

1 TOWNSHIP OF MONTVALE  
2 PLANNING BOARD

3 IN THE MATTER OF: :  
4 WAYPOINT RESIDENTIAL : TRANSCRIPT  
5 SERVICES, LLC : OF  
6 127 SUMMIT AVENUE : REMOTE  
7 BLOCK 1002, LOT 7 : PROCEEDINGS  
8 :  
9 :

10 Tuesday, January 5, 2021  
11 Via Zoom  
12 Commencing at 8:14 p.m.

13 BOARD MEMBERS PRESENT:

14 JOHN DePINTO, Chairman  
15 FRANK STEFANELLI, Vice Chairman  
16 MAYOR MICHAEL GHASSALI  
17 CHRIS GRUBER, Code Official  
18 JOHN CULHANE  
19 THERESA CUDEQUEST  
20 ROSE CURRY, Council Liaison  
21 WILLIAM LINTNER  
22 DANTE TEAGNO  
23 ROBERT ZITELLI, Alternate  
24 JAVID HUSEYNOV, Alternate

25 ALSO PRESENT:

26 LORRAINE HUTTER, Board Secretary  
27 ERICA DAVENPORT, Assistant to Board Secretary  
28 DARLEEN GREEN, P.P., Borough Planner  
29 CHRISTOPHER DOUR, P.E., Board Engineer

30 STENOGRAPHICALLY REPORTED BY:

31 MICHELE QUICK, CCR, RMR, CRR  
32 NJ Licensed Stenographer

33 QUICK COURT REPORTING, LLC  
34 47 BRIAN ROAD  
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1     A P P E A R A N C E S:

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3             ROBERT T. REGAN, ESQ.  
Counsel for the Board

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5             DAY PITNEY, LLP  
One Jefferson Road  
Parsippany, New Jersey 07054-2891  
BY: PETER J. WOLFSON, ESQ.  
Counsel for the Applicant

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8     A L S O   P R E S E N T:

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10            PETER J. KURSHAN, ESQ.  
Trustee and Member of the Board of Trustees  
of Summit Ridge

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1             CHAIRMAN DePINTO: Okay, next we have

2 a continued public hearing on Block 1002, Lot 7,

3 Waypoint Residential Services, LLC, of 127 Summit

4 Avenue. It's an application for preliminary and

5 final site plan approval with related bulk variances

6 and soil movement.

7             MS. HUTTER: Mr. Chairman?

8             CHAIRMAN DePINTO: Before -- yes.

9             MS. HUTTER: Can you make the

10 statement about Block 2002, Lot 3, being carried?

11            CHAIRMAN DePINTO: Yes.

12            MS. HUTTER: Thank you.

13            (Board attends to another matter.)

14            CHAIRMAN DePINTO: With that said, I

15 am first going to ask Mr. Wolfson to enter his

16 appearance on behalf of this applicant.

17            MR. WOLFSON: Thanks, Mr. Chairman.

18 Peter Wolfson of Day Pitney here on behalf of the

19 applicant, and happy and healthy new year to you

20 all.

21            CHAIRMAN DePINTO: Thank you, and to

22 you also. And I do believe I saw Mr. Kurshan here

23 as well.

24            MR. KURSHAN: Yes, good evening,

25 members of the Planning Board and Mr. Chairman,

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1             I N D E X

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3     OBJECTOR'S WITNESS(ES)                     SWORN

4     PETER G. STECK, P.P.                             10

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6     APPLICANT'S WITNESS(ES)

7     DAN KING, P.A.                                     61

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9     EXHIBITS MARKED INTO EVIDENCE

10

11     NUMBER     DESCRIPTION                     PAGE

12     A-27     Letter dated December 31, 2020 in             9  
              response to Ms. Green

13     A-28     Response to the Maser Engineering             59  
              memo of November 9, 2020

14     B-7     Submission from Mr. Hipolit dated             7  
              December 14, 2020

15     B-8     Planning report from Ms. Green             7  
              dated December 14, 2020

16     B-9     Submission from Mr. Hipolit dated             7  
              December 16, 2020

17     B-10    Letter from Mr. Regan dated December             7  
              22, 2020

18     B-11    Letter from Ms. Green dated December             8  
              22, 2020

19     SR-2    Letter from Peter Steck dated             8  
              December 17, 2020

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1 Peter Kurshan. I am here.

2             CHAIRMAN DePINTO: Okay.

3             MR. KURSHAN: Happy New Year to

4 everybody too, please.

5             CHAIRMAN DePINTO: And to you also,

6 and Mr. Kurshan, you are representing the homeowners

7 association or condo association?

8             MR. KURSHAN: I am here as a trustee

9 and a member of the -- a member of the -- as a

10 trustee and a member of the Board of Trustees of

11 Summit Ridge, yes.

12            CHAIRMAN DePINTO: Okay, very good.

13 Thank you. And Mr. Wolfson, why don't you bring the

14 Board up to speed with where we left this

15 application at our last meeting. I believe the

16 clarification of a threshold question with regard to

17 potential D variances and that we were going to give

18 the objector an opportunity to be able to present

19 evidence on their part. A, correct me if I'm wrong,

20 and if there's anything you'd like to add to that.

21            MR. WOLFSON: Thank you, Mr. Chairman.

22 Yes. As the Board will recall, prior to the

23 December 1 meeting, you received a thick package

24 dated November 23, 2020 from Mr. Kurshan on behalf

25 of the condominium association. That was marked

<p style="text-align: center;">6</p> <p>1 into the record as SR-1 on December 1. Also marked 2 into the record was our letter of November 27, 2020, 3 A-26 marked, and those were before you in advance of 4 December 1.</p> <p>5 At the December 1 meeting, I presented 6 testimony from our Professional Planner, Richard 7 Preiss, and from our architect, Dan King, as to the 8 issues that had been raised by Mr. Kurshan. 9 Additionally, Mr. Kurshan took the opportunity to 10 cross-examine Mr. Preiss on the issues relative to 11 the jurisdiction, and those are the alleged D 12 variances.</p> <p>13 At the end of the proceeding, the Chair 14 requested that he receive, that the Board receive 15 the advice of their professionals and so subsequent 16 to December 1, correspondence was issued, two memos 17 from Darlene Green, one dated December 14 and one 18 dated December 22. There was a memo from your 19 engineer, Mr. Hipolit, dated December 16, and then 20 finally, Mr. Regan weighed in on the adequacy of the 21 public notice by his letter dated December 22.</p> <p>22 So if it pleases the Chairman, perhaps 23 we can just put those into the record now so that we 24 have things --</p> <p>25 CHAIRMAN DePINTO: We can. We can;</p>	<p style="text-align: center;">8</p> <p>1 And we have a letter from Ms. Green dated December 2 22, which would be B-11. I think that encompasses 3 all the Board exhibits; I don't think there's 4 anything else.</p> <p>5 CHAIRMAN DePINTO: Okay. And with 6 that said, Mr. Wolfson, do you have any objections 7 to Peter Steck's letter of December 17 being marked 8 into evidence on behalf of the objector?</p> <p>9 MR. WOLFSON: No, Mr. Chairman. I see 10 Mr. Steck is attending the meeting tonight by Zoom, 11 so because of that, I don't.</p> <p>12 CHAIRMAN DePINTO: Okay, very good. 13 And with that said, Mr. Kurshan, I presume you would 14 like to have this letter marked into evidence and 15 allow Mr. Steck to testify?</p> <p>16 MR. KURSHAN: Both are correct, yes.</p> <p>17 CHAIRMAN DePINTO: Okay.</p> <p>18 MR. REGAN: That would be objector 19 Summit Ridge 2.</p> <p>20 CHAIRMAN DePINTO: SR-2.</p> <p>21 MR. WOLFSON: Mr. Chairman, if I might 22 --</p> <p>23 CHAIRMAN DePINTO: Yes.</p> <p>24 MR. WOLFSON: -- for completeness on 25 the jurisdictional issues --</p>
<p style="text-align: center;">7</p> <p>1 however, Mr. Kurshan, did you receive copies of 2 those technical review letters?</p> <p>3 MR. KURSHAN: I did, and I would just 4 add, just to bring the Board up to date, in addition 5 to Ms. Green's letter of December 14 and 22nd and 6 Mr. Hipolit's letter of December 16, Mr. Regan's 7 letter of December 22, Summit Ridge also provided 8 the Board with a planning memorandum of Mr. Peter 9 Steck, S-T-E-C-K, dated December 17, 20 --</p> <p>10 CHAIRMAN DePINTO: Mr. Kurshan, we're 11 not going to permit that into the record just yet. 12 Let's deal with the municipal documents first and 13 then I will turn it back over to you.</p> <p>14 With that said, Mr. Regan, let's mark 15 those exhibits.</p> <p>16 MR. REGAN: Okay, I'm going to try and 17 do them in chronological order if I can.</p> <p>18 CHAIRMAN DePINTO: Okay, please.</p> <p>19 MR. REGAN: I have a December 14 20 submission from Mr. Hipolit. I think that would be. 21 B-7. I have a planning report from Ms. Green also 22 dated December 14, and we could make that B-8. We 23 have a submission from Mr. Hipolit dated December 24 16, and we could make that B-9. We have my letter 25 to the Board dated December 22, which could be B-10.</p>	<p style="text-align: center;">9</p> <p>1 CHAIRMAN DePINTO: Yes.</p> <p>2 MR. WOLFSON: -- there was an issue 3 raised by Mr. Kurshan and there was comment on it by 4 Ms. Green relative to the walking trail that was 5 proposed.</p> <p>6 CHAIRMAN DePINTO: Yes.</p> <p>7 MR. WOLFSON: Subsequent to receiving 8 Ms. Green's conclusion that she felt a variance was 9 implicated by the walking trail, although that was 10 not our reading of it, out of respect for her 11 position, we authored a letter dated December 31 of 12 2020 in which we indicated that if the Board was 13 inclined to not grant the variance, then we would 14 retain the walking path but limited to the use of 15 our residence and eliminate the parking lot that was 16 intended for the public. So I'd like to have that 17 marked, if I might, too, as A-27, I believe.</p> <p>18 MR. REGAN: That would be the letter 19 of December 31?</p> <p>20 MR. WOLFSON: Yes, Mr. Regan.</p> <p>21 CHAIRMAN DePINTO: Mr. Kurshan, do you 22 have a copy of that letter as well?</p> <p>23 MR. KURSHAN: Yes, I received that. 24 Yes.</p> <p>25 CHAIRMAN DePINTO: Thank you. Mr.</p>

