

**CITY OF HACKENSACK
ZONING BOARD OF ADJUSTMENT
MINUTES**

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DATE: June 15, 2023

1. Roll Call

This is the Regular Meeting of Thursday, June 15, 2023. Chairman Giarrusso called the meeting to order at 7:08 p.m. Roll call was taken and the following members were present: Mr. Puleio, Ms. Harrigan, Mr. Pemberton, Mr. Cheatham, Vice Chairman Jones, and Chairman Giarrusso.

ABSENT: Mr. Sarni and Mr. Prifti

LATE ARRIVAL: None

EARLY DEPARTURE: None

ALSO PRESENT: Christos J. Diktas, Esq.; Bridget McLaughlin, Zoning Officer; Gregory J. Polyniak, P.E., P.P., Neglia Engineering; and Kim O. Furbacher, Certified Court Reporter.

2. Payment of Bills

MOTION MADE BY CHAIRMAN GIARRUSSO TO PAY BILLS RECEIVED FROM THE BOARD'S PROFESSIONALS IN MAY 2023. SECOND BY VICE CHAIRMAN JONES. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. PULEIO, MS. HARRIGAN, MR. PEMBERTON, MR. CHEATHAM, VICE CHAIRMAN JONES, AND CHAIRMAN GIARRUSSO.

3. Approval of Minutes of May 2023

MOTION TO ACCEPT AND APPROVE THE MINUTES OF MAY 2023. MOTION MADE BY CHAIRMAN GIARRUSSO. SECOND BY MR. CHEATHAM. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. PULEIO, MS. HARRIGAN, MR. PEMBERTON, MR. CHEATHAM, VICE CHAIRMAN JONES, AND CHAIRMAN GIARRUSSO.

4. MEMORIALIZATIONS: NONE

5. SWEARING-IN OF BOARD PROFESSIONALS

Gregory J. Polyniak, P.E., P.P., Board Engineer and Planner, and Bridget McLaughlin, Zoning Officer, were sworn in as the Board's professionals.

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6. APPLICATIONS:

a. SP#5-22 V#5-22

Site Plan Application

Applicant: G.P. Development, LLC CARRIED TO
7/20/2023

Address: 220-224 Anderson Street

Block 435 Lots 8 & 9 [Gerald Salerno, Esq.]

The Applicant proposes a ten (10) story, multifamily building with structured parking. The first two floors of the structure will provide covered parking with a total of eighty-nine (89) parking spaces with four (4) being ADA accessible. The remaining eight (8) stories will consist of residential units containing fifty-six (56) one (1) bedroom units and twenty-four (24) two (2) bedroom units. Amenities within the structure include bike storage rooms, a 1,300 square foot gym, and a roof deck with associated seating. In addition, the Applicant proposes concrete walkways, landscaping improvements, fencing, a subsurface detention system, stormwater inlets, associated piping, and pavement markings.

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b. SP#34-22 V#34-22

Applicant: Hackensack Assisted Living LLC

Address: 329 Prospect Avenue

Block 344 Lots 3, 4, 5, & 14

The Applicant proposes to construct a nineteen (19) story, assisted living facility consisting of one hundred and fifty (150) residential units and two hundred and fifty (250) parking spaces with frontage on Prospect Avenue and Summit Avenue. The Applicant proposed forty-five (45) studio units, eighty-one (81) one-bedroom units, and twenty-four (24) two-bedroom units.

A P P E A R A N C E S

DIKTAS GILLEN, P.C.

BY: CHRISTOS J. DIKTAS, ESQUIRE

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Counsel to the Board

WINNE BANTA BASRALIAN & KAHN, ESQUIRES

BY: JOSEPH L. BASRALIAN, ESQUIRE

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jbasralian@winnebanta.com

Counsel to the Applicant

E X H I B I T S

A-19 Cover Sheet prepared by MDSzerbaty Associates
Architecture LLC dated 2/14/2023

A-20 Colored Rendering South View of the Building
prepared by MDSzerbaty Associates
Architecture LLC

A-21 Colored Rendering North View of the Building
prepared by MDSzerbaty Associates Architecture
LLC

A-22 View from Prospect Avenue North prepared by
MDSzerbaty Associates Architecture LLC

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EXHIBITS (Cont'd)

- A-23 South Elevation prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 17
- A-24 Zoning Limits Plan prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 01
- A-25 Ground and Basement Floor Plans prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 13
- A-26 Building Floor Plans prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 14
- A-27 Building Floor Plans prepared by MDSzerbaty Associates Architecture dated 2/14/2023 - Sheet 15
- A-28 Typical Unit Plans prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 16
- A-29 Shadow Studies prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 21
- A-30 Shadow Studies prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 22
- A-31 Shadow Studies prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 23
- A-32 Shadow Studies prepared by MDSzerbaty Associates Architecture LLC dated 2/14/2023 - Sheet 24

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

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.

B R I D G E T M c L A U G H L I N, previously sworn/affirmed.

(Exhibits A-19 through A-32 are marked in evidence.)

Mr. Basralian stated: Good evening, Mr. Chairman.

Before I call my first witness this evening, who is our architect, Mr. Szerbaty, I just want to take the opportunity to note that the proposed assisted living facility was recognized by our courts as being an inherently beneficial use.

While the applicant's retained a licensed land use planner, Joseph Burgis to -- testify.

AUDIENCE VOICE: We can't hear you.

Mr. Basralian continued: Thank you.

As I was saying, while the applicant has retained a licensed land use planner, Joseph Burgis, to testify in much greater detail about inherently beneficial uses, I thought it was important at this juncture of the proceedings to set forth the legal aspects of the board's review of inherently beneficial uses.

Because the applicant is requesting several use variances, the fact that the assisted living facility has been recognized by our courts as being an inherently beneficial use means that the application satisfies the positive criteria established under the Municipal Land Use Law.

Special reasons, which the board is familiar with and which must be shown generally for a use variance application, do not have to be satisfied with a use like this use which is inherently beneficial. Case law clearly states that inherently beneficial uses in regard to the positive criteria is irrefutable. Our Supreme Court has held that with respect to the other prong of the positive criteria, the site's sustained suitability test is not only not presumptive but is virtually unnecessary for inherently beneficial uses. The entirety of the applicant's property, both zones, is collectively an inherently beneficial use.

Additionally, as the board may know, your attorney, Mr. Diktas, will certainly explain to you at the end of the case where the board is faced with an inherently beneficial use, the board's consideration of the negative criteria, which is governing what is known by the "Sica" criteria, that criteria against which Mr. Burgis and your attorney

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will review in greater detail with you requires that the board balance any perceived negative impacts of an inherently beneficial use and work with the applicant in order to reasonably ameliorate the identified negative impacts and balance the proposed use with such negative impacts.

I have one other question, one other request. At the last hearing the environmental commission's report was read into the record, and I reserve the right to further pursue it. Because it is a conclusionary report of less than a page, it doesn't go behind how they reached the decision. I would ask the board to invite the scrivener of the report and the Chairman, if they're not one and the same person, to be present at the meeting and present their report and be subject to cross examination as they would with any other report which requires sworn testimony.

Mr. Diktas responded: We'll take that under advisement, Mr. Basralian, but the environmental commission is a sister agency of the city and the report was submitted in the course of their work. I understand that you've filed an OPRA request and you received all the minutes, so you're fully aware of what has occurred, but we'll take it under advisement and we'll make a decision.

Mr. Basralian stated: No, I have not received anything. As a matter of fact, the city requested an extension of the OPRA request until next week, so I don't have anything going behind the report, nor have any of my questions on the OPRA request been answered.

However, every report that we submit requires testimony to substantiate the report. In the same token, the environmental commission issued a conclusionary report, which in part is certainly in error, as testified to Mr. Keller at the last meeting, certainly requires them to be present and to explain how they arrived at their conclusions which they have presented to the board. Otherwise the report, as far as I'm concerned, should be not part of the record, if is not subject to cross examination.

Mr. Diktas stated: Thank you.

Chairman Giarrusso stated: Thank you.

Before you continue with your professionals and have them put their proofs on with the exhibits, the first statement that you read, was that submitted to the board?

Mr. Basralian responded: No, it's a legal statement which I have prepared for this

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presentation. It's not a report, it's a summary. All of what I've said will be testified to in much greater detail by Mr. Burgis, our land use planner, who will be a witness after our traffic report.

Chairman Giarrusso stated: Okay. So again before you proceed, we have something that's come before us that we would like to present to you, so possibly a clarification. Mr. Polyniak is going to address that before we proceed any further this evening.

Mr. Polyniak responded: Sure.

Chairman Giarrusso stated: We want to get that on the record.

Mr. Polyniak stated: Through the Chair.

As it relates to the testimony that Mr. Keller presented last month and I don't believe he's here tonight, Mr. Basralian, is he?

Mr. Basralian responded: No, he's not.

Mr. Polyniak stated: There was an email that was provided to our office from the city's C operator, which was copied to Mr. Keller's office, as it relates to sanitary sewerage and stormwater discharge from the property.

As I mentioned last month during my testimony or presentation, the maximum density that's permitted in the R-3 zone, which is the lot that's facing Prospect, is 50 dwelling units per acre.

When you look in particular at just the Prospect side, the density that's being proposed is 326.7 dwelling units per acre, and if you looked at the total merged lots, it's still 130.7 dwelling units per acre.

As I previously mentioned, the city looked at that 50 dwelling units per acre as a requirement throughout the entire city, other than the redevelopment area which is located in the downtown, to ensure that the city's infrastructure had adequate capacity for any sanitary or stormwater flows that were generated from developments, and understanding that currently the city's infrastructure needs upgrades.

As it relates to this project, you can see there's a substantial increase of the density, which thereby creates increases in sanitary discharge, and potentially when you overlay that on top of the sanitary flow, the stormwater flow into the combined sewer system, it overall increases generation of water and stormwater off-site into this combined sewer system.

In the letter or email that was issued today by

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Mr. McAloon of Suburban, there are questions as it relates to overall capacity size and flow monitoring that's required, which has been stipulated and requested within our review letter since its initial preparation, which was in January of this year.

None as been provided to date from the applicant's engineer.

In addition, there are questions as it relates to sizing of off-site sewers that are located within Prospect which potentially could create a restriction point, because the applicant assumed a larger pipe that's located within Prospect Avenue of 15 inches and there's a potential that that pipe might be 10 inches, which would restrict flow and create additional capacity issues.

So what could happen is, after this analysis is performed by the applicant, you potentially could see a substantial change with respect to the overall scope, scale, and size of the building because the city's infrastructure can't support that building that's being proposed as part of this application. For this reason, I think it's of utmost importance that these reports be completed prior to any further testimony as it relates to what the architect is going to present, because in reality we don't understand what is ultimately going to be presented based upon what the city's infrastructure can accept. Maybe the development needs to be scaled down a certain amount of units, that could affect the traffic presentation that you're going to hear by one of the applicant's experts. That could potentially affect the architectural presentation. It could also require Mr. Keller to reappear again to provide testimony as to a scaled down development.

So I think right now we're in a position where we're just making substantial assumptions as it relates to what's being presented, and this information is of utmost importance prior to proceeding any further.

Mr. Diktas stated: One minute please. Excuse me.

In furtherance of what Greg, our engineer, has indicated, this goes exactly to what Mr. Basralian in his legal presentation earlier as to the negative criteria, because the sewer system, if they cannot meet the requirements of the project that you have presented or you are presenting, then even though the use is an inherently beneficial use, you don't meet the negative criteria. So what the board is telling you, Mr. Basralian, is that your application is

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deficient significantly in the negative criteria, because we don't know what the sewer system can handle. And with that, as Greg just indicated, your testimony really is incomplete.

So we've asked you last month and the month before and we ask you this month, before next month's meeting we require these reports to be submitted not only to Greg but to the city's C operator, because the board cannot objectively address your application with this major issue open.

With that, the floor is yours, sir.

Mr. Basralian stated: Well, first of all, I take exception to the comments that Mr. Polyniak made, because they're conclusionary as well. I have also submitted an OPRA request for information for the ordinance and the background behind its adoption.

Secondly, we have retained a company to do the 30-day monitoring test. We are waiting still for the criteria from the City of Hackensack's sewer consultant in order to set the criteria to be able to do that. So once we have that, we would start the process, but it's a 30-day review. I can't tell you now specifically what goes into the review, but inspection of the lines and the flow and all those issues will be addressed by the report. However, that has little to do with the supposition that was put forth by Mr. Polyniak that we may have to scale down, we may not be able to do this, and the negative criteria, that is yet to be determined.

