

## PLANNING BOARD

## MINUTES

**DATE: September 14, 2022**

1. **Roll Call**

This is the Public Meeting of Wednesday, September 14, 2022. Chairman Garip called the meeting to order at 7:00 p.m.

Roll call was taken and the following members were present: Mr. Dib, Mr. Martucci, Mayor Labrosse, Deputy Mayor Canestrino, Mr. Contini, Mr. Iyamu, Vice Chairman Chiusolo, and Chairman Garip.

**ABSENT:** Mr. Allegretta and Ms. Solomon

**LATE ARRIVAL:** None

**EARLY DEPARTURE:** Vice-Chairman Chiusolo (8:44)

**ALSO PRESENT:** Joseph L. Mecca, Jr., Esq.; Gregory J. Polyniak, P.E., P.P., Neglia Engineering; Bridget McLaughlin, Zoning Officer; and Kim O. Furbacher, Certified Court Reporter.

2. **Payment of Bills**

None submitted.

3. **Approval of Minutes of July 13, 2022**

Carried to October 12, 2022 meeting.

4. **MEMORIALIZATIONS:**

**a. Applicant: Hackensack Real Estate, LLC  
387 Park Street, Block 418, Lot 24  
SP#19-22 V#19-22**

The Applicant requested and received approval for the Preliminary and Final Major Site Plan to construct a three-story apartment building, with eleven rental apartments (nine one-bedroom units, and two two-bedroom units) with a two-way driveway under the building to access to the off-street parking adjacent to the proposed building. The Applicant was approved to construct an asphalt parking lot with eighteen parking spaces, concrete walks, curbing, interlocking block wall, fencing, landscaping, grading, drainage, and lighting improvements. The Applicant requests amended approval to change the approved material of the building facade.

MOTION TO MEMORIALIZE MADE BY MR. DIB. SECOND BY MAYOR LABROSSE. MEMORIALIZATION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, DEPUTY MAYOR CANESTRINO, MR. CONTINI, MAYOR LABROSSE, MR. IYAMU, AND CHAIRMAN GARIP.

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5. APPLICATIONS:

a. Site Plan Application **CARRIED TO OCTOBER 12th**  
**Applicant: Five Brothers of Main Street, LLC**  
**90 Main Street**  
**SP#10-22 V#10-22**

Block 206.01, Lot 16, Block 204, Lots 11, 12.  
The existing site is currently utilized as an office building. The Applicant proposes to reconstruct the existing three (3) story structure into a six (6) story structure and change the use to mixed-use residential and retail development. In addition, the Applicant proposes to restripe the existing parking area located in Lots 11 and 12 of Block 204. The Applicant proposes to construct a 107,688 square foot mixed-use development consisting of 47 one-bedroom units, 20 two-bedroom units, and 4,605 square feet of retail space. Additionally, the Applicant proposes 91 total parking spaces inclusive of 10 stackable spaces, 5 on-street spaces, 50 standard spaces (9 in the neighboring lot and 41 in the proposed parking deck), 5 ADA spaces (1 in the neighboring lot and 4 in the proposed parking deck), 9 compact spaces, and 2 electric vehicle spaces.

b. Subdivision Review **CARRIED TO OCTOBER 12th**  
**Applicant: Property Observer, LLC**  
**308 Anderson Street, Block 442, Lot 23 and Lot 41**  
**SD#12-22 V#12-22**

The Applicant proposes to subdivide the existing lot into two (2) parcels (proposed Lot 23.01 and 23.02). As per the submitted Subdivision Plan Set, proposed Lot 23.01 and Lot 23.02 will each contain an area of 6,000 square feet. The Applicant does not propose any site improvements as part of this application.

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**c. Applicant: Opal Energy Group  
58 Hobart Street, Block 79, Lot 4  
SP#22-22 V#22-22**

The Applicant proposes to install roof mounted solar panels on the existing building. The Applicant proposes to install two systems, a seventy-two (72) module, 34.56 kW system and a forty-four (44) module, 21.12 kW system. No site improvements or building modifications are proposed at this time.

A P P E A R A N C E S

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E X H I B I T S

None

P U B L I C H E A R I N G

Mr. Stamos greeted the board. Mr. Stamos stated: I understand that the board has heard several of these. I know you have a certain standard that the panels cannot exceed the height of the parapet wall. We did submit our drawings and also a signed and sealed letter from a professional engineer detailing that the panels will not exceed the height of the parapet wall, which is about 18 inches and 15 inches, and ours will be under 12 inches.

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**G R E G O R Y J. P O L Y N I A K, P.E., P.P.,**  
having been duly sworn/affirmed.

Chairman Garip asked: You have reviewed these plans?

Mr. Polyniak responded: We have.

Chairman Garip asked: No issues?

Mr. Polyniak responded: No issue. We have some small technical comments, but they're nothing that the applicant can't address.

**M A R I O M A R T I N E Z,** c/o Opal Energy Group, LLC, 118 Wallace Court, Green Brook, New Jersey 08812, having been duly sworn/affirmed, testifies as follows:

Mr. Stamos asked: Now, you're a principal in the company?

Mr. Martinez responded: Yes.

Mr. Stamos asked: How long have you been in the business?

Mr. Martinez responded: I've been in the solar business for just shy of ten years.

Mr. Martinez's credentials were accepted by the board.

Mr. Martinez testified: So as far as the installation is concerned, we'll be utilizing a ballasted system. What that means is that on the rooftop, again, it's going to be utilizing specialized weatherproof bricks along with the racking system from a company called Unirac, which is very standard system and a large company within the solar world.

Reading here from our engineer drawing -- I don't represent myself as an engineer, we hire and work with structural and electrical engineers to design all our plans, and have them reviewed by the township's professional engineers as well to confirm all of the technical specifications.

So as you can see here, our engineer is showing the parapet heights of 18 inches high and 15 inches high in the back. And then this is the screen shot from this technical spec sheet of the racking equipment. The highest point being 9 3/4 inches.

After the review done by this gentleman here, it was updated by our engineer with our sealed plans, which will be submitted and reviewed again by the engineers for the township, that the highest point of the racking system, plus the module thickness, will not exceed 11.13 inches tall, and again the highest points of the parapet walls on the front side, street facing of the building, are 18 inches high, and the back side, rear side of the building being 15 inches.

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So around the perimeter, those parapet walls are higher than the highest point of the system and thus will not be visible from the street.

Chairman Garip asked: Members of the board, do we have any questions?

I think this is pretty straightforward. Our engineer from Neglia, Mr. Polyniak, has reviewed these for structural integrity and they conform with all of the city's requirements, technical and otherwise.

Mr. Polyniak responded: Yes.

Whereupon, the meeting was opened to the public. No one from the public wished to comment.

BOARD DELIBERATION AND VOTE

Chairman Garip stated: Again, this is pretty straightforward, so my fellow board members, do I hear a motion?

MOTION TO APPROVE APPLICATION:

MOTION BY: J. Chiusolo

SECOND BY: A. Dib

ROLL CALL: A. Dib - aye  
J. Martucci - aye  
J. Labrosse - aye  
J. Chiusolo - aye  
K. Canestrino - aye  
R. Contini - aye  
P. Iyamu - aye  
F. Garip - aye

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**d. Application for Change of Use and Site  
Improvements with associated variances:  
Applicant: 101 South State Street Hack LLC  
SP#4-22 V#4-22**

The Applicant, 101 South State Street Hackensack LLC, proposes to use the site as a "ghost kitchen" which is a food preparation and cooking facility set up for the preparation of delivering only meals. The proposed improvements include replacement of the existing garage door with a new double door, installation of a new secondary door on the southern side of the building, removal of the existing door in the rear, installation of a new door in the rear, installation of new exterior lighting, restriping of the parking area, inclusion of required ADA parking stalls, and installation of new utility improvements such as a grease interceptor, sewer lateral, underground electrical service, new water service, and new gas service.