<p style="text-align: right;">10</p> <p>1 Wolfson, anything else?</p> <p>2 MR. WOLFSON: Not at this time.</p> <p>3 CHAIRMAN DePINTO: Okay. Mr. Kurshan,</p> <p>4 that threshold question that I think has to be</p> <p>5 addressed because of the fact that this Board is a</p> <p>6 Board that covers both questions that a Zoning Board</p> <p>7 of Adjustment as well as a Planning Board would</p> <p>8 address, and because of that, the two members that</p> <p>9 are members of the governing body that serve on this</p> <p>10 Board, if in fact it is determined that there are D</p> <p>11 variances associated with the application, they</p> <p>12 would have to recuse themselves from participating.</p> <p>13 So I'm not quite sure how we could go forward until</p> <p>14 we address the question of the D and I want to thank</p> <p>15 you for bringing in your witness, Mr. Steck, and</p> <p>16 thank Mr. Steck for his submission, and from there,</p> <p>17 I'll turn it over to you, Mr. Kurshan.</p> <p>18 MR. KURSHAN: Thank you, Mr. Chairman</p> <p>19 and members of the Planning Board. Summit Ridge</p> <p>20 would ask that Mr. Steck be sworn so that he could</p> <p>21 provide testimony before this Board.</p> <p>22 MR. REGAN: Mr. Steck, would you raise</p> <p>23 your right hand, please?</p> <p>24 P E T E R G. S T E C K, P.P., first having been</p> <p>25 duly sworn, testified as follows:</p>	<p style="text-align: right;">12</p> <p>1 qualified before the Board.</p> <p>2 CHAIRMAN DePINTO: Yeah, Mr. Kurshan,</p> <p>3 is it necessary or are you insisting upon him</p> <p>4 entering this information?</p> <p>5 MR. KURSHAN: I will -- I will --</p> <p>6 thank you. I will move on, Mr. Chairman.</p> <p>7 CHAIRMAN DePINTO: Okay, thank you.</p> <p>8 MR. KURSHAN: I'll move on.</p> <p>9 DIRECT EXAMINATION BY MR. KURSHAN:</p> <p>10 Q. Mr. Steck, can you tell the Board what</p> <p>11 your assignment was or what the request was that was</p> <p>12 made to you at the invitation of the Chairman?</p> <p>13 A. <b>Yes. As the Board is now aware, I was</b></p> <p>14 <b>contacted by Mr. Kurshan on behalf of the Summit</b></p> <p>15 <b>Ridge Condominium Association, and in discussions,</b></p> <p>16 <b>he indicated to me that the issue of a D variance</b></p> <p>17 <b>had surfaced and he had raised it at one of the</b></p> <p>18 <b>earlier meetings. As I understand it, the Chairman</b></p> <p>19 <b>invited the condominium association to support his</b></p> <p>20 <b>position, at least in terms of the D variance issue,</b></p> <p>21 <b>with a Professional Planner, so I was contacted to</b></p> <p>22 <b>respond to that.</b></p> <p>23 <b>By way of background, I looked at the</b></p> <p>24 <b>materials that are on the website in connection with</b></p> <p>25 <b>this application, I also reviewed the memos that</b></p>
<p style="text-align: right;">11</p> <p>1 MR. REGAN: And for the record, state</p> <p>2 your full name, please, and spell your last name.</p> <p>3 MR. STECK: It's Peter G. Steck,</p> <p>4 S-T-E-C-K, Maplewood, New Jersey.</p> <p>5 MR. REGAN: Mr. Chairman, Mr. Steck</p> <p>6 has previously testified before this Board and I</p> <p>7 recommend he be deemed qualified as a Professional</p> <p>8 Planner.</p> <p>9 CHAIRMAN DePINTO: The Chair will</p> <p>10 accept recommendation of counsel. Please continue.</p> <p>11 MR. KURSHAN: Okay, thank you. Thank</p> <p>12 you, Counsel, and thank you, Mr. Chairman.</p> <p>13 Mr. Steck, just very briefly, tell the</p> <p>14 Board some of your qualifications, and I realize</p> <p>15 that you've been accepted as an expert as a</p> <p>16 Professional Planner but just for background,</p> <p>17 please.</p> <p>18 MR. STECK: Yes. By way of education,</p> <p>19 I have a bachelor's degree in civil engineering and</p> <p>20 a master's in city and regional planning. I was the</p> <p>21 planning director for the township --</p> <p>22 MR. WOLFSON: Excuse me, Mr. Chairman,</p> <p>23 I have no objection to Mr. Steck being accepted as</p> <p>24 an expert either.</p> <p>25 MR. REGAN: He's previously been</p>	<p style="text-align: right;">13</p> <p>1 <b>were submitted, and particularly Ms. Green's memo,</b></p> <p>2 <b>who responded to my December 17 memo. I also</b></p> <p>3 <b>reviewed the development ordinance of Montvale as</b></p> <p>4 <b>well as the Municipal Land Use Law, and as</b></p> <p>5 <b>indicated, I prepared a memo for the Board dated</b></p> <p>6 <b>December 17 of last year and I want to just point</b></p> <p>7 <b>out that just -- as the Board is aware, they took</b></p> <p>8 <b>planner Richard Preiss out of order because the</b></p> <p>9 <b>issue of the development variance had arisen. My</b></p> <p>10 <b>memo only addresses the issue of the -- whether or</b></p> <p>11 <b>not there is one or more D variances and it was not</b></p> <p>12 <b>intended to address issues of C variances, which I</b></p> <p>13 <b>may return on at another time, but my focus at the</b></p> <p>14 <b>moment is just on the D variances and so, again,</b></p> <p>15 <b>that's what's explained in my December 17 memo.</b></p> <p>16 Q. Did you also review any testimony of</p> <p>17 Mr. Preiss's?</p> <p>18 A. <b>I did. I reviewed the transcript from</b></p> <p>19 <b>the July meeting wherein Mr. Preiss did state his</b></p> <p>20 <b>position with respect to the D variances and his</b></p> <p>21 <b>position was that no D variance was involved with</b></p> <p>22 <b>the application.</b></p> <p>23 Q. And as a -- Mr. Steck, as a result of</p> <p>24 your review of these materials, did that result in</p> <p>25 the report which we have marked in evidence as --</p>

<p style="text-align: right;">14</p> <p>1 which has been marked in evidence as SR-2?</p> <p>2       <b>A. That is correct.</b></p> <p>3       <b>Q.</b> And are all of -- are all of your</p> <p>4 opinions in this matter set forth to a reasonable</p> <p>5 degree of certainty?</p> <p>6       <b>A. Yes, in that memo, and I will</b></p> <p>7 <b>generally describe it in my forthcoming testimony.</b></p> <p>8       <b>Q.</b> Can you please tell the Board your</p> <p>9 findings as set forth in your memorandum, SR-2?</p> <p>10       <b>A. Yes. I'll just briefly go through the</b></p> <p>11 <b>memo, focusing on the items that I think are</b></p> <p>12 <b>important. This consists of a total of four pages</b></p> <p>13 <b>plus one appendix. Of importance is the language in</b></p> <p>14 <b>the Municipal Land Use Law, N.J.S.A. 40:55D-70(d),</b></p> <p>15 <b>that describes six types of variances. What is --</b></p> <p>16 <b>what surfaces, in my opinion, as relevant is the</b></p> <p>17 <b>D(1) variance and the D(6) variance, and the D(1)</b></p> <p>18 <b>variance reads, in part -- and again, this is a type</b></p> <p>19 <b>of use variance that only the Board transformed into</b></p> <p>20 <b>a Board of Adjustment can handle. It is -- it</b></p> <p>21 <b>involves a use or principal structure in a district</b></p> <p>22 <b>restricted against such use or principal structure.</b></p> <p>23 <b>The emphasis here is that that D(1) provision is not</b></p> <p>24 <b>limited to just the use, but if there is a principal</b></p> <p>25 <b>structure that is not permitted in the zone, that</b></p>	<p style="text-align: right;">16</p> <p>1 there is discussion about land use intensity, area,</p> <p>2 yard and bulk regulations. That's part of the title</p> <p>3 of Subparagraph D. So under D are things that are</p> <p>4 both D and C variances, so one must read further to</p> <p>5 find out, you know, what the specific language is</p> <p>6 and one of the focuses is on Section D-2 that talks</p> <p>7 about maximum building height and it has two</p> <p>8 provisions that need to be complied with. One is a</p> <p>9 linear height of 35 feet and the second is a</p> <p>10 building height of two stories, and then the</p> <p>11 ordinance reads, "Exclusive of basement and cellar</p> <p>12 areas that may only be used for parking, storage,</p> <p>13 utilities, and the placement of mechanical equipment</p> <p>14 to service the principal building." It's my</p> <p>15 contention that that exclusion of basement areas</p> <p>16 applies to the stories measurement and not the</p> <p>17 linear height measurement simply because of how that</p> <p>18 wording is structured in the ordinance, and it's</p> <p>19 also my contention that the lowest level of this</p> <p>20 building is not exclusively used for parking.</p> <p>21               Another provision -- this is D2(h)</p> <p>22 under the heading "Maximum Length of the Buildings"</p> <p>23 in Subsection 3, first talks about the linear length</p> <p>24 of a building, "cannot exceed 160 feet," and then it</p> <p>25 tacks on an additional provision that says "and</p>
<p style="text-align: right;">15</p> <p>1 also arises to the level of a D variance.</p> <p>2       The other provision is D(6) that talks</p> <p>3 about a height of a principal structure which</p> <p>4 exceeds by 10 feet or 10 percent the maximum height</p> <p>5 permitted in the district for a principal structure.</p> <p>6       Typically, municipalities and, in fact,</p> <p>7 Montvale measure height in two fashions, one is</p> <p>8 height in stories and the other is height in linear-</p> <p>9 feet measurement. The D(6) provision is only the</p> <p>10 linear feet, so if this building happens to be more</p> <p>11 than two stories, that would constitute a C variance</p> <p>12 and the Planning Board would retain jurisdiction,</p> <p>13 but if the linear height exceeds the maximum by 10</p> <p>14 feet or 10 percent, that becomes another D(6)</p> <p>15 variance, and again, that means that only the Board</p> <p>16 transformed into a Board of Adjustment can handle</p> <p>17 this application.</p> <p>18       The starting point for determining</p> <p>19 whether a D variance or not is invoked is what I</p> <p>20 just went through; first of all, what the Municipal</p> <p>21 Land Use Law says, because it has six types of D</p> <p>22 variances, and anything that's not a D variance is,</p> <p>23 by default, classified as a C variance. So the</p> <p>24 second point of focus is on the local ordinances in</p> <p>25 Montvale, and in Section 400-40, Subparagraph D,</p>	<p style="text-align: right;">17</p> <p>1 shall contain no more than 12 dwelling units." In</p> <p>2 my opinion, what the ordinance is looking for on its</p> <p>3 face is a development that consists of one or more</p> <p>4 buildings that have up to 12 units in them and not</p> <p>5 more than two stories. That certainly suggests that</p> <p>6 the development described in the ordinance</p> <p>7 anticipated multiple buildings rather than a single</p> <p>8 building.</p> <p>9       Also in my memo, I reproduce the</p> <p>10 definitions of "building height" and "story," and</p> <p>11 the building height, as the Board is aware, is</p> <p>12 measured from the average ground elevation around</p> <p>13 the building to the midpoint of a sloped roof, which</p> <p>14 is the case here. There is also a definition of</p> <p>15 "story," which is on Page 3 of my December 17 memo.</p> <p>16 It says, in part, "The on-grade level and all cellar</p> <p>17 levels of building devoted to the use of parking,</p> <p>18 including aisles, ramps and maneuvering space, shall</p> <p>19 also be excluded" -- "excluded from the definition</p> <p>20 of a story." So there are also definitions of a</p> <p>21 basement and cellar and they basically have to do</p> <p>22 with where the grade level meets the building. If</p> <p>23 that lowest level has a midpoint that is below the</p> <p>24 average grade, it becomes a cellar. If it's above</p> <p>25 that, it becomes a basement.</p>

