A-1.)

15

16 MR. DAY: My print job wasn't that good. I
17 -- I missed the -- the middle one so --

18 MS. DILLON: You know what? I'm going to
19 connect you with the wireless mic so that you can
20 move around.

21 MR. DAY: Oh, good.

22 Thank you.

23 MS. DILLON: I didn't realize you were
24 going to do all that.

25 MR. DAY: Sorry about that.

1 MS. DILLON: That's all right. That's --
2 that's fine.

3 MR. DONNELLY: So forgive the photography
4 here.

5 Steve --

6 MS. DILLON: And Mr. Donnelly, I'm going to
7 ask you to go --

8 MR. DONNELLY: I'll be --

9 MS. DILLON: -- switch places and --

10 MR. DONNELLY: I'll be by the mic.

11 MS. DILLON: -- you by the public --

12 MR. DAY: One --

13 MS. DILLON: -- mic.

14 MR. DAY: One thing that's exciting about
15 this space is we've been employing Union City
16 artists already, looking forward to employing
17 some more. Granted, we have a lot of artists in
18 Brooklyn, because we're in Brooklyn right now.
19 But looking forward to being in the place where
20 -- where I live.

21 My studio's also -- we also donate to teen
22 organizations in the area. You may know our
23 group called Young Life. We're -- we're working
24 with Universal Church here in Union City, and
25 there are some other groups. New City Kids, and

1 Hope and Future Center here in the area.

2 MR. DONNELLY: Just --

3 MR. DAY: They won't be involved in this
4 building but -- but I'm just looking forward to
5 --

6 MR. DONNELLY: Just --

7 MR. DAY: -- being in the community.

8 MR. DONNELLY: Just for the record, Steve.

9 MR. DAY: Yeah.

10 MR. DONNELLY: Can you just explain what
11 we're looking at here? I mean, I think it's
12 obvious but --

13 MR. DAY: So, this is -- this is the
14 building that we -- we hope to inhabit.

15 MR. DONNELLY: This is the front of the
16 building from, what is it, 19th Street, was it?

17 MR. DAY: Yeah.

18 MR. DONNELLY: You were standing on --

19 MR. DAY: 19th Street.

20 MR. DONNELLY: -- 19th Street. Okay.

21 MR. DAY: Yeah.

22 MR. DONNELLY: All right.

23 I want to move this along. You have a
24 couple more pictures?

25 MR. DAY: Sure.

1 Just pictures of the --

2 MR. DONNELLY: Wait a second. We got to do
3 one at a time.

4 MR. DAY: Yeah. I figured.

5 MR. DONNELLY: One at a time.

6 We're going to mark this A-2.

7

8 (Whereupon, Photo Board was received and
9 marked as Exhibit A-2.)

10

11 MR. DAY: So that's the 20th Street. So
12 just -- you know, the next block.

13 MR. DONNELLY: What -- what time of day and
14 day of the week was this taken?

15 MR. DAY: So, this would be work hours.

16 MR. DONNELLY: It's a work day?

17 MR. DAY: Yeah. It was a --

18 MR. DONNELLY: During work hours.

19 MR. DAY: -- work day. I think it was ten
20 o'clock that day.

21 MR. DONNELLY: Okay.

22 Note the empty parking spaces.

23 You have one more picture for us?

24 MR. DAY: Yup.

25 MR. DONNELLY: All right. We'll mark this

1 A-3, please.

2

3 (Whereupon, Photo Board was received and
4 marked as Exhibit A-3.)

5

6 MR. DAY: And that's the -- the reservoir
7 as well, at the same time of day so --

8 MR. DONNELLY: Was this taken a different
9 day than the other picture was taken?

10 MR. DAY: Nope.

11 MR. DONNELLY: Same day?

12 MR. DAY: Same day. Um hum.

13 MR. DONNELLY: A work day.

14 MR. DAY: Yup.

15 MR. DONNELLY: During working hours.

16 MR. DAY: Yup.

17 MR. DONNELLY: Okay.

18 Does the Board have any questions for Mr.
19 Day?

20 VICE CHAIRMAN BONACCI: I just have one
21 quick question.

22 You said you had 15 or 16 employees?

23 MR. DAY: Fifteen staff members. Yeah.

24 VICE CHAIRMAN BONACCI: Okay. Fifteen
25 staff members.

1 Thanks. No problem.

2 MR. DAY: And we animate for Marvel
3 Studios. I got to play Spiderman a couple times,
4 with motion capture. That's where you put the
5 suit on with the balls.

6 So, we've animated for Kevin Hart and
7 Captain Kirk.

8 MR. DONNELLY: William Shatner.

9 MR. DAY: William Shatner.

10 MR. GRULLON: Mr. Day?

11 MR. DAY: Yes.

12 MR. GRULLON: The working hours for your
13 staff.

14 MR. DAY: Is nine to five.

15 MR. GRULLON: Nine to five.

16 MR. DAY: Monday through Friday.

17 MR. GRULLON: And they all -- they all live
18 in Brooklyn, you say?

19 MR. DAY: They're all over. So, some are
20 in Manhattan. Some are in Brooklyn. Some are in
21 the Bronx.

22 So, when I brought up the prospect of
23 moving, a couple staff were like -- one who's in
24 the Bronx was like, oh, I'll drive instead of
25 taking the subway.

1 And then, there's another who's far out in
2 Brooklyn and he said, yeah, I'll have to -- it's
3 too far, I'll have to drive, so --

4 MR. DONNELLY: And do you have local
5 employees? Do you have --

6 MR. DAY: Yeah. We --

7 MR. DONNELLY: -- Union City employees?

8 MR. DAY: One is next to Five Star Thai.
9 So yeah.

10 MR. DONNELLY: Okay.

11 MR. DAY: And another one is -- I don't
12 know exactly, but I think he's further north.

13 MR. DONNELLY: I don't know the procedure.
14 Do you want -- do you want to invite the public
15 to ask questions of him now, or do --

16 VICE CHAIRMAN BONACCI: Do -- do you have
17 anybody --

18 MR. DONNELLY: -- we do that at the end?

19 VICE CHAIRMAN BONACCI: -- else that's
20 going to testify?

21 MR. DONNELLY: I do. I have a professional
22 planner who will testify.

23 VICE CHAIRMAN BONACCI: Okay.

24 MR. DONNELLY: And I -- I think he's going
25 to be my last witness, unless they want to hear

1 from the architect.

2 VICE CHAIRMAN BONACCI: We don't have any
3 more testimony from Mr. Day?

4 MR. DONNELLY: No.

5 VICE CHAIRMAN BONACCI: Okay.

6 I'm just going to open it up to the public,
7 in case anybody has any questions for Mr. Day.

8 Mr. Price?

9 MS. DILLON: Mr. Price, please raise your
10 right hand.

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

13 MR. PRICE: I do.

14 MS. DILLON: Please state your name and
15 address for the record.

16 MR. PRICE: Larry Price, 1006 Palisade
17 Avenue.

18 MS. DILLON: Thank you.

19 MR. PRICE: Okay. Mr. Day, I was unable to
20 -- what business are you involved in?

21 MR. DAY: Animation.

22 MR. PRICE: Animation. Okay.

23 Okay. Are you in this space now?

24 MR. DAY: No. What's in the space right
25 now is a -- or what was is a fencing studio. So,

1 | they have like fencing gear all over the floor
2 | and where swordsmen fighting in there.

3 | Before that, I think it was a -- an art
4 | gallery. It had massive -- like almost one time
5 | sculptures in -- in the warehouse.

6 | MR. DONNELLY: I can help the Board here.

7 | Mr. Day is under contract to purchase this
8 | --

9 | MR. DAY: Yeah.

10 | MR. DONNELLY: -- this building.

11 | MR. PRICE: Okay.

12 | I guess my question is your notice said
13 | that you're asking for a use variance. That
14 | could be a D-1 use variance or it could be a D-2
15 | variance.

16 | MR. DONNELLY: Yes, sir.

17 | MR. PRICE: Which is it?

18 | MR. DONNELLY: Well, we're going to hear
19 | testimony from the professional planner in a
20 | minute.

21 | I would invite you to hold your questions.
22 | You can ask all the questions you want.

23 | My notice, if -- if you'll see in my
24 | notice, the notice informs the public that we are
25 | in a residential zone. We are telling the public

1 we want to use it for a nonresidential use.

2 The law has said that I don't need to
3 publish exactly whether it's a D-1 or D-2
4 variance. Probably that would just confuse the
5 public.

6 The -- the notice is intended to make sure
7 that the public is aware, in a general sense, so
8 a simple person can read what's going on.

9 I'm very confident that our notice has done
10 that. It has informed the public that we want to
11 put a nonresidential use in a residential zone.

12 MR. PRICE: Okay.

13 Animation. What is involved?

14 MR. DAY: A lot of clicking away at
15 screens.

16 So, like Mickey Mouse, for instance. You
17 know, Mickey's going to be in this pose. And
18 then, in order to make him look like he's
19 running, an artist needs to like move their leg,
20 move the hands and -- and get him moving.

21 MR. PRICE: But this is basically done on a
22 computer.

23 MR. DAY: Yeah, it's done on computer.

24 MR. PRICE: It's not done -- where -- we --
25 we don't do cells anymore.

1 Correct?

2 MR. DAY: Actually, some of ours do cell
3 frame. Yeah. And they'll sit and they'll draw
4 at desks. Yeah.

5 MR. PRICE: Okay. But they're -- okay.
6 But we're not talking about an industrial
7 application here. It's a commercial application.

8 MR. DAY: Yeah.

9 MR. PRICE: Not an industrial.

10 MR. DAY: Yeah.

11 MR. PRICE: Okay.

12 Thank you.

13 MR. DAY: Thank you.

14 VICE CHAIRMAN BONACCI: Does anybody else
15 have any questions from the public?

16 Okay.

17 So, we'll close it off for members of the
18 public for Mr. Day.

19 You have a -- another --

20 MR. DONNELLY: Yes. I'd like to call
21 Michael Pessolano, please.

22 MS. DILLON: Mr. Donnelly, you'll have to
23 leave the exhibits with Carlos.

24 MR. DONNELLY: Yeah. I was going to take
25 them down now, so he can put up his exhibits.

1 I'll give them to Carlos right now.

2 MR. PESSOLANO: Well, mine are going to be
3 handouts. Sure.

4 MR. DONNELLY: Okay. Okay.

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

7 MS. DILLON: Sir, please raise your right
8 hand.

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

11 MR. PESSOLANO: I do.

12 MS. DILLON: If you could please state your
13 name and spell it for the record?

14 MR. PESSOLANO: Yes.

15 I am Michael J. Pessolano. That's P as in
16 Peter, E-S-S-O-L-A-N-O.

17 I'm a licensed professional planner in the
18 State of New Jersey.

19 MS. DILLON: Thank you.

20 MR. PESSOLANO: You're welcome.

21 MR. DONNELLY: Michael, I under -- I
22 understand you've testified before this Board,
23 but can you briefly go over your education and
24 your licenses, please?

25 MR. PESSOLANO: Yes. Gladly.

1 As I mention, I'm a licensed professional
2 planner since 1984, that is. Yes, that's so
3 '80s. That was a long time ago, but 30 plus
4 years as professional planner. About half of
5 that time I spent working as a municipal employee
6 planner. In other words, directly assisting in
7 the planning functions in-house, in a
8 municipality -- in municipalities.

9 The other half of that career spent as a
10 consulting planner, much in the capacity as Mr.
11 Spatz does for you, half a dozen municipalities,
12 including the City of Hackensack, I served as the
13 City Planner and Board Planner for both boards
14 there in the late 2000s.

15 Most recently, I'm appearing nightly,
16 almost, before Boards just like this, as an
17 expert planning witness, for and against
18 applications for approval.

19 MR. DONNELLY: Does the Board have any
20 questions regarding his qualifications?

21 VICE CHAIRMAN BONACCI: We accept your
22 qualifications.

23 Thank you.

24 MR. PESSOLANO: Thank you very much.

25 MR. DONNELLY: Michael, can you tell the --

1 tell the Board and the public about this
2 application and what relief we're seeking here
3 tonight?

4 MR. PESSOLANO: Yes.

5 This application is proposing a D-1
6 variance, where a use not permitted in the
7 district is sought to be approved, in connection
8 with site plan approval and a parking variance,
9 as well.

10 There's also some ancillary bulk issues
11 that relate to the building that's already there,
12 not being proposed by this application.

13 MR. DONNELLY: Just --

14 MR. PESSOLANO: And we're guided to the --

15 MR. DONNELLY: Just --

16 MR. PESSOLANO: -- D-1 --

17 MR. DONNELLY: Can I just stop you there --

18 MR. PESSOLANO: Yes.

19 MR. DONNELLY: -- for a second, just to hit
20 on that point?

21 MR. PESSOLANO: Um hum.

22 MR. DONNELLY: There is no exterior work,
23 no expansion of the footprint. The building's
24 not going up. There's no further encroachment on
25 setbacks.

1 Is that correct?

2 MR. PESSOLANO: Correct.

3 MR. DONNELLY: Okay.

4 MR. PESSOLANO: Before we go any further,
5 let me say that I -- I did look at the -- the
6 City Zoning Ordinance and Master Plan materials,
7 visited the site, discussed the application with
8 the applicant's team, looked at the plans of
9 course, to familiarize myself.

10 And on that point, let's get everybody up
11 to that same point of familiarity.

12 I have prepared planning exhibit for your
13 use to do the same. So, I think there's enough
14 copies here for everybody to have one.

15 This was prepared in collaboration with my
16 colleague, John McDonough, who's also a
17 professional -- licensed professional planner.

18 MR. DONNELLY: This will be --

19 MR. PESSOLANO: You're welcome.

20 MR. DONNELLY: Oh, I'm sorry. They're
21 stapled together. I think there's one packet for
22 everybody.

23 MR. PANEQUE: Mr. Donnelly?

24 MS. DILLON: I'll mark this as A-4.

25 MR. DONNELLY: A -- A-4. Yeah.

1 MR. PESSOLANO: All right. I will do that.

2

3 (Whereupon, Planning Exhibit, (5) Pages,
4 was received and marked as Exhibit A-4.)

5

6 MR. PESSOLANO: So, A-4 with today's date
7 is a five page exhibit, containing maps and on
8 the last page, a photographic image. It's 11
9 inch by 17 inch format.

10 On page one, this simply shows the -- the
11 tax lot orientation of the subject property in
12 the center. The map showing three tax lots being
13 involved for the subject evaluation.

14 Onto the next page, those three tax lots
15 merge with an aerial image. It's easy to see
16 that the -- the existing building occupies nearly
17 all -- all three of those tax lots today.

18 There's a small sliver of an area that
19 comes from the rear exit door, through a walkway
20 up to the street. But other than that, the site
21 is substantially covered by the existing
22 building.

23 Sheet number three of A-4 shows a land use
24 map that depicts what you already know, I'm sure.
25 The area is largely residential. There's a

1 school across 19th Street, a small mixed use
2 property at the corner of 19th and Cliff Street.
3 But largely, residential, developed at a high
4 density, or multi -- multi-dwelling unit level,
5 in my estimation.

6 So, that is for -- simply for use context.

7 And finally, looked at the zoning that
8 relates to the subject property, and that's on
9 page four. That maps shows, in red, the three
10 parcels that are in question, being squarely in
11 the residential R zone, where one, two and three
12 family uses are the orientation there. The
13 permitted uses.

14 And finally, the ground photo shows the
15 front view of the subject property, as it is seen
16 by the passing public today.

17 And any questions about these items?

18 I'm just -- just going to move on. I
19 wanted to indicate the familiarity with -- with
20 all these items, by presenting this exhibit.

21 VICE CHAIRMAN BONACCI: I -- I just have a
22 quick question for you.

23 MR. PESSOLANO: Please.

24 VICE CHAIRMAN BONACCI: Okay. The
25 application. Is it My Lovely Days, LLC or is it

1 Idea Machine Studios?

2 MR. DONNELLY: It's My Lovely Days, LLC.

3 Idea Machine Studios, and I can bring Steve
4 back up to -- to talk to you about this, but --
5 but it's --

6 VICE CHAIRMAN BONACCI: If you could
7 explain it, that's fine for me.

8 MR. DONNELLY: Idea Machine Studios, this
9 is animation studios. My Lovely Days is the
10 newly created limited liability company
11 established for the purpose of purchasing the
12 real estate.

13 So, as it's common practice, you'd have the
14 real estate owned by one entity, the operator, a
15 separate entity. But they're both owned by Steve
16 Day, who's here today.

17 VICE CHAIRMAN BONACCI: Okay.

18 Thank you.

19 MR. PESSOLANO: All right. This is -- the
20 subject property involves the existing largely
21 one story, there is a two and a half story
22 portion in the front center of the subject
23 property.

24 However, this property comes to this
25 hearing tonight with a history of being used for

1 nonresidential purposes. It was built for
2 nonresidential occupancy, for
3 industrial/commercial occupancy, and up until the
4 recent knowable past, anyway, according to my
5 client, the fencing studio occupied this
6 facility.

7 So that was a nonresidential, fairly
8 active, actually, commercial recreation use.
9 They would have comings and goings that we just
10 won't have here with the -- the proposed use,
11 where people get there, they're there for the
12 day, and then they leave. There's one set of
13 turnover, really. The coming, and then, part two
14 of the coming is the leaving. So, it's really
15 one -- one turnover by the users of this
16 property, the employees of the company.

17 This D-1 analysis is on the heels of the
18 City's professionals weighing in on what relief
19 is needed. And we followed that guidance. The
20 Zoning Officer determined that it's a use not
21 permitted in the district, and therefore, a D-1
22 variance is required, as well as parking relief.

23 This property, being built almost corner to
24 corner with a building, has no room, no
25 opportunity whatsoever for parking. Perhaps, a

1 bicycle could be stored in -- in the walkway
2 going to the exit, but there's room for no
3 vehicles on the subject property.

4 And that has been the existing condition.
5 So, with any prior use, whether it be office,
6 whether it be artist, whether it be fencing,
7 whether it be industrial, no parking was assigned
8 to this property in its current configuration.

9 So, we're not proposing anything new here.
10 In fact, we're not proposing anything new in the
11 way of -- of the streetscape, as well. This
12 building will not be altered. So, we don't have
13 any disruption from the turnover to a new
14 occupancy, just the interior fit out is what
15 we're here seeking your approval to -- to move
16 forward with, with the -- with the new proposed
17 office use.

18 So, the proposed use is 100 percent office.
19 And to evaluate that, we followed the -- the four
20 standards -- four steps of the Medici analysis
21 for a D-1 use that's not an inherently beneficial
22 use.

23 While this might be a fun use, it's not
24 inherently beneficial and so, we would be guided
25 by the Medici proofs that are required.

1 Stage number one is to determine is this a
2 particularly suitable suited. And I find that it
3 is particularly suited. It was, after all,
4 constructed for nonresidential purposes.

5 This is not a conversion to -- from
6 residential to nonresident -- this was made to be
7 nonresidential.

8 The prior use was nonresidential. As you
9 heard, a fencing studio occupied the prior -- the
10 property previously. And before that, my client
11 indicated the artist operation in -- in this
12 building.

13 The site is also particularly suited for
14 nonresidential use, given its location near two
15 bus stops on 18th Street.

16 Lastly, the -- the site is particularly
17 suited for this nonresidential occupancy, in
18 other words, a higher intensity use, because it's
19 an extremely large lot, three times the -- the
20 minimum lot size required by zoning.

21 As to special reasons.

22 This use, I find, will promote the purposes
23 of not only the Municipal Land Use Law, but the
24 Union City Master Plan, on the heels of its brand
25 new, this week, adopted 2018 Master Plan Re-

1 Examination Report.

2 The -- the primary purpose of zoning, as
3 you know, is to promote the general welfare. I
4 find that this application, this proposal will
5 promote the general welfare in several ways.

6 It promotes economic development by
7 providing jobs in a statable (sic) -- I'm sorry
8 -- stable ratable base.

9 Why is that important?

10 Well, we have zones, we have uses, we have
11 buildings, and so forth. But if they're not
12 utilized well and productively, we're missing the
13 mark, generally speaking. General -- you know,
14 not Union City, but generally speaking.

15 This is opportunity for providing
16 substantial employment for skilled folks, I think
17 is a win for the city. It stabilizes the
18 property for the long term, I think, and provides
19 for work opportunities for skilled workers that
20 wouldn't otherwise exist.

21 It also provides an opportunity for
22 artistic expression and a place for artists to be
23 employed. A rare thing, indeed. In my 30 years
24 of work as a planner, I don't see much of that.
25 So, this is particularly beneficial for that

1 reason.

2 It promotes the planning goal in the
3 Municipal Land Use Law for the efficient use of
4 land. We're re-purposing an existing
5 nonresidential use with another nonresidential
6 use that, in my evaluation, is far less intense
7 than an instructional studio can be. So, that is
8 noteworthy, for sure.

9 It also promotes providing for a variety of
10 commercial uses in appropriate locations. And
11 the key word here is appropriate because this --
12 this site is custom made for continuation of
13 commercial activity. The proposed office use, I
14 think, makes perfect sense and a -- and a glove
15 fit for -- for what's on the ground.

16 The Union City Master Plan, particularly
17 through the -- the most recent Re-Examination
18 Report, encourages and promotes economic growth.

19 So, this is an opportunity to not overdo
20 the growth thing, but to provide for real estate
21 contribution to opportunities for people in the
22 workforce.

23 Little tidbit of data from that Re-
24 Examination Report was referencing demographic
25 information about what's the composition of the

1 community today?

2 And I was struck by the fact that some 23
3 percent of the workforce is employed in office
4 occupations. Twenty-three percent of the work --
5 of the Union City workforce.

6 This is -- this proposed use is mirroring
7 that, so quite a blend with the -- the existing
8 substrata of employment, if you will, in the City
9 of Union City.

10 As to step three, which is to evaluate the
11 public impact from a proposal in a D-1 analysis,
12 I find that this is a -- a low impact use, in
13 terms of the level of activity.

14 As I said, at the outset, people come to
15 work. They stay there the whole day. They
16 leave.

17 So, whether they're using a car or not,
18 even if they were, we have one of the lowest
19 commercial activities, lowest levels of activity
20 in a commercial realm that can be had. So, a
21 good thing there.

22 And it's -- I find it's substantially less
23 intense than a commercial recreational use, where
24 you have the classes, rotation, turnover, comings
25 and goings, droppings off, whatever that is

1 associated with that kind of a use disappearing,
2 not taking place anymore on this street, with
3 this use.

4 This use entails people working at
5 computers. And so, as you can imagine, doesn't
6 generate any substantial impacts, in terms of
7 noise, glare, et cetera.

8 Finally step four.

9 Evaluate -- evaluation of the zone plan
10 impact. The zone plan, taken in this context, is
11 both the -- the Master Plan and Zoning Ordinance,
12 as it's currently constructed together.

13 This reuse of this commercial building, I
14 find, will not erode the -- the neighborhood
15 character in any way. If anything, it gives more
16 life to a building that's longstanding a part of
17 the -- the accepted neighborhood pattern of -- of
18 use and development.

19 And again, we're toning down the intensity
20 of use, so it should be a better neighbor for
21 that reason.

22 The use retains the existing condition
23 along the street and throughout the property, and
24 will not have any of the -- the neighborhood
25 disruption impacts that come from new

1 construction.

2 The -- the Medici analysis asks for an
3 additional inquiry into -- is there conflict with
4 the -- the zone plan? This property is zoned
5 residential. The use is not residential. How do
6 we reconcile those?