There are a lot of things that go into this, and we are doing exactly what was asked. If the city's consulting engineer would set the criteria, we could start immediately. So far we haven't had a full layout of the criteria for what they want and how it's going to be performed, which includes an inspection of the line.

There was a statement with respect to the combined system. I assume you're referring only to the sewer, because the stormwater from this project would go to Summit Avenue and flow west, which is not part of the combined system. And as far as the combined system is concerned, this has been a problem for the City of Hackensack for 110 years, and they've been on notice for the last 30 years to separate the systems. They are now doing that, this administration. I commend them for that. But that's a long-term project throughout the city, and to now impose it on this particular applicant to say this is a problem because of what we have in combined sewers is unfair. It may have an impact, it may not have an

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impact, but certainly an inspection of the line and the charting of the flow over 30 days would be beneficial. But to say to stop the entire application because we may have to scale down the project, they may not be able to sustain the necessary sewer flow for this type of a project, is speculative at this point. And to bring us here at this point and say, well, we want to hold this until we get this report, is unfair to the applicant and I think we should proceed with the architect at this point. You may be right, you may be wrong, but to stop us now to say, well, you've got to be absolutely sure that we know this before we proceed is unfair.

Chairman Giarrusso stated: Well, I don't think we're looking to stop you, we're looking to get additional facts and figures so we could fairly judge what's happening. We can't control what the city's delay is as well as --

Mr. Basralian stated: Nor can I.

Chairman Giarrusso stated: So we'll let Mr. Polyniak address it.

Mr. Basralian stated: In the same token, we have applied for "will serve" letters. We haven't gotten them from the water company and we haven't gotten them from the city on the sewers, so we don't know that yet and we are waiting for that. Those letters were all requested promptly when we were asked to do so. We've been working on trying to get the monitoring going. We're working on that. We have a contractor retained. As soon, as I said, and I'm repeating myself, the criteria determined by the city's consulting engineer was necessary, we will implement that.

Chairman Giarrusso stated: We'll have to decide, I guess, and make a judgment here. Maybe we should just hold off until we get those things as well, because it wouldn't be fair to you to proceed nor fair us to evaluate what you and your professional are saying.

Mr. Polyniak, continue.

Mr. Polyniak stated: Through the Chair.

Our request as it relates to the "will serve" letter and the 30-day sewer study were in our letter that was dated January 16th of 2023. We're in June now. Nothing has been developed, nothing has been submitted.

I have correspondence from the applicant's engineer making a request as it relates to the parameters of the sewer study, the parameters of securing the will serve letter on Tuesday June 6,

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2023, and tonight's meeting is June 15th.

I don't want to defend another consultant, because I don't know what conversations have or haven't occurred, but it appears the request was being made on June 6th. It doesn't sound to me that the city's causing any delays with respect to it.

Mr. Basralian stated: On the contrary, the reach out to the sewer consulting engineer has been ongoing and we've only had partial answers and it's not been complete. We need cooperation from that side as well.

Usually, as you well know, a sewer study is done post approval, not before the approval. In this instance, it was requested and we're doing it. We're also familiar through other work in Hackensack what is available in the street for this type of a project, so we're not going into it blind and we don't expect there to be any negative impact that would prevent us from presenting our plan as proposed. But to say at this point, okay, at the night that I'm here, saying you can't go forward is unfair to the applicant.

Chairman Giarrusso stated: We're going to permit you to go forward this evening, we're talking about next month, that we need perhaps to postpone if we don't have these facts and figures before us. You may proceed this evening.

Mr. Basralian stated: Well, you will have everything except the 30-day monitoring, because it's impossible to do that between now and July 20th, because it takes 30 days to do it. It's got to be implemented in place. Once we have it, we will do it. I don't think testimony regarding traffic and our planner or the project owner, because there's a lot of things that he has to answer to because I put those in my initial summary when we started this application. So those who proceed forward, certainly by the August meeting we would have, I would hope, all of the information on the sewers and can make adjustments of the plan, if necessary, to the sewer system as well.

The fact that there's a combined sewer system in Hackensack can't be pushed back on this particular applicant, because every applicant within the last hundred years has dealt with this.

Chairman Giarrusso stated: We could go back and forth, Mr. Basralian, I'm sure.

Mr. Basralian stated: I just want it clear for the record. And also in the same token --

Chairman Giarrusso stated: A postponement may be

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necessary next month or if changes are made down the road, we may have to call your professionals back to adjust their testimony based on a different plan or what was changed, if we don't get the full understanding.

Mr. Basralian stated: I fully expect to call back the professionals. Even if everything is determined to be as we expect it to be, I would bring them back in any case, because we have to bring them back with respect to the environmental report and my ability to cross-examine a three quarter of a page report, which to me is not substantive. It is in the legal terms a net opinion. It says this is what it is, without any background. When our professionals testify, they testify based upon how they reached the conclusion. They just don't give you the conclusion, it goes step by step by step, especially through a planning expert, step by step with how we reached the conclusion we did, going to the positive and negative criteria and the Sica balancing act. So we're prepared to do that. And so the environmental commission should be prepared as well, but as you know, I received the report about three minutes before you read it, including while you were reading it last month, so I reserve the right to make my request and move forward in that regard.

So I thank you. We can go forward tonight with our architect, and we will proceed with Mr. Szerbaty now.

Mr. Diktas stated: As the Chairman said, you represented last month that the geotechnical engineer --

Mr. Basralian stated: It's been provided.

Mr. Diktas asked: Is he going to be here tonight to testify?

Mr. Basralian responded: No, I don't have enough time to vet him. The geotechnical report was delivered today, four hard copies to Bridget, along with an electronic copy.

Mr. Diktas stated: It's not 10 days before. I thought the engineer was coming, so you're going to bring him next month?

Mr. Basralian stated: Well, it depends whether I'm going forward in July. I wasn't going to bring the geotechnical engineer.

Mr. Diktas stated: Bridget is showing me an email from John Cote, who is Mr. Basralian's engineer. The report came in at 3:30 this afternoon, which are really not 10 days in advance, but you've submitted them, but the issue was my understanding

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the engineer was going to do his reports plus the engineer was going to come forward, because there were a few folks last month from the neighborhood asked geotechnical questions and the response was the engineer, from your engineer, that they'll be tendered to our technical engineer, and he or she will be here to address these questions as presented.

Mr. Basralian stated: Well, I wasn't intending to bring the geotechnical engineer in at this point and it is less than 10 days, obviously, but I had no intention of putting him on now because of his availability. Mr. Keller I can get more easily, but he's not the geotechnical engineer. So that requires a specialist to come in from Langan Engineering, it's not Bowman engineering who prepared the report. I'm fully aware of it, but I wanted to make sure the report was provided.

Ms. McLaughlin stated: Chairman, you have to understand too so everyone understands, an email coming in on 2:30 on the night of a hearing when I don't even have full staff in the Building Department right now, and then the delivery coming in 3:30, I don't even know if my staff has opened it today. I did speak to Mr. Cote, he told me it was coming in. It's the day of the hearing and we're trying to prepare for this hearing, and I have the City of Hackensack walking into the counter all day too. So it's not something that --

Mr. Basralian stated: We didn't expect to have that report entered into the record. We didn't expect to have the engineer here. So when it's delivered is immaterial. We just wanted to make sure.

If it was up to the applicant, this report would have been done months ago. We had to wait for the geotechnical engineer and their schedule, rather than our schedule, unfortunately.

Once I have the meeting date, I will schedule the geotechnical engineer to render his testimony with respect to the report that was submitted. Obviously it needs time to be reviewed, etc., and I'm fully cognizant. I was never intending to do anything more than be sure it was filed.

Chairman Giarrusso asked: Mr. Polyniak, you have additional comments based on this?

Mr. Polyniak responded: Through the Chair.

I know Mr. Basralian mentioned that all projects or a majority of the projects tie into a combined sewer and there are many locations throughout the city that tie into combined sewers.

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But when the city has looked at and determined that the units per acre is 50 units per acre and the applicant is proposing more than six times that quantity, that report is of the utmost importance, because you could see the potential impact just by six times the flow of what the city was originally considering versus what's proposed here. So that report needs to be submitted. And again, I know the board is permitting the architect to present tonight, but based upon that and the potential study, you could see changes in these documents with this study occurring.

Mr. Basralian stated: Again, Mr. Chairman, that's supposition. Mr. Polyniak doesn't know and I don't know whether the sewer capacity exists to support this project, what would have to be done to make it support it, if it's inadequate, or whether it can be built or not built, but that's supposition and without a report, we don't know. So I have to wait until the flow reports are in with respect to that and bring back that testimony and all the information that's gathered there. You could be right, you could be wrong, we both could be somewhere in between. So to speculate now is just impossible to do.

Mr. Polyniak stated: So I guess the question I have is why proceed with something that you don't know if it's right, I don't know if it's right, the public doesn't know if it's right? It just seems like you're presenting a project that may or may not even happen just because the city's infrastructure can't support it. I think it's of importance that you do these studies, because without understanding what the impacts are to the city's infrastructure, again, what are you presenting? You could be, and I'm not saying you are, you could be presenting a project that has no chance of every getting built. You could be presenting something that there is sufficient capacity and it could be. I'm not sure where you're going with this.

Ms. McLaughlin asked: Greg, I have a question. Does the C operator have to review this report as well? Does Dave Ludwig from our Building Department?

Mr. Polyniak responded: It is Mike McAloon from Suburban. His office is the operator of the sanitary sewer and combined sewer system. He is the entity and the firm that permits connection to the combined sewer and/or sanitary sewer, so his office needs to review it to determine if there is sufficient capacity and if this project can be connected to the sewer system.

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Ms. McLaughlin responded: Okay.

Mr. Basralian stated: Chairman, edification.

I've prepared an OPRA request to get the information from the city as to how they reached the conclusion, what reports they relied on, what engineering reports were prepared that made them adopt this particular ordinance on density, which effectively means none of the buildings on Prospect Avenue could ever be built, at least not more than 40 or 50 units because of these limitations, none of them would ever be built.

I'm here before the Board of Adjustment because this is where we seek relief. If the sewer capacity is adequate and you take your position that this is what it is, it's 40, and therefore this is the determination that the council made, I'm here before the Board of Adjustment, and if I have the proofs that says yes, this capacity is here, then it should be built with all the law behind it as to why an inherently beneficial use meets certainly the criteria.

Yes, there are negative criteria. It's a balancing test. That's my burden to present to the board and it's the burden, if you will, of the board and their attorney to review the application in the context of what the law is.

So going forward and repeating as you did last month the same thing or the month before about the 40 units per acre is still supposition until we know --

Mr. Polyniak stated: 50.

Mr. Basralian stated: 50, okay, I thought it was 40, I'll take your word it is 50. Certainly you don't know and I don't know, so we have to wait for the reports.

Mr. Polyniak asked: But, again, how is the board to evaluate this as it relates to the negative criteria?

Mr. Basralian responded: First of all, you're not --

Mr. Polyniak asked: I know we're not at that point, but how is the board to do that?

Mr. Basralian stated: Mr. Diktas to advise the board how to deal with it.

Mr. Diktas stated: I said earlier --

Mr. Basralian stated: Pardon me.

To advise the board as to what the objectives are.

Mr. Diktas stated: The objective standard that hasn't been presented by your experts, so the board

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is not subjective but an objective standard to address the negative criteria. So right now, without this information as presented by our planner and engineer, we're working in a vacuum, and that's the whole issue. We're not saying no to you, we're just saying to you, why don't we just do it from the beginning correctly so we have a picture and the residents have a picture and the C operator has a picture and your client has a picture that we know what we're doing, rather than, well, it might be this amount; well, then if it's this amount, then my 130 per acre should really be 65 per acre and then you are only asking for a variance of 15 units per acre rather than two and a half times density per acre, so we're really in a vacuum, we're really in the mist, like the cloud we had two weeks ago from Canada, we have a big smoke cloud here. I'm not saying you're smoking, I'm just saying there's a smoke cloud.

Mr. Basralian stated: I wish.

Chairman Giarrusso asked: Any other commissioners have comments before we allow Mr. Basralian to proceed for this evening, as he fully understands what we're looking for and hopefully we get those results by our next meeting?

Okay. It's becoming a little bit redundant. We want to move forward.

Mr. Basralian stated: You will have the items on the site plan which we were asked to provide, there was a correction of the zoning box and the spillover of light on Summit Avenue. All of those mechanical things we will have well before the next meeting.

Chairman Giarrusso stated: Okay.

Mr. Basralian stated: The full report, you'll have.

Chairman Giarrusso asked: Mr. Puleio, you want to say something?

Mr. Puleio responded: It would seem to make sense to have more accurate information as far as the sewerage is concerned in order to make a determination on this. It could be this, it could be that, and we're trying to form an opinion.