A P P E A R A N C E S

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E X H I B I T S

- A-1 Video recording of Belleville location
- A-2 Colorized version of plan E-200R, last revised 4/28/22

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P U B L I C H E A R I N G

Mr. Pepe entered his appearance and greeted the board.

Mr. Pepe stated: You did a very succinct synopsis of the basis of the application. I think many of you will recall that we were here before this board in April, and we heard very clearly some significant concerns about the ability of the facility, the parking available at the facility to meet the demands of the business and also some concerns about traffic.

I think by and large, and, you know, I'm paraphrasing and hopefully not putting words into your mouth, I think that the use itself was well received and the planners and the people we spoke with on staff in the municipality looked upon it favorably but there were these very serious concerns about parking and traffic.

So what we did is we took a step back, we restudied what we could do from an engineering and architectural perspective. We looked at some of our other locations and did some additional studies as to exactly what was required to operate the business successfully.

I think one of our biggest flaws in our last application was not adequately demonstrating to you how confident we are that we can meet the needs of the operation with the facility that we're proposing. I have several witnesses here this evening.

The project, just to set the record, was in the B-3 general business district. We are proposing 23 separate kitchens with the nine parking spaces. Last time we were here, we had eight parking spaces and 24 separate kitchens.

Now, that's not a huge reduction, I understand, but when we've looked at our other facilities and the demand on parking, we're confident that this meets almost double the demand that we would need on a day-to-day operating basis.

We're proud of this operation, because it does provide a lot of entrepreneurial opportunities to a lot of new business startups and hopefully you'll hear from some of them, they're here this evening.

I have a preliminary issue that I'd like to lay on the table, because I'm not entirely certain how to address it. The review letter that we received from the municipality's engineer characterized the use here as neighborhood retail. The prior use was warehouse. We believe that the most appropriate use is eating and drinking establishment. That becomes

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significant because the parking requirements for each of those uses is very, very different.

The city's ordinances provide that if you don't have a specific use category that fits, use the one that's closest to it, and I do believe that that's eating and drinking establishment.

Now, under the ordinances for the city, an eating and drinking establishment, the parking is established by the number of seats. Of course we don't have any seats here, because, as you noted at the outset, we don't invite patrons onto the site at all. This is exclusively professional delivery pick-up. And another potential use that would be, in my opinion, more appropriate than warehouse or retail, because, again, retail doesn't fit because there are no patrons coming into the location, it could be industrial/manufacturing, because we are kind of a back office for production of food. And even at that ratio, instead of the 32 spaces that are ostensibly being required in the Neglia report, we would need 14. So I'm not really sure what the appropriate use category is here. The applicant submits for the record that it's eating and drinking establishment, which is based on the number of chairs, and there are none.

Chairman Garip stated: Thank you, Mr. Pepe.

We did hear witnesses the last time that the applicant presented, so I know we've had some time to review what you sent in and we appreciate that.

**G R E G O R Y J. P O L Y N I A K, P.E., P.P.,** having been previously sworn/affirmed.

Mr. Polyniak stated: I guess that maybe not last month's meeting but a few months ago, we listened to the testimony that the applicant provided and there was a discussion of a facility that was located, I believe it was on Cortlandt Street in Belleville. I think the applicant's traffic engineer references it in their report. And what we did is we performed our own office inspection as it relates to it, and that occurred on August 8th of this year in preparation for this hearing; one, to just look at how the site operates, and then to verify how it functions as a whole to compare what was listed in the report and what we saw on site. This is actually outlined in our review letter, so the applicant has that information presented to it. And what we noticed on site was that there are three particular parking spaces that are labeled as pick-up areas. They are 20-minute parking spaces. And they are to be utilized by, say, Uber Eats, DoorDash or whatever

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firm you choose to order with, park, enter the building, gather the food, and leave the site. When we looked at those parking spaces, there is an approximate turnover of 3 to 5 minutes, but we did notice on various occasions that if people order from, say, I don't know, the pizza place or use that's inside the building, and then the hamburger use that was in the building, all those cooking mechanisms can't be coordinated where your pizza and hamburger are done at the exact same time.

Chairman Garip asked: How many kitchens were there?

Mr. Polyniak responded: I believe, off the top of my head, it was similar to that which was in this building, so I believe in the 20s approximately. So what you did have, instead of those 3 to 5-minute turnovers, in some instances you got as high as eight minutes where a car was parked at that location and then needed to flip over.

In addition to those three spaces, what we noticed within the parking lot was there were approximately 12 cars that were parked there that were to be utilized, we would assume, for either workers, employees, people visiting the site, deliveries, and they were occupied the full time that we were there at that point in time.

So if you look at the overall use of the property, at a minimum this location needed 15 spaces during our one and a half hour visit on August 8th. So comparing that to what we have at this location and looking at the number of parking spaces we have here, which is nine parking spaces, a limited drive aisle width, we think the number of 23 kitchens that is proposed as part of this application will dramatically impact the overall neighborhood, because either the delivery vehicles will need to maneuver within the on-street parking spaces within the neighborhood or you'll end up with people that need to perform deliveries, delivering the food product to be cooked or working at the facility would need to park on local roadways.

As we all know, the roadway network in the area, there's very limited parking, close to none at various times during the day. So although the use may be a good use for the city, it does not work for this --

Chairman Garip stated: Logistically --

Mr. Polyniak responded: Logistically for this particular site.

If the applicant chose to reduce the number of

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kitchens, I'll just throw a number out there and say nine kitchens, where it would be one space per each kitchen, I think potentially the site could function in a way that it may be suitable for the area and suitable for the development.

But 23 kitchens for nine parking spaces with the turnover, with the number of employees, just doesn't seem to work for this location.

Chairman Garip asked: Based on your actual observations?

Mr. Polyniak responded: Correct.

Chairman Garip asked: So, Mr. Pepe, understand that this is -- and you can talk about the uses and all of that, but the reality is, our professional has done an on site observation, and as a professional, he doesn't vote, as a professional, he's giving us his feedback.

Mr. Pepe responded: Oh, absolutely, and we appreciate it. We actually embrace the turnover calculations that he did with three minutes. It is roughly what we're coming up with.

I think one of the things, and you'll hear this from testimony from our professionals and from the applicant themselves, one of the differences is that that Belleville location allowed customers to come in and pick-up. Those were the lengthy delays. Those were not the professional drivers. The professional drivers who work for Uber, work for Lyft, work for DoorDash, their job is based on getting in and getting out as quickly as possible, making as many runs as possible. So that is one significant distinction.

Another significant distinction is we have no intention of allowing employees to park on the site. That's going to be very clear. It's going to be part of our license agreements with all the operators that they cannot park on site.

We have evidence and we'll present it to you that most of them don't in fact drive. I mean, these are not highly paid people who operate the kitchens, and they generally take mass transit. They generally live locally.

We have calculations based on all of our other operations as to how many people actually do drive, and we'll share that with you.

Chairman Garip asked: And where would the employees park?

Mr. Pepe responded: Well, we have secured and we've studied the commuter parking lot that's close by. It's within a two-minute walk. And you'll hear

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from our traffic engineer that there's frequently 25 plus spots there, and we have an arrangement where we can actually secure, I believe it's six spots on a permanent basis, which we would be more than willing to do.

But --

Chairman Garip stated: Why don't you proceed with your testimony and we'll have -- yes, Greg.

Mr. Polyniak stated: As it relates to the securing of the parking spaces, and I know the applicant's engineer provides in their report that they're going to also utilize a number of metered spaces that are within that lot, that's not to say that there will not be development in the area in the future, that it will be utilized for that development, those meters, so to say --

Chairman Garip stated: In other words, you can't really count on it.

Mr. Polyniak responded: You cannot guarantee that those spaces are going to be there. They may be there now, but they may not be there shortly.

Chairman Garip stated: Correct, given all the other development in town.

Mr. Polyniak responded: Correct.