7 And the Medici court said to determine
8 whether or not this was substantially
9 inconsistent with the Master Plan. I find that
10 that's not the case, that it's not inconsistent
11 because the Master Plan of 2018, one of the first
12 new goals that it recommends is to preserve the
13 -- the character and quality of existing
14 residential neighborhoods, and this is all in the
15 same recommendation, while encouraging
16 appropriate economic growth and economic
17 development.

18 That's this application in a nutshell. It
19 does not disturb the neighborhood character one
20 bit and it provides new life, new economic
21 opportunity, and also, when you have jobs
22 created, not only just creation of jobs, but
23 retaining jobs, you have cash circulate --
24 circulating in the local economy. That's what
25 economic development is, from a -- from a

1 planner's perspective. It brings dollars into
2 the local economy and keeps circulating there.
3 And you know, benefits accrue to that. Let me
4 just leave it at that without going too deep
5 there.

6 As far as the parking variance that is on
7 the table, the -- the Ordinance calculates the
8 amount of floor space dedicated to office and
9 divides that by a ratio of 300 square feet, and
10 leaves us with a requirement, parking requirement
11 of 26 off-street parking spaces.

12 As stated before, no parking spaces exists,
13 none are available to be created, no room is
14 available to be -- to create that. I find that
15 this is very much qualifying for C-1 relief,
16 where a hardship exists. And the hardship here
17 relates to the structures lawfully existing on
18 the property. It doesn't always have to do with
19 the narrowness or the slope. It can relate to
20 the structures lawfully on the property.

21 This is a nonconforming structure, built
22 before it was said not to be built. And
23 therefore, it -- it qualifies for a positive vote
24 on the hardship of the matter.

25 Let me point out that the Ric-Cic case is

1 something you can hang your hat on with that.
2 That case -- that court determined that approval
3 of the parking variance was justified where --
4 justified -- excuse me -- where no on-site
5 parking existed. It concerned the burning of a
6 -- a building on a pier. There was no -- no
7 parking on a pier that could be had, none could
8 be inserted on that pier, and the court found it
9 unreasonable to deny rebuilding of that property
10 after the fire, because there was insufficient
11 parking.

12 So, we have a similar situation. We don't
13 have a fire or a destruction here, but we have a
14 property with no means, no physical means for
15 accommodating any parking. And that has been the
16 case. It's not because of this applicant's
17 application, it has been the way the property has
18 been used over time.

19 The applicant has presented, through
20 photographic exhibits, based on his touring of
21 the neighborhood during the business day, to
22 indicate it's not unrealistic to consider that a
23 few parking spaces could be had, if needed, on
24 the on-street -- in the on-street supply nearby.

25 But the use of -- of mass transit by the

1 workers the applicant has on staff now and yet to
2 come, is a realistic thing to happen and that is
3 how my client intends to bring his workers to and
4 from, is by non -- non-passenger vehicle means.

5 In other words, not involving something
6 that -- that has to be parked somewhere on large
7 -- in large measure. Maybe not exclusively.

8 This site was selected by my client because
9 of its proximity to the mass transit
10 opportunities. He knows the area well and knows
11 that that works.

12 Again, back to the -- the demographic
13 information gleaned -- that I gleaned from the
14 2018 Master Plan Re-Examination Report, 44
15 percent of the workers in Union City use mass
16 transit to get to and from work. Another 14
17 percent walk to work.

18 Those are huge numbers. You know, I've
19 looked at census data on means -- means of travel
20 to work and most communities don't even come
21 close to those two, not by a long shot.

22 So, the point is, Union City is -- has got
23 the physical infrastructure for a realistic
24 reliance on that for transportation to and from
25 work, in my opinion.

1 So, in conclusion, folks, this is simply an
2 application to retrofit an existing commercial
3 building with a new commercial activity, and a
4 very low intensity one at that.

5 Parking is truly not needed in this
6 situation, but in reality, the demand is less
7 than what was using the building before this
8 application.

9 So, I find that the statutory tests for
10 both the D-1 relief and the C-1 relief are
11 squarely met and your approval is warranted, and
12 respectfully requested.

13 Thank you.

14 Please.

15 MR. PRESSEY: Page 5, the upper level, with
16 the four windows, could you tell me what's in
17 there?

18 MR. PESSOLANO: That is proposed office
19 space.

20 MR. PRESSEY: Proposed office space.

21 Okay.

22 MR. PESSOLANO: There is a drawing in the
23 architectural plans that shows it's for the
24 executive office area. And that's typical, where
25 you have upper level space in a -- in a building

1 | that's not got a whole second floor, the
2 | executive functions tend to occupy those areas.

3 | VICE CHAIRMAN BONACCI: I have a question.

4 | MR. PESSOLANO: Please.

5 | VICE CHAIRMAN BONACCI: So, in page 5, also

6 | --

7 | MR. PESSOLANO: Yes.

8 | VICE CHAIRMAN BONACCI: -- there's a
9 | vestibule area that's occupying a -- there's a --
10 | there's a driveway there that's marked off. So,
11 | is it correct, if I'm lead to believe that you
12 | will no longer need that spot, it would be given
13 | back to the city?

14 | MR. PESSOLANO: That's a client question --

15 | VICE CHAIRMAN BONACCI: Okay.

16 | MR. PESSOLANO: -- that I'll have to --

17 | MR. DONNELLY: Steve?

18 | MR. PESSOLANO: -- defer to --

19 | MR. DONNELLY: Steve, come -- come up.

20 | MR. PESSOLANO: -- Steve for.

21 | MR. DONNELLY: Please.

22 | MS. DILLON: Just right in front of the
23 | microphone.

24 | MR. DONNELLY: Right in front of the mic,
25 | Steve. By me.

1 MS. DILLON: No, no, no. Just leave it.

2 MR. DAY: Right.

3 MR. DONNELLY: Is this the red door you're
4 kind of asking for?

5 VICE CHAIRMAN BONACCI: Yeah.

6 MR. DONNELLY: So, you're -- I guess you're
7 asking, is that going to be an active driveway?

8 VICE CHAIRMAN BONACCI: Or is it going to
9 be something that's not used anymore?

10 MR. DAY: It's not -- it's not going to be
11 an active driveway. And yeah, we're not -- we
12 can -- we can give it back to the City. Sure.

13 VICE CHAIRMAN BONACCI: Okay.

14 Thanks.

15 That's positive.

16 MR. PESSOLANO: Good idea. Very good idea.

17 Thank you.

18 VICE CHAIRMAN BONACCI: Any members of the
19 Board have any other questions?

20 Before we open it up to the public, I just
21 want to make sure that we have a few things
22 cleared up.

23 MR. PESSOLANO: Um hum.

24 VICE CHAIRMAN BONACCI: Just to review the
25 -- the variances that you've come before the

1 Board to request.

2 So, is it correct that you're looking for a
3 D-1 use variance?

4 MR. PESSOLANO: Yes.

5 VICE CHAIRMAN BONACCI: C-1 parking?

6 MR. PESSOLANO: Yes.

7 VICE CHAIRMAN BONACCI: Did I miss any?

8 MR. PESSOLANO: There are existing bulk
9 conditions that don't conform to the Ordinance,
10 but they -- and I agree with Mr. Spatz's analysis
11 in his March 7th memo, which I reviewed that they
12 are subsumed because the R district does not
13 contemplate commercial use so --

14 VICE CHAIRMAN BONACCI: So that's -- that's
15 the request -- that's the relief that you're
16 requesting.

17 MR. PESSOLANO: Yes.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. PESSOLANO: In other words, to validate
20 those preexisting bulk deficiencies.

21 VICE CHAIRMAN BONACCI: If nobody from the
22 Board has any further questions, then I'll just
23 open it up to members of the public.

24 Mr. Price, you got anything for the
25 planner?

1 Okay.

2 I'm going to close it to the public.

3 Now, before I make a motion --

4 MR. PANEQUE: Wait, Mr. Vice Chairman
5 Bonacci.

6 Mr. Donnelly, do you have your architect?

7 MR. DONNELLY: I do.

8 MR. PANEQUE: Okay. Is --

9 MR. DONNELLY: If the Board wants to hear
10 from him, we could swear the architect and he
11 could talk -- the work is generally interior, but
12 we're happy to present the architect.

13 MR. PANEQUE: Yeah. The -- the reason I
14 ask is, part of your application includes the
15 architect's plans. We haven't heard any expert
16 testimony, so we need to have those plans
17 presented to the Board, so that then the Board
18 can act on it.

19 MR. DONNELLY: Okay.

20 MR. PANEQUE: And these plans will then
21 have to be signed by the Chairman. So, without
22 testimony, we really can't have those plans
23 signed.

24 MR. DONNELLY: Okay. Very good.

25 We will make a quick presentation with the

1 architect.

2 MR. PANEQUE: Okay.

3 MR. DONNELLY: And just validate -- confirm
4 he's prepared the plans, give a very quick
5 overview of the plans, and invite questions from
6 the Board.

7 MR. PANEQUE: Thank you, sir.

8 MR. DONNELLY: Joaquin?

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

11 MS. DILLON: Please raise your right hand.

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

14 MR. BOUZAS: I do.

15 MS. DILLON: Please state your name and
16 spell it for the record.

17 MR. BOUZAS: Joaquin Bouzas, J-O-A-Q-U-I-N,
18 last name B-O-U-Z-A-S.

19 MS. DILLON: Thank you.

20 MR. DONNELLY: I think we should mark this
21 as exhibit A --

22 MS. DILLON: Is it the same plans that are
23 in the package?

24 MR. DONNELLY: Have the plans changed at
25 all?

1 MR. BOUZAS: No.

2 MR. DONNELLY: They're in the packet.

3 MR. BOUZAS: Um hum.

4 MS. DILLON: So, if you want them marked?

5 MR. PANEQUE: No. We don't need to mark
6 them if --

7 MR. DONNELLY: Okay.

8 MR. PANEQUE: -- they're part of your
9 exhibit.

10 MR. DONNELLY: He can confirm that --

11 MR. PANEQUE: Mr. Donnelly, I -- I don't
12 remember Mr. Bouzas appearing before this Board,
13 so would you please --

14 MR. DONNELLY: Sure. Absolutely.

15 MR. PANEQUE: -- proffer something to
16 qualify him --

17 MR. DONNELLY: Absolutely.

18 MR. PANEQUE: -- as an expert?

19 Thank you.

20 MR. DONNELLY: Can -- Mr. Bouzas, can you
21 briefly tell us your education, tell us what
22 professional licenses you own, and tell us
23 whether you appeared before a board like this
24 before?

25 MR. BOUZAS: Sure.

1 I'm a licensed architect in the State of
2 New Jersey. I have my bachelor's degree from New
3 Jersey Institute of Technology, member of the
4 AIA. I'm a principal --

5 MR. DONNELLY: What's the AIA, just to be
6 --

7 MR. BOUZAS: The American -- American
8 Institute of Architects.

9 I'm a principal at Inglese Architecture and
10 Engineering, and my license is current and in
11 good standing.

12 MR. DONNELLY: Have you appeared before
13 boards like this before?

14 MR. BOUZAS: Numerous. Numerous, yes.

15 MR. DONNELLY: Is there any questions
16 regarding his qualifications?

17 VICE CHAIRMAN BONACCI: We accept your
18 qualifications.

19 Thanks.

20 MR. BOUZAS: Thank you.

21 Appreciate it.

22 Yes, so, just quickly, over the -- the
23 plan. As described, it's really just interior
24 work. These hatched lines, or these dark --
25 these dark lines is basically the new -- the new

1 walls that are being created. And as you could
2 see, they're just creating small offices.

3 And then, also including a men's room and
4 women's room, ADA accessible restrooms. Nothing
5 really to the exterior. Just replacing the
6 windows, cleaning and -- cleaning the brick
7 that's existing, installing new doors, replacing
8 what's existing there.

9 And then, on the second floor, somebody
10 asked about the second floor. It's really just a
11 partial mezzanine and stairs that come up, and
12 you have a two -- two offices, two executive
13 offices with a kind of lounge area in the front,
14 or little lobby area.

15 MR. DONNELLY: Are those -- is that also in
16 the --

17 MR. BOUZAS: Yes, it is. Um hum.

18 MR. DONNELLY: -- that they have?

19 It is?

20 Okay.

21 MR. BOUZAS: Yeah.

22 So, this is, again, just a picture of the
23 existing building. And I just -- I -- I wanted
24 to show the area of that mezzanine or where those
25 offices would be on the second floor.

1 That's really all the -- the work that's
2 being proposed.

3 VICE CHAIRMAN BONACCI: Can you testify
4 that the application, or the project meets the
5 safety standards for emergency fire, police,
6 access, protection?

7 MR. BOUZAS: Yes. The building is
8 sprinklered currently. So that's always helpful,
9 in case of a fire.

10 But we have the required means of egress.
11 We have two means of egress and -- and it meets
12 all the safety -- you know, according to Code.

13 VICE CHAIRMAN BONACCI: Okay.

14 I don't have any further questions.

15 Members of the Board?

16 MR. GRULLON: No.

17 VICE CHAIRMAN BONACCI: Okay.

18 Open up to the public, if anybody has any
19 questions for architect here, Mr. Bouzas.

20 Okay.

21 Going to close it to the public.

22 Before I make a --

23 Do you have any more?

24 MR. DONNELLY: I don't.

25 VICE CHAIRMAN BONACCI: Okay.

1 MR. DONNELLY: I don't.

2 VICE CHAIRMAN BONACCI: Before -- before I
3 make a motion, I just want to point out that the
4 testimony that we've heard would leave one to
5 believe that this is a clean use. And what I
6 mean by clean use is that the nature of the --
7 the use is going to be like a low amount -- a low
8 amount of congestion. People coming in, people
9 coming out, the traffic.

10 MR. DONNELLY: Yes. I think we've
11 testified to that, yes.

12 VICE CHAIRMAN BONACCI: You testified about
13 the parking requirements, and it seems as though
14 that the town would actually get a parking space
15 back when this is all said and done.

16 We reviewed the variances that you
17 requested, D-1, C-1, the bulk variance.

18 This is going to create, to my knowledge,
19 employment opportunities for the City, which is
20 good. And it's -- there's a possibility of
21 community involvement that we heard from Mr. Day.

22 So, with that being said, I'd like to make
23 a motion to approve the application.

24 MR. DONNELLY: Did you --

25 Excuse me? Just one point.

1 Did we open it for public comment already?

2 MR. PANEQUE: We did.

3 MR. DONNELLY: We did. Okay.

4 MR. PANEQUE: Yeah.

5 MR. DONNELLY: Just confirm that.

6 Thank you.

7 THE SECRETARY: Motion on the table to
8 approve this application by Mr. Bonacci.

9 Any second on the motion?

10 Second by Ms. Gutierrez.

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

13 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. Ortiz?

22 MR. ORTIZ: Yes.

23 THE SECRETARY: Five in favor.

24 Motion carries.

25 Thank you.

1 MR. DONNELLY: Thank you, everyone.

2 MR. GRULLON: Thank you.

3 MS. GUTIERREZ: Thank you.

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

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1 **Kuenzle Realty, LLC - 3804 32nd Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Kuenzle Realty, LLC, 3804 32nd
5 Street.

6 Miss Pereiras, please?

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

9 MR. PANEQUE: For the record, I've been
10 provided with the following documentation by Ms.
11 Pereiras:

12 I've been provided with an Affidavit of
13 Publication from The Jersey Journal, dated
14 2/23/18, which indicates that notice of tonight's
15 hearing with respect to the property at 3804 32nd
16 Street was published in the newspaper on February
17 23rd, giving notice of tonight's hearing,
18 Thursday, March 8 at six p.m.

19 And I've also been provided with a
20 certification as to publication and services,
21 signed by Ms. Pereiras, indicating that notice of
22 tonight's hearing went out to all property owners
23 within the 200 foot radius.

24 I've also been provided with the certified
25 mail receipts, with a stamp date of February 26,

1 just in time. Ten days.

2 MS. PEREIRAS: Yes.

3 MR. PANEQUE: I've also been provided with
4 a copy of the list of property owners within the
5 200 foot radius, with a date of February 20th,
6 2018, as well as the green cards that have come
7 back to date.

8 Based on the documentation, this Board has
9 jurisdiction to proceed.

10 MS. PEREIRAS: Thank you very much,
11 counsel.

12 Good evening, Mr. Chairman, members of the
13 Board.

14 May it please the Board, Bianca Pereiras,
15 on behalf of the applicant, Kuenzle Realty, LLC.

16 This is for property located at 3804 32nd
17 Street, also known as Block 261, Lot 3.

18 Currently, onsite, we have a vacant lot.
19 This is neighboring to the business operated by
20 Kuenzle Realty, which is Florian Glass. Florian
21 Glass is looking to make a parking lot for their
22 own use for the business on the space currently
23 before the Board this evening.

24 I'd like to begin tonight's presentation
25 with our architect, Mr. Manuel Pereiras.

1 MS. DILLON: You really throw me off when
2 you do that.

3 MR. PEREIRAS: I'll stop.

4 MS. DILLON: Please raise your right hand.
5 I can't do it any other way.

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

8 MR. PEREIRAS: I do.

9 MS. DILLON: Please state your name for the
10 record.

11 MR. PEREIRAS: Manny Pereiras, with
12 Pereiras Architects Ubiquitous, 1116 Summit
13 Avenue, Union City.

14 MS. DILLON: Thank you.

15 MS. PEREIRAS: And for purposes of the
16 record, Mr. Pereiras has testified before.

17 VICE CHAIRMAN BONACCI: We accept your
18 qualifications.

19 Thanks.

20 MS. PEREIRAS: Thank you.

21 Mr. Pereiras, are you familiar with 3804
22 32nd Street?

23 MR. PEREIRAS: I have.

24 MS. PEREIRAS: And did you prepare the
25 drawings that are before the Board this evening?

1 MR. PEREIRAS: I have.

2 MS. PEREIRAS: And would you kindly
3 describe the project for the Board?

4 MR. PEREIRAS: I'd be very happy to.

5 It's an extremely simple application. I'll
6 keep my presentation short, unless you have
7 questions, then I'll -- I'll elaborate on it.

8 It's an existing lot, 25 by a hundred.
9 There used to be a building on it. My drawings
10 show a building on it now. It's already been
11 demolished. It happened in the process of --
12 from when we put the drawings in until we got to
13 this point today.

14 And what we're looking to do is to simply
15 asphalt the parking lot. There's actually some
16 structural work that's going to be done because
17 we're underpinning the adjacent structures to
18 make them safe and proper. But we're asphaltting
19 the existing lot and we're taking this
20 opportunity to make Union City a little bit more
21 attractive, too. We're creating two pieces of
22 landscaping along the front, just to beautify
23 that sidewalk a little bit.

24 We have a curb cut proposed along 32nd
25 Street. That actually doesn't change because we

1 | had previously gotten a three family approved
2 | here. So, it would be the same curb cut either
3 | way, whether this project gets approved or not.

4 | The difference is we're using it for
5 | parking now. We would fit ten cars in it on each
6 | side. It's going to be used primarily by the
7 | adjacent business. It's a business that has been
8 | established and has been there for many years,
9 | Florian Glass. And they simply have a lot of
10 | vans and they don't want to be parking on the
11 | street. They're having a lot of issues, so
12 | they're taking them off the street and putting
13 | them in the lot immediately next to them.

14 | VICE CHAIRMAN BONACCI: Do you have anybody
15 | else that's going to --

16 | MS. PEREIRAS: We also have a planner.

17 | VICE CHAIRMAN BONACCI: Okay.

18 | Members of the Board, do you guys have any
19 | questions for Mr. Pereiras?

20 | MR. GRULLON: Please, Mr. Pereiras, I have
21 | a question.

22 | They're planning to use this parking lot
23 | for the vans, for the vans?

24 | MR. PEREIRAS: Yes.

25 | MR. GRULLON: Are they going to have an

1 access to the business from there? Are they
2 planning to use it as a loading zone?

3 MR. PEREIRAS: No. It's not -- it doesn't
4 work as a loading zone. Right now, they have
5 loading along --

6 MR. GRULLON: Along 38, no?

7 MR. PEREIRAS: Correct.

8 MR. GRULLON: Yes.

9 MR. PEREIRAS: So along 38th Street, they
10 have existing garage doors. That doesn't change
11 that you can still roll up a truck inside there.
12 All that business continues over there.

13 Because of the topography of the site, this
14 is actually much lower. So, there will be no
15 loading on there.

16 MR. GRULLON: But the proposed use will be
17 strictly for parking --

18 MR. PEREIRAS: Strictly for parking.

19 MR. GRULLON: -- probably for the vans
20 overnight.

21 MR. PEREIRAS: Exactly.

22 MR. GRULLON: Okay.

23 I don't have any more question.

24 Thank you, Mr. Pereiras.

25 MR. PEREIRAS: Okay.

1 VICE CHAIRMAN BONACCI: Members of the
2 public, any questions for Mr. Pereiras?

3 Okay.

4 Closed to the public.

5 MS. PEREIRAS: Yes.

6 VICE CHAIRMAN BONACCI: Ms. Pereiras?

7 MS. PEREIRAS: I'd like to proceed with our
8 planner, Mr. Michael Kauker.

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

11 MS. DILLON: Please raise your right hand.

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

14 MR. KAUKER: I do.

15 MS. DILLON: Please state your name and
16 spell it for the record.

17 MR. KAUKER: My name is Michael D. Kauker.
18 Last name is K-A-U-K-E-R. I'm a licensed
19 professional planner.

20 MS. DILLON: Thank you.

21 MS. PEREIRAS: And Mr. Kauker has also
22 testified before this Board in the past, and I
23 ask that he be accepted as an expert.

24 VICE CHAIRMAN BONACCI: Mr. Kauker, we
25 accept your qualifications.

1 Thanks.

2 MR. KAUKER: Thank you.

3 MS. PEREIRAS: Mr. Kauker, are you familiar
4 with the property located at 3804 32nd Street?

5 MR. KAUKER: I am. That's correct.

6 MS. PEREIRAS: And did you have an
7 opportunity to review this, from a planning
8 perspective?

9 MR. KAUKER: I did. I had an opportunity
10 and I'll be relatively brief.

11 As Mr. Pereiras mentioned, this is a fairly
12 straightforward application, but I did have an
13 opportunity to review the application.

14 The subject property, as Mr. Pereiras
15 mentioned, is located along 32nd Street. It's
16 identified as Block 261, Lot 3 in Union City's
17 tax records.

18 The subject property has a lot area of
19 2,809 square feet. It's undersized, in terms of,
20 or in relation to the required minimum lot area
21 for the zone.

22 It's located in the RM, medium density
23 residential district. And the site, as Ms.
24 Pereiras mentioned, is currently vacant. It was
25 occupied by a small building, I believe, which

1 will be demolished or has been.

2 With respect to the surrounding conditions,
3 there are a mix of different types of uses in the
4 area. There are commercial uses. There are
5 residential uses.

6 Again, it's located in the RM, which is the
7 medium density residential district.

8 With respect to the proposed development,
9 as Mr. Pereiras mentioned, the applicant is going
10 to pave the subject property and construct a
11 parking area for ten parking spaces, primarily
12 used for the adjacent business.

13 The adjacent business is a commercial use,
14 preexisting nonconforming use. Therefore, this
15 property is located in a residential district.
16 It serves a commercial use, therefore, a D-1 use
17 variance would be required for the proposed
18 parking lot.

19 With respect to the variance proofs. The
20 application, as I mentioned, requires a D-1 use
21 variance. In order for the Board to grant a D-1
22 use variance, the applicant must make an
23 affirmative showing of both the positive and the
24 negative criteria of the statute.