So that's my opinion.

Chairman Giarrusso stated: Okay. Mr. Basralian.

Mr. Basralian stated: I will proceed with Mr. Szerbaty.

M I C H A E L D. S Z E R B A T Y, AIA, c/o MD Szerbaty Associates Architecture, 307 7th Avenue, Suite 1501, NY, NY 10001, having been duly sworn/affirmed, testifies as follows:

Mr. Szerbaty's credentials were accepted by the

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board.

Mr. Basralian asked: Mr. Szerbaty, how long have you been a practicing architect?

Mr. Szerbaty responded: 42 years.

Mr. Basralian asked: Was your firm charged with the design of the proposed residential assisted living residence where the plans are before the board?

Mr. Szerbaty responded: Yes, my firm was.

Mr. Basralian asked: Did you meet with the principals about the criteria and the need for this type of residence and did you follow through with those and incorporate those to the best of your ability into the plans?

Mr. Szerbaty responded: Yes.

Mr. Basralian stated: All right. Let's go to the plans itself.

The exhibit list I gave last month included Mr. Szerbaty's plans. So his testimony will be made from the plans in the exhibit list which I presented last month.

Mr. Szerbaty responded: I'm going to refer first to Exhibit A-19. I will very, very briefly speak to this exhibit, which is the overall site plan of the area along Prospect and Summit avenues. This is really to show everyone the building site location and its proximity to all of the other buildings along the street, along Prospect Avenue, all of the residential high-rises and mid-rises and the single family residences along Summit Avenue.

So our site, as you can see or know, is located along Prospect Avenue. The tower project that we're proposing is on the Prospect Avenue side, and Summit Avenue has a proposed community park, and up and down Prospect are the adjacencies of all of the existing buildings, and similarly on Summit we show the diagrams of all of the single family residences that exit.

The shadows that you see on this are not part of the shadow study. We'll refer to that much later in the presentation.

I wanted to start, this is Exhibit A-20. I want it to begin the presentation with giving everyone an overview of what the building itself looks like.

Mr. Diktas asked: Excuse me, sir, A-20 is a rendering?

Mr. Szerbaty responded: Yes, it is. A-20 is a rendering, and it is a view from the southwest looking from Summit diagonally towards the building as it faces Summit Avenue with the setback and also

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the south facade of the building.

Mr. Diktas asked: Did you or a member of your firm prepare this rendering?

Mr. Szerbaty responded: Yes.

Mr. Diktas asked: Does the rendering accurately depict the concept that you have designed?

Mr. Szerbaty responded: Yes, it does.

Mr. Diktas stated: Okay. Please proceed.

Mr. Szerbaty (Continuing): What I want to mention, the next two renderings that you're going to see, they utilize Google Earth and the street view software to accurately show all of the adjacent buildings around it, you know, and the scale of our building and how it fits with all of those.

So what you're seeing in this rendering are actual views, they're images of the adjacent buildings. So you'll see that in the next two. I think it's a very, very important point to consider relative to how the building sits on the site. I'm zooming in on the same exhibit to a closer view so that I can explain a little bit more about the building, how it's organized from an overall scale point, and the sense of color and materials that are being proposed.

The building is 19 stories tall from grade. Grade is down here where I'm showing you, where the cursor is, but at the park level and it goes back and connects over to Prospect Avenue. So the building starts down at the ground level, and the 19th floor is the roof level. And what you're seeing in the rendering above that 19th floor are bulkheads for the elevator and stairs that access the roof terrace. The organization of the building is such that, and we'll see this more explicitly when we go through the plans, but in general, the ends of the building consist of the vertical circulation, the elevator system, the solid portions of the building, and also some utilities, you know, and building surfaces inside. You'll see a similar situation on the opposite perspective when we get to that.

What you see within the center portion of the building are all of the apartments, all of the assisted living units. Those consist of a series of one bedroom, studio, and two bedroom units, and we'll take a much closer look at those as well.

On the Prospect facing side are lounge spaces and sitting areas, common areas, and that's enclosed glass that actually has a view, of course, towards New York City.

So the lowest three floors that you see here, the

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lowest four really -- the first level is a ground level and then the next three levels are amenity floors. So the building is kind of articulated by using those various programmed elements to define how the building looks and having a residential feel to it. There are balconies similar to buildings that you see up and down Prospect; punched windows. The facade has variation in its surface. It's not flat. You know, it has to in order to get shadows, give color, like a good life to it. This is south facing. Moving onto the next exhibit, which is A-21.

Mr. Diktas stated: Just describe that for the record, please.

Mr. Szerbaty stated: This is a similar take, this is prospectively in terms of how the rendering is done, but it is looking from the northeast corner, looking towards the northeast corner of the building, so the two perspectives look at two opposite diagonals of the building.

Mr. Diktas asked: So A-21, this rendering, did you or a member of your firm prepare it?

Mr. Szerbaty responded: Yes.

Mr. Diktas asked: And does it accurately reflect the concept that you designed and are presenting to the board?

Mr. Szerbaty responded: Yes, it does.

Mr. Szerbaty (Continuing): What you're seeing in this rendering is Prospect Avenue and the building setback from Prospect Avenue and a small community park that's located there, which we'll talk much more about when we get to the landscape plans. There is a similar setup in terms of the two ends of the building. In this case, these are mechanical spaces. And on the opposite side you see the major vertical circulation component, which includes elevator banks.

Mr. Diktas stated: You can't say "on this side."

We are looking at the south side, so the left side of the building when you're viewing it from the south?

Mr. Szerbaty responded: This is the west side.

Mr. Diktas stated: The west side. So it's the left side of the building when viewing it from the west?

Mr. Szerbaty responded: Viewing it from the northwest.

Okay. And so that is the northwest corner of the building that we're describing as having the solid tower portion of it, which has mechanical systems and components behind it. And then on the opposite side, which would be the northwest side, that is the major

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vertical circulation elements.

So in between those two components that are solidly rendered are again the grouping of the units for the assisted living facility.

The building, what you're seeing in the rendering, the white beige, solid colored elements are of an insulated precast concrete system. So that is manufactured off-site, analyzed, placed onto the concrete structural frame by crane, lifted and put in and attached to the building, although that creates the solid portion of the building envelope.

What you're seeing in this rendering is having a kind of a brownish orange tint is a modular system that's a terra cotta rainscreen system. Again it's a pre-manufactured module that is made and delivered to the site, raised up, clipped onto the side into the concrete structure. So part of our thought process in the design of the building is to make it as efficient to build as possible. And so all of this work is prefabricated, brought to the site, put in place and the envelope is done.

Mr. Diktas asked: So it's modular?

Mr. Szerbaty responded: Yes, modular. Yes, yes.

One of the important points, as I go through this presentation, there are going to be a lot of points that I'm going to address directly with the Neglia report. One of the comments here had to do with whether we have any kind of mechanical equipment that would be exposed that we would need to shield on the building.

You'll see in later drawings the location of all the utilities that are all -- everything coming in underground. The system that we're using here is kind of a very high end mechanical system and everything is within mechanical rooms within the building. There is no equipment outside at all in this project that you'll see, and I'll kind of elaborate and expand on that a little bit more.

So right in this corner basically, this solid corner contains a stacking, floor by floor by floor of all of the mechanical systems, and on the opposite corner, there are some other electrical telecom systems, but everything is kind of internal.

There will be louvers, of course. We need fresh air, we need circulation, but then you kind of see those on this facade.

Mr. Diktas asked: "On this facade," you mean the entire facade or the one, the northwest corner? You said "this facade."

Mr. Szerbaty responded: They're faint in this

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rendering because of the screen, but you see there's a little faint series of panels that are white coming down this facade. See, there's one.

Mr. Diktas asked: What is "this facade," which side?

Mr. Szerbaty responded: This is the northeast corner.

Mr. Diktas asked: So the southeast corner would be identical?

Mr. Szerbaty responded: No.

Mr. Diktas stated: That's why I need to know where it is.

Mr. Szerbaty responded: Okay.

All of the mechanical surfaces, mechanical units and mechanical systems for the residential floors and the lower amenity floors are located in this corner of the building, and any outside air or any kind of exhaust air that they need to circulate is located along this north facade on the east end of the building and it's a series of louvers.

This is Exhibit A-22. Give me a second, because this is a very, very big file and it's doing okay on my screen but it's not loading properly on the monitor.

Mr. Diktas stated: Before we go any further, same question, A-22 is a rendering you prepared by you or your firm or someone under your control?

Mr. Szerbaty responded: Yes. Absolutely.

Mr. Diktas asked: And it accurately represents your design?

Mr. Szerbaty responded: Yes, it does.

Mr. Diktas asked: And what angle of the building are we looking at?

Mr. Szerbaty responded: We are on Prospect, kind of in the middle of Prospect Avenue, and we're looking at the southeast side of the building.

This is the driveway of the adjacent property to the south as of the last Google Earth or Google street view image. And from that point is where there is a row of hedges along our south property line, our building then extends the property to the north.

And this view is showing you -- it's a very, very important view, probably the most important with regard to Prospect Avenue because it is showing you the garage, the entry ramp to go down into the garage to go below grade, and we'll talk a lot more about that in a little bit.

And at the base of the building you're seeing the dining amenity floor. These are the amenity floors that you're seeing at the very bottom and then

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again --

Mr. Diktas asked: What does "very bottom" mean?

Mr. Szerbaty responded: The first four floors of the building.

And then above that, as you recall from the prior renderings, are the orangish terracotta panels which are forming the one bedroom, two bedroom, and studio units as we go up.

This east facade faces directly on Prospect and it's set back, and this is that little community park area that we mentioned before. This is the east side and the northern half of the east side where you see again the terra cotta tile panels there, behind that are the mechanical rooms that I spoke about just two minutes ago in that perspective view. Here, so these are solid panels, there are no louvers, there are no louvers whatsoever on this side.

Mr. Diktas asked: What are "these"?

Mr. Szerbaty responded: The orange colored features on this facade.

Mr. Diktas asked: What are they for?

Mr. Szerbaty responded: They are to break up rather than have a --

Mr. Diktas asked: They're aesthetic?

Mr. Szerbaty responded: Yes, they're aesthetic.

Mr. Diktas stated: Thank you.

Mr. Szerbaty stated: The sign for the building, which we'll talk more about down here that comes out to Prospect, you know, which is performed as part of the retaining wall to go down into the garage, has the signage for the facility, both sides of the sign, the south and the north side are identical. The next three -- well, this is Exhibit A-14. The next series of exhibits are prepared by our landscape architectural firm under our coordinated direction and they represent the various views that you'll see of the community park project.

Mr. Diktas asked: You're bringing a landscape architect in, correct?

Mr. Szerbaty responded: He is not scheduled currently, no.

Mr. Diktas stated: He or she is going to have to testify to this.

This is pertaining to the landscape architecture of the project.

Mr. Szerbaty stated: I'll just give a brief overview of what we're looking at then.

This is Exhibit A-14, and it is a view of the park from Summit Avenue. You're kind of in the middle of the street looking along the side walkway

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along Summit and looking generally into the park itself, and what you're seeing represented here landscape-wise is as it's depicted on the landscape plans in terms of the planting material, the plant types, the size and scale of things.

Mr. Diktas stated: I don't know if you could answer the question, perhaps your landscape architect can. The tree on the right side of the rendering, is that tree existing?

Mr. Szerbaty responded: No.

AUDIENCE VOICE: We didn't hear that.

Mr. Diktas stated: Is the tree on the right side of the rendering existing, the answer was no.

How high, how tall is the proposed tree that you are planting there? Because that looks 20, 30 feet.

Greg, guesstimate?

Mr. Polyniak stated: If that image is correct, it is at least 20 feet, it could be more.

Mr. Diktas stated: The man in front, say he's six foot, it's got to be at least four times, five times the height of the plan.

All of these renderings that you're doing right now with the landscape architect, if the trees and the bushes, etc., are not there now and you're proposing photographs to the rendering of what they look like, then your landscape architect plans must show a tree of 30, 40 feet high, etc.

Mr. Szerbaty stated: There are no -- and that was a question in the Neglia report that I'll answer later when we look at the site plan.

Due to the nature of the project and the extent of its construction, there will be no existing trees remaining on our site. Everything that you see is going to be new.

Mr. Diktas stated: That's not my question, sir. I understand that all the trees will be razed for the construction. But you're proposing in this rendering a 30 to 40-foot, it looks like a white birch, I could be mistaken, but that's what it looks like, a tree of that magnitude and trees to the left of the rendering of equal height.

Will your client, through design of your landscape architect, be planting trees of that caliber and that height? That's the question.