Chairman Garip stated: Mr. Pepe, looking at all of that in context, it's important that you understand what's going on in the city. There's a lot of redevelopment going on and we have a lot of population centers are going to be clustered in the vicinity of the parking lot that you're referencing for your employees. So keep that in mind.

Mr. Pepe stated: No, I absolutely recognize we have an uphill battle here. We went back, we did a lot of studying, we did a lot of research, and again we're very confident. But I don't know, can we establish on the record what is this board's interpretation of the appropriate use category for this? Because there is nothing truly that fits. Is it an eating and drinking establishment, in which case no parking spaces are required?

Chairman Garip stated: I'm going to turn this over to counsel, because I think he can answer this, but wasn't the original application made as retail?

Mr. Pepe responded: No, it was not.

Chairman Garip asked: What was it classified as when you originally submitted the application?

Mr. Pepe responded: Warehouse.

Chairman Garip asked: Warehouse?

Mr. Pepe responded: That was the existing use and that's --

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Chairman Garip stated: Okay. This is a change of use which --

Mr. Pepe responded: No, it's absolutely a change of use. The applicant is categorizing it as either manufacturing/industrial or eating and drinking establishment.

Chairman Garip asked: I think this is -- well, first of all, I guess the Building Department would determine that, but, Mr. Mecca, I believe the mayor also wants to chime in, what is your interpretation? We can't change that, can we?

Mr. Mecca responded: Well, first of all, if I may, there is the determination made by the professionals, by Mr. Polyniak, by Bridget as the Zoning Officer. The board should accept that. They are the professionals. That's their interpretation of the use. It's not exactly what's here, because this is a kind of unique thing, but it does go to what's the closest use that is comparable to that.

So if the board feels that the determination by the Zoning Officer and Mr. Polyniak is correct, then that's what the board should go with. If the board has questions about that, then you have the opportunity to question the professionals.

Chairman Garip asked: Mayor, did you have a comment?

Mayor Labrosse responded: No, I was just saying the same thing Mr. Chiusolo just said, I said if it's going to be a change of use, it would have to go in front of the zoning board.

Mr. Mecca stated: No, it's permitted uses. It's a change of use but it's permitted, it stills comes here.

Mr. Polyniak stated: And then, through the Chair, another question would be then, if they're questioning the Zoning Officer's interpretation of the use, the mechanism would be appearing before the zoning board and questioning the use. That board would make the determination, and at that point in time, depending on what it is, then they could come back to the planning board or stay at the zoning board, based on the determination.

Chairman Garip asked: So are you suggesting you want to go to the zoning board?

Mr. Pepe stated: No, sir. The Zoning Officer did not determine a use category for this property. It was the Neglia Engineering report that categorized it as retail.

Chairman Garip stated: Well, they're professionals.

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Mr. Pepe responded: Again, I just don't feel -- I just want to know what the number is that we're dealing with.

Chairman Garip stated: I think that we always, unless there's something that's egregious, we go with our professionals, they're paid by us.

Mr. Pepe stated: But Neglia also cites eating and drinking establishment but uses the parking calculations. In fact, in their report they state that this is an eating and drinking establishment, so I'm just trying to be clear as to how many spots I need to demonstrate to comply with the zoning.

Mr. Polyniak stated: Yes, I can stipulate on the record that there should be no consideration to this being an eating and drinking establishment.

An eating and drinking establishment would be a place where you would walk into per se the eating and drinking establishment, purchase the food and leave and/or purchase the food and eat it there.

As the applicant has testified, no one is walking into the place, purchasing and leaving, and no one is eating there. So this under no circumstances would qualify as an eating and drinking establishment.

Chairman Garip stated: Just common sense, it doesn't fit, an eating and drinking establishment.

Mr. Pepe stated: I agree with you fully, but the same argument applies equally as validly to retail. We don't have anybody coming in and going out.

Mr. Mecca stated: We're going back and forth, that isn't a good use. Your mechanism, as Mr. Polyniak said, is to file an application to the zoning board for an interpretation.

Mr. Pepe stated: That's fine.

I'm going to state on the record that the applicant's interpretation is this is an eating and drinking establishment or in the alternative a manufacturing facility.

Chairman Garip stated: Well, you can't just make stuff up.

Mr. Pepe stated: And you can disagree.

Chairman Garip stated: I appreciate you letting me do that.

Mr. Pepe stated: And I do appreciate that, but just for the sake of establishing a record, it's significant because one use requires 32 spots and one use requires none.

Chairman Garip stated: We understand why you would want to do it, that's not the question. It's the logic of suggesting that this is even close to an eating and drinking establishment, when there are no

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tables, there's no drinks being served.

Mr. Pepe stated: And I'm just trying to get straight where we are, because we could have put a table in. We didn't do that. We're not playing games here.

Chairman Garip stated: It kind of feels like you were a little bit there, but okay.

Do you want to present your witnesses or do you want to go to the zoning board?

Mr. Pepe responded: Let's start out with our first witness. I would like to call Max Zarin, who is going to share with us some of the studies that we've done at our other locations, some actual video footage from the other location.

**M A X Z A R I N**, having been previously sworn/affirmed, testifies as follows:

Mr. Pepe asked: So what is your role with the applicant?

Mr. Zarin responded: I manage the acquisition and development of new ghost kitchen facilities.

Mr. Pepe asked: So basically your job is to find new locations?

Mr. Zarin responded: Yes, to find the places that we're most excited about being the properties that are most appealing to us and bring this concept to communities that we think would benefit from this.

Mr. Pepe asked: Tell us what brought you to this location?

Mr. Zarin responded: There are a number of things that brought us to this location. And first I want to start by saying we're really pleased to be back here again and that we appreciate the time, and I certainly understand all of the concerns that have been voiced here that we've heard this evening and when we were here past and when we spoke with some of the members of the community as well. So we're really sensitive to those things. We're very much cognizant of that and we're very invested in addressing them.

Our success hinges upon not only being able to demonstrate to you that we can operate here successfully, but actually operating here successfully. So nobody has a greater interest in identifying a location where we can operate successfully and actually executing it than us. We do this all over the country. We've done this many, many times in many instances on sites not unlike this. We've learned the lessons. We understand how to succeed here. We know that there's enough parking between the site and the municipal lot S to meet our

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needs. That's not in doubt.

At the same time, we understand that it's very much incumbent on us to demonstrate that to you. I'm totally sensitive to and appreciate Mr. Polyniak's observations. I hope that we can share some of our own data and observations to present our perspective. I appreciate that he went there to observe it in-person for an hour and a half. Myself and my colleagues observe these facilities all day every day, so nobody understands how they function better than we do and I hope that we can share some of those insights.

Before I get into some of this information, you know, I would just say that I was pretty encouraged actually to hear Mr. Polyniak say effectively that he believes 15 parking spaces is adequate for the successful operation in Belleville, 24 kitchens; in this case, 23 kitchens; so they're quite comparable facilities.

Vice-Chairman Chiusolo stated: He did not say that. He said nine kitchens.

Mr. Zarin responded: I'll just clarify what I heard Mr. Polyniak say. Of course, he can clarify himself.

Vice-Chairman Chiusolo stated: Nine kitchens.

Mr. Zarin stated: I believe he said that he observed that three spaces were needed for driver pick-up and another 12 were utilized for either employees or drop-off, so 15 parking spaces for the 24 kitchen facilities. But please tell me if I am incorrect.

Mr. Polyniak stated: Through the Chair.

That was for that one and a half hour period in the middle of the day, not during dinnertime, not during any point in time it can be a higher peak delivery. That was a lunchtime service.

Mr. Zarin stated: Lunchtime service is our peak.

I can demonstrate that lunchtime along with dinnertime, not surprisingly, is our peak.

I mean, just to clarify it, based on your observations, 15 parking spaces is adequate.

Mr. Polyniak stated: At that one and a half hour timeframe.

Mr. Zarin stated: So the data you're using suggests 15 spaces is adequate.

Mr. Mecca stated: He's not under cross examination.