25 With respect to this application, I would

1 submit to the Board that the site is particularly
2 well suited for the proposed use.

3 Firstly, it's located immediately adjacent
4 to the use in which it will serve. The site
5 itself is undersized. I think it really serves
6 as a better use for parking, with respect to the
7 existing conditions in the area.

8 Obviously, as we've heard many, many times,
9 in many applications, there is a need for parking
10 in Union City, which is also emphasized in your
11 Master Plan document. And we're going to be
12 taking parking that currently occurs on the
13 street, bringing it off-street and putting it on
14 this property.

15 With respect to the negative criteria, it's
16 my opinion that there will be no substantial
17 detriment to the public good. Obviously, we're
18 improving a condition, as I mentioned before,
19 where we're taking parking off the street, and
20 putting it on a site.

21 The proposed use itself, really, in terms
22 of traffic, it's not creating any additional
23 traffic. It's just accommodating a need for
24 parking with the business.

25 Finally, we have to make a showing that

1 | there will be no substantial impairment to the
2 | intent and purpose of the Master Plan or Zoning
3 | Ordinance.

4 | I -- I did have an opportunity to review
5 | the Master Plan document, in addition to the most
6 | recently adopted document, which is dated
7 | February 2018. It is my opinion that the
8 | application is not in conflict with any of the
9 | goals and objectives of the Master Plan document
10 | itself.

11 | Therefore, I don't think there'll be a
12 | substantial impairment. Again, we're -- we're
13 | providing parking for an existing business.
14 | Obviously, it's going to -- in my opinion, it's
15 | going to make the whole situation better with
16 | respect to parking in the street and -- and the
17 | business use that's located on the adjoining
18 | property.

19 | I do believe that, for the reasons I
20 | mentioned, that we meet the positive criteria,
21 | and also meet the negative criteria. And I feel
22 | confident that the Board can grant the requested
23 | variances.

24 | VICE CHAIRMAN BONACCI: Mr. Kauker?

25 | MR. KAUKER: Yes.

1 VICE CHAIRMAN BONACCI: Would you be able
2 to testify that the dimensions of the parking lot
3 and the parking spaces, in the new lot that you
4 guys are applying for, does it meet all the
5 standards and requirements?

6 MR. KAUKER: I'd have to take a look at the
7 -- I don't know if the dimensions are shown on
8 the plan.

9 VICE CHAIRMAN BONACCI: That's -- that's a
10 Manny question.

11 MR. PEREIRAS: That's -- that's a --

12 MS. PEREIRAS: Yes.

13 VICE CHAIRMAN BONACCI: Right?

14 MR. PEREIRAS: That's a me question.

15 MR. KAUKER: Yeah. I think that would be a
16 question better --

17 MR. PEREIRAS: Yeah.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. KAUKER: -- answered by Manny.

20 VICE CHAIRMAN BONACCI: I'll hold that one
21 until we get you back up here then.

22 MR. KAUKER: I -- yeah. I'm not sure what
23 the -- what -- what the dimensions are, but --

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. KAUKER: -- if there are any questions

1 as to adequacy of the parking spaces onsite, I
2 could answer that after Manny answers that
3 question.

4 VICE CHAIRMAN BONACCI: Yeah. I'll just
5 save the question for Mr. Pereiras.

6 Any members of the Board have any questions
7 for Mr. Kauker?

8 Do any members of the public have any
9 questions for Mr. Kauker?

10 Closed to the public.

11 Thanks, Mr. Kauker.

12 MR. KAUKER: Thank you.

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

15 MR. PEREIRAS: Thank you.

16 So, parking standards are extremely
17 important, particularly when you have a -- a lot
18 that's used by different people, by the public,
19 in general. You need to have adequate areas to
20 come in and out, because you can't call somebody
21 and say, hey, move your car, move this, move
22 that.

23 This is actually totally different, because
24 it's used by a business. It's the same
25 ownership. The same guy owns the trucks.

1 So, they don't need to comply with general
2 parking standards. Okay? And we don't. We have
3 -- the way it's shown now, we show ten spaces on
4 each side. Typically, a space would occupy nine
5 feet on each side. And then, you only have seven
6 feet left over in the middle for traveling.

7 That is fine in this particular case. It's
8 perfectly safe in this particular case, because
9 it is for commercial use, specifically by the
10 same tenant that's going to have ownership of all
11 the vehicles there.

12 VICE CHAIRMAN BONACCI: Mr. Pereiras, it's
13 ten parking spaces total, or that's just on one
14 side, and it's 20 total?

15 MR. PEREIRAS: The reality is that they
16 could potentially fill this thing with parking.
17 They could have vans parked right down the middle
18 aisle.

19 What we're asking this Board to approve
20 isn't the parking layout. It's not how many cars
21 fit in there. It's not they could only fit ten
22 cars.

23 We're asking this to be a parking area for
24 the building. If they could fit 20 cars, if they
25 could fit 30 somehow, if they have little cars,

1 we'd like that to be used.

2 They're using the entire lot and that's
3 what we're looking for the -- for the use
4 variance on this for.

5 VICE CHAIRMAN BONACCI: So, would it be
6 fair to say that it's at the discretion of the
7 applicant.

8 MR. PEREIRAS: Yes.

9 VICE CHAIRMAN BONACCI: Okay.

10 MR. PEREIRAS: Good terminology.

11 VICE CHAIRMAN BONACCI: Members of the
12 Board?

13 I got to go over some variance stuff.
14 Should I have Mr. Kauker do that or --

15 MR. PEREIRAS: Sure.

16 MS. PEREIRAS: I think that's better.

17 MR. PEREIRAS: Yes.

18 VICE CHAIRMAN BONACCI: Mr. Kauker, I'm
19 sorry.

20 MS. DILLON: He can go in front of the --

21 MS. PEREIRAS: Okay.

22 MR. PEREIRAS: Okay.

23 MS. DILLON: Just in front of the public
24 mic, Mr. Kauker.

25 Thank you.

1 MR. KAUKER: I will.

2 VICE CHAIRMAN BONACCI: Sorry to make you
3 come up here for --

4 MR. KAUKER: That's okay.

5 VICE CHAIRMAN BONACCI: -- just one
6 question --

7 MR. KAUKER: No, that's okay.

8 VICE CHAIRMAN BONACCI: But just to make
9 sure that we're clear, D-1 use variance?

10 MR. KAUKER: That's correct.

11 VICE CHAIRMAN BONACCI: Anything else?

12 MR. KAUKER: I believe that are -- those
13 are all the variances that are required. Let me
14 just double check.

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

17 MR. KAUKER: There's preexisting -- well,
18 there are actually two preexisting conditions,
19 with respect to the minimum lot area, although
20 there's no lot area requirement for parking area.
21 And then, minimum lot width, as well.

22 Those are two preexisting nonconforming
23 conditions.

24 VICE CHAIRMAN BONACCI: Thank you, Mr.
25 Kauker.

1 MR. KAUKER: You're welcome.

2 MR. PEREIRAS: Lot coverage.

3 MR. KAUKER: The lot coverage is -- is --
4 think it's building coverage.

5 MR. PEREIRAS: It's a hundred percent.

6 MR. KAUKER: Oh, I'm sorry.

7 Lot -- lot coverage is -- it's also
8 preexisting, but 75 percent lot coverage is
9 required, where a hundred percent is proposed,
10 and there's a hundred percent that exists on the
11 property.

12 VICE CHAIRMAN BONACCI: Okay.

13 Thanks, Mr. Kauker.

14 MR. KAUKER: You're welcome.

15 VICE CHAIRMAN BONACCI: Members of the
16 Board, any questions?

17 MR. PRESSEY: Yes. I really would like to
18 know, basically, how many cars max are going to
19 be there.

20 MS. PEREIRAS: Okay.

21 Mr. Pereiras?

22 MR. PEREIRAS: I'd be happy to answer that
23 question.

24 So, the maximum number of cars that could
25 fit on this lot would be -- would be potentially

1 15 cars.

2 MR. PRESSEY: Okay.

3 MR. GRULLON: Mr. Pereira, will you
4 consider that a benefit for the -- for the
5 neighborhood, because they'll be -- those will be
6 cars that will be taken off -- off the street and
7 put them into the --

8 MR. PEREIRAS: Absolutely. So this is a
9 preexisting business. It's there. It's in our
10 neighborhood. Something --

11 MR. GRULLON: Sure.

12 MR. PEREIRAS: -- that we're living with.

13 So right now, they have trucks -- I turned
14 down that street and they have their --

15 MR. GRULLON: I know.

16 MR. PEREIRAS: -- vans parked on the
17 sidewalk, it's a mess.

18 So, this is actually going to clean it up
19 and do it in a great way that's going to -- and
20 it's going to introduce a little bit of
21 landscaping there. Right now, that looks really
22 ugly. That -- the house that used to be there,
23 I'm glad it was torn down because it was a mess.
24 It was like all the way in the back.

25 I think this is a huge benefit for the

1 neighborhood.

2 MS. GUTIERREZ: Um hum.

3 MR. GRULLON: So currently, they didn't
4 have any parking area?

5 MR. PEREIRAS: Yeah.

6 MR. GRULLON: All they have was the loading
7 zone and they were parking all the vehicles on --

8 MR. PEREIRAS: Yup.

9 MR. GRULLON: -- the -- on the street.

10 MR. PEREIRAS: Yes.

11 MR. GRULLON: And they're going to be
12 taking those vehicles off the street --

13 MR. PEREIRAS: Um hum.

14 MR. GRULLON: -- from the street and put
15 them into that lot.

16 MR. PEREIRAS: I think this is a great
17 benefit for the neighborhood.

18 MR. GRULLON: Yeah.

19 Thank you, Mr. Pereiras.

20 VICE CHAIRMAN BONACCI: One last time,
21 members of the public?

22 No more questions.

23 Okay.

24 Closed to the public.

25 Okay, before I make a motion, just want to

1 point out the use seems to be very beneficial to
2 the community. No detriment is shown with
3 regards to the application.

4 And like Mr. Grullon just pointed out,
5 takes cars off the street and will give the
6 neighborhood more parking accessibility.

7 So with that said, I'd like to make a
8 motion to approve the application.

9 THE SECRETARY: Motion on the table to
10 approve this application by Mr. Bonacci.

11 MR. GRULLON: Second.

12 THE SECRETARY: Second by Mr. Grullon.

13 Roll call on the motion to approve this
14 application.

15 Mr. Bonacci?

16 VICE CHAIRMAN BONACCI: Yes.

17 THE SECRETARY: Ms. Gutierrez?

18 MS. GUTIERREZ: Yes.

19 THE SECRETARY: Mr. Grullon?

20 MR. GRULLON: Yes.

21 THE SECRETARY: Mr. Pressey?

22 MR. PRESSEY: Yes.

23 THE SECRETARY: Mr. Ortiz?

24 MR. ORTIZ: Yes.

25 THE SECRETARY: Five in favor.

1 Motion carries.

2 Thank you.

3 MS. PEREIRAS: Thank you all very much.

4 MR. GRULLON: Thank you.

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

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1 **Hung Fat, Inc. - 1212-1216 Summit Avenue:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Hung Fat, I-N-C., 12 -- 1212-
5 1216 Summit Avenue.

6 Mrs. Pereiras, please?

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

10 I have an Affidavit of Publication
11 indicating that notice of tonight's hearing with
12 respect to the property at 1212-1216 Summit
13 Avenue was published on the -- in The Jersey
14 Journal on 2/23/18, indicating that notice was
15 given for tonight, March 8th, 2018.

16 I've also been provided with a certificate
17 of publication and service, signed by Ms.
18 Pereiras, that notice of tonight's hearing was
19 sent out to all property notice -- property
20 owners within the 200 foot radius.

21 I've also been provided with the certified
22 mail receipts, with a postmark date of February
23 26, as well as the tax list from the Union City
24 Tax Assessor's Office, with a date of February
25 20th, 2018, and the green cards that have come

1 back with the envelopes to date.

2 Based on the documentation that's been
3 presented, this Board has jurisdiction to proceed
4 and hear this matter.

5 MS. PEREIRAS: Thank you very much,
6 counsel.

7 Again, Bianca Pereiras, on behalf of the
8 applicant. This is for property located at 1212-
9 1216 Summit Avenue, also known as Block 58, Lots
10 26, 27, and 28.

11 I'm actually very excited to be a part of
12 this project, because this is the beloved Summit
13 Theater. This is where we all went to see movies
14 for a very long time, and it's been vacant for
15 awhile.

16 Due to finances, the owner wasn't able to
17 maintain it as a theater, but there's been a
18 desire in the community to have this part of the
19 community again.

20 The owner grappled with this for quite
21 awhile, to see what kind of a use he could have
22 here that could be a community use.

23 He was approached by a non-for-profit
24 basketball league, namely the Saint Michael's
25 League, that needed space to operate their clinic

1 | for children. It's a group that mentors young
2 | children in basketball. And the goal is to
3 | provide a basketball court here onsite, and also
4 | the application before the Board this evening is
5 | to provide some additional residences.

6 | We have two experts to testify, and I'd
7 | like to begin the presentation with our
8 | architect, Mr. Manuel Pereiras.

9 | MR. PEREIRAS: Manny Pereiras. I recognize
10 | I am still under oath.

11 | MS. PEREIRAS: Mr. Pereiras, are you
12 | familiar with 1212-1216 Summit Avenue?

13 | MR. PEREIRAS: Extremely familiar with it.

14 | MS. PEREIRAS: And can you please describe
15 | the project for the Board?

16 | MR. PEREIRAS: I'd be happy to.

17 | And just as a brief kind of overview. This
18 | project represents so much of my youth. Okay.
19 | This is where we all went to the movie theater
20 | when we were kids, because we couldn't take cars
21 | anywhere. We would walk over here; a lot of my
22 | friends had their first dates there.

23 | I mean, this is an important building, kind
24 | of like for the culture of Union City.

25 | In addition to that, it's a gorgeous

1 | building. If you look at this façade, it has
2 | beautiful woodwork, that right now is in
3 | disrepair. We're looking to salvage it.

4 | This used to be the Summit Hippodrome. It
5 | was a 600 seat beautiful building. If you look
6 | at the old photographs, there's old black and
7 | white photographs in the Union City Museum that
8 | describe this building, it's just a gorgeous
9 | thing.

10 | But we're left with this big massive
11 | building that, what is it good for today? It's
12 | the movie business, no longer in use. And
13 | there's very few things that actually work.

14 | So, the -- the owner has been looking
15 | desperately, and I actually helped him, put him
16 | in connection with another big aspect of my youth
17 | growing up.

18 | In Union City, if you are -- I'm 39 years
19 | old. If you're even remotely my age, and you
20 | grew up in downtown Union City, you played
21 | basketball at Saint Michael's. It's what you
22 | did. It's what kept you off the streets. It's
23 | what you -- you know, it's the place to go every
24 | Saturday morning.

25 | It was what I did as a child, and now, my

1 son is doing it. I have my son in the very same
2 program that runs and operates out of Gilmore
3 School right now.

4 This is going to give them the opportunity
5 to have a space within this historic structure.

6 So, we're very -- basically, marrying
7 these two cultural centers, into this one
8 property here in Union City, and making it in a
9 way that's attractive, economically feasible, and
10 really works for the community.

11 If we look at Union City's Master Plan,
12 which just adopted, it's talking about the CN
13 district. It recommends four story structures.
14 This is a four story structure. It recommends
15 three units on every 25 by 100 lot. We're
16 basically exactly on that. We are only -- we're
17 almost a hundred feet. We're a hundred -- little
18 bit -- 101 deep, we're 90 feet deep -- wide. So,
19 we would be permitted almost 12 units. We're
20 only asking for ten units.

21 So, we're making this less than what's
22 required in the new Master Plan, what Union
23 City's looking to in the future. So, we think
24 that it fits really well in the community.

25 And then, the concept of being adaptively

1 reusing this existing building. Rather than
2 tearing this down, we're keeping this jewel, this
3 gem of Union City and basically, the only use I
4 could think of that would work within this.

5 And what we're doing is the front portion
6 of the building that's a low roof, we're creating
7 the residential portion there and we're creating
8 that four story structure.

9 And then, in the back portion, where it's
10 that big, what used to be the Hippodrome, that
11 600 seat theater, and putting the basketball
12 court there.

13 So, that Hippodrome is right now a huge
14 slant from one end of the room to the other.
15 We're going to level it off and create the
16 basketball court.

17 And what used to be the lobby of the
18 theater is now the entrance for this basketball
19 area.

20 The -- what used to be the concession
21 stand, becomes our -- our first apartment, which
22 is a studio apartment. And this is important
23 because we needed an apartment on the ground
24 floor in order to provide handicap accessibility.
25 It was absolutely important because working with

1 | this existing structure, we couldn't put --
2 | introduce an elevator only in the front of the
3 | building, which would destroy the use of the
4 | apartment.

5 | So, we had this apartment on the ground
6 | floor and we're keeping the existing commercial
7 | use along the side of it, which keeps, basically,
8 | what's there.

9 | And what we're looking at here on the end
10 | is these two commercial spaces.

11 | And then, we kept the aesthetic of the
12 | storefront and we made very large windows towards
13 | that apartment, to keep that look that we want,
14 | and we want to continue on Summit Avenue.

15 | And then, we did the residential entrance
16 | all the way to the two ends of the apartment.
17 | So, we have our emergency egress at the two ends
18 | of our building.

19 | And as you walk up to the next floor, we
20 | did very modest, very simple apartments, where
21 | you come up the stairs. There's a simple hallway
22 | that leads to the other stairwell, and you have a
23 | one bedroom unit to the left, a one bedroom unit
24 | to the right, and a two bedroom in the middle.

25 | The one bedroom is 574 square feet and 609

1 square feet. And the unit in the middle is 981.

2 When you go up to the top two floors, the
3 unit dimensions change a little bit just because
4 of structural changes. And you have the one
5 bedrooms being at 550 square feet, 584 square
6 feet, and the middle two bedroom being at 843
7 square feet. So, that gives us a total of nine
8 units on the upper floors.

9 Just so that we understand what's going on
10 with this building, from a side profile, if we
11 were to look at this building from the side, this
12 is the residential component. We're adding this
13 little piece right here. And we're leaving this
14 large volume to be the basketball court.

15 It fits really well within the community
16 and the heights that we require, that we're
17 providing.

18 First and foremost, it fits with the Master
19 Plan. Our brand new Master Plan, what it
20 recommends, that's exactly what we're doing.
21 There is taller buildings to the right. There's
22 a taller building that meets the height all the
23 way at the corner. So, it really fits with the
24 scale of the community. We're stepping back the
25 front in order to keep that cornice. I thought

1 | it was an important historical value.

2 | Right now, the aspects of the building that
3 | are falling apart, like the marquee, are being
4 | removed, and we're restoring all that historical
5 | character.

6 | I think it's an important application to
7 | potentially approve by this Board, because it
8 | really preserves all of this history that Union
9 | City has, and it's the only thing that really
10 | works and fits in this location.

11 | Our planner's going to talk about the
12 | variances. There's a lot of existing
13 | nonconformities, because it's a hundred percent
14 | lot coverage. That's the existing theater. It's
15 | zero on the lot line, in the front, rear, sides.
16 | But that's an existing condition. We're not
17 | changing that.

18 | And we're -- the way -- what we are
19 | changing is we're adding this portion on the top
20 | and that portion is only in the front. So that
21 | creates -- that keeps the same rear openness that
22 | we had before.

23 | VICE CHAIRMAN BONACCI: Thank you, Mr.
24 | Pereiras.

25 | I'm going to hold my questions until after.

1 MR. PEREIRAS: Sure.

2 VICE CHAIRMAN BONACCI: But I just want to
3 open it up if anybody from the public has any
4 questions for Mr. Pereiras.

5 Mr. Price?

6 MR. PRICE: Larry Price.

7 How many apartments are there there now?

8 MR. PEREIRAS: That's a great question.

9 There are four apartments there now.

10 MR. PRICE: So, we're going from four to
11 ten.

12 MR. PEREIRAS: Yes.

13 MR. PRICE: Where -- okay. They're going
14 to be six apartments on the upper two floors.

15 Right?

16 MR. PEREIRAS: There are nine apartments --

17 MR. PRICE: Nine. Nine. Nine.

18 MR. PEREIRAS: -- in total. In the upper
19 three floors.

20 MR. PRICE: Okay.

21 MR. PEREIRAS: And one apartment --

22 MR. PRICE: And one -- and one ADA number
23 on the ground floor.

24 MR. PEREIRAS: Right.

25 MR. PRICE: And the existing four are on

1 the second floor. They're going to be wiped out.

2 Correct?

3 MR. PEREIRAS: Correct. It's going to
4 become brand new.

5 MR. PRICE: Okay.

6 MR. PEREIRAS: Redone.

7 MR. PRICE: Okay.

8 Thank you.

9 MR. PEREIRAS: And just to be clear, the
10 existing apartments are all along here right now.

11 VICE CHAIRMAN BONACCI: Okay. Closed to
12 the public.

13 You guys want to bring up your next --

14 MS. PEREIRAS: Sure.

15 Mr. Kauker?

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

18 MS. DILLON: Mr. Kauker was previously
19 sworn.

20 VICE CHAIRMAN BONACCI: We accept your
21 qualifications, Mr. Kauker.

22 MR. KAUKER: Thank you very much.

23 MS. PEREIRAS: Mr. Kauker, are you familiar
24 with 1212-1216 Summit Avenue?

25 MR. KAUKER: Yes, I am.

1 MS. PEREIRAS: And would you kindly
2 describe this project from a planning
3 perspective?

4 MR. KAUKER: Certainly.

5 From a planning standpoint, the applica --
6 applicant proposes the adaptive reuse of existing
7 space in an existing location. There's an
8 existing structure that's located on the
9 property, that was formerly used as a movie
10 theater.

11 There are two commercial components that
12 are in the property, as well.

13 The applicant, in terms of what they
14 propose to do, the applicant proposes to reuse
15 the former movie theater portion, as Mr. Pereiras
16 said, for a basketball court. The two commercial
17 units will remain on the ground floor. And
18 there is proposed, also on the ground floor, ADA
19 handicap accessible apartment.

20 On the second floor, the -- the existing
21 four apartment buildings are going to be
22 retrofitted and there are going to be three
23 apartment buildings on the second floor. And
24 then, there's a two story addition on top of the
25 second story, that's going to also contain three

1 apartment units each, for a total of ten
2 apartment units in the structure.

3 One thing I did want to point out and you
4 can't really see it from the rendering but the --
5 and I think it's important, the addition, the --
6 the third and the fourth stories, doesn't occupy
7 the entire footprint of the building. It only
8 occupies a small portion. So, therefore, it
9 doesn't really increase the intensity of the use
10 as much as it would if they were to construct it
11 along the entire footprint of the -- of the
12 second story.

13 With respect to the property itself, it's
14 9,018 square feet, which is oversized for the
15 zone. The minimum lot area requirement in the CN
16 zone, which it's located in, is 2500 square feet.

17 As I mentioned, it's located in the CN,
18 which is your neighborhood commercial district.

19 Currently, there is no parking that's
20 provided onsite. So, there is no parking that
21 exists. There's an existing structure that's
22 located on the property, so there is no parking
23 that is proposed onsite.

24 One thing I would point out is that what is
25 being proposed here, in my opinion, is less

1 intense than the former movie theater use. We're
2 proposing residential use. We're proposing a
3 basketball court, but in all, I think that it --
4 it's going to be less intense than a movie
5 theater.