<p style="text-align: right;">18</p> <p>1 So with that background in mind, I</p> <p>2 looked at the plans and the plans that were -- that</p> <p>3 I used at were dated October 16 of 2020, and as the</p> <p>4 Board is aware, the labeling of the plan and some of</p> <p>5 the descriptions on the plan changed over time, but</p> <p>6 clearly, there is a building with three levels of</p> <p>7 residential use, but in order to get to that</p> <p>8 residential use, there's a lobby area that is below</p> <p>9 some of those three levels. That lobby area is</p> <p>10 essentially on grade. I understand that it was</p> <p>11 labeled as like a parking lobby, but the answer is</p> <p>12 it's the only way to get into the building, and I</p> <p>13 understand that the applicant's architect removed</p> <p>14 some of the, I'll call it the furniture in that</p> <p>15 level, but the only way to get into this building to</p> <p>16 the residential uses is by that, I'll call it a</p> <p>17 lobby, and that lobby gives access to a stairway and</p> <p>18 it gives access to elevators. So if there's no one</p> <p>19 in the lobby, someone can enter this building and go</p> <p>20 up to any of the three floors and enter those floors</p> <p>21 with no limitations on security, et cetera. In my</p> <p>22 opinion, regardless of how you label it, it clearly</p> <p>23 has a function of access to the residential floors</p> <p>24 that are above it and it's my opinion that because</p> <p>25 of that obvious function and the fact that it is at</p>	<p style="text-align: right;">20</p> <p>1 Just to circle back, there is a</p> <p>2 limitation of 12 dwelling units per building and</p> <p>3 that is not an issue of density. There's a separate</p> <p>4 standard in the ordinance for density. This is the</p> <p>5 type of building that can be placed on the property,</p> <p>6 and I'll refer later to testimony that Mr. Preiss</p> <p>7 offered, which I think confirms my observation that</p> <p>8 the ordinance anticipated multiple buildings, no one</p> <p>9 building having more than 12 units in it. Because</p> <p>10 this is one building with 157 units in it, in my</p> <p>11 opinion, it is a principal structure which is not</p> <p>12 permitted in this AH6 zone.</p> <p>13 The issue of the height in linear feet,</p> <p>14 in my opinion, turns out to be a D(6) variance</p> <p>15 because it exceeds the maximum of 35 feet by more</p> <p>16 than 10 percent. Either one of them or both of them</p> <p>17 together means that only this Board transformed into</p> <p>18 a Board of Adjustment has jurisdiction to hear the</p> <p>19 application.</p> <p>20 There is a -- and the other issue is</p> <p>21 that while it is acknowledged that the building</p> <p>22 needs a C variance, so far the Board has been</p> <p>23 leaning toward the position of classifying it as a</p> <p>24 three-story building, which still needs a C</p> <p>25 variance. In my opinion, it's a four-story</p>
<p style="text-align: right;">19</p> <p>1 grade level, the building is technically a four-</p> <p>2 story building and the first floor or the lowest</p> <p>3 level should not be excluded from the measurement of</p> <p>4 building height and stories, and secondly, it should</p> <p>5 not be excluded from the linear height. It should</p> <p>6 not be excluded from the linear height for two</p> <p>7 reasons. Number one, it's not exclusively used for</p> <p>8 parking, and number two, reading the definition of</p> <p>9 "building height" in that the exemption of basement</p> <p>10 areas, in my opinion, plain reading, English</p> <p>11 language, of the ordinance is that it -- if it was</p> <p>12 exclusively used for parking, it would be excluded</p> <p>13 from the measurement of building height in stories</p> <p>14 but would not be excluded from the building height</p> <p>15 in linear feet, and as a consequence, this -- and I</p> <p>16 don't know what the average grade level is, but as a</p> <p>17 consequence of including that lobby, in my opinion,</p> <p>18 the building has a height of approximately 42.5</p> <p>19 feet, which is 21.4 percent of the maximum height of</p> <p>20 35 feet. So as a consequence, there are, in my</p> <p>21 opinion, D(1) variances that are needed. There's a</p> <p>22 D(1) variance having to do with a principal building</p> <p>23 that's not permitted and there's a D(1) variance</p> <p>24 having to do -- D(6) variance having to do with the</p> <p>25 linear height.</p>	<p style="text-align: right;">21</p> <p>1 building.</p> <p>2 One way to look at this and not parsing</p> <p>3 every single word is that a plain reading of the</p> <p>4 AH-6 zone is that you're going to see a three-story</p> <p>5 building with no more than 12 units, and presumably,</p> <p>6 to reach a density, you're going to see multiple</p> <p>7 buildings. That, in my opinion, is the clear intent</p> <p>8 of the ordinance. No one is going to look at this</p> <p>9 building, either through the plans or when it's</p> <p>10 built, and say that this type of structure is</p> <p>11 permitted in the zone. It is a structure that is</p> <p>12 many times over the 12-unit per building. As a</p> <p>13 consequence, it has a height that's clearly more</p> <p>14 than two stories. It has a scale clearly well</p> <p>15 beyond what the ordinance was looking for.</p> <p>16 There's a companion observation that</p> <p>17 the ordinance was put together in terms of buffering</p> <p>18 and setbacks and other provisions, anticipating, in</p> <p>19 my opinion, multiple two-story buildings. When the</p> <p>20 applicant comes in with a structure that is not a</p> <p>21 permitted structure that is greatly outsized, simply</p> <p>22 saying "Oh, I comply with the setbacks, I comply</p> <p>23 with the buffer requirements," does not necessarily</p> <p>24 justify the C variances because, again, the</p> <p>25 standards in the ordinance were intended for a</p>

<p style="text-align: right;">22</p> <p>1 <b>building product dramatically different.</b></p> <p>2 MR. WOLFSON: Mr. Chairman, can we</p> <p>3 please stick with the D variance arguments,</p> <p>4 jurisdictional?</p> <p>5 CHAIRMAN DePINTO: Please, Mr.</p> <p>6 Steck --</p> <p>7 MR. STECK: Dealing with a D --</p> <p>8 CHAIRMAN DePINTO: Mr. Steck, please</p> <p>9 -- I agree with Mr. Wolfson. Please limit your</p> <p>10 testimony to the question of the Ds.</p> <p>11 MR. STECK: Yes.</p> <p>12 So one of my observations was that the</p> <p>13 ordinance clearly did not anticipate this type of</p> <p>14 principal structure. I want to offer you two quotes</p> <p>15 from the transcript of the July 7 meeting of Richard</p> <p>16 Preiss that I think confirms my observation.</p> <p>17 On Page 27 of the transcript, Lines 8</p> <p>18 through 12 read as follows, and again, this is the</p> <p>19 testimony of Mr. Preiss, referring to the AH-6 zone:</p> <p>20 "That zoning does not contemplate luxury age-</p> <p>21 restricted complex in a single building with</p> <p>22 multiple amenities as we have in this application</p> <p>23 but rather a series of smaller either townhouse or</p> <p>24 apartment buildings."</p> <p>25 On Page -- at the bottom of Page 28 and</p>	<p style="text-align: right;">24</p> <p>1 like Mr. Steck, the witness, to stick to the</p> <p>2 jurisdictional issues.</p> <p>3 MR. KURSHAN: Mr. Chairman, I think</p> <p>4 this bears directly on the jurisdictional issue and</p> <p>5 the interpretation of the Montvale zoning ordinance,</p> <p>6 I think this is precisely on point and I would ask</p> <p>7 that the Chair permit Mr. Steck to continue his</p> <p>8 testimony on this line.</p> <p>9 MR. WOLFSON: I'd ask that Mr. Kurshan</p> <p>10 be a little more specific with his proffer. He just</p> <p>11 gave a net opinion. Could you explain why it's</p> <p>12 relevant?</p> <p>13 MR. KURSHAN: Why it's relevant is</p> <p>14 that the applicant's expert, Mr. Preiss, has</p> <p>15 testified that the zoning ordinance, Montvale zoning</p> <p>16 ordinance, does not contemplate this, a luxury,</p> <p>17 age-restricted complex in a single building with</p> <p>18 multiple amenities. Mr. Preiss, the applicant's</p> <p>19 expert, stated, and this is on July 7 before this</p> <p>20 Board, that this type, and I quote, "this type of</p> <p>21 high-density compact development is not really</p> <p>22 accounted for" --</p> <p>23 MR. WOLFSON: Mr. Kurshan, that's in</p> <p>24 the record already. What does that have to do with</p> <p>25 whether it's relevant to a use variance?</p>
<p style="text-align: right;">23</p> <p>1 going into Page 29, it reads as follows, again, Mr.</p> <p>2 Preiss testifying: "This type of high-density</p> <p>3 compact development is not really accounted for in</p> <p>4 the AH-6 zoning or the plan development regulations</p> <p>5 in the Montvale LDO, which really envisions a more</p> <p>6 spread-out community with multifamily dwellings."</p> <p>7 Mr. Preiss did go into some history</p> <p>8 when the zone was established in 1994, he went</p> <p>9 through changes that have occurred in terms of</p> <p>10 environmental setbacks, wetlands, in terms of</p> <p>11 population characteristics, and he characterized the</p> <p>12 ordinance as, I would say, outmoded. The problem is</p> <p>13 that since that ordinance was done, the Borough has</p> <p>14 amended its development regulations multiple times,</p> <p>15 it has adopted reexamination reports in 2016 and</p> <p>16 2017, and none of those reexamination reports</p> <p>17 recommended any changes to the AH-6 zone and the</p> <p>18 governing body made no changes to the AH-6 zone, so</p> <p>19 there is a presumption of validity and a</p> <p>20 justification of whether or not this application is</p> <p>21 appropriate. In my opinion, it can't revolve on an</p> <p>22 observation that the ordinance is old or out of</p> <p>23 date. The answer is it was reviewed as late as 2017</p> <p>24 --</p> <p>25 MR. WOLFSON: Mr. Chairman, again, I'd</p>	<p style="text-align: right;">25</p> <p>1 MR. KURSHAN: Excuse me, Mr. Wolfson,</p> <p>2 I'm answering your question. May I finish the</p> <p>3 answer?</p> <p>4 MR. WOLFSON: As long as it's not</p> <p>5 repetitive, yes.</p> <p>6 MR. KURSHAN: Mr. Preiss testified in</p> <p>7 support of your client's application that the</p> <p>8 Montvale zoning ordinance is antiquated, and he used</p> <p>9 that word at Page 29, Line 6, of his testimony. Mr.</p> <p>10 Steck is testifying before the Board that the</p> <p>11 Montvale zoning ordinance, as recently as 2017, has</p> <p>12 been reviewed and the governing body of Montvale and</p> <p>13 this Planning Board have determined that it is not</p> <p>14 antiquated because if it was believed to be</p> <p>15 antiquated, it would have been changed. That's a</p> <p>16 presumptive validity of the English language that's</p> <p>17 used in the Montvale zoning ordinance, which</p> <p>18 supports our contention that a D(1) variance is</p> <p>19 required for the structure and height. That's my</p> <p>20 proffer.</p> <p>21 CHAIRMAN DePINTO: Okay. Mr. Kurshan,</p> <p>22 are we going to get any more direct from Mr. Steck</p> <p>23 this evening?</p> <p>24 MR. KURSHAN: We're almost through the</p> <p>25 balance of Mr. Steck's direct testimony, Mr.</p>

<p style="text-align: right;">26</p> <p>1 Chairman.</p> <p>2 CHAIRMAN DePINTO: All right. Please</p> <p>3 continue, Mr. Steck, and again, remain focused on</p> <p>4 the requirement of the D variance or the</p> <p>5 determination of whether or not a D is required. I</p> <p>6 think both the Board, the Board professionals and</p> <p>7 the applicant's planner agree that what is proposed</p> <p>8 was not contemplated by the ordinance. The question</p> <p>9 is: Does it rise to the level of being at that much</p> <p>10 of a variance that it's classified as a D? I</p> <p>11 presume it is your opinion that that is the case,</p> <p>12 Mr. Steck. So I want you to finish making that</p> <p>13 argument on your direct.</p> <p>14 MR. STECK: Okay. The reason I</p> <p>15 touched on Mr. Preiss's characterization of both the</p> <p>16 age of the ordinance and whether it was contemplated</p> <p>17 is that he used those arguments in arriving at his</p> <p>18 conclusion that a D variance was not required.</p> <p>19 That's why I addressed it.</p> <p>20 I also reviewed the December 22</p> <p>21 memorandum of Darlene Green which reviewed my</p> <p>22 December 17 memorandum. She says that the AH-6 zone</p> <p>23 permits townhouses, townhouse/duplex combinations</p> <p>24 and apartment buildings as permitted uses and I -- I</p> <p>25 agree with that, that's not a question at the</p>	<p style="text-align: right;">28</p> <p>1 you can also access the parking garage, it is not</p> <p>2 exclusively a parking area. It is an area that is</p> <p>3 integral to the residential development and, in my</p> <p>4 opinion, is not exempted from the measurement of</p> <p>5 height in linear feet, which means a D variance is</p> <p>6 invoked, and it's not -- it happens to also reflect</p> <p>7 on the height in stories. In my opinion, it is --</p> <p>8 it magnifies the C variance that would come out of</p> <p>9 it.</p> <p>10 So in summary, I do believe there are</p> <p>11 two D variances inevitably tied to this plan. It is</p> <p>12 a structure that is not permitted in the zone, and</p> <p>13 number two, it has a height of a principal building</p> <p>14 that exceeds by more than 10 percent the 35-foot</p> <p>15 height limit. Either one of those would trigger a D</p> <p>16 variance and would mean that only the Board</p> <p>17 reconfigured as a Board of Adjustment can entertain</p> <p>18 the application. It also brings into question</p> <p>19 whether the public notice is adequate, in that D</p> <p>20 variances were invoked and they were not referenced</p> <p>21 in the public notice.</p> <p>22 MR. KURSHAN: Mr. Chair --</p> <p>23 CHAIRMAN DePINTO: Yes.</p> <p>24 MR. KURSHAN: Mr. Steck, do you have</p> <p>25 anything further?</p>
<p style="text-align: right;">27</p> <p>1 moment, but she does not address the part of the</p> <p>2 D(1) variance that has to do with a principal</p> <p>3 structure that is not permitted in the zone and I</p> <p>4 would contend that a limitation of 12 units per</p> <p>5 building, in comparison with a building that has 157</p> <p>6 units, puts it in a whole new classification. A</p> <p>7 two-story building, according to the RSIS standards,</p> <p>8 is a lowrise building; all of a sudden, anything</p> <p>9 over two stories becomes a midrise building.</p> <p>10 There's a state recognition of a jump in</p> <p>11 classification, but the issue is, as I review</p> <p>12 Planner Green's memo, she did not address the issue</p> <p>13 of whether or not this constituted a prohibited</p> <p>14 principal building, principal structure.</p> <p>15 On the issue of -- in Ms. Green's memo</p> <p>16 having to do with the height, she simply indicated</p> <p>17 that the applicant removed the furnishings from the</p> <p>18 first level. That -- first of all, I suppose the</p> <p>19 applicant could just put the desks back in, but from</p> <p>20 a land-use point of view, that makes no difference.</p> <p>21 The only way to get to these residential units, by</p> <p>22 either stairway or elevator, is to enter the</p> <p>23 building at the lobby level; the lobby level is at</p> <p>24 grade and below three floors of the building. In my</p> <p>25 opinion, because that lobby level is not -- while</p>	<p style="text-align: right;">29</p> <p>1 MR. STECK: I do not.</p> <p>2 MR. KURSHAN: Mr. Chairman, that</p> <p>3 concludes Mr. Steck's direct presentation. Thank</p> <p>4 you.</p> <p>5 CHAIRMAN DePINTO: And before I open</p> <p>6 it up to the Board for questions of Mr. Steck of his</p> <p>7 testimony as well as his technical review or report,</p> <p>8 SR-2, I'm going to give Mr. Wolfson an opportunity</p> <p>9 to question Mr. Steck with respect to the comments</p> <p>10 that were made both in writing and on the record</p> <p>11 verbally.</p> <p>12 MR. WOLFSON: Mr. Chairman,</p> <p>13 respectfully, if I could --</p> <p>14 CHAIRMAN DePINTO: I'm sorry, Peter,</p> <p>15 you're breaking up.</p> <p>16 MR. WOLFSON: I'm sorry, can you hear</p> <p>17 me?</p> <p>18 CHAIRMAN DePINTO: Yeah, that's</p> <p>19 better.</p> <p>20 MR. WOLFSON: Okay, I'm sorry.</p> <p>21 Respectfully, I'd request that I hold any possible</p> <p>22 cross-examination till I hear the questions from the</p> <p>23 Board and your professionals.</p> <p>24 CHAIRMAN DePINTO: Okay, very good.</p> <p>25 Thank you. And with that said, I'm first going to</p>