Mr. Zarin stated: Well, I'm just trying to understand how much weight are we putting on --

Chairman Garip: Is this your presentation now?

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Do you want to do the presentation?

Mr. Zarin stated: We get more into the presentation, but --

Chairman Garip stated: We can question the board later.

Mr. Zarin stated: All right. Why don't we go through some of the information.

I'm going to breeze through a lot of this, because I know that this group is well aware of what we're talking about today, so let me really get to the heart of this.

This we've already talked about, but just to display it visually, we have reduced the kitchen count from 24 to 23, and we now have nine parking spaces, eight plus one ADA space.

So to manage the delivery driver parking demand, we intend to utilize those nine spaces, which in our opinion is more than enough for delivery drivers. And based on both our own and Mr. Polyniak's observations of the Belleville facility, it seems like there's consensus that nine is plenty for delivery driver traffic for a facility of this size. But what I also want to emphasize here is that we don't just rely on the presence of parking and then let the demand flow in and out of that parking as it may.

Through our technology platform that we use to communicate with the delivery drivers, we're actually able to control and modulate that flow of traffic. So we know at all times how many orders are coming into the facility, when those orders are ready. When those orders are ready, it's communicated to the driver that now they may come to the facility and pick up their orders, no sooner. And if there are too many orders at the facility at any given time such that it would overwhelm these nine parking spaces, we're able to space that out and communicate that to the delivery driver so that we don't end up with a situation where we might have 20 cars when we only have nine spaces. So, again, it's not just that we have the number of spaces, but we have the tools, unlike, say, a restaurant or a store where customers are going to come and go as they please, we're actually communicating closely with those delivery drivers and dictating when they are able to come to the site so we know our parking is never overloaded.

Mr. Pepe asked: They wouldn't actually know there was an order or have any reason to come unless they were summoned, right?

Mr. Zarin stated: That's right. They're

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notified that they've been paired with an order basically, and then they're notified when that order is ready, and they come and get it.

And then another tool that we use to further manage the number of delivery drivers coming to the site is batching. So we pair orders together that are going to similar geographies, so that instead of having five drivers for five orders, you can have one driver for five orders. So even at our peak delivery driver times, we're able to reduce the number of cars coming to the site so that it's not necessarily 50 orders, 50 drivers, it's actually quite a lot fewer. It also reduces the volume of cars on the road, because you don't have a situation like the graphic on the left where a driver is going all over the area, instead they're given a route that minimizes the amount of time on the road, so it minimizes the traffic impacts as well.

So just to drill down into the numbers behind how we got comfortable with operating using eight parking spaces here, again, putting aside the one ADA space, so our facility is typically operated about 80 percent occupancy. They rarely exceed that. And when operators are performing successfully, they normally peak at about three orders per hour in most of our facilities. So if you have 18 kitchens, three orders an hour at a peak, like dinner or lunch, you got 54 orders that need to be picked up. And I should just say for this analysis, to be as conservative as possible, we are not relying on the batching, though in practice we do use that. So that's kind of a demand side, how many cars are going to need to come.

On the supply side, we observed Belleville, much like Mr. Polyniak did, and came to a similar conclusion. We saw that drivers were turning around in about six minutes. So if every parking spot turns over in six minutes, 10 cars can occupy a space per hour, times eight spaces, the lot can hold 80 cars per hour.

So as you can see, we have the capacity for at least 150 percent of the driver demand in a peak hour, and that's not including some of the batching that would further reduce the number of cars coming to the site.

And I also want to point out that Belleville is a relatively new facility. It's still getting its sea legs. We are still ironing out the kinks. We strive to do much better than a six-minute turnaround time.

At some of our more mature facilities, we see

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driver turnaround time more like two minutes. So this was a study that we did in November of last year for another facility, and we found that for 25 drivers during a peak time, they were turning around in about two minutes. That's what we know we're capable of achieving. That's what we will work to achieve here.

And then, as Don touched upon and I mentioned at the start, we intend to utilize the parking available in municipal lot S for additional parking. We confirmed that there are at least six spaces there that we could secure for our exclusive use. So as I understand it, those wouldn't be vulnerable to increased demand from other uses in the area, so long as we were maintaining our rental agreement and paying the rent on time. So it would be our intention to secure the spaces there so that we would have at minimum 15 spaces secured for our exclusive use, nine on the site, six just a short walk away, and would of course be open to and willing to secure additional spots in that lot. If or when they became available, we would certainly take advantage of that. And understanding that there likely will be future development in the area, we did go out and observe this lot on four different days of the week. We found that the lot was never more than 50 percent occupied. Most of the time, it was less than 25 percent occupied.

So we do believe that at least in the short to medium term, there's ample supply in that lot in excess of any spaces we might secure for our exclusive use.

So to help visualize this -- has the board seen this video? I know we circulated it. Take your time.

I'll just play this quickly.

Mr. Pepe stated: Max, before you do, though, I do want to highlight some of the differences because we do have studies that went out, looked at Belleville, and this is from the Belleville location?

Mr. Zarin responded: That's correct.

Mr. Pepe asked: Again, they allow pick-up here in Belleville?

Mr. Zarin responded: That's right. We allow walk-in business. Somebody can come in, order their lunch or dinner off a tablet, wait until it's ready, and then leave with the meal. So it's quite a lot different than what we're envisioning for this facility, where there would be no walk-in business. Let me see if I can get this to play.

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So this is a couple minutes long, you don't have to sit here and watch the whole thing, but this is peak lunch hour. You know, it's hardly bedlam over there. It's pretty controlled. There are six dedicated spaces actually that we set aside for delivery driver pick-up there. It's more than enough.

So lunch peak hour is about 11:30 to 1:30.

I'll just fast forward to see if I can fast forward to dinner here.

Yes, so you can see at any given time there, 2, 3, 4 delivery drivers coming to the site.

So hopefully that gives the board a taste of what the traffic is like at a very comparable facility in a fairly comparable location during peak hours. We also wanted to speak to the concerns about traffic impacts, as well as concerns about the parking supply. We worked with our traffic engineer to model the anticipated trip generation from our facility, and then looked at how that would impact the existing traffic on the surrounding thoroughfares.

So we took the data collected by NJDOT, and then added our data to it.

For State Street -- obviously all of the cars that flow into State Street, because cars can go onto State Street and either go north or south. For Lodi, we're assuming that half the cars flow to Lodi.

But in any case, you can see two things.

First, that there's not really a significant traffic impact on either of these two thoroughfares.

The increase is pretty minimal.

And the second thing that I want to highlight is that our periods of highest traffic come after the peaks in these areas. So our peaks for traffic are, you know, lunchtime and dinnertime 6:00 to 8:00 p.m.

The real traffic peaks that may be testing the capacity of the roadways are in the case of Lodi, 2:00 to 5:00 p.m.; in the case of State, 3:00 to 5:00 p.m. So we're really not meaningfully exacerbating traffic conditions during rush hour in these areas.

Mr. Mecca asked: Do you have a traffic expert? You had somebody last time.

Mr. Pepe responded: We do.

Mr. Zarin responded: Yes, Mr. Lee Klein is here. He'll be happy to speak to that more technically than I can.

(Continuing) So, you know, the focus of this presentation was to hopefully share our perspective on why we are very confident that we can succeed here from a traffic and parking standpoint. We understand

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that's the biggest sensitivity, but amidst the discussion on that, I really hope the larger mission here, our larger goal and why we're so excited about being in Hackensack isn't lost. We really love this location. We love this community. We really want to be in Hackensack. We really believe that this is the right building for us. We spent a lot of time looking to find it and have now spent a lot of time planning for the execution of our business plan here. We want to invest a lot of money in the development of this facility and the beautification of this building, and we want to create a place and a platform where food entrepreneurs and small businesses in this community can grow and thrive. It's been extremely tough the last two plus years for this industry. We've seen small businesses, in particular, bear the brunt of those impacts, and we've seen that our facilities provide a really unique, one of a kind opportunity for businesses to grow to, to evolve, to succeed, to maybe survive where they're not going to survive in traditional retail. We really want to bring that offering to the businesses in Hackensack, and we really want to bring the offerings that they provide to this community. We think that we can provide an amazing, unique, really diverse array of dining options that will be a tremendous asset to and benefit for the surrounding community and for Hackensack at-large, especially as the city continues to grow.