So if the answer is yes, then he or she will testify to that. If the answer is no, then your rendering is not accurate and the rendering really should be redone to show the board and the public what the actual plantings are. You can tell us at maternity, you can tell us at planting, but that's

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not an accurate reflection, so your testimony is really not -- I'm not saying the veracity is not there, just that it's not real, it again goes back to this whole speculative situation.

When your landscape architect comes, have him or her address these heights or redo A-14 and any other ones that the architect has to present.

Mr. Szerbaty responded: That's fine. You know, we can present what is anticipated. We would purchase large trees to plant them, but he then would testify as to what this tree looks like day one versus five years later. So I'm not sure exactly where this is time-wise, but he will be able to testify to the caliber and size of the trees that we intend to plant.

This is a view at the main walkway that comes from Summit. This is the sidewalk along Summit Avenue, and there's a large opening here.

Mr. Diktas stated: Again, I'm sorry, give me a chance. Same question. Did you or a member of your firm direct the preparation of this Exhibit A-15?

Mr. Szerbaty responded: No, that was prepared by our landscape architect.

Mr. Diktas stated: So then the landscape architect will then be talking about this one too. So let's table this discussion and bring him next time you appear and he can talk about A-15.

Mr. Basralian stated: Excuse me, just for purposes of explaining what the park is and what are the dimensions which were designed as part of Mr. Szerbaty's plans, the landscape architect will speak to the specifics, but the overall design shown on the site plan, he should certainly be able to address, it's not to the specific trees.

Mr. Diktas stated: He can address the sidewalks because he designed them. He can address the building in the background, because that is his building he designed, but the trees go to the same question. The question really is the bushes, the flowering. I'm really talking about the trees. The trees look fully mature and of significant height.

So if you want to tell us about the sidewalk, you want to tell us about the building, go ahead, but please don't testify as to the trees and the flora, other than there are trees and flora in the rendering but they're not accurately depicted by you because you didn't design it.

Mr. Basralian stated: He certainly is able to say there's a park here, and the landscape architect will talk about the specifics. But there is a park

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on the Summit Avenue side and on the Prospect Avenue side, that's been on the site plan already, and he can certainly testify that they exist and why he's designed it that way.

Vice Chairman Jones stated: A quick question, Mr. Szerbaty.

There was a dog park proposed, right? Can you see that in this?

Mr. Szerbaty responded: It's over here to the far left. You really cannot see it.

Vice Chairman Jones asked: The north side?

Mr. Szerbaty responded: It's on the north side. We will see it on the plan, we do not have a rendered version of that.

But what you are seeing here on the right side, this is more or less the main thoroughfare, main kind of path from Summit Avenue into the community park area.

Vice Chairman Jones asked: Does that go straight through to Prospect?

Mr. Szerbaty responded: It jogs to the right.

Vice Chairman Jones asked: But the public can cut through?

Mr. Szerbaty responded: Yes, the public has direct unimpeded access, no gates or anything from Prospect Avenue to Summit through the park.

So what you are seeing in this rendering is a sitting, kind of quiet contemplative area for people within green landscaped vegetation with a covered trellis.

This is Exhibit A-16, prepared in conjunction with our landscape architect. The landscape architect prepared this rendering and the landscape plans.

This is a view at the midpoint of the site between Prospect Avenue and Summit Avenue. We're at the height of the site, because the site drops down 4 to 6 feet from the center point down to Summit and down to Prospect. And so we're at that point where we're kind of at that juncture really right at the middle, right at the zoning break, the two different zoning points, and what we are doing is looking towards Summit Avenue towards the west and we are on the south side along that walkway to the west.

The wide walkway that you saw earlier and had a question about is in front of you here. On the left side of that is the covered trellis that I referred to in the prior rendering. This is all a grass area, sitting area, for the community park.

To the right you can see a wall here which is a

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water feature.

Mr. Diktas asked: The wall is here, where is "here"?

Mr. Szerbaty responded: From north to south on the lot that's probably two thirds of the way towards the north.

Mr. Diktas asked: Is it closer to Summit or is it closer to Prospect or stuck in the middle?

Mr. Szerbaty responded: Well, the community park is in the zone between Summit and the center, the 200-foot line. So this is in the middle of that. We can see this much more clearly specifically on the site plan when we get to that.

So those are the three renderings that were produced by the landscape architect that we will talk about later.

What I want to go to now is a view of the building. This is Exhibit A-23.

Exhibit A-23 is an elevation view with a more technical drawing of the south facing facade. Prospect Avenue is on the right in front, to the right of the building with the building setback, that dimension in the front where there's that community sitting space I spoke about earlier and the line between the zones is at the left side of the building, the very left side of the building. And from that point farther to the left is Summit Avenue. So the community park occupies about half of the site. The building tower occupies this 80 percent of the site.

What's important about this drawing here is that it explains in sections what is going on with the building both at grade, above grade, and below grade. And I'm going to start on the Prospect side and zoom in.

Prospect Avenue is on the very right. This happens to be an elevation of the south facade but it cuts through the parking area, so it gives you a very clear understanding of what is happening below grade. There was previous mention with relation to how the incoming building utility services enter the building, where they go, where they come from and things. And in this case, what you're seeing here is labeled "electric room," just below the garage ramp. This entire section here, the first 50 feet is a line of below grade utilities that come into the building. You have the electric room, you have the switchgear room, you have the transformer room, we have an emergency generator. All of that is below grade and not visible. So that that happens here. All of the

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main utilities services are entering the project from Prospect Avenue, as has been previously testified to.

Mr. Cheatham stated: Excuse me, a question. How does the generator ventilate?

Mr. Szerbaty responded: You will see in a later plan there is an airway on the opposite side of this wall. If you recall, the wall that had the sign on it that I spoke about on the rendering, that's that same wall, and it is defined as a retaining wall for the garage and ramp structure as it goes down.

The garage access, because the building has all of the utilities and main equipment and gear rooms below grade in the basement, that drives the building downwards in section, because we need to get under and around those rooms, those spaces in order to construct, to provide a garage space down below.

So in order to do that, the garage is entered via what's commonly called a "speed ramp," and you saw that in a rendering when I pointed out the rendering view from Prospect looking down, they started looking down into that ramp, it's a two-way ramp, but it's a common method of getting down into a subterranean structure or above grade, for that matter. This ramp slopes 16 percent. This garage is all part of a consultation with a parking consultant. It was developed over time, so all of these parameters are being followed with regard to clearances and heights and things.

Mr. Diktas asked: Are you bringing in a parking consultant to discuss this design?

Mr. Szerbaty responded: If it's requested.

Mr. Diktas stated: Thank you.

Vice Chairman Jones stated: A quick question.

In this assisted living, that laundry room, is that for tenants to do their own laundry or is there a laundry department that cleans linens?

Mr. Szerbaty stated: This is a laundry room that cleans linens for the tenants. It's not individual use.

Vice Chairman Jones asked: So it's a big laundry system?

Mr. Szerbaty responded: That's correct.

Vice Chairman Jones asked: Does that use 55-gallon drums of chemicals? I am just curious. I used to work for a laundry. Is it delivered on a loading dock here, the chemicals and stuff for the laundry?

Mr. Szerbaty responded: The uniqueness of this ramp and one of the reasons with the clearances and dropping down below grade is that we have a 12-foot

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clearance in this ramp that comes off of Prospect. That allows delivery trucks to access, to go down to the garage.

Vice Chairman Jones asked: So that's all done in the interior?

Mr. Szerbaty responded: That's correct.

I'll further explain some further conditions that are happening on the site plan with regard to trash compacting, picking up.

But the garage again is designed to permit delivery trucks to come down into it, so none of that would be happening on the street or on the curb on surface.

Mr. Diktas stated: You got about four minutes left. So when you get to a break point, so when you come back next time, you're at an equal break, not in the middle of any rendering.

Mr. Szerbaty stated: Okay. I'll just continue along this garage and explain what's happening below grade.

So the parking garage, a speed ramp comes down. There is a similar passenger vehicle low clearance speed ramp that goes up to the Summit Avenue street, which you have seen that in the site plan. That's an indentation in the park where that happens. But this is really the main service entry, vans, and also passenger vehicles, people coming in and out of the facility here.

This line at the western end of the tower is the line between the zones. So here from this point to the right over to Summit Avenue is the community park above the grade and to the left.

And to the right side towards Prospect is the assisted living facility tower. The parking garage extends under both, so what you're also seeing here is the garage, as it needs to work with the topography of the site, has to continue stepping down. So in order to allow for the plantings and paving and things that are constructed as part of the community park, there are specific requirements in terms of coverage for soil for plantings and for paving and things of that sort, what you're seeing here.

The cistern that has been mentioned and planned, this in section is what the cistern looks like. So the garage as it continues its configuration going down and spiral, you know, sloping down, these slopes are 5.9 percent, which again is common within sloped parking garages that everyone uses all the time.

This has a two-way drive and parking on both

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sides. You'll see plans that will describe plans of that. But in section here you can get a clear notion of how the garage works and the circulation and the drives. And then above the garage is the location of that concrete cistern bowl.

Mr. Diktas stated: Mr. Basralian, your time is up for tonight. We have another applicant behind you. We try to give equal time limits to both.

So with that, I need a transcript, please.

Mr. Basralian stated: We order them every time, yes.

Mr. Diktas stated: I understand, but for the record, I appreciate that.

And also a waiver of time. I would say a waiver of time through September 30th, please.

Mr. Basralian stated: Well, I guess it depends on when the next hearing is.

Mr. Diktas stated: July 20th.

Mr. Basralian stated: Okay. Fine. Then I'll grant it.

THE APPLICATION IS CONTINUING ON 7/20/2023

c. SP#13-21 V#13-21

Applicant: Maisano Properties LLC

Address: 215 Elleen Terrace

Block 100.02 Lots 1-9 and 21-28 [L. D'Arminio, Esq.]

The Applicant proposes to construct a four (4) story mixed-use building consisting of four (4) one-bedroom units, fourteen (14) two-bedroom units, storage space, business offices, and a parking deck within Lots 1-8 & 21-28. It appears that the Applicant proposes to consolidate Lots 1-8 and 21-28. Additionally, the Applicant proposes to construct a parking lot within Lot 9. Furthermore, the Applicant proposes additional site improvements consisting of concrete wheel stops, trash enclosures, concrete curb, asphalt pavement, fencing, gates, walls, traffic striping, grading, lighting, and landscape improvements. Furthermore, it appears that the Applicant proposes to maintain the existing on-site billboard.

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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

- A-15 Rendering of View 03
- A-16 Sample of bronze decorative trim
- A-17 Sample of Hardie Board Nichiha Iron Gray siding
- A-18 Sample of light colored Nichiha
- A-19 Two page "Existing Site and Surrounding Conditions"
- A-20 Two page "Surrounding Land Use Map"

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

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

B R I D G E T M c L A U G H L I N,
sworn/affirmed.

Mr. D'Arminio stated: Good evening. I believe this is our fifth hearing on this. The board is well aware of the application at 215 Elleen Terrace and the use that's needed. Tonight we had hoped to finish. We are having the architectural as well as the planning testimony, and then hopefully there would be time for my brilliant summation and then a vote.

I see we only have six members here. I have to speak to my client as to whether he wants to take a vote. I believe everybody here has been to all those five hearings.

Mr. Diktas stated: I'm reviewing that now.

Mr. D'Arminio stated: Mr. Diktas is reviewing it now. But I'd like to use as much time as we can, and we can kind of figure out whether to take a vote, if you give me a few minutes at the end.

Chairman Giarrusso stated: Let's proceed.

Before we go further, though, we got to get a couple of things on the record.

Some information has come across about this Caruso Street with the city having all the deeds and the documents in order in a timely manner so that we can close that and proceed with this doesn't seem to be where it needs to be, and something with the DOT, the Department of Transportation.

Mr. D'Arminio asked: Could I speak to both of those issues?

Chairman Giarrusso responded: Yes, before we proceed with the testimony.

Mr. D'Arminio stated: First, with regard to Caruso Street, I had provided a memorandum that under the law -- I know the cases are old, they go back to 1905 -- the roadway law does go back to 1905. We never gave our ownership fee to the city at any time, and thus we still own up to the median, but we were going to do this anyway, we've spoken to the city attorney and we are going to go back to the city and have a reconfirmation of the vacation. But in terms of moving forward, we do own essentially, because the city isn't using it and never dedicated the street as far as we could see, we do have title to the centerline.

But we're going to go to the city. We've talked

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to them. We think we can do that within the next 2 to 3 months and get that squared away. We just would appreciate if the board would allow us to do that as a condition of the approval of compliance.

Chairman Giarrusso stated: Yes, we would agree to that.