<p style="text-align: right;">30</p> <p>1 go to Ms. Green. And Ms. Green, Mr. Steck</p> <p>2 referenced your review letter of December 22, which</p> <p>3 has been marked into evidence, and Mr. Regan, what</p> <p>4 is the labeling on this document?</p> <p>5 MR. REGAN: Ms. Green's is --</p> <p>6 MR. KURSHAN: 11.</p> <p>7 MR. REGAN: That's right, B-11.</p> <p>8 CHAIRMAN DePINTO: B-11. And Ms.</p> <p>9 Green, I think Mr. Steck brought up some questions</p> <p>10 that should be first addressed by you. Number one,</p> <p>11 the principal structure question. He defined what</p> <p>12 our ordinance sets forth, and further, he defined</p> <p>13 his understanding of the application, that being 157</p> <p>14 units in one structure. Could you share with us</p> <p>15 your opinion? Do you agree with Mr. Steck or do you</p> <p>16 disagree with him with respect to that question of a</p> <p>17 principal structure?</p> <p>18 MS. GREEN: Could I be sworn in first?</p> <p>19 CHAIRMAN DePINTO: I believe --</p> <p>20 weren't you at our last meeting?</p> <p>21 MS. GREEN: Well, I guess does that</p> <p>22 continue, Bob, with the new year?</p> <p>23 MR. REGAN: Yes, it does.</p> <p>24 MS. GREEN: Okay.</p> <p>25 MR. REGAN: You've been sworn since</p>	<p style="text-align: right;">32</p> <p>1 The AH-6 Zone." It is under that section that then</p> <p>2 we are giving various parameters that include</p> <p>3 building coverage, lot coverage, as well as the</p> <p>4 maximum building length and the maximum number of</p> <p>5 units per building. And so that's where I believe</p> <p>6 there's a huge difference between the structure and</p> <p>7 the bulk standards that guide the structures built</p> <p>8 in the zone. So that's why I had said in my letter</p> <p>9 dated December 22 that the apartment building is not</p> <p>10 only a permitted use in this zone but it is also a</p> <p>11 structure type, just like the permitted townhomes,</p> <p>12 and the limitation of 12 units per building is a</p> <p>13 bulk standard that regulates the permitted structure</p> <p>14 types.</p> <p>15 CHAIRMAN DePINTO: Okay. And let's</p> <p>16 move from principal structure to Mr. Steck's</p> <p>17 position with regard to the lobby and that that</p> <p>18 level is not exclusively used for parking which</p> <p>19 would be permitted and that the inclusion of a lobby</p> <p>20 in that area does not comply with borough</p> <p>21 requirement. What is your position on that?</p> <p>22 MS. GREEN: So as the Board may</p> <p>23 recall, our -- the initial submission from the</p> <p>24 applicant did include several rooms and uses on that</p> <p>25 first level where the parking garage is. There was</p>
<p style="text-align: right;">31</p> <p>1 the commencement of the application.</p> <p>2 CHAIRMAN DePINTO: Yeah.</p> <p>3 MS. GREEN: So I did, in fact, address</p> <p>4 principal structure in my December 22 review letter,</p> <p>5 I discuss that on Page 2. I think this is a matter</p> <p>6 of where there is a disagreement. Our ordinance, I</p> <p>7 think, is clear, although it is in different</p> <p>8 sections, which does make it a little bit like a</p> <p>9 bouncing ball to follow along, but the AH-6 zone is</p> <p>10 dealt with in Section 400-28, and in fact, that's --</p> <p>11 many of our AH zones are under that particular</p> <p>12 section, and that section allows planned residential</p> <p>13 developments as permitted uses and then it refers to</p> <p>14 Section 400-28(a) for the more specifics. Under 400</p> <p>15 -- excuse me, 400-40(a), the -- here we go. Under</p> <p>16 400-40(a), it specifically is entitled "Permitted</p> <p>17 Uses" and there are three permitted uses:</p> <p>18 Townhomes, townhouse/duplex combination, and</p> <p>19 apartment buildings. Not only do I believe that</p> <p>20 those are uses, those are actually structures that</p> <p>21 can be built in the AH-6 zone. The section that Mr.</p> <p>22 Steck refers to regarding the number of units in a</p> <p>23 building and the building length is also in 400-40,</p> <p>24 but that does not occur until Subsection C2, which</p> <p>25 is entitled "Area, Yard and Bulk Requirements For</p>	<p style="text-align: right;">33</p> <p>1 a storage area, maintenance and equipment rooms, a</p> <p>2 fire and water room, there was office space,</p> <p>3 including a reception area, a copy room, a mailroom,</p> <p>4 a package area, a refrigerated locker system and a</p> <p>5 pet spa all on that first level. Our review letter</p> <p>6 from February 28 of 2020 questioned how they were</p> <p>7 measuring height, and indeed, if all those uses were</p> <p>8 on the first floor, it would change how they</p> <p>9 measured height.</p> <p>10 In response to our letter, the</p> <p>11 applicant submitted revised architectural plans,</p> <p>12 which were dated February 6 of 2020, which</p> <p>13 eliminated the office space, the copy room, the</p> <p>14 mailroom with the package area, the locker -- excuse</p> <p>15 me, the refrigerated locker system, the pet spa and</p> <p>16 the reception area. So it was more than just moving</p> <p>17 or removing furniture; they changed the wall layout,</p> <p>18 they removed multiple rooms, all of those uses I</p> <p>19 just described were removed from the plans we</p> <p>20 received, and now it was a parking lobby. Based on</p> <p>21 those changes or I should say those eliminated uses,</p> <p>22 it then complied with the provision in the code that</p> <p>23 exempted garages and/or basements that were for</p> <p>24 parking, storage and utilities. So this was much</p> <p>25 more than just the moving or the -- or the</p>

<p style="text-align: right;">34</p> <p>1 disappearance of furniture in the changes that the 2 Board has received.</p> <p>3           What I think Mr. Steck may be going to 4 or alluding to is that the labeling is misleading 5 and I guess one of the questions that I would have 6 for the applicant tonight is, you know, what they're 7 labeling as a parking lobby is truly only going to 8 be used for a parking lobby. If that is the case 9 and it is just a parking lobby, then it fits within 10 the exclusion provision of our code and would not be 11 counted as a story or in the height measurement.</p> <p>12           CHAIRMAN DePINTO: Ms. Green, with the 13 revised plans that eliminated the uses that you just 14 referred to, were they replaced elsewhere in the 15 principal structure or totally eliminated?</p> <p>16           MS. GREEN: Some of the items, like 17 the pet spa, was completely eliminated, others were 18 reduced; for example, the number of offices for 19 their staff were reduced and then relocated to the 20 -- what I'll call the first floor, not the parking 21 floor, so it was a combination of elimination or 22 moving elsewhere.</p> <p>23           CHAIRMAN DePINTO: Okay. And then 24 another point that was brought up by Mr. Steck was 25 the public notice, and actually, I should ask that</p>	<p style="text-align: right;">36</p> <p>1 proposed, it triggers a D(1) use variance, but that, 2 in my opinion, is a bulk standard because of the 3 very language in 400-40(d). It talks about land use 4 intensity, area, yard, and bulk regulations. The 5 word "bulk regulations" has to mean something, and 6 12 units in a building is a bulk standard. It's not 7 a use standard. The use standards are townhouses, 8 townhouse/duplex, and apartment buildings. This is 9 an apartment building by any definition. So I think 10 -- that might sound simplistic, but 400-40(d) talks 11 about bulk regulations and then it has a plethora of 12 bulk regulations, including 12 units in -- 12 units 13 in a building, and that's a -- in my opinion, that's 14 a C variance.</p> <p>15           CHAIRMAN DePINTO: Okay. Ms. Green, 16 do you have anything else to say based on the 17 testimony of Mr. Steck?</p> <p>18           MS. GREEN: Not at this time.</p> <p>19           CHAIRMAN DePINTO: And how about you, 20 Mr. Regan?</p> <p>21           MR. REGAN: No, I have no questions.</p> <p>22           CHAIRMAN DePINTO: Okay, and Mr. Dour, 23 do you want to log in on this?</p> <p>24           MR. DOUR: I just would like to 25 reiterate, the original plans, as everybody knows,</p>
<p style="text-align: right;">35</p> <p>1 of Bob. Bob, you reviewed the notices and I believe 2 Mr. Steck was inferring that because it is his 3 opinion that there were D variances, that this 4 project or this development and the appearance 5 before this Board may not have been properly 6 noticed. What is your opinion on this?</p> <p>7           MR. REGAN: Well, that argument could 8 be made. I don't think a D variance is required, 9 either a D(1) or a D(6). I think the notice -- the 10 multiple notices that the applicant provided were 11 exceptionally comprehensive and one of the more 12 detailed notices I've seen in my practice as a 13 Planning Board attorney dating back to 1985. I 14 don't think a D variance is required.</p> <p>15           I'd just like to focus on something 16 that Darlene indicated regarding the D(1) use 17 variance. If you look at the ordinance, 400-40(a), 18 Permitted Uses, and as Darlene indicated, the 19 permitted uses include townhouses, townhouse/duplex, 20 and apartment buildings, but then if you go to 21 400(d) -- and again, Mr. Steck's basis for 22 contending that a D(1) use variance is required is 23 based on the number of units in the building. His 24 opinion is that if you go over 12 units in a 25 building, and here we have a building with 157</p>	<p style="text-align: right;">37</p> <p>1 included a significant number of amenities on that 2 ground level that have been removed, Darlene 3 mentioned the pet spa, so really, the only things 4 that are on that first floor are simply storage, 5 mechanicals, an open area that you have to enter and 6 the -- and the parking garage. So there really is 7 nothing there that would constitute a story by the 8 Borough's definition.</p> <p>9           CHAIRMAN DePINTO: Okay, very good. 10 Thank you. I'm now going to go to Board members, 11 and Chris, Chris Gruber --</p> <p>12           MR. GRUBER: Yes.</p> <p>13           CHAIRMAN DePINTO: -- you're first on 14 my list. Do you have any questions of Mr. Steck 15 based on his testimony or do you have any questions 16 of either Ms. Green or Mr. Regan?</p> <p>17           MR. GRUBER: No, not at this time.</p> <p>18           CHAIRMAN DePINTO: Okay. Thank you. 19 And Ms. Curry.</p> <p>20           MS. CURRY: No questions.</p> <p>21           CHAIRMAN DePINTO: Thank you. Mr. 22 Teagno?</p> <p>23           MR. TEAGNO: Nothing at this time, Mr. 24 Chairman.</p> <p>25           CHAIRMAN DePINTO: Thank you. Mr.</p>