So I just want to emphasize, in spite of all the focus on traffic, we still really believe in this location, really believe that it's the right fit, and really want to bring this concept to this location.

So with that, I'm happy to answer whatever other questions.

Chairman Garip stated: Well, the way we proceed, just so you know from a procedural standpoint, we want to hear all the witness testimony first, and then we'll have a discussion with the board, we'll open the meeting to the public. That's the format that we use. We appreciate your presentation. If you're finished, then we want to hear the next witness.

Mr. Zarin stated: Great. Thank you.

Mr. Pepe stated: Before we wrap it up, the time lapse video that you showed of the Belleville location, you did not exercise any control over pacing the arrivals and departures?

Mr. Zarin responded: No, of course not. That's just footage from our security camera that we took

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from 11:00 a.m. to 8:00 p.m.

**L E E D. K L E I N, PE, PTOE**, c/o Klein Traffic Consulting, LLC, 156 Walker Road, West Orange, New Jersey 07052, having been previously sworn/affirmed, testifies as follows:

Mr. Klein's credentials were accepted by the board.

Mr. Klein testified: So in preparation for this evening, after our last hearing I went out and did some additional study. I prepared a traffic engineering parking evaluation report dated July 8, 2022, and in that report the assumptions were that we would have 18 operational kitchen out of the 23 kitchens that we're proposing in the building. Eighteen of them will be operational simultaneously at any one time. The operations will be seven days a week, 8:00 a.m. until midnight. As you heard before, there will be no pick-up or ordering by any individuals on the site. That will all be done through apps, and the delivery will be done by Uber or Grubhub. I don't even know the names of all those different kind of contractors, but there will be no personal pick-up as there is at the Belleville site. So the Belleville site is not actually an apples to apples.

We are proposing again nine on-site parking spaces, basically eight of them are going to be for pick-up and delivery of the meals that are going to be prepared on-site, one of them is an ADA parking space.

Loading and delivery of provisions for this facility will be centralized and coordinated. So they'll be 18/23 kitchens that are going to need provisions. They'll need produce. They'll need meat. They'll need cold cuts, bread. That will all be coordinated through the central system, and there will be one bread truck, there will be one produce guy and one meat guy. So that will help maintain and eliminate some duplicate trips. And those deliveries will be in the 8, 9, 10:00 in the morning timeframe before lunch, not impacting the lunch crowd from delivery drivers.

Off-site parking, we looked within 1,000 feet of the facility. We looked originally back in September of last year on a Friday between 6:00 and 8:00 p.m., and on a Saturday, September 25th, also between 6:00 and 8:00 p.m. We looked around the neighborhood, various streets. We did not find a lot of parking spaces on the street, but we did find a handful here and there on State Street, on Cleveland Street, a few

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here and there.

It's important to note that in front of the facility just a little bit to the north are two 15-minute parking spaces that are apparently for some kind of pick-up, delivery type of facility and use, and we did not include that in our calculations to figure out the capacity of the ability to pick-up and deliver the meals that would be prepared by the 18 kitchens.

We also, as you heard earlier, we looked at lot S, the municipal lot, 50 parking spaces total. There are 16 metered spaces. At any one time, there were anywhere between 7 and 11 cars parked in the metered spaces, various times between lunchtime on a Wednesday, Saturday lunchtime, evening peak hour on a weekday and so forth.

So again you heard about the kitchen, the capacity of the kitchens.

The ordering system that they're going to implement is going to be able to meter the amount of meals that are prepared at each kitchen. So if there is a rush at 5:30, everybody wants dinner, just because you order at 5:30 doesn't mean your meal is going to be ready at six. If you're the first one in, you might be ready at six. If you're the next one in, 6:15, 6:20, whatever that is, to spread that out so we don't have more than 54 cars per hour entering and exiting.

As you heard before, we looked at the Belleville facility, and that facility is a little bit different, as you heard. People can walk into the front door of that facility, use a keypad to order their meals, their car's parked, they wait around 15 minutes or so until their meal is ready, pick up their meal and they leave. That is not what we're doing here.

This is just ordering somewhere -- when you order, you won't even know that it's coming from this facility. You're going to order a particular type of meal, the closest one may be here, and that's where you're going to get the meal from. So that's important to understand that.

So when we looked at the average dwell time of six minutes, and as you saw from data at a more seasoned facility where they can get it down closer to two minutes, we're looking at six minutes. That means each parking space turns over every six minutes. That's ten times each parking space, 80 parking spaces for pick-ups and drop-offs in an hour. We're only going to be looking at 54 pick-ups and

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drop-offs in one hour. So we got that cushion between 54 and 80. So if there is some kind of delay and somebody is there eight minutes waiting, then the vehicles are going to be able to be accommodated within that 80 per hour capacity that we have. Again, there are two spaces in front of the facility, just a little bit to the north, that are 15-minute drop-off, pick-up delivery spaces. We haven't included those in our calculations.

We looked at the NJDOT website. We were able to find traffic volumes generally in the area along State Street. We were able to grow those volumes to current conditions. We looked at the different peak hours, the dinnertime peak hour between 5 and 6, the one between 7 and 8, and then we looked at if all 80 vehicles come in and out in one hour. We did a level of service analysis of that driveway, and we found that it would operate at an acceptable level of service C, with an average delay of the driveway movements out less than 30 seconds.

As far as employees go and the amount of employee parking spaces, at the facility in Belleville, I want to just make a correction, we had six cars that were attributed to employees and there were eight active kitchens at that facility.

In this, if you do the math for that and ratchet that up from eight kitchens to 23 kitchens, from six employees parking to 14 cars parked. So those 14 employees are going to have to be accommodated either in lot S or on-street parking or we know that approximately 20 percent of the employees will get dropped off and approximately 20 percent of the employees will use mass transit to get to work. As you heard earlier, this a startup type of a use, it's not an extremely high paying job, to have your car parked for 6, 8 hours while you're in the kitchen doesn't make sense, so people usually try to find ways to get dropped off.

We spoke to Mr. Daley at the parking utility. He explained to us that there are six monthly parking or there were six monthly parking permits available at the time when I spoke to him, I think maybe a month or two ago. And then again there were no less than 12 metered spaces available at various times of the day at the parking lot. So we found 18 available parking spaces in lot S.

So I want to just emphasize and in conclusion that we've put factors of safety on the amount of trips, on the amount of parked cars, on the amount of drop-off and pick-up of the meals, that we're

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confident that the eight parking spaces, which can turnover ten times each for 80 trips in and 80 trips out will not have a traffic impact on State Street during those peak hours, it will not backup onto State Street with the amount of vehicles that are coming and going to pick up meals, because, again, the system is going to be able to tell people come at 6:00 for this pick up, come at 6:05, come at 6:10, to be able to spread that out so you're not going to have more than eight pick-ups in any one five-minute period or six-minute period.

And I think based on the amount of parking that we found just in lot S alone, that I think we've got enough parking spaces to accommodate any of employees that wish to drive here, but, again, we know that from past history, a lot of employees will either take mass transit or get dropped off and not park their own vehicle.

**GERARD P. GESARIO, PE**, c/o Jarmel Kitzel Architects and Engineers Inc., 42 Okner Parkway, Livingston, New Jersey 07039-1604, having been previously sworn/affirmed, testifies as follows:

Mr. Pepe asked: Mr. Gesario, you had originally produced a plan set for this project and we've made some changes since the last appearance. Could you please on a high level highlight what those changes were?

Mr. Gesario responded: Sure.

A lot of these were already touched on in prior testimony.