6 With respect to the surrounding conditions,
7 the surrounding area is comprised of a mix of
8 uses, including retail and residential type uses.
9 There are varied building heights as well in the
10 area.

11 Specifically, I just wanted to point out
12 that immediately adjacent to this property, to
13 the south, there's a six story residential
14 building.

15 To the north is a three story building,
16 which is a mixed use building, with retail -- I'm
17 sorry. There's actually an office use on the
18 ground floor and then there are two floors above
19 it of residential use.

20 With respect to the Master Plan, I did have
21 an opportunity to review both the prior Master
22 Plan, the 2009 Master Plan document, as well as
23 the updated February 2018 Master Plan Re-
24 Examination Report.

25 It's my opinion that it promotes the

1 following:

2 To provide a balance mix of land uses and
3 balanced development patterns, in appropriate
4 locations.

5 I think that this existing building is an
6 appropriate location for this use. You heard
7 testimony by Mr. Pereiras as to -- you know, the
8 different things that he considered that would be
9 able to fit in this building. And obviously, I
10 think that this is something that does fit well
11 in the existing structure. The existing
12 structure itself can adequately accommodate the
13 proposed use that we're proposing here this
14 evening.

15 Also, to promote and reinforce the city as
16 a desirable residential location, an attractive
17 shopping, entertainment and recreation
18 destination.

19 There, we meet two of those components,
20 providing residential, as well as recreation. In
21 addition -- I'm sorry -- in addition, three of
22 the components. A commercial component, as well.

23 One thing I wanted to point out with
24 respect to the 2018 Re-Examination Report on page
25 two, it talks about preservation and adaptive

1 reuse of old and historic buildings should be
2 encouraged, as opposed to demolition and
3 rebuilding.

4 That's exactly what we accomplish here.
5 We're preserving this building, which from an
6 architectural standpoint, has a lot of historic
7 value.

8 As I mentioned before, we're located in the
9 CN neighborhood commercial district. The reason
10 why we're before the Board requesting a D-1 use
11 variance is because of the ground floor
12 residential unit. All the other uses are
13 permitted. As a matter of fact, the residential
14 uses are permitted, as well, but residential uses
15 are permitted on the upper floors. They're not
16 permitted on the ground floor.

17 So, therefore, we requested or we require a
18 D-1 use variance from -- from the Board.

19 As I've mentioned before, in order for the
20 Board to grant a variance, we must make an
21 affirmative showing of both the positive and the
22 negative criteria.

23 With respect to the positive criteria
24 related to this use, it's my opinion that the
25 site is particularly suited for the proposed use

1 for the following reasons:

2 Firstly, it's my opinion the general
3 welfare is promoted because this proposal
4 represents an adaptive reuse of space in an
5 existing building.

6 It's in compliance with your Master Plan,
7 as I just mentioned, that talks about rather than
8 demolishing a building to preserve structures,
9 when possible. The existing building is very
10 large. It can adequately accommodate the
11 proposed use, and also the residential use on the
12 ground floor.

13 The site itself, as I mentioned before, is
14 more than three times the size, at 9,000 square
15 feet of what is required by your Ordinance.

16 The proposed use would be less intense than
17 the former theater use of the property. The
18 residential unit on the ground floor, as Mr.
19 Pereiras mentioned, and I know we've talked about
20 this before, is needed as it's an ADA handicap
21 accessible unit.

22 One of the things I also wanted to mention
23 is that in the area there are other -- for
24 example, the building located immediately
25 adjacent to us is a relatively newer building

1 | that is a hundred percent residential, as well.

2 | In my opinion, it also furthers the
3 | purposes of zoning. The promotion of a State
4 | policy has been found. It would advance the
5 | general welfare.

6 | It's my opinion that we advance the New
7 | Jersey State Development and Redevelopment Plan.
8 | The property is located in Planning Area 1, which
9 | is designated as a Growth Area, pursuant to the
10 | State Development and Redevelopment Plan.

11 | Essentially, it looks to focus development
12 | on areas of the state that are already developed
13 | and that have adequate infrastructure in order to
14 | accommodate the proposed use.

15 | Finally, we do require one -- well,
16 | actually, I'm just going to go over the bulk
17 | variances at this point. As Mr. Pereiras
18 | mentioned, a number of them are preexisting
19 | conditions of the property, but I do want to go
20 | over those for the Board's edification.

21 | The property has a minimum lot depth, which
22 | required is a hundred feet. The existing depth
23 | is 99.25 feet, so it's slightly short. But
24 | again, that's a preexisting condition that the
25 | property doesn't conform with.

1 Minimum rear yard of 20 feet is required,
2 where zero feet exists. Again, that's an
3 existing condition.

4 And the maximum building coverage of 80
5 percent is permitted, where a hundred percent
6 exists. Again, that is another existing
7 condition.

8 Off-street parking.

9 Off-street parking is another preexisting
10 condition on the property. Couple observations
11 with respect to the parking.

12 Obviously, a theater -- I mean, it does
13 draw a lot of people from the area, so I would
14 assume -- I wasn't -- I'm not familiar with the
15 former theater use. I didn't have an opportunity
16 to go there, like Mr. Pereiras did, but I'm
17 assuming it does generate some walking traffic
18 from people who live in the area. But again, I
19 think it also probably generates vehicular
20 traffic, as well.

21 But again, we're dealing with an existing
22 condition, as far as the parking's related. I
23 think, from a residential standpoint, I think
24 that -- you know, there's mass transit that is
25 available in the area. I mean, there are a lot

1 of areas in Union City that don't have parking.
2 But we have ten residential units, so I don't
3 think that's going to generate a significant
4 amount of -- of parking demand in the area.

5 One thing I would point out about your
6 Ordinance is it does, in -- in this particular
7 zone, there's a provision in the Ordinance that
8 actually excludes parking for the first six
9 residential units. So, really, only parking
10 would be required for four of those units.

11 In addition, your Master Plan, your 2018
12 Master Plan has a provision that would exclude
13 nonresidential parking for this particular area
14 located along Summit Avenue.

15 So, for those reasons, I think, in addition
16 to the fact that, as I mentioned before, we're in
17 close proximity to mass transit -- you know, I --
18 I think that the parking variance would be
19 warranted, and I think that what we're proposing
20 here is probably similar in terms of the parking
21 demand to what existed before with the theater
22 and the existing uses on the site.

23 And obviously, in terms of the
24 justification, I think it would be a C-1
25 hardship, as we have an existing condition with

1 | respect to the building on the property, which
2 | would be difficult to try to provide parking on
3 | the site, given that existing condition.

4 | With respect to the negative criteria, it's
5 | my opinion that the proposed redevelopment of the
6 | property would actually have a positive impact.
7 | As Mr. Pereiras mentioned before, this building
8 | itself is going to be preserved.

9 | It's going to be cleaned up and -- and
10 | fixed up, in terms of the -- the façade of the
11 | building. But the main architectural features of
12 | the building will be preserved, and I think you
13 | did a very nice job of -- of implementing the two
14 | story addition. I think it fits in well and
15 | actually lends itself very well with what exists
16 | on the property currently.

17 | I -- I don't think there will be a
18 | significant increase in traffic, or a significant
19 | increase in the parking demand for this property.

20 | And with respect to the second part of the
21 | negative criteria, I do not believe there'll be
22 | any substantial impairment to the intent and
23 | purpose of the Master Plan or Zoning Ordinance.

24 | As I mentioned before, we do meet a number
25 | of the goals and objectives of both the 2009

1 comprehensive Master Plan, as well as the 2018
2 Master Plan Re-Examination Report.

3 And also, just -- just to point out, as I
4 mentioned before, the primary reason that we're
5 here is because the residential component, or the
6 residential use is proposed on the ground floor,
7 and obviously, I think that's something that's
8 needed because it provides ADA handicap
9 accessible units.

10 So you know, for those reasons, it's my
11 opinion that I believe the positive criteria do
12 outweigh the negative criteria. And I feel
13 confident that the Board could grant the
14 requested variances.

15 And I'd be happy to answer any questions.

16 VICE CHAIRMAN BONACCI: Just going to open
17 it up for members of the public, and then I'll
18 figure out which one of you guys is best to
19 answer the question.

20 Members of the public have any questions
21 for Mr. Kauker?

22 Any members of the public have any
23 questions for Mr. Pereiras?

24 Okay.

25 We're going to close it off to the public.

1 Do you Board members have any questions for
2 Mr. Kauker or Mr. Pereiras?

3 MR. GRULLON: Mr. Kauker, you testified --
4 actually, you -- you compare the previous use,
5 which was a theater --

6 MR. KAUKER: Yes.

7 MR. GRULLON: -- compared to the -- to the
8 new use, to the proposed use, which is a
9 basketball court.

10 MR. KAUKER: Correct.

11 MR. GRULLON: How would that -- you know,
12 effect the parking counts?

13 MR. KAUKER: Well, as I said, I think it
14 would be -- I think it would be similar. As I
15 mentioned before -- and maybe Mr. Pereiras could
16 answer this better, in terms of the historical
17 use.

18 But as I mentioned before, I would assume
19 that you -- the former use of the property, with
20 the theater, you would have individuals that
21 would probably drive and that would walk there.
22 I would assume the same would be true for a
23 basketball court.

24 Now, having said that, I believe the
25 theater was, what, a 600 seat theater?

1 MR. PEREIRAS: Um hum.

2 MR. KAUKER: Is that what you --

3 MR. PEREIRAS: The original theater was 600
4 seats. Then, Summit -- in the recent years, it
5 was a quadplex, where it was divided into four
6 thea -- four things.

7 But the biggest difference between the two
8 is really the scale. You have packed seating in
9 a -- in a movie theater. Basically, that entire
10 floor plan, except for the screen, are seats of
11 people, occupants that are there. You have four
12 movies going on at the same time. Move ends,
13 everyone goes out.

14 In a basketball court, you have ten players
15 on a court. This isn't a spectator gym. It's a
16 clinic. It's a basketball clinic. What you have
17 is the kids and their parents watching -- you
18 know, clinic games.

19 So, I go to these every Saturday now. The
20 league just ended. You'll have ten kids on the
21 court. You'll have two subs on each side. So
22 that's 12 kids in -- 14 kids in total. And then,
23 you have a few of the parents that are going
24 there.

25 And the -- what -- why this is also so

1 | important for here is because it's a community --
2 | it's really a community basketball league.
3 | Everyone walks there. Everyone's from here.
4 | It's really directed -- I don't know if you have
5 | kids in your family, but more than likely,
6 | they're part of this league.

7 | I mean, this was -- when I was growing up,
8 | every friend of mine, we all went there. And
9 | it's really -- everyone's walking distance. It's
10 | how it is.

11 | The basketball teams are -- there's a
12 | Pereiras Architects basketball team. There's a
13 | Mike and Son Plumbing basketball team. There's a
14 | McDonald's basketball team.

15 | It's all our local businesses that support
16 | and kind of run the -- the basketball court.

17 | So, compared to the theater, we're really
18 | reducing it. And it's not just the theater, we
19 | have this big massive space. It's used for
20 | assembly. It could be used for lots of different
21 | things.

22 | The basketball court is going to the least
23 | impact, I think, out of all of these.

24 | MR. GRULLON: So, if I may, Mr. Chairman,
25 | my question is -- I mean, I asked for that

1 | because I'm not clear of the use of -- of the
2 | basketball court is going to be.

3 | MR. PEREIRAS: Um hum.

4 | MR. GRULLON: It's to be strictly for
5 | children?

6 | MR. PEREIRAS: So --

7 | MR. GRULLON: Probably practically, they're
8 | going to be dropped off by parents, and they just
9 | -- they just going to leave there. The children
10 | that live in the community.

11 | MR. PEREIRAS: So, it's typically -- this
12 | is a preexisting basketball program. Right now,
13 | they're meeting at Gilmore School. It's all kids
14 | from the community. Everyone walks there.

15 | I mean, at Gilmore School, there's no
16 | parking either. There's no parking lot there and
17 | everyone just walks there.

18 | It's -- it's mostly Saturdays. So, the
19 | programs start at eight a.m. on Saturdays. And
20 | you have one game every hour, going through until
21 | the afternoon. And -- and that's basically what
22 | it is.

23 | You have kids that are eight years old, to
24 | start off in the -- in the earlier hours. And
25 | then, it goes up to kids that are 13. It doesn't

1 -- and not older than that.

2 MR. KAUKER: I think also it's important to
3 note that if you look at the architectural plan,
4 just to reinforce Mr. Pereiras' testimony, it
5 really is -- it's not really a spectator gym.
6 There are no --

7 MR. PEREIRAS: Yes.

8 MR. KAUKER: -- stands or no bleachers that
9 are proposed.

10 MR. PEREIRAS: Yeah.

11 MR. GRULLON: That would make me to -- you
12 know, believe that it will be less parents -- you
13 know, like --

14 MR. PEREIRAS: Yeah.

15 MR. GRULLON: -- inside the building.

16 MR. PEREIRAS: There's very few parents
17 that go there now. Usually, you see the parents
18 for the youngest kids, when it's eight years old,
19 in the morning. And then, in the afternoon,
20 there's very few parents that go.

21 MR. GRULLON: Thank you.

22 I don't have any more question.

23 Thank you, Mr. Pereiras.

24 Thank you, Mr. Kauker.

25 MR. ORTIZ: Mr. Pereiras, I'm looking at

1 apartment number D.

2 MR. PEREIRAS: Um hum.

3 MR. ORTIZ: And since the square footage on
4 the -- is a two bedroom?

5 MR. PEREIRAS: No. That's a one bedroom, I
6 believe.

7 MR. ORTIZ: It says two bedroom, 609.7
8 square feet.

9 MR. PEREIRAS: Oh, that's a typo. If you
10 could look at the apartment, it is only a one
11 bedroom. I guess we did a typo and we put two
12 bedroom, but it's a one bedroom.

13 It's one bedroom, 609 square feet. And if
14 you see the floor plan, you walk in, you have
15 living room, dining room space. And then, you
16 have one bedroom. That's it. No other bedrooms.

17 If you look at the floor above, we actually
18 corrected it there. G, which is basically the
19 same apartment, says one bedroom and shows the
20 same footprint.

21 MR. ORTIZ: Okay.

22 VICE CHAIRMAN BONACCI: Okay.

23 I'm not really sure if this question is for
24 Mr. Pereiras or Mr. Kauker.

25 But okay, so previous applications that

1 we've heard recently that have asked for
2 residential on the ground floor, in a commercial
3 zone, the reason that the ADA requirements, but
4 there was not enough width for an elevator to
5 take people up to the second, third, fourth
6 levels, whatever.

7 MR. PEREIRAS: Um hum.

8 VICE CHAIRMAN BONACCI: It seems as though
9 this application does have the width to install
10 the elevator to take the residents upstairs and
11 still be able to keep the ground floor commercial
12 in the CN zone. And then you wouldn't have any
13 variance. Then, you'd just conform.

14 MR. PEREIRAS: There's one big problem,
15 though. We're dealing with a preexisting old
16 building. And I'm adding the two floors out of
17 light gauge metal frame, which is nice and easy
18 and easy to move up.

19 Getting an elevator in here, breaking to
20 dig the pit, getting the foundation, it's close
21 to impossible to do this, retrofit that into this
22 building.

23 And let's say I did do it, the apartments
24 upstairs wouldn't fit. And the problem -- what
25 I'm trying to do is keep the integrity of the

1 | basketball court, that big thing. So, I can't
2 | eat further that way. My entire building is
3 | stopped here. So, I would lose that square
4 | footage of these apartments as well.

5 | So, because of those two things, I think
6 | the Board has reasonable argument that it is a
7 | tremendous hardship to the project to -- in order
8 | to provide an elevator.

9 | And that's why I think the Board should
10 | grant it, because of the historic nature of the
11 | application and trying to preserve that -- that
12 | space.

13 | VICE CHAIRMAN BONACCI: Yeah. No, I -- I
14 | appreciate what you guys are trying to do here.
15 | I do. But you know, the Zoning Ordinance
16 | requires a total of 39 parking spaces. There's
17 | zero provided.

18 | So, it's not just the elevator and keeping
19 | the ground floor resid -- commercial. There's a
20 | few things here.

21 | MR. PEREIRAS: That's actually not true.
22 | And it's my mistake in the way I represented it.

23 | The new Master Plan presents that we need
24 | no parking for ground floor commercial. Okay?
25 | So, all of those numbers of parking that are

1 presented in that chart for the ground floor
2 commercial are zero.

3 Now, the Master Plan -- the new Master Plan
4 that we're -- that we adopted very recently that
5 is what we're striving to do is talking about --
6 and every 25 by 100 to create three apartments
7 upstairs, which would not require parking.

8 So, if we were to build this and if we tore
9 -- and if we tore this building down and we built
10 four side-by-side, commercial on the ground
11 floor, and three apartments above, we would have
12 12 apartments as of right. We would not need
13 parking. We would have commercial all along the
14 bottom. We would not need parking.

15 And this building could get done and you
16 wouldn't even see me before this Board. I'll go
17 before the Planning Board and I'll get that
18 approved, because it's an as of right
19 application.

20 What we're looking to this Board to do is
21 look -- realize, hey, we don't want to tear down
22 this building. We don't want to lose this. This
23 is important for us. Let's grant these variances
24 in order to preserve this project and make this
25 happen, because it's probably even cheaper for my

1 client to tear this whole thing down and do
2 exactly that.

3 As of right, and we wouldn't even see you
4 before this Board. We wouldn't have a use
5 variance.

6 But it's better for Union City to preserve
7 this, in my opinion.

8 VICE CHAIRMAN BONACCI: Okay.

9 Now, another issue that I have with it --

10 MR. PEREIRAS: Um hum.

11 VICE CHAIRMAN BONACCI: -- in addition to
12 the first two, is going from four residential
13 units to ten, which would further populate an
14 area that's already densely populated.

15 Like, I get it what you're doing, but I
16 just don't see the need to add more apartments.

17 MR. PEREIRAS: Well, we're just complying
18 with the Master Plan. The Master Plan is saying
19 three units per 25 by 100. So, we're under that.
20 We're only asking for ten units, all right,
21 whereas we would be allowed 12.

22 So, it's -- it's exactly what the City's
23 telling us to do. So, we're providing exactly
24 what you're asking for us.

25 If you're telling me, no, you know what, we

1 have to rethink it. Then we really need to
2 rethink our Master Plan and say, hey, this is not
3 what we want.

4 But what the City's presenting to us right
5 now is we want this density. We want this
6 particular density and that's what we're
7 providing for you.

8 You know, and maybe if -- if your opinion
9 is strong, we should change the Master Plan,
10 change what we're doing. But that's not what
11 you're telling us right now.

12 You're telling us we want this density. We
13 want exactly this, and that's what we're giving
14 you.

15 MR. KAUKER: Just to further support that,
16 the property itself is located in the -- in a
17 district that -- that permits and actually
18 encourages -- you know, higher density housing.
19 Not high, high density, but your current Master
20 Plan talks about that.

21 But I would consider this somewhat medium
22 to low density type housing, which is consistent
23 with both the Zoning Ordinance and both the 2009
24 and 2018 Master Plan.

25 MR. PEREIRAS: And -- and this might be a

1 little superfluous, but I went -- I do all my
2 shopping in -- on 14th and Summit. There's a
3 bodega there. And I went there, to the butcher,
4 and I'm talking to him. This is a few days ago.
5 And he told me, Manny, when are they going to
6 fill up those spaces, the two houses that burnt
7 down on 14th and Summit? I'm like, I don't know.
8 And he's like, Manny, they're really hurting me.
9 I lost so much business there because those
10 families aren't there.

11 So, it really effects local community when
12 we have a vacancy, when we don't have families.

13 The density, particularly on Summit Avenue,
14 when it's like a mixed use, it helps our
15 neighborhood. It's good to have apartments.
16 It's good to have people because it populates our
17 stores, it helps our economic growth.

18 These are all things that are important and
19 in compliance with your Master Plan. This is
20 exactly what the City's asking for. That's what
21 this project is. It's --

22 I mean, it couldn't be any more exactly in
23 line with the Master Plan.

24 MR. KAUKER: I -- I think as another point,
25 too, when you look at the Zoning Ordinance, and

1 | you look at the intent, the intent is to provide
2 | a commercial presence on the ground floor. And
3 | -- and I still think that this project maintains
4 | that presence, because you have those two other
5 | existing commercial units on the ground floor, as
6 | well. So, it's not like we just have a
7 | residential unit on the ground floor, with
8 | residential units above it. There are commercial
9 | units, in addition to the recreational space on
10 | the ground floor.

11 | MR. PEREIRAS: And Mr. Bonacci, just to be
12 | further transparent here, if you told me that it
13 | is your strong recommendation that we eliminate
14 | that ground floor unit, or something like that,
15 | this applicant is -- I mean, I've known this guy
16 | since I was a little kid. He's the nicest guy in
17 | the world. He'll work with the City. He'll do
18 | whatever the City needs in order to get this
19 | approved.

20 | That said, I've guided him into getting
21 | this building done. He would love to have a lot
22 | more units in there. He would love to have an 18
23 | unit building there and it would even make a
24 | little bit of sense.

25 | But what we're doing is providing exactly

1 | what the City asked for, exactly what the Master
2 | Plan is talking about.

3 | VICE CHAIRMAN BONACCI: I just want to go
4 | over a few things, real quick. This way, when we
5 | come out of it, it's not one specific problem
6 | that the Chairman had with the application.

7 | MR. PEREIRAS: Um hum.

8 | VICE CHAIRMAN BONACCI: The ground floor
9 | residential. There might be another way. With
10 | the width, I have an issue with that. The
11 | addition of the units going from four to ten.
12 | Zero parking spaces provided and the questions
13 | about the use overall.

14 | Now, with respect for what you guys are
15 | trying to do with the application and the use
16 | that you're trying to provide for the community,
17 | with respect to that, I appreciate the intentions
18 | of the application, but as a Board, we have
19 | guidelines that we have to follow.

20 | And with that being said, I'm going to make
21 | a motion --

22 | MR. PEREIRAS: Whoa. Whoa.

23 | MS. PEREIRAS: Well, Mr. Chairman --

24 | MR. PEREIRAS: Don't make a motion.

25 | MS. PEREIRAS: I just want to -- I just

1 want to mention.

2 We're trying to get this back in use. I
3 think it's been vacant for way too long. We've
4 been at -- there were Board meetings that you
5 opened to the public recently with the Planning
6 Board. And this was actually a concern that the
7 neighbors brought up.

8 When is that Summit Theater going to be
9 open again? When are we going to use that for
10 the community?

11 We heard that loud and clear at that
12 meeting. So, instead of -- if the Board is
13 inclined to deny this application, instead we ask
14 if you work with us.

15 We'd like to see this -- see life back on
16 Summit Avenue.

17 MR. PEREIRAS: -- a revision.

18 MS. PEREIRAS: So, if you would work with
19 us, we're happy to go back to the drawing board
20 and see what it can take to make this a project
21 that the City is happy with, as well.

22 MR. PRESSEY: Is the owner here?

23 MS. PEREIRAS: The owner is here.

24 MR. GRULLON: Mr. Pereiras, are you keeping
25 the façade like similar to what you had in the

1 theater?