<p style="text-align: right;">38</p> <p>1 Lintner.</p> <p>2 (Pause)</p> <p>3 MR. LINTNER: I'm sorry, no questions</p> <p>4 at this time, Mr. Chairman.</p> <p>5 CHAIRMAN DePINTO: Thank you. Mayor</p> <p>6 Ghassali?</p> <p>7 MAYOR GHASSALI: Yeah, Mr. Chairman,</p> <p>8 maybe a question for Bob Regan and Darlene Green.</p> <p>9 From the town side, I mentioned at the beginning of</p> <p>10 this meeting that there are projects across the</p> <p>11 border that we have no control over, it's going to</p> <p>12 increase, you know, the traffic on Summit Avenue,</p> <p>13 specifically because the schools will be using the</p> <p>14 Parkway for the buses, probably a hundred to a</p> <p>15 hundred and fifty school buses every day will be</p> <p>16 used. It's not in our plan, we did not depend on</p> <p>17 this. As you go through this process, how do we</p> <p>18 include all this into this to lesser the density and</p> <p>19 maybe, you know, bring that into this project, the</p> <p>20 additional, you know, the traffic, the additional,</p> <p>21 you know, the pressure on our roads?</p> <p>22 MR. REGAN: Well, Mayor, a traffic</p> <p>23 report can consider future development within the</p> <p>24 area and make recommendations as to whether any</p> <p>25 improvements to the roadway network would be</p>	<p style="text-align: right;">40</p> <p>1 Stefanelli.</p> <p>2 (Pause)</p> <p>3 CHAIRMAN DePINTO: I'm sorry.</p> <p>4 MR. STEFANELLI: I got it. No</p> <p>5 questions.</p> <p>6 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>7 Culhane.</p> <p>8 MR. CULHANE: Well, one question I</p> <p>9 have is: Does the state code have a definition for</p> <p>10 an apartment building.</p> <p>11 MR. REGAN: "State code" meaning the</p> <p>12 MLUL?</p> <p>13 MR. CULHANE: New Jersey state code</p> <p>14 for land use.</p> <p>15 MR. REGAN: I don't think the MLUL has</p> <p>16 a definition.</p> <p>17 CHAIRMAN DePINTO: Darlene --</p> <p>18 MR. REGAN: I will check. I have it</p> <p>19 right here.</p> <p>20 CHAIRMAN DePINTO: Does anyone have</p> <p>21 anything on that?</p> <p>22 MR. REGAN: I mean, it's possible</p> <p>23 there may be a Building Code definition but it</p> <p>24 wouldn't be in the MLUL.</p> <p>25 MR. STECK: The MLUL does not have a</p>
<p style="text-align: right;">39</p> <p>1 necessary, but I don't think the fact that a</p> <p>2 development is proposed on Montvale's border could</p> <p>3 constitute a basis to deny an application.</p> <p>4 MAYOR GHASSALI: Okay. All right, so</p> <p>5 the resources -- I'm trying to, you know, find as,</p> <p>6 you know, point of the process, is this the right</p> <p>7 time for this [sic].</p> <p>8 MR. REGAN: I believe, Mayor, the</p> <p>9 applicant may have a traffic engineer, I think.</p> <p>10 MR. WOLFSON: Yes, we do.</p> <p>11 MR. REGAN: It might be appropriate at</p> <p>12 that time to have him address and maybe even provide</p> <p>13 the applicant with information that the Borough may</p> <p>14 have concerning the extent of this development, how</p> <p>15 many units, how many square feet, et cetera.</p> <p>16 MAYOR GHASSALI: Okay. That's all I</p> <p>17 have. Thank you.</p> <p>18 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>19 Zitelli.</p> <p>20 MR. ZITELLI: Mr. Chairman, I, you</p> <p>21 know, I read Ms. -- Ms. Green's and Mr. Regan's</p> <p>22 assessments here. I'm no lawyer but I agree with</p> <p>23 what they have been saying so far, so I have no</p> <p>24 questions.</p> <p>25 CHAIRMAN DePINTO: Thank you. Mr.</p>	<p style="text-align: right;">41</p> <p>1 definition of "apartment building."</p> <p>2 MR. REGAN: I didn't think so.</p> <p>3 MR. CULHANE: And I guess the second</p> <p>4 question is: Under the Americans With Disabilities</p> <p>5 Act, does the garage level have to be an accessible</p> <p>6 facility to disabled?</p> <p>7 MR. STECK: That's not my area of</p> <p>8 expertise, but I'm sure it has to have access.</p> <p>9 MR. CULHANE: No other questions, Mr.</p> <p>10 Chairman.</p> <p>11 CHAIRMAN DePINTO: Thank you. Ms.</p> <p>12 Cudequest.</p> <p>13 MS. CUDEQUEST: I have no questions at</p> <p>14 this time, Mr. Chairman.</p> <p>15 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>16 Huseynov.</p> <p>17 MR. HUSEYNOV: I have no further</p> <p>18 questions.</p> <p>19 CHAIRMAN DePINTO: Okay, thank you.</p> <p>20 And I believe that is all of the Board members and</p> <p>21 I'll hold my question.</p> <p>22 Mr. Wolfson, you've heard -- you've</p> <p>23 heard the comments by the Board professionals and</p> <p>24 you've heard questions from Board members and you</p> <p>25 wanted that opportunity before you cross-examine Mr.</p>

<p style="text-align: right;">42</p> <p>1 Steck. Now's your opportunity to do so.</p> <p>2 MR. WOLFSON: Thank you, Mr. Chairman.</p> <p>3 I have no questions for Mr. Steck, I would just like</p> <p>4 to make a few observations.</p> <p>5 CHAIRMAN DePINTO: Please.</p> <p>6 MR. WOLFSON: Thank you very much.</p> <p>7 First of all, Mr. Steck ignores Mr. Preiss's</p> <p>8 testimony from December 1, which was specifically on</p> <p>9 the use variance questions. Secondly, he ignores a</p> <p>10 plain reading standard for interpreting zoning</p> <p>11 ordinances, he ignores the fact that apartment</p> <p>12 buildings are specifically permitted in the</p> <p>13 ordinance. He also similarly ignores the fact that</p> <p>14 the building length and number of unit standards are</p> <p>15 contained in a section entitled "Bulk Requirements,"</p> <p>16 and finally, he suggests that there's something</p> <p>17 about the elevators leading out of the parking area</p> <p>18 that should undercut the fact and the conclusion</p> <p>19 that it's clearly substantiated under your ordinance</p> <p>20 that that level is excepted out, so just a few</p> <p>21 observations. Thank you.</p> <p>22 CHAIRMAN DePINTO: Thank you. And Mr.</p> <p>23 Steck, were you looking to be recognized?</p> <p>24 MR. STECK: I was.</p> <p>25 CHAIRMAN DePINTO: Yes, please.</p>	<p style="text-align: right;">44</p> <p>1 security there, it's the only way to get into the</p> <p>2 residential units, and whether you have a desk there</p> <p>3 or not, it clearly has an essential function</p> <p>4 attached to the residential units, and any person</p> <p>5 walking up to this building, if you ask them how</p> <p>6 many stories, it's a four-story building, which</p> <p>7 means it has the same land-use impact, the same</p> <p>8 visual impact, the same linear height, and I think</p> <p>9 that it takes common sense to conclude that both a</p> <p>10 D(1) and a D(6) use are permitted.</p> <p>11 One other example is, in a single-</p> <p>12 family zone, you would permit single-family houses,</p> <p>13 detached houses. That's not the end of the story.</p> <p>14 If someone came in with two single-family houses on</p> <p>15 one lot, you would use -- potentially, Ms. Green was</p> <p>16 giving the argument, "Oh, look, single-family houses</p> <p>17 are permitted," but the answer is: That would be a</p> <p>18 second principal structure in a zone that only</p> <p>19 permits one principal structure. So I don't think</p> <p>20 the issue has been addressed and I still hold the</p> <p>21 opinion that a D(1) variance is required for a</p> <p>22 structure that's not permitted, a principal</p> <p>23 structure that's not permitted, and a D(6) variance</p> <p>24 is needed. Thank you.</p> <p>25 CHAIRMAN DePINTO: Okay, thank you.</p>
<p style="text-align: right;">43</p> <p>1 MR. STECK: I just want to respond</p> <p>2 that while the section of the ordinance that</p> <p>3 contains, let's say, the exemption for stories, the</p> <p>4 exemption of a parking level, that section, just</p> <p>5 because a regulation is in that section, Subsection</p> <p>6 D, does not automatically say it's a C or D</p> <p>7 variance. Keep in mind that the title of that</p> <p>8 section also talks about the intensity of land use.</p> <p>9 Typically, that's like density or floor-area ratio.</p> <p>10 But my point is that within the same section that</p> <p>11 includes the provisions exempting, say, parking</p> <p>12 levels, it talks about building height, and so a</p> <p>13 building height of over 10 percent, regardless of</p> <p>14 how you measure it, is a D variance, although it's</p> <p>15 in the same Subsection D. So the point I'm raising</p> <p>16 is that the location of the standard in your local</p> <p>17 zoning ordinance does not automatically make it a C</p> <p>18 -- excuse me, a C variance, it could also be a D</p> <p>19 once you interpret it in terms of the Municipal Land</p> <p>20 Use Law.</p> <p>21 The other point I'd like to raise,</p> <p>22 regardless of what was removed from the first level</p> <p>23 of the building, it's the only -- it is a level that</p> <p>24 is at grade and it's -- it's the only way to get</p> <p>25 into the building, presumably there'll be some</p>	<p style="text-align: right;">45</p> <p>1 Mr. Wolfson, is Mr. Preiss here this</p> <p>2 evening? I'm not finding him on my screen.</p> <p>3 MR. WOLFSON: No, Mr. Chairman, as he</p> <p>4 indicated at the conclusion of his testimony, he</p> <p>5 didn't expect that he would be able to and, in fact,</p> <p>6 he is not able to be here due to a conflict.</p> <p>7 CHAIRMAN DePINTO: Okay. I find it</p> <p>8 difficult to move forward without hearing once again</p> <p>9 from Mr. Preiss and my reason, simply put, is we all</p> <p>10 know that Mr. Preiss participated in the crafting of</p> <p>11 this ordinance. He was the Borough planner at that</p> <p>12 time and he had a lot of input on it. And I think</p> <p>13 there's been enough doubt placed upon whether or not</p> <p>14 we fall into a D category or C that I would like to</p> <p>15 hear from him, someone who I've respected for many,</p> <p>16 many years in his opinions and having been</p> <p>17 responsible for actually hiring Richard for that</p> <p>18 position a number of years ago. I do have questions</p> <p>19 for him and hopefully he will return at a future</p> <p>20 date so that we could get answers from him with</p> <p>21 respect to this.</p> <p>22 MR. WOLFSON: Mr. Chairman, if I</p> <p>23 might.</p> <p>24 CHAIRMAN DePINTO: Sure.</p> <p>25 MR. WOLFSON: Yeah, respectfully, he</p>