Mr. Diktas asked: Mr. Chairman, may I respond to Mr. D'Arminio's legal opinion, the brief that he submitted?

Chairman Giarrusso agreed.

Mr. Diktas stated: I disagree with your position. The city has a file map in the Bergen County file room. So once the map is filed, the city has accepted the roadway. Even though it's never been paved or maintained, whatever, once that map is filled, it's been accepted.

The original vacation ordinance is void because the city did not move within the 60 days, so the city is required to introduce, adopt the ordinance, file the first deed for the entire street that's being vacated, and then do second deeds to all the property owners, who your client might be one, but everyone is entitled on both sides of the street to get notice that the street has been vacated, because if people on the opposite side of the street don't want the property, then your client should be asked if they want it. So I don't think the procedure was followed. And I also spoke to Steve Kleinman, and they're going to be redoing the entire vacation ordinance because I don't think it's -- I'm happy that it's stale because I don't think it was done properly. I'm not blaming anybody, but there's COVID and all the other issues.

Mr. D'Arminio stated: We're going to do it. I'm not going to waive my position. I understand yours.

Mr. Diktas stated: No.

Mr. D'Arminio stated: We're going to do it, we're just going to do it, and I think we did do notice before but we'll do it again. We'll work with the city to make sure it's done, and we appreciate your insight, Mr. Diktas.

Chairman Giarrusso stated: And then Department of Transportation, New Jersey DOT.

Mr. D'Arminio stated: The DOT is a little bit more difficult. We know the board's concern, and we are willing to work and try to get some input from the DOT, but there's just a couple of issues there.

One is that we don't need this. I think there was some sort of misunderstanding that we needed some sort of approval. We don't need any approval from

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them, but we're still going to approach them. We've got expert testimony that there is enough space, but we'll still see what they have to say.

The case law, I believe, supports us that unless there's a plan and there's an imminent need for some sort of a taking, they really can't move forward with anything with regard to our property. But nevertheless, we're going to work with them, but, again, we would hope that would be a condition of the approval and not hold us up. The client asked for maybe three months to get that squared away. With the DOT, you don't know if they're going to take a year, ten years, we just don't know, so we'd like to have sometime to do that. That's all.

Chairman Giarrusso stated: Let's hear from Mr. Polyniak first if he has anything to add.

Mr. Polyniak stated: Through the Chair.

As it relates to the potential of the widening of the ramp that travels westbound onto Polifly Road, the applicant's provided an easement at that location.

Could the applicant provide maybe testimony as to how far off of that easement its parking deck and building are, so if there was need for a future condemnation, that the building or the building's foundations wouldn't be in the way?

Mr. D'Arminio stated: I think we had done that, but I think Mr. Arjani can do that, if you want to swear him in.

Also one other thing. You had requested two additional spaces, and we can do that. It's the southwest corner, so that gives another 18 feet, Mr. Polyniak.

Mr. Polyniak stated: Correct, because it looks like to me in the figure, if you could scroll I guess -- yes, towards the easement.

Mr. Diktas stated: You got to mark that, you just can't tell me you're scrolling.

It's A-8, it's the site plan.

Mr. Polyniak stated: There appears, toward the west of the property where you have that out parcel parking lot there, that you would have the ability potentially to shift that driveway to the north, eliminate a space or two, and provide a wider easement while still not inhibiting access to that lot. My concern is I would like the architect to testify, if that driveway was shifted and if you eliminated two parking spaces, it appears to me you wouldn't be affecting the parking deck, you wouldn't be affecting the building. I would just like the

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applicant's expert to testify.

Mr. D'Arminio stated: Sure. I'll swear him in for that and we've agreed to that.

One thing to clarify, what we've done is we've given the city an option to take the land and then give it to the DOT. So it's not an easement, but they had an option and that's described. It's just a matter of words, it's the same effect, and we would do that. Though, if they never use it and they never do the ramp, we'd like to use those two spaces, but when they do do that, we would give that. Again, we'd like some additional time. We have the case law that says unless it's imminent and there's a plan, it can't be done, but we just want to reserve our rights to that and just allow for time, but may I just get right to that, may we swear Mr. Arjani, Mr. Diktas?

Chairman Giarrusso stated: We will add that as a condition of approval, if the application is approved. So the answer is yes, we will do that also.

Mr. Diktas stated: In furtherance of what you're saying, it's my understanding from the prior meetings with the DOT that the DOT was requiring a firm plan from an approval before they really commence their review process. So my recommendation and my legal opinion to the board is that if there's a positive vote tonight, it's for a preliminary site plan approval, not a final. And then I'd recommend to the Chairman a year, but that's the Chairman's call, to keep pushing the DOT, but that they'll be monthly letters to the DOT, your initial submission, these are plans with preliminary approval, here's the resolution of approval, please advise. And then until you get a yes or a no, every month you send a letter, and when the time period lapses, if you don't hear anything, then you go from there.

And plus also, if there is a future condemnation, you've agreed to give up two spaces, you have adequate spaces, but your client would be entitled to a condemnation taking.

Whatever you do with the State of New Jersey, that's no issue to the city, but we'd like a stipulation from your client that the city will not be contributing to any condemnation award, if it is required.

Mr. D'Arminio stated: Yes, we'd have that stipulation, and candidly we'll probably be speaking to Mr. Kleinman about those issues as well, so we'll work it out.

Mr. Diktas stated: Okay.

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Mr. D'Arminio stated: We think that would be a good way to handle it as well. Again, so long as there's a limit. I think a year is an awful lot, maybe we can go to six months?

Mr. Diktas responded: That's up to the Chairman.

Mr. D'Arminio stated: That's up to you, Mr. Chairman.

Chairman Giarrusso stated: All right. How about nine months? A little compromise.

Mr. D'Arminio stated: I want to compromise from three months to six.

Chairman Giarrusso stated: I don't want to go that low.

Greg, what's your opinion there? What do you think? I haven't had cases like this before.

Mr. Polyniak stated: I know that the applicant's traffic engineer, Mr. Hough, has been reaching out to the DOT, and that's been over the past two months and he's had issues getting a hold of them. I know, in speaking with him, he's been sending emails and hasn't gotten responses. I asked him if he has called, he has not called them. So I think it's important that a variety of communications occur, phone calls, certified letters and --

Chairman Giarrusso stated: I want to give time for that to transpire.

Mr. Polyniak stated: So I think three months is way too short. I think six months is like the lower limit. I'd be more comfortable if it was 9 to 12 months.

Chairman Giarrusso stated: I'm going to have to go with 9 to 12 months, Mr. D'Arminio, to give you a range. If I have to say nine, I'll say nine, if I could say 9 to 12, I'll say 9 to 12. I'll stick with that.

Mr. D'Arminio stated: The only thing, Mr. Chairman, hopefully we'll know sooner rather than later --

Chairman Giarrusso stated: I hope so too.

Mr. D'Arminio continued: -- as to what they would do. But I guess the thing that concerns me is that we're not required to do this, and if we don't know within six months, we're just not going to know within nine, and I know my client wants to get started. There's other things that need to be done.

Chairman Giarrusso stated: I realize that.

Mr. D'Arminio stated: I'll tell you, could we do six, and come back to you at that point and see where we are?

Mr. Diktas responded: That's reasonable. He's

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got a preliminary approval, so it's six months --

Mr. D'Arminio stated: We'll come back.

Mr. Diktas continued: -- or until the DOT gives us an answer. And if the DOT doesn't give us an answer within the six months, then you'll be back before us, and the board will make a decision as to whether to extend, and they will see your due diligence and your client's good faith, really your due diligence on behalf of your client and good faith and can make a decision at that point.

Mr. D'Arminio stated: Mr. Chairman, we started this process two months ago, so we're getting close to your nine months anyway.

Mr. Diktas stated: Before we go further, you've indicated you might be finishing tonight, I only have four hearings and tonight is the fifth.

Mr. D'Arminio stated: Yes, that's right.

Mr. Diktas stated: So right now you don't have a complement to vote. You have four members that could vote, the Chairman, Sal Puleio, Jennifer Harrigan, and Mark Cheatham, that's four, because I have Mr. Jones missed April 23rd.

Vice Chairman Jones asked: Even though I read the transcript?

Mr. Diktas stated: Well, you're ahead of me.

Vice Chairman Jones stated: I'm sorry. I apologize.

Mr. Diktas stated: Mr. Pemberton missed the 23rd, and tonight we have everyone here. The problem with the board for the vote is the April 23rd. You've already heard Mr. Jones, it's not a writing, I'll write something up. He certified that he read the April 23rd meeting.

Mr. D'Arminio asked: So, Mr. Diktas, we have six people who have read it all or just five?

Mr. Diktas stated: I have four, with Michael is five, and I have Mr. Pemberton missed the April meeting. Did you read the April transcript?

Mr. Pemberton responded: I did not.

Mr. Diktas stated: He did not. So then you have only five votes. The statute says you're not required to bat a thousand.

Mr. D'Arminio stated: Okay. Maybe we'll get started, I'll just talk to my client before you take a vote. I might as well sum up, if I'm going to sum up, if we do decide to go to the next meeting okay, but let's just get going, because I know we have a hard stop at ten and I know the commissioners have stayed for us a long time before so I want to make sure we get that.

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J A S V I N D E R A R J A N I, R.A., LEED AP,
c/o Bertin Engineering, 66 Glen Avenue, Glen Rock,
New Jersey 07452, having been duly sworn/affirmed,
testifies as follows:

Mr. Inglima entered his appearance.

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

Mr. D'Arminio stated: I think the first question
was about the distance, so you're going to use A-8
then first?

Mr. Arjani responded: A-8, it's a complete site,
so yes, I'll use A-8 to answer that question as well.

Mr. D'Arminio stated: If we could start with the
question that was last postured, Mr. Arjani, it would
be great.

Mr. Arjani responded: A-8 is the site plan set,
and this is the third sheet, which is C-2.2. It's a
site plan drawing, and the question was if, let's
say, we're talking this one parking spot and this one
parking spot (indicating). That would be the west.

Mr. Diktas stated: So the westerly side of the
property. Go ahead.

Mr. Arjani continued: Closer to the ramp from
Route 80, which would be the southwest corner, the
parking spot that is closest to the southwest corner,
that's the one spot that could be eliminated to
create more space in that corner that we were
discussing earlier, and the second parking spot right
across --

Mr. Diktas stated: You can't say "across." This
is very important testimony you're giving us right
now.

Mr. Arjani continued: There are four spots,
which are the second row of parking from Polifly Road
and the southernmost parking space, that spot and
previously the one closest to the southwest corner,
these two were eliminated, the driveway could shift a
little bit north and create more room for expanding
the space for adding a lane.

Mr. Diktas stated: So your testimony is that the
southwesterly parking slot, which is adjacent or on
Polifly Road and a vertical parking space directly
behind it on the same southerly side, those are the
two spaces that you will be eliminating if the DOT
enlarges the ramp?

Did I say that right, Greg?

Mr. Polyniak responded: It would be the spot to
the southwesterly corner and then in the bay across
from the drive aisle, that permits you to access the
five space run and the four space run. The southerly

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space in the four space run would be eliminated, which would then permit the applicant to shift the entire driveway to the north at that angle to provide, it appears it could be as much as 8 to 9 feet, the entire width of that one parking space at the southwesterly corner of the property.

Mr. Diktas asked: So they're going to have to then move the driveway and move that north?

Mr. Polyniak responded: Correct, they would move the entire driveway to the north. And by eliminating those two parking spaces, one on the five space bay and one on the four space bay, you could then shift that entire driveway to the north, without losing any more than two parking spaces.

Mr. Diktas asked: But then the property taking, they'll be a vertical line from the four space to the five space parking slots, correct?

Mr. Polyniak responded: What would happen would be the taking, the line that follows the southern curb line of that access drive would be able to be shifted to the north approximately, I would say nine feet, which would be the width of that parking space in that five space bay, the most southwesterly parking space, and allow you to gain that additional nine feet there.

Mr. Diktas stated: Just for clarity, this is really important. To Mr. D'Arminio and to Mr. Arjani, really to Mr. Bertin, the engineering division, you're to prepare a plan showing exactly this area, because I can take this transcript and sit in Greg's office for a month and I would have a problem writing this up, but if I can describe it with attaching an engineering design, because you already have your site plan, so we could have the metes and bounds, we could have the exact area, because this is the area that, if the State of New Jersey condemns it, then your client has every right for compensation, however, if the State of New Jersey makes the city condemn it, then you have already stipulated that your client will waive compensation for this taking.

Mr. D'Arminio stated: Yes, and we'll speak to Mr. Kleinman about putting that into an agreement as well.