2 MR. PEREIRAS: Yes. We're restoring the
3 façade. I think that's a beautiful part of this
4 application.

5 MR. GRULLON: Do you have pictures that can
6 prove that?

7 MR. PEREIRAS: Yes.

8 MS. PEREIRAS: This is a historic building.
9 I think it became -- began -- came into operation
10 back in 1905.

11 MR. PEREIRAS: I think we --

12 MS. PEREIRAS: So, it's been -- really been
13 a staple of our community.

14 MR. PEREIRAS: Yeah, I think we submitted
15 pictures.

16 MS. PEREIRAS: Yes. There's always
17 pictures on the --

18 MR. GRULLON: Yeah.

19 MS. PEREIRAS: Do you not, or do you just
20 have the new?

21 MR. GRULLON: We probably =--

22 MS. PEREIRAS: You just have the new.

23 MR. PEREIRAS: I could bring -- if we're
24 coming back, I could bring pictures of the
25 existing theater so you could see what it looks

1 | like.

2 | MR. PRESSEY: I'd just like get a feeling.

3 | MS. PEREIRAS: But Mr. Pereiras, in regards
4 | to that ground floor with the cornice, are we
5 | maintaining the integrity of that existing --

6 | MR. PEREIRAS: So this is --

7 | MS. PEREIRAS: -- building?

8 | MR. PEREIRAS: -- all the existing
9 | components of the building. It's the same as the
10 | picture, except cleaned up.

11 | This is how we want to clean it up. This
12 | is how we want to preserve it. All of this is
13 | the existing structure along the bottom.

14 | MS. PEREIRAS: And I -- I think there's
15 | siding on that now.

16 | Correct or --

17 | MR. PEREIRAS: Yeah. And -- and actually,
18 | Jersey Digs just did an article, and it has a
19 | picture of the building.

20 | I'm going to show you right now, if you
21 | don't mind looking at my phone.

22 | This is Jersey Digs talking about tonight's
23 | -- tonight's Board presentation.

24 | VICE CHAIRMAN BONACCI: Is that evidence?
25 | I can't look at that.

1 MR. GRULLON: Can we keep the phone?

2 MR. PANEQUE: We'll -- we'll mark it and
3 keep it.

4 MR. PEREIRAS: Okay.

5 Thanks.

6 I think you missed it. This is the
7 existing building. And that's the newspaper
8 article today.

9 MR. PRESSEY: I'd like to hear from --

10 MS. PEREIRAS: I'm sorry?

11 MR. PRESSEY: I'd like to hear from the
12 owner.

13 MS. PEREIRAS: From the owner? Of course.
14 Mr. Dai?

15 MR. PRESSEY: When -- when he's done. Are
16 you done?

17 MS. PEREIRAS: Oh, would you like to --

18 VICE CHAIRMAN BONACCI: Yeah. Yeah. I
19 have no more questions.

20 MR. PRESSEY: Okay.

21 MS. PEREIRAS: Mr. Dai?

22 MS. DILLON: Please raise your right hand.

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

25 MR. DAI: Yes, I do.

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

3 MR. DAI: Andrew Dai, A-N-D-R-E-W, D like
4 David, A-I.

5 MS. DILLON: Okay.

6 And Mr. Dai, I'm going to ask you to keep
7 your voice up and right in front of the
8 microphone.

9 MR. DAI: Yes.

10 MS. DILLON: Thank you very much.

11 MR. DAI: Thank you.

12 Hi.

13 MR. PRESSEY: Hi, Mr. Dai. How are you?

14 MR. DAI: Hi, how are you?

15 MR. PRESSEY: Mr. Dai, how long have you
16 been the proprietor of this building?

17 MR. DAI: We close I'm with here over five
18 years go because nobody come to see the movies.
19 Then, now the -- the theater is -- are getting --
20 the whole building is running down. That's why.

21 MR. PRESSEY: So, you were the owner when
22 it was a movie theater?

23 MR. DAI: Yes.

24 MR. PRESSEY: How -- how long ago?

25 MR. DAI: My father bought the building in

1 1982 -- '84. I'm sorry, 1984.

2 MR. PRESSEY: So, it's in your family since
3 that time.

4 MR. DAI: Family. And then my father told
5 me to keep it in the family. He did not allow us
6 to sell it. And he just pass away in February.

7 MR. PRESSEY: I'm sorry.

8 MR. DAI: And then, that's why I went over
9 -- I want to keep up his legend. I try to keep
10 up the building, and develop it. And I just --
11 as -- as the building could pay for itself,
12 because right now, we are paying \$32,000.00 tax a
13 year. And with no tenant at all. Only one --

14 MR. PRESSEY: Um hum.

15 MR. DAI: -- barber shop has been --

16 MR. PRESSEY: Okay.

17 MR. DAI: That's why.

18 MR. PRESSEY: Thank you.

19 Anyone else? Mr. Dai, any questions?

20 MR. PEREIRAS: And I think it's also very
21 important to say, and Mr. Dai is very modest
22 about this, but since it's a not-for-profit, they
23 can't afford a lot of rent. And he gave them an
24 amazing deal, where they're paying almost nothing
25 rent for that back portion of it, just to keep

1 the building alive so it has occupants, to have
2 something else.

3 So, the -- the ten units is actually very
4 financially important component in order to make
5 this building viable because he's giving this
6 ridiculous discount for the -- wonderful discount
7 for the nonprofit for the community.

8 VICE CHAIRMAN BONACCI: Any more questions
9 from members of the Board?

10 MR. GRULLON: (Indiscernible).

11 VICE CHAIRMAN BONACCI: All right.

12 Perhaps there's another way that you guys
13 can make it work, but as it currently stands,
14 because of the issues that I provided and because
15 of the guidelines that we have to follow as a
16 Board, I have to make a motion to deny the
17 application.

18 THE SECRETARY: Motion to --

19 MR. PEREIRAS: Can we adjourn it?

20 THE SECRETARY: -- deny the application by
21 Chairman Bonacci.

22 Any second on the motion?

23 Motion on the table to deny this
24 application. Is any second on the motion?

25 MR. GRULLON: Second the motion.

1 THE SECRETARY: Second by Mr. Grullon.

2 Roll call on the motion to deny this
3 application.

4 Mr. Bonacci?

5 VICE CHAIRMAN BONACCI: Yes.

6 THE SECRETARY: Ms. Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Mr. Grullon?

9 MR. GRULLON: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: No.

12 THE SECRETARY: Mr. Ortiz?

13 MR. ORTIZ: No.

14 THE SECRETARY: Three in favor, two
15 against.

16 Motion carries.

17 Thank you.

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

20 * * *

21

22

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24

25

1 **Lidia Sevillano - 424 8th Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Lidia Sevillano, 424 8th Street.

5 Miss Pereiras, please?

6 MS. PEREIRAS: Again, Bianca Pereiras on
7 behalf of the applicants.

8 We had previously submitted our
9 jurisdictional proofs and this matter has been
10 carried.

11 I ask this Board if we can carry this
12 again. We are working with the applicant to
13 modify these plans. I think we've finally come
14 up with a good plan, but we do need to submit
15 revised drawings to the Board.

16 MR. PANEQUE: You're asking that it be
17 carried, --

18 MS. PEREIRAS: Yes, I am.

19 MR. PANEQUE: -- Ms. Pereiras?

20 This matter was originally heard in
21 October.

22 MS. PEREIRAS: That's correct.

23 MR. PANEQUE: And it's been carried now for
24 one, two, three, --

25 VICE CHAIRMAN BONACCI: This would be the

1 fifth time. This would be the fifth.

2 MR. PANEQUE: -- four -- this would be the
3 fifth time.

4 And you're going to be submitting revised
5 plans?

6 MS. PEREIRAS: We will.

7 MR. PANEQUE: All right.

8 My concern is that the public does have a
9 right to be noticed, once the matter is carried
10 so many times. So, I know it's going to be a hit
11 on your client, but we're going to request that
12 --

13 MS. PEREIRAS: I was --

14 MR. PANEQUE: -- you re-notice.

15 MS. PEREIRAS: I was hoping to -- again,
16 this is an elderly woman --

17 MR. PANEQUE: Yeah.

18 MS. PEREIRAS: -- who's trying to -- and
19 the only reason we're adjourning this is because
20 we had some comments from the public --

21 MR. PANEQUE: Yeah.

22 MS. PEREIRAS: -- and we're trying to
23 provide them with their benefit and -- and but
24 we're trying to keep our costs as low as
25 possible.

1 MR. PANEQUE: I understand that, but it's
2 -- we -- we have kind of like an unwritten rule
3 that if something gets carried an X number of
4 months, and that's already been exceeded here.

5 And especially, in a situation where you're
6 revising the plans and coming in with something
7 relative --

8 MS. PEREIRAS: It's a minor modification.

9 MR. PANEQUE: Yeah.

10 MS. PEREIRAS: It actually reduces the
11 application before the Board.

12 MR. PANEQUE: Well, I mean, ultimately,
13 it's the Board's decision. I -- I -- you know,
14 as the attorney, I can only make --

15 Mr. Bonacci?

16 VICE CHAIRMAN BONACCI: Okay.

17 So, what is it that you need to do again?

18 MS. PEREIRAS: So, it's a small
19 application. Originally -- and originally, we
20 came before this Board -- and you know what? Let
21 me -- because we noticed again. Let me just
22 confirm.

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

25 MS. PEREIRAS: Yes. We noticed again,

1 counsel.

2 MR. PANEQUE: For which --

3 MS. PEREIRAS: So, we had --

4 MR. PANEQUE: For which meeting was it --

5 MS. PEREIRAS: Originally, we came before
6 the Board to do -- from a three to a four. We
7 found out, at that meeting, thanks to Mr. Price,
8 that we were actually going from two units to
9 four.

10 When that was discovered, we pulled back.
11 We came back with revised drawings and actually
12 noticed again in December.

13 At this point, what was in front of the
14 Board is to legalize two units. We're actually
15 trying to legalize one and the other one would
16 become a mother/daughter.

17 That's the presentation before the Board.

18 VICE CHAIRMAN BONACCI: So, you're asking
19 if we can carry it over to the --

20 MS. PEREIRAS: Just one final month.

21 VICE CHAIRMAN BONACCI: You guys okay with
22 that?

23 MR. PANEQUE: But let's clarify that.

24 Your December notice, you were going from

25 --

1 MS. PEREIRAS: Two.

2 MR. PANEQUE: -- two --

3 MS. PEREIRAS: To a four.

4 MR. PANEQUE: -- to four.

5 MS. PEREIRAS: Correct.

6 MR. PANEQUE: And now, your revisions are
7 going from two --

8 MS. PEREIRAS: So, we're still legalizing
9 that separate part of the unit, but we're trying
10 to make it more of a mother/daughter. So,
11 there's going to be a connection --

12 MR. PANEQUE: Okay.

13 MS. PEREIRAS: -- between the upstairs and
14 the downstairs.

15 MR. PANEQUE: But a mother/daughter is
16 technically a three. If you're going from a two
17 to a three, because the mother/daughter does not
18 separate the two units.

19 MS. PEREIRAS: Then I still think my use is
20 less than what we noticed for, and I would think
21 it's sufficient to proceed, especially since my
22 notice is good from December.

23 VICE CHAIRMAN BONACCI: Do you think that
24 she needs to re-notice? Is that your legal
25 opinion?

1 MR. PANEQUE: My legal opinion is that
2 you'd have to re-notice.

3 MS. PEREIRAS: You're not increasing the
4 use.

5 MR. PANEQUE: I understand that, but it's a
6 separate -- you know, application.

7 MS. PEREIRAS: I'm trying to cut the cost
8 for --

9 MR. PANEQUE: I -- I know --

10 MS. PEREIRAS: -- the client.

11 MR. PANEQUE: -- you're trying to keep the
12 --

13 VICE CHAIRMAN BONACCI: If counsel --

14 MR. PANEQUE: -- cost down but ---

15 VICE CHAIRMAN BONACCI: If counselor's
16 legal opinion is that you re-notice, then that's
17 what we're going to side with.

18 MR. PANEQUE: And that was -- you -- you
19 last noticed on December 14th meeting. So, we had
20 January, February, March --

21 MS. PEREIRAS: Um hum.

22 MR. PANEQUE: -- and this is coming back in
23 April. It's four months. Yeah.

24 MS. PEREIRAS: I'll defer to you, counsel.

25 VICE CHAIRMAN BONACCI: Yeah. We're going

1 to have to re-notice that.

2 THE SECRETARY: On April, we have -- we
3 have many applications. Many, many applications.

4 MR. PANEQUE: So, you're looking at, what,
5 May?

6 THE SECRETARY: I looking to May. May 10.

7 MR. PANEQUE: Okay.

8 THE SECRETARY: Yeah. Because we have, I
9 think, almost eight -- like eight applications.

10 MS. PEREIRAS: That's fine. May 10th.

11 VICE CHAIRMAN BONACCI: May 10th. Okay.

12 We're looking at May 10th.

13 Right?

14 THE SECRETARY: New notice required.

15 Right?

16 VICE CHAIRMAN BONACCI: New notice
17 required, yes.

18 MR. PRICE: By the way, could I -- could I
19 interject, because I have an interest in this
20 application.

21 We have two legal apartments there.
22 There's an apartment in the back, which is going
23 to be legalized. That would take her from two to
24 three.

25 Owner of the building has a son who

1 | apparently has some problems, who is currently
2 | living in the basement, in a basement apartment.
3 | They want to legalize that one, too.

4 | I said if you go from two to four, we're
5 | going to court.

6 | Now, if they go from two to three, in other
7 | words, the one in the back, plus a
8 | mother/daughter arrange -- depended housing, in
9 | the bottom, you seem to be saying that that's
10 | three units. That's --

11 | MR. PANEQUE: Well, my concern, Mr. Price,
12 | is that the legal status of mother/daughter --
13 | all right -- doesn't technically exist as a
14 | separate unit, but they'll be using it. So,
15 | technically, it will be a four, because they're
16 | going to be able to -- for now, the son is using
17 | that unit.

18 | MR. PRICE: Correct.

19 | MR. PANEQUE: But they're going to --

20 | MR. PRICE: And it is a separate unit.

21 | MR. PANEQUE: And it is a separate unit.
22 | So, if you classify it as a mother/daughter,
23 | okay, there may come a time in the future when
24 | this son is no longer --

25 | MR. PRICE: Exactly correct.

1 MR. PANEQUE: -- using that unit, and that
2 will give them the ability, then, to rent it.
3 So, we'll have a fourth --

4 MR. PRICE: That's why I --

5 MR. PANEQUE: Yeah.

6 MR. PRICE: I insisted that it be
7 classified as a -- which means that on that
8 fourth unit, the Resolution of the Board -- the
9 application from the -- from the applicant and
10 the Resolution of the Board have to be it's a
11 conditional variance, which means that it only
12 exists for that person and the variance ceases
13 when that person is no longer using the
14 apartment.

15 MR. PANEQUE: Is that the application
16 that's going to be presented to the Board?
17 Specific use would only be for the son.

18 MS. PEREIRAS: That's correct.

19 MR. PANEQUE: And once he's no longer using
20 that unit, that unit will then --

21 MS. PEREIRAS: Then there's no need for it.
22 She has an adult son who, unfortunately, suffered
23 some injuries, and is not mentally all there, but
24 they do want to try to give him a little bit of
25 his independence, as well.

1 MR. PANEQUE: All right. Now, let me flip
2 the question on you.

3 What's going to happen if the mother moves
4 out of the main unit?

5 MS. PEREIRAS: It's all family, so it's --
6 the daughter lives upstairs. So, if the mother
7 is not there to take care of the son, then it's
8 the daughter who's taking care of the son.

9 MR. PANEQUE: Okay.

10 So, as long as there's a family member,
11 then you're requesting that the son be allowed to
12 live in that unit.

13 MS. PEREIRAS: Yes.

14 MR. PANEQUE: Okay.

15 MR. PRICE: But that it is a conditional
16 variance.

17 MR. PANEQUE: It would --

18 MR. PRICE: It has a sell by date. Yeah.

19 VICE CHAIRMAN BONACCI: We're going to talk
20 about this on May 10.

21 Right?

22 MR. PANEQUE: Yeah. It has a -- an
23 expiration date for the approval for that unit,
24 with -- without any kind of end date to it or
25 because --

1 MR. PRICE: Correct. Because it -- it
2 depends on the son. As long as --

3 MR. PANEQUE: It depends on how --

4 MR. PRICE: -- he lives there --

5 MR. PANEQUE: -- long the son is there.

6 MR. PRICE: -- it -- it's a legal unit and
7 when he moves out, that's the end of the
8 arrangement.

9 MR. PANEQUE: Yeah. I -- I understand the
10 issue that's coming before the Board. And the
11 Board can make the determination at that point,
12 and even place the condition on it, if it's going
13 to be allowed like that.

14 MR. PRICE: Fine.

15 MR. PANEQUE: However they want to classify
16 it, whether it's going to be a mother/daughter.

17 My only concern with these mother/daughter
18 classifications is that then they can -- 20 years
19 down the road, nobody here is going to be around,
20 and they're going to come in --

21 MR. PRICE: But --

22 MR. PANEQUE: -- and say, hey, we've had
23 this mother/daughter here, and it's
24 grandfathered. And now -- you know, we want to
25 rent it to Peter.

1 And who's going to -- there's not going to
2 be another Mr. Price pulling out a Resolution
3 from three or four years ago before the Board.

4 MR. PRICE: By the way, there are -- by the
5 way, read Cox and Koenig about it. There's some
6 -- you know, there has to be recording done on
7 the -- you know, they emphasize that, because
8 how -- mother sells the property. How does --

9 MR. PANEQUE: Well --

10 MR. PRICE: And the son's going to move
11 with her, and how does a potential buyer know
12 that he's not buying a four unit property, but a
13 three unit property? It has to be recorded. It
14 is --

15 MR. PANEQUE: So, what you were talking
16 about --

17 MR. PRICE: It is a --

18 MR. PANEQUE: -- is about a deed
19 restriction.

20 MR. PRICE: Effectively. But that's --
21 that's what Cox says is required, so that any
22 buyer is on notice that this -- this conditional
23 variance exists.

24 MR. PANEQUE: Ms. Pereiras, you understand
25 that?

1 MS. PEREIRAS: I understand what he's
2 proposing.

3 MR. PANEQUE: Okay.

4 MR. PRICE: What I --

5 MR. PANEQUE: No. I -- I'm very well
6 familiar with deed restrictions, Mr. Price. And
7 -- and we use them all the time. And not so much
8 on this Board that I've seen, but in other
9 Boards. But we'll address that issue in May.

10 MR. PRICE: Yeah.

11 MR. PANEQUE: And -- and regarding the
12 notice issue, Ms. Pereiras, I -- it's just that
13 the time lapse is --

14 MS. PEREIRAS: Counsel, I understand.

15 MR. PANEQUE: -- is so long.

16 MS. PEREIRAS: It's been a difficult
17 situation for Ms. Sevillano.

18 As I mentioned the first time we presented,
19 she actually thought she had a legal three
20 family, and it was presented to her, from this
21 municipality, that it was a legal three. So,
22 unfortunately, she had -- she's had to jump
23 through a lot of hurdles that really were not her
24 fault, and she's been trying to do everything
25 correctly.

1 So, I'm trying to cut the costs wherever --
2 wherever possible.

3 MR. PANEQUE: Understood.

4 All right.

5 Carried until May meeting.

6 THE SECRETARY: May 10th.

7 Can I have a motion to adjourn this
8 application to May 10th?

9 New notice required.

10 VICE CHAIRMAN BONACCI: I'll make a motion
11 --

12 THE SECRETARY: Motion by --

13 VICE CHAIRMAN BONACCI: -- to adjourn it.

14 MS. GUTIERREZ: I'm seconding.

15 THE SECRETARY: -- Mr. Bonacci.

16 Second by?

17 Ms. Gutierrez.

18 Roll call on the motion to adjourn this
19 application to May 10, 2018. No (sic) new notice
20 required.

21 Mr. Bonacci?

22 VICE CHAIRMAN BONACCI: Yes.

23 THE SECRETARY: Ms. Gutierrez?

24 MS. GUTIERREZ: Yes.

25 THE SECRETARY: Mr. Grullon?

1 MR. GRULLON: Yes.

2 THE SECRETARY: Mr. Pressey?

3 MR. PRESSEY: Yes.

4 THE SECRETARY: Mr. Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Five in favor.

7 Motion carries.

8 New notice required.

9 Thank you.

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1 **613 39th Street, LLC - 611-613 39th Street:**

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3 THE SECRETARY: Okay.

4 Next application on tonight's agenda, 613

5 39th Street, LLC, 611-613 39th Street.

6 Mrs. Pereiras, please?

7 MS. PEREIRAS: Again, Bianca Pereiras, on

8 behalf of the applicant.

9 This was supposed to be heard last month at
10 the meeting. We presented our jurisdictional
11 proofs at that time, but unfortunately, we
12 weren't able to hear any of the presentation
13 because we had that cutoff at ten o'clock.

14 We're here today. We have two experts to
15 testify before the Board this evening.

16 We have a very interesting project. We're
17 looking to construct six units, with six parking
18 spots.

19 I'd like to begin the presentation with our
20 architect, Mr. Manuel Pereiras.

21 MR. PEREIRAS: Manny Pereiras. I recognize
22 I am still under oath.

23 MS. PEREIRAS: Mr. Pereiras, are you
24 familiar with 613 -- 611-613 39th Street?

25 MR. PEREIRAS: I am.

1 MS. PEREIRAS: And did you prepare the
2 drawings that are before the Board this evening?

3 MR. PEREIRAS: I have.

4 MS. PEREIRAS: And would you kindly
5 describe the project for the Board?

6 MR. PEREIRAS: I'd be very happy to.

7 We're on 39th Street, going down the hill.
8 You have the Union City Housing on the right hand
9 side. This is on the left. If you recognize
10 this, there's small garage, there's outcroppings
11 of rock, and then you have the -- the huge
12 concrete wall for the residential development on
13 the other side.

14 We're right before that big concrete wall.
15 And what we have is an interesting site, because
16 we have 50 foot wide along here, a hundred foot
17 depth to this point. But then, we have an
18 additional 25 by 25 along here, this dog leg to
19 the site.

20 The only reason we're before this Board is
21 because of this additional site that we have,
22 because that falls in the CN district. Because
23 all we're looking to do is build two three family
24 houses, side-by-side, each on their 25 by 100
25 lot. But since it's composed of this portion

1 here, it falls under -- it's a CN zone, and we
2 don't comply with the regulations of the CN zone.

3 That said, the entire residential component
4 that we have, it is totally in the R zone, from
5 this portion on.

6 There are a lot of restrictions on this
7 site. And I think that it's best illustrated
8 looking at the -- the side elevation, which is
9 somewhat of a section.

10 And I'm turning to page Z04. If you could
11 see on Sheet Z04, this is where the sidewalk is.
12 There is significant amount of -- of
13 topographical increase. The site increases to
14 this point, and then leads to the back.

15 So, what we're looking to do is provide the
16 garages for the apartments along the front, at
17 grade, and then build the houses further back.
18 So, even though it's only a three story house,
19 from the grade, it's going to look like a four
20 story, but we're only building three stories
21 along the back portion.

22 So, below here, there's nothing. It's just
23 dirt. And we're building a three story house
24 along the top.

25 So, we basically have two three story

1 buildings, right next to each other, and the
2 front portion being garages.

3 I'll use the -- the rendering, and this is
4 a rendering that was prepared based on the
5 architectural drawings.

6 As you could see, this is the 25 by 25
7 portion of the site. We created two car garages
8 along each bay. We created this façade of like
9 stone material, to match the rock croppings that
10 we have existing on the site.

11 This is the existing concrete wall. So you
12 could see that we're not even rising above that.
13 We're not rising -- the buildings adjacent to us
14 are taller.

15 And what we have is a very modest three
16 family house, which is exactly what the zone
17 requires. And if we were before -- if it wasn't
18 for this little piece that was in the CN zone, we
19 would be before the Planning Board and -- and
20 presenting a three family house, which is
21 permitted in the district.