<p style="text-align: right;">46</p> <p>1 testified on exactly these issues, he was cross-</p> <p>2 examined by Mr. Kurshan on the D issues. (Audio</p> <p>3 freeze) and I think, most importantly, the Board's</p> <p>4 own experts, not the applicant's experts alone but</p> <p>5 the Board's own experts unanimously and vigorously</p> <p>6 defended the fact that there are no D variances</p> <p>7 implicated, and frankly, we are coming up on a one-</p> <p>8 year anniversary here. Mr. Kurshan was present at</p> <p>9 the first March 3 first hearing of last year and</p> <p>10 asked questions, Mr. Kurshan then waited until eight</p> <p>11 months in to raise this issue, and respectfully, I</p> <p>12 would ask that we get a decision from the Board that</p> <p>13 no D variances are necessary, as your Board</p> <p>14 professionals have opined, and that we be allowed to</p> <p>15 move forward here.</p> <p>16 MR. KURSHAN: Mr. Chairman.</p> <p>17 CHAIRMAN DePINTO: Okay. I respect</p> <p>18 that. Mr. Kurshan?</p> <p>19 MR. KURSHAN: I just had a couple of</p> <p>20 questions for Mr. Steck, if I may.</p> <p>21 CHAIRMAN DePINTO: Sure.</p> <p>22 MR. WOLFSON: Mr. Chairman,</p> <p>23 respectfully, Mr. Steck testified, his testimony was</p> <p>24 closed, people were given an opportunity to cross-</p> <p>25 examine.</p>	<p style="text-align: right;">48</p> <p>1 common sense and it's also plain reading of the</p> <p>2 state Municipal Land Use Law.</p> <p>3 MR. KURSHAN: Thank you. And last</p> <p>4 question, Mr. Chairman.</p> <p>5 Mr. Steck, in the Montvale zoning</p> <p>6 ordinance's definition, in Section 400-8, of</p> <p>7 "building height," is there any exclusion in that</p> <p>8 definition for a ground-level or basement story?</p> <p>9 MR. STECK: I don't have that section</p> <p>10 in front of me. If you want to -- let's see if I</p> <p>11 can pull it up.</p> <p>12 MR. KURSHAN: You've cited to it in</p> <p>13 Exhibit SR-2, if you have that in front of you.</p> <p>14 MR. STECK: Okay. All right, would</p> <p>15 you repeat your question?</p> <p>16 MR. KURSHAN: My question is this,</p> <p>17 sir: In the Montvale zoning ordinance, Section</p> <p>18 400-8, definition of "building height," is there any</p> <p>19 exception or exclusion for a story, such as a</p> <p>20 basement story, used exclusively, if one were to</p> <p>21 make that assumption, for parking uses only?</p> <p>22 MR. STECK: In that definition, there</p> <p>23 is no exclusion.</p> <p>24 MR. KURSHAN: So even if -- assuming</p> <p>25 the Board were to determine that the first story</p>
<p style="text-align: right;">47</p> <p>1 CHAIRMAN DePINTO: Well --</p> <p>2 MR. WOLFSON: We have to end this at</p> <p>3 some point, sir.</p> <p>4 CHAIRMAN DePINTO: I do. And I do</p> <p>5 want to open it to the public as well, but Mr.</p> <p>6 Kurshan, please limit the number and the amount of</p> <p>7 time you're doing these follow-up questions.</p> <p>8 MR. KURSHAN: I will. Thank you.</p> <p>9 Mr. Steck, there's been a comment by</p> <p>10 Mr. Wolfson that you ignored the definition of</p> <p>11 "apartment building" and you ignored the bulk</p> <p>12 requirements in the Montvale zoning ordinance. What</p> <p>13 is your response to that statement?</p> <p>14 MR. STECK: That the -- in</p> <p>15 interpreting the D(1) variance -- well, first of</p> <p>16 all, I have not ignored them. In determining a D(1)</p> <p>17 variance, one must read the language of the</p> <p>18 Municipal Land Use Law carefully and it says it</p> <p>19 involves a use that's not permitted and a principal</p> <p>20 structure that's not permitted. Planner Green is</p> <p>21 saying, "Oh, they're both the same thing." Well,</p> <p>22 the answer is, they're two different things in terms</p> <p>23 of the Municipal Land Use Law, and in my opinion, a</p> <p>24 157-unit building is not the same type of principal</p> <p>25 structure as a 12-unit building and that makes</p>	<p style="text-align: right;">49</p> <p>1 where the parking area is located and where the</p> <p>2 parking lobby is located is exclusively used for</p> <p>3 parking, is that story level excluded under the</p> <p>4 Montvale zoning ordinance definition of "building</p> <p>5 height"?</p> <p>6 MR. STECK: If you just look at the</p> <p>7 generic definition of "building height," it is not</p> <p>8 excluded.</p> <p>9 MR. KURSHAN: Thank you, Mr. Chair.</p> <p>10 CHAIRMAN DePINTO: Okay, thank you.</p> <p>11 MR. KURSHAN: I have nothing further</p> <p>12 for Mr. Steck.</p> <p>13 CHAIRMAN DePINTO: Okay, thank you.</p> <p>14 With that said, the Chair will entertain a motion to</p> <p>15 open the meeting to the public. After the Board</p> <p>16 hears from the public, there will be a polling of</p> <p>17 the Board as to whether or not we will continue with</p> <p>18 this application considering the points set forth as</p> <p>19 D variances or, in fact, they would be C to the</p> <p>20 alternative. So anyone care to make a motion to</p> <p>21 open the meeting to the public?</p> <p>22 MS. CUDEQUEST: Motion.</p> <p>23 CHAIRMAN DePINTO: Mrs. Cudequest. Is</p> <p>24 there a second?</p> <p>25 MR. LINTNER: Second.</p>

<p style="text-align: right;">50</p> <p>1 CHAIRMAN DePINTO: Mr. Lintner. All 2 in favor? 3 BOARD MEMBERS: Aye. 4 CHAIRMAN DePINTO: Okay. Members of 5 the public who are here, this is your opportunity to 6 ask questions through the Chair directed to either 7 Peter Steck, who is the Professional Planner 8 retained by the condo association, or questions of 9 the Borough professionals that have testified this 10 evening or questions of the Board. If you wish to 11 be recognized, I'm going to ask that you raise your 12 hand and the Board secretary who's hosting the 13 meeting will recognize you. 14 Anyone have any questions they would 15 like answered with respect to the testimony they've 16 heard thus far today? 17 Lorraine, could you please monitor to 18 see if anyone raises a hand? 19 (Pause) 20 MR. DOUR: Lorraine, you're muted. 21 MS. HUTTER: Mr. Chairman, there is no 22 one raising their hand. 23 CHAIRMAN DePINTO: Okay, last call. 24 Anyone from the public wish to speak at this time, 25 have any questions of Mr. Steck or the Borough</p>	<p style="text-align: right;">52</p> <p>1 we would say that carrying this matter for further 2 testimony from my witness who I finished with and 3 who was cross-examined by the objector's 4 representative is really not necessary or fair at 5 this point. 6 CHAIRMAN DePINTO: Okay. 7 MR. REGAN: But we still haven't heard 8 from Mr. Preiss on the other variances, so you still 9 plan on re-calling him, I assume. 10 MR. WOLFSON: He'll be back for the 11 bulk variances that we acknowledge -- 12 MR. REGAN: Yeah. 13 MR. WOLFSON: -- for sure. 14 MR. REGAN: Yeah. 15 CHAIRMAN DePINTO: Okay, well, 16 clearly, if the Board disagrees with Mr. Steck in 17 the fact that the principal structure, the lobby, 18 those issues, the percentage exceeding maximum 19 permissible on the building height, if it's not 20 found to be -- if they are not found to be D 21 variances, then clearly, the argument will be made 22 for C and that argument could only be made by your 23 planner. So it's not a question of we've only seen 24 Richard or we've seen the last of Richard. He will 25 be back. The question that I'm trying to deal with</p>
<p style="text-align: right;">51</p> <p>1 professionals or the Board? 2 (Pause) 3 MS. HUTTER: No. 4 CHAIRMAN DePINTO: Okay, with that 5 said, the Chair will entertain a motion to close the 6 meeting to the public. 7 MR. CULHANE: So moved. 8 CHAIRMAN DePINTO: Mr. Culhane; 9 seconded, Mrs. Cudequest. All in favor? 10 BOARD MEMBERS: Aye. 11 CHAIRMAN DePINTO: With that said, 12 Bob, would it be appropriate -- I believe so -- to 13 poll the Board to determine whether or not the 14 Board, in fact, agrees or disagrees with Mr. Steck, 15 agrees or disagrees with the opinion of Board 16 professionals, or to the alternative, carry to our 17 next meeting and invite Mr. Preiss to return? 18 MR. REGAN: I think either of those 19 options would be appropriate. I would just like to 20 get on the record that Mr. Kurshan and Mr. Wolfson 21 have nothing else to offer the Board on this 22 particular issue so we don't come back at the next 23 meeting and have this issue resurrected again. 24 MR. WOLFSON: I have nothing else to 25 offer but, respectfully, Mr. Chairman, we would --</p>	<p style="text-align: right;">53</p> <p>1 is eligibility of the members of this Board who also 2 serve on the governing body. It's that simple. 3 MR. REGAN: And Mr. Chairman, as I 4 said before, that's a threshold issue which should 5 be resolved sooner rather than later. 6 CHAIRMAN DePINTO: Yes. So with that 7 said, let's go back to a polling of the Board and 8 we'll start again with Mr. Gruber. And Lorraine, 9 could you open up Mr. Gruber's mic? 10 MS. HUTTER: Yes. 11 CHAIRMAN DePINTO: Mr. Gruber, you've 12 heard the testimony and you've heard argument both 13 for and against the classifying of certain aspects 14 of this plan requiring or not requiring D variances. 15 We need your opinion, it's a poll. What is your 16 opinion on this? 17 MR. GRUBER: I'm agreeing with Mr. 18 Regan's recommendations. 19 CHAIRMAN DePINTO: Very good. Thank 20 you. Ms. Curry. 21 MS. HUTTER: Rose, you have to -- 22 MR. REGAN: She's muted. 23 MS. HUTTER: Yeah. 24 MS. CURRY: Mr. Chairman, tell me 25 again what I am being polled on.</p>

<p style="text-align: right;">54</p> <p>1 CHAIRMAN DePINTO: Well, the objector</p> <p>2 has stated that he believes this application</p> <p>3 requires certain D variances because they're not</p> <p>4 compliant with the code nor are they compliant with</p> <p>5 being classified as C variances and he's given his</p> <p>6 reasons why. Our planner disagrees and Mr. Regan</p> <p>7 disagrees and I guess Mr. Dour disagrees. What is</p> <p>8 your opinion?</p> <p>9 MS. CURRY: I agree with our</p> <p>10 professionals and if there is a way that Mr. Preiss</p> <p>11 could come in at our next meeting and give his</p> <p>12 background explanation on the reason that he stated</p> <p>13 so in our planning to begin with, but I agree with</p> <p>14 the professionals.</p> <p>15 CHAIRMAN DePINTO: If you agree with</p> <p>16 the Board professionals, their position is D</p> <p>17 variances are not required, then Mr. Preiss will</p> <p>18 return when Mr. Wolfson chooses to have him return</p> <p>19 to justify the C variances that are associated.</p> <p>20 We're not going to go back to discussing the D</p> <p>21 variances.</p> <p>22 MS. CURRY: That's fine with me.</p> <p>23 CHAIRMAN DePINTO: We either call them</p> <p>24 Ds now or forever let it rest in peace and move</p> <p>25 forward with an application for site plan approval</p>	<p style="text-align: right;">56</p> <p>1 variance.</p> <p>2 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>3 Zitelli?</p> <p>4 MR. ZITELLI: Yes, I agree with Mr.</p> <p>5 Regan and Ms. Green and I do not think D variances</p> <p>6 are here.</p> <p>7 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>8 Stefanelli. Frank, you have to unmute yourself.</p> <p>9 MR. STEFANELLI: Yes, Mr. Chairman, I</p> <p>10 agree with our professionals. I respect Mr. Steck,</p> <p>11 but I do agree with our professionals that we need</p> <p>12 to call it a C and move forward.</p> <p>13 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>14 Culhane.</p> <p>15 MR. CULHANE: I concur with the Board</p> <p>16 professionals.</p> <p>17 CHAIRMAN DePINTO: Thank you. Mrs.</p> <p>18 Cudequest?</p> <p>19 MS. CUDEQUEST: I agree with</p> <p>20 everything that's been said so far, Mr. Chairman, in</p> <p>21 regards to our Board professionals.</p> <p>22 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>23 Huseynov?</p> <p>24 MR. HUSEYNOV: I concur with the Board</p> <p>25 professionals as well, Chairman.</p>
<p style="text-align: right;">55</p> <p>1 inclusive of the need for C variances.</p> <p>2 MS. CURRY: I understand. I agree</p> <p>3 with the professionals, our professionals.</p> <p>4 CHAIRMAN DePINTO: Fine then. Thank</p> <p>5 you. Mr. Teagno?</p> <p>6 MR. TEAGNO: I agree with the</p> <p>7 testimony and the written reports that our</p> <p>8 professionals have provided.</p> <p>9 CHAIRMAN DePINTO: Okay, thank you.</p> <p>10 Mr. Lintner?</p> <p>11 MR. LINTNER: I agree that an elevator</p> <p>12 access does not require an additional story and that</p> <p>13 apartments certainly appear to be a permitted</p> <p>14 structure in the AH-6 zone and the number of stories</p> <p>15 does not require a D variance, so I agree that</p> <p>16 they're all C variances and we could proceed as</p> <p>17 such.</p> <p>18 CHAIRMAN DePINTO: Very good. Thank</p> <p>19 you. Mayor Ghassali?</p> <p>20 MAYOR GHASSALI: Yeah, the case was</p> <p>21 not made for a D variance so it's going to be a C</p> <p>22 variance, but I'm going to submit, I'm going to</p> <p>23 argue for less density going forward, so this is not</p> <p>24 going to be a walk in the park by you, no means,</p> <p>25 even if it's a C, but I agree it should be a C</p>	<p style="text-align: right;">57</p> <p>1 CHAIRMAN DePINTO: Okay, thank you,</p> <p>2 and I think I've called upon everybody.</p> <p>3 MS. HUTTER: Except yourself.</p> <p>4 CHAIRMAN DePINTO: Yeah. Well,</p> <p>5 obviously, I'm going to go with the majority of the</p> <p>6 Board and rely upon the advice of our professionals;</p> <p>7 however, consistent with what the Mayor has said</p> <p>8 with regard to going further with this application,</p> <p>9 I think we're going to have to carefully examine it</p> <p>10 because I guess probably the letter of the law has</p> <p>11 been met in not calling these differences D variance</p> <p>12 requirements but calling them C. The reality is,</p> <p>13 what are we doing here, what is this density and</p> <p>14 what is -- what is this finished product going to</p> <p>15 be; whether you call it a C, a D, a Q or an R, I</p> <p>16 don't care, let's get down to the meat of what this</p> <p>17 application is all about. And with that said, Mr.</p> <p>18 Wolfson, what do you have to say now?</p> <p>19 MR. WOLFSON: Thank you very much, Mr.</p> <p>20 Chairman, and thank you, Board members, we</p> <p>21 appreciate your patience with that exercise and</p> <p>22 we're glad to get on with the substance of the</p> <p>23 application.</p> <p>24 You'll recall that our engineer, Patty</p> <p>25 Ruskin, appeared on more than one occasion and that</p>