Mr. Diktas stated: I'm worried about my resolution and the developer's agreement, and we're going to have to record something anyway, so just prepare it.

Mr. Arjani continued: Then you had asked a question about the building foundation.

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So the building is roughly 80 feet from that corner up to the west, so any change there would not affect the building foundation.

Mr. D'Arminio stated: Okay. Now we can start the regular testimony then.

We've already gone through the location and the surroundings and we'll have even more of that.

Why don't you start with a description of the building, and to save time, why don't you just go through your testimony.

Mr. Arjani responded: Yes.

Very quickly, it's the same exhibit, A-8, and it's drawing C-4.1, I will start with, which is the first floor plan, which shows of course the floor plan and then on the top right, which would be the northwest corner, is the existing building, which the proposed is built around the existing. The existing is about 5,124 square feet. The total first floor area is 26,737, that is the footprint. The footprint is 26,737, that includes a second floor overhang. So the floor area on the first floor is 26,560 square feet, and that includes the 5,124-square foot existing building. So the northwest corner will continue to remain as a construction office, which comprises of 330-square foot of office area on the first floor, a repair garage for the construction equipment, which is 4,888 square feet. There is some storage areas, which are 1,590 square feet, and some common areas.

Now, the addition also includes a covered equipment storage garage for construction equipment on the south and the east sides. It is buried towards the west side and parking south side, but on the east and the north side it's open, the two sides. So two sides are closed and two sides are open. The total square footage of that space is 17,285. And there is a common lobby for the residential. The residential stops on the floor above, however, there is a staircase that comes down to the first floor for emergency egress from the building to the outside, The elevator comes down.

And the trash room is also located on the first floor, where the trash chute sends the garbage into the compactors, which will be located, and there's a double door facing the space in front where it can be removed as required.

Mr. Diktas asked: Mr. D'Arminio, private sanitation pickup, correct?

Mr. D'Arminio responded: Yes. I believe we testified to that.

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Mr. Arjani continued: And the rest of the space remaining will be used for utilities for the residential.

The first floor right now shows a mailroom or mailboxes, which was previously located on this level because we had parking but then we changed it, we did not move that up; however, the mailboxes will be on the second floor of the building.

So I will go on to the next drawing, which is C-4.2.

Mr. Diktas asked: Do you foresee any problems, just for your clients, do you foresee any problems with the post office with mail on the second floor?

Mr. Arjani responded: They have direct access on the second floor from the west side.

Mr. D'Arminio asked: And that will be the floor where they're entering?

Mr. Arjani responded: Yes.

Mr. D'Arminio asked: For them that's the first floor?

Mr. Arjani responded: So for residential, the main entrance is from the west side, which is the second level of the building, but it's first floor for them. It's the main floor where they enter, so there's a double door on the west side, there's a lobby, a community room, the trash and recycling with chutes for that floor, the elevator and the stairs that go down, and there's a parcel room. The mailboxes will be placed along the wall in the lobby, and there's a parcel room for larger packages. There are two ways to get into this lobby, one is directly from the outside, that was the parking lot that we were looking at earlier on the southwest side, which is outside the building, and then there is a parking garage, part of it is covered by the residential floors above and then the rest of it is open. All together there are 43 parking spaces at this level, it's on the building, on the deck; 13 underneath the building; and 30 parking spots outside on the open deck.

There are two other sets of stairs for floors above, which will lead to the outside, one is in the northwest corner and one is in the -- this will be the northeast corner of the parking deck.

There's a little shape that you see in this center on the south side which is actually a parapet around the billboard post, and that is basically for fall protection to make sure -- there was a question at the last meeting. So the complete parking deck will have a 45 to 42" high parapet for fall

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protection and an opening for the billboard post is enclosed or in.

Now, in terms of square footage on the second floor, it's 9,339 square feet, and there are these crosses, these double lined spaces in the construction repair garage. There is an office, the construction office, which is 1,920 square feet on the second floor. And then the residential lobby is 2,425 square feet. The covered parking garage is 4,450 square feet. And the open parking deck is 12,826 square feet.

So without counting the open parking deck, the covered area square footage is 9,339 square feet.

On the top three levels are typical, they are residential, the apartments. And --

Mr. Diktas asked: What screen are we looking at now, please?

Mr. Arjani stated: This is drawing C-4.3 of exhibit A-8.

And the west portion of the building is the rectangular residential block. There are ten residential units on every level, for a total of 30 units. The top left, which would be the southwest corner, that's a three bedroom unit which is 1,446-square foot unit, and there are three of them all together, one on each floor. And next to the staircase, which is towards the east side south of the staircase is the one bedroom, which is 795 square feet. Again there's one per floor for a total of three. All other units are two bedroom. There are eight two-bedroom units on every floor, for a total of 24 two-bedroom units.

The square footage of the two bedroom units, the smallest one is 1,114 square feet and the largest is 1,189 square feet. So they're roughly about the same size.

So all these units will be adaptable units. By "adaptable," I mean they can be made ADA compliant if need arises. Some of the apartments to the east and the south side will have balconies, but not on the west and -- sorry, on the north side and the west.

On the north, we are almost on the lot line and on the west side also half of the block is very close to the property line, so the balconies will be only on the east and the south side.

In terms of the air handling units, the mechanical units, I think there was a question in Greg's letter asking where they would be. So we had provided a roof plan, which is drawing C-4.4. It shows the mechanical unit locations approximately. They will

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be detailed when we do the construction documents, but these mechanical units are condensers for the apartments with air handling units in each apartment and a couple of rooftop units for common areas and the office. They will be screened.

The other elements that come up on the roof is the elevator bulkhead and then the staircase access. The exterior elevations, which are drawings C-4.5 and C-4.6, we have renderings to describe them but I will use the C-4.5 to talk about the building heights.

Mr. D'Arminio asked: Mr. Arjani, in term of the heights, rather than maybe going through each floor, if you could go through from the bottom to the top and maybe indicate what the average is? I'm just trying to maybe move this along, but whatever way you want to do it, but certainly the height, anything with regard to the setbacks, the planner is going to take care of.

Mr. Arjani stated: The first floor is 14 1/2 feet floor to floor, the second is 12-foot 7 inches, and third through fifth is 12 feet each.

The roof slope and parapet are approximately 7-foot 5-inches, and the elevator bulkhead and mechanical will be 10-foot 5-inches above that.

So it's a five story building, 78.25 feet from the first floor, and from the average grade it is 75.6 feet.

The finishes, I can quickly go through the rendering.

Unfortunately the colors that you see on the screen are not true colors. It's a color rendering. I do have some samples that I can pass around. The darker color is supposed to be Diamond Valor, that's the shade of the brick.

Mr. Diktas asked: Do you have a sample to pass around?

Mr. Arjani responded: I don't have the actual brick sample, but this is a brick pattern.

Because the rendering was not showing the true colors, I brought these samples along to show you the actual colors.

What you have is a cement board panel with brick. These are Nichiha panels.

Mr. D'Arminio stated" what I'm going to do, Mr. Diktas, is I'm going to mark it and then take a photo so that it can be easily handled and put in the file. I don't know if you want to carry this.

Mr. Diktas stated: I'm sure Bridget doesn't want that in her file, take a color photo.

Mr. Arjani stated: I could take a picture from

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the website, the actual sample and put it together for you, if that helps.

Mr. Polyniak stated: Through the Chair. Just one question.

So all I guess the brownish or terra cotta color is black?

Mr. Arjani responded: It's like very dark gray.

Mr. Polyniak asked: So the sign is black, will you be able to read the sign?

Mr. Arjani responded: It's bronze. It's metallic. Actually I had a printout. It's one of the renderings that I have on the screen, it's A-9. I'll just show you the one here.

So if you see those colors, that's facing west and you look at these colors, there's a big difference in the shades. So, again, this is not exact.

Mr. Diktas stated: So let's mark this one as 15, all right, and this is the true coloring.

Mr. Arjani stated: I have a few more samples, if you're interested. I can pass it around. That's a metal. That's a medium bronze.

Mr. Diktas asked: 16 will be the bronze decorative trim, is that correct, sir?

Mr. Arjani responded: That's bronze, all metal trims and window frames and medium bronze color.

And again between the windows, we are proposing cement board siding. Its color is Iron Gray. It's similar to the brick I passed around, so if you want to mark that.

Mr. D'Arminio stated: This would be A-17, for the record.

Why don't you describe that again, Mr. Arjani.

Mr. Arjani responded: This is cement board siding, it's Hardie, James Hardie.

Mr. Diktas asked: So it's Hardie Board?

Mr. Arjani responded: Yes, Hardie Board. It's color is Iron Gray.

Lastly, this is the light color in the middle, which is again Nichiha. It's similar to a metal look, it's smooth.

Mr. Diktas stated: That's 18, correct?

Mr. D'Arminio responded: Yes.

Mr. Arjani stated: So that's all I have to say about the building, if there are any questions.

The signs, there are building signs. The one towards Elleen Terrace is externally illuminated with gooseneck lights. And the one which is facing the construction yard or Kenneth Street will be internally illuminated.

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So to answer your question, we'll be using lights to make it visible when it's darker, and then during the day, it won't jump out, it's not like a bright color. And the ordinance limits two colors --

Mr. Polyniak stated: Through the Chair.

Lighting is going on both sides of the street, correct? I believe that your site plan showed that.

Mr. D'Arminio responded: I think the lighting is only on the one side of the street, I believe. Look at the site plan.

Mr. Arjani agreed.

Mr. Diktas stated: Go back to that rendering.

On Elleen Terrace you show no lamp poles. Are you going to install lamp poles on Elleen Terrace? That's the real issue. That's the side street going up the hill to Polifly. If you see right there, your rendering shows no light stanchions from the stop sign to Polifly, so the question is, are you going to be putting light poles and the decorative lighting the length of the street?

Mr. Arjani responded: I don't see any pole lights on Elleen.

This is the electrical panel. 2.4, I think.

Yeah, C-2.4, landscape and lighting plan, there is no pole light proposed on Elleen Terrace. We can add it.

Mr. Polyniak stated: Just to be consistent, I think to line that one side of the street to wrap it around your property.

Mr. D'Arminio asked: But I guess not where the building is, but you mean the parking lot?

Mr. Polyniak stated: Well, you have it along I guess that's Kenneth, to add it along your frontage to continue it. Based upon your spacing, it's either 2 to 3 poles that you would need along Elleen on your side of the road.

Mr. D'Arminio asked: I'm just saying there's no room to put it in front of the building, but we would put 2 to 3 from the corner to the building, was that the idea?

Mr. Polyniak responded: Yeah, for past the building, yeah.

Mr. Diktas stated: You could do subject to Mr. Bertin and Mr. Polyniak's design.

Mr. D'Arminio responded: Okay.

Mr. Arjani stated: We can add more.

Mr. Polyniak stated: Add 2 or 3 lights along.

Mr. D'Arminio stated: Okay. Just for the record, you had requested what that previous exhibit was reference to, it was marked A-9, we had three

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views and I believe that was view three that was marked.

Mr. Diktas asked: So A-15 modifies A-9?

Mr. D'Arminio responded: Yes, A-9, view three.

Mr. D'Arminio stated: The signs, you went through. Okay.

Mr. Arjani responded: The signs will comply. We are complying with all the requirements of the ordinance.

Mr. D'Arminio stated: We would stipulate that. We don't have what we're going to do, what we're going to call the building or anything like that.

Chairman Giarrusso stated: Mr. Polyniak, was there some issue with the billboard post on the parking deck level that we wanted to see something from them about how they were going to, I guess, surround it from any cars going forward or openings with a grate or something for service for -- I think there was something, right?

Mr. Polyniak responded: Through the Chair.

I remember there was going to be a parapet wall. I think there was discussion at last month's meeting that the opening not be large enough so that someone could jump over the parapet wall and fall through the deck.

I don't know if you've developed a detail for that based upon that.

Mr. Arjani stated: We have a parapet wall, like you said, but if that's a concern, we can add a railing on top of that, like a rail, an additional.

Mr. D'Arminio stated: Also, in terms of the access issues, Mr. Maisano testified that they would bring a panel truck or something like that there. So really we've got to talk to Lamar, so that might be the compliance thing. We've got to talk to them as to whether they want some additional material because they're the ones that have to access it, so we can make that a condition of approval.

Mr. Diktas stated: Subject to Neglia's approval.

So you got Lamar's plan and present it to Greg.

Mr. D'Arminio stated: Yes, because the thing is, they have OSHA requirements, they have requirements in terms of how far the ladder has to be up from any access point and all that kind of stuff.

Now it works for the ground but we need them to tell us from the deck.