22 So, we have two three families, side by
23 side. The ground floor, you enter it; you go up
24 to the second level. The top of these garages
25 provides for landscaping and a -- and a beautiful

1 patio space. You go up the steps and then, each
2 of these are individual.

3 You have a door to enter into the first
4 floor. And another door to enter in the two
5 floors above. Same thing on the opposite side.

6 I'll walk you through the floor plans.

7 So, on the ground level, you could see the
8 parking spaces that we created. We created some
9 landscaping in front of each of the parking
10 spaces so that we can introduce some greenery
11 along 39th Street, which I think is a very
12 beautiful feature.

13 The steps here lead you up to the second
14 floor. You could see the big patio space in
15 front of the buildings, creating a nice lushious
16 kind of -- instead of bringing the buildings
17 right up on the edge, we're setting them back
18 significantly, which I think is very attractive
19 in that neighborhood. It really sets it back.

20 And then, you go inside the apartment. You
21 have living room, dining room area, and then a
22 three bedroom unit. Very simple, typical design
23 for our three -- our three family houses along
24 here.

25 You go up the stairs and you're entered

1 | into another three bedroom apartment. This one
2 | being 1,087 square feet. And they mirror and
3 | they copy each other on every floor. And then,
4 | the top floor, because of the configuration of
5 | the stairs, is 1,121 square feet.

6 | I -- I think this is a simple application.
7 | I don't want to drag it on.

8 | I'm open for your questions. If there's
9 | anything else you need me to explain, I'll be
10 | happy to.

11 | VICE CHAIRMAN BONACCI: I'm going to save
12 | my questions for the end.

13 | MR. PEREIRAS: Okay.

14 | VICE CHAIRMAN BONACCI: But does anybody on
15 | the Board have any questions right now for Mr.
16 | Pereiras?

17 | MR. GRULLON: Mr. Pereiras, is this parking
18 | -- for five parking space -- five --

19 | MR. PEREIRAS: Yeah. So, let me talk a
20 | little bit about that.

21 | Right now, there's an outcropping of rock
22 | here. Union City rock is really hard to kind of
23 | understand. I've been doing this in Union City
24 | for over a decade now, and sometimes you hit a
25 | rock and it moves. Sometimes you hit a rock and

1 | you hit the rock and you hit the rock, and you're
2 | there two months later and it hasn't moved.
3 | Okay.

4 | We're not blasting. We're not doing
5 | anything like that. So, for purposes of this
6 | presentation, I'm showing this rock as just rock
7 | and not a parking space.

8 | The applicant has every intention to crop
9 | that out and make that an additional parking
10 | space, so that we have full parking spaces. But
11 | I didn't want to give him the burden that if he's
12 | at it for a week or two weeks or three weeks, for
13 | him to keep going, because it's just way too much
14 | of an economic hardship.

15 | But please know and understand that the
16 | client will do everything in his power to get
17 | that additional parking spot done.

18 | MR. GRULLON: Yeah. And on the buildings,
19 | do -- do you have mechanical area, like for a
20 | boiler room?

21 | MR. PEREIRAS: Yes. So -- so, the room
22 | right here that I'm pointing to, next to the --
23 | the hall bathroom --

24 | MR. GRULLON: Yes.

25 | MR. PEREIRAS: -- is your mechanical room.

1 We're doing a tankless hot water system, so that
2 it's high efficiency and it mounts on the wall.
3 And then, we have a furnace that does all the
4 heating and cooling for the house, which is a
5 forced air system.

6 MR. GRULLON: I don't have any more
7 questions.

8 Thank you, Mr. Pereiras.

9 MR. PEREIRAS: And -- and I don't know how
10 familiar this Board is with the new Master Plan
11 yet, but the new Master Plan recommends, on a 25
12 by 100 lot, a three family house, that's four
13 stories. It actually allows for a rear yard of
14 only five feet. We have a lot more and our
15 planner's going to talk more about that.

16 It recommends only five feet, which means
17 that based on the new Master Plan, if we would
18 come to resubmit this, we could go further back.
19 Right now, we're showing 15 feet.

20 The new Master Plan says three feet and two
21 feet on each side. We have more. We have four
22 foot four on each side, so that we have a lot
23 more than what the Master Plan requires, and it
24 requires ten feet on the front, which we're
25 setting the building back further.

1 So, in compliance with the new Master Plan,
2 we fit perfectly.

3 MR. PANEQUE: Mr. Pereiras, is the roof
4 above the garage a -- a yard?

5 MR. PEREIRAS: It's a patio. It's a front
6 yard for the building.

7 MR. PANEQUE: Front yard. And that's where
8 you have also some landscaping.

9 MR. PEREIRAS: Correct. So, we have
10 landscaping in two places. We have landscaping
11 along the base, because we set the building back
12 three feet from the front yard.

13 So, if you look at our enlarged plan -- and
14 each of the columns, we're leaving greenery for
15 landscaping, so we can put some plotted (sic)
16 plants there along here.

17 And then, if you go to the floor above, the
18 entire front becomes the front yard for this
19 building, which is a whole patio area with
20 planters there. It's actually -- I think it's
21 going to be beautiful and that's the rendering
22 there. We have -- we're proposing brick for the
23 front.

24 I think you'll be -- I can't wait to get
25 this thing built. It's going to be gorgeous.

1 MR. PANEQUE: The --

2 MR. PEREIRAS: A lot better than what's
3 there.

4 MR. PANEQUE: The railing that's shown in
5 the front of the garages, that goes all the way
6 around?

7 MR. PEREIRAS: That -- correct. That goes
8 all the way around, and back to the property.
9 So, because we're going to be at the higher
10 grade.

11 MR. PANEQUE: Okay.

12 VICE CHAIRMAN BONACCI: Any further
13 questions from the Board?

14 Members of the public, any questions for
15 Mr. Pereiras?

16 Okay.

17 Closed to the public.

18 Do you guys have --

19 MS. PEREIRAS: We do. We have a --

20 VICE CHAIRMAN BONACCI: Okay.

21 MS. PEREIRAS: -- planner.

22 VICE CHAIRMAN BONACCI: Yeah.

23 MS. PEREIRAS: Mr. Kauker?

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

1 MS. DILLON: Mr. Kauker was previously
2 sworn.

3 MS. PEREIRAS: Mr. Kauker, are you familiar
4 with the property at 39th Street?

5 MR. KAUKER: I am. Yes.

6 MS. PEREIRAS: And can you please describe
7 the project, from a planning perspective?

8 MR. KAUKER: Certainly.

9 As Mr. Pereiras mentioned, the applicant's
10 proposal consists of constructing two three
11 family homes on the subject property, with
12 parking spaces located along 39th Street.

13 This area is somewhat unique. Obviously,
14 this property is located in two separate zones.
15 It's located in the CN district, a portion --
16 very small portion of it, about a 600 by 600
17 square foot portion, and the R residential
18 district.

19 What's unique about this property in terms
20 of the R residential district, there are a number
21 of multiple family homes in the area.

22 This area along 39th Street is also very
23 unique because of the existing topography.

24 Now, what I wanted to do, or what I did and
25 what I want to do is hand out to the Board just

1 an exhibit.

2 It's actually just a photograph exhibit
3 that's taken from Google Earth that basically --
4 it's a shot --

5 I'll pass it out.

6 -- looking up 39th Street, just so you can
7 get a feel of the really interesting
8 topographical conditions in the area.

9 And I'll wait until the Board --

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

12 MR. KAUKER: Just -- I also just --

13 MS. DILLON: This will be A-1.

14

15 (Whereupon, Google Earth Photograph was
16 received and marked as Exhibit A-1.)

17

18 MR. KAUKER: -- did want to point out that
19 there is a typo. It says 33rd Street. Obviously,
20 this is 39th Street. I just -- I just noticed
21 that.

22 But --

23 VICE CHAIRMAN BONACCI: I'm sorry, Mr.
24 Kauker.

25 What was the typo?

1 MR. KAUKER: It -- the --

2 VICE CHAIRMAN BONACCI: Oh.

3 MR. KAUKER: It says --

4 VICE CHAIRMAN BONACCI: Okay.

5 MR. KAUKER: -- 611-613 33rd Street.

6 VICE CHAIRMAN BONACCI: Okay.

7 MR. KAUKER: It's actually 39th Street.

8 VICE CHAIRMAN BONACCI: No problem.

9 MR. KAUKER: So, basically, this is taken
10 from a -- this -- the vantagepoint is about mid-
11 block. It's actually a very long block, as well.
12 But you're looking up toward -- toward the
13 subject property. The subject property would be
14 located on the right. Union City Housing
15 project, the apartment buildings are located on
16 the left.

17 But you can see that there is that vast
18 wall with multiple family dwellings above it.
19 So, that's kind of what we're dealing with here.
20 It's a very unique situation.

21 And one of the reason why I wanted to bring
22 that to the Board's attention is, because a lot
23 of times -- you know, with three families, one of
24 the arguments that we make is that it provides
25 multiple curb cuts. And I just wanted to make

1 the Board comfortable.

2 In this particular case, I think that
3 that's acceptable because there really are no
4 other curb cuts along this section of 39th Street.
5 It's not until you get to the far west end of 39th
6 Street that there are a few curb cuts. And then
7 there's basically one or two main points of
8 ingress and egress for the -- for the large
9 housing development across the street.

10 So, I think that something -- that that is
11 something that is acceptable in this case, having
12 the multiple garages along 39th Street. It's not
13 going to result in any impact because there are
14 very limited curb cuts along 39th Street, as
15 evidenced by that photograph that -- that I
16 passed out to the Board before.

17 Getting back to the site specific
18 conditions, I talked about the fact that it's
19 located in both the R residential district, as
20 well as the CN neighborhood commercial district.

21 The subject property has a total lot area
22 of 5,625 square feet. The lot's currently
23 occupied by one and a half story residence, and
24 then there's a detached garage that's located in
25 the portion of the site that's within the CN

1 district.

2 The site is steeply sloped. Elevation
3 rises from approximately 12 feet, or 12 percent
4 from the street to the rear of the subject
5 property. So, the site's characterized by steep
6 slopes and also, the -- the rock outcrops that
7 Mr. Pereiras mentioned before.

8 With respect to the surrounding conditions,
9 as I mentioned before, the subject property is
10 located kind of in the midst of a number of
11 multiple family type units, as you can see in the
12 -- in -- in the picture that I passed out. You
13 know, there's multiple family units that are
14 located up above the property, along 39th Street.
15 And they actually extend to 38th Street.

16 Kennedy Boulevard contains -- you know,
17 mostly commercial type uses. But 39th Street is
18 characterized by multiple family type uses for
19 the most part, except when you get to the
20 westerly portion near Bergen Turnpike, which has
21 some commercial uses. And then, I believe
22 there's some lower density residential homes
23 there, as well.

24 In terms of the zoning, the property's also
25 unique because it's located on the fringe of the

1 CN and the R residential district. And also --
2 you know, the portion of it is located in the R
3 residential district. It's -- it's surrounded by
4 multiple family homes.

5 With respect to the proposed development,
6 as Mr. Pereiras testified to, there are two three
7 family homes that are being constructed, with six
8 garage parking spaces located along 39th Street.
9 One of the garage parking spaces is located in
10 the CN district. Therefore, we require a use
11 variance because of that portion that's located
12 in the CN commercial district.

13 With respect to the variance that's
14 required, there are D -- there's a D variance
15 that's required, a D-1. And then, there are a
16 number of C variances that are required.

17 I'll just go over the D variance first, and
18 then I'll identify the C variances, or bulk
19 variances that are required for the project.

20 As I mentioned, there is a D-1 variance
21 that's required for the portion of the lot that's
22 located within the CN district. It's not -- it's
23 not compatible or consistent with those
24 regulations, as only parking for the residential
25 use is going to be located on that portion of the

1 property.

2 I would submit to the Board that with
3 respect to the positive criteria, in addition,
4 one of the things that can be shown is that
5 there's a hardship. And I would submit to the
6 Board that there's a hardship associated with
7 this small lot.

8 As I mentioned before, this particular
9 portion of the lot, and I -- I misspoke. I said
10 it was 600 by 600. It's actually 25 feet by 25
11 feet. It's 625 square feet all together, in lot
12 area, that small portion of the lot that's
13 located in the CN district. It's really too small
14 to be developed with any other use. Right now,
15 there's a garage that's located on it. As -- and
16 there's going to be a garage located on the
17 property, if this application is approved by the
18 Board.

19 In -- in addition, I think it's mitigated
20 and I think that this area is appropriate because
21 of the unique conditions along 39th Street, which
22 I mentioned to the Board before.

23 You know, in terms of site suitability --
24 site suitability, I would say that this is a very
25 unique site, different than others in the area.

1 Very different because of the influence of the
2 surrounding land uses, and also the topographical
3 conditions in the area, as well.

4 So, for those reasons, it's my opinion that
5 the applicant meets the positive criteria related
6 to this application.

7 Now, as I mentioned before, there are some
8 C variances that are required. I'll identify
9 each of the variances first, and then I'll go
10 over them.

11 There's a minimum rear yard variance, side
12 yard setback variance, maximum building coverage,
13 and then there's a parking variance, as well.

14 With respect to the minimum rear yard
15 variance, the Ordinance requires 20 feet, where
16 15 feet is proposed.

17 This is really a minor deviation, which, in
18 my opinion, is mitigated due to the change in
19 topography to the adjoining properties to the
20 rear. Therefore, there will be -- real -- no
21 impact.

22 Basically, setback requirements are
23 established for the benefit of adjoining property
24 owners. The property that's located to the rear
25 is at a higher elevation, so there will be no

1 impact that would result from that five foot
2 deviation in what -- what's being required.

3 As I mentioned before, we're proposing 15
4 where 20 is required. But obviously, mitigated
5 because of the fact that there is the change in
6 topography.

7 There's also a hardship and practical
8 difficulty because of the topography, as the
9 building needs to be set further back into the
10 site to accommodate the parking garages that are
11 located in the front of the building, along 39th
12 Street.

13 The second C variance that's required is a
14 side yard setback variance. Two feet is required
15 for one side yard, and five feet for both, where
16 zero feet is proposed on the right side, and 4.4
17 proposed for both.

18 Only a very small portion of the parking
19 garage is located in that area, whereas -- which
20 is the deviation. The benefit of providing
21 parking outweighs any detriment, especially as
22 the deviation is located immediately adjacent to
23 a very large wall, as well.

24 So, again, as I talked about the benefit of
25 those setback requirements, there's really no one

1 | that benefits from that requirement.

2 | Maximum building coverage.

3 | Sixty percent is permitted in the R
4 | district, where 71.44 percent is proposed.

5 | Again, this is something that's consistent
6 | with other building coverages in the
7 | neighborhood, in terms of the -- the properties
8 | that are located to the rear and adjacent to it.

9 | And then, it's also the benefit of
10 | providing larger three bedroom apartment, which
11 | would outweigh any detriment.

12 | I haven't really talked about the Master
13 | Plan yet, but the -- the Master Plan Re-
14 | Examination Report, in 2018, encourages three
15 | bedroom units, and also, three family units,
16 | which is exactly what we're proposing in this
17 | instance.

18 | Finally, there's a parking variance that's
19 | required. Fourteen spaces would be required,
20 | where 16 -- or six spaces are -- are proposed.
21 | And this is a result of calculating it by the
22 | RSIS, and their requirements for three bedroom
23 | uses.

24 | Now, your Master Plan spoke about parking
25 | requirements for three bedroom uses and -- and

1 | there was actually a recommendation that said
2 | that those should be relaxed somewhat for the
3 | three bedroom uses, as you're trying to encourage
4 | more three bedrooms, but the parking requirement
5 | for that is -- is basically what the Master Plan,
6 | they felt, it was in excess.

7 | So, I do believe that the mitigation, in
8 | terms of the parking, is -- is mitigated because
9 | of that factor.

10 | Also, Mr. Pereiras mentioned that there
11 | could be an additional space that's provided, as
12 | well.

13 | With respect to the deviation and the de
14 | minimis exception from the RSIS, Union City is an
15 | urban location. It's in close proximity to mass
16 | transit. So therefore, it's my opinion that
17 | those factors could be mitigated, and that what
18 | we propose here is appropriate for the site and
19 | the proposed development, as well, because of
20 | those factors. The fact that it's urban
21 | location, and also because there's mass transit
22 | in the area, as well, coupled with the fact that
23 | your Master Plan makes a recommendation for
24 | decreased parking requirement for three bedroom
25 | type uses.

1 With respect to the negative criteria, it's
2 my opinion that there will be no substantial
3 impairment, or I'm sorry, there'll be no
4 substantial detriment to the surrounding area.
5 There are no -- really, when you take a look at
6 this, there's going to be no detriment for the
7 reasons that I mentioned before. We're really
8 dealing with a building that's located in a very
9 unique area. It's probably one of the more
10 unique areas that I've seen in Union City. There
11 will be no impact that would result on any of the
12 neighboring property owners because they are
13 located at a such -- such a higher elevation than
14 the subject property.

15 With respect to any impairment to the
16 intent and purpose of the Master Plan or Zoning
17 Ordinance, it's my opinion that this proposed
18 development is consistent with the goals and
19 objectives of both the 2009 comprehensive Master
20 Plan, as well as the 2018 Re-Examination Report.

21 I previously talked about the parking
22 that's addressed in the Master Plan, as well.
23 So, for those reasons, I don't feel it's going to
24 have a substantial impairment.

25 Again, this is also something that's

1 | located on the fringe of both the CN and the R
2 | district. And because of the uniqueness of the
3 | site, I don't think there's going to be any
4 | impact either to the surrounding area, or
5 | substantial impairment to the intent and purpose
6 | of the Master Plan or the Zoning Ordinance.

7 | So, for those reasons, I feel that the
8 | positive criteria outweigh the negative criteria.
9 | And I do feel that the Board could grant the
10 | variances that are requested.

11 | And I'd be happy to answer any questions.

12 | MR. PANEQUE: Before we have any questions,
13 | we -- we have to clear up something, because
14 | there's been a discrepancy in testimony.

15 | Mr. Pereiras testified that there's five
16 | parking spots, and the sixth one is a potential
17 | spot, which, if the applicant cannot deal with
18 | the rock structure, he will not actually commit
19 | to it.

20 | Your application, Ms. Pereiras, notes and
21 | puts notice of an application for -- you know,
22 | six units with six spots.

23 | Do you want to amend your application at
24 | this point, because we can't have it both ways?

25 | MR. PEREIRAS: The applicant has been very

1 clear to me, he says that if this Board feels
2 it's necessary, and I know it's -- it's a
3 technicality, he will commit to making that sixth
4 spot.

5 MR. PANEQUE: Okay.

6 MR. PEREIRAS: So, we'll -- we'll -- let's
7 -- assuming no matter how hard it is, we'll
8 provide six parking spaces.

9 MR. PANEQUE: Okay.

10 MR. PEREIRAS: Which is actually perfectly
11 in line with the Master Plan, that it's asking
12 for two parking spaces per unit. We'll have six
13 parking spaces.

14 MR. PANEQUE: No. I just needed to clarify
15 that.

16 MR. PEREIRAS: Yup.

17 MR. PANEQUE: Because if we're going to
18 approve an application --

19 MR. PEREIRAS: Um hum.

20 MR. PANEQUE: -- with five spots, then that
21 -- I don't want to approve an application that
22 has six spots, and then you go to the Building
23 Department, and you say we can't do the sixth
24 spot, and you're going to have problem.

25 So, he'll commit to it no matter what.

1 MR. PEREIRAS: He'll commit to it.

2 MR. PANEQUE: All right. So, then your
3 notice stands as it is.

4 MS. PEREIRAS: Good.

5 MR. PANEQUE: Thank you.

6 All right, I'm sorry to intercept that.

7 MS. PEREIRAS: That's all right. I
8 understand.

9 Thank you.

10 MR. PANEQUE: Questions at this time.

11 VICE CHAIRMAN BONACCI: Members of the
12 Board, do we have any questions for Mr. Kauker,
13 while he's up here?

14 Okay.

15 Members of the public, questions for Mr.
16 Kauker?

17 Okay. Okay.

18 Closed to the public.

19 Board members, any questions for Mr.
20 Pereiras or Mr. Kauker?

21 Okay. Allow me, if I may?

22 I'm looking at Mr. Spatz's memo. I'm not
23 an expert or a lawyer, but I'm trying to go with
24 the best advice from people who are experts and
25 people who do know the law.

1 Now, according to Mr. Spatz's memo, the six
2 unit multi-family buildings are not permitted in
3 the R zone. It also states that fully
4 residential buildings are not permitted in the CN
5 zone, and I understand that you're presenting
6 that as the hardship.

7 Is that right, Mr. Kauker? The part where
8 you're in the CN zone?

9 MR. KAUKER: Yes. The -- fully residential
10 are not permitted in the CN zone. That -- that
11 is correct.

12 VICE CHAIRMAN BONACCI: Okay.

13 MR. KAUKER: If I understand you correctly.

14 MR. PEREIRAS: And I think there's a point
15 of clarification to make.

16 This isn't a six unit building. This is
17 two three family houses.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. PEREIRAS: Okay? There's a very big
20 difference between a six family building and two
21 three family houses.

22 We have a party wall, separating the two
23 buildings, that's a fire wall. This building has
24 nothing to do with that building. It's split up
25 in a lot perfectly that's 25 wide and 25 wide,

1 down the middle.

2 There is no elevator. There is no common
3 stair. There are no common components to either
4 of the two buildings.

5 The reason we did this like this, and --
6 and it's important to understand from the Board's
7 perspective, if we -- right now, we're stuck, no
8 matter what we did -- Mr. Marotta always asks a
9 question. Can you build a compliant building on
10 this site? And the answer is no. I can't do a
11 single family house on this site. I can't do
12 anything on this site because it's both in the CN
13 and it's in the R. They're conflicting zones.
14 Okay?

15 The CN, I need commercial; the R it's not
16 permitted commercial. So, it doesn't matter what
17 we do, we're before this Board simply because of
18 the way this site is.

19 So, the other question is, with the R
20 component, okay, we have a site that has
21 topography. The only way that I could satisfy
22 this is by having the parking not underneath the
23 building, because it just doesn't work, it's
24 impossible, to have it in the front and utilize
25 this entire frontage that we have.

1 And in order to do that, I can't have
2 individual -- you know, the parking spaces for
3 these three have to work for this house, and
4 these three have to work for this one. That's
5 why it was important to keep it as one entire
6 lot.

7 So, we're not asking for anything out of
8 the ordinary. It's two three family houses,
9 which are permitted in the R district. And
10 unfortunately, we're also in the CN district.
11 And unfortunately, there's a topography to the
12 site that we have to deal with. It's the
13 reality, because if this Board were to deny us,
14 you're basically putting the lot -- the site into
15 unusable. There's nothing else that we could do
16 here. This is exactly what is asked for in this
17 zone. It's in the R zone, two, three family
18 houses. That's exactly what we're doing and
19 that's exactly what we're providing for you.

20 VICE CHAIRMAN BONACCI: Okay.

21 I have a couple of other things.

22 Okay. So, with that one aside, RSIS
23 requirements. The 14 spaces, and even with the
24 extra space, you're still off by about eight.

25 MR. PEREIRAS: Well, this city has a new

1 Master Plan. Your new Master Plan, basically,
2 ignored RSIS, said that that's not appropriate
3 for Union City. Your new Master Plan, as fresh
4 as two days ago, says that you want two units per
5 apartment. Period. No more, no less. Two units
6 per apartment. That's six units. That's what
7 we're providing. Six parking spaces for six
8 units.