<p style="text-align: right;">58</p> <p>1 a number of revisions have been made to the plan,  2 including a significant reduction in the number of  3 units and a movement of 25 feet further away from  4 the Summit Ridge common boundary line. Where we  5 left the engineering was we submitted by my letter  6 dated November 20 a point-by-point, extremely  7 detailed response to the Maser Engineering memo of  8 November 9, 2020. I also have with me (audio  9 freeze)...</p> <p>10 CHAIRMAN DePINTO: I'm sorry, Peter --  11 Peter, you're breaking up.  12 MR. WOLFSON: I'm sorry.  13 CHAIRMAN DePINTO: I'm sorry, you're  14 breaking up, Peter. Would you repeat that?  15 MS. HUTTER: We can't hear you.  16 MR. WOLFSON: Can you hear me now?  17 CHAIRMAN DePINTO: Yes.  18 MR. WOLFSON: Okay, I apologize.  19 CHAIRMAN DePINTO: It's okay.  20 MR. WOLFSON: I was just orienting all  21 of us, since this has been going on for quite a  22 while, that we left the engineering last with our  23 submission of a letter over my signature dated  24 November 20, 2020, which provided a point-by-point  25 detailed response to the Maser Engineering memo of</p>	<p style="text-align: right;">60</p> <p>1 to ten minutes and we shut down at 10:00 on this  2 case.  3 MR. REGAN: I believe Mr. King was  4 previously sworn.  5 MR. KURSHAN: Mr. Chairman.  6 CHAIRMAN DePINTO: Yes.  7 MR. KURSHAN: Peter Kurshan.  8 MR. WOLFSON: Mr. King, you continue  9 to be under oath.  10 CHAIRMAN DePINTO: Okay, hold on one  11 second, Mr. King. Mr. Kurshan?  12 MR. KURSHAN: Can Mr. Steck be  13 excused?  14 CHAIRMAN DePINTO: Yes, he may.  15 MR. KURSHAN: Mr. Steck, you're  16 excused. Thank you, Mr. Chairman.  17 CHAIRMAN DePINTO: And thank you, Mr.  18 Steck. Okay, Mr. King. There you are.  19 MR. KING: How you doing this evening?  20 MR. WOLFSON: Mr. King, you remain  21 under oath.  22 MR. KING: Yup.  23 MR. WOLFSON: You qualified at the  24 last hearing when you presented testimony on the  25 height issue.</p>
<p style="text-align: right;">59</p> <p>1 November 9, 2020, and I'd like to mark that into  2 evidence as A-28 so that I don't forget and then I'd  3 like to just let you know, Mr. Chairman, that I have  4 with me Ms. Ruskin, I also have with me our  5 architect and our traffic engineer. I know Mr. Dour  6 is here covering for Mr. Hipolit. If it pleases the  7 Chair and the Board --  8 CHAIRMAN DePINTO: Well, here's the --  9 MR. WOLFSON: (Audio freeze)  10 CHAIRMAN DePINTO: Yeah, here's the  11 difficulty we have. I could only allow you to go  12 until 10:00, so we only have about 15 or 20 minutes.  13 I'm afraid if we continue with Ms. Ruskin, the  14 testimony, her direct, will go beyond that, and then  15 we'll have questions, and true, Mr. Dour is here,  16 but Mr. Hipolit is far more familiar with the file  17 than Mr. Dour. If you believe that you could have  18 your architect offer testimony and limit it to about  19 ten minutes or so, then I would say we'll -- we'll  20 continue. If not, we're going to have to find a  21 date to carry this hearing to.  22 MR. WOLFSON: Thank you, Mr. Chairman,  23 I would appreciate the opportunity to get Mr. King  24 on.  25 CHAIRMAN DePINTO: Okay. So limit it</p>	<p style="text-align: right;">61</p> <p>1 D A N K I N G, P.A., having been previously sworn,  2 testified as follows:  3 DIRECT EXAMINATION BY MR. WOLFSON:  4 Q. Did you prepare the architectural plans  5 last submitted to the Board dated October 16, 2020?  6 A. <b>That is right, yes.</b>  7 Q. Okay. Can you give us a broad  8 description of the building that is proposed from an  9 architectural perspective?  10 A. <b>Sure. Is it okay if I share my screen</b>  11 <b>and go through the plans real quick or do you want</b>  12 <b>to just do a verbal --</b>  13 Q. No, I think that would be the most  14 direct and efficient way to do it.  15 CHAIRMAN DePINTO: Yeah, we would have  16 no problem.  17 MR. KING: Okay.  18 MR. WOLFSON: Thank you, Mr. Chair.  19 MR. KING: I think I need the host to  20 enable me to present my screen.  21 MS. HUTTER: I believe you can.  22 MR. KING: Okay. Yup. All right.  23 All right, could everybody see that?  24 MR. WOLFSON: Yes.  25 CHAIRMAN DePINTO: Yes.</p>



<p style="text-align: right;">62</p> <p>1 MR. KING: Okay, so this is the garage</p> <p>2 level and just some of the things that I wanted to</p> <p>3 highlight that we've added to the plan to comply</p> <p>4 with some of the engineering requests. We did add</p> <p>5 security cameras, they're marked by these black</p> <p>6 squares and all the entry points. We did add two</p> <p>7 charging stations for electrical vehicles and we did</p> <p>8 include vehicle warning signs at these locations.</p> <p>9 186 total spaces in here; as indicated</p> <p>10 in previous testimony, it is mainly parking with</p> <p>11 pool equipment rooms, storage, utilities, and then a</p> <p>12 security lobby here for people to make use of the</p> <p>13 elevators to the upper floors.</p> <p>14 Jumping to the next floor, this is the</p> <p>15 first floor and here off the elevators is the public</p> <p>16 spaces, which I'll get into in a little more detail</p> <p>17 on the next page, but on this floor, we have 47</p> <p>18 units, there's a mix of one-bedrooms, one-bedrooms</p> <p>19 with dens, two-bedrooms, and two-bedrooms with dens.</p> <p>20 We do have low-income houses designated by this COAH</p> <p>21 designation and they are sprinkled throughout the</p> <p>22 plan so that, you know, those who desire, are in</p> <p>23 need of this type of unit, have a choice of where</p> <p>24 they want to go around the perimeter of the</p> <p>25 building.</p>	<p style="text-align: right;">64</p> <p>1 the perimeter of the building in various locations.</p> <p>2 We do have a lounge on each floor and this is just,</p> <p>3 you know, a place for people to gather. We hope --</p> <p>4 the goal is to try to create neighborhoods on each</p> <p>5 level so that people can get together and play cards</p> <p>6 or watch TV and share a sporting event together in</p> <p>7 this area. We also have a small art room here</p> <p>8 behind the secondary elevator. On the third floor</p> <p>9 of that area is actually a library so they can check</p> <p>10 books or exchange books whenever they please.</p> <p>11 We go to the elevations next. This is</p> <p>12 the west and south elevation, as you can see. This</p> <p>13 is the elevation you would see upon approach.</p> <p>14 Parking is along here in the front, I mean, you can</p> <p>15 drop people off here at the front. The parking</p> <p>16 garage is below the west end of the building where</p> <p>17 the garage is completely underground.</p> <p>18 We move to the east and north</p> <p>19 elevation, again, very similar architectural</p> <p>20 detailing which I will get into with this rendering.</p> <p>21 And material board. The roof will be asphalt</p> <p>22 shingles, as you see here in number 1. We have</p> <p>23 different styles of siding, we have panel siding as</p> <p>24 well as vertical planks, or horizontal planks,</p> <p>25 rather, and the different -- the two different blue</p>
<p style="text-align: right;">63</p> <p>1 There is a trash area on each floor.</p> <p>2 In this location next to the stair, you'll find on</p> <p>3 every floor that there's another elevator at this</p> <p>4 location for convenience. The two elevators here</p> <p>5 are large enough to accommodate gurneys.</p> <p>6 If we go to the next page, this is kind</p> <p>7 of the heart of the building where all the action</p> <p>8 takes place. This is why people are moving in.</p> <p>9 They want to participate in social events and get to</p> <p>10 know others their age and in their period of life so</p> <p>11 that they can share moments together using the game</p> <p>12 room. We have a reel room, which is the theater, a</p> <p>13 large lounge area with different seating areas,</p> <p>14 there's a fitness area, we have your offices here,</p> <p>15 we have some private dining, this is a dining area</p> <p>16 for eating and those would just be for -- what's the</p> <p>17 word I'm looking for?</p> <p>18 MS. CURRY: Reservation.</p> <p>19 MR. KING: No, it's for catered --</p> <p>20 catered events, sorry. There's no cooking here,</p> <p>21 it's for catered events.</p> <p>22 And then we move to the second floor.</p> <p>23 The second and third floor are largely the same so I</p> <p>24 won't spend too much time on them. 55 units per</p> <p>25 floor; again, the COAH units are spread out around</p>	<p style="text-align: right;">65</p> <p>1 colors, we have some highlights of this cream color</p> <p>2 down at the lower levels. We do highlight some of</p> <p>3 the gabling with this wood look, horizontal plank,</p> <p>4 and then we have a stone -- a gray stone along the</p> <p>5 base to kind of give it a base.</p> <p>6 Again, we have white paneling, we have</p> <p>7 black-framed windows, and a little bit of painted</p> <p>8 copper roofing. That's some of the hipped roofs to</p> <p>9 highlight those. And that's about it.</p> <p>10 Q. Dan?</p> <p>11 A. Yes.</p> <p>12 Q. Of the 157 units, 97 will be one-</p> <p>13 bedroom and 60 will be two-bedroom?</p> <p>14 A. Yes.</p> <p>15 Q. And 24 of the units will be affordable</p> <p>16 units.</p> <p>17 A. That is -- that's correct.</p> <p>18 Q. Okay. And in your design on the</p> <p>19 elevations, it looks like you took great care to</p> <p>20 create articulation and architectural detail.</p> <p>21 A. We did and, you know, these units all</p> <p>22 have balconies and so that allowed us to break up</p> <p>23 the elevation to little, smaller components, you</p> <p>24 know, we broke up the roof line with gables so that</p> <p>25 it didn't look as linear as it could. The balconies</p>

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1 **provide a nice vertical break along the elevation.**

2 MR. WOLFSON: I have no other

3 questions for Dan.

4 CHAIRMAN DePINTO: Thank you.

5 Questions from Board members starting with Mr.

6 Gruber.

7 MR. GRUBER: I have no questions other

8 than -- actually, I do have a question. Where --

9 the mechanicals, where are all the mechanicals

10 going, the air-conditioning units; are they all

11 going up on the roof?

12 MR. KING: No, a lot of the common-

13 area mechanical units will be above the ceiling

14 located at different corners in the public corridor

15 area. There will be some condensers and things up

16 on the roof but no major rooftop units.

17 MR. GRUBER: Okay. And are you

18 planning any kind of backup energy source, like a

19 generator for this building in case of a power loss?

20 MR. KING: We are not.

21 MR. GRUBER: Okay. That's the only

22 question.

23 CHAIRMAN DePINTO: Okay, thank you.

24 Ms. Curry?

25 MS. CURRY: No questions at this time.

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1 CHAIRMAN DePINTO: Thank you. Mr.