Basically with the front parking lot, we went to the nine parking spaces that are previously three utility pads and trash were on the north side of the lot. The trash moved inside the building and one of the utility pads moved inside the building. That's what enabled us to get the two extra spots on the north side.

Other than that, that's really it.

We had lighting previously. There's four wall packs proposed on the plan that light most of the parking lot. It dims near the driveway, but there's a clover style street light just south of our driveway that we believe lights our driveway. That is really the extent of the site changes.

Mr. Pepe asked: Now, there were some comments in the engineering review letter about the width of the drive aisle. Do you believe that there's an opportunity to perhaps expand that?

Mr. Gesario responded: Yes.

I think it's in more of a drafting error. We're

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not proposing to change the width of the driveway. I think the review letter said it was ten feet. We'll have to dimension it, but we anticipate it will be a 20-foot wide driveway.

Mr. Pepe asked: And that would be suitable to accommodate --

Mr. Gesario responded: A vehicle coming in and a vehicle leaving.

Mr. Pepe asked: Two-way traffic, correct?

Mr. Gesario responded: Correct.

Mr. Pepe asked: So just real quickly, with respect to the variances that are really implicated in this application, most of which I'll submit were preexisting conditions, the applicant is requesting a side yard setback variance?

Mr. Gesario responded: That's correct.

And I believe other than parking, they're all existing nonconformities.

Side yard, ten feet required, zero existing, zero proposed.

Rear yard, ten required, 5.1 exists. No change to the building footprint, so those variances will remain, minimum front, side and rear height ratios.

The max building coverage, the 25 percent allowed, it's 66.6 currently and will remain that way.

Lot impervious coverage, 70 percent allowed, it's 100 percent currently and will remain 100 percent.

The aisle width is deficient; 25 feet is required, we have a pitch point I think I would say it was 21.9 feet, if I recall.

And the lighting, one footcandle minimum. We have zero towards the driveway, but as I mentioned, there is a clover style street light just to the north or south of our driveway that we believe lights the front area and our driveway entrance.

I think there's a free standing sign that we're going to use. Twelve square feet is allowed, it's measured at 48 square feet proposed or existing and proposed to be repurposed.

That's it.

Mr. Pepe asked: And those variances, as you just mentioned, they're listed on the plan set?

Mr. Gesario responded: Yes.

Mr. Pepe asked: Again, with the exception of the parking variance that's really at the heart of this application, all other variances represent preexisting conditions that we're not altering?

Mr. Gesario responded: That's correct.

Other than the pinch point at the driveway width

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adjacent to our transformer pad.

Mr. Pepe asked: Now, you've received and reviewed a review letter from Neglia Engineering dated August 8th?

Mr. Gesario responded: Yes.

Mr. Pepe asked: Do you have any issues or concerns with that with respect to any of the comments that are requesting changes? Are we willing to comply with those comments?

Mr. Gesario responded: Yes, I've reviewed the comments and we have no issue complying with the remaining technical comments outlined in the review letter.

Mr. Polyniak stated: I do have a couple of questions through the Chair.

As it relates to the two additional variances that we think you need, it appeared that your parallel parking spaces were eight feet in width instead of nine.

Mr. Gesario responded: I thought that was a design waiver, but if that's a variance then, correct, those spaces are eight-foot by 22.

Mr. Polyniak stated: Okay. And then another question is: In the ordinance, vehicles backing out into the right-of-way is not permitted.

I thought I remember originally testimony being that you may have box trucks that visit the site to drop-off goods. I'm not sure that if the spaces were occupied that you would be able to maneuver to not get yourself in a situation where you would be nose out into State Street. So I think you required also variance for backing out into the -

Mr. Gesario stated: So it's our intention not to back out. A 30-foot box truck, if the parking lot was full, yes, would not be able to.

Mr. Polyniak stated: Correct. Correct.

Mr. Gesario stated: I think they would schedule deliveries at off times when the spaces are open so a box truck can make a K-type movement and go out.

Mr. Polyniak asked: So then you're stipulating that it would be where there would be no deliveries or pick-ups at that time?

Mr. Gesario responded: Certainly, the peak times.

Mr. Polyniak asked: And then you're stipulating that none of the employees will be parked on site at all?

Mr. Gesario responded: I can't say none.

Mr. Polyniak asked: Well, then how would you maneuver, because you have the transformer there and

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if you occupied any of those other spaces, it would be very tough for you to make it.

Mr. Gesario responded: If 1 or 2 of the spots on the south side are occupied, he would have to make his K-turn farther down towards the driveway.

Yes, if seven spots are occupied, he would not be able to make the K-turn.

Mr. Polyniak asked: So who would be policing this then?

Mr. Gesario responded: I would imagine they would through their -- as he described in his testimony, they can manage and monitor all these items. It's like the testimony said, it's not a delivery for each kitchen, it's one truck delivering produce for all the kitchens there. So they can certainly schedule that at appropriate times.

Mr. Polyniak asked: So how are you stipulating, I thought the eight spots were going to be used for delivery, now you're saying you're going to have two parking spaces utilized for employees on-site during the day or?

Mr. Gesario responded: No, I'm saying -- the testimony was employees would use the off-site. My testimony --

Mr. Pepe stated: I think the testimony quite clearly was employees would not be allowed to park on site.

Mr. Polyniak asked: Not a single employee will park on site ever?

Mr. Pepe responded: None of the kitchen employees, no.

Mr. Gesario responded: So, yes, 30-foot, if it's full, would have trouble.

**I R W I N H. K I Z E L, AIA, PP**, c/o Jarmel Kizel Architects and Engineers Inc., 42 Okner Parkway, Livingston, New Jersey 07039-1604, having been duly sworn/affirmed, testifies as follows:

Mr. Kizel's credentials were accepted by the board.

Mr. Pepe stated: Okay. Mr. Kizel, why don't you just quickly take the board through the layout of the facility.

Mr. Kizel responded: So the layout of the facility has changed based on the reduction in the quantity of the kitchens. By so doing, we brought the trash operation inside the building and we also brought some utility functions inside the building. So the improvements to the exterior consisting of, you know, an improved parking lot, graphics on the walls of the building and so on, the totality of it

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has been somewhat improved by the fact that we've brought some utility functions and trash inside the building.

So on the whole, the appearance of this site from the exterior will be improved.

Generally, the interior, just to refresh from last time, is a single loaded corridor with kitchens on each side of the corridor. It's a simple, straightforward layout. There's a reception at the front, and that's where the drivers will pick-up their orders.

So by reducing the quantity of kitchens by one, we've made some improvements to the overall operation of the site and the building itself.

Mr. Pepe stated: So you've heard the testimony of the variances, deviations, and design waivers that were called out by Mr. Gesario?

Mr. Kizel responded: Yes.

Mr. Pepe asked: Can you please share with the board the support for why it would be appropriate to grant those variances?

Mr. Kizel responded: Well, in my opinion, this is a (c)(2) variance, which is a flexible (c) variance, which means that the overall benefits of the project outweigh the detriments of the project, and that the approval of this project will advance the purposes of the Municipal Land Use Law by way of its specific reasons.

So I've listened both last time and this time to all the testimony from the architect, engineer, traffic engineer, and operator, with whom I am familiar, and that I believe that the biggest concern of the board is the parking.

I think in both cases, both the pick-up parking and the adequacy of parking for staff, I believe that the experts have given convincing testimony that this is going to work without negatively impacting the overall community and the city at-large.

That's my opinion based on what I've seen, based on the report, based on everything I know about this project. So basically I believe that this project, with the variances, the other variances are fairly minor, most of the variances are existing nonconformities, and most of them didn't cause problems before, to the best of my knowledge and are not going to cause problems should this application be approved.

The land available with respect to these nonconformities, you know, we're in a city environment, additional land is not available. We

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also have a difficult lot. The lot is extremely narrow. This leads to some of the nonconformities. You know, without relief, we don't know what the proposed -- there's a broad array of uses that are allowed on this site. I believe this use has been cast in a way that it will be potentially beneficial compared to the other uses that can be placed on this site.