9 That's exactly what Union City's asking
10 for.

11 RSIS, your own establishment, the City is
12 telling us that's not the case. That said, we
13 are asking for relief from RSIS standards,
14 because it's a State requirement. But your --
15 the City itself is saying we don't need to comply
16 with that.

17 VICE CHAIRMAN BONACCI: Now, an extra thing
18 that I just need to point out for members of the
19 Board is that in this lovely memo that Mr. Spatz
20 puts together for us, he attaches applicable
21 statutory criteria, and there's a lot of
22 interesting things that I look over when I see
23 these things.

24 So, for example, my concern is, and for the
25 members of the Board, you got to hear me out on

1 | this, there's got to be special reasons for us to
2 | grant all of these variances, when we grant the
3 | variances. It can't just --

4 | All right.

5 | So, for example, D permit. Maybe we can
6 | bend on that. Use variance. Maybe we can bend
7 | on that. C variance. Maybe we can bend on that.
8 | MLUL. Maybe we can bend on that, but we can't
9 | bend on everything, and we can't grant variances
10 | like we're giving away Jolly Ranchers.

11 | There's got to be a way, and I -- I don't
12 | want to go back to what Chairman Marotta says
13 | when he's here, you're saying maybe there's not a
14 | way to get away with the D permit. Maybe there's
15 | not a way with the use. Maybe -- there's got to
16 | be a way to get around some of these permits.

17 | MR. PEREIRAS: No. And just to be clear.
18 | Let's say this Board was to deny us, and we were
19 | gone, and we come back to this Board. Guess
20 | what? Our application and our building's going
21 | to be bigger, because the new Master Plan is
22 | giving us a rear yard setback of five feet.
23 | We're at 15 feet. That means our building could
24 | be bigger. It's telling us the side yard setback
25 | of three feet, where we're providing four foot

1 four.

2 So, our building, if you deny us and we
3 come back, we're going to come back with an even
4 bigger building. It makes no sense whatsoever.

5 So, our variances are as small as possible.
6 They're as easy to grant as possible. The use
7 variance is just the D use variance. You need
8 special conditions to grant a D use variance. We
9 have special conditions.

10 We have a site that's in two zones. It's
11 impossible to comply with both. You can't do it.
12 Period.

13 So, if this Board were to deny that, it's
14 like asking for an impossibility to happen.

15 C variances.

16 We practically have none. We have
17 technical variances because we're under the old
18 Ordinance. What Union City is asking for in the
19 new Ordinance, we comply with everything. We're
20 good.

21 So, there's --

22 VICE CHAIRMAN BONACCI: Mr. -- Mr.
23 Pereiras, if you --

24 MR. PEREIRAS: It doesn't make sense.

25 VICE CHAIRMAN BONACCI: If you guys

1 | complied with so many things, then you wouldn't
2 | be asking us for so many variances. Now --

3 | Hold on a second. Let me just continue.

4 | Now, to grant the use variances, we need to
5 | hear that there's an inherently serving of the
6 | public good.

7 | I mean -- you know, it would be a stretch
8 | at this point.

9 | MR. KAUKER: Well, just -- just --

10 | MR. PEREIRAS: No.

11 | VICE CHAIRMAN BONACCI: Hold on one second.

12 | MR. PEREIRAS: Not at all.

13 | VICE CHAIRMAN BONACCI: Also, a peculiar
14 | and exceptional difficulty.

15 | I get it. You're in two zones, but it's
16 | not peculiar or exceptional.

17 | MR. KAUKER: The -- if I could just --

18 | VICE CHAIRMAN BONACCI: There's a lot of
19 | variances that we have to grant here. It's not
20 | one or two. There's like five things that we
21 | have to just turn a blind eye to. It's
22 | impossible for me to --

23 | MR. KAUKER: If I could --

24 | VICE CHAIRMAN BONACCI: -- to consider
25 | that.

1 MR. KAUKER: -- just address that because
2 you're kind of misinterpreting what he's writing
3 there.

4 You don't have to show that it's an
5 inherently beneficial use. That is one of the
6 special reasons.

7 VICE CHAIRMAN BONACCI: I can't just ignore
8 Mr. Spatz's memo and pretend like I didn't read
9 it.

10 MR. KAUKER: You're not. But what I'm
11 saying is, in order for you to grant the
12 variances, yes, you're right, you do have to
13 prove special reasons, which -- which is the
14 positive criteria which I mentioned before.

15 You can either show, and special reasons
16 take their name basically from the purposes of
17 zoning, as contained in the Municipal Land Use
18 Law. And there's a lot of case law that relates
19 to use variances and D variance, as well.

20 So, basically, when you look at it, the
21 courts have said, one of the reasons why you can
22 grant a use variance is if you find the use is
23 inherently beneficial. We're not claiming that
24 this use is inherently beneficial because it's
25 not, but that's just one of the categories.

1 The other category and -- is basically that
2 the general welfare is promoted, which is purpose
3 A, because this site is particularly suited for
4 the proposed use.

5 So, part of my testimony was that this site
6 is particularly suited for this proposed use, for
7 the reason that I stated previously.

8 There's also another component, which was a
9 component that was in the Municipal Land Use Law.
10 I think it was some time in 1970, when it was --
11 when it was changed, but still exists. And
12 that's you can grant a variance if -- a D
13 variance, if the applicant shows that there's a
14 hardship.

15 In my -- and that's just related to the D
16 variance. So, in my opinion, there is a hardship
17 that's related to this particular property and
18 this particular use.

19 In addition, I also believe that this site
20 is particularly suited for the reasons such as
21 the surrounding -- the existing surrounding land
22 uses.

23 So, you don't need to provide all of those.
24 You can provide -- you can -- you can establish
25 criteria for one of those. I've established

1 criteria for two of those.

2 And then, what the Board has to do is they
3 have to weigh that against the negative criteria.
4 So, you -- and -- and there's also case law that
5 talks about you could look at any one of the
6 purposes of zoning, and any one of the purposes
7 of zoning could be a special reason. So, the
8 Board has to look at that and then weigh that
9 against the negative impacts related to this
10 application.

11 Now, when people talk about mitigating
12 factors, you can talk about things that make a
13 site unique, because a lot of times boards are
14 concerned about setting a precedent. You know,
15 they say, well, if we grant a variance for this
16 application, we're going to have to grant a
17 variance for the next application.

18 Now, each application is supposed to be
19 viewed individually. And one of the things that
20 I like to point out, and one of the things that
21 exists with this application, it really is -- the
22 site really is unique -- you know, because of the
23 existing conditions, because of the change in
24 topography, because that vast wall that exists
25 next to the subject property.

1 So, there are conditions that do make this
2 unique. So, I don't think the Board has to be
3 concerned about setting any sort of precedent.

4 Now, those are the criteria to grant a D
5 variance.

6 With a C variance, the applicant's got to
7 either show that there's a practical difficulty
8 or hardship, which is a C-1 variance, or there is
9 a C-2 variance, the benefits -- the benefits
10 derived out of granting the variance would
11 outweigh any detriment.

12 So, there's a separate set of criteria that
13 are applied with the bulk requirements. And
14 then, that's why I went through in detail all of
15 the -- you know, and --

16 And you're right, one of -- one of the
17 reasons why we require -- because sometimes you
18 could look at an application -- excuse me -- and
19 say, wow, they require a lot of variances. How
20 can we ever grant these?

21 But you have to look at two things. You
22 have to look at the number, and then you have to
23 also look at the degree of the variances that are
24 being requested.

25 So, for example, the side yard setback.

1 Twenty feet's required. We're proposing 15 feet.
2 So, that's not a really huge dev -- that's not a
3 very big deviation.

4 The other thing I just wanted to make sure
5 that I pointed out to the Board, when you're
6 assessing the bulk variance requirements of the C
7 variance, you have to look what the intent of the
8 Ordinance is. And the intent of a bulk or a
9 setback requirement is really for the benefit,
10 the enjoyment, the protection of an adjacent
11 property owner.

12 For example, if you were to have a property
13 -- let's say it's 50 by a hundred feet -- you had
14 a building on there that's four stories and it's
15 five feet from the property line, side property
16 line. Say -- you know, you -- there was a ten
17 foot requirement.

18 You would assess that impact and obviously,
19 if it was at the same level, you would take a --
20 a look at the impact with the height of the
21 building, with the proximity of that building to
22 the other lot. You would see where that building
23 -- the other building, the adjacent building is
24 situated on the lot.

25 Now, obviously, there's a benefit that

1 would be provided to that adjoining property
2 owner of having a little bit larger side yard
3 setback.

4 And again, you also have to look at the
5 use. If you're looking at a single family or a
6 two family use -- you know, you want to make sure
7 that you have sufficient open space on the
8 property and it's not really impacting or -- or
9 really having an impact on the light, air and
10 open space of the adjoining property owner.

11 Now, one of the things that I just -- I
12 really wanted to be clear that I pointed it out,
13 with respect to this, is there really is no one
14 that would benefit from these deviations, as
15 well. You have -- basically, you have this
16 setback portion of the building, if I'm -- and
17 you can correct me if I'm mistaken, is kind of
18 built into the topography. It's built into the
19 slope.

20 So, there's no one that really benefits
21 from that setback. So, there's really no impact
22 on the adjacent property owner.

23 If you look at -- if you look at the
24 exhibit or the picture that I -- that I passed
25 out to the Board, you look at that wall along 39th

1 Street, and you look at the elevation of those
2 structures above it, they're going to be
3 significantly higher. And I think that actually
4 -- I don't know how accurate a depiction this is
5 because -- and you can then correct me if I'm
6 wrong, but I think that this is probably a little
7 bit higher.

8 MR. PEREIRAS: You're right.

9 MR. KAUKER: So there really -- you know,
10 and even if you look at this, I mean, you have
11 two structures and this building is going to be
12 significantly higher. These are multiple family
13 dwellings, as well.

14 You know, so there really isn't going to be
15 any impact.

16 So, I do agree with Mr. Spatz. I read his
17 memorandum and he basically addresses -- you
18 know, all of the potential statutory criteria
19 that could be -- I mean, it's not really specific
20 to this application because he does include
21 criteria in here, for example, for a D-3 use
22 variance. For a D-3 variance.

23 VICE CHAIRMAN BONACCI: Mr. Kauker, let me
24 just stop you right there.

25 MR. KAUKER: Yup.

1 VICE CHAIRMAN BONACCI: I just want to
2 address the members of the Board.

3 MR. KAUKER: Sure.

4 VICE CHAIRMAN BONACCI: When I'm looking
5 over Mr. Spatz's memo, and I see things like
6 inherently serves the public good, the only thing
7 I can come away with is that this inherently
8 going to serve a real estate developer.

9 MR. PEREIRAS: We're not --

10 MR. KAUKER: Hold on. Let me --

11 VICE CHAIRMAN BONACCI: Hold on. Hold on.

12 I also see words -- for the members of the
13 Board, I also see words like peculiar and
14 exceptional difficulty. And I don't see that.

15 MR. KAUKER: Those are in my --

16 VICE CHAIRMAN BONACCI: And also, we have
17 to stick to the Master Plan and the Zoning
18 Ordinance, and we have a responsibility here, as
19 -- as Board members to hold the applicants to a
20 standard, and we can't just pretend like, okay,
21 we can give you a D permit, use variance, C
22 variance. Forget the parking spaces.

23 MR. KAUKER: If I could just make one
24 clarification?

25 VICE CHAIRMAN BONACCI: And -- and to Mr.

1 Kauker's point about setting a precedent, we are
2 going to set a precedent. We can look at every
3 application one at a time. But after awhile,
4 we're setting a precedent every time we grant
5 something.

6 So, we can't just bend on five variances
7 and pretend like they're not there because they
8 are. And I'm sure that there is a way that you
9 guys can conform to the Zoning Ordinances.

10 MR. PEREIRAS: Let's -- let's talk about
11 our variances, so that we're clear. Okay?

12 There's a use variance. Okay? That's a
13 D-1 use variance. No matter what we present to
14 this Board, whether it's a doghouse on this site,
15 it will have that use variance. Why? Because
16 it's in the CN zone and the R zone.

17 So, there is nothing this applicant can do
18 that could change that.

19 MR. PANEQUE: Mr. Pereiras?

20 MR. PEREIRAS: That's why it's important to
21 have a Board.

22 MR. PANEQUE: On that point, will you be
23 able to show us, on -- on your survey, where the
24 CN variance line of demarcation is?

25 MR. PEREIRAS: The line is right here. So,

1 | this portion of the site is in the CN.

2 | MR. PANEQUE: Okay.

3 | MR. PEREIRAS: This portion is in the R.

4 | MR. PANEQUE: So, looking at your survey,
5 | the line of demarcation for the CN zone would be
6 | the S25 degrees 32 minutes --

7 | MR. PEREIRAS: Yes.

8 | MR. PANEQUE: -- zero seconds west.

9 | MR. PEREIRAS: Yes.

10 | MR. PANEQUE: And it would run straight
11 | down.

12 | MR. PEREIRAS: Yes.

13 | MR. PANEQUE: All right.

14 | Just as a hypothetical, all right, if you
15 | were to come in for a subdivision, and subdivide
16 | out that portion of that L -- okay.

17 | MR. PEREIRAS: If I was a Board, I wouldn't
18 | approve that because it's an undersized lot.

19 | MR. PANEQUE: The one you're subdividing
20 | out.

21 | MR. PEREIRAS: Right.

22 | MR. PANEQUE: Okay. But that's just if
23 | you're the Board. But if you were to subdivide
24 | out that portion, then the remaining of the lot
25 | would then be in the R zone.

1 MR. PEREIRAS: Correct.

2 MR. PANEQUE: Okay.

3 MR. PEREIRAS: And we would be a conforming
4 use, with the exact same building that we have,
5 and we would be before the Planning Board, and
6 this would get approved, like any other building,
7 three family house that gets approved. Like any
8 day.

9 And -- and now, let's talk about the rest
10 of our variances, Mr. Bonacci, because I know --

11 VICE CHAIRMAN BONACCI: Yeah.

12 MR. PEREIRAS: -- when people see this on
13 paper, you can make a quick decision and -- and
14 know something. But that's why we have testimony
15 because we explain what the situation is. And
16 it's important to see why these situations occur.

17 Let's go through it.

18 Permitted uses. D variance. We talked
19 about that.

20 The lot area, 2500 square feet is required,
21 we're at 5,625. No variance is requested. We're
22 more than double. We're -- we have 625 square
23 feet more than what's required for two three
24 families.

25 Minimum lot width.

1 We're way bigger than that. No variance is
2 required.

3 Minimum lot depth.

4 No variance is required.

5 Minimum front yard.

6 Now, here's the technicality. First and
7 foremost, I would argue we have no front yard
8 required, because prevailing, along this side is
9 zero and prevailing along that side is zero.

10 So, we're not even required to have a front
11 yard. Yet, we're providing it. We're providing
12 three feet along the ground level, and then we're
13 providing -- we're setting it back almost 25 feet
14 on the top. No variance is requested. Okay?

15 Let's talk about rear yard.

16 Now, technically, we have a variance there
17 because we're only providing 15 feet. But guess
18 what? The new Master Plan says five feet, which
19 means we could go ten feet further.

20 So, if you denied me tonight, we're coming
21 back before the Board and we're providing ten
22 feet more. So, that's not really a variance
23 because -- it's technically a variance because it
24 happened today. If it happens three months from
25 now, it's not a variance. And this Board

1 understands the Master Plan and sees the future.

2 So, that's not a variance either. Okay?

3 Going through this. Side yard.

4 In the new Master Plan three feet required
5 and two feet. We have four foot four and we have
6 four foot four. No variance in that sense,
7 either, in the C variance. Okay?

8 On paper, technically, we have a variance.
9 But there is no variance in the reality, based on
10 the new Master Plan.

11 Building height.

12 We are a three story building in the back.
13 The CN zone requires one thing. The R zone
14 requires another. But we're at three stories in
15 the portion on the back. Depending how you
16 measure a building, no variance required.

17 The maximum building coverage.

18 We're at 71.44 percent and the maximum lot
19 coverage, we're at 75.44. The new Master Plan
20 allows 80 percent lot coverage. That means we're
21 under by four and a half percent what you're
22 going to permit. So, if we came back three
23 months later, that's not a variance either.
24 Okay?

25 And then, for parking.

1 Parking's a variance right now. But the
2 new Master Plan says two parking spaces per
3 apartment. That's six spaces. We don't have a
4 variance, either.

5 So, Mr. Bonacci, I know you said there's a
6 lot of variances, but we have zero, only use.

7 MR. PANEQUE: Just to clarify that. Two
8 parking spaces per apartment.

9 MR. PEREIRAS: Per apartment.

10 MR. PANEQUE: And you're putting in six
11 apartments.

12 MR. PEREIRAS: We're providing six
13 apartments. So, we're -- yeah. No, you're
14 right. That would be 12. We're providing half
15 that, six each.

16 VICE CHAIRMAN BONACCI: Mr. -- Mr.
17 Pereiras?

18 MR. PEREIRAS: Good clarification.

19 VICE CHAIRMAN BONACCI: All -- all due
20 respect, I just thought it was necessary and my
21 responsibility to point out, for the members of
22 the Board --

23 MR. PEREIRAS: Um hum. And maybe we should
24 have Mr. Spatz here to --

25 VICE CHAIRMAN BONACCI: What --

1 MR. PEREIRAS: -- do that, too.

2 VICE CHAIRMAN BONACCI: What we have
3 written here on Mr. Spatz's memo, and it's our
4 responsibility to -- to follow what he's got here
5 in front of us. And sure, we can go through all
6 the variances and we could find that technically
7 this is that, and tech -- but we have an
8 obligation to go with this now.

9 MS. PEREIRAS: Mr. Chairman?

10 VICE CHAIRMAN BONACCI: Hold on one second.

11 With respect, you guys are working real
12 hard. You guys are pleading your case. This --
13 I -- I say this with no disrespect, but our job
14 here is to provide you with the time to give your
15 testimony, hear you out, which we're doing,
16 opening it up to members of the public. And
17 then, at some point, we have to come to a
18 decision.

19 So, I mean, we could argue these little
20 points over and over until midnight, but we still
21 have to, at some point, come to a decision.

22 MS. PEREIRAS: Mr. Chairman?

23 VICE CHAIRMAN BONACCI: And I'm trying to
24 show the members of the Board what it is that Mr.
25 Spatz is giving us here, to help us come to a

1 decision.

2 MR. KAUKER: Can I just --

3 MS. PEREIRAS: And I understand.

4 Go ahead, Mr. Kauker.

5 MR. KAUKER: Yeah. I just want to make one
6 clarification.

7 I just wanted to put this on the record,
8 and you can take it with a grain of salt.

9 I think you need to read through that a
10 little bit further because you keep talking about
11 the Board needs to find that this is inherent --
12 an inherent benefit.

13 VICE CHAIRMAN BONACCI: But it's true.

14 MR. KAUKER: No, it's not.

15 VICE CHAIRMAN BONACCI: How is it not true?

16 MR. KAUKER: Respectfully, it's not,
17 because if you read -- because in order to grant
18 a D-1 use variance, that's one of the special
19 reasons, if a use is inherently beneficial.

20 If you go through and read the entire
21 sentence, it says, he talks about in accordance
22 with the guidelines set forth by the New Jersey
23 Supreme Court, an applicant for a use variance
24 must demonstrate that the special reasons test is
25 satisfied by a showing --

1 VICE CHAIRMAN BONACCI: Mr. -- Mr. Kauker,
2 now --

3 MR. KAUKER: Just, can I finish?

4 VICE CHAIRMAN BONACCI: Wait, wait, wait.

5 Now, we're arguing over my interpretation
6 of what I just read.

7 I'm not going to argue that with you.
8 That's my interpretation of what I read and I'm
9 not going to let you stand here and argue the way
10 that I interpret something. We're just not going
11 to do it. I'm sorry.

12 MR. KAUKER: I'm not -- I'm not --

13 VICE CHAIRMAN BONACCI: I'm sorry. We're
14 not --

15 MR. KAUKER: -- arguing with you. I'm just
16 --

17 VICE CHAIRMAN BONACCI: -- going to argue
18 that. I'm sorry.

19 MR. KAUKER: Okay.

20 VICE CHAIRMAN BONACCI: We gave you time to
21 make your testimony. With all respect, we heard
22 it out, we heard out Mr. Pereiras.

23 MS. PEREIRAS: Mr. Chairman?

24 VICE CHAIRMAN BONACCI: I'm sorry.

25 MR. GRULLON: I just want to --

1 VICE CHAIRMAN BONACCI: You wanted to say
2 something?

3 MR. GRULLON: I just want to --

4 MS. PEREIRAS: I -- I would.

5 MR. GRULLON: I just want to say something.

6 MS. PEREIRAS: Sure.

7 MR. GRULLON: I mean, we -- we've been
8 hearing testimony from Mr. Pereiras, from Mr.
9 Kauker. From Mr. Pereiras, I hear all the time
10 that we are referring to a two -- two three
11 family houses.

12 And I believe all the variance that we have
13 here, that we discuss is referring to a six
14 family building. And that's what got us a little
15 confused.

16 I don't know where we're going, whether we
17 had to consider this a two three family or --

18 MS. GUTIERREZ: Three family.

19 MR. GRULLON: -- a big -- a big six family
20 structure.

21 MS. GUTIERREZ: Structure.

22 MR. GRULLON: And you know, I don't know,
23 is Mr. Spatz here?

24 MS. PEREIRAS: He's not.

25 MS. GUTIERREZ: No. He's not here.

1 MR. GRULLON: Oh.

2 MR. PANEQUE: Mr. Spatz had to leave
3 because --

4 MR. GRULLON: I would like to get some
5 clarification there, whether we should consider
6 this as a two three family, or as a -- a six
7 family building.

8 Could you explain that, Mr. Kauker? What I
9 was looking at here, could you help me out with
10 that?

11 MR. KAUKER: Well, as Mr. Pereiras
12 testified to before, it's two three family homes.
13 They're separated by a lot line. They're on two
14 separate lots.

15 MR. GRULLON: Because all the -- you know,
16 all the --

17 MR. KAUKER: I'm sorry. Are you looking at
18 a specific page?

19 MR. GRULLON: No. I'm looking at the memo,
20 Mr. Spatz.

21 MR. KAUKER: Right. On -- on what page?

22 MR. GRULLON: He's referring -- page one,
23 all the -- his findings. They refer to a multi-
24 family building.

25 MR. PEREIRAS: Mr. Spatz isn't here. He

1 | looked at it. He saw six units. He said multi-
2 | family, six unit building.

3 | But if he were here for the testimony, I'm
4 | sure Mr. Spatz would have a lot of opinions on
5 | this.

6 | This isn't a six unit building. This is
7 | two three families, which is exactly what Union
8 | City wants.

9 | MS. GUTIERREZ: Um hum.

10 | MR. PEREIRAS: You know? I think that that
11 | has to be understood and explained.

12 | Maybe Mr. Spatz has to be here and -- and
13 | for another --

14 | VICE CHAIRMAN BONACCI: Mr. -- Mr.
15 | Pereiras, again, with respect, and members of the
16 | Board, take a look at that picture over there.
17 | To me, that looks like it's one building.

18 | MR. PEREIRAS: If I separated them a foot,
19 | would it be better? I could separate them a
20 | foot. I could separate them two feet.

21 | VICE CHAIRMAN BONACCI: That's why we're --

22 | MR. PEREIRAS: Does it make it different?