Mr. Diktas stated: Just get the plan from Lamar. If you get approved, you got preliminary anyway.

Mr. D'Arminio stated: So we have to come back anyway.

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Mr. Diktas stated: So you have to come back anyway. Maybe you should get it done before you come back, the better off you are, if you get approved.

Mr. D'Arminio stated: If we get approved, we will provide that, but we understood that was the request, I should have said at the beginning, but we just needed to speak to the operator, which is Lamar Advertising.

The hearing was opened for public questions. No one wished to comment.

M I C H A E L D. K A U K E R, PP, AICP, c/o Kauker & Kauker, LLC, 356 Franklin Avenue, Wyckoff, New Jersey 07481, having been duly sworn/affirmed, testifies as follows:

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

Mr. D'Arminio stated: Mr. Kauker, we've already described the application pretty much several times. Would you indicate to the board what did you do in preparation of your testimony?

Mr. Kauker responded: In preparation for my testimony this evening, I had an opportunity to review the plans that were submitted along with the application. I've had an opportunity to go visit the subject property on multiple occasions. I reviewed the master plan, the zoning ordinance of the City of Hackensack, and also had the opportunity to review the Neglia review correspondence as well and other documentation associated with the application.

Mr. D'Arminio asked: And you also prepared various exhibits?

Mr. Kauker responded: I did, yeah. And if you just give me one minute, I'll just load those.

Mr. D'Arminio stated: Okay. While you're doing that, I have handouts for the board too that might be helpful.

We're going to mark these two exhibits, one which is the next number, which is 19, is entitled the "Existing Site and Surrounding Conditions," and it consists of two pages.

And the other one which we're going to mark A-20, maybe if you mark at the same time. 20 also consists of two pages which will be described. It's called a "Surrounding Land Use Map."

While you're looking at that, why don't you start going over the existing conditions and when you need to refer to an exhibit, they're 19 and 20.

Mr. Kauker responded: 19 is the aerial.

Mr. D'Arminio stated: No, 19 is your site conditions.

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Mr. Kauker stated: 19 is the photos, okay.

Mr. D'Arminio stated: 19 is the photos and 20 is the aerial.

Mr. Diktas asked: Before you testify, Mr. Kauker, A-19, the photo array, and A-20, the aerial, did you or a member of your firm take these photographs or download the aerial?

Mr. Kauker responded: Yes.

In terms of the photographs, I went down to the property myself and I took the photos myself. The aerial is from Google Earth.

Mr. Diktas asked: And the photographs that you've taken and the aerial accurately reflect the existing condition as of what date, the last six months?

Mr. Kauker responded: Yes, within the last six months.

So with respect to the existing conditions, I guess I have the aerial up, A-20.

The subject property is identified and it's outlined in red. The property itself is where it is located at 215 Elleen Terrace. I learned to say it properly I think being here for 4 or 5 meetings, so that's good. It's identified as Block 100.02, Lots 1-9 and 21-28 in the tax records of Hackensack. Lot 9, which is located in the front portion here, that is located in the B-3 district. It has a lot area of 10,805 square feet. The other lots are a bunch of separate tax lots, but they combine to a lot area of 43,870 square feet. The total square footage is 54,675 square feet, all the combined lots. I'm sorry, as I mentioned, Lot 9 is in the B-1 neighborhood business district. The remaining lots are located in the M-1 district, which were recently rezoned, as cited by your engineer, from the M-2 district, which the site was previously located in. The site itself, and if I could just maybe, you can see here, it's located right adjacent to north of Route 80. And I know there's been some discussion of the off-ramp from Route 80 that's along the southerly property, the line of the subject property. Polifly Road to the west, Elleen Terrace to the north, and we have Kenneth Street to the east itself.

So the subject property is somewhat unique, as it does have frontage along three roads and then also located immediately adjacent to Route 80.

One of the other things that I just did want to point out to the board is that Route 80 is located at a much higher elevation than the subject property, in addition to the off-ramp that's located to the south

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as well.

The topography --

Mr. D'Arminio asked: Just for the record, A-20 is this, it has the area in blue?

Mr. Diktas stated: He's reading off of the video, the screen.

Mr. Kauker stated: A-19 consists of two, it consists of the photograph exhibit and it consists of aerial exhibit. Is that correct?

Mr. Diktas responded: Well, no, so you were actually referring to A-19, second page?

Mr. Kauker responded: 19, second page.

With respect to the topography of the site, Polifly Road is at a higher elevation. It slopes downward along Elleen Terrace to Kenneth Street, which is the lowest elevation of the property. Let me move on to the first page of A-19, which are the photographic exhibits that I had taken.

If you look at the upper left-hand corner, moving in a clockwise direction -- I can zoom in if the board wants. Can you guys see those pictures all right?

So that is a multiple family that's located on the northeast corner of Elleen and Polifly Road, basically same side of the street as Polifly but just across Elleen Terrace.

The photograph in the middle is the multiple family building that is located directly in front of the existing office building. And it's obviously the building that's going to be located immediately adjacent to the proposed structure.

That building, as you see, is about three stories as it fronts on Polifly. And it increases to about four stories as you move in an easterly direction along Elleen Terrace.

The property in the upper right-hand corner is the existing dwelling or building, it's currently vacant, and that's the location of Lot 9 on the subject property. That's going to be demolished, and the surface parking area is going to be constructed in its place.

Continuing on, maybe it will make a little more sense if I just move to the picture below, if that's okay, because this shows the property that's immediately adjacent to it and the off-ramp. So you get an idea of that structure and the off-ramp and how it relates to the subject property itself.

Moving onto the picture in the middle, that is the former Stony Hill Inn site. You can see that, that is located on the west side of Polifly Road and

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it's heavily buffered from the street, you can see there.

One thing I just did want to point out with respect to that property, it was recently designated as an area in need of rehabilitation. There was a rehabilitation, redevelopment study that was done for the property. And I believe it's anticipated that that will be redeveloped at some point in the future for a multiple family residential use.

Continuing on the photograph in the middle on the left, that's looking in an easterly direction from Kenneth Street to Polifly along Elleen Terrace, and you can see the existing office building on the left-hand side. Beyond that, you can see the top story of the existing multiple family. As you can kind of see, you can kind of get an idea of how the building increases in height as it moves farther to the east.

Finally, the picture to the bottom left-hand corner, that's the light industrial use that's located on the opposite side of Kenneth Street.

And, finally, the picture in the bottom right-hand corner is looking in a northerly direction along Kenneth Street, and you can see there the corner of another light industrial building that's located across from the subject property as well.

So the board is pretty much familiar with the existing uses on the property itself now, so I won't go into detail with respect to the office use that's obviously going to remain.

I talked about the fact that with respect to the surrounding conditions, the site is uniquely located with frontage along three streets. And I talked about its proximity and its relationship to Route 80.

I think because of the fact that Route 80 is elevated above the subject property, I think in my opinion as a professional planner it represents a unique physical characteristic in the area that makes the site appropriate for the proposed use. It would help to mitigate any potential impact from the height of the proposed development.

In terms of the surrounding area in terms of uses, they're generally characterized by a mix of land uses, including office uses, retail, multiple family residential, lower density residential, and also light industrial uses.

The property is bounded by Polifly Road, as I mentioned before. There is an existing multiple family building to the west, which I showed you on the photograph. And the other uses in the area are

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similar to those in terms of the other multiple family residential uses.

I talked about the Stony Hill Inn on the opposite side of the street, so, in essence, the character of the surrounding area is really characterized by a mix of uses, but what I'm going to show you too in a couple other exhibits are what we're proposing here in the form of multiple family residential is really consistent with and compatible with a lot of other uses on Polifly, because there really are a number of other multiple family uses on Polifly of varying heights and varying densities.

So, Lou, I think I'll move on to those exhibits now.

So A-20 is an exhibit that I prepared, and this again I utilized the GIS to prepare this document here. It's an existing aerial photograph, and basically what you see in red are the existing multiple family developments in the area.

You can see that there's an existing multiple family just to the east of the subject property, the existing multiple family located to the north, and then there are other multiple family dwellings, as you can see, highlighted in red.

Across the street is red but it's also hatched, indicating that that could be a potential future use of multiple family residential.

And then on the other side of the Route 80, on the border of Hackensack and Lodi, are two other multiple family uses as well.

So in this area specifically, the character of area can be described as having a decent number of multiple family uses.

One other thing, we didn't really go north of the Sunoco gas station, but just to the north of the Sunoco gas station, there's another four story multiple family structure as well.

And also across the street from the intersection of Lodi Street, there's another multiple family use as well.

And as you in continue down Polifly Road in a northerly direction, it gets even more residential.

So ultimately what I'm trying to say is what we're doing here is consistent with other uses along Polifly Road itself.

Mr. D'Arminio asked: That it fronts Polifly Road --

Mr. Kauker responded: That is correct. As you'll see in terms of this exhibit that I prepared, if you look to the east, obviously it gets a little

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bit more light industrial in nature. So I think what we're doing here is going to actually help this property, it's going to be a good fit between the residential uses on Polifly and the light industrial uses that are located to the east.

Mr. D'Arminio asked: Just to continue on with regard to the proposed development, if you would like to add any other points there and then we can go into the proofs.

Mr. Kauker responded: No, I'll be brief with respect to what's proposed.

The board's heard the architect talk about it, but essentially we're putting an addition on the building. It's going to be a five story structure with two stories that will be used for office, the existing use, and then there are three residential stories that will be located above it. There's a parking deck that's going to be constructed as well. A total of 30 units and 74 parking spaces serve those 30 units.

So unless the board wants me to address anything specifically with respect to the proposed development, I'll move on, Lou.

Mr. D'Arminio stated: I believe you first want to talk about the zoning ordinance and the master plan.

Mr. Kauker responded: Certainly.

As I mentioned before, I did have an opportunity to review both the master plan and the zoning ordinance of the City of Hackensack.

The master plan itself, the last document was the reexamination report. The reexamination report is dated December 9, 2020. I did review the document, and my opinion is that this proposed development is consistent with a number of goals and objectives as contained in that document.

Some of the goals and objectives are goal No. 1, to maintain and enhance the quality of established neighborhoods in Hackensack and promote compatibility of new development with existing or specifically to define character.

The proposed multiple family, as I described before, is consistent, as I mentioned before, with the other existing multiple family uses that exist along Polifly Road itself.

No. 2, goal No. 2, to encourage public and private redevelopment, to assist in the rehabilitation of areas in need of improvement and upgrading, including the utilization of county, state and federal assistance programs that are applicable

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as well as public/private partnerships.

Obviously the developer is taking it unto himself here to improve this property with a brand new aesthetically pleasing building, also improve the site itself in terms of the parking area. So I think what the applicant's proposing is going to be a benefit to the City of Hackensack and also a benefit to the neighborhood itself.

One other thing that I did want to point out to the board is that the property is located within 1 of 2 opportunity zones within Hackensack, and that's in year 2020, as contained in your 2020 master plan reexamination report.

Now, the purpose of the opportunity zones as stated in that document is to attract investment in the area, to facilitate development and redevelopment.

So what we're doing here is we're redeveloping this property in a manner that's consistent and compatible with the surrounding neighborhood and something that's going to really be an aesthetic benefit and a visual benefit, not only to this property but to the surrounding area and the neighborhood itself.

The proposed development, as I mentioned before, is going to be consistent with the goals and the objectives of the master plan and also serve as a catalyst for other redevelopment and development in the area. And in fact, I think it would be one of the first in this opportunity zone that's located in the southern portion of the City of Hackensack.

Also housing recommendations: It's consistent with promoting a diverse housing stock, and essentially that goal talks about ensuring that the city provides zoning and redevelopment practices to allow for a variety of housing types, a mix of housing types, so I think this is something that would lend itself to that goal of the master plan as well with respect to housing.

Mr. D'Arminio stated: So the zoning ordinance itself in a few words?

Mr. Kauker responded: So the zoning ordinance, as I mentioned before, the property is located in two zones. Lot 9 is located in the B-1 district and the other lots were all located in the M-1 district. With respect to the uses itself and the reason why we're primarily here before this board, parking is not permitted as a principal use in the B-1 district, therefore, we need a use variance for the parking on Lot 9.

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Also, the mixed use that's proposed on the remaining lots is not a permitted use in the M-1 district, therefore, we require a (d)(1) use variance for that as well. So there is a (d)(1) use variance that's required for this specific project, which I'll go into more detail in just a few minutes.

The other (d) variance that's required is a (d)(6) variance, a height variance, because we exceed the permitted height by ten feet or 10 percent. The M-1 zone permits a height of 50 feet, we're proposing a height of 75.6 feet.