With respect to the sign, the sign is existing, only the face will change. The words on the sign will change, the overall size does not change.

I believe, like I said earlier, the positive criteria is that the overall appearance of this site will improve. It will fulfill the needs of the community, and provides new jobs that don't currently exist now, you know, for those that prepare the meals. I believe the site is improving. We will have an ADA space now that does not exist. We're milling and resurfacing the pavement.

We are providing food services, which are in demand with a variety of food and good quality food. What this operation does, it allows those that are in the food business to start businesses with less overhead than a typical restaurant. They only have to lease rent the kitchen and operate the food in the kitchen and post their menus online, much less overhead. It affords opportunities to those entrepreneurs that would not otherwise be able to get into business. This improves the community as a whole.

I believe this application advances the efficient land use by making use of existing development. So we're not ripping down and building new, we're making use of existing. You know, it's energy efficient and it's kind of an adaptive reuse. We're not wasting it. It minimizes waste.

Like I said, opportunities for new business. This development does not conflict with the needs of adjacent areas or adjacent municipalities. The operation meets the citizens' needs. And like I said, because of the refresh that we're doing to the outside of the property, it provides a desirable visual environment compared to what exists now.

Now, with respect to the Municipal Land Use Law, the municipal MLUL advances certain uses, and I feel under the law and based on this, what we heard tonight, I feel that under 40:55D-2, the purpose of the act is advanced for the following reasons:

Reason (a), to encourage municipal action to guide the appropriate use or development of all lands in a manner which will promote the public health,

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safety, morals and general welfare.

You take the totality of the testimony and this project does that.

This project, under (d), it does not conflict with the development and general welfare of the neighboring municipalities, the county or the state. One of the purposes of the law under item (g) is to promote sufficient space in appropriate locations for a variety of uses. I believe the approval of this use promotes that action on behalf of the law. Again, (i) is desirable visual environment. We're upgrading the building. We're upgrading the parking lot.

(j) is promoting the conservation of historic sites, districts, open space, energy resources, and natural resources to prevent urban sprawl, degradation of environment through improper use of the land. It doesn't do all of that, but it does conserve energy resources and natural resources by using the existing building.

Item (m) of the MLUL is to encourage coordination of the various public and private procedures and activities shaping land development with a view towards lessening the cost of each development and to the more efficient use of land.

This does just that. It's an efficient use of the existing construction and the project fits within the land where it's proposed.

In my opinion, the detriments have been spoken to by the experts. There's no impact of a substantially adverse nature. The testimony of the experts under oath is that this property will function safely and efficiently.

I understand what I've heard, you know, there was some concern about backing out and parking, but I think we've proven by our experts beyond, in my opinion, a doubt that this parking and this use will operate smoothly.

From a zoning point of view, this is well within intensity thresholds. Based on that, the project will improve business operations and will have minimal, if any, impacts.

The purpose of the ordinance and land use law will be advanced by these deviations from the zoning ordinance requirements, and the benefit of the deviations will substantially outweigh any detriment. I believe that the statutory criteria for all relief are met and approval is warranted.

Mr. Pepe stated: I'm directing you now to the Neglia report that was already previously mentioned

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on the record. Can you please read from that paragraph.

Mr. Kizel responded: The applicant is currently seeking approval to change the use of the existing structure and add site improvements. The proposed service is for eating and drinking establishments, but more specifically a ghost commercial kitchen, which is a permitted principal use within the district as confirmed by the City of Hackensack zoning permit issued October 26, 2021.

Mr. Pepe asked: And do you concur with an eating and drinking establishment, in your opinion as a professional planner, is the most appropriate given the use?

Mr. Mecca stated: I'm going to stop you right there. At this point, if you want to make an application to the zoning board, you can do that. We can stop this right now and you can make your application for an interpretation, but this board is considering this to be a retail --

Mr. Pepe stated: Well, I just don't know why. Honestly --

Mr. Mecca stated: If I may.

That's why you have that recourse to go before the zoning board, and we'll stop right now and let them go before the zoning board and get that interpretation. If you don't understand it, we'll stop right now.

I would recommend to the board that we stop the application at this point. Let the applicant determine whether or not they wish to file that appeal, and if they do, they go before the zoning board, then they come back to us depending on what that appeal is.

But at this point, I don't think you should hear testimony as to what the use is.

Chairman Garip stated: A planning board does not determine use variances, so you would know that.

Mr. Mecca stated: It's not necessarily a use variance but what the use is.

Chairman Garip stated: The witness actually agrees, so why don't we, Mr. Pepe --

Mr. Pepe stated: And I don't want --

Mr. Mecca stated: Hold on. The Chairman was speaking.

Go ahead.

Chairman Garip stated: Well, we can listen to our attorney and have him go back to make a determination.

Mr. Mecca stated: I would recommend at this point

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the board carry this matter, because you heard it three times now, they do not agree or they believe that it's a different interpretation.

Chairman Garip stated: At this point, they can ask for a vote.

Mr. Mecca stated: That's correct.

Mr. Pepe stated: So I apologize, but may I speak now?

Mr. Mecca responded: Yes.

Mr. Pepe stated: So just for the record, I guess what I don't understand is we're applying a parking calculation for retail in the analysis of our application but in the same letter, the use is characterized as eating and drinking.

I'm just asking for clarification, is the parking based on the eating and drinking calculation or is the parking that's allegedly required based on a retail calculation?

Mr. Polyniak stated: I'll stipulate right on page 4, neighborhood retail. Because how could an eating and drinking --

Mr. Pepe stated: That was all I was asking, I'm not asking why or how, it was your report that called it both.

Mr. Polyniak stated: Well, it's a neighborhood retail and it's obvious, based upon your testimony.

Mr. Pepe stated: I disagree, but I have no further witnesses.

Mr. Mecca stated: I would recommend --

Chairman Garip stated: We not hear, we recommend that it goes to zoning.

Mr. Mecca stated: And the other issue at this point, if the board wishes, we heard testimony from a planner and a traffic engineer. This board may wish to have their own planner and engineer hired to make a determination with regard to this.

Also the police, the police officer, he's here. We still need to hear that testimony. So given the hour, we have people here in this audience to continue, allow the people who have not read the transcript to now read that transcript and be eligible to vote, so it benefits the applicant as well. That would be my recommendation to carry this matter to the next meeting.

Chairman Garip stated: Yes, because it's apparent that the use is an issue here, and we cannot adjudicate a case where the use has not been determined.

So, Mr. Pepe, being as such that the use has not yet been determined, we are going to move to carry

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this.

Mr. Mecca asked: Will the applicant agree to extend the time to the 120 days, and if not we'll hear and vote tonight.

Mr. Pepe stated: I had previously agreed.

Mr. Zarin stated: I know there's some members of the public that came to testify. I think there are some people that came on our behalf from some distance. Out of respect for that --

Chairman Garip stated: It's a question now whether we're going to continue hear the case. That's the question.

Why don't you talk to your attorney and let us know what your determination is.

Mr. Mecca stated: The meeting has been called to order. If the applicant wants to come forward, please.

Mr. Zarin stated: We'll just carry it and consider whether or not to go to the zoning board.

Mr. Mecca stated: Carried to October 12, 7:00 p.m. here in Council Chambers. No further re-notice, so mark it down, October 12th to be here on this application, 7:00 p.m. here in Council Chambers.

**6. New Business:**

a. Courtesy Technical Review

**105 Grand Avenue**

**Fairmount Elementary School**

Block 546, Lot 1. The Applicant proposes the replacement of thirty-five (35) heating-only ventilators with eleven (11) new heat pump ventilator units consisting of twelve (12) condensing units that will provide heating and cooling. The new units will be located at grade at two separate locations on the school grounds.

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A P P E A R A N C E S

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E X H I B I T S

None

P U B L I C H E A R I N G

Ms. D'Arminio greeted the board.