23 | VICE CHAIRMAN BONACCI: That's why we're
24 | confused. Look at the picture. It looks like
25 | one building.

1 Now, if you can disagree with the fact that
2 it looks like one building, then fine, we can
3 come back here a couple months from now and argue
4 over the same thing. Is it two buildings or is
5 it one?

6 But at some point, like I said earlier, we
7 got to come to a decision.

8 MR. PEREIRAS: It's not a question of
9 opinion. It's two separate buildings. There are
10 separate individual stairs. There are separate
11 individual entrances. There's a separate fire
12 wall between them. There's a separate lot lines
13 that they sit on.

14 They're two separate buildings. That's my
15 testimony, my professional testimony --

16 VICE CHAIRMAN BONACCI: Mr. -- Mr. Pereiras
17 --

18 MR. PEREIRAS: -- before this case.

19 VICE CHAIRMAN BONACCI: Could somebody walk
20 through those two buildings?

21 MR. PEREIRAS: No.

22 VICE CHAIRMAN BONACCI: Okay.

23 MR. PEREIRAS: You can't go from one to the
24 other.

25 VICE CHAIRMAN BONACCI: Thank you. Thanks.

1 All right. Like I said, with respect, I
2 mean it, heard you guys out, heard out your
3 testimony. Thank you for answering our
4 questions.

5 MS. PEREIRAS: And Mr. Chairman, because I
6 --

7 MR. PEREIRAS: Can we listen to Mr. Spatz?

8 MS. PEREIRAS: -- still haven't been able
9 to speak.

10 I -- I understand your interpretation of
11 Mr. Spatz's report. I have a different
12 interpretation. And I think it would behoove
13 this Board to have your planner, that's your
14 right to have your planner here. That way, you
15 can ask him any questions and he could advise us
16 both.

17 We have our planner, but of course, he's
18 the applicant's planner.

19 VICE CHAIRMAN BONACCI: And I appreciate --

20 MS. PEREIRAS: I also --

21 VICE CHAIRMAN BONACCI: I appreciate that,
22 Ms. Pereiras. However, there's other
23 applications that we have to hear.

24 MS. PEREIRAS: I understand.

25 VICE CHAIRMAN BONACCI: We heard four of

1 your guys' applications tonight.

2 MS. PEREIRAS: I understand.

3 VICE CHAIRMAN BONACCI: We're giving you a
4 lot --

5 MS. PEREIRAS: I also --

6 VICE CHAIRMAN BONACCI: -- of time and
7 we're giving you guys a lot of decisions.

8 We got to get to a lot of other
9 applications.

10 MS. PEREIRAS: I know, but there's also
11 only five members of this Board. And I'd
12 appreciate having more members to decide this
13 matter.

14 VICE CHAIRMAN BONACCI: Guys, I'm sorry. I
15 have to make a motion.

16 MS. PEREIRAS: And I think, counsel --

17 VICE CHAIRMAN BONACCI: I got to make --

18 MS. PEREIRAS: -- that's my request.

19 VICE CHAIRMAN BONACCI: -- a motion.

20 MS. PEREIRAS: I think I have a right to
21 have --

22 VICE CHAIRMAN BONACCI: I have to make a
23 motion.

24 MS. PEREIRAS: -- additional members.

25 VICE CHAIRMAN BONACCI: My motion is to

1 deny the application.

2 THE SECRETARY: Motion on the table to deny
3 the application by Mr. Bonacci.

4 MR. PANEQUE: Mr. Pereiras, Mr. Bonacci,
5 before -- there was a --

6 VICE CHAIRMAN BONACCI: I'm sorry.
7 Counsel, I made a motion.

8 MR. PANEQUE: No, I understand that.

9 VICE CHAIRMAN BONACCI: My motion was to
10 deny the application.

11 MR. PANEQUE: And -- and your motion's
12 still on the -- on the table, but I do have to
13 answer Ms. Pereiras.

14 VICE CHAIRMAN BONACCI: Okay.

15 MR. PANEQUE: Because she did request
16 something.

17 Ms. Pereiras made a comment that she was
18 requesting to have a larger Board hear the
19 application.

20 Ms. Pereiras, that application should have
21 been made at the beginning, not at the end of the
22 testimony.

23 You -- you can't come in at the end of the
24 testimony and request -- you know, that you want
25 more than a five Board member.

1 If you had made that application an hour
2 and a half ago --

3 MS. PEREIRAS: I think there are many times
4 where we present something --

5 MR. PANEQUE: Yeah.

6 MS. PEREIRAS: -- and we adjourn it for --
7 for several reasons.

8 MR. PANEQUE: Well, we've adjourned it if
9 there was a request made because we didn't have
10 five Board majority here, for a super vote
11 required by a D-1 variance.

12 But that's not the case. You have the five
13 members here.

14 MS. PEREIRAS: Um hum.

15 MR. PANEQUE: If you wanted additional
16 members to hear this case, that application
17 should have been made --

18 MS. PEREIRAS: Okay.

19 MR. PANEQUE: -- at the beginning. And
20 that's -- that's my --

21 MS. PEREIRAS: Well, then my --

22 MR. PANEQUE: -- legal decision.

23 MS. PEREIRAS: Then my request to the -- to
24 the other Board members is that there is a
25 question on the table, and I think there's

1 | disagreement even amongst the Board members as to
2 | how to --

3 | MR. PANEQUE: Well --

4 | MS. PEREIRAS: -- read that --

5 | MR. PANEQUE: With all due respect --

6 | MS. PEREIRAS: -- report.

7 | MR. PANEQUE: You're not addressing the --

8 | VICE CHAIRMAN BONACCI: I --

9 | MR. PANEQUE: -- Board any longer. I
10 | interrupted Mr. Bonacci's motion, just to answer
11 | your question. We're now giving --

12 | MS. PEREIRAS: I know. I -- I felt like I
13 | --

14 | MR. PANEQUE: -- giving the floor.

15 | MS. PEREIRAS: -- was getting cut off --

16 | MR. PANEQUE: Yeah.

17 | MS. PEREIRAS: -- as far as trying to --

18 | VICE CHAIRMAN BONACCI: I got a motion on
19 | the table --

20 | MS. PEREIRAS: -- get the motion out.

21 | VICE CHAIRMAN BONACCI: -- to deny the
22 | application.

23 | THE SECRETARY: Allow me one second,
24 | please.

25 | A motion on the table to deny the

1 application by Mr. Bonacci.

2 Any second the motion?

3 MR. GRULLON: Most of the Board -- of the
4 Board members here that want to hear the opinion
5 from Mr. Spatz.

6 MR. ORTIZ: Mr. Spatz.

7 THE SECRETARY: Okay.

8 But I have a motion on the table to deny
9 the application.

10 Any second the motion?

11 No second on the motion, the motion fails.

12 Any other motion on this application?

13 MR. ORTIZ: I have a motion to have Mr.
14 Spatz come back so we could get clarification.

15 THE SECRETARY: That's a motion then for --

16 MR. PANEQUE: It's a motion to adjourn, Mr.
17 Ortiz.

18 THE SECRETARY: Motion to adjourn --

19 MR. ORTIZ: Yes.

20 THE SECRETARY: -- the application by Mr.
21 Ortiz.

22 Mr. Bonacci, give me two second.

23 MR. GRULLON: I second this motion.

24 THE SECRETARY: Any second the motion?

25 MR. GRULLON: Second.

1 THE SECRETARY: Mr. Grullon.

2 VICE CHAIRMAN BONACCI: The second time
3 we're adjourning this application.

4 THE SECRETARY: Roll call on the motion to
5 adjourn this application.

6 Mr. Bonacci, to adjourn the application?

7 VICE CHAIRMAN BONACCI: No. We already
8 adjourned it once before. This is the second
9 time --

10 THE SECRETARY: Ms. --

11 VICE CHAIRMAN BONACCI: -- we're adjourning
12 the same thing.

13 THE SECRETARY: Ms. Gutierrez, to adjourn
14 this application?

15 MS. GUTIERREZ: Yes, to adjourn it.

16 THE SECRETARY: Mr. Grullon, to adjourn
17 this application?

18 MR. GRULLON: Yes.

19 THE SECRETARY: Mr. Pressey, to adjourn
20 this application?

21 MR. PRESSEY: Yes.

22 THE SECRETARY: Mr. Ortiz, to adjourn this
23 application?

24 MR. ORTIZ: Yes.

25 THE SECRETARY: Four in favor, one against.

1 Motion carries.

2 MS. PEREIRAS: And Mr. Bonacci --

3 THE SECRETARY: Thank you.

4 And good night.

5 MS. PEREIRAS: -- just to address your last
6 comment.

7 We weren't even able to present last time.

8 VICE CHAIRMAN BONACCI: Oh, right. Right.

9 MS. PEREIRAS: It was the cut off.

10 VICE CHAIRMAN BONACCI: Right.

11 MS. PEREIRAS: It was ten o'clock and Mr.
12 Marotta --

13 VICE CHAIRMAN BONACCI: But it was --

14 MS. PEREIRAS: -- said --

15 VICE CHAIRMAN BONACCI: But -- but it was
16 adjourned.

17 MS. PEREIRAS: -- lights out.

18 VICE CHAIRMAN BONACCI: Yeah.

19 MS. PEREIRAS: Lights out. But we weren't
20 even able to --

21 VICE CHAIRMAN BONACCI: I --

22 MS. PEREIRAS: -- open our presentation.

23 VICE CHAIRMAN BONACCI: I understand. I
24 understand what you're saying. What I'm --

25 MS. PEREIRAS: I just wanted to clarify

1 | that.

2 | VICE CHAIRMAN BONACCI: I'm just trying to
3 | make the Board members aware that there's a lot
4 | of applications that we need to get to.

5 | MR. GRULLON: This is going to have to be
6 | carried to May -- to May?

7 | THE SECRETARY: All right. We are going --
8 | All right.

9 | Thank you.

10 | MS. GUTIERREZ: Carry to May -- to May.

11 | THE SECRETARY: Thank you.

12 | We got to keep going with the -- with the
13 | meeting.

14 | MR. PRESSEY: We have more?

15 | MS. PEREIRAS: Counsel, can I just confirm
16 | when that's being carried to?

17 | MS. GUTIERREZ: To May.

18 | MR. PANEQUE: Yes, when is the --

19 | THE SECRETARY: That will be for -- what it
20 | was -- May 10?

21 | Yes. Good.

22 | MS. GUTIERREZ: May 10. Okay.

23 | THE SECRETARY: May 10.

24 | MS. DILLON: Notice.

25 | THE SECRETARY: May 10.

1 MR. PANEQUE: Without notice requirement.

2 THE SECRETARY: No -- no new notice
3 required.

4 Thank you, Mrs. Pereiras.

5 MS. PEREIRAS: Thank you, counsel.

6 MR. PRICE: May 10.

7 MS. PEREIRAS: Thank you, Chair.

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1 **RESOLUTIONS:**

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3 (1) MBP Hoist and Crane, LLC, 1221 New York
4 Avenue, Block 61.02, Lot 7. New mixed use
5 building consisting of five residential and one
6 commercial use. **The application was denied on**
7 **01-11-2018**

8

9 MR. PANEQUE: Ms. Pereiras, you have --
10 don't leave because we have --

11 THE SECRETARY: Right. Let me --

12 MS. PEREIRAS: Yes.

13 MR. PANEQUE: -- to take up the matter with
14 your --

15 THE SECRETARY: Let me go to --

16 MR. PANEQUE: -- request for your --

17 THE SECRETARY: -- Resolutions.

18 Right?

19 MR. PANEQUE: Yes.

20 THE SECRETARY: We are going to go to
21 Resolution -- one second.

22 Is going to Resolution number 1.

23 MBP Hoist and Crane, LLC, 1221 New York
24 Avenue.

25 This application was denied on January 11,

1 2018.

2 MR. PANEQUE: Yes. Mr. --

3 THE SECRETARY: Mr. --

4 MR. PANEQUE: -- Vallejo, if I may?

5 Ladies and gentlemen of the Board, this
6 application was denied at the January 11th
7 meeting. After that, Ms. Pereiras submitted a
8 letter to the Chairman, requesting that the Board
9 reconsider the application, based on --

10 Ms. Pereiras, I'll let you give your
11 rationale to the Board.

12 MS. PEREIRAS: Thank you very much,
13 counsel.

14 And thank you for the opportunity to let me
15 speak on this project.

16 This application came before you back in
17 January. This was very similar to a lot of the
18 other presentations or applications that this
19 Board heard.

20 We had four resident -- five residential
21 units, plus one commercial. We are in the CN
22 zone, at the corner of 1221 or 13th Street and New
23 York Avenue.

24 We were proposing an apartment on the
25 ground floor, in order to comply with ADA

1 requirements, that required us to have an ADA
2 compatible space.

3 We have an existing building. So, the only
4 way to provide an ADA compatible space, was to
5 provide it on the ground floor.

6 Very similar to the projects you approved
7 on Bergenline Avenue, 2103, 2105, 2107 Bergenline
8 Avenue. Also very similar to the one you
9 approved just last month at 407 37th Street, as
10 well as the project that you approved on 16th
11 Street and Summit Avenue.

12 All of those were similar in nature, yet
13 this application was significantly better. Why?
14 Because we actually provide parking on this lot.
15 We have a corner lot and we were able to provide
16 two spots.

17 One of the main reasons that I asked for
18 this Board to reconsider this denial is that at
19 that Board meeting, Mr. Marotta made an issue as
20 to a building that was across the street from it,
21 which is on 13th Street, which is under
22 construction.

23 I actually brought a picture for the Board,
24 just to bring it into perspective.

25 If I may, real quickly?

1 And I thank you for your indulgence.

2 These are pictures of the building that's
3 across the street. This is what Mr. Marotta
4 mentioned as being the large structure that's
5 across the street that was taking away parking.

6 It's been under construction for awhile.
7 So right now, it's fenced completely around.

8 So, obviously, there's no parking right
9 there. But once the building is completed, it
10 will obviously provide parking.

11 It was also approved in the past for 30
12 units. There are actually 60 parking spots
13 provided on that site, which is immediately
14 across the street from our current property,
15 meaning that there's going to be significant
16 parking.

17 In fact, I -- I represented the applicant
18 on that application and he thinks that 60 spots
19 is well above what's required. We have two spots
20 per apartment on that property. So, we actually
21 think that there are going to be spots to rent.

22 So, for those reasons, and I think they
23 used that building across the street as the basis
24 for denial, at least that's what Mr. Marotta --
25 that's how he made his motion, but I implore this

1 Board that this property is very similar to the
2 other ones that you approved, better because we
3 actually provide parking.

4 And once the construction is completed
5 across the street, we'll have plenty of parking.
6 And it will also alleviate the parking on 13th
7 Street, because they'll remove all those fences
8 that are around, restricting parking at the
9 moment.

10 So, for those reasons, I ask this Board to
11 reconsider the denial on this application. I
12 think it's one that should of easily been granted
13 because of our corner lot, because we provide
14 parking, and because we were not asking for
15 anything more than what this Board approved on
16 those other applications.

17 VICE CHAIRMAN BONACCI: Members of the
18 Board, I just want to let you guys know that I am
19 -- I have Ms. Pereiras' letter here. And it's a
20 very nice letter.

21 I read the transcripts from the Hoist and
22 Crane, 1221 New York Avenue, Block 61.

23 Ultimately here, Ms. Pereiras is asking us
24 to change our mind. Asking you to change your
25 mind.

1 If that's what happens here, then every
2 time we deny an application, might get a nice
3 letter asking you to reconsider.

4 I don't think that that's going to set a
5 great precedent here.

6 And like I was arguing earlier, got a lot
7 of applications to hear. We just finished the
8 applications that we have on the agenda for
9 today, and we're reviewing something that we
10 already decided upon two months ago.

11 I got to say no. The -- my decision and my
12 motion is to continue with our original denial
13 from --

14 THE SECRETARY: Right.

15 VICE CHAIRMAN BONACCI: -- January 11.

16 THE SECRETARY: Motion to approve the deny
17 Resolution by Mr. Bonacci.

18 MR. PANEQUE: Actually, Mr. Vallejo, let me
19 clarify that.

20 This is a motion to deny the request for
21 reconsideration.

22 THE SECRETARY: Thank you, Mr. Paneque.

23 Motion to deny the reconsideration by Mr.
24 Bonacci.

25 Any second?

1 MR. GRULLON: Second.

2 VICE CHAIRMAN BONACCI: Mr. Grullon.

3 Roll call on the motion.

4 Mr. Bonacci?

5 VICE CHAIRMAN BONACCI: Yes.

6 THE SECRETARY: Ms. Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Mr. Grullon?

9 MR. GRULLON: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: Yes.

12 THE SECRETARY: Mr. Ortiz?

13 MR. ORTIZ: Yes.

14 THE SECRETARY: Thank you.

15 Motion carries.

16 MS. PEREIRAS: Good night, everybody.

17 See you next month.

18 MS. GUTIERREZ: Good night. Good night.

19 MS. PEREIRAS: I'll take my pictures back.

20 THE SECRETARY: Now, can I have a -- can I

21 have a motion to adopt the deny Resolution, MBP

22 Hoist and Crane, LLC, 1221 New York Avenue?

23 This application was denied on January 11,

24 2018.

25 Can I have a motion?

1 Motion by Mr. Ortiz.

2 Any second the motion?

3 Mr. Grullon.

4 Roll call on the motion.

5 Mr. Bonacci?

6 VICE CHAIRMAN BONACCI: Yes.

7 THE SECRETARY: Ms. 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. Ortiz?

14 MR. ORTIZ: Yes.

15 THE SECRETARY: Five in favor.

16 Motion carries.

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1 **RESOLUTIONS:**

2

3 (2) 1404 S. Avenue, LLC, 1404 Summit Avenue,
4 Block 70, Lot 21. Construction new building, mix
5 use, one retail space and six residential units.

6 **Approved**

7

8 THE SECRETARY: We are going now to
9 Resolution number 2.

10 1404 S. Avenue, LLC, 1404 Summit Avenue.

11 This application was approve at the
12 previous meeting.

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

15 VICE CHAIRMAN BONACCI: Motion.

16 THE SECRETARY: Motion by Mr. --

17 I'm sorry, Mr. Bonacci.

18 VICE CHAIRMAN BONACCI: That's okay.

19 MS. GUTIERREZ: Second.

20 THE SECRETARY: Second by Ms. Gutierrez.

21 Roll call on the motion.

22 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. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Mr. Pressey was absent at
6 the previous meeting.

7 That's correct?

8 MR. PRESSEY: Correct.

9 THE SECRETARY: All right. That means you
10 are going to --

11 MR. PRESSEY: Recuse.

12 MR. PANEQUE: Abstain.

13 THE SECRETARY: Abstain.

14 MR. PRESSEY: Abstain.

15 THE SECRETARY: Okay.

16 Four in favor, one abstained.

17 Motion carries.

18 Stay with me a little bit -- little bit
19 more.

20 MR. PANEQUE: I'm not going anywhere.

21 * * *

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1 **RESOLUTIONS:**

2
3 (3) Jose B. Cabrera & Rosa Cabrera, 411
4 Palisade Ave., Block 14, Lot 6. Legalization of
5 a ground level apartment. Approved

6 (5) 407 37th Street, LLC, 407 37th Street, Block
7 214, Lot 19. New construction of a mixed use
8 building with five residential units, 600 sf
9 commercial space and basement. Approved

10 (6) Leonel Calvo, 709 New York Avenue, Block
11 36, Lot 5. Interior modification of an existing
12 building with three residential units and a new
13 front addition. Approved

14
15 THE SECRETARY: Now, we are going to
16 Resolutions that was approved at the previous
17 meeting.

18 Jose R. Cabrera and Rosa Cabrera, 411
19 Palisade Avenue.

20 That application number 3. I'm sorry.
21 Resolution number 3.

22 Then we are going to Resolution number 5.
23 407 37th Street, LLC, 407 37th Street.

24 That application was approved at the
25 previous meeting.

1 Now, we are going to appli -- to Resolution
2 number 6.

3 Leonel Calvo, 709 New York Avenue.

4 This application was approved at the
5 previous meeting.

6 Can I have a motion to adopt these three
7 Resolutions?

8 MS. GUTIERREZ: You have one denied in
9 there, the number 4.

10 VICE CHAIRMAN BONACCI: He didn't get to
11 that yet.

12 MS. GUTIERREZ: Oh, okay.

13 VICE CHAIRMAN BONACCI: He just went to the
14 approved ones.

15 MS. GUTIERREZ: All right.

16 THE SECRETARY: We are going to -- like I
17 mention before --

18 MS. GUTIERREZ: I just want to make sure.

19 VICE CHAIRMAN BONACCI: Yeah.

20 THE SECRETARY: -- that will be 411
21 Palisade Avenue, Resolution number 3.

22 Resolution number 5, 407 37th Street.

23 And Resolution number 6 --

24 MS. GUTIERREZ: Um hum.

25 THE SECRETARY: -- 709 New York Avenue.

1 All those three application was approved at
2 the previous meeting.

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

5 MS. GUTIERREZ: I'll make a motion.

6 THE SECRETARY: By Ms. Gutierrez.

7 MR. ORTIZ: Second.

8 THE SECRETARY: Second by Mr. Ortiz.

9 Roll call on the motion.

10 Mr. Bonacci?

11 VICE CHAIRMAN BONACCI: Yes.

12 THE SECRETARY: Ms. Gutierrez?

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Gullon?

15 MR. GRULLON: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MR. ORTIZ: Yes.

18 THE SECRETARY: Mr. Pressey was absent at
19 that meeting.

20 MR. PRESSEY: Abstain.

21 THE SECRETARY: You abstain?

22 MR. PRESSEY: Abstain.

23 THE SECRETARY: Four in favor, one
24 abstained.

25 Motion carries.

1 **RESOLUTIONS:**

2

3 (4) 134 35th Street, LLC, 134-136 35th Street,
4 Block 212, Lots 7, 8. Propose the construction
5 of a new six families. **The application was**
6 **denied on 02-08-2018**

7

8 THE SECRETARY: Now, we are going to
9 Resolution number 4.

10 Sorry, change a little bit the order of the
11 Resolutions.

12 134 35th Street, LLC, 134-136 35th Street.

13 This application was denied on February 8,
14 2018.

15 Can I have a motion to approve the deny
16 Resolution?

17 VICE CHAIRMAN BONACCI: I make a motion.

18 THE SECRETARY: Motion by Mr. Bonacci.

19 MS. GUTIERREZ: I second.

20 THE SECRETARY: Second by Ms. Gutierrez.

21 Roll call on the motion.

22 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. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Mr. Pressey, you was absent
6 at that meeting.

7 MR. PRESSEY: Abstain, again.

8 THE SECRETARY: Thank you.

9 Abstained.

10 Four in favor.

11 One abstained.

12 Motion carries.

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1 **ADJOURNMENT:**

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3 THE SECRETARY: There being no other
4 application on tonight's agenda, can I have a
5 motion to close tonight's meeting?

6 MS. GUTIERREZ: I make --

7 THE SECRETARY: Motion by Mr. --

8 MR. PANEQUE: Pressey.

9 MS. GUTIERREZ: I'm seconding.

10 THE SECRETARY: Second by Ms. Gutierrez.
11 All in favor?

12

13 (Whereupon, there was a chorus of ayes.)

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15 THE SECRETARY: The ayes have it.

16 Thank you.

17 Have a good night, everyone.

18 Let the record show the meeting has ended.

19

20 (Whereupon, the proceedings were concluded
21 at 9:41 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

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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, March 8, 2018 and
11 digitally recorded.

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25 Monitored and proofread by: Deborah Dillon