So with respect to the variance proofs themselves, I'll go over the (d)(1), and then I'll talk about the (d)(6), and then I'll go into the bulk variances that are required. There are a number of bulk variances that are associated with this application as well.

I'm sure the board is familiar with respect to what the criteria are for a (d)(1) or (d)(6). I will go over those briefly.

The Municipal Land Use Law outlines statutory criteria for the grant of variance approval. And the applicant must make a showing of what's known as the positive criteria as well as the negative criteria.

So essentially the positive criteria, the applicant must show special reasons in support of the variance. Typically, the two most often cited purposes or special reasons are that a use is inherently beneficial, which we are not here, or that the general welfare as promoted because the site is particularly suited for the proposed use.

Also I would point out that any one of the purposes of zoning could serve as a special reason for the proposed variance itself too.

In this instance here specifically, I would submit to the board that the site itself is particularly suited for the proposed use and that special reasons do exist in support as follows. No. 1, the location of the property.

As I mentioned before, the site itself is uniquely located next to Route 80 and does have frontage on three other public streets. Also the topography of the site, the topography makes the site suited as the development will be at a lower elevation than Polifly Road and also the uses that on the opposite side of Polifly Road.

If you look at the way that this property and the building is going to be developed, as I mentioned, Polifly Road is at a higher elevation, so the impact to the building is going to be less as it relates to

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Polifly Road. The majority of the building in terms of the height is going to be oriented toward the light industrial area located to the east of the property. So that situation also makes it unique as well.

With respect to the property itself, the property, as I mentioned, is 54,000 square feet, which is five times larger than the size of the minimum lot area requirement for the M-1 zone at 10,000 square feet. It's my opinion that a larger lot can better accommodate the use and also the height of the building.

Another special reason is the influence of the surrounding land uses. Basically I talked before about the other multiple family uses that exist within the area, and I think that that is something that makes this property suitable.

Also the longstanding historical use of the property for multiple uses. The property has been in existence for many years with the storage and the office, the truck storage, office use, as well as the billboard use, so those uses have existed on that property for many, many years.

I do believe also that the introduction of the additional multifamily residential use is going to make this more compatible with the other uses in the area.

The storage operation of the site itself is going to be reorganized and is going to be laid out in a more efficient manner so that it will operate more efficiently, reducing impacts on the surrounding area.

Another thing that is important to note and as you saw in the architectural renderings that were provided, and I know we talked about this at the last meeting as well, the trucks and the vehicles that are associated with the construction use are going to be located within the parking deck, so they won't be visible outside as they are currently. So I think the reorganization, the more efficient use of the property is also a special reason in support of this application.

Mr. D'Arminio asked: We did do the additional stormwater as well and that is a general welfare that is not just for us, that was for the surrounding area and our neighbor as well, so that would be an additional benefit?

Mr. Kauker responded: Yes.

The engineer provided significant testimony about the benefits of the additional stormwater management

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system that will be provided.

Mr. D'Arminio asked: For the entire area, not just for us?

Mr. Kauker responded: Yes, that is correct.

With respect to the use of Lot 9 for the parking area, I think that that -- let me just bring up the photo again, because you can take a look at that. You see where this property is located, it's really --

Mr. Diktas asked: You are referencing A-19?

Mr. Kauker responded: Yes, I am. Thank you.

So if you take a look at this photo, you can see the existing use. It's really difficult for a use to operate that's not connected to the property behind it, especially if there's a taking in the future, the road is widened. So I think the use of a parking area on this lot is more suited than any other particular use, especially given the conversation that occurred earlier this evening, if some additional parking spaces need to be taken. If there were a structure there, obviously it would be much more difficult to do.

So for those reasons I feel that, as I mentioned before, the site is suited for the use.

As I mentioned before, any one of the purposes of zoning could support special reasons. So there are other purposes of zoning that I do believe this does support in addition to the promotion of the general welfare. But as I mentioned before and just want to point this out again, it's my opinion that the proposed redevelopment of this site would serve as a catalyst for other redevelopment opportunities in the area, which I think would be a benefit to the neighborhood and a benefit to the city itself.

Also as I mentioned before, I talk about the fact that this property was located in an opportunity zone as well, which is an appropriate location and something that your master plan calls for the specific area of redevelopment.

Also to provide sufficient space in appropriate locations for a variety of uses. The proposed development would allow for the appropriate development of this property in a manner that is consistent and compatible with other uses in the area.

Also purpose E, to promote a desirable visual environment as well. You saw the architectural rendering, the applicant proposes a very visually pleasing building that would have a positive impact on the area. In addition to the building itself --

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and obviously it goes without saying that the existing building is going to be renovated to match the proposed structure itself, so the entire structure is going to be renovated, something that will be an aesthetic benefit and an improvement to the site and the area.

There are also other improvements including new paving, curbing, landscaping, and fencing and lighting, which we talked about previously.

So now I'd like to move on to the (d)(6) height variance. As we mentioned before, a height of 50 feet is permitted in the M-1 zone, where 75.6 feet is proposed.

So with respect to the (d)(6), the proofs for a (d)(6) variance are a little bit different. The board can grant a (d)(6) variance in two cases, the Coventry Square v. Westwood case or the Grasso v. Borough of Spring Lake Heights case. The court found that special reasons could be found if the applicant could prove that the taller structure was consistent with other buildings in the area, and with respect to the Coventry in terms of the site being able to accommodate that increase in height itself. Just briefly what I'd like to talk about is the fact that this taller building can be accommodated on the site. As I mentioned before, the site itself is five times larger than the minimum lot area requirement for the M-1 district itself. And also I talked about before the unique topography of the site. So you're basically going to have a building, and when you look at the building from Polifly Road, as I mentioned before, even though it's 75 feet, it won't appear 75 feet from Polifly. If you down to the industrial area along Kenneth Street, that's where you're going to see the bulk of the height of the building itself.

Mr. D'Arminio asked: And Polifly Road will be more towards the 50 feet?

Mr. Kauker responded: Yes, Polifly Road will be more towards the 50 feet. Obviously this is located in the industrial zone, which building can be 50 feet. So as you're viewing the structure from Polifly Road, it would appear more compliant. So that's one of the main differences with respect to this property itself, because of the change in grade, it makes this site suitable for the height of the building and the deviation of the height. As I mentioned before and I'll just mention it briefly again, one of the mitigating factors would be the fact also that we're located immediately adjacent to Route 80. So Route 80 is obviously located at a

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higher elevation, obviously having a building immediately adjacent to that is something that would have a reduced impact on the area.

Now moving on to the (c) or the bulk variances that we're requesting here. There are a number of bulk variances that we're requesting that are related to the M-1 district, and then some general provisions of the ordinance itself, and what I'm going to try to do to try to expedite is just try to group those variances together.

So as I said, I will group the bulk variances. In addition, I'll be brief with respect to the bulk variance criteria.

There is a case associated with bulk variances, it's called the Puleio case. And basically in a nutshell, I won't go into detail, but it says essentially the use or the bulk requirements that are prescribed for that use are not necessarily applicable to a use that's not permitted in the zone, so therefore the board must consider the site in its entirety and look at the variance related to the overall site improvements, so therefore the variances are subsumed within the request for the (d)(1) use variance.

But the variances themselves, as I mentioned before, can basically all be justified because of the fact that the requested variances are a result of the location, for the most part, of the existing building. So we have an existing building that doesn't meet a number of conditions in terms of the front yard setback and I'll just go over those briefly.

Variances required for minimum front yard setback from Elleen --

Mr. D'Arminio asked: I think the variances themselves, the setback variances are on the record, are either existing or on the record, because I think we've tried to get --

Mr. Kauker responded: So those are existing conditions.

Mr. D'Arminio asked: Okay. And they're existing conditions and then the other ones?

Mr. Kauker responded: Yes, so those variances can be justified as a (c)(1), in my opinion, because of the location of the existing building, which represents a hardship, making it difficult to comply with those requirements, as I mentioned before.

It could also be justified as a (c)(2) because the benefits derived from the aesthetic improvements and other improvements at the site would be a benefit

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that would outweigh any detriment.

The other variances can be broken down into two groups, variances related to parking design with respect to layout and variances related to parking landscape.

Very briefly with respect to the parking design, it's my -- I'm sorry, there's one with respect to an accessory structure, but the variances related to parking, in my opinion, are all justified as the parking layout, as designed, provides appropriate circulation, separates the residential use from the commercial use, I know as mentioned by the board many times, and also as I mentioned, it hides the commercial vehicles from the public street.

Mr. D'Arminio asked: They relate a lot to the deck, because you can't put landscaping on the deck?

Mr. Kauker responded: Yes.

So the benefits of those improvements outweigh any detriment.

With respect to the landscaping, as Mr. D'Arminio had just mentioned before, they related to landscaping and if you're using the parking deck, it's very difficult for landscaping, but what I would submit to the board is that the perimeter of the property is going to be landscaped itself and therefore that would be mitigated and I think we do meet the intent of the ordinance to provide appropriate landscaping.

Finally, with respect to the negative criteria, it's my opinion that there would not be a substantial detriment to the public good.

The proposed development, as I mentioned, would be located on a site -- it's going to be a redevelopment of that property, it's on a site that's influenced by surrounding existing land uses, it's consistent with the surrounding land uses itself.

We've heard significant testimony with respect to traffic. The site is going to function properly from a circulation standpoint itself. And the site is located immediately adjacent to Route 80, as I mentioned a number of times.

Finally, it's my opinion they'll be no substantial detriment or impairment to the master plan or zone plan of the community.

As I mentioned before, I went over the goals and objectives which I do think we meet.

Finally, with a (d)(1) use variance, we must make a showing of the Medici enhanced quality of proof. Although not specifically permitted, this would result in an improvement of the subject property in a

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manner that's more consistent with the surrounding area.

For those reasons --

Mr. D'Arminio asked: And it would also promote redevelopment and be a catalyst for the opportunity zone as was requested?

Mr. Kauker responded: That is correct.

So in summary, the proposed development in my opinion would result in an aesthetic improvement of the site through the construction of a brand new visually pleasing building.

The reorganization and more efficient use of the existing use of the property.

Hiding the existing trucks and vehicles.

Mr. D'Arminio stated: Don't forget the stormwater management.

Mr. Kauker responded: Yeah, the stormwater management, the improvement of Kenneth Street as well, the enhanced landscaping, the lighting.

For all those reasons, I do feel that we do meet the burden of proof with respect to both (d)(1) and (d)(6) variances, and I feel we also meet the burden of proof with respect to the bulk, and on balance the positive criteria would outweigh the negative criteria.

Mr. D'Arminio asked: As far as the site plan, Mr. Hough did speak about that there's adequate circulation, correct?

Mr. Kauker responded: Yes.

Mr. D'Arminio asked: There's various points of access and even emergency access for vehicles.

And then with regard to the subdivision, the consolidation, we've consolidated the lots based upon the use, the zones, but if the board would like us to consolidate all the lots and have a split lot zoning, we can do that too. But right now we're consolidating Lots --

Mr. Diktas stated: Reverse subdivision.

Mr. D'Arminio stated: Yes, it's a reverse subdivision. We call it a consolidation.

Mr. Diktas stated: Reverse subdivision, so there will be one tax lot.

Mr. D'Arminio stated: If that's the preference of the board, we'll do that.

Then it would have a split zoning between lots, because we can't change the zoning.

Mr. Diktas stated: The zone is the zone, we're talking the benefit for the client, the benefit for the city is one major lot. If they want appeals down the road, that's their business. One lot would be

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more efficient and clean.

Mr. D'Arminio stated: That's fine. Let's do that.

Mr. D'Arminio asked: And it would meet any criteria for site plan approval?

Mr. Kauker responded: It would, yes.

The hearing was opened for public questions. No one wished to comment.

Mr. Diktas stated: Just so the record is clear, the testimony is closed, all the proofs are in, we come back, Mr. Inglima goes first, he can make his statement for the record, Mr. D'Arminio then does his closing argument. In the interim, Mr. Pemberton will have the April transcript and Mr. Sarni will have tonight's transcript, so you'll have a full complement, you'll have seven people voting, and we'll put everything on the record we discussed earlier and you will have a full complement of seven. So you need five out of seven instead of five out of five tonight.

THE APPLICATION IS CARRIED TO THE 7/20/2023
MEETING.

7. **Old Business: None**
8. **New Business: None**
9. **Public Portion: No one wishing to comment**
10. **Adjournment**

MOTION TO ADJOURN OFFERED BY CHAIRMAN GIARRUSSO.
SECOND BY MR. PEMBERTON. ALL PRESENT BOARD
MEMBERS RESPOND IN THE AFFIRMATIVE. MEETING IS
ADJOURNED AT 10:11 P.M.