2 Teagno?

3 MR. TEAGNO: I have no questions.

4 CHAIRMAN DePINTO: Thank you. Mr.

5 Lintner?

6 MR. LINTNER: Thank you, Mr. Chairman.

7 No questions at this time.

8 CHAIRMAN DePINTO: Thank you. Mayor

9 Ghassali?

10 (Pause)

11 CHAIRMAN DePINTO: Mayor?

12 MS. HUTTER: You're muted, Mayor.

13 MAYOR GHASSALI: Of course.

14 Are you planning on solar power, any

15 solar on top or anywhere?

16 MR. KING: We are not.

17 MAYOR GHASSALI: The charging

18 stations, those are free of charge or you're

19 charging for the charging?

20 MR. KING: That's a good question. I

21 -- I don't know the answer to that.

22 MR. WOLFSON: I think we're going to

23 have to get back to you with an answer on that. We

24 did not discuss that in any of our calls.

25 MAYOR GHASSALI: Okay. That's all I

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1 had.

2 CHAIRMAN DePINTO: Thank you. Mr.

3 Zitelli?

4 MR. ZITELLI: On those charging

5 stations, I think you indicated two.

6 MR. KING: Um-hum.

7 MR. ZITELLI: I would suggest you

8 might want to look and get a few more of those, I

9 think especially with the popularity of electric

10 vehicles.

11 MR. KING: Yeah, the Tesla's taken

12 over.

13 MR. ZITELLI: But anyway, no, Mr.

14 Chairman, I think that's -- we're going to get --

15 we'll talk about police and fire reports and so on

16 later, right?

17 CHAIRMAN DePINTO: Yes.

18 MR. KING: Yeah, we can go through

19 that.

20 MR. ZITELLI: Okay, then I'll hold

21 off. Thank you.

22 CHAIRMAN DePINTO: Thank you. Mr.

23 Stefanelli?

24 MR. STEFANELLI: Yes, Mr. Chairman.

25 You mentioned the siding. You know, what type of

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1 siding? Is it going to be cement board? Is it

2 vinyl? Is it --

3 MR. KING: Yeah, thank you for asking

4 that. It is cement board. I should have said that.

5 MR. STEFANELLI: You know, since we

6 have elevators and it's going to be a senior 55, I

7 would look at having at least a generator for --

8 for, you know, for the infrastructure of, you know,

9 elevators, emergency lighting, stuff like that, so I

10 would be advocating some type of small generator, at

11 least for the essential services. And then I have

12 no other questions. Thank you.

13 CHAIRMAN DePINTO: Thank you. Mr.

14 Culhane?

15 MR. CULHANE: I have one question. Do

16 any of the elevators accommodate a stretcher?

17 MR. KING: Yeah, the two front ones

18 do. The two main ones do accommodate stretchers.

19 MR. CULHANE: No other questions, Mr.

20 Chairman.

21 CHAIRMAN DePINTO: Thank you. Ms.

22 Cudequest?

23 MS. CUDEQUEST: Yes. I just want to

24 question something that Mr. Stefanelli brought up.

25 I didn't -- this is a 55-and-older community?

<p style="text-align: right;">70</p> <p>1 MR. KING: Yes.</p> <p>2 MS. CUDEQUEST: It is. Okay. Then I</p> <p>3 would agree with what's been said in regards to</p> <p>4 emergency lighting, generators and things like that</p> <p>5 if we're dealing with that population. If you're --</p> <p>6 there may also be people who are on supplemental</p> <p>7 oxygen, so I would think that if they're -- if</p> <p>8 they're on something like that, they may need the</p> <p>9 generator if there was a blackout. That's my only</p> <p>10 comments at this time, Mr. Chairman.</p> <p>11 CHAIRMAN DePINTO: Thank you. Mr.</p> <p>12 Huseynov?</p> <p>13 MR. HUSEYNOV: Thank you, Chairman.</p> <p>14 My questions were all already asked, so...</p> <p>15 CHAIRMAN DePINTO: Okay, thank you.</p> <p>16 And Ms. Green, do you have any questions or</p> <p>17 comments?</p> <p>18 MS. GREEN: Thank you, Mr. Chairman.</p> <p>19 While we're talking about the elevators, will the</p> <p>20 elevator overruns be concealed by the roof structure</p> <p>21 or will they be visible?</p> <p>22 MR. KING: No, they'll be concealed by</p> <p>23 the slope of the roof, they'll be behind that.</p> <p>24 MS. GREEN: Okay. That's all I have.</p> <p>25 Thank you, Mr. Chairman.</p>	<p style="text-align: right;">72</p> <p>1 Q. Mr. King, good evening.</p> <p>2 A. <b>Good evening.</b></p> <p>3 Q. What is the size of each floor in terms</p> <p>4 of square feet?</p> <p>5 A. <b>Let me see if it's on our chart here.</b></p> <p>6 <b>Let me just take a look at my notes.</b></p> <p>7 (Pause)</p> <p>8 A. <b>I can't find it.</b></p> <p>9 (Pause)</p> <p>10 A. <b>Okay. The largest floor plate is</b></p> <p>11 <b>68,000.</b></p> <p>12 Q. And the actual apartment square footage</p> <p>13 on each floor, is that 68,000 square feet per floor?</p> <p>14 A. <b>Yes.</b></p> <p>15 Q. So the 55 units each on floors 2 and 3</p> <p>16 would each be approximately 68,000 square feet?</p> <p>17 A. <b>That's right.</b></p> <p>18 Q. And the amenities that you listed, the</p> <p>19 game room, theater, lounge, fitness area, spa,</p> <p>20 private dining room or catered dining room, the</p> <p>21 total square footage for those areas is about 12,000</p> <p>22 square feet?</p> <p>23 A. <b>That's about right, yes.</b></p> <p>24 Q. And does each of the outside units have</p> <p>25 a balcony, each of the outside apartments that wring</p>
<p style="text-align: right;">71</p> <p>1 CHAIRMAN DePINTO: Thank you. And Mr.</p> <p>2 Dour?</p> <p>3 MR. DOUR: The only question I had is:</p> <p>4 For the individual units, how are they -- where is</p> <p>5 the mechanicals for those going to be located?</p> <p>6 MR. KING: Those are units that are in</p> <p>7 closets right off the balcony to get fresh air.</p> <p>8 MR. DOUR: Okay.</p> <p>9 MR. KING: So they're standalone.</p> <p>10 MR. DOUR: Okay.</p> <p>11 MR. KING: Vertically.</p> <p>12 MR. DOUR: But they won't -- they will</p> <p>13 not be visible from the outside.</p> <p>14 MR. KING: They're not. They're</p> <p>15 already in it so that the grill faces the balcony,</p> <p>16 not the, uh, not the public.</p> <p>17 MR. DOUR: Okay. Thank you. That was</p> <p>18 my only question.</p> <p>19 CHAIRMAN DePINTO: Okay, thank you.</p> <p>20 And Mr. Kurshan, do you have any questions?</p> <p>21 MR. KURSHAN: I -- I do.</p> <p>22 CHAIRMAN DePINTO: Please.</p> <p>23 MR. KURSHAN: May I?</p> <p>24 CHAIRMAN DePINTO: Yes.</p> <p>25 CROSS-EXAMINATION BY MR. KURSHAN:</p>	<p style="text-align: right;">73</p> <p>1 the building on floors 2, 3 and 4 have a balcony?</p> <p>2 A. <b>Not every unit has a balcony, no.</b></p> <p>3 Q. And do each of those balconies -- each</p> <p>4 of the units that does have a balcony, do those</p> <p>5 balconies have outdoor lights?</p> <p>6 A. <b>They do, they have recessed can</b></p> <p>7 <b>lights.</b></p> <p>8 Q. So --</p> <p>9 A. <b>In the ceiling.</b></p> <p>10 Q. I'm sorry.</p> <p>11 A. <b>Yeah, in the ceiling.</b></p> <p>12 Q. The recessed can lights would be</p> <p>13 visible from how far away?</p> <p>14 A. <b>Well, they don't emit light beyond</b></p> <p>15 <b>what I understand is significant light beyond 10</b></p> <p>16 <b>feet beyond the edge of the building. They're --</b></p> <p>17 <b>they're warm lights, 2700K lights, low wattage, just</b></p> <p>18 <b>enough to give, you know, a comfortable feeling for</b></p> <p>19 <b>the resident who's out there in the evening but not</b></p> <p>20 <b>bright enough that it will shine beyond 10 feet</b></p> <p>21 <b>beyond the edge of the building.</b></p> <p>22 Q. So is it accurate to state that it's</p> <p>23 not visible from 25 or 35 feet away?</p> <p>24 A. <b>I mean, you'll see the light, as you</b></p> <p>25 <b>would see any light from a distance, but it's not</b></p>

<p style="text-align: right;">74</p> <p>1 <b>sending foot-candles into an area beyond 10 feet of</b>  2 <b>the building.</b>  3 MR. KURSHAN: Thank you, Mr. Chairman.  4 I have no further questions.  5 CHAIRMAN DePINTO: Thank you. The  6 Chair will entertain a motion to open the meeting to  7 the public.  8 MR. CULHANE: So moved.  9 MR. STEFANELLI: Second.  10 CHAIRMAN DePINTO: Mr. Culhane;  11 seconded, Mr. Stefanelli. All in favor?  12 BOARD MEMBERS: Aye.  13 CHAIRMAN DePINTO: Anyone from the  14 public wish to be heard, have any questions of Mr.  15 King or Board professionals or the Board? Please  16 raise your hand to be recognized by Ms. Hutter.  17 (Pause)  18 MS. HUTTER: There is no one, Mr.  19 Chairman.  20 CHAIRMAN DePINTO: The Chair will  21 entertain a motion to close the meeting to the  22 public.  23 MR. STEFANELLI: So moved.  24 MS. CUDEQUEST: Second.  25 CHAIRMAN DePINTO: Mr. Stefanelli;</p>	<p style="text-align: right;">76</p> <p>1 do that.  2 Members of the public that are here  3 that have an interest in this application, please be  4 advised that it will be carried to February 2. Our  5 meetings start at 7:30 p.m. Right now, we believe  6 the meeting will be another Zoom meeting and we will  7 continue with our Zoom meetings until further  8 notice. If there is any change or -- you can find  9 out if there's a change by either going to the  10 website or contacting Ms. Hutter, and again, please  11 be advised that other than this notice, you will not  12 receive any other notification, you won't get any  13 direct mail or anything like that, with regard to  14 the carry. And with that said, I think that covers  15 everything, Mr. Wolfson?  16 MR. WOLFSON: Yes, thank you very  17 much, Mr. Chairman, Board members, Board  18 professionals, we appreciate your continuing  19 patience and consideration of our application.  20 Thank you.  21 CHAIRMAN DePINTO: Okay, and thank  22 you, everyone.  23 (Hearing adjourned at 9:59 p.m.)  24  25</p>
<p style="text-align: right;">75</p> <p>1 seconded, Mrs. Cudequest. All in favor?  2 BOARD MEMBERS: Aye.  3 CHAIRMAN DePINTO: Okay. Mr. Wolfson.  4 MR. WOLFSON: Mr. Chairman --  5 CHAIRMAN DePINTO: We're going to have  6 to carry, obviously, and who do you plan to bring as  7 witnesses to your next meeting? I presume Ms.  8 Ruskin.  9 MR. WOLFSON: And Corey Chase, our  10 traffic engineer, will be the two witnesses and we  11 would respectfully request a February 2 date based  12 upon schedules on our side.  13 CHAIRMAN DePINTO: And Ms. Hutter, can  14 we accommodate that?  15 MS. HUTTER: I have available the  16 19th, Mr. Wolfson. The 2nd, I have three  17 applications already.  18 MR. WOLFSON: Yeah, I'm informed that  19 the 19th doesn't work in terms of scheduling on our  20 side, so I would respectfully request that we be  21 carried to February 2 and as we get closer, we can  22 see if people drop out or as things develop, then if  23 necessary, we can either request a special meeting  24 or carry it to your next February meeting.  25 CHAIRMAN DePINTO: Okay, why don't we</p>	<p style="text-align: right;">77</p> <p style="text-align: center;"><u>C E R T I F I C A T E</u></p> <p>I, MICHELE QUICK, a Certified Court Reporter, Registered Merit Reporter, Certified Realtime Reporter of the State of New Jersey, authorized to administer oaths pursuant to R.S. 41:2-1, do hereby state that the foregoing is a true and accurate verbatim transcript of my stenographic notes of the within remote proceedings, to the best of my ability.</p> <p style="text-align: right;"><i>Michele Quick</i></p> <p style="text-align: center;">MICHELE QUICK, CCR, RMR, CRR  NJ Certified Court Reporter  License No. XIO1731</p>

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