**DONNA COEN O'GORMAN, AIA**, Sworn.

Ms. O'Gorman testified that the Hackensack Board of education received a federal grant through ESSER funding to provide improvements to their HVAC system. So at the Fairmount School, they have 35 classrooms that are old heat only units and they want to replace them with the heating and cooling. This is district wide what they're planning on doing with a portion of their funding. The funding is also time dated at this point, so we need to have these units in place as soon as possible so they can get the funding.

The condensing units are located in the playground area. There's 11 condensing units that are for the purpose of cooling only. The heating is going through the existing steam heating plant, and the closest house or the closest property line on Fairmount Avenue is 90 feet, and on the other side it is on the playground area.

There's six units on one side and on this side, and five units on the Fairmount Avenue side. They will be enclosed with a six-foot fence. The unit itself is 60 inches high. The fence will be locked

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and it will have privacy slats on it.

I know Neglia's review asked for some vegetation to be replanted. That's not part of the ESSER funding, so there's no funding for that right now, but we are putting privacy slats in the fence.

Chairman Garip stated: For members of the board, this is a curtesy review, there's no approval, there's no motion.

There were no comments from the public.

b. DMR Architects will be presenting an investigation study to the Planning Board for Block 206.02 Lots 24, 25, 26 & 26.01 (116-130 Main Street & 111 Moore Street) in order to determine if the Block and Lots meet the statutory requirements as an area in need of redevelopment without condemnation.

(Vice-Chairman Chiusolo is no longer present.)

**F R A N C I S A . R E I N E R, L L A, P . P . ,** c/o DMR Architects, 777 Terrace Avenue, Hasbrouck Heights, New Jersey 07604, having been duly sworn/affirmed, testifies as follows:

Mr. Reiner testified: So this evening I'm here to present an investigation study to determine whether or not certain properties meet statutory criteria as an area in need of redevelopment without condemnation, commonly referred to as 116-130 Main Street and 111 Moore Street, blocks 206.02, Lots 24, 25, 26 and 26.01.

As a part of our investigation study, we make sure we go to every building, we reach out to the Building Department, the police department, and the fire department, as well as the tax assessor records. We do site visits. In this particular case, we went to the site multiple times, went through the buildings, took photos, inventory that I'll show you this evening.

Resolution 174-221 was passed by the mayor and council requesting the study and this evening I'm here to present to you the overall findings. The report has the details of our findings so I'm just going to give you a high level.

It's important to note that if properties are designated, that it does not change the zoning, it does not permit new uses. It allows permitted uses to remain. It allows existing businesses to continue to operate.

What it does do is it identifies issues that should be addressed and gives the city greater

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development control, should the city decide to move forward with the redevelopment plan.

You can see the outline of the properties located between Main Street and Moore Street. The north side of the properties on Demarest Place, which is currently the walking pedestrian paseo and to the south is the existing CVS property which is not included.

There are nine different criteria that the state has to designate a property as an area in need of redevelopment. We are looking at criteria D. This is a summary of all of them, with criteria D being highlighted.

Criteria D represents areas with buildings or improvements where by reason of delapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light, sanitary facilities, excessive land coverage, deleterious land use or obsolete layout or any combination of these are detrimental to the safety, health, morals and welfare of the community.

We believe that all of these properties meet that criteria and I'm going to walk through why we believe that's the case.

In terms of the property valuations, the photos are on the right and on the left is our assessment. So for 116-130, it is multiple buildings, however, it really functions as a single building from the interior standpoint. When you walk into the building you can access all of the buildings in one clear shot. So even through from the exterior there are changes in the facade, it really functions as a single building.

There are approximately 44 spaces on site that are all accessed off of Moore Street. It's important to note that if you look at the requirements of the parking ratios for this building based on the square footage, even under the new parking requirements for the downtown rehabilitation plan, which are lower than other parts of the city, there are 44 on-site where 104 would be required. So there is a significant deficiency of parking on this site in comparison to what is required by ordinance.

It's important to note that the property currently leases 20 spaces from the Atlantic Street parking garage. Prior to COVID, it used to lease 30 spaces from the parking structure at Atlantic Street to support it.

There are four separate curb cuts on Moore Street, and there are a number of dead-ends that go

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into the property off of Moore Street, creating pedestrian vehicular conflicts where it's not necessary. Where that parking would typically only have 1 or 2 access points, there are two additional ones.

The dimensions of the parking areas do not meet the city codes for both dimension size of the parking space as well as dimensional width of the aisles, creating what we would consider as dangerous conditions for vehicles because there's not enough room to back in and out of spaces. And then of course there's dead-end parking.

So the exterior portions of the building, and there are photos on the right, include cracks and deterioration at the property line on Main Street -- I'll show you a couple of pictures -- where the actual facade is falling onto Main Street within the public right-of-way which we believe represents a detrimental and dangerous condition to the public health, safety, and welfare.

The interior building conditions are significant. There's significant cracking and delipidation of the interior walls. There is significant settling that has occurred within the building, and the property owner has actually noted and had placed in equipment to show the continued separation of the building and cracks within the building showing that the building has settled even farther within the last few years than it has in previous decades in part probably because of some of the development that is occurring on Main Street, and those have been noted as well.

In addition, there's excessive land coverage. The property is almost 100 percent impervious, with no visible signs of stormwater management on the site. And that of course exacerbates flooding.

Some of the photos that you'll see on the right, and this is from the interior starting in the basement, the basement was flooded. I spoke with a couple of the attorneys. You can see some of the conditions of it. Was previously finished, was previously being used by attorneys; has not been used by attorneys in the last couple of years, the basement.

Exterior you can see some of the cracking along some of the exterior windows in the images shown here. And then along the front facade on Main Street, specifically on the right, you can see how some of the facade has fallen into the public right-of-way. It's important to note that that property is on the property line, so anything that

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falls out falls into a public right-of-way, which is a dangerous condition.

The following number of photos are interior photos of cracks, and there are measurement guides that are placed on some of these. And if I had my glasses with me, which I don't, I could read some of these figures.

So figures 32 and 33 actually have a measurement that shows that the cracking has increased within the last couple of years from its prior. So all the blue tape as well as the areas where you have the white piece that looks like a ruler are all areas where cracking has extended and has increased. So throughout the building there are significant areas of the interior that continue to crack and separate, which obviously represents dangerous conditions. It's our opinion that these properties clearly meet the statutory criteria as an area in need of redevelopment and that they would be better served to be redeveloped to better match what is in the downtown redevelopment plan.

And so with that, we recommend that the board consider designation. We'd be happy to answer any questions.

Chairman Garip stated: Just a couple of things for the board. We are voting to send this to the city council.

Mr. Mecca responded: To recommend if it's an area in need.

Chairman Garip stated: If it's an area, to the council, which ultimately will have a say whether or not this is an area in need of redevelopment. That's what we're doing.

In case anyone doesn't know, this is the Harwood Lloyd law building. It's been in town for a long time. They have occupied that space for as long as I can remember.

Mr. Contini asked: Is it still occupied?

Mr. Reiner responded: It is.

Chairman Garip stated: They're still there.

The meeting was opened to the public. No one wished to comment.

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BOARD DELIBERATION AND VOTE

Chairman Garip stated: Do I hear a motion?

MOTION TO RECOMMEND TO THE MAYOR AND  
COUNCIL:

MOTION BY: A. Dib

SECOND BY: R. Contini

ROLL CALL: A. Dib - aye

J. Martucci - aye

J. Labrosse - aye

K. Canestrino - aye

R. Contini - aye

P. Iyamu - aye

F. Garip - aye

**7. Adjournment**

MOTION TO ADJOURN MADE BY MR. DIB. SECONDED BY  
MR. MARTUCCI. MOTION IS PASSED BY A UNANIMOUS  
VOTE. PLANNING BOARD MEETING ADJOURNED AT 9:02  
PM.